From strength to strength

Roger Buckley of **Castlegate**, discusses some of the reasons behind the rapid growth of Malta as a fund jurisdiction, as well as the benefits for fund promoters

After obtaining approval from the Malta Financial Services Authority (MFSA), Castlegate established a physical presence in Malta in July 2011 with the aim of delivering a professional, quality-driven and customer-focused fund administration service. The founders and principals of Castlegate, having previously worked in the Cayman Islands, the British Virgin Islands (BVI) and Ireland, utilise their wealth of experience and knowledge, not only in the delivery of fund accounting and corporate services to fund structures established in Malta but also to those in the aforementioned jurisdictions.

Growth of Malta funds industry

Malta has rapidly emerged as a leading fund domicile in a relatively short space of time. This growth is mainly due to the strategic and competitive advantages of the jurisdiction combined with aggressive marketing and a dynamic local industry.

The jurisdiction is in the enviable position of being able to leverage off its historical Mediterranean commercial partners, not merely its closest neighbours but stretching into the Middle East and beyond. Malta has been aggressively promoting its finance industry at both a diplomatic and commercial level for a number of years, principally utilising its membership of the EU and the euro as a catapult to gain access to new markets. The fruits of this hard work are the 60 plus double taxation agreements and 30 plus memoranda of understanding now in place as well as the emergence of Malta as a seminal funds jurisdiction within Europe. Local funds' net assets have grown more than 700% since 2004 and Malta is fast becoming a serious competitor to both Ireland and Luxembourg. Fundamental reasons behind this growth include a combination of policy, people and price.

Policy

The Maltese government has a pro-business attitude and is committed to long-term growth in the financial services sector, aspiring to increase financial services to 25% of GDP by 2015. The government has put in place various stimuli including a highly efficient fiscal regime and special tax treatments as a means of attracting highly qualified foreign executives in the financial services industry. The MFSA's approach to regulation and supervision is best described as 'principles based' rather than rules based and the regulator believes that this is proportionate to the size and nature of the business, without undermining investor protection. The licensing process is simplified and transparent in Malta with all financial services falling under one regulator. This model allows promoters to benefit from streamlined procedures, reduced bureaucracy and lower regulatory fees.

The MFSA practices an open-door policy that actively encourages regular face-to-face communication with all its licensees. Before any formal applications for a licence are made, the MFSA encourages promoters to meet and discuss the proposal being put forward. This informal first meeting allows guidance and clarification on the licence application to take place and is often thought to be time saving and economical in the long-run. Fund promoters find this hands-on treatment less bureaucratic than in larger jurisdictions.

People

One of Malta's greatest assets is its well-educated, English speaking workforce, which harbours a work ethic similar to that of the UK and northern Europe. In excess of 90% of the Maltese population are fully bilingual in both Maltese and English with the majority of people also fluent in a third European language. English is now recognised as the business language of Europe and is promoted as the language of legislation, education and business in Malta. As a small island with limited resources it has been the policy of several successive governments to invest in education, which has resulted in more than 60% of students attending third-level education. This educational pillar married with an outward-looking mentality and a willingness to quickly adapt makes investment in Malta an attractive prospect.

Price

The set-up and running cost of both retail and professional funds are considerably cheaper than more established jurisdictions. Total set-up costs for a Maltese Ucits average €20,000 to €30,000 with a basic Professional

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Investor Fund (PIF) structure averaging between €15,000 and €20,000. The regulator has consciously kept application and monitoring fees low in order to remain at the forefront in terms of value against rival jurisdictions. Consequently, application fees for a PIF are €1,500 and €2,000 for a Ucits fund, with annual supervisory fees being €1,500 (additional €1,000 per sub-fund) and €2,500 (additional €400 per sub-fund) per scheme respectively.

Fund vehicle options

Malta has a broad range of options for establishing fund vehicles such as investment companies (SICAVs and INVCOs), incorporated cell companies, contractual funds, limited liability partnerships and unit trusts. To date, the most popular structure has proved to be the open ended investment company with variable share capital (SICAV). The Investment Services Act and subsidiary legislation provides for the setting up of Ucits and non-Ucits retail funds as well as PIFs. Ucits and non-Ucits retail funds are more restricted in their investments and have more regulatory requirements. They generally require more refined expertise from outside service providers and Castlegate is one of the few administrators on the island that currently hold a mandate to administer a number of Maltese-domiciled Ucits funds.

PIFs are typically alternative investment funds targeted at sophisticated investors and high-net-worth individuals. There are three different types of PIFs structure available including the Qualifying, Extraordinary and Experienced investors funds, the essential difference being the eligibility of investors to invest in each structure. So far PIFs have formed the backbone of the funds industry with in excess of 400 PIFs now domiciled in Malta. The majority of these PIFs are also serviced in Malta which is testament to the high quality of local service providers. Qualifying and Extraordinary investor PIFs have no investment restrictions and no borrowing limits, thus are suitable for hedge funds.

Benefits to fund promoters

Besides historical relations and established commercial connections, Malta is an ideal stepping stone both to and from the emerging markets of the Middle East and Africa. There are two key reasons for this: stability and market access.

In recent times, Malta has been a beacon of political stability and financial consistency in a region that has seen much turmoil and change. Malta has been left almost completely unscathed by the financial instability that affected much of Europe and was recently ranked as having the 12th soundest banking system in the world and ranked 15th for financial market development by the World Economic Forum's *Global Competitiveness report (2011-12)*. This soundness and stability is vital as retail investors in particular have become more cautious about the safekeeping of their assets within regulated markets. Likewise, institutional investors are also seeking robust regulation and transparency for investors.

Moreover, as a member of the European Union, Malta offers promoters access to an internal market of in excess of 500 million people across the 27 EU economies. With the Alternative Investment Fund Managers (AIFM) Directive coming into play in 2013 many fund managers are seeking a European base for their operations so they can market their funds to European investors. As a result of the implementation of the AIFMD, investment funds domiciled in Malta should benefit from the pan-European passport offered to professional investor funds. Furthermore, an additional incentive permeates around the Ucits IV Directive, which is now fully implemented, whereby management companies set up in Malta can not only exercise passporting of a Maltese Ucits to all investors across Europe but can manage Ucits established in other European jurisdictions without the need for a physical presence.

Finally, it is worth noting that the MFSA has been particularly proactive in seeking to accommodate Shariah-compliant funds. In fact, Malta is one of the only jurisdictions in which the regulator has specifically formulated a set of guidelines for Shariah fund structures. These guidance notes detail how the various fund requirements can be moulded into available fund vehicles. Generally, Shariah-compliant funds can be set up as either retail or PIFs, however MFSA guidelines recommend that Ijarah and Murabaha funds, which commonly invest in unconventional assets, are usually best structured as a PIF.

In conclusion, the combination of dynamic policy, highly trained people and competitive pricing have propelled Malta as a funds jurisdiction onto the global stage. The stability, transparency and ease of market access look certain to secure Malta's future as a leading funds jurisdiction.

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