

## Retail Funds

A Maltese registered Collective Investment Schemes (CIS) may be formed in a number of possible vehicles such as an open-ended or closed ended corporate entity, a trust, and even a partnership. Apart from the locally oriented CISs Malta offers a good jurisdiction for UCITS schemes. Malta implemented the UCITS III regime immediately upon accession to the European Union on 1 May 2004.

The favoured vehicle for Maltese UCITS is the corporate entity with a variable share capital, known as SICAV. The setting up of such entity may be done through the appointment of a Maltese domiciled fund manager or else, to be able to have a designated management company in another state Malta offers the possibility of having self-managed funds combined with delegation arrangements. Self-managed funds must be formed as corporate entities and management would be the responsibility of the Board of Directors, which can in turn delegate a number of management functions to an external management company which is authorised in any EU Member State and recognised in Malta.

At licensing stage the Board is expected to clearly indicate the proposed delegation arrangements. Current practice suggests that as a minimum the Board must have at least one but preferably two local directors who satisfy the "fit and proper" competence criteria and must meet periodically in Malta. The Board should also retain the ultimate supervision of the risk management process through regular reporting to and from the management company and be involved in setting the fund's policies.

Malta's reputation as a fund jurisdiction is growing especially due to the MFSA's growing reputation as a serious yet flexible regulator and the cheaper set-up and listing costs, together with a beneficial tax treatment.

### Taxation of funds

For tax purposes, a fund or a sub-fund of a collective investment scheme may be classified as a prescribed or a non-prescribed fund. Essentially a fund in a locally based scheme is classified as a prescribed fund if the value of the assets situated in Malta is at least 85% of the value of the total assets. Other licensed funds, including all funds in overseas based schemes, are classified as non-prescribed funds. All income of collective investment schemes is exempt from tax in Malta except for a withholding tax applicable to local investment income in the case of prescribed funds.

Local investment income (excluding dividends) derived by prescribed funds is subject to a final withholding tax being of 15% in the case of bank interest and 10% in the case of other investment income. Furthermore no tax is payable by the investors when they dispose of their investment or when they receive a dividend out of such profits.

On the other hand no tax is withheld on investment income received by non-prescribed funds. However, tax is payable by the Maltese resident investors in such funds when they dispose of their investment or when they receive a dividend. This tax qualifies, subject in certain conditions, for a 15% rate under the final withholding tax system. Non-residents receiving dividends out of a locally based, non-prescribed scheme suffer no withholding tax on such income.

### How we can help

RSM Malta offers assistance in the planning (especially in devising a flexible yet secure structure), the setting up process and licence application submission.

Our input may be necessary in relation to the formation of the vehicle itself and the eventual drafting of all necessary applications, offering document, Personal Questionnaires, Prospectus, delegation agreements etc. Through our experience and expertise we can aid you provide necessary assistance in the decisions as to the appointment of a custodian, manager, administrator and the appointment of the advisory committee. Furthermore we may propose suitable personnel to act as Director/s on the Board of Directors of corporate funds. Such Director/s can also act as the local representative. Furthermore we will provide the necessary registered office and company secretary for the company.

RSM Malta may help the promoters in their selection of and dealings with local Fund Managers. Alternatively the Board of Directors may assume the Management function of the fund according to the terms of the licence. In such a scenario RSM Malta can offer qualified personnel to aid the Board in assuming such a Management function.

RSM Malta may offer external administration to the fund according to the delegation arrangement between itself and the Board (or Manager) of the fund. Through our expertise and organisational setup RSM Malta may carry out the fund's accounting requirements, daily calculation of Net Asset Values, reconciliations, pricing of the investment portfolio, preparation of financial statements, performance and compliance reporting, and preparation of contract notes.