

Investments Service Providers (ISPs) in Malta

Maltese Investments Service Providers (ISPs)

The regulatory framework governing the provision of investment services in or from Malta is set out primarily in the Investment Services Act, Chapter 370 of the Laws of Malta (ISA). The ISA is accordingly intended to comprehensively regulate the provision of investment services whilst securing adequate investor protection.

In turn, the domestic regulator, the Malta Financial Services Authority (MFSA), has issued Investment Services Rules with a view to, inter alia, achieving the full and proper implementation of the provisions of the MiFID Framework and the MiFID Implementing Directives.

The MFSA is additionally responsible to supervise the investment services sector and to authorise the players in the market, including investment advisors, managers, brokers and custodians. In fact, any person seeking to provide investment services in or from Malta would require a valid licence issued by the MFSA.

Categories of Licences

The ISA recognises and regulates four principal categories of Investment Services licence:

Category 1a - Licence holders are authorised to receive and transmit orders in relation to one or more instruments and/or provide investment advice and/or place instruments without a firm commitment basis but not to hold or control clients' money or customers' assets – this Category excludes managers of collective investment schemes.

Category 1b - Licence holders are authorised to receive and transmit orders and/or provide investment advice in relation to one or more instruments and/or place instruments without a firm commitment basis, only for professional clients and/or eligible counterparties, but not to hold or control clients' money or customers' assets.

Category 2 - Licence holders are authorised to provide any investment service and to hold or control clients' money or customers' assets, but not to operate a multilateral trading facility or deal for their own account or underwrite or place instruments on a firm commitment basis.

Category 3 – Licence holders are authorised to provide any investment service and to hold and control clients' money or customers' assets.

Category 4a - Licence holders are authorised to act as trustees or custodians of collective investment schemes.

Category 4b – Licence holders authorised to act as custodians to: (a) third country Alternative Investment Funds (AIFs) marketed in Malta; or (b) AIFs which have no redemption rights exercisable during the five year period from the date of initial investment and which generally do not invest in assets that must be held in custody in terms of applicable Investment Services Rules.

Licensing

The licence process typically involves the following three phases:

- Preparatory Phase – generally involving preliminary meetings with the MFSA resulting in the submission of a draft application together with supporting documentation, and the review thereof by the MFSA;
- Pre-Licensing Phase – marked by the issuance of an ‘in principle’ approval for issuance of an investment services licence by MFSA and the finalisation of any outstanding matters; and,
- Post-Licensing/Pre- Commencement of Business Phase – involving the completion of any post licensing matters prior to formal commencement of business.

The MFSA may be expected to provide its ‘in principle’ approval within twelve to twenty weeks from receipt of a licence application together with properly completed and submitted accompanying documentation.

Taxation of Investment Service Providers

A company incorporated in Malta and licenced to provide investment services would be chargeable to tax in Malta on its profits at the standard rate of 35%. However, by application of Malta’s full imputation and refundable tax credit systems, upon a distribution of dividends by the licenced company in favour of its shareholder/s, the said shareholder/s would generally be entitled to claim a refund (from the Malta tax authorities) of six sevenths of the Malta tax suffered by the company on the profits out of which the dividends were distributed. Such Malta tax re- funds effectively reduce the combined overall effective Malta tax rate ultimately applicable in respect of the company’s profits to 5% - the lowest effective tax rate available in the European Union.

Certain services provided by licenced investment service providers (including fund management and fund administration) are exempt from VAT in Malta.

Passporting Entitlements

Investment services providers licenced in Malta seeking to exercise EU/EEA passporting entitlements, with a view to the provision of services or by the establishment of a branch in another EU jurisdiction, would be required to satisfy prescribed notification procedures.

As such, an investment service provider would be required to provide the MFSA with, inter alia, a written statement confirming its intention to provide services or to establish a branch in an EU or EEA territory (specifying which territory) and a program of operations setting out the services to be offered.

The MFSA would then coordinate the notification process with the relevant competent EU/EEA regulatory authority with a view to procuring the latter’s consent to the provision of the Maltese provider’s services within its jurisdiction.

Benefits of Malta for Investment Service Providers

Several factors, when combined, conspire to make Malta a country very well suited for investment service providers seeking a platform from which to do business in Europe. These include access to Europe, proportionate regulatory burdens and comparatively low costs. In addition, Malta's membership of the European Union and of important global consultative, regulatory and enforcement entities (including the International Monetary Fund, Council of Europe, International Organisation of Securities Commission and the Committee of European Securities Regulators) adds credence to Malta's regulatory regime and comfort to investors and customers alike.

The factors outlined above demonstrate how Malta is uniquely well suited as a platform for investment services providers looking to target a European clientele. The jurisdiction provides an environment with an affordable cost base, passporting rights, and an open for business regulatory environment.

For more information on how Zeta can assist you please contact our Business Development department on bd@zeta-financial.com.

Get in touch

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