

KEY FACTS

OVERVIEW OF UCITS

The UCITS funds regime was originally developed in 1985 to harmonise Europe’s fund structures and promote fund distribution between Member States. Today UCITS funds have become a European gold standard, and a world-wide recognised brand of excellence for funds.

Following the introduction of UCITS III in 2001 which provided managers with more flexibility in terms of choice of investment strategy and which also introduced the concept of a simplified prospectus, Malta provides the possibility of launching funds under the UCITS IV regime which came into effect on 1 July 2011. The regime provides a number of features and benefits which are expected to enhance the attractiveness of the UCITS product the key ones being:

- UCITS IV allows Managers to be regulated in one UCITS jurisdiction without having to obtain regulatory approval in each jurisdiction within which the fund is to be marketed.
- UCITS IV simplifies the notification process whereby a UCITS fund licensed in one jurisdiction can be ‘passport’ for distribution to investors in another UCITS jurisdiction.
- It lifts the restrictions on the creation of Master-Feeder structures under the UCITS III regime.
- UCITS IV introduces a framework within which UCITS funds may merge therefore providing greater economies across funds.
- In order to enhance an investor’s understanding of a fund, including investment risks and performance, it requires Managers to produce a Key Investor Information document, a two-page document which enables investors to compare information across UCITS funds and which must be kept up to date.

REGULATORY CONSIDERATIONS

- A UCITS fund must be approved by the Malta Financial Services Authority (“MFSA”). This approval process requires approval of the scheme’s instruments of incorporation, its rules, the Board of Directors and all Service Providers proposed to be appointed to the scheme.
- A UCITS fund must appoint a custodian based in Malta (i.e. the jurisdiction of the Scheme) such custodian being licensed by the MFSA.
- Every UCITS fund must appoint an external manager which must also be licensed by the MFSA. Alternatively, a Scheme may choose not to appoint a third party manager whereby the functions of a Manager are undertaken by the UCITS fund through an Investment Committee, subject to the MFSA being satisfied that a number of conditions are met.
- The Management company and the custodian must be independent and must be separate entities.
- A third party Administrator need not be appointed if the Manager is to provide fund administration services to the UCITS fund. Where a third party Administrator is appointed, the Administrator must be authorised to provide fund administration services by the MFSA.

KEY FACTS

- An Investment Advisor is not required.
- A local auditor must be appointed.
- A UCITS fund is required to have robust systems of internal control and sound procedures spanning across its entire operations.
- A UCITS fund is required to appoint a Compliance Officer and a Money Laundering Reporting Officer.

THE LICENSING PROCESS

The MFSA will only grant a Collective Investment Scheme licence to a UCITS fund if it is satisfied that the fund will comply in all respects with the provisions of applicable laws and regulations and that its Directors and officers, or in the case of a unit trust or limited partnership, its Trustee(s) or General Partner(s) respectively, are fit and proper persons to carry out the functions required of them in connection with the fund.

In this respect, the MFSA will look into the experience and track record of all parties who will be involved with the UCITS fund. The licensing process can be split into three stages:

Preparatory

- The MFSA recommends that the promoters arrange to meet its representatives to describe their proposal in advance of submitting an Application for a license. At this stage, the Applicant is required to provide a comprehensive description of the proposed activity. Following the meeting with the MFSA, the Applicant would be required to complete the application form and ancillary documents for submission to the MFSA in DRAFT.
- The MFSA will review the documentation and may ask for supplementary information to be provided. The MFSA's assessment of the applicant's 'fit and proper' credentials will also commence at this stage. The expected turnaround time for the MFSA to review the documentation provided to it and for it to provide feedback is three weeks. A number of license conditions are communicated to the applicant at this stage, adherence to which is required throughout the life of the UCITS fund.

Pre-licensing

- The MFSA will issue an 'in principle' approval for the issuance of a license, conditional upon the applicant finalising any outstanding matters. At this stage, the Application form and supporting documentation are provided to the MFSA in their final format.

Post Licensing/Pre commencement of Business

- The Applicant may be required to satisfy a number of post-licensing matters prior to the formal commencement of business.

THE APPLICATION DOCUMENTS

The documentation requiring submission to the MFSA comprises:

- An Application Form.
- Draft version of the full Prospectus and if applicable the Simplified Prospectus of the Scheme.
- Draft version of the Memorandum & Articles of Association of the Scheme.
- Draft Management, Administration, Custody, Advisory agreements (as applicable).
- Draft Board of Directors' resolution
 - Confirming the Directors' intention to apply for a Collective Investment Scheme license in favour of the Scheme.

KEY FACTS

- Identifying the person(s) responsible for signing the application documents.
- Identifying the person(s) responsible on behalf of the Board for the Compliance obligations of the Scheme.
- Identifying the person(s) responsible on behalf of the Board for the AML Obligations of the Scheme.
- Approving and assuming responsibility for the contents of the full and Simplified Prospectus (if applicable).
- Application Fee.
- Marketing Plan.
- Directors of the Scheme and submission of a completed Personal Questionnaire in the case of individual directors; where corporate directors are proposed details of the regulatory status of the Corporate Director(s) and the name of the individual(s) representing the Corporate Director on the Board of Directors of the Scheme are required.

REGULATORY FEES

Regulatory fees comprise of a non-recurring Application fee payable on submission of the Application for a UCITS fund and an annual supervision fee which is due on the anniversary of the license being granted:

- Application Fee: EUR1,630.56
- Annual Supervisory Fee: EUR291.17 per sub-fund up to 15 sub-funds
EUR174.70 per sub-fund for 16 sub-funds or more

HOW TRIDENT FUND SERVICES CAN ASSIST

Trident Fund Services (Malta) Limited is authorised by the MFSA to provide fund administration services in Malta. We have broad experience in handling the administration of a variety of fund structures and can provide the following services:

- Assistance with the licensing of a UCITS fund in Malta including liaison with the MFSA, legal advisors and other parties.
- Incorporation of the UCITS fund and the fund manager.
- Provision of registered office and local directors.
- Preparation of net asset value calculations.
- Preparation of interim and annual financial statements.
- Transfer agency services.
- Company secretarial services.
- Administration services and coordination of the year-end audit.

FUND ADMINISTRATION FEES

Please complete our Fund Establishment Worksheet which provides a summary of the administration services that we offer. On the basis of a completed worksheet and proposed offering memorandum we will provide you with a fee estimate for the establishment and annual administration costs of the proposed UCITS fund.

Do not hesitate to contact us should you have any questions regarding our fund administration services or in connection with the completion of the worksheet.

Please contact any Trident Fund Services office worldwide for further information about our services and fees. Office contact details are included on the following page.

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