

# The Maltese perspective

Malta is in the possibly unique position of being equally a domicile for alternative and mainstream funds

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*n a trip to Malta this spring Simon Osborn interviewed Professor Joseph Bannister, Chairman, Malta Financial Services Authority. Whilst it is an island in the middle of the Mediterranean Malta is 'onshore' fund domicile, in that it is part of the European Union.*

**SO: Please can you give an indication of how the Maltese fund industry has been developing recently.**

JB: The industry has grown significantly. It started in 1994. Growth was limited until 2004 when we joined the EU. In March this year there were around 420 funds and sub funds. Despite what is happening in the rest of the world the numbers keep growing.

**SO: What percentage of these funds are mainstream and alternative?**

JB: Out of this 420 about 240 are alternative. The rest vary between UCITS funds and local retail funds.

**SO: How do you anticipate that these different categories of funds will develop over the next three years?**

JB: Malta started as a base for small fund managers but recently a number of larger players have moved in. Established managers are seeking new pastures and are coming to Malta.

**SO: Do you think you will get more growth over the next few years from your UCITS fund side or from the alternative one? You are in the unusual position of developing on both fronts at the same time.**

JB: When we started we were looking to have a regulated hedge fund business here. And we always check to make sure that the regulations are being complied with. But we have seen

UCITS fund ranges coming over to Malta too. I anticipate that in the future that we will have a mixture of both.

**SO: And what about other alternative categories, in addition to hedge funds, such as private equity and real estate? Are these funds that you are also targeting?**

JB: Yes, we want diversity here.

**SO: Is there enough infrastructure to accommodate a real increase in funds activity in Malta?**

JB: Infrastructure is being developed. We are focussing on training, in particular. Training is carried out at all levels – including for board directors. And there are diplomas for fund administrators, for example, as well as for various other professional entities. The university in Malta also produces lawyers and accountants. The Maltese economy is migrating from being a manufacturing based one to a service based one.

**SO: What is the population of Malta?**

JB: It is 400,000 in total with the working population being 150,000.

**SO: Are there enough fund industry service providers in Malta?**

JB: Yes. There are a number of law firms that have started financial services divisions. And there are enough accountants here too. With regard to fund administrators the number is growing. Apex, Bank of Valletta, Custom House, HSBC, Praxis and TMF have set up operations in Malta.

**SO: Do you see the current draft EU directive for investment management as a broadly positive or negative development?**

JB: Firstly UCITS IV is positive for everybody.

As for the alternative industry, the draft EU directive presents a number of problems. The draft directive appears to cover all non UCITS funds and there is no distinction between a hedge fund, a private equity fund and a retail fund. It relies a lot on the manager and doesn't take into account the fund, which is ignored. Then there are issues which need to be resolved surrounding valuation and the depository. For example, in the case of the depository the draft directive says that it has to be a bank. In certain situations the bank can't be responsible for the sub-depository in a non EU country. This could end up limiting the investment activities of the fund, outside the EU, because the depository bank doesn't want to be responsible if something goes wrong.

**SO: Could you elaborate on what you mean when you say that the draft directive focus is on the manager and not on the fund?**

JB: The fund has its own legal personality. For example the fund can dismiss the manager if it is not satisfied with the manager's performance. But the draft directive doesn't seem to recognise this. It seems to imply the fund is owned by the manager. It isn't. It is owned by the fund's investors. And it is the fund, not the manager, that signs the contract with the administrator, the custodian and other professional entities.

**SO: Since the recent budget in the UK, with its increase in taxation on incomes in excess of £150,000, there has been much talk in London**

**that fund managers will leave the country. For some it is said to have been the last straw. Do you think that any one of them will come here to Malta?**

JB: This is a double edged sword. I understand the increase in tax is driving them from the UK. We have seen a number of hedge fund managers setting up over here but we only want the top ones to come. They started coming before the recent increase in UK taxation.

**SO: How does the taxation system here work?**

JB: The fund pays no tax. And funds have access to double tax treaties. Nor do investors in these funds pay tax, if they are non resident. As for the manager, we have a remittance system that was introduced by the British in 1948. The top rate of personal tax is 35 percent. But you can remit this to the country from where you are originally based.

**SO: Is there anything else that you would like to say about Malta's development as a centre for the fund industry?**

JB: We are always keen to listen to the fund managers – and to further develop regulation and new classes of funds. For example we are changing entry requirements on the Experienced Investment Manager regulation. ■



Joseph Bannister

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