

Experience in key investment vehicles

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Simon Tortell and Associates is a leading Maltese law firm and is one of Malta's most experienced firms in the hedge fund industry, having been directly involved with several important developments within the sector.

The firm has experience in the structuring and licensing of retail (UCITS and non-UCITS) open-ended or closed-ended funds, as well as professional investor funds (experienced, qualifying or extraordinary). It has advised clients on different structures which include multi-fund/class funds, funds of funds, tracker funds and master-feeder funds. It has also provided assistance on the development of alternative investment policies and strategies and investment in less traditional, alternative and complex asset classes.

It has set up several professional investor funds (PIFs), which are lightly regulated funds with few investment restrictions and with service providers that can be situated outside Malta. With the exception of some investment restrictions with respect to PIFs targeting experienced investors, PIFs can generally invest freely in whatever assets they wish. They can take both long and short positions, use arbitrage, trade undervalued securities, futures, options and derivatives, and invest in any opportunity in any market. As a result of this flexibility, PIFs have proven to be highly sought-after vehicles by our clients – especially PIFs targeting experienced investors since the minimum investment amount in this case is just EUR10,000.

The firm also has extensive experience in the UCITS sphere. It assists clients in setting up funds whose portfolio is compliant with Directive 85/611/EEC and Directive 2007/16/EC. Despite the rigorous legal framework, there are an unending number of products and strategies that can be pursued by the funds, providing they comply with the directives. The firm is therefore in a position to assist and advise hedge fund managers who are exploring the possibility of setting up so-called Newcits.

A number of engagements handled by the staff of Simon Tortell and Associates have led to legislative and regulatory developments in Malta. Its work on UCITS led to the introduction of rules on the use of hedge fund indices, repo and stock lending agreements for Maltese based UCITS. A project involving a retail non-UCITS closed-ended contractual fund resulted in the draft Investment Services Act (Contractual Funds) regulations and the publication of amendments to the Investment Services Act (Exemption) regulations 2007.

The firm is also active in the redomiciliation sphere, having completed Malta's first redomiciliation of a Canadian-managed fund from Bermuda to Malta in 2004. With the advent of AIFM, there are a large number of hedge funds that are established outside the EU and wish to redomicile in an EU jurisdiction. Several are choosing Malta as their jurisdiction of choice. In the case of a redomiciliation, the fund is not terminated but merely transferred into another jurisdiction. Therefore the assets remain unaffected and do not need to be transferred themselves. The status of the unit holders remains unchanged too. This element of continuity is one of the major advantages of the redomiciliation process in Malta. The process to carry on operating a fund in Malta is fairly straightforward and involves obtaining the required fund licence under Maltese law and submitting a number of documents, resolutions and declarations to ensure that any redomiciled fund satisfies Malta's regulatory standards.

[Please click here to read our special report on Malta Hedge Fund Services 2010](#) [1]

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