The Insurance Industry in Malta

Malta is an independent republic, gaining independence from the U.K. in 1964. It is a full member of the European Union (from 1st May 2004) and is one of the 15 members of the Eurozone. The legal system is based on the continental civil law system and the Napoleonic Code, but over the last 200 years public and commercial law have been strongly influenced by Anglo Saxon legal principles and practice. The official language is Maltese, but English is the most commonly used language in business. Italian is also very well spoken.

Malta's growing strength as a financial services centre is founded on policies which have been strongly influenced by E.U. membership, the development of a single European market in financial services and the adoption of the Euro. Equally important however, is the importance these policies give to the processes of financial innovation, regulatory development and organisational improvements in the financial system.

Over the last five years the Maltese insurance sector has grown from a handful of domestic insurance companies into an international industry, operating across the 27 E.U. Member States and in other international markets. The sector comprises captive and commercial insurance companies carrying out both general and long-term business, subsidiaries of major international insurance and reinsurance groups, as well as insurers and insurance managers operating as protected cell companies.

Meanwhile the number of insurance intermediaries and service providers continues to build up. The number of insurance management companies has now reached 14, with all the global players in the field having established a Malta operation alongside newer but no less dynamic local managers. A growing number of law firms, accountancy firms and other professional service providers are also specialising in insurance. The support framework is further consolidating as banks and investment intermediaries gear up to provide more services to the insurance industry.

Key features in Malta's insurance legislation include the following:

- **E.U. passporting.** Since the E.U. is considered as one market, Malta's E.U. membership allows insurance companies licensed in Malta to write directly into other EU/EEA markets without the need to apply for another licence in the target market or incurring an added layer of fronting costs. Similarly Malta-based companies may freely set up branches in other E.U. countries while remaining under the supervision of the Maltese regulator. All that the exercise of these rights would require would be notification (from the home country regulator to the host country regulator) of the activity being exercised and compliance with certain basic principles in the target market;

- **Protected Cell Company** legislation: Malta's PCC legislation applies to both commercial and captive insurance companies. Key advantages of using this type of corporate vehicle include segregation of Cellular Assets and Liabilities from Core and other Cells; lower capital requirements for Cells; 'secondary recourse' to Core capital in case of insolvency of a Cell;

- **IFRS reporting standards,** Malta adopted International Financial Reporting Standards for all companies in 1997. Apart from the accounting expertise available and other advantages, IFRS reporting makes it easier and less costly for international groups to consolidate accounts;

- The possibility to extend captive insurance licence to do third party business due to convergence of regulatory standards that exists between the captive and commercial insurance frameworks;

- **Continuation of Companies** legislation, which allows captives to re-domicile to and from Malta at the least possible cost;
- The possibility of subcontracting **management** to locally authorized insurance managers.

Regulation

Insurance companies are licensed and regulated by the Malta Financial Services Authority (MFSA) - which is also the single regulator for banking, investment services, trust services, pensions and the financial markets. The Authority is an autonomous public institution set up by law and is financially independent of Government.

The MFSA's style of regulation is firm and thorough and is balanced by an open, constructive and responsive approach. The authorisation process adheres to mutually agreed timeframes. A licence can be issued inside three months in the case of captives, and six months in other cases.

Malta's insurance legislation is based on research carried out among Maltese and international insurance and reinsurance operators and provides opportunities for captive insurance business and related activities. The legal infrastructure incorporates the standards set by E.U. Insurance Directives, including the Insurance Mediation Directive and the Reinsurance Directive. Insurance activities are licensed and regulated under the Insurance Business Act, while management companies fall under the Insurance Intermediaries Act. These laws are in turn supplemented by subsidiary legislation that normally deals with the more technical aspects of the business and that may be quickly updated to reflect developments in the market. The legal infrastructure also comes complete with protected cell company legislation and continuation procedures that allow insurance companies resident in a foreign domicile with equivalent legislation to re-domicile to Malta.

The MFSA encourages ongoing dialogue between regulators and licensed companies. An open communication channel is seen as a critical factor in ensuring a healthy and competitive industry that is able to operate to high standards and take new opportunities as they arise.

Legislation and regulation fully incorporate European Union standards. The minimum own funds requirement for example is based on the EU Insurance and Reinsurance Directives:

- General Business - € 2.2 m (€ 3.2m for liability, credit and suretyship)
- Long-term Business - € 3.2 m
- Pure Reinsurance (captive) - € 1m
- Pure reinsurance (non-captive) - € 3 m

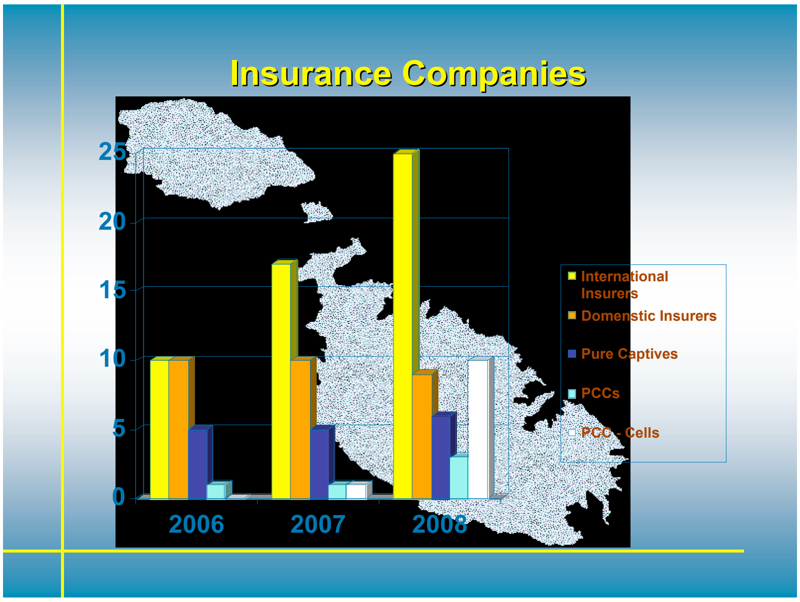
Solvency margins are also in line with E.U. Insurance Directives. Equalisation reserves are only required in so far as credit insurance business is concerned. Technical reserves need to be sufficient to meet all liabilities. Only net tangible assets contribute towards solvency calculations.

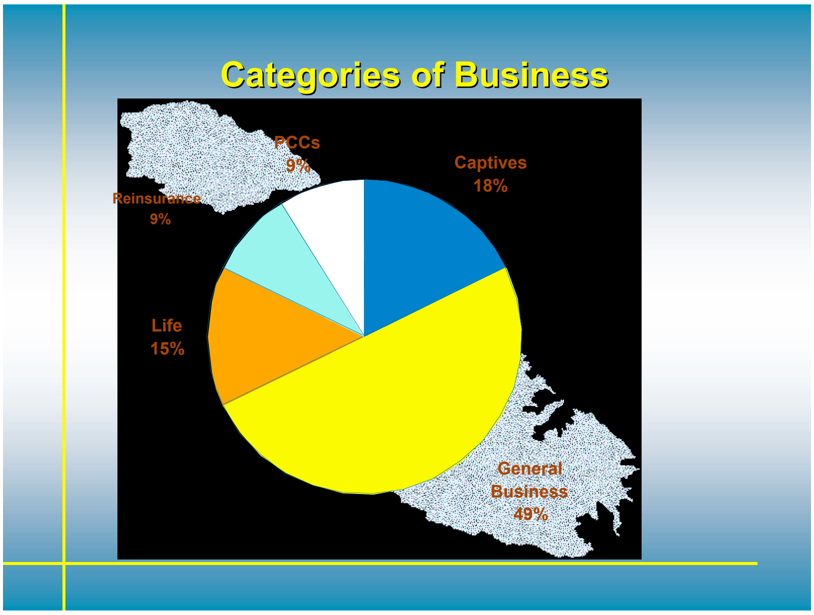
Insurance Business Overview

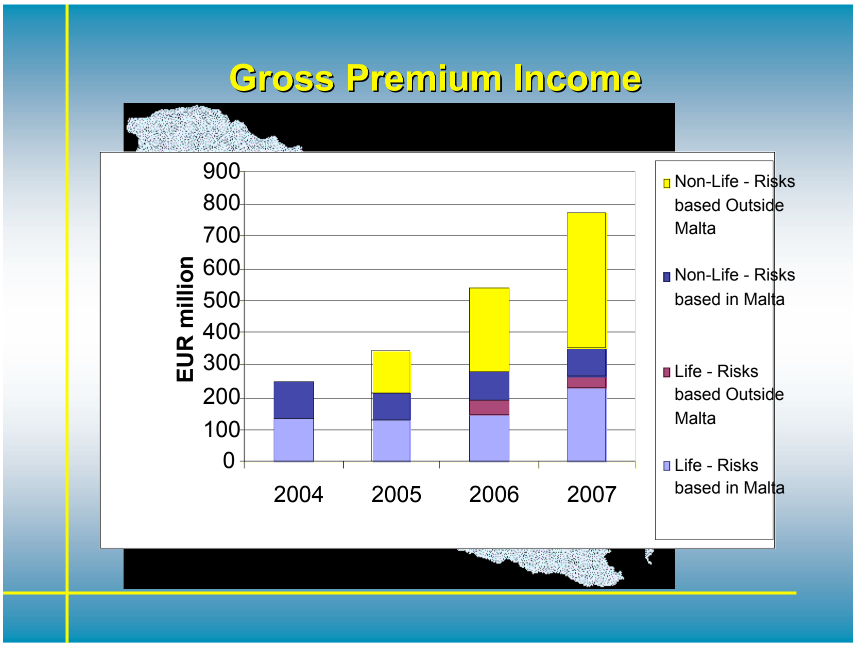
The insurance sector is consistently growing both in number of companies and volume of business as it becomes more and more integrated into the European single market through both inward and outward cross-border business.

Between 2004 and 2007[1], premiums for general insurance business written by Malta-based companies grew from €116.8m to €508.8m (or 335% in four years), while the life insurance sector practically doubled to €244 million. At the end of 2007, the overseas insurance market accounted for 59% of gross premiums written. In the General Business sector the insurance of risks based outside Malta accounted for Gross Premiums Written of €418.7 million, an increase of €161 million over 2006. The gross technical provisions for non-life insurance stood at €471.6 million at the end of 2007 while those for the life insurance sector stood at €1,136 million.

[1] Audited Insurance Premium figures for 2008 had not yet been published at time of writing.


Insurance Companies
25
20
15
10
5
0
2006
2007
2008
International Insurers
Domenstic Insurers
Pure Captives
PCCs
PCC - Cells


Categories of Business
PCCs 9%
Captives 18%
Reinsurance 9%
Life 15%
General Business 49%



Captive Insurance

The legal and regulatory framework underpinning captive insurance in Malta is the same which applies to all insurance companies. There are however a number of features which recognise the particular characteristics of captives and cater for their needs.

Under the applicable Maltese rules, captives are termed “Affiliated Insurance Companies” (“AICs”). These are defined as companies which insure risks originating with:

- parent companies;
- associated or group companies;

- individuals or other entities having a majority ownership or controlling interest in the AIC, and
- members of trade, industry or profession associations insuring risks related to the particular trade, industry or profession.

In recognition of the fact that captives present a different kind of risk to commercial insurers, companies which are licensed as Affiliated Insurance Companies benefit from a number of concessions otherwise applicable to insurance companies. These include:

- exemption from the *custody* of assets rules;
- exemption from contributions to the *Protection and Compensation Fund*;
- lower *authorisation fees*;
- exemption from a number of obligations upon *ceasing* to carry on business of insurance;
- exemption from the payment of duty on contracts of insurance relating to a risk situated outside Malta;
- shorter *processing times*;

While still regulated to proper industry standards, AICs can therefore provide corporate groups with an excellent risk management vehicle that also allows them to control insurance costs, invest retained premiums and gain access to the reinsurance markets.

An AIC is approved if:

- the MFSA approves the application and the scheme of operations submitted in writing in the prescribed form*;*
- the company has the appropriate own funds for the type of business to be carried;
- the company's objects are limited to business of affiliated insurance and operations arising directly therefrom to the exclusion of other commercial business;
- sufficient information is made available on persons having any proprietary, financial or other interest in, or in connection with, the company;
- all qualifying shareholders, controllers, and persons who will effectively direct the business are verified to be fit and proper to ensure the company's sound and prudent management.

Tax Framework

Malta has an internationally accepted and E.U.-recognised tax regime, with an extensive network of bilateral tax treaties. There are 51 of these treaties currently in force. These include all European Union Member States and many other countries in North Africa, the Middle East and Asia, as well as Canada and Australia. The Treaty with the U.S. has been signed and is expected to come into force in the near future.

All Companies in Malta pay 35% income tax on profits. Under Malta's tax system the shareholder is entitled to a refund of tax upon distribution of dividends. The amount of the tax refund is set at 6/7ths of the tax paid by the company on the underlying profit (5/7ths in the case of passive interest and royalties).

There is no duty on documents (premium tax) with respect to insurance policies covering risks based outside Malta.

General advantages

Malta is well positioned to continue making headway in insurance and other financial services. Its advantages include: a quality human resource; competitive professional and support services; an internationally accepted tax regime with an extensive network of bilateral treaties; a unique legal system which combines the continental civil law system with Anglo Saxon commercial law principles; an excellent IT and communications infrastructure, and air links with the main financial centres both in Europe and beyond.

In a country whose professional resources are already well-supported by a deep pool of multilingual administrative staff, the insurance industry is investing heavily in training at the specialised end.

With its English speaking population, laws which are published in both English and Maltese, a well-oiled communications infrastructure and an active membership role in the E.U., the U.N., the Commonwealth and the IMF, communication is perhaps what characterises Malta best when doing business.

International Benchmarking

- The World Economic Forum's Competitiveness Index 2008-2009 has ranked Malta 34th (out of 134 countries) for financial market sophistication, with a banking system which is the tenth soundest in the world.
- The Internal Market Scoreboard, published by the European Commission in January 2009, has placed Malta and Denmark in joint first position in the implementation of internal market directives - further evidence of the sound internal structures that are in place and confirmation of Malta's status as one of them most integrated economies in the E.U.
- A European Commission Report on Trade and Foreign Investment Indicators published on 19 January 2009, places Malta among the top five E.U. performers with respect to foreign direct investment inflows as a percentage of GDP.
- Reactions Magazine Survey 2007 ranked Malta ahead of all the other European captive insurance domiciles for cost-efficiency, tailored regulation and PCC legislation, and in second place for accessibility.

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