



MALTA**FILM**COMMISSION

## **INFO ON INVESTMENT FUNDS**

### **Professional Investor Funds**

Malta offers a cost-effective and flexible environment to Media Funds Operators and investment advisers established in Europe and the US. These can be registered in Malta as Professional Investor Funds (PIFs) in terms of the Investment Services Act, 1994.

This type of scheme is usually promoted to authorised or experienced investors, as defined by the **Malta Financial Services Authority** (MFSA). PIFs set up in Malta are not subject to any investment or borrowing restrictions.

The distribution of income of a scheme to foreign investors is not taxed in Malta. There are also no Maltese capital gains taxes imposed on the disposal of units in both prescribed and non-prescribed funds.

A PIF may be set up as an incorporated open or close-ended investment company (SICAV or INVCO respectively), a limited partnership or a unit trust. It is typically a non-retail fund which is not subject to any restrictions on its investment or borrowing powers.

Due to the degree of risk to which PIFs may be exposed, such funds are considered unsuitable for members of the general public. In fact, PIFs may be promoted to either 'authorised investors' or 'experienced investors'.

### **Authorised Investors**

An authorised investor is a person who falls within at least one of the following categories:

- a body corporate, or forms part of a group, with net assets in excess of US\$1.0 million;
- an unincorporated body of persons or association with net assets in excess of US\$1.0 million;
- a trust with a net asset value in excess of US\$1.0 million;
- a person who has reasonable experience in the acquisition and/or disposal of:
  - funds of a similar nature or risk profile;
  - property of the same kind as the property, or a substantial part of the property, to which the PIF relates;

- an individual whose net worth, or joint net worth with his/her spouse, exceeds US\$1.0 million;
- an employee or a director of a service provider to the PIF;
- a relation or a close friend of the promoters of the PIF (limited to a total of 10 persons per PIF);
- entities with US\$5 million or more under discretionary management or advice investing on its own account or for the account of its clients.

In terms of current legislation, collective investment schemes are classified as either prescribed or non-prescribed sub-funds. A prescribed fund is defined as a fund resident in Malta, which has declared that the value of its assets situated in Malta amount to at least 85% of the value of its total assets. If a fund does not satisfy this latter requirement it falls to be classified as non-prescribed.

A non-prescribed fund is exempt from tax on both its income and capital gains in Malta. Capital gains, dividends and interest on foreign securities held by the Fund may be subject to tax imposed by the country of origin concerned and such taxes are not recoverable by the Fund or by its shareholders.

### **Timing**

Provided that all relevant documentation has been properly completed, the MFSA is bound to reply to license applications for PIFs within 7 working days. This applies where the appointed Manager, Investment Manager, Advisor, Custodian or Prime Broker are based and regulated in a 'recognised country'.

Prior to submission of an application to the MFSA, the promoters may ask the MFSA for an 'in principle' approval. The MFSA would normally decide on such an application within one week from submission.

Both the PIF and its functionaries must comply with applicable laws and regulations for the avoidance of money laundering, as they apply in the jurisdiction of the person who accepts the investment.

### **Fee Structure**

An application fee is payable to the MFSA on submission of the draft application. An annual fee is payable if and when a license is issued and on every subsequent anniversary thereafter. The fee structure is set out below:

- 'In principle' approval – €465 upon submission of application
- Licence application – €700 upon application and €300 annually.
- The fees for additional sub-funds are €700 upon application, and €300 annually.