

Malta Forex Law & Regulation in Malta & the EU Increasing regulatory attention is being given to the forex industry at an EU level; the European Securities and Markets Authority (ESMA) is increasingly urging retail forex investors to ensure that they only enter into transactions with authorised service providers.

Investment services provided in Malta in relation to forex are regulated under the umbrella of the Investment Services Act which implements the provisions of the Markets in Financial Instruments Directive (MiFID).

Forex under the Investment Services Act Foreign exchange acquired or held for investment purposes is a licensable activity which necessitates the authorization of the MFSA. Forex Companies providing investment advice or receiving and transmitting orders in relation to forex require a Category 1 Investment Services Licence; Forex traders acting as riskless principals involved in the execution of two matching trades require a Category 2 licence whereas a Category 3 Investment Services Licence is required if the forex business is dealt with on own account as a market maker.

### Malta Forex Passporting

Forex per se is not automatically passportable in other EU Member States under the MiFID, however, if the provision of forex includes the use of derivatives, CFDs, futures, options, swaps in relation to securities, currencies, interest rates or yields and/or the provision of a MiFID ancillary service, it may be eligible for passporting rights.

### Our Malta Forex Advisory Practice

Our services can be broadly divided into set-up and licensing related services and post-licensing regulatory compliance.

### Pre-Licensing

At the pre-licensing stage, our firm provides assistance to co-ordinate meetings with the MFSA in order to discuss the proposed forex activity in Malta and assists in the drafting and completion of the documentation required for licensing purposes such as forex business plans and the completion of the other various official documents required.

Chetcuti Cauchi's lawyers can also provide specialized assistance in order to choose the most appropriate and tax-efficient legal structure in accordance to the envisaged nature, scope and extent of the proposed activity. We also assist client in choosing collaborators, external service providers, banks and payment solutions.

## Post-Licensing and Compliance

Upon the obtainment of the licence, investment services providers are required to comply, on an on-going basis, with the various post-licensing requirements established by the relevant EU directives which are transposed into Maltese law. Our team provides a comprehensive compliance advisory service which ensures that all compliance matters are attended to including amongst others the preparation of all regulatory returns, the drafting of policies and reports and the handling of statutory notification requirements; advice is also provided in relation to the various licence conditions which may be imposed by regulator.

## Malta Forex Advisory Lawyers

Chetcuti Cauchi's expertise and familiarity with local regulatory processes and comprehensive licensing and compliance services ensure it is well placed to act as a one-stop shop financial services solution provider in Malta.

Our Financial Services Advisory Practice Group enjoys a breadth of industry expertise, enabling our advisors to provide an array of services ranging from licensing and compliance, corporate and personal tax, accounting, and project management of the whole setting up for the client. Our professionals are members of respected professional associations including the Malta Institute of Taxation, the Council of the Institute of Financial Services Practitioners (IFSP), various investment services subcommittees such institute, the Society for Trusts & Estates Practitioners, the Malta Institute of Accountants and the Chamber of Advocates.