

(Thursday, January 28, 2010)

## MFSA Newsletter

### **Malta and China strengthen relations in financial services regulation with MoU**

The Malta Financial Services Authority and the China Securities Regulation Commission have signed a memorandum of understanding to protect and promote the development of the securities markets by providing a framework for cooperation, increased mutual understanding and the exchange of information, to the extent permitted by the laws and regulations in force in Malta and the People's Republic of China.

The agreement was signed by Joe Bannister, chairman of the MFSA, and Shang Fulin, chairman of the CSRC, during a short ceremony presided over by Finance Minister Tonio Fenech. The CSRC is the state agency of the Securities Policy Committee of the State Council of the People's Republic of China and is responsible for the supervision and regulation of national securities and futures markets in China.

The signing of the MoU is the result of negotiations started in 2008 and places Malta's funds industry at the same level as the major fund domiciles particularly in the European Union. It will most importantly facilitate business for financial institutions from either Malta or China doing business in either country. A similar agreement with the China Banking Regulatory Commission is expected to be signed shortly.

As a result of the signing of the MoU, Chinese qualified domestic institutional investors are able to invest on behalf of Chinese investors in Malta domiciled investment funds (Professional Investor Funds and UCITS funds) regulated by the MFSA, thereby opening up MFSA- regulated funds to one of the world's largest pools of private capital. The QDII scheme permits Chinese domiciled investors to invest in foreign securities markets via certain fund management institutions, insurance companies, securities companies and other asset management institutions which have been approved by the CSRC as QDIIs.

The QDII scheme, introduced in June 2006, allows Chinese domiciled institutions and residents to invest with Chinese commercial banks and these entities then invest in overseas financial products. The stocks or investment funds in which a QDII invests must be listed on a stock exchange or regulated by a regulatory authority that has signed an MoU with the CSRC.

Companies licensed by the MFSA will also be able to access the Chinese qualified foreign institutional investor status and invest directly in China. The QFII scheme permits qualified foreign investors to invest in the China A share market under certain foreign exchange flow and disclosure requirements. The major institutions that are permitted to apply to be a QFII include fund management companies, insurance companies, securities firms and commercial banks with qualifications prescribed by the CSRC and the other relevant regulators.

On the approval by the CSRC, a QFII is granted an investment quota by the State Administration of Foreign Exchange and, after selecting a Chinese custodian bank and one or more local brokers, may place orders to buy and sell stock in the China A share market. The investment scope of a QFII extends

to treasury bonds, convertible bonds, corporate bonds, warrants and other financial products approved by the CSRC.

The signing of the MoU is an important development for the Maltese financial services sector. It will provide a huge benefit for the funds industry and will be an important factor for promoters selecting Malta to domicile their funds.

New rules to improve competitiveness of UCITS funds The opportunities for using the UCITS funds framework to strengthen fund distribution across the EU and other international markets will soon be given an added boost following the publication of an MFSA circular on the proposed adoption of the provisions of the UCITS IV Directive which will enable the setting up of master-feeder UCITS structures in Malta.

UCITS - Undertakings for Investment in Transferable Securities - are European harmonised funds that can be sold on a cross-border basis within the European Union based on their authorisation in one EU member state. Although designed to be marketed in Europe, UCITS are recognised globally and are marketed the world over.

Although relatively new as an EU member, Malta has already proved it can work well as an operational base for UCITS schemes, with a number of these schemes already established and being successfully distributed in other member states such as Italy, the UK, Denmark, Spain and France.

The master-feeder solution under UCITS IV consists in adopting an investment strategy by which one UCITS invests at least 85 per cent of its net asset value in another UCITS. Promoters will therefore be entitled to pool the assets of their UCITS in one so-called master fund. The advantages of this type of restructuring means that the management and administration of the master fund (i.e. the pool of assets) may be centralised in one jurisdiction allowing promoters to rationalise their platforms, build up economies of scale and potentially reduce costs to the investor.

Under UCITS IV, Malta actively argued for the management company passport, a measure that was eventually accepted despite heavy opposition from certain quarters.

The implementation of the UCITS IV master-feeder structure, is expected to lead to a number of UCITS fund mergers and consolidations under the master fund umbrella. This should enable the European investment industry, which is characterised by a high number of funds that are relatively much smaller than their US counterparts, to compete for an increased share of the global market.

A copy of the circular may be downloaded from the MFSA website ([www.mfsa.com.mt](http://www.mfsa.com.mt)) under the heading Securities / UCITS IV/ Circulars. The Authority is inviting comments to the amendments to the Investment Services Rules for Retail Collective Investment Schemes proposed in the circular by not later than February 5.