

UNIQUE MALTA

Ivan Grech, head of business development at FinanceMalta, and Nicholas Curmi, associate at GANADO Advocates, investigate Malta's appeal

Recent developments portray a positive picture of Malta's potential as a centre for insurance-linked securities (ILS) transactions, building on the island's fast-growing securitisation market and burgeoning insurance industry.

Malta has had a comprehensive investor-friendly legal framework for securitisation vehicles in place for some time in the form of the Securitisation Act, which provides for, among other things, statutory true sale and bankruptcy remoteness of Maltese securitisation vehicles. This legislation is designed to provide greater certainty on the fundamental legal issues arising in securitisation transactions.

Building on this solid foundation, Malta has recently introduced the Reinsurance Special Purpose Vehicles Regulations (RSPV Regulations), which implement the relevant Solvency II provisions relating to special purpose vehicles in ILS transactions, as well as the Securitisation Cell Companies Regulations (SCC Regulations), which provide arrangers and sponsors with a flexible and cost-effective structuring option for the issuing vehicle. Securitisation Cell Companies (SCCs) are particularly useful in their application as platform structures for use by multiple sponsors or for programme structures where repeat transactions are envisaged in respect of the same originator.

With all of the relevant legislation in place, 2016 saw the establishment and licensing by the MFSA of Exchange Re SCC Limited (Exchange Re), the European Union's (EU) first Solvency II compliant cell platform for collateralised reinsurance and other ILS transactions. Exchange Re is an open platform that offers any sponsor or insurance manager an efficient 'plug and play' option for their clients and the transactions they bring to market.

Malta's appeal rests primarily in its robust and innovative legislation, its membership in

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the EU and an experienced regulator keen to use the tools available to it to provide alternative solutions to a growing ILS market.

Innovative legislation

In addition to the statutory certainty and creditor protections enshrined in the Securitisation Act, Malta is the first EU member state to offer the cell company structure for use in ILS transactions. The SCC is a single legal entity that allows its various cell issuers (each forming a distinct patrimony within the entity) to share between them the various ongoing corporate costs and expenses of the cell company while ensuring that all cells are sufficiently ring-fenced from each through strict legal segregation provisions set out in the SCC Regulations.

European Union membership

Malta is an attractive proposition for European insurers and reinsurers looking for an onshore reinsurance or ILS structure within the EU. Solvency II recognises securitisation as an effective risk mitigation technique and Malta's EU membership (and resulting adoption of the Solvency II Directive) places Malta in a very unique position to offer Solvency II compliant RSPV transactions to European insurers looking to qualify for the best available credit for their reinsurance/risk mitigation arrangements.

Regulator experience

Building on Malta's experience in the insurance and securitisation sectors (particularly in relation to protected cell companies and, more recently, SCCs), the Malta Financial Services Authority (MFSA) is now in a position to apply its expertise and efficient approach to the authorisation of ILS issuers/transactions and has, in fact, committed to meet market standard timeframes for authorisation.

Tax neutrality

Malta has specific rules on the tax treatment of securitisation vehicles that enable them to achieve tax neutrality in respect of the securitisation transactions for which the vehicles are established. These tax rules can be applied to eliminate tax leakage for securitisation vehicles established in Malta and to ensure that there is no Maltese tax liability for originators that are not Malta tax resident.

Reputable listing venue

Malta also offers a regulated market for institutional investors designed specifically for the listing of asset-backed securities, including ILS – the European Wholesale Securities Market (EWSM). The EWSM is a joint venture between the Malta Stock Exchange and the Irish Stock Exchange that offers extremely quick turnaround times and competitive pricing.



Industry players believe that ILS will continue to be an effective form of alternative risk transfer (to the capital markets) that reduces reliance on the traditional reinsurance market, reduces reinsurance costs (and long term costs of capital) and offers more diversified sources of risk coverage for 'newer' risks for which coverage may not otherwise be (or may be limitedly and expensively) available, including cyber, terror risks and bank operational risks. ILS transactions are also expected to continue to be of special interest to investors due to the

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asset class' low correlation with equity and credit markets (and the portfolio diversification opportunity this presents) and the higher yields typically offered when compared to other fixed income securities.

Malta is well placed and looking to take advantage of these opportunities and develop as the leading EU centre for collateralised reinsurance and other ILS transactions in 2017 and beyond, further cementing its reputation as a leading EU insurance domicile and securitisation centre. ☾