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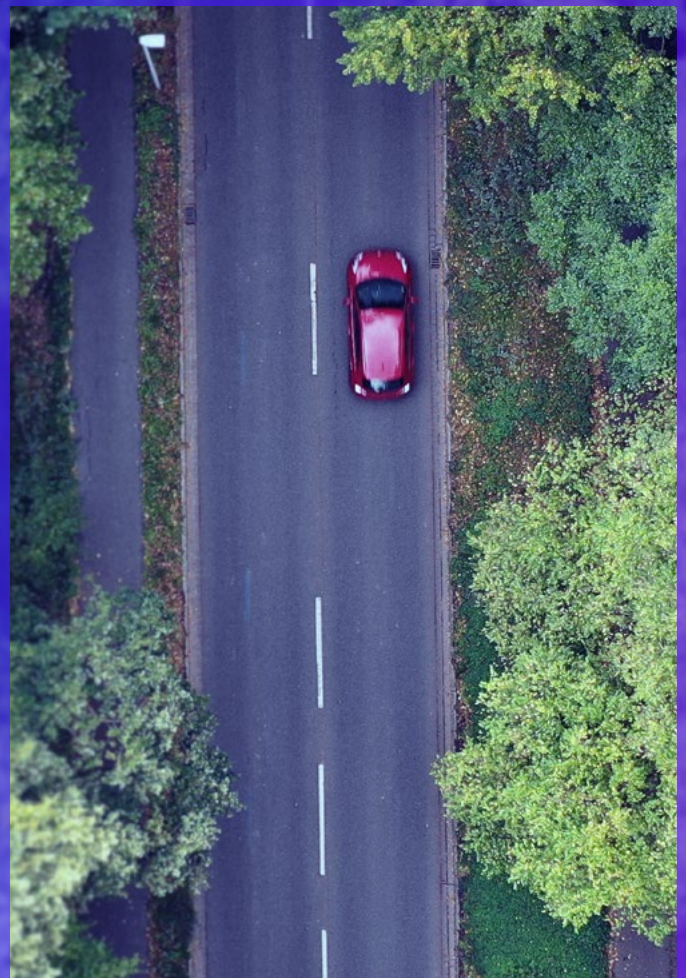
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EDITOR

Maria Cauchi Delia

DESIGN

Daniela Cutajar

ADVERTISING INQUIRIES

theaccountant@miamalta.org

All correspondence, articles for
publication and enquiries are to be
addressed to:

The Editor
MIA Professional Limited
Level 1, Tower Business Centre
Tower Street, Swatar
BKR 4013, Malta.

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President's Address

David Delicata



Dear readers, welcome to another edition of *The Accountant*. I do hope that Summer provided you with an opportunity to wind down, regenerate yourselves and spend quality time with your loved ones as we prepare for the final push of this calendar year.

Almost thirty months have passed since our lives came to a halt as we faced the full force of the pandemic. The economic and social impact was unprecedented. Yet, our nation tirelessly and collectively stood up, faced the challenges and is thankfully on the path to renewed growth.

Almost fifteen months ago, the Financial Action Task Force placed Malta in its grey-listing mechanism. An unwelcome situation, if anything. Yet, here again, stakeholders from the industry and beyond got together, identified the key areas to address, debated and provided solutions, and ensured a quick removal for the country from this unwanted predicament.

The reason that I put forward these two recent adverse experiences is precisely to tie it up with a note of encouragement. They are a stark reminder of the ability of our country, of our people, of our professionals, to face adversity, address it head-on and rise stronger than before. This ability is being called upon us once again as the repercussions of war in Europe reverberate across the continent.

The rapid increase in inflation is creating headaches to governments, central banks, businesses and individuals across the globe. Not a day goes by without the issue being highlighted by reputable financial journals, traditional and online media and social commenting platforms. With the forecasts showing the possibility of close to double digit inflation in Europe, in parallel with the possibility of a recession, there is growing concern that we are approaching a period of stagflation, where prolonged weak growth accompanies persistently high inflation.

Record levels of inflation, coupled with supply side concerns and the ongoing limitations in the human resource sector, are evidently taking their toll on businesses. In an economy which is still reeling from the effects of a two-year pandemic, companies' balance sheets are being dented. In spite of this, opportunities are abound too.

Once again, this calls into action the accountancy professional, offering experience and insight into a company's reporting. While some will find their voices drowned in the cacophony of developing events, others will find themselves significantly relied upon for counsel and bearing more responsibility in companies' efforts towards profitability.

Inflation is likely to headline our agenda for months to come. Yet this big challenge should not derail the country's post-grey-listing efforts to enhance its competitiveness, a top priority which the Institute has long been calling for. We continue to advocate the identification of new pathways towards the markets of tomorrow, which entail not only the determination of which economic niches the country wants to attract, but more importantly the strategy to get there.

This includes the necessary technological and socio-institutional innovation, investment in education and training, and implementation of specific initiatives which make such a proposition attractive to investors. This comprises reducing bureaucracy, making sure that new legislation does not add additional burdens and a speedier legal system.

Beyond that, we must also look at the basic things which lead to a better quality of life. It is truly worrying for me to read surveys that indicate that a large cohort of young people – possibly highly skilled and educated – have indicated its desire to leave the country for good. It is useless aiming to be a top-level jurisdiction if our own children are not comfortable earning their living here.

Such a brain drain could leave a long-lasting damage to our economy besides exacerbating the already complex issue related to the unavailability of resources.

As an Institute, we are making our voices heard in the right places to get these messages across. The experience in the twelve months preceding Malta's de-listing from the FATF enhanced monitoring procedure, secured the strengthening of the role and respect enjoyed by the MIA in a national context. Our valid contributions, proposals and feedback were appreciated by authorities and other stakeholders, so much so that today, we are increasingly sought out for

our feedback on a number of matters of national importance.

This however places on us additional responsibility and demands as the representatives of the profession. At the same time, it highlights the relevance of MIA membership. A few weeks ago, Government announced its intention to commence its preparations towards streamlining due diligence processes which are currently carried out independently by a number of different regulators. This is something that our members have long called for and the Institute thus pushed strongly with authorities. It is a tangible example of how MIA membership truly makes a difference. We will keep coming up with solutions in the context of these discussions which are expected to continue over the next months.

Another issue which will certainly be of interest to our membership base is related to the international developments surrounding a minimum corporate taxation rate. A local reform in this regard, if any, is expected to significantly impact the financial services sector, which has continued to grow despite the setbacks in the wider economy during the previous years, so much so that a study requested by the MIA and other professional bodies shows that this sectors' employment represents 10% of the total workforce in the Maltese economy. A summary of this analysis is presented in this edition of The Accountant.

As always, these are just a few of the issues on our agenda. I look forward to engage with you in the months ahead in our continued efforts to listen to your feedback, act on it and in the process, strengthen our profession further.

Message from MIA CEO

Maria Cauchi Delia



It is always a pleasure to share a message through our flagship publication in order to reach out to our expanding community of members and the wider industry.

Approaching the last quarter of the year gives us an opportunity to reflect on the work carried out so far while planning our way forward for the months ahead. The past months have been quite challenging for the Institute. Our technical team had its plate full as a flurry of proposals, consultations and other matters for consideration were raised at European or national level. Although Europe's attention has been understandably taken over by the situation in Ukraine and the huge impact on markets and pricing, climate change remains one of the biggest changes impacting humankind. This is accompanied by a big push towards sustainability.

While this does not diminish the responsibility and the workload on the Institute, thankfully we were prepared for this having anticipated it through our action. While sustainability is now moving steadily towards the mainstream discourse, the Institute has been long highlighting this issue's increasing relevance as citizens and investors push for change. Being sustainable is no longer "a plus" for a business – it's a matter of survival. ESG will bring about new rules and regulations and that's another headache for all involved – but it also creates new opportunities for growth. Last year's Biennial Conference and, more recently, our Young Members Focus Group's event focused on the subject matter. The Institute has also appointed a working group

to look at how to train and prepare members to support organisations on ESG related changes.

Meanwhile, the European Union has continued steadfastly in its drive to bring forward new legislation, regulation and standards to enhance sustainability reporting. As a result, the MIA has also been hard at work over the past months giving feedback on draft standards related to sustainability reporting being pushed at European level. Providing this feedback was indeed a mammoth task for our staff and committee members, who had to analyse no less than 13 new European Sustainability Reporting Standards (ESRS) and respond to a 200-page survey which required extensive detail, scoring and comments.

The reporting aspect is just one element of our work on the matter. Technical considerations remain ongoing as EFRAG is expected to consult further, and we will continue providing our feedback as necessary.

Operationally, the Institute has continued to strengthen its resolve to listen to its membership base and improve its service offering in line with expectations. Over the past months, we have put into action several recommendations that emerged through a survey among members carried out towards the end of last year.

Among the various recommendations brought forward, a number related to our CPE offering. We have strived to update our programme with innovative sessions while identifying industry

leaders with the appropriate knowledge and experience to deliver these sessions, in the belief that investment in education is fundamental to enhance the quality of our profession. It is more crucial than ever for accountants to make an investment in continuing education and enrol in relevant training programs.

Members have also called for more engagement with the Institute and in order to do so we are continuously looking at innovative ways to reach out. The usage of social media channels by the Institute to connect with its many stakeholders, notably members, students, and business professionals, is being amplified. While we obviously always wish to have more members present at physical events and enjoy the networking benefits such opportunities offer, we have also kept our online events in line with your requests.

We continued with extensive efforts to build bridges with regulators and authorities, making sure that issues raised by members are highlighted at

the appropriate fora. Among others, we met with the Commissioner for Revenue as well as with the new chairman of the Accountancy Board, laying the ground to further strengthen our relationship with these two entities. Regular contact is also being maintained with Identity Malta to try and seek solutions to the growing concern relating to the unavailability of human resources within the profession.

I would like to take this opportunity to thank all those who contribute to our committees and working groups despite their busy professional lives and kept doing so even throughout the summer months. In parallel, I would like to extend our call towards other members of the Institute who feel that they can contribute to our work to approach us so as to seek ways to integrate them within our structures.

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News Roundup

FIAU publishes Guidance Note on the Use of Cash and the Banking Sector

The FIAU has published a Guidance Note on the Use of Cash and the Banking Sector. This aims to provide credit institutions with directions on how to comply with all the obligations listed under the Prevention of Money Laundering and Funding of Terrorism Regulations, together with the Implementing Procedures on cash deposits and withdrawals. The guidance, which is available [here](#), is primarily addressed to the banking sector. However, any subject person carrying out activities involving cash deposits and/or withdrawals is to also consider the information provided thereunder when implementing their obligations at law.

CBM publishes Economic Outlook 2022-2024

The Central Bank of Malta has published its Economic Outlook for the period covering 2022 to 2024. This report estimates Malta's economic performance in terms of growth, inflation, employment, imports and exports, private consumption and government finances together with other key indicators, providing firms with a handy tool to support planning for the months and years ahead. In view of current developments, the report also provides a detailed insight into the increase in prices being experienced across a number of sectors and assesses the economic impact of this phenomenon. The full report is available [here](#).

ECB reiterates concern on cryptocurrencies

The European Central Bank has expressed concern on the risks associated with cryptocurrencies as well as the lack of a harmonised framework governing crypto-asset activities and services in the EU. The Bank recalled again that crypto-assets are considered prone to risks associated with anti-money laundering/combating the financing of terrorism (AML/CFT). Recently, the Council and the European Parliament reached a provisional agreement on the markets in crypto-assets (MiCA) proposal, which will bring crypto-assets under a regulatory framework. The Bank's position is detailed [here](#).

MFSA launches Corporate Governance Code

The MFSA has launched a new Corporate Governance Code for authorised entities, complementing the existent legal and regulatory framework addressing the matter. The Code provides guiding principles and supporting provisions, with the regulator expecting entities to adhere to the Code in a manner that is commensurate with the nature, size and complexity of the entity concerned. The Code is available [here](#).

NSO launches results of Census

The National Statistics Office has published preliminary details from the National Census which is held once every ten years. The Report includes a wide array of information covering the count, characteristics, composition and condition of the population of Malta. This significant set of data helps support informed decisions concerning public policy, business strategies and the life choices of families and individuals. The preliminary report is available on the [NSO Website](#).

EU-level provisional agreement on CSRD reached

European Union policymakers reached a provisional agreement on the Corporate Sustainability Reporting Directive (CSRD), which had been originally proposed by the European Commission (EC) back in April 2021. The main driving forces behind the CSRD are the European Green Deal and the Sustainable Development Goals.

In fact, the CSRD aims to enhance sustainability reporting to better exploit the potential of the European single market and aid in the transition to a fully sustainable and inclusive economic and financial system by introducing a number of sustainability reporting requirements. These requirements deal with disclosures on sustainability impacts, risks and opportunities which will be based on mandatory sustainability reporting standards, ensuring that information provided is relevant, comparable and reliable. Information disclosed is to be independently audited. The scope

of the CSRD covers all large companies and all companies listed on regulated markets, including non-EU companies subject to certain criteria.

The CSRD has adapted a gradual approach, putting companies that are in scope of the Non-financial Reporting Directive (NFRD) at the forefront of the plan, with such companies expected to disclose sustainability information as from 1 January 2024. All other companies in scope of the CSRD are to start their reporting a year later, as from 1 January 2025, with an exception for SMEs, small and non-complex credit institutions, and captive insurance undertakings, who will be expected to apply the regulation as from 1 January 2026. SMEs also have a further possibility of an opt-out which would provide them with an exemption until 2028.

Further detail is provided in the **press release**.

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Upcoming CPE Events 2022

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04 NOV	M22088	GAPSME Advanced – A Nine-Hour Package
08 NOV	M22069	VAT Considerations in the Finance and Insurance Industry
22 NOV	M22098	Payroll Sessions: Maximising Digitalisation to Realise the Potential of Payroll Processes and Data - 2 sessions
24 NOV	M22083	Accounting for Receipt of Government Grants
29 NOV	M22097	IFRS in 2023: the IASB's Amendments to Existing Standards

**Financial
Reporting**

09 NOV	M22093	Local and International Marketing Strategies
22 NOV	M22098	Payroll Sessions: Maximising Digitalisation to Realise the Potential of Payroll Processes and Data - 2 sessions

**Management
& Finance**

16 NOV	M22091	Leading a Team
16 DEC	M22084	Coaching Conversations - Helping People Change

Personal Skills

02 NOV	M22067	VAT & Gaming
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Regulatory

02 NOV	M22067	VAT & Gaming
08 NOV	M22069	VAT Considerations in the Finance and Insurance Industry
01 DEC	M22070	Where and When is VAT applicable? – Place of Supply Rules
14 DEC	M22090	Tax Treatment of IP

Taxation



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Committee Events

Forthcoming Reporting Obligations Required by the MGA

During a webinar held on 1st June 2022, representatives of the MIA Gaming Committee and the Malta Gaming Authority (MGA) addressed matters related to two Technical Releases issued in November 2021 by the Malta Institute of Accountants in collaboration with the Malta Gaming Authority. The focus of the webinar were the agreed-upon procedures (AUPs) introduced to further ensure that licensed entities operate in accordance with the applicable financial obligations mandated by law and the relevant licence conditions, with a specific focus on ensuring a compliance culture amongst licensees. In fact, Mr Adrian Muscat and Ms Katrina Pace Bonici Mompalao from the MGA, highlighted matters related to the scope of these AUPs, their applicability, submission due dates and method of submission. Mr Giles Schembri and Mr Ian Curmi, representing the MIA, provided an overview of the MIA Technical Releases Audit 02/21 related to Gaming Tax Payable and Levy on Gaming Devices, and Player Funds and Jackpot Funds, while also applying ISRS 4400 (Revised) thereto. This webinar also provided participants with the opportunity to clarify related matters.

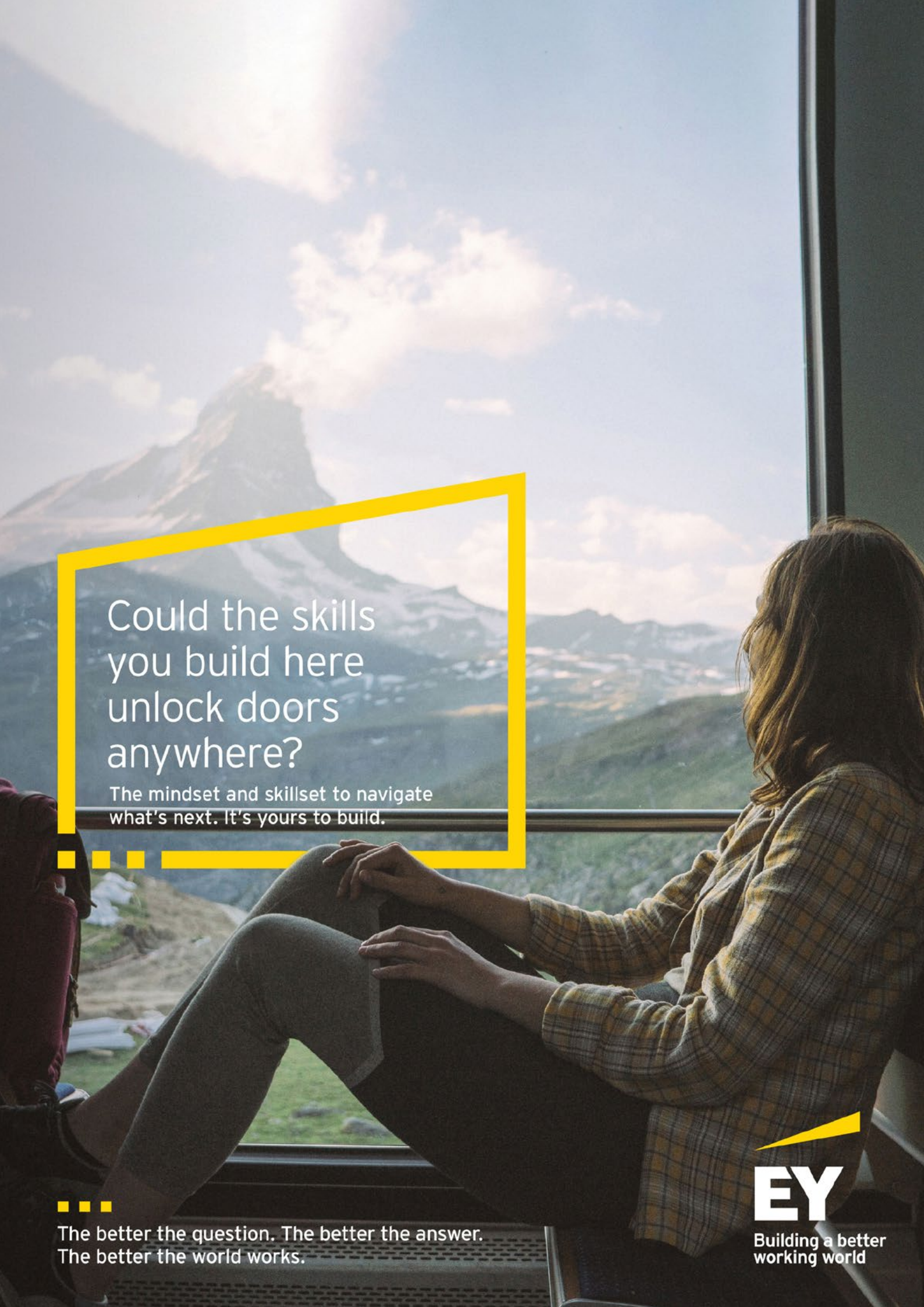
ISQM 1: What Lies Ahead? A Proactive Quality Standard to Strengthen the Profession

On 22nd June 2022, representatives from the MIA Audit and Assurance Committee and the MIA SMP Group organised a webinar that included the participation of the Accountancy Board's Quality Assurance Unit within the Ministry for Finance and Employment. The webinar started with a presentation by Mr Renzo Farrugia. During this presentation, Mr Farrugia went through the major changes being introduced by ISQM 1 when compared to the current ISQC 1, covering also a number of actions to be taken to address these changes and practical tips. Mr Farrugia was subsequently joined by Mr Paul Giglio, Ms Janis Hyzler and Ms Karen Sultana for a panel discussion moderated by the Chairperson of the MIA Audit and Assurance Committee, Ms Lucienne Pace Ross. Participants had the opportunity to learn from the experiences shared by the speakers and understand better certain requirements including with respect to the risk assessment process, documentation and reviews, amongst other matters.

SMP Networking Event

On 28th July 2022, a number of Sole, Small and Medium Practitioners attended a networking event organised by the Institute. In addition to catching-up, those present had the opportunity to discuss matters of mutual concern and come forward with related recommendations.



A woman with long brown hair, wearing a plaid shirt and grey leggings, is sitting on a bench by a large window. She is looking out at a vast mountain landscape under a bright, cloudy sky. A yellow rectangular frame is superimposed over the scene, containing text.

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Building a better
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Setting our own agenda: enhancing Malta's financial jurisdiction

Following Malta's de-listing from the enhanced monitoring procedure by the FATF, The Accountant sat down with Mr Kenneth Farrugia, FIAU Director.

Malta's removal from the FATF's grey-list must have been a massive sigh of relief for the Director of the Financial Intelligence Analysis Unit (FIAU), Mr Kenneth Farrugia. Yet, despite the sense of pride and satisfaction that such a result meant for an entity which was at the centre of it all, Mr Farrugia's eyes remain firmly on the ball. "We have two options", he says, "to improve or to go back. I believe no one wants to go back to where we were", he suggests, setting the tone for the rest of the interview.

Mr Farrugia is quick to share the merits of the achievements with the whole team at the FIAU, but also with all the authorities, representative bodies, stakeholders and institutions that worked together to ensure that Malta's targets were met. As a result, not only did the FATF confirm that Malta had complied with all technical and effectiveness requirements, but now the same international entity is asking the country to share its best practice with others who find themselves in a similar predicament.

At the same time, Mr Farrugia does acknowledge that some elements in the way Malta tackles its fight against money-laundering require fine-tuning. Yet, he remarks, the most important by-product of de-listing revolves around the fact that "going forward, we can now set our own agenda".

Despite the de-listing, the FIAU Director insists that there is no room for complacency at this stage. "It is in the interest of all stakeholders to keep strengthening our jurisdiction. We need to keep moving on our journey together", he adds, placing a clear emphasis on the last word – together. For Mr Farrugia, Malta's success goes through the collaborative effort of all stakeholders involved in the industry.

While many have hailed the successful collaboration between a number of authorities, representative bodies and other stakeholders in addressing the issues raised by the FATF, Mr Farrugia insists that such efforts should now become the norm. This is already happening in practice, he notes, highlighting the effective collaboration between his Unit and the Malta Institute of Accountants – among others – on a number of issues, such as the definition of tax evasion and the drafting of the second part of the Implementing Procedures for auditors and accountants. The cooperation established between the two organisations is facilitating a better understanding of the needs and challenges faced by practitioners. "The Institute and other representative bodies are fundamental to provide us with insight on what the feel in the private sector is, while we can feed them with knowledge, statistics and research that we carry out through our daily activities. In this way, together, we can come up with more effective recommendations and guidance for the sector as a whole. This is why effective collaboration matters".

The fight against money-laundering is not an easy one, with criminals seeking new ways to keep themselves a step ahead. But the FIAU Director feels that the experience of the past years has instilled a greater awareness of money-laundering risks within



the community. Mr Farrugia says that over the past few years there has been a significant culture shift even amongst practitioners and awareness increased exponentially. He notes that firms have invested in technology and are no longer awaiting an FIAU visit to improve their procedures but are taking proactive action themselves through independent reviews.

The latter is also facilitating the FIAU's work. Mr Farrugia is very adamant that supervisory and enforcement action are not unduly prescriptive. He shared with *The Accountant* a few innovative ways whereby the Unit is seeking to reduce bureaucracy. When onsite inspections reveal minor infractions, these are no longer passed on to the enforcement team, but rather are handled by a remediation team which works hand-in-hand with the entity to ensure that the correct procedures are followed.

In return, through information collation, the FIAU is building a number of case studies to empower the industry further, not only through generic guidance but also through test cases and real-life examples of what constitutes a red flag associated with money-laundering. In this context, the upcoming National Risk Assessment is being considered as an important tool which will allow the FIAU to identify more weaknesses in the system and provide guidance where the high risks are.

The FIAU Director also sought to dispel misconceptions of excessive legislation and regulation, insisting that Malta is only implementing standards which are enshrined at European and International level. Also, while sanctioning is a crucial tool to ensure conformity, data shows that only a very minor fraction of entities are ultimately fined. "Our ultimate objective is to train, educate and guide the industry – sanctions are only a tool of the last resort", he explains. "Fines have not increased because the Unit decided to harshen its sanctioning methodology. Rather it is because there is better compliance, better reporting and an exponential increase in STR reporting", Mr Farrugia insists.



The FIAU Director had words of praise towards the practitioners that are finding themselves better prepared for FIAU visits, which are chosen through risk-assessment procedures. "I think our efforts to explain what we are doing and why it is being done are bearing fruit. A few subject persons remain resistant to change but the vast majority is supportive, and this is facilitating matters and reducing bureaucracy for all parties involved".

Going forward, the Unit has ambitious plans. Mr Kenneth Farrugia says that the FIAU is busy working on a five-year strategy plan which looks at all the different operational aspects of the Unit and seeks to fine tune the different processes. This strategy – which will be the subject of a wide consultation with the industry – will also include sharing of information between local entities, collaboration with international counterparts, facilitation of processes and much more. The five-year-plan is effectively an embodiment of the Director's belief: "it is by looking ahead, that we will avoid going backwards", Mr Farrugia concludes.



Mr Kenneth Farrugia – FIAU Director. Mr Farrugia holds a Bachelor of Accountancy (Hons) and a MA in Business Ethics. He is a Certified Public Accountant, a Fellow member of the Malta Institute of Accountants (MIA) and a member within the Malta Forum of Internal Auditors (MFIA). Mr Farrugia joined the FIAU in 2017, providing strategic direction to the various sections of the Unit. Additionally, together with the FIAU Management team, he initiated a process of reform/restructuring of the FIAU overall operations to better meet the challenges emanating from ML/TF risks in Malta.

Building Bridges with Business

The MBR's view

*The Accountant meets Dr Geraldine Spiteri
Lucas, CEO and Registrar of the Malta
Business Registry*

The Malta Business Registry (MBR) is probably one of the longest-standing entities within the public sector. What would you consider as the biggest changes in the way the MBR operates?

Undoubtedly, the biggest change in MBR's operations was when the Registrar of Companies (Registrar) took charge of the register of beneficial owners of all legal entities and also had to ensure that the Beneficial Ownership (BO) data is up-to-date.

EU Member States are obliged to have a central register with information on beneficial owners and this is by virtue of the 4th Anti-Money Laundering Directive. Malta chose the Registrar to administer this new register, since basic information was already available to the public through the Registrar's portal. Malta has always been a pioneer in promoting transparency. In fact, as early as 2004, the register for basic information was already fully online. Malta is one of the first and few EU countries that have a fully populated register of beneficial owners.

Although the Financial Action Task Force (FATF) does not require a jurisdiction to have a central registry in place, the FATF still encourages this approach and recognises it as being one of the suggestive approaches which ensures that accurate and up-to-date beneficial ownership information is readily available to competent authorities. The FATF refers to this approach as the multi-pronged approach, that is, having beneficial ownership information available at company level, at registry level and at existing information level (other competent authorities and subject persons).

Therefore, apart from the fact that the role of the Registrar has changed from a passive role to a more proactive approach in verifying information submitted, the MBR had to carry out its own risk assessment on concealment of BO information to identify companies which pose a higher risk for concealment of BO and therefore will carry out supervisory activities on a risk-based approach. The MBR had to also carry out many outreach activities to companies and their service providers in relation to the legislative framework, obligations of all legal entities and the results of the findings of the risk assessment and the identification of red flags.

Changes to requirements related to beneficial ownership information have been quite significant. How is the Registry supporting this change in mentality? Is the MBR satisfied with the input by practitioners?

The MBR is doing its best in order to take part in outreach activities in a bid to inform the industry of what is expected from their end. We are planning to increase the frequency and number of these sessions, and are also planning to co-operate with other experts in the field to provide holistic training.

In addition, we have carried out all the necessary upgrades to our IT infrastructure to be able to provide Application Programme Interface (APIs) to subject persons who are servicing companies. This will be an essential tool to facilitate verification procedures and investigations that subject persons are required to carry out.

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I am happy to note that yes, there has been a change in mentality both at company level and also from the practitioners' side. The practitioners have been essential in populating the register and also for the ongoing monitoring of companies. Practitioners are being more co-operative with the MBR both at submission stage and also when an onsite inspection of a company is carried out at their office (when the registered office is that of a Company Service Provider (CSP)). As MBR we need to also ensure that we provide the necessary guidance and support when required and where necessary.

In order to assure itself of the quality of information it receives, the MBR is another entity which has been legally empowered to carry out verification measures. How is MBR collaborating with other public entities to ensure that no excessive bureaucracy is imposed on companies?

We do our best to communicate as much as possible with other authorities in order to ensure that the data submitted conforms with all authorities. However, I agree that most of the time, the same documents are requested by different authorities and while there is full cooperation with regard to various matters, no authority relies on the documents submitted to another authority. For this purpose, Cabinet has approved the formation of a steering committee which will oversee the implementation of budget measures aimed at reducing bureaucracy for businesses. This task was assigned to the Ministry for the Economy, European Funds and Lands. This committee is entrusted with the implementation of three key budget measures: facilitating the opening of bank accounts for companies, setting up a credit review office and introducing a shared due diligence system. This committee will also work on creating a due diligence system that is shared by all government entities, which once finalised may also be used by the private sector in a bid to reduce bureaucracy. In this regard, the Malta Business Registry plays a key role in building a critical bridge to address and diminish those tedious tasks that affect the day-to-day operations for any business.

A few months back during a Q&A session at the Institute you had shared details of an upcoming portal, which facilitates uploading and accessing of documentation. What is the status of this development?

We have finalised the incorporation part of all commercial partnerships, including all types of companies and have shared access to CSPs and representatives of companies of various associations. They tested the system and reverted with their comments and suggestions for further improvement.

We are in the process of finalising the notifications part of the system. Practitioners and other associations will have the chance to test the system, gather feedback and amend accordingly, as is being done concurrently.

A common theme that many stakeholders highlighted over the past few years has been the need to instil a culture which promotes quality over quantity. How is the Registry going about putting this into practice when it comes to company registration?

We distinguish between a company that is filed through a CSP and a company directly filed by the shareholder. The difference lies in the fact that when a company is delivered for registration by a CSP, that particular CSP is legally obliged to carry out due diligence on that particular client and therefore from our end we would require less supporting documentation as the groundwork would be carried out by the CSP itself. At MBR we screen all involvements against two different KYC databases. These involvements will be screened against a number of variables - Politically Exposed Person (PEP), Previous Sanctions, Current Sanctions, Law Enforcement (including financial crime, money laundering and/or financing of terrorism), Information from the Financial Regulator, Insolvency, Disqualified Director, Adverse Media and Linked Businesses. In case of positive hits this will be escalated to MBR's Money Laundering Reporting Officer (MLRO), who will then make the necessary reports with other authorities, where necessary, as well as the filing of a Suspicious Transaction Report (STR) with the Financial Intelligence Analysis Unit (FIAU). The MBR's Compliance Unit will also check the corporate structure and

the involvements in other Maltese companies of the proposed company. We are working on a risk tool, through which, when finalised, every Maltese company will be assigned a risk score.

While many professionals are aware that resources remain a challenge across the board, how is the MBR seeking to improve waiting times and the consistency of information provided throughout?

The new online system is definitely going to help and with the step-by-step approach, common mistakes, like wrong identification document numbers and addresses, will be eliminated. As is the practice with the current system, notifications for annual filings will be sent to all email addresses registered with the MBR for every company. We are also working on an internal restructuring, whereby every desk officer will be specialising in a particular area and every team

will have one individual leading it. This will ensure a homogeneous approach at all levels, including company incorporation, dissolution, BOs and all notifications. We are also working on an internal training programme for all staff, in order to ensure that everyone is aware of the latest developments, especially those taking place by means of legislative amendments.

From the perspective of the MBR and its desk officers, what would be a key message you would like to pass on to practitioners?

Whenever additional information is requested, full cooperation is key as this makes the process of registering the document much simpler. This is essential and beneficial for everyone involved, particularly in instances where the practitioner overlooks something, especially when there are complicated transactions. It is crucial for everyone to pull the same rope.



Dr. Spiteri Lucas - Chief Executive Officer and Registrar of the Malta Business Registry. Dr. Spiteri Lucas is a lawyer by profession who acquired a Doctor of Laws from the University of Malta and a warrant to practice in Maltese Courts.

Local Appointments



PwC Malta

appointed two new Assurance Directors, Sandra Camilleri and Konrad Borg. These appointments took effect on 1 July 2022.

The audit of going concern and relevant disclosures

Management is responsible to assess an entity's ability to continue as a going concern.

By default, financial statements are prepared on a going concern basis. However, if management intends to liquidate the entity, intends to cease trading, or has no realistic alternative but to do so, the financial statements should be prepared on an alternative basis – a basis which is not specified by IAS 1 'Presentation of Financial Statements'.

IAS 1 requires management to look ahead to up to 12 months after the reporting date, when assessing going concern. However, nowhere is it prohibited to look beyond that. IAS 10 'Events After The Reporting Period' needs to be considered for situations that have deteriorated between the reporting date and the signing date. In case of such deterioration, the going concern basis may not be appropriate.

Companies may be classified in four categories in terms of going concern:

1. The company is a going concern, with no significant doubts.
2. There are significant doubts about going concern, but there is no material uncertainty.
3. There are significant doubts about going concern, and a material uncertainty exists.
4. The company is not a going concern.

The first three categories all result in the going concern basis of preparation

being appropriate but require different degrees of disclosure.

Category 1 requires no disclosure other than the going concern basis.

Category 2 relates to an adverse situation with evidence of such situation being turned around positively. The entity needs to disclose its judgements made in order to conclude that no material uncertainties exist. It is also necessary to disclose key sources of estimation uncertainty.

Category 3 relates to an adverse situation with no sign of success in turning things around. The disclosures relate to both the material uncertainties relating to the entity's ability to continue as a going concern, as well as the judgements made in order to conclude that the going concern assumption is suitable.



Category 4, which is not a going concern, requires disclosures of the fact that the entity is not a going concern, the basis used, as well as the judgements made in order to decide that the entity is not a going concern.

The audit of going concern within a company requires the auditor to:

- Obtain sufficient appropriate audit evidence and conclude on the appropriateness of management's use of the going concern basis of accounting
- Conclude whether a material uncertainty exists related to events or conditions that may cast significant doubt on the entity's ability to continue as a going concern
- To report in accordance with ISA 570 (Revised)

Going concern must be considered within audits at the planning stage, during the audit, as well as at the end of the audit. The planning stage of the audit would involve consideration of going concern within the risk assessment procedures, including the evaluation of management's assessment of going concern.

The assessment prepared by management in relation to the entity's ability to continue as a going concern needs to be evaluated by the auditor. In a case where such assessment covers less than 12 months from the date of the financial statements, then the auditor should request an assessment for a period of longer than 12 months from that date. The auditor must also understand management's knowledge of events or conditions beyond the period of the assessment that may cast

significant doubt on the entity's ability to continue as a going concern. In line with audit evidence obtained, the auditor must then determine and conclude whether a material uncertainty exists related to events or conditions that, alone or in aggregate, could cast significant doubt on the entity's ability to continue as a going concern.

Should the auditor identify such events or conditions, then sufficient appropriate audit evidence should be obtained to determine whether a material uncertainty exists. Such evidence is to be obtained by performing additional audit procedures, such as, but not limited to, evaluating management's plans for future action and requesting written representations from management regarding plans for future action and the feasibility of those plans.

The results of the auditor's assessment of the existence of a material uncertainty related to events or conditions which may cast significant doubt on the entity's ability to continue as a going concern will accordingly impact on the auditor opinion provided within the auditor's report.

Should the going concern basis of accounting not be deemed appropriate for the financial statements, then the financial statements should be prepared on the break-up basis of accounting.

It is imperative that the auditor remains alert throughout the audit to be in a position to identify events or conditions that may cast significant doubt on the entity's ability to continue as a going concern.



Should you require further information in relation to this new standard, please get in touch with John Debattista on jd@zampadebattista.com or Janis Hyzler on jh@zampadebattista.com.

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In the Middle:

How the recent economic challenges put the spotlight on the accountancy professional

The Accountant sat down with three Fellows of the Institute and industry experts from different economic niches to get their views on the role of the accountancy professional as the world hops from one turbulence to the next.

Two years ago, when a new virus brought economies to a halt, accountants were among the first to be called in the boardrooms and CEO offices of organisations around the world with their advice being sought on how business could be sustained in such tough conditions.

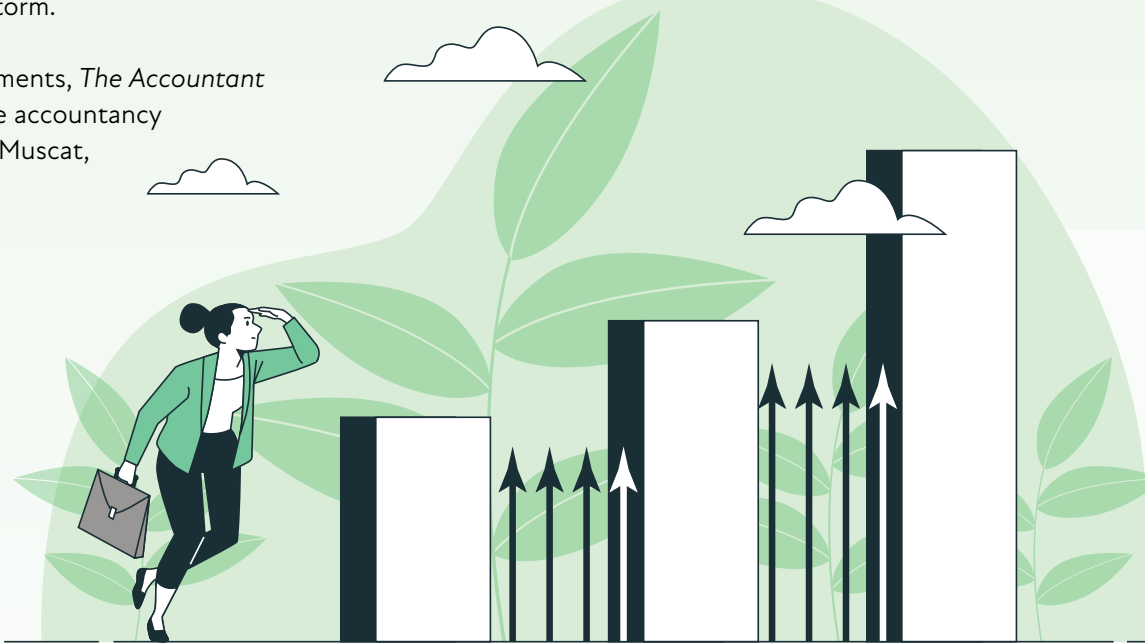
In the months that followed, accountancy professionals continued to play a fundamental role in navigating turbulent months by assisting organisations in leveraging government relief packages or accessing alternative forms of financing and guarantees made available by the state. Fast-forward a few months, and while the pandemic might be moving out of sight and out of minds, dark clouds are gathering again, with supply-side concerns, war in Ukraine, human resource challenges, rising inflation and interest rates creating a truly perfect storm.

In view of these developments, *The Accountant* sought the views of three accountancy professionals, Stephen L Muscat, Anne Marie Tabone and Ronald Mizzi, all with leading roles in their respective organisations in the energy, manufacturing and banking sectors.

An engaging discussion involving the three experts highlighted the different facets of the role of the accountancy profession in front of such challenges. While developing realities associated with digitalisation, ESG, new regulations emanating from the EU and OECD have all factored an element of complexity in the business, the three experts had no doubts about the biggest risk to firms at the present time: the unprecedented increase in the price of anything from raw materials to bunkering costs, shipping and even recruitment.

Addressing a question by *The Accountant* which included a reference to the term post-pandemic, Anne Marie Tabone was quick to highlight that the economy is definitely not out of the woods yet. “We’re looking at tough days ahead. An economic downturn is not a matter of if, but when”. It is in this context that the role of the accountant within firms will once again come in the spotlight.

“In such a fluctuating context, the accountant needs to be forward-looking, have an ability to





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take on a commercial attitude and seek to identify opportunities to create value added. Accountants are perfectly positioned to appreciate the changing scenarios around them and come up with innovative ideas to guide management towards safer waters and possibly, achieving growth in such conditions”, Tabone remarked.

Ronald Mizzi notes how higher interest rates might compound the economy’s distress, noting that although the upside for the banking sector is possibly higher profits, this will also mean a higher percentage of individuals and organisations that might not be able to service their loans. “The increase in interest rates will once again disrupt business plans. Organisations which were enjoying a positive recovery with tourism and services picking up again will feel the pinch and the need to re-adapt accordingly. In this context, the accountant is strategically positioned, to take the lead in coming up with the right solutions for today’s challenges”.

Stephen Muscat shares his agreement to this remark, adding that a significant element of trust comes into place – a comment which got the nod of his two counterparts in the discussion. “An accountant needs to earn the trust of the key decision-makers within the organisation. This might be more challenging when, as is the case for many Maltese businesses, the organisation is family-owned.” He calls on accountancy professionals to lead the push towards better governance within the organisations they operate in. “We need to promote ESG in our country, in our organisations, not because it is a good thing to do and regulations will soon oblige us to do so, but because it makes business sense to go in that direction”.

In this context, one of Stephen’s recommendations is for organisations to consider the possibility of appointing a non-executive director on the board, which gives independent and impartial insight. Adding to this, Ronald sees the need for better

succession planning which is lacking in too many local organisations.

While the ‘G’ side of ESG might still be struggling, on another element, precisely the environmental aspect, Muscat says that there has been a significant uptake in green initiatives in the market, noting however that generally these are still project-based rather than reflecting a general direction of organisations.

Mizzi shares the perspective that there is a bigger enthusiasm for sustainable projects, adding that organisations have started to appreciate the underlying benefits of going green. “Companies that do not adapt a basic form of ESG appetite will eventually struggle to get the necessary finance towards further growth”, he reflects.

The experts acknowledge that ESG brings on the table further regulatory burdens on the profession and the wider industry but insist that accountants should push their organisations to ensure that ESG is not merely a desk exercise but one that actually adds value. “As accountants we should be able and willing to contribute more”, Anne Marie Tabone says.

On regulatory burdens, Stephen Muscat, who chairs the MIA’s PAIB Group, recalls how the Institute has been proactive in recent months to set up specific working groups which are providing feedback on the applicable standards that will soon become reality to most organisations. “The writing is on the wall”, Muscat adds. “There’s no turning back on ESG. This is the way forward”.

The issues addressed above are just a few that emerged from this interesting discussion, but there was one constant thread: today’s accountants need to be innovative problem-solvers with strong analytical skills. New technology might replace traditional number-crunching tasks, but the ability to be creative and identify solutions will keep placing the professional truly on the centre stage.



Stephen L Muscat



Anne Marie Tabone



Ronald Mizzi



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Accounting – A Force for Positive Change

I - Over time, major corporate collapses with dramatic impacts on the economic and social ecosystem have shaken the world and raised questions about the role of professional accountants in such events, and whether they can be a force for good.

The consequences of such regrettable events too often involve colossal losses for investors and unbalance the whole economic and social system, triggering systemic impacts such as stoppage of payments to creditors and suppliers, job losses, and breach of pension commitments. The ultimate repercussions of these collapses have been investors' departure from markets, depriving corporations and the economy of a critical funding source, as well as a widespread erosion of public trust in business, the cornerstone of a healthy business sector and an essential condition for sound economic development and a sustainable economic system and social model.

Something, therefore, must change.

II - The root causes of these repeated events are harder to identify amidst foggy narratives on the contributing factors and the villains. And yet, the concerning pace and disruptive impacts of corporate failures should trigger a lean analysis of the underlying reasons for these undesired results, allowing the identification of where urgent change must start.

Over time, the most frequent reasons identified pertain to widespread and persistent inadequate corporate conduct. Directors' greed, short-term strategies, inappropriate remuneration policies or practices, shareholders' distraction or selfishness, negligent or conniving audit committees, and audit failures are usually at the top of the list of causes of corporate failures.

At the end of the day, however, all the individual causes reveal worrisome ethics and corporate culture failures, from poor corporate governance all the way to pure fraud.

Hence, a change in business cultures toward more ethical, values-based, and sustainable models,

preventing or mitigating adverse consequences for the integrity of the economic system and the social balance, is urgent.

III – Changing business cultures involves action from all, including, of course, professional accountants, and brings ethics and corporate culture to the top of the agenda.

Corporate reporting and assurance represent the most relevant elements supporting the economic decisions of all stakeholders, and the essential pillars of stakeholders' trust in companies, allowing them to assess how likely companies will generate quality for customers, payments to creditors, profits for shareholders, and value for the economy and the citizens.

The accountants' ethical approach to the preparation and assurance of corporate information is key to ensuring that trusted, high-quality, and reliable information is provided to the public.

Importantly, accountants and audit firms are also frequently involved in sensitive corporate decisions and positions, particularly in the field of tax planning, where their role and approach are being challenged by regulators, courts and public opinion, triggering reputational problems for the profession and negatively impacting trust.

The role of accounting and the performance of professional accountants have been increasingly questioned and often blamed for many noisy corporate and financial scandals. This perception is usually linked to alleged poorly prepared and audited corporate information, inducing questions about conflicts of interest, independence, and lack of professional skepticism – in short, concerns about the ethical approach of accountants to their work and mission.

The performance of accountants in sensitive services, like tax advisory, and the successive public scandals in this field are also exposing the profession to concerning reputational issues, in areas where it is difficult to draw the line between right and wrong.

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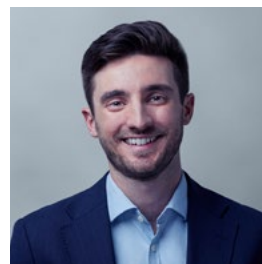
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The ethical bar toward business and accountancy is being raised. What was not subject to stakeholders' criticism before may now be perceived as unacceptable.

The rapid growth of sustainability goals, framed by the United Nations Sustainable Development Goals, has been pushing this trend, triggering increasing scrutiny regarding bad governance, corruption, bribery, and fraud in the corporate sector. Such heightened scrutiny is being driven by perceptions of how much these issues rebound negatively on citizens as taxpayers, users and beneficiaries of public goods and services.

Financial and non-financial information, as crucial pillars of a stable and productive economic system, as well as tax planning, are important areas impacted by this call for ethics and values. More than ever, there is a demand that accountancy is performed according to the strongest ethical principles, reflecting adherence to universal values and the public interest.

The perception about the central responsibility of the accounting profession for corporate failures must be challenged against the complex set of reasons for business failures and the different lines of defense against wrongdoing. It is, nevertheless, important to recognise some opportunities for improvement and to ensure that accounting plays a major role in changing corporate culture, avoiding reputational issues, and restoring trust.

IV - Ethics is, undoubtedly, the most relevant catalyst and driver of the required change. Ethics standard setters contribute decisively to those goals by setting standards focused on the conduct, behaviour, and culture of accountants and of the organisations in which or to which they provide services.

The IESBA, through its *International Code of Ethics for Professional Accountants (including International Independence Standards)*, has always been at the forefront of ethics standard-setting for professional accountants, providing them with a robust, comprehensive and dynamic set of ethics standards. These standards drive a consistent alignment of values and conduct concerning the performance of accountancy services.

The fundamental principles defined in the Code provide an important basis for accountants' professional judgement, mindset and behaviour: **integrity, objectivity, professional competence and due care, confidentiality, and professional behaviour** form a robust framework on which professional accountants must base their judgments and decisions.

Over the last few years, the IESBA has worked diligently to develop globally applicable standards that serve as the grounds for sound, ethically-based judgements and decisions by professional accountants. This has allowed the recognition of the standards as ethically valid constructs irrespective of the political/economic context, jurisdiction, sector, or organisations where the work is performed—in other words, truly global ethics standards.

Alongside important recent new provisions in the Code aimed at reinforcing the common baseline of ethical principles for accountants in the exercise of the profession, such as the standard on responding to non-compliance with laws and regulations (NOCLAR) or the revised definition of a public interest entity (PIE), the IESBA is also working resolutely to “future-proof” the Code by responding to the deep transformations in the external environment and the changing expectations of stakeholders.

In particular, the IESBA is advancing work in innovative areas such as Technology, Sustainability, and Tax Planning, aiming at providing the profession with robust, fit-for-purpose standards to continue to support public trust in the profession's valuable work in the public interest in a dynamic and changing context.

Professional accountants play a key role in driving that urgent cultural change, by adopting a robust ethical approach to their work and promoting an ethical tone at the top, whether at the organisations where they perform their activities or at the accountancy firms themselves.

Ultimately, the IESBA's International Code of Ethics is the profession's reputational shield and armour, a beacon to capturing and retaining valuable talent to sustain its growth and vitality, and the unmistakable ensign of the public trust it has laboriously earned throughout its existence and must continue to reinforce and protect, helping accountancy be a positive force for change.



Author

Ms. Gabriela Figueiredo Dias,
Chair of the International
Ethics Standards Board for
Accountants

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The Maltese Capital Markets

During its lifecycle, a company often determines the financing structure it ought to have in place in order to be able to continue growing and sustain its business.

There are two types of funding that companies typically have on their balance sheets – equity and debt. While fund raising of any of the two types may be done privately – equity injection by new and/or existing shareholders and debt financing through bank loans or loans from related companies – the local capital market offers another possibility to raise finance from the public. However, the latter is not the only reason why a company seeks a listing.

This article will seek to highlight the main determinants for making a public offer of securities and seeking a listing thereof.

The first consideration is typically the funding mix deemed to be required – whether the financing requires debt or equity or a mix of both. It is important for companies to have a good mix of debt and equity, keeping gearing ratios (representing the relationship between these two components) as low as possible so as not to impose on the company a lot of debt while the founders/owners (the equity holders) take on less risk than the debt subscribers as their exposure is lower than debt holders.

Equity Issues

In the first instance, this article will look into equity issuance – when a company offers new shares to new subscribers (investors) in order to raise additional finance. Through such issuance, typically referred to as an initial public offering, or as is widely known, an IPO, the company's issued share capital is increased through the issue of new shares, and new shareholders will join the existing shareholders/founders of the company. In doing so, the company will raise additional finance for its requirements. A very recent IPO where the company offered new shares to new shareholders was that of APS Bank plc. The bank raised additional capital, and did so publicly, to further strengthen its balance sheet and its regulatory capital ratios. In such case, the existing shareholders were diluted in terms of their

percentage holding in the bank by allowing new shareholders to come in and contribute to make the bank a bigger and stronger one.

Another form of IPO is that whereby some of the company's existing shares are offered to the public and listed on the stock exchange. In such instance, the existing shareholders/founders of the company make an offer of some of their existing shares to new shareholders. This was the case of the recent IPOs of M&Z plc and PG plc. Such form of IPO is typically done for succession planning, among other reasons.

In both instances, there are conditions that must be met for the listing to take place. One of the main challenges that is often encountered is the fact that at least 25% of the shareholding has to be in the hands of the public, who individually cannot hold more than 10% or be connected to the company, its directors or the group of companies. This has proven to be a challenge because companies that have a high valuation typically need to make an offer of shares (new or existing) that may result to be too high for the investing public to absorb. Such valuations are based on the value of the company in terms of net asset value as at the end of the last reporting period, but may also take into account:

- contracted business;
- value attributable to key personnel to the company;
- the intrinsic value that the existing shareholders attribute to the company; and
- a myriad of other factors depending on the type of company being the subject of the IPO.

Companies that are the subject of an IPO are also required to have an earnings and business track record of at least three years, and the original founding shareholders that remain after the IPO are required to remain locked in with their shareholding for a period of 24 months. This is done to ensure consistency in the running of the business and continuation.

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Once a company's shares are listed on the exchange, further equity injection may be done through a rights issue, whereby the shareholders are offered rights pertaining to their existing shareholding to new shares. They have the option of subscribing for those rights and acquire the new shares being offered in the company, or they may rescind, technically known as lapse, those rights and new shareholders come in for the amount of new shares not taken up by them. The other existing shareholders are also allowed to take up additional shares. These rights arise from the Companies Act (Cap. 386 of the laws of Malta), known as pre-emption rights, in terms of Article 88 thereof. Some examples of rights issues that happened on the local stock exchange include those of Trident Estates plc and Fimbank plc. In these instances, the shareholders of the respective companies were offered the opportunity to invest further in the equity of the companies and any lapsed rights were offered to new and other existing shareholders.

New shares may be offered to new partners of the company in a merger and acquisition (M&A) transaction. The most recent transaction of this nature that has happened on the Malta Stock Exchange was the share for share transaction of Medserv plc and Regis Holding Limited, which ultimately became MedservRegis plc. New shares in Medserv plc were issued to the shareholders of Regis Holding Limited, which diluted the existing shareholders of Medserv in return for a percentage holding in the merged operation of MedservRegis plc in what is known as a reverse acquisition transaction. In such transaction, the existing shareholders of Medserv plc had waived their pre-emption rights that were referred to earlier in this article and the new shares were issued to the shareholders of Regis Holding Limited in order to settle the transaction.

Bond Issues

When it comes to debt issuances, the Maltese market is most accustomed to the plain bond issues. These are typically structured with a fixed term and a fixed coupon. Companies that seek to raise funds through a bond issue, and list such instruments on the Malta Stock Exchange, also need to have some kind of track record, although the requirement is not as strict as that of the equity issuers. Some companies that issue bonds are known as SPV – special purpose vehicles. They are set up to act as a financing vehicle for a group of companies which they form part of and as such, may not have a track record

in their own right but such track record is existent within the group or at promoter level.

When an SPV is used, bonds issued by such companies would typically be guaranteed through the operations of another company within the group since the SPV would not have any operation of its own – it would be used to raise finance and on-lend the funds raised through the group or to a related company (generally a parent or sister company).

Bond issues may also be secured in favour of the investors. Secured bond issues would typically include an asset that is identified for the purpose of securing the interest of bondholders, so that in an event of default, the bondholders have the right to claim their principal repayment of the money invested in the bond through the sale of the asset.

Another type of debt issuance which is issued by banks is the subordinated bond issue. Subordinated bond issues of banks carry a higher risk than other bond issues because in a case of a bail-in of the bank that issues such debt instruments, these bonds could act as equity and absorb losses of the bank once such losses wipe out the existing capital of the bank.

The investor base in Malta consists mainly of retail investors. Over the years, we have seen investor preference towards bonds rather than equity in view of the visibility of returns associated with the financial instrument. The majority of the issuances on the local stock market are in fact bond issues. The value of the issues typically ranges between €15 million and have gone over the €50 million mark in some cases, typically with companies that have a large balance sheet and can therefore afford and sustain such level of debt.

Documentation and the Process

The Malta Stock Exchange (MSE) offers the platform for the operation of regulated markets in Malta, with the main market being the Official List, where most listings happen. While the market is still considered to be small when compared to other European peers, we have seen a growing interest in the number of listings and issuers coming to the capital markets in Malta.

The process for the issue of securities to the general public and the admissibility to listing of those securities on the Official List of the MSE is one which is undertaken with the Malta Financial



Services Authority (MFSA) (unless the securities' issue is a small one and the securities are admitted to trading on Prospects – a non-regulated market operated by the MSE). Whenever there is a public offer of securities, a prospectus needs to be drawn up in terms of the Prospectus Regulation (Regulation (EU) 2017/1129) which is vetted and approved by the MFSA's Capital Markets Supervision Unit. In order to make an offer to the public of its securities, a company has to be incorporated as a public limited liability company in terms of the Companies Act and as such, we see a number of private companies being converted to public companies in such processes, which may require the additional strengthening of the equity base in view of the minimum net asset value levels required.

The issuer has an advisory team, typically made up of the legal counsel, the financial advisors and the sponsor (a role undertaken by an investments services firm in terms of Chapter 2 of the Capital Markets Rules), that assists in the preparation of the Prospectus, as well as the submissions to the MFSA in order to obtain the necessary regulatory approvals.

In addition, companies which seek to admit their securities to listing are also required to have a board of directors that include a number of non-executive independent members. This is considered a very important factor and such companies seek to onboard directors who bring experience in the segment they operate in but also expertise in being a director of a public company. This is in view of the fact that such companies need to make public a lot of information that private companies typically do not, including IFRS-compliant financial statements (now also in ESEF format); issue company announcements on any transaction carried out which is not

in the ordinary course of business, new contracts of material substance and change in senior management, including directors; announce dates when the board is set to meet; and announce any takeover transaction. Such continuing obligations expected out of these public companies are found in Chapter 5 of the Capital Markets Rules, including the Code of Good Corporate Governance found therein, as well as other European regulation such as the Market Abuse Act.

While the process to attain a listing is not a straightforward one and may seem challenging at first, various companies that went through the process comment of the overall positive experience. It instilled in the company more discipline because of the accountability, gave them access to new sources of financing, spread amongst a variety of investors rather than focused on banks, and allowed them to structure their financing structure in a way that afforded them more flexibility and control.

The author will be delivering an MIA Virtual CPE Listing on the MSE – An Alternative Source of Finance on 20th October 2022. Further information on this session is available at <https://www.miamalta.org/event-4877768>.



Author

Doreanne Caruana heads the Corporate Advisory Unit within Rizzo Farrugia & Co (Stockbrokers) Limited. She is involved in taking to market multi-million capital market transactions, including equity offers and bond issues.



The Contribution of the Export-Oriented Foreign Direct Investment

in the Services Sector to the Growth and Development of the Maltese Economy¹

The Export-Oriented Foreign Direct Investment in the Services (EFIS) sector captures the share of business activities that form part of the tertiary productive sector, that contribute to Malta's exports, and which are undertaken by Foreign Direct Investment (FDI).

In 2019, this sector directly generated €2,335 million in value added, which accounts for 19% of the Gross Value Added (GVA) generated in the total economy, and employed over 22,000 employees, such that its level of employment represents 10% of the total workforce in the Maltese economy.

Firms operating in the EFIS sector are capable of generating a strong contribution to exports, thereby overcoming the size limitations of the domestic economy, which act as a significant constraint to business growth. Such firms introduce flexibility in business growth to enable the graduation from micro, to small, to larger-sized business, as export-oriented services are typically more amenable to scalability. The significance of exporting firms also lies in the fact that such firms generate resources which are necessary to meet the country's inherent requirements for imports. Through their activity, these firms serve to inculcate the importance and practices necessary for internationalisation across other business sectors in Malta.

Another feature which places a firm within the EFIS sector is the element of foreign investment. Firms involving foreign investment secure access to markets

and business networks that would otherwise not be available to indigenous business, particularly in situations where FDI would be undertaken by firms with widespread international presence. Such firms also bring to the country technologies and knowledge, including in skills and human capital, to penetrate business fields that would otherwise not be accessible to local business. Furthermore, by bringing an element of financial investment from abroad, these firms contribute to the stability of the country's external balance of payments.

The EFIS sector is composed of activities which span across a number of industries that form part of the tertiary productive sector, including the financial services sector, the ICT and creative sectors, professional and business sectors and gaming. Through their investment, firms operating in such sectors maximise economic value added in the Maltese economy and generate jobs of high quality, creating career pathways for the expanding professional supply of skills in the indigenous population of Malta, and for the high-skilled immigrant workforce, which generates multiplier effects akin to longer-term tourism. Indeed, in 2019, the productivity in EFIS firms was estimated

¹ This study was jointly commissioned by the Malta Institute of Accountants (MIA), the Institute of Financial Services Practitioners (IFSP) and the Malta Institute of Taxation (MIT). The authors are economists at E-Cubed Consultants.





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at 189% of that of the entire economy. Firms in the services sector also contribute to the financial viability and sustainability of recent and expected investments in real estate, office space and retail-oriented projects.

Furthermore, the activity of firms in the services sector is consistent with Malta's ambition towards a sustainable and circular growth and international commitments towards climate change efforts, as it minimises the carbon and environmental footprint of the economic value added generated. In fact, an assessment of the environmental implications of the EFIS sector's activities, measured in terms of the carbon produced per thousand euro of value added generated and the office space used, suggests that the sector has a minimal impact on the environment. Overall, the EFIS sector accounts for 1.7% of the total carbon emissions. In terms of office space, the impact of EFIS activities on land use is also relatively contained. The use of office space per employee is 17m² which is low in comparison to other sectors.

This clearly suggests that the EFIS sector is eminently placed to deliver the economic development objective of maximising the economy's productive potential while minimising the carbon and environmental footprint of the economic value added generated. The contribution of the sector towards maximising the economy's value added and employment is to be viewed beyond the direct impacts generated by the sector so as to incorporate the indirect and induced effects. Specifically, the indirect impact reflects the impact on the firms that supply resources to firms forming part of the EFIS sector, whereas the induced impact represents the effect of the expenditures arising from income earned from the direct and indirect effect.

Through the application of the input-output multiplier approach, it is estimated that the EFIS sector's contribution to value added rises from €2,335 million to €3,036 million when taking into account the indirect effect and to €3,835 million when also considering the induced effect. Out of the €3,036 million value added generated by direct and indirect effects of the EFIS sector activity, around €194 million represent value added of firms outside the EFIS sector itself, mostly in manufacturing, wholesale and retail, transport and hotels and restaurants.

In terms of the sector's contribution to employment, this is estimated to increase from 22,187 employees to 28,509 employees when incorporating the indirect effect and to 38,589 employees when considering the induced effect. This sector attracts foreign workers which would be otherwise employed elsewhere. Out of the approximately 28,500 jobs generated by direct and indirect effects of the EFIS sector activity, around 4,700 are in firms outside the EFIS sector itself.

It can thus be concluded that the significance of the EFIS sector activities goes beyond the economic realm and is to be also viewed in terms of its environmental and social impact, factors which are becoming crucial in measuring the success of business activities. From an environmental perspective, as noted above, firms in the EFIS sector have a relatively low carbon and floorspace footprint. This reflects the sector's commitment to adopt business models which are designed to be more sustainable. The sector's contribution towards the social environment is reflected in terms of substantially higher salaries relative to other economic sectors and a lower employment gender imbalance, although a somewhat high gender pay gap.

Authors



Dr Gordon Cordina is a leading economist in the Maltese Islands, with a professional experience spanning 25 years covering banking, policy-making, academia and private sector consultancy. He is a graduate of the University of Cambridge and the University of Malta. His main area of academic interest is the growth and macroeconomic dynamics facing economies that are prone to heightened risks.



Bernice Amaira Gauci is an MSc graduate in Economics and holds a B. Com (Hons) in Economics from the University of Malta. She works as an economist at E-Cubed Consultants and as a casual lecturer at the Economics Department of the University of Malta. Her main research interests include the labour market, welfare policy and public economics.



Maria Cini is an MSc graduate in Economics from the University of Edinburgh and holds a B.Com (Hons) in Economics from the University of Malta. Maria had previously worked with the National Statistics Office (NSO) as a statistician under the Economics Directorate within the Public Finance Unit and later within the National Accounts Unit before joining E-Cubed Consultants Limited, in 2014.

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Dilemmas await as the EU “unshells”

In a rapidly changing regulatory environment, it is essential to emphasise that legislation and overall European Union (EU) trends in laws regulating the provision of substance and overall corporate restrictions have recently been thoroughly reviewed, and some new directives that will almost certainly become law shortly have been proposed.

The EU has taken a firm stance against companies formed solely to abuse the law by establishing structures for purposes other than normal business operations. Many attempts have been made to address this issue on various occasions. However, it appears that this time the EU is determined to take the final step and implement a system whose ultimate goal can be praised as a tool to combat tax evasion. As always, the devil is in the detail, which can complicate the operations of prudent businesses that comply with all regulations. This article will take a look at what this is all about.

What does this imply?

It is a well-known fact already that the European Commission (EC) published draft directive ATAD 3 (also known as “Unshell”, hereinafter referred to as “Unshell Directive”), amending Directive 2011/16/EU. The goal of the new EU law is to close the tax gap in the EU’s budget, which has been aggravated in part by the use of so-called “shell entities” that might be created to take advantage of preferential tax treatment while lacking the economic substance to run a business. Their presence causes a significant gap in the EU budget. The draft Unshell Directive’s main goal is to prevent the formation of these entities, thereby closing loopholes in the tax system. The new regulations establish the indices of the minimum economic substance and define the fiscal consequences of activities realised through such entities lacking the stipulated substance. The Unshell Directive contains a scheme for identifying companies that may be considered shell entities.

Better off failing the test

How can one objectively determine which company falls under this unshell umbrella? The first step is to conduct a three-stage test covering qualified income, the transnational element and own resources. This test is designed to identify high-risk cases.

Entities that pass the above test will be subject to reporting obligations. These include making declarations about the economic substance they possess as part of annual reporting. If said entities fail to demonstrate that they have the bare minimum of economic substance as part of the reporting described, they will be considered shell entities (this assumption may be overturned). Such entities will lose the right to benefits resulting from tax treaties signed by the country of incorporation, as well as tax exemptions resulting from EU directives implemented.

Entities that do not meet the conditions mentioned in the aforementioned test, as well as certain entities expressly mentioned in the Directive, will be exempt from the Unshell Directive’s obligations, as they will be classified as “low-risk cases”. There are entities expressly excluded by the Unshell Directive including listed companies, collective investment vehicles, entities conducting holding activities which are resident in the same member state as their shareholder or top-level parent company, and also entities that employ at least five employees or staff members on a full-time basis.

How much substance is enough?

After going over some conceptual foundations of what the Unshell Directive is all about, we can confidently

state that there is no way to be a bad actor and play the role of substance. Certain new elements will be established as minimum substance requirements, defining specific consequences for activities conducted lacking the aforementioned substance. By way of an example, the number of directors, their qualifications, authorisations and place of residence, the number of full-time equivalent employees, a bank account, and evidence of the account's activity in that specific territory are among the indicators for the substance.

One could argue that the EU is doing an excellent job here as all these actions are motivated by a desire to ensure that companies pay their fair share of tax. According to the justification for the Unshell Directive, the Corporate Income Tax (CIT) gap at the EU level amounts to 20 billion EUR. However, first of all, it is justifiable to ask whether another regulation will genuinely help to reduce this gap significantly, as there is already a range of provisions addressing the question of tax abuses within the EU (the Parent-Subsidiary and Interest-Royalties Directives, the recently adopted ATAD and ATAD II Directives, and other changes). Within this framework, further regulations may appear slightly superfluous.

The provisions of the Unshell Directive, on the other hand, are intended to serve as a precursor to the aforementioned regulations. The Unshell Directive may additionally help to bring order and clarity to the approach to the eternal question of “how much substance is enough”. Hence, such a proposal is the first *de facto* attempt to harmonise the approach to this matter at an EU level.

We frequently ask the “substance” question for a variety of business activities that may be taxable at source or subject to other local anti-avoidance provisions. From this perspective, the provisions of

the Unshell Directive may become a practical point of reference, although, of course, they are only a certain minimum expected by the EU. In addition, it cannot be excluded that these provisions will indirectly affect the use of clauses such as the Principal Purposes Test (PPT) as a general anti-abuse rule.

Ounce of prevention is worth a pound of cure

While this initiative is only aimed at companies with a low level of business substance, implementation of the draft Unshell Directive would impose additional reporting obligations on many. Furthermore, according to this Directive, the country of tax residence of shell companies shall refuse to issue a tax residence certificate to such a company or issue a residence certificate with reservations. As a result, the administrative burden associated with granting tax residence certificates for tax purposes is likely to increase.

As explained previously, the purpose of these actions is to close loopholes in the tax system, and it will be a significant step forward in EU direct taxation since it will be the first attempt in the EU to harmonise a minimum level of business substance for tax purposes. Apart from the draft of the Directive presented, the EU is also undertaking other tax law reforms, such as Pillar II and the planned Pillar III. Although the European Commission assumes that tax treaties with third countries should be respected, a direct consequence of the Unshell Directive could be that tax administrations in Member States use it as a reference point when applying the PPT to third countries.

Notwithstanding that it is uncertain when the Member States will vote on the draft Unshell Directive, it is critical to monitor the legislative process in this area. International groups that may be subject to the Unshell Directive's scope should consider conducting an initial analysis of their structures to assess any consequences that may arise as a result of the current project and to prepare themselves appropriately for future substance changes. This could include health check of their boards, authorisations granted, places of residence, existence of full-time employees and bank accounts. Better to be safe than sorry.

Author

Andrzej Tabero is a Senior Manager (Head of Legal & Company Secretary Services) at Alter Domus. He is a multi-lingual legal professional with extensive experience in the industry, including several years in senior roles and a master's degree in Law from the Mykolas Romeris University (Vilnius, Lithuania).

Finding the Right Balance

MIA Young Members Group Chairperson Dean Micallef opens up about the way his accountancy background served as the backbone of his professional development

Earlier this year, 36-year-old Dean Micallef accepted to increase his contribution towards the Institute by taking up the role of chair of the MIA Young Members Focus Group. For this Summer's edition of The Accountant, we have sought out Dean's perspectives on the industry, his professional development and favourite life hacks.

As proceedings go, we invite Dean to run us through a quick description of himself and one thing strikes us at the onset. Dean is not only a firm believer of the need to embrace change but is actually in love with the whole concept of change. The societal shifts that constantly shape our evolution intrigue Dean and serve as an inspiration for his next step forward. During our conversation we could sense that creating something new, seeking value added to his professional life, family life or to other business organisations is what sets his pulse beating higher every day.

Dean recounts the early days of his career which saw him rise in a few years from a study/work experience at a Big Four firm to being a CFO at a growing organisation, to eventually venturing out into private business. He is quick to point out that his educational background was the common thread as he moved along his professional trail. "I would say that accountancy was crucial in every phase of my professional evolution. Accountancy is not solely about the technical background it provides. It is also about the values and skillsets which it instils.



The ability to be analytical, to understand things in a different way, the mental flexibility needed to solve problems and take decisions, accountancy truly charts your path and opens many doors".

Even at CFO level, he finds that his educational background, knowledge and experience remain fundamental pillars to carry out his responsibilities in an effective manner.

Dean speaks excitedly about his career, which allows him to engage with amazing people from different backgrounds. He expresses his fondness for joining creatives and disruptors that come up with incredibly innovative ideas that can truly transform the world we live in. "It is a true privilege for me to work with such bright minds that are seeking ways to create innovative solutions for the world we live in. They push the boundaries of business models, providing services and products in a different way. Their job is to be creative, mine is to help them formalise their strategy, transforming their exciting ideas into something tangible which makes business sense. This allows me to support these individuals and firms in creating value added, for themselves and for the society we live in".

“The accountancy profession can open so many avenues but also different lines of work. It is up to each and every one of us to find the right niche to specialise in”. In this context, we point out that many young people might not yet know what specialisation they would want to focus on. “Is this a reason to give up on accounts?”, we ask, to which Dean comes up with a “Definitely Not”. He adds: “the best thing about this profession is that as long as you have a good grasp of the underlying elements of the profession, including being responsible, organised and love working with people and numbers, then the accountancy world is for you. One of the best things about this profession is that you are not tied down to a specific niche, but you can easily move around – whether its audit, advisory, technical, corporate advisory. Besides that, you do not have the fear that you will be doing the same thing for the next 25 years – the profession adapts to the developments of the world around us, so your work will always remain relevant and exciting”.

Dean also shares his views on the impact of technology and digitalisation, concepts which he embraces wholeheartedly. “I am a big fan of technology and innovation”, he explains. “For the accountancy professional, technology is not a threat. It will replace certain routines but opens the possibility to focus on providing value added, allowing us to develop more meaningfully”.

One word of advice to fellow professionals and aspiring ones? “Keep investing in yourself and in your skills. Find peers with whom you can share experiences but also find time for yourself.” Despite a highly committed professional life, Dean, who besides chairing the MIA’s Young Members Forum also heads the Young Presidents Organization Malta Chapter Foundation, makes it a point to find quality time for his young family – including three children, sport and personal growth.

His final message?

“
Your professional career can
be exciting without the need
to miss out on a healthy,
enjoyable personal life.
It is all about finding the
right balance.

”



Meet the MIA Team

Jurgen Mifsud



How would you describe yourself in three words?

Fun, energetic, team-player.

If you could live anywhere, where would it be?

Italy – I just love their food, culture and obviously I will be able to follow my favorite football team.

What's the best thing about working at the Institute?

My main role within the Institute is organising events and conferences. This gives me the opportunity to work with and meet different people with different backgrounds which is something I really enjoy and also helps me grow my expertise and knowledge.

How does it feel to do creative work within an historic institution such as the MIA?

I believe that accounting is a very important profession in view of the crucial role played by

accountants within our economy, hence having an impact on our everyday life. Being part of this institution motivates me to always give my utmost to represent this profession.

You can spend a 15 minute coffee break with anyone in the world. Who would that person be?

I think it would be Barack Obama – his story and what he did in his time as the US President always struck me.

Football plays a big part in your life. What drives your commitment towards this sport?

For me personally, football is a way of life. I was never a top player, but in the past seven years I have been involved in the management aspect of a football team.

As previously mentioned, the fact of always meeting new people is great. It is not as easy as people might think it is because it is very challenging, especially in Malta. However, after a busy day at the office, it is nice knowing that you will spend at least two hours doing something related to what you love.

What was the last movie you watched?

Hustle – starring Adam Sandler – top film.

Favourite trip abroad ever

Barcelona – I went to watch Coldplay live in concert. It was only a three-day trip but turned out to be awesome! Visited some fun parks, which always brings out the young kid in me.

A life accomplishment you're particularly proud of

It will sound as a cliché, but I think graduating with a Bachelors Degree in Business Enterprise. I had not always prioritised studying as I should have. I learnt a tough lesson through my Ordinary Level examinations, but that experience pushed me to roll up my sleeves and work harder. Thankfully, I succeeded.

What three items would you take with you on a deserted island?

- My dog would be one for sure if we can 'label' her as an item.
- Some sort of music player to enjoy some tunes.
- My beloved pillow.

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