ALTER DOMUS MALTA NEWSLETTER

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Dear Friends,

I hope you had the opportunity to take or plan some vacation time over the summer months.

In our last newsletter in April, we revealed that nearly all of our staff were working safely from home. This has since changed, and most of us have been coming back to office since the beginning of June. The office is now looking closer to the norm we were accustomed to prior to the arrival of Covid-19.

Meanwhile, we are continuously monitoring the situation to ensure that our working environment remains safe for everyone.

Although the majority of our client activities have been reduced, and with difficulties traveling and meeting clients and business partners in person, we have done our best to remain close to them and support their business in these unprecedented times.

This period has been an opportunity for all to reflect on existing working practices and see how they can be improved in a post-Covid-19 world.

Chris Casapinta  
Country Executive, Malta
Malta’s Economic Outlook
Due to Covid-19 pandemic and associated travel restrictions Malta’s economy has slowed down over the last few months. In spite of this, Malta recorded the second-highest employment growth rate in the EU in the same period, Eurostat figures show.

The EU’s seasonally-adjusted GDP contracted by 3.6% in the euro area and 3.2% in the entire EU when compared to the previous quarter. Eurostat figures also show Malta was one of ten countries whose GDP at the end of the first quarter was higher than in the corresponding period of 2019, recording a 0.7% growth over a year.

When compared to the previous quarter, employment in Malta increased by 1.3%; only Lithuania (1.6%) had a better rate. The largest decreases were recorded in Spain (-1%) and Bulgaria (-0.9%). Employment in the EU dropped slightly during the same period, by 0.1% in the 27-nation bloc and by 0.2% in the euro area.

The figures were positively received by the Maltese government, which highlighted that the contraction of Malta’s GDP was lower than the EU average. Interpreting the figures, the government argued that the statistics showed that countries which had implemented full lockdowns had suffered the most, stating that this vindicated the government’s decision not to implement such drastic measures.

Fitch rates Malta at ‘A+’
Fitch believes that the pandemic will have significant impact on Malta’s economy and public finances, but rating the country at A+ reflects, overall, a positive view. Fitch forecasts real GDP to contract 5.9% in 2020, reflecting the health crisis shock to the global economy and tourism, and the government’s containment measures, as both firms’ and households’ spending is put on hold. Growth in public consumption will provide some limited cushion, on the back of increased spending in the healthcare sector. Growth is projected to rebound to 3.6% in 2021, but below 2019’s 4.4%.

Fitch expects the tourism sector in Malta will suffer a contraction in early 2020, but will start recovering slowly in July. Overall, we believe hotel occupancy in 2020 to be close to 50% of 2019 levels, with the remaining sectors dependent on tourism to be affected as well.

The impact of the pandemic on the domestic economy will be partially softened by proposed government relief measures to combat the disease and support the economy including a package amounting to EUR1.8 billion (13.6% of 2019 GDP) which includes EUR210 million (1.6%) in direct spending measures, EUR700 million (5.3%) in tax deferrals and EUR900 million (6.8%) in loan guarantees. Additional measures announced recently included further fiscal support aimed at raising wage subsidies, at an estimated cost of EUR61 million (0.5%) per month. Healthcare spending is projected to increase by EUR100 million (0.8%).
Every year, CFOs reflecting on year-end reporting think of things that could be done better. Inevitably practical issues arise, along with flaws in workflows and processes. Completing the year end is a process that depends on immaculate preparation, planning and communication. But this year was different. Out of the blue, Covid-19 posed severe challenges. Working from home, staff had to quickly get technology in place, and work as a team despite not being in the office. Hard enough if everyone is in the same time zone, but even more difficult for those firms with people across multiple time zones.

More than ever, it’s a year when strong underlying technology, processes and service partner staff and experience matter. That makes it a good time for CFOs to review how their administrators performed and to reflect on planning and partnerships for 2021. The five questions we suggest CFOs ask themselves are:

1. Was the administrator helpful in supporting the audit with “info packs”?

Administrators play a vital role in supporting the audit. Notably, “info packs” containing the additional information needed to support and complete a fund’s accounts can be extensive; they are often used not only by the auditors but by fund controllers to facilitate their review of the numbers and can contain a mix of both supporting legal documentation and schedules detailing calculations. General partners (GPs) are making more requests for additional services that would previously have been performed in-house. These include attending GP board meetings and assisting with year-end board papers.

While administrators always seek to support the audit, they are more likely to meet expectations if all support required is included in pre-scoped deliverables and well-defined administrator service level agreements. Planning for them from the outset minimizes the risk of due date overshoots and errors arising from rushed responses to ad-hoc queries.

2. Were the year-end net asset values (NAVs) produced accurately and on time?

Calculating NAVs is the acid test of the year end. Generally speaking, NAVs are accurate and on time, but there is inevitably some back and forth in the first year of an administrator’s appointment as both parties reach a common understanding of the methodology and contents of calculations. What’s more, if a fund holds private investments, a “final” NAV cannot usually be calculated immediately after the year end, as it takes time to finalize valuations and for the fund’s GP to approve them.

However, good advance planning minimizes delays and the risks of inaccuracy. This includes confirming the calculations to be made, knowing what assets/liabilities must be recognized and receiving all bank statements. Then a ‘close to final’ draft can be prepared as early as possible, often including a first cut of valuations even if they need to be adjusted later.

3. Were there detailed audit trails showing how the numbers were calculated and confirming their accuracy?

Supporting the numbers through audit trails is important. The level of detail can be significant if, for example, a real estate fund has a number of underlying special purpose vehicles holding individual buildings. Links have to be included to sources of information, such as legal documents. Again, clearly defining and agreeing what’s needed up front avoids problems later.

4. Were there clear processes or was it an “Excel mish-mash?”

Poor project planning inevitably leads to a stressful year end, putting pressure on a GP’s finance and administration departments. By contrast, a robust plan helps the audit to run smoothly. It’s important to have a mutual understanding of the key stakeholders and contacts, information flows and due dates, as well as the GP’s requirements regarding the form and content of “info packs” and reconciliations. Ideally, if there are interim quarterly audits then templates can be set up in advance and an approach to communications agreed. Even the best made plans experience the odd surprise, but thinking ahead helps to make the process painless.

5. Did the year-end consume much of the CFO’s time?

Year-ends always take some of the CFO’s time and 2019 had the additional challenge of the pandemic, even if it was a 2020 event. While the administrator can take care of 80% of the audit process, the client’s finance team has responsibility for areas such as the valuations that will be reported. However, experienced administrators can help finance teams by applying their sector expertise to explain those tricky areas that auditors usually like to scrutinize.

This year-end was performed under extremely difficult circumstances that will inevitably have led to more challenges than normal. But as CFOs ask themselves what could be done better, the broad lessons are likely to be the same as ever. A smooth year-end takes meticulous preparation, a robust project plan, and clear communication on what data is required in advance. Often, this equates to a strong partnership with an experienced administrator with knowledgeable staff and integrated technology and data.
The regulatory and compliance framework is constantly developing and requires constant monitoring for companies to remain abreast of all the changes taking place. Locally the regulators are geared towards raising compliance and supervisory standards across the board enabled by a more data-driven and risk-based supervisory framework.

Applicable Announcements

Circular on the Fitness and Properness Assessment of Committee Members involved with Investment Services Licence Holders and Collective Investment Schemes

The MFSA has carefully reassessed the current approval process of persons being proposed to hold Committee positions with certain authorised entities and accordingly announced that with effect from the 3 July 2020, individuals being appointed as members of Investment Management Committees, Investment Advisory Committees, Risk Management Committees, Internal Audit Committees and Valuation Committees will no longer be required to submit a Personal Questionnaire (“PQ”) Form and will not be subject to a fitness and properness assessment by the MFSA or fall within the MFSA’s definition of Senior Management. Licence Holders are however still expected to treat members of such Committees as Key Function Holders and should accordingly carry out internal due diligence checks and retain records accordingly.

The requirement of submitting a PQ Form remains for the Chief Investment Officer/Lead Portfolio Manager, the Chief/Head/Lead Investment Advisor, the Chief Risk Officer/Risk Manager and the Internal Audit Manager. Where decisions relating to an activity or service are undertaken collectively through the Committee set-up then the Authority requires the submission of PQ forms by all the Committee members. Individuals being appointed as Valuation Officers and/or Valuation Committee members in relation to Licence Holders will also no longer fall under the MFSA definition of Senior Management but shall still be considered as Key Function Holders.

The document covers (a) assessing whether a change in payments is a lease modification, (b) changes in payments that are not lease modifications, (c) partial lease liability extinguishment, (d) impairment of assets and (e) disclosure requirements.

Anti-Money Laundering Updates

Legislative Amendments

A number of amendments have been effected to Subsidiary Legislations 373.04 – The Prevention of Money Laundering and the Funding of Terrorism Regulations so as to align the provisions therein to the FATF Recommendations and international standards. Accordingly the timeframes for the submissions of a suspicious transaction report have now been changed in that the MLRO must now promptly file a suspicious transaction report and no longer has five working days within which to do so. Additionally the FIAU can now impose administrative sanctions on persons who have a senior managerial role within a subject person and who are found to be responsible for breaches of AML/CFT. The FIAU Implementation Procedures are in the process of being amended to be in line with these amendments.

GoAML

The GoAML portal of the FIAU, which is a new STR Submission System, has gone live. Registrations on the production environment needed to take place by the 29 April 2020 and as from the end of June 2020 all STRs should be filed through the GoAML portal.

Guidance

On the 17 July 2020 the FIAU published a Guidance Document on the Funding of Terrorism which builds upon and incorporates the 2018 ‘Guidance Note on Funding of Terrorism – Red Flags and Suspicious Activities’.

The salient features of this Guidance Document include:

- Insights and select findings from the 2019 Terrorism Financing Risk Assessment carried out by the National Co-ordinating Committee on Combating Money Laundering and Funding of Terrorism;
- Substantive information on emerging FT trends and typology-specific case studies and red flags;
- Case studies based on real cases analysed by the FIAU’s Intelligence Analysis Section.
DAC 6

DAC 6 can trace its roots back to the OECD 2015 Action 12 Final report, which provided a set of recommendations for the design of mandatory disclosure rules. The scope is for increased transparency and exchange of information on tax matters.

The EU Directive on Administrative Cooperation 6 (DAC 6) places an obligation on taxpayers/intermediaries to disclose to tax authorities certain cross-border arrangements, which may be deemed to be used for aggressive tax planning. The scope of the DAC6 is to report aggressive tax structures which ‘consist of arrangements which are developed across various jurisdictions and move taxable profits towards more beneficial tax regimes or have the effect of reducing the taxpayer’s overall tax bill’. Given the wide scope of the directive intensified with current legal uncertainties it is important that the reportable arrangements be assessed through a risk based approach.

Reportable cross-border arrangements are those arrangements that meet at least one of the following categories of hallmarks: generic hallmarks, specific hallmarks, hallmarks related to cross-border transactions, hallmarks concerning automatic exchange of information and beneficial ownership and those concerning transfer pricing. The hallmarks are linked to the Main Benefit Test, which would be satisfied if it can be established that a person may reasonably expect to derive a tax advantage from an arrangement.

Reporting timelines

Arrangements are to be reportable with the Commission for Revenue within 30 days as from 1 July 2020. However, taxpayers and intermediaries don’t just have to report future transactions, but also have to report any arrangement which began at any point between 25 June 2018 and 1st July 2020. This information has to be reported by 31 August 2020. However, on 2 July 2020, the Commission for Revenue announced the deferral of the reporting by six months under regulation 13 of the Cooperation with Other Jurisdiction on Tax Matters Regulations, SL 123.127.

The Commissioner for Revenue announced that an amending legal notice is expected to be issued within the coming weeks together with the publishing of guidance to assist taxpayers and intermediaries in the preparation to meet the reporting obligations.

Shareholders’ registration

Following the changes with respect to the beneficial ownership register transposed into Maltese Legislation through L.N. 26 of 2020, Tax Refunds shall be subject to the declaration of identification and disclosure of the beneficiaries with immediate effect. Such information regarding the beneficial ownership should be incorporated in the revised tax refund claim form as well as the shareholder registration.

Group Consolidation

Following the issue of the Consolidated Group (Income Tax) Rules (LN 110 of 2019 on 31 May 2019), Malta introduced fiscal unity rules enabling the formation of a tax group for Maltese Income Tax purposes. Under the new legislation, groups of companies may elect to be taxable as a single fiscal unit. The chargeable income of the group would then be taxable only at the parent entity or principal taxpayer level.

This fiscal unity creates a cash flow advantage for groups of companies. Under the new rules, the fiscal unit may apply the lower effective income tax rate when calculating its tax liability, rather than applying and paying income tax at the 35% rate and subsequently applying for a partial tax refund when a dividend is paid to shareholders. The lower effective tax rate is therefore achievable without the need for a dividend distribution.

On 3rd June 2020, the Commissioner for Revenue issued updated guidelines, as follows:

- In order to be able to join/form part of a fiscal unit, a company should not have any outstanding balances in terms of Direct/Indirect Taxation and FSS (including penalties);
- When the principal taxpayer elects for a 95% subsidiary to join the fiscal unit and such company has already filed its income tax return for that Year of Assessment, such election will enter into force as from the following Year of Assessment;
- Exceptionally, the first timeframe for registering a fiscal unit shall be till 31 August 2020;
- For the company to join/form part of a fiscal unit, such company must be represented by the same registered tax representative as that of the principal taxpayer;
- The guidelines clarified that it is possible to have a non-resident company to form part of a fiscal unit and act as a Principal Taxpayer, subject to the foreign principal taxpayer appointing a fiscal representative in Malta. Such foreign company will need to register with the CFR in order for a Maltese income tax number to be issued.

Accounting for COVID-19 related rent concessions applying IFRS 16 – Leases

As a result of COVID-19, several changes in lease payments have been noted and are expected to occur. Accordingly, on the 10 April 2020 educational material has been published by the IASB relating to IFRS 16 and COVID-19 which is intended to ensure a consistent and robust application of IFRS 16 and does not change, remove, nor add to the requirements of the existing Standard.
The Minister for Economy, Investment and Small Businesses issued new regulations under the Companies Act entitled the Companies Act (Shipping and Aviation Cell Companies) Regulations.

The purpose of these regulations is to create a new structure to be used by companies operating in the shipping and aviation field by means of cell companies. After the success of cell companies established under the Companies Act for cell companies in the field of insurance, securitisation vehicle and incorporated cell companies and incorporated cells to carry on any financial services business, it was felt that this can also be extended to the shipping and aviation industry.

Companies of these types will be distinguished from other companies by their name as the name needs to have the words Mobile Assets Protected Cell Company” or “MAPCC”.

Companies with such structure may be formed or constituted as a cell company to carry on shipping or aviation business as defined in article 84E of the Companies Act or else a company carrying on such business may be converted, if so authorized by its memorandum and articles of association, into a cell company.

The assets of a cell company shall be either cellular assets or non-cellular assets. The assets attributable to a cell of a cell company comprise assets represented by the proceeds of cell share capital and reserves attributable to the cell and all other assets attributable to the cell.

A cell company may, in respect of any of its cells, create and issue shares (“cell shares”) the proceeds of the issue of which (“cell share capital”) shall be comprised in the cellular assets attributable to the cell in respect of which the cell shares were issued.

These cell companies are obliged to inform third parties that they are dealing with a cell company and that there are two regulations which specifically deals with creditors and recourse of creditors to cellular assets.

Moreover, cell companies and their cells shall comply with the provisions of Companies Act (Register of Beneficial Owners) Regulations which shall be applicable mutatus mutandis to cell companies and their cells as established in Regulation 17.

The regulations also cater for transfer of cellular assets from cell company, liquidation of cell companies and cells.
There's no doubt that COVID-19 has changed the lives of nearly everyone on earth. For some, that's meant practicing new social distancing measures, increasing personal hygiene, and wearing face masks in closed spaces. For others, however, the impact has taken a far more detrimental toll on fundamental human essentials like health, prosperity and livelihoods.

Like many, Alter Domus' employees were looking for ways to support their local communities as they cope with the fallout from this crisis. But due to the widespread lockdowns and shift towards remote working, physically helping those in need proved difficult. Instead, a donation campaign was launched and the result was more than just a check sent to a nonprofit organization; the campaign showed the true colors of Alter Domus and its people.

Lending a helping hand
Alter Domus' recent donation of EUR 200,000 to the International Federation of Red Cross and Red Crescent Societies (IFRC) was not a typical corporate donation. It was one that began with staff generosity. Each of Alter Domus' 2,500 people had the opportunity to either give a traditional cash donation or convert some of their unused days off into a cash donation to the IFRC, the total of which was then doubled by Alter Domus.

Joanne Ferris, Chief Human Resources Officer, explained that this collaborative spirit was part of Alter Domus long before the crisis. “We have this incredible internal culture that's focused on teamwork and collaboration. Our people are also very motivated to do well, both in terms of their careers and by their communities. It's been really interesting to see how our teams—although more distanced than ever—have come together to form an even stronger bond throughout this crisis and are choosing to give back.”

A culture of collaborative contributions
Supporting local communities is nothing new for Alter Domus, who last year opted to donate to 20 different nonprofits in lieu of giving corporate gifts during the holiday season. The donations were each made to a different charity from each of the 20 countries where Alter Domus' offices are located.

“Truly listening to our people is key,” says Joanne. “We asked our teams to come up with the most impactful and aspirational nonprofit organizations in their countries because they know their local communities best. That way, we were sure to make the biggest possible impact on the places they and our clients live and work.”
As a result of Covid-19, the Malta Team began working from home in late March. Throughout the course of the next few months, we’ve taken a phased approach to returning to the office. Today, half of our Team is working from home while the other half is working at our office in Birkirkara in the Central Business District. Together, they’ve continued to deliver high quality services to our clients.

During this uncertain and sometimes stressful period, our people have stayed connected and engaged with one another, even while physically apart. From virtual quiz nights and happy hours to online training sessions and catch-ups, our teammates have proven their resilience in adapting to this unprecedented situation.
Cortland is now Alter Domus

On 8 June, 2020, Cortland Capital Market Services LLC completed its rebrand to Alter Domus. Together, Alter Domus administers over $750 billion of assets on behalf of 80 per cent of the largest private debt managers, real estate firms, and private equity houses globally.

Total private market assets under administration (AuA) in North America is expected to grow by 9.4 per cent to $16.3 trillion by 2025.1 For alternatives managers servicing these assets for end-investors, this unprecedented growth in AuA will increasingly place their back and middle office systems and processes under even greater cost and operational pressure. As a result, private debt, real estate and private equity managers are increasingly looking to outsourced solutions for investor, fund and asset servicing. This primarily includes administration, tax and regulatory compliance, and fund distribution and reporting support.

Doug Hart, CEO of Alter Domus, said: “Institutional investors are no longer blindly allocating more assets to the private markets. In return for record levels of investment into the asset class, they are requiring more transparency, greater cost efficiency and better client service from their managers. Combined with a mounting regulatory burden in the United States, this means the administrative demands on alternative asset managers are unsustainable.”

“Most of the alternatives managers who still service assets in-house have not calculated the true breakeven cost of maintaining a traditional middle and back office support function. That’s where Alter Domus comes in. As an outsourced partner to the largest North American private markets asset managers for over 12 years, the time is right to complete Cortland’s rebranding to Alter Domus as we embed and globalize our offering in true partnership with our clients.”

Regional Executive North America

On 6 July, Alter Domus announced that Paul Woods had been appointed Regional Executive North America to expand the Group’s presence in the North American private capital markets and strengthen its global leadership. Based in Boston, Paul will report directly to the Chief Executive Officer, Doug Hart and assume enterprise-wide leadership responsibilities through his appointment to the Group Executive Board.

Paul brings more than 30 years of experience in the industry. Prior to joining Alter Domus, he was a Senior Vice President at State Street Global Services, where he was responsible for managing the delivery of custody and fund administration services to a diverse group of clients globally. He also managed State Street’s Institutional Loan and Structured Product Services teams. Paul is an experienced certified public accountant, with a range of valued experience and perspective working with several key trade associations including Loan Syndications and Trading Association (LSTA).

Paul will be responsible for expanding Alter Domus' footprint in the US, as the Group continues to partner with and serve private debt, real estate and private equity managers who are increasingly facing cost and operational pressure on their back and middle office systems.

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