

REGISTERING A MALTESE LIMITED LIABILITY COMPANY

Fenech Farrugia Fiott Legal forms part of a professional services organisation and relies on the services of **Alliance Trust Company Ltd.**, a trust and fiduciary services company and **Alliance Management Support Ltd.**, a management support, back-office and corporate services provider. Together, the 3 entities provide a full range of advisory and support services to clients wishing to set up a limited liability company in Malta.

Limited liability companies are the most commonly used vehicles for carrying on business, trading and holding activities. Other types of vehicles are possible. Some companies carrying specific activities such as banking, insurance and re-insurance, securities and pensions require specific authorisation from the Malta Financial Services Authority.

Companies are regulated by the Companies Act, 1995 which is based on UK legislation. A company has a legal personality distinct from that of its shareholders and the liability of the shareholders is limited to the amount of unpaid share capital, if any. A company may be formed as a private or public company and must have a registered address in Malta.

Private companies must have at least 1 director while public companies must have at least 2. All companies (except shipping companies registered in terms of Maltese Merchant Shipping legislation) must have a company secretary. All Maltese registered companies are required to prepare audited financial statements in accordance with International Accounting Standards and file these annually with the Inland Revenue and with the Registrar of Companies.

1. Company registration procedure

Setting up a company in Malta involves the initial registration procedure and recurring and annual procedures and compliance. A company is required to file income tax and VAT returns (if required to register for VAT in Malta), maintain trade records, prepare financial statements and have its accounts audited in terms of International Accounting Standards. Maintaining a company also involves certain recurring corporate and back-office services.

Registration of a company mainly involves the reservation of the company's name, the deposit of the issued share capital into a local bank account opened in the name of the company and the submission with the Maltese Registrar of Companies of a memorandum and articles of association signed by the shareholders or their representatives.

In order to open a bank account, local banks require information about the beneficial owners and officers of the company, the completion of standard know-your-client procedures, submission of anti-money laundering declarations and specimen signatures. The formation of a company would typically take between 6 to 8 days provided that all the required documentation is in hand. The registration of a company that will carry out special activities that require a licence (such as an investment services company, a bank or an insurance company, a gaming / betting company) requires more time.

2. Company name

There are over 40,000 companies registered in Malta and therefore it is strongly suggested that the company's proposed name be reserved prior to registration. The name of a private company must end with the words 'private limited liability company' or 'limited' or 'ltd', while in the case of a public company the name must end with the words "public limited company" or "p.l.c.". A name is reserved for a period of 3 months and may be renewed.

3. Memorandum and Articles of Association

The Memorandum and Articles of Association lists the activities in which the company may engage, contains information about the shareholding structure and shareholders, company directors and secretary, internal regulations of the company any other matters.

A company may have a range of objects or allowed activities and these may include trading, holding activities or a combination of trading and holding activities.

The memorandum and articles of association must be signed by the shareholders. Alternatively, they may be signed by our firm on the on the shareholders' behalf by virtue of a power of attorney prepared by us. The memorandum and articles of association is submitted to the Registrar of companies and is available for inspection by the public.

4. Share capital

- The share capital of the company may be denominated in any currency. The minimum issued share capital for a private company is Euro 1165, at least 20% of which must be paid up. The minimum issued share capital of a public company is €46,587.47, at least 25% of which must be paid up. Companies carrying out certain financial activities (such as banks or investment companies) are required to have a higher issued share capital.
- The paid up share capital must be deposited into a bank account in Malta prior to registration.
- The share capital may be divided into different classes of shares, such as ordinary and preference shares. It is also possible to issue shares that are liable to be redeemed at the option of the company or the shareholders.
- No stamp duty or capital duty is due on the authorised capital or upon the issue or allotment of shares.

5. Official company registration costs

The official company registration fee ranges from:

- a minimum fee of Euro 245 where the authorised share capital does not exceed Euro 1500 ; up to
- a maximum fee of Euro 2250 where the share capital exceeds Euro 2,500,000.

The above fees are payable to the Registrar of Companies at the time of registration.

6. Official annual company costs

An official fee due to the Registrar of Companies is payable every year upon the filing of the statutory company return showing details about the company / shareholders/ directors etc. The annual fee ranges from:

- a minimum fee of Euro 100 (for companies with authorised share capital up to Euro 1,500); up to
- a maximum fee of Euro 1400 (where the authorised share capital exceeds Euro 2,500,000).

7. Shareholders

A company may be formed with 2 shareholders. Shareholders may be corporate and need not be Maltese. It is possible to set up single-member companies but the activities of the company must be limited to one main trading activity and therefore, the scope of a single-member company may be limited.

It is possible under Maltese law to hold shares through a fiduciary or on trust thus guaranteeing anonymity of the beneficial owners. Where shares are held by a fiduciary or trustee, the beneficial owner's identity is not disclosed in the memorandum and articles of association nor disclosed anywhere to the public. However, disclosure of the beneficial owners must be made with the bank at the time of opening the company's bank account – this is required in terms of anti-money laundering legislation.

8. Registered address

The company must have a registered office in Malta which may also be used as the business address of the company.

9. Directors

A private company must have at least 1 director and a public company must have at least two directors. It is not necessary to have Maltese directors although having a Maltese resident director may be relevant for the purpose of securing a place of effective management and control in Malta for tax purposes. It is possible to have corporate directors subject to certain conditions.

10. Company Secretary

The company must have a secretary who must be an individual. The role of the company secretary is mainly to liaise with and assist the directors in relation to company regulatory and administration matters, including directors' and shareholders' meetings.

11. Banking arrangements

The company may open bank accounts with any bank and in any currency. The company may appoint our firm as local bank signatories to operate the company's bank accounts, monitor balances and effect transfers. In such a situation, payments will only be processed and executed on the basis of authenticated instructions from the beneficial shareholders or their authorised representatives. Local bank accounts may also be operated via internet banking services which is offered by a number of local banks.

12. Day-to-day management and book-keeping services

In addition to offering a registered address and related back-office services, our organisation can provide a full set of day-to-day management and related services including payroll services, recruitment, invoicing, book-keeping, management reports and business plans, company secretarial and administration services, liaising with Government authorities and the preparation of statutory returns and declarations.

13. Company compliance and company maintenance

- A company is required to register for income tax purposes upon registration and to submit a tax return every year. Tax is payable in advance every four-months under the provisional tax system. Any balance of tax for a year that has not been settled under the provisional tax system is payable at the time of the filing of the tax return.
- Where the shareholders wish to claim a refund of tax suffered by the company, they will be required to register with the Maltese tax authorities and apply for tax refunds.
- The company is required to submit an annual company return (containing information about the company, its shareholding, shareholders and officers) with the Maltese Registrar of Companies.
- It is also required to prepare annual financial statements in accordance with the International Accounting Standards and to have the financial statements audited.
- Where the company is required to register for VAT in Malta, it will be required to file a VAT return every 3 months and intra-Community trade recapitulative statements.

14. Fees for company registration and support services

We will be happy to provide, upon request, a schedule of standard fees for company formation services and corporate maintenance and support services.

15. Information and documents required

For a full list of information and documents required by us to register a Maltese company please refer to the attached schedule.

For further information please visit our website www.fff-legal.com or contact

Christian Farrugia partner - cfarrugia@fff-legal.com

Tonio Fenech partner - tfenech@fff-legal.com

Tel **+356 2549 6000**

Information and documents required to register a Maltese limited liability company

A) Information required in respect of the proposed new company

1.	Proposed name of the company – please provide 3 options if possible (company names may be reserved for 3 months)
2.	Brief description of the proposed main objects of the company and its intended activities
3.	Currency in which the share capital is to be denominated
4.	Authorised share capital (to specify amount of capital and number of shares – example, Euro 10.000 divided into 10.000 shares of Euro 1 each)
5.	Issued share capital (to specify amount of issued capital, types/classes of shares and number of shares of each type/class – example, Euro 10.000 divided into 5.000 ordinary shares and 5.000 preference shares)
6.	Name & address of proposed shareholders (a) to indicate passport number in the case of an individual shareholder (b) to indicate official company or entity enrolment/registration number in the case of a corporate shareholder <i>(shares may be held in trust by our associated services provider Alliance Trust Co. Limited)</i>
7.	Shareholding structure (number of shares held by each shareholder)
8.	Details, if any, of shareholding in other Malta registered companies
9.	Name, address and passport number of proposed director/s <i>(Alliance Trust Co. Limited or a member of our firm may act as director)</i>
10.	Name, address and passport number of proposed company secretary <i>(company secretary services may be provided by a member of our firm or Alliance Trust Co. Limited)</i>
11.	Proposed registered address in Malta <i>(a registered address in Malta may be provided by Alliance Trust Co. Limited)</i>
12.	Proposed financial year end of the company
13.	Estimated turnover for first year

Further information may be required according to the particular circumstances.

B) Documents and information required

1) In respect of **each corporate shareholder:**

- 1 Copy of memorandum and articles of association (or equivalent) in English
- 2 Copy of Certificate of Incorporation (or equivalent) in English
- 3 Reference letters in respect of the company/entity from a bank of international standing (see suggested text below)*
- 4 Power of attorney authorising us to sign on any corporate documents of the Malta company for and on behalf of the corporate shareholder (draft power of attorney to be provided by us)
- 5 Good Standing Certificate of the Company (or similar document) if requested by us.

2) In respect of each **individual shareholder** and in respect of each **beneficial owner of a corporate shareholder:**

- 1 Name and residential address
- 2 Original recent utility bill, local authority tax bill or bank statement evidencing residential address
- 3 Place and date of birth
- 4 Nationality
- 5 Copy of passport
- 6 For non-EU shareholders, reference letter from a bank of international standing or from an advocate/lawyer confirming character and reputation (see suggested wording below)**

3) In respect of **each director:**

- 1 Name and residential address
- 2 Original recent utility bill, local authority tax bill or bank statement evidencing residential address
- 3 Place and date of birth
- 4 Copy of passport
- 5 For non-EU directors, reference letter from a bank of international standing or from an advocate/lawyer confirming character and reputation (see suggested wording below)**

*** suggested wording of corporate reference letter :**

*“The Managing Partner
Fenech Farrugia Fiott Legal
Malta*

(Date)

Bank reference for ----- (company or entity’s name, registered address and official registration number)

This is to confirm that the above company/entity has held an account/s with this bank for ___ years and has always operated the account/s properly and to our satisfaction. We are not aware of any information which would preclude you from entering into a business relationship with or providing services to our customer or which would preclude you from acting on his/her behalf.

Yours truly

[capacity – bank manager/director etc.] ”

**** suggested wording of personal reference letter :**

*“The Managing Partner
Fenech Farrugia Fiott Legal
Malta*

(Date)

Personal reference for Mr/Mrs -----(name and address)

This is to confirm that we have known Mr/Mrsresiding at..... and holder of Passport number for the last [] years and has been our client/customer since The client/customer has always conducted his/her affairs with us to our satisfaction and, to the best of our knowledge and belief, is honest, trustworthy and has never been convicted of any crime or been declared bankrupt nor is he/she undergoing criminal proceedings. We are not aware of any information which would preclude you from entering into a business relationship with or providing services to our customer or which would preclude you from acting on his/her behalf.

Yours truly

[Professional capacity]”