

# VFA AGENTS SEMINAR

25 JULY 2018

MFSA

---

MALTA FINANCIAL SERVICES AUTHORITY

# MFSA POLICY ON DLT ASSETS

DR CHRISTOPHER P. BUTTIGIEG

MFSA

---

MALTA FINANCIAL SERVICES AUTHORITY

# THE MFSA'S POLICY

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# WHY REGULATE?

*‘TO DEVISE A POLICY FRAMEWORK THAT SUPPORTS THE INNOVATION AND NEW TECHNOLOGIES FOR FINANCIAL SERVICES IN THE AREA OF VIRTUAL CURRENCIES WHILST ENSURING EFFECTIVE INVESTOR PROTECTION, FINANCIAL MARKET INTEGRITY AND FINANCIAL STABILITY.’*

DISCUSSION PAPER ON INITIAL COIN OFFERINGS,  
VIRTUAL CURRENCIES AND RELATED SERVICE PROVIDERS

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# REGULATORY OBJECTIVES

## INVESTOR PROTECTION

THE LACK OF REGULATION CREATES A DEFICIENCY IN INVESTOR PROTECTION, GIVEN THE INCREASED INFORMATIONAL ASYMMETRIES BETWEEN PARTIES, BRINGING ABOUT INCREASED LIKELIHOOD OF **FINANCIAL CRIME** AND **FRAUD**



# INVESTOR PROTECTION

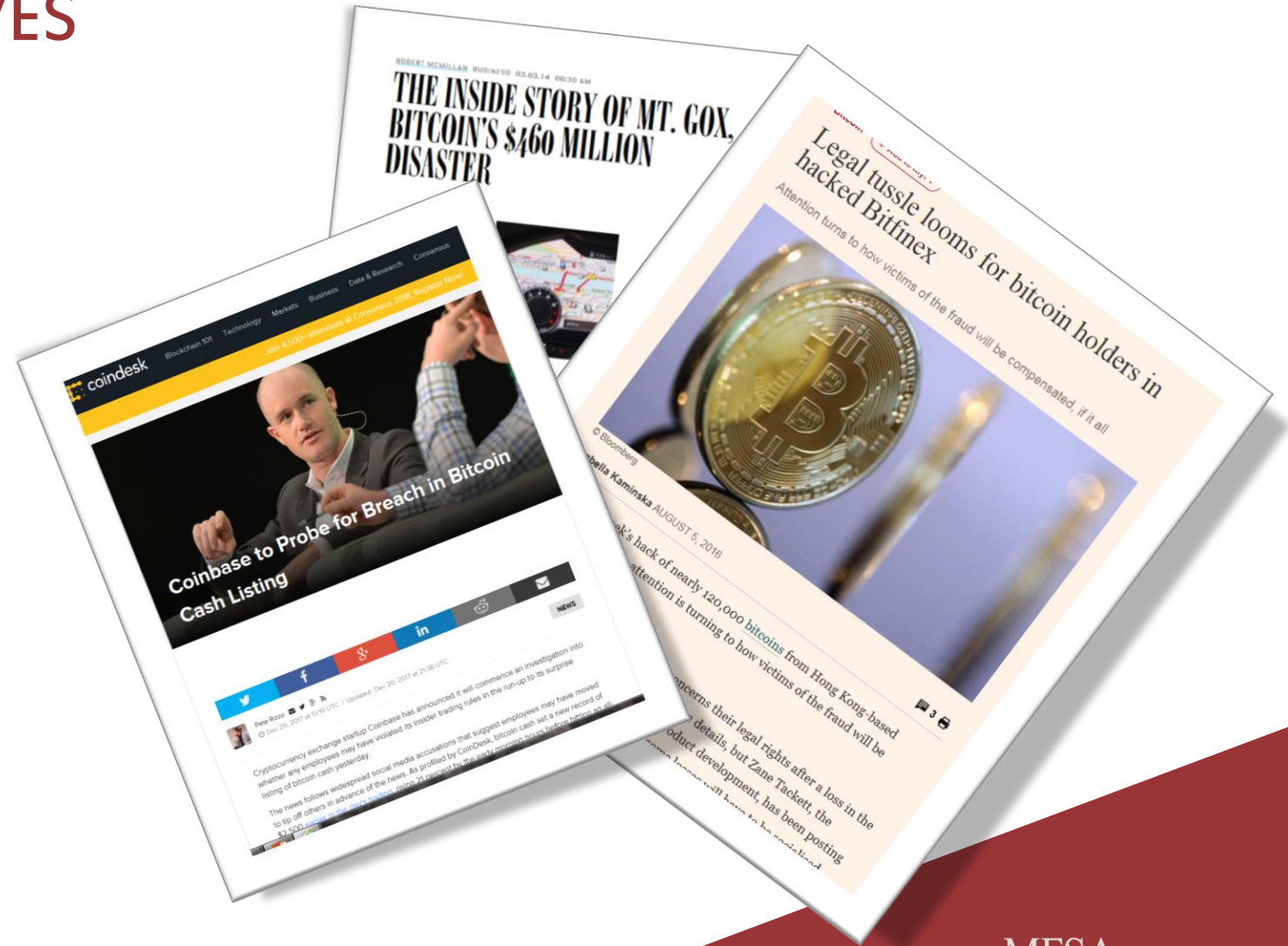
THE FRAMEWORK INCLUDES:

- **FITNESS AND PROPERNESS ASSESSMENT** OF ISSUERS OF INITIAL VFA OFFERINGS, VFA SERVICES PROVIDERS AND RELATED FUNCTIONARIES
- **MINIMUM TRANSPARENCY REQUIREMENTS**
- **CONDUCT OF BUSINESS OBLIGATIONS** ON VFA SERVICES PROVIDERS WHICH, *INTER ALIA*, INCLUDE, CLIENT CLASSIFICATION REQUIREMENTS AND ASSESSMENTS OF SUITABILITY & APPROPRIATENESS, COMPLAINTS HANDLING AND BEST EXECUTION OF ORDERS
- **SAFEKEEPING ARRANGEMENTS**
- **INFORMATION SECURITY**

# REGULATORY OBJECTIVES

## MARKET INTEGRITY

THE LACK OF REGULATION CREATES  
**THREATS TO MARKET INTEGRITY**  
AND **POTENTIAL MARKET ABUSE**  
GIVEN DEFICIENCIES IN  
**GOVERNANCE STRUCTURES AS WELL**  
AS **RISK AND COMPLIANCE POLICIES**  
AND PROCEDURES



# MARKET INTEGRITY

THE FRAMEWORK PROPOSES TO:

- ENHANCE MARKET EFFICIENCY THROUGH **INCREASED TRANSPARENCY REQUIREMENTS** IN ISSUERS OF INITIAL VFA OFFERINGS
- ESTABLISH MINIMUM LISTING CRITERIA BASED ON **ADMISSION TO TRADING REQUIREMENTS** FOR VFA EXCHANGES
- PREVENT MARKET ABUSE THROUGH THE IMPOSITION OF **THE HIGH LEVEL PRINCIPLES OF THE MARKET ABUSE REGULATION**
- PREVENT MONEY LAUNDERING AND THE FINANCING OF TERRORISM THROUGH **REQUIREMENTS EXTENDING BEYOND THE 5<sup>TH</sup> AMLD**



# REGULATORY OBJECTIVES

## FINANCIAL SOUNDNESS

THE LACK OF REGULATION POTENTIALLY LEADS MARKET PARTICIPANTS TO **REDUCE THEIR ECONOMIC CAPITAL** WHILST **SHIFTING TOWARDS RISKIER BALANCE SHEET PROFILES** TO MAXIMISE SHAREHOLDER VALUE



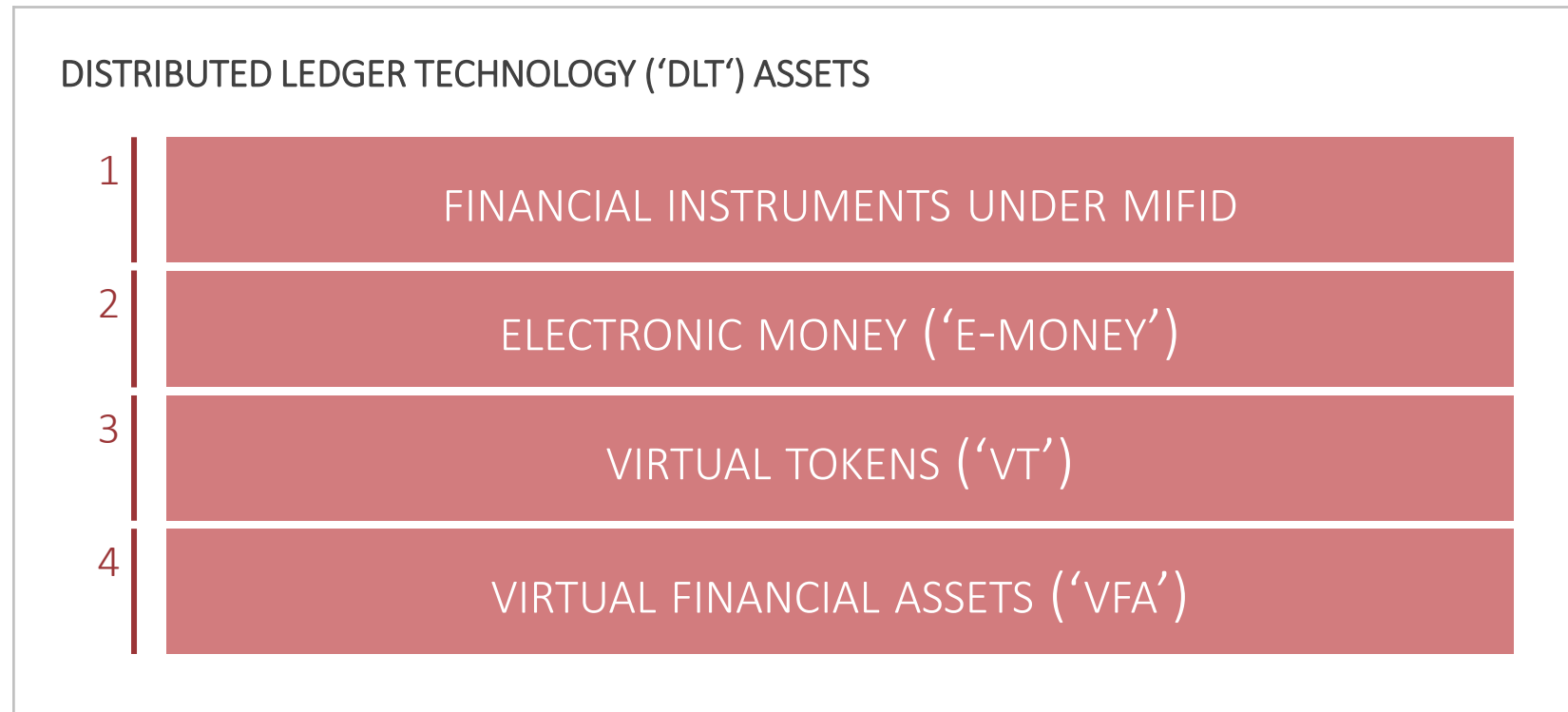
# FINANCIAL SOUNDNESS

THE FRAMEWORK REQUIRES:

- **SEGREGATION OF VFA BUSINESS** FROM TRADITIONAL INVESTMENT FIRMS THROUGH THE ESTABLISHMENT OF A SEPARATE ENTITY
- **ADEQUATE CAPITAL REQUIREMENTS**
- **ROBUST RISK MEASUREMENT, MONITORING AND MITIGATION** INCLUDING AN INTERNAL CAPITAL ADEQUACY ASSESSMENT PROCESS
- **DEDICATED REPORTING AND DISCLOSURE REQUIREMENTS**

# CLASSIFICATION OF DLT ASSETS...

## THE MALTA APPROACH



# CLASSIFICATION OF VIRTUAL CURRENCIES...

## MALTA APPROACH

### THIS APPROACH CATERS FOR:

- THE ENTIRE DLT ASSET ECOSYSTEM
- TECHNOLOGY NEUTRALITY
- HYBRID MODELS

# VFA FRAMEWORK

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# VFA FRAMEWORK

- VIRTUAL FINANCIAL ASSETS ACT – ACT XXX OF 2018
- VIRTUAL FINANCIAL ASSETS REGULATIONS
- VIRTUAL FINANCIAL ASSETS RULEBOOK
- FINANCIAL INSTRUMENT TEST

# TIMELINE

*DISCUSSION PAPER ON INITIAL COIN OFFERINGS, VIRTUAL CURRENCIES AND RELATED SERVICE PROVIDERS*  
MFSA REF: 08-2017  
EXPIRED: 11/01/2018  
(EXTENDED TO 18/01/2018)

*CONSULTATION PAPER ON THE REGULATIONS TO BE ISSUED UNDER THE VFA ACT*  
MFSA REF: 07-2018  
EXPIRES: 20/07/2018

1. *PUBLICATION OF ACT*

2. *'BETA' ISSUANCE OF THE FINANCIAL INSTRUMENT TEST AND ITS GUIDANCE NOTE*

3. *CONSULTATION PAPER ON THE VIRTUAL FINANCIAL ASSETS RULES FOR ISSUERS (TENTATIVE)*

*BILL ADOPTED BY PARLIAMENT - THE "VIRTUAL FINANCIAL ASSETS ACT"*



**NOV 2017**  
ESMA HIGHLIGHTS ICO RISKS FOR INVESTORS AND FIRMS

**FEB 2018**  
ESMA EBA EIOPA WARNINGS

*CONSULTATION PAPER ON THE FINANCIAL INSTRUMENT TEST*  
MFSA REF: 04-2018  
EXPIRED: 04/05/2018

*CONSULTATION PAPER ON THE VIRTUAL FINANCIAL ASSETS RULES FOR VFA AGENTS*  
MFSA REF: 07-2018  
EXPIRES: 20/07/2018

*CONSULTATION PAPER ON THE VIRTUAL FINANCIAL ASSETS RULES FOR VFA LICENCE HOLDERS*

# NEXT STEPS

- **LEGISLATION** – PUBLICATION OF FINAL REGULATIONS
- **RULES** – ISSUANCE OF CHAPTER 2 AND 3 CONSULTATION AND SUBSEQUENT PUBLICATION OF THE FINAL RULEBOOK
- **FINANCIAL INSTRUMENT TEST** – REVIEW FOLLOWING TESTING PERIOD
  
- MFSA TO **CONTINUE LIAISING WITH OTHER REGULATORY BODIES**, BOTH ON A NATIONAL AND INTERNATIONAL LEVEL
- FINALISATION OF **APPLICATION PROCESSES**



# VFA AGENTS - THE MFSA'S EXPECTATIONS

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# MFSA EXPECTATIONS

THE MFSA WILL CONSIDER THE FOLLOWING CRITERIA PRIOR TO REGISTERING A VFA AGENT:

- FITNESS AND PROPERNESS
- COMPETENCE AND TRAINING — IFSP COURSE LEADING TO CERTIFICATION — SEPTEMBER 2018
- THE ADEQUACY OF DUE DILIGENCE SYSTEMS
  - VERIFICATION OF IDENTIFICATION
  - SOURCE OF FUNDS
  - SOURCE OF WEALTH
  - RISK MONITORING SYSTEM
- KNOWLEDGE OF BUSINESS MODELS

# VIRTUAL FINANCIAL ASSETS ACT

GERD SAPIANO

MFSA

---

MALTA FINANCIAL SERVICES AUTHORITY

# THE VIRTUAL FINANCIAL ASSETS ACT

AN ACT TO REGULATE THE FIELD OF INITIAL VIRTUAL FINANCIAL ASSET OFFERINGS AND VIRTUAL FINANCIAL ASSETS AND TO MAKE PROVISION FOR MATTERS ANCILLARY OR INCIDENTAL THERETO OR CONNECTED THEREWITH.

**DATE OF PARLIAMENTARY APPROVAL** – 4<sup>TH</sup> JULY 2018

**DATE OF PUBLICATION** – 20<sup>TH</sup> JULY 2018 - ACT XXX OF 2018

**DATE OF COMING INTO FORCE** – ON SUCH DATE AS THE MINISTER FOR DIGITAL ECONOMY MAY BY NOTICE IN THE GAZETTE ESTABLISH

# ...WHY REGULATE?

*“TO DEVISE A **POLICY FRAMEWORK** THAT SUPPORTS THE **INNOVATION AND NEW TECHNOLOGIES** FOR FINANCIAL SERVICES IN THE AREA OF VIRTUAL CURRENCIES WHILST ENSURING EFFECTIVE INVESTOR PROTECTION, FINANCIAL MARKET INTEGRITY AND FINANCIAL STABILITY.”*

*MFSA DISCUSSION PAPER ON INITIAL COIN OFFERINGS,  
VIRTUAL CURRENCIES AND RELATED SERVICE PROVIDERS*

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# WHAT IS A VIRTUAL FINANCIAL ASSET?

*"VIRTUAL FINANCIAL ASSET" OR "VFA" MEANS ANY FORM OF DIGITAL MEDIUM RECORDATION THAT IS USED AS A DIGITAL MEDIUM OF EXCHANGE, UNIT OF ACCOUNT, OR STORE OF VALUE AND THAT IS NOT -*

- (A) ELECTRONIC MONEY;*
- (B) A FINANCIAL INSTRUMENT; OR*
- (C) A VIRTUAL TOKEN;*

*VFA Act – Article 2(2)*

# WHAT DOES THE VFA ACT REGULATE?

- INITIAL VIRTUAL FINANCIAL ASSET OFFERINGS
- VFA SERVICE PROVIDERS
- VFA AGENTS

# ARRANGEMENT OF THE ACT

		Articles
Part I	Preliminary	1 - 2
Part II	Initial VFA Offerings	3 - 12
Part III	Licensing Requirements	13
Part IV	Application, Grant, Cancellation, etc., of Licences	14 - 22
Part V	Board of Administration and Obligations of Licence Holders	23 - 32
Part VI	Prevention of Market Abuse	33 - 37
Part VII	Regulatory and Investigatory Powers	38 - 49
Part VIII	Duty of Auditors	50
Part IX	Appeals, Remedies, Sanctions and Confidentiality	51 - 57
Part X	Miscellaneous Provisions	58 - 61
Part XI	Transitory Provisions	62



# INITIAL VFA OFFERINGS

THE ACT SETS OUT THE HIGH-LEVEL PRINCIPLES APPLICABLE TO INITIAL PUBLIC OFFERINGS, THAT MUST BE ADHERED TO BY AN ISSUER OF VFAs, WHICH WOULD, *INTER ALIA*, INCLUDE:

- MINIMUM TRANSPARENCY REQUIREMENTS;
- OBLIGATIONS OF THE RELEVANT PARTIES INVOLVED;
- INFORMATION WITHIN WHITEPAPER; AND
- ADDITIONAL TRANSPARENCY REQUIREMENTS APPLICABLE TO VFAs TRADING ON AN EXCHANGE.

# VFA SERVICE PROVIDERS

A VFA SERVICE IS ANY SERVICE (FALLING WITHIN THE SECOND SCHEDULE OF THE ACT) WHEN PROVIDED IN RELATION TO A VIRTUAL FINANCIAL ASSET.

THE ACT *INTER ALIA* SETS OUT THE LICENSING REQUIREMENTS, ONGOING OBLIGATIONS APPLICABLE TO SUCH PERSONS, WHICH REFLECT THE HIGH-LEVEL PRINCIPLES ENSHRINED IN EXISTING EU FINANCIAL SERVICES LEGISLATION.

# VFA AGENTS

## WHAT IS A VFA AGENT?

A PERSON **REGISTERED** WITH THE MFSA AND AUTHORISED TO CARRY ON THE PROFESSION OF:(A) ADVOCATE, ACCOUNTANT OR AUDITOR; OR (B) A FIRM OF ADVOCATES, ACCOUNTANTS OR AUDITORS, OR CORPORATE SERVICES PROVIDERS; OR (C) A LEGAL ORGANISATION WHICH IS WHOLLY OWNED AND CONTROLLED BY PERSONS REFERRED TO IN PARAGRAPHS (A) OR (B),

**WHETHER IN MALTA OR IN ANOTHER RECOGNISED JURISDICTION, OR ANY OTHER CLASS OF PERSONS HOLDING AUTHORISATIONS, QUALIFICATIONS AND, OR EXPERIENCE DEEMED BY THE COMPETENT AUTHORITY AS POSSESSING SUITABLE EXPERTISE TO EXERCISE THE FUNCTIONS LISTED UNDER ARTICLES 7 AND, OR 14**

*VFA ACT - ARTICLE 2(2)*

# REGISTRATION...WHAT SHALL THE MFSA CONSIDER?

THE MFSA SHALL CONSIDER:

- FITNESS AND PROPERNESS
- SUBSTANCE IN MALTA
- THE ADEQUACY OF DUE DILIGENCE SYSTEMS
- KNOWLEDGE ON DIFFERENT BUSINESS MODELS

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# ARTICLE 7 AND, OR 14? THE THREE TYPES OF VFA AGENTS

## - ARTICLE 7

AN ISSUER IS REQUIRED TO APPOINT, AND HAVE AT ALL TIMES IN PLACE, A VFA AGENT.

## - ARTICLE 14

AN APPLICATION FOR A LICENCE UNDER THIS ACT SHALL BE MADE SOLELY THROUGH A VFA AGENT.

## - ARTICLE 7 AND 14

VFA AGENTS WHICH MAY BE APPOINTED WITH **BOTH** ISSUERS AND APPLICANTS FOR A LICENCE, UNDER THE VFA ACT

# THE ROLE OF THE VFA AGENT

THE VFA AGENT SHALL:

- GENERALLY ADVISE AND GUIDE HIS CLIENT;
- PERFORM A FITNESS AND PROPERNESS ASSESSMENT PRIOR TO ONBOARDING A CLIENT;
- ACT AS A POINT OF LIAISON BETWEEN THE MFSA AND HIS CLIENT;
- COOPERATE WITH THE MFSA, WHERE REQUIRED;
- BE CONSIDERED A SUBJECT PERSON UNDER THE PMLFTR

# FUNCTIONS AND POWERS OF THE AUTHORITY

PROVISION OF THE NECESSARY REGULATORY AND INVESTIGATORY POWERS LARGELY REFLECTING THOSE UNDER OTHER NATIONAL FINANCIAL SERVICES LAWS, WHICH WOULD, INTER ALIA, INCLUDE THE POWER TO:

- ISSUE DIRECTIVES;
- ADOPT AND PUBLISH RULES;
- REQUIRE INFORMATION;
- INTRODUCE THE ‘FINANCIAL INSTRUMENT TEST’;
- SUSPEND EITHER AN IVFAO OR THE TRADING OF A VFA ON AN EXCHANGE; AND
- COOPERATE WITH OTHER NATIONAL, EUROPEAN AND INTERNATIONAL BODIES

# SANCTIONS

## ADMINISTRATIVE PENALTIES

THE COMPETENT AUTHORITY MAY BY NOTICE IN WRITING AND WITHOUT RECOURSE TO A COURT HEARING IMPOSE AN ADMINISTRATIVE PENALTY WHICH MAY NOT EXCEED ONE HUNDRED AND FIFTY THOUSAND EURO (€150,000) FOR EACH INFRINGEMENT.

## OFFENCES

A VFA AGENT GUILTY OF AN OFFENCE UNDER THE PROVISIONS OF ARTICLE 53 SHALL BE LIABLE ON CONVICTION TO A FINE (MULTA) NOT EXCEEDING FIVE HUNDRED THOUSAND EURO (€500,000) OR TO IMPRISONMENT FOR A TERM NOT EXCEEDING SIX MONTHS, OR BOTH SUCH FINE AND IMPRISONMENT, UNLESS SUCH FINE OR TERM OF IMPRISONMENT IS OTHERWISE IMPOSED UNDER ARTICLE 38(5).



# TRANSITORY PROVISIONS

ANY PERSON WHO, ON THE DATE OF THE COMING INTO FORCE OF THE ACT IS PROVIDING THE SERVICES OF A VFA AGENT, SHALL, **WITHIN ONE MONTH FROM THE DATE OF COMING INTO FORCE OF THE ACT, APPLY TO THE MFSA FOR REGISTRATION.**

SUCH PERSON MAY, SUBJECT TO A PRIOR NOTIFICATION TO THE MFSA OF THE ACTIVITY IT IS UNDERTAKING AND, OR SERVICE OR SERVICES IT IS PROVIDING, IMMEDIATELY UPON THE COMING INTO FORCE OF THE ACT, CONTINUE TO UNDERTAKE SUCH ACTIVITY OR PROVIDE SUCH SERVICE OR SERVICES IN OR FROM WITHIN MALTA UNTIL THE APPLICATION HAS BEEN DETERMINED BY THE COMPETENT AUTHORITY AND, IN SO DOING, IS NOT TO BE REGARDED AS CARRYING ON SUCH ACTIVITY OR PROVIDING SUCH SERVICE IN CONTRAVENTION OF THIS ACT.

# FINANCIAL INSTRUMENT TEST

LUCIANO BRINCAT

MFSA

---

MALTA FINANCIAL SERVICES AUTHORITY

# FINANCIAL INSTRUMENT TEST & RELATED GUIDANCE NOTE

AVAILABLE ON THE MFSA VFA PAGE, AS FOLLOWS:

[HTTPS://MFSA.COM.MT/VFA](https://mfsa.com.mt/vfa)

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# VIRTUAL FINANCIAL ASSETS REGULATIONS AND RULES

MARTHA CHETCUTI

MFSA

---

MALTA FINANCIAL SERVICES AUTHORITY



MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# VIRTUAL FINANCIAL ASSETS REGULATIONS

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# VIRTUAL FINANCIAL ASSETS REGULATIONS

1. EXEMPTIONS
2. FEES
3. CONTROL OF ASSETS
4. ADMINISTRATIVE PENALTIES AND APPEALS

# VIRTUAL FINANCIAL ASSETS REGULATIONS....

## EXEMPTIONS

- EXHAUSTIVE LIST OF PERSONS WHO SHALL BE EXEMPT FROM THE REQUIREMENT OF A VFA SERVICES LICENCE
- AUTOMATIC APPLICABILITY VS. NOTIFICATION
- EXEMPTIONS RELATING TO ADVERTISEMENTS



# VIRTUAL FINANCIAL ASSETS REGULATIONS....

## FEES

- WHITE PAPER REVIEW, APPLICATION AND SUPERVISORY FEES
- FOR ISSUERS, LICENCE HOLDERS AND VFA AGENTS
- DIFFERENT TYPES OF VFA AGENTS
- DIFFERENT CLASSES OF LICENCES

# VIRTUAL FINANCIAL ASSETS REGULATIONS....

## CONTROL OF ASSETS

- DISTINCT PATRIMONY
- NOT SUBJECT TO THE RIGHTS OF CREDITORS
- CUSTOMER ENJOYS RIGHT OF OWNERSHIP
- DEPOSIT OF CUSTOMER VFAS WITH THIRD PARTIES AND CLIENT MONEY
- GOVERNANCE ARRANGEMENTS

# VIRTUAL FINANCIAL ASSETS REGULATIONS....

## ADMINISTRATIVE PENALTIES AND APPEALS

- BY NOTICE IN WRITING
- WITHOUT RECOURSE TO A COURT HEARING
- RIGHT OF APPEAL TO THE FINANCIAL SERVICES TRIBUNAL

# VIRTUAL FINANCIAL ASSETS RULEBOOK

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# VIRTUAL FINANCIAL ASSETS RULEBOOK

## CHAPTER 1 | VFA AGENTS

## CHAPTER 2 | ISSUERS OF VIRTUAL FINANCIAL ASSETS

## CHAPTER 3 | VFA SERVICE PROVIDERS

THE RULES SHALL PROVIDE FOR THE RESPECTIVE **AUTHORISATION PROCESSES,**  
**ONGOING OBLIGATIONS, AND**  
**ENFORCEMENT AND SANCTIONS IN THE CASE OF MISCONDUCT**

**MFSA**

MALTA FINANCIAL SERVICES AUTHORITY

# VIRTUAL FINANCIAL ASSETS RULEBOOK....

## CHAPTER 1 | VFA AGENTS

1. HIGH LEVEL PRINCIPLES

2. REGISTRATION REQUIREMENT AND PROCESS

3. ONGOING OBLIGATIONS

4. ENFORCEMENT AND SANCTIONS IN THE EVENT OF MISCONDUCT

# VIRTUAL FINANCIAL ASSETS RULEBOOK....

## CHAPTER 2 | ISSUERS OF VFAS

### 1. REQUIREMENTS FOR ISSUERS

- BOARD OF ADMINISTRATION & FUNCTIONARIES
- RECORD KEEPING
- CYBER-SECURITY & IT INFRASTRUCTURE

### 2. INITIAL VFA OFFERINGS & TRADING ON DLT EXCHANGES

- APPLICATION DOCUMENTS & WHITE PAPER REGISTRATION PROCEDURE

# VIRTUAL FINANCIAL ASSETS RULEBOOK....

## CHAPTER 2 | ISSUERS OF VFAS

### 3. ADMISSIBILITY TO TRADING ON A DLT EXCHANGE

- SUPPLEMENTARY CONDITIONS
- TRANSACTIONS BY RESTRICTED PERSONS/ RELATED PARTIES
- REGULATED INFORMATION

### 4. ENFORCEMENT AND SANCTIONS

- SANCTIONING POWERS AGAINST THE ISSUER



# VIRTUAL FINANCIAL ASSETS RULEBOOK...

## CHAPTER 3 | VFA SERVICE PROVIDERS

1. ORGANISATIONAL REQUIREMENTS [GRC]
2. PRUDENTIAL REQUIREMENTS
3. CONDUCT OF BUSINESS REQUIREMENTS
4. RECORD KEEPING, REPORTING AND DISCLOSURE REQUIREMENTS
5. ENFORCEMENT AND SANCTIONS

# VIRTUAL FINANCIAL ASSETS FRAMEWORK

ACT

REGULATIONS

RULEBOOK

GUIDANCE

- FINANCIAL INSTRUMENT TEST
- FOR VFA AGENTS
- INTERACTION BETWEEN VFA ACT, MDIA ACT AND ITAS ACT
- ...

MFSA

MALTA FINANCIAL SERVICES AUTHORITY



MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# VFA AGENTS MFSA EXPECTATIONS

CHRISTOS EFTHYMIOPOULOS

MFSA

---

MALTA FINANCIAL SERVICES AUTHORITY

# HIGH LEVEL PRINCIPLES

VFA AGENTS SHALL:

- ACT HONESTLY, FAIRLY AND PROFESSIONALLY; AND
- COOPERATE WITH THE MFSA IN AN OPEN AND HONEST MANNER

MFSA

MALTA FINANCIAL SERVICES AUTHORITY

# REGISTRATION REQUIREMENTS

- AT LEAST TWO (2) DESIGNATED PERSONS:
  - (i) ONE (1) TO UNDERTAKE VFA AGENT-RELATED ACTIVITY
  - (ii) ONE (1) TO ACT AS MLRO
  
- LEGAL PERSONALITY REQUIREMENT; WHERE APPLICANT IS ESTABLISHED IN ANOTHER JURISDICTION, REQUIREMENT FOR:
  - (i) REGISTERED BUSINESS OFFICE IN MALTA AND
  - (ii) AT LEAST TWO (2) REPRESENTATIVES RESIDING IN MALTA AND MEETING THE PRESCRIBED COMPETENCE REQUIREMENTS
  
- INITIAL AND ONGOING CAPITAL -> **EUR 50,000**
  
- **ROBUST KYC AND CYBERSECURITY SYSTEMS AND CONTROLS**
  
- PROFESSIONAL INDEMNITY INSURANCE (PII) -> OPTIONAL (BEST EFFORT BASIS)
  
- INSURANCE -> MANDATORY

# REGISTRATION REQUIREMENTS

- FITNESS AND PROPERNESS REQUIREMENT BOTH AT THE OUTSET AS WELL AS ON AN ONGOING BASIS:
  - (i) INTEGRITY
  - (ii) COMPETENCE
  - (iii) SOLVENCY

**PERSONAL QUESTIONNAIRE** SHALL BE SUBMITTED TO THE MFSA BY EVERY PROPOSED PERSON. THE AUTHORITY MAY, AT ITS OWN DISCRETION, FURTHER CONDUCT INTERVIEWS

- PREPARATORY PHASE: STATEMENT OF INTENT AND MANDATORY PRELIMINARY MEETING

# ONGOING OBLIGATIONS...

## GOVERNANCE

- DUAL CONTROL PRINCIPLE
- FITNESS AND PROPERNESS
- CLEAR DECISION-MAKING PROCEDURES AND REPORTING LINES
- ROBUST KYC AND CYBERSECURITY SYSTEMS AND CONTROLS
- ONGOING MONITORING OF SUCH SYSTEMS AND CONTROLS



# ONGOING OBLIGATIONS...

## INSURANCE

- PII -> OPTIONAL (BEST EFFORT BASIS)
- INSURANCE POLICY COVERING LOSS OF MONEY OR DAMAGE TO ANY OTHER ASSET OR PROPERTY BELONGING TO THE VFA AGENT -> MANDATORY

# ONGOING OBLIGATIONS...

## OUTSOURCING

- QUALITY OF INTERNAL CONTROLS SHOULD NOT BE COMPROMISED
- FULL RESPONSIBILITY REMAINS WITH VFA AGENT
- ONGOING ASSESSMENT OF OUTSOURCING ARRANGEMENTS
- NOTIFICATION OF ANY MATERIAL OUTSOURCING ARRANGEMENTS
- OUTSOURCING POLICY
- OUTSOURCING ARRANGEMENT → CONTRACTUAL FORM

# ONGOING OBLIGATIONS...

## APPOINTMENT OF MORE THAN ONE VFA AGENT

- WHERE A CLIENT APPOINTS MORE THAN ONE VFA AGENT → CLEAR AND PROPERLY DOCUMENTED ALLOCATION OF RESPONSIBILITIES
- EACH VFA AGENT → RESPONSIBLE SOLELY FOR THE ALLOCATED MATTERS

# ONGOING OBLIGATIONS...

## ONBOARDING OF CLIENTS

- PRIOR TO ONBOARDING A CLIENT → **FITNESS AND PROPERNESS** ASSESSMENT
  - (i) INTEGRITY
  - (ii) COMPETENCE
  - (iii) SOLVENCY

# ONGOING OBLIGATIONS...

## ONBOARDING OF CLIENTS

VFA AGENT SHALL NOTIFY THE AUTHORITY...

- IMMEDIATELY UPON HIS APPOINTMENT BY A CLIENT, THROUGH THE SUBMISSION OF A WRITTEN DECLARATION THAT THE FITNESS AND PROPERNESS REQUIREMENTS ARE SATISFIED (COPY OF ASSESSMENT TO BE HELD AT ITS REGISTERED ADDRESS IN MALTA)
- WHERE IT CONSIDERS A CLIENT NOT TO BE FIT AND PROPER
- IN CASE OF REMOVAL, RESIGNATION OR ITS INTENTION TO SURRENDER ITS REGISTRATION

# ONGOING OBLIGATIONS...

## ONBOARDING OF CLIENTS

- GREAT EMPHASIS ON **AML/CFT** OBLIGATIONS, INCLUDING *INTER ALIA*:
  - (i) IDENTIFICATION AND VERIFICATION;
  - (ii) ONGOING MONITORING OF THE BUSINESS RELATIONSHIP; AND
  - (iii) SOURCE OF WEALTH AND SOURCE OF FUNDS
- VARIOUS SOLUTIONS AVAILABLE CATERING FOR DIFFERENT BUSINESS MODELS

# ONGOING OBLIGATIONS...

## CONDUCT OF BUSINESS

- CONFLICTS OF INTEREST MANAGEMENT POLICY
  - (i) *IN WRITING*
  - (ii) *TO BE REVIEWED AT LEAST ON AN ANNUAL BASIS*
- OPERATIONAL INDEPENDENCE FROM CLIENTS
- REMUNERATION POLICIES AND PRACTICES
- CLEAR RULES ON PERSONAL TRANSACTIONS WITH CLIENTS

# SUPPLEMENTARY CONDITIONS APPLICABLE TO VFA AGENTS APPOINTED IN TERMS OF ARTICLE 7 OF THE ACT

A VFA AGENT SHALL...

- ENSURE THAT AN ISSUER IS A FIT AND PROPER PERSON **ON AN ONGOING BASIS**
- ENDORSE AN ISSUER'S DETERMINATION ON THE QUALIFICATION OF A DLT ASSET AND LIST ANY ASSUMPTIONS AND/OR ANY RESERVATIONS

**MFSA SHALL NOT ACCEPT NON-ENDORSED DETERMINATIONS  
IN CASE OF DISAGREEMENT -> MATTER TO BE RESOLVED BETWEEN PARTIES**



# SUPPLEMENTARY CONDITIONS APPLICABLE TO VFA AGENTS APPOINTED IN TERMS OF ARTICLE 7 OF THE ACT

A VFA AGENT SHALL...

- ENSURE THAT A SYSTEMS AUDITOR HAS BEEN APPOINTED AND PREPARED A REPORT IN RELATION TO THE ISSUER'S TECHNOLOGY ARRANGEMENT (INCLUDING CYBERSECURITY)
- ENSURE THAT THE ISSUER HAS PROVIDED INVESTORS WITH A ROADMAP IN RELATION TO THE INITIAL VFA OFFERING
- CHECK WHETHER THE MILESTONES ARE REACHED AND, IF NOT, INFORM THE MFSA ACCORDINGLY

# SUPPLEMENTARY CONDITIONS APPLICABLE TO VFA AGENTS APPOINTED IN TERMS OF ARTICLE 7 OF THE ACT

A VFA AGENT SHALL...

- OBTAIN CERTAIN WRITTEN CONFIRMATIONS FROM THE ISSUER
- PREPARE AND SUBMIT TO THE MFSA, ON BEHALF OF THE ISSUER, A **COMPLIANCE CERTIFICATE** ON AN ANNUAL BASIS

THE INFORMATION PROVIDED IN THIS PRESENTATION IS SOLELY FOR GENERAL GUIDANCE AND IS TO BE CONSTRUED NEITHER AS ADVICE NOR AS ANY TYPE OF COMMITMENT WHATSOEVER ON BEHALF OF THE MFSA.

**CONTACT:**

[FINTECH@MFSA.COM.MT](mailto:FINTECH@MFSA.COM.MT)

**WEBSITE:**

[HTTP://WWW.MFSA.COM.MT/VFA](http://WWW.MFSA.COM.MT/VFA)

**MFSA**

---

MALTA FINANCIAL SERVICES AUTHORITY