

Compilation of VFA Service Providers' Return

Guidance Notes

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Contents

Revisions Log	4
List of Abbreviations.....	5
1. Introduction.....	6
2. Access & Compatibility of the Return	7
3. Submission of the VFASP Return.....	8
4. Compilation of the Return	9
4.1 Generally Applicable Guides	9
4.2 Standard Templates	10
(1) Cover Sheet	10
(2) Index Sheet.....	10
(3) Input Sheet	11
(4) Income Statement and Balance Sheet	16
(5) Supervisory Fee Calculator	16
(6) Representations Sheet	17
4.3 Capital Requirements.....	17
(1) Prudential Safeguards (PrSafeguards)	17
(2) Fixed Overheads Requirement (FOR): Calculation.....	18
(3) Regulatory Requirements	18
4.4 Operations	19
(1) General VFA Services	19
(2) VFA Services	19
(3) Custody Details.....	21
(4) Operations.....	21
(5) Clients' Details	22
(6) Conduct of Business and Market Abuse.....	22
(7) Outsourcing.....	23
(8) Custody Annual Form	23
5. Concluding Remarks	24
Annex 1: Breakdown of Own Funds.....	25
Annex 2: Various Definitions	31
(1) Residency	31

Revisions Log

VERSION	DATE ISSUED	DETAILS
1.00	01 July 2021	Issuance of Document
2.00	11 January 2022	<ul style="list-style-type: none">- Introduced List of Abbreviations- Updated Section 2- Updated Section 4 to provide additional clarity on Generally Applicable Guides and the definitions of data points required.
3.00	30 March 2022	<ul style="list-style-type: none">- Introduced guidance on: IP-A1, IP-A1c, OF-032a, VT-002a
4.00	28 January 2022	<ul style="list-style-type: none">- Revamp of all Validations and merge of Index Sheet with Validations Sheet- Introduction of a Yellow/ "Check" validation- Guidance on reporting of paid and proposed dividends (IM-M1a, IP-M1b)- Removal and restructuring of sections within General VFA Services, Operations and Conduct Sheets- Amendments undertaken in OwnFundsCalc, VFA Services and the Client Sheets- Annex 2- General enhancements and bug fixes
5.00	26 March 2024	<ul style="list-style-type: none">- Prudential alignment to the MiCA aligned Rulebook.- Introduction of segregation by residency.- Revamp of various validations.- Country groups removal from Clients Sheet and introduction of an updated country list.- Adoption of Centre of Economic Interest Concept- PrSafeguards Sheet introduction, combining CET1 Capital (previously on the OwnFundsCalc Sheet) and the Professional Indemnity Insurance.- Introduction of Outsourcing Sheet.- Introduction of IP-A16, and IP-L14

List of Abbreviations

MFSA	Malta Financial Services Authority
VFA/s	Virtual Financial Asset/s
VFASP/s	VFA Service Provider/s
LH	License Holder
IVR	Interim VFASP Return
AVR	Annual VFASP Return
AAVR	Audited Annual VFASP Return
Q1/2/3	Quarter 1/2/3
ECB	European Central Bank
IAS	International Accounting Standards
IFRS	International Financial Reporting Standards
CRR	Capital Requirements Regulation
FOR	Fixed Overhead Requirement
NCA	National Competent Authority
IRB	Internal Ratings Based Approach
CET1	Common Equity Tier 1
FVOCI	Fari Value through other comprehensive income

1. Introduction

The Malta Financial Services Authority (**MFSA**), serving as the sole regulatory body for financial services within Malta, holds the responsibility for authorising and supervising entities within the Virtual Financial Assets (**VFA**) industry. These entities are regulated under the VFA Rulebook (**the Rules**), with each chapter delineating the rules pertinent to VFA Service Providers licensed under the Virtual Financial Assets Act (**the Act**) and to Applicants seeking to be licenced as VFA Service Providers pursuant to the Act.

On 25 June 2021, the MFSA issued the VFASP Return (**the Return**), a crucial tool designed for the collection of data essential to its supervisory activities. Consequently, these Guidance Notes have been formulated to assist in the accurate and efficient compilation of the VFASP Return.

2. Access & Compatibility of the Return

For each required submission, License Holders (**LHs**) must compile and submit the most recent version of the Return. To this end, prior to every submission, it is imperative that the VFASP downloads the latest version of the Return directly from the [MFSA Website](#). The MFSA reserves the right to periodically update or amend the Return. The version control is designated following the format "v:24-01-a", where "24" represents the year, "01" signifies the version number within that year, and "a" indicates immaterial changes. LHs should disregard the final letter when referencing the version.

The Return is compatible with Microsoft Office 2013 and later versions. It is important to note that while other program applications may access Microsoft Excel, their use could potentially compromise the Return's content integrity. Should LHs opt to use applications other than Microsoft Excel, they are responsible for ensuring the integrity and security of the downloaded document at all times. Furthermore, the Return must be saved exclusively in the *Microsoft Excel Spreadsheet (.xlsx)* format.

The Authority emphasizes the critical importance of maintaining the sheets' and workbook's protection at all times. In the event of technical difficulties, LHs are encouraged to contact the Authority at vfa@mfsa.mt for assistance. Returns with compromised structure or protection are deemed invalid. In such instances, the LH will be considered non-compliant with the Rules.

3. Submission of the VFASP Return.

LHs are mandated to submit the Return in accordance with the following stipulations:

1. The Licence Holder shall prepare an **Interim VFASP Return (IVR)**, at dates three, six and nine months after the accounting reference date. The first IVR should cover the three months immediately following the accounting reference date, the second IVR should cover the six months immediately following the accounting reference date and the third IVR should cover the nine months immediately following the accounting reference date. The IVR must be submitted within one month following the reporting date.
2. The **Annual VFASP Return (AVR)** is to cover a twelve-month period and should be submitted annually, within one month of the accounting reference date.
3. The **Audited Annual VFASP Return (AAVR)** must be submitted within six months of the accounting reference date, accompanied by the Audit Pack as detailed in R3-3.5.4.2.1 of the Rules.

For detailed guidance on the expected submission dates and methods for VFASPs, LHs are advised to consult the VFASP Regulatory Documentation Submissions Guide available on the MFSA website.

It is important to note that, within the same financial year, the Return should be compiled on a cumulative basis. All Returns must be uploaded in Microsoft Excel Spreadsheet (.xlsx) format via the LH Portal. Additionally, LHs are required to submit the Representations Sheet for the respective Return, signed in original by a minimum of two Directors, or by any person authorised through a Board Resolution. For the AAVR, the Representations Sheet must also include the signature of the External Auditor.

While this guidance is comprehensive, it is not exhaustive. Submissions that fail to adhere to these guidelines may be considered invalid, resulting in the LH being deemed non-compliant with the Rules.

4. Compilation of the Return

This Section provides detailed explanations with respect to the compilation of several sheets within the Return, which are divided into 4 sections as follows;

- 4.1 Generally Applicable Guides
- 4.2 Standard Templates
- 4.3 Capital Requirements
- 4.4 Operations

4.1 Generally Applicable Guides

This section outlines four essential checks to be conducted during the compilation of the Return:

- (i) Confirm the use of the most recent version available.
- (ii) Verify the application employed is fully compatible with Microsoft Excel and that the file's integrity is preserved at all times.
- (iii) In the event of file corruption, initiate the process anew or reach out to the MFSA for assistance.
- (iv) For any technical difficulties encountered, please contact the MFSA for support.

The compilation process of the Return should commence with the first worksheet (Cover Sheet), with details being methodically entered as required, beginning from the top and proceeding to the end of each sheet. Additionally, users can navigate between sheets using the Index Sheet, with further instructions available in the Index Sheet section. It is important to note that sheets and cells are password-protected, with the exception of cells highlighted in grey. These grey cells are intended as guides for users, indicating where data needs to be inputted.

Unless specifically instructed otherwise, or if the corresponding validation is green, all grey cells must be filled. If a data point is not applicable to the License Holder's scenario, enter "0".

Version v:22-04-a introduces a *Yellow*, "Check", validation. This feature flags instances where regulatory requirements might not be met, the nature of the reported data appears contradictory, or deviates from the norm. Therefore, it is incumbent upon VFASPs to thoroughly verify that the entered data is accurate. In cases where no corrections are needed, the Return may still be submitted with *Yellow* validations.

4.2 Standard Templates

(1) Cover Sheet

DP Code	Details	Comment
CS-1	Document Type	The Document type is selected from the dropdown menu, which distinguishes between the three types of returns mentioned in Section 3 of this Guidance. The document type should reflect the respective period type for which the Return is being compiled. <i>Failure to select the appropriate document type may invalidate certain validations.</i>
CS-2	Name of License Holder	The user must select the name of the Entity. <i>The VFASP Return cannot be compiled without selecting the LH Name. Should the institution fail to identify its name from the predefined list, the institution is to contact the Authority at its earliest.</i>
CS-6a	Reporting Period (From)	The IVRs are cumulative in nature, thereby reflected by these entries. The period must start from the first day of the financial year being reported. Insert dates using “/”, as a delimiters (ex: 01/01/2022). The delimiter “.” is NOT compatible and will render the Return invalid.
CS-6b	Reporting Period (To)	This date is to be filled in after CS – 6a to ensure successful loading of the Return. Insert dates using “/”, as a delimiters (ex: 31/12/2021). “.” will render the Return invalid.
CS-8	Reporting Currency	The Return is to be prepared in the same currency being used in the Audited Financial Statements (AFS).
CS-9	Exchange Rate	With respect to the exchange rate, please ensure that this is quoted from the ECB’s website , as at the end of reporting period. The reporting currency shall be the base currency. If the reporting currency is EUR, please fill-in “1”.
CS-10	Accounting Framework	The user is required to specify the accounting framework used to prepare the Return, where the accounting policies shall be consistent with those adopted in the AFS.

(2) Index Sheet

Prior to submitting the Return to the MFSA, LHs must verify that all validations are marked as “OK” or green. In cases where the validation appears as “Check” or yellow, it is imperative for the user to review and confirm the accuracy of the reported data. Should the “Check”/yellow validation indicate a requirement shortfall, the LH is obligated to provide a detailed

explanation of the shortfall and propose a remediation plan. Any validations marked as “Error” or red must be addressed and corrected in the relevant sheet prior to submission.

Submissions that display an “Error”/red validation risk being considered invalid and non-compliant. To prevent non-compliance, if the cause of the error is unclear, LHs are advised to contact the Authority for guidance prior to the submission deadline. In instances where the MFSA acknowledges that the validation may be flagging a false negative, a corresponding comment can be included in REP-014 within the Representations sheet.

Additionally, the Index Sheet is designed to enhance the user experience of navigating the Return. It contains links to all other sheets for ease of access. Adjacent to the name of each sheet listed on the Index Sheet, there is an arrow. When toggled, this arrow will automatically direct the user to the respective sheet.

(3) Input Sheet

The Input Sheet serves as a pivotal foundation for the automation of numerous sheets within the Return and is segmented into eight distinct sections;

1. Company Profile
2. Income
3. Expenditure
4. Movements effected through the statement of changes in Equity
5. Statement of Other Comprehensive Income
6. Assets
7. Liabilities
8. Capital & Reserves
9. Others

It is imperative that all amounts entered in this sheet are reflected as positive values. This holds true even for figures representing expenditure and liabilities, except in instances where the entity has incurred a loss concerning a specific data point.

Reference is made to Annex 2 for a clear explanation on the classification of Residency (Malta – EU/EEA – ROW), applying the ‘Centre of Economic Interest’ concept. However, the Authority notes that in cases where the split is not possible, the default entry should be with Residents of Malta.

While the data entry process is designed to be intuitive and self-explanatory, the following additional comments are provided for further clarity and guidance;

DP Code	Details	Comment
IP-CP1	Full Time Employment	Full-time employment refers to a work arrangement where an individual is engaged in a role within an organisation, typically working a standard number of hours (generally 40 hours) and receiving a comprehensive range of compensation, such as

	Part Time Employment	<p>salary, bonuses, and benefits, for their services during a set accounting period.</p> <p>A part-time employee is one whose normal hours of work, calculated on a weekly basis or on an average over a period of employment of up to one year, are less than the normal hours of work of a comparable full-time employee and who is not a full-time employee with reduced hours.</p>
IP-11	Dealing Profit (or Loss) – Trading	<p>Gains or Losses made on spreads when dealing on own account.</p> <p><i><u>Residency Classification Example:</u></i> <i>In a scenario where the institution deals with a client, residency should reflect the centre of economic interest of its client. Therefore, in a scenario where a client has been identified as a Maltese resident after applying the centre of economic interest concept, the gain/loss made on the trade should be reported under the residency of Malta.</i></p>
IP-12	Commissions received on transactions	<p>Commissions received from third-parties when offering the VFA services of Receiving and Transmitting or Executing client trade orders.</p> <p><i><u>Residency Classification Example:</u></i> <i>In a scenario where the institution receives commissions on transactions when buying, selling, or subscribing for VFA and transmitting that order to a third party for execution, residency should reflect the centre of economic interest of its client. Therefore, in a scenario where a client has been identified as outside Malta and the EU/EEA after applying the centre of economic interest concept, the monetary amount of commissions received on transactions from the same client should be reported under the residency of RoW.</i></p>
IP-13	Management Fees	<p>Applicable for Discretionary Portfolio Management.</p> <p><i><u>Residency Classification Example:</u></i> <i>In a scenario where the institution manages VFA belonging to a client, the residency should reflect the centre of economic interest of the same client. In a scenario where a client has been identified as residing in EU/EEA (excluding Malta) after applying the centre of economic interest concept, the monetary amount of management fees received from the client should be reported under the residency EU/EEA.</i></p>
IP-14	Investment Advisory Fees	<p>Applicable for Investment Advice.</p> <p><i><u>Residency Classification Example:</u></i> <i>In a scenario where the institution gives advice to a 'person' (as defined in the Act) to buy, sell subscribe for, exchange, redeem or hold a particular VFA, residency should reflect the centre of economic interest of the same 'person'. Therefore, if according to the latter concept, the client that advice was given to is located outside the EU/EEA and Malta after applying the centre of economic interest concept, the monetary amount of income received for providing investment advice from the same client should be reported under the residency of RoW.</i></p>

IP-17	Transaction Fees	<p>Fees related to Execution of Orders by the VFA Exchange service or Brokerage Services.</p> <p><i><u>Residency Classification Example:</u></i> <i>In a scenario where the institution operates a VFA exchange and executes orders, residency should reflect the centre of economic interest of its client. Therefore, in a scenario where a client has been identified as a Maltese resident after applying the centre of economic interest concept, the monetary amount of transaction fees coming from executing orders for the same client should be reported under the residency of Malta.</i></p>
IP-18	Listing Fees	<p>Fees received by issuers of VFA to list VFA on the VFA Exchange.</p> <p><i><u>Residency Classification Example:</u></i> <i>In a scenario where an issuer lists VFA on an exchange, the residency should reflect the centre of economic interest of the same issuer. In a scenario where the issuer has been identified as residing in EU/EEA (excluding Malta) after applying the centre of economic interest concept, the monetary amount of listing fees should be reported under the residency EU/EEA.</i></p>
IP-19	Other Exchange Fees	Other revenue generated through the VFA Exchange service which is not captured in other data points.
IP-112	Other VFA-related revenue	<p>Any other revenue generated in relation to VFA services which is not captured by the above revenue categories.</p> <p>The user is required to input the relevant details for the said data entries in the adjacent grey cells as prompted in the Sheet upon inserting this amount.</p> <p>The details will be then reflected in the 'Income Statement' Sheet.</p>
IP-113	Non-VFA-related revenue	<p>The user is required to input the relevant details for the said data entries in the adjacent grey cells as prompted in the Sheet upon inserting this amount.</p> <p>The details will be then reflected in the 'Income Statement' Sheet.</p>
IP-E1, IP-E2	Commissions and Fees	These data entries refer to commissions and fees that are directly related to the acquisition of gross revenue (derived from VFA activities), as defined in the Virtual Financial Assets Regulations (L.N. 357 of 2018).
IP-E18	Custody Fee	Fees payable to third-party custody providers.
IP-E27	Non-recurrent Expenses	Expenditure incurred that is not part of the company's ordinary day-to-day operations.
IP-E33	Taxation for the year	Besides providing for taxation in the Annual Income Statement included in the AVR, LHs are required to provide for taxation in the interim Income Statement in the IVR.

IP-M1a	Paid Dividends	<p>Paid dividends are to be reported here. Remaining fields in the input sheet should be populated net after dividends.</p> <p>Note that for the purposes of Own Funds, since Equity will already be deducted by the paid dividends, Own Funds will inherently be already deducted.</p>
IP-M1b	Proposed Dividends	<p>Proposed dividends are to be reported here. Since the dividends payment would not have yet been signed off, equity (retained earnings) should be reported in full (i.e. not net of proposed dividends).</p> <p>Note that for the purposes of Own Funds, proposed dividends are deductible. Own Funds will be deducted by the proposed dividends amount.</p>
IP-A1	Intangible Assets	<p>LHs are to report Intangible Assets under the 3 categories available in the VFASP Return.</p>
IP-A1c	(ii) Prudently valued software assets, the value of which is not negatively affected by resolution, insolvency or liquidation of the company (as stipulated by REGULATION (EU) 2019/876.	<p>Software intangible assets can be assessed for their qualification as “prudently value software assets, the value of which is not negatively affected by resolution, insolvency, or liquidation of the company”. For this assessment LHs are to refer to REGULATION (EU) 2019/876.</p> <p>Note that, as also stipulated in REGULATION (EU) 2019/876, such software assets have a different prudential treatment to other forms of intangible assets. Please refer to Amending notice (2020/2176) to the Commission Delegated Regulation (EU) No 241/2014. The respective applicable deduction to Own Funds is to be calculated by the LH and inserted in OF-032a on the PrSafeguards sheet.</p>
IP-A7	Unsettled Transactions VFA	<p>The user is required to fill in the aggregate amounts in the respective threshold.</p> <p>In addition, the user is also required to provide the respective amounts relating to Trading & Non-Trading Book in the adjacent grey cells which appears upon inserting this amount.</p> <p><i>Trading Book</i> refers to VFAs positions held either with trading intent or in order to hedge other elements of the trading book and which are either free of any restrictive covenants on their tradability or able to be hedged.</p> <p><i>Non-Trading Book</i> refers to positions, exposures, assets and liabilities that are not in the trading book.</p>
IP-A8	Group Debtors	<p>Details in relation to any amounts due from group companies or connected persons are to be filled in the adjacent grey cell. These details will be then reflected in the Balance Sheet in the Return.</p> <p>The relevant definition of ‘Group’ is that defined in the Companies Act (Chapter 386 of the Laws of Malta).</p>

IP-A15	VFAs (Assets Side)	Value of proprietary VFAs in reporting currency as at the end of the reporting period, held on the Company's books.
IP-A16	Right of Use of Asset	LHs are to report carrying value of Right of use of asset under this section as per IFRS 16.
IP-L2, IP-L6	Group Creditors	Details in relation to any amounts due to group companies or connected persons are to be filled in the adjacent grey cell. These details will be then reflected in the <i>Balance Sheet</i> .
IP-L13	VFAs – Short Position	The user shall input the value of VFAs, in reporting currency, which the company has in short positions.
IP-L14	Lease Liability	LHs are to report outstanding balance of lease liability under this section as per IFRS 16.
IP-R4	Retained Earnings	These figures are to be reported net of Other Comprehensive Income.
IP-R4a	Revenue Reserves as per the latest audited accounts	<i>Refer to Articles 4(1)(123) and 26(1) point (c) of CRR</i>
IP-R4a1	Revenue Reserves as per the previous year(s) if still unaudited	This refers to retained earnings of the previous year that still need to be verified by an audit report.
IP-R4b	Interim profits/(loss) for the reporting year	This refers to profits/loss for the reporting period that still need to be verified by an audit report.
IP-R7	Other Reserves	<p><i>Refer to Article 4(1)(117) and 26(1) point (e) of CRR</i></p> <p>The amount to be reported shall be net of any tax charge foreseeable at the moment of the calculation.</p> <p>It is to be noted that any amounts reported in IP-R7a and IP-R7b would contribute to the calculation of Own Funds. Therefore, as per Article 26(3) of the Capital Requirements Regulation (EU/575/2013), the institution is to contact the MFSA before qualifying 'Other Reserves' and/or 'Capital Contribution' as CET 1 (Article 26(1)(e)).</p> <p>Capital contribution must be disclosed separately under IP-R7a. IP-R7b must reflect CET 1 items as per Article 26(1)(e) other than capital contribution, only after permission is granted by the Authority (Article 26(3)).</p>
IP-07,	Verified Profits [Yes/No]	<p>Refers to interim profits the LH may wish to qualify as Own Funds as per Article 26 (2) of the CRR.</p> <p>When marked "Yes", the VFASP is required to submit a confirmation, signed by the external auditor which states that the amount of verified profits, have been verified, and thereby can qualify as CET 1 instruments as part of the VFASP's Own Funds.</p>

IP-08	Verified Profits	The amount reported here must match that stated in the External Auditor's Confirmation, which subject to the Authority's approval will qualify as CET 1 Capital.
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Consistent with International Accounting Standard (IAS) 1(88), entities are required to recognize all items of income and expense in a period in profit or loss, unless specified otherwise by the International Financial Reporting Standards (IFRS). Certain IFRSs mandate or allow for specific components to be excluded from profit or loss, and instead, be accounted for in other comprehensive income. The components that constitute other comprehensive income include:

1. Fair value movements on Intangible Assets;
2. Gains and losses on re-measuring available-for-sale financial assets (IFRS 9);
3. Gains and losses on revaluation of Property, Plant and Equipment;
4. Other items of income and expense included in other comprehensive income; and
5. The corresponding amount of income tax relating to each item included in other comprehensive income.
6. Gain or loss on foreign exchange movements.
7. Gain or loss on fair value of financial assets classified as Fair Value through Other Comprehensive Income (FVOCI).

These guidelines are aligned with the principles of IFRS and are intended to ensure accurate and comprehensive financial reporting within the Return. It is crucial for entities to adhere to these standards to maintain consistency and reliability in financial reporting.

(4) Income Statement and Balance Sheet

The Income Statement and Balance Sheet sheets within the Return are fully automated, offering a comprehensive snapshot of the VFASP financial status for the reporting period. Their primary purpose is to facilitate an effortless review by the LH's senior officials and Directors.

Importantly, the Balance Sheet is designed to identify and flag any instances of imbalances. These imbalances require rectification, which should be addressed through accurate and thorough reporting in the Input Sheet. This feature ensures that the financial reports remain accurate and reflective of the VFASP's true financial position.

(5) Supervisory Fee Calculator

Within the Supervisory Fee Calculator Sheet the user is tasked with entering two key pieces of information: (i) the gross revenue as reported in the AFS, which is attributable to activities covered by the VFA Licence, and (ii) any commissions directly associated with the acquisition of this gross revenue. All figures should be entered in the reporting currency, which the system then automatically converts to Euro.

In-built validation checks are employed to identify and highlight any discrepancies arising from the data inputted. Users are responsible for resolving these discrepancies or providing necessary clarifications where needed.

SF-006 computes the Annual Supervisory Fee in Euro, as per the stipulations of the respective LH. This fee calculation adheres to the parameters set forth in the Legal Notice 357 of 2018 of the Virtual Financial Assets Act, Chapter 590 of the Laws of Malta, ensuring compliance and accuracy in the fee assessment process.

(6) Representations Sheet

The Representations Sheet functions as the signature sheet of the Return, where the Directors of the LH, or any other individual authorised by a Board Resolution, are required to sign. This act signifies their review and confirmation of all declarations listed within this sheet. In accordance with Rules R3-3.5.4.2.2, R3-3.5.4.3.2, and R3-3.5.4.4.3, the Representations Sheet must be submitted with original/authentic signatures. For the submission of the AAVR, it is mandatory that the sheet is also signed by the Auditor of the LH.

The LH is responsible for accurately completing the Sheet and responding to all statements in relation to the relevant period. For instance, statement (i) states, “The License Holder did not register a shortfall on any of the capital requirements as applicable to it under the respective rules and regulations.” Should there be a recorded shortfall in the capital requirements at any point within the financial year, even if rectified later, the response to this statement must reflect the occurrence of the shortfall within the reporting period.

REP-014 provides a space for free text, allowing LH to include any general comments regarding the submission of the Return.

It is imperative for LH to remember that the ultimate responsibility for submitting the Return by the designated deadline, as outlined in the Rules, lies with the Directors. They must ensure the accuracy and integrity of the reported content, safeguarding against any form of misrepresentation, omission, or miscalculation of material items. This responsibility holds irrespective of the official(s) assigned to populate the Return.

4.3 Capital Requirements

(1) Prudential Safeguards (PrSafeguards)

The Prudential (Pr) Safeguards Sheet is designed with partial automation, but may necessitate manual intervention as relevant to specific circumstances. LHs are reminded of their obligation under Rule R3-3.3.2.1 to maintain Own Funds that are at least equivalent to or exceed the Capital Requirement. The Capital Requirement is determined by the greater of two values: (i) the permanent minimum requirement, or (ii) the fixed overheads requirement.

This requirement underscores the importance of financial prudence and stability in the operations of LHs. It is essential that the latter diligently assess and ensure their compliance

with these financial thresholds, as they are fundamental to the integrity and sustainability of their operations under the regulatory framework.

Own Funds

LHs are directed to refer to Annex 1 for a detailed breakdown of Own Funds, which includes pertinent legal references and specific instructions. For a comprehensive understanding and accurate calculation of Own Funds, LHs should also consult the (i) Capital Requirements Regulation (CRR), (ii) VFA Rulebook, (iii) Regulatory Implementing Technical Standards on Own Funds, and (iv) [Markets in Crypto-Assets regulation](#) (MiCAR).

It is incumbent upon users to meticulously complete all respective cells highlighted in grey on the sheet. In instances where a particular data point is not applicable to the entity, it should be duly noted with a "0". This approach ensures both the completeness and accuracy of the information pertaining to Own Funds, in line with regulatory requirements and standards.

Professional Indemnity Insurance and Guarantee

In cases where the entity possesses insurance policies/guarantees as a component of its prudential safeguards, the user is obligated to indicate this by entering "Yes" in field PII-001. Upon this entry, the subsequent portion of the section will be made accessible for further data entry.

In the latter section, users are required to provide detailed information regarding their Professional Indemnity Insurance. This includes the Name of the Institution or Insurer, the Jurisdiction in which the insurer operates, specific details related to the insurance instrument, and the total amount covered by the policy, expressed in the entity's reporting currency.

(2) Fixed Overheads Requirement (FOR): Calculation

In alignment with Rule R3-3.3.2.4, the Fixed Overhead Requirement (FOR) is required to be at least one quarter of the fixed overheads incurred in the preceding year. Users are tasked with the responsibility of entering items of expenditure as delineated in the most recent AFS, along with any applicable deductions.

For an in-depth understanding and accurate calculation, users should refer to Article 97 of the CRR and the Regulatory Technical Standards on Fixed Overheads. These references provide crucial guidelines and standards for the calculation of the FOR.

(3) Regulatory Requirements

The *Regulatory Requirements* Sheet is predominantly automated, with the exception of data point RR-011, which pertains to the liquidity requirement. This sheet serves to provide a concise summary of the capital and liquidity regulatory requirements as of the reporting date. LHs are reminded of their ongoing obligation to promptly notify the Authority in the event of identifying any shortfall. Additionally, they must submit a comprehensive remediation plan,

including projected milestones and timelines. It is crucial to understand that this obligation is continuous and not limited to the period of submitting the VFASP Return.

Please be aware that if any of the regulatory requirements reveal a shortfall, this will be distinctly marked by the respective validation checks. Such shortfalls will be highlighted in orange, serving as a clear indicator of areas requiring attention and corrective action.

4.4 Operations

(1) General VFA Services

In the General VFA Services sheet, users are obliged to diligently fill in all cells highlighted in grey, unless specific instructions dictate otherwise. This ensures a comprehensive and accurate representation of the entity's VFA-related activities.

The sheet is organised into two distinct sub-sections:

- (i) Clients' Money (FIAT) – It is important to note that this section is not relevant for Class 1 VFA License Holders. However, these users must still engage with this section by populating cell 'CM-001' with 'No' to acknowledge and record their non-applicability.
- (ii) VFA Settlements – This section is dedicated to the recording and analysis of VFA settlements, necessitating detailed and precise data entry.

This structured approach to data entry ensures clarity and consistency in the reporting of VFA services, aligning with regulatory expectations and enhancing the overall utility of the sheet.

DP Code	Details	Comment
VT-002a	Accepting transaction to/from unidentifiable wallets.	For this instance, <i>unidentifiable</i> refers to the ability of the LH to identify the beneficial owner of such wallets. Thus, this question asks whether in instance where the LH is not able to do so, does it still accept transactions to/from such wallets.
VT-004	Wallet Address Form	The user is required to mark if it needs to submit the <i>Wallet Address Form</i> , containing a list of wallet addresses controlled by the LH which interact/ed with third-party wallets. Note that following the first submission, LHs would be required to submit the <i>Wallet Address Form</i> in instances where additional wallet addresses were not provided to the Authority in previous submissions.

(2) VFA Services

The VFA Services Sheet is comprehensively designed to cover all services delineated under Schedule II of the Act, with the exception of custody, which are detailed on a separate sheet. Accordingly, this sheet is systematically divided into the following categories:

- (i) Investment Advice
- (ii) Reception and Transmission of Orders

- (iii) Execution of Orders
- (iv) Portfolio Management
- (v) Placing of VFAs
- (vi) Dealing on Own Account
- (vii) Operation of a VFA Exchange
- (viii) Transfer of VFAs
- (ix) Custody Services

Users are required to specify the licensable services offered by the LH using the provided dropdown menu. This functionality allows users to exclusively focus on filling in sections relevant to the LH's licensable activities. It is important to note that while Custody Services are detailed on a separate sheet, they are still included in the initial list of licensable services on the VFA Services Sheet. Users should complete this cell in a manner consistent with the other VFA services. If 'Custody' is selected as 'Yes', users are then obliged to complete the corresponding data on the Custody Sheet.

Furthermore, the sheet incorporates validation checks to assist users in identifying the necessary data inputs.

Please be attentive to the below additional information;

DP Code	Details	Comment
EO-001, EO-002	Orders executed on behalf of clients	Client orders which are executed on an executing venue, excluding those orders executed by means of Dealing on Own Account from the LH.
EO-004	Nature of Venue	The user is required to include the nature of the executing venue, whether: [1] a Regulated Exchange; [2] an Unregulated Exchange; [3] a Regulated Broker; [4] Unregulated Broker; or [5] a DeFi Protocol. By regulated exchange and regulated broker, it is meant that the said execution venue is actively supervised by a National Competent Authority (NCA).
DA-002, DA-003	Trades on Own Account	Trading against proprietary capital resulting in conclusion of transactions in one or more virtual financial assets specifically when fulfilling client orders.
DA-005	Top 3 Liquidity Provider Counterparties	The counterparties and/or executing venues with whom the LH trades to obtain liquidity from or hedge trades in the course of executing client orders. Please report the full official or trade name of the entity.
TF-001	VFAs Transferred	<i>Transfers</i> refer to the service of conducting a transaction on behalf of a third party that allows users to transfer ownership or control of a VFA to another user, or to transfer VFAs between VFA addresses or accounts held by the same user. The LH must not include internal transfers between its own wallets.

TF-006, TF-011	Top 3 VFAs Transferred In & Out	The option of "Other" is introduced in case one of the top 3 VFAs transferred is not on the list.
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(3) Custody Details

The Custody Sheet is specifically designed for LHs who provide Custody and/or Nominee Services. It is imperative for users to meticulously complete all cells that are marked in grey, as required by the context of their services. This comprehensive approach is crucial for accurately capturing the scope and details of the custody services offered.

To assist in ensuring the thoroughness and accuracy of the data input, validation checks are integrated within the sheet. These checks are instrumental in confirming the complete and correct compilation of the sheet's information.

It is important to note that if the entity does not offer Custody and/or Nominee Services, the validation checks related to this specific service will not be applicable.

Please pay close attention to the following information;

DP Code	Details	Comment
CT-006	Top 3 outsourced third-parties holding client VFAs	Please report the full official or trade name of the entity.
CT-015	Hot/Cold Wallet Ratio	This refers to the respective ratio of Hot to Cold wallets for the top 5 VFAs held within the LH's custodial perimeter. This datapoints must be reported in percentage figures. For instance, <i>80% held in Cold Wallets, while 20% in Hot Wallets.</i>

(4) Operations

The Operations Sheet is structured to gather crucial information pertaining to two key aspects of the LH's operational framework:

- (i) Systems Performance and Resilience
- (ii) Cybersecurity

It is essential for users to attentively fill in all cells marked in grey on this sheet. This detailed data entry process is vital for accurately capturing the LH's capabilities and preparedness in terms of system performance, resilience, and cybersecurity measures. The comprehensive and precise completion of this sheet plays a significant role in assessing the operational robustness and security posture of the LH.

(5) Clients' Details

The Clients Details Sheet is designed for users to provide specific information relevant to the LH. It is imperative that users fill in all cells highlighted in grey, ensuring that each entry is applicable and accurately reflects the LH's client-related data.

In circumstances where certain data points are not applicable to the LH's operations or client base, users are required to input "0". This practice ensures clarity and consistency in data reporting, allowing for a comprehensive understanding of the LH's client demographics and related details.

It is imperative that the LH adopts the concept of 'Centre of Economic Interest' when determining the country of residence of their clients. A detailed explanation on the latter concept can be found in Annex 2 of this guidance document.

DP Code	Details	Comment
CD-015	Clients' relationship terminated	Clients' relationship terminated due to concerns and other decisions taken by the company.

(6) Conduct of Business and Market Abuse

The Conduct of Business and Market Abuse Sheet is meticulously designed to collect essential information regarding:

- (i) Market Abuse
- (ii) Complaints

This sheet is an integral part of the Return, as it focuses on critical aspects of the LH's operations related to market conduct and the handling of complaints. Accurate and thorough documentation in this area is essential for demonstrating compliance with regulatory standards and for maintaining the integrity of the LH's business practices.

Users are required to pay close attention to the following information;

DP Code	Details	Comment
CO-009	Complaints – Realistic Compensation payable exposure	The user is requested to fill in "0" if the exposure is estimated to be so.

(7) Outsourcing

The Outsourcing Sheet is specifically designed to compile information regarding the Outsourcing Arrangements in which the LH is engaged. This sheet plays a crucial role in documenting and managing the external partnerships and services that are integral to the LH's operations.

Initially, users are required to complete the field OS-001 by selecting an option from the provided dropdown list. The selection made in OS-001 is pivotal, as choosing 'Yes' will reveal the remainder of the sheet for further data entry. This mechanism ensures that only relevant sections are made accessible, thereby streamlining the data entry process for the user.

Please be attentive to the following information;

DP Code	Details	Comment
N/A	Outsourcing	Outsourcing may be defined as an agreement between institutions, by which one performs a process/es, service/s, or activity that would otherwise be undertaken internally by the other institution. For further details on outsourcing, kindly refer to Chapter 3 of the Virtual Financial Asset Rulebook.
OS-004	Breakdown of Outsourcing; <i>Outsourced Party</i>	The user is requested to report the full name of the third-party entity undertaking an outsourced service or function, in part or in full, under the outsourcing arrangement.
OS-004	Breakdown of Outsourcing; <i>Is it Critical or Important?</i>	The user is requested to select Yes/No from the dropdown list. The below criteria should be utilised to assess the critical importance of outsourcing: <ul style="list-style-type: none">i. Where a defect or failure in its performance would impair the compliance of the LH,ii. financial performance, and/oriii. licensable activities

(8) Custody Annual Form

The Custody Annual Form is a critical component of the AAVR. The former must be completed by the LH on an annual basis.

5. Concluding Remarks

LHs are duly reminded of their obligations under R3-2.3.4.4.1(x), which mandates the immediate notification to the Authority of any breaches pertaining to the requirements set forth in the Rules, the Act, or the VFA Regulations. This notification should occur as soon as the LH becomes aware of such a breach.

For comprehensive details regarding submission deadlines for the VFASP Return and other regulatory reporting obligations, LHs are encouraged to refer to the Rules. Additionally, the *VFASP Documentation Table*, available on the [MFSA Website](#), serves as a valuable resource for understanding these requirements.

Should there be any queries or need for clarification regarding the VFASP Return, LHs are urged not to hesitate in contacting the VFA Function at vfa@mfsa.mt. The Authority remains committed to providing support and guidance to ensure compliance and facilitate a smooth reporting process.

Annex 1: Breakdown of Own Funds

DP Code	Details	Comment
OF-001	Own Funds; Common Equity Tier 1	<p>Articles 4(1)(118) and 72 of CRR</p> <p>CET 1 capital is defined in Article 50 of CRR.</p> <p>The above should be read in conjunction to the VFA Rulebook and the MiCA regulation.</p>
OF-005	Paid up capital instrument	<p>Articles 26(1) point (a) and 27 to 31 of CRR</p> <p>The share premium related to instruments shall not be included.</p>
OF-006	Memorandum Items	<p>Article 28(1) points (b), (l) and (m) of CRR</p> <p>Conditions in those points reflect different situations of the capital which are reversible, and thus the amount reported here can be eligible in subsequent periods. The amount reported shall not include the share premium related to the instruments.</p>
OF-007	Share Premium	<p>Articles 4(1)(124), 26(1) point (b) of CRR</p> <p>Share premium has the same meaning as under the applicable accounting standard. The amount to be reported in this item shall be the part related to the "Paid up capital instruments".</p>
OF-008	Own CET1 Instruments	<p>Articles 36(1) point (f) and 42 of CRR</p> <p>Own CET 1 held by the reporting LH subject to exceptions in Article 42 of CRR. Holdings on shares included as "Capital instruments not eligible" shall not be reported in this row.</p> <p>The amount to be reported shall include the share premium related to the own shares.</p>
OF-012	Actual or contingent obligations to purchase own CET1 instruments	<p>Articles 36(1) point (f) and 42 of CRR</p>
OF-013	Retained Earnings	<p>Articles 26(1) point (c) and 26(2) of CRR</p> <p>Retained earnings includes the previous year retained earnings plus the eligible interim or year-end profits. The eligible interim profits are profits verified by the Financial Auditor prior to the end of the accounting period.</p>
OF-014	Previous years' retained earnings	<p>Articles 4(1)(123) and 26(1) point (c) of CRR</p> <p>CRR defines retained earnings as "Profit and losses brought</p>

		forward as a result of the financial application of profit or loss under applicable accounting standards”.
OF-015	Profit or loss eligible	<p><i>Articles 4(1)(123), 26(2) and 36(1) point (a) of CRR</i></p> <p>Article 26(2) of CRR allows including as retained earnings interim or year-end profits, with the prior consent of the competent authorities, if some conditions are met. On the other hand, losses shall be deducted from CET1, as stated in Article 36(1) point (a) of CRR.</p>
OF-016	Profit or loss attributable to the owners of the parent	<p><i>Articles 26(2) and 36(1) point (a) of CRR</i></p> <p>The amount to be reported shall be the profit or loss reported in the accounting income statement.</p>
OF-017	Part interim or year-end profit not eligible	<p><i>Article 26(2) of CRR</i></p> <p>This row shall not present any figure if, for the reference period, the LH has reported losses. This is because the losses shall be completely deducted from CET1.</p> <p>If the LH reports profits, it shall report the part which is not eligible according to Article 26(2) of CRR, i.e. profits not audited and foreseeable charges or dividends.</p> <p>Note that, in case of profits, the amount to be deducted shall be, at least, the interim dividends.</p>
OF-018	Accumulated or Other Comprehensive Income	<p><i>Articles 4(1)(100) and 26(1) point (d) of CRR</i></p> <p>The amount to be reported shall be net of any tax charge foreseeable at the moment of the calculation, and prior to the application of prudential filters. The amount to be reported shall be determined in accordance with Article 13(4) of Commission Delegated Regulation (EU) No. 241/2014.</p>
OF-019	Other Reserves	<p><i>Article 4(1)(117) and 26(1) point (e) of CRR</i></p> <p><i>Other reserves are defined in CRR as “Reserves within the meaning of the applicable accounting standard that are required to be disclosed under that applicable accounting standard, excluding any amounts already included in accumulated other comprehensive income or retained earnings”.</i></p> <p>The amount to be reported shall be net of any tax charge foreseeable at the moment of the calculation.</p>
OF-020	Funds for general banking risk	<p><i>Articles 4(1)(112) and 26(1) point (f) of CRR</i></p> <p>Funds for general banking risk are defined in Article 38 of Directive 86/635/EEC as “Amounts which a credit institution decides to put aside to cover such risks where that is required by the particular risks associated with banking”.</p> <p>The amount to be reported shall be net of any tax charge foreseeable at the moment of the calculation.</p>

OF-021	Minority interest given recognition in CET1 capital	<p><i>Article 4(120) and 84 of CRR</i></p> <p>Sum of all the amounts of minority interests of subsidiaries that is included in consolidated CET1.</p>
OF-022	Adjustment to CET1 due to prudential filters	<p><i>Articles 32 to 35 of CRR</i></p>
OF-023	Increases in equity resulting from securitised assets	<p><i>Article 32(1) of CRR</i></p> <p>The amount to be reported is the increase in the equity of the institution resulting from securitised assets, according to the applicable accounting standard.</p> <p>For example, this item includes the future margin income that results in a gain on sale for the institution, or for originators, the net gains that arise from the capitalisation of future income from the securitised assets, that provide credit enhancement to positions in the securitisation.</p>
OF-024	Cash flow hedge reserve	<p><i>Article 33(1) point (a) of CRR</i></p> <p>The amount to be reported could either be positive or negative. It shall be positive if cash flow hedges result in a loss (i.e. if it reduces accounting equity) and vice versa. Thus, the sign shall be contrary to the one used in accounting statements.</p> <p>The amount shall be net of any tax charge foreseeable at the moment of the calculation.</p>
OF-025	Cumulative gains and losses due to changes in own credit risk on fair valued liabilities	<p><i>Article 33(1) point (b) of CRR</i></p> <p>The amount to be reported could either be positive or negative, it shall be positive if there is a loss due to changes in own credit risk (i.e. if it reduces accounting equity) and vice versa. Thus the sign shall be contrary to the one used in accounting statements.</p> <p>Unaudited profits shall not be included in this item.</p>
OF-026	Fair value gains and losses arising from the entity's own credit risk related to derivative liabilities	<p><i>Article 33(1) point (c) and 33(2) of CRR</i></p> <p>The amount to be reported could either be positive or negative. It shall be positive if there is a loss due to changes in own credit risk and vice versa. Thus, the sign shall be contrary to the one used in accounting statements.</p> <p>Unaudited profit shall not be included in this item.</p>
OF-027	Value adjustments due to the requirements for prudent valuation	<p><i>Articles 34 and 105 of CRR</i></p> <p>Adjustments to the fair value of exposures included in the trading book, or non-trading book due to stricter standards for prudent valuations set in Article 105 of CRR.</p>

OF-028	Goodwill	<i>Articles 4(1)(113), 36(1) point (b) and 37 of CRR</i>
OF-029	Goodwill accounted for as intangible asset/included in the valuation of significant investments	<p><i>Articles 4(1)(113), 36(1) point (b), 37 point (b) and 43 of CRR</i></p> <p>Goodwill has the same meaning as under the applicable accounting standard.</p> <p>The amount to be reported here shall be the same that is reported in the balance sheet, in relation to intangible asset, in addition to the valuation of significant investments.</p>
OF-030	Deferred tax liabilities associated to goodwill	<p><i>Article 37 point (a) of CRR</i></p> <p>Amount of deferred tax liabilities that would be extinguished if the goodwill became impaired or was derecognised under the relevant accounting standard.</p>
OF-031	Other intangible assets	<p><i>Articles 4(1)(115), 36(1) point (b) and 37 point (a) of CRR</i></p> <p>Other intangible assets are the intangible assets under the applicable accounting standard, minus the goodwill (also under the applicable accounting standard).</p>
OF-032a	Prudently valued software assets, the value of which is not negatively affected by resolution, insolvency or liquidation of the company (as stipulated by REGULATION (EU) 2019/876).	<p>Article 13(a) of Amending notice (2020/2176) to the <i>Commission Delegated Regulation (EU) No 241/2014</i>.</p> <p>Software intangible assets can be assessed for their qualification as "prudently value software assets, the value of which is not negatively affected by resolution, insolvency, or liquidation of the company. For this assessment LHs are to refer to REGULATION (EU) 2019/876).</p> <p>The respective applicable deduction to Own Funds is to be calculated by the Licence Holder and reported here.</p>
OF-032	Other intangible assets gross amount	<p><i>Articles 4(1)(115) and 36(1) point (b) of CRR</i></p> <p>The amount to be reported here shall correspond to the amount reported in the balance sheet of intangible assets other than goodwill.</p>
OF-033	Deferred tax liabilities associated to other intangible assets	<p><i>Article 37 point (a) of CRR</i></p> <p>Amount of deferred tax liabilities that would be extinguished if the intangible assets other than goodwill became impaired or was derecognised under the relevant accounting standard.</p>
OF-034	Deferred tax assets that rely on future profitability and do not arise from temporary differences	<i>Articles 36(1) point (c) and 38 of CRR</i>
OF-035	IRB Shortfall of credit risk adjustments to expected losses	<p><i>Articles 36(1) point (d), 40, 158 and 159 of CRR</i></p> <p>The amount to be reported shall not be reduced by a rise in the level of deferred tax assets that rely on future profitability, or</p>

		other additional tax effect, that could occur if provisions were to rise to the level of expected losses.
OF-036	Defined benefit pension fund assets	<i>Articles 4(1)(109), 36(1) point (e) and 41 of CRR</i>
OF-037	Defined benefit pension fund assets gross amount	<p><i>Articles 4(1)(109), 36(1) point (e) of CRR</i></p> <p>Defined benefit pension fund assets are defined as “the assets of a defined pension fund or plan, as applicable, calculated after they have been reduced by the amount of obligations under the same fund or plan”.</p> <p>The amount to be reported here shall correspond to the amount reported in the balance sheet (if reported separately).</p>
OF-038	Defined tax liabilities association to defined benefit pension fund assets	<p><i>Articles 4(1)(108) and (109), and 41(1) point (a) of CRR</i></p> <p>Amount of deferred tax liabilities that would be extinguished if the defined benefit pension fund assets became impaired or were derecognised under the relevant accounting standard.</p>
OF-039	Defined benefit pension fund assets which the entity has unrestricted ability to use	<p><i>Articles 4(1)(109) and 41(1) point (b) of CRR</i></p> <p>This item shall only present any amount if there is the prior consent of the National Competent Authority to reduce the amount of defined benefit pension fund assets to be deducted.</p> <p>The assets included in this row shall receive a risk weight for credit risk requirements.</p>
OF-040	Reciprocal cross holdings in CET1 Capital	<p><i>Articles 4(1)(122), 36(1) point (g) and 44 of CRR</i></p> <p>Holdings in CET1 instruments of financial sector entities (as defined in Article 4(27) of CRR) where there is a reciprocal cross holding that the National Competent Authority considers to have been designed to inflate artificially the own funds of the Licence Holder.</p> <p>The amount to be reported shall be calculated on the basis of the gross long positions, and shall include Tier 1 own- fund insurance items.</p>
OF-042	Qualifying holdings outside the financial sector	<p><i>Articles 4(1)(36), 36(1) point (k)(i) and 89 to 91 of CRR</i></p> <p><i>Qualifying holdings are defined as “direct or indirect holding in an undertaking which represents 10% or more of the capital or of the voting rights, or which makes it possible to exercise a significant influence over the management of that undertaking”.</i></p> <p>According to Article 36(1) point (k)(i) of CRR, they can, alternatively, be deducted from CET1 (using this item) or subject to a risk weight of 1250%.</p>
OF-043	Securitisation positions	<i>Articles 36(1) point (k)(ii), 243(1) point (b), 244(1) point (b), 258 and 266(3) of CRR</i>

		Securitisation positions which are subject to a 1250% risk weight, but alternatively, are allowed to be deducted from CET1 (Article 36(1) point (k)(ii) of CRR). In the latter case, they shall be reported in this item.
OF-044	Positions in a basket for which risk weight under IRB approach cannot be determined	<p><i>Articles 36(1) point (k)(iv) and 153(8) of CRR</i></p> <p>According to Article 36(1) point (k)(iv) of CRR they can, alternatively, be deducted from CET1 (using this item) or subject to a risk weighting of 1250%.</p>
OF-045	Equity exposures under an internal model approach	<p><i>Articles 36(1) point (k)(v) and 155(4) of CRR</i></p> <p>According to Article 36(1) point (k)(v) of CRR, they can, alternatively, be deducted from CET1 (using this item), or subject to a risk weight of 1250%.</p>
OF-046	CET1 capital elements of deductions – Others	This row has been introduced to provide flexibility solely for reporting purposes. It shall only be populated in the rare cases that there is no final decision on the reporting of specific capital items/ deductions in the current template. As a consequence, this row shall only be populated if a CET1 element cannot be assigned to one of the rows mentioned above.

Annex 2: Various Definitions

(1) Residency

Version v:24-01-a of the VFASP Return introduces the segregation of various data points by residency. This applies to the sources of income generated by VFASPs, the country of residency of the clients, and so on.

Resident entities within a country, such as households and business, may be defined by their economic ties to the country's economic territory. These entities might not necessarily hold the country's nationality, might not always be recognised as legal entities, and might not be physically present in the country when conducting transactions. The primary factor in determining a customer's country of residence is where their central economic interests are located.

The "Centre of Economic Interest" refers to a specific location within an economic territory where an entity is actively involved and plans to remain involved in substantial economic activities and transactions either indefinitely or for a significant period of time (a year or more).

Persons that have a centre of economic interest in the country are deemed to be resident entities, even if they go abroad for short periods of less than a year. The below list is also included:

Border Workers Individuals who cross the frontier frequently to work in a neighbouring country.

Seasonal Workers	People who leave the country for several months, but less than a year, to work in another country in sectors in which additional manpower is needed periodically.
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Tourists, patients, students, visiting officials, businessmen, salesmen, artists, and crew members traveling abroad.

Locally recruited staff working in the extraterritorial enclaves of foreign governments.

Transactions with entities that are not incorporated in Malta nor have a centre of economic interest in Malta, are to be reported as transaction with the incorporated foreign legal entity which resides outside Malta, as per their incorporation address.

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