

**THE NATURE AND ART OF
FINANCIAL SUPERVISION
VOLUME VIII**

**VIRTUAL FINANCIAL ASSETS
AN UPDATE**



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Table of Abbreviations

AML	Anti-Money Laundering
CASPAR	Compliance and Supervision Platform for Assessing Risk
CFT	Combatting the Financing of Terrorism
EU	European Union
FATF	Financial Action Task Force
FCC	Financial Crime Compliance
FIAU	Financial Intelligence Analysis Unit
IVFAO	Initial VFA Offering
MiCA	Markets in Crypto-Assets
MFSA	Malta Financial Services Authority
ML	Money Laundering
MLRO	Money Laundering Reporting Officer
NCC	National Coordinating Committee on Combating Money Laundering and Funding of Terrorism
REQ	Risk Evaluation Questionnaire
SMB	Sanction Monitoring Board
TF	Financing of Terrorism
VFA	Virtual Financial Asset
VFAA	Virtual Financial Assets Act
VFASPs	VFA Service Providers

Introduction

In 2018, the Malta Financial Services Authority ('MFSA' or 'the Authority') identified an important development in the carrying out of transactions over the internet by means of crypto-assets¹. Following the conduct of various consultations², the [Virtual Financial Assets Act](#) (Cap. 590 of the Laws of Malta) ('VFAA') was enacted in November 2018 to regulate the crypto sector in Malta.

This publication provides an update on the implementation of the VFAA in Malta, and builds upon the publication "[The Nature and Art of Financial Supervision - Volume II - Virtual Financial Assets](#)" published by the MFSA in December 2020.

The VFA sector in Malta is supervised by the MFSA, the single regulator for financial services in Malta, responsible for prudential and conduct supervision, whilst the Financial Intelligence Analysis Unit ('FIAU') is responsible for AML/CFT supervision. The VFA sector includes VFA Agents, VFA Services Providers ('VFASPs') and VFA Issuers. The VFAA captures persons providing services in relation to virtual financial assets, including custodians, crypto-asset exchanges (inclusive of fiat-to-VFA, VFA-to-VFA and VFA-to-fiat transactions), brokerage and portfolio management, as well as issuers of VFAs as part of an initial offering to the public, or the placing of such VFAs on trading platforms. The Act also created the concept of a VFA Agent, which acts as an introducer to virtual financial asset business into Malta.

As part of the overarching VFA Framework, the Authority also issued a set of [Rulebooks](#) and [Guidance](#), including the Financial Instrument Test which sought to facilitate crypto-

¹ See [Discussion Paper on Initial Coin Offerings, Virtual Currencies and related Service Providers - MFSA](#)

² See VFA [Consultation Documents - MFSA](#)

asset classification, and the Live Audit Log Guidelines which further specified data retention requirements for VFASPs.

When enacted in 2018, the VFA Framework introduced a transitory period of one year from coming into force for existing VFASPs already operating in or from Malta³. To avail themselves of the transitory period, VFASPs had to notify the Authority and were thereafter required to comply with the framework on a best-effort basis throughout the transitory period⁴. Originally, 180 companies had notified the MFSA of their intention to operate in or from within Malta under the transitory framework. A circular issued on 6 September 2019 notified them that any VFASP wishing to continue providing VFA Services in or from within Malta following the expiry of the transitory period was required to commence the VFA Services Licence application process by not later than 31 October 2019, through the submission of a Letter of Intent. In assessing the landscape of the VFASPs it is interesting to note that during the whole process from 2018 up to 2022:

- By November 2018, 180 entities had notified interest to the MFSA to operate under the transitory period;
- By October 2019, there were 89 declarations of cessation of business, while 34 VFASPs submitted a Letter of Intent;
- 57 warnings were issued on those entities which did not notify a cessation of business and these companies were subsequently struck off by the Malta Business Registry;

³ Article 62(2) of the VFA Act

⁴ [Circular detailing the obligations of VFASPs benefitting from the Transitory Provisions provided under Article 62 of the Act.](#)

- By August 2021 the- MFSA issued 11 licenses⁵, 4 in-principal approvals, 1 application was in progress, and 12 withdrawals (including forced withdrawals⁶); and
- As at end of December 2022, the sector was composed of the following entities authorised by the MFSA:

Type of Entity	December 2022	Class	Total
VFA Service Providers	11	Class 2	2
		Class 3	5
		Class 4	4
VFA Agents	10		
Whitepapers	2		

Table 1: Licence Holders under the VFA Framework

As shown in Table 1, there were 11 authorised VFASPs in Malta by the end of December 2022, out of which two have not yet started operations and another one is under voluntary suspension. While modest, the local VFASP market is an acute representation of the global market of VFASPs with operators of different sizes targeting different market segments. The services offered by VFASPs are specific to their Class, as shown in the table below.

⁵ A list of VFASPs and Whitepapers authorised by the MFSA may be accessed through the [Financial Services Register](#) under Sector: 'VFA Framework'.

⁶ Applicants were forced to withdraw due to inter alia governance and AML/CFT deficiencies.

Class 4	Class 3	Class 2	Class 1	Investment Advice		
				Reception & Transmission of Orders		
				Placing of VFAs		
			Execution of Orders			
			[Discretionary] Portfolio Management			
			Custodian or Nominee Services			
			Transfer Services			
			Dealing on Own Account			
			The operation of a VFA Exchange			

Table 2: Services offered by VFASPs

The VFA framework also captures VFA Agents, with the aim of having a functionary acting as the initial point of contact for prospective persons wishing to operate under the VFA Act, also charged with undertaking fitness and properness assessments on VFA applicants. As at September 2023, there are currently 10 VFA Agents, 6 of which are registered in terms of both Articles 7 & 14 of the Act and 4 of which are registered solely in terms of Article 14 of the Act⁷.

The VFASP population in Malta is not considerable and, although there are some large players, the number of licenced VFASPs represents less than 0.5% of the global total reported population of 2,374⁸ licensed or registered VFASPs.

Since the VFA sector is considered as a nascent market, with the first VFASPs only being licenced under the Malta regime during 2021, it is very difficult to draw out any conclusions on trends of how the sector is developing. However, it is safe to state that during 2021 the crypto-asset space globally did experience a huge uptake, which was further fuelled by huge increases in the prices of crypto-assets. This naturally had a

⁷ VFA Agents registered in terms of Article 7 can service clients which are issuers of VFAs, while those registered in terms of Article 14 may service clients which are VFA Service Providers.

⁸ FATF (2021), Second 12-month review Virtual Assets and VASPs, FATF, Paris, France

resultant effect on the growth on the industry. The crypto winter and several high profile stablecoin and crypto exchange crashes that have characterised 2022 undoubtedly had a similar but reverse effect. Having said that, the publication of the EU's regulation on markets in crypto-assets ('MiCA') which entered into force in June 2023 and is to become applicable as of 30 December 2024 will surely bring more legal certainty and harmonisation to the sector, at least across Europe. This is expected to result in a larger take up of crypto-asset related business even by traditional financial services providers, like credit institutions, e-money institutions and investment service providers.

The FinTech Supervision Function, within the MFSA's Supervisory Directorate, is tasked with the authorisation and supervision of VFA Agents and VFASPs, as well as the registration of whitepapers. This publication focuses mainly on the experience gained with the regulation of VFASPs, given that the VFA Agents' space is considered as very low risk based on their level of activity and the number of registered whitepapers is also very small. The publication also provides an update on the MFSA's efforts to implement the MiCA Regulation in Malta.

VFA Service Providers

VFASP Licensing

All VFA related services require licensing by the MFSA, in terms of the VFAA, in order for service providers to legally operate in or from within Malta. Cognisant of the fact that the VFA is a high-risk sector⁹, the MFSA has adopted very high expectations for new market entrants. During the authorisation stage, persons or entities wanting to offer services in this sector are subject to fitness and properness checks to assess the adequacy of the qualifying shareholders (set at 10% in line with the metric adopted within global banking and financial institution frameworks), the ultimate beneficial owners, and key persons involved in the management of the company, including directors, the Compliance Officer and the MLRO. In summary the MFSA assesses fitness and properness¹⁰ against the following criteria:

- **Reputation** meaning that the person is of good repute and intends to act in an honest and ethical manner. The assessment is twofold and considers both integrity and solvency;
- **Competence** means that the persons responsible for running the activities of the authorised entities must be able to demonstrate an acceptable level of knowledge, professional expertise, and experience. The degree of competence required will depend upon the job being performed. The MFSA considers the qualifications, experience, and skills of those involved;
- **Conflicts of interest and independence of mind** being the ability to make and exercise sound, objective and independent decisions and judgement; and

⁹ Including AML/CFT and conduct risk due to the sector being largely unregulated to date

¹⁰ As outlined in the Authority's [Guidance on the Fitness and Properness Assessment](#)

- **Time Commitment** being the ability to commit sufficient time to perform the proposed function efficiently and effectively. This is assessed both quantitatively (number of involvements) and qualitatively (assessment of factors which determine the amount of time a person can dedicate to the role in question).

A review of the Source of Funds (SOF) and Source of Wealth (SOW) is undertaken on any capital used to set up the business, third party verification of claims by applicants (including through referees and cross-checks with past employers, bankers, foreign financial services regulatory authorities, etc). An assessment of competence of the MLRO is also undertaken through a mandatory interview in collaboration with the FIAU to ensure the competence and capability of any such officers within the VFA sector. Following a pre-licensing process to determine whether the applicant and the business model *prima facie* meets the requirements emanating from the VFA regime, an application is assessed by reviewing *inter alia* the business plan (proposed customer base, services to be offered, profit forecasts, costs, outsourcing, staffing) and governance (board and management structures, risk management, compliance, AML/CFT and internal audit functions, and local substance)¹¹.

In terms of AML/CFT, the MFSA's FinTech Supervision Function liaises very closely internally with the MFSA's own Financial Crime Compliance Function and Due Diligence Function and externally with the FIAU. Together with the latter, it seeks a deeper understanding of business models, risk appetite of the firm, the inherent risks of the products and/or services to be offered, as well as of the customer market and jurisdictions where said products and/or services are to be offered, and of the firm's beneficial owners. A review of AML/CFT control documentation, including the Customer Acceptance Policy, the Business Risk Assessment, the Internal Controls structure and the AML/CFT Policies and Procedures is also undertaken. The Client Risk

¹¹ More information on the application process may be found in the Authority's [Authorisations Service Charter](#) and the [Circular to VFA Agents in relation to the Application Process for VFA Service Providers](#).

Assessment methodology is also reviewed together with the overall anti-financial crime framework which includes, among others, transaction monitoring and sanctions compliance.

Furthermore, the VFA Framework has inbuilt requirements that enhance the AML/CFT regime in Malta, such as the prohibition of services in relation to VFAs which have in-built anonymisation functions which prevent the licence holder from identifying the holder and the transaction history of the VFAs. The MFSA, makes use of blockchain analytical tools which can be used to trace the origin of crypto-assets, establish the risk profile(s) of applicants, as well as monitor transaction flows of Licence Holders ('LHs') as necessary.

The standards imposed by the MFSA's regulatory regime for VFASPs have proven to be effective in acting as a filter, ensuring that only serious market players with a strong compliance framework are actually present in Malta. The following table presents the number of applications received from the inception of the framework and their status as at the end of December 2022:

Table 3: VFASPs Applications Status as at 30 June 2023

Applications submitted for VFASP licence	32
Applications still in process	3
Applications withdrawn/refused	14
Applications authorised	15

Table 4: Authorised VFASP Landscape as at 30 June 2023

Total VFASPs Licensed as at 30 June 2023	15
Active Licensed VFASPs	11
VFASPs which have not yet started operating	1
Licenses Surrendered Voluntarily	3

VFASP Supervision

The Fintech Supervision Function adopts a risk-based approach in its supervisory initiative. The adopted risk-based methodology identifies, classifies, and measures the risks posed by the license holder to create a ranking of license holders based on the risks posed. This serves to focus the supervisory function's attention towards license holders that present a higher risk.

To date the Fintech Supervision Function supervises two main categories of licensed entities, VFA Agents and VFA Service Providers. Due to the nature of the VFA Agents, these are scored separately from the VFA Service Providers and do not form part of the risk model described hereunder.

The VFA Service Providers risk model consists of 11 Key Risk Indicators ('KRIs'), with each KRI being scored between a value of 1, being the lowest risk value, and 5, being the highest risk value. The risk model considers:

- the size of the organization,
- the operations,
- conduct,
- governance structure,
- cybersecurity,
- jurisdictions in which it operates, and
- the FIAU's own AML/CFT risk score of the VFASP.

With regard to the AML/CFT component of the risk model, this risk score is obtained on the basis of the REQ which all VFASPs are required to submit on an annual basis. The REQ is compiled by the FIAU and considers 7 blocks of data, including data on governance, business risk assessments, policies and procedures, customer

acceptance and risk assessment, products and services, interface/ distribution channels and reporting.

With regards to the AML/CFT risk score, this is obtained through the FIAU's Compliance and Supervision Platform for Assessing Risk (CASPAR) tool. The score is based on 7 different data blocks which also includes the results of a self-assessment questionnaire that subject persons, including VFASPs, have to complete on an annual basis. This self-assessment questionnaire, known as the risk evaluation questionnaire or REQ, allows the collection of data on the inherent ML/TF risks that subject persons face, including customer, product, interface, geographical and transactional risks, as well as on the mitigating measures applied by subject persons in the form of their AML/CFT measures, policies, controls and procedures. Following the automated calculation of the risk score and its validation, the resulting AML/CFT risk score is also integrated in the MFSA's own risk-based approach.

The model also incorporates metrics in relation to the solvency and liquidity levels of the organization, the Return on Assets and outcomes of past supervisory visits. Each KRI has been assigned a specific weighting. The model also allows for authorisation risk scoring in instances where there is no operational supervisory intelligence¹² on a VFASP due to its recent authorisation. This would plug-in the risk score obtained during the authorisation process as an interim solution until sufficient supervisory information is held. A final risk scoring is obtained and based on this, the level of supervisory interactions is determined as well as the frequency of interactions between the license holder and the Authority.

¹² Supervisory intelligence includes data on inter alia the level operational activity of the VFASP and volume of transactions undertaken by it. This data is gathered through the VFASP Return available under the VFASP tab at: <https://www.mfsa.mt/our-work/virtual-financial-assets/>

The Authority also adopts a minimum engagement model. This means that the Authority ensures at least one supervisory interaction with high risk VFASPs every year, at least one supervisory engagement with medium risk VFASPs every two years, with a touch point in between, and at least one supervisory engagement with low risk VFASPs every three years with a touch point in between. Objectives for supervisory engagements are set at the beginning of each supervisory cycle.

The MFSA makes use of three main supervisory engagement tools to monitor the operations and the compliance status of VFASPs:

- i. supervisory reviews¹³ of regulatory submissions;
- ii. supervisory inspections¹⁴;
- iii. supervisory meetings¹⁵; and
- iv. thematic assessments.

Regulatory submissions emanating from the VFA Rulebook are the primary source of supervisory data which are used as inputs to the MFSA's VFASP risk model. The risk model provides a snapshot of the risk ratings and profile of the VFASP population and guides the MFSA's supervisory engagement efforts. The VFASP risk model is refreshed on a quarterly basis following the submission of quarterly returns in order to be as responsive as possible in a sector which is highly dynamic and evolves very rapidly.

¹³ Supervisory reviews are a form of desk-based supervision wherein different techniques to analyse and assess compliance with the applicable regulatory framework are employed.

¹⁴ Comprising in-depth interactions with VFASPs which inter alia include reviews and assessments of documentation and information, interview with officials engaged with the VFASPs leading to formal communication which outlines key findings and recommendations.

¹⁵ Interactions which VFASPs that take the form of an interview or discussion based on a structured agenda with entity officials.

The MFSA has adopted the following approach in its VFASP supervisory efforts:

1. A broad scope supervisory inspection is undertaken a few months following authorisation of the VFASP in order to assess compliance with prudential and conduct requirements and conduct a detailed MLRO interview. During such inspections the MFSA communicates to the Licence Holder its ongoing expectations;
2. Post-inspection supervisory meeting(s) in order to assess the effective remediation and implementation of any recommendations issued by the MFSA, during any prior engagement. This generally occurs between three and six months after the first visit, depending on the number and materiality of the reported findings;
3. Quarterly returns submissions, subsequent review and VFASP risk model refresh;
4. Thematic assessments¹⁶;
5. Annual supervisory reviews of various reports, including the IT Audit report/Systems Audit report, Audited Financial statements, and other rulebook deliverables.

Since the current population of licensed VFASPs in Malta is not considerable, during the second half of 2021 the Authority carried out 9 broad scope supervisory inspections on VFASPs soon after their license was issued, with special attention being given to those VFASPs which have been rated as high risk. Such inspections included a strong element of AML/CFT control assessment including interviews with the MLRO. These interactions were supplemented by the review of the submitted quarterly returns. As indicated above, after each submission the Authority performed a refresh of its risk model to reflect any changes which had been identified in the licence holders’

¹⁶ For example, thematic assessments on governance, ICT risk, custody controls or conduct of licence holders with their clients.

operations and/or governance arrangements. This allows the Authority to adjust the sequence of supervisory interactions on a risk-based approach.

During 2022 interactions focused more on supervisory meetings which ensured that the expected progress was achieved by licence holders in terms of remedial action for any issues that were identified during 2021 inspections. Technology and cyber risk, as well as resilience, remain high on the supervisory agenda and the Authority also conducted several supervisory reviews of IT/Systems Audit Reports that the VFASPs are required to submit on an annual basis as part of their regulatory reporting. This exercise was done with the support of the Supervisory ICT Risk and Cybersecurity Function¹⁷. During Q4 of 2022, the MFSA also issued a thematic questionnaire to VFASPs on conduct of business to start assessing how supervised entities within the local VFA space address the topic of conduct in respect to complaints handling, advertising, and customer education.

Table 4 lists the engagements which have been held by the MFSA for its population of licensed VFASPs during 2021 and 2022.

	2021	2022
Supervisory Inspections	9	2
Supervisory Meetings	1	19
Ad Hoc Meetings (Sanctions)	0	3
Thematic Assessment – Conduct	0	9
Supervisory Reviews	45	45
AML/CFT supervisory examinations driven by the FIAU	8	

Table 5: Supervisory Activity

¹⁷ The Supervisory ICT Risk and Cybersecurity Function is a cross-sectoral supervisory function which works closely with the other MFSA supervisory functions and is responsible for the supervision of licence holders in the areas of ICT risk and cybersecurity and the management of risks associated with ICT outsourcing and digital operational resilience.

In addition to the supervisory examinations referred to in the above Table, the MFSA's Financial Crime Compliance function has also carried out 8 AML/CFT supervisory examinations in 2021 and 2 AML/CFT supervisory examinations in 2022 on VFASPs on behalf of and as agents of the FIAU. These examinations are carried out on the directions, and in accordance with the supervisory plan, of the FIAU and are intended to gauge the VFASPs compliance with AML/CFT obligations. However, whenever any prudential or governance issues are noted during FIAU or FIAU – driven examinations, these issues are communicated to the MFSA for its consideration.

The number of supervisory engagements since the first VFASP licences have been issued in 2021 is a direct reflection of the level of supervision conducted on the sector. Supervisory inspections also include an AML/CFT element through a detailed interview with the MLRO to ensure and monitor the individual's fitness and properness. In addition, supervisory engagements also include reviews of sanction screening processes and procedures. In fact, as indicated in the Table above, a number of supervisory inspections were conducted to ascertain sanctions compliance after crypto-assets were brought directly into focus within the 8th package of EU sanctions¹⁸. Throughout 2022, all active licence holders were visited by the MFSA at least once regardless of their risk rating. This heightened level of supervisory engagement is an effective way to mitigate the risks inherent to the operations of VFASPs.

Several enforcement actions¹⁹ were taken as a result of findings of the supervisory engagements outlined in Table 6 below:

¹⁸ [Ukraine: EU agrees on eighth package of sanctions \(europa.eu\)](https://europa.eu/ukraine-sanctions/)

¹⁹ See: <https://www.mfsa.mt/our-work/enforcement/>

	2020	2021	2022	2023
Administrative measures or penalties	1	4	1	0
Enforcement action in relation to unauthorised activity	1	0	0	1
Warning issued relating to unauthorised activity	56 ²⁰	9	3	3

Table 6: Enforcement Actions taken by the MFSA

Additionally, the FIAU imposed an administrative penalty on one VFASP and an administrative penalty, accompanied by a directive to undertake corrective actions, on another. It is relevant to point out that whenever any enforcement action is undertaken by either authority, these are communicated to the other authority as well²¹.

²⁰ Collective warning issued against various entities: <https://www.mfsa.mt/news-item/warning-to-the-public-regarding-unlicensed-vfa-companies/>

²¹ [Enforcement Process - FIAU Malta](#)

Collaboration with other National and International Authorities

Financial Intelligence Analysis Unit (FIAU)

The MFSA and the FIAU continued to collaborate during the licensing process of VFASPs, through the assessment of (i) the adequacy of documentation such as the Business Risk Assessment, Customer Risk Assessment, the Customer Acceptance Policy, AML/CFT manuals and the procedures outlined therein; (ii) the fitness and propriety of Directors, ultimate beneficial owners, and senior management, as well as (iii) the competence and capability of the prospective MLRO through a mandatory interview.

Collaboration with the FIAU is also extended during supervisory activities. The MFSA has integrated AML/CFT processes within its prudential supervision. ML/TF is a key risk indicator included in the VFASP risk model, based directly on the FIAU's annual CASPAR risk scoring. Moreover, the quarterly regulatory submission collects data which is also related to AML/CFT. This direct supervisory intelligence also enables the MFSA to reply to requests for information by the FIAU with more granular and timelier ML/TF information.

On the other hand, the MFSA also contributes to the FIAU's own risk assessment as it provides it with data with respect to subject persons, including VFASPs, that fall under its regulatory remit, and which is of relevance in determining the ML/TF risk score of the particular entity. And one has to bear in mind that the MFSA's own Financial Crime Compliance Function acts as an extension of the FIAU in the carrying out of AML/CFT supervisory examinations. Information is exchanged continuously between the MFSA

and the Supervisory and Enforcement Sections of the FIAU to ensure that information of relevance to either authority is brought to its attention in a timely manner to ensure effective action should this be warranted.

Additionally, the MFSA reports suspicious activity and/or transactions encountered in the course of its supervisory work to the FIAU, and also receives spontaneous intelligence reports from the FIAU. This exchange of information also forms the basis for supervisory work and both authorities hold regular meetings to update each other on the sector as well as developments both on an EU and global levels.

Sanction Monitoring Board (SMB)

With crypto-assets taking a prominent place on the sanctions stage through the 8th Package on Sanctions issued by the EU as a reaction to the Russia-Ukraine conflict, the MFSA collaborated very closely with the SMB to (i) assess the impacts of such newly imposed sanctions especially in terms of how such sanctions should be interpreted so that these could be correctly implemented within the VFA space and the underlying blockchain technology being used; (ii) support the SMB in seeking clarifications as necessary from other member states and the European Commission; and (iii) support the SMB in the drafting of guidelines which VFASPs could use to implement the sanctions. The MFSA also collaborated with the SMB in a Council of Europe project focusing on the “Effective and uniform implementation of the sanctions regime in EU member states” with an emphasis of crypto-assets.

National Coordinating Committee on Combating Money Laundering and Funding of Terrorism (NCC)

Maltese Authorities' efforts towards fighting financial crime are coordinated and guided by the National AML/CFT Strategy and Action Plan (2021 – 2023) and its eventual fulfilment. The strategy is devised and monitored by the NCC alongside all stakeholder authorities.

As Chairman of the NCC Sub Committee on Virtual Financial Assets, the Authority has followed up on the implementation of recommendations emanating from the Sub-Committee as well as actively contributed to the revision of the National Risk Assessment on VFA-related ML/TF risks. The authority kept abreast and followed closely any regulatory development at European level on the implementation of FATF's Recommendation 16 (the Travel Rule).

European Supranational Authorities

At European level, the MFSA has continuously followed and lent its supervisory experience in the crypto-asset space to the discussion surrounding MiCA throughout the lifecycle of the proposal. The Authority also attends various working groups led by the European Supervisory Authorities with the objectives of ensuring a harmonised approach to the supervision of the crypto-asset sector. Furthermore, the Authority has sought to support other supervisors and law enforcement agencies by engaging in various bilateral meetings and sharing inter alia challenges and best practices vis-à-vis the crypto sector. The MFSA has also participated in various conferences and training sessions in this respect.

Ongoing Work

Further Development of the VFA Framework

The MFSA has continued its development of the VFA framework with the enactment of legal amendments to the VFAA²² and the VFA Regulations (S.L. 590.01)²³ issued thereunder. Such amendments sought to (i) provide further clarity regarding certain VFA services; (ii) regulate VFA transfer services and (iii) strengthen the provisions relating to exemptions from the VFA Framework.

Further updates to the framework applicable to VFASPs included updates to the VFASP Return²⁴, which licence holders are required to submit on a quarterly basis, and the communication of expectations to VFASPs when providing services through internet sites²⁵.

The Markets in Crypto-Assets Regulation

Looking forward, the Markets in Crypto-Assets ('MiCA') Regulation is set to replace the VFA Framework once it enters into application, following its publication in the Official Journal of the EU in June 2023. In this regard, the supervisory remit of the Fintech Supervision Function was extended to also capture the payments sector, in view of the increased fintech adoption in the sector as well as the implications brought by the MiCA Regulation. The Authority is also actively supporting workstreams which are tasked with

²² Legal Notice 106 of 2021

²³ Legal Notice 24 of 2022 and Legal Notice 332 of 2022

²⁴ [Circular to the Industry in Relation to the Publication of the VFASP Return, Revised Chapter 3 and FAQs](#)

²⁵ [Circular to VFA Service Providers on the Provision of Services through internet sites](#)

the drafting of the necessary Regulatory Technical Standards and other Level 2 legislation which emanate from the MiCA Regulation.

As part of its ongoing work and as outlined in Figure 1 below, the Authority *inter alia* undertook a gap analysis between the VFA Framework and the MiCA Regulation, which formed the basis of the Authority’s planning and preparation for the implementation of MiCA in Malta.

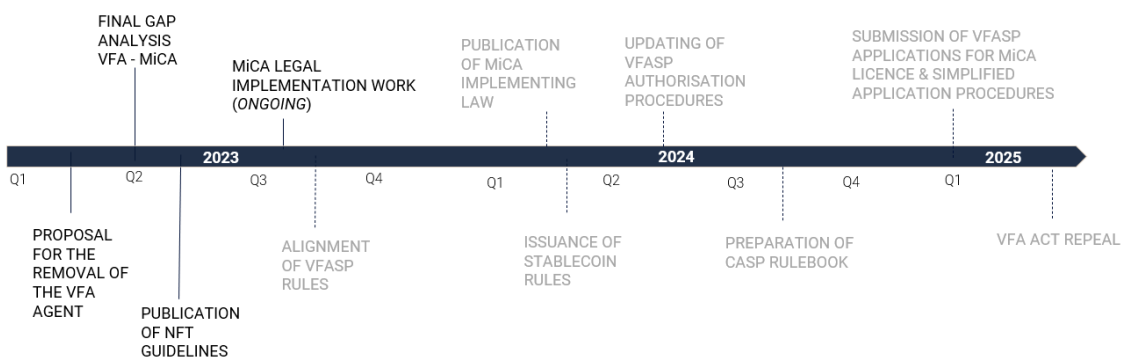


Figure 1: MiCA Implementation Timeline

The MFSA has already provided an indication as to the expected transition from the VFA Framework to the MiCA Regulation²⁶ once the latter enters into application. The Authority is also currently taking steps to, where possible and feasible, align the VFA Framework to the MiCA Regulation prior to its entry into application, in order to ensure a smooth transition for its licenced operators. One such alignment action involved clarity on the regulatory treatment of Non-Fungible Tokens (‘NFTs’) through the publication of [Guidelines](#) following the issuance of a [consultation](#) by the Authority in December 2022.

²⁶ [The European Markets in Crypto-Assets Regulation \(MiCA\) and What It Means to the MFSA and Malta](#)

As part of the MiCA alignment process, further amendments to the Framework are envisioned in 2023 with particular focus on the removal of the role of the VFA Agent, which does not feature in MiCA. Furthermore, the Authority has initiated the process of aligning VFASP requirements emanating from Chapter 3 of the VFA Rulebook to the upcoming MiCA regulatory requirements. It is worth noting that as part of the MiCA alignment process, the MFSA is also holding discussions with other authorities and agencies whose regulatory frameworks may be equally effected to some degree by the application of MiCA.

The Authority looks forward to the implementation of the MiCA Regulation and related stakeholder engagement which it plans to carry out in 2023 and 2024, with a view to ensuring Malta retains its competitive edge in its role in regulating the crypto-asset sector locally.

The MFSA's 2023 VFA Supervisory Focus

FinTech Supervision has continued to maintain high levels of supervisory engagements for VFASPs through supervisory visits, supervisory meetings, thematic reviews and supervisory reviews of regulatory deliverables. Building on the previous years' efforts, Fintech Supervision will focus its supervision on assessing the strength of VFA Service Providers controls in the areas of financial crime, cybersecurity and Consumer Protection. Supporting the transition to MiCA, Fintech Supervision will also focus its efforts on engaging with local stakeholders and assessing the readiness of current VFA Service Providers to MiCA requirements.

Concluding Remarks

Considering that the VFA sector is still relatively new, the MFSA has, through this publication, updated its implementation of the VFA framework in Malta, in particular highlighting its approach and efforts in licensing and supervision of VFASPs during 2021 and 2022. It is the Authority's intention to keep updating this publication in the years to come, which will see the VFA framework transitioning to MiCA as the crypto space enters an exciting new chapter in terms of EU regulation.

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