

18 April 2024

# Circular in Relation to Amendments to the Virtual Financial Assets Act in Preparation for the Markets in Crypto-Assets Regulation

## Introduction

Reference is made to the Markets in Crypto-Assets ('MiCA') Regulation<sup>1</sup>, which entered into force in June 2023 and is set to become applicable to issuers of asset-referenced tokens ('ARTs') and electronic money tokens ('EMTs') as at 30 June 2024, and to crypto-asset service providers as of 30 December 2024.

The MiCA Regulation directly subjects issuers and crypto-asset service providers to a number of requirements and obligations. Therefore, the Authority wishes to outline a number of amendments to the VFA Act, which have been published as at 17 April 2024, by way of [ACT No. XIV of 2024](#), entitled the 'Virtual Financial Assets (Amendment) Act, 2024 (the 'Amending Act').

The published amendments, which seek to pave the way for MiCA implementation, broadly include:

- the removal of the role of the VFA Agent from the VFA Act and the shifting of requirements applicable to VFA Agents onto VFASPs and Issuers of VFAs; and
- the introduction of transitory provisions in preparation for the applicability of the MiCA Regulation.

## Removal of the VFA Agent Role

Following the removal of the VFA Agent, the requirements applicable to the VFA Agent in the context of the application process, and in the case of Issuers, ongoing requirements, shall be assigned directly to VFASPs and Issuers of VFAs; thereby no longer requiring the role of the VFA Agent.

---

<sup>1</sup> [EUR-Lex - 32023R1114 - EN - EUR-Lex \(europa.eu\)](#)

Further to the above, transitory provisions relating to VFA Agents have been enacted:

1. Notwithstanding the removal of the role of the VFA agent, where a VFA Agent has submitted an application for a licence or requested registration of a whitepaper prior to the first date of coming into force of the Amending Act and such application has, by such date, not yet been determined by the competent authority, the VFA Agent may continue to offer its services with respect to that application until the competent authority issues a decision in relation thereto. The VFA Agent shall however cease to offer its services in relation to such application within three (3) months from the first date of coming into force of the Amending Act or otherwise until the competent authority issues a decision in relation to said application, whichever is the earlier. Furthermore, VFA Agents shall cease to carry on the activities for which they are registered within three (3) months from the first date of coming into force of the Amending Act and shall be required to submit a VFA Deregistration Form, details of which shall be communicated to the VFA Agents directly in the coming days.
2. Notwithstanding the removal of the role of the VFA agent, any person who has submitted an application in terms of article 14 of the VFA Act submitted prior to the first date of coming into force of the Amending Act which has not yet been determined by the competent authority, is required to notify within one (1) month the competent authority in writing on whether they shall proceed with that application, failure of which the submission shall be presumed withdrawn.

### **MiCA Transitory Provisions**

1. Carve out of E-money Tokens (EMTs) and Asset Referenced Tokens (ARTs) from the Virtual Financial Assets Act

The Amending Act seeks to carve out EMTs and ARTs from falling within the definition of a Virtual Financial Asset or otherwise a DLT Asset in view of the fact that such assets will fall within scope of the MiCA Regulation as at 30 June 2024.

2. New applicants in terms of Article 14 of the Virtual Financial Assets Act

Any person wishing to submit an application for the provision of a VFA service in terms of the Virtual Financial Asset Act shall do so by **no later than 1 August 2024**, provided that such person shall be considered an applicant upon submission of an application as specified in Article 14 of the Virtual Financial Assets Act.

**Corresponding Rules and Regulations**

The Authority shall amend and publish amendments to the corresponding Rules and Regulations affected by the introduction of the Amending Act reflecting the changes arising therefrom.

Further updates and developments on the VFA Framework will be made public on: [www.mfsa.mt/our-work/virtual-financial-assets/](http://www.mfsa.mt/our-work/virtual-financial-assets/). Queries in relation to the above should be addressed to [fintechpolicy@mfsa.mt](mailto:fintechpolicy@mfsa.mt).