

User Guidelines – Markets in Crypto-Assets Act (Fees) Regulations, 2024

The Title of these regulations is the Markets in Crypto-Assets Act (Fees) Regulations, 2024 (the 'Regulations'). They are to be issued under the Markets in Crypto-Assets Act (the 'Act').

The Regulations form part of the exercise being carried out locally to implement Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (the 'MiCA Regulation'). In a nutshell, the MiCA Regulation is the end-result of a series of discussions within the European Union aimed at introducing a harmonised regulatory framework for the issuance of crypto-assets and the provision of crypto-asset services by crypto-asset service providers. In fact, the MiCA Regulation provides for a fully-harmonised set of rules which are directly applicable in all Member States. As such, it is set to replace the applicable local regulatory framework, i.e. the Virtual Financial Assets Act and any regulations and rules issued thereunder.

The MiCA Regulation, as implemented in the Act, provides for notification and authorisation requirements, as applicable, to which issuers of asset-referenced tokens, e-money tokens and other crypto-assets, as well as crypto-asset service providers are subject. It also provides for the supervision of such persons by the competent authority, which would be the MFSA as mentioned above. In light of the foregoing, fees are being stipulated in the Regulations which are due to the competent authority in connection with an application for authorisation or the extension thereof, a notification or a request for modification submitted thereto in terms of the MiCA Regulation and the Act; and (ii) the supervision of those persons as aforementioned where applicable.

The Regulations apply to the following persons which fall within the scope of the MiCA Regulation and the Act: (i) crypto-asset service providers; (ii) issuers of asset-references tokens; (iii) issuers of electronic money tokens; and (iv) issuers of any other crypto-assets.

These Regulations provide for the due date of all such fees as mentioned above. They also specify that the fees established therein are not refundable, nor shall they be prorated unless otherwise stated in the regulations. In formulating the applicable fees, due regard was given to existing fees of a similar nature which are due to the Authority at law in relation to activities which are comparable to the issuance of crypto-assets and the provision of crypto-asset services.

The fees stipulated in the Regulations are intended to ensure proportionality. In view of the foregoing, the following factors were considered in the formulation of the said fees: (i) the complexity of the business model; (ii) the volume of business; and (iii) the cost of the resources which the Authority would require to carry out the relevant functions under the MiCA Regulation and the Act.

These User Guidelines should be read in conjunction with, and as supplementary guidance to, the Regulations and should not be deemed to substitute a thorough reading thereof.

In case of any queries in relation to the Regulations, the MFSA may be contacted on +356 21441155.