

THE MARKETS IN CRYPTO-ASSETS RULEBOOK

**RULES APPLICABLE TO ENTITIES WITHIN SCOPE OF THE
MARKETS IN CRYPTO-ASSETS ACT**

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Title 1 General

Section 1 Scope & Application

- R1-1.1 These rules contain ongoing requirements applicable to entities within scope of the [Markets in Crypto-Assets Act](#) ('MiCA Act').
- R1-1.2 These rules are being issued pursuant to Article 38 of the MiCA Act and is modelled on the requisites of [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') as may be amended from time to time.
- R1-1.3 The contents of these rules essentially refer to the provisions of the MiCA Regulation and apply to issuers of asset-referenced tokens and crypto-asset service providers.
- R1-1.4 The contents of these rules shall be read in conjunction with:
1. the requirements set out in the [MiCA Regulation](#);
 2. the requirements set out in the Implementing and Regulatory Standards issued under the MiCA Regulation supplementing in further detail the requirements laid down in the said regulation as well as any opinions which may be issued by the European Supervisory Authorities; and
 3. the [Markets in Crypto-Assets Act](#), 2024 (Cap. 647 of the Laws of Malta) (hereinafter 'the MiCA Act').
- R1-15 Title 2 of this Chapter outlines instructions on the authorisation process for crypto-asset service providers and issuers of asset-referenced tokens and the process for notification of crypto-asset whitepapers.
- These rules also set out the process for the notification of crypto-asset whitepapers. In this regard, issuers of e-money tokens are also subject to the requirements set out in the [Financial Institutions Act](#), as well as any rules and regulations issued thereunder.
- R1-1.6 Title 3 of this Chapter outlines the ongoing requirements applicable to Licence Holders authorised to provide crypto-asset services.
- R1-1.7 Title 4 of this Chapter outlines the ongoing requirements applicable to Licence Holders authorised to issuer of asset-referenced tokens.

Section 2 Definitions

For the purposes of this Chapter, the definitions set out below shall apply.

In the event that any of the definitions contained herein conflict with a definition under the MiCA Regulation or any other law administered by the Authority for the time being in force in Malta, the definitions set out in the MiCA Regulation shall prevail, unless otherwise specified herein.

Asset-referenced token	shall have the same meaning as that assigned to it in point (6) of Article 3(1) of the MiCA Regulation.
Applicant	means an Applicant for authorisation as a crypto-asset service provider or issuer of asset-referenced tokens.
Crypto-Assets	shall have the same meaning as that assigned to it in point (5) of Article 3(1) of the MiCA Regulation.
Crypto-asset services	shall have the same meaning as that assigned to it in point (16) of Article 3(1) of the MiCA Regulation.
Crypto-Asset Service Providers	shall have the same meaning as that assigned to it in point (15) of Article 3(1) of the MiCA Regulation.
Electronic Money Token (E-Money Token or EMT)	shall have the same meaning as that assigned to it in point (7) of Article 3(1) of the MiCA Regulation.
European Banking Authority (EBA)	means the European Banking Authority established by Regulation (EU) No. 1093/2010.
European Securities Markets Authority (ESMA)	means the European Securities and Markets Authority established by Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010.
European Supervisory Authorities	means the European Securities Markets Authority ('ESMA') and the European Banking Authority ('EBA')
Key Function Holders	means persons who have significant influence over the direction of the Licence Holder but who are not directors sitting on the board and are not the CEO. They include the heads of internal control functions and the CFO, where they

are not directors sitting on the board, and, where identified on a risk-based approach by the Authority, other key function holders. Other key function holders might include heads of significant business lines, the Compliance Officer and the MLRO.

Markets in Crypto-Assets Act (MiCA Act) means ACT XXXVI of 2024 – [Markets in Crypto-Assets Act](#) (Cap. 647 of the Laws of Malta).

Markets in Crypto-Assets Regulation (MiCA Regulation) means 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, as may be amended from time to time, and includes any binding legal instruments, guidelines and other measures that have been or may be issued thereunder.

Title 2 Authorisations

Section 1 Introduction

R2-1 The Markets in Crypto-Assets Regulation (MiCA) institutes uniform EU market rules for crypto-assets. The regulation covers crypto-assets that are not currently regulated by existing financial services legislation. Key provisions for those issuing and trading crypto-assets (including asset-reference tokens and e-money tokens) cover transparency, disclosure, authorisation and supervision of transactions. The new legal framework will support market integrity and financial stability by regulating public offers of crypto-assets and by ensuring consumers are better informed about their associated risks.

The following Title outlines the various authorisation procedures of the Authority vis-à-vis MiCA.

Section 2 | outlines the authorisation process for entities **seeking authorisation as a CASP or as an issuer of asset-referenced tokens**.

Section 3 | outlines the **notification processes for crypto-asset whitepapers**.

Section 4 | outlines the **process for the surrender of licence** by a CASP or issuer of asset-referenced tokens.

Section 2 Authorisation Process (for applications for authorisation)

R2-2.1 General

R2-2.1.1 Applicants seeking to apply for authorisation as either a crypto-asset service provider or an issuer of asset-referenced tokens shall refer to the Authority's [Authorisation Process Service Charter](#), which is applied by the MFSA throughout the Authorisation Process.

R2-2.1.2 The information which shall be collected by the Authority throughout the application process may be viewed in the relevant application or notification forms, available on the MFSA's website at <https://www.mfsa.mt/our-work/authorisations/>

The information collected through these forms encompasses the information is required to collect in terms of the MiCA Regulation and the relevant supplement technical standards.

R2-2.1.3 Applicants shall co-operate with the MFSA in an open and honest manner and shall provide the Authority with any information and/or documentation it may require throughout the Application Process.

Classification as a crypto-asset in scope of the MiCA Regulation

R2-2.1.4 In determining whether a crypto-asset falls in scope of the MiCA Regulation, or determining the exact type of crypto-asset in question, the MFSA shall apply the Joint ESA's Guidelines on templates for explanations and opinions, and the standardised test for the classification of crypto-assets ([link](#)).

Reverse Solicitation

R2-2.1.5 In determining whether there is solicitation of clients by third-country firms, the MFSA shall apply the ESMA Guidelines on situations in which a third-country firm is deemed to solicit clients established or situated in the EU and the supervision practices to detect and prevent circumvention of the reverse solicitation exemption ([link](#)).

R2-2.2 Licensing considerations for crypto-asset service providers

R2-2.2.1 Applicants for authorisation as a crypto-asset service provider shall in particular refer to the following provisions:

- the provisions of Part V of the MiCA Act;
- the provisions of Title V of the MiCA Regulation;
- the regulatory technical standards, guidelines and other regulatory requirements applicable to crypto-asset service providers as outlined in these rules; and
- the regulatory technical standard specifying the information to be submitted as part of the application for authorisation, issued pursuant to Article 62 of the MiCA Regulation ([link](#)).

These provisions set out, inter alia, the information which will be collected throughout the application process, the requirements with which Applicants will be expected to demonstrate compliance, as well as the basis for which the MFSA may decide to grant or refuse to grant a licence.

R2-2.3 Licensing considerations for issuers of asset-referenced tokens

Applicants for authorisation as an issuer of asset-referenced tokens shall, in particular, refer to the following provisions:

- the provisions of Part III of the MiCA Act;
- the provisions of Title IV of the MiCA Regulation;

- the regulatory technical standards and guidelines applicable to issuers of asset-referenced tokens as outlined in Title 4 of these rules; and
- the regulatory technical standard specifying the information to be submitted as part of the application for authorisation, issued pursuant to Article 18 of the MiCA Regulation ([link](#)).

These provisions set out, inter alia, the information which will be collected throughout the application process, the requirements with which Applicants will be expected to demonstrate compliance, as well as the basis for which the MFSA may decide to grant or refuse to grant a licence.

R2-2.4 Licensing considerations applicable to all Applicants

Fit and Proper Assessment

R2-2.4.1 The carrying out of proper due diligence procedures is a fundamental first step which the Authority undertakes in order to determine whether a licence is to be granted by the Authority or if a person is to be approved to carry out a senior position within a licenced entity.

Pursuant to R2-2.4.1, in assessing whether a person is a fit and proper person, the MFSA will follow the [Guidance on the Fitness and Properness Assessments applied by the Authority](#).

The fitness and properness assessment shall be applicable to every (i) person that has a qualifying holding in the applicant; (ii) beneficial owner; (iii) member of the Board of Directors; (iv) Senior Manager; (v) Money Laundering Reporting Officer; (vi) Compliance Officer and any other person which the Authority may deem necessary.

R2-2.4.2 The onus of providing sufficient assurance to the Authority that the person is a fit and proper person to undertake the financial institution activities concerned rests with the Applicant.

R2-2.4.3 Notwithstanding R2-2.4.2, the Authority shall, as part of the assessment process, avail itself of any additional information which may be available to it. Such information may include information which was not provided by the Applicant.

The Role of the Compliance Officer

R2-2.4.4 As part of the authorisation process, every Applicant will be asked to identify one individual who will be responsible for ensuring the Licence Holder's adherence to its regulatory obligations.

The role of a Compliance Officer is onerous and proposed Compliance Officers should be aware of the extent of responsibilities linked to this role. Some specific points which persons being proposed to act as a Compliance Officer should consider prior to taking on their role include:

- i. as the person made responsible for all aspects of compliance, the Compliance Officer will be expected to demonstrate independence of judgement and to exercise proper day-to-day supervision and control over the activity of the Institution. Therefore, the Compliance Officer must not be involved in the operations of the Licence Holder.
- ii. in order to be able to satisfy these requirements, the Compliance Officer must familiarise him/herself thoroughly with the regulatory framework applicable to the Institution as well as any relevant Guidance issued by MFSA – and take steps to ensure that the Institution’s staff are familiar with the regulatory requirements that are relevant to their role within the Company.
- iii. the Compliance Officer must pay particular attention to the ongoing requirement for the Institution to establish, implement and maintain adequate policies and procedures to identify breaches by the Institution of the applicable regulatory requirements, and to minimise the risk of such breaches.
- iv. the MFSA also expects the Compliance Officer not to breach, or to permit breaches by others, of internal control procedures and systems or regulatory requirements applicable to the Institution. If the Compliance Officer becomes aware of such breaches, (s)he is expected to draw them to the attention of the person concerned and, where appropriate, to the attention of the Board of Directors (as appropriate). All such breaches and action taken as a result should be recorded in writing.
- v. the MFSA also expects the Compliance Officer to ensure, so far as is possible, that incorrect or misleading information is not provided deliberately or recklessly to the MFSA either in supervisory returns or in any other way.
- vi. the MFSA requires very high standards of conduct and compliance from all its Licence Holders. Consequently, a breach of any regulatory requirements, and in particular, evidence of bad faith, lack of care and concern for the interests of customers, deceptive acts and behaviour, and incompetence, are all considered to be serious matters.

The role of the Money Laundering Reporting Officer

R2-2.4.5 Applicants may refer to the Authority's [Guidance for Money Laundering Reporting Officers in the Financial Services Sector](#) for more information on the role of the MLRO and the Authority's expectations in this respect.

Ability to comply with regulatory framework

R2-2.4.6 Applicants shall demonstrate their ability to comply with the applicable regulatory framework, including the MiCA Regulation, the MiCA Act and these rules.

Initial Capital Requirements

R2-2.4.7 Applicants will be required to demonstrate their ability to comply with initial and ongoing capital requirements as set out in the MiCA Regulation.

Issuers of asset-referenced tokens shall demonstrate their ability to comply with the requirements set out in Article 35 of the MiCA Regulation, whilst crypto-asset service providers shall evidence their ability to comply with the requirements set out in Article 67.

Application Fees

R2-2.4.8 Applicants shall pay all applicable fees pursuant to the Markets in Crypto-Assets Act (Fees) Regulations ([L.N. 295 of 2024](#)).

R2-2.5 Pre-licensing and post-licensing conditions

Pre-licensing requirements

R2-2.5.1 Upon issuance of an in-principle approval letter, the MFSA is indicating its approval, 'in-principle', of the business plan and information communicated throughout the application process. At this stage, the Applicant will be required to formalise its arrangements and prepare to commence business. To this end, a number of pre-licensing conditions shall be imposed on the Applicant.

Such conditions may include, but are not limited to:

- i. submission of the final certified true copy of the Memorandum and Articles of Association (M&AA);
- ii. submission of finalised documents that had been submitted in draft form during the application stage;
- iii. submission of any outstanding documentation including due diligence information;

- iv. submission of a final signed business plan and application form;
- v. declaration that the Applicant's key functionaries identified in its business plan/ organisational structure chart have been recruited;
- vi. the provision of an audited account statement or public register certifying the amount of capital of the Applicant;
- vii. submission of the executed letter of engagement with respect to any outsourced functions;
- viii. the appointment of any key function holders required by the MFSA, subject to the satisfactory conclusion of the assessment conducted by the Authority;
- ix. pre-licensing meetings with other competent authorities.

R2-2.5.2 Applicants would be expected to comply with the said conditions **within a maximum of six (6) months from the date of the in-principle approval letter**. Failure to satisfy the pre-licensing conditions would render the in-principle approval letter invalid.

Provided that, in line with the Authorisation Process Service Charter, an Applicant may request an extension of the said deadline provided it notifies the MFSA immediately and submits a justifiable explanation as to why the said extension is being requested.

R2-2.5.3 Once the pre-licensing conditions set out in the in-principle approval letter are satisfied, the Authority may proceed with the issuance of the licence.

Post-licensing, pre-commencement of business requirements

R2-2.5.4 Upon satisfaction of the pre-licensing conditions, the Authority will proceed with the issuance of a licence or registration, as applicable. At this stage, the Authority may impose post-licensing, pre-commencement of business requirements, which would typically include:

- i. submission of duly executed letter of engagement with the designated credit institution with which the Licence Holder intends to establish bank accounts exclusively for the safeguarding of client funds;
- ii. declaration by the Board of the Licence Holder that:
 - a. the relevant policies and procedures are in place;
 - b. that the relevant agreements (including inter alia outsourcing agreements) have been duly executed;
 - c. that the systems of the Licence Holder have been tested and duly implemented and that accordingly, the Licence Holder is able to start accepting client orders;

- iii. declaration that the employees identified in the Business Plan/ Organisational Structure chart of the Licence Holder have been recruited;
- iv. submission of complete contact details of the Company, including e-mail addresses to be used by the Compliance Officer and MLRO;
- v. confirmation of the registered and business address utilised by the Licence Holder to carry out regulated activities;
- vi. submission of any outstanding documentation;
- vii. notification to the MFSA of the actual date of commencement of business.

R2-2.5.5 Once the post-licensing, pre-commencement of business conditions are satisfactorily met, the MFSA will proceed to issue the commencement of business letter to the Institution.

R2-2.5.6 Following the commencement of business, the Authority reserves the right to impose further post-licensing conditions which the Institution would be required to meet within specified timeframes ranging from 6 to 18 months. These may include:

- i. submission of a compliance or internal audit report;
- ii. re-assessment of the time commitment by Key Function Holders;
- iii. re-assessment of the suitability of the governance structure;
- iv. recruitment or relocation of additional individuals; and
- v. submission of redemption, recovery or wind-down plans, where applicable.

Section 3 Notification of crypto-asset whitepapers

R2-3.1 Introduction

R2-3.1.1 The following section sets out the process for the notification of different types of crypto-asset whitepapers.

R2-3.1.2 All whitepapers notified in terms of this section shall comply with the following regulatory and implementing technical standards issued in terms of the MiCA Regulation:

- i. Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the data necessary for the classification of crypto-asset white papers and the practical arrangements to ensure that such data is machine-readable ([link](#));
- ii. Commission Implementing Regulation (EU) 2024/2984 of 29 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to forms, formats and templates for the crypto-asset white papers ([link](#)); and
- iii. Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the content, methodologies and presentation of information in respect of sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts ([link](#)).

R2-3.2 Notification of whitepapers for crypto-assets other than e-money tokens and asset-referenced tokens

R2-3.2.1 Whitepapers relating to crypto-assets other than ARTs or EMTs may notified by any legal person or other undertaking established in Malta.

Issuers wishing to notify an 'other crypto-asset' whitepaper shall refer to the following provisions:

- the provisions of Part II of the MiCA Act;
- the provisions of Title II of the MiCA Regulation; and
- any applicable regulatory technical standards and guidelines issued under the MiCA Regulation.

R2-3.2.2 Issuers or offerors wishing to notify an 'other crypto-asset' whitepaper shall submit the relevant notification form, which may be downloaded

from <https://www.mfsa.mt/our-work/authorisations/> and which shall be submitted through the LH Portal.

This shall include the payment of the applicable notification fee as set out in the Markets in Crypto-Assets Act (Fees) Regulations ([L.N. 295 of 2024](#)).

R2-3.2.3 Issuers are to note that the competent authority shall neither require prior approval of crypto-asset white papers, nor of any marketing communications relating thereto, before their respective publication.

R2-3.2.4 Upon notification of the whitepaper, the issuer or offeror shall remain responsible for complying with the relevant provisions of the MiCA Regulation.

R2-3.3 Notification of electronic money token whitepapers

R2-3.3.1 Whitepapers relating to e-money tokens may be notified by issuers of electronic money or credit institutions authorised by the MFSA in terms of the Financial Institutions Act or the Banking Act.

Issuers wishing to notify an e-money token whitepaper shall refer to the following provisions:

- the provisions of Part IV of the MiCA Act;
- the provisions of Title III of the MiCA Regulation; and
- any applicable regulatory technical standards and guidelines issued under the MiCA Regulation.

R2-3.3.2 Issuers wishing to notify an e-money token whitepaper shall submit the relevant notification form, which may be downloaded from <https://www.mfsa.mt/our-work/authorisations/> through the LH Portal.

This shall include the payment of the applicable notification fee as set out in the Markets in Crypto-Assets Act (Fees) Regulations ([L.N. 295 of 2024](#)).

R2-3.3.3 Issuers are to note that the competent authority shall neither require prior approval of crypto-asset white papers for e-money tokens, nor of any marketing communications relating thereto, before their respective publication.

R2-3.3.4 Upon notification of the whitepaper, the issuer shall remain responsible for complying with the relevant provisions of the MiCA Regulation.

R2-3.4 Notification of asset-referenced token whitepaper

R2-3.4.1 The notification of whitepapers relating to asset-referenced tokens shall form part of the application process for authorisation as an issuer of asset-referenced tokens, as outlined in Section 2 of these rules.

R2-3.5 Notification of modified whitepapers

R2-3.5.1 Where a whitepaper has been modified, this shall be notified through the LH Portal with a clear indication of the changes made.

The notification of modified whitepapers is subject to a fee as set out in the Markets in Crypto-Assets Act (Fees) Regulations ([L.N. 295 of 2024](#)).

Section 4 Surrender of licence/ cessation of business

R2-4.1 Licence Holders should inform the MFSA at an early stage of their intentions to surrender their licence. In order to protect the interests of customers and investors the MFSA may request to delay the surrender of licence or wind-up of business.

R2-4.2 Pursuant to R2-4.1, the Licence Holder shall submit to the Authority the original or a certified true copy of the Board resolution(s) of the relevant Board of Directors meeting(s) where the decision to voluntarily surrender the Company's licence was taken. Such decision should be taken in accordance with the Memorandum of Articles and Association of the Licence Holder.

The Board Resolution(s) of the relevant Board of Directors meeting(s) should also include:

- i the date from when the Licence Holder shall not be accepting any new business, including the on-boarding of new clients;
- ii a timeframe by when the Licence Holder shall cease carrying out licensable activities;
- iii the decision whether the company shall be wound-down or whether it shall continue to operate as a non-Licence Holder following the withdrawal of its licence;
- iv a declaration by the Board of Directors declaring that the return of clients' funds or crypto-assets shall be made carefully in accordance with its AML/CFT obligations, where applicable;
- v a confirmation that no litigation is pending or threatened which arises out of any event that occurred whilst the Licence Holder was licensed or otherwise;

- vi a confirmation that the Licence Holder will remove from all online interfaces, letterheads, and any other stationary, any reference to being authorised by the Authority;
- vii a confirmation that the Licence Holder has informed any service providers supporting its licensable activities of its intention to surrender its licence (including auditors, insurers, credit institutions, custodians);
- viii a declaration that there are no pending complaints against the Licence Holder; and
- ix a confirmation that the Licence Holder has no pending supervisory fees.

R2-4.3 The original licence certificate shall be returned to the Authority in original prior to the surrender of licence.

R2-4.4 Where the Licence Holder intends to continue operating as a non-Licence Holder without carrying out any licensable activities following the date from which it surrenders its licence, it shall satisfy the following conditions:

- i. amend the Memorandum and Articles of Association to this effect and submit it to the Authority and also follow the required procedures of the Malta Business Registry;
- ii. submit a declaration to the Authority confirming that clients have been informed that the company is no longer licenced or registered (as applicable) by the Authority;
- iii. submit to the Authority the contact details of two individuals appointed by the Licence Holder who shall be responsible for (a) settling matters until the withdrawal of licence and (b) settling matters after the withdrawal of licence.

R2-4.5 Where the Licence Holder shall be wound up, it shall submit to the Authority a certified true copy of the notice of resolution for dissolution and consequential voluntary winding up as per requirements emanating from the Companies Act.

R2-4.6 Once the requirements listed above are satisfied to the full satisfaction of the Authority, an internal process will be set in motion for approval of the surrender of the licence. Once a decision is taken, this will be conveyed to the Licence Holder which will cease to be licensed thereafter.

R2-4.7 The MFSA will ordinarily issue a public notice regarding the surrender of the Licence.

Title 3 Ongoing requirements applicable to Licence Holders authorised to provide crypto-asset services

Section 1 Regulatory technical standards and guidelines applicable to crypto-asset service providers

The following section sets out a number of secondary legislations and/or guidelines supplementing the MiCA Regulation. The specified legislation may be in various stages of completion or adoption by the European Supervisory Authorities and the European Commission. It shall be the responsibility of Licence Holders to refer to the most recently adopted version of such legislation in complying with these rules. To this end, Licence Holders shall refer to the dedicated websites of the [European Commission](#), the [ESMA](#) and the [EBA](#) respectively.

R3-1.1 Regulatory Technical Standards relating to information related to the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue each crypto-asset in relation to which services are provided.

In terms of Article 66(5) of the MiCA Regulation, Licence Holders shall make publicly available, in a prominent place on their website, information related to the principal adverse impacts on the climate and other environment-related adverse impacts of the consensus mechanism used to issue each crypto-asset in relation to which they provide services. The technical standards specify the content, methodologies and presentation of information referred to in Article 66(5) of the MiCA Regulation in respect of the sustainability indicators in relation to adverse impacts on the climate and other environment-related adverse impacts ([link](#)).

R3-1.2 Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 on markets in crypto-assets with regard to regulatory technical standards on continuity and regularity in the performance of crypto-asset services

In terms of Article 68(7) of the MiCA Regulation, Licence Holders shall take all reasonable steps to ensure continuity and regularity in the performance of their crypto-asset services. To that end, Licence Holders shall employ appropriate and proportionate resources and procedures, including resilient and secure ICT systems as required by Regulation (EU) 2022/2554.

Licence Holders shall establish a business continuity policy, which shall include ICT business continuity plans as well as ICT response and recovery plans set up pursuant to Articles 11 and 12 of Regulation (EU) 2022/2554 that aim to ensure, in the case of an interruption to their ICT systems and procedures, the preservation of essential data and functions and the maintenance of crypto-asset services or, where that is not possible, the timely recovery of such data and functions and the timely resumption of crypto-asset services.

The technical standards specify the measures ensuring continuity and regularity in the performance of the crypto-asset services referred to in Article 68(7) of the MiCA Regulation ([link](#)).

R3-1.3 **Regulatory Technical Standards on record keeping**

In terms of Article 68(9) of the MiCA Regulation, Licence Holders shall arrange for records to be kept of all crypto-asset services, activities, orders, and transactions undertaken by them. Those records shall be sufficient to enable competent authorities to fulfil their supervisory tasks and to take enforcement measures, and in particular to ascertain whether the Licence Holder has complied with all obligations including those with respect to clients or prospective clients and to the integrity of the market. The technical standards specify the records to be kept of all crypto-asset services, activities, orders and transactions undertaken referred to in Article 68(9) of the MiCA Regulation ([link](#)).

R3-1.4 **Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the requirements, templates and procedures for the handling of complaints by the crypto-asset service providers**

In terms of Article 71 of the MiCA Regulation, Licence Holders shall establish and maintain effective and transparent procedure for the prompt, fair and consistent handling of complaints received from clients. The technical standards further specify the requirements, templates and procedures for handling of complaints ([link](#)).

R3-1.5 **Regulatory Technical Standards relating to the identification, prevention, management and disclosure of conflicts of interest**

In terms of Article 72(1) of the MiCA Regulation, Licence Holders shall implement and maintain effective policies and procedures to identify, prevent, manage and disclose conflicts of interests. In terms of Article

72(2), Licence Holders shall, in a prominent place on their website, disclose to their clients and prospective clients the general nature and sources of identified conflicts of interest and the steps taken to mitigate them. The technical standards further specify the requirement for the policies and procedures referred to in Article 72(1) and the details and methodology for the content of the disclosure referred to in Article 72(2) ([link](#)).

R3-1.6 **Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the manner in which crypto-asset service providers operating a trading platform for crypto-assets are to present transparency data**

In terms of Article 76 of the MiCA Regulation, Licence Holders operating a trading platform for crypto-assets shall make certain pre- and post-trade data available publicly. The technical standards specify the manner in which transparency data, including the level of disaggregation of the data to be made available to the public as referred to in Article 76 (1), (9) and (10) of the MiCA Regulation, is to be presented ([link](#)).

R3-1.7 **Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the content and format of order book records for crypto-asset service providers operating a trading platform for crypto-assets**

In terms of Article 76(15) of the MiCA Regulation, Licence Holders operating a trading platform for crypto-assets shall keep at the disposal of the competent authority, for at least five years, the relevant data relating to all orders in crypto-assets that are advertised through their systems or give the Authority access to the order book so that the Authority is able to monitor the trading activity. That relevant data shall contain the characteristics of the order, including those that link an order with the executed transactions that stem from that order. The technical standards further specify the content and format of order book records to be maintained in terms of Article 76(15) of the MiCA Regulation ([link](#)).

R3-1.8 **Guidelines on the suitability assessment relating to the provision of investment advice or portfolio management services**

In terms of Article 81 of the MiCA Regulation, Licence Holders providing advice on crypto-assets or portfolio management of crypto-assets shall assess whether crypto-assets services or crypto-assets are suitable for

their clients or prospective clients. The guidelines further specify the criteria for the assessment of client's knowledge and competence in accordance with Article 81(2); the information referred to in Article 81(8) and the format of the periodic statement referred to in Article 81(14) ([link](#)).

R3-1.8 Guidelines on policies and procedures relating to crypto-asset transfer services

In terms of Article 82 of the MiCA Regulation, Licence Holders providing transfer services for crypto-assets on behalf of clients shall conclude an agreement with their clients to specify their duties and their responsibilities. The guidelines further specify the procedures and policies, including the rights of clients, in the context of transfer services ([link](#)).

Section 2 Other ongoing requirements applicable to crypto-asset service providers

R3-2.1 Notification requirements

R3-2.1.1 The Licence Holder shall notify the MFSA in writing of:

- i. any evidence of fraud or dishonesty by a member of the Licence Holder's staff immediately upon becoming aware of the matter.
- ii. any evidence of hacking, fraud or other serious malpractice suffered by the Licence Holder.
- iii. where applicable, a decision to make a material claim on any insurance policy held in relation to its business. The notification should be provided as soon as the decision is taken.
- iv. any actual or intended legal proceedings of a material nature by or against the Licence Holder immediately after the decision has been taken or on becoming aware of the matter.
- v. any material changes in the information supplied to the MFSA – immediately upon becoming aware of the matter.
- vi. any other material information concerning the Licence Holder, its business or its staff in Malta or abroad – immediately upon becoming aware of the matter.

- vii. any breach of these Rules, the Act or the MiCA Regulation, including subsidiary legislation issued thereunder, as soon as the Licence Holder becomes aware of the breach.
- viii. any decision to make an application to a Regulator abroad to undertake any form of activity outside Malta.
- ix. the appointment of any persons, whether Directors, Senior Managers or other employees are engaged in any of the following activities:
 - a. portfolio management; or
 - b. investment advice.
- x. implementing material changes to its business at least one month before the change is to take effect, notwithstanding whether the proposed material change/s require authorisation or otherwise.

Provided that where a variation of the CASP Licence or a new authorisation is required, the new business shall not commence until it has been approved by the MFSA.

- xi. acquiring 10 per cent or more of the voting rights in another entity.
- xii. Outsourcing critical or important functions, at least 60 calendar days prior to entering into the outsourcing arrangement as per R3-2.5.36.

The MFSA shall not require prior approval vis-à-vis the above notifications. The Authority may however, at its discretion, object to the proposed changes referred to in (ix) and (xii) above.

Notwithstanding the above, the MFSA shall be notified where any other MFSA notification is required in terms of the Rules.

R3-2.2 Prior approval requirements

R3-2.2.1 The Licence Holder shall obtain the Written Consent of the MFSA before:

- i. making a change to its registered name, business or trade name, as applicable.
- ii. making any change to its capital or the rights of its Unitholders.

- iii. agreeing to sell or merge the whole or any part of its undertaking.
- iv. the appointment of a Director or Senior Manager responsible for the CASP business of the Licence Holder or of the Licence Holder's Compliance Officer and/or MLRO or of the Licence Holder's Risk Manager, where applicable, as per R3-2.3.
- v. the change in the responsibilities of a Director or Senior Manager. A change in the responsibilities of a Director or Senior Manager should only be notified to the MFSA when such a change is material, which shall include a change in the status or seniority of the person concerned (upwards or downwards).

Notwithstanding the above, the consent of the MFSA shall be required where any other MFSA approval is required in terms of the Rules.

R3-2.3 Approval and Departure Process for Appointed Persons

Introduction

R3-2.3.1 There are two processes relating to Appointed Persons, namely (i) the approval process and (ii) the departure process.

R3-2.3.2 The Licence Holder shall ensure that Appointed Persons follow the approval and departure requirements set out in this section.

For the purposes of this Chapter:

- i. Appointed Persons shall refer to any person who has submitted a Personal Questionnaire and who has been approved by the Authority to hold a specific role/s with the Licence Holder; and
- ii. Proposed Persons shall refer to any person who has been proposed to hold the role of an Appointed Person with the Licence Holder.

Without prejudice to the generality of the foregoing, the following listed persons are required to obtain the Authority's approval prior to commencing their involvement with the Licence Holder:

- ultimate beneficial owners;
- qualifying shareholders;
- directors;
- key function holders.

R3-2.3.3 For the purposes of R3-2.3.2, key function holders mean persons who have significant influence over the direction of the Licence Holder but who are not directors sitting on the board and are not the CEO. They include

the heads of internal control functions and the CFO, where they are not directors sitting on the board, and, where identified on a risk-based approach by the Authority, other key function holders. Other key function holders might include heads of significant business lines, the Compliance Officer and the MLRO.

R3-2.3.4 Proposed persons shall submit any documentation to the Authority through the chat box function within the [Authority's LH Portal](#). Any documentation requested in original should be submitted to the Authority in writing.

R3-2.3.5 The MFSA shall use all the information provided by the proposed person, and any other information that ought to have been disclosed by the said person for the purposes of the processes referred to in R3-2.3.2 and R3-2.3.3. The MFSA shall not be liable in damages for any acts or omissions on the part of the proposed person.

The Approval Process

R3-2.3.6 Proposed persons appointed or designated in relation to Applicants or Licence Holders, shall inform and apply for approval from the Authority prior to engaging in their proposed role.

R3-2.3.7 The Licence Holder or the Applicant, as applicable, shall submit to the Authority, as part of the fitness and properness assessment on the proposed person, the Personal Questionnaire Form. The Authority shall initiate the fitness and properness assessment upon submission of the complete form and supporting documentation as stipulated therein.

R3-2.3.8 The Authority may also require further information from the Licence Holder, the Applicant or the proposed person. For purposes of this Rule, the MFSA may *inter alia* conduct interviews and request any supporting documentation it may deem necessary.

R3-2.3.9 The Authority shall, as part of the assessment process, use information not provided by the proposed person, including *inter alia* publicly available information. The Authority shall also make reference to the overall organisational structure of the Applicant or Licence Holder.

R3-2.3.10 Where the proposed person is deemed to be fit and proper, the Authority shall issue its 'in-principle' approval to the appointment or designation of the person within the Applicant or Licence Holder, as applicable.

Provided that the Authority may also require the appointed or designated person to fulfil certain conditions within set timeframes. These conditions shall be indicated in the 'in principle' approval letter.

The Departure Process

R3-2.3.11 The Licence Holder shall notify the Authority of the resignation or removal of any person referred to in R3-2.3.2 and R3-2.3.3 by not later than five working days from the effective resignation or departure date. The Licence Holder shall also provide to the Authority together with this notification, a written statement noting the reason/s for departure and the remedial measures being taken to satisfy the Licensing conditions as applicable. The notification should be submitted to the Authority through the chat box function of the [LH Portal](#). Any documentation requested in writing should be submitted to the Authority in original.

R3-2.3.12 The Licence Holder shall request the person referred to in R3-2.3.11, to provide to the Authority:

- i. the reason for their departure; and
- ii. a written confirmation that such departure was not a consequence of any regulatory implications or to provide relevant details of any such regulatory implications, as appropriate; and

Provided that the Authority may at its discretion, request that an exit interview is held with the person referred to in R3-2.3.11.

R3-2.4 Cross-Border Provision of Services

R3-2.4.1 Pursuant to Article 65 of the MiCA Regulation, Licence Holders intending to provide crypto-asset services in more than one Member State shall submit the required information to the Authority utilising the MiCA Cross-Border Provision of Services Notification Form, available on the [Authorisations Section](#) of the MFSA's website. The Cross-Border Provision of Services Notification Form shall be submitted through the LH Portal.

R3-2.4.2 The Licence Holder shall notify the MFSA of any changes to the information provided in terms of R3-2.4.1 immediately upon becoming aware, by submitting an updated MiCA Cross-Border Provision of Services Notification Form to the Authority. The Cross-Border Provision of Services Notification Form shall be submitted through the LH Portal.

R3-2.5 Governance requirements

Governance Arrangements

R3-2.5.1 The Licence Holder's business shall be effectively directed or managed by at least two individuals in satisfaction of the 'dual control' principle. Such persons shall be of sufficiently good repute, possess sufficient knowledge and experience, commit sufficient time to perform their functions and be sufficiently experienced so as to ensure the sound and prudent management of the Licence Holder.

R3-2.5.2 The Licence Holder shall ensure that it has sufficient substance in Malta, by having sufficient key function holders and personnel, including at least one Executive Director, based in Malta.

Provided that the MFSA may require a larger number of local directors or key function holders, depending on the size, scale and complexity of the activities of the Licence Holder.

R3-2.5.3 The Licence Holder shall:

- i. establish, implement and maintain decision-making procedures and an organisational structure which clearly and in a documented manner specifies reporting lines and allocates functions and responsibilities;
- ii. ensure that its relevant persons are aware of the procedures which must be followed for the proper discharge of their responsibilities;
- iii. establish, implement and maintain adequate internal control mechanisms designed to secure compliance with decisions and procedures at all levels of the Licence Holder;
- iv. employ personnel with the skills, knowledge and expertise necessary for the discharge of responsibilities allocated to them;
- v. establish, implement and maintain effective internal reporting and communication of information at all relevant levels of the Licence Holder;
- vi. maintain adequate and orderly records of its business and internal organisation; and
- vii. ensure that the performance of multiple functions by its relevant persons does not, and is not likely to, prevent those persons from discharging any particular function soundly, honestly and professionally.

For these purposes, the Licence Holder shall take into account the nature, scale and complexity of its business, and the nature and range of crypto-asset services undertaken in the course of that business.

R3-2.5.4 The Licence Holder shall ensure that it has sound administrative and accounting procedures, internal control mechanisms, effective procedures for risk assessment, and effective control and safeguard arrangements for information processing systems.

R3-2.5.5 Where the Licence Holder forms part of a group, the Licence Holder shall have the power to autonomously make decisions on its EU policy. Reporting lines within the Licence Holder shall demonstrate the ability to make such autonomous decisions at EU level.

The Board of Directors

R3-2.5.6 Licence Holders shall ensure that:

- i. the number of positions as director which may be held by a member of its board of directors at the same time shall take into account individual circumstances and the nature, scale and complexity of the Licence Holder's activities; and
- ii. each member of its board of directors shall act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of the senior management where necessary and to effectively oversee and monitor management decision-making.

R3-2.5.7 The board of directors shall be vested with the responsibility to abide by all requirements under the MiCA Regulation and the MiCA Act, as well as any supplementary legislation or rules issued thereunder.

Provided that the board of directors or the Licence Holder itself, as applicable, shall not be held responsible when they prove that they have acted in good faith pursuant to their fiduciary obligations and in terms of applicable legislation.

R3-2.5.8 Licence Holders shall also ensure that the Board of Directors define, approve and oversee:

- i. the organisation of the Licence Holder for the provision of crypto-asset services, including the skills, knowledge and expertise required by personnel, the resources, the procedures and the arrangements for the provision of crypto-asset services, taking

into account the nature, scale and complexity of its business and all the requirements the firm has to comply with; and

- ii. a remuneration policy of persons involved in the provision of services to clients aiming to encourage responsible business conduct, fair treatment of clients as well as avoiding conflict of interest in the relationship with clients.

R3-2.5.9 The Board of Directors shall monitor and periodically assess the adequacy and implementation of the Licence Holder's strategic objectives in the provision of crypto-asset services, the effectiveness of the Licence Holder's governance arrangements and the adequacy of the policies relating to the provision of services to clients and take appropriate steps to address any deficiencies.

R3-2.5.10 The Licence Holder shall ensure that members of the Board of Directors have adequate access to information and documents which are needed to oversee and monitor management decision-making.

R3-2.5.11 The Licence Holder shall ensure that each member of the Board of Directors shall act with honesty, integrity and independence of mind to effectively assess and challenge the decisions of the senior management where necessary and to effectively oversee and monitor management decision-making.

R3-2.5.12 The Licence Holder shall ensure that the Board of Directors defines, oversees and accounts for the implementation of the governance arrangements that ensure effective and prudent management of the Licence Holder, including the segregation of duties in the organisation and the prevention of conflicts of interest.

R3-2.5.13 The governance arrangements referred to above shall comply with the following principles:

- i. the Board of Directors shall have the overall responsibility for the Licence Holder and approve and oversee the implementation of the Licence Holder's strategic objectives, risk strategy and internal governance;
- ii. the Board of Directors shall ensure the integrity of the accounting and financial reporting systems, including financial and operational controls and compliance with the law and relevant standards;

- iii. the Board of Directors shall oversee the process of disclosure and communications;
- iv. the Board of Directors shall be responsible for providing effective oversight of senior management;
- v. the chairman of the Board of Directors in its supervisory function of the Licence Holder shall not exercise simultaneously the functions of a chief executive officer within the same Licence Holder, or a related group entity, unless justified by the Licence Holder and authorised by the MFSA; and
- vi. the Board of Directors shall monitor and periodically assess the effectiveness of the Licence Holder's governance arrangements and take appropriate steps to address any deficiencies.

Responsibility of Senior Management

- R3-2.5.14 In particular, senior management and where appropriate, the supervisory function shall be required to assess and periodically review the effectiveness of the policies, arrangements and procedures put in place to comply with the obligations under these rules and to take appropriate measures to address any deficiencies.
- R3-2.5.15 For the purposes of this Section "supervisory function" means the function within a Licence Holder responsible for the supervision of its senior management.

Risk Consideration

- R3-2.5.16 The Board of Directors shall approve and periodically review the strategies and policies for taking up, managing, monitoring and mitigating the risks the Licence Holder is or might be exposed to, including those posed by the macroeconomic environment in which it operates in relation to the status of the business cycle.
- R3-2.5.17 The Board of Directors shall devote sufficient time to consideration of risk issues. The Board of Directors shall be actively involved in and ensure that adequate resources are allocated to the management of all material risks. The Licence Holder shall establish reporting lines to the Board of Directors that cover all material risks and risk management policies and changes thereof.
- R3-2.5.18 The Board of Directors in its supervisory function and, where a risk committee has been established, the Risk Committee shall have adequate

access to information on the risk situation of the Licence Holder and, if necessary and appropriate, to the risk management function and to external expert advice.

R3-2.5.19 The Board of Directors in its supervisory function and, where one has been established, the Risk Committee shall determine the nature, the amount, the format, and the frequency of the information on risk which it is to receive.

R3-2.5.20 The Licence Holder shall have in place adequate risk management processes and internal control mechanisms, including sound reporting and accounting procedures in order to identify, measure, monitor and control transactions with companies within their group appropriately. The Licence Holder shall report to the MFSA any significant transactions with those entities.

Compliance

R3-2.5.21 The Licence Holder shall establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the Licence Holder to comply with its obligations under the MiCA Act, the MiCA Regulations and any supplementary legislation or rules issued thereunder, as well as to detect the associated risks, and shall put in place adequate measures and procedures designed to minimize such risk and to enable the MFSA to exercise its powers effectively.

The Licence Holder shall, for this purpose, take into account the nature, scale and complexity of its business and the nature and range of crypto-asset services undertaken in the course of that business.

R3-2.5.22 The Licence Holder shall establish and maintain a permanent and effective compliance function which operates independently, and which has the following responsibilities:

- i. to monitor and, on a regular basis, to assess the adequacy and effectiveness of the measures and procedures put in place in accordance with the requirements of R3-2.5.21, and the actions taken to address any deficiencies in the Licence Holder's compliance with its obligations;
- ii. to draw up and implement a compliance monitoring plan;
- iii. to submit periodic reports to the Board of Directors outlining any deficiencies identified in the course of carrying out its functions; and

- iv. to advise and assist the relevant persons responsible for carrying out crypto-asset services to comply with the Licence Holder's legal and regulatory obligations.

R3-2.5.23 In order to enable the compliance function to discharge its responsibilities properly, the Licence Holder shall ensure that the following conditions are satisfied:

- i. the compliance function shall have the necessary authority, resources, expertise and access to all relevant information;
- ii. a Compliance Officer shall be appointed and shall be responsible for the compliance function and for any reporting as to compliance required by these Rules;
- iii. the relevant persons involved in the compliance function shall not be involved in the performance of services or activities which they monitor; and
- iv. the method of determining the remuneration of the relevant persons involved in the compliance function shall not compromise their objectivity and shall not be likely to do so.

R3-2.5.24 However, the MFSA may exempt a Licence Holder from the requirements of point (iii) of Rule R3-2.5.23 if the Licence Holder is able to demonstrate to the satisfaction of the MFSA, that in view of the nature, scale and complexity of its business, and the nature and range of crypto-asset services and related activities, the requirement under that point is not proportionate and that its compliance function continues to be independent, objective and effective.

R3-2.5.25 Moreover, with respect to point (ii) of Rule R3-2.5.23, the appointment of an individual as Compliance Officer is subject to MFSA's prior approval. Such person may also act as the Licence Holder's Money Laundering Reporting Officer.

Money Laundering Reporting Officer

R3-2.5.26 The Licence Holder shall appoint and have at all times in place an MLRO. The role of the MLRO is an onerous one and the Licence Holder shall ensure that it is only accepted by individuals who fully understand the extent of responsibilities attached to the role.

R3-2.5.27 When appointing an MLRO, the Licence Holder shall ensure compliance with the applicable AML/CFT regulatory framework as well as any sector-

specific Implementing Procedures issued by the FIAU in terms of the provisions of the Prevention of Money Laundering and Funding of Terrorism Regulations.

R3-2.5.28 The Licence Holder shall ensure that the role of MLRO is only accepted by individuals who fully understand the extent of responsibilities attached to the role.

Internal Audit

R3-2.5.29 The Licence Holder shall establish and maintain an internal audit function which is separate and independent from the other functions and activities of the Licence Holder and which has the following responsibilities:

- i. to establish, implement and maintain an audit plan to examine and evaluate the adequacy and effectiveness of the Licence Holder's systems, internal control mechanisms and arrangements;
- ii. to issue recommendations based on the result of work carried out in accordance with point (i) of this Rule;
- iii. to verify compliance with those recommendations; and
- iv. to report in relation to internal audit matters.

R3-2.5.30 Provided that where appropriate and proportionate, in view of the nature, scale and complexity of its business and the nature and range of crypto-asset services undertaken in the course of its business, the MFSA may, at its discretion, exempt the Licence Holder from the requirements set out by R3-2.5.29.

Risk Management

R3-2.5.31 The Licence Holder shall take the following actions with a view to managing its risks:

- i. establish, implement and maintain adequate risk management policies and procedures, which identify risks relating to the Licence Holder's activities, processes and systems, and where appropriate, set the level of risk tolerated by the Licence Holder;
- ii. adopt effective arrangements, processes and mechanisms to manage the risks relating to the Licence Holder's activities, processes and systems, in light of that level of risk tolerance;

- iii. monitor the following:
 - a. the adequacy and effectiveness of the Licence Holder's risk management policies and procedures;
 - b. the level of compliance by the Licence Holder and its relevant persons with the arrangements, processes and mechanisms adopted in accordance with point (ii) above; and
 - c. the adequacy and effectiveness of measures taken to address any deficiencies in those arrangements and procedures, including failures by the relevant persons to comply with such arrangements or follow such procedures.

R3-2.5.32 The Licence Holder is required to establish and maintain a risk management function which independently carries out the following tasks:

- i. the implementation of the policy and procedures referred to in R3-2.5.31; and
- ii. the provision of reports and advice to senior management;
- iii. the development of the Licence Holder's risk strategy and participation in all material risk management decisions; and
- iv. direct communication with the Board of Directors in its supervisory function, independently from the Licence's Holder senior management, where appropriate, regarding concerns, where specific risk developments affect or may affect the Licence Holder, without prejudice to the responsibilities of the Board of Administration in its supervisory and/or managerial functions.

R3-2.5.33 The Licence Holder shall conduct a comprehensive assessment of its risk management framework on at least an annual basis. Such assessment should evaluate the framework's effectiveness, relevance and adequacy in addressing emerging risks in line with the Licence Holder's risk strategy and risk appetite.

The scope of the assessment should include:

- i. assessment of key risk management processes, controls and procedures;
- ii. feedback from relevant stakeholders within the Licence Holder; and

- iii. any significant changes in the operational environment, regulatory requirements or risk profile.

The Licence Holder shall update its risk management framework on the basis of the assessment and findings.

R3-2.5.34 The MFSA may allow the Licence Holder to establish and maintain a risk management function which does not operate independently, provided this does not give rise to conflicts of interest and the Licence Holder demonstrates to the MFSA that the establishment and maintenance of a dedicated independent risk management function with sole responsibility for the risk management function is not appropriate and proportionate in view of the nature, scale and complexity of its business and the nature and range of the crypto-asset services undertaken in the course of that business.

R3-2.5.35 Where a Licence Holder is granted such derogation it must nevertheless be able to demonstrate that the policies and procedures which it has adopted in accordance with R3-2.5.34 satisfy the requirements thereof and are consistently effective.

Outsourcing

R3-2.5.36 Without prejudice to the Outsourcing Requirements found in the MiCA Regulation, where a Licence Holder intends to outsource a critical or important operational function relating to the provision of crypto-asset services, it shall submit a MiCA Outsourcing Notification Form to the MFSA through the LH Portal at least 60 calendar days prior to entering into such outsourcing arrangements.

The MiCA_Outsourcing Notification Form may be downloaded from <https://www.mfsa.mt/our-work/crypto-assets/>.

R3-2.5.37 For the purposes of R3-2.5.36, an operational function would be considered critical or important

R3-2.5.38 It is however acknowledged that where:

- i. the Authority identifies concerns that lead to the conclusion that a Licence Holder no longer has robust governance arrangements in place; or
- ii. does not comply with regulatory requirements, including with regards to these rules established under this section in relation to outsourcing arrangements, or
- iii. the outsourcing arrangement hinders the Authority's ability to effectively supervise the Licence Holder;

the Authority may take appropriate measures, including but not limited to, limiting or restricting the scope of the outsourced functions or requiring the Licence Holder to exit from an outsourcing arrangement and, or if necessary, for the outsourcing arrangement to be cancelled.

R3-2.6 Reporting Requirements

Audited Annual Reporting Requirements

R3-2.6.1 The Licence Holder shall be required to submit to the MFSA, within six (6) months of the accounting reference date, the soft and hard copies of the following:

- i. the Audited Annual CASP Return, including the signed Representations Sheet;
- ii. an original copy of the audited annual financial statements or consolidated financial statements, as applicable, prepared in accordance with the Companies Act and generally accepted accounting principles and practice;
- iii. a copy of the Auditor's management letter;
- iv. an original copy of the Auditor's report to the MFSA on the annual financial statements or consolidated financial statements, as applicable, as specified in R3-2.6.7;
- v. the Annual Compliance Report, as specified in R3-2.6.16;
- vi. the Social Media Annex and Wallet Address Form, available at <https://www.mfsa.mt/our-work/crypto-assets/>.

Provided that where the documentation is signed using a valid qualified signature in accordance with the circular issued by the MFSA on the use of electronic signatures dated 15 November 2022, hard copies do not need to be submitted.

R3-2.6.2 Pursuant to point (i) of Rule R3-2.6.1, the Licence Holder should ensure that the Annual Audited CASP Return is signed by:

- i. at least two Directors; or
- ii. any other persons authorised to sign by way of a Board Resolution, a certified true copy of which is expected to be provided by the Licence Holder to the MFSA; and

iii. the External Independent Auditor.

Provided that signing the Representations Sheet, the External Independent Auditor shall confirm that in the Auditor's opinion, the Audited Annual CASP Return has been completed in accordance with the MFSA's guidelines and is consistent with the audited financial statements.

Provided further that where the documentation is signed using a valid qualified signature in accordance with the circular issued by the MFSA on the use of electronic signatures dated 15 November 2022, hard copies do not need to be submitted.

R3-2.6.3 Pursuant to point (ii) of R3-2.6.1, the Licence Holder shall also require its Auditor to prepare a management letter in accordance with International Standards on Auditing.

R3-2.6.4 Furthermore, pursuant to point (ii) of R3-2.6.1, the Licence Holder is required to include in the Directors' Report or by way of a separate confirmation signed by the Directors, as applicable under the generally accepted accounting principles and practices, a statement regarding breaches of the Rules or other regulatory requirements which occurred during the reporting period, and which were subject to an administrative penalty or other regulatory sanction.

R3-2.6.5 The Directors' Report or the confirmation signed by the Directors, as applicable, shall contain a summary of the breach/breaches committed and regulatory sanction/s imposed, if any. Where there have been no breaches, it shall contain a statement to that effect.

R3-2.6.6 Pursuant to point (iii) of R3-2.6.1, the Licence Holder in receipt of a management letter from its Auditor which contains recommendations to remedy any weaknesses identified during the course of the audit, is required to submit to the MFSA by not later than six months from the end of the financial period to which the management letter relates, a statement setting out in detail the manner in which the Auditor's recommendations have been/ are being implemented. In the instance where the Licence Holder has not taken / is not taking any action in respect of any one or more recommendations in the Auditor's management letter, the reasons are to be included.

R3-2.6.7 Pursuant to point (iv) of R3-2.6.1, the Auditor must also include a confirmation that the audit has been conducted in accordance with International Standards on Auditing and whether, in the Auditor's opinion:

- i. the Annual Audited CASP Return has been prepared in accordance with the MFSA's requirements as set out in the *Guidance Notes on the Compilation of Crypto-Asset Service Providers' Return* and is consistent with the audited financial statements; and
- ii. proper accounting records have been kept, and adequate systems for their control have been maintained, as required by the MFSA, during the period covered by the Annual Audited CASP Return;
- iii. all information and explanations necessary for the purpose of the audit have been obtained.

R3-2.6.8 Where, in the Auditor's opinion, one or more of the requirements have not been met, the Auditor shall be required to include in his report a statement specifying the relevant requirements and the respects in which they have not been met. Where the Auditor is unable to form an opinion as to whether the requirements have been met, the Auditor shall be required to specify the relevant requirements and the reasons why he has been unable to form an opinion.

Annual CASP Return

R3-2.6.8 The Licence Holder shall each year prepare and submit the soft copy of the Annual CASP Return to the MFSA within one (1) month from the accounting reference date.

R3-2.6.9 The Licence Holder shall also submit the original Representations Sheet of the Annual CASP Return.

Provided that where the Representations Sheet is signed using a valid qualified signature in accordance with the circular issued by the MFSA on the use of electronic signatures dated 15 November 2022, this may be submitted to the Authority electronically.

R3-2.6.10 The Licence Holder shall ensure that the Annual CASP Return is signed by:

- i. at least two Directors; or
- ii. any other persons authorised to sign by way of a Board Resolution, a certified true copy of which is expected to be provided by the Licence Holder to the MFSA.

R3-2.6.11 Where the Annual CASP Return has been submitted prior to the production of the relevant audited annual financial statements, it shall be the responsibility of the License Holder to submit a reconciliation statement between the Annual CASP Return and the audited financial statements to the MFSA. The Annual CASP Return may need to be re-submitted to reflect accurate and updated information from the audited financial statements.

Interim CASP Return

R3-2.6.12 The Licence Holder shall prepare an Interim CASP Return (“ICR”), at dates three, six and nine months after the accounting reference date. The first ICR should cover the three months immediately following the accounting reference date, the second ICR should cover the six months immediately following the accounting reference date and the third ICR should cover the nine months immediately following the accounting reference date. In the event of a change to the accounting reference date, the dates for the preparation of the ICRs shall be agreed with the MFSA.

R3-2.6.13 The soft copy of the ICR shall be submitted to the MFSA within one (1) month from the date up to which it has been prepared.

R3-2.6.14 The Licence Holder shall also submit the original Representations Sheet of the Interim CASP Return.

R3-2.6.15 The Licence Holder should ensure that the Interim CASP Return is signed by:

- i. by at least two Directors; or
- ii. any other persons authorised to sign by way of a Board Resolution, a certified true copy of which is expected to be provided by the Licence Holder to the MFSA.

Annual Compliance Report

R3-2.6.16 The Licence Holder shall submit to the MFSA on an annual basis, together with the annual audited financial statements pursuant to R3-2.13.2, a Compliance Report drawn up by its Compliance Officer, which shall include:

- i. the Compliance Officer’s Annual Compliance Monitoring Plan as approved by the Board of Directors and the outcome of such plan; and
- ii. a list of regulatory breaches identified and their status.

R3-2.6.17 The Licence Holder shall ensure that the Compliance Report is signed by at least one Director and may be countersigned by the Compliance Officer.

R3-2.7 Fees

R3-2.7.1 The Licence Holder shall promptly pay all amounts due to the MFSA, in line with the [Markets in Crypto-Assets Act \(Fees\) Regulations, 2024](#).

Section 3 Change in shareholding or control of the CASP

R3-3.1 Licence Holders shall refer to Article 33 of the MiCA Act for the process to be followed in case of a change in shareholding or control of the Licence Holder.

R3-3.2 Licence Holders will be required to submit the information set out in the regulatory technical standard issued pursuant to Article 84(4) of the MiCA Regulation as part of the assessment outlined in Article 33 of the MiCA Act.

Section 4 Modification of CASP Licence

R3-4.1 Licence Holders wishing to modify their Licence, shall notify the Authority of their intention to do so prior to effecting the change.

Provided that should a Licence Holder wish to modify its CASP licence class, such Licence Holder shall be required to notify its intention to make an application for revision of a licence.

The Licence Holder shall also include in the aforementioned notification a comprehensive description of the proposed revision.

R3-4.2 The Authority, upon receipt of the aforementioned statement of intent, shall schedule a preliminary meeting, with the Licence Holder.

R3-4.3 The Licence Holder shall, by not later than 60 days of the date of the preliminary meeting, submit, through the chat box function within the [Authority's LH Portal](#), detail of the variation being requested, outlining the changes required to the latest application form submitted.

R3-4.4 The Licence Holder shall include in the aforementioned request the following documentation:

- i. Directors' resolution approving the changes;

- ii. a revised business plan; and
- iii. revised financial projections.

Provided that the Authority may, under exceptional circumstances, extend the aforementioned period should the Licence Holder provide justifiable reasons for the said extension and that no material changes to the revision have been made since the preliminary meeting.

R3-4.5 Pursuant to the Markets in Crypto-Assets Act (Fees) Regulations ([L.N. 295 of 2024](#)), Licence Holders shall also pay a nominal modification fee of EUR 1,000 when submitting the request to amend the application form to the Authority.

Provided that should the Licence Holder wish to apply for authorisation to provide additional crypto-asset services, the Licence Holder shall pay the 75% of the applicable application fee in accordance with the Fees Regulations.

R3-4.6 The Authority shall not initiate the review of applications which are not complete.

Provided that an application form shall only be considered complete upon receipt of all required documentation as well as the verification that the respective modification fee has been submitted to the Authority.

R3-4.7 The Authority shall, once it is satisfied with the information received for purposes of amending an application form and, where applicable, the completion of the fitness and properness assessment, issue an 'in principle Approval' for the issuance of the revised CASP licence, which shall be valid for a period of three months from the date of the issue thereof.

R3-4.8 The Authority shall issue the revised licence to the Licence Holder, upon satisfaction of the requirements in this section.

Section 5 Voluntary Suspension of Licence

R3-5.1 A Licence Holder may request the Authority to voluntarily suspend its Crypto-Asset Services Licence for a period of up to 6 months. Licence Holders are required to adhere to all applicable Rules during the period of suspension.

Provided that the Authority may exempt the Licence Holder from maintaining its prudential requirements during the period of suspension.

Provided further that this Rule shall only apply if the Licence Holder does not have clients and will not on-board new clients during the suspension period.

- R3-5.2 Licence Holders intending to suspend their Licence voluntarily shall inform the MFSA of their intention to do so promptly and by not later than five working days after such decision was taken.
- R3-5.3 Notwithstanding the notification submitted in accordance with R3-5.2, Licence Holders shall submit a formal request for the approval of the voluntary suspension to the MFSA. The request should also include a detailed justification as to why the suspension is required, and the efforts being made by the Licence Holder to continue its business.
- R3-5.4 The Authority shall proceed with the internal process to approve the voluntary suspension of the Licence upon submission of an Administrators' resolution confirming that the Licence Holder:
- i. intends to voluntarily suspend its Crypto-Asset Services Licence, subject to the Authority's approval and once the necessary formalities are finalised;
 - ii. does not have any clients and will not on-board new clients during the suspension period;
 - iii. and any other documentation as may be determined appropriate by the Authority.
- R3-5.5 In the event of a voluntary suspension being approved by the Authority, a public notice regarding the suspension of the Licence shall be published on the MFSA's website.
- R3-5.6 The Licence Holder may request an extension of the suspension period subject that adequate and satisfactory justification is provided thereto. The request should also include a detailed justification as to why the suspension is required, and the efforts being made by the Licence Holder to continue with its business.
- R3-5.7 Notwithstanding the notification submitted in accordance with R3-5.6, the Licence Holder shall have to resubmit to the Authority a resolution from its Board of Administration confirming the Licence Holder's intention to extend the voluntary suspension period.

R3-5.8 Subject that the extension of the suspension of Licence is approved by the Authority, a public notice regarding the suspension of the Licence will be re-issued on the MFSA website.

Title 4 Ongoing requirements applicable to Licence Holders authorised to issue asset-referenced tokens

Section 1 Regulatory technical standards and guidelines applicable to issuers of asset-referenced tokens

The following section sets out a number of secondary legislations and/or guidelines supplementing the MiCA Regulation. The specified legislation may be in various stages of completion or adoption by the European Supervisory Authorities and the European Commission. It shall be the responsibility of Licence Holders to refer to the most recently adopted version of such legislation in complying with these rules. To this end, Licence Holders shall refer to the dedicated websites of the European Commission, the ESMA and the EBA respectively.

R4-1.1 The Licence Holder shall comply with the applicable provisions of the MiCA Act, the MiCA Regulation and technical standards and/or guidelines issued thereunder, as outlined in this section.

R4-1.2 **Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the methodology to estimate the number and value of transactions associated to uses of asset-referenced tokens and of e-money tokens denominated in a currency that is not an official currency of a Member State as a means of exchange**

In terms of Article 22 of the MiCA Regulation, certain Licence Holders may be required to report data to the Authority on a quarterly basis. The technical standards specify the methodology to estimate the quarterly average number and average aggregate value of transactions per day that are associated to uses of the asset-referenced tokens as a means of exchange within a single currency area ([link](#)).

R4-1.3 **Commission Implementing Regulation (EU) 2024/2902 of 20 November 2024 laying down implementing technical standards for the application of Regulation (EU) 2023/1114 of the European Parliament and of the Council with regard to reporting related to asset-referenced tokens and to e-money tokens denominated in a currency that is not an official currency of a Member State**

In terms of Article 22 of the MiCA Regulation, certain Licence Holders may be required to report data to the Authority on a quarterly basis. The technical standards establish standard forms, formats and templates for the purposes of reporting the applicable information ([link](#)).

R4-1.4 **Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the requirements, templates and procedures for the handling of complaints relating to asset referenced tokens**

In terms of Article 31 of the MiCA Regulation, Licence Holders are required to establish and maintain effective and transparent procedures for the handling of complaints received from holders of asset-referenced tokens. The technical standards further specify the requirements, templates and procedures for handling of complaints ([link](#)).

R4-1.5 **Regulatory Technical Standards on requirements for policies and procedures on conflicts of interest for issuers of asset-referenced tokens (ARTs) under MiCAR**

In terms of Article 32 of the MiCA Regulation, Licence Holders shall implement and maintain effective policies and procedures to identify, prevent, manage and disclose conflicts of interests. The technical standards further specify the requirements for the policies and procedures on conflicts of interest and the details and methodology for the content of conflict of interest disclosures ([link](#)).

R4-1.6 **Guidelines on minimum content of the governance arrangements for issuers of ARTs**

In terms of Article 34 of the MiCA Regulation, Licence Holders are subject to specific governance requirements. The Guidelines, issued in terms of Article 34(13), further specify the minimum content of the required governance arrangements. The MFSA shall apply these guidelines to all Licence Holders on a proportionate basis as set out therein ([link](#)).

R4-1.7 **Regulatory Technical Standards to specify the adjustment of own funds requirements and stress testing of issuers of asset-referenced tokens**

In terms of Article 35, Licence Holders shall, at all times, have own funds in place as specified therein. The technical standards further specify the procedure and timeframe for a Licence Holder to adjust to higher own funds, the criteria for requiring a higher amount of own funds, and the minimum requirements for the design of stress testing programmes([link](#)).

R4-1.8 **Regulatory Technical Standards further specifying the liquidity requirements of the reserve of assets**

In terms of Article 36 of the MiCA Regulation, Licence Holders are required to maintain a reserve of assets which is inter alia liquid. The technical standards further specify the liquidity requirements of the reserve, taking into account the size, complexity and nature of the reserve of assets and the asset-referenced tokens as well ([link](#)).

R4-1.9 **Regulatory Technical Standards to specify the highly liquid financial instruments in the reserve of assets under MiCAR**

In terms of Article 38 of the MiCA Regulation, Licence Holders are required to invest part of the reserve in highly liquid financial instruments with minimal market risk, credit risk and concentration risk. The technical standards specify the financial instruments that can be considered highly liquid financial instruments ([link](#)).

R4-1.10 **Commission Delegated Regulation supplementing Regulation (EU) 2023/1114 with regard to regulatory technical standards specifying the detailed content of information necessary to carry out the assessment of a proposed acquisition of a qualifying holding in an issuer of an asset-referenced token**

In terms of Article 41 of the MiCA Regulation, a change in participation, ownership or control of the Licence Holder is subject to a notification and approval by the Authority. The technical standards specify the detailed content of the said notifications. The MFSA shall apply the technical standards issued pursuant to Article 42(4) when conducting its assessment ([link](#)).

R4-1.11 **Commission Delegated Regulation (EU) 2024/1506 of 22 February 2024 supplementing Regulation (EU) 2023/1114 of the European Parliament and of the Council by specifying certain criteria for classifying asset-referenced tokens and e-money tokens as significant**

Article 43 of the MiCA Regulation sets out the criteria for an asset-referenced token to be considered significant. The Delegated Regulation further specifies the said criteria ([link](#)).

R4-1.12 **Regulatory Technical Standards on additional obligations applicable to issuers of significant asset-referenced tokens issued in terms of Article 45(7)**

In terms of Article 45 of the MiCA Regulation, where an asset-referenced token is determined to be significant, the Licence Holder shall be subject to additional obligations as outlined therein. The technical standards further specify the minimum contents of the governance arrangements on the remuneration policy ([link](#)), the liquidity management policy ([link](#)), and the procedure for the adjustment of own funds in such cases ([link](#)).

R4-1.13 **Guidelines on liquidity stress testing under MiCAR**

In terms of Article 45 of the MiCA Regulation, where an asset-referenced token is determined to be significant, the Licence Holder shall be subject to additional obligations as outlined therein. The guidelines lay out the risks identified by the EBA to be covered in the liquidity stress testing undertaken by issues of significant asset-referenced tokens ([link](#)).

R4-1.14 **Guidelines on the Recovery Plan**

In terms of Article 46 of the MiCA Regulation, Licence Holders are required to draw up and notify a Redemption Plan within 6 months of authorisation. The Guidelines, issued in terms of Article 46(6), further specify the minimum content of the Recovery Plan. The MFSA shall apply these guidelines to all Licence Holders on a proportionate basis as set out therein ([link](#)).

R4-1.14 **Guidelines on the Redemption Plan**

In terms of Article 47 of the MiCA Regulation, Licence Holders are required to draw up and notify a Redemption Plan within 6 months of authorisation. The Guidelines, issued in terms of Article 47(5), further specify the minimum content of the Redemption Plan. The MFSA shall apply these guidelines to all Licence Holders on a proportionate basis as set out therein ([link](#)).

Section 2 Other ongoing requirements applicable to Issuers of Asset-Referenced Tokens

R4-2.1 The following rules, as set out in Title 3, Section 2 of these rules, shall apply to issuers of asset-referenced tokens *mutatis mutandis*:

- R3-2.1 (Notification requirements)
- R3-2.2 (Prior approval requirements)
- R3-2.3 (Approval and Departure Process for Appointed Persons)
- R3-2.6.1 [with the exception point (i)] to R3-2.6.8 (Submission of Audited Financial Statements)
- R3-2.7 (Payment of Fees)

R4-2.2 Title 3, Sections 3 and 5 shall also apply to Issuers of Asset-Referenced Tokens *mutatis mutandis*.

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