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MARKETS IN CRYPTO- ASSETS FRAMEWORK IN MALTA

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Malta has long been a pioneer in the digital assets space, having established the Virtual Financial Assets (“VFA”) framework in 2018, which shares many similarities with the new Markets in Crypto-Assets Regulation (“MiCA”). With this existing regulatory expertise, Malta is uniquely positioned to offer a seamless transition into MiCA, making it a leading jurisdiction for crypto-asset businesses.

MiCA brings uniform rules across the EU, ensuring clarity for crypto-asset issuers and service providers while promoting innovation and safeguarding consumers. Whether you are operating under the VFA framework or entering the market for the first time, Malta’s fintech-friendly environment provides the perfect gateway to the European crypto ecosystem.

REGULATORY AUTHORITY

The **Malta Financial Services Authority (MFSA)** is responsible for regulating crypto-asset activities under MiCA. It oversees the licensing, compliance, and monitoring of crypto-asset service providers (“CASP”s) and issuers of crypto-assets, ensuring adherence to the standards set by MiCA.

SCOPE OF MICA




MiCA applies to the following:

- **Issuers of crypto-assets** (including asset-referenced tokens and e-money tokens).
- **CASPs** offering licensable crypto-assets related services

CLASSIFICATION OF CRYPTO-ASSETS AND ISSUANCE

MiCA makes three clear distinctions of crypto-assets and establishes three distinct frameworks for such crypto-assets, as follows:

- **Asset Reference Token (“ART”)** – a token aimed to maintain a stable value via referencing/backed by one or more assets. Typically, a combination of assets (for example, a token referring to gold, or to several currencies or to other crypto-assets).
- **E-Money Token (“EMT”)** – electronic surrogates for coins and banknotes and are likely to be used for making payments. A key characteristic being backed by an official State currency.
- **Other Crypto-Asset** – a digital representation of value or rights which may be transferred and stored electronically (any other crypto-assets which is not excluded in the above-mentioned list of exemptions).

	 ARTs	 EMTs	 OTHER CRYPTO-ASSETS
Whitepaper required	✓	✓	✓
Regulatory approval required prior to launch/listing	✓	✓	
Key Management to be vetted	✓	✓	
Prior approval for marketing communications	✓	✓	
Overseen by national competent authority	✓	✓	✓

Category	Minimum Capital Requirement	Additional Notes
Issuers of E-money Tokens	€350,000	Issuers must meet capital requirements similar to e-money institutions.
Issuers of Asset-Referenced Tokens	2% of the reserve assets, with a minimum of €350,000	Additional safeguard to ensure financial stability for asset-referenced tokens.

CRYPTO-ASSET SERVICE PROVIDER LICENCE

Licensing: any entity wishing to offer licensable crypto-assets services in the EU must obtain a licence under MiCA.

Licensable services:

- custody and administration of crypto-assets on behalf of third parties;
- operation of a trading platform for crypto-assets;
- exchange of crypto-assets for funds;
- exchange of crypto-assets for other crypto-assets;
- execution of orders for crypto-assets on behalf of third parties;
- placing of crypto-assets;
- providing transfer services for crypto-assets on behalf of third parties;
- reception and transmission of orders for crypto-assets on behalf of third parties;
- providing advice on crypto-assets;
- providing portfolio management on crypto-assets.

LICENSING PROCESS

Step	Key Actions	Details
1. Pre-Application	Initial Consultation with MFSA	Engage with the MFSA to clarify crypto-specific requirements and align the business model with MiCA rules.
2. Application Submission	Submit Programme of Operations as well as other relevant documents	Other relevant documents include business continuity plan, ICT related documents, necessary P&Ps as well as AML/CFT related documents.
3. Capital Requirements	Meet Capital Thresholds	CASP must meet the capital requirements depending on the services it intends to provide.
4. Local Presence	Appoint Key Personnel & Resident Directors	MiCA requires certain key management positions to be held by individuals based in Malta or another EU member state.
5. Fitness & Propriety Test	Key Persons Assessed	Directors, shareholders, and key management undergo a fitness and propriety assessment, including background checks.
6. In-Principle Approval	MFSA Grants IPA with Conditions	MFSA issues an In-Principle Approval outlining specific conditions to be fulfilled before final approval.
7. Final Licence Issuance	Fulfil In-Principle Approval Conditions & Begin Operations	Once all In-Principle Approval conditions are met, MFSA grants the final licence, allowing the entity to legally operate under MiCA.

CAPITAL REQUIREMENTS

Category	Minimum Capital Requirement	Additional Notes
Class 1	€50,000	<p>Crypto-asset service provider authorised for the following crypto- asset services:</p> <ul style="list-style-type: none">• execution of orders on behalf of clients;• placing of crypto-assets;• providing transfer services for crypto-assets on behalf of clients;• reception and transmission of orders for crypto-assets on behalf of clients;• providing advice on crypto-assets; and/or• providing portfolio management on crypto-assets.
Class 2	€125,000	<p>Crypto-asset service provider authorised for any crypto-asset services under Class 1 and:</p> <ul style="list-style-type: none">• providing custody and administration of crypto-assets on behalf of clients;• exchange of crypto-assets for funds; and/or• exchange of crypto-assets for other crypto-assets.
Class 3	€150,000	<p>Crypto-asset service provider authorised for any crypto-asset services under Class 2 and:</p> <ul style="list-style-type: none">• operation of a trading platform for crypto-assets.

PASSPORTING RIGHTS

Once licensed under MiCA in Malta, crypto-asset service providers can passport their services throughout the EU without needing additional licences in other Member States.

KEY BENEFITS OF MiCA IN MALTA

- **Experienced Regulator:** the MFSA has been regulating digital assets since 2018 under the VFA framework, which gives it a head start in understanding and implementing MiCA.
- **Fintech-Friendly Ecosystem:** Malta's well-established fintech ecosystem offers a supportive environment for crypto businesses, with access to a network of legal, regulatory, and financial experts who specialize in blockchain and digital assets.
- **EU Passporting Rights:** Once licensed under MiCA in Malta, businesses can seamlessly operate across all 27 EU Member States without the need for additional licences, offering significant market expansion opportunities.
- **Tax Incentives:** Malta may offer competitive corporate tax incentives for fintech companies, making it an attractive destination for setting up crypto businesses.

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