

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 20,774, 27 ta' Jannar, 2022

Taqsimha B

L.N. 25 of 2022

**VIRTUAL FINANCIAL ASSETS ACT
(CAP. 590)**

Virtual Financial Assets (Amendment) Regulations, 2022

IN EXERCISE of the powers conferred by article 38 of the Virtual Financial Assets Act, the Minister responsible for the regulation of financial services, acting on the advice of the Malta Financial Services Authority, has made the following regulations:-

1. The title of these regulations is the Virtual Financial Assets (Amendment) Regulations, 2022 and these regulations shall be read and construed as one with the Virtual Financial Assets Regulations, hereinafter referred to as "the principal regulations".

Citation.

S.L. 590.01.

2. Regulation 4 of the principal regulations shall be amended as follows:

Amends
regulation 4 of
the principal
regulations.

(a) in sub-regulation (2) thereof:

(i) for the words "The exemptions laid down in paragraphs (d), (f), (g) and (o)", there shall be substituted the words "The exemptions laid down in paragraphs (d), (e), (f), (g) and (o) of sub-regulation (1)"; and

(ii) immediately after the proviso thereof, there shall be added the following new provisos:

"Provided further that the applicability of the exemption laid down in sub-regulation (1)(d) shall be automatically operative in the case of a natural person:

Provided further that any person who intends to benefit from the exemptions laid down under paragraphs (d) or (e) of sub-regulation (1) shall, when requesting a determination in writing from the competent authority, provide a written declaration to the competent authority which shall include a statement on the level of activity which that person plans to conduct, whether such person will be engaging employees to carry out such activity, the business model and the identification details and address of every ultimate beneficial owner:

Provided further that, following the determination in writing from the competent authority, any person benefitting from the exemptions laid down under paragraphs (d) or (e) of sub-regulation (1) shall submit to the competent authority a written declaration, at the end of each calendar year, which shall include the following information:

(a) a statement on the level of activity carried out during the preceding year, which activity would have been licensable had that person not been exempt;

(b) whether such person engages employees to carry out such activity and, if applicable, the number of employees engaged; and

(c) a confirmation that, from the date on which such person obtained a determination in writing from the competent authority in terms of this sub-regulation, there were no changes to the business model and to the information provided to the competent authority on the ultimate beneficial owners."; and

(b) sub-regulation (3) thereof shall be deleted.

Addition of Part VI to the principal regulations.

3. Immediately after sub-regulation (2) of regulation 25 of the principal regulations, there shall be added the following new Part VI:

"Part VI

Transitory Provisions

Transitory provision.
L.N. 25 of 2022.

26. Any person, who on the date of the coming into force of the Virtual Financial Assets (Amendment) Regulations, 2022 is carrying out an activity in terms of paragraphs (d) or (e) of regulation 4(1), shall within one month from the date of coming into force of the Virtual Financial Assets (Amendment) Regulations, 2021, seek a determination in writing from the competent authority in terms of regulation 4(2) and provide the competent authority with the following information:

(a) a description of the business model;

(b) a statement on the level of activity which that person plans to conduct and the level of activity carried out during the preceding year, which activity would have been licensable had that person not been exempt;

(c) a statement on whether such person engages or will be engaging employees to carry out such activity and the number of employees such person has engaged and, or plans to engage, if applicable; and

(d) the identification details and address of the ultimate beneficial owners."
