

Suppliment tal-Gazzetta tal-Gvern ta' Malta Nru. 21,339, 5 ta' Novembru, 2024

Taqsima B

L.N. 295 of 2024

**MARKETS IN CRYPTO-ASSETS ACT
(CAP. 647)**

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

IN EXERCISE of the powers conferred by article 37(1)(a) of the Markets in Crypto-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. (1) The title of these regulations is the Markets in Crypto-Assets Act (Fees) Regulations, 2024. Citation and commencement.

(2) Regulations 3 and 6 shall come into force on 30 December 2024.

2. (1) In these regulations, unless the context otherwise requires:- Interpretation.

"Act" means the Markets in Crypto-Assets Act;

Act No. XXXVI
of 2024.

"asset-referenced token" shall have the same meaning as that assigned to it in point (6) of Article 3(1) of the MiCA Regulation;

"average outstanding asset-referenced tokens" means the average amount of outstanding asset-referenced tokens for the last six (6) calendar months which is to be calculated as follows:

(a) the daily average amount of outstanding asset-reference tokens for each of the last six (6) calendar months is to be multiplied by the number of calendar days in each of those months;

(b) the amounts resulting from the calculation set out in paragraph (a) shall be added up; and

(c) the total amount resulting from the calculation set out in paragraph (b) shall be divided by the total number of calendar days forming the six (6) calendar months referred to in paragraph (a):

Provided that the daily average amount of outstanding asset-referenced tokens for a calendar month shall be calculated as follows:

(i) the amount of outstanding asset-referenced tokens at the end of each calendar day of the preceding six (6) calendar months shall be added up; and

(ii) the amount resulting from the calculation set out in point (a) shall be divided by the total number of calendar days forming the calendar months referred to in the said paragraph;

"Class 1 crypto-asset services" means any of the following:

- (a) the execution of orders on behalf of clients;
- (b) the placement of crypto-assets;
- (c) the provision of transfer services for crypto-assets on behalf of clients;
- (d) the reception and transmission of orders for crypto-assets on behalf of clients;
- (e) the provision of advice on crypto-assets; and
- (f) the provision of portfolio management on crypto-assets;

"Class 2 crypto-asset services" means any of the following:

- (a) the provision of custody and administration of crypto-assets on behalf of clients;
- (b) the exchange of crypto-assets for funds; and
- (c) the exchange of crypto-assets for other crypto-assets;

"Class 3 crypto-asset service" means the operation of a trading platform for crypto-assets;

"competent authority" means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;

"credit institution" shall have the same meaning as that assigned to it in point (28) of Article 3(1) of the MiCA Regulation;

"crypto-asset service" shall have the same meaning as that

assigned to it in point (16) of Article 3(1) of the MiCA Regulation;

"crypto-asset service provider" shall have the same meaning as that assigned to it in point (15) of Article 3(1) of the MiCA Regulation;

"e-money token" shall have the same meaning as that assigned to it in point (7) of Article 3(1) of the MiCA 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 Regulation (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;

"transaction volume" means the aggregate of the following, as applicable:

(a) the quantity multiplied by the value, in euro, of all orders transmitted as reported in the annual return for the preceding year;

(b) the quantity multiplied by the value, in euro, of all executed orders as reported in the annual return for the preceding year;

(c) the quantity multiplied by the value, in euro, of all orders for the exchange of crypto-assets for crypto-assets other than asset-referenced tokens or for executed funds, as reported in the annual return for the preceding year; and

(d) the quantity multiplied by the value, in euro, of all orders matched on a trading platform for crypto-assets, as reported in the annual return for the preceding year.

(2) Words and expressions used in these regulations which are also used in the Act but which are not herein defined shall have the same meaning as in the Act.

Payment of fees
in relation to
crypto-assets
other than asset-
referenced
tokens or e-
money tokens.

3. (1) An offeror, a person seeking admission to trading, or an operator of trading platforms for crypto-assets other than asset-referenced tokens or e-money tokens, as applicable, upon submission of the notification of a crypto-asset white paper in accordance with Article 8(1) of the MiCA Regulation and article 6(2) of the Act, shall pay to the competent authority a notification fee of two thousand and five hundred euro (€2,500) with respect to such crypto-asset white paper.

(2) The provisions of sub-regulation (1) shall also apply where:

(a) crypto-assets, other than asset-referenced tokens or e-money tokens, were admitted to trading before 30 December 2024; and

(b) operators of trading platforms submit a notification to the competent authority of a crypto-asset white paper in accordance with Article 143(2)(b) of the MiCA Regulation and article 58(2)(b) of the Act in relation to any such crypto-asset as referred to in paragraph (a).

(3) Where a crypto-asset white paper as referred to in sub-regulation (1) is modified in accordance with Article 12 of the MiCA Regulation, the offeror, person seeking admission to trading, or operator of trading platforms for crypto-assets other than asset-referenced tokens or e-money tokens, as applicable, upon the submission of the notification of the modified crypto-asset white paper in accordance with Article 12(2) of the MiCA Regulation, shall pay to the competent authority a modification fee of one thousand euro (€1,000) with respect to such modified crypto-asset white paper.

Payment of fees
in relation to e-
money tokens.

4. (1) An issuer of e-money tokens, upon the submission of the notification of a crypto-asset white paper in accordance with Articles 48(7) or 51(11) of the MiCA Regulation and article 23(3) or (5) of the Act, as applicable, shall pay to the competent authority a notification fee of three thousand euro (€3,000) with respect to such crypto-asset white paper.

(2) Where a crypto-asset white paper as referred to in sub-regulation (1) is modified in accordance with Article 51(12) of the MiCA Regulation, the issuer of e-money tokens, upon the submission of the notification of the modified crypto-asset white paper in accordance with the said Article, shall pay to the competent authority a modification fee of one thousand euro (€1,000) with respect to such modified crypto-asset white paper.

5. (1) Credit institutions, upon the submission of a crypto-asset white paper to the competent authority for its approval in accordance with Article 17(1)(a) of the MiCA Regulation and article 10(2)(a) of the Act, shall pay to the competent authority an assessment fee of three thousand euro (€3,000) with respect to such crypto-asset white paper.

Payment of fees
in relation to
asset-referenced
tokens.

(2) Legal persons or other undertakings, other than credit institutions, that intend to offer to the public or seek the admission to trading of asset-referenced tokens, upon the submission of an application to the competent authority for authorisation in accordance with Article 18(1) of the MiCA Regulation and article 11(2) of the Act, shall pay to the competent authority an application fee of eight thousand euro (€8,000) with respect to such application.

(3) The provisions of sub-regulations (1) and (2) shall also apply where issuers that issued asset-referenced tokens before 30 June 2024 in accordance with the applicable law submit to the competent authority, in accordance with Article 143(4) or (5) of the MiCA Regulation and article 58(3) or (4) of the Act, as applicable:

(a) a crypto-asset white paper for its approval in accordance with Article 17(1)(a) of the MiCA Regulation and article 10(2)(a) of the Act; or

(b) an application for authorisation in accordance with Article 18(1) of the MiCA Regulation and article 11(2) of the Act.

(4) Without prejudice to sub-regulations (1) to (3), with respect to crypto-asset white papers as referred to in sub-regulation (1) and applications as referred to in sub-regulation (2) submitted to the competent authority in accordance with the relevant provisions prior to the coming into force of these regulations, and which remain pending upon the coming into force of the said regulations, the applicable assessment or application fee shall be paid to the competent authority within one (1) month from the day of the coming into force of the said regulations.

(5) Issuers of asset-referenced tokens that have been authorised under Article 18 of the MiCA Regulation and article 11 of the Act in relation to one (1) asset-referenced token, upon the submission of an application to the competent authority for authorisation in accordance with the said provisions in relation to another asset-referenced token, shall pay to the competent authority an application fee of three thousand euro (€3,000) with respect to such application.

(6) Where a crypto-asset white paper drawn up by an issuer of

asset-referenced tokens is modified in accordance with Article 25(2) of the MiCA Regulation, such issuer, upon the submission of the notification of the modified crypto-asset white paper in accordance with the said Article, shall pay to the competent authority a modification fee of one thousand euro (€1,000) with respect to such modified crypto-asset white paper.

(7) Issuers of asset-referenced tokens that have been authorised in accordance with Article 21 of the MiCA Regulation and article 11 of the Act or granted approval in accordance with Article 17(1)(a) of the said Regulation and article 10(2)(a) of the said Act shall, subject to the provisions of sub-regulation (9), pay to the competent authority an annual supervisory fee which amounts to zero point zero one per cent (0.01%) of the average outstanding asset-referenced tokens up to a maximum of two hundred and fifty thousand euro (€250,000):

Provided that where such amount is less than two thousand euro (€2,000) for a particular year, the annual supervisory fee due for that year shall be two thousand euro (€2,000).

(8) Notwithstanding sub-regulation (7), the first annual supervisory fee due to the competent authority shall be the aggregate of the following:

(a) eight thousand euro (€8,000) prorated according to the period remaining between the date when an issuer of asset-referenced tokens is authorised or granted approval, as applicable, in accordance with the relevant provisions of the MiCA Regulation and the Act, and the end of the calendar year in which such authorisation or approval was granted; and

(b) eight thousand euro (€8,000) prorated according to the period between the start of the following calendar year and the date when the next supervisory fee is due in accordance with sub-regulation (9).

(9) The first annual supervisory fee due in accordance with sub-regulation (8) shall be paid to the competent authority on the date when an issuer of asset-referenced tokens is granted authorisation or approval, as applicable, in accordance with the relevant provisions of the MiCA Regulation and the Act, and every annual supervisory fee following the first annual supervisory fee which is due in accordance with sub-regulation (7) shall be paid to the competent authority on the 30th July of each calendar year.

6. (1) Where a legal person or undertaking submits an application to the competent authority to act as a crypto-asset service provider in accordance with Article 62(1) of the MiCA Regulation and article 28(2) of the Act, upon submission of such application, shall pay to the competent authority the following application fee, as applicable, with respect to such application:

Payment of fees in relation to crypto-asset service providers.

(a) where such legal person or undertaking intends to provide any one (1) or more Class 1 crypto-asset services, ten thousand euro (€10,000);

(b) where such legal person or undertaking intends to provide any one (1) or more Class 2 crypto-asset services, twenty thousand euro (€20,000); or

(c) where such legal person or undertaking intends to provide a Class 3 crypto-asset service, twenty-five thousand euro (€25,000):

Provided that where such legal person or undertaking intends to provide crypto-asset services falling under different Classes, only the highest application fee applicable with respect to those crypto-asset services shall apply.

(2) Where a VFA service provider submits an application to the competent authority to act as a crypto-asset service provider in accordance with Article 62(1) of the MiCA Regulation and article 28(2) of the Act between 30 December 2024 and 1 July 2026, upon submission of such application, it shall pay to the competent authority the following application fee, as applicable, with respect to such application:

(a) where such VFA service provider intends to provide any one (1) or more Class 1 crypto-asset services, five thousand euro (€5,000);

(b) where such VFA service provider intends to provide any one (1) or more Class 2 crypto-asset services, ten thousand euro (€10,000); or

(c) where such VFA service provider intends to provide a Class 3 crypto-asset service, twelve thousand and five hundred euro (€12,500):

Provided that where such VFA service provider intends to provide crypto-asset services falling under different Classes, only the highest application fee applicable with respect to those crypto-asset services shall apply:

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Provided further that for the purposes of this sub-regulation, "VFA service provider" means any person who, on 30 December 2024, is licensed in accordance with the Virtual Financial Assets Act to provide, or hold themselves out as providing, one or more VFA services as defined in the said Act.

(3) Where a legal person or undertaking authorised to act as a crypto-asset service provider under Article 63 of the MiCA Regulation and article 28 of the Act intends to provide one (1) or more crypto-asset services in addition to those which it is authorised to provide, it shall, upon the submission of an application to the competent authority to modify its authorisation accordingly, pay to the competent authority the application fee established in sub-regulation (1), as applicable, which application fee shall be reduced by twenty-five per cent (25%).

(4) Where a legal person or undertaking authorised to act as a crypto-asset service provider under Article 63 of the MiCA Regulation and article 28 of the Act, intends to stop providing one (1) or more, but not all, of the crypto-asset services which it is authorised to provide, it shall, upon the submission of a request to the competent authority to modify its authorisation accordingly, pay to the competent authority a modification fee of one thousand euro (€1,000).

(5) A legal person or undertaking authorised to act as a crypto-asset service provider under Article 63 of the MiCA Regulation and article 28 of the Act shall, subject to the provisions of sub-regulation (7), pay to the competent authority an annual supervisory fee which shall be the aggregate of the following, as applicable:

(a) where such legal person or undertaking is authorised to provide:

(i) any one (1) or more Class 1 crypto-asset services, ten thousand euro (€10,000);

(ii) any one (1) or more Class 2 crypto-asset services, twenty-five thousand euro (€25,000); or

(iii) a Class 3 crypto-asset service, fifty thousand euro (€50,000):

Provided that where such legal person or undertaking is authorised to provide crypto-asset services falling under different Classes on the date when the annual supervisory fee is due in accordance with sub-regulation (7), only the highest amount applicable with respect to those crypto-asset services shall apply; and

(b) two thousand euro (€2,000) for every service which such legal person or undertaking is authorised to provide on the date when the annual supervisory fee is due in accordance with sub-regulation (7); and

(c) zero point zero five per cent (0.05%) of the transaction volume of such person up to a maximum of two hundred and fifty thousand euro (€250,000).

(6) Notwithstanding sub-regulation (5), the first annual supervisory fee due to the competent authority shall be the aggregate of the following:

(a) the fees established in paragraphs (a) and (b) of sub-regulation (5), as applicable, prorated according to the period remaining between the date when a legal person or undertaking is granted authorisation to act as a crypto-asset service provider under the MiCA Regulation and the Act, and the end of the calendar year in which such authorisation was granted; and

(b) the fees established in paragraphs (a) and (b) of sub-regulation (5), as applicable, prorated according to the period between the start of the following calendar year and the date when the next supervisory fee is due in accordance with sub-regulation (7).

(7) The first annual supervisory fee due in accordance with sub-regulation (6) shall be paid to the competent authority on the date when a legal person or undertaking is granted authorisation to act as a crypto-asset service provider under the MiCA Regulation and the Act, and every annual supervisory fee following the first annual supervisory fee which is due in accordance with sub-regulation (5) shall be paid to the competent authority on the 30th July of each calendar year.

7. (1) The fees established and due in terms of these regulations shall not be refundable.

Fees not
refundable nor
prorated.

(2) Without prejudice to regulations 5(8) and 6(6), the fees established and due in terms of these regulations shall not be prorated.
