CHAPTER 647

MARKETS IN CRYPTO- ASSETS ACT

AN ACT to provide for the establishment of a framework for the requirements applicable to offers to the public and admission to trading on a trading platform of asset-referenced tokens, e-money tokens, other crypto-assets, and the requirements applicable to crypto-asset service providers.

30th June, 2024

ACT XXXVI of 2024, as amended by Act XI of 2025.

ARRANGEMENT OF THE ACT

Articles

PART I
PRELIMINARY

Short title and scope.

1. (1) The short title of this Act is the Markets in Crypto-Assets Act.

(2) The principal scope of this Act is to implement the relevant provisions 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, and it shall be interpreted and applied accordingly.

Interpretation.

2. (1) In this Act, unless the context otherwise requires:

"AIFs" shall have the same meaning as that assigned to it in paragraph (a) of Article 4(1) of Directive 2011/61/EU;

"alternative investment fund manager" shall have the same meaning as that assigned to it in point (48) of Article 3(1) of the MiCA Regulation and shall include investment services licence holders licensed in accordance with the Investment Services Act to carry out the investment service referred to in item 4 of the First Schedule of the said Act in relation to AIFs;

Cap. 370.

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

"binding legal instruments" means any directly applicable measures, including but not limited to, any implementing technical standards, regulatory technical standards or similar measures, issued in accordance with European Union legislation;

"Central Bank" means the Central Bank of Malta as defined in the Central Bank of Malta Act;

Cap. 204.

"central securities depository" shall have the same meaning as that assigned to it in point (1) of Article 2(1) of Regulation (EU) No. 909/2014;

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

Cap. 330.

"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" shall have the same meaning as that assigned to it in point (5) 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;

"Directive 2009/65/EC" means Directive 2009/65/EC of the European Parliament and of the Council of 13 July 2009 on the coordination of laws, regulations and administrative provisions relating to undertakings for collective investment in transferable securities (UCITS), 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;

"Directive 2011/61/EU" means Directive 2011/61/EU of the European Parliament and of the Council of 8 June 2011 on Alternative Investment Fund Managers and amending Directives 2003/41/EC and 2009/65/EC and Regulations (EC) No. 1060/2009 and (EU) No. 1095/2010, 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;

"Directive 2013/34/EU" means Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC, 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;

"Directive 2014/65/EU" means Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU, 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;

"Directive (EU) 2015/849" means Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, amending Regulation (EU) No. 648/2012 of the European Parliament and of the Council, and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, as may be amended from time to time, and includes any implementing measures, implementing technical standards, regulatory technical standards, guidelines and similar measures that have been or may be issued thereunder;

"Directive (EU) 2015/2366" means Directive (EU) 2015/2366 of the European Parliament and of the Council of 25 November 2015 on payment services in the internal market, amending Directives 2002/65/EC, 2009/110/EC and 2013/36/EU and Regulation (EU) No. 1093/2010, and repealing

Directive 2007/64/EC, 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;

"EBA" means the European Banking Authority established by Regulation (EU) No. 1093/2010;

"European Central Bank" or "ECB" means the European Central Bank established by the Treaty on the Functioning of the European Union;

"electronic money institution" shall have the same meaning as that assigned to it in point (43) of Article 3(1) of the MiCA Regulation and shall include financial institutions authorised to issue electronic money in accordance with the
Cap. 376. Financial Institutions Act;

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

"ESMA" means the European Securities and Markets Authority established by Regulation (EU) No. 1095/2010;

"European regulatory authority" means a body or bodies designated by a Member State other than Malta in accordance with Article 93(1) of the MiCA Regulation for the purpose of carrying out the functions and duties provided for under the said Regulation;

"Financial Intelligence Analysis Unit" means the Financial Intelligence Analysis Unit as established by article
Cap. 373. 15 of the Prevention of Money Laundering Act;

"GDPR" means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), 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;

"home Member State" shall have the same meaning as that assigned to it in point (33) of Article 3(1) of the MiCA Regulation;

"host Member State" shall have the same meaning as that assigned to it in point (34) of Article 3(1) of the MiCA Regulation;

"investment firm" shall have the same meaning as that assigned to it in point (29) of Article 3(1) of the MiCA Regulation and shall include investment services licence holders licensed in accordance with the Investment Services Act to carry out any of the investment services referred to in items 1 to 4, 6 to 9 and 11 of the First Schedule of the said Act in relation to an instrument as defined in the Investment Services Act; Cap. 370.

"issuer" shall have the same meaning as that assigned to it in point (10) of Article 3(1) of the MiCA Regulation;

"market operator" shall have the same meaning as that assigned to it in point (18) of Article 4(1) of Directive 2014/65/EU and shall include investment services licence holders licensed in accordance with the Investment Services Act to carry out the investment services referred to in item 9 of the First Schedule of the said Act in relation to an instrument as defined in the Investment Services Act; Cap. 370.

"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;

"Minister" means the Minister responsible for the regulation of financial services;

"offeror" shall have the same meaning as that assigned to it in point (13) of Article 3(1) of the MiCA Regulation;

"qualified investor" shall have the same meaning as that assigned to it in point (30) of Article 3(1) of the MiCA Regulation;

"Regulation (EU) No. 1093/2010" means Regulation (EU) No. 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Banking Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/78/EC, 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;

"Regulation (EU) No. 1095/2010" means Regulation (EU) No. 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European

Supervisory Authority (European Securities and Markets Authority), amending Decision No. 716/2009/EC and repealing Commission Decision 2009/77/EC, 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;

"Regulation (EU) No. 909/2014" means Regulation (EU) No. 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No. 236/2012, 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;

"Rules" refers to Rules which may be issued by the competent authority in accordance with this Act;

Cap. 370.

"UCITS" shall have the same meaning as that assigned to it in article 2(1) of the Investment Services Act;

Cap. 370.

"UCITS management company" shall have the same meaning as that assigned to it in point (47) of Article 3(1) of the MiCA Regulation and shall include investment services licence holders licensed in accordance with the Investment Services Act to carry out the investment service referred to in item 4 of the First Schedule of the said Act in relation to UCITS in the form of common funds or of investment companies.

(2) Unless the context otherwise requires, the words used in this Act which are not defined herein shall have the same meaning as assigned to them in the MiCA Regulation.

(3) In this Act, and in any regulations made thereunder, where there are any conflicts between the English and the Maltese texts, the English text shall prevail.

(4) In the event that there is any conflict between this Act and the provisions of the MiCA Regulation, the provisions of the MiCA Regulation shall prevail.

Applicability.

3. (1) The provisions of this Act and any regulations made, or Rules issued thereunder shall not apply to:

(a) persons who provide crypto-asset services exclusively for their parent companies, for their own subsidiaries or for other subsidiaries of their parent companies;

(b) a liquidator or an administrator acting in the course of an insolvency procedure, except for the purposes of Article 47 of the MiCA Regulation and article 21;

(c) the ECB, central banks of the Member States when acting in their capacity as monetary authorities, or other public authorities of the Member States;

(d) the European Investment Bank and its subsidiaries;

(e) the European Financial Stability Facility and the European Stability Mechanism; and

(f) public international organisations.

(2) The provisions of this Act and any regulations made, or Rules issued thereunder shall not apply to crypto-assets that are unique and not fungible with other crypto-assets.

(3) The provisions of this Act and any regulations made, or Rules issued thereunder shall not apply to crypto-assets that qualify as one or more of the following:

(a) financial instruments;

(b) deposits, including structured deposits;

(c) funds, except if they qualify as e-money tokens;

(d) securitisation positions in the context of a securitisation as defined in Article 2, point (1), of Regulation (EU) 2017/2402;

(e) non-life or life insurance products falling within the classes of insurance listed in Annexes I and II to Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II) or reinsurance and retrocession contracts referred to in such Directive;

(f) pension products that under national law are recognised as having the primary purpose of providing the investor with an income in retirement and that entitle the investor to certain benefits;

(g) officially recognised occupational pension schemes falling within the scope of Directive (EU) 2016/2341 of the European Parliament and of the Council of 14 December 2016 on the activities and supervision of institutions for occupational retirement provision (IORPs) or Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance;

(h) individual pension products for which a financial contribution from the employer is required by national law and where the employer or the employee has no choice as to the pension product or provider;

(i) a pan-European Personal Pension Product as defined in point 2 of Article 2 of Regulation (EU) 2019/1238 of the European Parliament and of the Council of 20 June 2019 on a pan-European Personal Pension Product (PEPP); and

(j) social security schemes covered by Regulation (EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems and Regulation (EC) No. 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No. 883/2004 on the coordination of social security systems.

The competent authority.

4. (1) The competent authority shall carry out its functions under this Act and in particular shall ensure compliance with the provisions of the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder.

(2) The competent authority shall also carry out the functions and duties as competent authority for all purposes of the MiCA Regulation.

PART II
CRYPTO-ASSETS OTHER THAN ASSET-REFERENCED TOKENS OR E-MONEY TOKENS

Approval of crypto-asset white papers and market communications is not required.

5. The competent authority shall not require the prior approval of crypto-asset white papers drawn up by persons intending to make an offer to the public or seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens in the European Union, nor of any marketing communications relating thereto, before their respective publication.

Notification of the crypto-asset white paper.

6. (1) The provisions of this article shall only apply where Malta is the home Member State.

(2) Offerors, persons seeking admission to trading, or operators of trading platforms for crypto-assets other than asset-referenced tokens or e-money tokens shall notify their crypto-asset white paper to the competent authority.

(3) Offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens shall, together with the notification referred to in sub-article (2), provide the competent authority with a list of the host Member States, if any, where they intend to offer their crypto-assets to the public, or intend to seek admission to trading and they shall inform the competent authority of the starting date of the intended offer to the public or intended

admission to trading and of any change to that date:

Provided that the competent authority shall notify the single point of contact of the host Member States of the intended offer to the public or the intended admission to trading and communicate to that single point of contact the corresponding crypto-asset white paper within five (5) working days of receipt of the list of host Member States referred to in this sub-article.

(4) The notification of the crypto-asset white paper referred to in sub-article (2) shall be accompanied by an explanation of why the crypto-asset described in the crypto-asset white paper should not be considered to be:

(a) a crypto-asset excluded from the scope of the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder pursuant to Article 2(4) of the MiCA Regulation and article 3(3) of this Act;

(b) an e-money token; or

(c) an asset-referenced token.

(5) The notification and explanation referred to in sub-articles (2) and (4) respectively shall be notified to the competent authority at least twenty (20) working days before the date of publication of the crypto-asset white paper.

Marketing communications.

7. (1) Where Malta is the home Member State or the host Member State, marketing communications shall upon request, be notified to the competent authority when addressing prospective holders of crypto-assets other than asset-referenced tokens or e-money tokens in Malta.

(2) When marketing communications are disseminated in Malta, the competent authority shall have the power to assess their compliance with Article 7(1) of the MiCA Regulation in respect of those marketing communications.

Notification of exemption.

8. (1) The provisions of this article shall only apply where Malta is the home Member State.

(2) Where for each twelve (12) month period starting from the beginning of the initial offer to the public, the total consideration of an offer to the public of a crypto-asset, other than an asset-referenced token or e-money token, in the European Union exceeds one million euro (€1,000,000), the offeror shall send a notification to the competent authority containing a description of the offer and explaining why the offer is exempt from the provisions of Title II of the MiCA Regulation and Part II of this Act pursuant to paragraph (d) of Article 4(3) of the MiCA Regulation:

Provided that for the purposes of this sub-article, a "crypto-asset, other than an asset-referenced token or e-money token" means a crypto-asset, other than an asset-referenced token or e-money token, which grants its holder the right to use it only in exchange for goods and services in a limited network of merchants with contractual arrangements with the offeror.

(3) Based on the notification referred to in sub-article (2), the competent authority shall take a duly justified decision where it considers that the activity does not qualify for an exemption as a limited network in accordance with Article 4(3)(d) of the MiCA Regulation, and shall inform the offeror accordingly.

PART III
ASSET-REFRENCED TOKENS

Authorisation to offer asset-referenced tokens to the public or seek their admission to trading.

9. (1) A person shall not make an offer to the public, or seek the admission to trading of an asset-referenced token in Malta, unless that person is the issuer of that asset-referenced token and is:

(a) a legal person or other undertaking that is established in the European Union and has been authorised in accordance with Article 21 of the MiCA Regulation by the competent authority of its home Member State; or

(b) a credit institution that complies with Article 17 of the MiCA Regulation:

Provided that for the purposes of paragraph (a), other undertakings may issue asset-referenced tokens only if their legal form ensures a level of protection for third parties' interests equivalent to that afforded by legal persons and if they are subject to equivalent prudential supervision appropriate to their legal form.

(2) Notwithstanding the provisions of sub-article (1), upon the written consent of the issuer of an asset-referenced token, other persons may offer to the public or seek the admission to trading of that asset-referenced token:

Provided that the persons referred to in this sub-article shall comply with Articles 27, 29 and 40 of the MiCA Regulation and article 16.

(3) The provisions of sub-articles (1) and (2) shall not apply where:

(a) over a period of twelve (12) months, calculated at the end of each calendar day, the average outstanding value of the asset-referenced token issued by an issuer never exceeds five million euro (€5,000,000), or the equivalent amount in another official currency, and the issuer is not linked to a network of other exempt issuers; or

(b) the offer to the public of the asset-referenced token is addressed solely to qualified investors and the asset-referenced token can only be held by such qualified investors:

Provided that where this sub-article applies, issuers of asset-referenced tokens shall draw up a crypto-asset white paper as provided for in Article 19 of the MiCA Regulation and notify such crypto-asset white paper, and upon request, any marketing communications to the competent authority where Malta is the home Member State.

Requirements for credit institutions to offer asset-referenced tokens to the public or seek their admission to trading.
Cap. 371.

10. (1) For the purposes of this article, "credit institution" means a credit institution which is licensed as such under the Banking Act.

(2) An asset-referenced token issued by a credit institution may be offered to the public or admitted to trading if the credit institution:

(a) draws up a crypto-asset white paper as referred to in Article 19 of the MiCA Regulation for the asset-referenced token, submits such crypto-asset white paper for approval by the competent authority of its home Member State in accordance with the procedure set out in the regulatory technical standards adopted pursuant to Article 17(8) of the MiCA Regulation, and has the crypto-asset white paper approved by the competent authority; and

(b) notifies the competent authority, at least ninety (90) working days before issuing the asset-referenced token for the first time, by providing it with the following information:

(i) a programme of operations, setting out the business model that the credit institution intends to follow;

(ii) a legal opinion that the asset-referenced token does not qualify as either a crypto-asset excluded from the scope of the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder pursuant to Article 2(4) of the MiCA Regulation and article 3(3) of this Act;

(iii) a detailed description of the governance arrangements referred to in Article 34(1) of the MiCA Regulation;

(iv) the policies and procedures listed in the first sub-paragraph of Article 34(5) of the MiCA Regulation;

(v) a description of the contractual

arrangements with third-party entities as referred to in the second sub- paragraph of Article 34(5) of the MiCA Regulation;

(vi) a description of the business continuity policy referred to in Article 34(9) of the MiCA Regulation;

(vii) a description of the internal control mechanisms and risk management procedures referred to in Article 34(10) of the MiCA Regulation; and

(viii) a description of the systems and procedures in place to safeguard the availability, authenticity, integrity and confidentiality of data referred to in Article 34(11) of the MiCA Regulation.

(3) Notwithstanding the provisions of sub-article (2), a credit institution that has previously notified the competent authority in accordance with sub-article (2)(b), when issuing another asset-referenced token, shall not be required to submit any information that was previously submitted by it to the competent authority where such information would be identical:

Provided that when submitting the information listed in sub-article (2)(b), the credit institution shall expressly confirm that any information not resubmitted in accordance with this sub-article is still up-to-date.

(4) When receiving a notification as referred to in sub-article (2)(b), the competent authority shall, within twenty (20) working days of receipt of the information listed in the said sub-article, assess whether the information required under that paragraph has been provided.

(5) Where the competent authority concludes, following the assessment carried out in accordance with sub-article (4), that a notification is not complete because some information is missing, it shall immediately inform the notifying credit institution thereof and set a deadline by which that credit institution is required to provide the missing information:

Provided that the deadline for providing any missing information shall not exceed twenty (20) working days from the date of the request and, until the expiry of such deadline, the period set out in sub-article (2)(b) shall be suspended.

(6) Without prejudice to the provisions of sub-article (5), any further request by the competent authority for completion or clarification of the information provided in terms of this article shall be at its discretion but shall not result in a suspension of the period set out

in sub-article (2)(b).

(7) The credit institution shall not make an offer to the public or seek the admission to trading of the asset-referenced token as long as the notification referred to in sub-article (2)(b) is incomplete.

(8) The competent authority shall communicate to the ECB without delay the complete information received under sub-article (2) and, where the credit institution is established in a Member State whose official currency is not the euro or where an official currency of a Member State that is not the euro is referenced by the asset-referenced token, also to the Central Bank.

(9) The ECB and, where applicable, the Central Bank shall within twenty (20) working days of receipt of the complete information in accordance with sub-article (8), issue an opinion on that information and transmit that opinion to the competent authority.

(10) The competent authority shall require the credit institution not to offer to the public or seek the admission to trading of the asset-referenced token in cases where the ECB or, where applicable, the Central Bank, give a negative opinion on the grounds of a risk posed to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty.

11. (1) The provisions of this article shall only apply when Malta is the home Member State. Application for authorisation.

(2) Legal persons or other undertakings that intend to offer to the public or seek the admission to trading of asset-referenced tokens shall submit their application for an authorisation as referred to in article 9 to the competent authority.

(3) Without prejudice to Article 18(6) and (7) of the MICA Regulation, the application referred to in sub-article (2) shall contain all of the following information:

(a) the address of the applicant;

(b) the legal entity identifier of the applicant;

(c) the articles of association of the applicant, where applicable;

(d) a programme of operations, setting out the business model that the applicant intends to follow;

(e) a legal opinion that the asset-referenced token does not qualify as either of the following:

(i) a crypto-asset excluded from the scope of the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder pursuant to Article 2(4) of the MiCA Regulation and article 3(3) of this Act; or

(ii) an e-money token;

(f) a detailed description of the applicant's governance arrangements as referred to in Article 34(1) of the MiCA Regulation;

(g) where cooperation arrangements with specific crypto-asset service providers exist, a description of their internal control mechanisms and procedures to ensure compliance with the obligations in relation to the prevention of money laundering and terrorist financing under Directive (EU) 2015/849;

(h) the identity of the members of the management body of the applicant;

(i) proof that the persons referred to in paragraph (h) are of sufficiently good repute and possess the appropriate knowledge, skills and experience to manage the applicant;

(j) proof that any shareholder or member, whether direct or indirect, that has a qualifying holding in the applicant is of sufficiently good repute;

(k) a crypto-asset white paper as referred to in Article 19 of the MiCA Regulation;

(l) the policies and procedures referred to in the first sub-paragraph of Article 34(5) of the MiCA Regulation;

(m) a description of the contractual arrangements with the third-party entities as referred to in the second sub-paragraph of Article 34(5) of the MiCA Regulation;

(n) a description of the applicant's business continuity policy referred to in Article 34(9) of the MiCA Regulation;

(o) a description of the internal control mechanisms and risk management procedures referred to in Article 34(10) of the MiCA Regulation;

(p) a description of the systems and procedures in place to safeguard the availability, authenticity, integrity and confidentiality of data as referred to in Article 34(11) of the MiCA Regulation;

(q) a description of the applicant's complaints-handling procedures as referred to in Article 31 of the MiCA Regulation; and

(r) where applicable, a list of host Member States where the applicant intends to offer the asset-referenced token to the public or intends to seek admission to trading of the asset- referenced token.

(4) For the purposes of sub-article (3)(i) and (j), the applicant shall provide proof of all of the following:

(a) for all members of the management body, the absence of a criminal record in respect of convictions or the absence of penalties imposed under the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering and counter-terrorist financing, to fraud or to professional liability;

(b) that the members of the management body of the applicant of the asset-referenced token collectively possess the appropriate knowledge, skills and experience to manage the issuer of the asset-referenced token and that such persons are required to commit sufficient time to perform their duties; and

(c) for all shareholders and members, whether direct or indirect, that have qualifying holdings in the applicant, the absence of a criminal record in respect of convictions and the absence of penalties imposed under the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering and counter-terrorist financing, to fraud or to professional liability.

(5) Notwithstanding the provisions of sub-article (3), issuers that have already been authorised in respect of one (1) asset-referenced token shall not be required to submit, for the purposes of authorisation in respect of another asset-referenced token, any information that was previously submitted by them to the competent authority where such information would be identical:

Provided that when submitting the information listed in sub-article (3), the issuer shall expressly confirm that any information not resubmitted is still up to date.

(6) The competent authority shall promptly, and in any event within two (2) working days of receipt of an application referred to in sub-article (2), acknowledge receipt thereof in writing to the applicant.

(7) The competent authority shall, within twenty-five (25) working days of receipt of the application referred to in sub-article (2), assess whether that application, including the crypto-asset white paper referred to in Article 19 of the MiCA Regulation, comprises all

of the required information and it shall immediately notify the applicant whether the application, including the crypto-asset white paper, is missing required information:

Provided that where the application, including the crypto-asset white paper, is not complete, the competent authority shall set a deadline by which the applicant is to provide any missing information.

(8) The competent authority shall, within sixty (60) working days of receipt of a complete application, assess whether the applicant complies with the requirements of Title III of the MiCA Regulation and the provisions of this Part, and prepare a fully reasoned draft decision granting or refusing authorisation to offer asset-referenced tokens to the public or seek their admission to trading:

Provided that, within the period referred to in this sub-article, the competent authority may request from the applicant any information on the application, including on the crypto-asset white paper referred in Article 19 of the MiCA Regulation:

Provided further that for the purposes of the assessment to be carried out in accordance with this sub-article, the competent authority may cooperate with competent authorities for anti-money laundering and counter-terrorist financing, financial intelligence units or other public bodies.

(9) The assessment periods referred to in sub-articles (7) and (8) shall be suspended for the period between the date of request for missing information by the competent authority and the receipt by the said competent authority of a response from the applicant:

Provided that the suspension referred to in this sub-article shall not exceed twenty (20) working days.

(10) Without prejudice to the provisions of sub-article (9), any further requests by the competent authority for completion or clarification of the information provided in terms of this article shall be at its discretion but shall not result in a suspension of the assessment periods set out in sub-articles (7) and (8).

(11) The competent authority shall, after the period referred to in sub-article (8), transmit its draft decision as referred to in the said sub-article and the relative application to the EBA, ESMA and the ECB:

Provided that where an official currency of a Member State that is not the euro is referenced by the asset-referenced token, the competent authority shall also transmit its draft decision and the application to the central bank of such Member State.

(12) The opinion to be issued by the EBA and ESMA

respectively, at the request of the competent authority, as regards their evaluation of the legal opinion referred to in Article 18(2)(e) of the MiCA Regulation and sub-article (3)(e), shall be transmitted to the competent authority within twenty (20) working days of receipt of the draft decision referred to in sub-article (8) and the relative application.

(13) The opinion to be issued by the ECB or, where applicable, the central bank referred to in sub-article (11) as regards its evaluation of the risks that issuing such asset-referenced token might pose to financial stability, the smooth operation of payment systems, monetary policy transmission and monetary sovereignty, in accordance with Article 21(5) of the MiCA Regulation, shall be transmitted to the competent authority within twenty (20) working days of receipt of the draft decision referred to in sub-article (8) and the relative application.

(14) Without prejudice to the provisions of sub-article (11), the opinions referred to in sub-articles (12) and (13) shall be non-binding:

Provided that the competent authority shall duly consider the opinions referred to in this sub-article.

(15) The competent authority shall, within twenty-five (25) working days of receipt of the opinions referred to in sub-articles (12) and (13), take a fully reasoned decision to grant or refuse to grant to the applicant authorisation to offer asset-referenced tokens to the public or seek their admission to trading and, within five (5) working days of taking such decision, notify it to the applicant:

Provided that where an applicant is authorised, its crypto-asset white paper shall be deemed to be approved.

(16) In granting an authorisation under this article, the competent authority may subject the issuer of an asset-referenced token to such conditions as it may deem appropriate and having granted such an authorisation, it may from time to time, vary or revoke any condition so imposed or impose new conditions.

Refusal of the authorisation.

12. (1) The competent authority shall refuse to grant authorisation under Article 21 of the MiCA Regulation and article 11, to offer asset-referenced tokens to the public or seek their admission to trading where there are objective and demonstrable grounds that:

(a) the management body of the applicant may pose a threat to its effective, sound and prudent management and business continuity and to the adequate consideration of the interest of its clients and the integrity of the market;

(b) members of the management body of the applicant do not meet the criteria set out in Article 34(2) of the MiCA Regulation;

(c) shareholders and members, whether direct or indirect, of the applicant that have qualifying holdings who do not meet the criteria of sufficiently good repute set out in Article 34(4) of the MiCA Regulation;

(d) the applicant fails to meet or is likely to fail to meet any of the requirements of Title III of the MiCA Regulation or the provisions of this Part; and, or

(e) the applicant's business model may pose a serious threat to market integrity, financial stability, the smooth operation of payment systems, or exposes the issuer or the sector to serious risks of money laundering and terrorist financing.

(2) The competent authority shall also refuse to grant authorisation under Article 21 of the MiCA Regulation and article 11 to offer asset-referenced tokens to the public or seek their admission to trading if the ECB or, where applicable, the central bank referred to in article 11(11) gives a negative opinion under Article 20(5) of the MiCA Regulation and article 12(13) on the grounds of a risk posed to the smooth operation of payment systems, monetary policy transmission, or monetary sovereignty.

Withdrawal of the authorisation.

13. (1) The competent authority shall withdraw an authorisation granted under Article 21 of the MiCA Regulation and article 11 to an issuer of an asset-referenced token in any of the following situations:

(a) the issuer has ceased to engage in business for six (6) consecutive months, or has not used its authorisation for twelve (12) consecutive months;

(b) the issuer has obtained its authorisation by irregular means, such as by making false statements in the application for authorisation referred to in Article 18 of the MiCA Regulation and article 11 or in any crypto-asset white paper modified in accordance with Article 25 of the MiCA Regulation and article 15;

(c) the issuer no longer meets the conditions under which the authorisation was granted;

(d) the issuer has seriously infringed the provisions of Title III of the MiCA Regulation and, or the provisions of this Part;

(e) the issuer has been subject to a redemption plan;

(f) the issuer has expressly renounced its authorisation or has decided to cease operations; and, or

(g) the issuer's activity poses a serious threat to market integrity, financial stability, the smooth operation of payment systems, or exposes the issuer, or the sector to serious risks of money laundering and terrorist financing:

Provided that the issuer of the asset-referenced token authorised under Article 21 of the MiCA Regulation and article 11 shall notify the competent authority of any of the situations referred to in paragraphs (e) and (f) of this sub-article.

(2) Without prejudice to sub-articles (1) and (3), the competent authority shall withdraw an authorisation granted under Article 21 of the MiCA Regulation and article 11 to an issuer of an asset-referenced token when the ECB or, where applicable, the central bank referred to in article 11(11) issue an opinion that the asset-referenced token poses a serious threat to the smooth operation of payment systems, monetary policy transmission or monetary sovereignty.

(3) Without prejudice to sub-articles (1) and (2), the competent authority shall withdraw an authorisation granted under Article 21 of the MiCA Regulation and article 11 to an issuer of an asset-referenced token where it is of the opinion that the situations referred to in Article 24(4) of the MiCA Regulation affect the good repute of the members of the management body of that issuer, or the good repute of any shareholders or members, whether direct or indirect, of the issuer that have qualifying holdings, or if there is an indication of a failure of the governance arrangements, or internal control mechanisms as referred to in Article 34 of the MiCA Regulation:

Provided that when an authorisation is withdrawn in terms of this sub-article, the issuer of the asset-referenced token shall implement the procedure under Article 47 of the MiCA Regulation and article 21.

Notice of proposed refusal, variation, or withdrawal of an authorisation.

14. (1) Where the competent authority proposes to:

(a) refuse an application for authorisation submitted to the competent authority in accordance with the provisions of Article 21 of the MiCA Regulation and article 11, or to withdraw the authorisation granted to an issuer of an asset-referenced token under the said provisions; or

(b) vary any condition to which an authorisation granted under Article 21 of the MiCA Regulation and article 11 is subject, or impose a condition thereon,

it shall give the applicant or the issuer of an asset-referenced token, as applicable, notice in writing of its intention to do so, while setting out the reasons for the decision it proposes to take.

(2) Every notice given under sub-article (1) shall state that the recipient of such notice may, within a reasonable period after the

service thereof as may be stated in the notice, make representations in writing to the competent authority in which he gives the reasons why the proposed decision should not be taken, and the competent authority shall consider any representation so made before reaching a final decision.

(3) Subject to the provisions of Article 21 of the MiCA Regulation and article 11, the competent authority shall as soon as practicable notify its final decision in writing to any of the persons to whom notice is to be given under sub-article (1).

Modification of published crypto-assets white papers for asset-referenced tokens.

15. (1) The provisions of this article shall only apply when Malta is the home Member State.

(2) Issuers of asset-referenced tokens shall notify the competent authority of any intended change of their business model likely to have a significant influence on the purchase decision of any holders or prospective holders of asset-referenced tokens, which occurs after the authorisation pursuant to Article 21 of the MiCA Regulation and article 11, or after the approval of the crypto-asset white paper pursuant to Article 17 of the MiCA Regulation and article 10, as well as in the context of Article 23 of the MiCA Regulation:

Provided that the competent authority shall be notified of the intended changes referred to in this sub-article at least thirty (30) working days before the said changes take effect.

(3) The changes referred to in sub-article (2) shall include, amongst others, any material modifications to:

(a) the governance arrangements, including reporting lines to the management body and risk management framework;

(b) the reserve assets and the custody of the reserve assets;

(c) the rights granted to the holders of asset-referenced tokens;

(d) the mechanism through which an asset-referenced token is issued and redeemed;

(e) the protocols for validating the transactions in asset- referenced tokens;

(f) the functioning of issuers' proprietary distributed ledger technology, where the asset-referenced tokens are issued, transferred and stored using such a distributed ledger technology;

(g) the mechanisms to ensure the liquidity of asset-referenced tokens, including the liquidity management policy and procedures for issuers of significant asset-referenced tokens referred to in Article 45 of the MiCA Regulation;

(h) the arrangements with third-party entities, including for managing the reserve assets and the investment of the reserve, for the custody of reserve assets, and where applicable, for the distribution of the asset-referenced tokens to the public;

(i) the complaints handling procedures; and, or

(j) the money laundering and terrorist financing risk assessment and general policies and procedures related thereto.

(4) Where any intended change as referred to in sub-article (2) has been notified to the competent authority, the issuer of an asset-referenced token shall draw up a draft modified crypto-asset white paper and shall ensure that the order of the information appearing therein is consistent with that of the original crypto-asset white paper.

(5) The issuer of the asset-referenced token shall notify the draft modified crypto-asset white paper referred to in sub-article (4) to the competent authority and the competent authority shall electronically acknowledge receipt of the said white paper as soon as possible, but in any case not later than five (5) working days from receipt thereof.

(6) The competent authority shall grant approval of, or refuse to approve, the draft modified crypto-asset white paper referred to in sub-article (4) within thirty (30) working days of acknowledgement of receipt thereof in accordance with sub-article (5):

Provided that during the examination of the draft modified crypto-asset white paper, the competent authority may request any additional information, explanations or justifications concerning the said white paper and, when the competent authority makes such request, the time limit referred to in this sub-article shall only commence when the competent authority has received the requested additional information.

Marketing communications.

16. (1) The competent authority shall not require the prior approval of marketing communications relating to an offer to the public of an asset-referenced token, or to the admission to trading of such asset-referenced token, before their publication.

(2) Marketing communications as referred to in sub-article (1) shall, upon request, be notified to the competent authority.

Discontinuation of services and activities.
Cap. 371.

17. Where the issuer of an asset-referenced token, being a credit institution licensed under the Banking Act or a legal person or other undertaking authorised under Article 21 of the MiCA Regulation and article 11, decides to discontinue the provision of its services and activities, including by discontinuing the issue of such asset-referenced token, it shall submit a plan to the competent authority for approval of such discontinuation.

Assessment of proposed acquisitions of issuers of asset-referenced tokens.

18. (1) For the purposes of this article:

(a) "proposed acquirer" means any natural or legal persons or such persons acting in concert who intend to acquire, directly or indirectly, a qualifying holding in an issuer of an asset-referenced token; and

(b) "issuer of an asset-referenced token" means an issuer of an asset-referenced token which is a credit institution licensed under the Banking Act or a legal person or other undertaking authorised under Article 21 of the MiCA Regulation and article 11.

Cap. 371.

(2) Any natural or legal persons or such persons acting in concert who intend to acquire, directly or indirectly, a qualifying holding in an issuer of an asset-referenced token or to increase, directly or indirectly, such a qualifying holding so that the proportion of the voting rights or of the capital held would reach or exceed twenty per cent (20%), thirty per cent (30%) or fifty per cent (50%), or so that the issuer of the asset-referenced token would become its subsidiary, shall notify the competent authority of such issuer in writing, indicating the size of the intended holding and the information required by the regulatory technical standards adopted by the European Commission in conformity with Article 42(4) of the MiCA Regulation.

(3) Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in an issuer of an asset-referenced token shall, prior to disposing of such holding, notify in writing the competent authority of its decision and indicate the size of such holding:

Provided that any such person as referred to in this sub-article shall also notify the competent authority when it has taken a decision to reduce a qualifying holding so that the proportion of the voting rights or of the capital held would fall below ten per cent (10%), twenty per cent (20%), thirty per cent (30%) or fifty per cent (50%), or so that the issuer of the asset-referenced token would cease to be such person’s subsidiary.

(4) The competent authority shall, immediately and in any event within two (2) working days following receipt of a notification pursuant to sub-article (2), acknowledge receipt thereof in writing:

Provided that when acknowledging receipt of the notification provided in accordance with this sub-article, the competent authority shall inform the proposed acquirer of the date of expiry of the assessment period determined in accordance with sub-article (5).

(5) The competent authority shall assess the proposed acquisition referred to in sub-article (2) and the information required pursuant to the regulatory technical standards adopted by the European Commission in conformity with Article 42(4) of the MiCA Regulation, within sixty (60) working days of the date of the written acknowledgement of receipt referred to in sub-article (4).

(6) When performing the assessment referred to in sub-article (5), the competent authority may request from the proposed acquirer any additional information that is necessary to complete such assessment:

Provided that such requests shall be made in writing and shall specify the additional information needed:

Provided further that such requests shall be made before the assessment is finalised, and in any case not later than fifty (50) working days from the date of the written acknowledgement of receipt referred to in sub-article (4).

(7) The competent authority shall suspend the assessment period referred to in sub-article (5) until it has received the additional information referred to in sub-article (6):

Provided that the suspension referred to in this sub-article shall not exceed twenty (20) working days:

Provided further that the competent authority may extend the suspension referred to in this sub-article by up to thirty (30) working days if the proposed acquirer is situated outside the European Union or regulated in accordance with the law of a third country.

(8) Without prejudice to the provisions of sub-article (7), any further requests by the competent authority for additional information or for clarification of the information received shall not result in a suspension of the assessment period set out in sub-article (5).

(9) Where the competent authority, upon completion of the assessment referred to in sub-article (5), decides to oppose the proposed acquisition referred to in sub-article (2), it shall notify the proposed acquirer of its decisions, and provide the reasons for its decision, within two (2) working days, and in any event before the date referred to in sub-article (5) as extended, where applicable, in accordance with the provisions of this article.

(10) Where the competent authority does not oppose the proposed acquisition referred to in sub-article (2) before the date referred to in sub-article (5) as extended, where applicable, in

accordance with the provisions of this article, the proposed acquisition shall be deemed to be approved.

(11) The competent authority may set a maximum period for the conclusion of the proposed acquisition referred to in sub-article (2), and extend that maximum period when appropriate.

Refusal of proposed acquisitions of issuers of asset-referenced tokens.

19. (1) When performing the assessment referred to in Article 41(4) of the MiCA Regulation and article 18(5), the competent authority shall appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition referred to in Article 41(1) of the MiCA Regulation and article 18(2) on the basis of all of the following criteria:

(a) the reputation of the proposed acquirer;

(b) the reputation, knowledge, skills and experience of any person who shall direct the business of the issuer of the asset-referenced token as a result of the proposed acquisition;

(c) the financial soundness of the proposed acquirer, in particular in relation to the type of business envisaged and pursued in respect of the issuer of the asset-referenced token in which the acquisition is proposed;

(d) whether the issuer of the asset-referenced token shall be able to comply and continue to comply with the provisions of Title III of the MiCA Regulation and this Part; and

Cap. 373.

(e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or the funding of terrorism within the meaning of article 2(1) of the Prevention of Money Laundering Act is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

(2) The competent authority may oppose the proposed acquisition referred to in Article 41(1) of the MiCA Regulation and article 18(2) where there are reasonable grounds for doing so based on the criteria set out in sub-article (1), or where the information provided in accordance with Article 41(4) of the MiCA Regulation and article 18(5) is incomplete or false.

(3) The competent authority shall not examine the proposed acquisition referred to in Article 41(1) of the MiCA Regulation and article 18(2) in terms of the economic needs of the market.

Notification of the recovery plan.
Cap. 371.

20. (1) For the purposes of this article, "issuer of an asset-referenced token" means an issuer of an asset-referenced token which is a credit institution licensed under the Banking Act or a legal person or other undertaking authorised under Article 21 of the MiCA Regulation and article 11.

(2) The issuer of an asset-referenced token shall notify the recovery plan drawn up in accordance with Article 46(1) of the MiCA Regulation to the competent authority within six (6) months of the date of authorisation pursuant to Article 21 of the MiCA Regulation and article 11 or within (6) six months of the date of approval of the crypto-asset white paper pursuant to Article 17 of the MiCA Regulation and article 10.

(3) The competent authority shall require amendments to the recovery plan referred to in sub-article (2) where necessary to ensure its proper implementation and shall notify its decision requesting those amendments to the issuer of the asset-referenced token within forty (40) working days of the date of notification of such plan.

(4) The decision of the competent authority referred to in sub-article (3) shall be implemented by the issuer of the asset-referenced token within forty (40) working days of the date of notification of such decision.

(5) The issuer of the asset-referenced token shall regularly review and update the recovery plan.

(6) Where the issuer of the asset-referenced token fails to comply with the requirements applicable to the reserve of assets as referred to in Chapter 3 of Title III of the MiCA Regulation or, due to a rapidly deteriorating financial condition, is likely in the near future to not be able to comply with such requirements, the competent authority, in order to ensure compliance with the applicable requirements, shall have the power to require the said issuer to implement one or more of the arrangements or measures set out in the recovery plan or to update such a recovery plan when the circumstances are different from the assumptions set out in the initial recovery plan and implement one or more of the arrangements or measures set out in the updated plan within a specific time frame.

(7) In the circumstances referred to in sub-article (6), the competent authority shall have the power to temporarily suspend the redemption of asset-referenced tokens, provided that the suspension is justified while having regard to the interests of the holders of asset-referenced tokens and financial stability.

21. (1) For the purposes of this article, "issuer of an asset-referenced token" means an issuer of an asset-referenced token which is a credit institution licensed under the Banking Act or a legal person or other undertaking authorised under Article 21 of the MiCA Regulation and article 11. Notification of the redemption plan. Cap. 371.

(2) The issuer of an asset-referenced token shall notify the

redemption plan drawn up in accordance with Article 47(1) and (2) of the MiCA Regulation to the competent authority within six (6) months of the date of authorisation pursuant to Article 21 of the MiCA Regulation and article 11 or within six (6) months of the date of approval of the crypto-asset white paper pursuant to Article 17 of the MiCA Regulation and article 10.

(3) The competent authority shall require amendments to the redemption plan referred to in sub-article (2) where necessary, to ensure its proper implementation and shall notify its decision requesting those amendments to the issuer of the asset-referenced token within forty (40) working days of the date of notification of such plan.

(4) The decision of the competent authority referred to in sub-article (3) shall be implemented by the issuer of the asset-referenced token within forty (40) working days of the date of notification of the said decision.

(5) The issuer of the asset-referenced token shall regularly review and update the redemption plan.

PART IV
E-MONEY TOKENS

No approval of crypto-asset white papers for e-money tokens and marketing communications required.

22. 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.

Notification by issuers of e- money tokens. Cap. 371. Cap. 376.

23. (1) For the purposes of this article, "issuers of e-money tokens" means issuers of e-money tokens which are licensed as a credit institution under the Banking Act or as a financial institution authorised to issue electronic money under the Financial Institutions Act.

(2) Issuers of e-money tokens shall, at least forty (40) working days before the date on which they intend to offer to the public such e-money tokens or seek their admission to trading, notify the competent authority of that intention.

(3) Issuers of e-money tokens shall notify their crypto-asset white paper to the competent authority at least twenty (20) working days before the date of its publication.

(4) Issuers of e-money tokens shall, together with the notification of the crypto-asset white paper referred to in sub-article (3), provide the competent authority with the information referred to in Article 109(4) of the MiCA Regulation.

(5) Without prejudice to the provisions of sub-article (3), where

the provisions of Article 48(5) of the MiCA Regulation apply, the issuers of e-money tokens shall draw up a crypto-asset white paper and notify such crypto-asset white paper to the competent authority in accordance with Article 51 of the said Regulation and sub-articles (3) and (4).

(6) Marketing communications relating to an offer to the public of an e-money token, or to the admission to trading of such e-money token shall, upon request, be notified to the competent authority.

Notification of the recovery plan. Cap. 371. Cap. 376.

24. (1) For the purposes of this article, "issuer of an e-money token" means an issuer of an e-money token which is licensed as a credit institution under the Banking Act or as a financial institution authorised to issue electronic money under the Financial Institutions Act.

(2) The issuer of an e-money token shall notify the recovery plan drawn up in accordance with Article 46(1) of the MiCA Regulation, as applicable pursuant to Article 55 of the said Regulation, to the competent authority within six (6) months of the date of the offer to the public or admission to trading of the e-money token.

(3) The competent authority shall require amendments to the recovery plan referred to in sub-article (2) where necessary to ensure its proper implementation and shall notify its decision requesting those amendments to the issuer of an e-money token within forty (40) working days of the date of notification of such plan.

(4) The decision of the competent authority referred to in sub-article (3) shall be implemented by the issuer of the e-money token within forty (40) working days of the date of notification of such decision.

(5) The issuer of the e-money token shall regularly review and update the recovery plan.

(6) Where the issuer of an e-money token fails to comply with the applicable requirements under the MiCA Regulation or, due to a rapidly deteriorating financial condition, is likely in the near future to not be able to comply with those requirements, the competent authority in order to ensure compliance with the applicable requirements, shall have the power to require the said issuer to implement one or more of the arrangements or measures set out in the recovery plan, or to update such a recovery plan when the circumstances are different from the assumptions set out in the initial recovery plan and implement one or more of the arrangements or measures set out in the updated plan within a specific time frame.

(7) In the circumstances referred to in sub-article (6), the competent authority shall have the power to temporarily suspend the redemption of e-money tokens, provided that the suspension is

justified while having regard to the interests of the holders of e-money tokens and financial stability.

Notification of the redemption plan.
Cap. 371.
Cap. 376.

25. (1) For the purposes of this article, "issuer of an e-money token" means an issuer of an e-money token which is licensed as a credit institution under the Banking Act or as a financial institution authorised to issue electronic money under the Financial Institutions Act.

(2) The issuer of an e-money token shall notify the redemption plan drawn up in accordance with Article 47(1) and (2) of the MiCA Regulation, as applicable pursuant to Article 55 of the said Regulation, to the competent authority within six (6) months of the date of the offer to the public or admission to trading of the e-money token.

(3) The competent authority shall require amendments to the redemption plan referred to in sub-article (2) where necessary to ensure its proper implementation and shall notify its decision requesting those amendments to the issuer of the e-money token within forty (40) working days of the date of notification of such plan.

(4) The decision of the competent authority referred to in sub-article (3) shall be implemented by the issuer of the e-money token within forty (40) working days of the date of notification of such decision.

(5) The issuer of the e-money token shall regularly review and update the redemption plan.

PART V
CRYPTO-ASSET SERVICE PROVIDERS

Authorisation of crypto-asset service providers.

26. (1) Without prejudice to the provisions of Article 61 of the MiCA Regulation, a person shall not provide crypto-asset services in Malta unless that person is:

(a) a legal person or other undertaking that has been authorised to act as a crypto-asset service provider in accordance with Article 63 of the MiCA Regulation; or

(b) a credit institution, central securities depository, investment firm, market operator, electronic money institution, UCITS management company, or an alternative investment fund manager that is allowed to provide crypto-asset services pursuant to Article 60 of the MiCA Regulation.

(2) Without prejudice to sub-article (1), crypto-asset service providers shall be allowed to provide crypto-asset services in Malta either through the right of establishment, including through a branch, or through the freedom to provide services:

Provided that where Malta is the host Member State, crypto-asset service providers that provide crypto-asset services in Malta shall not be required to have a physical presence in Malta.

Provision of crypto-asset services by certain financial entities.

27. (1) The provisions of this article shall only apply where Malta is the home Member State.

(2) A credit institution may provide crypto-asset services if it notifies the information referred to in sub-article (9) to the competent authority at least forty (40) working days before providing such services for the first time.

(3) A central securities depository authorised under Regulation (EU) No. 909/2014 shall only provide the custody and administration of crypto-assets on behalf of clients if it notifies the information referred to in sub-article (9) to the competent authority at least forty (40) working days before providing such service for the first time:

Provided that for the purposes of this sub-article, the provision of the custody and administration of crypto-assets on behalf of clients shall be deemed equivalent to providing, maintaining or operating securities accounts in relation to the settlement service referred to in point (3) of Section B of the Annex to Regulation (EU) No. 909/2014.

(4) An investment firm may provide crypto-asset services in the European Union equivalent to the investment services and activities for which it is specifically authorised under Directive 2014/65/EU if it notifies to the competent authority the information referred to in sub-article (9) at least forty (40) working days before providing such services for the first time:

Provided that for the purposes of this sub-article:

(a) the provision of the custody and administration of crypto-assets on behalf of clients shall be deemed equivalent to the ancillary service as referred to in point (1) of Section B of Annex I to Directive 2014/65/EU;

(b) the operation of a trading platform for crypto-assets shall be deemed equivalent to the operation of a multilateral trading facility and operation of an organised trading facility as referred to in points (8) and (9) respectively, of Section A of Annex I to Directive 2014/65/EU;

(c) the exchange of crypto-assets for funds and other crypto-assets shall be deemed equivalent to dealing on own account as referred to in point (3) of Section A of Annex I to Directive 2014/65/EU;

(d) the execution of orders for crypto-assets on behalf of clients shall be deemed equivalent to the execution of orders on behalf of clients as referred to in point (2) of Section A of

Annex I to Directive 2014/65/EU;

(e) the placing of crypto-assets is deemed equivalent to the underwriting or placing of financial instruments on a firm commitment basis and placing of financial instruments without a firm commitment basis as referred to in points (6) and (7) respectively, of Section A of Annex I to Directive 2014/65/EU;

(f) the reception and transmission of orders for crypto- assets on behalf of clients shall be deemed equivalent to the reception and transmission of orders in relation to one or more financial instruments as referred to in point (1) of Section A of Annex I to Directive 2014/65/EU;

(g) providing advice on crypto-assets shall be deemed equivalent to investment advice as referred to in point (5) of Section A of Annex I to Directive 2014/65/EU; and

(h) providing portfolio management on crypto-assets shall be deemed equivalent to management of investments as referred to in point (4) of Section A of Annex I to Directive 2014/65/EU.

(5) An electronic money institution authorised in accordance with Directive 2009/110/EC shall only provide the custody and administration of crypto-assets on behalf of clients and transfer services for crypto-assets on behalf of clients with regard to the e-money tokens it issues, if it notifies the competent authority with the information referred to in sub-article (9) at least forty (40) working days before providing those services for the first time.

(6) A UCITS management company or an alternative investment fund manager may provide crypto-asset services equivalent to the management of portfolios of investment and non-core services for which it is authorised in accordance with Directive 2009/65/EC or Directive 2011/61/EU if it notifies the competent authority with the information referred to in sub-article (9) at least forty (40) working days before providing those services for the first time:

Provided that for the purposes of this sub-article:

(a) the reception and transmission of orders for crypto- assets on behalf of clients shall be deemed equivalent to the reception and transmission of orders in relation to financial instruments as referred to in point (b)(iii) of Article 6(4) of Directive 2011/61/EU;

(b) providing advice on crypto-assets shall be deemed equivalent to investment advice as referred to in point (b)(i) of Article 6(4) of Directive 2011/61/EU and in point (b)(i) of Article 6(3) of Directive 2009/65/EC;

(c) providing portfolio management on crypto-assets shall be deemed equivalent to the services as referred to in point (a) of Article 6(4) of Directive 2011/61/EU and in point (a) of Article 6(3) of Directive 2009/65/EC.

(7) A market operator authorised in accordance with Directive 2014/65/EU may operate a trading platform for crypto-assets if it notifies the competent authority with the information referred to in sub-article (9) at least forty (40) working days before providing such services for the first time.

(8) Notwithstanding the provisions of sub-articles (2) to (7), the entities referred to in the said sub-articles shall not be required to submit any information referred to in sub-article (9) that was previously submitted by them to the competent authority where such information would be identical:

Provided that when submitting the information referred to in sub-article (9), the entities referred to in sub-articles (2) to (7) shall expressly state that any information that was submitted previously is still up-to-date.

(9) Without prejudice to the provisions of Article 60(13) and (14) of the MiCA Regulation, for the purposes of sub-articles (2) to (7) the following information shall be notified to the competent authority:

(a) a programme of operations setting out the types of crypto-asset services that the applicant intends to provide, including where and how those services are to be marketed;

(b) a description of:

(i) the internal control mechanisms, policies and procedures to ensure compliance with the provisions of national law transposing Directive (EU) 2015/849;

(ii) the risk assessment framework for the management of money laundering and terrorist financing risks; and

(iii) the business continuity plan;

(c) the technical documentation of the ICT systems and security arrangements, and a description thereof in non-technical language;

(d) a description of the procedure for the segregation of clients' crypto-assets and funds;

(e) a description of the custody and administration policy, where it is intended to provide custody and administration of crypto-assets on behalf of clients;

(f) a description of the operating rules of the trading platform and of the procedures and system to detect market abuse, where it is intended to operate a trading platform for crypto-assets;

(g) a description of the non-discriminatory commercial policy governing the relationship with clients as well as a description of the methodology for determining the price of the crypto-assets they propose to exchange for funds or other crypto-assets, where it is intended to exchange crypto-assets for funds or other crypto-assets;

(h) a description of the execution policy, where it is intended to execute orders for crypto-assets on behalf of clients;

(i) evidence that the natural persons giving advice on behalf of the applicant or managing portfolios on behalf of the applicant have the necessary knowledge and expertise to fulfil their obligations, where it is intended to provide advice on crypto-assets or provide portfolio management on crypto-assets;

(j) whether the crypto-asset service relates to asset-referenced tokens, e-money tokens or other crypto-assets; and

(k) information on the manner in which such transfer services shall be provided, where it is intended to provide transfer services for crypto-assets on behalf of clients.

(10) The competent authority shall, within twenty (20) working days of receipt of such notification as referred to in sub-articles (2) to (7), assess whether all required information has been provided.

(11) Where the competent authority concludes that a notification as referred to in sub-articles (2) to (7) is not complete, it shall immediately inform the notifying entity thereof and set a deadline by which that entity is required to provide the missing information:

Provided that the deadline for providing any missing information shall not exceed twenty (20) working days from the date of the request and, until the expiry of the said deadline, each period as set out in sub-articles (2) to (7) shall be suspended:

Provided further that the crypto-asset service provider shall not begin providing the crypto-asset services as long as the notification referred to in sub-articles (2) to (7) is incomplete.

(12) Without prejudice to sub-article (11), any further request by the competent authority for completion or clarification of the information provided in terms of this article, shall be at its discretion

but shall not result in a suspension of the period set out in sub-articles (2) to (7).

28. (1) The provisions of this article shall only apply where Malta is the home Member State.

Application for authorisation.

(2) Legal persons or other undertakings that intend to provide crypto-asset services shall submit their application for an authorisation to act as a crypto-asset service provider to the competent authority.

(3) The application referred to in sub-article (2) shall contain all of the following information:

(a) the name, including the legal name and any other commercial name used, the legal entity identifier of the applicant, the website operated by such applicant, a contact email address, a contact telephone number and its physical address;

(b) the legal nature of the applicant;

(c) the articles of association of the applicant, where applicable;

(d) a programme of operations, setting out the types of crypto-asset services that the applicant intends to provide, including where and how those services are to be marketed;

(e) proof that the applicant meets the requirements for prudential safeguards set out in Article 67 of the MiCA Regulation;

(f) a description of the applicant's governance arrangements;

(g) proof that members of the management body of the applicant are of sufficiently good repute and possess the appropriate knowledge, skills and experience to manage such provider;

(h) the identity of any shareholders and members, whether direct or indirect, that have qualifying holdings in the applicant and the amounts of those holdings, as well as proof that those persons are of sufficiently good repute;

(i) a description of the applicant's internal control mechanisms, policies and procedures to identify, assess and manage risks, including money laundering and terrorist financing risks, and business continuity plan;

(j) the technical documentation of the ICT systems and security arrangements, and a description thereof in non-technical language;

(k) a description of the procedure for the segregation of clients’ crypto-assets and funds;

(l) a description of the applicant’s complaints-handling procedures;

(m) where the applicant intends to provide custody and administration of crypto-assets on behalf of clients, a description of the custody and administration policy;

(n) where the applicant intends to operate a trading platform for crypto-assets, a description of the operating rules of the trading platform and of the procedure and system to detect market abuse;

(o) where the applicant intends to exchange crypto-assets for funds or other crypto-assets, a description of the commercial policy, which shall be non-discriminatory, governing the relationship with clients as well as a description of the methodology for determining the price of the crypto-assets that the applicant crypto-asset service provider proposes to exchange for funds or other crypto-assets;

(p) where the applicant intends to execute orders for crypto-assets on behalf of clients, a description of the execution policy;

(q) where the applicant intends to provide advice on crypto-assets or portfolio management of crypto-assets, proof that the natural persons giving advice on behalf of the applicant crypto-asset service provider or managing portfolios on behalf of the applicant have the necessary knowledge and expertise to fulfil their obligations;

(r) where the applicant intends to provide transfer services for crypto-assets on behalf of clients, information on the manner in which such transfer services shall be provided; and

(s) the type of crypto-asset to which the crypto-asset service relates:

Provided that for the purposes of paragraphs (g) and (h), an applicant shall provide proof of all of the following:

(a) for all members of the management body of the applicant, the absence of a criminal record in respect of convictions and the absence of penalties imposed in accordance with the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering and counter-terrorist financing, to fraud or to professional liability;

(b) that the members of the management body of the applicant collectively possess the appropriate knowledge, skills and experience to manage the crypto-asset service provider and that such persons are required to commit sufficient time to perform their duties; and

(c) for all shareholders and members, whether direct or indirect, that have qualifying holdings in the applicant, the absence of a criminal record in respect of convictions or the absence of penalties imposed in accordance with the applicable commercial law, insolvency law and financial services law, or in relation to anti-money laundering and counter-terrorist financing, to fraud or to professional liability.

(4) Notwithstanding the provisions of sub-articles (2) and (3), the competent authority shall not require an applicant to provide any information referred to in sub-article (3) that it has already received under the respective authorisation procedures in accordance with the Financial Institutions Act or the Investment Services Act, or pursuant to national law applicable to crypto-asset services prior to 29 June 2023, provided that such previously submitted information or documents are still up-to-date.

Cap. 376
Cap. 370.

(5) The competent authority shall immediately, and in any event within five (5) working days of receipt of an application referred to in sub-article (2), acknowledge receipt thereof in writing to the applicant.

(6) The competent authority shall, within twenty-five (25) working days of receipt of an application referred to in sub-article (2), assess whether that application is complete by verifying that the information referred to in sub-article (3) has been submitted:

Provided that where the application is not complete, the competent authority shall set a deadline by which the applicant shall provide any missing information.

(7) The competent authority may refuse to review an application referred to in sub-article (2) when such application remains incomplete after the expiry of the deadline set by it in accordance with sub-article (6).

(8) Once an application is complete, the competent authority shall immediately notify the applicant thereof.

(9) The competent authority shall, within forty (40) working days from the date of receipt of a complete application, assess whether the applicant complies with the requirements of Title V of the MiCA Regulation and the provisions of this Part, and shall take a fully

reasoned decision granting or refusing an authorisation to act as a crypto-asset service provider:

Provided that the competent authority shall notify the applicant of its decision within five (5) working days of the date of such decision:

Provided further that the assessment referred to in this sub-article shall take into account the nature, scale and complexity of the crypto-asset services that the applicant intends to provide.

(10) The competent authority may, during the assessment period provided for in sub-article (9), and not later than the twentieth (20th) working day of the said period, request any further information that is necessary to complete the assessment referred to in sub-article (6):

Provided that such request shall be made in writing to the applicant and shall specify the additional information needed.

(11) The assessment period referred to in sub-article (9) shall be suspended for the period between the date of request for missing information by the competent authority and the receipt by it of a response thereto from the applicant:

Provided that suspension referred to in this sub-article shall not exceed twenty (20) working days.

(12) Without prejudice to the provisions of sub-article (11), any further requests by the competent authority for completion or clarification of the information provided in terms of this article, shall be at its discretion but shall not result in a suspension of the assessment period set out in sub-article (9).

(13) In granting an authorisation under this article, the competent authority may impose on the crypto-asset service provider such conditions as it may deem appropriate and, when having granted such an authorisation it may, from time to time, vary or revoke any condition so imposed or impose new conditions.

(14) An authorisation granted in accordance with Article 63 of the MiCA Regulation and this article shall specify the crypto-asset services that the crypto-asset service provider, to which such authorisation was granted, is authorised to provide.

(15) Where a crypto-asset service provider to which an authorisation was granted under Article 63 of the MiCA Regulation and this article intends to provide crypto-asset services additional to those which it is authorised to provide, it shall submit a request to the competent authority for an extension of the authorisation granted to it, by complementing and updating the information referred to in Article 62 of the MiCA Regulation and this article:

Provided that the request for extension shall be processed in accordance with Article 63 of the MiCA Regulation and this article.

Refusal of authorisation.

29. (1) Where an applicant operates establishments or relies on third parties established in high-risk third countries identified pursuant to Article 9 of Directive (EU) 2015/849, the competent authority shall ensure that the applicant complies with the provisions of regulations 12(2), 6(3) and 6(4) of the Prevention of Money Laundering and Funding of Terrorism Regulations before granting or refusing an authorisation to act as a crypto-asset service provider in accordance with the provisions of the MiCA Regulation and this Act. S.L. 373.01.

(2) Before granting or refusing an authorisation to act as a crypto-asset service provider in accordance with the provisions of the MiCA Regulation and this Act, the competent authority shall ensure that the applicant complies with the provisions of regulation 11(10) and (12) of the Prevention of Money Laundering and Funding of Terrorism Regulations, where applicable. S.L. 373.01.

(3) The competent authority shall refuse to grant an authorisation under Article 63 of the MiCA Regulation and article 28 where there are objective and demonstrable grounds that:

(a) the management body of the applicant poses a threat to its effective, sound and prudent management and business continuity, and to the adequate consideration of the interest of its clients and the integrity of the market, or exposes the applicant to a serious risk of money laundering or terrorist financing;

(b) the members of the management body of the applicant do not meet the criteria set out in Article 68(1) of the MiCA Regulation;

(c) the shareholders or members, whether direct or indirect, that have qualifying holdings in the applicant do not meet the criteria of sufficiently good repute set out in Article 68(2) of the MiCA Regulation; and, or

(d) the applicant fails to meet or is likely to fail to meet any of the requirements of Title V of the MiCA Regulation and this Part.

(4) Without prejudice to the provisions of sub-article (3), the competent authority shall also refuse to grant an authorisation under Article 63 of the MiCA Regulation and article 28 where:

(a) there exist close links between the applicant and other natural or legal persons and the said links prevent the effective exercise of their supervisory functions; and, or

(b) the laws, regulations or administrative provisions of a third country governing one or more natural or legal persons with which the applicant has close links, or any difficulties involved in their enforcement, prevent the effective exercise of its supervisory functions.

Withdrawal of authorisation.

30. (1) The competent authority shall withdraw an authorisation granted to a crypto-asset service provider under Article 63 of the MiCA Regulation and article 28 in any of the following situations:

(a) the crypto-asset service provider has not used its authorisation within twelve (12) months of the date of the authorisation;

(b) the crypto-asset service provider has expressly renounced its authorisation;

(c) the crypto-asset service provider has not provided crypto-asset services for nine (9) consecutive months;

(d) the crypto-asset service provider has obtained its authorisation by irregular means, such as by making false statements in its application for authorisation;

(e) the crypto-asset service provider no longer meets the conditions under which the authorisation was granted and has not taken the remedial action requested by the competent authority within the specified time frame;

(f) the crypto-asset service provider fails to have in place effective systems, procedures and arrangements to detect and prevent money laundering and terrorist financing in accordance with Directive (EU) 2015/849 as transposed in national law; and, or

(g) the crypto-asset service provider has seriously infringed the provisions of the MiCA Regulation, this Act and, or any regulations made and, or Rules issued thereunder, including the provisions relating to the protection of holders of crypto-assets or of clients of crypto-asset service providers, or market integrity.

(2) Without prejudice to the provisions of sub-article (1), the competent authority may withdraw an authorisation granted to a crypto-asset service provider under Article 63 of the MiCA Regulation and article 28 in any of the following situations:

(a) the crypto-asset service provider has infringed the provisions of national law transposing Directive (EU) 2015/849; and, or

(b) the crypto-asset service provider has lost its authorisation as a payment institution or its authorisation as an electronic money institution, and such crypto-asset service provider has failed to remedy the situation within forty (40) calendar days.

(3) Without prejudice to the provisions of sub-articles (1) and (2), the competent authority may limit the withdrawal of an authorisation granted to a crypto-asset service provider under Article 63 of the MiCA Regulation and article 28 to a particular crypto-asset service.

Notice of proposed refusal, variation, or withdrawal of an authorisation.

31. (1) Where the competent authority proposes to:

(a) refuse an application for authorisation submitted to the competent authority in accordance with Article 62 of the MiCA Regulation and article 28 or to withdraw the authorisation granted to a crypto-asset service provider under Article 63 of the MiCA Regulation and article 28; or

(b) vary any condition to which an authorisation granted under Article 63 of the MiCA Regulation and article 28 is subject to or to impose a condition thereon, it shall give the applicant or the issuer of an asset-referenced token, as applicable, notice in writing of its intention to do so, while setting out the reasons for the decision it proposes to take.

(2) Every notice given under sub-article (1) shall state that the recipient of the notice may, within such reasonable period after the service thereof as may be stated in the notice, make representations in writing to the competent authority giving reasons why the proposed decision should not be taken, and the competent authority shall consider any representation so made before arriving at a final decision.

(3) Subject to the provisions of Article 63 of the MiCA Regulation and article 28, the competent authority shall as soon as practicable notify its final decision in writing to any of the persons to whom notice is to be given under sub-article (1).

Cross-border provision of crypto-asset services.

32. (1) Where Malta is the home Member State, a crypto-asset service provider that intends to provide crypto-asset services in a Member State other than Malta shall submit the following information to the competent authority:

(a) a list of the Member States in which the crypto-asset service provider intends to provide crypto-asset services;

(b) the crypto-asset services that the crypto-asset service provider intends to provide on a cross-border basis;

(c) the starting date of the intended provision of the crypto-asset services; and

(d) a list of all other activities provided by the crypto-asset service provider not covered by the MiCA Regulation and this Act.

(2) The competent authority shall, within ten (10) working days of receipt of the information referred to in sub-article (1), communicate the said information to the single points of contact of the host Member States, to ESMA and to the EBA.

(3) The competent authority shall inform the crypto-asset service provider concerned of the communication referred to in sub-article (2) without delay.

(4) The crypto-asset service provider may begin to provide crypto-asset services in a Member State other than Malta from the date of receipt of the communication referred to in sub-article (3) or at the latest from the fifteenth (15th) calendar day after having submitted the information referred to in sub-article (1).

Assessment of proposed acquisitions of crypto-asset service providers.

33. (1) For the purposes of this article:

(a) "proposed acquirer" means any natural or legal persons or such persons acting in concert who intend to acquire, directly or indirectly, a qualifying holding in a crypto-asset service provider; and

(b) "crypto-asset service provider" means a legal person or other undertaking authorised under Article 63 of the MiCA Regulation and article 28, a credit institution licensed under the Banking Act, a central securities depository authorised under the Financial Markets Act, a financial institution authorised to issue electronic money under the Financial Institutions Act, or a person licensed as an investment services licence holder under the Investment Services Act.

Cap. 371.
Cap. 345.
Cap. 376.
Cap. 370.

(2) Any natural or legal persons or such persons acting in concert who intend to acquire, directly or indirectly, a qualifying holding in a crypto-asset service provider or to increase, directly or indirectly, such a qualifying holding so that the proportion of the voting rights or of the capital held would reach or exceed twenty per cent (20%), thirty per cent (30%) or fifty per cent (50%), or so that the crypto-asset provider would become its subsidiary, shall notify the competent authority thereof in writing, indicating the size of the intended holding and the information required by the regulatory technical standards adopted by the European Commission in accordance with Article 42(4) of the MiCA Regulation.

(3) Any natural or legal person who has taken a decision to dispose, directly or indirectly, of a qualifying holding in a crypto-asset service provider shall, prior to disposing of such holding, notify in writing the competent authority of its decision and indicate the size

of such holding:

Provided that any such person as referred to in this sub-article shall also notify the competent authority where it has taken a decision to reduce a qualifying holding so that the proportion of the voting rights or of the capital held would fall below ten per cent (10%), twenty per cent (20%), thirty per cent (30%), or fifty per cent (50%), or so that the crypto-asset service provider would cease to be that person's subsidiary.

(4) The competent authority shall, promptly and in any event within two (2) working days following receipt of a notification in accordance with sub-article (2), acknowledge receipt thereof in writing:

Provided that when acknowledging receipt of the notification provided in accordance with this sub-article, the competent authority shall inform the proposed acquirer of the date of expiry of the assessment period determined in accordance with the provisions of sub-article (5).

(5) The competent authority shall assess the proposed acquisition referred to in sub-article (2) and the information required pursuant to the regulatory technical standards adopted by the European Commission in accordance with Article 84(4) of the MiCA Regulation, within sixty (60) working days of the date of the written acknowledgement of receipt referred to in sub-article (4).

(6) When performing the assessment referred to in sub-article (5), the competent authority may request from the proposed acquirer any additional information that is necessary to complete that assessment:

Provided that such requests shall be made in writing and shall specify the additional information needed:

Provided further that such requests shall be made before the assessment is finalised, and in any case no later than fifty (50) working days from the date of the written acknowledgement of receipt referred to in sub-article (4).

(7) The competent authority shall suspend the assessment period referred to in sub-article (5) until it has received the additional information referred to in sub-article (6):

Provided that the suspension referred to in this sub-article shall not exceed twenty (20) working days:

Provided further that the competent authority may extend the suspension referred to in this sub-article by up to thirty (30) working days if the proposed acquirer is situated outside the European

Union or regulated under the law of a third country.

(8) Without prejudice to the provisions of sub-article (7), any further requests by the competent authority for additional information or for clarification of the information received shall not result in a suspension of the assessment period set out in sub-article (5).

(9) Where the competent authority, upon completion of the assessment referred to in sub-article (5), decides to oppose the proposed acquisition referred to in sub-article (2), it shall notify the proposed acquirer of its decisions, and provide the reasons for its decision, within two (2) working days, and in any event before the date referred to in sub-article (5) as extended, where applicable, in accordance with the provisions of this article.

(10) Where the competent authority does not oppose the proposed acquisition referred to in sub-article (2) before the date referred to in sub-article (5) as extended, where applicable, in accordance with the provisions of this article, the proposed acquisition shall be deemed to be approved.

(11) The competent authority may set a maximum period for the conclusion of the proposed acquisition referred to in sub-article (2) and extend such maximum period where appropriate.

Refusal of proposed acquisitions of crypto-asset service providers.

34. (1) When performing the assessment referred to in Article 83(4) of the MiCA Regulation and article 33(5), the competent authority shall appraise the suitability of the proposed acquirer and the financial soundness of the proposed acquisition referred to in Article 83(1) of the MiCA Regulation and article 33(2) against all of the following criteria:

(a) the reputation of the proposed acquirer;

(b) the reputation, knowledge, skills and experience of any person who is to direct the business of the crypto-asset provider as a result of the proposed acquisition;

(c) the financial soundness of the proposed acquirer, in particular in relation to the type of business envisaged and pursued in respect of the crypto-asset service provider in which the acquisition is proposed;

(d) whether the crypto-asset service provider will be able to comply and continue to comply with the provisions of Title V of the MiCA Regulation and this Part; and

Cap. 373.

(e) whether there are reasonable grounds to suspect that, in connection with the proposed acquisition, money laundering or the funding of terrorism within the meaning of article 2(1) of the Prevention of Money Laundering Act is being or has been committed or attempted, or that the proposed acquisition could increase the risk thereof.

(2) The competent authority may oppose the proposed acquisition referred to in Article 83(1) of the MiCA Regulation and article 33(2) where there are reasonable grounds for doing so based on the criteria set out in sub-article (1) or where the information provided in accordance with Article 83(4) of the MiCA Regulation and article 33(5) is incomplete or false.

(3) The competent authority shall not examine the proposed acquisition referred to in Article 83(1) of the MiCA Regulation and article 33(2) in terms of the economic needs of the market.

PART VI
PREVENTION AND PROHIBITION OF MARKET ABUSE

Public disclosure of inside information.

35. (1) Issuers, offerors and persons seeking admission to trading shall inform the public as soon as possible of inside information referred to in Article 87 of the MiCA Regulation that directly concerns them, in a manner that enables fast access as well as complete, correct and timely assessment of the information by the public:

Provided that issuers, offerors and persons seeking admission to trading shall not combine the disclosure of inside information to the public with the marketing of their activities:

Provided further that issuers, offerors and persons seeking admission to trading shall post and maintain on their website, for a period of at least five (5) years, all inside information that they are required to disclose publicly.

(2) Issuers, offerors and persons seeking admission to trading may, on their own responsibility, delay disclosure to the public of inside information referred to in Article 87 of the MiCA Regulation provided that all of the following conditions are met:

(a) immediate disclosure is likely to prejudice the legitimate interests of the issuers, offerors or persons seeking admission to trading;

(b) delay of disclosure is not likely to mislead the public; and

(c) issuers, offerors or persons seeking admission to trading are able to ensure the confidentiality of such information.

(3) Where an issuer, offeror or a person seeking admission to trading has delayed the disclosure of inside information in accordance with sub-article (2), it shall inform the competent authority that disclosure of the information was delayed and shall provide a written

explanation of how the conditions set out in sub-article (2) were met, immediately after the information is disclosed to the public.

(4) The provisions of this article shall only apply:

(a) with respect to issuers, offerors and persons seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens when Malta is the home Member State;

Cap. 371.

(b) with respect to issuers, offerors and persons seeking admission to trading of asset-referenced tokens being credit institutions licensed as such under the Banking Act or persons authorised under Article 21 of the MiCA Regulation and article 11; and

Cap. 371.
Cap. 376.

(c) with respect to issuers, offerors and persons seeking admission to trading of e-money tokens being credit institutions licensed as such under the Banking Act or financial institutions authorised to issue electronic money under the Financial Institutions Act.

Prevention and detection of market abuse.

36. (1) Any person professionally arranging or executing transactions in crypto-assets shall have in place effective arrangements, systems and procedures to prevent and detect market abuse.

(2) Any such person as referred to in sub-article (1) having its registered office or its head office in Malta, or if it is a branch situated in Malta, shall be subject to any applicable notification requirements established in national law, including this Act and any regulations made and Rules issued thereunder, and shall without delay report to the competent authority any reasonable suspicion regarding an order or transaction, including any cancellation or modification thereof, and other aspects of the functioning of the distributed ledger technology such as the consensus mechanism, where there might exist circumstances indicating that market abuse has been committed, is being committed or is likely to be committed.

(3) When receiving a report of suspicious orders or transactions in accordance with sub-article (2), the competent authority shall transmit such information immediately to the competent authorities of the trading platforms concerned.

PART VII
REGULATORY AND INVESTIGATIVE POWERS

Powers of the Minister.

37. (1) The Minister, acting on the advice of the competent authority, may make regulations to give effect to the provisions of this Act, and without prejudice to the generality of the foregoing may, by such regulations, in particular, do any of the following:

(a) provide for and regulate the payment by any person or body, as the case may be, of authorisation or other fees and such other charges payable to the competent authority in respect of any matter provided for, by or under the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder, including the fees and charges in respect of any permission, licence, authorisation, exemption or other benefit, as well as any fees and charges in respect of the competent authority's regulatory, supervisory or investigative functions under the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder, as may be prescribed;

(b) exempt any person, service or activity from any one or more of the provisions of the MiCA Regulation and, or this Act, subject to such variations, additions, adaptations and modifications as may be prescribed and subject to such conditions or other requirements, including other forms of authorisation and notification procedures, as may be prescribed;

(c) transpose, implement and give effect to the provisions and requirements of the MiCA Regulation;

(d) transpose, implement and give effect to the provisions and requirements of European Union Directives, European Union Regulations and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been, or may be issued thereunder and relating to authorised persons and others as may be specified therein. Regulations made under this paragraph, and strictly related to transpositions or implementations as aforesaid, may provide that any provision of this Act or of any other law shall not apply to matters falling under such regulations, and that insofar as any of the provisions of the regulations are inconsistent with the provisions of this Act or of any other law, such provisions in any such regulations shall prevail;

(e) assign powers and functions to the competent authority for the purposes of the MiCA Regulation and this Act, and provide for the exercise of such powers and the performance of such functions;

(f) provide for the establishment and imposition of administrative penalties and other administrative measures that the competent authority may impose on crypto-asset service providers, issuers, offerors, persons seeking admission to trading and any other persons as may be specified therein;

(g) prescribe that a breach of any regulations made under this Act may amount to a criminal offence as may be specified, and such regulations may impose punishments in respect of any breach, consisting of a fine (*multa*) not exceeding five million euro (€5,000,000) or imprisonment for a term not exceeding six (6) years or both such fine and imprisonment in the case of a natural person; and a fine (*multa*) not exceeding fifteen million euro (€15,000,000) in the case of a legal person; and a higher fine (*multa*) may be imposed on such natural or legal person, as the case may be, where deemed necessary or appropriate for any breach or failure of compliance with any European Union Directive or European Union Regulation or with any regulations made under this article to transpose or to give effect to any European Union Directive or European Union Regulation;

(h) prescribe anything which may be prescribed; and

(i) provide for any matter incidental to, or connected with any of the above stipulated paragraphs.

(2) Regulations made under this article may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different cases, circumstances or purposes and may give to the competent authority such powers and, or functions of adaptation of the regulations as may also be so specified.

(3) Where regulations have been made in terms of this article, the competent authority may issue Rules for the better carrying out and implementation of the provisions of any regulations made in accordance with this Act.

(4) Regulations made under this Act and any amendment or revocation of such regulations, may be published in the English language only.

(5) The exercise of any of the powers assigned under this article shall be subject to any obligations or rights arising from Malta's international commitments.

Powers to issue Rules.

38. (1) The competent authority may, from time to time, issue, publish, amend or revoke Rules which shall be binding on all persons authorised by it or falling under its regulatory or supervisory functions, or any other persons, as may be specified therein.

(2) Without prejudice to the generality of sub-article (1), Rules issued by the competent authority may:

(a) lay down additional requirements and conditions in relation to persons authorised by it, seeking its approval, or falling under the regulatory or supervisory functions of the competent authority, their activities, the conduct of their business, their relations with customers, the public and other parties, their responsibilities to the competent authority, reporting requirements, financial and other resources and related requirements, and any other matters as the competent authority may consider appropriate;

(b) provide for the statements and notices that shall be made or given for any purposes in regard to which the competent authority exercises supervisory or regulatory functions and the form and contents thereof;

(c) prescribe the information that such persons are to submit to the competent authority;

(d) transpose, implement and give effect to the provisions and requirements of the MiCA Regulation;

(e) transpose, implement and give effect to the provisions and requirements of European Union legislation and any other legislative measures of the European Union requiring transposition and, or implementation, as they may be amended from time to time, including any implementing measures that have been, or may be issued thereunder and relating to authorised persons and others as may be specified therein; and, or

(f) regulate any matter that is incidental to, or connected with any of the matters mentioned above as the competent authority may consider appropriate in the performance of its functions.

(3) Rules may be made subject to such exemptions or conditions as may be specified therein, may make different provision for different cases, circumstances or purposes and may give to the competent authority such powers of adaptation of the Rules as may also be so specified.

Power to issue directives.

39. (1) Without prejudice to any other powers conferred to the competent authority by this Act or by any other law, the competent authority may, whenever it deems necessary, give by notice in writing such directives as it may deem appropriate in the circumstances, and any person to whom the notice is given shall observe, comply with and otherwise give effect to any such directive within the time and in the manner stated in the directive or subsequent directives:

Provided that the competent authority may give any such directive even when an authorised person, for whatever reason, ceases to be so authorised in accordance with this Act:

Provided further that any directive given in accordance with this article shall, unless the competent authority otherwise directs, continue to apply even when an authorised person, for whatever reason, ceases to be so authorised in accordance with this Act.

(2) The power to issue directives under this article shall also include the power to vary, alter, add to or withdraw any directive, as well as the power to issue subsequent new directives.

(3) Where the competent authority is satisfied that the circumstances so warrant, it may at any time make public any directive it has given in accordance with this article.

Power to require information.

40. (1) The competent authority may, at any time and by notice in writing, require the persons referred to in sub-article (2) to do all or any of the following:

(a) to furnish to the competent authority, at such time and place and in such form as it may specify, such information and, or documentation as it may require, including the power to require existing telephone and data traffic records;

(b) to furnish to the competent authority any information and, or documentation as it may require verified in such manner as it may specify;

(c) to appear before the competent authority, or before a person appointed by it, at such time and place as it may specify, to reply to questions and provide such information and, or documentation as it may require; and, or

(d) to provide the competent authority any assistance which it may require and which that person is reasonably able to provide.

(2) The following persons may be required by the competent authority to provide information, documentation and, or assistance as specified in sub-article (1):

(a) crypto-asset service providers, issuers, offerors and persons seeking admission to trading;

(b) the natural and, or legal persons that control any person referred to in paragraph (a) or are controlled by such person, both in the past and present, as well as past and present directors, managers, auditors, officers and other employees of such person, and any third party providing a service to such person;

(c) any person who is successively involved in the transmission of orders or conduct of the operations concerned, as well as their principals; and, or

(d) any other person who appears to be in possession of any relevant information.

(3) A natural or legal person making information available to the competent authority in accordance with this article shall not be considered to be infringing any restriction on disclosure of information imposed by contract or by any legislative, regulatory or administrative provision, and shall not be subject to liability of any kind related to the provision of such information and, or documentation.

(4) The competent authority may require, make and, or retain copies of any document furnished, provided or to which it has access in accordance with this article.

(5) Where the person required to provide information and, or documentation under this article does not have the relevant information and, or documentation, such person shall disclose to the competent authority where, to the best of his knowledge, that information and, or documentation can be found, and the competent authority may require any person, whether indicated as aforesaid or otherwise, who appears to the said authority to be in possession of such information and, or documentation to provide it as requested.

(6) A declaration made, and documentation provided, in accordance with any requirement under this article may be used in evidence against the person making the declaration or providing the documentation as well as against any person to whom they relate.

(7) The provisions of this article shall not apply to information and, or documentation which is privileged in accordance with the provisions of article 642 of the Criminal Code. Cap. 9.

(8) Where the competent authority has appointed a representative under sub-article (1)(c), such person shall, for the purposes of carrying out his functions under his appointment, have all the powers and functions conferred on the competent authority by this article and a requirement imposed by such person shall be deemed to be and have the same force and effect as a requirement imposed by the competent authority.

Powers to appoint inspectors.

41. (1) The competent authority may, whenever it deems it necessary or expedient, appoint an inspector to investigate and report on the affairs of any persons referred to in article 40(2).

(2) An inspector appointed under sub-article (1):

(a) may, if he deems it necessary or expedient for the purposes of an investigation, investigate the affairs of any person mentioned in sub-article (1);

(b) shall have and may exercise all the powers conferred on the competent authority by article 40, and any requirement imposed by the said inspector shall be deemed to be and have the same force and effect as a requirement of the competent authority; and

(c) may, and if so directed by the competent authority shall, prepare and submit interim reports and, on the conclusion of the investigation, a final report to the competent authority.

(3) In appointing an inspector under sub-article (1), the competent authority may direct that the investigation shall be carried out within such time and shall be limited to such specific or general matters as the competent authority may deem fit.

Cap. 281.

(4) For the purposes of this article, the inspectors may include an advocate, a person authorised to carry out the profession of accountant or auditor in accordance with the Accountancy Profession Act, or a person considered by the competent authority as possessing suitable expertise to exercise such function.

(5) The competent authority shall have the power to order that all expenses of, and incidental to an investigation carried out in accordance with this article shall be paid by the persons referred to in sub-article (1).

Right of entry.

42. (1) Any officer, employee or agent of the competent authority, on producing evidence of his authority, if required, shall have the power to enter any premises, other than the private residences of natural persons, occupied by a person on whom a notice has been served in accordance with article 40 or whose affairs are being investigated in accordance with article 41, for the purpose of obtaining therefrom the information or documents required by such notice, or for the purpose of carrying out on-site inspections or investigations, and of exercising any of the powers conferred by the said articles:

Provided that the right of entry under this sub-article shall also apply to private residences of natural persons where such entry is necessary for the competent authority to fulfil its duties under Title VI of the MiCA Regulation and Part VI.

(2) Where any officer, employee or agent of the competent authority has cause to believe that if the notice referred to in article 40 were to be served, it would not be complied with, or that any documents to which it may relate would be removed, tampered with or destroyed, such officer, employee or agent shall have the power, on producing evidence of his authority, if required, to enter any premises in accordance with sub-article (1) for the purpose of obtaining any information or documents specified in the authority, being information or documents that may have been required in accordance to such notice as referred to in article 40.

(3) For the purposes of any action taken in accordance with the provisions of this article, the competent authority may request the assistance of the Commissioner of Police, who may for such purpose exercise such powers as are vested in him by law.

Powers of the competent authority.

43. (1) Without prejudice to any other power conferred upon it by the MiCA Regulation, this Act or any other law, the competent authority shall have the following powers:

(a) to suspend, or to require a crypto-asset service provider to suspend the provision of crypto-asset services for a maximum of thirty (30) consecutive working days on any single occasion where there are reasonable grounds for suspecting any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached;

(b) to prohibit the provision of crypto-asset services where the competent authority finds that any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached;

(c) to disclose, or to require a crypto-asset servicer provider to disclose, all material information which might have an effect on the provision of the crypto-asset services concerned, in order to ensure the protection of the interests of clients, in particular retail holders, or the smooth operation of the market;

(d) to make public the fact that a crypto-asset service provider failed or fails to fulfil its obligations;

(e) to suspend, or to require a crypto-asset service provider to suspend the provision of crypto-asset services where the competent authority considers that the crypto-asset service provider's situation is such that the provision of the crypto-asset service would be detrimental to the interests of clients, in particular retail holders;

(f) to require the transfer of existing contracts to another crypto-asset service provider in cases where a crypto-asset service provider's authorisation is withdrawn in accordance with Article 64 of the MiCA Regulation and article 30, subject to the agreement of the clients and the crypto-asset service provider to which the contracts are to be transferred;

(g) where there is a reason to assume that a person is providing crypto-asset services without authorisation, to order the immediate cessation of the activity without prior warning or imposition of a deadline;

(h) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens to amend their crypto-asset white paper or further amend their modified crypto-asset white paper, where they find that the crypto-asset white paper or the modified crypto-asset white paper does not contain the information required by Article 6, Article 19 or Article 51 of the MiCA Regulation, as applicable;

(i) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens, to amend their marketing communications, where they find that the marketing communications do not comply with the requirements set out in Article 7, Article 29 or Article 53 of the MiCA Regulation, as applicable;

(j) to require offerors, persons seeking admission to trading of crypto-assets, or issuers of asset-referenced tokens or e-money tokens, to include additional information in their crypto-asset white papers, where necessary for financial stability or the protection of the interests of the holders of crypto-assets, in particular retail holders;

(k) to suspend an offer to the public or an admission to trading of crypto-assets for a maximum of thirty (30) consecutive working days on any single occasion where there are reasonable grounds for suspecting that any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached;

(l) to prohibit an offer to the public or an admission to trading of crypto-assets where the competent authority finds that any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached or where there are reasonable grounds for suspecting that they are going to be breached;

(m) to suspend, or require a crypto-asset service provider operating a trading platform for crypto-assets to suspend, trading of the crypto-assets for a maximum of thirty (30) consecutive working days on any single occasion where there are reasonable grounds for suspecting that any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached;

(n) to prohibit trading of crypto-assets on a trading platform for crypto-assets where the competent authority finds that any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached or where there are reasonable grounds for suspecting that they are going to be breached;

(o) to suspend or prohibit marketing communications where there are reasonable grounds for suspecting that any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached;

(p) to require offerors, persons seeking admission to trading of crypto-assets, issuers of asset-referenced tokens or e-money tokens or relevant crypto-asset service providers to cease or suspend marketing communications for a maximum of thirty (30) consecutive working days on any single occasion where there are reasonable grounds for suspecting that any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder have been breached;

(q) to make public the fact that an offeror, a person seeking admission to trading of a crypto-asset or an issuer of an asset-referenced token or e-money token, fails to fulfil its obligations under the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder;

(r) to disclose, or to require the offeror, the person seeking admission to trading of a crypto-asset or the issuer of the asset-referenced token or e-money token, all material information which may have an effect on the assessment of the crypto-asset offered to the public or admitted to trading in order to ensure the protection of the interests of holders of crypto-assets, in particular retail holders, or the smooth operation of the market;

(s) to suspend, or require the relevant crypto-asset service provider operating the trading platform for crypto-assets to suspend, the crypto-assets from trading where the competent authority considers that the situation of the offeror, the person seeking admission to trading of a crypto-asset or the issuer of an asset-referenced token or an e-money token is such that trading would be detrimental to the interests of the holders of crypto-assets, in particular retail holders;

(t) where there is a reason to assume that a person is issuing asset-referenced tokens or e-money tokens without authorisation, or a person is offering or seeking admission to trading of crypto-assets other than asset-referenced tokens or e-money tokens without a crypto-asset white paper notified in accordance with Article 8 of the MiCA Regulation and articles 5 to 7, to order the immediate cessation of the activity without prior warning or imposition of a deadline;

(u) to take any type of measure to ensure that an offeror or a person seeking admission to trading of crypto-assets, an issuer of an asset-referenced token or an e-money token or a crypto-asset service provider comply with the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder including to require the cessation of any practice or conduct that the competent authority considers contrary to the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder;

(v) to outsource verifications or investigations to auditors or experts;

(w) to require the removal of a natural person from the management body of an issuer of an asset-referenced token or of a crypto-asset service provider;

(x) to request any person to take steps to reduce the size of its position or exposure to crypto-assets;

(y) where no other effective means are available to bring about the cessation of the breach of any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder and in order to avoid the risk of serious harm to the interests of clients or holders of crypto-assets, to take all necessary measures, including by requesting a third party or a public authority to implement such measures to:

(i) remove content or restrict access to an online interface or to order the explicit display of a warning to clients and holders of crypto-assets when they access an online interface;

(ii) order a hosting service provider to remove, disable or restrict access to an online interface; or

(iii) order domain registries or registrars to delete a fully qualified domain name and allow the competent authority concerned to register it; and

(z) to require an issuer of an asset-referenced token or e-money token, in accordance with Articles 23(4), 24(3) or 58(3) of the MiCA Regulation, to introduce a minimum denomination amount or to limit the amount issued.

(2) The competent authority shall exercise any of its powers under sub-article (1) in any of the following ways:

(a) directly;

(b) in collaboration with other authorities, including the Financial Intelligence Analysis Unit;

(c) under its responsibility, by delegation to the authority referred to in paragraph (b); or

(d) by application to the competent courts.

(3) Without prejudice to sub-article (1), in order to fulfil its duties under Titles VI of the MiCA Regulation and Part VI the competent authority shall also have the following powers:

(a) to refer matters for criminal prosecution;

(b) to require existing data traffic records held by a telecommunications operator, where there is a reasonable suspicion of a breach and where such records may be relevant to the investigation of an infringement of Articles 88 to 91 of the MiCA Regulation;

(c) to request the freezing or sequestration of assets, or both;

(d) to impose a temporary prohibition on the exercise of professional activity; and

(e) to take all necessary measures to ensure that the public is correctly informed, *inter alia*, by correcting false or misleading disclosed information, including by requiring an offeror, person seeking admission to trading or issuer or other person who has published or disseminated false or misleading information to publish a corrective statement.

44. (1) Where Malta is the host Member State, the competent authority shall, where it has clear and demonstrable grounds for suspecting that there are irregularities in the activities of an offeror or person seeking admission to trading of crypto-assets, an issuer of an asset-referenced token or e-money token, or a crypto-asset service provider, notify the competent authority of the home Member State and ESMA thereof: Precautionary measures.

Provided that where the irregularities referred to in sub-article (1) concern an issuer of an asset-referenced token or e-money token, or a crypto-asset service related to asset-referenced tokens or e-money tokens, the competent authority shall also notify EBA.

(2) Where, despite the measures taken by the competent authority of the home Member State the irregularities referred to in sub-article (1) persist, amounting to a breach of the MiCA Regulation, the competent authority shall, after informing the competent authority of the home Member State, ESMA and, where appropriate, EBA in accordance with sub-article (1), take appropriate measures in order to protect clients of crypto-asset service providers and holders of crypto-assets, in particular retail holders:

Provided that the competent authority shall inform ESMA and, where appropriate, the EBA of any measures taken in accordance with this sub-article without undue delay.

(3) The measures referred to in sub-article (2) shall include preventing the offeror, the person seeking admission to trading, the issuer of the asset-referenced token or e-money token or the crypto-asset service provider from conducting further activities in Malta.

Product intervention measures.

45. (1) The competent authority may prohibit or restrict the following in or from Malta:

(a) the marketing, distribution or sale of certain crypto- assets or crypto-assets with certain specified features; or

(b) a type of activity or practice related to crypto-assets.

(2) The competent authority shall only take a measure in accordance with sub-article (1) if it is satisfied on reasonable grounds that:

(a) a crypto-asset gives rise to significant investor protection concerns or poses a threat to the orderly functioning and integrity of markets in crypto-assets or to the stability of the whole or part of the financial system within at least one (1) Member State;

(b) existing regulatory requirements under European Union law applicable to the crypto-asset or crypto-asset service concerned do not sufficiently address the risks referred to in paragraph (a) and the issue would not be better addressed by improved supervision or enforcement of existing requirements;

(c) the measure is proportionate, taking into account the nature of the risks identified, the level of sophistication of investors or market participants concerned and the likely effect of the measure on investors and market participants who may hold, use or benefit from the crypto-asset or crypto-asset service concerned;

(d) the competent authority has properly consulted those European regulatory authorities that might be significantly affected by the measure; and

(e) the measure does not have a discriminatory effect on services or activities provided from another Member State.

(3) Without prejudice to sub-article (1), where the conditions set out in sub-article (2) are fulfilled, the competent authority may impose the prohibition or restriction referred to in sub-article (1) on a

precautionary basis before a crypto-asset has been marketed, distributed or sold to clients.

(4) Without prejudice to the provisions of sub-articles (1) and (3), the competent authority may apply the prohibition or restriction referred to in sub-article (1) only in certain circumstances or to make such prohibition or restriction subject to exceptions.

(5) The competent authority shall not impose a prohibition or restriction under this article unless, not less than one (1) month before the measure is intended to take effect, it has notified all the European regulatory authorities and ESMA, or EBA for asset-referenced tokens and e-money tokens, in writing or through another medium agreed between the authorities, the following details:

(a) the crypto-asset or activity or practice to which the proposed measure relates;

(b) the precise nature of the proposed prohibition or restriction and when it is intended to take effect; and

(c) the evidence upon which it has based its decision and upon which it is satisfied that each of the conditions in sub- article (2) are met.

(6) After receiving a notification, in accordance with sub-article (5), of a prohibition or restriction to be imposed by the competent authority in accordance with this article, ESMA or EBA, as applicable, shall issue and publish an opinion in accordance with Article 106(2) of the MiCA Regulation and, where the competent authority proposes to impose, or imposes or declines to impose such a prohibition or restriction contrary to an opinion issued by ESMA or EBA, the competent authority shall immediately publish on its official website a notice fully explaining its reasons therefor.

(7) In exceptional cases where the competent authority considers it necessary in order to prevent any detrimental effects arising from the crypto-asset or activity or practice referred to in sub-article (1), the competent authority may take an urgent measure, in the form of a prohibition or restriction as referred to in sub-article (1), on a provisional basis with not less than twenty-four (24) hours written notice before the measure is intended to take effect to all the European regulatory authorities and ESMA, provided that all of the criteria listed in this article are met and, in addition, that it is clearly established that a one (1) month notification period would not adequately address the specific concern or threat:

Provided that the duration of urgent measures taken on a provisional basis in accordance with this sub-article shall not exceed three (3) months.

(8) The competent authority shall publish on its official website a notice of a decision to impose a prohibition or restriction as referred to in sub-article (1), which notice shall specify the details of the prohibition or restriction imposed and specify a time after the publication of the notice from which such prohibition or restriction shall take effect and the evidence upon which the competent authority has based its decision, and is satisfied that each of the conditions in sub-article (2) is met.

(9) Any prohibition or restriction imposed in accordance with this article shall only apply to activities after such prohibition or restriction takes effect.

(10) The competent authority shall revoke a prohibition or restriction imposed in accordance with this article if the conditions in sub-article (2) no longer apply.

Administrative penalties and other administrative measures.

46. (1) Without prejudice to any other power conferred upon it by the MiCA Regulation, this Act or any other law, the competent authority may impose administrative penalties and other administrative measures as referred to in sub-article (2) where it considers that:

(a) a person's conduct amounts to a breach of any of the provisions of the MiCA Regulation, this Act or any regulations made or Rules issued thereunder; and, or

(b) a person has contravened or failed to comply with any condition, obligation, requirement or directives made or given by the competent authority under any of the provisions of the MiCA Regulation, this Act or any regulations or Rules issued thereunder, including failure to co-operate with an investigation or an inspection or any request made by the competent authority in accordance with article 40.

(2) Without prejudice to the generality of sub-article (1), the competent authority may impose administrative penalties and other administrative measures as referred to in sub-article (2) in relation to the following infringements:

(a) breaches of Articles 4 to 14 of the MiCA Regulation and articles 5 to 8;

(b) breaches of Articles 16, 17, 19, 22, 23, 25, Articles 27 to 41, Articles 46 and 47 of the MiCA Regulation and articles 9, 10, 15 to 18, 20 and 21;

(c) breaches of Articles 48 to 51, Articles 53, 54 and 55 of the MiCA Regulation and articles 22 to 25;

(d) breaches of Articles 59, 60, 64 and Articles 65 to 83 of the MiCA Regulation and articles 26, 27, 30, 32 and 33;

(e) breaches of Article 88 of the MiCA Regulation and article 35;

(f) breaches of Articles 89 to 92 of the MiCA Regulation and article 36; and, or

(g) failure to cooperate or to comply with an investigation, inspection, requirement or request as referred to in Article 94(3) of the MiCA Regulation and, or articles 40, 41, 42 or 43(3).

(3) Without prejudice to any other power conferred upon it by the MiCA Regulation, this Act or any other law, the competent authority shall have the power to:

(a) issue a public statement indicating the natural or legal person responsible and the nature of the breach for any breach as referred to in sub-article (1);

(b) issue an order requiring the natural or legal person responsible to cease the conduct constituting the breach and to desist from a repetition of such conduct for any breach as referred to in sub-article (1);

(c) impose an administrative penalty for any breach as referred to in sub-article (1), except for those referred to in sub-article (2)(e) and (f), which administrative penalty may not exceed twice the amount of the profits gained or losses avoided because of the breach where those profits or losses avoided can be determined, even if it exceeds the maximum amounts set out in paragraph (d) or (e), as applicable;

(d) impose, in the case of a natural person, an administrative penalty which may not exceed:

(i) seven hundred thousand euro (€700,000) for any breach as referred to in sub-article (1), except for those referred to in sub-article (2)(e) and (f);

(ii) one million euro (€1,000,000) for any breach as referred to in sub-article (2)(e); or

(iii) five million euro (€5,000,000) for any breach as referred to in sub-article (2)(f);

(e) impose, in the case of a legal person, an administrative penalty which may not exceed:

(i) five million euro (€5,000,000) for any breach as referred to in sub-article (1), except for those referred to in sub-article (2)(e) and (f);

(ii) three per cent (3%) of the total annual turnover of such legal person according to the last available financial statements approved by the management body for any breach as referred to in sub-article (2)(a);

(iii) five per cent (5%) of the total annual turnover of such legal person according to the last available financial statements approved by the management body for any breach as referred to in sub-article (2)(d);

(iv) twelve point five per cent (12.5%) of the total annual turnover of such legal person according to the last available financial statements approved by the management body for any infringement as referred to in sub-article (2)(b) and (c);

(v) two million five hundred thousand euro (€2,500,000) or two per cent (2%) of the total annual turnover of such legal person according to the last available accounts approved by the management body for any breach as referred to in sub-article (2)(e); or

(vi) fifteen million euro (€15,000,000) or fifteen per cent (15%) of the total annual turnover of such legal person according to the last available accounts approved by the management body for any breach as referred to in sub-article (2)(f):

Provided that where the legal person referred to in this paragraph is a parent undertaking or a subsidiary of a parent undertaking which is required to prepare consolidated financial statements in accordance with Directive 2013/34/EU, the relevant total annual turnover shall be the total annual turnover or the corresponding type of income in accordance with applicable European Union law in the field of accounting according to the last available consolidated accounts approved by the management body of the ultimate parent undertaking;

(f) impose, in the event of a breach as referred to in sub-article (2)(d), a temporary ban preventing any member of the management body of the crypto-asset service provider, or any other natural person who is held responsible for the breach, from exercising management functions in a crypto-asset service provider; and, or

(g) take the following administrative measures in the case of a breach as referred to in sub-article (2)(e) and (f):

(i) order the disgorgement of the profits gained or losses avoided due to the breach insofar as they can be determined;

(ii) withdraw or suspend the authorisation granted to a crypto-asset service provider in accordance with Article 63 of the MiCA Regulation and article 28, in accordance with provisions of the MiCA Regulation and this Act;

(iii) order a temporary ban of any member of the management body of the crypto-asset service provider, or any other natural person who is held responsible for the breach, from exercising management functions in crypto-asset service providers;

(iv) in the event of a repeated breach of Articles 89, 90, 91 or 92 of the MiCA Regulation or article 36, impose a ban of at least ten (10) years for any member of the management body of a crypto-asset service provider, or any other natural person who is held responsible for the breach, from exercising management functions in a crypto-asset service provider;

(v) impose a temporary ban of any member of the management body of a crypto-asset service provider or any other natural person who is held responsible for the breach, from dealing on own account; and, or

(vi) impose an administrative fine which shall not exceed at least three times the amount of the profits gained or losses avoided because of the breach, where those can be determined, even if it exceeds the maximum amounts set out in paragraphs (d)(ii) and (iii) and paragraph (e)(v) and (vi), as applicable.

(4) When determining the type and level of the administrative penalty to be imposed and, or any other administrative measure to be taken in accordance with this article, the competent authority shall take into account relevant circumstances, including where appropriate:

(a) the gravity and the duration of the breach;

(b) whether the breach has been committed intentionally or negligently;

(c) the degree of responsibility of the natural or legal person responsible for the breach;

(d) the financial strength of the natural or legal person responsible for the breach, as indicated by the total turnover of the responsible legal person or the annual income and net assets of the responsible natural person;

(e) the importance of the profits gained or losses avoided by the natural or legal person responsible for the breach, insofar as those can be determined;

(f) the losses for third parties caused by the breach, insofar as those can be determined;

(g) the level of cooperation of the natural or legal person responsible for the breach with the competent authority, without prejudice to the need to ensure disgorgement of profits gained or losses avoided by such person;

(h) previous breaches of the MiCA Regulation, this Act and, or any regulations made and, or Rules issued thereunder by the natural or legal person responsible for the breach;

(i) measures taken by the person responsible for the breach to prevent its repetition; and

(j) the impact of the breach on the interests of holders of crypto-assets and clients of crypto-asset service providers, in particular retail holders.

(5) Without prejudice to the provisions of this article, where obligations imposed in terms of the MiCA Regulation, this Act, or in any regulations made thereunder, or Rules issued thereunder apply to a legal person, in the case of a breach of any provision thereof, administrative penalties and other administrative measures may also be imposed, subject to the conditions laid down in national law, on the members of the management or administrative body of the legal entity concerned, and on other individuals who are responsible for the breach under national law.

(6) Any administrative penalty imposed and or, any other administrative measures taken by the competent authority in terms of this article shall be effectively implemented.

Cap. 330.

(7) The provisions of article 16(4) of the Malta Financial Services Authority Act shall apply, *mutatis mutandis*, with respect to any administrative penalty imposed by the competent authority in terms of this article.

(8) The imposition by the competent authority of an administrative penalty or any other administrative measure in terms of this article shall be without prejudice to any other consequence emanating from the act or omission of the person committing the breach in terms of civil or criminal law:

Provided that in all cases where the competent authority imposes an administrative penalty or any other administrative measure in respect of anything done or omitted to be done by any person, and such act or omission also constitutes a criminal offence, no proceedings may be taken or continued against the said person in respect of such criminal offence.

Notice of administrative penalties and other administrative measures.

47. (1) Where the competent authority proposes to impose an administrative penalty or any other administrative measure on any person in accordance with article 46, it shall give a notice in writing of its intention to do so, specifying the reasons for the decision it proposes to take.

(2) Every notice given in accordance with sub-article (1) shall specify that the recipient of the notice may, within such reasonable period after the service thereof, as may be stated in the notice, make representations in writing to the competent authority specifying the reasons why the proposed decision should not be taken, and the competent authority shall consider any representation so made before reaching a final decision.

(3) The competent authority shall as soon as practicable notify its final decision in writing to any person to whom notice is to be given in accordance with sub-article (1).

Publication of decisions.

48. (1) A decision imposing an administrative penalty and, or taking other administrative measures for a breach of the MiCA Regulation, this Act and, or any regulations made and, or Rules issued thereunder in accordance with article 46 shall be published by the competent authority on its official website without undue delay after the natural or legal person subject to such decision has been informed of the said decision:

Provided that the publication referred to in this sub-article shall include at least information on the type and nature of the breach and the identity of the natural or legal persons responsible:

Provided further that decisions imposing or taking measures that are of an investigatory nature may not be published.

(2) Where the publication of the identity of the legal entities, or the identity or personal data of natural persons, is considered by the competent authority to be disproportionate following a case-by-case assessment conducted on the proportionality of the publication of such data, or where such publication would jeopardise an ongoing investigation, the competent authority shall take one of the following actions:

(a) defer the publication of the decision to impose an administrative penalty or other administrative measure until the moment where the reasons for non-publication cease to exist;

(b) publish the decision to impose an administrative penalty or other administrative measure on an anonymous basis in a manner which is in conformity with national law, where such anonymous publication ensures the effective protection of the personal data concerned; or

(c) not publish the decision to impose an administrative penalty or other administrative measure in the event that the options provided for in paragraphs (a) and (b) are considered insufficient to ensure:

(i) that the stability of financial markets is not jeopardised; and

(ii) the proportionality of the publication of such a decision with regard to measures which are deemed to be of a minor nature:

Provided that where the competent authority decides, in accordance with paragraph (b), to publish an administrative penalty or other administrative measure on an anonymous basis, the publication of the relevant data may be deferred for a reasonable period where it is foreseen that within that period the reasons for anonymous publication will cease to exist.

(3) Where the decision to impose an administrative penalty or any other administrative measure is subject to appeal before a national judicial, administrative or other authority, the competent authority shall immediately also publish on its official website information on the status of the appeal and on the outcome thereof, and any decision annulling a preceding decision of the competent authority to impose an administrative penalty or any other administrative measure shall also be published.

(4) The competent authority shall ensure that any publication in accordance with this article remains on its official website for a period of at least five (5) years after its publication:

Provided that personal data contained in the publication shall be kept on the official website of the competent authority only for as long as is necessary for the purposes of public interest and transparency.

PART VIII
APPEALS, OFFENCES AND CONFIDENTIALITY

Appeals.

Cap. 330.

49. (1) For the purposes of this article, Tribunal means the Financial Services the Tribunal established by article 21 of the Malta Financial Services Authority Act.

(2) Any person who feels aggrieved by a decision of the competent authority in terms of this Act, or in any regulations made thereunder, or the Rules issued thereunder, may appeal against such decision to the Tribunal within such period and under such conditions as etablished in article 21 of the Malta Financial Services Authority Act. Cap. 330.

(3) Without prejudice to the provisions of sub-article (2), any person who feels aggrieved by the competent authority's failure to take a decision in respect of an application for authorisation which contains all the information required in accordance with the MiCA Regulation and this Act within six (6) months from the date of submission of the complete application, may appeal against such failure to decide to the Tribunal within such period and under such conditions as established in article 21 of the Malta Financial Services Authority Act. Cap. 330.

(4) An appeal against a decision of the competent authority shall not suspend the operation of such decision:

Provided that a decision of the competent authority to withdraw an authorisation granted in accordance with the MiCA Regulation and this Act shall not become operative until the expiration of the period within which an appeal is filed in accordance with this article and, in the case that an appeal is filed within such period, the decision shall become operative on the date of the decision of the Tribunal dismissing the appeal, or on the date on which the appeal is abandoned, whichever is the earliest.

(5) Subject to the provisions of this article, the provisions of article 21 of the Malta Financial Services Authority Act shall apply, *mutatis mutandis*, to appeals that may be brought before the Tribunal in accordance with this article. Cap. 330.

Right of action.

50. Consumer organisations having a legitimate interest in protecting holders of crypto-assets may, in the interest of consumers and in accordance with national law, take any such action before a national judicial, administrative or other authority to ensure that the provisions of the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder are applied.

Offences.
Amended by: XI.2025.55.

51. (1) Any person who:

(a) contravenes or fails to comply with any of the provisions of Articles 16 or 59 of the MiCA Regulation or articles 9, 26, 39(1), 40(1), 40(5) or 52(1), or of article 40(1) or 40(5) as applied in terms of article 41;

(b) contravenes or fails to comply with any condition, obligation, requirement, directive or order made or given in accordance with any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder;

(c) for the purposes of, or in accordance with, any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder, or any condition, obligation, requirement, directive or order made or given as aforesaid, furnishes information or makes a statement which he knows to be inaccurate, false or misleading in any material respect, or recklessly furnishes information or makes a statement which is inaccurate, false or misleading in any material respect;

(d) with intent to avoid detection of the commission of an offence in accordance with this Act, removes, destroys, conceals or fraudulently alters any book, document or other paper; and, or

(e) intentionally obstructs a person exercising rights or powers conferred by the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder,

shall be guilty of an offence.

(2) A natural person guilty of an offence under sub-article (1) shall be liable, on conviction, to imprisonment for a term not exceeding six (6) years, or to a fine (*multa*) not exceeding five million euro (€5,000,000), or to both such fine and imprisonment, unless such fine (*multa*) or term of imprisonment is otherwise imposed in regulations made under this Act.

(3) A legal person guilty of an offence under sub-article (1) shall be liable, on conviction, to a fine (*multa*) not exceeding fifteen million euro (€15,000,000), unless such fine is otherwise imposed in regulations made under this Act.

(4) The provisions of this Act or of any regulations made thereunder shall not affect any criminal proceedings that may be initiated under any other law.

(5) The competent authority shall have the power to:

(a) liaise with the Commissioner of Police to receive specific information related to criminal investigations or proceedings commenced for breaches of the MiCA Regulation, this Act or any regulations made, and Rules issued thereunder. The Commissioner of Police shall cooperate with the competent authority, thereby providing such specific information related to any criminal investigations or proceedings commenced in relation to such breaches; and

(b) provide the same information received in accordance with paragraph (a), and transmit copies of acts and documents of the courts of criminal justice in accordance with the second proviso to article 518 of the Criminal Code, to other authorities which are deemed competent authorities for the purposes of Article 93 of the MiCA Regulation, as well as to the EBA and ESMA, for the purpose of fulfilling its obligations to cooperate for the purposes of the MiCA Regulation, this Act or any regulations made, and Rules issued thereunder. Cap. 9.

52. Information obtained by the competent authority or by its officers, employees or agents, whether current or former, or by inspectors, auditors and experts formerly or currently engaged by the competent authority for the purposes of, or in accordance with, any of the provisions of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder, or in the discharge of any functions under any of the said provisions, or by any other person who works, or has worked for the competent authority, or for any third party to whom the competent authority has delegated any of its functions or powers, whether a natural or a legal person, shall be treated as confidential and protected by the duty of professional secrecy, and shall not be disclosed to any other person, except in the following cases: Confidentiality.

(a) where the authority, body or person communicating the information to the competent authority consents thereto;

(b) where the disclosure of the information is necessary for any legal proceedings;

(c) where the disclosure of the information is necessary for cases covered by national taxation or criminal law; and, or

(d) where the disclosure of the information is permitted or required by law or European Union legislation.

(2) The information referred to in sub-article (1) shall include all information exchanged between the competent authority and European regulatory authorities in accordance with the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder that concerns business or operational conditions and other economic or personal affairs.

53. The processing of personal data for the purposes of the MiCA Regulation, this Act or any regulations made, or Rules issued thereunder shall be carried out in accordance with the Data Protection Data protection. Cap. 586.

Act and the GDPR.

PART IX
COOPERATION WITH OTHER AUTHORITIES

Cooperation with European regulatory authorities.

54. (1) The competent authority shall cooperate with European regulatory authorities whenever necessary for the purpose of carrying out its duties and exercising its powers under the MiCA Regulation, and it shall render the necessary assistance to other European regulatory authorities, in particular by exchanging information and cooperating in any investigatory, supervisory or enforcement activity.

(2) A European regulatory authority may request information from the competent authority, in which case the competent authority shall without undue delay, provide the requested information required for the purposes of the MiCA Regulation.

(3) A European regulatory authority may request the cooperation of the competent authority in carrying out an on-site inspection or investigation, in which case the competent authority may:

(a) carry out the on-site inspection or investigation itself;

(b) allow the European regulatory authority which submitted the request to participate in the on-site inspection or investigation;

(c) allow the European regulatory authority which submitted the request to carry out the on-site inspection or investigation itself; or

(d) share specific tasks related to supervisory activities with European regulatory authorities.

(4) Notwithstanding the provisions of sub-articles (1) to (3), the competent authority may refuse to act on the request of a European regulatory authority for information or to cooperate with an investigation in any of the following cases:

(a) communication of the relevant information may adversely affect the security of Malta, in particular with regard to the fight against terrorism and other serious crimes;

(b) where complying with the request is likely to adversely affect its own investigation, enforcement activities or, where applicable, a criminal investigation;

(c) when proceedings have already been initiated in respect of the same actions and against the same natural or legal persons before the courts of Malta; or

(d) where a final judgment has already been delivered in respect of the same action and against the same natural or legal person in Malta.

(5) Where the competent authority finds that any of the requirements under the MiCA Regulation have not been met or has reason to believe so, it shall inform the European regulatory authority of the entity suspected of such breach of its findings in a sufficiently detailed manner.

Cooperation with the EBA and ESMA.

55. (1) For the purposes of the MiCA Regulation, the competent authority shall cooperate closely with ESMA in accordance with Regulation (EU) No. 1095/2010 and with the EBA in accordance with Regulation (EU) No. 1093/2010, and it shall exchange information with ESMA and the EBA for the purposes of the duties which shall be carried out by the competent authority, ESMA and the EBA under Chapters 1 to 3 of Title VII of the MiCA Regulation.

(2) The competent authority shall, without delay, provide the EBA and ESMA with all the information necessary for them to perform their duties, in accordance with Article 35 of Regulation (EU) No. 1093/2010 and Article 35 of Regulation (EU) No. 1095/2010 respectively.

Cooperation with other authorities.

56. When an offeror, person seeking admission to trading, an issuer of an asset-referenced token or e-money token or a crypto-asset service provider engages in activities other than those covered by the MiCA Regulation, the competent authority shall cooperate with the authorities responsible for the supervision or oversight of such other activities pursuant to European Union or national law, including tax authorities and relevant supervisory authorities of third countries.

Cooperation with third countries.

57. (1) The competent authority shall, where necessary, conclude cooperation arrangements with supervisory authorities of third countries concerning the exchange of information with those supervisory authorities of third countries and the enforcement of obligations in accordance with the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder in those third countries:

Provided that the competent authority shall inform the EBA, ESMA and all the European regulatory authorities when it intends to conclude an arrangement as referred to in this sub-article.

(2) The cooperation arrangements referred to in sub-article (1) shall ensure at least an efficient exchange of information that allows the competent authority to carry out its duties under the MiCA Regulation, this Act and any regulations made, and Rules issued thereunder.

(3) The competent authorities shall conclude cooperation arrangements as referred to in sub-article (1) only when the information disclosed is subject to guarantees of professional secrecy that are at least equivalent to those set out in Article 100 of the MiCA Regulation and provided that the exchange of information shall be intended for the performance of the tasks of the competent authority under the MiCA Regulation.

PART X
TRANSITORY PROVISIONS

Transitory measures.

58. (1) Articles 4 to 15 of the MiCA Regulation and articles 5 to 8 shall not apply to offers to the public of crypto-assets that ended before 30 December 2024.

(2) Notwithstanding the provisions of Title II of the MiCA Regulation and Part II of this Act, only the following requirements shall apply in relation to crypto-assets other than asset-referenced tokens and e-money tokens that were admitted to trading before 30 December 2024:

(a) Articles 7 and 9 of the MiCA Regulation shall apply to marketing communications published after 30 December 2024; and

(b) operators of trading platforms shall by 31 December 2027, ensure that a crypto-asset white paper, in the cases required by the MiCA Regulation and this Act, is drawn up, notified and published in accordance with Articles 6, 8 and 9 of the MiCA Regulation, and updated in accordance with Article 12 of the MiCA Regulation.

Cap. 590.

(3) Crypto-asset service providers may continue to provide, or hold themselves out as providing, the VFA services which they are licensed to provide under the Virtual Financial Assets Act in accordance with the provisions of the said Act and any regulations made, and Rules issued thereunder until 1 July 2026 or until they are granted or refused an authorisation pursuant to Article 63 of the MiCA Regulation, whichever comes first.

(4) Notwithstanding the provisions of Articles 62 and 63 of the MiCA Regulation and articles 28 and 29, the competent authority shall apply a simplified procedure for applications submitted by crypto-asset service providers in accordance with Article 62(1) of the MiCA Regulation and article 28(2) between 30 December 2024 and 1 July 2026:

Provided that the competent authority shall ensure that the provisions of Chapters 2 and 3 of Title V of the MiCA Regulation are complied with before granting authorisation pursuant to such simplified procedure.

(5) For the purposes of this article, "crypto-asset service providers" means persons who, on 30 December 2024, are 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. Cap. 590.

PART XI
AMENDMENTS TO THE BANKING ACT

Amendments to the Banking Act. Cap. 371.

59. This Part amends the Banking Act and it shall be read and construed as one with the Banking Act, hereinafter in this Part referred to as the "principal Act".

Amendment of article 2 of the principal Act.

60. In sub-article (1) of article 2 of the principal Act, immediately after the definition "Member State" there shall be added the following new definition:

" "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;".

Amendment of the First Schedule to the principal Act.

61. The First Schedule to the principal Act shall be amended as follows:

(a) item 13 thereof shall be substituted by the following new item:

"13. Issuing electronic money including electronic money tokens as defined in point (7) of Article 3(1) of the MiCA Regulation;"; and

(b) immediately after item 13 thereof, as substituted, there shall be added the following new items:

"14. Issuing of asset-referenced tokens as defined in point (6) of Article 3(1) of the MiCA Regulation;

15. Crypto-asset services as defined in point (16) of Article 3 of the MiCA Regulation.".

PART XII
AMENDMENTS TO THE VIRTUAL FINANCIAL ASSETS ACT

Amendments to the Virtual Financial Assets Act. Cap. 590.

62. This Part amends the Virtual Financial Assets Act and it shall be read and construed as one with the Virtual Financial Assets Act, hereinafter in this Part referred to as the "principal Act".

Addition of new articles to the principal Act.

63. Immediately after article 64 of the principal Act there shall be added the following new articles:

"Further transitory provisions relating to white papers.

65. (1) Where a person has made, either directly or through a VFA agent, a request to the competent authority to register a white paper in accordance with article 3(4) prior to the first date of coming into force of the Markets in Crypto-Assets Act and the competent authority has not yet determined, in terms of the said article, whether or not to register that white paper by such date, the said person shall notify the competent authority in writing, whether it wishes to proceed with its request for the registration of the white paper or whether it wishes to withdraw the said request:

Act No. XXXVI of 2024.

Provided that, where such person does not notify the competent authority, in accordance with this sub-article, within one (1) month from the first date of coming into force of the Markets in Crypto-Assets Act the competent authority shall deem the request made by such person to have been withdrawn.

Act No. XXXVI of 2024.

(2) Notwithstanding the provisions of this Act, and any regulations made, and rules issued thereunder, requests for the registration of white papers in accordance with article 3(4) may not be made to, and in any case shall not be accepted by the competent authority as from 1 August 2024.

(3) Any whitepaper relating to an e-money token which is registered by the competent authority under this Act shall be deemed to have automatically been deregistered on 30 June 2024.

(4) Any whitepaper relating to a virtual financial asset other than an e-money token or an asset-referenced token which is registered by the competent authority under this Act shall automatically be deregistered on 30 December 2024.

(5) The provisions of articles 3 to 13 shall cease to have effect as from 30 December 2024.

Further transitory provisions relating to the provision of VFA services.

66. (1) Persons who, on 30 December 2024, are licensed under this Act to provide, or hold themselves out as providing, one or more VFA services may continue to provide, or hold themselves out as providing, those services in accordance with the applicable provisions of the said Act and any regulations made, and rules issued thereunder, until 1 July 2026 or until they are granted or refused an authorisation pursuant to Article 63 of the MiCA Regulation, whichever comes first.

(2) Without prejudice to article 21, any licence granted to a person under this Act shall automatically be cancelled on 2 July 2026 or upon the granting or refusal of an authorisation pursuant to Article 63 of the MiCA Regulation to such person, whichever comes first.".

Repeal of the principal Act.

64. The principal Act shall be repealed on 3 July 2026 without prejudice to anything done or omitted to be done thereunder.