

CIRCULAR

THE VIRTUAL FINANCIAL ASSETS ACT COMES INTO FORCE

1 Background

The Virtual Financial Assets Act (Chapter 590 of the Laws of Malta) (the 'Act') came into force today, 1 November 2018.

2 Submissions of Applications under the Virtual Financial Assets Act

Requests for applications, authorisations and approvals under the Act will be accepted by the MFSA from today onwards through the designated online portal. Initially, the MFSA will be processing applications only in relation to persons seeking to be registered as VFA Agents under the Act. In the Act, the registration of the whitepaper for an offer to the public and/ or admission to trading of the issuer's Virtual Financial Assets ('VFAs') on an exchange, as well as an application for a licence to provide any service falling within the Second Schedule to the Act in relation to VFAs ('VFA Service'), shall all be made solely through a VFA Agent duly registered with the MFSA. The registered VFA Agents will be listed in the MFSA [Financial Services Register](#), in due course.

3 Persons seeking registration under Articles 7 and/or 14 of the Act

3.1 *Submitting an Application*

Prior to proceeding with the submission of an application for registration, Applicants are required to submit a statement of intent in terms of R1-2.3.3.2.1 and R1-2.3.3.2.2 of [Chapter 1 of the Virtual Financial Assets Rulebook: Virtual Financial Assets Rules for VFA Agents](#). The statement of intent should be submitted to the MFSA via email through fintech@mfsa.com.mt and in original to the attention of the Fintech Team at the MFSA.

Applicants seeking registration as a VFA Agent to exercise the functions specified in terms of Article 7 and/or Article 14 of the Act shall submit their application to the MFSA through the [designated online portal](#). The VFA Agent Application Form shall be submitted in accordance with the provisions of the Act and the relevant sections of Chapter 1 of the Virtual Financial Assets Rulebook. Applicants are expected to read the [Guidance Note to the VFA Agent Application](#) to be in a position to successfully complete the VFA Agent Application Form.

3.2 Preparation of Application Form

Applicants are required to prepare and submit an [online Personal Questionnaire](#) for persons who are being proposed to hold a position which requires the MFSA's prior approval before submitting an application. Prior to completing a Personal Questionnaire, Applicants are expected to read the [Guidelines to the Personal Questionnaire](#) and the corresponding [Glossary](#). For the purposes of all applications under the VFA Framework, only digitised Personal Questionnaire submissions will be considered as valid. Paper-based submissions will not be accepted for this purpose. The Authority wishes to clarify that individuals that have previously submitted a Personal Questionnaire to the Authority shall be required to submit a new digitised Personal Questionnaire for the purposes of the application for registration as a VFA Agent. Further information on the launch of the digitised Personal Questionnaire can be found on the [Circular to Licence Holders and Applicants who are being proposed to hold a position which requires the MFSA's prior approval](#).

Before submitting an online application, the Applicant should have finalised its commercial and regulatory business plan, decided on which approval is necessary, organised its resources, and be in a position to complete and submit the online Application Form.

3.3 Incomplete Application Form Submissions

During the completion of the online VFA Agent Application Form, the online system will contain a number of validations verifying the correctness of the information inserted or otherwise, at each stage. This notwithstanding, if, following the full submission of the online Application Form for the purposes of registration as a VFA Agent, the MFSA considers, at any time during the assessment period, that the information contained in the online Application Form is lacking and incomplete, the MFSA will inform the Applicant accordingly, in writing, together with the reasons for rejecting the online Application Form. In such an eventuality, the MFSA will consider the Application Form as invalid and thus the Applicant would need to submit a new online Application Form.

4 Transitory Period

Furthermore, as from 1 November 2018, persons who, prior to the said date started performing the activity under Articles 7 and, or 14 of the Act, may avail themselves of the transitory period under Article 62 of the Act, subject to a notification requirement to the MFSA, through the [Notification Form](#), as outlined in the [Circular to Persons Involved in DLT Asset Activity and Services](#). Information on the Transitory Period can be found in [Circular to the Industry on the Transitory Provision under Article 62 of the VFA Act](#).

Whilst persons availing themselves of the transitory period may continue providing certain services to clients, it is only VFA Agents who are registered under the Act who will be permitted to submit applications to the MFSA for the purposes of registration of a whitepaper or an application for a licence to provide VFA Service/s under the Act.

The Notification under Article 62 of the Act and the statement of intent in terms of R1-2.3.3.2.1 and R1-2.3.3.2.2 of Chapter 1 of the Virtual Financial Assets Rulebook are different requirements, which should be cumulatively satisfied by existing operators that are going to apply for registration. The statement of intent should be submitted to the MFSA via email through fintech@mfsa.com.mt and in original to the attention of the Fintech Team at the MFSA.

5 Contact and Updates

Any queries are to be addressed to fintech@mfsa.com.mt. Further updates and developments on the Virtual Financial Assets Framework will be made public on: www.mfsa.com.mt/vfa.

Communications Unit
Malta Financial Services Authority
1 November 2018