Suppliment tal-Gazzetta tal-Gvern ta' Malta, Nru. 21,278, 2 ta' Lulju, 2024
Taqsima C

Nru 107

02. 07. 2024

MALTA

KAMRA TAD-DEPUTATI

ABBOZZ ta' Liġi mressaq mill-Onorevoli Byron Camilleri, M.P., Ministru għall-Intern, is-Sigurtà u x-Xogħol, f'isem il-Ministru għall-Finanzi, u moqri għall-Ewwel darba fis-Seduta tal-1 ta' Lulju 2024.

ATT sabiex jipprovdi għat-twaqqif ta' qafas għar-rekwiżiti applikabbli għal offerti lill-pubbliku u ammissjoni għan-negozjar fuq pjattaforma ta' negozjar ta' tokens irreferenzjati ma' assi, tokens tal-flus elettroniċi, kriptoassi oħra, u r-rekwiżiti applikabbli għal fornituri ta' servizzi tal-kriptoassi.

ELEANOR SCERRI
Skrivan tal-Kamra tad-Deputati

HOUSE OF REPRESENTATIVES

A BILL introduced by the Honourable Byron Camilleri, M.P., Minister for Home Affairs, Security and Employment, on behalf of the Minister for Finance, and read the First time at the Sitting of the 1st July 2024.

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.

ELEANOR SCERRI
Clerk of the House of Representatives

ABBOZZ TA' LIĠI
msejjaħ

ATT sabiex jipprovdi għat-twaqqif ta' qafas għar-rekwiżiti applikabbli għal offerti lill-pubbliku u ammissjoni għan-negozjar fuq pjattaforma ta' negozjar ta' tokens irreferenzjati ma' assi, tokens tal-flus elettroniċi, kriptoassi oħra, u r-rekwiżiti applikabbli għal forniturи ta' servizzi tal-kriptoassi.

IL-PRESIDENT, bil-parir u l-kunsens tal-Kamra tad-Deputati, imlaqqgħa f'dan il-Parlament, u bl-awtorità tal-istess, ħarġet b'liġi dan li ġej:-

TAQSIM TAL-ATT

TAQSIMA I
PRELIMINARI

Titolu fil-qosor, għan u bidu fis-seħħ.

1. (1) It-titolu fil-qosor ta' dan l-Att hu l-Att tal-2024 dwar is-Swieq fil-Kriptoassi.

(2) L-għan prinċipali ta' dan l-Att huwa li jimplimenta d-dispożizzjonijiet rilevanti tar-Regolament (UE) 2023/1114 tal-Parlament Ewropew u tal-Kunsill tal-31 ta' Mejju 2023 dwar is-swieq fil-kriptoassi, u li jemenda r-Regolamenti (UE) Nru 1093/2010 u (UE) Nru 1095/2010 u d-Direttivi 2013/36/UE u (UE) 2019/1937 (ir-Regolament MiCA) u għandu jiġi interpretat u applikat skont il-każ.

(3) Dan l-Att għandu jitqies li daħal fis-seħħ fit-30 ta' Ġunju 2024, bl-eċċezzjoni tat-Taqsimiet II, V, VI, X u XI ta' dan l-Att, li għandhom jidħlu fis-seħħ fit-30 ta' Diċembru 2024.

Tifsir.

2. (1) F'dan l-Att, sakemm ir-rabta tal-kliem ma teħtieġx xort'oħra:

"AIFs" għandu jkollha l-istess tifsira kif mogħti lilha fil-paragrafu (a) tal-Artikolu 4(1) tad-Direttiva 2011/61/EU;

"awtorità kompetenti" tfisser l-Awtorità għas-Servizzi Finanzjarji ta' Malta stabbilita bl-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta;

Kap. 330.

"awtorità regolatorja Ewropea" tfisser korp jew korpi dežinjati minn Stat Membru għajr Malta skont l-Artikolu 93(1) tar-Regolament MiCA sabiex iwettqu l-funzjonijiet u d-dmirijiet provduti taħt l-imsemmi Regolament;

"Bank Ċentrali" tfisser il-Bank Ċentrali ta' Malta kif imfisser fl-Att dwar il-Bank Ċentrali ta' Malta;

Kap. 204.

"Bank Ċentrali Ewropew" jew "BĊE" tfisser il-Bank Ċentrali Ewropew stabbilit bit-Trattat dwar il-Funzjonament tal-Unjoni Ewropea;

"depożitorju ċentrali tat-titoli" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (1) tal-Artikolu 2(1) tar-Regolament (UE) Nru 909/2014;

"Direttiva 2009/65/KE" tfisser id-Direttiva 2009/65/KE tal-Parlament Ewropew u tal-Kunsill tat-13 ta' Lulju 2009 dwar

il-koordinazzjoni ta' liġijiet, regolamenti u dispożizzjonijiet amministrattivi fir-rigward tal-impriżi ta' investiment kollettiv f'titoli trasferibbli (UCITS), kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtha;

"Direttiva 2011/61/UE" tfisser id-Direttiva 2011/61/UE tal-Parlament Ewropew u tal-Kunsill tat-8 ta' Ġunju 2011 dwar Maniġers ta' Fondi ta' Investiment Alternattivi u li temenda d-Direttivi 2003/41/KE u 2009/65/KE u r-Regolamenti (KE) Nru 1060/2009 u (UE) Nru 1095/2010, kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jewli jistgħu jinħarġu taħtha;

"Direttiva 2013/34/UE" tfisser id-Direttiva 2013/34/UE tal-Parlament Ewropew u tal-Kunsill tas-26 ta' Ġunju 2013 dwar id-dikjarazzjonijiet finanzjarji annwali, id-dikjarazzjonijiet finanzjarji kkonsolidati u r-rapporti relatati ta' ċerti tipi ta' impriżi, u li temenda d-Direttiva 2006/43/KE tal-Parlament Ewropew u tal-Kunsill u li tħassar id-Direttivi tal-Kunsill 78/660/KEE u 83/349/KEE, kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtha;

"Direttiva 2014/65/UE" tfisser id-Direttiva 2014/65/UE tal-Parlament Ewropew u tal-Kunsill tal-15 ta' Mejju 2014 dwar is-swieq fl-istrumenti finanzjarji u li temenda d-Direttiva 2002/92/KE u d-Direttiva 2011/61/UE, kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtha;

"Direttiva (UE) 2015/849" tfisser id-Direttiva (UE) 2015/849 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Mejju 2015 dwar il-prevenzjoni tal-użu tas-sistema finanzjarja għall-finijiet tal-ħasil tal-flus jew il-finanzjament tat-terroriżmu, li temenda r-Regolament (UE) Nru 648/2012 tal-Parlament Ewropew u tal-Kunsill, u li tħassar id-Direttiva 2005/60/KE tal-Parlament Ewropew u tal-Kunsill u d-Direttiva tal-Kummissjoni 2006/70/KE, kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kwalunkwe miżura implementattiva, standards tekniċi implementattivi, standards tekniċi regolatorji, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtha;

"Direttiva (UE) 2015/2366" tfisser Direttiva (UE) 2015/2366 tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru

2015 dwar is-servizzi ta' pagament fis-suq intern, li temenda d-Direttivi 2002/65/KE, 2009/110/KE u 2013/36/UE u r-Regolament (UE) Nru 1093/2010, u li tħassar id-Direttiva 2007/64/KE, kif tista' tiġi emendata minn żmien għal żmien, u tinkludi kwalunkwe strument legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtha;

"ditta ta' investiment" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (29) tal-Artikolu 3(1) tar-Regolament MiCA u għandha tinkludi detenturi ta' liċenzji ta' servizzi ta' investiment liċenzjati taħt l-Att dwar Servizzi ta' Investiment sabiex iwettqu kwalunkwe servizz ta' investiment imsemmi fil-punti 1 sa 4, 6 sa 9 u 11 tal-Ewwel Skeda tal-imsemmi Att fir-rigward ta' strument kif imfisser fl-Att dwar Servizzi ta' Investiment;

Kap. 370.

"EBA" tfisser l-Awtorità Bankarja Ewropea stabbilita bir-Regolament (UE) Nru 1093/2010;

"emittent" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (10) tal-Artikolu 3(1) tar-Regolament MiCA;

"ESMA" tfisser l-Awtorità Ewropea tat-Titoli u s-Swieq stabbilita bir-Regolament (UE) Nru 1095/2010;

"fornitur ta' servizzi tal-kriptoassi" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (15) tal-Artikolu 3(1) tar-Regolament MiCA;

"GDPR" tfisser ir-Regolament (UE) 2016/679 tal-Parlament Ewropew u tal-Kunsill tas-27 ta' April 2016 dwar il-protezzjoni tal-persuni fiżiċi fir-rigward tal-ipproċessar ta' *data* personali u dwar il-moviment liberu ta' tali *data*, u li jħassar id-Direttiva 95/46/KE (Regolament Ġenerali dwar il-Protezzjoni tad-*Data*), kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtu;

"investitur kwalifikat" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (30) tal-Artikolu 3(1) tar-Regolament MiCA;

"istituzzjoni tal-flus elettroniċi" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (43) tal-Artikolu 3(1) tar-Regolament MiCA u għandha tinkludi istituzzjonijiet finanzjarji awtorizzati sabiex joħorġu flus elettroniċi skont l-Att dwar Istituzzjonijiet Finanzjarji;

Kap. 376.

"istituzzjoni ta' kreditu" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (28) tal-Artikolu 3(1) tar-Regolament MiCA;

"Korp għall-Analisi ta' Informazzjoni Finanzjarja" tfisser il-Korp għall-Analisi ta' Informazzjoni Finanzjarja stabbilit bl-artikolu 15 tal-Att kontra *Money Laundering*; Kap. 373.

"kriptoassi" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (5) tal-Artikolu 3(1) tar-Regolament MiCA;

"kumpanija maniġerjali tal-UCITS" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (47) tal-Artikolu 3(1) tar-Regolament MiCA u għandha tinkludi detenturi ta' liċenzji ta' servizzi ta' investiment liċenzjati skont l-Att dwar Servizzi ta' Investiment sabiex iwettqu s-servizz ta' investiment imsemmi fil-partita 4 tal-Ewwel Skeda tal-imsemmi Att fir-rigward ta' UCITS fil-format ta' fondi komuni jew ta' kumpaniji ta' investiment. Kap. 370.

"maniġer ta' fondi ta' investiment alternattivi" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (48) tal-Artikolu 3(1) tar-Regolament MiCA u għandha tinkludi detenturi ta' liċenzja ta' servizzi ta' investiment li tkuninħarġitilhom liċenzja skont l-Att dwar Servizzi ta' Investiment sabiex iwettqu s-servizz ta' investiment imsemmi fil-partita 4 tal-Ewwel Skeda tal-imsemmi Att fir-rigward ta' AIFs; Kap. 370.

"Ministru" tfisser il-Ministru responsabbli għar-regolamentazzjoni tas-servizzi finanzjarji;

"offerent" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (13) tal-Artikolu 3(1) tar-Regolament MiCA;

"operatur tas-suq" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (18) tal-Artikolu 4(1) tad-Direttiva 2014/65/UE u għandha tinkludi detenturi ta' liċenzji ta' servizzi ta' investiment liċenzjati skont l-Att dwar Servizzi ta' Investiment sabiex iwettqu kwalunkwe servizz ta' investiment imsemmi fil-partita 9 tal-Ewwel Skeda tal-imsemmi Att fir-rigward ta' strument kif imfisser fl-Att dwar Servizzi ta' Investiment; Kap. 370.

"Regolament (UE) Nru 1093/2010" tfisser ir-Regolament (UE) Nru 1093/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jistabbilixxi Awtorità Superviżorja Ewropea (Awtorità Bankarja Ewropea) u li jemenda d-Deċiżjoni Nru 716/2009/KE u jħassar id-Deċiżjoni tal-Kummissjoni 2009/78/KE, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi

kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtu;

"Regolament (UE) Nru 1095/2010" tfisser ir-Regolament (UE) Nru 1095/2010 tal-Parlament Ewropew u tal-Kunsill tal-24 ta' Novembru 2010 li jistabbilixxi Awtorità Superviżorja Ewropea (Awtorità Ewropea tat-Titoli u s-Swieq) u li jemenda d-Deċiżjoni Nru 716/2009/KE u jħassar id-Deċiżjoni tal-Kummissjoni 2009/77/KE, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġutaħtu;

"Regolament (UE) Nru. 909/2014" tfisser ir-Regolament (UE) Nru 909/2014 tal-Parlament Ewropew u tal-Kunsill tat-23 ta' Lulju 2014 dwar titjib fis-saldu tat-titoli fl-Unjoni Ewropea u dwar depożitorji ċentrali tat-titoli u li jemenda d-Direttivi 98/26/KE u 2014/65/UE u r-Regolament (UE) Nru 236/2012, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtu;

"Regolament MiCA" tfisser ir-Regolament (UE) 2023/1114 tal-Parlament Ewropew u tal-Kunsill tal-31 ta' Mejju 2023 dwar is-swieq fil-kriptoassi, u li jemenda r-Regolamenti (UE) Nru 1093/2010 u (UE) Nru 1095/2010 u d-Direttivi 2013/36/UE u (UE) 2019/1937, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra maħruġa jew li jistgħu jinħarġu taħtu;

"Regoli" tirreferi għal Regoli li jistgħu jinħarġu mill-awtorità kompetenti skont dan l-Att;

"servizz tal-kriptoassi" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (16) tal-Artikolu 3(1) tar-Regolament MiCA;

"Stat Membru domiċiljari" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (33) tal-Artikolu 3(1) tar-Regolament MiCA;

"Stat Membru ospitanti" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (34) tal-Artikolu 3(1) tar-Regolament MiCA;

"strumenti legali vinkolanti" tfisser kwalunkwe miżura direttament applikabbli, inkluż iżda mhux limitat għal, kwalunkwe standards tekniċi ta' implimentazzjoni, standards

tekniċi regolatorji jew miżuri simili, maħruġa skont il-leġiżlazzjoni tal-Unjoni Ewropea;

"token ta' flus elettroniċi" jew "e-money token" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (7) tal-Artikolu 3(1) tar-Regolament MiCA;

"token irreferenzjat ma' assi" għandu jkollha l-istess tifsira kif mogħti lilha fil-punt (6) tal-Artikolu 3(1) tar-Regolament MiCA;

"UCITS" għandu jkollha l-istess tifsira kif mogħti lilha fl-artikolu 2(1) tal-Att dwar Servizzi ta' Investiment; Kap. 370.

(2) Sakemm ir-rabta tal-kliem ma teħtieġx xort'oħra, il-kliem użat f'dan l-Att li mhux hawn imfisser għandu jkollu l-istess tifsira kif assenjata lilu fir-Regolament MiCA.

(3) F'dan l-Att u fi kwalunkwe regolamenti magħmula taħtu, f'każta' kunflitt bejn it-test Ingliż u dak Malti, għandu jipprevali t-test Ingliż.

(4) F'każ ta' kunflitt bejn dan l-Att u d-dispożizzjonijiet tar-Regolament MiCA, għandhom jipprevalu d-dispożizzjonijiet tar-Regolament MiCA.

3. (1) Id-dispożizzjonijiet ta' dan l-Att u ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu ma għandhomx japplikaw għal: Applikabbiltà.

(a) persuni li jfornu servizzi tal-kriptoassi b'mod esklużiv għall-kumpaniji parent tagħhom, għas-sussidjarji tagħhom stess jew għal sussidjarji oħra tal-kumpaniji parent tagħhom;

(b) stralċatur jew amministratur li jaġixxu matul proċedura ta' insolvenza, għajr għall-finijiet tal-Artikolu 47 tar-Regolament MiCA u tal-artikolu 21;

(ċ) il-BĊE, il-banek ċentrali tal-Istati Membri meta jaġixxu fil-kapaċità tagħhom ta' awtoritajiet monetarji jew awtoritajiet pubbliċi oħra tal-Istati Membri;

(d) il-Bank Ewropew tal-Investiment u s-sussidjarji tiegħu;

(e) il-Faċilità Ewropea ta' Stabbiltà Finanzjarja u l-Mekkaniżmu Ewropew ta' Stabbiltà; u

(f) organizzazzjonijiet internazzjonali pubbliċi.

(2) Id-dispożizzjonijiet ta' dan l-Att u ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu ma għandhomx japplikaw għal kriptoassi li huma uniċi u mhux funġibbli ma' kriptoassi oħrajn.

(3) Id-dispożizzjonijiet ta' dan l-Att u ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu ma għandhomx japplikaw għal kriptoassi li jikkwalifikaw bħala waħda jew aktar minn dawn li ġejjin:

(a) strumenti finanzjarji;

(b) depożiti, inklużi d-depożiti strutturati;

(ċ) fondi ħlief jekk jikkwalifikaw bħala tokens tal-flus elettroniċi; u, jew

(d) pożizzjonijiet ta' titolizzazzjoni fil-kuntest ta' titolizzazzjoni kif definita fil-punt (1) tal-Artikolu 2 tar-Regolament (UE) 2017/2402;

(e) prodotti tal-assigurazzjoni mhux tal-ħajja jew tal-ħajja li jaqgħu fil-klassijiet tal-assigurazzjoni elenkati fl-Annessi I u II tad-Direttiva 2009/138/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2009 dwar il-bidu u l-eżerċizzju tan-negozju tal-assigurazzjoni u tar-riassigurazzjoni (Solvibbiltà II), jew kuntratti ta' riassigurazzjoni u retroċessjoni msemmija f'tali Direttiva;

(f) prodotti tal-pensjoni li, skont il-liġi nazzjonali huma rikonoxxuti bħala li għandhom l-għan ewlieni li jipprovdu lill-investitur bi dħul wara li jirtira, u li jintitolaw lill-investitur għal ċerti benefiċċji;

(g) skemi għal pensjoni okkupazzjonali rikonoxxuti uffiċjalment li jaqgħu fil-kamp ta' applikazzjoni tad-Direttiva (UE) 2016/2341 tal-Parlament Ewropew u tal-Kunsill tal-14 ta' Diċembru 2016 dwar l-attivitajiet u s-superviżjoni ta' istituzzjonijiet għall-provvista ta' rtirar okkupazzjonali (IORPs) jew tad-Direttiva 2009/138/KE tal-Parlament Ewropew u tal-Kunsill tal-25 ta' Novembru 2009 dwar il-bidu u l-eżerċizzju tan-negozju tal-assigurazzjoni u tar-riassigurazzjoni;

(h) prodotti tal-pensjoni individwali li għalihom il-liġi nazzjonali tirrikjedi kontribuzzjoni finanzjarja minn min iħaddem u li għalihom min iħaddem jew l-impjegat ma jkollux

għażla fir-rigward tal-prodott jew il-fornitur tal-pensjoni;

(i) prodott tal-Pensjoni Personali Pan-Ewropew kif imfisser fil-punt 2 tal-Artikolu 2 tar-Regolament (UE) 2019/1238 tal-Parlament Ewropew u tal-Kunsill tal-20 ta' Ġunju 2019 dwar Prodott tal-Pensjoni Personali pan-Ewropew (PEPP); u

(j) skemi ta' sigurtà soċjali koperti bir-Regolamenti (KE) Nru 883/2004 tal-Parlament Ewropew u tal-Kunsill tad-29 ta' April 2004 dwar il-kordinazzjoni ta' sistemi ta' sigurtà soċjali u bir-Regolament (KE) Nru 987/2009 tal-Parlament u tal-Kunsill tas-16 ta' Settembru 2009 li jistabbilixxi l-proċedura għall-implimentazzjoni tar-Regolament (KE) Nru 883/2004 dwar il-koordinazzjoni tal-iskemi ta' sigurtà soċjali.

L-awtorità kompetenti.

4. (1) L-awtorità kompetenti għandha twettaq il-funzjonijiet tagħha taħt dan l-Att u b'mod partikolari għandha tiżgura l-konformità mad-dispożizzjonijiet tar-Regolament MiCA, ma' dan l-Att u ma' kwalunkwe regolamenti magħmula, jew Regola maħruġa taħthom.

(2) L-awtorità kompetenti għandha wkoll twettaq il-funzjonijiet u d-dmirijiet tagħha bħala awtorità kompetenti għall-għanijiet kollha tar-Regolament MiCA.

TAQSIMA II
KRIPTOASSI GĦAJR TOKENS IRREFERENZJATI MA' ASSI JEW TOKENS TAL-FLUS ELETTRONIĊI

Nuqqas ta' ħtieġa ta' approvazzjoni ta' white papers dwar il-kriptoassi u l-komunikazzjoni fis-suq.

5. L-awtorità kompetenti ma għandhiex teħtieġ l-approvazzjoni minn qabel ta' white papers dwar il-kriptoassi mħejjija minn persuni li jkunu intenzjonati li jagħmlu offerta lill-pubbliku jew li jkunu qed ifittxu l-ammissjoni għan-negozjar ta' kriptoassi, għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi fl-Unjoni Ewropea, u lanqas ta' kwalunkwe komunikazzjonijiet ta' kummerċjalizzazzjoni relatata magħhom, qabel il-pubblikazzjoni rispettiva tagħhom.

Avviż ta' white paper dwar il-kriptoassi.

6. (1) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss fejn Malta tkun l-Istat Membru domiċiljari.

(2) L-offerenti, il-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar jew l-operaturi ta' pjattaformi ta' negozjar għall-kriptoassi għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi, għandhom javżaw lill-awtorità kompetenti dwar il-white paper tagħhom fir-rigward tal-kriptoassi.

(3) L-offerenti u persuni li jkunu qegħdin ifittxu l-ammissjoni għan-negozjar ta' kriptoassi għajr tokens irreferenzjati ma' assi jew

tokens tal-flus elettroniċi għandhom, flimkien mal-avviż msemmi fis-subartikolu (2), jipprovdu lill-awtorità kompetenti lista tal-Istati Membri ospitanti, jekk ikun hemm, fejn huma intenzjonati li joffru l-kriptoassi tagħhom lill-pubbliku jew għandhom l-intenzjoni li jfittxu ammissjoni għan-negozjar u għandhom ukoll javżaw lill-awtorità kompetenti bid-data tal-bidu tal-offerta lill-pubbliku intenzjonata, jew l-ammissjoni għan-negozjar intenzjonata u bi kwalunkwe bidla għal dik id-data:

Iżda l-awtorità kompetenti għandha tavża lill-punt uniku ta' kuntatt tal-Istati Membri ospitanti bl-offerta li hija intenzjonata għall-pubbliku jew l-ammissjoni intenzjonata għan-negozjar u tikkomunika lil dak il-punt uniku ta' kuntatt il-white paper korrispondenti dwar il-kriptoassi fi żmien ħamest (5) ijiem tax-xogħol wara li tirċievi l-lista tal-Istati Membri ospitanti msemmija f'dan is-subartikolu.

(4) L-avviż tal-white paper dwar il-kriptoassi msemmi fis-subartikolu (2) għandu jkun akkumpanjat minn spjegazzjoni tar-raġuni li għaliha l-kriptoassi deskritti fil-white paper dwar il-kriptoassi ma għandhomx jitqiesu bħala:

(a) kriptoassi eskluży mill-kamp ta' applikazzjoni tar-Regolament MiCA, dan l-Att u kwalunkwe regolamenti magħmula, u Regoli maħruġa taħtu f'konformità mal-Artikolu 2(4) tar-Regolament MiCA u l-artikolu 3(3);

(b) token tal-flus elettroniċi; jew

(ċ) token irreferenzjat ma' assi.

(5) L-avviż u l-ispjegazzjoni msemmijin fis-subartikoli (2) u (4) rispettivament għandhom jiġu notifikati lill-awtorità kompetenti mill-anqas għoxrin (20) jum tax-xogħol qabel id-data tal-pubblikazzjoni tal-white paper dwar il-kriptoassi.

Komunikazzjonijiet ta' kummerċjalizzazz-joni.

7. (1) Fejn Malta hi l-Istat Membru domiċiljari jew l-Istat Membru ospitanti, il-komunikazzjonijiet ta' kummerċjalizzazzjoni għandhom meta ssir talba, jiġu notifikati lill-awtorità kompetenti meta jindirizzaw lid-detenturi prospettivi ta' kriptoassi għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi f'Malta.

(2) Meta l-komunikazzjonijiet ta' kummerċjalizzazzjoni jiġu disseminati f'Malta, l-awtorità kompetenti għandu jkollha d-dritt tivvaluta l-konformità tagħhom mal-Artikolu 7(1) tar-Regolament MiCA fir-rigward ta' dawk il-komunikazzjonijiet ta' kummerċjalizzazzjoni.

Notifika ta' eżenzjoni.

8. (1) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss fejn Malta hi l-Istat Membru domiċiljari.

(2) Meta għal kull perjodu ta' tnax (12)-il xahar, li jibda mill-bidu tal-offerta inizjali lill-pubbliku, il-korrispettiv totali ta' offerta lill-pubbliku ta' kriptoassi, għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi, fl-Unjoni Ewropea jeċċedi miljun euro (€1,000,000), l-offerent għandu jibgħat notifika lill-awtorità kompetenti li jkun fiha deskrizzjoni tal-offerta u jispjega għaliex l-offerta hija eżentata mid-dispożizzjonijiet tat-Titolu II tar-Regolament MiCA u t-Taqsima II ta' dan l-Att konformement mal-paragrafu (d) tal-Artikolu 4(3) tar-Regolament MiCA:

Iżda għall-finijiet ta' dan is-subartikolu, "kriptoassi, għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi" tfisser kriptoassi, għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi, li jagħtu lid-detentur tagħhom id-dritt li jużahom biss bi skambju ma' prodotti u servizzi f'network limitat ta' negozjanti b'arranġamenti kuntrattwali mal-offerent.

(3) Abbażi tan-notifika msemmija fis-subartikolu (2), l- awtorità kompetenti għandha tieħu deċiżjoni debitament ġustifikata meta tqis li l-attività ma tikkwalifikax għal eżenzjoni bħala network limitat skont l-Artikolu 4(3)(d) tar-Regolament MiCA, u għandha debitament tinforma b'dan lill-offerent .

TAQSIMA III
TOKENS IRREFERENZJATI MA' ASSI

Awtorizzazzjoni għal offerta ta' tokens irreferenzjati ma' assi lill-pubbliku jew irrikjesta għall-ammissjoni tagħhom għan-negozjar.

9. (1) Persuna ma għandhiex tagħmel offerta lill-pubbliku, jew tirrikjedi l-ammissjoni għan-negozjar ta' token irreferenzjat ma' assi f'Malta, sakemm dik il-persuna ma tkunx l-emittent ta' dak it-token irreferenzjat ma' assi u ma tkunx:

(a) persuna ġuridika jew impriża oħra li tkun stabbilita fl-Unjoni Ewropea u li tkun ġiet awtorizzata skont l-Artikolu 21 tar-Regolament MiCA mill-awtorità kompetenti tal-Istat Membru domiċiljari tagħha; jew

(b) istituzzjoni ta' kreditu li tikkonforma mal-Artikolu 17 tar-Regolament MiCA:

Iżda għall-finijiet tal-paragrafu (a), impriżi oħra jistgħu joħorġu tokens irreferenzjati ma' assi kemm-il darba l-istatus legali tagħhom jiżgura livell ta' protezzjoni għall-interessi ta' partijiet terzi li huwa ekwivalenti għal dak mogħti minn persuni ġuridiċi u jekk ikunu soġġetti għal superviżjoni prudenzjali ekwivalenti xierqa għall-forma legali tagħhom.

(2) Minkejja d-dispożizzjonijiet tas-subartikolu (1), bil-kunsens bil-miktub tal-emittent tat-token irreferenzjat ma' assi, persuni oħra jistgħu joffru lill-pubbliku jew jirrikjedu l-ammissjoni għan-negozjar ta' dak it-token irreferenzjat ma' assi:

Iżda l-persuni msemmija f'dan is-subartikolu għandhom jikkonformaw mal-Artikoli 27, 29 u 40 tar-Regolament MiCA u mal-artikolu 16.

(3) Id-dispożizzjonijiet tas-subartikoli (1) u (2) ma għandhomx japplikaw fejn:

(a) fuq perjodu ta' tnax (12)-il xahar, ikkalkolat fi tmiem kull jum kalendarju, il-valur medju pendenti tat-token irreferenzjat ma' assi maħruġa minn emittent qatt ma jkun jaqbeż ħames miljun euro (€5,000,000), jew l-ammont ekwivalenti f'valuta uffiċjali oħra, u l-emittent ma jkunx marbut ma' network ta' emittenti eżentati oħrajn; jew

(b) l-offerta lill-pubbliku tat-token irreferenzjat ma' assi tkun indirizzata biss lil investituri kwalifikati u t-token irreferenzjat ma' assi jkun jista' jinżamm biss minn tali investituri kwalifikati:

Iżda meta japplika dan is-subartikolu, l-emittenti ta' tokens irreferenzjati ma' assi għandhom jabbozzaw white paper dwar il-kriptoassi kif provdut fl-Artikolu 19 tar-Regolament MiCA u javżaw lill-awtorità kompetenti dwar tali white paper dwar il-kriptoassi, u fuq talba, kwalunkwe komunikazzjoni ta' kummerċjalizzazzjoni, meta Malta tkun l-Istat Membru domiċiljari.

Rekwiżiti sabiex istituzzjonijiet ta' kreditu joffru tokens irreferenzjati ma' assi lill-pubbliku jew r-rikjesta tal-ammissjoni tagħhom għan-negozjar. Kap. 371.

10. (1) Għall-finijiet ta' dan l-artikolu, "istituzzjoni ta' kreditu" tfisser istituzzjoni ta' kreditu li hi liċenzjata bħala tali skont l-Att dwar il-Kummerċ Bankarju.

(2) Token irreferenzjat ma' assi maħruġ minn istituzzjoni ta' kreditu jista' jiġi offrut lill-pubbliku jew ammess għan-negozjar, jekk l-istituzzjoni ta' kreditu:

(a) tabbozza white paper dwar il-kriptoassi kif imsemmi fl-Artikolu 19 tar-Regolament MiCA għat-token irreferenzjat ma' assi, tissottometti tali white paper dwar il-kriptoassi għall-approvazzjoni mill-awtorità kompetenti tal-Istat Membru domiċiljari tagħha skont il-proċedura stabbilita fl-istandards tekniċi regolatorji adottati skont l-Artikolu 17(8) tar-Regolament MiCA, u jkollha l-white paper dwar il-kriptoassi approvata mill-awtorità kompetenti; u

(b) tavża lill-awtorità kompetenti, mill-anqas disgħin (90) jum tax-xogħol qabel ma jinħareġ it-token irreferenzjat ma' assi għall-ewwel darba, billi tipprovdilha l-informazzjoni li ġejja:

(i) programm tal-operazzjonijiet, li jistabbilixxi l-mudell tan-negozju li l-istituzzjoni ta' kreditu tkun intenzjonata li ssegwi;

(ii) opinjoni legali li t-token irreferenzjat ma' assi ma jikkwalifikax bħala kriptoassi esklużi mill-kamp ta' applikazzjoni tar-Regolament MiCA, dan l-Att u kwalunkwe regolamenti magħmula, u Regoli maħruġa taħtu, konformement mal-Artikolu 2(4) tar-Regolament MiCA u l-artikolu 3(3) ta' dan l-Att;

(iii) deskrizzjoni dettaljata tal-arranġamenti ta' governanza msemmija fl-Artikolu 34(1) tar-Regolament MiCA;

(iv) il-politiki u l-proċeduri msemmija fl-ewwel subparagrafu tal-Artikolu 34(5) tar-Regolament MiCA;

(v) deskrizzjoni tal-arranġamenti kuntrattwali mal-entitajiet terzi kif imsemmija fit-tieni subparagrafu tal-Artikolu 34(5) tar-Regolament MiCA;

(vi) deskrizzjoni tal-politika tal-kontinwità tal-operat imsemmija fl-Artikolu 34(9) tar-Regolament MiCA;

(vii) deskrizzjoni tal-mekkaniżmi ta' kontroll intern u l-proċeduri tal-immaniġġjar tar-riskju msemmija fl-Artikolu 34(10) tar-Regolament MiCA; u

(viii) deskrizzjoni tas-sistemi u tal-proċeduri stabbiliti għas-salvagwardja tad-disponibbiltà, tal-awtentiċità, tal-integrità u tal-kunfidenzjalità tad-data msemmija fl-Artikolu 34(11) tar-Regolament MiCA.

(3) Minkejja d-dispożizzjonijiet tas-subregolament (2), istituzzjoni ta' kreditu li tkun avżat qabel lill-awtorità kompetenti skont is-subartikolu (2)(b), meta toħroġ token irreferenzjat ma' assi ieħor, ma għandhiex tkun meħtieġa tissottometti kwalunkwe informazzjoni li kienet diġà sottomessa minnha lill-awtorità kompetenti meta tali informazzjoni tkun identika:

Iżda meta tissottometti l-informazzjoni elenkata fis-subartikolu (2)(b), l-istituzzjoni ta' kreditu għandha tikkonferma

espressament li kwalunkwe informazzjoni mhux sottomessa mill-ġdid skont dan is-subartikolu tkun għadha aġġornata.

(4) Meta tirċievi avviż msemmi fis-subartikolu (2)(b), l-awtorità kompetenti għandha, fi żmien għoxrin (20) jum tax-xogħol minn meta tirċievi l-informazzjoni elenkata fl-imsemmi paragrafu, tivvaluta jekk tkunx ġiet ipprovduta l-informazzjoni meħtieġa skont dak il-paragrafu.

(5) Meta l-awtorità kompetenti tikkonkludi, wara l-valutazzjoni msemmija fis-subartikolu (4), li l-avviż ma jkunx komplut minħabba li xi informazzjoni tkun nieqsa, hija għandha minnufih tavża b'dan lill-istituzzjoni ta' kreditu u tistabbilixxi skadenza sa meta dik l-istituzzjoni ta' kreditu hija meħtieġa li tipprovdi l-informazzjoni nieqsa:

Iżda l-iskadenza sabiex tiġi pprovduta kwalunkwe informazzjoni nieqsa ma għandhiex teċċedi għoxrin (20) jum ta' xogħol mid-data tat-talba u, sakemm tiskadi tali skadenza, il-perjodu stabbilit bis-subartikolu (2)(b) għandu jiġi sospiż.

(6) Bla ħsara għad-dispozizzjonijiet tas-subartikolu (5), kwalunkwe talba ulterjuri mill-awtorità kompetenti għall-ikkompletar tal-informazzjoni jew għal kjarifika dwarha għandha tkun fid-diskrezzjoni tagħha iżda ma għandhiex tirriżulta f'sospensjoni tal-perjodu stabbilit fis-subartikolu (2)(b).

(7) L-istituzzjoni ta' kreditu ma għandhiex tagħmel offerta lill-pubbliku jew tirrikjedi l-ammissjoni għan-negozjar tat-token irreferenzjat ma' assi sakemm in-notifika msemmija fis-subartikolu (2)(b) tkun għadha mhux kompluta.

(8) L-awtorità kompetenti għandha tikkomunika lill-BĊE mingħajr dewmien l-informazzjoni kompluta riċevuta skont is-subartikolu (2) u, meta l-istituzzjoni ta' kreditu tkun stabbilita fi Stat Membru li l-valuta uffiċjali tiegħu matkunx l-euro jew meta l-valuta uffiċjali ta' Stat Membru li mhix l-euro tkun referenzjata mit-token irreferenzjat ma' assi, għandha tikkomunikaha wkoll lill-Bank Ċentrali.

(9) Il-BĊE u, meta applikabbli, il-Bank Ċentrali għandhom fi żmien għoxrin (20) jum ta' xogħol minn meta jirċievu l-informazzjoni kompluta skont is-subartikolu (8), joħorġu opinjoni dwar tali informazzjoni u jittrażmettu dik l-opinjoni lill-awtorità kompetenti.

(10) L-awtorità kompetenti għandha tirrikjedi li l-istituzzjoni ta' kreditu ma toffrix lill-pubbliku t-token irreferenzjat ma' assi jew ma tirrikjedix l-ammissjoni għan-negozjar f'każijiet fejn il-BĊE jew, fejn

applikabbli, il-Bank Ċentrali, jagħtu opinjoni negattiva abbażi tar-riskju maħluq għall-ħidma bla ostakoli ta' sistemi ta' ħlas, it-trażmissjoni tal-politika monetarja jew is-sovranità monetarja.

Applikazzjoni għal awtorizzazzjoni.

11. (1) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss meta Malta tkun l-Istat Membru domiċiljari.

(2) Persuni ġuridiċi jew impriżi oħra li jkunu intenzjonati li joffru lill-pubbliku tokens irreferenzjati ma' assi jew jirrikjedu l-ammissjoni għan-negozjar ta' tokens irreferenzjati ma' assi għandhom jissottomettu l-applikazzjoni tagħhom għal awtorizzazzjoni msemmija fl-artikolu 9 lill-awtorità kompetenti.

(3) Bla ħsara għall-Artikolu 18(6) u (7) tar- Regolament MiCA, l-applikazzjoni msemmija fis-subartikolu (2) għandu jkun fiha l-informazzjoni kollha li ġejja:

(a) l-indirizz tal-applikant;

(b) l-identifikatur ta' entità ġuridika tal-applikant;

(ċ) l-istatut ta' assoċjazzjoni tal-applikant, meta applikabbli;

(d) programm tal-operazzjonijiet, li jistabbilixxi l-mudell tan-negozju li l-applikant ikun intenzjonat li jsegwi;

(e) opinjoni legali li t-token irreferenzjat ma' assi ma jikkwalifikax bħala wieħed minn dawn li ġejjin:

(i) kriptoassi eskluż mill-kamp ta' applikazzjoni tar-Regolament MiCA, dan l-Att u kwalunkwe regolamenti magħmula, u Regoli maħruġa taħtu konformement mal-Artikolu 2(4) tar-Regolament MiCA u l-artikolu 3(3) ta' dan l-Att; jew

(ii) token tal-flus elettroniċi;

(f) deskrizzjoni dettaljata tal-arranġamenti ta' governanza tal-applikant kif imsemmija fl-Artikolu 34(1) tar-Regolament MiCA;

(g) meta jeżistu arranġamenti ta' kooperazzjoni ma' fornituri ta' servizzi speċifiċi tal-kriptoassi, deskrizzjoni tal-mekkaniżmi u l-proċeduri ta' kontroll intern tagħhom sabiex tiġi żgurata konformità mal-obbligi fir-rigward tal-prevenzjoni tal-ħasil tal-flus u l-finanzjament tat-terroriżmu skont id-Direttiva (UE) 2015/849;

(h) l-identità tal-membri tal-korp maniġerjali tal-applikant;

(i) prova li l-persuni msemmija fil-paragrafu (h) ikollhom reputazzjoni tajba biżżejjed u jkollhom l-għarfien, il-ħiliet u l-esperjenza xierqa sabiex jimmaniġġjaw lill-applikant;

(j) prova li kwalunkwe azzjonist jew membru, kemm jekk dirett kemm jekk indirett, li jkollu parteċipazzjoni kwalifikanti fl-applikant ikollu reputazzjoni tajba biżżejjed;

(k) white paper dwar il-kriptoassi kif imsemmi fl-Artikolu 19 tar-Regolament MiCA;

(l) il-politiki u l-proċeduri msemmija fl-ewwel subparagrafu tal-Artikolu 34(5) tar-Regolament MiCA;

(m) deskrizzjoni tal-arranġamenti kuntrattwali mal-entitajiet terzi kif msemmija fit-tieni subparagrafu tal-Artikolu 34(5) tar-Regolament MiCA;

(n) deskrizzjoni tal-politika tal-kontinwità tal-operat tal-applikant msemmija fl-Artikolu 34(9) tar-Regolament MiCA;

(o) deskrizzjoni tal-mekkaniżmi ta' kontroll intern u l-proċeduri tal-immaniġġjar tar-riskju msemmija fl-Artikolu 34(10) tar-Regolament MiCA;

(p) deskrizzjoni tas-sistemi u tal-proċeduri stabbiliti għas-salvagwardja tad-disponibbiltà, tal-awtenticità, tal-integrità u tal-kunfidenzjalità tad-data kif imsemmija fl-Artikolu 34(11) tar-Regolament MiCA;

(q) deskrizzjoni tal-proċeduri ta' trattament tal-ilmenti tal-applikant kif imsemmija fl-Artikolu 31 tar-Regolament MiCA; u

(r) fejn applikabbli, lista ta' Stati Membri ospitanti fejn l-applikant ikun intenzjonatl i joffri t-token irreferenzjat ma' assi lill-pubbliku jew ikun intenzjonat l i jirrikjedi ammissjoni għan-negozjar tat-token irreferenzjat ma' assi.

(4) Għall-finijiet tas-subartikoli (3)(i) u (j), l-applikant għandu jipprovdi prova tas-segwenti:

(a) għall-membri kollha tal-korp maniġerjali, l-assenza ta' fedina penali fir-rigward ta' kundanni jew l-assenza ta' penali imposti skont il-liġi kummerċjali, il-liġi dwar l-insolvenza u l-

liġi dwar is-servizzi finanzjarji, jew fir-rigward tal-ġlieda kontra l-ħasil tal-flus u l-ġlieda kontra l-finanzjament tat-terroriżmu, tal-frodi jew tar-responsabbiltà professjonali applikabbli;

(b) li l-membri tal-korp maniġerjali tal-applikant tat-token irreferenzjat ma' assi, b'mod kollettiv, ikollhom l-għarfien, il-ħiliet u l-esperjenza xierqa sabiex jimmaniġġaw l-emittent tat-token irreferenzjat ma' assi u li tali persuni jkollhom l-obbligu li jallokaw biżżejjed ħin sabiex iwettqu l- impenji tagħhom; u

(ċ) għall-azzjonisti u l-membri kollha, sew jekk diretti kif ukoll jekk indiretti, li għandhom parteċipazzjoni kwalifikanti fl-applikant, l-assenza ta' fedina penali fir-rigward ta' kundanni u l-assenza ta' penali imposti skont il-liġi kummerċjali, il-liġi dwar l-insolvenza u l-liġi dwar is-servizzi finanzjarji, jew fir-rigward tal-ġlieda kontra l-ħasil tal-flus u l-ġlieda kontra l-finanzjament tat-terroriżmu, tal-frodi jew tar-responsabbiltà professjonali applikabbli.

(5) Minkejja d-dispożizzjonijiet tas-subartikolu (3), emittenti li diġà ġew awtorizzati fir-rigward ta' token wieħed (1) irreferenzjat ma' assi ma għandux ikollhom l-obbligu li jissottomettu, għall-finijiet tal-awtorizzazzjoni fir-rigward ta' token irreferenzjat ma' assi ieħor, kwalunkwe informazzjoni li tkun preċedentement ġiet sottomessa minnhom lill-awtorità kompetenti meta tali informazzjoni tkun identika:

Iżda meta jissottometti l-informazzjoni elenkata fis-subartikolu (3), l-emittent għandu jikkonferma espressament li kwalunkwe informazzjoni mhux sottomessa mill-ġdid tkun għadha aġġornata.

(6) L-awtorità kompetenti għandha minnufih, u fi kwalunkwe każ fi żmien jumejn (2) ta' xogħol minn meta tirċievi applikazzjoni skont is-subartikolu (2), tikkonferma bil-miktub lill-applikant li tkun irċevietha.

(7) L-awtorità kompetenti għandha, fi żmien ħamsa u għoxrin (25) jum ta' xogħol minn meta tirċievi l-applikazzjoni msemmija fis-subartikolu (2), tivvaluta jekk dik l-applikazzjoni, inkluża l-white paper dwar il-kriptoassi msemmija fl-Artikolu 19 tar-Regolament MiCA, ikunx fiha l-informazzjoni kollha meħtieġa u għandha tavża minnufih lill-applikant dwar jekk l-applikazzjoni, inkluża l-white paper dwar il-kriptoassi, jonqoshiex informazzjoni meħtieġa:

Iżda fejn l-applikazzjoni, inkluża l-white paper dwar il-

kriptoassi, ma tkunx kompluta l-awtorità kompetenti għandha tistabbilixxi skadenza sa meta l-applikant għandu jipprovdi kwalunkwe informazzjoni nieqsa.

(8) L-awtorità kompetenti għandha, fi żmien sittin (60) jum ta' xogħol minn meta tirċievi applikazzjoni kompluta, tivvaluta jekk l-applikant jikkonformax mar-rekwiżiti stabbiliti fit-Titolu III tar-Regolament MiCA u d-dispożizzjonijiet ta' din it-Taqsima, u tħejji abbozz ta' deċiżjoni motivata b'mod sħiħ dwar jekk tagħtix jew tiċħadx l-awtorizzazzjoni li jiġu offruti lill-pubbliku tokens irreferenzjati ma' assi jew ir-rikjesta tal-ammissjoni għan-negozjar tagħhom:

Iżda fi żmien il-perjodu msemmi f'dan is-subartikolu, l-awtorità kompetenti tista' titlob lill-applikant kwalunkwe informazzjoni dwar l-applikazzjoni, inkluż fuq il-white paper dwar il-kriptoassi msemmija fl-Artikolu 19 tar-Regolament MiCA:

Iżda ukoll għall-finijiet tal-valutazzjoni li għandha ssir skont dan is-subartikolu, l-awtorità kompetenti tista' tikkoopera ma' awtoritajiet kompetenti għall-ġlieda kontra l-ħasil tal-flus u l-ġlieda kontra l-finanzjament tat-terroriżmu, mal-unitajiet tal-intelliġenza finanzjarja jew ma' korpi pubbliċi oħra.

(9) Il-perjodi ta' valutazzjoni skont is-subartikoli (7) u (8) għandhom jiġu sospiżi għall-perjodu bejn id-data tat-talba għal informazzjoni nieqsa mill-awtorità kompetenti u meta l-imsemmija awtorità kompetenti tirċievi tweġiba mingħand l-applikant.

Iżda s-sospensjoni msemmija f'dan is-subartikolu ma għandhiex teċċedi għoxrin (20) jum ta' xogħol.

(10) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (9), kwalunkwe talba ulterjuri mill-awtorità kompetenti għall-ikkompletar jew għal kjarifika tal-informazzjoni prevista skont dan l-artikolu għandha tkun fid-diskrezzjoni tagħha iżda ma għandhiex tirriżulta f'sospensjoni tal-perjodi ta' valutazzjoni skont is-subartikoli (7) u (8).

(11) L-awtorità kompetenti għandha, wara l-perjodu msemmi fis-subartikolu (8), tittrażmetti l-abbozz tad-deċiżjoni tagħha kif imsemmija fl-imsemmi subartikolu u l-applikazzjoni relativa lill-EBA, lill-ESMA u lill-BĊE:

Iżda meta l-valuta uffiċjali ta' Stat Membru li ma tkunx l-euro, tkun referenzjata mit-token irreferenzjat ma' assi, l-awtorità kompetenti għandha tittrażmetti wkoll l-abbozz tad-deċiżjoni tagħha u l-applikazzjoni lill-bank ċentrali ta' tali Stat Membru.

(12) L-opinjoni li għandha tinħareġ mill-EBA u mill-ESMA rispettivament, fuq talba tal-awtorità kompetenti, fir-rigward tal-valutazzjoni tagħhom tal-opinjoni legali msemmija fl-artikolu 18(2)(e) tar-Regolament MiCA u fis-subartikolu (3)(e), għandha tiġi trażmessa lill-awtorità kompetenti fi żmien għoxrin (20) jum ta' xogħol minn meta jirċievu l-abbozz tad-deċiżjoni msemmija fis-subartikolu (8) u l-applikazzjoni relativa.

(13) L-opinjoni li għandha tinħareġ mill-BĊE jew, meta applikabbli mill-bank ċentrali msemmi fis-subartikolu (11) fir- rigward tal-valutazzjoni tagħhom tar-riskji, li l-ħruġ ta' tali token irreferenzjat ma' assi jista' joħloq għall-istabbiltà finanzjarja, il-ħidma bla ostakoli ta' sistemi ta' ħlas, it-trażmissjoni tal-politika monetarja u s-sovranità monetarja, konformement mal-Artikolu 21(5) tar-Regolament MiCA, għandha tiġi trażmessa fi żmien għoxrin (20) jum ta' xogħol minn meta jkunu irċevew l-abbozz tad-deċiżjoni u l-applikazzjoni msemmija fis-subartikolu (8) u l-applikazzjoni relativa.

(14) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (11), l-opinjonijiet imsemmija fis-subartikoli (12) u (13) ma għandhomx ikunu vinkolanti:

Iżda l-awtorità kompetenti għandha, madankollu, tikkunsidra kif xieraq l-opinjonijiet imsemmija f'dan is-subartikolu.

(15) L-awtorità kompetenti għandha, fi żmien ħamsa u għoxrin (25) jum ta' xogħol minn meta tkun irċeviet l-opinjonijiet imsemmija fis-subartikoli (12) u (13), tieħu deċiżjoni motivata bis-sħiħ li tagħti jew tiċħad l-awtorizzazzjoni lill-applikant li joffri lill-pubbliku tokens irreferenzjati ma' assi, jew jirrikjedi l-ammissjoni tagħhom għan-negozjar u, fi żmien ħamest (5) ijiem ta' xogħol minn meta tittieħed tali deċiżjoni, tavża lill-applikant:

Iżda meta applikant jiġi awtorizzat, il-white paper tiegħu dwar il-kriptoassi għandha titqies bħala approvata.

(16) Fl-għoti ta' awtorizzazzjoni taħt dan l-artikolu, l-awtorità kompetenti tista' timponi fuq l-emittent ta' token irreferenzjat ma' assi dawk il-kondizzjonijiet li jidhrilha xierqa u wara li tagħti l-awtorizzazzjoni, tista' minn żmien għal żmien tvarja jew tirrevoka kwalunkwe kondizzjoni hekk imposta jew timponi kondizzjonijiet ġodda.

Caħda tal-awtorizzazzjoni.

12. (1) L-awtorità kompetenti għandha tiċħad l-għoti tal-awtorizzazzjoni skont l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, li jiġu offruti tokens irreferenzjati ma' assi lill-pubbliku jew tirrikjedi l-ammissjoni tagħhom għan-negozjar meta jkun hemm

raġunijiet oġġettivi u dimostrabbli li:

(a) il-korp maniġerjali tal-applikant jista' jkun ta' theddida għall-immaniġġjar effettiv, sod u prudenti u għall-kontinwità tal-operat tiegħu u għall-konsiderazzjoni adegwata tal-interess tal-klijenti tiegħu u għall-integrità tas-suq;

(b) il-membri tal-korp maniġerjali tal-applikant ma jissodisfawx il-kriterji stabbiliti fl-Artikolu 34(2) tar-Regolament MiCA;

(ċ) l-azzjonisti u l-membri, sew jekk diretti kif ukoll jekk indiretti, tal-applikant li jkollhom parteċipazzjoni kwalifikanti li ma jissodisfawx il-kriterji ta' reputazzjoni tajba biżżejjed stabbiliti fl-Artikolu 34(4) tar-Regolament MiCA;

(d) l-applikant jonqos milli jissodisfa jew x'aktarx jonqos milli jissodisfa kwalunkwe wieħed mir-rekwiżiti tat-Titolu III tar-Regolament MiCA jew id-dispożizzjonijiet ta' din it-Taqsima; u, jew

(e) il-mudell tan-negozju tal-applikant jista' jkun ta' theddida serja għall-integrità tas-suq, l-istabbiltà finanzjarja, il-ħidma bla ostakoli ta' sistemi ta' ħlas, jew jesponi lill-emittent jew lis-settur għal riskji serji ta' ħasil tal-flus u finanzjament tat-terroriżmu.

(2) L-awtorità kompetenti għandha tiċħad ukoll l-awtorizzazzjoni taħt Artikolu 21 tar-Regolament MiCA u l-artikolu 11 għall-offerta lill-pubbliku ta' tokens irreferenzjati ma' assi jew ir-rikjestagħall-ammissjoni tagħhom għan-negozjar jekk il-BĊE jew, meta applikabbli, il-bank ċentrali msemmi fl-artikolu 11(11) joħorġu opinjoni negattiva skont l-Artikolu 20(5) tar-Regolament MiCA u l-artikolu 12(13) għal raġunijiet ta' riskju għall-ħidma bla ostakoli ta' sistemi ta' ħlas, trażmissjoni tal-politika monetarja, jew sovranità monetarja.

Irtirar ta' awtorizzazzjoni.

13. (1) L-awtorità kompetenti għandha tirtira awtorizzazzjoni mogħtija taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11 lil emittent ta' token irreferenzjat ma' assi fi kwalunkwe waħda mis-sitwazzjonijiet li ġejjin:

(a) l-emittent ikun waqaf milli jinvolvi ruħu fin-negozju għal sitt (6) xhur konsekuttivi, jew ma jkunx uża l-awtorizzazzjoni tiegħu għal tnax (12)-il xahar konsekuttivi;

(b) l-emittent ikun kiseb l-awtorizzazzjoni tiegħu b'mezzi irregolari, bħal meta jagħmel dikjarazzjonijiet foloz fl-

applikazzjoni għal awtorizzazzjoni msemmija fl-Artikolu 18 tar-Regolament MiCA u l-artikolu 11 jew fi kwalunkwe white paper dwar il-kriptoassi modifikata f'konformità mal-Artikolu 25 tar-Regolament MiCA u l-artikolu 15;

(ċ) l-emittent ma jibqax jissodisfa l-kondizzjonijiet li abbażi tagħhom tkun ingħatat l-awtorizzazzjoni;

(d) l-emittent ikun kiser serjament id-dispożizzjonijiet tat-Titolu III tar-Regolament MiCA u, jew id-dispożizzjonijiet ta' din it-Taqsima;

(e) l-emittent ikun soġġett għal pjan ta' fidi;

(f) l-emittent ikun irrinunzja espressament għall-awtorizzazzjoni tiegħu jew ikun iddeċieda li jwaqqaf l-operat tiegħu; u, jew

(g) l-attività tal-emittent toħloq theddida serja għall-integrità tas-suq, l-istabbiltà finanzjarja, il-ħidma bla ostakoli ta' sistemi ta' ħlas, jew tesponi lill-emittent, jew lis-settur għal riskji serji ta' ħasil tal-flus u finanzjament tat-terroriżmu:

Iżda l-emittent ta' token irreferenzjat ma' assi awtorizzat taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11 għandu javża lill-awtorità kompetenti bi kwalunkwe waħda mis-sitwazzjonijiet imsemmija fil-paragrafi (e) u (f) ta' dan is-subartikolu.

(2) Bla ħsara għas-subartikoli (1) u (3), l-awtorità kompetenti għandha tirtira awtorizzazzjoni mogħtija taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, lil emittent ta' token irreferenzjat ma' assi meta l-BĊE jew, meta applikabbli, il-bank ċentrali kif imsemmi fl-artikolu 11(11) joħorġu opinjoni li t-token irreferenzjat ma' assi jkun ta' theddida serja għall-ħidma bla ostakoli ta' sistemi ta' ħlas, it-trażmissjoni tal-politika monetarja, jew is-sovranità monetarja.

(3) Bla ħsara għas-subartikoli (1) u (2), l-awtorità kompetenti għandha tirtira awtorizzazzjoni mogħtija taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, lil emittent ta' token irreferenzjat ma' assi meta tkun tal-opinjoni li s-sitwazzjonijiet imsemmija fl-Artikolu 24(4) tar-Regolament MiCA jaffettwaw ir-reputazzjoni tajba tal-membri tal-korp maniġerjali ta' dak l-emittent, jew ir-reputazzjoni tajba ta' kwalunkwe azzjonisti jew membri, direttament jew indirettament, tal-emittent li jkollhom parteċipazzjoni kwalifikanti, jew ikun hemm indikazzjoni ta' nuqqas fl-arranġamenti tal-governanza, jew fil-mekkaniżmi ta' kontroll intern kif imsemmija fl-

Artikolu 34 tar-Regolament MiCA:

Iżda meta tiġi rtirata awtorizzazzjoni skont id-dispożizzjonijiet ta' dan is-subartikolu, l-emittent tat-token irreferenzjat ma' assi għandu jimplimenta l-proċedura skont l-Artikolu 47 tar-Regolament MiCA u l-artikolu 21.

Notifika ta' ċaħda, varjazzjoni jew irtirar ta' awtorizz-azzjoni proposti.

14. (1) Fejn l-awtorità kompetenti tkun intenzjonata li:

(a) tiċħad applikazzjoni għal awtorizzazzjoni sottomessa lill-awtorità kompetenti skont id-dispożizzjonijiet tal-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, jew li tirtira awtorizzazzjoni mogħtija lil emittent ta' token irreferenzjat ma' assi taħt l-imsemmija dispożizzjonijiet; jew

(b) tvarja kwalunkwe kondizzjoni li għaliha tkun ingħatat awtorizzazzjoni taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, jew timponi kondizzjoni fuqha, hi għandha tagħti lill-applikant jew lill-emittent tat-token irreferenzjat ma' assi, skont kif applikabbli, notifika bil-miktub tal-intenzjoni tagħha li tagħmel hekk, filwaqt li tistabbilixxi r-raġunijiet għad-deċiżjoni li qed tipproponi li tieħu.

(2) Kwalunkwe notifika mogħtija taħt is-subartikolu (1) għandha tiddikjara li min jirċievi l-avviż jista', f'perjodu raġonevoli wara n-notifika tal-istess, kif jista' jiġi dikjarat fl-avviż, jagħmel rappreżentazzjonijiet bil-miktub lill-awtorità kompetenti li fihom jagħti r-raġunijiet li għalihom d-deċiżjoni proposta ma għandhiex tittieħed, u l-awtorità kompetenti għandha tikkunsidra kwalunkwe rappreżentazzjoni hekk magħmula qabel ma tasal għal deċiżjoni finali.

(3) Bla ħsara għad-dispożizzjopnijiet tal-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, l-awtorità kompetenti għandha kemm jista' jkun malajr tavża bid-deċiżjoni finali tagħha lil kull waħda mill-persuni li lilhom għandu jingħata avviż taħt is-subartikolu (1).

Modifika ta' white papers ta' kriptoassi ta' tokens irreferenzjati ma' assi ppubblikati.

15. (1) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss meta Malta hi l-Istat Membru domiċiljari.

(2) L-emittenti ta' tokens irreferenzjati ma' assi għandhom javżaw lill-awtorità kompetenti dwar kwalunkwe tibdil maħsub fil-mudell tan-negozju tagħhom li x'aktarx ikollu influwenza sinifikanti fuq id-deċiżjoni ta' xiri ta' kwalunkwe detenturi jew detenturi prospettiv ta' tokens irreferenzjati ma' assi, li jseħħ wara l-awtorizzazzjoni skont l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, jew wara l-approvazzjoni tal-white paper dwar il-kriptoassi skont l-Artikolu 17 tar-Regolament MiCA u l-artikolu 10,

kif ukoll fil-kuntest tal-Artikolu 23 tar-Regolament MiCA:

Iżda l-awtorità kompetenti għandha tiġi avżata dwar il-bidliet maħsuba msemmija f'dan is-subartikolu mill-inqas tletin (30) jum ta' xogħol qabel ma l-imsemmija bidliet jidħlu fis-seħħ.

(3) Il-bidliet imsemmija fis-subartikolu (2) għandhom jinkludu, fost l-oħrajn, kwalunkwe modifiki materjali:

(a) fl-arranġamenti ta' governanza, inkluż il-linji ta' rappurtar lill-korp maniġerjali u l-qafas tal-immaniġġar tar-riskju;

(b) fl-assi ta' riżerva u l-kustodja tal-assi ta' riżerva;

(ċ) fid-drittijiet mogħtija lid-detenturi ta' tokens irreferenzjati ma' assi;

(d) fil-mekkaniżmu li permezz tiegħu jinħareġ u jinfeda token irreferenzjat ma' assi;

(e) fil-protokolli għall-validazzjoni tat-tranżazzjonijiet f'tokens irreferenzjati ma' assi;

(f) fil-funzjonament tat-teknoloġija ta' reġistru distribwit proprjetarja tal-emittent, fejn it-tokens irreferenzjati ma' assi jinħarġu, jiġu ttrasferiti u jinħażnu bl-użu ta' tali teknoloġija ta' reġistru distribwit;

(g) fil-mekkaniżmi li jiżguraw il-likwidità ta' tokens irreferenzjati ma' assi, inkluż il-politika u l-proċeduri għall-immaniġġjar tal-likwidità għall-emittenti ta' tokens irreferenzjati ma' assi sinifikanti msemmija fl-Artikolu 45 tar-Regolament MiCA;

(h) fl-arranġamenti ma' entitajiet terzi, inkluż għall-immaniġġjar tal-assi ta' riżerva u għall-investiment tar-riżerva, għall-kustodja tal-assi ta' riżerva, u fejn applikabbli, għad-distribuzzjoni tat-tokens irreferenzjati ma' assi għall-pubbliku;

(i) fil-proċeduri għat-trattament tal-ilmenti; u, jew

(j) fil-valutazzjoni tar-riskju tal-ħasil tal-flus u l-finanzjament tat-terroriżmu u l-politiki u l-proċeduri ġenerali relatati magħhom.

(4) Fejn kwalunkwe tibdil intenzjonat kif imsemmi fis-subartikolu (2), ikun ġie notifikat lill-awtorità kompetenti, l-emittent

ta' token irreferenzjat ma' assi għandu jħejji abbozz ta' white paper dwar il-kriptoassi modifikat u għandu jiżgura li l-ordni tal-informazzjoni li tidher fih tkun konsistenti ma' dik tal-white paper dwar il-kriptoassi oriġinali.

(5) L-emittent tat-token irreferenzjat ma' assi għandu jinnotifika l-abbozz tal-white paper dwar il-kriptoassi modifikata msemmija fis-subartikolu (4), lill-awtorità kompetenti u l-awtorità kompetenti għandha tikkonferma elettronikament li tkun irċiviet l-abbozz tal-imsemmija white paper mill-aktar fis possibbli, iżda fi kwalunkwe każ mhux aktar tard minn ħamest (5) ijiem tax-xogħol minn meta tirċevih.

(6) L-awtorità kompetenti għandha tagħti jew tiċħad l-approvazzjoni tagħha, għall-abbozz tal-white paper dwar il-kriptoassi modifikata msemmija fis-subartikolu (4) fi żmien tletin (30) jum ta'xogħol minn meta tikkonferma li tkun irċivietha skont is-subartikolu (5):

Iżda matul l-eżaminazzjoni tal-abbozz tal-white paper dwar il-kriptoassi modifikata, l-awtorità kompetenti tista' titlob kwalunkwe informazzjoni, spjegazzjoni jew ġustifikazzjoni addizzjonali rigward l-imsemmija white paper u, meta l-awtorità kompetenti tagħmel tali talba, il-limitu ta' żmien imsemmi f'dan is-subartikolu għandu jibda biss meta l-awtorità kompetenti tkun irċiviet l-informazzjoni addizzjonali mitluba.

Komunikazzjonijiet ta' kummerċjalizzazzjoni.

16. (1) L-awtorità kompetenti ma għandhiex teħtieġ l-approvazzjoni minn qabel ta' komunikazzjonijiet ta' kummerċjalizzazzjoni li tirrigwarda offerta lill-pubbliku ta' token irreferenzjat ma' assi, jew għall-ammissjoni għan-negozjar ta' tali token irreferenzjat ma' assi, qabel il-pubblikazzjoni tagħhom.

(2) Komunikazzjonijiet ta' kummerċjalizzazzjoni kif imsemmija fis-subartikolu (1) għandhom fuq talba, jiġu notifikati lill-awtorità kompetenti.

Twaqqif ta' servizzi u attivitajiet. Kap. 371.

17. Fejn l-emittent ta' token irreferenzjat ma' assi, li jkun istituzzjoni finanzjarja liċenzjata taħt l-Att dwar il-Kummerċ Bankarju jew persuna ġuridika jew impriża oħra awtorizzata taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11, jiddeċiedi li jwaqqaf il-forniment tas-servizzi u l-attivitajiet tiegħu, inkluż billi jwaqqaf il-ħruġ ta' tali token irreferenzjat ma' assi, huwa għandu jissottometti pjan lill-awtorità kompetenti għall-approvazzjoni ta' tali waqfien.

18. (1) Għall-finijiet ta' dan l-artikolu:

Assesjar ta' akkwisti ta' emmitenti ta' tokens irrefferenzjati ma' assi proposti,

(a) "akkwirent propost" tfisser kwalunkwe persuna fiżika jew ġuridika jew tali persuni li jaġixxu flimkien li jkunu intenzjonati jakkwistaw, direttament jew indirettament, parteċipazzjoni kwalifikanti f'emittent ta' token irreferenzjat; u

(b) "emittent ta' token irreferenzjat ma' assi" tfisser emittent ta' token irreferenzjat ma' assi li jkun istituzzjoni ta' kreditu liċenzjata taħt l-Att dwar il-Kummerċ Bankarju jew persuna ġuridika jew impriża oħra awtorizzata taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11.

Kap. 371.

(2) Kwalunkwe persuna fiżika jew ġuridika jew tali persuni li jaġixxu flimkien li jkunu intenzjonati jakkwistaw, direttament jew indirettament, parteċipazzjoni kwalifikanti f'emittent ta' token irreferenzjat ma' assi jew li jżidu, direttament jew indirettament, tali parteċipazzjoni kwalifikanti sabiex il-proporzjon tad-drittijiet tal-vot jew tal-kapital miżmum ikun jilħaq jew jeċċedi l-għoxrin fil-mija (20%), it-tletin fil-mija (30%) jew il-ħamsin fil-mija (50%) jew sabiex l-emittent tat-token irreferenzjat ma' assi jsir is-sussidjarju tagħhom, għandhom jinnotifikaw lill-awtorità kompetenti ta' tali emittent dwar dan bil-miktub, filwaqt li jindikaw id-daqs tal-parteċipazzjoni intenzjonata u l-informazzjoni li jirrikjedu l-istandards tekniċi regolatorji adottati mill-Kummissjoni Ewropea f'konformità mal-Artikolu 42(4) tar-Regolament MiCA.

(3) Kwalunkwe persuna fiżika jew ġuridika li tkun ħadet deċiżjoni li tiddisponi, direttament jew indirettament, minn parteċipazzjoni kwalifikanti f'emittent ta' token irreferenzjat ma' assi għandha, qabel ma tiddisponi minn tali parteċipazzjoni, tinnotifika lill-awtorità kompetenti bil-miktub dwar id-deċiżjoni tagħha u tindika d-daqs ta' tali parteċipazzjoni:

Iżda tali persuna kif imsemmija f'dan is-subartikolu għandha wkoll tinnotifika lill-awtorità kompetenti meta tkun ħadet deċiżjoni li tnaqqas parteċipazzjoni kwalifikanti sabiex il-proporzjon tad-drittijiet tal-vot jew tal-kapital miżmum jaqa' taħt l-għaxra fil-mija (10%), l-għoxrin fil-mija (20%), it-tletin fil-mija (30%) jew il-ħamsin fil-mija (50%), jew sabiex l-emittent tat-token irreferenzjat ma' assi ma jibqax ikun sussidjarju ta' tali persuna.

(4) L-awtorità kompetenti għandha, minnufih u fi kwalunkwe każ fi żmien jumejn (2) ta' xogħol minn meta tirċievi n-notifika skont is-subartikolu (2), tikkonferma li tkun irċevitha bil-miktub:

Iżda meta tikkonferma li tkun irċeviet in-notifika prevista skont dan is-subartikolu, l-awtorità kompetenti għandha tinforma lill-

akkwirent propost dwar id-data ta' skadenza tal-perjodu ta' valutazzjoni determinat skont is-subartikolu (5).

(5) L-awtorità kompetenti għandha tivvaluta l-akkwist propost msemmi fis-subartikolu (2) u l-informazzjoni meħtieġa skont l-istandards tekniċi regolatorji adottati mill-Kummissjoni Ewropea f'konformità mal-Artikolu 42(4) tar-Regolament MiCA, fi żmien sittin (60) jum ta' xogħol mid-datatal-konferma bil-miktub tar-riċevutamsemmija fis-subartikolu (4).

(6) Meta twettaq il-valutazzjoni msemmija fis-subartikolu (5), l-awtorità kompetenti tista' titlob mill-akkwirent propost kwalunkwe informazzjoni addizzjonali li tkun meħtieġa sabiex titlesta tali valutazzjoni:

Iżda tali talbiet għandhom isiru bil-miktub u għandhom jispeċifikaw l-informazzjoni addizzjonali meħtieġa:

Iżda wkoll tali talbiet għandhom isiru qabel ma tiġi ffinalizzata l-valutazzjoni, u fi kwalunkwe każ mhux aktar tard minn ħamsin (50) jum ta' xogħol mid-data tal-konferma bil-miktub tar-riċevuta msemmija fis-subartikolu (4).

(7) L-awtorità kompetenti għandha tissospendi l-perjodu ta' valutazzjoni msemmi fis-subartikolu (5) sakemm tkun irċeviet l-informazzjoni addizzjonali msemmija fis-subartikolu (6):

Iżda s-sospensjoni msemmija f'dan is-subartikolu ma għandhiex teċċedi għoxrin (20) jum ta' xogħol:

Iżda wkoll l-awtorità kompetenti tista' testendi s-sospensjoni msemmija f'dan is-subartikolu sa tletin (30) jum ta' xogħol jekk l-akkwirent propost ikun jinsab barra mill-Unjoni Ewopea jew ikun irregolat bil-liġi ta' pajjiż terz.

(8) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (7), kwalunkwe talbiet ulterjuri mill-awtorità kompetenti għal informazzjoni addizzjonali jew għal kjarifika tal-informazzjoni riċevuta ma għandhiex tirriżulta f'sospensjoni tal-perjodu ta' valutazzjoni stabbilit fis-subartikolu (5).

(9) Fejn l-awtorità kompetenti, mat-tlestija tal-valutazzjoni msemmija fis-subartikolu (5), tiddeċiedi li topponi l-akkwist propost imsemmi fis-subartikolu (2), hi għandha tavża lill-akkwirent propost dwar id-deċiżjonijiet tagħha, u tagħti r-raġunijiet għad-deċiżjoni tagħha, fi żmien jumejn (2) ta'xogħol, u fi kwalunkwe każ qabel id-data msemmija fis-subartikolu (5), kif estiża fejn applikabbli, skont

id-dispożizzjonijiet ta' dan l-artikolu.

(10) Fejn l-awtorità kompetenti ma topponix l-akkwist propost msemmi fis-subartikolu (2) qabel id-data msemmija fis-subartikolu (5) kif estiża, fejn applikabbli, skont id-dispożizzjonijiet ta' dan l-artikolu, l-akkwist propost għandu jitqies bħala approvat.

(11) L-awtorità kompetenti tista' tistabbilixxi perjodu massimu għall-konklużjoni tal-akkwist propost isemmi fis- subartikolu (2), u testendi dak il-perjodu massimu kifmeħtieġ.

Ċaħda ta' akkwisti proposti tal-emittenti ta' tokens irreferenzjati ma' assi.

19. (1) Meta twettaq il-valutazzjoni msemmija fl-Artikolu 41(4) tar-Regolament MiCA u l-artikolu 18(5), l-awtorità kompetenti għandha tivvaluta l-adegwatezza tal-akkwirent propost u s-soliditá finanzjarja tal-akkwist propost imsemmi fl-Artikolu 41(1) tar-Regolament MiCA u fl-artikolu 18(2) skont il-kriterji kollha li ġejjin:

(a) ir-reputazzjoni tal-akkwirent propost;

(b) ir-reputazzjoni, l-għarfien, il-ħiliet u l-esperjenza ta' kwalunkwe persuna li se tmexxi n-negozju tal-emittent tat-token irreferenzjat ma' assi bħala riżultat tal-akkwist propost;

(ċ) is-soliditá finanzjarja tal-akkwirent propost, b'mod partikolari fir-rigward tat-tip ta' negozju previst u mfittex fir-rigward tal-emittent tat-token irreferenzjat ma' assi li għalih ikun propost l-akkwist;

(d) jekk l-emittent tat-token irreferenzjat ma' assi hux se jkun kapaċi jikkonforma u jkompli jikkonforma mad-dispożizzjonijiet tat-Titolu III tar-Regolament MiCA u din it-Taqsima; u

(e) jekk ikunx hemm raġunijiet raġonevoli sabiex wieħed jissuspetta li, f'rabta mal-akkwist propost, twettaqx jew sarx tentattiv sabiex jitwettaq ħasil tal-flus jew finanzjament tat-terroriżmu skont it-tifsira tal-artikolu 2(1) tal-Att kontra Money Laundering, jew jekk l-akkwist propost jistax iżid ir-riskju tal-istess.

Kap. 373.

(2) L-awtorità kompetenti tista' topponi l-akkwist propost msemmi fl-Artikolu 41(1) tar-Regolament MiCA u l- artikolu 18(2) meta jkun hemm raġunijiet raġonevoli għal dan, abbażi tal-kriterji stabbiliti fis-subartikolu (1), jew fejn l-informazzjoni pprovduta skont l-Artikolu 41(4) tar-Regolament MiCA u l-artikolu 18(5) ma tkunx kompluta jew tkun falza.

(3) L-awtorità kompetenti ma għandhiex teżamina l-akkwist

propost msemmi fl-Artikolu 41(1) tar-Regolament MiCA u l-artikolu 18(2) skont il-ħtiġijiet ekonomiċi tas-suq.

Avviż ta' pjan ta' rkupru. Kap. 371.

20. (1) Għall-finijiet ta' dan l-artikolu, "emittent ta' token irreferenzjat ma' assi" tfisser emittent ta' token irreferenzjat ma' assi li jkun istituzzjoni ta' kreditu liċenzjata taħt l-Att dwar il-Kummerċ Bankarju jew persuna ġuridika jew impriża oħra awtorizzata taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11.

(2) L-emittent tat-token irreferenzjat ma' assi għandu javża l-pjan ta' rkupru mfassal skont l-Artikolu 46(1) tar-Regolament MiCA lill-awtorità kompetenti fi żmien sitt (6) xhur mid-data tal-awtorizzazzjoni skont l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11 jew fi żmien sitt (6) xhur mid-data tal-approvazzjoni tal-white paper dwar il-kriptoassi skont l-Artikolu 17 tar-Regolament MiCA u l-artikolu 10.

(3) L-awtorità kompetenti għandha teħtieġ emendi għall-pjan ta' rkupru msemmi fis-subartikolu (2) fejn meħtieġ sabiex tiżgura l-implimentazzjoni xierqa tiegħu u għandha tavża d-deċiżjoni tagħha li titlob dawk l-emendi lill-emittent fi żmien erbgħin (40) jum ta' xogħol mid-data tan-notifika ta' tali pjan.

(4) Id-deċiżjoni tal-awtorità kompetenti msemmija fis-subartikolu (3) għandha tiġi implimentata mill-emittent fi żmien erbgħin (40) jum ta' xogħol mid-data tan-notifika ta' tali deċiżjoni.

(5) L-emittent għandu jeżamina mill-ġdid u jaġġorna regolarment il-pjan ta' rkupru.

(6) Fejn l-emittent tat-token irreferenzjat ma' assi jonqos milli jikkonforma mar-rekwiżiti applikabbli għar-riżerva ta' assi kif imsemmi fil-Kapitolu 3 tat-Titolu III tar-Regolament MiCA jew, minħabba kundizzjoni finanzjarja li qiegħda tiddeterjora malajr, x'aktarx li fil-futur qarib ma jkunx f'pożizzjoni li jikkonforma ma' tali rekwiżiti, l-awtorità kompetenti, sabiex tiżgura konformità mar-rekwiżiti applikabbli, għandu jkollha s-setgħa li teħtieġ lill-imsemmi emittent jimplimenta wieħed jew aktar mill-arranġamenti jew mill-miżuri stabbiliti fil-pjan ta' rkupru jew jaġġorna tali pjan ta' rkupru meta ċ-ċirkostanzi jkunu differenti mis-suppożizzjonijiet stabbiliti fil-pjan ta' rkupru inizjali u jimplimenta wieħed jew aktar mill-arranġamenti jew mill-miżuri stabbiliti fil-pjan aġġornat f'perjodu ta' żmien speċifiku.

(7) Fiċ-ċirkostanzi msemmija fis-subartikolu (6), l-awtorità kompetenti għandu jkollha s-setgħa li tissospendi b'mod temporanju l-fidi ta' tokens irreferenzjati ma' assi, diment li s-sospensjoni tkun

ġustifikata, filwaqt li jitqiesu l-interessi tad-detenturi ta' tokens irreferenzjati ma' assi u tal-istabbiltà finanzjarja.

Notifika tal-pjan ta' fidi.

Kap. 371.

21. (1) Għall-finijiet ta' dan l-artikolu, "emittent ta' token irreferenzjat ma' assi" tfisser emittent ta' token irreferenzjat ma' assi li jkun istituzzjoni ta' kreditu liċenzjata taħt l-Att dwar il-Kummerċ Bankarju jew persuna ġuridika jew impriża oħra awtorizzata taħt l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11.

(2) L-emittent tat-token irreferenzjat ma' assi għandu jinnotifika l-pjan ta' fidi mħejji skont l-Artikolu 47(1) u (2) tar-Regolament MiCA lill-awtorità kompetenti fi żmien sitt (6) xhur mid-data tal-awtorizzazzjoni skont l-Artikolu 21 tar-Regolament MiCA u l-artikolu 11 jew fi żmien sitt (6) xhur mid-data tal-approvazzjoni tal-white paper dwar il-kriptoassi skont l-Artikolu 17 tar-Regolament MiCA u l-artikolu 10.

(3) L-awtorità kompetenti għandha teħtieġ emendi għall-pjan ta' fidi msemmi fis-subartikolu (2) meta meħtieġ, sabiex tiżgura l-implimentazzjoni xierqa tiegħu u għandha tinnotifika d-deċiżjoni tagħha li titlob dawk l-emendi lill-emittent tat-token irreferenzjat ma' assi fi żmien erbgħin (40) jum ta' xogħol mid-data tal-avviż ta' tali pjan.

(4) Id-deċiżjoni tal-awtorità kompetenti msemmija fis-subartikolu (3) għandha tiġi implimentata mill-emittent tat-token irreferenzjat ma' assi fi żmien erbgħin (40) jum ta' xogħol mid-data tan-notifika tal-istess deċiżjoni.

(5) L-emittent għandu jeżamina mill-ġdid u jaġġorna regolarment il-pjan ta' fidi.

TAQSIMA IV
TOKENS TAL-FLUS ELETTRONIĊI

L-ebda ħtieġa ta' approvazzjoni għal white papers dwar kriptoassi għal tokens ta' flus elettroniċi u komunikazzjonijiet ta' kummerċjalizzazzjoni.

22. L-awtorità kompetenti la għandha tirrikjedi l- approvazzjoni minn qabel ta' white papers dwar kriptoassi għal tokens ta' flus elettroniċi u lanqas dwar komunikazzjonijiet ta' kummerċjalizzazzjoni li jikkonċernaw tali white papers, qabel il-pubblikazzjoni tagħhom.

Notifikazzjoni ta' emittenti ta' tokens ta' flus elettroniċi.

Kap. 371.

Kap. 376.

23. (1) Għall-finijiet ta' dan l-artikolu, "emittenti ta' tokens ta' flus elettroniċi" tfisser emittenti ta' tokens ta' flus elettroniċi li jkunu liċenzjati bħala istituzzjoni ta' kreditu taħt l-Att dwar il- Kummerċ Bankarju jew bħala istituzzjoni finanzjarja awtorizzata li toħroġ flus

elettroniċi taħt l-Att dwar Istituzzjonijiet Finanzjarji.

(2) Emittenti ta' tokens tal-flus elettroniċi għandhom, mill-inqas erbgħin (40) jum ta' xogħol qabel id-data li fiha jkunu intenzjonati joffru lill-pubbliku tali tokens tal-flus elettroniċi jew ifittxu l-ammissjoni għan-negozjar tagħhom, javżaw lill-awtorità kompetenti tagħhom dwar dik l-intenzjoni.

(3) Emittenti ta' tokens tal-flus elettroniċi għandhom jinnotifikaw il-white paper dwar kriptoassi lill-awtorità kompetenti mill-anqas għoxrin (20) jum ta' xogħol qabel id-data tal-pubblikazzjoni tagħha.

(4) Emittenti ta' tokens tal-flus elettroniċi għandhom, flimkien mal-avviż tal-white paper imsemmija fis-subartikolu (3), jipprovdu lill-awtorità kompetenti l-informazzjoni msemmija fl-Artikolu 109(4) tar-Regolament MiCA.

(5) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (3), fejn ikunu japplikaw id-dispożizzjonijiet tal-Artikolu 48(5) tar-Regolament MiCA, l-emittenti ta' tokens ta' flus elettroniċi għandhom iħejju white paper dwar il-kriptoassi u jinnotikaw tali white paper dwar il-kriptoassi lill-awtorità kompetenti konformement mal-Artikolu 51 tal-imsemmi Regolament u s-subartikoli (3) u (4).

(6) Komunikazzjonijiet ta' kummerċjalizzazzjoni li jirrigwardaw offerta lill-pubbliku ta' token ta' flus elettroniċi, jew l-ammissjoni għan-negozjar ta' tali token ta' flus elettroniċi għandhom fuq talba, jiġu notifikati lill-awtorità kompetenti.

Notifika tal-pjan ta' rkupru.

Kap. 371.

Kap. 376.

24. (1) Għall-finijiet ta' dan l-artikolu, "emittent ta' token ta' flus elettroniċi" tfisser emittent ta' token ta' flus elettroniċi li jkun liċenzjat bħala istituzzjoni ta' kreditu taħt l-Att dwar il-Kummerċ Bankarju jew bħala istituzzjoni finanzjarja awtorizzata sabiex toħroġ flus elettroniċi taħt l-Att dwar Istituzzjonijiet Finanzjarji.

(2) L-emittent ta' token ta' flus elettroniċi għandu jinnotifika l-pjan ta' rkupru mħejji skont l-Artikolu 46(1) tar-Regolament MiCA, kif applikabbli skont l-Artikolu 55 tal-imsemmi Regolament, lill-awtorità kompetenti fi żmien sitt (6) xhur mid-data tal-offerta lill-pubbliku jew l-ammissjoni għan-negozjar tat-token ta' flus elettroniċi.

(3) L-awtorità kompetenti għandha teħtieġ emendi għall-pjan ta' rkupru msemmi fis-subartikolu (2) meta meħtieġ, sabiex tiżgura l-implimentazzjoni xierqa tiegħu u għandha tinnotifika d-deċiżjoni tagħha li titlob dawk l-emendi lill-emittent tat-token ta' flus elettroniċi fi żmien erbgħin (40) jum ta' xogħol mid-data tan-notifika ta' tali pjan.

(4) Id-deċiżjoni tal-awtorità kompetenti msemmija fis-subartikolu (3) għandha tiġi implimentata mill-emittent tat-token ta' flus elettroniċi fi żmien erbgħin (40) jum ta' xogħol mid-data tan-notifika ta' tali deċiżjoni.

(5) L-emittent tat-token ta' flus elettroniċi għandu jeżamina mill-ġdid u jaġġorna regolarment il-pjan ta' rkupru.

(6) Fejn l-emittent tat-token ta' flus elettroniċi jonqos milli jikkonforma mar-rekwiżiti applikabbli taħt ir-Regolament MiCA jew, minħabba kondizzjoni finanzjarja li qed tiddeterjora malajr, x'aktarx li fil-futur qarib ma jkunx f'pożizzjoni li jikkonforma ma' tali rekwiżiti, l-awtorità kompetenti sabiex tiżgura konformità mar-rekwiżiti applikabbli, għandu jkollha s-setgħa li teħtieġ lill-imsemmi emittent jimplimenta wieħed jew aktar mill-arranġamenti jew mill-miżuri stabbiliti fil-pjan ta' rkupru, jew jaġġorna tali pjan ta' rkupru meta ċ-ċirkostanzi jkunu differenti mis-suppożizzjonijiet stabbiliti fil-pjan ta' rkupru inizjali u jimplimenta wieħed jew aktar mill-arranġamenti jew mill-miżuri stabbiliti fil-pjan aġġornat f'perjodu ta' żmien speċifiku.

(7) Fiċ-ċirkostanzi msemmija fis-subartikolu (6), l-awtorità kompetenti għandu jkollha s-setgħa li tissospendi b'mod temporanju l-fidi ta' tokens ta' flus elettroniċi, diment li s-sospensjoni tkun ġustifikata, filwaqt li jitqiesu l-interessi tad-detenturi ta' tokens ta' flus elettoniċi u tal-istabbiltà finanzjarja.

Notifika ta' pjan ta' fidi.

25. (1) Għall-finijiet ta' dan l-artikolu, "emittent ta' token ta' flus elettroniċi" tfisser emittent ta' token ta' flus elettroniċi li jkun liċenzjat bħala istituzzjoni ta' kreditu taħt l-Att dwar il-Kummerċ Bankarju jew bħala istituzzjoni finanzjarja awtorizzata li toħroġ flus elettroniċi taħt l-Att dwar Istituzzjonijiet Finanzjarji.

Kap. 371.

Kap. 376.

(2) L-emittent ta' token ta' flus elettroniċi għandu jinnotifka l-pjan ta' fidi mħejji skont l-Artikolu 47(1) u (2) tar-Regolament MiCA, kif applikabbli skont l-Artikolu 55 tal-imsemmi Regolament lill-awtorità kompetenti fi żmien sitt (6) xhur mid-data tal-offerta lill-pubbliku jew l-ammissjoni għan-negozjar tat-token ta' flus elettroniċi.

(3) L-awtorità kompetenti għandha teħtieġ emendi għall-pjan ta' fidi msemmi fis-subartikolu (2) fejn meħtieġ, sabiex tiżgura l-implimentazzjoni xierqa tiegħu u għandha tinnotifika d-deċiżjoni tagħha li titlob tali emendi lill-emittent tat-token ta' flus elettroniċi fi żmien erbgħin (40) jum ta' xogħol mid-data tan-notifika ta' tali pjan.

(4) Id-deċiżjoni tal-awtorità kompetenti msemmija fis-subartikolu (3) għandha tiġi implimentata mill-emittent tat-token ta'

flus elettroniċi fi żmien erbgħin (40) jum ta' xogħol mid-data tan-notifika ta' tali deċiżjoni.

(5) L-emittent tat-token ta' flus elettroniċi għandu jeżamina mill-ġdid u jaġġorna regolarment il-pjan ta' fidi.

TAQSIMA V
FORNITURI TA' SERVIZZI TAL-KRIPTOASSI

Awtorizzazzjoni ta' fornituri ta' servizzi tal-kriptoassi.

26. (1) Bla ħsara għad-dispożizzjoniet tal-Artikolu 61 tar-Regolament MiCA, persuna ma għandhiex tipprovdi servizzi ta' kriptoassi f'Malta sakemm dik il-persuna ma tkunx:

(a) persuna ġuridika jew impriża oħra li tkun ġiet awtorizzata sabiex taġixxi bħala fornitur ta' servizzi tal-kriptoassi skont l-Artikolu 63 tar-Regolament MiCA; jew

(b) istituzzjoni ta' kreditu, depożitorju ċentrali tat-titoli, ditta ta' investiment, operatur tas-suq, istituzzjoni tal-flus elettroniċi, kumpanija maniġerjali tal-UCITS, jew maniġer ta' fond ta' investiment alternattiv li huwa awtorizzat jipprovdi servizzi tal-kriptoassi skont l-Artikolu 60 tar-Regolament MiCA.

(2) Bla ħsara għas-subartikolu (1), fornituri ta' servizzi tal-kriptoassi għandhom ikunu awtorizzati jipprovdu servizzi tal-kriptoassi f'Malta jew permezz tad-dritt ta' stabbiliment, inkluż permezz ta' fergħa, jew permezz tal-libertà sabiex jiġu pprovduti servizzi:

Iżda fejn Malta tkun l-Istat Membru ospitanti, il-fornituri ta' servizzi tal-kriptoassi li jipprovdu servizzi tal-kriptoassi f'Malta ma għandhomx ikunu meħtieġa li jkollhom preżenza fiżika f'Malta.

Forniment ta' servizzi tal-kriptoassi minn ċerti entitajiet finanzjarji.

27. (1) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss meta Malta tkun l-Istat Membru domiċiljari.

(2) Istituzzjoni ta' kreditu tista' tipprovdi servizzi tal-kriptoassi jekk tinnotifika l-informazzjoni msemmija fis-subartikolu (9) lill-awtorità kompetenti mill-anqas erbgħin (40) jum ta' xogħol qabel ma tipprovdi tali servizzi għall-ewwel darba.

(3) Depożitorju ċentrali tat-titoli awtorizzat skont ir-Regolament (UE) Nru 909/2014 għandu biss jipprovdi l-kustodja u l-amministrazzjoni ta' kriptoassi f'isem il-klijenti jekk jinnotifika l-informazzjoni msemmija fis-subartikolu (9) lill-awtorità kompetenti mill-anqas erbgħin (40) jum ta' xogħol qabel ma jipprovdi dak is-servizz għall-ewwel darba:

Iżda għall-finijiet ta' dan is-subartikolu, il-provvista tal-kustodja u l-amministrazzjoni ta' kriptoassi f'isem il-klijenti għandu jitqies ekwivalenti għall-provvista, iż-żamma jew l-operat tal-kontijiet tat-titoli fir-rigward tas-servizz għas-saldu msemmi fil-punt (3) tas-Sezzjoni B tal-Anness tar-Regolament (UE) Nru 909/2014.

(4) Ditta ta' investiment tista' tipprovdi servizzi tal-kriptoassi fl-Unjoni Ewropea ekwivalenti għas-servizzi u l-attivitajiet ta' investiment li għalihom hija speċifikament awtorizzata skont id-Direttiva 2014/65/UE jekk tinnotifika lill-awtorità kompetenti l-informazzjoni msemmija fis-subartikolu (9) mill-anqas erbgħin (40) jum ta' xogħol qabel ma tipprovdi tali servizzi għall-ewwel darba:

Iżda għall-finijiet ta' dan is-subartikolu:

(a) il-provvista tal-kustodja u l-amministrazzjoni ta' kriptoassi f'isem il-klijenti għandhom jitqiesu ekwivalenti għas-servizz anċillari msemmi fil-punt (1) tas-Sezzjoni B tal-Anness I tad-Direttiva 2014/65/UE;

(b) l-operat ta' pjattaforma ta' negozjar għall-kriptoassi għandu jitqies ekwivalenti għall-operat ta' faċilità multilaterali tan-negozjar u għall-operat ta' faċilità organizzata tan-negozjar imsemmija fil-punti (8) u (9) rispettivament tas-Sezzjoni A tal-Anness I tad-Direttiva 2014/65/UE;

(ċ) l-iskambju ta' kriptoassi ma' fondi u kriptoassi oħra għandu jitqies ekwivalenti għan-negozjar akkont tagħhom stess, kif imsemmi fil-punt (3) tas-Sezzjoni A tal-Anness I tad-Direttiva 2014/65/UE;

(d) l-eżekuzzjoni ta' ordnijiet għal kriptoassi f'isem il-klijenti għandha titqies ekwivalenti għall-eżekuzzjoni ta' ordnijiet għan-nom tal-klijenti kif imsemmija fil-punt (2) tas-Sezzjoni A tal-Anness I tad-Direttiva 2014/65/UE;

(e) it-tqegħid tal-kriptoassigħandu jitqies ekwivalenti għas-sottoskrizzjoni jew it-tqegħid ta' strumenti finanzjarji abbażi ta' impenn sod u t-tqegħid ta' strumenti finanzjarji mingħajr bażi ta' impenn sod kif imsemmi fil-punti (6) u (7) rispettivament tas-Sezzjoni A tal-Anness I tad-Direttiva 2014/65/UE;

(f) l-irċevuta u t-trażmissjoni ta' ordnijiet għal kriptoassi għan-nom tal-klijenti għandhom jitqiesu ekwivalenti għall-irċevuta u t-trażmissjoni ta' ordnijiet fir-rigward ta' strument finanzjarju wieħed jew aktarkif imsemmi fil-punt (1)

tas-Sezzjoni A tal-Anness I tad-Direttiva 2014/65/UE;

(g) il-forniment ta' pariri dwar il-kriptoassi għandu jitqies ekwivalenti għal pariri dwar l-investiment kif imsemmija fil-punt (5) tas-Sezzjoni A tal-Anness I tad-Direttiva 2014/65/UE; u

(h) il-forniment tal-immaniġġjar ta' portafolli tal-kriptoassi għandu jitqies ekwivalenti għall-immaniġġjar ta' portafolli kif imsemmi fil-punt (4) tas-Sezzjoni A tal-Anness I tad-Direttiva 2014/65/UE.

(5) Istituzzjoni tal-flus elettroniċi awtorizzata skont id-Direttiva 2009/110/KE għandha biss tipprovdi l-kustodja u l-amministrazzjoni ta' kriptoassi għan-nom tal-klijenti u tittrasferixxi servizzi tal-kriptoassi għan-nom tal-klijenti fir-rigward tat-tokens tal-flus elettroniċi li toħroġ, jekk tinnotifika lill-awtorità kompetenti bl-informazzjoni msemmija fis-subartikolu (9) mill-anqas erbgħin (40) jum ta' xogħol qabel ma tipprovdi dawk is-servizzi għall-ewwel darba.

(6) Kumpanija maniġerjali tal-UCITS jew maniġer ta' fond ta' investiment alternattiv jistgħu jipprovdu servizzi tal-kriptoassi ekwivalenti għall-immaniġġjar ta' portafolli ta' investiment u servizzi mhux prinċipali li għalihom ikunu awtorizzati skont id-Direttiva 2009/65/KE jew id-Direttiva 2011/61/UE jekk jinnotifikaw lill-awtorità kompetenti bl-informazzjoni msemmija fis-subartikolu (9) mill-anqas erbgħin (40) jum ta' xogħol qabel ma tipprovdi dawk is-servizzi għall-ewwel darba:

Iżda għall-finijiet ta' dan is-subartikolu:

(a) l-irċevuta u t-trażmissjoni ta' ordnijiet għal kriptoassi f'isem il-klijenti għandhom jitqiesu ekwivalenti għall-irċevuta u t-trażmissjoni ta' ordnijiet fir-rigward ta' strumenti finanzjarji kif msemmi fil-punt (b)(iii), tal-Artikolu 6(4) tad-Direttiva 2011/61/UE;

(b) il-forniment ta' pariri dwar il-kriptoassi għandu jitqies ekwivalenti għal pariri dwar l-investiment kif imsemmi fil-punt (b)(i) tal-Artikolu 6(4) tad-Direttiva 2011/61/UE u l-punt (b)(i) tal-Artikolu 6(3) tad-Direttiva 2009/65/KE;

(ċ) il-forniment tal-immaniġġjar ta' portafolli tal-kriptoassi għandu jitqies ekwivalenti għas-servizzi msemmija fil-punt (a) tal- Artikolu 6(4) tad-Direttiva 2011/61/UE u l-punt (a) tal-Artikolu 6(3)tad-Direttiva 2009/65/KE.

(7) Operatur tas-suq awtorizzat skont id-Direttiva 2014/65/UE jista' jopera pjattaforma ta' negozjar għall-kriptoassi jekk jinnotifika lill-awtorità kompetenti bl-informazzjoni msemmija fis-subartikolu (9) mill-anqas erbgħin (40) jum ta' xogħol qabel ma jipprovdi tali servizzi għall-ewwel darba.

(8) Minkejja d-dispożizzjonijiet tas-subartikoli (2) sa (7), l-entitajiet imsemmija f'dawk is-subartikoli ma għandhomx ikunu meħtieġa jissottomettu kwalunkwe informazzjoni msemmija fis-subartikolu (9), li tkun preċedentement ġiet sottomessa minnhom lill-awtorità kompetenti meta tali informazzjoni tkun identika:

Iżda meta jissottomettu l-informazzjoni msemmija fis-subartikolu (9), l-entitajiet imsemmija fis-subartikoli (2) sa (7) għandhom jiddikjaraw espressament li kwalunkwe informazzjoni li ġiet sottomessa qabel tkun għadha aġġornata.

(9) Bla ħsara għad-dispożizzjonijiet tal-Artikolu 60(13) u (14) tar-Regolament MiCA, għall-finijiet tas-subartikoli (2) sa (7), għandha tiġi notifikata lill-awtorità kompetenti l-informazzjoni li ġejja:

(a) programm tal-operati li jistabbilixxi t-tipi ta' servizzi tal-kriptoassi li l-applikant ta' servizzi tal-kriptoassi jkun intenzjonatli jipprovdi, inkluż fejn u kif dawk is-servizzi għandhom jiġu kummerċjalizzati;

(b) deskrizzjoni ta':

(i) il-mekkaniżmi ta' kontroll intern, il-politiki u l-proċeduri sabiex tiġi żgurata l-konformità mad-dispożizzjonijiet tal-liġi nazzjonali li tittrasponi d-Direttiva (UE) 2015/849;

(ii) il-qafas tal-valutazzjoni tar-riskju għall-immaniġġjar tar-riskji tal-ħasil tal-flus u l-finanzjament tat-terroriżmu; u

(iii) il-pjan tal-kontinwità tan-negozju;

(ċ) id-dokumentazzjoni teknika tas-sistemi tal-ICT u l-arranġamenti tas-sigurtà u deskrizzjoni tagħhom b'lingwaġġ mhux tekniku;

(d) deskrizzjoni tal-proċedura għas-segregazzjoni tal-kriptoassi u tal-fondi tal-klijenti;

(e) deskrizzjoni tal-politika tal-kustodja u tal-amministrazzjoni, fejn huwa intiż li tiġi fornuta l-kustodja u l-

amministrazzjoni ta' kriptoassi għan-nom tal-klijenti;

(f) deskrizzjoni tar-regoli operattivi tal-pjattaforma ta' negozjar u tal-proċeduri u tas-sistema sabiex jinqabad abbuż tas-suq, fejn huwa intiż li tiġi operata pjattaforma ta' negozjar għall-kriptoassi;

(g) deskrizzjoni tal-politika kummerċjali mhux diskriminatorja li tirregola r-relazzjoni mal-klijenti kif ukoll deskrizzjoni tal-metodoloġija sabiex jiġi determinat il-prezz tal-kriptoassi li jipproponu għal skambju ma' fondi jew kriptoassi oħra, fejn huwa intiż li jiġu skambjati kriptoassi għal fondi jew kriptoassi oħra;

(h) deskrizzjoni tal-politika ta' eżekuzzjoni, meta huwa intiż li jiġu eżegwiti ordnijiet għall-kriptoassi għan-nom tal-klijenti;

(i) evidenza li l-persuni fiżiċi li jagħtu pariri għan-nom tal-applikant jew li jimmaniġġjaw il-portafolli għan-nom tal-applikant għandhom l-għarfien u l-għarfien espert meħtieġa sabiex jissodisfaw l-obbligi tagħhom, fejn huwa intiż li jiġi pprovdut parir dwar il-kriptoassi jew jiġi pprovdut l-immaniġġjar tal-portafolli dwar il-kriptoassi;

(j) jekk is-servizz tal-kriptoassi jkunx relatat ma' tokens irreferenzjati ma' assi, tokens tal-flus elettroniċi jew kriptoassi oħra; u

(k) informazzjoni dwar il-mod li bih għandhom jiġu pprovduti tali servizzi ta' trasferiment, fejn ikun intenzjonatli jiġu pprovduti servizzi ta' trasferiment għall-kriptoassi għan-nom tal-klijenti.

(10) L-awtorità kompetenti għandha, fi żmien għoxrin (20) jum ta'xogħol minn meta tirċievi tali notifika kif imsemmi fis-subartikoli (2) sa (7), tivvaluta jekk tkunx ġiet provduta l-informazzjoni meħtieġa kollha.

(11) Fejn l-awtorità kompetenti tikkonkludi li notifika ma tkunx kompluta kif imsemmi fis-subartikoli (2) sa (7), hija għandha tinforma minnufih lill-entità li tinnotifika b'dan u tistabbilixxi skadenza sa meta dik l-entità tkun meħtieġa tipprovdi l-informazzjoni nieqsa:

Iżda l-iskadenza sabiex tiġi pprovduta kwalunkwe informazzjoni nieqsa ma għandhiex taqbeż l-għoxrin (20) jum ta' xogħol mid-data tat-talba u, sakemm tiskadi l-imsemmija skadenza,

kull perjodu kif stabbilit fis-subartikoli (2) sa (7) għandu jiġi sospiż:

Iżda wkoll il-fornitur ta' servizzi tal-kriptoassi ma għandux jibda jipprovdi s-servizzi tal-kriptoassi sakemm in-notifika msemmija fis-subartikoli (2) sa (7) ma tkunx kompluta.

(12) Bla ħsara għas-subartikolu (11), kwalunkwe talba ulterjuri mill-awtorità kompetenti għat-tlestija jew għall-kjarifika tal-informazzjoni provduta skont dan l-artikolu, għandha tkun fid-diskrezzjoni tagħha iżda ma għandhiex tirriżulta f'sospensjoni tal-perjodu stabbilit fis-subartikoli (2) sa (7).

Applikazzjoni għal awtorizzazzjoni.

28. (1) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss meta Malta tkun l-Istat Membru domiċiljari.

(2) Il-persuni ġuridiċi jew impriżi oħra li jkunu intenzjonati li jipprovdu servizzi tal-kriptoassi għandhom jissottomettu l-applikazzjoni tagħhom għal awtorizzazzjoni sabiex jaġixxu bħala fornitur ta' servizzi tal-kriptoassi lill-awtorità kompetenti.

(3) L-applikazzjoni msemmija fis-subartikolu (2) għandu jkun fiha l-informazzjoni kollha li ġejja:

(a) l-isem, inklużi l-isem ġuridiku u kwalunkwe isem kummerċjali ieħor li jintuża, l-identifikatur tal-entità ġuridika tal-applikant, is-sit elettroniku operat minn tali applikant, indirizz tal-email ta' kuntatt, numru tat-telefon ta' kuntatt u l-indirizz fiżiku tiegħu tan-negozju;

(b) in-natura ġuridika tal-applikant;

(ċ) l-istatut ta' assoċjazzjoni tal-applikant, fejn applikabbli;

(d) programm tal-operati li jistabbilixxi t-tipi ta' servizzi tal-kriptoassi li l-applikant ikun intenzjonatli jipprovdi, inkluż fejn u kif dawk is-servizzi għandhom jiġu kkummerċjalizzati;

(e) prova li l-applikant jissodisfa r-rekwiżiti għas-salvagwardja prudenzjali stabbiliti fl-Artikolu 67 tar-Regolament MiCA;

(f) deskrizzjoni tal-arranġamenti ta' governanza tal-applikant;

(g) prova li l-membri tal-korp maniġerjali tal-applikant huma ta' reputazzjoni tajba biżżejjed u għandhom l-għarfien, il-ħiliet u l-esperjenza xierqa sabiex jimmaniġġjaw tali fornitur;

(h) l-identità ta' kwalunkwe azzjonisti u membri, kemm diretti kif ukoll indiretti, li jkollhom parteċipazzjonijiet kwalifikanti fl-applikant u l-ammonti ta' dawk il-parteċipazzjonijiet, kif ukoll prova li tali persuni huma ta' reputazzjoni tajba biżżejjed;

(i) deskrizzjoni tal-mekkaniżmi ta' kontroll intern, tal-politiki u tal-proċeduri tal-applikant sabiex jidentifika, jivvaluta u jimmaniġġja r-riskji, inkluż ir-riskji ta' ħasil tal-flus u finanzjament tat-terroriżmu u pjan tal-kontinwità tal-operat;

(j) id-dokumentazzjoni teknika tas-sistemi tal-ICT u l-arranġamenti tas-sigurtà u deskrizzjoni tagħhom b'lingwaġġ mhux tekniku;

(k) deskrizzjoni tal-proċedura għas-segregazzjoni tal-kriptoassi u tal-fondi tal-klijenti;

(l) deskrizzjoni tal-proċeduri għat-trattament tal-ilmenti tal-applikant;

(m) fejn l-applikant ikun intenzjonatli jipprovdi l-kustodja u l-amministrazzjoni ta' kriptoassi għan-nom tal-klijenti, deskrizzjoni tal-politika tal-kustodja u tal-amministrazzjoni;

(n) fejn l-applikant ikun intenzjonat li jopera pjattaforma ta' negozjar għall-kriptoassi, deskrizzjoni tar-regoli operattivi tal-pjattaforma ta' negozjar u tal-proċedura u s-sistema sabiex jinqabad l-abbuż tas-suq;

(o) fejn l-applikant ikun intenzjonatli jiskambja l-kriptoassi ma' fondi jew kriptoassi oħrajn, deskrizzjoni tal-politika kummerċjali, li ma għandhiex tkun diskriminatorja, li tirregola r-relazzjoni mal-klijenti kif ukoll deskrizzjoni tal-metodoloġija sabiex jiġi determinat l-prezz tal-kriptoassi li l-applikant jipproponi għal skambju ma' fondi jew ma' kriptoassi oħrajn;

(p) fejn l-applikant ikun intenzjonatli jeżegwixxi ordnijiet għal kriptoassi għan-nom tal-klijenti, deskrizzjoni tal-politika ta' eżekuzzjoni;

(q) fejn l-applikant ikun intenzjonatli jforni pariri dwar il-kriptoassi jew l-immaniġġjar ta' portafolli tal-kriptoassi, prova li l-persuni fiżiċi li jagħtu parir għan-nom tal-applikant jew li jimmaniġġjaw il-portafolli għan-nom tal-applikant

ikollhom l-għarfien u l-għarfien espert meħtieġa sabiex jissodisfaw l-obbligi tagħhom;

(r) fejn l-applikant ikun intenzjonatli jipprovdi servizzi ta' trasferiment għall-kriptoassi għan-nom tal-klijenti, informazzjoni dwar il-mod li bih għandhom jiġu pprovduti tali servizzi ta' trasferiment; u

(s) it-tip ta' kriptoassi li miegħu jkun relatat is-servizz tal-kriptoassi:

Iżda għall-finijiet tal-paragrafi (g) u (h), l-applikant għandu jipprovdi prova ta' dan kollu li ġej:

(a) għall-membri kollha tal-korp maniġerjali tal-applikant, in-nuqqas ta' rekords kriminali fir-rigward ta' kundanni u n-nuqqasta' penali imposti skont il-liġi kummerċjali applikabbli, il-liġi dwar l-insolvenza u l-liġi dwar is-servizzi finanzjarji, jew fir-rigward tal-ġlieda kontra l-ħasil tal-flus u tal-finanzjament kontra t-terroriżmu, tal-frodi jew tar-responsabbiltà professjonali;

(b) li l-membri tal-korp maniġerjali tal-applikant b'mod kollettiv ikollhom l-għarfien, il-ħiliet u l-esperjenza xierqa sabiex jimmaniġġjaw il-fornitur ta' servizzi tal-kriptoassi u li tali persuni jkunu meħtieġa li jallokaw biżżejjed ħin sabiex iwettqu dmirijiethom; u

(ċ) għall-azzjonisti u l-membri kollha, kemm diretti kif ukoll indiretti, li għandhom parteċipazzjonijiet kwalifikanti fl-applikant, in-nuqqas ta' rekords kriminali fir-rigward ta' kundanni jew in-nuqqasta' penali imposti skont il-liġi kummerċjali applikabbli, il-liġi dwar l-insolvenza u l-liġi dwar is-servizzi finanzjarji, jew fir-rigward tal-ġlieda kontra l-ħasil tal-flus u tal-finanzjament tat-terroriżmu, tal-frodi jew tar-responsabbiltà professjonali.

(4) Minkejja d-dispożizzjonijiet tas-subartikoli (2) u (3), l-awtorità kompetenti ma għandhiex tirrikjedi li applikant jipprovdi kwalunkwe informazzjoni msemmija fis-subartikolu (3) li tkun diġà rċeviet taħt il-proċeduri ta' awtorizzazzjoni rispettivi, skont l-Att dwar Istituzzjonijiet Finanzjarji jew l-Att dwar Servizzi ta' Investiment, jew skont il-liġi nazzjonali applikabbli għal servizzi tal-kriptoassi qabel id-29 ta' Ġunju 2023, diment li tali informazzjoni jew dokumenti sottomessi preċedentement ikunu għadhom aġġornati.

Kap. 376
Kap. 370.

(5) L-awtorità kompetenti għandha minnufih, u fi kwalunkwe każ fi żmien ħamest (5) ijiem ta' xogħol minn meta tirċievi applikazzjoni

msemmija fis-subartikolu (2), tikkonferma bil-miktub li rċeviet l-applikazzjoni lill-applikant.

(6) L-awtorità kompetenti għandha, fi żmien ħamsa u għoxrin (25) jum ta' xogħol minn meta tirċievi applikazzjoni skont is-subartikolu (2), tivvaluta jekk dik l-applikazzjoni hijiex kompluta billi tivverifika li tkun ġiet sottomessa l-informazzjoni msemmija fis-subartikolu (3):

Iżda meta l-applikazzjoni ma tkunx kompluta, l-awtorità kompetenti għandha tistabbilixxi skadenza sa meta l-applikant għandu jipprovdi kwalunkwe informazzjoni nieqsa.

(7) L-awtorità kompetenti tista' tirrifjuta li tirrevedi applikazzjoni msemmija fis-subartikolu (2) meta tali applikazzjoni tibqa' inkompluta wara li tgħaddi l-iskadenza stabbilita minnha skont is-subartikolu (6).

(8) Ladarba applikazzjoni tkun kompluta, l-awtorità kompetenti għandha minnufih tinnotifika lill-applikant dwar dan.

(9) L-awtorità kompetenti għandha, fi żmien erbgħin (40) jum ta' xogħol mid-data li fiha tirċievi applikazzjoni kompluta, tivvaluta jekk l-applikant jikkonformax mar-rekwiżiti tat-Titolu V tar- Regolament MiCA u d-dispożizzjonijiet ta' din it-Taqsima u għandha tieħu deċiżjoni għal kollox motivata li permezz tagħha tagħti jew tiċħad awtorizzazzjoni sabiex taġixxi bħala fornitur ta' servizzi tal-kriptoassi:

Iżda l-awtorità kompetenti għandha tinnotifika lill-applikant bid-deċiżjoni tagħha fi żmien ħamest (5) ijiem ta' xogħol mid-data ta' tali deċiżjoni:

Iżda wkoll il-valutazzjoni msemmija f'dan is-subartikolu għandha tqis in-natura, il-portata u l-kumplessità tas-servizzi tal-kriptoassi li l-applikant jkun intenzjonatli jipprovdi.

(10) L-awtorità kompetenti tista', matul il-perjodu ta' valutazzjoni previst fis-subartikolu (9) u mhux aktar tard mill-għoxrin (20) jum ta' xogħol tal-imsemmi perjodu, titlob kwalunkwe informazzjoni ulterjuri li tkun meħtieġa sabiex titlesta l-valutazzjoni msemmija fis-subartikolu (6):

Iżda tali talba għandha ssir bil-miktub lill-applikant u għandha tispeċifika l-informazzjoni addizzjonali meħtieġa.

(11) Il-perjodu ta' valutazzjoni msemmi fis-subartikolu (9) għandu jiġi sospiż għall-perjodu bejn id-data tat-talba għall-informazzjoni nieqsa mill-awtorità kompetenti u d-data meta tirċievi risposta għall-

istess mill-applikant:

Iżda s-sospensjoni msemmija f'dan is-subartikolu ma għandhiex teċċedi għoxrin (20) jum ta' xogħol.

(12) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (11), kwalunkwe talba ulterjuri mill-awtorità kompetenti għall-ikkompletar jew għall-kjarifika tal-informazzjoni prevista skont dan l-artikolu, għandha tkun fid-diskrezzjoni tagħha iżda ma għandhiex tirriżulta f'sospensjoni tal-perjodu ta' valutazzjoni stabbilit fis-subartikolu (9).

(13) Fl-għoti ta' awtorizzazzjoni taħt dan l-artikolu, l-awtorità kompetenti tista' timponi fuq il-fornitur ta' servizz ta' kriptoassi tali kndizzjonijiet li tista' tqis xierqa u, meta tkun tat tali awtorizzazzjoni hi tista', minn żmien għal żmien, tvarja jew tirrevoka kwalunkwe kondizzjoni hekk imposta jew timponi kondizzjonijiet ġodda.

(14) Awtorizzazzjoni mogħtija skont l-Artikolu 63 tar-Regolament MiCA u dan l-artikolu, għandha tispeċifika s-servizzi ta' kriptoassi li l-fornitur ta' servizzi ta' kriptoassi, li lilu tkun ingħatattali awtorizzazzjoni, hu awtorizzat jipprovdi.

(15) Fejn fornitur ta' servizzi tal-kriptoassi li lilu tkun ingħatatlu awtorizzazzjoni skont l-Artikolu 63 tar-Regolament MiCA u dan l-artikolu, ikun intenzjonat li jipprovdi servizzi tal-kriptoassi addizzjonali għal dawk li huwa awtorizzat jipprovdi, hu għandu jissottometi talba lill-awtorità kompetenti għal estensjoni tal-awtorizzazzjoni mogħtija lilu billi jikkomplimenta u jaġġorna l-informazzjoni msemmija fl-Artikolu 62 tar-Regolament MiCA u dan l-artikolu:

Iżda t-talba għal estensjoni għandha tiġi pproċessata skont l-Artikolu 63 tar-Regolament MiCA u dan l-artikolu.

Ċaħda ta' awtorizzazzjoni.

29. (1) Fejn applikant jopera stabbilimenti jew jiddependi fuq partijiet terzi stabbiliti f'pajjiżi terzi b'riskju għoli, identifikati skont l-Artikolu 9 tad-Direttiva (UE) 2015/849, l-awtorità kompetenti għandha tiżgura li l-applikant jikkonforma mad-dispożizzjonijiet tar-regolamenti 12(2), 6(3) u 6(4) tar-Regolamenti kontra *Money Laundering* u Finanzjar ta' Terroriżmu qabel ma tagħti jew tiċħad awtorizzazzjoni sabiex jaġixxi ta' fornitur ta' servizz tal-kriptoassi skont id-dispożizzjonijiet tar-Regolament MiCA u ta' dan l-Att.

L.S. 373.01.

(2) Qabel ma tagħti jew tiċħad awtorizzazzjoni bħala fornitur ta' servizzi tal-kriptoassi skont id-dispożizzjonijiet tar-Regolament MiCA u ta' dan l-Att, l-awtorità kompetenti għandha tiżgura li l-applikant jikkonforma mad-dispożizzjonijiet tar-regolament 11(10) u (12) tar-Regolamenti kontra *Money Laundering* u Finanzjar ta' Terroriżmu,

L.S. 373.01.

fejn applikabbli.

(3) L-awtorità kompetenti għandha tiċħad li tagħti awtorizzazzjoni taħt l-Artikolu 63 tar-Regolament MiCA u l-artikolu 28 fejn ikun hemm raġunijiet oġġettivi u dimostrabbli li:

(a) il-korp maniġerjali tal-applikant ikun ta' theddida għall-immaniġġjar effettiv, sod u prudenti kif ukoll għall-kontinwità tan-negozju tiegħu, u għall-konsiderazzjoni adegwata tal-interess tal-klijenti tiegħu u tal-integrità tas-suq, jew jesponi lill-applikant għal riskju serju ta' ħasil tal-flus jew finanzjament tat-terroriżmu;

(b) il-membri tal-korp maniġerjali tal-applikant ma jissodisfawx il-kriterji stabbiliti fl-Artikolu 68(1) tar-Regolament MiCA;

(ċ) l-azzjonisti jew il-membri, kemm diretti kif ukoll indiretti, li jkollhom parteċipazzjonijiet kwalifikanti fl-applikant ma jissodisfawx il-kriterji ta' reputazzjoni tajba biżżejjed stabbiliti fl-Artikolu 68(2) tar-Regolament MiCA; u, jew

(d) l-applikant jonqos jew x'aktarx jonqos milli jissodisfa kwalunkwe mir-rekwiżiti tat-Titolu V tar-Regolament MiCA u ta' din it-Taqsima.

(4) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (3), l-awtorità kompetenti għandha tiċħad ukoll li tagħti awtorizzazzjoni taħt l-Artikolu 63 tar-Regolament MiCA u l-artikolu 28 fejn:

(a) ikunu jeżistu rabtiet mill-qrib bejn l-applikant u persuni fiżiċi jew ġuridiċi oħra u l-imsemmija rabtiet jipprevjenu l-eżerċizzju effettiv tal-funzjonijiet superviżorji tagħhom; u, jew

(b) il-liġijiet, ir-regolamenti jew id-dispożizzjonijiet amministrattivi ta' pajjiż terz li jirregolaw persuna fiżika jew ġuridika waħda jew aktar li magħhom l-applikant ikollu rabtiet mill-qrib, jew kwalunkwe diffikultajiet involuti fl-infurzar tagħhom, jipprevjenu l-eżerċizzju effettiv tal-funzjonijiet superviżorji tagħhom.

Irtirar tal-awtorizzazzjoni.

30. (1) L-awtorità kompetenti għandha tirtira awtorizzazzjoni mogħtija lil fornitur ta' servizzi tal-kriptoassi taħt l-Artikolu 63 tar-Regolament MiCA u l-artikolu 28 fi kwalunkwe waħda mis-sitwazzjonijiet li ġejjin:

(a) il-fornitur ta' servizzi tal-kriptoassi ma jkunx uża l-awtorizzazzjoni tiegħu fi żmien tnax (12)-il xahar mid-data

tal-awtorizzazzjoni;

(b) il-fornitur ta' servizzi tal-kriptoassi jkun irrinunzja espressament għall-awtorizzazzjoni tiegħu;

(ċ) il-fornitur ta' servizzi tal-kriptoassi ma jkunx ipprovda servizzi tal-kriptoassi għal disa' (9) xhur konsekuttivi;

(d) il-fornitur ta' servizzi tal-kriptoassi jkun kiseb l-awtorizzazzjoni tiegħu b'mod irregolari, pereżempju billi jagħmel dikjarazzjonijiet foloz fl-applikazzjoni tiegħu għal awtorizzazzjoni;

(e) il-fornitur ta' servizzi tal-kriptoassi ma jibqax jissodisfa l-kondizzjonijiet li taħthom tkun ingħatat l-awtorizzazzjoni u ma jkunx ħa l-azzjoni ta' rimedju mitluba mill-awtorità kompetenti fil-perjodu ta' żmien speċifikat;

(f) il-fornitur ta' servizzi tal-kriptoassi jonqos milli jkollu fis-seħħ sistemi, proċeduri u arranġamenti effettivi sabiex jaqbad u jipprevjeni l-ħasil tal-flus u l-finanzjament tat-terroriżmu skont id-Direttiva (UE) 2015/849 kif trasposta fil-liġi nazzjonali; u, jew

(g) il-fornitur ta' servizzi tal-kriptoassi jkun kiser serjament id-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att u, jew ta' kwalunkwe regolamenti magħmula u, jew Regoli maħruġa taħtu, inkluż id-dispożizzjonijiet relatati mal-protezzjoni tad-detenturi ta' kriptoassi jew tal-klijenti tal-fornituri ta' servizzi tal-kriptoassi, jew mal-integrità tas-suq.

(2) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (1), l-awtorità kompetenti tista' tirtira awtorizzazzjoni mogħtija lil fornitur ta' servizzi tal-kriptoassi taħt l-Artikolu 63 tar-Regolament MiCA u l-artikolu 28 fi kwalunkwe waħda mis-sitwazzjonijiet li ġejjin:

(a) il-fornitur ta' servizzi tal-kriptoassi jkun kiser id-dispożizzjonijiet tal-liġi nazzjonali li jittrasponu d-Direttiva (UE) 2015/849; u, jew

(b) il-fornitur ta' servizzi tal-kriptoassi jkun tilef l-awtorizzazzjoni tiegħu bħala istituzzjoni ta' pagament jew l-awtorizzazzjoni tiegħu bħala istituzzjoni tal-flus elettroniċi, u tali fornitur ta' servizzi tal-kriptoassi jkun naqas milli jirrimedja s-sitwazzjoni fi żmien erbgħin (40) jum kalendarju.

(3) Bla ħsara għad-dispożizzjonijiet tas-subartikoli (1) u (2), l-awtorità kompetenti tista' tillimita l-irtirar ta' awtorizzazzjoni

mogħtija lil fornitur ta' servizzi tal-kriptoassi taħt l-Artikolu 63 tar-Regolament MiCA u l-artikolu 28 għal servizz partikolari tal-kriptoassi.

Avviż taċ-ċaħda, varjazzjoni jew irtirar proposti ta' awtorizzazzjoni.

31. (1) Fejn l-awtorità kompetenti tipproponi li:

(a) tiċħad applikazzjoni għal awtorizzazzjoni sottomessa lill-awtorità kompetenti skont l-Artikolu 62 tar-Regolament MiCA u l-artikolu 28 jew li tirtira awtorizzazzjoni mogħtija lil fornitur ta' servizzi tal-kriptoassi taħt l-Artikolu 63 tar-Regolament MiCA u taħt l-artikolu 28; jew

(b) tvarja kwalunkwe kondizzjoni li għaliha hi soġġetta awtorizzazzjoni mogħtija taħt l-Artikolu 63 tar-Regolament MiCA u l-artikolu 28 jew timponi kondizzjoni fuq l-awtorizzazzjoni, hi għandha tagħti lill-applikant jew lill-emittent ta' token irreferenzjat ma' assi, kif applikabbli, avviż bil-miktub dwar l-intenzjoni tagħha li tagħmel dan, waqt li tagħti r-raġunijiet għad-deċiżjoni li hiintenzjonata li tieħu.

(2) Kwalunkwe avviż mogħti taħt is-subartikolu (1) għandu jiddikjara li min jirċievi l-avviż jista', fi żmien dak il-perjodu raġjonevoli wara li jkun ġie notifikat kif jista' jiġi dikjarat fl-avviż, jagħmel sottomissionijiet bil-miktub lill-awtorità kompetenti waqt li jagħti r-raġunijiet li għalihom id-deċiżjoni proposta ma għandhiex tittieħed, u l-awtorità kompetenti għandha tikkunsidra kwalunkwe sottomissjoni hekk magħmula qabel ma tasal għal deċiżjoni finali.

(3) Bla ħsara għad-dispożizzjonijiet tal-Artikolu 63 tar-Regolament MiCA u tal-artikolu 28, l-awtorità kompetenti għandha malajr kemm jista' jkun tinnotifika d-deċiżjoni finali tagħha bil-miktub lil kwalunkwe waħda mill-persuni li lilhom għandu jingħata avviż taħt is-subartikolu (1).

Forniment transfruntier ta' servizzi tal-kriptoassi.

32. (1) Fejn Malta hija l-Istat Membru domiċiljari, fornitur ta' servizzi tal-kriptoassi li jkun intenzjonat li jipprovdi servizzi tal-kriptoassi fi Stat Membru ieħor għajr Malta għandu jissottometti l-informazzjoni li ġejja lill-awtorità kompetenti:

(a) lista tal-Istati Membri li fihom il-fornitur ta' servizzi tal-kriptoassi jkun intenzjonat li jipprovdi servizzi tal-kriptoassi;

(b) is-servizzi tal-kriptoassi li l-fornitur ta' servizzi tal-kriptoassi jkun intenzjonat li jipprovdi fuq bażi transfruntier;

(ċ) id-data tal-bidu intiża għall-provvista tas-servizzi tal-kriptoassi; u

(d) lista tal-attivitajiet l-oħra kollha pprovduti mill-fornitur ta' servizzi tal-kriptoassi li ma jkunux koperti mir-Regolament MiCA u minn dan l-Att.

(2) L-awtorità kompetenti għandha, fi żmien għaxart (10) ijiem tax-xogħol minn meta tirċievi l-informazzjoni msemmija fis-subartikolu (1), tikkomunika l-imsemmija informazzjoni lill-punti uniċi ta' kuntatt tal-Istati Membri ospitanti, lill-ESMA u lill-EBA.

(3) L-awtorità kompetenti għandha tinforma lill-fornitur ta' servizzi tal-kriptoassi kkonċernat dwar il-komunikazzjoni msemmija fis-subartikolu (2) mingħajr dewmien.

(4) Il-fornitur ta' servizzi tal-kriptoassi jista' jibda jipprovdi servizzi tal-kriptoassi fi Stat Membru għajr Malta mid-data meta jirċievi l-komunikazzjoni msemmija fis-subartikolu (3) jew mhux aktar tard mill-ħmistax (15)-il jum kalendarju wara li jkun issottometta l-informazzjoni msemmija fis-subartikolu (1).

Valutazzjoni ta' akkwisti proposti ta' forniturі ta' servizzi tal-kriptoassi.

33. (1) Għall-finijiet ta' dan l-artikolu:

(a) "akkwirent propost" tfisser kwalunkwe persuna fiżika jew ġuridika jew tali persuni li jaġixxu flimkien li jkun intenzjonat li jakkwistaw, direttament jew indirettament, parteċipazzjoni kwalifikanti f'fornitur ta' servizzi tal-kriptoassi; u

(b) "fornitur ta' servizzi tal-kriptoassi" tfisser persuna ġuridika jew impriża oħra awtorizzata taħt l-Artikolu 63 tar-Regolament MiCA u taħt l-artikolu 28, istituzzjoni ta' kreditu liċenzjata taħt l-Att dwar il-Kummerċ Bankarju, depożitorju ċentrali tat-titoli awtorizzat taħt l-Att dwar is-Swieq Finanzjarji, istituzzjoni finanzjarja awtorizzata sabiex toħroġ flus elettroniċi taħt l-Att dwar Istituzzjonijiet Finanzjarji, jew persuna liċenzjata bħala detentur ta' liċenzja għal servizzi ta' investiment taħt l-Att dwar Servizzi ta' Investiment.

Kap. 371.
Kap. 345.
Kap. 376.
Kap. 370.

(2) Kwalunkwe persuna fiżika jew ġuridika jew tali persuni li jaġixxu flimkien li jkun intenzjonat li jakkwistaw, direttament jew indirettament, parteċipazzjoni kwalifikanti f'fornitur ta' servizzi tal-kriptoassi jew li jżidu, direttament jew indirettament, tali parteċipazzjoni kwalifikanti sabiex il-proporzjon tad-drittijiet tal-vot jew tal-kapital miżmum ikun jilħaq jew jeċċedi l-għoxrin fil-mija (20%), it-tletin fil-mija (30%) jew il-ħamsin fil-mija (50%) jew sabiex il-fornitur ta' servizzi tal-kriptoassi jsir is-sussidjarju tagħhom, għandhom javżaw lill-awtorità kompetenti dwar dan bil-miktub, filwaqt li jindikaw id-daqs tal-parteċipazzjoni intiża u l-informazzjoni meħtieġa mill-istandards tekniċi regolatorji adottati mill-Kummissjoni

Ewropea skont l-Artikolu 42(4) tar-Regolament MiCA.

(3) Kwalunkwe persuna fiżika jew ġuridika li tkun ħadet deċiżjoni li tiddisponi, direttament jew indirettament, minn parteċipazzjoni kwalifikanti f'fornitur ta' servizzi tal-kriptoassi għandha, qabel ma tiddisponi minn tali parteċipazzjoni, tavża lill-awtorità kompetenti bil-miktub dwar id-deċiżjoni tagħha u tindika d-daqs ta' tali parteċipazzjoni:

Iżda kwalunkwe tali persuna kif imsemmija f'dan is-subartikolu għandha wkoll tavża lill-awtorità kompetenti fejn tkun ħadet deċiżjoni li tnaqqas parteċipazzjoni kwalifikanti sabiex il-proporzjon tad-drittijiet tal-vot jew tal-kapital miżmum jaqa' taħt l-għaxra fil-mija (10%), l-għoxrin fil-mija (20%), it-tletin fil-mija (30%), jew il-ħamsin fil-mija (50%), jew sabiex il-fornitur ta' servizzi tal-kriptoassi ma jibqax is-sussidjarju ta' dik il-persuna.

(4) L-awtorità kompetenti għandha, minnufih u fi kwalunkwe każ fi żmien jumejn (2) ta' xogħol minn meta tirċievi n-notifika skont is-subartikolu (2), tikkonferma bil-miktub li tkun irċevietha:

Iżda meta tikkonferma li tkun irċeviet in-notifika provduta skont dan is-subartikolu, l-awtorità kompetenti għandha tinforma lill-akkwirent propost bid-data tal-iskadenza tal-perjodu ta' valutazzjoni skont id-dispożizzjonijiet tas-subartikolu (5).

(5) L-awtorità kompetenti għandha tivvaluta l-akkwist propost msemmi fis-subartikolu (2) u l-informazzjoni meħtieġa mill-istandards tekniċi regolatorji adottati mill-Kummissjoni Ewropea skont l-Artikolu 84(4) tar-Regolament MiCA, fi żmien sittin (60) jum ta' xogħol mid-data li fiha ġiet riċevuta l-konferma bil-miktub imsemmija fis-subartikolu (4).

(6) Meta twettaq il-valutazzjoni msemmija fis-subartikolu (5), l-awtorità kompetenti tista' titlob mill-akkwirent propost kwalunkwe informazzjoni addizzjonali li tkun meħtieġa sabiex titlesta tali valutazzjoni:

Iżda tali talbiet għandhom isiru bil-miktub u għandhom jispeċifikaw l-informazzjoni addizzjonali meħtieġa:

Iżda wkoll tali talbiet għandhom isiru qabel ma tiġi ffinalizzata l-valutazzjoni, u fi kwalunkwe każ mhux aktar tard minn ħamsin (50) jum ta' xogħol mid-data li fiha ġiet riċevuta l-konferma bil-miktub timsemmija fis-subartikolu (4).

(7) L-awtorità kompetenti għandha tissospendi l-perjodu ta'

valutazzjoni msemmi fis-subartikolu (5) sakemm tkun irċeviet l-informazzjoni addizzjonali msemmija fis-subartikolu (6):

Iżda s-sospensjoni msemmija f'dan is-subartikolu ma għandhiex teċċedi għoxrin (20) jum tax-xogħol:

Iżda wkoll l-awtorità kompetenti tista' testendi s-sospensjoni msemmija f'dan is-subartikolu sa tletin (30) jum ta' xogħol jekk l-akkwirent propost ikun jinsab barra mill-Unjoni Ewropea jew ikun regolat skont il-liġi ta' pajjiż terz.

(8) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (7), kwalunkwe talba ulterjuri mill-awtorità kompetenti għal informazzjoni addizzjonali jew għal kjarifika tal-informazzjoni rċevuta ma għandhiex tirriżulta f'sospensjoni tal-perjodu ta' valutazzjoni stabbilit fis-subartikolu (5).

(9) Fejn l-awtorità kompetenti, mat-tlestija tal-valutazzjoni msemmija fis-subartikolu (5), tiddeċiedi li topponi l-akkwist propost msemmi fis-subartikolu (2), hija għandha tinnotifika lill-akkwirent propost dwar id-deċiżjoni tagħha fi żmien jumejn (2) ta' xogħol, u fi kwalunkwe każ qabel id-data msemmija fis-subartikolu (5) kif estiża, fejn applikabbli, skont id-dispożizzjonijiet ta' dan l-artikolu.

(10) Fejn l-awtorità kompetenti ma topponix l-akkwist propost msemmi fis-subartikolu (2) qabel id-data msemmija fis- subartikolu (5) kif estiża, fejn applikabbli, skont id-dispożizzjonijiet ta' dan l-artikolu, l-akkwist propost għandu jitqies li jkun approvat.

(11) L-awtorità kompetenti tista' tistabbilixxi perjodu massimu għall-konklużjoni tal-akkwist propost msemmi fis-subartikolu (2) u testendi tali perjodu massimu fejn xieraq.

Ċaħda ta' akkwisti proposti ta' fornituri ta' servizzi tal-kriptoassi.

34. (1) Meta twettaq il-valutazzjoni msemmija fl-Artikolu 83(4) tar-Regolament MiCA u l-artikolu 33(5), l-awtorità kompetenti għandha tivvaluta l-adegwatezza tal-akkwirent propost u s-soliditá finanzjarja tal-akkwist propost msemmi fl-Artikolu 83(1) tar-Regolament MiCA u l-artikolu 33(2) skont il-kriterji kollha li ġejjin:

(a) ir-reputazzjoni tal-akkwirent propost;

(b) ir-reputazzjoni, l-għarfien, il-ħiliet u l-esperjenza ta' kwalunkwe persuna li se tmexxi n-negozju tal-fornitur ta' servizzi tal-kriptoassi bħala riżultat tal-akkwist propost;

(ċ) is-soliditá finanzjarja tal-akkwirent propost, b'mod partikolari fir-rigward tat-tip ta' negozju previst u mfittex fir-rigward tal-fornitur ta' servizzi tal-kriptoassi li għalih ikun

propost l-akkwist;

(d) jekk il-fornitur ta' servizzi tal-kriptoassi huwiex se jkun kapaċi jikkonforma u jkompli jikkonforma mad-dispożizzjonijiet tat-Titolu V tar-Regolament MiCA u ma' din it-Taqsima; u

(e) jekk ikunx hemm raġunijiet raġonevoli sabiex wieħed jissuspetta li, b'rabta mal-akkwist propost, twettaqx jew sarx tentattiv sabiex jitwettaq ħasil tal-flus jew finanzjament tat-terroriżmu skont it-tifsira tal-artikolu 2(1) tal-Att kontra *Money Laundering*, jew jekk l-akkwist propost jistax iżid ir-riskju ta' dan.

Kap. 373.

(2) L-awtorità kompetenti tista' topponi l-akkwist propost msemmija fl-Artikolu 83(1) tar-Regolament MiCA u fl-artikolu 33(2) fejn ikun hemm raġunijiet raġonevoli sabiex tagħmel dan abbażi tal-kriterji stabbiliti fis-subartikolu (1) jew fejn l-informazzjoni provduta skont l-Artikolu 83(4) tar-Regolament MiCA u mal-artikolu 33(5) ma tkunx kompluta jew tkun falza.

(3) L-awtorità kompetenti ma għandhiex teżamina l-akkwist propost msemmi fl-Artikolu 83(1) tar-Regolament MiCA u fl-artikolu 33(2) fit-termini tal-ħtiġijiet ekonomiċi tas-suq.

TAQSIMA VI
PREVENZJONI U PROJBIZZJONI TA' ABBUŻ TAS-SUQ

Żvelar pubbliku ta' informazzjoni privileġġjata.

35. (1) L-emittenti, l-offerenti u l-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar għandhom jinformaw lill-pubbliku malajr kemm jista' jkun dwar l-informazzjoni privileġġjata msemmija fl-Artikolu 87 tar-Regolament MiCA li tikkonċerna lilhom direttament, b'mod li jippermetti aċċess rapidu kif ukoll valutazzjoni kompluta, korretta u f'waqtha tal-informazzjoni mill-pubbliku:

Iżda l-emittenti, l-offerenti u l-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar għandhom jaċċertaw illi l-iżvelar ta' informazzjoni privileġġjata lill-pubbliku ma tikkonkorrix mal-kummerċjalizzazzjoni tal-attivitajiet tagħhom:

Iżda wkoll l-emittenti, l-offerenti u l-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar għandhom iqiegħdu u jżommu fuq is-sit elettroniku tagħhom, għal perjodu ta' mill-inqas ħames (5) snin, l-informazzjoni privileġġjata kollha li huma jkunu meħtieġa li jiżvelaw pubblikament.

(2) L-emittenti, l-offerenti u l-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar jistgħu, fuq ir-responsabbiltà tagħhom stess,

jittratjenu l-iżvelar lill-pubbliku ta' informazzjoni privileġġjata msemmija fl-Artikolu 87 tar-Regolament MiCA diment li jkunu sodisfatti l-kondizzjonijiet kollha li ġejjin:

(a) l-iżvelar immedjat x'aktarx jippreġudika l-interessi leġittimi tal-emittenti, tal-offerenti jew tal-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar;

(b) id-dewmien fl-iżvelar x'aktarx ma jqarraqx bil-pubbliku; u

(ċ) l-emittenti, l-offerenti jew il-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar ikunu jistgħu jiżguraw il-kunfidenzjalità ta' tali informazzjoni.

(3) Fejn emittent, offerent jew persuna li tkun qed tfittex l-ammissjoni għan-negozjar tkun tratteniet l-iżvelar ta' informazzjoni privileġġjata skont is-subartikolu (2), hi għandha tinforma lill-awtorità kompetenti li l-iżvelar tal-informazzjoni ġietrattenut u għandha tipprovdi spjegazzjoni bil-miktub dwar kif ġew sodisfatti l-kondizzjonijiet stabbiliti fis-subregolament (2), minnufih wara li l-informazzjoni tkun ġiet żvelata lill-pubbliku.

(4) Id-dispożizzjonijiet ta' dan l-artikolu għandhom japplikaw biss:

(a) fir-rigward ta' emittenti, offerenti u persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar ta' kriptoassi għajr tokens irreferenzjati ma' assi jew tokens ta' flus elettroniċi meta Malta hi l-Istat Membru domiċiljari;

(b) fir-rigward ta' emittenti, offerenti u persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar ta' tokens irreferenzjati ma' assi li jkunu istituzzjonijiet ta' kreditu liċenzjati bħala tali taħt l-Att dwar il-Kummerċ Bankarju jew persuni awtorizzati taħt l-Artikolu 21 tar-Regolament MiCA u taħt l-artikolu 11; u Kap. 371.

(ċ) fir-rigward ta' emittenti, offerenti u persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar ta' tokens ta' flus elettroniċi liċenzjati bħala tali taħt l-Att dwar il-Kummerċ Bankarju jew istituzzjonijiet finanzjarji awtorizzati taħt l-Att dwar Istituzzjonijiet Finanzjarji. Kap. 371. Kap. 376.

36. (1) Kwalunkwe persuna li professjonalment tirranġa jew teżegwixxi tranżazzjonijiet fil-kriptoassi għandu jkollha fis-seħħ arranġamenti, sistemi u proċeduri effettivi sabiex tipprevjeni u taqbad l-abbuż tas-suq. Prevenzjoni u qbid ta' abbuż tas-suq.

(2) Kwalunkwe tali persuna, kif imsemmija fis-subartikolu (1) li jkollha l-uffiċċju rreġistrat jew l-uffiċċju prinċipali tagħha f'Malta, jew li tkun fergħa lokalizzata f'Malta, għandha tkun soġġetta għal kwalunkwe rekwiżiti applikabbli ta' notifika stabbiliti fil-liġi nazzjonali, inkluż dan l-Att u kwalunkwe regolament magħmul u Regoli maħruġa taħtu, u għandha mingħajr dewmien tirrapporta lill-awtorità kompetenti kwalunkwe suspett raġonevoli fir-rigward ta' ordni jew tranżazzjoni, inkluż kwalunkwe kanċellament jew modifika tagħhom, u aspetti oħra tal-funzjonament tat-teknoloġija ta' reġistru distribwit, bħall-mekkaniżmu ta' kunsens, fejn jistgħu jeżistu ċirkostanzi li jindikaw li jkun twettaq, qed jitwettaq jew x'aktarx li jitwettaq abbuż tas-suq.

(3) Meta tirċievi rapport ta' ordnijiet jew tranżazzjonijiet suspettużi skont is-subartikolu (2), l-awtorità kompetenti għandha tittrażmetti tali informazzjoni minnufih lill-awtoritajiet kompetenti tal-pjattaformi ta' negozjar ikkonċernati.

TAQSIMA VII
SETGĦAT REGOLATORJI U INVESTIGATTIVI

Setgħat tal-Ministru.

37. (1) Il-Ministru, filwaqt li jaġixxi fuq il-parir tal-awtorità kompetenti, jista' jagħmel regolamenti sabiex jagħti effett lid-dispożizzjonijiet ta' dan l-Att, u bla ħsara għall-ġeneralità ta' dak li ntqal qabel jista', b'mod partikolari, permezz ta' tali regolamenti, jagħmel kwalunkwe waħda mill-affarijiet li ġejjin:

(a) jipprovdi għal u jirregola l-ħlas minn kwalunkwe persuna jew korp, skont il-każ, ta' drittijiet għal awtorizzazzjoni u drittijiet oħra u tali imposti oħra li jitħallsu lill-awtorità kompetenti fir-rigward ta' kawlunkwe ħaġa prevista, minn jew taħt ir-Regolament MiCA, taħt dan l-Att u kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu, inkluż id-drittijiet u l-imposti fir-rigward ta' kwalunkwe permess, liċenzja, awtorizzazzjoni, eżenzjoni jew benefiċċju ieħor, kif ukoll kwalunkwe dritt u imposta fir-rigward tal-funzjonijiet regolatorji, superviżorji jew investigattivi tal-awtorità kompetenti taħt ir-Regolament MiCA, dan l-Att u kwalunkwe regolamenti magħmula, u Regoli maħruġa, kif jista' jiġi preskritt;

(b) jeżenta lil kwalunkwe persuna, servizz jew attività minn xi waħda jew aktar mid-dispożizzjonijiet tar-Regolament MiCA u, jew ta' dan l-Att, bla ħsara għal dawk il-varjazzjonijiet, żidiet, adattamenti u modifiki li jistgħu jiġu preskritti u bla ħsara għal tali kondizzjonijiet jew rekwiżiti oħra, inkluż forom oħra ta' proċeduri ta' awtorizzazzjoni u avviż, kif

jista' jiġi preskritt;

(ċ) jittrasponi, jimplimenta u jagħti effett lid-dispożizzjonijiet u r-rekwiżiti tar-Regolament MiCA;

(d) jittrasponi, jimplimenta u jagħti effett lid-dispożizzjonijiet u r-rekwiżiti tad-Direttivi tal-Unjoni Ewropea, tar-Regolamenti tal-Unjoni Ewropea u ta' kwalunkwe miżura leġiżlattiva oħra tal-Unjoni Ewropea li tirrikjedi traspożizzjoni u, jew implimentazzjoni, kif jistgħu jiġu emendati minn żmien għal żmien, inkluż kwalunkwe miżura ta' implimentazzjoni li ġiet, jew tista' tiġi, maħruġa taħthom u li tirrigwarda persuni awtorizzati u oħrajn kif jista' jiġi preskritt taħthom. Regolamenti magħmula taħt dan il-paragrafu, u li huma strettament relatati ma' traspożizzjonijiet u implimentazzjonijiet kif imsemmi qabel, jistgħu jipprovdu li kwalunkwe dispożizzjoni ta' dan l-Att jew ta' xi liġi oħra ma għandhomx japplikaw għal kwistjonijiet li jaqgħu taħt tali regolamenti, u li inkwantuxi waħda mid-dispożizzjonijiet tar-regolamenti tkun inkonsistenti mad-dispożizzjonijiet ta' dan l-Att jew ta' xi liġi oħra, tali dispożizzjonijiet f'dawk ir-regolamenti għandhom jipprevalu;

(e) jassenja setgħat u funzjonijiet lill-awtorità kompetenti għall-finijiet tar-Regolament MiCA u ta' dan l-Att, u jipprovdi għall-eżerċizzju ta' tali setgħat u t-twettiq ta' tali funzjonijiet;

(f) jipprovdi għall-istabbiliment u l-impożizzjoni ta' penalitajiet amministrattivi u miżuri oħra amministrattivi li l-awtorità kompetenti tista' timponi fuq fornituri ta' servizzi tal-kriptoassi, emittenti, offerenti, persuni li jkunu qed ifittxu ammissjoni għan-negozjar u kwalunkwe persuna oħra kif jista' jkun hemm speċifikat fihom;

(g) jippreskrivi li l-ksur ta' kwalunkwe regolamenti magħmula taħt dan l-Att jista' jwassal għal reat kriminali kif jista' jiġi speċifikat, u tali regolamenti jistgħu jimponu pieni fir-rigward ta' kwalunkwe ksur, li jikkonsistu f'multa li ma teċċedix ħames miljun euro (€5,000,000) jew priġunerija għal żmien li ma jeċċedix sitt (6) snin jew dik il-multa u priġunerija flimkien fil-każ ta' persuna fiżika; u multa li ma teċċedix ħmistax-il miljun euro (€15,000,000) fil-każ ta' persuna ġuridika; u tista' tiġi imposta multa ogħla fuq tali persuna fiżika jew ġuridika, skont il-każ, fejn jitqies neċessarju jew xieraq għal kwalunkwe ksur jew nuqqas ta' osservanza ta' xi Direttiva tal-Unjoni Ewropea jew Regolament tal-Unjoni Ewropea jew ta' kwalunkwe regolamenti magħmula taħt dan l-artikolu sabiex

jittrasponu jew jagħtu effett lil xi Direttiva tal-Unjoni Ewropea jew Regolament tal-Unjoni Ewropea;

(h) jippreskrivi dak kollu li jista' jiġi preskritt; u

(i) jipprovdi għal kull kwistjoni inċidentali għal, jew konnessa ma', xi wieħedmill-paragrafi hawn fuq stipulati.

(2) Regolamenti magħmula taħt dan l-artikolu jistgħu jsiru soġġett għal tali eżenzjonijiet jew kondizzjonijiet kif jistgħu jiġu speċifikati fihom, jistgħu jagħmlu dispożizzjonijiet differenti għal każijiet, ċirkostanzi jew għanijiet differenti, u jistgħu jagħtu lill-awtorità kompetenti dawk is-setgħat u, jew funzjonijiet ta' adattament tar-regolamenti kif jista' wkoll jiġi hekk speċifikat.

(3) Fejn ikunu ġew magħmula regolamenti skont id-dispożizzjonijiet ta' dan l-artikolu, l-awtorità kompetenti tista' toħroġ Regoli għat-twettiq u l-implimentazzjoni aħjar tad-dispożizzjonijiet ta' kwalunkwe regolamenti magħmula skont id-dispożizzjonijiet ta' dan l-Att.

(4) Regolamenti magħmula taħt dan l-Att u kwalunkwe emenda jew tħassir ta' tali regolamenti jistgħu jiġu ppubblikati bil-lingwa Ingliża biss.

(5) L-eżereċizzju ta' kwalunkwe setgħat assenjati taħt dan l-artikolu għandhom ikunu soġġetti għal kwalunkwe obbligu jew dritt li jirriżultaw minn impenn internazzjonali ta' Malta.

Setgħat għall-ħruġ ta' Regoli.

38. (1) L-awtorità kompetenti tista', minn żmien għal żmien toħroġ, tippubblika, temenda jew tħassar Regoli li jkunu vinkolanti fuq kull persuna awtorizzata minnha jew li jaqgħu taħt il-funzjonijiet regolatorji jew superviżorji tagħha, jew fuq kwalunkwe persuna oħra, kif jista' jiġi speċifikat fihom.

(2) Bla ħsara għall-ġeneralità tas-subartikolu (1), ir-Regoli maħruġa mill-awtorità kompetenti jistgħu:

(a) jistabbilixxu rekwiżiti u kondizzjonijiet addizzjonali fir-rigward ta' persuni awtorizzati minnha, li jfittxu l-approvazzjoni tagħha jew li jaqgħu taħt il-funzjonijiet regolatorji jew superviżorji tal-awtorità kompetenti, l-attivitajiet tagħhom, it-twettiq tan-negozju tagħhom, ir-relazzjonijiet tagħhom mal-klijenti, mal-pubbliku u partijiet oħra, ir-responsabbiltajiet tagħhom lejn l-awtorità kompetenti, rekwiżiti ta' rappurtar, riżorsi finanzjarji u riżorsi oħra u rekwiżiti relatati, u kwalunkwe kwistjoni oħra li l-awtorità kompetenti tista' tikkunsidra xierqa;

(b) jipprovdu għal dikjarazzjonijiet u avviżi li għandhom isiru jew jingħataw għal kwalunkwe għan li fir-rigward tiegħu l-awtorità kompetenti teżerċita funzjonijiet regolatorji jew superviżorji u l-forma u l-kontenut tagħhom;

(ċ) jippreskrivu l-informazzjoni li tali persuni għandhom jissottomettu lill-awtorità kompetenti;

(d) jittrasponu, jimplimentaw u jagħtu effett lid-dispożizzjonijiet u r-rekwiżiti tar-Regolament MiCA;

(e) jittrasponu, jimplimentaw u jagħtu effett lid-dispożizzjonijiet u r-rekwiżiti tal-leġiżlazzjoni tal-Unjoni Ewropea u kwalunkwe miżura leġiżlattiva oħra tal-Unjoni Ewropea li teħtieġ traspożizzjoni u, jew implimentazzjoni, kif jistgħu jiġu emendati minn żmien għal żmien, inkluż kwalunkwe miżura ta' implimentazzjoni li ġew, jew jistgħu jiġu, maħruġa taħthom, u li għandhom x'jaqsmu ma' persuni awtorizzati u persuni oħra kif jista' jiġi speċifikat fihom; u, jew

(f) jirregolaw kwalunkwe kwistjoni inċidentali għal, jew konnessa ma', kwalunkwe kwistjoni msemmija hawn fuq kif l-awtorità kompetenti tista' tikkunsidra xierqa fit-twettiq tal-funzjonijiet tagħha.

(3) Ir-Regoli jistgħu jkunu magħmula soġġett għal tali eżenzjonijiet jew kondizzjonijiet kif jista' jiġi speċifikat fihom, jista' jkollhom dispożizzjonijiet differenti għal każijiet, ċirkostanzi jew għanijiet differenti, u jistgħu jagħtu lill-awtorità kompetenti dawk is-setgħat ta' adattament tar-Regoli kif jista' wkoll ikun speċifikat.

Setgħa sabiex jinħarġu direttivi.

39. (1) Bla ħsara għal kwalunkwe setgħa oħra mogħtija lill-awtorità kompetenti b'dan l-Att jew b'xi liġi oħra, l-awtorità kompetenti tista', kull meta tqis neċesarju, tagħti b'avviż bil-miktub tali direttivi kif tista' tqis xierqa fiċ-ċirkostanzi, u kwalunkwe peruna li lilha jingħata avviż għandha tosserva, tikkonforma ma' u xort'oħra tagħti effett lil kwalunkwe tali direttiva f'dak iż-żmien u b'dak il-mod dikjarat fid-direttiva jew f'direttivi sussegwenti:

Iżda l-awtorità kompetenti tista' tagħti kwalunkwe tali direttiva wkoll meta persuna awtorizzata, għal kwalunkwe raġuni, ma tibqax hekk awtorizzata skont dan l-Att:

Iżda wkoll kwalunkwe direttiva mogħtija skont dan l-artikolu għandha, sakemm l-awtorità kompetenti ma tordnax xort'oħra, tkompli tapplika wkoll meta persuna awtorizzata, għal xi raġuni, tkun li tkun, ma tibqax hekk awtorizzata skont dan l-Att.

(2) Is-setgħa li tinħareġ direttiva taħt dan l-artikolu għandha wkoll tinkludi s-setgħa li tvarja, tibdel, iżżid ma' jew tirtira kwalunkwe direttiva, kif ukoll is-setgħa li toħroġ direttivi ġodda sussegwenti.

(3) Fejn l-awtorità kompetenti tkun sodisfatta li ċ-ċirkostanzi hekk jeħtieġu, hi tista' fi kwalunkwe ħin tippubblika kwalunkwe direttiva li tkun tat skont dan l-artikolu.

Setgħa li teħtieġ informazzjoni.

40. (1) L-awtorità kompetenti tista', fi kwalunkwwe waqt u permezz ta' avviż bil-miktub, teħtieġ li l-persuni msemmija fis-subartikolu (2) jagħmlu dawn kollha jew kwalunkwe minn dawn li ġejjin:

(a) li jagħtu lill-awtorità kompetenti, f'dak iż-żmien u post u f'dik il-forma kif hija tista' tispeċifika, tali informazzjoni u, jew dokumentazzjoni li tista' teħtieġ, inkluż is-setgħa li titlob rekords eżistenti tat-telefown u tat-traffiku tad-data;

(b) li jagħtu lill-awtorità kompetenti kwalunkwe informazzjoni u, jew dokumentazzjoni li tista' teħtieġ verifikata b'dak il-mod li tista' tispeċifika;

(ċ) li tidher quddiem l-awtorità kompetenti, jew quddiem persuna nominata minnha, f'dak il-ħin u l-post li tista' tispeċifika, sabiex iwieġbu għal mistoqsijiet u jipprovdu tali informazzjoni u, jew dokumentazzjoni li tista' teħtieġ; u, jew

(d) li jipprovdu lill-awtorità kompetenti kwalunkwe assistenza li jista' jkollha bżonn u li dik il-persuna hija raġonevolment kapaċi tipprovdi.

(2) Il-persuni li ġejjin jistgħu jkunu meħtieġa mill-awtorità kompetenti jipprovdu informazzjoni, dokumentazzjoni u, jew assistenza kif speċifikat fis-subartikolu (1):

(a) fornituri ta' servizzi tal-kriptoassi, emittenti, offerenti u persuni li jkunu qed ifittxu ammissjoni għan-negozjar;

(b) il-persuni fiżiċi u, jew il-persuni ġuridiċi li jikkontrollaw xi persuna msemmija fil-paragrafu (a) jew huma kkontrollati minn tali persuna, kemm fil-passat u fil-preżent, kif ukoll diretturi, maniġers, awdituri, uffiċjali u impjegati oħra ta' dik il-persuna, passati u preżenti, u kwalunkwe parti terza li tipprovdi servizz lil tali persuna;

(ċ) kwalunkwe persuna li tkun suċċessivament involuta fit-trażmissjoni ta' ordnijiet jew tmexxija tal-operazzjonijiet ikkonċernati, kif ukoll il-prinċipali tagħhom; u, jew

(d) kwalunkwe persuna oħra li tidher li tkun fil-pussess ta' xi informazzjoni rilevanti oħra.

(3) Persuna fiżika jew ġuridika li tpoġġi l-informazzjoni għad-disponibbiltà għall-awtorità kompetenti skont dan l-artikolu ma għandhiex titqies li qiegħda tikser kwalunkwe restrizzjoni fuq l-iżvelar ta' informazzjoni imposta b'kuntratt jew b'xi dispożizzjoni leġiżlattiva, regolatorja jew amministrattiva, u ma għandha tkun soġġetta għall-ebda tip ta' responsabbiltà relatata mal-għoti ta' tali informazzjoni u, jew dokumentazzjoni.

(4) L-awtorità kompetenti tista' titlob, tagħmel u, jew iżżomm kopji ta' kwalunkwe dokument mogħti, provdut jew li għalih għandha aċċess skont id-dispożizzjonijiet ta' dan l-artikolu.

(5) Fejn il-persuna meħtieġa tipprovdi informazzjoni u, jew dokumentazzjoni taħt dan l-artikolu ma jkollhiex l-informazzjoni u, jew id-dokumentazzjoni rilevanti, tali persuna għandha tiżvela lill-awtorità kompetenti fejn, sa fejn taf hi, dik l-informazzjoni u, jew dokumentazzjoni tista' tinstab, u l-awtorità kompetenti tista' titlob lil kwalunkwe persuna, kemm jekk indikata kif intqal qabel jew xort'oħra, li tidher skont l-awtorità kompetenti li tkun fil-pussess ta' tali informazzjoni u, jew dokumentazzjoni sabiex tipprovdi l-istess kif mitluba.

(6) Dikjarazzjoni magħmula, u dokumentazzjoni provduta, skont kwalunkwe rekwiżit taħt dan l-artikolu tista' tintuża bħala evidenza kontra l-persuna li tagħmel id-dikjarazzjoni jew li tipprovdi d-dokumentazzjoni kif ukoll kontra kwalunkwe persuna li magħha jirrelataw.

(7) Id-dispożizzjonijiet ta' dan l-artikolu ma għandhomx japplikaw għal informazzjoni u, jew dokumentazzjoni li hi privileġġjata skont id-dispożizzjonijiet tal-artikolu 642 tal-Kodiċi Kriminali. Kap. 9.

(8) Fejn l-awtorità kompetenti tkun ħatret rappreżentant taħt is-subartikolu (1)(ċ), tali persuna għandu jkollha għall-finijiet sabiex twettaq il-funzjonijiet tagħha skont il-ħatra tagħha, is-setgħat u l-funzjonijiet kollha mogħtija lill-awtorità kompetenti b'dan l-artikolu u rekwiżit impost minn tali persuna għandu jitqies u jkollu l-istess saħħa u effett bħal rekwiżit impost mill-awtorità kompetenti.

Setgħat sabiex jinħatru spetturi.

41. (1) L-awtorità kompetenti tista' kull meta jidhrilha li jkun neċessarju jew spedjenti, taħtar spettur sabiex jinvestiga u jirrapporta dwar l-affarijiet ta' kwalunkwe persuna msemmija fl-artikolu 40(2).

(2) Spettur maħtur taħt is-subartkolu (1):

(a) jista', jekk jidhirlu li jkun neċessarju jew spedjenti għall-finijiet ta' investigazzjoni, jinvestiga l-affarijiet ta' kwalunkwe persuna msemmija fis-subartikolu (1);

(b) għandu jkollu u jista' jeżerċita s-setghat kollha mogħtija lill-awtorità kompetenti bl-artikolu 40, u kwalunkwe rekwiżit impost mill-imsemmi spettur għandu jitqies li jkun u jkollu l-istess saħħa u effett bħal rekwiżit tal-awtorità kompetenti; u

(ċ) jista', u jekk hekk ordnat mill-awtorità kompetenti għandu, iħejji u jissottometti rapporti interim u, mal-konklużjoni tal-investigazzjoni, rapport finali lill-awtorità kompetenti.

(3) Fil-ħatra ta' spettur taħt is-subartikolu (1), l-awtorità kompetenti tista' tordna li l-investigazzjoni għandha titwettaq f'tali żmien u għandha tkun limitata għal dawk l-affarijiet speċifiċi jew ġenerali kif l-awtorità kompetenti tista' tqis xieraq.

(4) Għall-finijiet ta' dan l-artikolu, l-ispetturi jistgħu jinkludu avukat, persuna awtorizzata sabiex twettaq il-professjoni ta' accountant jew awditur skont l-Att dwar il-Professjoni tal-*Accountancy*, jew persuna li l-awtorità kompetenti tqis li għandha għarfien espert xieraq sabiex teżerċita tali funzjoni.

Kap. 281.

(5) L-awtorità kompetenti għandu jkollha s-setgħa li tordna li l-ispejjeż kollha ta', u inċidentali għal investgazzjoni mwettqa skont dan l-artikolu għandhom jitħallsu mill-persuna msemmija fis-subartikolu (1).

Setgħa ta' dħul.

42. (1) Kwalunkwe uffiċjal, impjegat jew aġent tal-awtorità kompetenti, meta jipproduċi evidenza tal-awtorità tiegħu, jekk meħtieġa, għandu jkollu s-setgħa li jidħol fi kwalunkwe fond, għajr residenzi privati ta' persuni fiżiċi, okkupat minn persuna li lilha ġie notifikat avviż skont l-artikolu 40 jew li l-affarijiet tagħha qed jiġu investigati skont l-artikolu 41, bil-għan li minnu tinkiseb l-informazzjoni jew id-dokumenti meħtieġa btali avviż, jew bil-għan li jitwettqu spezzjonijiet jew investigazzjonijiet fuq il-post u li jeżerċita kwalunkwe waħda mis-setgħat mogħtija mill-imsemmija artikoli:

Iżda d-dritt ta' dħul taħt dan is-subartikolu għandu japplika

wkoll għal residenzi privati ta' persuni fiżiċi meta tali dħul hu neċessarju sabiex l-awtorità kompetenti twettaq id-dmirijiet tagħha taħt it-Titolu VI tar-Regolament MiCA u t-Taqsima VI.

(2) Fejn kwalunkwe uffiċjal, impjegat jew aġent tal-awtorità kompetenti għadu raġuni sabiex jemmen illi li kieku l-avviż imsemmi fl-artikolu 40 kellu jiġi notifikat, dan ma jiġix osservat, jew li kwalunkwe dokument li għandu x'jaqsam miegħu jista' jitneħħa, jiġi mbagħbas jew meqrud, dak l-uffiċjal, impjegat jew aġent għandu jkollu s-setgħa, meta jipproduċi evidenza tal-awtorità tiegħu, jekk metieġa, li jidħol fi kwalunkwe fond skont is-subartikolu (1) bil-għan li jikseb kwalunkwe informazzjoni jew dokumenti speċifikati fl-awtorità, li jistgħu jkunu informazzjoni jew dokumenti li setgħu kienu meħtieġa skont dak l-avviż kif imsemmi fl-artikolu 40.

(3) Għall-finijiet ta' kwalunkwe azzjoni meħuda skont id-dispożizzjonijiet ta' dan l-artikolu, l-awtorità kompetenti tista' titlob l-għajnuna mill-Kummissarju tal-Pulizija, li għal dan il-għan jista' jeżerċita dawk is-setgħat li huma vestiti fih bil-liġi.

Setgħat tal-awtorità kompetenti.

43. (1) Bla ħsara għal kwalunkwe setgħa oħra mogħtija lilha bir-Regolament MiCA, b'dan l-Att jew b'xi liġi oħra, l-awtorità kompetenti għandu jkollha s-setgħat li ġejjin:

(a) li tissospendi, jew li teħtieġ li l-fornitur ta' servizzi tal-kriptoassi jissospendi il-forniment ta' servizzi tal-kriptoassi għal massimu ta' tletin (30) jum ta' xogħol konsekuttivi fi kwalunkwe okkażjoni fejn ikun hemm raġunijiet raġonevoli ta' suspett ta' ksur tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(b) li tipprojbixxi l-forniment ta' servizzi tal-kriptoassi fejn l-awtorità kompetenti ssib li nkisret kwalunkwe waħda mid-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(ċ) li tiżvela, jew li teħtieġ li l-fornitur ta' servizzi tal-kriptoassi jiżvela, kull informazzjoni materjali li jista' jkollha effett fuq il-forniment tas-servizzi tal-kriptoassi kkonċernati, sabiex tiġi żgurata l-protezzjoni tal-interessi tal-klijenti, b'mod partikolari d-detenturi fil-livell ta' bejgħ bl-imnut, jew il-ħidma bla ostakoli tas-suq;

(d) li tippubblika l-fatt li fornitur ta' servizzi tal-kriptoassi jkun naqas jew jonqos milli jissodisfa l-obbligi tiegħu;

(e) li tissospendi, jew li teħtieġ li l-fornitur ta' servizzi

tal-kriptoassi jissospendi l-provvista ta' servizzi tal-kriptoassi fejn l-awtorità kompetenti tqis li s-sitwazzjoni tal-fornitur ta' servizzi tal-kriptoassi tkun tali li l-provvista tas-servizz tal-kriptoassi tkun ta' detriment għall-interessi tal-klijenti, b'mod partikolari id-detenturi fil-livell ta' bejgħ bl-imnut;

(f) li teħtieġ it-trasferiment ta' kuntratti eżistenti lil fornitur ta' servizzi tal-kriptoassi ieħor f'każijiet fejn l-awtorizzazzjoni ta' fornitur ta' servizzi tal-kriptoassi tiġi rtirata skont l-Artikolu 64 tar-Regolament MiCA u l-artikolu 30, soġġett għall-qbil tal-klijenti u tal-fornitur ta' servizzi tal-kriptoassi li lilu jkunu se jiġu ttrasferiti l-kuntratti;

(g) fejn ikun hemm raġuni sabiex tassumi li persuna tkun qed tipprovdi servizzi tal-kriptoassi mingħajr awtorizzazzjoni, li tordna t-twaqqif immedjat tal-attività mingħajr avviż minn qabel jew l-impożizzjoni ta' skadenza;

(h) li teħtieġ li l-offerenti, il-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar tal-kriptoassi, jew l-emittenti ta' tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi jemendaw il-white paper tagħhom dwar il-kriptoassi jew jemendaw ulterjorament il-white paper tagħhom dwar il-kriptoassi modifikata, fejn isibu li l-white paper dwar il-kriptoassi jew il-white paper dwar il-kriptoassi modifikata ma jkunx fiha l-informazzjoni meħtieġa mill-Artikolu 6, l-Artikolu 19 jew l-Artikolu 51 tar-Regolament MiCA, kif applikabbli;

(i) li teħtieġ li l-offerenti, il-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar tal-kriptoassi, jew emittenti ta' tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi, jemendaw il-komunikazzjonijiet ta' kummerċjalizzazzjoni tagħhom, fejn isibu li l-komunikazzjonijiet ta' kummerċjalizzazzjoni ma jikkonformawx mar-rekwiżiti stabbiliti fl-Artikolu 7, l-Artikolu 29 jew l-Artikolu 53 tar-Regolament MiCA, kif applikabbli;

(j) li teħtieġ li l-offerenti, il-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar tal-kriptoassi, jew emittenti ta' tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi, jinkludu informazzjoni addizzjonali fil-white papers tagħhom dwar il-kriptoassi, fejn meħtieġa għall-istabbiltà finanzjarja jew għall-protezzjoni tal-interessi tad-detenturi ta' kriptoassi, b'mod partikolari d-detenturi fil-livell ta' bejgħ bl-imnut;

(k) li tissospendi offerta lill-pubbliku jew ammissjoni

għan-negozjar ta' kriptoassi għal massimu ta' tletin (30) jum ta' xogħol konsekuttivi fi kwalunkwe okkażjoni fejn ikun hemm raġunijiet raġonevoli ta' suspett ta' ksur tad-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(l) li tipprojbixxi offerta lill-pubbliku jew ammissjoni għan-negozjar ta' kriptoassi fejn l-awtorità kompetenti ssib li ġietmiksura xi waħda mid-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu jew meta jkun hemm raġunijiet raġonevoli sabiex jissuspettaw li jkunu ser jiġu miksura;

(m) li tissospendi, jew teħtieġ li fornitur ta' servizzi tal-kriptoassi li jopera pjattaforma ta' negozjar għall-kriptoassi jissospendi n-negozjar tal-kriptoassi għal massimu ta' tletin (30) jum ta' xogħol konsekuttivi fi kwalunkwe okkażjoni fejn ikun hemm raġunijiet raġonevoli ta' suspett ta' ksur ta' kwalunkwe waħda mid-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(n) li tipprojbixxi n-negozjar ta' kriptoassi fuq pjattaforma ta' negozjar għall-kriptoassi fejn l-awtorità kompetenti ssib li tkun ġietmiksura kwalunkwe waħda mid-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu jew meta jkun hemm raġunijiet raġonevoli sabiex jissuspettaw li jkunu serjiġu miksura;

(o) li tissospendi jew tipprojbixxi komunikazzjonijiet ta' kummerċjalizzazzjoni fejn ikun hemm raġunijiet raġonevoli ta' suspett ta' ksur tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(p) li teħtieġ li l-offerenti, il-persuni li jkunu qed ifittxu l-ammissjoni għan-negozjar ta' kriptoassi, l-emittenti ta' tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi jew il-fornituri ta' servizzi tal-kriptoassi rilevanti jwaqqfu jew jissospendu komunikazzjonijiet ta' kummerċjalizzazzjoni għal massimu ta' tletin (30) jum ta' xogħol konsekuttivi fi kwalunkwe okkażjoni fejn ikun hemm raġunijiet raġonevoli ta' suspett ta' ksur tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(q) li jippubblikawil-fatt li offerent, persuna li tkun qed

tfittex l-ammissjoni għan-negozjar ta' kriptoassi jew emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi jkunu naqsu milli jissodisfaw l-obbligi tagħhom skont ir-Regolament MiCA, dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(r) li tiżvela, jew li teħtieġ li l-offerent, il-persuna li tkun qed tfittex l-ammissjoni għan-negozjar ta' kriptoassi jew l-emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi, jiżvelaw l-informazzjoni materjali kollha li jista' jkollha effett fuq il-valutazzjoni tal-kriptoassi offruti lill-pubbliku jew ammessi għan-negozjar sabiex tkun żgurata l-protezzjoni tal-interessi tad-detenturi ta' kriptoassi, b'mod partikolari d-detenturi fil-livell ta'bejgħ bl-imnut, jew il-ħidma bla ostakoli tas-suq;

(s) li tissospendi, jew teħtieġ li l-fornitur ta' servizzi tal-kriptoassi li jopera pjattaforma ta' negozjar għall-kriptoassi, jissospendi l-kriptoassi min-negozjar fejn l-awtorità kompetenti tqis li s-sitwazzjoni tal-offerent, tal-persuna li tkun qed tfittex l-ammissjoni għan-negozjar ta' kriptoassi jew tal-emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi tkun tali li n-negozjar ikun ta' detriment għall-interessi tad-detenturi ta' kriptoassi, b'mod partikolari d-detenturi ta' kriptoassi fil-livell ta' bejgħ bl-imnut;

(t) fejn ikun hemm raġuni sabiex wieħed jassumi li persuna tkun qed toħroġ tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi mingħajr awtorizzazzjoni, jew persuna tkun qed toffri jew tkun qed tfittex l-ammissjoni għan-negozjar tal-kriptoassi għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi mingħajr white paper dwar il-kriptoassi nnotifikata skont l-Artikolu 8 tar-Regolament MiCA u l-artikoli 5 sa 7, li tordna l-waqfien immedjat tal-attività mingħajr twissija minn qabel jew l-impożizzjoni ta' skadenza;

(u) li tieħu kwalunkwe tip ta' miżura sabiex tiżgura li offerent jew persuna li tkun qed tfittex l-ammissjoni għan-negozjar tal-kriptoassi, emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi jew fornitur ta' servizzi tal-kriptoassi jikkonformaw mar-Regolament MiCA, ma' dan l-Att jew ma' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu inkluż li teħtieġ il-waqfien ta' kwalunkwe prattika jew imġiba li l-awtorità kompetenti tqis li tmur kontra ir-Regolament MiCA, dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(v) li testernalizza verifiki jew investigazzjonijiet lill-awdituri jew l-esperti;

(w) li teħtieġ it-tneħħija ta' persuna fiżika mill-korp maniġerjali ta' emittent ta' token irreferenzjat ma' assi jew ta' fornitur ta' servizzi tal-kriptoassi;

(x) li titlob lil kwalunkwe persuna tieħu passi sabiex tnaqqas id-daqs tal-pożizzjoni tagħha jew tal-esponiment tagħha għall-kriptoassi;

(y) fejn ma jkunx hemm mezzi effettivioħra disponibbli li jagħtu lok għall-waqfien tal-ksur tad-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu u sabiex jiġi evitat ir-riskju ta' ħsara serja għall-interessi tal-klijenti jew tad-detenturi ta' kriptoassi li jieħdu l-miżuri kollha neċessarji, inkluż billi parti terza jew awtorità pubblika tintalab timplimenta tali miżuri, sabiex:

(i) tneħħi l-kontenut jew tirrestringi l-aċċess għal interfaċċa online jew tordna l-wiri espliċitu ta' twissija għall-klijenti u għad-detenturi ta' kriptoassi meta jaċċessaw interfaċċa online;

(ii) tordna lil fornitur ta' servizzi ta' hosting ineħħi, jiddiżattiva jew jirrestringi l-aċċess għal interfaċċa online; jew

(iii) tordna lir-reġistri jew lir-reġistraturi tad-dominji jħassru isem dominju kompletament ikkwalifikat u jħallu lill-awtorità kompetenti kkonċernata tirreġistrah; u

(z) li teħtieġ li emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi, skont l-Artikoli 23(4), 24(3) jew l-58(3) tar-Regolament MiCA, jintroduċi ammont ta' denominazzjoni minima jew jillimita l-ammont maħruġ.

(2) L-awtorità kompetenti għandha teżerċita kwalunkwe setgħa msemmija fis-subartikolu (1) bi kwalunkwe mill-modi li ġejjin:

(a) direttament;

(b) f'kollaborazzjoni ma' awtoritajiet oħrajn, inkluż il-Korp għall-Analisi ta' Informazzjoni Finanzjarja;

(ċ) taħt ir-responsabbiltà tagħha, b'delega lill-awtorità msemmija fil-paragrafu (b); jew

(d) b'rikors lill-qrati kompetenti.

(3) Bla ħsara għas-subartikolu (1), sabiex taqdi dmirijietha skont it-Titolu VI tar-Regolament MiCA u t-Taqsima VI, l-awtorità kompetenti għandu jkollha wkoll is-setgħat li ġejjin:

(a) li tirreferi kwistjonijiet għall-prosekuzzjoni kriminali;

(b) li teħtieġ rekords eżistenti tat-traffiku tad-data miżmuma minn operatur tat-telekomunikazzjoni, fejn ikun jeżisti suspett raġonevoli ta' ksur u meta tali rekords jistgħu jkunu rilevanti għall-investigazzjoni ta' ksur tal-Artikoli 88 sa 91 tar-Regolament MiCA;

(ċ) li titlob l-iffriżar jew is-sekwestru tal-assi, jew it-tnejn li huma;

(d) li timponi projbizzjoni temporanja fuq l-eżerċizzju tal-attività professjonali; u

(e) li tieħu l-miżuri kollha neċessarji sabiex tiżgura li l-pubbliku jkun informat b'mod korrett, fost l-oħrajn, billi tikkorreġi informazzjoni żvelata li tkun falza jew qarrieqa, inkluż billi tirrikjedi li offerent, persuna li tkun qed tfittex l-ammissjoni għan-negozjar jew emittent jew persuna oħra li tkun ippubblikat jew xerrdet informazzjoni falza jew qarrieqa jippubblikaw dikjarazzjoni korrettiva.

Miżuri kawtelatorji.

44. (1) Meta Malta tkun l-Istat Membru ospitanti, l-awtorità kompetenti għandha, fejn ikollha raġunijiet ċari u dimostrabbli sabiex tissuspetta li hemm irregolaritajiet fl-attivitajiet ta' offerent jew persuna li tkun qiegħda tfittex l-ammissjoni għan-negozjar fil-kriptoassi, emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi, jew fornitur ta' servizzi tal-kriptoassi, hija għandha tinnotifika lill-awtorità kompetenti tal-Istat Membru domiċiljari u lill-ESMA dwar dan:

Iżda meta l-irregolaritajiet imsemmija fis-subartikolu (1) jikkonċernaw emittent ta' token irreferenzjat ma' assi jew ta' token tal-flus elettroniċi, jew servizz tal-kriptoassi relatat ma' tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi, l-awtorità kompetenti għandha tinnotifika wkoll lill-EBA.

(2) Meta minkejja l-miżuri meħuda mill-awtorità kompetenti tal-Istat Membru domiċiljari, l-irregolaritajiet imsemmija fis-subartikolu (1) jippersistu u jammontaw għal ksur tar-Regolament MiCA, l-awtorità kompetenti għandha, wara li tinforma lill-awtorità

kompetenti tal-Istat Membru domiċiljari, lill-ESMA u, meta xieraq, lill-EBA skont is-subartikolu (1), tieħu miżuri xierqa sabiex tipproteġi lill-klijenti ta' fornituri ta' servizzi tal-kriptoassi u lid-detenturi ta' kriptoassi, b'mod partikolari lid-detenturi fil-livell ta' bejgħ bl-imnut:

Iżda l-awtorità kompetenti għandha tinforma lill-ESMA u, fejn ikun xieraq, lill-EBA dwar kwalunkwe miżura meħuda f'konformità ma' dan is-subartikolu mingħajr dewmien żejjed.

(3) Il-miżuri msemmija fis-subartikolu (2) għandhom jinkludu li l-offerent, il-persuna li tkun qiegħda tfittex l-ammissjoni għan-negozjar, l-emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi jew il-fornitur ta' servizzi tal-kriptoassi ma jitħallewx iwettqu aktar attivitajiet f'Malta.

Miżuri ta' intervent fuq prodott.

45. (1) L-awtorità kompetenti tista' tipprojbixxi jew tirrestrinġi f'Malta jew minn Malta s-segwenti:

(a) il-kummerċjalizzazzjoni, id-distribuzzjoni jew il-bejgħ ta' ċerti kriptoassi jew kriptoassi b'ċerti karatteristiċi speċifikati; jew

(b) tip ta' attività jew prattika relatata mal-kriptoassi.

(2) L-awtorità kompetenti għandha biss tieħu miżura skont is-subartikolu (1) jekk tkun sodisfatta abbażi ta' raġunijiet raġonevoli li:

(a) kriptoassi jagħti lok għal tħassib sinifikanti għall-protezzjoni tal-investitur jew ikun ta' theddida għall-funzjonament ordnat u l-integrità tas-swieq fil-kriptoassi jew għall-istabbiltà tas-sistema finanzjarja kollha, jew ta' parti minnha, tal-anqas fi Stat Membru wieħed (1);

(b) rekwiżiti regolatorji eżistenti skont il-liġi tal-Unjoni Ewropea applikabbli għall-kriptoassi jew għas-servizz tal-kriptoassi kkonċernati ma jindirizzawx biżżejjed ir-riskji msemmija fil-paragrafu (a) u l-kwistjoni ma tkunx indirizzata aħjar permezz ta' superviżjoni jew infurzar imtejba ta' rekwiżiti eżistenti;

(ċ) il-miżura tkun proporzjonata, meta titqies in-natura tar-riskji identifikati, il-livell ta' sofistikazzjoni tal-investituri jew tal-parteċipanti tas-suq ikkonċernati u l-effett lix'aktarx ikollha l- miżura fuq l-investituri u l-parteċipanti tas-suq li jistgħu jżommu jew jużaw il-kriptoassi jew is-servizz tal-kriptoassi kkonċernati jew li jibbenefikaw minnhom;

(d) l-awtorità kompetenti tkun ikkonsultat kif xieraq mal-awtoritajiet regolatorji Ewropej li jistgħu jkunu affettwati b'mod sinifikanti bil-miżura; u

(e) il-miżura ma għandhiex effett diskriminatorju fir-rigward tas-servizzi jew l-attivitajiet pprovduti minn Stat Membru ieħor.

(3) Bla ħsara għas-subartikolu (1), meta l-kundizzjonijiet stabbiliti fis-subartikolu (2) jiġu sodisfatti, l-awtorità kompetenti tista' timponi l-projbizzjoni jew ir-restrizzjoni msemmija fis-subartikolu (1) fuq bażi prekawzjonarja qabel ma kriptoassi jkun ġie kkummerċjalizzat, distribwit jew mibjugħ lill-klijenti.

(4) Bla ħsara għad-dispożizzjonijiet tas-subartikoli (1) u (3), l-awtorità kompetenti tista' tiddeċiedi li tapplika unikament l-projbizzjoni jew ir-restrizzjoni msemmija fis-subartikolu (1) f'ċerti ċirkostanzi jew li tagħmilha soġġetta għal eċċezzjonijiet.

(5) L-awtorità kompetenti ma għandhiex timponi projbizzjoni jew restrizzjoni skont dan l-artikolu sakemm, sa mhux anqas minn xahar (1) qabel ma l-miżura tkun maħsuba sabiex tidħol fis-seħħ, ma tkunx innotifikat lill-awtoritajiet regolatorji Ewropej kollha u lill-ESMA, jew lill-EBA, għal tokens irreferenzjati ma' assi u tokens tal-flus elettroniċi, bil-miktub jew permezz ta' mezz ieħor maqbul bejn l-awtoritajiet, bid-dettalji li ġejjin:

(a) il-kriptoassi jew l-attività jew il-prattika li magħhom hija marbuta l-miżura proposta;

(b) in-natura preċiża tal-projbizzjoni proposta jew ir-restrizzjoni proposta u meta huwa maħsub li tidħol fis-seħħ; u

(ċ) l-evidenza li fuqha bbażat id-deċiżjoni tagħha u li permezz tagħha tkun sodisfatta li kull waħda mill-kundizzjonijiet fis-subartikolu (2) ġew sodisfatti.

(6) Wara li tirċievi avviż, skont is-subartikolu (5), dwar projbizzjoni jew restrizzjoni li għandha tiġi imposta mill-awtorità kompetenti skont dan l-artikolu, l-ESMA jew l-EBA kif applikabbli, għandha toħroġ opinjoni konformement mal-Artikolu 106(2) tar-Regolament MiCA, u meta l-awtorità kompetenti tipproponi li timponi, jew timponi jew tirrifjuta li timponi tali projbizzjoni jew restrizzjoni li jmorru kontra opinjoni maħruġa mill-ESMA jew mill-EBA, l-awtorità kompetenti għandha tippubblika minnufih fuq is-sit elettroniku tagħha avviż li jispjega bis-sħiħ ir-raġunijiet għal dan.

(7) F'każijiet eċċezzjonali meta l-awtorità kompetenti tqis li jkun neċessarju sabiex jiġu evitati effetti detrimentali li jirriżultaw mill-kriptoassi jew minn attività jew prattika msemmija fis-subartikolu (1), l-awtorità kompetenti tista' tieħu miżura urġenti fuq bażi provviżorja fil-forma ta' projbizzjoni jew restrizzjoni imsemmija fis-subartikolu (1), b'avviż bil-miktub sa mhux anqas minn erbgħa u għoxrin (24) siegħa qabel ma l-miżura tkun intenzjonatali tidħol fis-seħħ, lill-awtoritajiet regolatorji Ewropej kollha u lill-ESMA, diment li l-kriterji kollha elenkati f'dan l-artikolu jiġu sodisfatti u barra minn hekk, li jiġi stabbilit b'mod ċar li perjodu ta' notifika ta' xahar (1) ma jkunx jindirizza t-tħassib jew it-theddida speċifiċi b'mod adegwat:

Iżda d-durata tal-miżuri meħuda fuq bażi provviżorja, konformement ma' dan is-subartikolu, ma għandhiex teċċedi tliet (3) xhur.

(8) L-awtorità kompetenti għandha tippubblika fuq is-sit elettroniku uffiċjali tagħha avviż ta' deċiżjoni sabiex timponi projbizzjoni jew restrizzjoni kif msemmija fis-subartikolu (1), liema avviż għandu jispeċifika d-dettalji tal-projbizzjoni jew tar-restrizzjoni imposti u tispeċifika żmien wara l-pubblikazzjoni tal-avviż, minn meta għandhom jidħlu fis-seħħ il-projbizzjoni jew restrizzjoni u l-evidenza li fuqha l-awtorità kompetenti tkun ibbażat id-deċiżjoni tagħha, u tkun sodisfatta li kull waħda mill-kundizzjonijiet fis-subartikolu (2) ġiet sodisfatta.

(9) Kwalunkwe projbizzjoni jew restrizzjoni imposta skont dan l-artikolu għandha tapplika unikament għal attivitajiet wara li tali projbizzjoni jew restrizzjoni jkunu daħlu fis-seħħ.

(10) L-awtorità kompetenti għandha tirrevoka projbizzjoni jew restrizzjoni imposta skont dan l-artikolu jekk il-kondizzjonijiet tas-subartikolu (2) ma jibqgħux japplikaw.

Penali amministrattivi u miżuri amministrattivi oħra.

46. (1) Bla ħsara għal kwalunkwe setgħa oħra mogħtija lilha bir-Regolament MiCA, b'dan l-Att jew kwalunkwe liġi oħra, l-awtorità kompetenti tista' timponi penali amministrattivi u miżuri oħra amministrattivi kif imsemmi fis-subartikolu (2) fejn jidhrilha li:

(a) l-imġiba ta' persuna tammonta għal ksur ta' kwalunkwe waħda mid-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att, jew kwalunkwe regolamenti magħmula jew Regoli maħruġa taħtu; u, jew

(b) persuna tkun kisret jew naqset milli tosserva kwalunkwe kondizzjoni, obbligu, rekwiżit jew direttiva magħmula jew mogħtija mill-awtorià kompetenti taħt

kwalunkwe waħda mid-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att, jew kwalunkwe regolamenti magħmula jew Regoli maħruġa taħtu, inkluż in-nuqqas ta' kooperazzjoni ma' investigazzjoni jew spezzjoni jew kwalunkwe talba magħmula mill-awtorità kompetenti skont l-artikolu 40.

(2) Bla ħsara għall-ġeneralità tas-subartikolu (1), l-awtorità kompetenti tista' timponi penali amministrattivi u miżuri amministrattivi oħra kif imsemmija fis-subartikolu (2) fir-rigward tal-ksur li ġej:

(a) il-ksur tal-Artikoli 4 sa 14 tar-Regolament MiCA u tal-artikoli 5 sa 8;

(b) il-ksur tal-Artikoli 16, 17, 19, 22, 23, 25, l-Artikoli 27 sa 41, l-Artikoli 46 u 47 tar-Regolament MiCA u tal-artikoli 9, 10, 15 sa 18, 20 and 21;

(ċ) il-ksur tal-Artikoli 48 sa 51, l-Artikoli 53, 54 u 55 tar-Regolament MiCA u tal-artikoli 22 sa 25;

(d) il-ksur tal-Artikoli 59, 60, 64 u l-Artikoli 65 sa 83 tar-Regolament MiCA u tal-artikoli 26, 27, 30, 32 u 33;

(e) il-ksur tal-Artikolu 88 tar-Regolament MiCA u tal-artikolu 35;

(f) il-ksur tal-Artikoli 89 sa 92 tar-Regolament MiCA u tal-artikolu 36; u, jew

(g) in-nuqqas ta' kooperazzjoni jew konformità ma' investigazzjoni, spezzjoni, rekwizit jew rikjesta kif imsemmi fl-Artikolu 94(3) tar-Regolament MICA u, jew tal-artikoli 40, 41, 42 jew 43(3).

(3) Bla ħsara għal kwalunkwe setgħa oħra mogħtija lilha bir-Regolament MiCA, minn dan l-Att jew minn kwalunkwe liġi oħra, l-awtorità kompetenti għandu jkollha s-setgħa li:

(a) toħroġ dikjarazzjoni pubblika li tindika l-persuna fiżika jew ġuridika responsabbli għall-ksur u n-natura tal-ksur għal kwalunkwe ksur kif imsemmi fis-subartikolu (1);

(b) toħroġ ordni li titlob lill-persuna fiżika jew ġuridika responsabbli sabiex twaqqaf l-imġiba li tikkostitwixxi ksur u ma tirrepetix tali imġiba għal kwalunkwe ksur kif imsemmi fis-subartikolu (1);

(ċ) timponi penali amministrattiva għal kwalunkwe ksur kif imsemmi fis-subartikolu (1), ħlief dawk imsemmijin fis-subartikolu (2)(e) u (f), liema penali amministrattiva ma għandhiex teċċedi d-doppju tal-ammont tal-profitti miksuba jew it-telf evitat minħabba l-ksur meta dawk il-profitti jew it-telf evitat ikunu jistgħu jiġu ddeterminati, anke jekk dan jeċċedi l-ammonti massimi stabbiliti fil-paragrafi (d) u (e), kif applikabbli;

(d) timponi, fir-rigward ta' persuna fiżika, penali amministattiva li ma għandhiex teċċedi:

(i) seba' mitt elf euro (€700,000) għal kwalunkwe ksur kif imsemmi fis-subartikolu (1), ħlief dawk imsemmija fis-subartikolu (2)(e) u (f);

(ii) miljun euro (€1,000,000) għal kwalunkwe ksur kif imsemmi fis-subartikolu (2)(e); jew

(iii) ħames miljun euro (€5,000,000) għal kwalunkwe ksur kif imsemmi fis-subartikolu (2)(f);

(e) timponi, fil-każ ta' persuna ġuridika, multa amministrattiva li ma għandhiex teċċedi:

(i) ħames miljun euro (€5,000,000) għal kwalunkwe ksur kif imsemmi fis-subartikolu (1), ħlief dawk imsemmijin fis-subartikolu (2)(e) u (f);

(ii) tlieta fil-mija (3%) tal-fatturat annwali totali ta' tali persuna ġuridika skont l-aħħar rapporti finanzjarji disponibbli approvati mill-korp maniġerjali għal kwalunkwe ksur imsemmi fis-subartikolu (2)(a);

(iii) ħamsa fil-mija (5%) tal-fatturat annwali totali ta' tali persuna ġuridika skont l-aħħar rapporti finanzjarji disponibbli approvati mill-korp maniġerjali għal kwalunkwe ksur imsemmi fis-subartikolu (2)(d);

(iv) tnax punt ħamsa fil-mija (12.5%) tal-fatturat annwali totali ta' tali persuna ġuridika skont l-aħħar rapporti finanzjarji disponibbli approvati mill-korp maniġerjali għal kwalunkwe ksur imsemmi fis-subartikolu (2)(b) u (ċ).

(v) żewġ miljuni u ħames mitt elf euro (€2,500,000) jew tnejn fil-mija (2%) tal-fatturat annwali totali ta' tali persuna ġuridika skont l-aħħar rapporti

finanzjarji disponibbli approvati mill-korp maniġerjali għal kwalunkwe ksur imsemmi fis-subartikolu (2)(e); jew

(vi) ħmistax-il miljun euro (€15,000,000) jew ħmistax fil-mija (15%) tal-fatturat annwali totali ta' tali persuna ġuridika skont l-aħħar rapporti finanzjarji disponibbli approvati mill-korp maniġerjali għal kwalunkwe ksur imsemmi fis-subartikolu (2)(f):

Iżda meta l-persuna ġuridika msemmija f'dan il-paragrafu tkun impriża parent jew sussidjarja ta' impriża parent li jkollha l-obbligu li tħejji dikjarazzjonijiet finanzjarji konsolidati f'konformità mad-Direttiva 2013/34/UE, il-fatturat annwali totali rilevanti għandu jkun il-fatturat annwali totali jew it-tip korrispondenti ta' introjtu f'konformità mal-liġi applikabbli tal-Unjoni Ewropea fil-qasam tal-kontabbiltà skont l-aħħar kontijiet konsolidati disponibbli approvati mill-korp maniġerjali tal-impriża parent aħħarija;

(f) timponi, fil-każ ta' ksur imsemmi fis-subartikolu (2)(d) projbizzjoni temporanja li tipprevjeni lil kwalunkwe membru tal-korp maniġerjali tal-fornitur ta' servizzi tal-kriptoassi, jew kwalunkwe persuna fiżika oħra li tinżamm responsabbli għall-ksur, milli jeżerċitaw funzjonijiet maniġerjali f'fornitur ta' servizzi tal-kriptoassi; u, jew

(g) tieħu l-miżuri amministrattivi li ġejjin fil-każ tal-ksur imsemmi fis-subartikolu (2)(e) u (f):

(i) tordna r-restituzzjoni tal-profitti miksuba jew it-telf evitat minħabba l-ksur, inkwantu dawn ikunu jistgħu jiġu ddeterminati;

(ii) tirtira jew tissospendi l-awtorizzazzjoni mogħtija lil fornitur ta' servizzi tal-kriptoassi skont Artikolu 63 tar-Regolament MiCA u skont l-artikolu 28, skont id-dispożizzjonijiet tar-Regolament MiCA u ta' dan l-Att;

(iii) tordna l-projbizzjoni temporanja ta' kwalunkwe membru tal-korp maniġerjali ta' fornitur ta' servizzi tal-kriptoassi jew ta' kwalunkwe persuna fiżika oħra li tinżamm responsabbli għall-ksur, milli teżerċita funzjonijiet maniġerjali fil-forniturі ta' servizzi tal-kriptoassi;

(iv) fil-każ ta' ksur ripetut tal-Artikoli 89, 90, 91 jew 92 tar-Regolament MiCA jew tal-artikolu 36, timponi

projbizzjoni ta' mill-anqas għaxar (10) snin fuq kwalunkwe membru tal-korp maniġerjali ta' fornitur ta' servizzi tal-kriptoassi, jew fuq kwalunkwe persuna fiżika oħra li tinżamm responsabbli għall-ksur, milli teżerċita funzjonijiet maniġerjali fil-fornitur ta' servizzi tal-kriptoassi;

(v) timponi projbizzjoni temporanja fuq kwalunkwe membru tal-korp maniġerjali ta' fornitur ta' servizzi tal-kriptoassi jew fuq kwalunkwe persuna fiżika oħra li tinżamm responsabbli għall-ksur, milli tinnegozja għan-nomtagħha; u, jew

(vi) timponi penali amministrattivi massimi li ma għandhomx jeċċedu t-tripplu tal-ammont ta' profitti miksuba jew it-telf evitat minħabba l-ksur, meta dawk ikunu jistgħu jiġu ddeterminati, anke jekk dan jeċċedi l-ammonti massimi stabbiliti fil-paragrafi (d)(ii) u (iii) u fil-paragrafu (e)(v) u (vi), kif applikabbli.

(4) Meta tistabbilixxi t-tip u l-livell ta' penali amministrattiva li għandha timponi u, jew kwalunkwe miżura amministrattiva oħra li għandha tieħu f'konformità ma' dan l-artikolu, l-awtorità kompetenti għandha tqis iċ-ċirkostanzi rilevanti kollha, inklużi fejn xieraq:

(a) il-gravità u d-durata tal-ksur;

(b) jekk il-ksur ikunx twettaq intenzjonalment jew b'negliġenza;

(ċ) il-grad ta' responsabbiltà tal-persuna fiżika jew ġuridika responsabbli għall-ksur;

(d) is-saħħa finanzjarja tal-persuna fiżika jew ġuridika responsabbli għall-ksur, kif indikat mill-fatturat totali tal-persuna ġuridika responsabbli jew mid-dħul annwali u mill-assi netti tal-persuna fiżika responsabbli;

(e) il-portata tal-profitti miksuba jew it-telf evitat mill-persuna fiżika jew ġuridika responsabbli għall-ksur, inkwantudawn jistgħu jiġu ddeterminati;

(f) it-telf għall-partijiet terzi kkawżat mill-ksur, inkwantu dan jista' jiġi determinat;

(g) il-livell ta' kooperazzjoni tal-persuna fiżika jew ġuridika responsabbli għall-ksur mal-awtorità kompetenti, bla ħsara għall-ħtieġa li tiġi żgurata r-restituzzjoni tal-profitti

miksuba jew tat-telf evitat minn tali persuna;

(h) ksur preċedenti tar-Regolament MiCA, tal-Att u, jew kwalunkwe regolamenti magħmula u, jew Regoli maħruġa taħtu, mill-persuna fiżika jew ġuridika responsabbli għall-ksur;

(i) il-miżuri meħuda mill-persuna responsabbli għall-ksur sabiex jiġi evitat li dan jerġa' jseħħ; u

(j) l-impatt tal-ksur fuq l-interessi tad-detenturi ta' kriptoassi u l-klijenti tal-fornituri ta' servizzi tal-kriptoassi, b'mod partikolari d-detenturi fil-livell ta' bejgħ bl-imnut.

(5) Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, meta l-obbligi imposti skont ir-Regolament MiCA, dan l-Att, jew kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu japplikaw għal persuna ġuridika, fil-każ ta' ksur ta' xi dispożizzjoni tagħhom, jistgħu wkoll jiġu imposti penali amministrattivi u miżuri oħra amministrattivi, soġġetti għall-kondizzjonijiet stabbiliti fil-liġi nazzjonali, fuq il-membri tal-korp maniġerjali u amministrattiv tal-entità ġuridika kkonċernata u fuq individwi oħra li huma responsabbli għall-ksur taħt il-liġi nazzjonali.

(6) Kwalunkwe penali amministrattiva imposta u, jew kwalunkwe miżura amministrattiva meħuda mill-awtorità kompetenti skont dan l-artikolu għandha tiġi implimentata b'mod effettiv.

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(7) Id-dispożizzjonijiet tal-artikolu 16(4) tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw, *mutatis mutandis*, fir-rigward ta' kwalunkwe penali amministrattiva imposta mill-awtorità kompetenti skont dan l-artikolu.

(8) L-impożizzjoni mill-awtorità kompetenti ta' penali amministrattiva jew xi miżura amministrattiva oħra skont dan l-artikolu għandha tkun bla ħsara għal kwalunkwe konsegwenza oħra li tirriżulta mill-att jew l-omissjoni ta' min wettaq il-ksur skont il-liġi ċivili jew kriminali:

Iżda fil-każijiet kollha fejn l-awtorità kompetenti timponi penali amministrattiva jew kwalunkwe miżura amministrattiva oħra fir-rigward ta' kull ħaġa li tkun saret jew naqset milli ssir minn xi persuna, u tali att jew ommissjoni jikkostitwixxu reat kriminali, ma jistgħu jittieħdu jew jitkomplew l-ebda proċeduri oħra kontra l-istess persuna fir-rigward ta' tali reat kriminali.

Avviż dwar penali amministrattivi u miżuri amministrattivi oħra.

47. (1) Meta l-awtorità kompetenti tipproponi li timponi penali amministrattiva jew kwalunlwe miżura amministrattiva oħra fuq xi persuna skont l-artikolu 46, hi għandha tagħti avviż bil-miktub tal-intenzjoni tagħha li tagħmel dan, filwaqt li tispeċifika r-raġunijiet għad-deċiżjoni li tipproponi li tieħu.

(2) Kull avviż mogħti skont is-subartikolu (1) għandu jispeċifika li r-riċevitur tal-avviż jista', fi żmien ta' perjodu raġonevoli wara n-notifika tiegħu, kif jista' jiġi dikjarat fl-avviż, jagħmel rappreżentazzjonijiet bil-miktub lill-awtorità kompetenti li fihom jispeċifika r-raġunijiet li għalihom id-deċiżjoni proposta ma għandhiex tittieħed, u l-awtorità kompetenti għandha tqis kwalunkwe rappreżentazzjoni hekk magħmula qabel ma tasal għal deċiżjoni finali.

(3) L-awtorità kompetenti għandha mill-aktar fis tinnotifika d-deċiżjoni finali tagħha bil-mikub lil kwalunkwe persuna li lilha għandu jingħata avviż konformement mas-subartikolu (1).

Pubblikazzjoni tad-deċiżjonijiet.

48. (1) Deċiżjoni li timponi penali amministrattiva u, jew li jittieħdu miżuri amministrattivi oħra għall-ksur tar-Regolament MiCA, dan l-Att u, jew kwalunkwe regolamenti magħmula u, jew Regoli maħruġa taħtu skont l-artikolu 46 għandha tiġi ppubblikata mill-awtorità kompetenti fuq is-sit elettronikuuffiċjali tagħha mingħajr dewmien żejjed wara li l-persuna fiżika jew ġuridika li tkun soġġetta għal tali deċiżjoni tkun ġiet infurmata bl-imsemmija deċiżjoni:

Iżda l-pubblikazzjoni msemmija f'dan is-subartikolu għandha tinkludi mill-inqas informazzjoni dwar it-tip u n-natura tal-ksur u l-identità tal-persuna fiżika jew ġuridika responsabbli:

Iżda wkoll deċiżjonijiet li jimponu jew teħid ta' miżuri li huma ta' natura investigattiva jistgħu ma jiġux ippubblikati.

(2) Meta l-pubblikazzjoni tal-identità tal-entitajiet legali, jew l-identità jew id-data personali ta' persuni fiżiċi, titqies sproporzjonata mill-awtorità kompetenti wara l-valutazzjoni ta' kull każ individwalimwettqa fuq il-proporzjonalità tal-pubblikazzjoni ta' tali data, jew meta tali pubblikazzjoni tkun tipperikola l-investigazzjoni li tkun għaddejja f'dak il-mument, l-awtorità kompetenti għandha tieħu waħda mill-azzjonijiet li ġejjin:

(a) tiddiferixxi l-pubblikazzjoni tad-deċiżjoni li tiġi imposta penali amministrattiva jew miżura amministrattiva oħra sal-mument meta r-raġunijiet għan-nuqqas ta' pubblikazzjoni ma jibqgħux jeżistu;

(b) tippubblika d-deċiżjoni li timponi penali amministrattiva jew miżura amministrattiva oħra fuq bażi

anonima b'mod li tkun konformi mal-liġi nazzjonali, fejn tali pubblikazzjoni anonima tiżgura l-protezzjoni effettiva tad-data personali kkonċernata; jew

(ċ) ma tippubblikax id-deċiżjoni li timponi penali amministrattiva jew miżura amministrattiva oħra fil-każ li l-għażliet provduti fil-paragrafi (a) u (b) jitqiesu insuffiċjenti sabiex jiżguraw:

(i) li l-istabbiltà tas-swieq finanzjarji ma tiġix ipperikolata; u

(ii) il-proporzjonalità tal-pubblikazzjoni ta' tali deċiżjoni fir-rigward ta' miżuri li jkunu meqjusa bħala ta' natura minuri:

Iżda meta l-awtorità kompetenti tiddeċiedi, konformement mal-paragrafu (b), li tippublika penali amministrattiva jew miżura amministrattiva oħra fuq bażi anonima, il-pubblikazzjoni tad-data rilevanti tista' tiġi differita għal perjodu raġonevoli ta' żmien fejn huwa previst li f'tali perjodu r-raġunijiet għall-pubblikazzjoni anonima ma jibqgħux jeżistu.

(3) Meta d-deċiżjoni li tiġi imposta penali amministrattiva jew miżura amministrattiva oħra tiġi appellata quddiem awtorità nazzjonali ġudizzjarja, amministrattiva jew awtorità oħra, l-awtorità kompetenti għandha wkoll tippubblika minnufih, informazzjoni dwar l-istat u l-eżitu ta' tali appell fuq is-sit elettroniku uffiċjali tagħha, u għandha tiġi ppubblikata wkoll kwalunkwe deċiżjoni tal-awtorità kompetenti li tannulla deċiżjoni preċedenti li timponi penali amministrattiva jew kwalunkwe miżura amministrattiva oħra.

(4) L-awtorità kompetenti għandha tiżgura li kwalunkwe pubblikazzjoni f'konformità ma' dan l-artikolu tibqa' fuq is-sit elettroniku uffiċjali tagħha għal perjodu ta' mill-anqas ħames (5) snin wara l-pubblikazzjoni tagħha:

Iżda d-data personali li tkun tinsab fil-pubblikazzjoni għandha tinżamm fuq is-sit elettroniku uffiċjali tal-awtorità kompetenti diment li dan ikun unikament meħtieġ għall-finijiet tal-interess pubbliku u tat-trasparenza.

TAQSIMA VIII
APPELLI, REATI U KUNFIDENZJALITÀ

Appelli.

49. (1) Għall-finijiet ta' dan l-artikolu, Tribunal tfisser it-Tribunal dwar Servizzi Finanzjarji stabbilit bl-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta. Kap. 330.

(2) Kwalunkwe persuna li tħossha aggravata b'deċiżjoni tal-awtorità kompetenti skont dan l-Att, jew kwalunkwe regolamenti magħmula, jew ir-Regoli maħruġa taħtu, tista' tappella kontra dik id-deċiżjoni lit-Tribunal f'dak il-perjodu u taħt dawk il-kondizzjonijiet kif stabbiliti fl-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta. Kap. 330.

(3) Bla ħsara għad-dispożizzjonijiet tas-subartikolu (2), kwalunkwe persuna li tħossha aggravata bin-nuqqas tal-awtorità kompetenti li tieħu deċiżjoni fir-rigward ta' applikazzjoni għal awtorizzazzjoni li jkun fiha l-informazzjoni kollha meħtieġa skont ir-Regolament MiCA u dan l-Att fi żmien sitt (6) xhur mid-data tas-sottomissjoni tal-applikazzjoni kompleta, tista' tappella kontra tali nuqqas ta' deċiżjoni quddiem it-Tribunal f'dak il-perjodu u taħt dawk il-kondizzjonijiet kif stabbiliti fl-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta. Kap. 330.

(4) Appell kontra deċiżjoni tal-awtorità kompetent ma għandux jissospendi l-operat ta' tali deċiżjoni:

Iżda deċiżjoni tal-awtorità kompetenti li tirtira awtorizzazzjoni mogħtija skont ir-Regolament MiCA u skont dan l-Att, ma għandhiex issir operativa sal-iskadenza tal-perjodu li fih jista' jiġi ppreżentat appell taħt dan l-artikolu u, fil-każ li jiġi ppreżentat appell f'tali perjodu, id-deċiżjoni għandha s s i r operattiva fid-data tad-deċiżjoni tat-Tribunal li tiċħad l-appell jew fid-data li fiha l-appell jiġi abbandunat, skont liema tiġi l-ewwel.

(5) Bla ħsara għad-dispożizzjonijiet ta' dan l-artikolu, id-dispożizzjonijiet tal-artikolu 21 tal-Att dwar l-Awtorità għas-Servizzi Finanzjarji ta' Malta għandhom japplikaw, *mutatis mutandis*, għal appelli li jistgħu jitressqu quddiem it-Tribunal skont dan l-artikolu. Kap. 330.

Dritt ta' azzjoni.

50. Organizzazzjonijiet tal-konsumaturi li jkollhom interess leġittimu li jipproteġu d-detenturi ta' kriptoassi jistgħu, fl-interess tal-konsumaturi u skont il-liġi nazzjonali, jieħdu kwalunkwe tali azzjoni quddiem awtorità nazzjonali ġudizzjarja, amministattiva jew awtorità oħra sabiex jiżguraw li jiġu applikati d-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att u ta' kwalunkwe regolamenti magħmula, u Regoli maħruġa taħtu.

Reati.

51. (1) Kwalunkwe persuna li:

(a) tikser jew tonqos milli tikkonforma ma' xi waħda mid-dispożizzjonijiet tal-Artikoli 16 jew 59 tar-Regolament MiCA jew tal-artikoli 9, 26, 39(1), 40(1), 40(5) jew 52(1), jew tal-artikolu 40(1) jew 40(5) kif applikat fit-termini tal-artikolu 41;

(b) tikser jew tonqos milli tikkonforma ma' kwalunkwe kondizzjoni, obbligu, rekwiżit, direttiva jew ordni magħmula jew mogħtija skont kwalunkwe waħda mid-dispożizzjonijiet tar-Regolament MiCA, ta' dan l-Att, jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu;

(ċ) għall-finijiet ta', jew skont kwalunkwe dispożizzjoni tar-Regolament MiCA, ta' dan l-Att jew ta' kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu, jew kwalunkwe kondizzjoni, obbligu, rekwiżit, direttiva jew ordni magħmula jew mogħtija kif imsemmi qabel, tipprovdi informazzjoni jew tagħmel dikjarazzjoni li taf li hija ineżatta, falza jew qarrieqa f'xi aspett materjali, jew bi traskuraġni tipprovdi informazzjoni jew tagħmel dikjarazzjoni li hija ineżatta, falza jew qarrieqa fi kwalunkwe aspett materjali;

(d) bl-intenzjoni li tevita li jinqabad it-twettiq ta' reat skont dan l-Att tneħħi, teqred, taħbi jew tibdel b'mod frawdolenti kwalunkwe ktieb, dokument jew karta oħra; u, jew

(e) intenzjonalment tostakola persuna li teżerċita drittijiet jew setgħat mogħtija bir-Regolament MiCA, b'dan l-Att jew kwalunkwe regolamenti magħmula, jew Regoli maħruġa taħtu,

għandha tkun ħatja ta' reat.

(2) Persuna fiżika ħatja ta' reat skont id-dispożizzjonijiet tas-subartikolu (1) għandha teħel, meta tinstab ħatja, il-piena ta' priġunerija li ma teċċedix is-sitt (6) snin, jew multa li ma teċċedix il-ħames miljun euro (€5,000,000), jew tali piena u multa flimkien, sakemm dik il-multa jew terminu ta' priġunerija ma jkunux xort'oħra imposti fir-regolamenti magħmula skont dan l-Att.

(3) Persuna ġuridika ħatja ta' reat skont id-dispożizzjonijiet tas-subartikolu (1) għandha teħel, meta tinstab ħatja, multa li ma teċċedix ħmistax-il miljun euro (€15,000,000), sakemm tali multa ma tkunx xort'oħra imposta fir-regolamenti magħmula skont dan l-Att.

Kunfidenzjalità.

52. L-informazzjoni miksuba mill-awtorità kompetenti jew mill-

uffiċjali, l-impjegati jew l-aġenti tagħha, kemm jekk kurrenti jew preċedenti, jew minn spetturi, awdituri u esperti li preċedentement kienu jew attwalmenthuma mqabbda mill-awtorità kompetenti għall-finijiet ta', jew skont kwalunkwe dispożizzjoni tar-Regolament MiCA, dan l-Att, jew ta' kwalunkwe regolamenti magħmula jew Regoli maħruġa taħtu, jew fit-twettiq ta' kwalunkwe funzjoni taħt xi dispożizzjoni msemmija, jew minn kwalunkwe persuna oħra li taħdem jew ħadmet għall-awtorità kompetenti jew għal kwalunkwe parti terza li lilha l-awtorità kompetenti tkun iddelegat xi waħda mill- funzjonijiet jew is-setgħat tagħha, sew jekk persuna fiżika kif ukoll ġuridika, għandha tiġi ttrattata bħala kunfidenzjali u protetta bid-dmir tas-segretezza professjonali, u ma għandhiex tiġi żvelata lil kwalunkwe persuna oħra, ħlief fil-każijiet li ġejjin:

(a) meta l-awtorità, il-korp jew il-persuna li tikkomunika l-informazzjoni lill-awtorità kompetenti tagħti l-kunsens tagħha;

(b) meta l-iżvelar tal-informazzjoni jkun meħtieġ għal kwalunkwe proċeduri legali;

(ċ) meta l-iżvelar tal-informazzjoni huwa neċessarju għal każijiet li għandhom x'jaqsmu mat-tassazzjoni nazzjonali jew il-liġi kriminali; u, jew

(d) meta l-iżvelar tal-informazzjoni jkun permess jew meħtieġ bil-liġi jew mil-leġiżlazzjoni tal-Unjoni Ewropea.

(2) L-informazzjoni msemmija fis-subartikolu (1) għandha tinkludi l-informazzjoni kollha skambjata bejn l-awtorità kompetenti u l-awtoritajiet regolatorji Ewropej skont ir-Regolament MiCA, dan l-Att jew regolamenti magħmula, jew Regoli maħruġa taħtu, li jikkonċernaw n-negozju jew il-kondizzjonijiet operattivi u affarijiet ekonomiċi jew personali oħra.

Protezzjoni tad-data.

Kap. 586.

53. Il-protezzjoni tad-data personali għall-finijiet tar-Regolament MiCA, dan l-Att jew regolamenti magħmula, jew Regoli maħruġa taħtu, għandha titwettaq skont id-dispożizzjonijiet tal-Att dwar il-Protezzjoni tad-Data u l-GDPR.

TAQSIMA IX
KOOPERAZZJONI MA' AWTORITAJIET OĦRA

Kooperazzjoni ma' awtoritajiet regolatorji Ewropej.

54. (1) L-awtorità kompetenti għandha tikkoopera ma' awtoritajiet regolatorji Ewropej kull meta jkun meħtieġ għall-fini tat-twettiq tal-funzjonijiet u d-dmirijiet tagħha jew tal-eżerċitar tas-setgħat tagħha taħt ir-Regolament MiCA, u għandha tagħti l-assistenza kif meħtieġa lil awtoritajiet regolatorji Ewroprej oħra, b'mod partikolari billi tiskambja informazzjoni u tikkoopera fi

kwalunkwe attività investigattiva, superviżorja jew ta' infurzar.

(2) Awtorità regolatorja Ewropea tista' titlob informazzjoni mill-awtorità kompetenti, f'liema każ l-awtorità kompetenti għandha mingħajr dewmien żejjed, tipprovdi l-informazzjoni mitluba meħtieġa għall-finijiet tar-Regolament MiCA.

(3) Awtorità regolatorja Ewropea tista' titlob il-kooperazzjoni tal-awtorità kompetenti fit-twettiq ta' spezzjoni fuq il-post jew investigazzjoni, f'liema każ l-awtorità kompetenti tista':

(a) twettaq hija stess l-ispezzjoni fuq il-post jew l-investigazzjoni;

(b) tippermetti lill-awtorità regolatorja Ewropea li ssottomettiet it-talba tipparteċipa fl-ispezzjoni fuq il-post jew fl-investigazzjoni;

(ċ) tippermetti lill-awtorità regolatorja Ewropea li ssottomettiet it-talba twettaq hija stess l-ispezzjoni fuq il-post jew l-investigazzjoni; jew

(d) taqsam kompiti speċifiċi li jirrigwardaw attivitajiet superviżorji ma' awtoritajiet regolatorji Ewropej.

(4) Minkejja d-dispożizzjonijiet tas-subartikoli (1) sa (3), l-awtorità kompetenti tista' tirrifjuta li taġixxi fuq it-talba ta' awtorità regolatorja Ewropea għal informazzjoni jew sabiex tikkoopera f'investigazzjoni fi kwalunkwe wieħed minn dawn il-każijiet li ġejjin:

(a) il-komunikazzjoni tal-informazzjoni rilevanti tista' taffettwa b'mod negattiv is-sigurtà ta' Malta, b'mod partikolari fir-rigward tal-ġlieda kontra t-terroriżmu u reati serji oħrajn;

(b) fejn il-konformità mat-talba x'aktarx li taffettwa b'mod negattiv l-investigazzjoni, l-attivitajiet ta' infurzar jew, meta applikabbli, investigazzjoni kriminali tagħha stess;

(ċ) meta l-proċeduri jkunu diġà nbdew fir-rigward tal-istess azzjonijiet u kontra l-istess persuni fiżiċi jew ġuridiċi quddiem il-qrati ta' Malta; jew

(d) fejn diġà tkun ingħatat sentenza finali fir-rigward tal-istess azzjoni u kontra l-istess persuna fiżika jew ġuridika f'Malta.

(5) Fejn l-awtorità kompetenti ssib li kwalunkwe wieħed mir-rekwiżiti taħt ir-Regolament MiCA ma jkunx intlaħaq jew għandha

raġuni sabiex temmen hekk, hi għandha tinforma lill-awtorità regolatorja Ewropea tal-entità issuspettata b'tali ksur bis-sejbiet tagħha b'mod suffiċjentement dettaljat.

Kooperazzjoni mal-EBA u mal-ESMA.

55. (1) Għall-finijiet tar-Regolament MiCA, l-awtorità kompetenti għandha tikkoopera mill-qrib mal-ESMA skont ir-Regolament (UE) Nru 1095/2010 u mal-EBA skont ir-Regolament (UE) Nru 1093/2010, u għandha tiskambja informazzjoni mal-ESMA u mal-EBA għall-finijiet tad-dmirijiet li għandhom jitwettqu mill-awtorità kompetenti, l-ESMA u l-EBA taħt il-Kapitoli 1 sa 3 tat-Titolu VII tar-Regolament MiCA.

(2) L-awtorità kompetenti għandha, mingħajr dewmien, tipprovdi lill-EBA u lill-ESMA bl-informazzjoni kollha meħtieġa għalihom sabiex iwettqu dmirijiethom, skont l-Artikolu 35 tar-Regolament (UE) Nru 1093/2010 u l-Artikolu 35 tar-Regolament (UE) Nru 1095/2010 rispettivament.

Kooperazzjoni ma' awtoritajiet oħra.

56. Meta offerent, persuna li tkun qiegħda tfittex l-ammissjoni għan-negozjar, emittent ta' token irreferenzjat ma' assi jew token tal-flus elettroniċi jew fornitur ta' servizzi tal-kriptoassi jinvolvu ruħhom f'attivitajiet għajr dawk koperti mir-Regolament MiCA, l-awtorità kompetenti għandha tikkoopera mal-awtoritajiet responsabbli għas-superviżjoni jew għas-sorveljanza ta' tali attivitajiet oħrajn skont il-liġi tal-Unjoni Ewropea jew il-liġi nazzjonali, inkluż l-awtoritajiet tat-taxxa u awtoritajiet superviżorji rilevanti ta' pajjiżi terzi.

Kooperazzjoni ma' pajjiżi terzi.

57. (1) L-awtorità kompetenti għandha fejn meħtieġ, tikkonkludi arranġamenti ta' kooperazzjoni ma' awtoritajiet superviżorji ta' pajjiżi terzi dwar l-iskambju ta' informazzjoni ma' dawk l-awtoritajiet superviżorji ta' pajjiżi terzi u l-infurzar ta' obbligi skont ir-Regolament MiCA, dan l-Att u kwalunkwe regolamenti magħmula u Regoli maħruġa taħtu f'dawk il-pajjiżi terzi:

Iżda l-awtorità kompetenti għandha tinforma l-EBA, l-ESMA u lill-awtoritajiet regolatorji Ewropej kollha meta tkun intenzjonatali tikkonkludi arranġament kif imsemmi f'dan is-subartikolu.

(2) L-arranġamenti ta' kooperazzjoni msemmija fis-subartikolu (1) għandhom jiżguraw mill-anqas skambju effiċjenti ta' informazzjoni li jippermetti lill-awtorità kompetenti twettaq dmirijietha skont ir-Regolament MiCA, dan l-Att u kwalunkwe regolament magħmul jew Regoli maħruġa taħtu.

(3) L-awtoritajiet kompetenti għandhom jikkonkludu arranġamenti ta' kooperazzjoni kif imsemmija fis-subartikolu (1) unikament meta l-informazzjoni żvelata tkun soġġetta għall-garanziji tas-segretezza professjonali , liema garanziji jkunu għall-inqas

ekwivalenti għal dawk stabbiliti fl-Artikolu 100 tar-Regolament MiCA u diment li l-iskambju ta' informazzjoni għandu jkun maħsub għall-prestazzjoni tal-kompiti tal-awtorità kompetenti taħt ir-Regolament MiCA.

TAQSIMA X
DISPOŻIZZJONIJIET TRANŻITORJI

Miżuri tranżitorji.

58. (1) L-Artikoli 4 sa 15 tar-Regolament MiCA u l-artikoli 5 sa 8 ma għandhomx japplikaw għal offerti lill-pubbliku ta' kriptoassi li jkunu għalqu qabel it-30 ta' Diċembru 2024.

(2) Minkejja d-dispożizzjonijiet tat-Titolu II tar-Regolament MiCA u t-Taqsima II ta' dan l-Att, ir-rekwiżiti biss li ġejjin għandhom japplikaw fir-rigward ta' kriptoassi għajr tokens irreferenzjati ma' assi jew tokens tal-flus elettroniċi li kienu ġew ammessi għan-negozju qabel it-30 ta' Diċembru 2024:

(a) l-Artikoli 7 u 9 tar-Regolament MiCA għandhom japplikaw għal komunikazzjonijiet ta' kummerċjalizzazzjoni ppubblikati wara t-30 ta' Diċembru 2024; u

(b) operaturi tal-pjattaformi ta' negozjar għandhom sal-31 ta' Diċembru 2027, jiżguraw li tiġi abbozzata white paper dwar il-kriptoassi, fil-każijiet meħtieġa mir-Regolament MiCA u dan l-Att tiġi notifikata u ppubblikata skont l-Artikoli 6, 8 u 9 tar-Regolament MiCA u aġġornata skont id-dispożizzjonijiet tal-Artikolu 12 tar- Regolament MiCA.

(3) Il-fornituri ta' servizzi tal-kriptoassi jistgħu jkomplu jipprovdu, jew jaġixxu bħala li jipprovdu, is-servizzi VFA li huma liċenzjati sabiex jipprovdu taħt l-Att dwar l-Attiv Finanzjarju Virtwali konformement mad-dispożizzjonijiet tal-imsemmi Att u kwalunkwe regolamenti magħmula, u regoli maħruġa taħtu sal-1 ta' Lulju 2026 jew sakemm jingħataw jew jiġu rrifjutati awtorizzazzjoni skont l-Artikolu 63 tar-Regolament MiCA, skont liema data tiġi l-ewwel.

Kap. 590.

(4) Minkejja d-dispożizzjonijiet tal-Artikoli 62 u 63 tar-Regolament MiCA u l-artikoli 28 u 29, l-awtorità kompetenti għandha tapplika proċedura simplifikata għal applikazzjonijiet sottomessi minn fornituri ta' servizzi ta' kriptoassi skont l-Artikolu 62(1) tar-Regolament MiCA u l-artikolu 28(2) bejn it-30 ta' Diċembru 2024 u l-1 ta' Lulju 2026:

Iżda l-awtorità kompetenti għandha tiżgura li d-dispożizzjonijiet tal-Kapitoli 2 u 3 tat-Titolu V tar-Regolament MiCA huma konformi qabel ma tagħti awtorizzazzjoni skont tali proċeduri simplifikati.

(5) Għall-finijiet ta' dan l-artikolu, "fornituri ta' servizzi ta' kriptoassi" tfisser persuni li, fit-30 ta' Diċembru 2024, huma liċenzjati skont l-Att dwar l-Attiv Finanzjarju Virtwali li jipprovdu, jew jaġixxu bħala li jipprovdu, servizz VFA wieħed jew aktar, kif imfisser fl-imsemmi Att.

TAQSIMA XI
EMENDI GĦALL-ATT DWAR IL-KUMMERĊ BANKARJU

Emendi għall-Att dwar il-Kummerċ Bankarju. Kap. 371.

59. Din it-Taqsima temenda l-Att dwar il-Kummerċ Bankarju u għandha tinqara u tinftiehem ħaġa waħda mal-Att dwar il-Kummerċ Bankarju, hawn iżjed 'il quddiem f'din it-Taqsima imsejjaħ l-"Att prinċipali".

Emenda tal-artikolu 2 tal-Att prinċipali.

60. Fis-subartikolu (1) tal-artikolu 2 tal-Att prinċipali, minnufih wara t-tifsira "Regola Bankarja" għandha tiġi miżjuda t-tifsira ġdida li ġejja:

" "Regolament MiCA" tfisser ir-Regolament (UE) 2023/1114 tal-Parlament Ewropew u tal-Kunsill tal-31 ta' Mejju 2023 dwar is-swieq fil-kriptoassi, u li jemenda r-Regolamenti (UE) Nru 1093/2010 u (UE) Nru 1095/2010 u d-Direttivi 2013/36/UE u (UE) 2019/1937, kif jista' jiġi emendat minn żmien għal żmien, u jinkludi kwalunkwe strumenti legali vinkolanti, linji gwida u miżuri oħra li ġew maħruġa jew jistgħu jiġu maħruġa taħtu;".

Emenda tal-Ewwel Skeda li tinsab mal-Att prinċipali.

61. L-Ewwel Skeda li tinsab mal-Att prinċipali għandha tiġi emendata kif ġej:

(a) il-partita 13 tagħha għandha tiġi sostitwita b'din il-partita ġdida li ġejja:

"13. Il-ħruġ ta' flus elettroniċi inklużi *tokens* ta' flus elettroniċi kif imfissra fil-punt (7) tal-Artikolu 3(1) tar-Regolament MiCA;"; u

(b) minnufih wara l-partita 13 tagħha, kif sostitwita, għandhom jiġu miżjuda l-partiti ġodda li ġejjin:

"14. Il-ħruġ ta' tokens irreferenzjati ma' assi kif imfisser fil-punt (6) tal-Artikolu 3(1) tar-Regolament MiCA;

15. Servizzi ta' kriptoassi kif imfissra fil-punt (16) tal-Artikolu 3 tar-Regolament MiCA.".

TAQSIMA XII
EMENDI GĦALL-ATT DWAR L-ATTIV FINANZJARJU VIRTWALI

Emendi għall-Att dwar l-Attiv Finanzjarju Virtwali. Kap. 590.

62. Din it-Taqsima temenda l-Att dwar l-Attiv Finanzjarju Virtwali u għandha tinqara u tinftiehem ħaġa waħda mal-Att dwar l-Attiv Finanzjarju Virtwali, hawn iżjed 'il quddiem f'din it-Taqsima imsejjaħ l-"Att prinċipali".

Żieda ta' artikoli ġodda mal-Att prinċipali.

63. Minnufih wara l-artikolu 64 tal-Att prinċipali, għandhom jiġu miżjuda l-artikoli ġodda li ġejjin:

"Dispożizzjonijiet tranżitorji ulterjuri dwar white papers.

65. (1) Fejn persuna tkun għamlet, direttament jew permezz ta' aġent tal-VFA, talba lill-awtorità kompetenti sabiex tirreġistra white paper skont l-artikolu 3(4) qabel l-ewwel data tad-dħul fis-seħħ tal-Att dwar is-Swieq fil-Kriptoassi u l-awtorità kompetenti tkun għadha ma ddeterminatx, skont l-imsemmi artikolu, jekk tirreġistrax jew xort'oħra dik il-white paper sa tali data, l-imsemmija persuna għandha tinnotifika lill-awtorità kompetenti bil-miktub, jekk tixtieqx tipproċedi bit-talba tagħha għar-reġistrazzjoni tal-white paper jew jekk tixtieqx tirtira l-imsemmija talba:

Abbozz Nru. 107 tal-2024.

Iżda meta tali persuna ma tinnotifikax lill-awtorità kompetenti skont dan is-subartikolu, fi żmien xahar (1) mill-ewwel data tad-dħul fis-seħħ tal-Att dwar s-Swieq fil-Kriptoassi, l-awtorità kompetenti għandha tqis li t-talba magħmula minn tali persuna tkun ġiet irtirata.

Abbozz Nru. 107 tal-2024.

(2) Minkejja d-dispożizzjonijiet ta' dan l-Att, u kwalunkwe regolamenti magħmula, u regoli maħruġa taħtu, talbiet għar-reġistrazzjoni ta' white papers skont l-artikolu 3(4) ma jistgħux isiru lil, u fi kwalunkwe każ ma għandhomx jiġu aċċettati mill-awtorità kompetenti mill-1 ta' Awwissu 2024.

(3) Kwalunkwe whitepaper relatata ma' e-money token li tkun irreġistrata mill-awtorità komptenti skont dan l-Att għandha titqies li tkun tneħħitilha awtomatikament ir-reġistrazzjoni fit-30 ta' Ġunju, 2024.

(4) Kwalunkwe whitepaper relatata ma' attiv finanzjarju virtwali għajr e-money token jew token irreferenzjat ma' assi li tkun irreġistrata mill-awtorità kompetenti skont dan l-Att għandha titneħħilha awtomatikament ir-reġistrazzjoni fit-30 ta' Diċembru 2024.

(5) Id-dispożizzjonijiet tal-artikoli 3 sa 13 ma għandhomx jibqgħu applikabbli mit-30 ta' Diċembru 2024.

Dispożizzjonijiet tranżitorji ulterjuri dwar servizzi ta' VFA.

66. (1) Persuni li fit-30 ta' Diċembru 2024, huma liċenzjati taħt dan l-Att sabiex jipprovdu, jew jaġixxu bħala li jipprovdu, servizz ta' VFA wieħed jew aktar jistgħu jkomplu jipprovdu, jew jaġixxu bħala jipprovdu, dawk is-servizzi skont id-dispożizzjonijiet applikabbli tal-imsemmi Att u kwalunkwe regolamenti magħmula, u regoli maħruġa taħtu, sal-1 ta' Lulju 2026 jew sakemm jingħataw jew jiġu rrifjutati awtorizzazzjoni skont l-Artikolu 63 tar-Regolament MiCA, skont liema data tiġi l-ewwel.

(2) Bla ħsara għall-artikolu 21, kwalunkwe liċenzja mogħtija lil persuna taħt dan l-Att għandha tiġi awtomatikament imħassra fit-2 ta' Lulju 2026 jew mal-għoti jew rifjut ta' awtorizzazzjoni skont l-Artikolu 63 tar-Regolament MiCA lil tali persuna, skont liema minnhom tiġi l-ewwel.".

Tħassir tal-Att prinċipali.

64. L-Att prinċipali għandu jiġi mħassar fit-3 ta' Lulju 2026 mingħajr preġudizzju għal dak kollu li sar jew li naqas milli jsir taħthom.

Għanijiet u Raġunijiet

L-għanijiet u raġunijiet ta' dan l-Abbozz ta' Liġi huma sabiex jiġi stabbilit qafas għar-rekwiżiti applikabbli għal offerti lill-pubbliku u l-ammissjoni għan-negozjar fuq pjattaforma ta' negozju ta' tokens irreferenzjati ma' assi, tokens ta' flus elettroniċi u kriptoassi oħra, u r-rekwiżiti applikabbli għal fornituri ta' servizz ta' kriptoassi u sabiex jimplimenta u jagħti effett lid-dispożizzjonijiet rilevanti tar-Regolament (UE) 2023/1114 tal-Parlament Ewropew u tal-Kunsill tal-31 ta' Mejju 2023 dwar is-swieq fil-kriptoassi, u li jemenda r-Regolamenti (UE) Nru 1093/2010 u (UE) Nru 1095/2010 u d-Direttivi 2013/36/UE u (UE) 2019/1937. Barra minn hekk, id-dispożizzjonijiet ta' dan l- Abbozz ta' Liġi huma intiżi li jimplementaw l-emendi

neċessarji għall-Att dwar l-Attiv Finanzjarju Virtwali (Kap. 590) fid-dawl tal-imsemmi Regolament.

A BILL
entitled

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.

BE IT ENACTED by the President, by and with the advice and consent of the House of Representatives, in this present Parliament assembled, and by the authority of the same, as follows:-

ARRANGEMENT OF THE ACT

PART I
PRELIMINARY

Short title, scope and commencement.

1. (1) The short title of this Act is the Markets in Crypto-Assets Act, 2024.

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

(3) This Act shall be deemed to have come into force on 30 June 2024, with the exception of Parts II, V, VI, X and XI of this Act which shall come into force on 30 December 2024.

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;

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"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;

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"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;

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"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 Financial Institutions Act;

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"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 15 of the Prevention of Money Laundering Act; Cap. 373.

"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;

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

"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

Cap. 370.

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; and, or

(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 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.

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 communicat-ions.

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 paragraph, 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.

Application for authorisation.

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

(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;

(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.

Cap. 373.

(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.

Notification of the redemption plan.
Cap. 371.

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.

(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 to 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).

Application for authorisation.

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

(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.

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(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.

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(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.

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(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 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.

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(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

(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.

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(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;

(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

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(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.

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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 in so far 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.

(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. Cap. 281.

(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, to disclose 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.

Precautionary measures.

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:

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 Article 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 paragraph (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.

(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. Cap. 330.

(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.

Cap. 330.

(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.

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.

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.

Confidentiality.

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:

(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.

Data protection.

Cap. 586.

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

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.

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 of the principal Act.

61. The First Schedule of 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:

Bill No. 107 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 Cryp to-Assets Act the competent authority shall deem the request made by such person to have been withdrawn.

Bill No. 107 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.

Objects and Reasons

The objects and reasons of this Bill are to establish 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 and other crypto-assets, and the requirements applicable to crypto-asset service providers and to implement and give effect to 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 Regulation (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937. Moreover, the provisions of this Bill aim to implement the necessary amendments to the Virtual Financial Assets Act (Cap. 590) in view of the said Regulation.

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