



SETTING UP A VFA IN MALTA

Virtual Finance Asset ('VFA') service providers are required to be licensed under the Virtual Financial Assets Act 2018, which came into force in Malta on 1 November 2018.

License Classes

- **Class 1** - License holders receive and transmit orders and/or provide investment advice in relations to one or more virtual financial assets and/or the placing of virtual financial assets. Class 1 license holders are not authorised to hold or control clients' money.
- **Class 2** - License holders provide any VFA service but do not operate a VFA exchange or deal for their own account. Class 2 license holders may hold or control clients' money in conjunction with the provision of a VFA services.
- **Class 3** - License holders provide any VFA service but do not operate a VFA exchange. Class 3 license holders may hold or control clients' money in conjunction with providing a VFA service.
- **Class 4** - License holders may provide any VFA service. Class 4 licenseholder may hold or control clients' money in conjunction with providing a VFA service.

System Auditor Requirements

The MFSA may require a systems auditor to be appointed in relation to the VFA service providers' Innovative Technology Arrangements. The systems auditor needs to be in place at all times, even after the license application. MFSA approval must be sought before appointing the systems auditor. Each completed systems audit report must be submitted to the MFSA for its perusal, together with the application for license.

VFA SERVICE PROVIDER PERSONNEL

When considering whether to approve a license application the MFSA will consider many aspects of the business functions and procedures, as well as the people involved in all aspects of the business' activities. This includes Senior Management, Ultimate Beneficial Owner(s), Members of the Board, Money Laundering Reporting Officer ('MLRO'), Compliance Officer, Risk Manager and all other key personnel.

Each person must be a fit and proper person. This means each person must demonstrate three criteria: 1. Integrity 2. Competence and 3. Solvency. Each individual must demonstrate they are of good repute, honest and trustworthy in their intentions, have acceptable levels of knowledge, professional expertise and experience.

The business must demonstrate it has adequate systems and controls in place for the intended offering and must have the proper financial controls to ensure and manage liquidity.



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SHARE CAPITAL & FINANCIAL RESOURCES

The applicant must maintain an amount equal to the capital required for their license at all times as follows:

VFA Service License	Initial Capital Required (EUR)
Class 1	50,000 or 25,000 and PII
Class 2	125,000
Class 3	730,000
Class 4	730,000

The applicant must be able to demonstrate that it has sufficient financial resources to remain financially viable and to carry out its services through economic cycles, or to be able to orderly wind-down without causing undue economic harm to its clients or to the stability of the markets in which the applicant operates.

A licence holder must show own funds held which consist of its Tier 1 and Tier 2 capital where:

- Up to 25% of the sum may consist of Tier 2 capital.
- Up to 44% of the sum may consist of additional Tier 1 capital, and;
- At least 56% of the sum shall consist of Common Equity Tier 1 capital;

Fixed overhead requirement shall be at least one quarter of the fixed overheads of the preceding year or projected overheads if a full year of business has not been completed, as submitted at the application stage.

THE LICENSING PROCESS

All applications must be submitted via the appointed VFA agent. The application process consists of several phases:

Phase 1 – Preparatory stage

A notification is made in writing to the MFSA of its intention to apply for a licence. This will include a comprehensive written description of the proposed structure, the VFA services which the licence is being sought, identify the key personnel and the positions they will hold, and a legal opinion that the proposed activity does not fall within the traditional financial services legislation.

A preliminary meeting will then be held with the MFSA. Within 60 days of this meeting the applicant, via the VFA agent, will submit the application form and all supporting documentation. The licence application fee will be paid, which is non-refundable.

Phase 2 – Pre-licencing

Once the initial application pack is submitted, the MFSA will carry out its full review. This will likely include the MFSA proposing changes or amendments to procedures and manuals.

Once it is satisfied with the application documentation and has completed the fitness and propriety assessment, it will issue an 'in principle Approval' which is valid for three months.

During these three months any remaining issues will be finalised, any conditions imposed will be met and all original documents will be submitted. Upon satisfaction of the requirements the MFSA will issue the licence.

Phase 3 – Post licence and pre-commencement of business

The licence holder shall commence its VFA service business within twelve months of the date of issue of the VFA service licence. It will be required to adhere to the VFA service rulebook.

PROCESS FOR APPOINTED PERSONS



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Proposed persons appointed, or designated in relation to the Applicant/Licence holder are required to inform the MFSA and seek approval prior to engaging in their proposed role. A fitness and properness assessment must be submitted to the MFSA by each proposed person.

The MFSA will also use information not provided by the proposed person as part of the assessment (such as information available on the internet). The MFSA may also conduct interviews and request additional supporting documentation if deemed necessary.

GOVERNANCE

The VFA service provider's business shall be directed and managed by at least two individuals in order to satisfy the dual control principle. The persons must have sufficient knowledge, experience, commit sufficient time and be of good repute in order to ensure sound and prudent management of the Licenceholder.

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It will be important to establish, implement and maintain decision-making procedures and an organisational structure which clearly documents reporting lines and allocates functions and responsibilities. Internal control mechanisms designed to secure compliance with decisions and procedures at all levels are critical. Sound administrative and accounting procedures, effective risk assessments and safeguards for information processing must be established.

The licence holder must establish a Cyber Security Framework with details policies which comply with GDPR and other internationally recognised standards.

The licence holder must establish a Board of Administration. The licence holder must have a Money Laundering Reporting Officer and a Compliance Officer.

COMPLIANCE

The licenceholder will be required to submit on an annual basis (or more frequently if required by the Authority):

1. Audited financial statements
2. Financial Return
3. Compliance certificate
4. Annual Company return
5. FIAU MRLO annual return
6. Tax return
7. Systems Audit
8. Risk Management report
9. Internal Capital Adequacy Assessment Report

On a quarterly, monthly or ongoing basis the licenceholder will prepare:

1. VAT returns (where applicable)
2. Carry out a clients' money reconciliation
3. Management Accounts
4. Interim Financial Returns
5. Internal audit
6. AML/CFT checks and controls
7. Order matching – expedient & accurate verification of trades & matching settlement instructions
8. Pre/post trade data made available to the public

The above information is being provided as general guidance only and should not be construed as amounting to, or considered as, a substitute for professional tax, legal or VAT advice.

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