



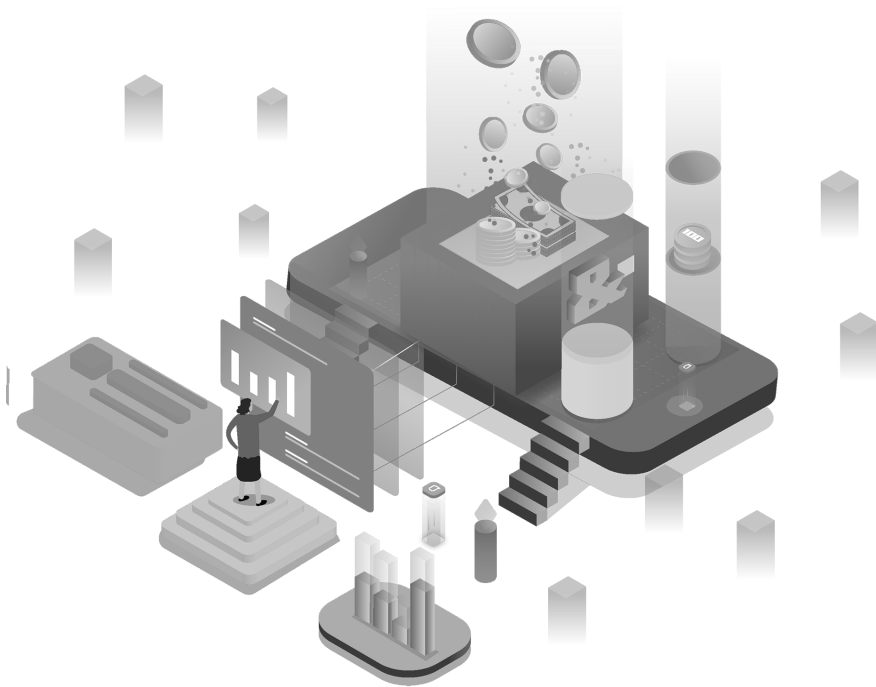
Blockchain  
Advisory

# Driving Legislation in Technology: Setting up a licensed business activity in Malta

By Dr. Jonathan Galea  
Managing Director of Blockchain Advisory

# Short intro

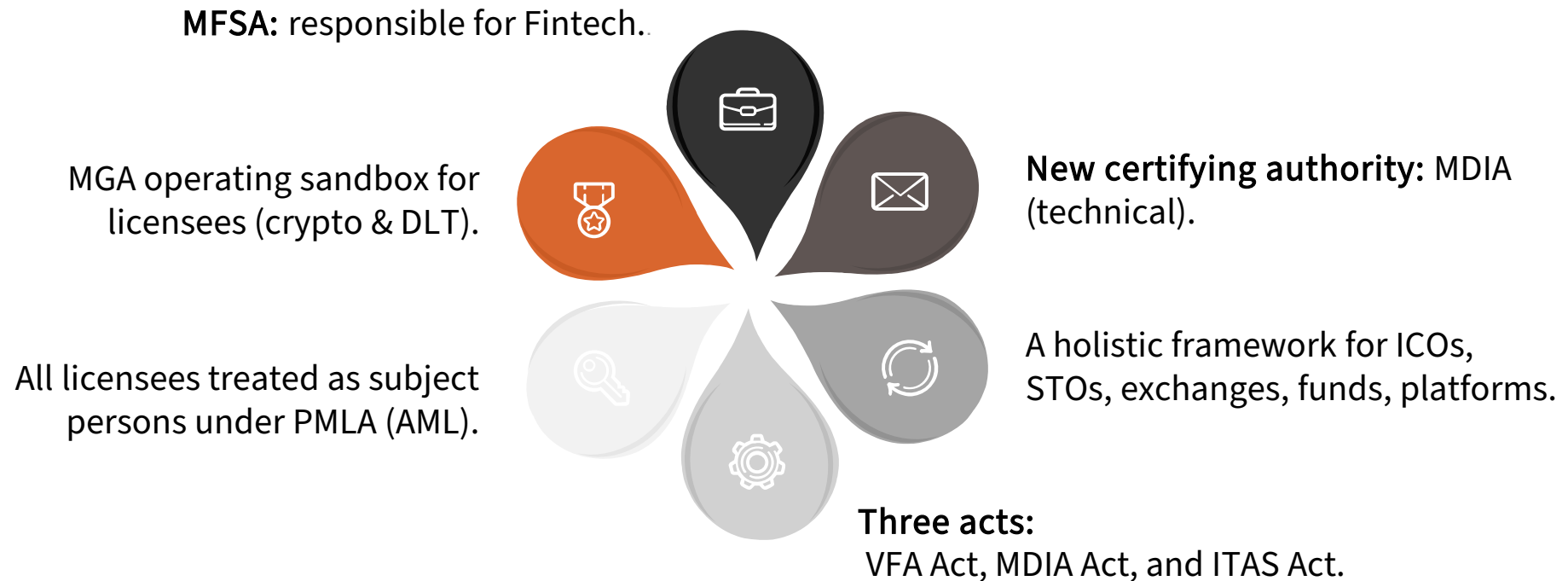
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- Lawyer, programmer (mostly theory) – C, currently Solidity.
- Heavily involved in crypto since 2013.
- Completed one of the world's first legal theses on cryptocurrencies: The Effect of Bitcoin on Money Laundering Law (May, 2015).
- Co-founded Bitmalta, first association dedicated to blockchain and crypto (President).
- International keynote speaker (30+ conferences).
- Managing Director of Blockchain Advisory.

# DLT regulatory framework

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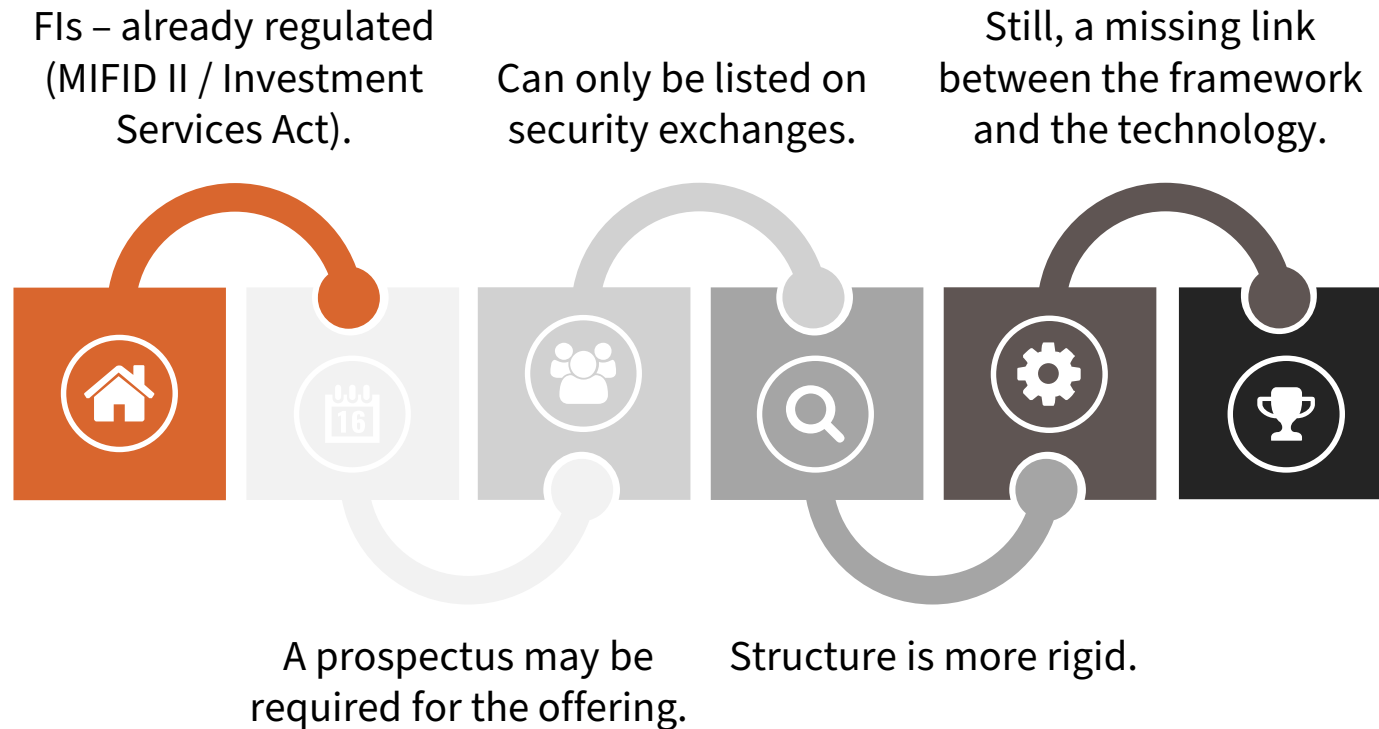


# Virtual Financial Assets Act

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# Financial instruments as coins/tokens

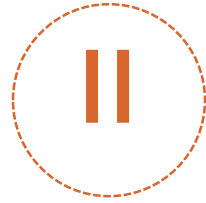




# What are DLT Assets?



Virtual Tokens



Virtual Financial Assets



Electronic Money



Financial Instruments

Art 2(2) VFAA

In each case, they must be “...*intrinsically dependent on, or utilises, Distributed Ledger Technology*”.

# Virtual Tokens



virtual token" means a form of digital medium recordation whose utility, value or application is restricted solely to the acquisition of goods or services, either solely within the DLT platform on or in relation to which it was issued or within a limited network of DLT platforms.



Provided further that a virtual token which is or may be converted into another DLT asset type shall be treated as the DLT asset type into which it is or may be converted.



Provided that the term "DLT platform" referred to in this definition shall exclude DLT exchanges.

# Virtual Financial Assets

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- means any form of digital medium recordation that is used as a digital medium of exchange, unit of account, or store of value and that is not:
  - A. electronic money.
  - B. a financial instrument.
  - C. a virtual token.
- Umbrella category for those tokens which are neither financial instruments, or e-money, or virtual tokens.
- Regulated by the VFA Act.





# Virtual Financial Assets Services

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## Services provided in relation to virtual financial assets:

1. Reception and Transmission of Orders.
2. Execution of orders on behalf of other persons.
3. Dealing on own account.
4. Portfolio Management.
5. Custodian or Nominee Services.
6. Investment Advice.
7. Placing.
8. Operation of a VFA Exchange.

# When must a DLT Asset be classified?

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- When an issuer intends to launch an IVFAO to the public in and from within Malta.
- When an issuer admits the VFA to trading on a DLT Exchange.
- When a service provider intends to conduct a VFA-related service.



## Article 47, VFAA

*“.. the competent authority shall introduce a test applicable to issuers, VFA agents and licence holders for the purpose of determining whether a DLT asset qualifies as electronic money, a financial instrument, virtual financial asset or virtual token: Provided that such test shall be applicable prior to the submission of the whitepaper to the competent authority or the provision of a VFA service, as the case may be.”*

# VFA Agents Explained

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## Who may act as a VFA Agent?

- Accountant, advocate, auditor.
- Firm of advocates, accountants or CSPs.
- Legal organization wholly owned by accountants/advocates.

*“whether in Malta or in another recognised jurisdiction, or any other class of persons holding authorisations, qualifications and, or experience deemed by the competent authority as possessing suitable expertise to exercise the functions listed under articles 7 and, or 14”*

- Therefore, a VFA Agent need not be established in Malta as long as it is established in a **SUITABLE** jurisdiction.

# Functions of a VFA Agent



Responsible that the DLT Assets in relation to which an application for registration of a white paper is being made, qualifies as a VFA .

VFA agent is also responsible for submitting and handling license applications on entities wishing to provide VFA Services.

Issuer needs to appoint an ongoing VFA Agent throughout the whole project period.

VFA agent may be outsourced the Regulatory Compliance function by a VFA Service Provider which includes the classification of DLT Assets being dealt with.

# Practical FI Test Overview

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1. Is it a Virtual Token.
2. Is it a Financial Instrument or E-Money.
3. If the DLT Asset doesn't fall within the scope of existing financial services legislation then such DLT Asset will be classified as a VFA.

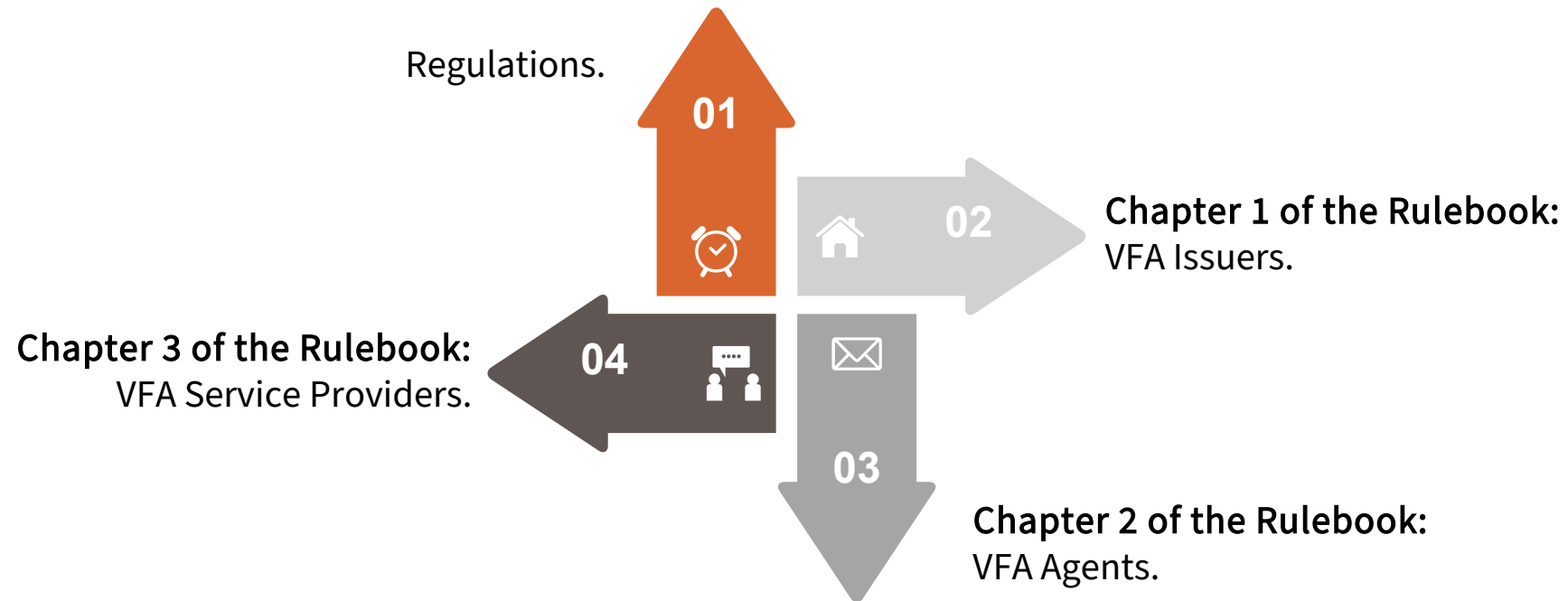


## IMPLICATIONS OF DLT ASSET BEING CLASSIFIED AS A VFA

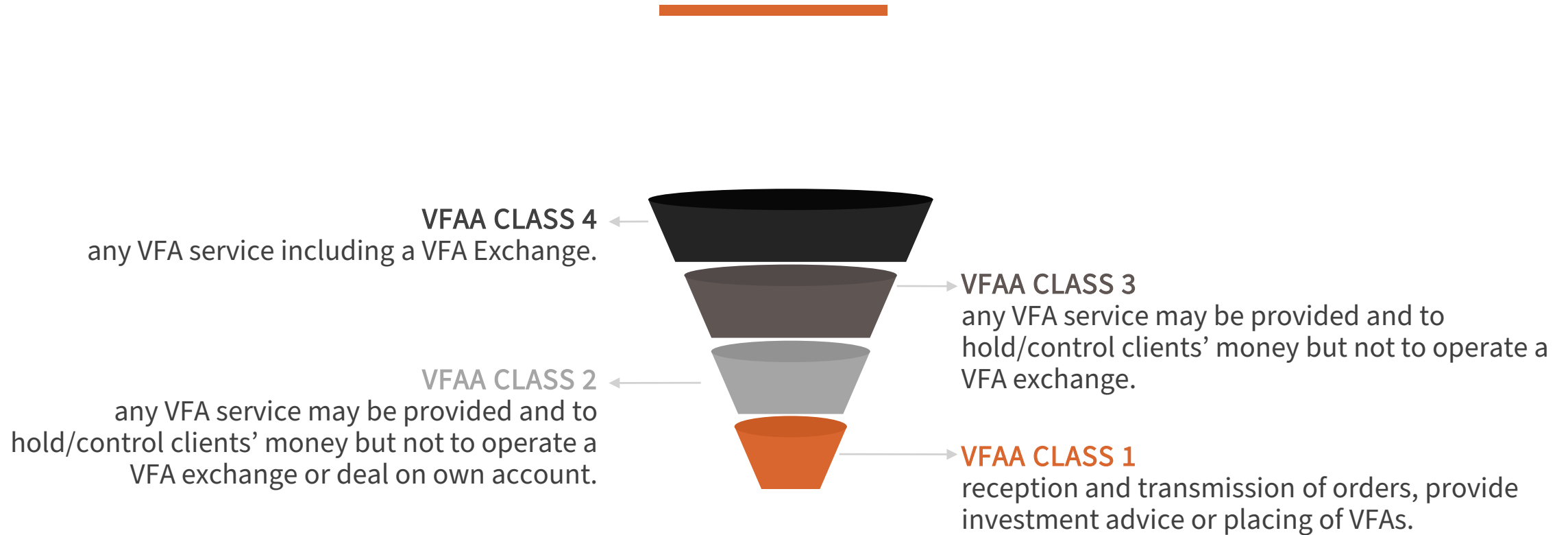
VFA related service providers will be required to adhere to the provisions within the VFAA, for instance; issuer of IVFAO offered to the public in/from Malta must register its white paper with the MFSA and such must comply with the First Schedule of the VFAA.

# Regulations and Rulebook under the VFAA

The VFA Act is supplemented by the following



# License classes under the VFAA



# Capital Requirements



**EUR 50,000**  
(or EUR 25,000 plus  
Professional Indemnity  
insurance coverage)



**EUR 125,000**



**EUR 730,000**

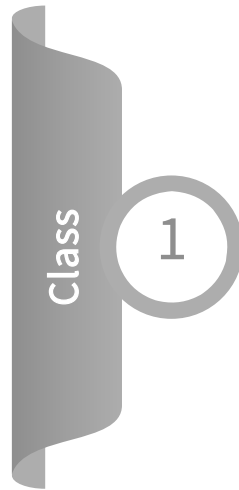


**EUR 730,000**

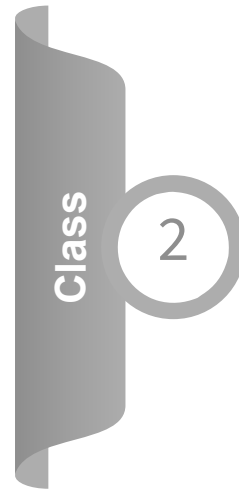


# License Application Fees

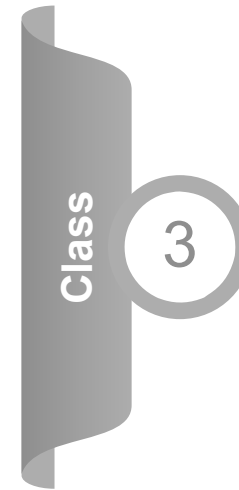
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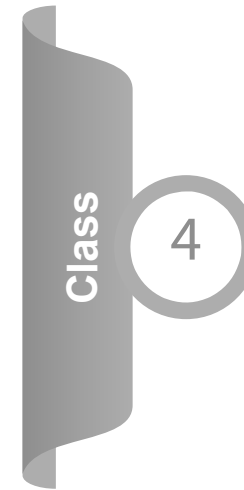
EUR 6,000



EUR 10,000



EUR 14,000



EUR 24,000

# Required Functionaries

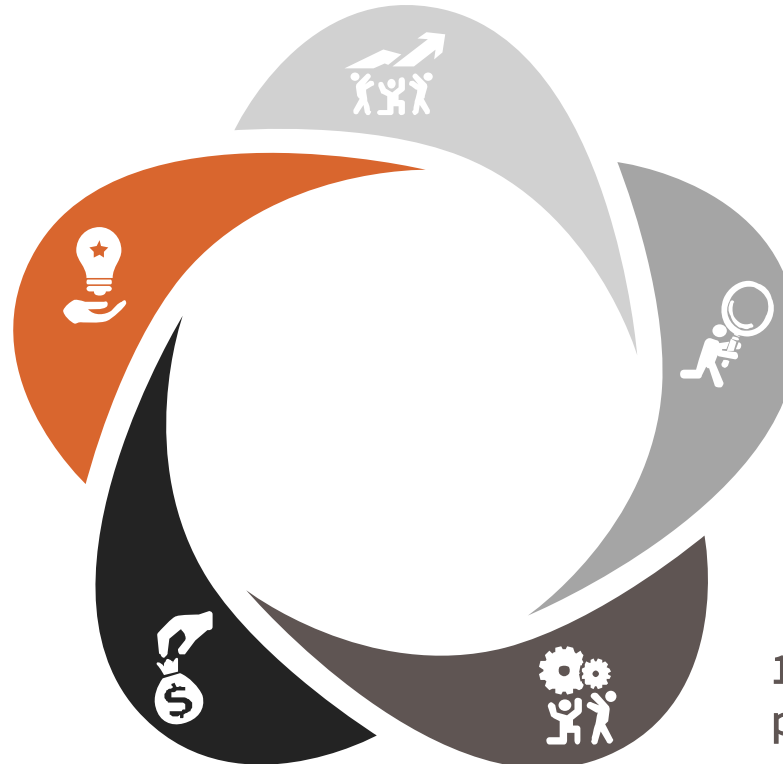


# Implementation

VFAA and ITAS – 1st November  
2018.

Operational before the  
1st of November.

3 months for VFA Issuers.



Grace periods under VFAA.

12 months for VFA service  
providers.

# Malta: Driving Legislation in... Trading!

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A proper licensing regime is fundamental – no concessions / light touch

What can Malta offer?

1. Significant share capital requirements to prove business liquidity
2. Extensive due diligence during licensing process
3. Clear coin/token classification regime
4. Fitness and properness of licensed entities to assist
5. Monitoring by the competent authority
6. Cybersecurity guidelines
7. Enhanced systems audits for exchanges
8. Appointment of key functionaries
9. A framework that pushes for legislative harmonisation



# Thank You!



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