



**LIETUVOS BANKAS**  
**FINANCIAL SERVICES AND MARKETS SUPERVISION DEPARTMENT**

To heads of virtual currency exchange operators and depository virtual currency wallet operators, crypto-asset service providers, credit institutions, electronic money institutions and other financial institutions and their stakeholders

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**ON PROPER PREPARATION BY CRYPTO-ASSET SERVICE PROVIDERS FOR THE IMPLEMENTATION OF REGULATION (EU) 2023/1114 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON MARKETS IN CRYPTO-ASSETS**

With a view to facilitating future cooperation and dialogue with new financial market participants, Lietuvos bankas is hereby appealing to legal entities, currently providing or intending to provide services related to crypto-assets<sup>1</sup> in the future, to draw their attention to certain requirements of Regulation (EU) 2023/1114 of the European Parliament and of the Council of 31 May 2023 on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 (hereinafter, the MiCA Regulation)<sup>2</sup> and to urge them to make timely preparations for proper implementation of the MiCA Regulation.

One of the activities regulated by the MiCA Regulation is the provision of crypto-asset services. From **30 December 2024**, the provision of crypto-asset services will be subject to the provisions of Title V of the MiCA Regulation and requirements relating to governance, protection of customer assets, management of conflicts of interest and other aspects.

This letter highlights some of the key requirements of the MiCA Regulation and best practices and expectations of Lietuvos bankas that crypto-asset service providers should take into consideration in order to be adequately prepared for the above-mentioned activities.

It should be noted that all information related to the MiCA Regulation<sup>3</sup>, preparations for the future authorisation process (templates of applications and questionnaires, etc.)<sup>4</sup> and frequently asked questions<sup>5</sup> is periodically updated by Lietuvos bankas on its website.

***Licencing of crypto-asset service providers***

**1. Licencing of virtual currency exchange operators and/or depository virtual currency wallet operators.** Operators of virtual currency exchanges and of depository virtual currency wallets, already operating in the Republic of Lithuania and currently supervised by the Financial Crime Investigation Service (FCIS) under the Ministry of the Interior of the Republic of Lithuania in accordance with the Republic of Lithuania Law on the Prevention of Money

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<sup>1</sup> Crypto-asset service means any of the following services and activities relating to any crypto-asset: (a) providing custody and administration of crypto-assets on behalf of clients; (b) operation of a trading platform for crypto-assets; (c) exchange of crypto-assets for funds; (d) exchange of crypto-assets for other crypto-assets; (e) execution of orders for crypto-assets on behalf of clients; (f) placing of crypto-assets; (g) reception and transmission of orders for crypto-assets on behalf of clients; (h) providing advice on crypto-assets; (i) providing portfolio management on crypto-assets; (j) providing transfer services for crypto-assets on behalf of clients (Article 3(1)(16) of the MiCA Regulation).

<sup>2</sup> Regulation (EU) 2023/1114 of the European Parliament and of the Council on markets in crypto-assets, see [here](#).

<sup>3</sup> See Lietuvos bankas' website. [Markets in Crypto-Assets](#).

<sup>4</sup> See Lietuvos bankas' website. [How to obtain a licence](#).

<sup>5</sup> See Lietuvos bankas' website. [Frequently asked questions](#).

Laundering and Terrorist Financing<sup>6</sup>, and intending to continue to provide crypto-asset services in accordance with the MiCA Regulation, will be fully subject to all the requirements set out in the MiCA Regulation for obtaining the relevant authorisation, just like any other entity intending to carry out such activities.

**2. Law on Markets in Crypto-Assets.** On 11 July 2024, the Law on Markets in Crypto-Assets (hereinafter, the MiCA Law)<sup>7</sup> was adopted in the Republic of Lithuania to ensure the implementation of the MiCA Regulation in Lithuania. The MiCA Law revised the provisions of the MiCA Regulation, and clarified licensing and other processes (such as dispute resolution, imposition of enforcement measures, etc.). Lietuvos bankas urges crypto-asset service providers, seeking authorisation under the MiCA Regulation, to familiarise themselves with the provisions of the MiCA Law, too.

**3. Legal form of the applicant.** The legal form of a crypto-asset service provider seeking authorisation under the MiCA Regulation can only be a public limited liability company or a private limited liability company (Article 3(2) of the MiCA Law).

**4. The manner and form of submission of documents.** Documents must be submitted to Lietuvos bankas in accordance with the General Regulations on the Submission and Examination of Applications for Authorisation of the Financial Market Participants Supervised by the Bank of Lithuania and on the Granting of Authorisation approved by Resolution No 58 of the Board of Lietuvos bankas of 6 May 2004.<sup>8</sup>

**5. Technical standards, guidelines and recommendations.** Lietuvos bankas urges crypto-asset service providers, seeking authorisation under the MiCA Regulation, to get acquainted with: the European Securities and Markets Authority's (ESMA)<sup>9</sup> and the European Banking Authority's (EBA)<sup>10</sup> Regulatory Technical Standards (RTS), Implementing Technical Standards (ITS) and guidelines. Once in force, these measures will be mandatory for prospective crypto-asset service providers in preparation for licensing (and subsequently in their operations), and for Lietuvos bankas in assessing the applications submitted.

**6. Compatibility of crypto-asset services with other activities carried out by the applicant.** Where the legal entity, applying for authorisation as a crypto-asset service provider, also intends to carry out or is already carrying out, at the same time, activities other than those of a crypto-asset service provider, Lietuvos bankas shall have the right to refuse to issue authorisation as a crypto-asset service provider until a separate legal entity is established for carrying out the activities of a crypto-asset service provider, if the activities, intended to be carried out or already carried out by the applicant legal entity, adversely affects, or is likely to adversely affect, its financial soundness and the ability of Lietuvos bankas to monitor whether all the requirements set out in the MiCA Regulation are duly complied with. This provision is laid down in Article 3(6) of the MiCA Law.

**7. Focus on prudential requirements.** Lietuvos bankas would like to draw attention to the fact that even after the MiCA Regulation enters into force and the sector of crypto-asset services becomes regulated, the risks associated with the sector's activities will continue to be high (e.g. money laundering and terrorist financing (hereinafter, ML/TF) risk, risk of fraud, risk of other criminal activities, risk of non-compliance with regulatory requirements, etc.), and that it is therefore essential for the applicants to make good early preparations for proper management thereof. Taking this into account, Lietuvos bankas will aim to ensure that only mature crypto-asset services providers, that have adequate understanding of the relevant risk management in this business, enter the market in crypto-assets. When assessing the documents submitted by the applicant, Lietuvos bankas will pay particular attention to assess:

- 7.1. The applicant's shareholding structure. Lietuvos bankas will request clarification of the rationale of complex structures of shareholder groups, and in the absence of transparency or reasonableness, Lietuvos bankas may request that such holding structure be simplified;
- 7.2. Good repute of the applicant's shareholders;
- 7.3. Financial soundness of the applicant's shareholders, transparency of origin of funds, and soundness of the funding structure. Lietuvos bankas will request disclosure of

<sup>6</sup> See [link on the FCIS website](#).

<sup>7</sup> See [Law on Markets in Crypto-Assets](#).

<sup>8</sup> See [General Regulations on the Submission and Examination of Applications for Authorisation of Financial Market Participants Supervised by the Bank of Lithuania and on the Granting of Authorisation](#).

<sup>9</sup> See [ESMA website. MiCA Regulation](#).

<sup>10</sup> See [Joint EBA and ESMA Guidelines on the assessment of management body and shareholders in accordance with the MiCA Regulation](#).

- the origin of funds to be used for capitalisation of activities of the crypto-asset service provider, including the history of business activities of the funder and the funding scheme, and substantiation thereof with specific documents;
- 7.4. Effectiveness of the applicant's governance system, sufficiently good repute, qualifications and experience of its management, including knowledge of the relevant legal regulation (in addition to the MiCA Regulation) and the financial market supervision system;
  - 7.5. The applicant's preparedness to ensure sustainable, safe and trustworthy activities, including effective internal control and risk management (in particular ML/TF, operational and information technology risks);
  - 7.6. Whether or not the applicant can be considered as being an *empty-shell* company<sup>11</sup>, that is an entity, that has neither carried out nor intends to carry out real activities, i.e. that has outsourced most of its key operational and control functions to third parties and that will not be able to adequately ensure control over those processes.

**8. Proper preparations.** Lietuvos bankas will strive to ensure that authorisation of crypto-asset service providers is conducted smoothly and efficiently, which will primarily depend on the quality of the applicant's preparedness, the quality of the applications submitted and of the accompanying documents. Accordingly, Lietuvos bankas expects that before submitting an application for authorisation to Lietuvos bankas, the applicant will make a proper assessment of its competence, knowledge and preparedness for carrying out the planned activities, will be well familiarised with the applicable legislation, including the MiCA Regulation and the complementary Regulatory and Implementing Technical Standards (RTS and ITS), guidelines and recommendations, and will draw up its application and the related documentation with responsibility and quality, and will submit them to Lietuvos bankas in an orderly and structured manner and according to the specified channels and time limits. Lietuvos bankas will apply high quality standards to applicants throughout the entire application examination process, therefore, the applicants are expected to be properly prepared to ensure smooth communication with Lietuvos bankas throughout the entire licencing process (including proper submission of documents and information), and to be able to allocate sufficient resources for efficient elimination of deficiencies in the applications as identified by Lietuvos bankas. Lietuvos bankas will not tolerate improper preparation by the applicant for the licencing process, abuse of the application assessment process, and applications that are incomplete, incorrectly drafted or submitted applications will not be accepted for full examination.

It should be noted that Lietuvos bankas conducts periodic analyses of the licencing process, through which it identifies and presents to the market the most frequent weaknesses in the licencing process and identifies best practices. Standard licensing practices, including advice to applicants on the necessary conditions for ensuring a smooth licensing process and on the most frequent weaknesses in the licencing processes,<sup>12</sup> are relevant for crypto-asset service providers in preparation for licensing.<sup>13</sup>

**9. Transparency and fairness.** Lietuvos bankas will strive to ensure that only transparent and fair applicants operate in the market of crypto-asset service providers. Accordingly, cases where applicants fail to provide the requested information, provide incomplete, incorrect or only partially correct or misleading information, or fail to cooperate with Lietuvos bankas or other competent authorities will not be tolerated and will be viewed by Lietuvos bankas as non-transparent and unfair.

**10. Documents and information necessary for assessment (Article 62 of the MiCA Regulation).** The application for authorisation as a crypto-asset service provider will have to be accompanied by the documents and information specified in Article 62(2) of the MiCA Regulation. To substantiate their preparedness for the provision of services in Lithuania, entities should draw up, in Lithuanian, and submit to Lietuvos bankas certain documents related to the provision of services. The programme of activities (business plan) and the documents (procedures) that will have to be provided directly to customers, under the set procedure before the start of rendering crypto-asset services to them, should be drawn up in Lithuanian. Lietuvos bankas shall have the right to require the applicant to submit other documents prepared by the applicant in Lithuanian. It should be noted that the documents prepared by the applicant should

<sup>11</sup> See [FCIS guidelines for the identification of the attributes of shell companies](#).

<sup>12</sup> See [Lietuvos bankas. How to get ready for licencing process](#).

<sup>13</sup> See [Lietuvos bankas. How to obtain a licence](#).

not be limited to just quoting the MiCA Regulation and other relevant legislation, and the procedures and processes should be adapted and be in line with the specific business model of the applicant. Lietuvos bankas expects that the documents submitted will set out detailed and specific procedures ensuring proper implementation of the provisions of the MiCA Regulation in practice.

**11. Certain services rendered by crypto-asset service providers.** Lietuvos bankas observes that virtual currency exchange operators often provide ancillary services related to trading in virtual currencies, such as *copy-trading*, *trading bots* and *robo-advisors*, which enable the automatic copying or viewing transactions concluded by other customers. It should be noted that all of the services referred to above have the attributes of providing advice and/or portfolio management services, that are provided not by the operator of a virtual currency exchange, but by its customers. It is worth mentioning that provision of advice on crypto-assets and management of a portfolio of crypto-assets should be regarded as crypto-asset services that are subject to higher customer protection requirements, i.e. there is the obligation to carry out an eligibility assessment, to act honestly, fairly and professionally and in the best interests of the customer, and to ensure that the persons providing the services have the necessary knowledge and expertise to carry out their duties. It should be noted that the crypto-asset services referred to above will only be provided by crypto-asset service providers that are respectively authorised and represented by duly authorised competent persons. Lietuvos bankas expects that applicants for crypto-asset service provider authorisations, intending to provide the above-mentioned services, will provide clear descriptions of their business models and details of the ancillary services referred to, so as to enable a proper assessment of the applicants' compliance with the requirements of MiCA Regulation.

**12. Procedures and time limits for the assessment of applications (Article 63 of the MiCA Regulation).** Crypto-asset service providers will be licensed in accordance with the procedures and within time limits set out in the MiCA Regulation and its implementing legislation (see Title V of the MiCA Regulation). Lietuvos bankas draws your attention to the main stages and time frames of the assessment process:

- 12.1. Lietuvos bankas will acknowledge to the applicant in writing receipt of the application within five business days of receipt thereof;
- 12.2. Within 25 business days of receipt of the application, Lietuvos bankas will assess whether the application is complete. Should the submitted application be incomplete, Lietuvos bankas will request the applicant to provide the missing information and documents within the set time limit. If the applicant fails to provide all the missing information and documents within the set time limit, Lietuvos bankas will not further review the application and will return the submitted application to the applicant (Article 63(3) of MiCA Regulation);
- 12.3. If the applicant provides all the missing information and documents within the set time limit and Lietuvos bankas finds that the application can be considered as *complete*, Lietuvos bankas will promptly notify the applicant thereof;
- 12.4. Lietuvos bankas will, within 40 business days from the date of receipt of a *complete* application, assess whether the applicant complies with Title V of the MiCA Regulation and will adopt a fully reasoned decision granting or refusing an authorisation as a crypto-asset service provider (Article 63(9) of the MiCA Regulation). The time for the assessment of the *complete* application may be extended for further 20 business days, if Lietuvos bankas requests to provide the missing information to complete the assessment;
- 12.5. Lietuvos bankas will notify the applicant of its decision within five business days of the date of adopting the decision.

**13. Grounds for refusing authorisation (Article 63 of the MiCA Regulation).** Lietuvos bankas will refuse authorisation as a crypto-asset service provider if:

- 13.1. There are objective and demonstrable grounds (Article 63(10) of the MiCA Regulation);
- 13.2. Close links exist between the applicant and other natural or legal persons that prevent the effective exercise of the supervisory functions (Article 63(7) of the MiCA Regulation);
- 13.3. 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 difficulties involved in their enforcement, prevent the effective exercise of the supervisory functions (Article 63(8) of the MiCA Regulation).

**14. Obligation to meet the conditions of authorisation throughout the entire period of operations (Article 59(4) of the MiCA Regulation).** Market participants authorised as crypto-asset service providers shall at all times meet the conditions for their authorisation. Accordingly, entities intending to apply for authorisation as a crypto-asset service provider should critically assess whether the available resources and expertise are sufficient to ensure compliance with that requirement.

**15. On the right for existing financial market participants to provide certain crypto-asset services without obtaining a separate authorisation (Article 60 of the MiCA Regulation).** The MiCA Regulation provides for the possibility/exemption for certain financial institutions to start providing certain crypto-asset services without obtaining a separate authorisation if they deliver a notification and the information and documents referred to in Article 60(7) of the MiCA Regulation to the competent authority at least 40 business days before starting to provide such services. It is worth mentioning that these financial institutions, which may take advantage of this exemption, may not begin providing certain crypto-asset services if the submitted notification (document package) is deemed to be incomplete.

### ***Prudential requirements applicable to crypto-asset service providers***

**16. Requirements for members of the management body of crypto-asset service providers (Articles 62, 68 and 69 of the MiCA Regulation).** Members of the management body of crypto-asset service providers, both individually and collectively, must be of sufficiently good repute and possess the appropriate knowledge, skills and experience to perform their duties. In addition, they must demonstrate that they are able to commit sufficient time to perform their duties effectively. The qualifications and experience of the management shall be assessed taking into account the person's level of education, professional development, the nature, duration of professional activities and other factors that may affect the person's qualifications and experience. The criteria for assessment of the management of crypto-asset service providers are also set out in Article 4(3) of the MiCA Law.

Members of the management body shall also provide evidence of sufficiently good repute to Lietuvos bankas. To that end, they shall provide documents demonstrating 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 lack of professional liability. Such documents must be issued no earlier *than three months before* the date of application to Lietuvos bankas.

The qualifications and reputation of members of the management body shall be assessed by Lietuvos bankas in accordance with the Joint EBA and ESMA Guidelines.<sup>14</sup>

It should be noted that good governance is considered to be one of the cornerstones of sustainable activities. For that purpose, an applicant should establish a governance system appropriate to its activities, i.e. a single-tier system with a management board only, or a two-tier system with a management board *and* a supervisory board. The company with a single-tier system of governance should have a sufficient number of non-executive members on its board to ensure the objectivity of decisions taken by the members of such collegial body. When forming collegial bodies, the applicant should set their size and composition that appropriately correlate to the size of the company.

It should be noted that members of the management body of the applicant should be independent, able to perform their duties autonomously and to avoid undue influence from others. The applicant should strengthen the composition and influence of the collegial bodies, thereby reducing the potential influence of the sole person (head of the administration, a sole shareholder), in order to ensure the objectivity of the decisions taken by its bodies, e.g. by ensuring, in the governance structure, a sufficient number of independent members, who do not have any duties to the applicant and are not part of the group of undertakings (where the applicant is part of a group of undertakings).

The applicant should also establish an appropriate governance structure, i.e. the rules and procedures for decision-making and control. It should be noted that the applicant should

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<sup>14</sup> See [Joint EBA and ESMA Guidelines on the assessment of management body and shareholders in accordance with the MiCA Regulation](#).

not appoint the same person to carry out a function and at the same time exercise control or supervision over the performance of that function.

Before electing or appointing a person as a member of a collegial body, the applicant should responsibly assess whether the candidate's knowledge, skills, competence and experience are appropriate for the effective performance of the functions of that body, taking into account the competence of all members of that body and the added value of the candidate's competence, i.e. to ensure the collective suitability of the members of that collegial body.

It should be noted that applicants should ensure that at least part of their key members of management who are entitled to take decisions relating to the activities of the supervised market participant reside in Lithuania, or ensure in alternative ways the proper management, accessibility of the institution and enable the competent authorities to carry out their supervision efficiently.

Lietuvos bankas recommends that crypto-asset service providers take into account the Principles of Good Governance Practices for Electronic Money and Payment Institutions published on 27 November 2023 by the Financial Services and Market Supervision Department of Lietuvos bankas,<sup>15</sup> to the extent relevant to the activities of crypto-asset service providers.

It should be noted that pursuant to Article 69 of the MiCA Regulation, crypto-asset service providers shall notify Lietuvos bankas without delay of any changes to their management body, prior to any new members of the management body taking up their duties in the institution, and shall provide Lietuvos bankas with all the necessary information to assess the suitability of such persons and to obtain the permission of Lietuvos bankas for the taking up of the duties by such persons in the institution. Only the persons who have been granted the respective permission in accordance with the procedure established by Lietuvos bankas may become heads of a crypto-asset service provider. This provision is laid down in Article 4(2) of the MiCA Law.

**17. Requirements for shareholders of crypto-asset service providers (Articles 62, 68 and 83 of the MiCA Regulation).** Shareholders (both direct and indirect), with a qualifying holding in the authorised capital and/or voting rights of the crypto-asset service provider, must be of sufficiently good repute. To that end, they shall provide documents demonstrating 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 lack of professional liability. Such documents must be issued no earlier *than three months before* the date of application to Lietuvos bankas.

The reputation of the shareholders shall be assessed by Lietuvos bankas in accordance with the above-mentioned Joint EBA and ESMA Guidelines.<sup>16</sup>

It should be noted that pursuant to Article 83 of the MiCA Regulation, any natural or legal person or such persons acting in concert who have taken a decision either to acquire, directly or indirectly, a qualifying holding in the authorised capital and/or voting rights, or to increase, directly or indirectly, such a qualifying holding so that the share of the voting rights or of the capital held would reach or exceed 20%, 30% or 50% or so that the crypto-asset service provider would become their subsidiary, shall notify Lietuvos bankas thereof in writing in advance (prior to acquisition), submit all necessary documents for the assessment of their eligibility and shall obtain non-objection by Lietuvos bankas to the proposed acquisition.

**18. Requirements for the organisational structure (Article 68 of the MiCA Regulation).** Crypto-asset service providers shall employ staff that possess the knowledge, skills and qualifications necessary to carry out the duties assigned to them. It should be noted that a crypto-asset service provider must have such an organisational structure and such a number of employees that enable it to ensure proper compliance with the requirements set out in Title V of the MiCA Regulation, taking into account the scale, nature and range of the crypto-asset services intended to be provided.

**19. Prudential requirements (Article 67 of the MiCA Regulation).** Crypto-asset service providers shall, at all times, have in place prudential safeguards equal to an amount of at least the higher of the following:

<sup>15</sup> See Lietuvos bankas' [Principles of Good Governance Practices for Electronic Money and Payment Institutions](#).

<sup>16</sup> See [Joint EBA and ESMA Guidelines on the assessment of management body and shareholders in accordance with the MiCA Regulation](#).

- (a) the amount of permanent minimum capital requirements indicated in Annex IV of the MiCA Regulation, depending on the type of the crypto-asset services planned to be provided;
- (b) one quarter of the fixed overheads of the preceding year, reviewed annually.

Crypto-asset service providers that have not been in business for one year from the date on which they began providing services shall be required to act in accordance with Articles 67(2) and (3) of the MiCA Regulation.

If crypto-asset service providers have built up in advance a sufficient equity capital buffer intended to cover projected and contingent operating loss, this would be considered by Lietuvos bankas as a best practice.

Lietuvos bankas also notes that an applicant, wishing to obtain an authorisation as a crypto-asset service provider, must submit to the supervisory authority all documents and descriptions of procedures in accordance with the ESMA's Regulatory Technical Standards for the issuance of authorisations under the MiCA Regulation (Regulatory technical standards specifying the information to be included in an application for authorisation as crypto-asset service provider, Annex V).<sup>17</sup> Article 3 of these Standards specifies the information to be submitted with the application for authorisation as a crypto-asset service provider.

**20. Ensuring the business continuity (Article 68 of the MiCA Regulation).** Crypto-asset service providers shall take all reasonable steps to ensure continuity and regularity in the performance of their crypto-asset services. To that end, crypto-asset service providers shall employ appropriate and proportionate resources and apply appropriate procedures, including resilient and secure information and communication technology (ICT) systems as required by Regulation (EU) 2022/2554.<sup>18</sup> Crypto-asset service providers shall have in place mechanisms, systems and procedures, as well as effective procedures for risk assessment, systems and procedures to safeguard the availability, authenticity, integrity and confidentiality of data.

**21. Safekeeping of customers' crypto-assets and funds (Articles 70 and 75 of the MiCA Regulation).** Crypto-asset service providers, that hold crypto-assets belonging to customers or the means of access to such crypto-assets, shall make adequate arrangements to safeguard the ownership rights of customers and to prevent the use of customers' crypto-assets for their own account.

In that case, where it is necessary to hold customers' funds other than e-money tokens, crypto-asset service providers shall have adequate arrangements in place to safeguard the ownership rights of customers and prevent the use of customers' funds for their own account. Crypto-asset service providers shall, by the end of the business day following the day on which customers' funds other than e-money tokens were received, place those funds with a credit institution.

It should be noted that where crypto-asset service providers providing custody and administration of crypto-assets on behalf of customers make use of other crypto-asset service providers of that service, they shall only make use of crypto-asset service providers authorised in accordance with Article 59 of the MiCA Regulation.

**22. Management of conflicts of interest (Article 72 of the MiCA Regulation).** Crypto-asset service providers shall implement and maintain effective policies and procedures, taking into account the scale, the nature and range of crypto-asset services provided, to identify, prevent, manage and disclose conflicts of interest between the service provider and their shareholders, members of their management body and other entities.

**23. Outsourcing to third parties (Article 73 of the MiCA Regulation).** Crypto-asset service providers, that outsource services or activities to third parties for the performance of operational functions, shall take all reasonable steps to avoid additional operational risk. The crypto-asset service provider shall remain fully responsible for discharging all of its obligations pursuant to the MiCA Regulation even upon outsourcing to third parties. Crypto-asset service providers shall have respective procedures and processes, including on contingency plans and exit strategies, taking into account the scale, the nature and the range of crypto-asset services provided.

It is worth mentioning that a crypto-asset service provider may not outsource its key operational and control functions to third parties to the extent that would make it, in principle, a fictitious entity with no real activity (i.e. *empty-shell* company).

<sup>17</sup> See [ESMA's Regulatory Technical Standards for the issuance of authorisations](#).

<sup>18</sup> See [Regulation \(EU\) 2022/2554](#) of the European Parliament and of the Council on digital operational resilience for the financial sector.

### ***Obligations of crypto-asset service providers***

**24. On the services provided being in line with consumer expectations.** One of the strategic directions of Lietuvos bankas is a financial sector that generates value for consumers. The goal is to improve the quality, accessibility of financial services, inclusion of various social groups and to achieve the integrity of the financial services market. Therefore, crypto-asset service providers are obliged to comply with all the requirements of the legal acts regulating their activities, to continuously improve the quality of services provided, to improve the meeting of expectations of users of the services, and to go beyond the issues mentioned in this Letter and/or the respective proposals made by Lietuvos bankas.

**25. On the sufficiency of resources.** Crypto-asset service providers, before engaging in activities related to crypto-assets in accordance with the MiCA Regulation, must be able to ensure the sufficiency of financial and non-financial resources necessary for the proper and timely provision of all the services envisaged and for the timely servicing of customers. This means, in particular, that crypto-asset service providers must ensure a sufficient number of staff with sufficient knowledge and experience necessary for carrying out of their functions in order to maintain an adequate level of customer service and to ensure that stakeholders are timely provided with access to all the information and/or assistance they need in relation to the services provided by the undertaking. In the opinion of Lietuvos bankas, crypto-asset service providers should not only be able to ensure a minimum level of customer service and implementation of regulatory requirements, but should also be able to allocate sufficient resources to improving the culture of customer service and enhancing customer satisfaction. In addition, crypto-asset service providers are encouraged to continuously develop the skills of their staff in the fields of communication and customer service, to continuously monitor and assess the level of customer service, and to strive at meeting a higher standard of customer service than necessary under the applicable legislation. Furthermore, crypto-asset service providers should allocate sufficient organisational, information technology, financial and other necessary resources to effectively improve the level of customer service and to create favourable conditions for customers for receiving reliable, high quality and value-added services.

**26. On the obligations to act honestly, fairly and professionally (Article 66 of the MiCA Regulation).** Crypto-asset service providers shall act honestly, fairly and professionally in the best interest of their customers and prospective customers. Crypto-asset service providers shall provide their customers with information on the services, goods provided, applicable price formation and dispute settlement procedures that is fair, clear and not misleading, and shall not, deliberately or negligently, mislead a customer in relation to the real or perceived advantages of any crypto-assets. It should be noted that the information provided to existing and prospective customers should not be provided just formally; instead, in all cases account should be taken of the ability of the average customer to understand the text provided and to make appropriate informed decisions. The information the content and/or provision of which is regulated under the MiCA Regulation should be provided in a concise, clear and comprehensible wording and format and should be publicly available on a website, in a prominent place. Marketing communications to customers and prospective customers must be clearly identifiable and should contain a warning about the risks associated with transactions in crypto-assets. Lietuvos bankas expects that when working on and publishing marketing communications, crypto-asset service providers will also take into account the Guidelines for Advertising Financial Services approved by Lietuvos bankas.<sup>19</sup>

**27. On fraud prevention.** Fraud prevention is one of the strategic directions of Lietuvos bankas, therefore, Lietuvos bankas aims to raise awareness of financial market participants and, alongside, the need to prioritise fraud prevention. Crypto-asset service providers should pre-assess the ancillary fraud risks arising from this type of activities and ensure adequate and efficient fraud prevention by investing in both customer education initiatives and improved transaction authorisation and monitoring tools, as well as stronger information technology systems. It should be noted that crypto-asset service providers should take all necessary and appropriate measures to minimise the risk of their customers losing crypto-assets and/or access to crypto-asset instruments through fraud as much as possible.

<sup>19</sup> See [Guidelines for Advertising Financial Services prepared by Lietuvos bankas](#).

## ***Requirements for the prevention of money laundering and terrorist financing***

**28. On the management of ML/TF risks.** Upon entry into force of supplements to the Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing<sup>20</sup> (hereinafter, the AML/CTF Law) on 10 January 2020, virtual currency exchange operators and operators of depository virtual currency wallets (hereinafter collectively, crypto-asset service providers) are obliged to put in place ML/TF measures set out in the AML/CTF Law. It should be additionally noted that financial institutions are also obliged to implement the instructions of Lietuvos bankas aimed at preventing ML/TF<sup>21</sup>, as well as instructions on the implementation of international sanctions.<sup>22</sup>

Financial market participants providing crypto-asset services must ensure an effective and efficient system of internal control which includes the continuous and effective identification, assessment and management of ML/TF risks and the sustainable and continuous enforcement of international sanctions. The internal control systems of financial market participants must include ML/TF procedures and processes and risk management tools that would enable to identify and effectively manage the ML/TF risks that may arise. Under Article 29(1)(4) of the AML/CTF Law, financial institutions and other obliged entities must also establish adequate internal policies and internal control procedures relating to the implementation of international financial sanctions and restrictive measures. International sanctions are a particularly important instrument of international organisations, the European Union and individual countries that has been used in recent years on a particularly broad scale to influence the behaviour of states, regimes and individuals responsible for instigating conflicts, to maintain peace and stability in the world, to protect the principles of international law, and to fight against infringement of human rights. It should be noted that such aims of international sanctions can only be achieved through the proper implementation of international sanctions by individuals, including financial institutions. In summary, it should be noted that the establishment of adequate internal control systems and the implementation of measures for risk management is a crucial step to ensure that the policies on ML/TF and international sanctions applied by institutions are effective and efficient at all stages of activities of financial market participants.

It should be further noted that an effective and efficient system of internal control for ML/TF must include, inter alia, a clear distribution of functions and responsibilities of the management bodies of financial market participants, an organisational structure where the rights, obligations and responsibilities of staff in ML/TF risk management are clearly defined. Members of the management body of a financial market participant must be familiar with and have knowledge about ML/TF risks, ensure the proper identification and assessment thereof, determination of the level of risk tolerance and implementation and control of risk management measures. Financial market participants shall encourage employees to respect stringent ethical standards and identify possible areas of conflict of interest and means to manage it.

By emphasising the importance of implementation of ML/TF measures, Lietuvos bankas points out that to effectively manage the ML/TF risk, financial market participants providing crypto-asset services are required to carry out an assessment for ML/TF risk in respect of their all activities, which should be reviewed and updated regularly, but at least once a year and/or in the event of any material changes. Furthermore, to ensure the efficiency of the internal control system, financial market participants providing crypto-asset services are required to carry out an assessment of the elements of internal control system for the prevention of ML/TF periodically, but at least once every two years, and an assessment of the adequacy, efficiency and effectiveness of the internal control system for implementation of international sanctions with the same periodicity.

Given that Lietuvos bankas finds numerous material deficiencies in ML/TF during inspections of financial market participants, it is crucial for financial market participants providing crypto-asset services to ensure that the employees whose job duties are related to the implementation of ML/TF measures possess the appropriate qualifications and the necessary knowledge in ML/TF for the fulfilment of their job functions/duties, and to ensure the updating of staff knowledge and competences, as well as the provision of refresher courses.

<sup>20</sup> [Republic of Lithuania Law on the Prevention of Money Laundering and Terrorist Financing.](#)

<sup>21</sup> [On the Approval of Money Laundering and/or Terrorist Financing Prevention Guidelines for Financial Market Participants.](#)

<sup>22</sup> [On the Approval of the Guidelines for Financial Market Participants on the Implementation of International Sanctions.](#)

Trainings on ML/CF are organised by both Lietuvos bankas and Center of Excellence in Anti-Money Laundering,<sup>23</sup> and relevant information on the trainings is published on the website of Lietuvos bankas.<sup>24</sup> Lietuvos bankas also regularly organises meetings of compliance professionals, serving as a platform to present information on sector-relevant ML/TF risks, legislative developments, issues of international sanctions and other important issues. Lietuvos bankas also regularly updates the Frequently Asked Questions section of its website for financial market participants<sup>25</sup> and the section of recommendations to institutions.<sup>26</sup> Lietuvos bankas has prepared and made publicly available an Overview of Business-Wide Assessments of Money Laundering and Terrorist Financing Risks Performed by Financial Market Participants,<sup>27</sup> Overview of the Ongoing Monitoring of Customers' Business Relationships and Transactions,<sup>28</sup> Review of the Implementation of International Sanctions in Financial Institutions and recommendations<sup>29</sup> and Fraud Prevention Guidelines.<sup>30</sup>

In addition, Lietuvos bankas would like to draw the attention of crypto-asset service providers to the relevant documents and information published by the EBA. On 16 January 2024, the EBA published the updated Guidelines on ML/TF risk factors<sup>31</sup> which will be applicable as of 30 December 2024. The EBA extended the Guidelines on ML/TF risk factors to crypto-asset service providers. The updated Guidelines on ML/TF risk factors highlight ML/TF risk factors and mitigating measures that crypto-asset service providers need to consider ensuring adequate prevention of ML/TF, for example, by fulfilling the requirements of customer due diligence, monitoring of customer relationships and transactions, and of individual ML/TF risk assessment. Acting in accordance with these Guidelines on ML/TF risk factors, crypto-asset service providers can better understand their customer base and identify which part of their business or operations is most vulnerable to ML/TF risks, and make appropriate decisions to manage the risks through respective ML/TF risk mitigation means. Accordingly, it is particularly important for crypto-asset service providers to ensure compliance with these Guidelines as well.

Lietuvos bankas recommends, once again, that financial market participants (and their responsible persons) providing or intending to provide crypto-asset services take note of the requirements of the legislation referred to above and take all necessary measures to ensure that, throughout the period of their activities, they act in a manner that is in line with the licensing requirements imposed on them, with the obligations undertaken at the time of licensing, including those regarding the number of employees, and comply with the requirements of any other legislation regulating their activities.

Director

Vaidas Cibas

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<sup>23</sup> [Trainings organised by the Center of Excellence in Anti-Money Laundering.](#)

<sup>24</sup> [Center of Excellence in Anti-Money Laundering.](#)

<sup>25</sup> [Lietuvos bankas. FAQ - Prevention of money laundering and terrorist financing.](#)

<sup>26</sup> [Lietuvos bankas. Recommendations.](#)

<sup>27</sup> [Lietuvos bankas. Overview of Business-Wide Assessments of Money Laundering and Terrorist Financing Risks Performed by Financial Market Participants.](#)

<sup>28</sup> [Lietuvos bankas. Overview of the Ongoing Monitoring of Customers' Business Relationships and Transactions.](#)

<sup>29</sup> [Lietuvos bankas. Review of the Implementation of International Sanctions in Financial Institutions.](#)

<sup>30</sup> [Lietuvos bankas. Fraud Prevention Guidelines.](#)

<sup>31</sup> [EBA's Guidelines on money laundering \(ML\) and terrorist financing \(TF\) risk factors to crypto-asset service providers \(CASPs\).](#)