

# **Policy on the use of Distributed Ledger Technology by Authorised Persons**

Malta Gaming Authority

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## Definitions

<b>“distributed ledger technology”</b>	Shall have the same meaning assigned to it in the MDIA Act;
<b>“DLT asset”</b>	Shall have the same meaning assigned to it in the VFA Act;
<b>“innovative technology arrangements”</b>	Shall have the same meaning assigned to it in the ITAS Act;
<b>ITAS Act</b>	Innovative Technology Arrangements and Services Act (Cap. 592 of the Laws of Malta);
<b>MDIA Act</b>	Malta Digital Innovation Authority Act (Cap. 591 of the Laws of Malta);
<b>MDIA</b>	Malta Digital Innovation Authority, established by the Malta Digital Innovations Act (Cap. 591 of the Laws of Malta);
<b>MFSA</b>	Malta Financial Services Authority, established by the Malta Financial Services Authority Act (Cap. 330 of the Laws of Malta);
<b>MGA</b>	Malta Gaming Authority, established by the Gaming Act (Cap. 583 of the Laws of Malta);
<b>“smart contract”</b>	shall have the same meaning assigned to it in the MDIA Act;
<b>“VFA Act”</b>	Virtual Financial Assets Act (Cap. 590 of the Laws of Malta);
<b>“virtual financial asset”</b>	Shall have the same meaning assigned to it in the VFA Act;
<b>“virtual token”</b>	Shall have the same meaning assigned to it in the VFA Act;
<b>“wallet”</b>	A digital wallet which may be used to store, send and receive VFAs. A combination of private and public keys is used to transfer VFAs from one wallet to the other.

## Acronyms

<b>AML</b>	Anti-Money Laundering
<b>CDD</b>	Customer Due Diligence
<b>CFT</b>	Counter-Funding Terrorism
<b>DLT</b>	Distributed Ledger Technology
<b>EU</b>	European Union
<b>EEA</b>	European Economic Association
<b>ITA</b>	Innovative Technology Arrangements
<b>LRMS</b>	Licensee Relationship Management System
<b>VFA</b>	Virtual Financial Asset

## 1 Context

### 1.1 Introduction

This policy paper (hereinafter 'Policy') presents the MGA's position with regard to the acceptance of VFAs, virtual tokens and the use of ITAs, including DLT platforms and smart contracts, by authorised persons.

Any authorised person that wishes to make use of DLT in accordance with the terms of this policy shall be required to obtain the MGA's prior approval through an application process as outlined in section 6 of this policy.

## 2 Acceptance of DLT assets as a means of payment

### 2.1 Categorisation

#### 2.1.1 Classification of DLT Assets

As part of an application to obtain the MGA's approval to use a DLT asset within the context of a gaming operation, the MGA shall be provided with a list of the DLT assets and their classification in terms of the VFA Act or any other law and/or binding instrument that may be applicable in Malta from time to time.

If the authorised person wishes to add and/or change the DLT assets accepted throughout the course of the operation, the authorised person shall obtain the Authority's approval prior to doing so.

#### 2.1.2 Legal Opinion

The MGA reserves the right to request a legal opinion attesting to the nature and classification of the DLT asset/s referred to in section 2.1.1. In such cases, the legal opinion shall be signed by an advocate warranted to practice law in the EU/EEA and shall confirm the classification of the DLT asset/s in terms of the VFA Act or any other law and/or binding instrument that may be applicable in Malta from time to time.

#### 2.1.3 VFAs

If the DLT asset is classified as a VFA, the authorised person shall be responsible for ensuring adherence to the relevant requirements stemming from any applicable legislation and/or regulatory instrument. DLT assets that fall under the classification of financial instruments as defined in the Investment

Services Act (Cap. 370 of the Laws of Malta), or as electronic money as defined in the Financial Institutions Act (Cap. 376 of the Laws of Malta), may only be accepted as a means of payment if specifically approved on a case-by-case basis by the MGA.

The acceptance of VFAs which have inbuilt anonymisation functions and/or which otherwise enable the obfuscation of the address of the sender or the receiver, and/or of the amount being transferred are, by nature, incompatible with the requirements of this policy and shall be prohibited.

#### 2.1.4 Virtual Tokens

Virtual tokens are, by nature, confined within a closed-loop ecosystem pertaining to the relevant authorised person, since exchangeability outside such ecosystem confers on a DLT asset the nature of a VFA, a financial instrument or electronic money, as the case may be.

Virtual tokens may be acquired directly from the relevant authorised person on its platform. In such case, the authorised person may allow its registered players to convert fiat currency or VFA into virtual tokens for such players to make use of on the authorised person's platform. This can take place provided that any withdrawal request subsequently made by such registered players is, in turn, effected in the same currency (fiat or VFA) that was used for the acquisition of the virtual tokens. In such cases, the applicable exchange rate shall be made clear to players prior to any exchange of virtual tokens on the authorised person's platform.

## 2.2 Requirement for an approval for the acceptance of DLT Assets

### 2.2.1 VFAs

An approval from the MGA for an operator to accept VFAs shall be required in instances where:

1. a deposit is initiated by the player in VFA and received by the operator in VFA;
2. a deposit is initiated by the player in VFA and received by the operator in fiat;
3. a deposit is initiated by the player in fiat and received by the operator in VFA.

### 2.2.2 Virtual Tokens

With respect to the use of DLT assets that are classified as virtual tokens by means of this policy, the MGA shall assess whether to accept or reject the use of such tokens on a case-by-case basis, and after carrying out an evaluation of the following characteristics:

1. Technology;
2. Engagement of third-party service providers (where applicable);
3. Company structure;
4. Market applications;
5. Player protection considerations<sup>1</sup>; and,
6. Security.

## 2.3 Wallets

### 2.3.1 Wallets storing VFAs

The characteristics of wallets storing VFAs for gaming will resemble any other VFA wallet. There are various wallet types that differ according to the technology used and/or in the manner in which VFAs are stored, and/or in who has access to and control over the wallet. A wallet has the following limited set of basic operations and properties:

1. A wallet has an address;
2. VFAs can be deposited into the wallet; and,
3. VFAs can be withdrawn from the wallet as long as there is sufficient balance to allow it.

Any authorised person that wishes to obtain an approval in terms of this policy shall be required to submit policies and procedures relating to wallet management which shall, at a minimum, address the following:

- (i) The wallet structure/s, reflecting the relevant payment flows;
- (ii) Permissions relating to wallets holding player funds, outlining the persons and/or entities that may have access to them, and where applicable, other permissions relating to such wallets;

For the sake of clarity, if a custodial service provider is engaged by the authorised person to hold player funds, the authorised person shall be required to, at a minimum, indicate whether the provider in general, and not specific employees, have such access and/or permissions.

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<sup>1</sup> Player protection considerations in the context of virtual tokens may include, *inter alia*, the potential dissociative effect which the use of such tokens may have on players.



- (iii) If the authorised person holds player funds through its own wallet structure/s, the security measures being used to prevent misappropriation and/or unauthorised access to wallets holding player funds.

### 2.3.2 Changes to Wallet Address

Authorised persons are obliged to respect withdrawal requests made by players in accordance with the terms of the Player Protection Directive (Directive 2 of 2018). There may be instances where wallet addresses are changed due to security-related reasons, or a player loses access to their wallet and requests a withdrawal to a different wallet address. Whilst the refusal to adhere to a withdrawal request is generally prohibited, authorised persons may, in exceptional circumstances, refuse to effect withdrawals solely in light of AML/CFT-related concerns. In such cases, if the withdrawal request is refused and the refusal is duly justified in terms of AML-CFT obligations, the authorised person shall be precluded from deriving any economic benefit as a result of such refusal and shall, unless mandated otherwise by AML/CFT legislation, and in the absence of any other direction being made by the MGA, appropriate such funds for safer gambling purposes. Prior to appropriating funds in terms of this section, the authorised person shall obtain the MGA's prior written approval. For the sake of clarity, any withdrawal refusal shall trigger a reporting requirement in terms of section 2.8 of this policy.

In any case, authorised persons shall forewarn players of the potential implications of:

- (i) A player requesting withdrawal to a different wallet address; or,
- (ii) A player losing access to their wallet.

Players shall be so forewarned, at a minimum, by means of the relevant terms and conditions and such scenarios shall also be addressed in the policies and procedures provided to the MGA in terms of section 2.3.1 of this policy.

### 2.3.3 Record-keeping Obligations

The authorised person shall keep a record of the transactions pertaining to each respective player, along with the wallet address/es being used in connection with any transaction pertaining to the player, which shall be made available to the Authority upon request.

## 2.4 Third-party service providers

Authorised persons may wish to make use of third-party service providers that, *inter alia*, provide custodial wallet services and, or accept VFAs from players, thereby allowing the authorised person to deal solely in fiat currency. Authorised persons shall only engage service providers who are duly authorised in terms of the VFA Act or any other law and/or binding instrument that may be applicable in Malta from time to time.

### 2.4.1 Legal Opinion

The MGA reserves the right to request a legal opinion attesting to the legality of the services mentioned in section 2.4. In such cases, the legal opinion shall be signed by an advocate warranted to practice law in the EU/EEA and shall confirm that the services referred to above are being carried out in accordance with the VFA Act or any other law and/or binding instrument that may be applicable in Malta from time to time.

## 2.5 Limits

The value of VFAs in relation to fiat currencies may go through periods of high volatility. In order to ensure that this volatility does not undermine the safeguards that financial limits and related player protection tools aim to uphold, such limits are to be considered in fiat terms, even where deposits are made in VFA.

In accordance with the Player Protection Directive (Directive 2 of 2018), authorised persons are required to maintain player-specified limits for fiat currencies. Transactions made in VFA shall, by default, be considered to contribute equally to such limits which shall be determined through a cumulative (summation) approach. Authorised Persons may, however, also offer the possibility for players to set separate currency specific limits for fiat currency and VFAs.

Due to the aforementioned high volatility, players may deposit a sum which is less than the limit/s set by the player and/or the authorised person, as the case may be; however, after a period of time – perhaps without even playing a game – they might end up with a total that is significantly higher or lower than such limit/s. When a player attempts to deposit funds into an account, the value in fiat terms will be considered at a rate at which time the funds deposited reached the authorised person as illustrated in the scenario presented in Figure 1 below.

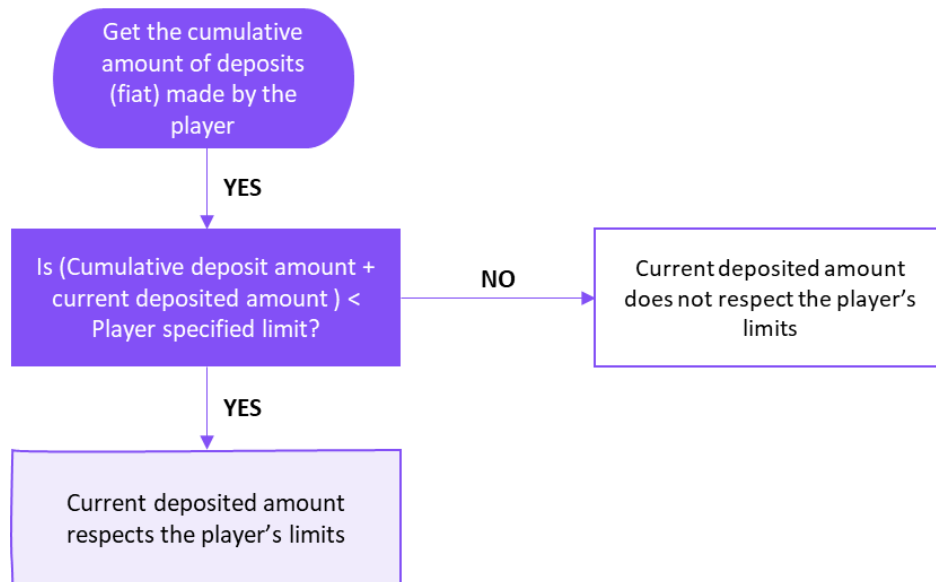


Figure 1: Deposit Limits

## 2.6 Transfer of VFAs

### 2.6.1 Accepted procedures for the transfer of VFAs

The accepted procedures for the transfer of VFA from a player's external wallet to their gaming account and vice versa shall be provided to the MGA in accordance with section 2.3.1 of this policy; Figure 2 below is an example of one such procedure.

For the sake of clarity, the MGA may consider other procedures for the transfer of funds and shall approve or reject such procedures on a case-by-case basis, taking a risk-based approach.

In the scenario presented in Figure 2, the authorised person has a maximum of one (1) wallet for every supported VFA and every player is assigned ownership of a balance virtually segregated within one of the authorised person's holding wallets. The players issue deposits to the address of that wallet from their own wallet. If the deposited amount respects any applicable deposit limit, the funds are kept in the authorised person's wallet, and are made available to the player's account for gaming use. If the deposit limit is exceeded, the authorised person shall reject the incoming transaction. If the rejection of the transaction is not possible, the excess amount (the amount exceeding the applicable deposit limit)

cannot be made available for gaming use and shall be reverted to the player within a reasonable timeframe.

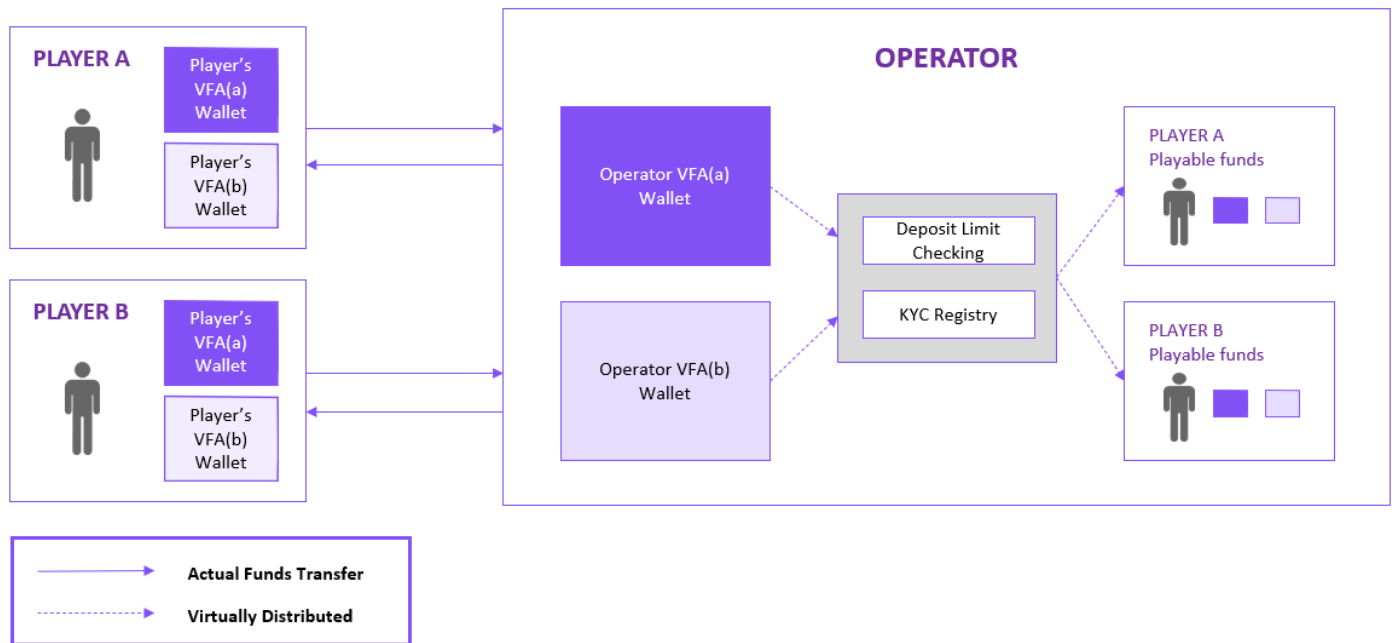


Figure 2: Players using an allocated portion from the operator's wallet (different wallet colours indicate different VFAs)

In the scenario presented in Figure 3 below, the authorised person assigns an individual gaming wallet for each currency to every player's account. Such an intermediate setup is also used to accept deposits from the player's personal external source of funds. If deposited amounts respect the applicable deposit limit, the funds shall be accepted in the player's respective gaming wallet and are made available for gaming use. If the deposit limit is exceeded, the authorised person shall reject the incoming transaction. If the rejection of the transaction is not possible, the excess amount (the amount exceeding the applicable deposit limit) cannot be made available for gaming use and shall be reverted to the player within a reasonable timeframe.

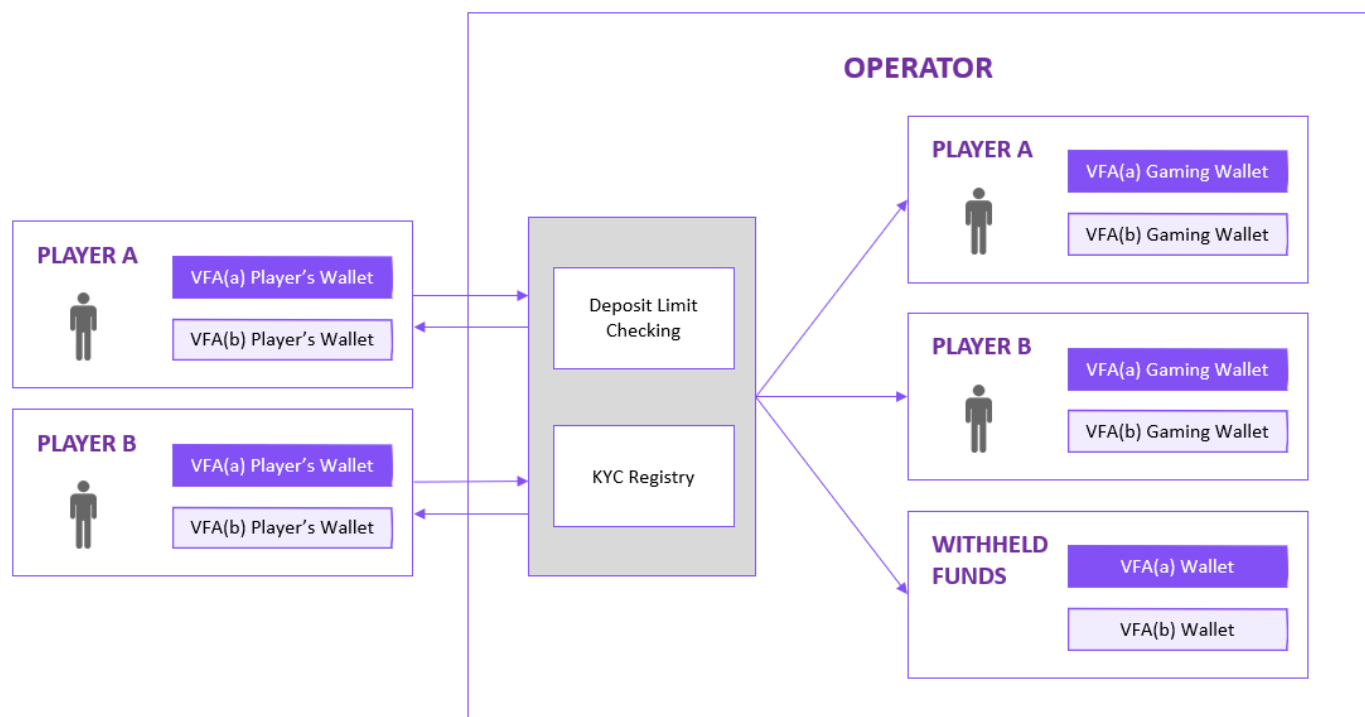


Figure 3: Players get assigned a wallet by the operator for every supported currency  
(Different wallet and wallet structure colours indicate different VFAs)

## 2.6.2 Operator's Platform not to be used as an exchange

In the case of authorised persons accepting payments in fiat currency as well as VFAs, the fiat currencies and each individual VFA shall be treated separately and acquisitions, exchanges and, or sale of VFAs on the authorised person's platform shall not be permitted except when this is implemented solely for virtual tokens in a closed loop scenario.

Any transaction fees which may be incurred by the player, whether on deposit or withdrawal, shall be clearly identified and the player shall be forewarned accordingly in the relevant terms and conditions. An accurate depiction of any applicable transaction fees shall also be provided on the relevant deposit or withdrawal page prior to the transaction being effected.

## 2.7 Rate of Exchange

A major issue concerning the use of VFAs within a regulated industry such as gaming is that due to their volatility, there exist significant differences between exchange rates of the same VFA amongst different

exchanges. For the purpose of this policy, the exchange rate shall be that of the VFA exchange designated by the authorised person when seeking an approval in terms of this policy.

Further to this, there may be instances where third-party service providers engaged in terms of section 2.4 of this policy make use of an average of multiple exchange rates, pertaining to different VFA exchanges. This shall be acceptable, provided that any reporting requirements referred to in this section are duly adhered to.

For the purpose of reporting player liabilities, fees and tax, the authorised person shall confirm the exchange rate being used in the monthly player funds report. In doing so, authorised persons shall take the exchange rate of the various VFAs against the Euro as at midnight (Central European Time) on the last day of the reporting month.

The exchange/s on the basis of which the rate is calculated, may be changed from reporting month to reporting month, but may not be changed throughout the duration of the same reporting month. Any such changes must be notified to the MGA by way of an application to this effect, prior to the commencement of the affected reporting month. The MGA reserves the right to preclude authorised persons from referring to a specific exchange index, should it be more conducive to the achievement of regulatory objectives.

With regard to virtual tokens, the exchange rate shall be the rate at which the authorised person exchanges the tokens on his platform.

## 2.8 Additional reports

In addition to the player funds reports, with respect to VFAs, authorised persons shall also present a report of any failed deposits and/or withdrawals, so as to be able to explain, *inter alia*, any money being held in their wallets without any ownership. This report shall be submitted to the MGA along with the monthly report pertaining to player funds.

# 3 Innovative Technology Arrangements

## 3.1 General requirements

In order for an authorised person to leverage an ITA, including DLT platforms and smart contracts, within its key technical equipment, it requires the specific approval of the MGA in terms of this policy. ITAs

shall be audited by auditors registered with the MDIA in terms of the ITAS Act, in accordance with the directions given by the MGA, on a case-by-case basis. In such cases, such innovative technology arrangements shall only be accepted by the MGA if it is satisfied that the applicable regulatory obligations shall be adhered to by the authorised person.

## **3.2 Hosting of essential components on DLT**

### **3.2.1 Games and game components**

Authorised persons may implement games and/or game components that are hosted fully or partially on a DLT environment, subject always to the audit mentioned in section 3.1.

### **3.2.2 Other essential components**

Other essential components may be hosted on DLT if the Authority is satisfied that all requirements stemming from all applicable regulatory instruments and other applicable laws will be adhered to.

## **3.3 Smart Contracts**

Smart contracts may, and in some cases must, be deployed for various reasons in an operation in which the technical setup is partly or wholly based on DLT. The MGA's main regulatory focus is their use for the purpose of executing game transactions, in particular where player funds are held in escrow by a smart contract, which based on the outcome of the game, then executes the pay-out to the player's wallet, or transfers the player's wager to the authorised person's wallet, as the case may be.

In such cases, this shall only be allowed when the following minimum criteria are satisfied:

1. The necessary safeguards are in place to ensure that any obligations stemming from the gaming framework in general, including but not limited to, self-exclusion or player-specified limits, if any, are in all cases adhered to;
2. The smart contract shall be deployed in such a manner that it can be revoked or neutered in any other manner that the DLT permits, should a flaw in the outcomes generated by its code be discovered. Should this be required, any funds controlled by the smart contract would need to be returned to the relevant players.

If the relevant DLT does not permit the aforementioned, the authorised person shall be solely responsible for compensating the player for any loss incurred as a result of the flaw in the smart contract.

3. The smart contract code is reviewed by an auditor registered with MDIA and any faults identified are addressed as required.

These same requirements apply where other smart contracts are used within the gaming DLT platform in order to execute the various transactions which are required in the ecosystem, provided that where the smart contract is not directly or indirectly relevant to the adherence to regulatory requirements, the MGA may dispense with the requirement for an audit of the code of that smart contract. This shall always be at the MGA's discretion, adopting a risk-based approach underpinned by considerations of proportionality.

Authorised persons are reminded that the use of automated processes does not exempt authorised persons from adhering to their obligations as subject persons. By way of example, smart contracts need to be deployed in such a manner which enables the authorised person to adhere to any CDD obligations stemming from AML/CFT legislation. Moreover, authorised persons are expected to take the appropriate measures to mitigate the risks stemming from such operations by carrying out the necessary risk assessments and reflecting this accordingly in their policies and procedures.

## 4 Anti-Money Laundering and Counter Terrorist Financing

As part of the process to obtain an approval in terms of this policy, authorised persons shall ensure that their policies and procedures are developed and applied in such a manner as to duly cater for the risks which may arise, or be exacerbated by, *inter alia*, the use of VFAs or virtual tokens as a funding method, the use of custodial wallets by players, and/or the deployment of smart contracts to automate payments, where applicable. Updated policies and procedures which address the integration of DLT (in accordance with the terms of this policy) within the authorised person's operations shall be notified to the MGA as part of the application process for obtaining the relevant approval from the MGA (Refer to Section 6).



The use of analytical tools and, or transaction monitoring systems, with pre-designed and, or evolving parameters to detect and identify suspicious transactions and, or behaviour, whether by the authorised person itself or by any third-party service provider engaged by the same, is encouraged and shall be considered to be good practice.

## 5 Location of Technical Infrastructure

When a public permissionless DLT platform is used to host components, the authorised person does not have control over who becomes a node in that ledger, nor where the relative equipment is located. Hence, where the MGA deems a proposed technical infrastructure based partly on a public DLT platform to be acceptable, the requirements relating to the location of the technical infrastructure shall not necessarily prejudice such approval. In any such case, the Authority needs to be provided with sufficient comfort that the requirements relating to the replication of essential regulatory data are adhered to.

## 6 Applying for an approval

Any authorised person that wishes to obtain approval in terms of this Policy shall apply in the following manner, through the LRMS:

- (i) Prospective authorised persons need to apply for an approval to accept DLT assets and, or use innovative technology arrangements as part of a *'New Licence Application'*;
- (ii) Existing authorised persons can apply for approvals for the acceptance of DLT assets through the application type *'Operational – Payment Methods'*; and additional currencies can be added under the already approved payment method with the application type *'Updated Documentation'*.
- (iii) Existing authorised persons can apply for approval for the use of innovative technology arrangements through the application type *'Technical – Change to Key Essential Components'* or *'Technical – New Games'*.

## 7 Additional Safeguards

The MGA reserves the right, on the basis of a risk-based approach, to impose on the authorised person any additional requirements, including but not limited to, financial safeguards, in order to ensure that its

regulatory objectives are not prejudiced as a result of authorised persons making use of DLT in accordance with the terms of this policy.

## 8 Transitory

Approvals previously granted in terms of the MGA's *Guidance on the use of Innovative Technology Arrangements and the acceptance of Virtual Financial Assets and Virtual Tokens through the implementation of a Sandbox Environment* shall remain effective following the introduction of this Policy, subject to the relevant Authorised Person ensuring that all additional requirements introduced herein are fully implemented within three (3) months of publication.

