



Licensing Opportunities for CASPs in Latvijas Banka

30th September, 2024



Agenda

11:00 - 11:10 | Introduction

11:10 - 11:40 | Licensing Process for CASPs in Latvijas Banka

11:40 - 12:00 | AML Requirements and Checklist

12:00 - 12:30 | Supervision of CASPs

12:30 - 12:40 | Digital Operational Resilience Act (DORA)

12:40 - 12:50 | Regulatory Sandbox

12:50 - 13:00 | Closing Remarks

Crypto-Asset Markets

Regulation and Authorisation Guide

Guna Janelšņa

Senior Legal Adviser

30 September 2024



What is MiCA?

The Markets in Crypto-Assets Regulation (MiCA):

introduces uniform market rules

covers previously unregulated crypto-assets

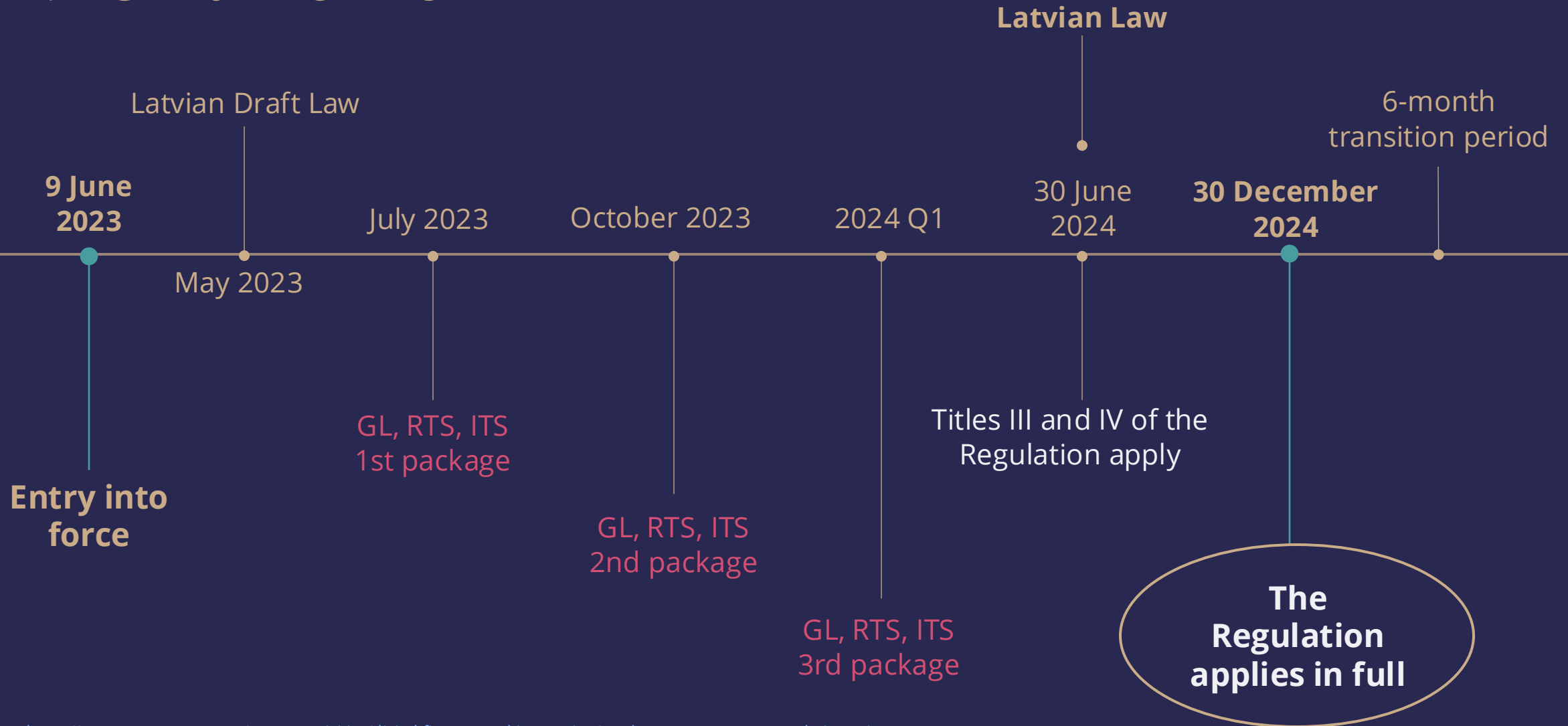
establishes provisions for:

- asset issuance
- trading (custody)
- transparency of transactions
- licencing and supervision



Photo: Artificial intelligence

MiCA timeline



Subjects Covered by MiCA

Entities supervised by the EBA



Crypto-asset service providers

Persons that provide crypto-asset services



Issuers

Entities that have control over the creation of crypto-assets (entities that create crypto-assets)

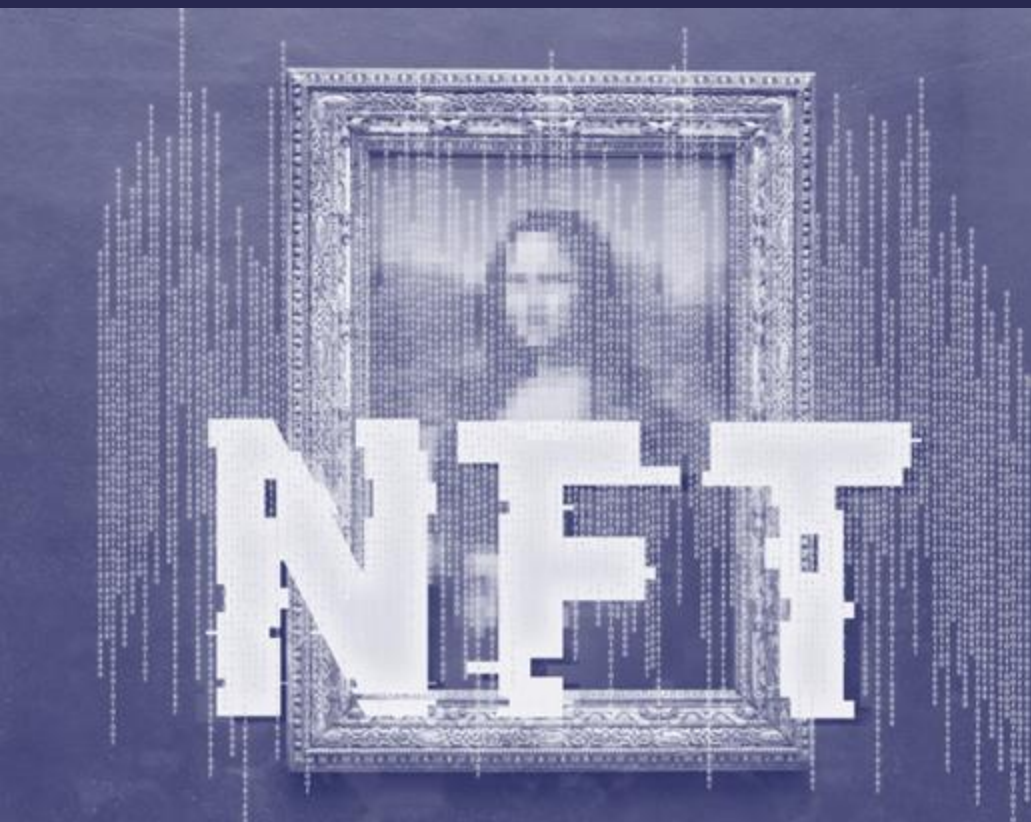


Existing market participants

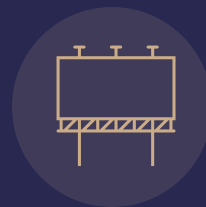


Exceptions

Assets Covered by MiCA



E-money tokens (EMTs)
+ significant EMTs



Asset-referenced tokens (ARTs)
+ significant ARTs



Rest of crypto-assets
+ including "virtual currencies"



Exceptions
Non-fungible tokens (NFTs); securities
tokens; others

Exceptions

The requirements do not apply to **any** of the following offers to the public:

- an offer of a crypto-asset to fewer than 150 natural or legal persons;
- an offer of a crypto-asset whose total consideration does not exceed EUR 1 000 000 or EUR 5 000 000 for ARTs (over a period of 12 months);
- an offer of a crypto-asset, including an ART, addressed solely to qualified investors.



Exceptions

The requirements do not apply to crypto-asset offers to the public where **any** of the following applies:

- the crypto-asset is offered for free;
- the crypto-asset is automatically created as a reward for the maintenance of the distributed ledger or validation;
- the offer concerns a utility token providing access to goods or services;
- the holder of the crypto-asset has the right to use it only in exchange for goods and services in a limited network of merchants (value of EUR 1 000 000)



Crypto-Asset Services

Types of crypto-asset services

Providing custody and administration on behalf of customers

Operation of a trading platform

Exchange of crypto-assets for funds

Exchange of crypto-assets for other crypto-assets

Execution of orders on behalf of customers



Providing advice on crypto-assets

Providing portfolio management

Placing of crypto-assets

Reception and transmission of orders on behalf of customers

Providing transfers on behalf of customers

Financial market participants

CI credit institution

ALL crypto-asset (CA) services; **issuance** of ARTs and EMTs

IF investment firm

ALL CA services, **except** CA transfer services

EMI e-money institution

ONLY: CA custody and administration and CA transfers on behalf of customers for its issued e-money tokens; **issuance** of EMTs

AIFM alternative investment fund manager

ONLY: reception and transmission of CA orders on behalf of customers; providing advice on CAs; providing CA portfolio management

IPC investment management company

ONLY: providing advice on CAs; providing CA portfolio management

RMO regulated market operator

ONLY operating a CA trading platform

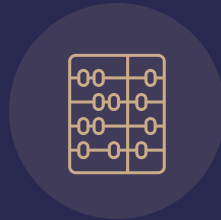
CSD central securities depository

ONLY CA custody and administration on behalf of customers

Other relevant issues



Fixed capital payment with CA



Taxes and other payments

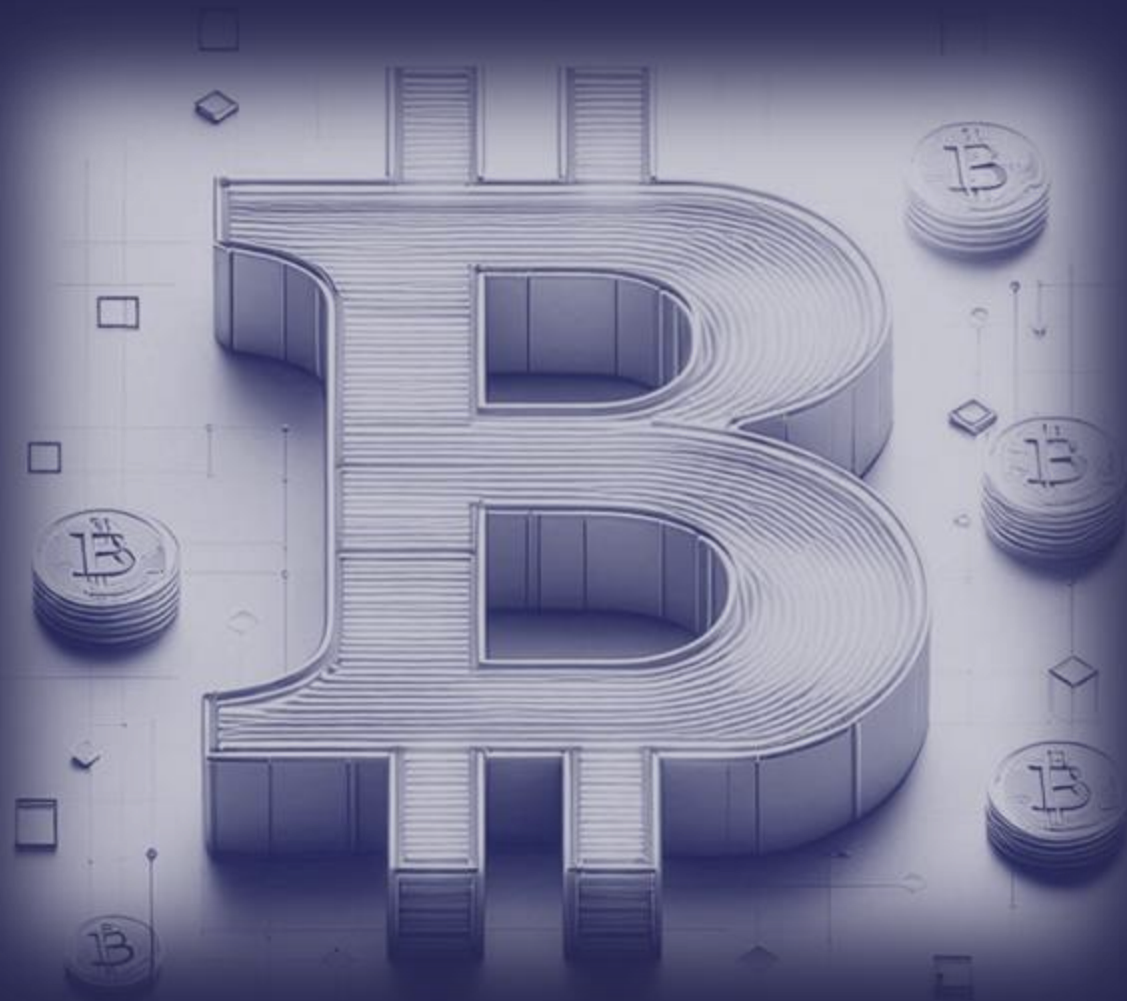


Tailored approach to licencing and supervision

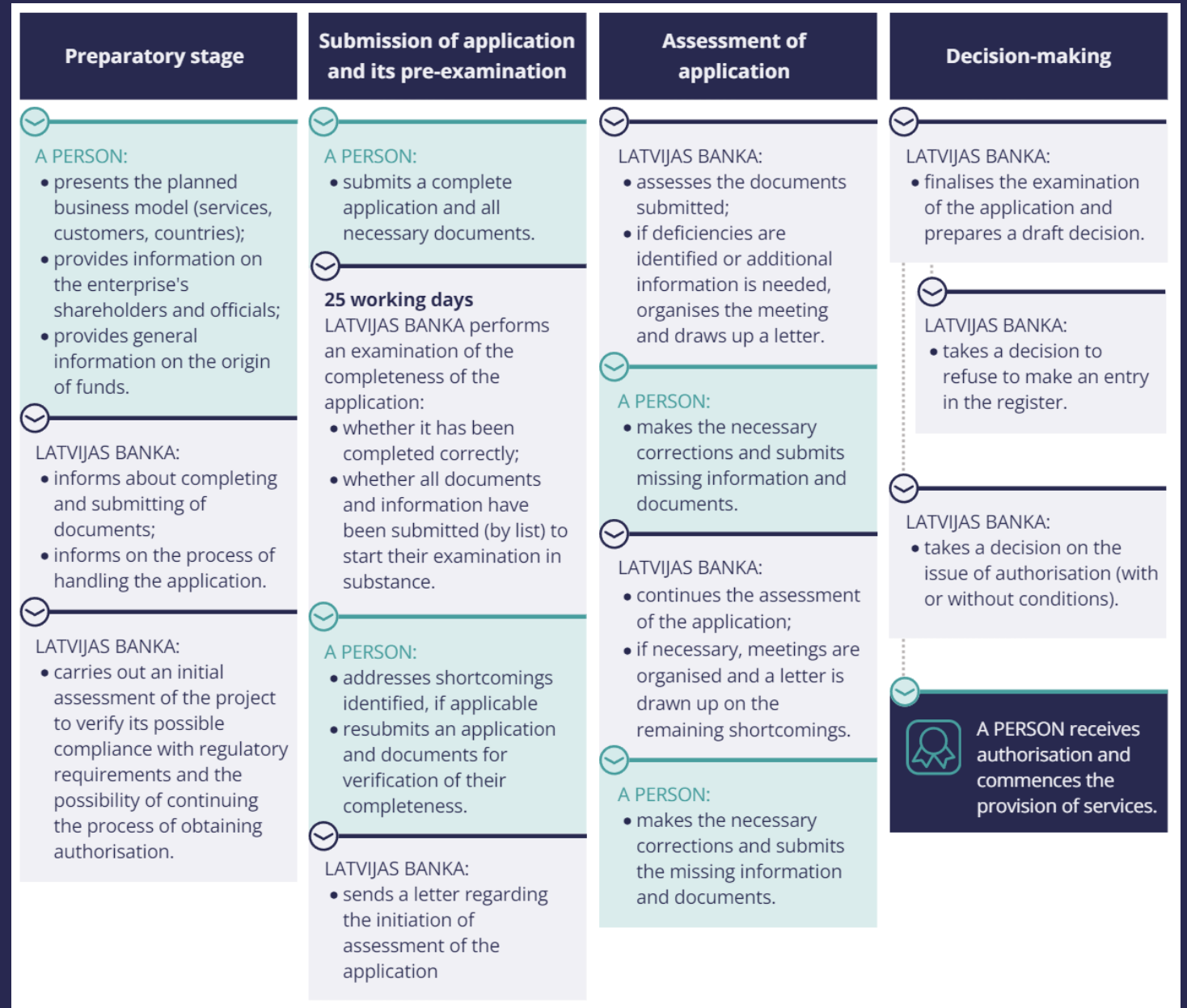


Reduced fees

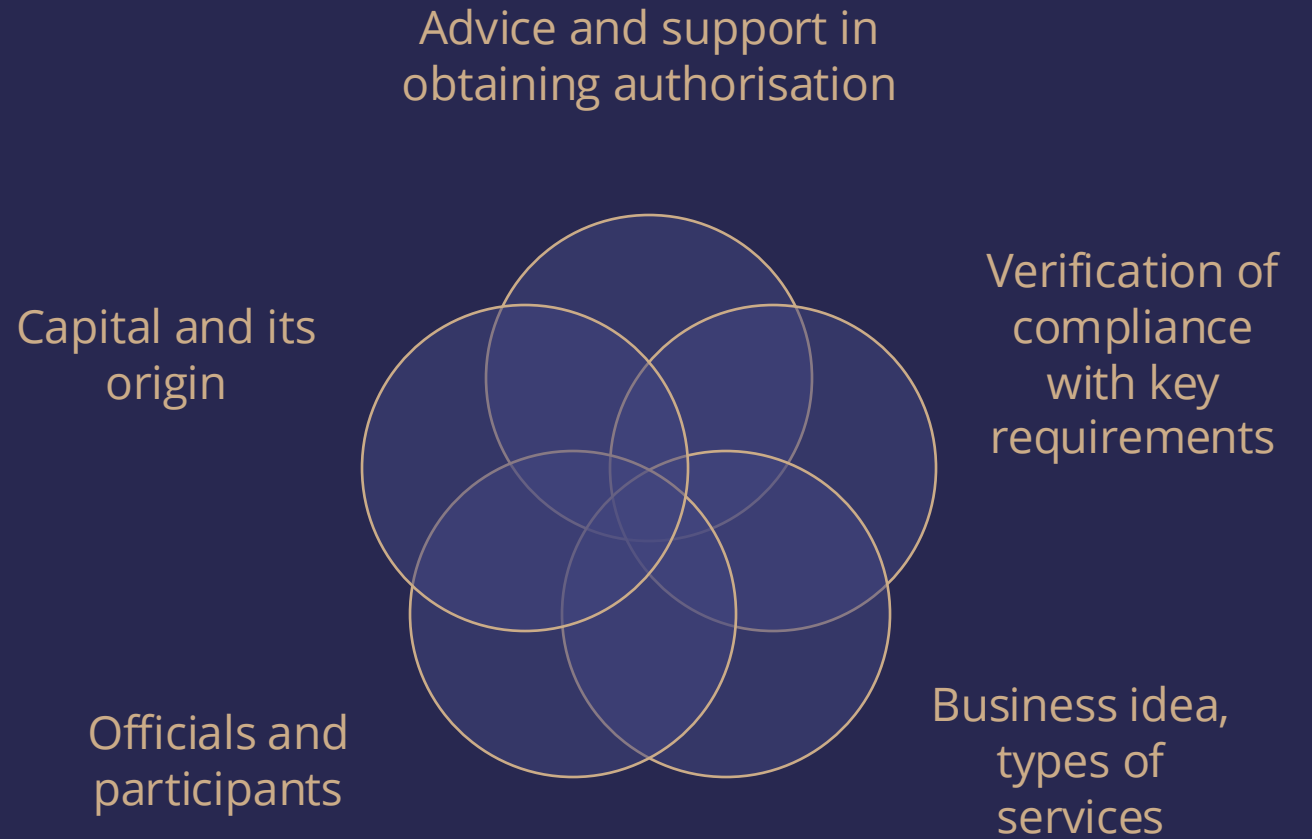
Obtaining Authorisation



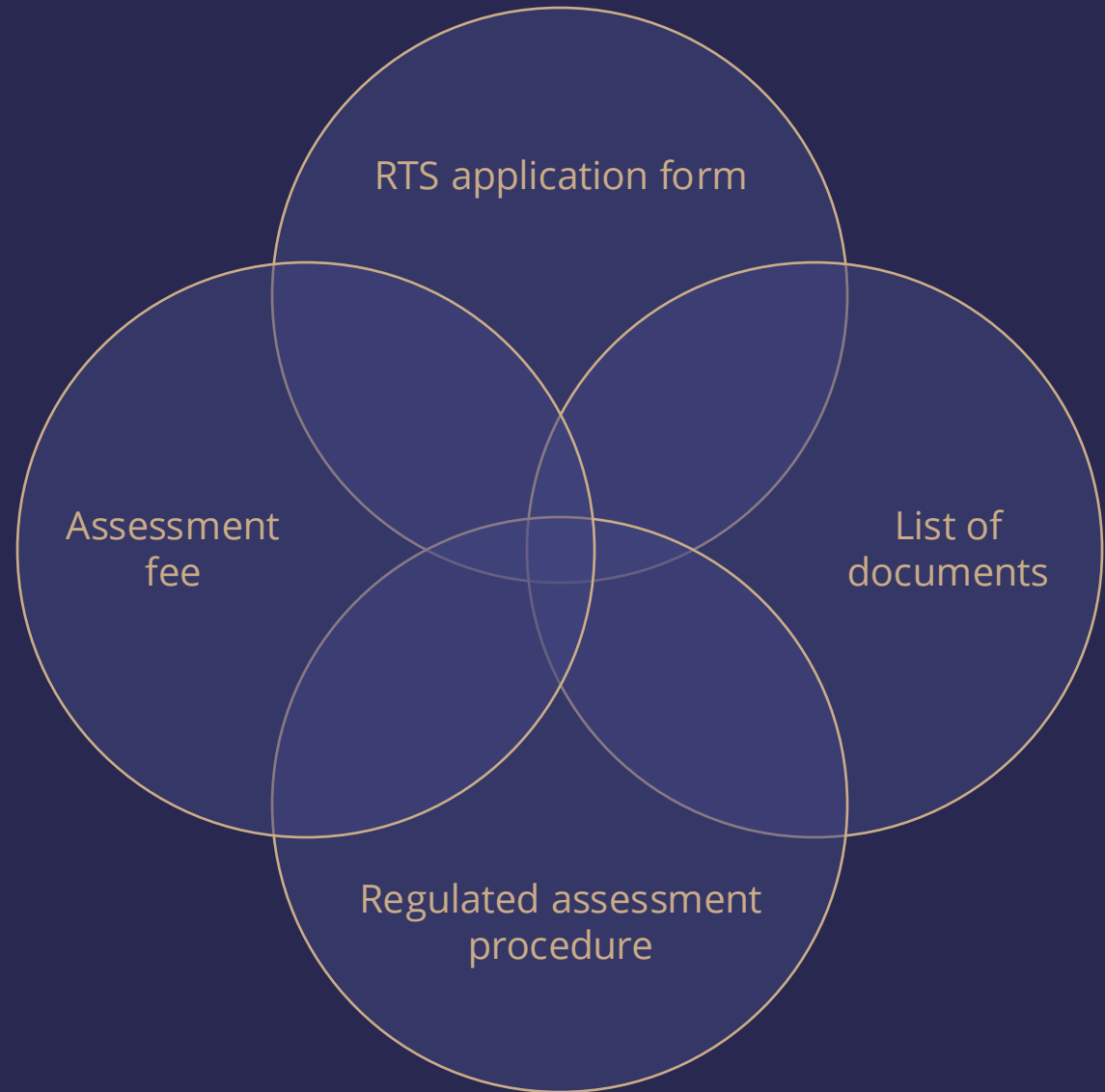
Process of obtaining authorisation



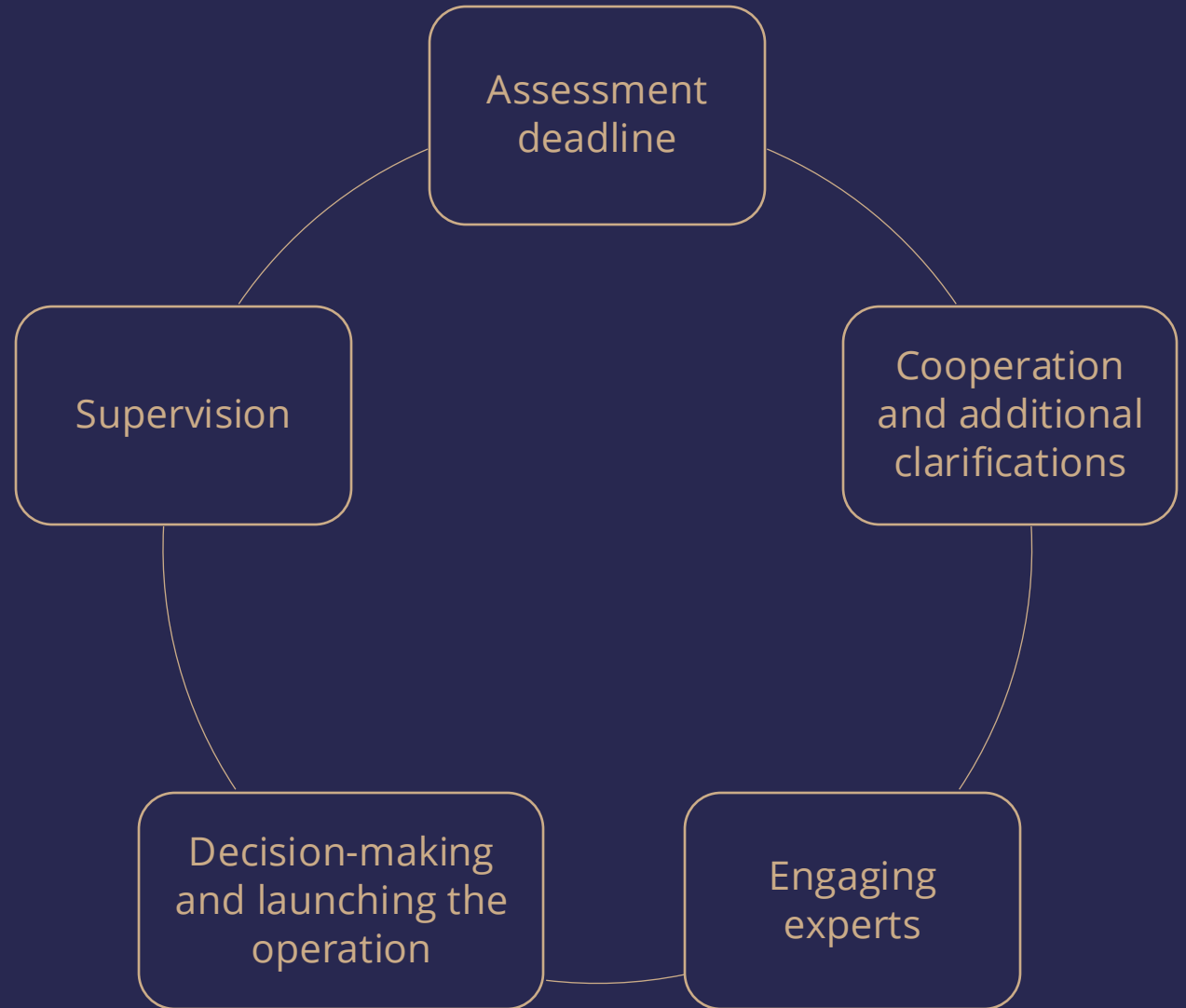
Preparatory stage



Submitting the application



Application assessment and decision-making



Next steps

Evaluating and purchasing analysis tools

Adapting the ICS system

Decision on the next course of action

Utilisation of the preparatory stage

Engaging the responsible persons and experts

Preparing the documents for submission





Thank you for your attention!

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[Crypto-assets | Latvijas Banka](#)



AML requirements and checklist

Maija Dārzniece

Supervisory Project Manager

September 30, 2024



AML requirements and checklist



**AML
regulatory
expectations**



**AML
regulatory
framework**



**AML check-
list**



Q&A

AML regulatory expectations



Clear, transparent business model, graphical representation



The basic payment with a credit institution or PI/EMI licensed in the EEA



Physical presence in Latvia



Transparent ownership structure with understandable and identifiable UBOs



The AML responsible person easily accessible to the Latvian supervisors and demonstrates understanding of the requirements of the Latvian AML framework



Transparent, clear origin of the share capital

AML regulatory expectations



Cooperation with the supervisor focused on transparency and compliance



Board members and AML officers must participate in licensing interviews



Employees involved in AML supervision with knowledge of blockchain and ML/TF/PF and sanction evasion risks related to crypto-assets



Submitted documents must be of quality to be applied in practice



Certain CAPS to have ready blockchain analytics tools to monitor transactions and customers prior starting operations



At the licensing stage, both information on the planned trade name and wallet addresses must be submitted



Quarterly reports to be provided

AML Regulatory framework



AML Law

- Financial institution
- Independent audit
- CDD for occasional crypto-asset transfers from EUR 1000



AML Regulations

- Regulations for financial institutions



AML Guidelines

- Requirements for financial institutions
- Crypto business specific requirements

! EU regulatory framework – AMLD, AMLR, MiCAR, Regulation on Transfers of Funds (Travel Rule), EBA Guidelines

AML check-list

8 elements of internal control system



Risk assessment



Risk management strategy and management culture



Governance, incl. cooperation with third parties



Customer due diligence process



Transaction monitoring process



Process for identifying and reporting suspicious transactions to the competent authorities



Provision of information technology (IT) systems for AML/CTPF and sanctions risk management



The procedure for ensuring an independent audit function, incl. procedure for evaluating the effectiveness of the ICS

Q&A



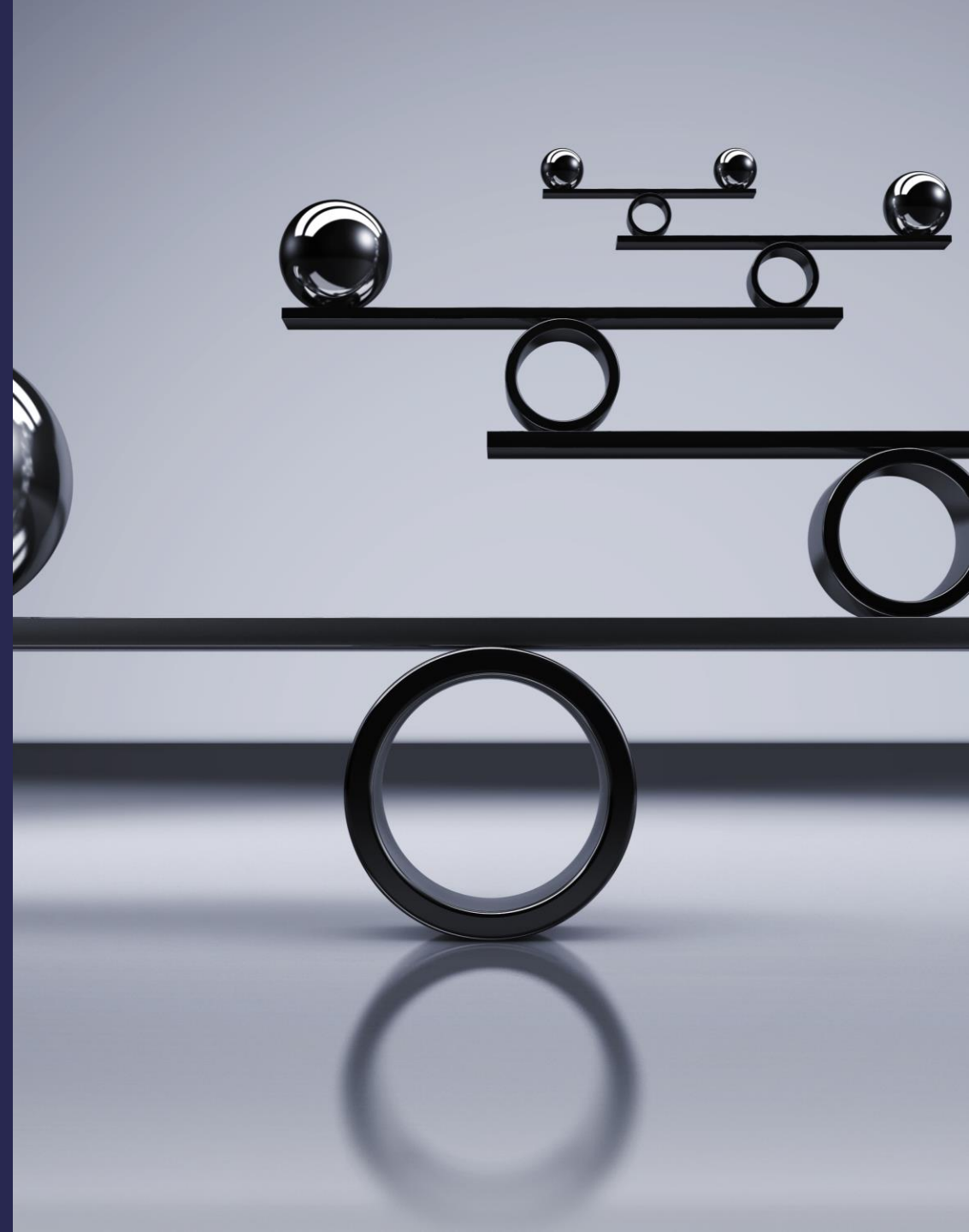
What are AML audit requirements?



Does off-chain data need to be submitted?



Eligibility of 100% non-EU residents as UBOs of a potential licensee. Can a non-EU national/Latvian legal & actual resident be accepted as a Director of the prospect licensee?





Thank you!



Supervision of CASPs

Elena Srebnija
Senior Supervision Expert
30th September, 2024



Regulatory expectations

- Fit & Proper
- Timely and Qualitative Reporting
- Local Presence
- Conflict of Interest Management
- Segregation of Customer Funds
- Clear Business Model
- Financial Projections
- IT Security and Cybersecurity Methodology
- Risk Management and Procedures
- Board-Level Understanding and Oversight
- Timely and Effective Communication with Regulator

Supervision process in Latvijas Banka

- Supervision Planning
- Dedicated and Certified Team
- Advanced Crypto Supervision Tools
- Dialogue-Centered Supervision
- Distinct Approach from Traditional Banking
- Risk-Based Approach



Latvijas Banka risk-based supervision approach

- Report analysis
- Compliance to financial requirements

- Business model
- Service structure
- Volumes

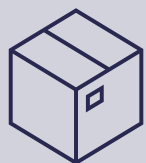
- Meeting with management and responsible employees

- Off-site supervision
- On-site supervision

Prudential requirements



Permanent minimum capital requirements
depending on the type of the crypto-asset services provided



One quarter of the fixed overheads
of the preceding year

Prudential safeguards



Own funds

or



Insurance policy

or



Combination

Own funds + Insurance policy

Regulatory and implementing technical standards



ESMA

<https://www.esma.europa.eu/esmas-activities/digital-finance-and-innovation/markets-crypto-assets-regulation-mica>



EBA

[https://www.eba.europa.eu/publications-and-media/publications?text=&document_type=All&media_topics=209 -](https://www.eba.europa.eu/publications-and-media/publications?text=&document_type=All&media_topics=209)

Obligations applicable to all CASPs



Act honestly, fairly and professionally, in the best interest of clients



Conflicts of interests



Governance arrangements for compliance, business continuity, information security and record keeping purposes



Outsourcing



Safekeeping of clients' crypto assets and funds



Orderly wind down

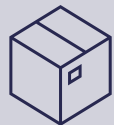


Complaint handling

Custody and administration



Custody policy to ensure safekeeping or control of the crypto assets



Segregation of client's holdings (including operationally) from their own



In case of use of third parties for custody and administration, use of MICA authorised CASPs exclusively and need to inform clients



Liability for loss of crypto assets or means of access as a result of incident attributable to CASP

Operation of a trading platform



No dealing on own account but matched principal trading allowed if client consent



Pre- and post-trade transparency to the public (2 years)



Transactional data available to NCA (5 years)



Transparent and fair fee structures, no incentives for disorderly trading or market abuse

Exchange of crypto assets



Non discriminatory commercial policy



Obligation to publish a firm price or a method for determining the price and applicable limit to the amount to be exchanged



Publication of transactions details, including volumes and prices

Execution of orders on behalf of clients



Best execution obligation



Demonstrate upon request that orders were executed in accordance with policy



Notify clients of material changes to execution arrangements and policy

Reception and transmission of orders



No remuneration, discount or non monetary benefit for routing clients' orders to a particular crypto trading platform or another CASP



No misuse of information relating to pending clients' orders and need to take all reasonable steps to prevent the misuse of such information by employees

Advice and portfolio management



Information on all costs and associated charges



Suitability assessment



If advice provided on an independent basis, no inducement rule (except for minor non-monetary benefits)



Warn clients about potential losses and absence of investor compensation and deposit guarantee schemes

Prevention and prohibition of market abuse involving crypto-assets

MiCA Title VI

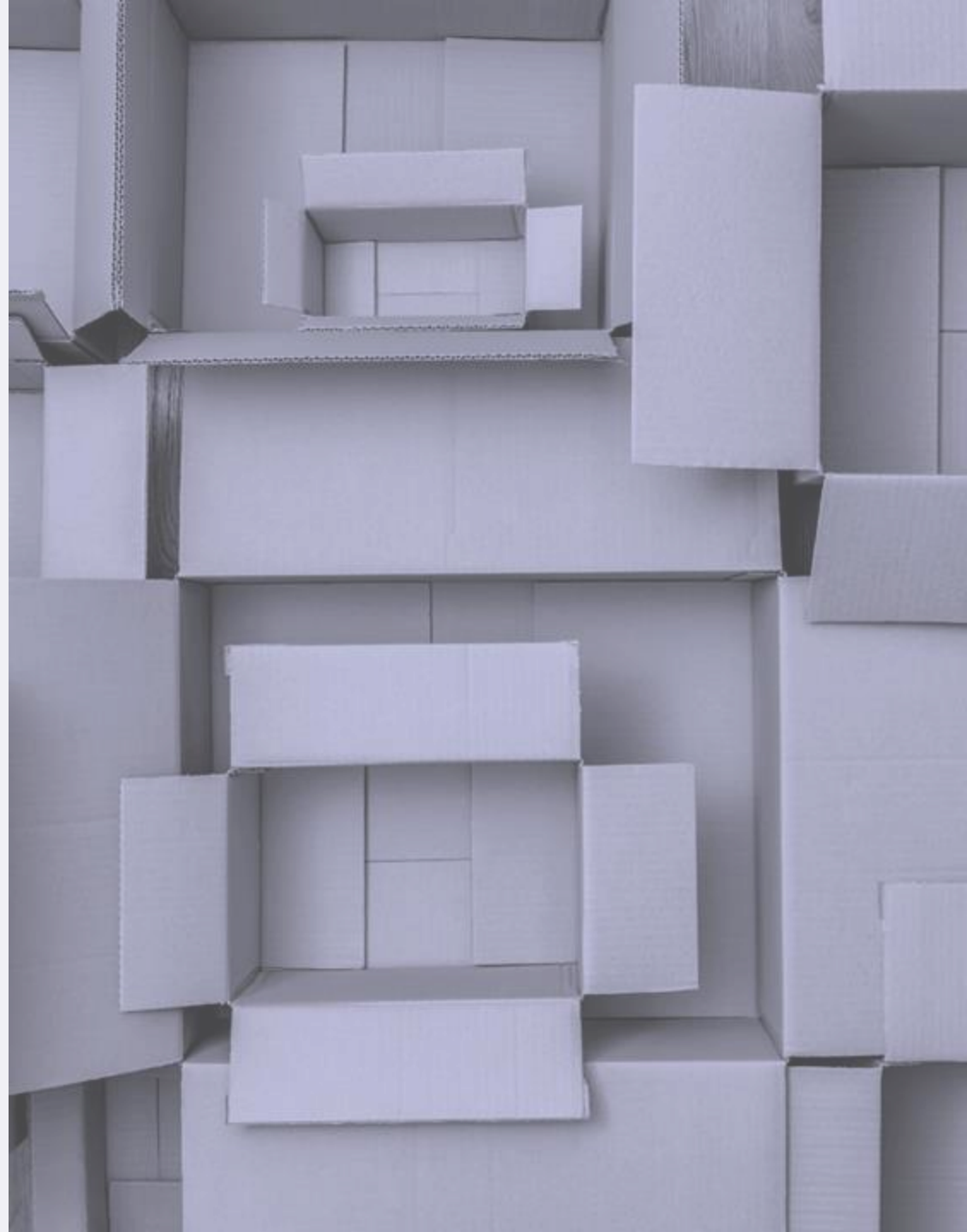


To what does Title VI apply?

To acts carried out by any person concerning crypto-assets that are admitted to trading or in respect of which a request for admission to trading has been made.

This includes:

- Operating of a trading platform
- Receiving and transmitting orders
- Executing orders
- Issuing and offering crypto assets

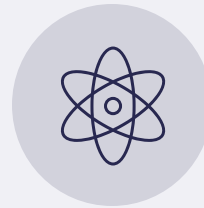


Inside Information

“Information of a **precise** nature, which **has not been made public**, relating directly or indirectly to **one or more issuers, offerors, or persons seeking admission to trading or to one or more crypto assets**, and which, if it were made public, would be likely to have a **significant effect on the prices** of those crypto assets or on the price of a related crypto asset”



Precise: referring to existing (or reasonably expected to exist) circumstances, specific enough to enable a conclusion on their possible effect on the price (Intermediate steps are included)



Non-public



Material: significant effect on prices



Relating to issuers, offerors, or persons seeking admission to trading



Public Disclosure

Issuers, offerors, and persons seeking admission to trading shall inform the public as soon as possible of inside information that directly concerns them, ensuring:

- Fast access, correct, and timely assessment of the information by the public
- Disclosure not combined with marketing
- Disclosure also on the website (for 5 years)

There is the possibility to **delay the disclosure** if:

- There is a legitimate interest
- The delay does not mislead the public
- Confidentiality is ensured

Information, along with a written explanation, must be provided to the NCA upon disclosure (or upon request).

Market abuse



Insider dealing



Market manipulation



**Unlawful disclosure of
inside information**

Insider Dealing

"The use of inside information from someone to acquire or dispose of, or trying to acquire or dispose of, for his own account or for the account of a third party, either directly or indirectly, crypto assets to which that information relates"



Prohibition to engage in insider dealing (including attempt)



Prohibition to recommend to engage or to induce in insider dealing



Prohibition to use the recommendation received

Unlawful Disclosure of Inside Information

“No person that possesses inside information shall unlawfully disclose such information to any other person, except where such disclosure is made in the normal exercise of an employment, a profession or duties”



Prohibition of unlawful disclosure of inside information

Market Manipulation

1) Manipulative transactions: trading, or placing orders to trade, that

- Gives, or is likely to give, false or misleading impression of the supply of, or demand for, or price of a crypto assets
- Secures or is likely to secure, the price of a crypto assets at an abnormal or artificial level

2) Employ a fictitious devices / form of deception to affect the price of a crypto-asset

3) Dissemination of false or misleading information



Prohibition of all the above



Prevention and detection of market abuse

“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”

Report STORs = Suspicious Transaction Order Report

- Orders, transactions, cancellation and modification thereof, other aspects of the DLT functioning that indicate that MA has been, is, or is likely to be committed to the NCA where it is registered / has its head office

[ESMA RTS on Arrangements, systems and procedure and templates](#) (in development)

ESG risk

(Environmental, Social, Governance)

Disclosures in the white papers

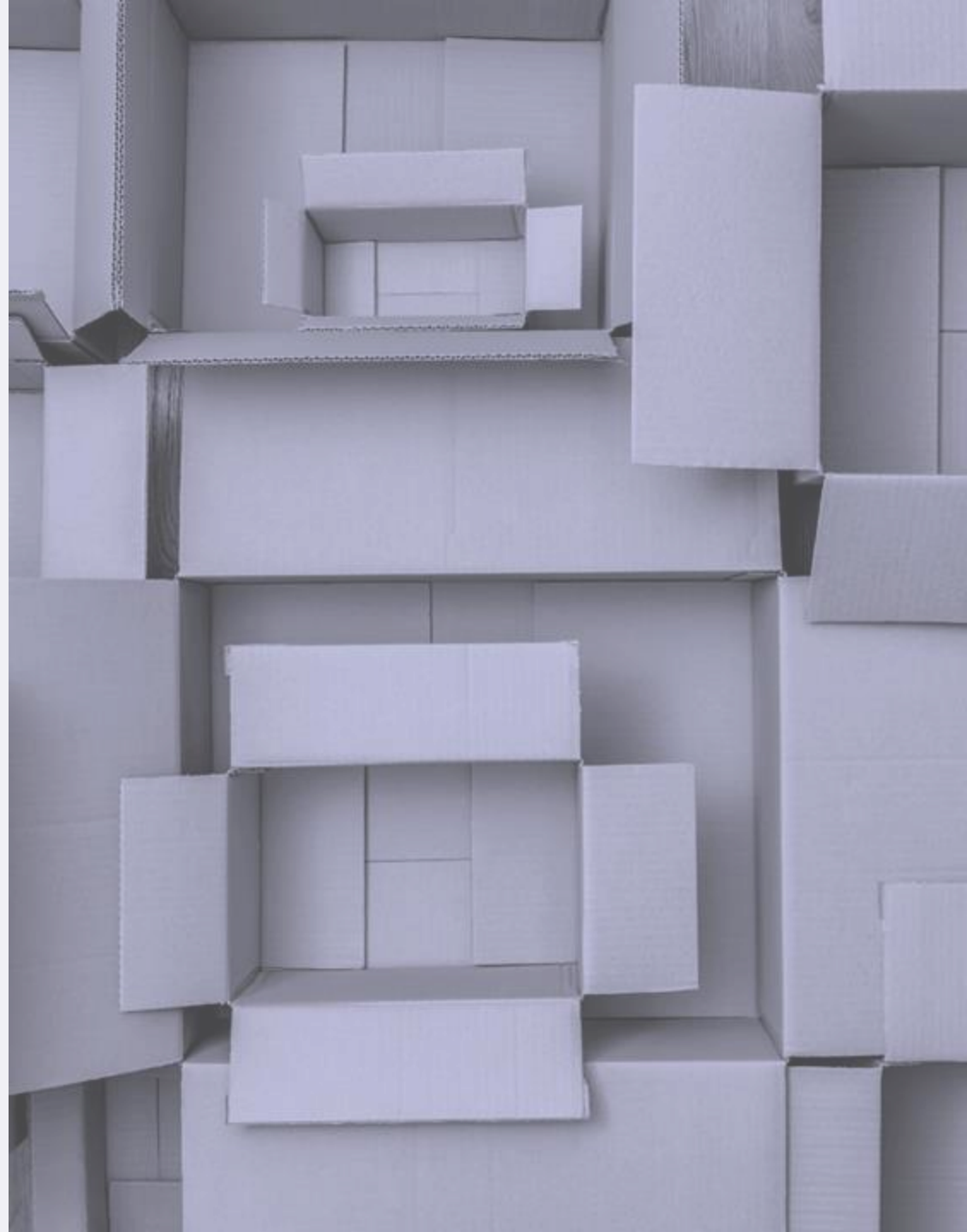
- Disclosure of Environmental Impact: information on the principal adverse environmental impacts, incl. climate-related effects of the consensus mechanism.

Disclosures on the websites

- Disclosure of Principal Environmental Impacts: the principal adverse impacts on the climate and other environmental impacts of the consensus mechanisms



ESMA RTS on [sustainability indicators in relation to climate and other environment-related adverse impacts](#)



Further reading and useful resources

- Licencing process guides
<https://www.bank.lv/en/operational-areas/supervision>
- Supervision process guides
<https://www.bank.lv/en/operational-areas/supervision>
- Crypto-asset classification guide & scheme
<https://www.bank.lv/en/operational-areas/licensing/crypto-asset/classification-of-crypto-assets>
- Contact us: **fintech@bank.lv**



Thank you for your attention!

Contact us: fintech@bank.lv



DORA, Regulatory Expectations Y2025

Valters Bajārs
Cybersecurity Expert

30.09.2024

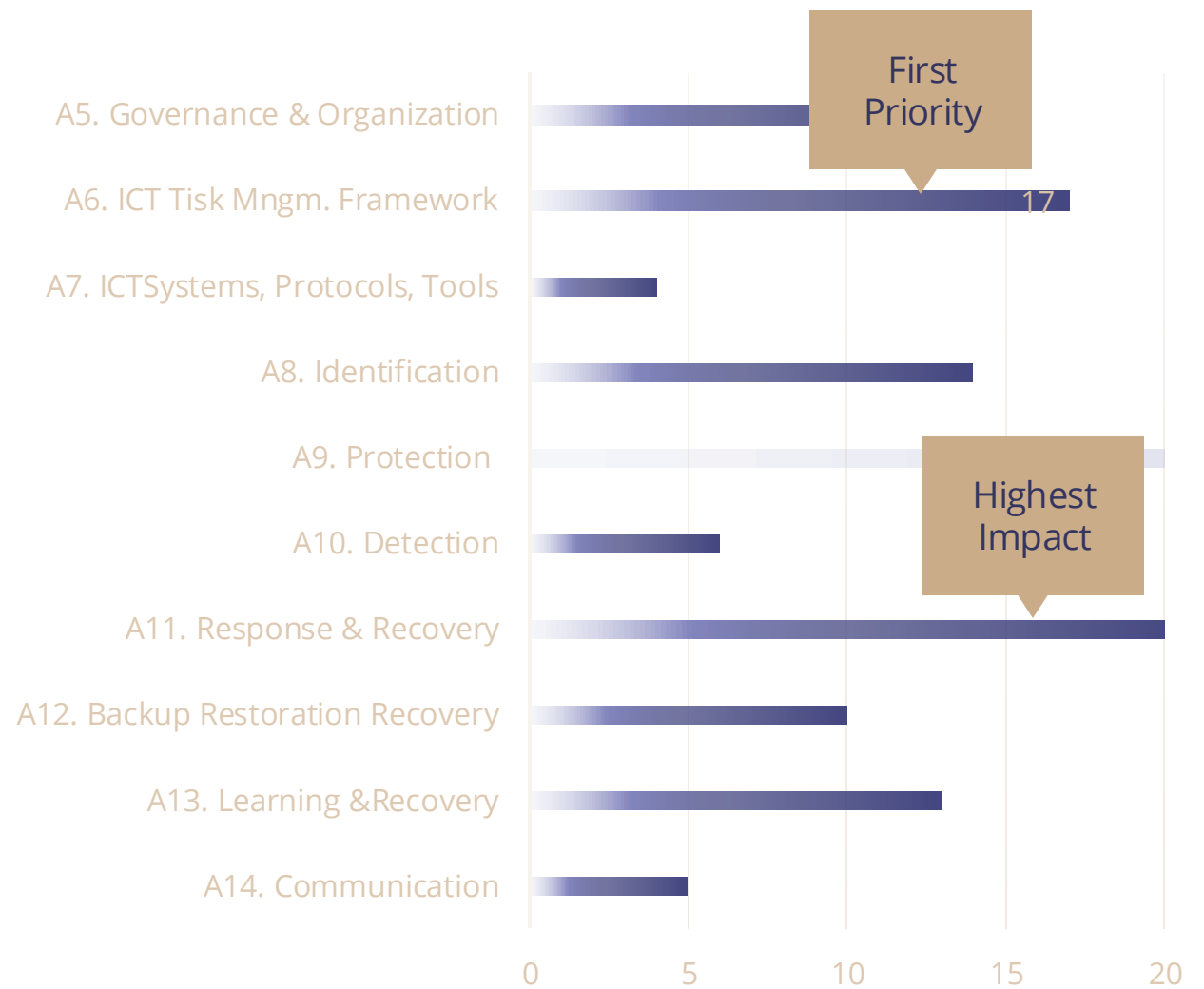


DORA Scope (EU) Reg. 2022/2554 Article 2.1(f)

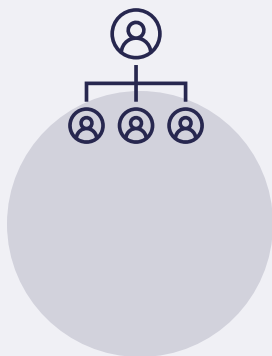
crypto-asset service providers as authorised under a Regulation of the European Parliament and of the Council on markets in crypto-assets, and amending Regulations (EU) No 1093/2010 and (EU) No 1095/2010 and Directives 2013/36/EU and (EU) 2019/1937 ('the Regulation on markets in crypto-assets') and issuers of asset-referenced tokens;



DORA Requirements per Article



DORA Regulatory Focus Areas



ICT Risk Management

The provisions of the ICT RM framework are the basis to implement the other requirements

Overall risk management system includes an ICT risk management framework.



ICT Incident Management

Established mechanisms to record and manage all ICT-related incidents

Appropriate procedures and processes to ensure a consistent and integrated identification, monitoring, handling and follow-up of ICT-related incidents



Operational Resilience Testing

Operational resilience testing programme, which will complement to ICT risk management framework

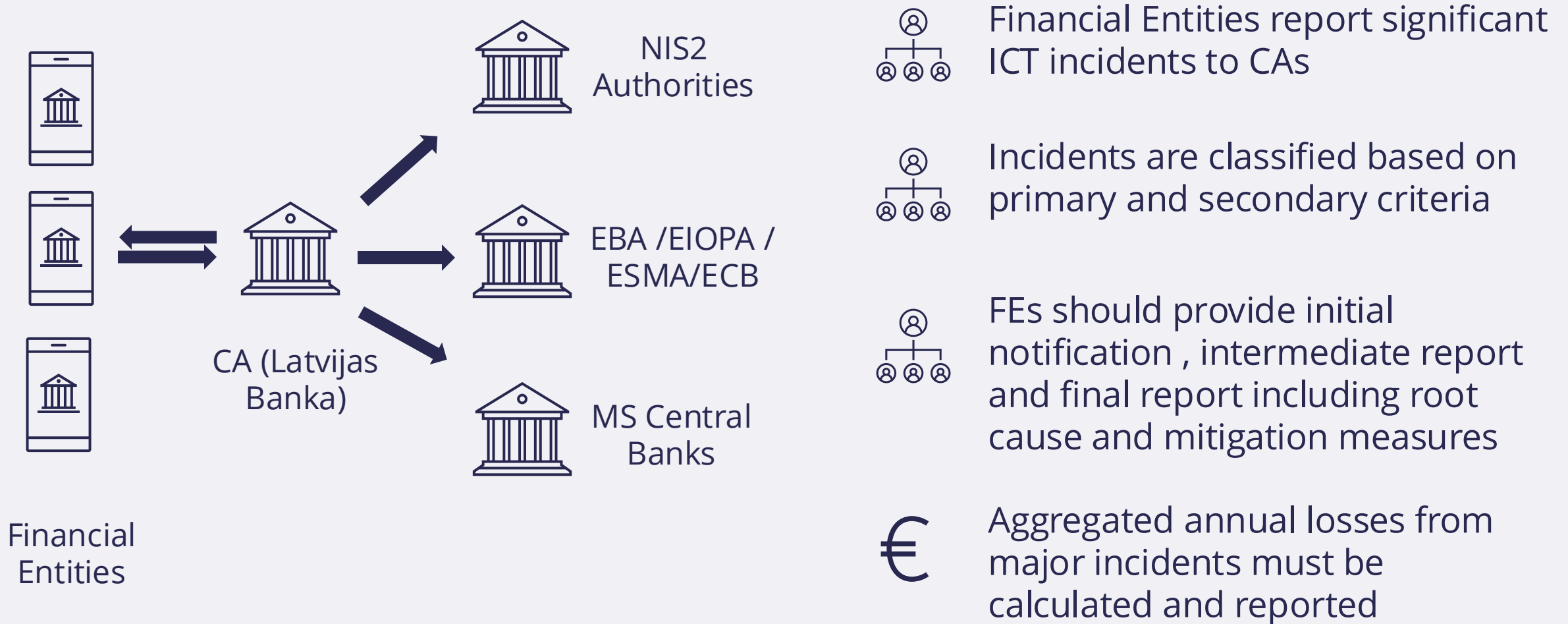


ICT Third Party Risk Management

The update of existing contractual arrangements supporting critical or important functions with the ICT TPPs

Third-party risk management policies and procedures are in line with DORA requirements

Major ICT Incident Reporting



Criteria for ICT incident classification



Number of clients affected



Data losses (CIA)



Financial counterparts and transactions affected



Critical services affected



Reputational impact



Geographical spread



Duration of the incident

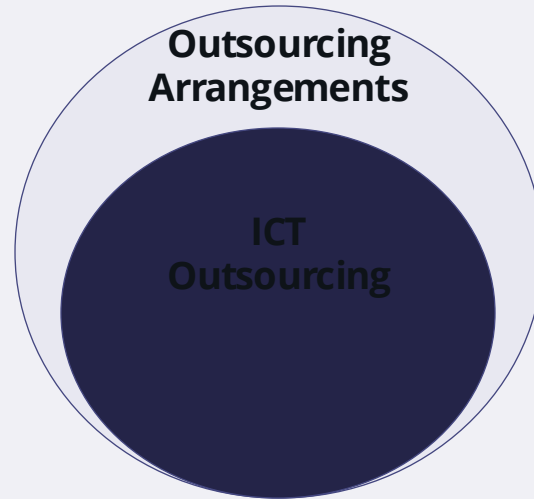


Economic impact

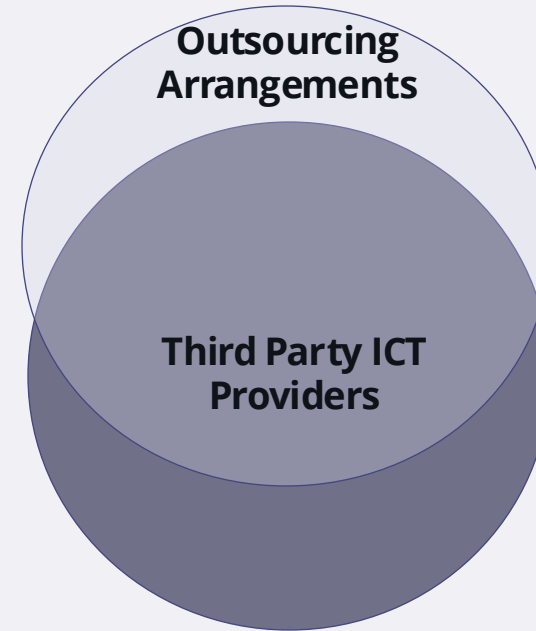
ICT Third Party Service Providers



DORA Concept



Present EBA GL concept



The Interplay

Roadmap to the 17.01.2025

All of the financial entities must comply to the DORA requirements starting from 17.01.2025.

Latvijas Banka will adopt a risk-based and proportionate approach. The supervisory expectations for the financial entities will vary depending on their size and overall risk profile, and the nature, scale and complexity of their services, activities and operations.



Understand your ICT context, perform gap analysis, follow RTS development



Adopt the Implementation Plan, ensure Management Body steering and appropriate budget



Engage with ICT 3PPS, update the contracts, prepare Rols for submission



Prepare and test ICT Incident reporting processes



Thank you for the attention!

DORA compliance related questions
dora@bank.lv

Latvijas Banka support instruments for FinTech industry

Eleonora Bušmane-Zvaigzne
Chief FinTech Supervisory Expert
Financial technology supervision
department

Latvijas Banka tools to support financial innovations



Innovation Hub



Regulatory Sandbox

Innovation HUB – single point of contact



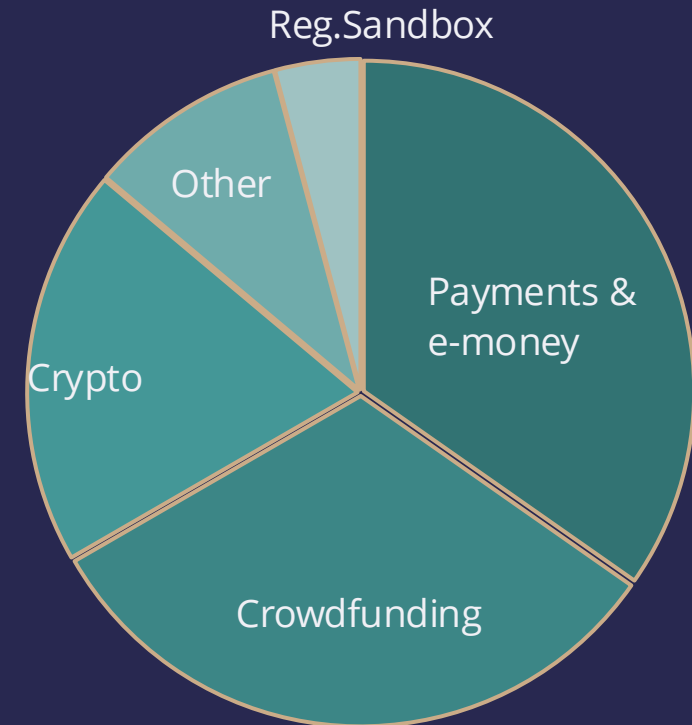
24/7
1-2 days
1-2 weeks



A tailor-made team customized to the specifics of the inquiry.



Expert guidance on regulatory compliance matters.





Welcome to Regulatory Sandbox!

If your product makes a significant **contribution to its users**, focuses primarily on the **Latvian financial market**, and has the potential to **expand across the EU**



The service will be more beneficial, cost-effective, and user-friendly for the consumer.



The service in the financial market could prompt a response from traditional markets, either by enhancing their services or by adopting new innovative business models.



Individual intermediary steps would be eliminated from the traditional supply chain.



Customers would gain access to a share of the financial market that has traditionally been unavailable to them.



and if you are...

existing market
participant



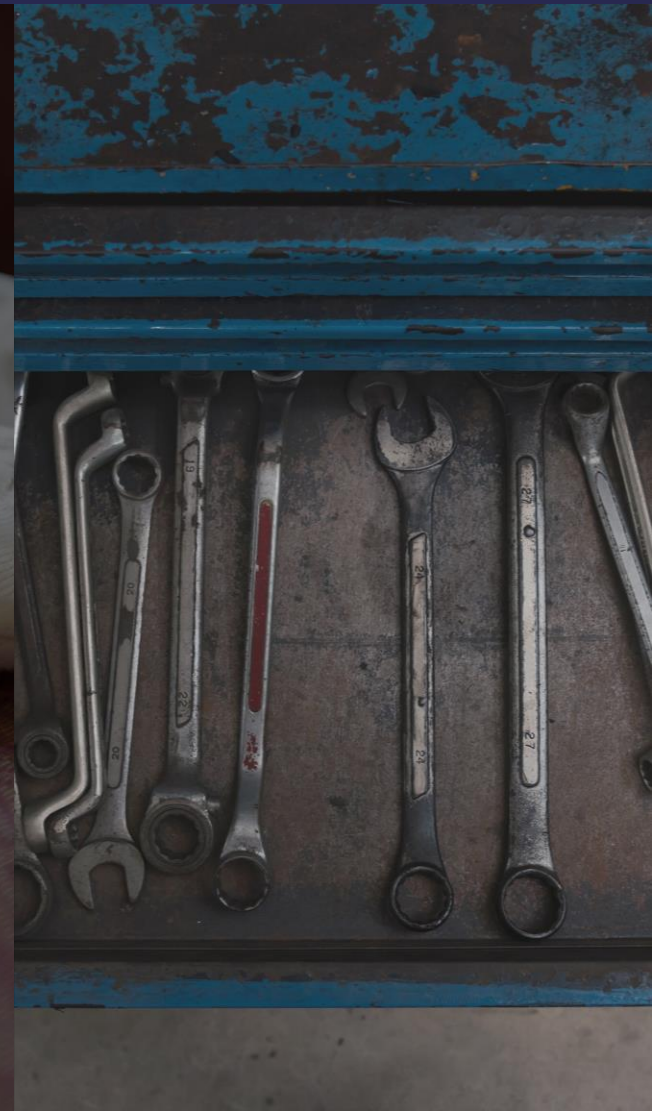
existing market
participant
along with its
third-party
provider



potential
market
participant



third-party
provider



Preparing for testing in Sandbox

● Product prototype

● Risk assessment

● Testing scope

● Testing plan

What not to expect from the Regulatory Sandbox?



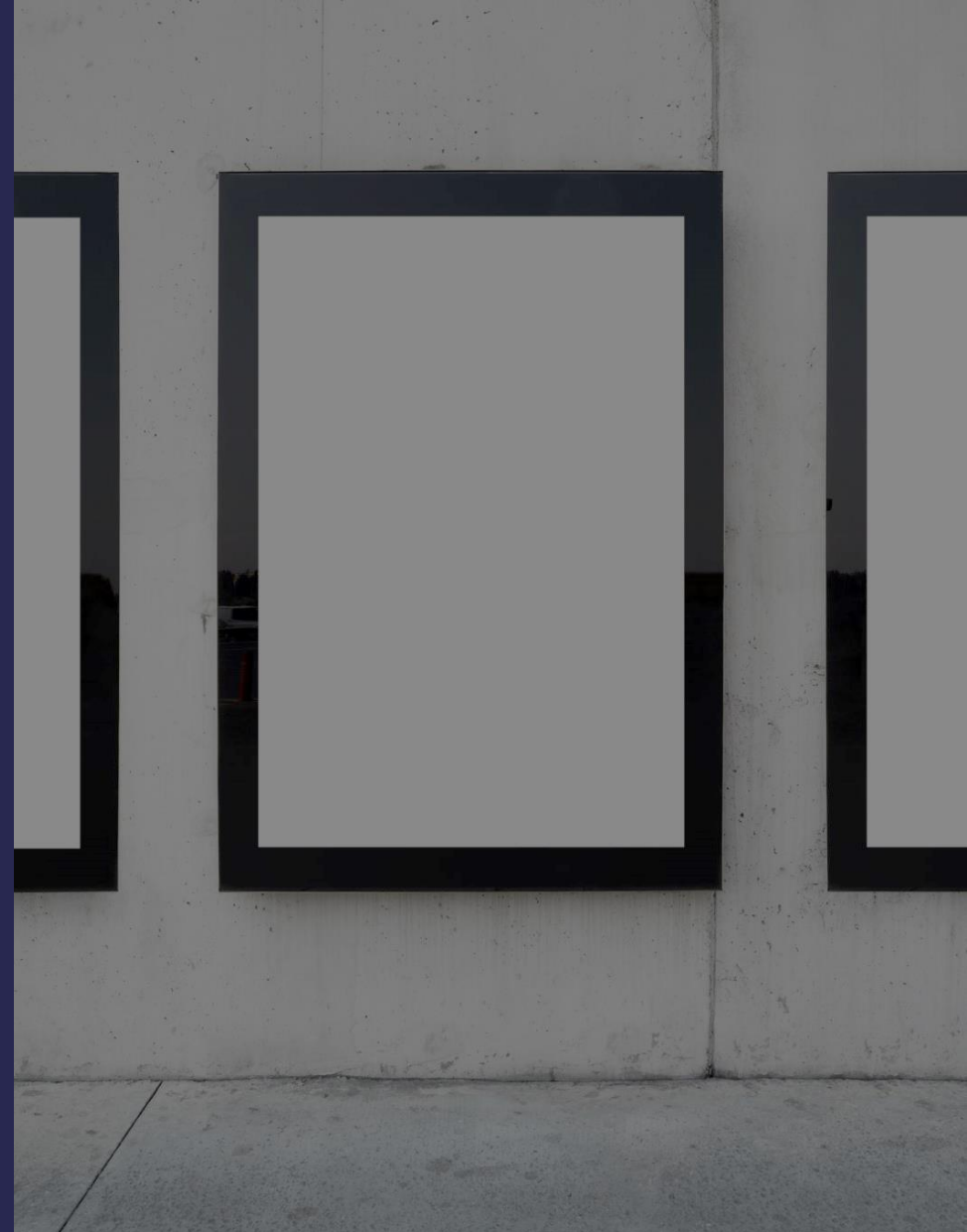
It is not a quality stamp that can be publicly promoted.



The Sandbox does not provide exemptions from existing regulations.



The conclusion of testing does not equate to a license.



What **to expect** from regulatory testing?

Feedback on regulatory compliance issues in each stage of testing in areas AML, IT security, licensing or prudential supervision.



What **to expect** from regulatory testing?

This is your no-cost opportunity to supercharge your innovative product team with a regulatory compliance edge!



CHOOSE LATVIA

Latvia – an excellent location to start and develop innovative FinTech business!

fintech@bank.lv | fintechlatvia.eu

Thank you & Closing remarks

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Innovation Hub
Regulatory Sandbox

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AML requirements



LATVIA FINTECH FORUM 2024 ✦

LATVIA – THE NEW HOME FOR GLOBAL FINTECH



🕒 5 November

📍 Riga, Latvia