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Additional Information

Level 1 Regulation
Regulation (EU) 2022/858 - DLT Pilot Regime Regulation (DLTR)

Topic
DLT multilateral trading facility (DLT MTF)

Subject Matter
Credit institution providing investment services or performing investment activities

Question
Should a credit institution authorised in accordance with CRD IV/CRR and providing investment services or performing investment activities in accordance with MiFID II/MiFIR be required to apply for an authorisation as an investment firm in order to operate a DLT MTF (distributed ledger technology multilateral trading facility)?

ESMA Answer

11-04-2023

Original language

Recital 38 of Directive 2014/65/EU states that credit institutions authorized under Directive 2013/36/EU should not need a separate authorization under Directive 2014/65/EU to provide investment services or perform investment activities. It also notes that the national competent authority should verify compliance with Directive 2014/65/EU before granting an authorization to the credit institution to provide investment services or perform investment activities.

This means that a credit institution does not need a separate license as an investment firm under Directive 2014/65/EU in order to apply for a DLT MTF license under the DLTPR but can rather leverage its existing licence under Directive 2013/36/EU.In that sense, recital 13 of the DLTPR, which notes that a credit institution should only be allowed to operate a DLT MTF when it is authorised as aninvestment firm under Directive 2014/65/EU, should be interpreted such that the competent authority should ensure that the credit institution complies with the provisions of Directive 2014/65/EU applicable to the service of operating an MTF as well as other relevant provisions of that directive when considering the need for an application for a DLT MTF licence under the DLTPR.