

Submission Date

16/12/2022

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Additional Information

Level 1 Regulation

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

Topic

DLT Pilot Regime

Additional Legal Reference

Article 26 RTS 22

Subject Matter

Transaction reporting

Question

a. How does the reporting obligation under MiFIR Article 26 and RTS 22 apply to transactions in DLT financial instruments?

b. Is there any lead-time envisaged to comply with such obligation or does it apply as soon as a DLT MTF/TSS is granted the permission to operate?

ESMA Answer

16-12-2022

Original language

a. In its [Report on the DLT Pilot Regime](#), ESMA concluded that at this stage RTS 22 does not need to be amended to be effectively applied also to securities issued, traded, and recorded on DLT. Therefore, unless an exemption from MiFIR Article 26 is requested as foreseen in Article 4 of the DLTR^[1], the obligations under MiFIR Article 26 and RTS 22 apply in full to DLT MTFs or TSSs and its members in relation to transactions in DLT financial instruments executed on DLT MTFs/TSS. DLT MTFs or TSS should report transactions on behalf of firms that are not subject to MiFIR pursuant to Article 26(5) MiFIR.

In addition, as the scope of the exemption from reporting can only cover the DLT MTF or TSS and its members, the obligations under MiFIR Article 26 and RTS 22 continue to apply to any investment firm that is not a member of the DLT MTF or TSS and is carrying out transactions in a DLT financial instrument under the DLTR irrespective of whether or not such transactions are ultimately executed on the DLT MTF or TSS. For examples of how transactions should be reported to NCAs depending on the specific trading scenario, investment firms executing transactions in DLT financial instruments and DLT MTFs/TSSs should refer to the [ESMA Guidelines](#) on MiFIR transaction reporting, order record keeping and clock synchronisation and [ESMA Q&As](#).

b. Unless an exemption from MiFIR Article 26 is granted, the reporting obligation applies as soon as the DLT-MTF/TSS is granted the permission to operate, no implementation lead-time is envisaged.

[1] Regulation (EU) 2022/858 of the European Parliament and of the Council of 30 May 2022 on a pilot regime for market infrastructures based on distributed ledger technology, and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU (OJ L 151, 2.6.2022, p. 1)