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Additional Information

Level 1 Regulation

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

Topic

DLT Pilot Regime

Subject Matter

Admissibility of securities financing transactions under DLTPR

Question

Are SFT transactions admissible on a DLT MTF/TSS? In particular, should Article 3(1), point (b), DLTPR, which excludes instruments “that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved” be read as also excluding complex transactions like SFTs?

ESMA Answer

02-06-2023

Original language

[ESMA70-460-189 - Heading 7 - Question 6]

Answer provided by the European Commission in accordance with Article 16b(5) of the ESMA Regulation.

Securities financing transactions are not admissible within the DLT Pilot. The DLTPR provides under Article 3 for a limitative list of DLT financial instruments that can be admitted to trading on a DLT market infrastructure. Securities financing transactions do not fall within any of the categories of that limitative list. Furthermore, securities financing transactions usually consist of multiple transactions and are used to secure funding and gain leverage. Enabling such transactions on DLT market infrastructures would be contrary to the strict limitation on the types of financial instruments that can be admitted to trading or recorded on DLT market infrastructure in accordance with Article 3 DLTPR. The objective of such a limitation was to enable DLT-based experimentation with financial instruments which are more easily understandable by investors and less complex to handle by DLT market infrastructure, to preserve investor protection, market integrity and financial stability, as set out in recital 3 of the DLTPR. The fact that the DLTPR enables retail investors to have direct, disintermediated access to DLT market infrastructures and instruments offered by them, makes the objective of ensuring investor protection and limiting the type of transactions eligible for the DLT Pilot even more important.

Disclaimer in relation to the answers provided by the European Commission in accordance with Article 16b(5) of the ESMA Regulation: these answers clarify provisions already contained in the applicable legislation. They do not extend in any way the rights and obligations deriving from such legislation nor do they introduce any additional requirements for the concerned operators and competent authorities. The answers are merely intended to assist natural or legal persons, including competent authorities and Union institutions and bodies in clarifying the application or implementation of the relevant legal provisions. Only the Court of Justice of the European Union is competent to authoritatively interpret Union law.

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