# ESMA_QA_1270

**Submission Date**
02/06/2023

Status: Answer Published

## Additional Information

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

**Topic**
DLT settlement system (DLT SS)

**Subject Matter**
Settlement in e-money tokens

**Question**
Should ‘e-money tokens’ under the DLTR be interpreted under the MiCA definition of ‘e-money tokens’?

Could settlement in e-money tokens be used by DLT MI operators even before MICA starts applying?

Does the issuer of the e-money tokens have to be authorised under EMD? Is it correct that a DLT SS/TSS operator does not need an authorisation as a credit institution or payment services institution if it uses e-money tokens for cash settlement that are issued by a duly authorised institution?

Would e-money tokens used for settlement on a DLT market infrastructure be allowed to be issued on a distributed ledger other than that used by the DLT market infrastructure?

## ESMA Answer

02-06-2023

Original language

[ESMA70-460-189 - Heading 9 - Question 1]

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

Until proposed Regulation on Markets in Crypto-assets (MICA) is adopted and applicable, e -money tokens referred to in Article 5(8) of the DLTR should be interpreted to mean electronic money that has been issued in compliance with Directive 2009/110/EC (E-money Directive, EMD). Electronic money tokens issued in that manner may be used by operators of DLT market infrastructures even before MICA applies. However, once MICA starts applying, the notion of e-money tokens under the DLTR should also be interpreted in light of that Regulation, which will comprehensively regulate the issuance and use of e-money tokens.

The issuer of e-money tokens should be authorised under the EMD as an electronic money institution or as a credit institution under Directive 2013/36/EU.

In accordance with Article 5(8), fifth subparagraph, of DLTR, services related to e-money tokens that are equivalent to the services listed in Section C, points (b) and (c) of the Annex to CSDR, must be provided by the operator of a DLT SS or a DLT TSS in accordance with Title IV of the CSDR or by a credit institution. Furthermore, Article 5(8) DLTR explicitly

permits that e-money tokens are used by a DLT SS or a DLT TSS as a means of settlement of transactions related to DLT financial instruments under certain conditions.

The DLTR does not require that e-money tokens used for settlement on a DLT market infrastructure must be issued on the same distributed ledger as the one used by the DLT market infrastructure to trade or settle DLT financial instruments. Therefore, DLT market infrastructures are free to use distinct distributed ledgers for the ‘cash’ and the ‘asset’ leg of the transaction.

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