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Additional Information

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

Topic
Exemptions for DLT market infrastructures

Subject Matter
Exemption from CSDR

Question
Do the applicants to the DLT SS/DLT TSS status need to apply for the exemption from the application of Article 40 of CSDR, as set out in Article 5(8) of DLTR, whenever they use tokenised money, independently of whether it is central bank tokenised money or commercial bank tokenised money?

ESMA Answer

02-06-2023

Original language

[ESMA70-460-189 - Heading 9 - Question 2]

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

DLT SS/TSS applicants need to request the exemption from Article 40 of CSDR, as set out in Article 5(8) of DLTR, for settling the cash leg of a transaction differently than as laid down in Article 40 CSDR. That in particular means that an exemption will be necessary if the cash payments are not settled through accounts opened with a central bank of issue of the relevant currency or accounts opened with a credit institution in accordance with Title IV of CSDR.

The notion of account should be understood as being technology-neutral in this context.

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. The views expressed in the internal Commission Decision cannot prejudge the position that the European Commission might take before the Union and national courts.