ESMA_QA_2003

Submission Date
07/11/2023

Status: Answer Published

Additional Information

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

Topic
DLT financial instruments

Additional Legal Reference
Article 3 of DLTR

Subject Matter
Admission of subscription rights to trading or recording on a DLT market infrastructure

Question
Can subscription rights be covered under the DLTR?

ESMA Answer

07-11-2023

Original language

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

Article 3(1) restricts the types of DLT financial instruments that are eligible to be traded or recorded on a DLT market infrastructure. Subscription rights are usually defined as the right of existing shareholders to participate in the acquisition of newly issued shares in a company. Subscription rights are not mentioned as one of the categories of financial instruments eligible to be handled by DLT market infrastructure. Subscription rights should be considered as falling within the third category of transferable securities defined under Article 4(1) point (44) of Directive 2014/65/EU, which covers ‘any other securities giving the right to acquire or sell any such transferable securities’. That category of transferable security is not covered by Article 3(1) DLTPR.

The 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.