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Additional Information

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

Topic
Requirements for DLT market infrastructures

Subject Matter
Capital requirements for a DLT TSS

Question
What are the capital requirements for a DLT TSS (digital ledger technology trading and settlement system) operated by: a) an investment firm; b) a credit institution; c) a CSD (central securities depository)?

ESMA Answer

07-11-2023

Original language

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

Capital requirements for DLT market infrastructures can be determined according to the underlying licence that the Pilot applicant will 5 rely on to obtain a special licence under the DLTPR. Where a Pilot applicant relies on an investment firm licence to apply for a DLT TSS licence, it must comply with capital requirements applicable to investment firms in accordance with Article 15 of Directive 2014/65/EU and Article 11 of Regulation (EU) 2019/2033. An investment firm operating a DLT TSS is explicitly exempted from capital requirements set out in Article 47 of Regulation (EU) 909/2014 by virtue of Article 6(1)(b) DLTPR. Where a Pilot applicant relies on a CSD licence to apply for a DLT TSS licence, it must comply with capital requirements applicable to CSDs in accordance with Article 47 of Regulation (EU) 909/2014, as well as any other provisions relating to capital requirements set out in that regulation. A credit institution applying for a DLT TSS and leveraging on its authorisation under Directive 2013/36/EU to provide investment services, including that of operating an MTF, should apply capital requirements laid down in Directive 2013/36/EU and Regulation (EU) No 575/2013. A credit institution authorized to provide investment services and applying for a DLT TSS licence is exempted from capital requirements set out in Article 47 of Regulation (EU) 909/2014 by virtue of Article 6(1)(b) DLTPR. Finally, in accordance with the third paragraph of Article 7(6) DLTPR, national competent authorities may require additional prudential safeguards from the operator of a DLT market infrastructure, which includes the DLT TSS.

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.