ESMA_QA_2045

Submission Date
18/12/2023

Status: Answer Published

Additional Information

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

Topic
Requirements for DLT market infrastructures

Additional Legal Reference
Articles 9(6)(b) and Article 10(7)(b) of Regulation (EU) 2022/858 (DLTR) and article 12(1)(b) of Regulation (EU) 909/2014

Subject Matter
Involvement of the authorities in Article 12(1)(b) of CSDR in the authorisation of a DLT SS/ DLT TSS using e-money tokens

Question

Should relevant authorities mentioned in Article 12(1)(b) of Regulation (EU) 909/2014 be involved in the authorisation process of a DLT SS or DLT TSS that aims to settle the cash leg of transactions using e-money tokens under the DLTR?

ESMA Answer

18-12-2023

Original language

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

Yes. Article 9(6), point (b), and Article 10(7), point (b), of Regulation (EU) 2022/858 (DLTR) provide that as soon as the competent authority considers the application to be complete, it shall send a copy of that application to the relevant authorities specified in Article 12 of Regulation (EU) No 909/2014. That includes the central banks in the Union issuing the most relevant currencies in which settlement takes place, as referred to in Article 12(1), point (b), of Regulation (EU) No 909/2014.

Pursuant to Article 3(1), point (7), of Regulation (EU) 2023/1114, e-money token means a type of crypto-asset that purports to maintain a stable value by referencing the value of one official currency. In that context, an official currency means an official currency of a country that is issued by a central bank or other monetary authority.

Consequently, for the purpose of the application of Article 9(6), point (b), and Article 10(7), point (b), of the DLTR, when a DLT SS or DLT TSS settled the cash leg of transactions in e-money tokens, the relevant authority referred to in Article 12(1), point (b) of Regulation (EU) No 909/2014 should be the central bank in the Union issuing the official currency referenced in the most relevant e-money tokens in which the settlement takes place.

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.