20 October 2025
ESMA75-768667821-736

Decision of the Board of Supervisors

Delegating to the ESMA Chair the adoption of opinions on specific permissions to operate DLT Market Infrastructures

The Board of Supervisors of the European Securities and Markets Authority ('ESMA'),

Having regard to Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (ESMA Regulation)[1], and in particular Article 43(2) and Article 44(1) thereof,

Having regard to Regulation (EU) 858/2022 of the European Parliament and the Council on a pilot regime for market infrastructures based on distributed ledger technology (DLTR)[2], and in particular Article 8(7), Article 9(7) and Article 10(8) thereof,

Whereas:

(1) Article 8(6), Article 9(6) and Article 10(7) of the DLTR require a competent authority (CA), as defined in Article 2(21) of the DLTR, to send a copy of the application to operate a DLT Multilateral Trading Facility (DLT MTF), a DLT Settlement System (DLT SS) or a DLT Trading and Settlement System (DLT TSS), respectively, to ESMA, as soon as the CA considers the application to be complete.

(2) Within 30 calendar days of receiving the copy of that application, Article 8(7), Article 9(7) and Article 10(8) of the DLTR require ESMA to provide the CA with an opinion - where necessary to promote the consistency and proportionality of exemptions, or to ensure investor protection, market integrity and financial stability - on the exemptions requested by the applicant, as well as on the adequacy of the type of distributed ledge technology (DLT) used for the purposes of the DLTR.

[1] OJ L 331, 15.12.2010, p. 84.
[2] OJ L 151, 2.6.2022, p.1.

(3) ESMA has already issued a number of opinions on specific permissions to operate DLT market infrastructures (DLT MIs) and more opinions are expected to be issued by ESMA.

(4) However, the current adoption procedure has created a significant administrative burden, not only for ESMA staff but also for CAs and members of the Board of Supervisors reviewing the opinions.

(5) Given the large number of opinions on specific permissions to operate a DLT MI which will need to be adopted in the future and the tight deadline for such adoption, it is appropriate that the power to adopt non-controversial opinions is delegated to the Chair of ESMA.

(6) The delegation should be exercised in accordance with the restrictions and conditions set out in this delegation decision. The conditions should provide guidance for the exercise of the delegated powers and, therefore, should limit the discretion involved.

Has adopted this decision:

Article 1 – Delegation of powers

The Board of Supervisors of ESMA (the Board of Supervisors) delegates to the Chair of ESMA (the Chair) the task to:

(1) assess the compatibility of the exemptions requested by the applicant and of the adequacy of the type of DLT used for the purpose to operate a DLT MTF, DLT SS or DLT TSS with investor protection, market integrity and financial stability, and to promote the consistency and proportionality of such exemptions;

(2) to issue on behalf of ESMA any non-controversial opinion on specific permissions to operate a DLT MI.

The Board of Supervisors retains the powers to adopt controversial opinions on specific permissions to operate a DLT MI.

For the purpose of this decision, a non-controversial opinion shall mean an opinion in respect of which neither members of the DLT Working Group (DLTWG) nor members of the Digital Finance Standing Committee (DFSC) raise objections.

Article 2 – Conditions for the delegation

(1) The powers delegated under Article 1 are conferred on the Chair for an indeterminate period.

(2) The Chair shall inform, at least annually, the Board of Supervisors of the opinions issued under this decision.

(3) The Board of Supervisors may request information in respect of any opinion issued under this decision.

(4) The Board of Supervisors can reconsider, amend and revoke at any time the delegation of powers established under this decision. The decision of revocation shall put an end to the delegation of powers specified in this decision.

Article 3 – Exercise of the delegation

The Chair shall exercise the powers delegated under this decision in accordance with the following conditions:

(1) He/she may only issue an opinion if it is non-controversial.

(2) While assessing the compatibility of the exemptions granted under the DLTR with investor protection, market integrity and financial stability, and the adequacy of the type of DLT used for the purposes of the DLTR, the Chair shall take into account any relevant guidance or interpretation, which has been adopted or agreed by the Board of Supervisors with respect to such assessment.

Article 4 – Entry into force

(1) This decision enters into force immediately.

(2) It shall be published on ESMA's website.

Done at Copenhagen, 7 October 2025

[signed]

Verena Ross
Chair
For the Board of Supervisors