

Digital finance: Pilot regime on distributed ledger technology market infrastructures (DLT)

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The Committee on Economic and Monetary Affairs adopted the report by Johan Van OVERTVEDT (ECR, BE) on the proposal for a regulation of the European Parliament and of the Council on a pilot regime for market infrastructures based on distributed ledger.

The proposed regulation is part of a new package on digital finance. It aims to provide a mechanism for market infrastructures to experiment with the limited use of DLT (distributed ledger technology).

The envisaged pilot regime would **temporarily exempt DLT market infrastructures from certain specific requirements** imposed by EU financial services legislation that might otherwise prevent them from developing solutions for trading and settling transactions in crypto-assets that qualify as financial instruments, without weakening the existing requirements and safeguards applied to traditional market infrastructures.

The committee responsible recommended that the European Parliament's position adopted at first reading under the ordinary legislative procedure should amend the proposal as follows:

Purpose and scope

The Regulation would establish the **requirements for DLT market infrastructures and their operators** who are granted specific authorisations to operate. A DLT market infrastructure would be defined as a DLT multilateral trading facility (DLT MTF), a DLT securities settlement system (DLT SSS) or a DLT trading and settlement system (DLT TSS).

Limitations on the financial instruments admitted to trading on or settled by a DLT market infrastructure

Only DLT financial instruments that meet the following conditions could be admitted to trading or listed on a DLT market infrastructure

- shares, the issuer of which has a market capitalisation or a tentative market capitalisation of less than EUR 200 million; or
- convertible bonds, covered bonds, corporate bonds, sovereign bonds and other bonds, with an issuance size of less than EUR 500 million;
- units of exchange-traded funds (ETFs) and units of collective investment undertakings investing in the above-mentioned instruments with an issue volume of less than EUR 500 million.

Operators of a DLT SSS or of a DLT TSS may admit new financial instruments until the total market value of DLT financial instruments recorded in a DLT SSS or in a DLT TSS reaches EUR 5 billion.

In order to allow for competition, while at the same time preserving a level playing field and high standards in terms of investor protection, market integrity and financial stability, new entrants should also be able to access the pilot regime, provided that they ensure compliance with the same requirements as those applicable to authorised investment firms or market operators under Directive 2014/65/EU (MiFID)

or those applicable to an authorised CSD under Regulation (EU) No 909/2014, in a manner proportionate to the nature, scale and risks of their business.

Additional requirements for DLT market infrastructures

DLT market infrastructure operators should establish a clear and detailed business plan describing how they intend to offer their services and conduct their business. They would remain at all times **fully responsible for the services and activities** they carry out under the Regulation, including the operation of the distributed registries deployed.

In addition, operators would have to establish **transparent arrangements** for investor protection and make available to customers complaint handling mechanisms and compensation or redress procedures in the event of investor detriment caused by serious deficiencies or termination of operations.

The European Securities and Markets Authority (ESMA) could decide, on a case-by-case basis, to require the operator of a DLT market infrastructure to provide additional prudential safeguards in the form of capital or insurance.

Supervision and assessment

ESMA should have a direct supervisory mandate for granting a permission to a DLT market infrastructure and any exemptions across the Union under this Regulation.

In order to ensure effective cooperation and exchange of relevant information, ESMA could consult national competent authorities on the DLT market infrastructure operators authorised in their Member States. When assessing the applications and exemptions, ESMA should seek to **ensure financial stability, market integrity, investor protection and fair competition** in the single market.

ESMA should publish **annual interim reports** to enable market participants to better understand the functioning and evolution of markets, and to clarify the application of the pilot regime. It should also provide one or more secure communication channels for reporting breaches of the Regulation.

Lastly, ESMA should provide the Commission with an early stocktaking report no later than **three years** from the date of entry into force of the Regulation and, if the regime prescribed in this Regulation is not made permanent by modifications to relevant Union financial

services legislation by then, a final report by five years from the entry into application of this Regulation.