Basic information

2020/0267(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Digital finance: Pilot regime on distributed ledger technology market infrastructures (DLT) **Subject** 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision 3.30.06 Information and communication technologies, digital technologies **Legislative priorities** Joint Declaration 2021	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	VAN OVERTVELDT Johan (ECR)	15/10/2020
	Shadow rapporteur POLFJÄRD Jessica (EPP) KAILI Eva (S&D) YON-COURTIN Stéphanie (Renew) URTASUN Ernest (Greens/EFA) BECK Gunnar (ID)	

Committee for opinion	Rapporteur for opinion	Appointed
ITRE Industry, Research and Energy	The committee decided not to give an opinion.	
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
LIBE Civil Liberties, Justice and Home Affairs	The committee decided not to give an opinion.	

Council of the European Union	
European Commission	**Commission DG** / **Commissioner** Financial Stability, Financial Services and Capital Markets Union / MCGUINNESS Mairead
European Economic and Social Committee	

Key events

Date	Event	Reference	Summary
24/09/2020	Legislative proposal published	COM(2020)0594	Summary
13/11/2020	Committee referral announced in Parliament, 1st reading		
13/07/2021	Vote in committee, 1st reading		
13/07/2021	Committee decision to open interinstitutional negotiations with report adopted in committee		
05/08/2021	Committee report tabled for plenary, 1st reading	A9-0240/2021	Summary
13/09/2021	Committee decision to enter into interinstitutional negotiations announced in plenary (Rule 72)		
15/09/2021	Committee decision to enter into interinstitutional negotiations confirmed by plenary (Rule 72)		
13/01/2022	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE703.109 GEDA/A/(2022)000118	
23/03/2022	Debate in Parliament		
24/03/2022	Decision by Parliament, 1st reading	T9-0088/2022	Summary
24/03/2022	Results of vote in Parliament		
12/04/2022	Act adopted by Council after Parliament's 1st reading		
30/05/2022	Final act signed		
02/06/2022	Final act published in Official Journal		

Technical information

Procedure reference	2020/0267(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	Treaty on the Functioning of the European Union TFEU 114-p1
Other legal basis	Rules of Procedure EP 165
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed

Committee dossier	ECON/9/04249

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE689.571	11/03/2021	
Amendments tabled in committee		PE692.980	25/05/2021	
Amendments tabled in committee		PE693.549	25/05/2021	
Committee report tabled for plenary, 1st reading/single reading		A9-0240/2021	05/08/2021	Summary
Text agreed during interinstitutional negotiations		PE703.109	21/12/2021	
Text adopted by Parliament, 1st reading/single reading		T9-0088/2022	24/03/2022	Summary

Council of the EU

Document type	Reference	Date	Summary
Coreper letter confirming interinstitutional agreement	GEDA/A/(2022)000118	21/12/2021	
Draft final act	00088/2021/LEX	30/05/2022	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2020)0594	24/09/2020	Summary
Document attached to the procedure	SEC(2020)0308	24/09/2020	
Document attached to the procedure	SWD(2020)0201	24/09/2020	
Document attached to the procedure	SWD(2020)0202	24/09/2020	
Commission response to text adopted in plenary	SP(2022)214	02/05/2022	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	CZ_CHAMBER	COM(2020)0594	16/12/2020	
Contribution	PT_PARLIAMENT	COM(2020)0594	01/02/2021	
Contribution	RO_SENATE	COM(2020)0594	10/05/2021	
Contribution	IT_CHAMBER	COM(2020)0594	27/10/2021	

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
EESC	Economic and Social Committee: opinion, report	CES4982/2020	24/02/2021	
EDPS	Document attached to the procedure	N9-0034/2021 OJ C 229 15.06.2021, p. 0013	23/04/2021	

Additional information

Source	Document	Date
European Commission	EUR-Lex	

Final act

Regulation 2022/0858
OJ L 151 02.06.2022, p. 0001

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

2020/0267(COD) - 24/03/2022 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 527 votes to 28, with 31 abstentions, a legislative resolution 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 technology.

The proposal for a regulation on a pilot scheme for market infrastructures based on distributed ledger technology (DLT) aims to provide legal certainty and flexibility for market participants wishing to operate a DLT market infrastructure by establishing uniform requirements for the operation of DLTs.

The European Parliament's position adopted at first reading under the ordinary legislative procedure amends the Commission's proposal as follows:

Subject matter and scope

The pilot regime lays down the conditions for acquiring permission to operate a DLT market infrastructure, defines which DLT financial instruments can be traded and details the cooperation between the operators of DLT market infrastructures, national competent authorities and ESMA.

The DLT pilot regime aims to test the development of the European infrastructure for trading, clearing and settlement of DLT-based financial instruments. Crypto-assets are one of the main DLT applications for finance. Distributed ledger, broadly defined, is a consensually shared database through which a transaction is validated.

The concept of DLT market infrastructure comprises DLT multilateral trading facilities (DLT MTF), DLT settlement systems (DLT SS) and DLT trading and settlement systems (DLT TSS).

Limitations on the financial instruments admitted to trading or recorded on DLT market infrastructure

DLT financial instruments should only be admitted to trading on a DLT market infrastructure, or be recorded on a DLT market infrastructure, if, at the moment of admission to trading or the moment of recording on a distributed ledger, the DLT financial instruments are:

- shares, the issuer of which has a **market capitalisation, or a tentative market capitalisation, of less than EUR 500 million**;

- bonds, other forms of securitised debt, including depositary receipts in respect of such securities, or money market instruments, with an issue size of **less than EUR 1 billion**, excluding those that embed a derivative or incorporate a structure which makes it difficult for the client to understand the risk involved; or

- units in collective investment undertakings covered by Directive 2014/65/EU, the market value of the assets under management of which is less than EUR 500 million.

The aggregate market value of all the DLT financial instruments that are admitted to trading on a DLT market infrastructure or that are recorded on a DLT market infrastructure shall not exceed **EUR 6 billion** at the moment of admission to trading, or initial recording, of a new DLT financial instrument.

Additional requirements for DLT market infrastructures

Operators of a DLT market infrastructure should:

- establish clear and **detailed business plans** in which they describe how they intend to provide their services and conduct their business, including a description of personnel in critical staff, technical aspects and the use of distributed ledger technology;

- make available to the public **up-to-date, clear and detailed written documentation** setting out the rules for the operation of DLT market infrastructures and their operators;

- set the **rules** for the operation of the distributed ledger technology they use, in order to ensure investor protection, market integrity and financial stability;

- provide their members, participants, issuers and customers with **clear and unambiguous information** on their websites about the way in which operators perform their functions, services and activities;

- ensure that all IT and **cybersecurity arrangements** related to the use of their distributed ledger technology are proportionate to the nature, scale and complexity of their business;

- put in place specific **operational risk management procedures** for the risks associated with the use of distributed ledger technology and crypto-assets and for how to address these risks if they materalise.

Consumer protection

In the event of a loss of funds, a loss of collateral or a loss of a DLT financial instrument, the operator of a DLT market infrastructure that lost the funds, collateral or DLT financial instrument should be **liable for the loss**, up to the market value of the asset lost, unless it proves that the loss arose as a result of an external event beyond its reasonable control.

Operators of DLT market infrastructure should establish **transparent and adequate arrangements** to ensure investor protection and should establish mechanisms for handling client complaints and procedures for compensation or redress in cases of investor loss as a result of any of the unavoidable circumstances.

Supervision

National competent authorities will remain in charge for the authorisation while the **ESMA can issue an opinion** on the application for authorisation to operate an DLT MTFs and DLT SSs. The opinion would be non-public and non-binding but an explanation would be needed in case the national competent authorities decide to significantly deviate from it.

This pilot scheme will be in place for **three years**, after which the Commission, based on ESMA's advice, should report to the Council and Parliament on the costs and benefits of extending, amending or abolishing it.

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

2020/0267(COD) - 05/08/2021 - Committee report tabled for plenary, 1st reading/single reading

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.

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

2020/0267(COD) - 24/09/2020 - Legislative proposal

PURPOSE: to establish a common EU pilot regime for market infrastructures based on distributed ledger technology (DLT).

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: this proposal is part of the Digital Finance package, a package of measures to further enable and support the potential of digital finance in terms of innovation and competition while mitigating the risks. The digital finance package includes a new Strategy on digital finance for the EU financial sector with the aim to ensure that the Union's financial services legislation is fit for the digital age, and contributes to a future-ready economy that works for the people, including by enabling the use of innovative technologies. The Union has a stated and confirmed policy interest in developing and promoting the uptake of transformative technologies in the financial sector, including blockchain and distributed ledger technology (DLT).

This package also includes a proposal for a proposal on crypto-asset markets, a proposal for digital operational resilience, and a proposal to clarify or amend certain related EU financial services rules.

CONTENT: the Commission seeks to propose a pilot regime for market infrastructures that wish to try to trade and settle transactions in financial instruments in crypto-asset form. The regime follows the 'sandbox' approach which allows for temporary derogations from some specific requirements

under the Union financial services legislation that could otherwise prevent them from developing solutions for the trading and settlement of transactions in crypto-assets that qualify as financial instruments.

This proposed Regulation on a pilot regime for market infrastructures based on distributed ledger technology seeks to provide legal certainty and flexibility for market participants who wish to operate a DLT market infrastructure by establishing uniform requirements for operating these.

Permissions granted under this Regulation shall allow market participants to operate a DLT market infrastructure and to provide their services across all Member States.

Scope

The proposal establishes operating conditions for DLT market infrastructures, permission to make use of them and the supervision and cooperation of competent authorities and ESMA. It shall apply to market participants (either investment firms, market operators or central securities depositories, CSDs).

Limitations on the transferable securities admitted to trading on or settled by a DLT market infrastructure

The proposal sets out the limitations in terms of DLT transferable securities that can be admitted to trading on, or recorded by, DLT market infrastructures. For shares, the market capitalisation or the tentative market capitalisation of the issuer of DLT transferable securities should be less than EUR 200 million; for public bonds other than sovereign bonds, covered bonds and corporate bonds the limit is EUR 500 million.

DLT market infrastructures shall not admit to trading or record sovereign bonds.

In addition, the total market value of DLT transferable securities recorded by a CSD operating a DLT securities settlement system, or by a DLT MTF where allowed to record such DLT transferable securities, shall not exceed EUR 2.5 billion.

Additional requirements on DLT market infrastructures

Additional requirements are laid down to address the novel forms of risks raised using DLT. DLT market infrastructures must provide all members, participants, clients and investors with clear and unambiguous information on how they carry out their functions, services and activities.

DLT market infrastructures must also ensure that overall IT and cyber arrangements related to the use of DLT are adequate. Where the business model of a DLT market infrastructure involves the safekeeping of clients' funds or DLT transferable securities, or the means to access these, they must have adequate arrangements to safeguard such assets.

Cooperation between operators of DLT market infrastructures, competent authorities and ESMA

It is proposed that DLT market infrastructures must inform competent authorities and ESMA of, for example: proposed material changes to their business plan including critical staff, evidence of hacking, fraud or other serious malpractice, material changes in the information contained in the initial application, technical or operational difficulties in delivering activities or services covered under the permission and any risks to investor protection, market integrity or financial stability that may have arisen and were not foreseen at the time the permission was given.

Where notified of such information, the competent authority may request the DLT market infrastructure to submit an application for another permission, exemption or take any corrective measure it deems appropriate.

In addition, the DLT market infrastructure shall produce and submit a report to the competent authority and ESMA detailing all of the information above including potential difficulties in applying EU financial services legislation.

Reporting

At the latest after a five-year period, ESMA shall produce a detailed report on the pilot regime to the Commission. On the basis of ESMA's assessment, the Commission will produce a report including a cost-benefit analysis on whether the pilot regime should be maintained as it is or amended, whether it should be extended to new categories of financial instruments, whether targeted amendments to EU legislation should be considered to enable a widespread use of DLT and whether the pilot regime should be terminated.

Budgetary implications

This proposal holds implications in terms of costs and administrative burden for national competent authorities and the European Securities and Markets Authority. The magnitude and distribution of these costs will depend on the precise requirements placed on DLT market infrastructures and the related supervisory and monitoring tasks. The estimated supervisory costs for each Member State (including staff, training, IT infrastructure) can range from EUR 150 000 to EUR 250 000 per year per DLT market infrastructure.

For ESMA, the estimated cost in relation to review and coordination are estimated at EUR 150 000-EUR 300 000 in total. These costs shall be covered by ESMA's operating budget, which shall be increased.

In addition, ESMA is expected to maintain a register of DLT market infrastructures in operation, the costs related to this are considered to be covered by the costs relating to the maintenance of the register.