![ESMA logo - European Securities and Markets Authority]

# VI. Annex to the Guidelines

*Table 1*

**General information**

| Type of information | Format |
|---|---|
| Date of application | ISO 8601 date in the format YYYY-MM-DD |
| *Identification of the applicant* | |
| Corporate name of the applicant | Free text |
| Legal Entity Identifier of the applicant | ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code |
| segment MIC (applicable for DLT MTFs or DLT TSS) | Market identifier as defined in ISO 10383 |
| Registered address of the applicant | Free text |
| Contact details of the person at the applicant responsible for the application | Name:<br>Function:<br>Phone number:<br>Email address: |
| *Identification of the application* | |
| Nature of the application | *Tick the relevant box*<br>**Initial permission** to operate a:<br>□ DLT MTF under Article 8(1) or 8(2) of DLTR<br>□ DLT SS under Article 9(1) or 9(2) of DLTR<br>□ DLT TSS under Article 10(1) or 10(2) of DLTR<br><br>□ **Change** to a permission to operate a DLT MI because of a material change to the DLT functioning, services, or activities under Articles 8(13), 9(13) and 10(13) of DLTR<br><br>Reference of the authorisation:<br>Date: |

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| Where already obtained by the applicant, authorisation under Directive 2014/65/EU or Regulation (EU) 909/2014 | *Tick the relevant box*<br><br>□ Investment firm under Directive 2014/65/EU<br>Where available, reference of the authorisation:<br>Date:<br><br>□ Market operator under Directive 2014/65/EU<br>Where available, reference of the authorisation:<br>Date:<br><br>□ CSD under Regulation (EU) 909/2014<br>Where available, reference of the authorisation:<br>Date:<br><br>□ None of the above. |
| Trading venue(s) or SSS the applicant operates or intends to operate (where applicable) | *Tick the relevant box and please repeat the entries (name and MIC) where the applicant runs more than one TV per type*<br>□ MTF<br>Name of the MTF/MIC:<br><br>□     Regulated Market<br>Name of the regulated market/MIC:<br><br>□     OTF<br>Name of the OTF/MIC:<br><br>□ Securities settlement system (SSS)<br><br>  Name of the SSS: |
| Simultaneous application under Directive 2014/65/EU or Regulation (EU) 909/2014 | *Tick the relevant box*<br>□ Investment firm under Directive 2014/65/EU<br><br>Where available, reference number of the application:<br><br>Date of submission:<br><br>□ Market operator under Directive 2014/65/EU<br>Where available, reference of the application:<br>Date:<br><br>□ CSD under Regulation (EU) 909/2014<br><br>Where available, reference number of the application:<br><br>Date of submission:<br><br>□ None of the above |
| List of document and annexes provided | □ Table 1<br>□ Table 2<br>□ Table 3<br>□ Table 4<br>□ Other documents (please provide a list) |

| Legal status of the applicant | |
|---|---|
| The memorandum and articles of association and other constitutional and statutory documentation | [unique reference number of the document(s)] |
| An excerpt from the relevant commercial or court register, or other forms of certified evidence of the legal address and business activity of the applicant that shall be valid at the date of the application | [unique reference number of the document(s)] |
| A copy of the decision of the management body regarding the application and the minutes of the meeting in which the management body approved the application file and its submission | [unique reference number of the document(s)] |

*Table 2*

**Information that should be included in an
application for permission to operate
a DLT MTF, a DLT SS or a DLT TSS**

| Information to be submitted in accordance with Article 8(4), 9(4) and 10(4) of Regulation (EU) 2022/858 | Description and/or unique reference number of the document where the information can be found | Title of the document | Chapter or section or page of the document where the information is provided or reason why the information is not provided |
|---|---|---|---|
| *(a) The business plan of the applicant, the rules of the DLT MI and any legal terms as referred to in Article 7(1) of Regulation (EU) 2022/858* | | | |
| *A business plan describing how the applicant intends to carry out their services and activities.* | | | |
| *Please also provide specific information on the following aspects:* | | | |
| Description of the critical staff <br> *This should include a description of which staff is considered critical and of their role per domain (IT, internal control, risk management etc)* | | | |
| Type of clients targeted (status, geographical location | | | |
| Description of the technical aspects <br> *This should include a detailed description of the DLT technical implementation: supporting infrastructure (systems, networks, applications etc), third party arrangements also providing data flow and network diagrams. If any of these are cloud-based, it should also include specific information in line with ESMA cloud* | | | |

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|---|---|---|---|
| *computing guidelines[1].* | | | |
| Description of the use of the DLT providing details on the operation on the user side and operators' side (e.g. how and for what purpose the system is used; the expected outcome/ advantages for users; how the users connect to the system) | | | |
| Other relevant information if applicable | | | |
| **<u>Rules</u> defining the rights, obligations, responsibilities and liabilities of the operator of the DLT MI, as well as that of the members, participants, issuers and/or clients using the concerned DLT MI** | | | |
| *Please also provide specific information on the following aspects:* | | | |
| Criteria for participation | | | |
| The governing law of the DLT MI | | | |
| The pre-litigation dispute settlement mechanism | | | |
| Any insolvency protection measures under Directive 98/26/EC | | | |
| The jurisdiction for bringing legal action | | | |
| Other relevant information if applicable | | | |
| **(b) Information regarding the functioning, services and activities of the DLT MI as referred to in Article 7(3) of Regulation (EU) 2022/858** | | | |

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[1] Final report on Guidelines on outsourcing to cloud service providers, ESMA50-157-2403, 18 December 2020

| Type of DLT Financial Instruments traded and or/settled | Indicate:<br>□ shares, as referred to in point (a) of Article 3(1) of Regulation (EU) 2022/858<br><br>□ bonds, other forms of securitised debt or money market instruments, as referred to in point (b) of Article 3(1) of Regulation (EU) 2022/858. If 'other form of securitised debt', please specify:<br><br>□ UCITS, as referred to in point (c) of Article 3(1) of Regulation (EU) 2022/858 | | |
|---|---|---|---|
| Type of DLT used | Please specify its main characteristics (multiple selection allowed):<br><br>□ permissioned[2]<br><br>□ permissionless[3]<br><br>□ private[4]<br><br>□ public[5]<br><br>□other characteristics: [please specify] | | |
| Description of how the operators carry out their functions, services and activities (including description of outsourcing arrangements if any) | | | |
| Description of services provided to clients | | | |

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[2] For the purposes of these guidelines, "permissioned" means a DLT network in which only certain participants can perform certain functions (e.g. validation).
[3] For the purposes of these guidelines, "permissionless" means a network where any participant can carry out any function.
[4] For the purposes of these guidelines, "private" means a DLT network that can be joined only by selected participants.
[5] For the purposes of these guidelines, "public" means a DLT network which anyone can join.

| Description of how the performance of those functions, services and activities deviates from those performed by a multilateral trading facility or a securities settlement system that is not based on distributed ledger technology | | | |
|---|---|---|---|
| If applicable, modality chosen to identify and differentiate the DLT functions, services and activities from those performed by a multilateral trading facility or a securities settlement system that is not based on distributed ledger technology | | | |
| Other relevant information if applicable | | | |
| **(c) Information on the functioning of the DLT used, as referred to in Article 7(2) of Regulation (EU) 2022/858** | | | |
| Information on the rules on the functioning of the DLT used | | | |
| Information of the rules on accessing the distributed ledger | | | |
| Information on the rules on the participation of the validating node(s) | | | |
| Information on the validation process of transactions on DLT FI | | | |
| Information on the rules addressing or detecting potential conflicts of interests | | | |
| Information on the rules on risk management including any mitigation measures to ensure investor protection, market integrity and financial stability | | | |
| Other relevant information if applicable | | | |
| **(d) Overall IT and cyber arrangements as referred to in Article 7(4) of Regulation (EU) 2022/858** | | | |
| Description of controls and arrangements in place related to the use of DLT and DLT | | | |

| financial instruments and of any data stored by those operators, at least in respect of the following areas: | | | |
| --- | --- | --- | --- |
| **A – Governance and strategy**: internal control and governance arrangements for the IT and information security risks, as well as IT and information security strategy | | | |
| **B – IT and information security risk management –** policies and procedures in place to identify and manage any IT and information security risk posed by the use of DLT and DLT financial instruments | | | |
| **C – Information security arrangements and controls** implemented to ensure protection, confidentiality, integrity and availability of funds, collateral and DLT financial instruments of the members, participants, issuers of clients using the DLT MI, as well as of the means of access to them, including at least on the following areas:<br><br>- logical security controls (including segregation of duties, identity and access management, logical separation arrangements etc)<br>- physical security<br>- IT and information security operations<br>- Security monitoring arrangements<br>- security reviews, assessment and testing, training and awareness, and<br>- IT and information security incident management policies and procedures | | | |
| **D – System development Life** | | | |

| **Cycle (SDLC), IT project and change management**: policies & procedures, governance and control arrangements | | | |
|---|---|---|---|
| **E – Business continuity management**: policy and procedures | | | |
| **F – Third party risk management**: policies and procedures, considering also guidance provided by ESMA (EBA/EIOPA, depending on NCA) cloud computing guidelines (in the case of EBA: outsourcing guidelines). | | | |
| **Note**: if some or all the above-mentions arrangements and controls, are part of the firms' global IT assurance and information security management system for which the firm has already submitted the information to the NCA, then the firm should be invited to provide and highlight the bespoke controls implemented in relation to the use of DLT and DLT financial instruments. | | | |
| Other relevant information if applicable | | | |

| ***(e) Arrangements to record and protect members', participants', issuers' or clients' funds, collateral or DLT financial instruments in accordance with Article 7(5) of Regulation (EU) 2022/858*** | | | |
|---|---|---|---|
| Where applicable, a description of safekeeping arrangements in place to prevent the use of such assets on the operator's own account without prior consent of the member, participant, issuer or client concerned | | | |
| Information on record-keeping arrangements of, and on means of access to, such assets held by their DLT MI for their members, participants, issuers or clients | | | |

| | | | |
|---|---|---|---|
| Description of segregation arrangements for funds, collateral or DLT financial instruments, and for means to access such assets, from those of the operator as well as from those of other members, participants, issuers and clients | | | |
| Other relevant information if applicable | | | |
| **(f) Investor protection measures, as referred to in Article 7(6) of Regulation (EU) 2022/858** | | | |
| Description of the measures established to fulfil the prudential requirements provided for in Regulation (EU) No 909/2014, Regulation (EU) 2019/2033, Directive 2014/65/EU or Directive (EU) 2019/2034, in order to cover the potential liabilities for damages to clients of the operator of the DLT MI as a result of any of the circumstances referred to in the first subparagraph of Article 7(6) of Regulation (EU) 2022/858 | | | |
| Description of the arrangements ensuring investor protection and demonstration they are transparent and adequate | | | |
| Description of the mechanisms for handling client complaints | | | |
| Description of procedures for compensation or redress in case of investor loss or cessation of the business | | | |
| Other relevant information if applicable | | | |
| **(g) Transition strategy** | | | |
| Description of the transition strategy for reducing the activity of or transitioning out of, or ceasing to operate, a DLT MI as referred to in Article 7(7) of Regulation (EU) 2022/858 | | | |

| If applicable and if any, description of the arrangements concluded to take over operations, as referred to in Articles 7(8) and 7(9) of Regulation (EU) 2022/858 | | | |
|---|---|---|---|

*Table 3*

**Application for a permission to operate a DLT MTF or DLT TSS:**
**Exemption(s) to Directive 2014/65/EU and Regulation (EU) No 600/2014**

*Details that should be included in the request for exemption(s) in accordance with Article*
*4(2) and (3) of Regulation (EU) 2022/858*

According to Article 8(4)(h) of Regulation (EU) 2022/858 the application for a specific permission to operate a DLT MTF shall contain information on the exemptions that the applicant is requesting in accordance with Article 4 of that same Regulation, the justification for each exemption requested and any compensatory measures proposed and the means by which it intends to comply with the conditions attached to those exemptions.

Please refer to Article 4 of Regulation (EU) 2022/858 for the specific conditions attached to each exemption. According to Article 4(4) of Regulation (EU) 2022/858, the applicant shall demonstrate that each exemption requested is:

- proportionate to, and justified by, the use of distributed ledger technology; and
- limited to the DLT MTF and does not extend to any other multilateral trading facility operated by that applicant.

Applicants should provide the information to the NCAs as detailed in the table below.

| Exemption requested | | Short justification, compensatory measures proposed (if any) and means by which conditions attached to exemptions are complied with | Demonstration that the exemption is proportionate and justified by the use of the DLT | Demonstration that the exemption is limited to the DLT MTF and does not extend to any other MTF operated by the applicant | Unique reference number of the document, Title, Chapter or section or page where the information is provided or reason why the information is not provided. |
|---|---|---|---|---|---|
| **Direct Retail Participation** Article 53(3) and 19(2) of Directive 2014/65/EU | ☐Yes/ ☐No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non-DLT MI] | [Free text] |
| **Transaction reporting** Article 26 of Regulation (EU) No 600/2014 | ☐Yes/ ☐No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non-DLT MI] | [Free text] |

*Table 4*

**Application for permission to operate a DLT SS or DLT TSS: Exemption(s) to Regulation (EU) No 909/2014**

*Details that should be included in the request for exemption(s) in accordance with Article 5(2) to (9) of Regulation (EU) 2022/858*

According to Article 9(4)(h) of Regulation (EU) 2022/858 the application for a specific permission to operate a DLT SS shall contain information on the exemptions that the applicant is requesting in accordance with Article 5 of that same Regulation, the justification for each exemption requested and any compensatory measures proposed and the means by which it intends to comply with the conditions attached to those exemptions.

Please refer to Article 5(2) to (9) of Regulation (EU) 2022/858 for the specific conditions attached to each exemption. According to article 5(10) of Regulation (EU) 2022/858 the applicant shall demonstrate that each exemption requested is:

- proportionate to, and justified by, the use of its distributed ledger technology; and
- limited to the DLT SS and does not extend to a securities settlement system that is operated by the same CSD.

Applicants should provide the information to the NCAs as detailed in the Table below.

| Exemption | Requested | Short justification, compensatory measures proposed (if any) and means by which conditions attached to exemptions are complied with. | Demonstration that the exemption is proportionate to, and justified by, the use of DLT | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | Unique reference number of the document, Title, Chapter or section or page where the information is provided or reason why the information is not provided |
|---|---|---|---|---|---|
| **Dematerialised form** (Article 2(1)(4) of Regulation (EU) No 909/2014) Article 5(2) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* | |
| **Transfer orders** (Article 2(1)(9) of Regulation (EU) No 909/2014) Article 5(2) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* | |
| **Securities accounts** (Article 2(1)(28) of Regulation (EU) No 909/2014) Article 5(2) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* | |
| **Recording of securities in book-entry form** (Article 3 of Regulation (EU) No 909/2014) Article 5(2) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* | |
| **Integrity of issue** (Article 37 of Regulation (EU) No 909/2014) Article 5(2) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* | |
| **Segregation of assets** (Article 38 of Regulation (EU) No 909/2014) Article 5(2) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* | |

| | | | | |
|---|---|---|---|---|
| **Measures to prevent settlement fails** (Article 6 of Regulation (EU) No 909/2014) Article 5(3) of Regulation (EU) 2022/858 | □Yes/ □No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non–DLT MIJ] |
| **Measures to address settlement fails** (Article 7 of Regulation (EU) No 909/2014) Article 5(3) of Regulation (EU) 2022/858 | □Yes/ □No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non–DLT MIJ] |
| **Outsourcing of a core service to a third party** (Article 19 of Regulation (EU) No 909/2014) Article 5(4) of Regulation (EU) 2022/858 | □Yes/ □No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non–DLT MIJ] |
| **Admit as participants other natural and legal persons** (Article 2(19) of Regulation (EU) No 909/2014) Article 5(5) of Regulation (EU) 2022/858 | □Yes/ □No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non–DLT MIJ] |
| **Requirements for participation** (Article 33 of Regulation (EU) No 909/2014) Article 5(6) of Regulation (EU) 2022/858 | □Yes/ □No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non–DLT MIJ] |
| **Transparency** (Article 34 of Regulation (EU) No 909/2014) Article 5(6) of Regulation (EU) 2022/858 | □Yes/ □No | [Free text] | [Free text] | [free text/evidence that the general rule applies in other non–DLT MIJ] |

| | | | | |
|---|---|---|---|---|
| **Communication procedures with participants and other market infrastructures** (Article 35 of Regulation (EU) No 909/2014) Article 5(6) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* |
| **Settlement finality** (Article 39 of Regulation (EU) No 909/2014) Article 5(7) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* |
| **Cash settlement** (Article 40 of Regulation (EU) No 909/2014) Article 5(8) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* |
| **Standard link access** (Article 50 of Regulation (EU) No 909/2014) Article 5(9) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* |
| **Customised link access** (Article 51 of Regulation (EU) No 909/2014) Article 5(9) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* |
| **Access between a CSD and another market infrastructure** (Article 53 of Regulation (EU) No 909/2014) Article 5(9) of Regulation (EU) 2022/858 | □Yes/ □No | *[Free text]* | *[Free text]* | *[free text/evidence that the general rule applies in other non-DLT MI]* |