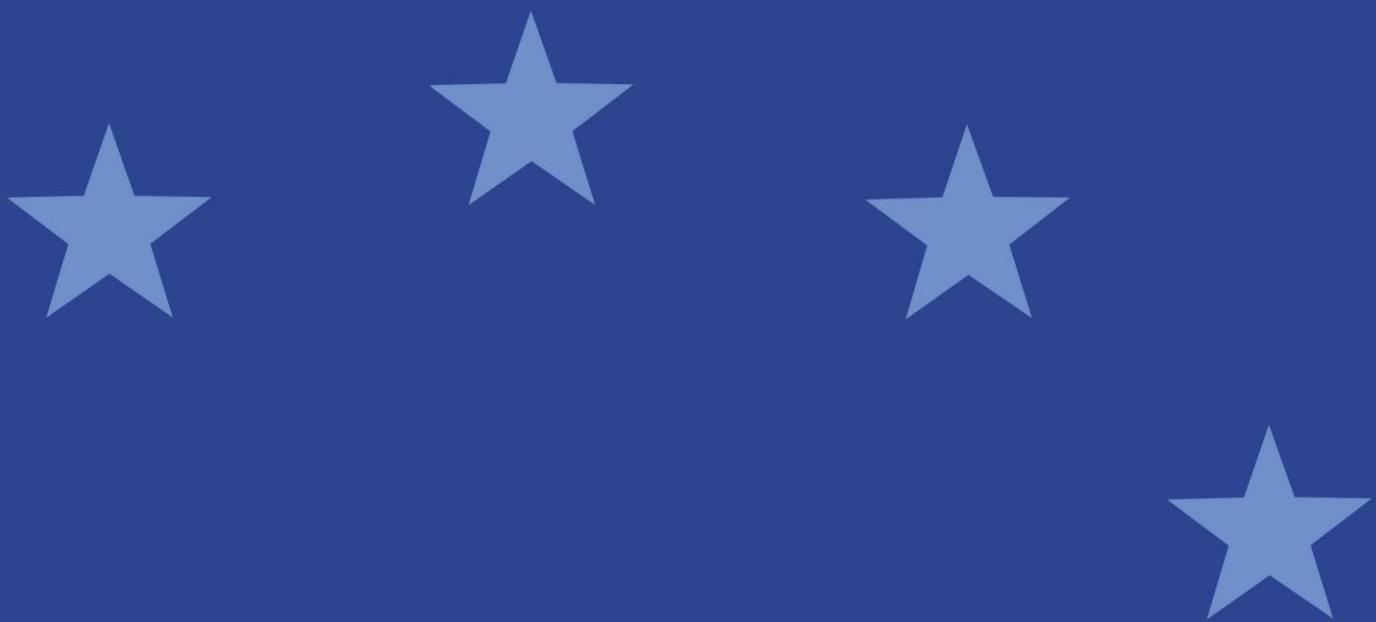


# Consultation Paper

**On guidelines on standard forms, formats and templates to apply for  
permission to operate a DLT market infrastructure**



## Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **9 September 2022**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input - Consultations'.

### Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

### Data protection

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading '[Data protection](#)'.

### Who should read this paper?

All interested stakeholders are invited to respond to this consultation. In particular, this paper may be specifically of interest to trading venues, CSDs or other entities envisaging to apply for specific permission to operate a DLT market infrastructure.

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## 1 Executive Summary

### Reasons for publication

Articles 8 to 10 of the (EU) Regulation No 858/2022 on a pilot regime for market infrastructures based on distributed ledger technology ('DLTR') provides for the main conditions to apply for a specific permission to operate a DLT MTF, a DLT SS or a DLT TSS. These articles require ESMA to develop guidelines to establish standard forms, formats and templates for this purpose. This consultation paper seeks stakeholders' views on the draft guidelines prepared by ESMA.

### Content

Section 2 contains information on the background and mandate, while Section 3 contains the proposed guidelines and related questions. Two sets of guidelines are submitted to consultation: the first ones specify the minimum instructions that NCAs should provide to market participants for submitting their applications to them and the second one specifies how applicants should provide the requested information and documents to their competent authorities.

### Next Steps

ESMA will consider the feedback it will receive to this consultation with a view to finalising the guidelines ahead of the application date of DLTR (23 March 2023).

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## 2 Background

1. On 2 June 2022, Regulation 2022/858 of the European Parliament and of the Council on a pilot regime for market infrastructures based on distributed ledger technology (DLTR) was published in the Official Journal of the European Union.
2. The DLTR introduces three categories of DLT market infrastructures (DLT MIs): DLT Multilateral Trading Facilities (DLT MTF), DLT Trading and Settlement Systems (DLT TSS) and DLT Settlement Systems (DLT SS).
3. DLT MIs can request limited exemptions from specific requirements in EU legislation (MiFID II, CSDR), provided they comply with the conditions attached to those exemptions and compensatory measures requested by the relevant competent authority.
4. The specific permission to operate a DLT MI may come in addition to an authorisation as a CSD or as an investment firm (or operator of a regulated market) or can be granted to new entrants that will have to meet the relevant MiFID II/ CSDR requirements, except those for which the applicant requests an exemption.
5. Articles 8, 9 and 10 of the DLTR provide for the conditions under which market participants may apply for a specific permission to operate, respectively, a DLT MTF, a DLT SS or a DLT TSS. The information to be provided is listed in Articles 8(4), 9(4) and 10(4) of DLTR. DLTR mandates ESMA to develop guidelines to establish standard forms, formats and templates for the submission of this information by market participants to the competent authorities.

## 3 Proposed guidelines

### 3.1 Scope

#### Who?

6. These guidelines apply to competent authorities as defined in Article 2(21) of the DLTR and to applicants for specific permissions to operate DLT market infrastructures as defined in Article 2(5) of the DLTR (DLT MIs).

#### What?

7. These guidelines apply in relation to the standard forms, formats, and templates, to be used to submit information to apply for any specific permission to operate a DLT MI, namely: a DLT Multilateral Trading Facility (DLT MTF), a DLT Settlement System (DLT SS) and a DLT Trading and Settlement System (DLT TSS), as required by Articles 8 to 10 of the DLTR respectively.

#### When?

8. These guidelines apply from 23 March 2023.

## 3.2 Legislative references abbreviations and definitions

### Legislative references

CSDR or Regulation (EU) No 909/2014	Regulation (EU) No 909/2014 of the European Parliament and of the Council of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012 (OJ L 257, 28.8.2014, p. 1)
DLTR or Regulation (EU) No 858/2022	Regulation (EU) No 858/2022 of the European Parliament and of the Council on a pilot regime for market infrastructures based on distributed ledger technology and amending Regulations (EU) No 600/2014 and (EU) No 909/2014 and Directive 2014/65/EU (OJ L 151, 2.6.2022, p.1)
MIFID II or Directive 2014/65/EU	Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349)
ESMA Regulation or Regulation (EU) No 1095/2010	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 (OJ L 331, 15.12.2010, p. 84)

### Abbreviations

DLT	Distributed Ledger Technology
DLT MI	DLT Market Infrastructure
DLT MTF	DLT Multilateral Trading Facility
DLT SS	DLT Settlement System
DLT TSS	DLT Trading and Settlement System
ESFS	European System of Financial Supervision
ESMA	European Securities and Markets Authority
EU	European Union

### 3.3 Purpose

9. These guidelines are based on Article 16(1) of the ESMA Regulation and Articles 8(5), 9(5) and 10(6) the DLTR.
10. The objectives of these guidelines are to establish consistent, efficient and effective supervisory practices within the ESFS and to ensure the common, uniform and consistent application of Articles 8, 9 and 10 of the DLTR. In particular, they aim at establishing standard forms, formats and templates to apply for specific permissions to operate DLT market infrastructures.

### 3.4 Compliance and reporting obligations

#### Status of the guidelines

11. In accordance with Article 16(3) of the ESMA Regulation, competent authorities and financial market participants must make every effort to comply with these guidelines.
12. Competent authorities to which these guidelines apply should comply by incorporating them into their national legal and/or supervisory frameworks as appropriate, including where particular guidelines are directed primarily at financial market participants. In this case, competent authorities should ensure through their supervision that financial market participants comply with the guidelines.

#### Reporting requirements

13. Within two months of the date of publication of the guidelines on ESMA's website in all EU official languages, competent authorities to which these guidelines apply must notify ESMA whether they (i) comply, (ii) do not comply, but intend to comply, or (iii) do not comply and do not intend to comply with the guidelines.
14. In case of non-compliance, competent authorities must also notify ESMA within two months of the date of publication of the guidelines on ESMA's website in all EU official languages of their reasons for not complying with the guidelines.



15. Financial market participants are not required to report whether they comply with these guidelines.

### **3.5 Guidelines on standard forms, formats and templates to apply for specific permissions to operate a DLT MI**

#### **Guideline 1: Competent authorities' instructions for application**

16. The competent authority should make available on its website instructions on how to submit an application for a specific permission to operate a DLT MI, which should include the tables included in the Annex.
17. In particular, the competent authority should indicate on its website whether duly completed application forms, notifications and any related additional information are to be submitted on durable medium.

For the purposes of these guidelines, 'durable medium' means any instrument which enables the storage of information in a way that is accessible for future reference for a period of time adequate for the purposes of the information and allows the unchanged reproduction of the information stored.

18. The competent authority should indicate the languages that can be used to fill-in the template. Considering that multiple authorities may be involved in the assessment of the applications, the competent authority should recommend for the applicant to submit the same information in a language customary in the sphere of international finance.
19. The competent authority should also indicate a contact point for handling all information received from any applicants seeking permission to operate a DLT MI. The contact details of the designated contact point should be made public and regularly updated on the competent authorities' websites.

#### **Guideline 2: Submission of application to the competent authority**

20. A specific permission to operate a DLT MI comes in addition to an authorisation as an investment firm, as a CSD, or to operate a regulated market. There can be two situations:
  - a. where the applicant is already authorised as an investment firm, as a CSD or to operate a regulated market, only an application for a specific permission to operate a DLT MI should be submitted to the competent authority;
  - b. where the applicant has not been already authorised as an investment firm, as a CSD or to operate a regulated market, an application for authorisation as an

investment firm, as a CSD or to operate a regulated market should be submitted to the competent authority together with an application for a specific permission to operate a DLT MI. In such a case, applicants should demonstrate compliance with the relevant MiFID II or CSDR requirements, except those for which an exemption is requested under Articles 4, 5 or 6 of the DLTR, as applicable.

21. When applying for a specific permission to operate a DLT MI, all applicants should provide the competent authority with the following information:
  - a. Table 1 of the Annex: General information on the applicant;
  - b. Table 2 of the Annex: Information to be included in an application for permission to operate a DLT MTF, a DLT SS or a DLT TSS.
22. The application file should also include one of the following tables, as applicable, or both in the case of DLT TSS:
  - a. Table 3 of the Annex: Details to be included in the request for exemption(s) in accordance with Article 4(2) and (3) of the DLTR;
  - b. Table 4 of the Annex: Details to be included in the request for exemption(s) in accordance with Article 5(2) to (9) of the DLTR.
23. For each document listed in Tables 2, 3 or 4 the applicant should identify at least the following information:
  - a. the unique reference number of each document;
  - b. the title of each document;
  - c. the chapter, section or page of each document where the relevant information is provided.
24. Where necessary to avoid submitting the same information or document twice, applicants should cross refer to the relevant information or document submitted under a different part of their application file.

**Q1: Do you have any comments or suggestions regarding the proposed guidelines? If so, please provide arguments supporting your comments and suggestions.**

**Q2: Is any clarification needed in respect of the content of certain items listed in the tables below? If so, please indicate.**



**Q3: Do you consider more specific forms or templates should be developed for certain items? If so, please specify.**

## 3.6 Annex to the guidelines

Table 1

General information on the applicant

Type of information	Format
Date of application	ISO 8601 date in the format YYYY-MM-DD
Corporate name	Free text
Legal Entity Identifier	ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code
If available, MIC (applicable for DLT MTFs or DLT TSS)	Market identifier as defined in ISO 10383
Registered address	Free text
Member State	Free Text
Competent Authority(ies)	Free Text
Contact details of the person at the applicant in charge of preparing the application	Name: Function: Phone number: Email address:
Nature of the application	<i>Tick the relevant box</i> <ul style="list-style-type: none"> <li><input type="checkbox"/> DLT MTF under Article 8(1) of the DLTR</li> <li><input type="checkbox"/> DLT SS under Article 9(1) of the DLTR</li> <li><input type="checkbox"/> DLT TSS under Article 10(1) of the DLTR</li> </ul>

Type of information	Format
	<p><input type="checkbox"/> Change to DLT MI authorisation already obtained because of a material change to the DLT functioning, services, or activities under Articles 8(13), 9(13) and 10(13) of the DLTR</p> <p>Reference of the authorisation:</p> <p>Date:</p>
Authorisation under MiFID II or CSDR already obtained by the applicant	<p><i>Tick the relevant box</i></p> <p><input type="checkbox"/> Investment firm under Directive 2014/65/EU</p> <p>Where available, reference of the authorisation:</p> <p>Date:</p> <p><input type="checkbox"/> Market operator under Directive 2014/65/EU</p> <p>Where available, reference of the authorisation:</p> <p>Date:</p> <p><input type="checkbox"/> CSD under Regulation (EU) 909/2014</p> <p>Where available, reference of the authorisation:</p> <p>Date:</p> <p><input type="checkbox"/> None of the above</p>
Trading venue(s) or SSS the applicant operates (where applicable)	<p><i>Tick the relevant box and please repeat the entries (name and MIC) where the applicant runs more than one TV per type</i></p> <p><input type="checkbox"/> MTF</p> <p>Name of the MTF/MIC (if available):</p>

Type of information	Format
	<input type="checkbox"/> Regulated Market Name of the regulated market/MIC (if available): <input type="checkbox"/> OTF Name of the OTF/MIC (if available): <input type="checkbox"/> Securities settlement system Name of the system:
Simultaneous application under Directive 2014/65/EU or Regulation (EU) 909/2014	<i>Tick the relevant box</i> <input type="checkbox"/> Investment firm under Directive 2014/65/EU Where available, reference number of the application: Date of submission: <input type="checkbox"/> Market operator under Directive 2014/65/EU Where available, reference of the application: Date: <input type="checkbox"/> CSD under Regulation (EU) 909/2014 Where available, reference number of the application: Date of submission: <input type="checkbox"/> None of the above
<b>Legal status of the applicant</b>	
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	[unique reference number of the document(s)]



Type of information	Format
evidence of the legal address and business activity of the applicant that shall be valid at the date of the application	

Table 2

 Information to 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 the DLTR	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
<p><b>(a) The business plan of the applicant, rules of the DLT MI and any legal terms as referred to in Article 7(1) of the DLTR as well as information regarding the functioning, services and activities of the DLT MI as referred to in Article 7(3) of the DLTR</b></p>			
<p><b><u>A business plan</u> describing how the applicant intends to carry out their services and activities including:</b></p>			
<p>Description of the critical staff <i>This should include a description of which staff is considered critical and of their role</i></p>			
<p>Description of the technical aspects <i>This should include a detailed description of the DLT technical implementation: supporting</i></p>			

<i>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 computing guidelines.</i>			
Description of the use of the DLT			
<b><i>Rules 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, including rules on:</i></b>			
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			
<b><i>Information regarding the functioning, services and activities of the DLT, including:</i></b>			

Type of DLT Financial Instruments traded and or/settled	Indicate: <ul style="list-style-type: none"> <li><input type="checkbox"/> shares, as referred to in point a of Article 3(1) of the DLTR</li> <li><input type="checkbox"/> bonds, other forms of securitised debt or money market instruments, as referred to in point b of Article 3(1) of the DLTR. If 'other form of securitised debt', please specify:</li> <li><input type="checkbox"/> UCITS, as referred to in point c of Article 3(1) of the DLTR</li> </ul>		
Type of DLT used	Please specify its main characteristics: <ul style="list-style-type: none"> <li><input type="checkbox"/> permissioned</li> <li><input type="checkbox"/> unpermissioned</li> <li><input type="checkbox"/> private</li> <li><input type="checkbox"/> public</li> <li><input type="checkbox"/> other characteristics:</li> </ul>		
Description of how the operators carry out their functions, services and activities			

Description of services provided to clients			
Description of how their 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			
<b><i>(b) information on the functioning of the DLT used, as referred to in Article 7(2) of the DLTR</i></b>			
Rules on the functioning of the distributed ledger technology used, including on:			
Accessing the distributed ledger			
Participation of the validating node(s)			
Measures aimed at addressing or detecting potential conflicts of interests			

Risk management including any mitigation measures to ensure investor protection, market integrity and financial stability			
<b>(c) Overall IT and cyber arrangements as referred to in Article 7(4) of the DLTR</b>			
<p>Please provide a description of controls and arrangements in place related to the use of DLT and crypto-assets, on the following areas:</p> <p><b>A – Governance and strategy:</b> internal control and governance arrangements for the IT and information security risks, as well as IT and information security strategy</p> <p><b>B – IT and information security risk management</b> – policies and procedures in place to identify and manage any IT and information security risk posed by the use of DLT and crypto-assets</p> <p><b>C – Information security arrangements and controls</b> implemented to ensure confidentiality, integrity and availability of funds, collateral and DLT financial instrument and crypto-assets, including at least on the following areas:</p> <ul style="list-style-type: none"> <li>- logical security controls (including segregation of duties, identity and access</li> </ul>			

<ul style="list-style-type: none"> <li>- management, logical separation arrangements etc)</li> <li>- physical security</li> <li>- IT and information security operations</li> <li>- security monitoring arrangements</li> <li>- security reviews, assessment and testing, training and awareness, and</li> <li>- IT and information security incident management policies and procedures</li> </ul> <p><b>D – System development Life Cycle (SDLC), IT project and change management:</b> policies &amp; procedures, governance and control arrangements</p> <p><b>E – Business continuity management:</b> policy and procedures</p> <p><b>F – Third party risk management:</b> policies and procedures, considering also requirements set by ESMA (EBA/EIOPA, depending on NCA) cloud computing guidelines (in the case of EBA: outsourcing guidelines).</p> <p><b>Note:</b> if some or all the above-mentioned 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</p>			
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highlight the bespoke controls implemented in relation to the use of DLT and crypto-assets.			
<p><b><i>(d) Evidence that the applicant has in place sufficient prudential safeguards to meet its liabilities and compensate its clients pursuant to Article 7(6), third paragraph of DLTR</i></b></p>			
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 DLTR			
<p><b><i>(e) Where applicable, a description of the safekeeping arrangements of clients' DLT financial instruments as referred to in Article 7(5) of the DLTR</i></b></p>			
Description of safekeeping arrangements in place to prevent the use of funds, collateral or DLT financial instruments on the operator's own account without prior consent			
Description of segregation of funds, collateral or DLT financial instruments			

Information on record-keeping			
<b><i>(f) Investor protection as referred to in Article 7(6) of DLTR, in case of investor loss of funds, collateral or of DLT financial instrument or as a result of the cessation of the business</i></b>			
Description of the arrangements ensuring investor protection			
Description of the mechanisms for handling client complaints			
Description of procedures for compensation or redress			
Procedures to inform the NCA of potential misconduct in respect of the customers			
<b><i>(g) Transition strategy</i></b>			
Description of transition strategy as referred to in Article 7(7) of the DLTR			

Table 3

**Application for a permission to operate a DLT MTF or DLT TSS**

***Details to be included in the request for exemption(s) in accordance with Article 4(2) and (3) of the DLTR***

<b>Exemption Requested</b>	<i>Tick the relevant box:</i>  <input type="checkbox"/> Direct Retail Participation (Art 4(2) of the DLTR)  <input type="checkbox"/> Transaction Reporting (Art 4(3) of the DLTR)
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According to Article 8(4)(h) of the DLTR 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 the DLTR for the specific conditions attached to each exemption. According to Article 4(4) of the DLTR, the applicant shall demonstrate that each exemption requested is:

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

<i>Exemption requested</i>		<i>Short justification, compensatory measures proposed (if any) and means by which conditions attached to exemptions are complied with</i>	<i>Demonstration that the exemption is proportionate and justified by the use of the DLT</i>	<i>Demonstration that the exemption is limited to the DLT MTF and does not extend to any other MTF operated by the applicant</i>	<i>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.</i>
<b>Direct Retail Participation</b> Article 53(3) and 19(2) MiFID	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	<i>[Free text]</i>
<b>Transaction reporting</b> Article 26 MiFIR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	<i>[Free text]</i>

*Table 4*

#### **Application for permission to operate a DLT SS or DLT TSS**

##### ***Details to be included in the request for exemption(s) in accordance with Article 5(2) to (9) of the DLTR***

According to Article 9(4)(h) of the DLTR 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 the DLTR for the specific conditions attached to each exemption.

According to article 5(10) of the DLTR the applicant shall demonstrate that each exemption requested is:

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

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
<b>Dematerialised form</b> (Article 2(1)(4) of CSDR) Article 5(2) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Transfer orders</b> (Article 2(1)(9) of CSDR) Article 5(2) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Securities accounts</b> (Article 2(1)(28) of CSDR) Article 5(2) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Recording of securities in book-entry form</b> (Article 3 of CSDR) Article 5(2) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Integrity of issue</b> (Article 37 of CSDR) Article 5(2) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	

Exemption	Requested	<i>Short justification, compensatory measures proposed (if any) and means by which conditions attached to exemptions are complied with.</i>	<i>Demonstration that the exemption is proportionate to, and justified by, the use of DLT</i>	<i>Demonstration that the exemption is limited to the DLT SS for which specific permission is sought</i>	<i>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</i>
<b>Segregation of assets</b> (Article 38 of CSDR) Article 5(2) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	
<b>Measures to prevent settlement fails</b> (Article 6 of CSDR) Article 5(3) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	
<b>Measures to address settlement fails</b> (Article 7 of CSDR) Article 5(3) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	

Exemption	Requested	<i>Short justification, compensatory measures proposed (if any) and means by which conditions attached to exemptions are complied with.</i>	<i>Demonstration that the exemption is proportionate to, and justified by, the use of DLT</i>	<i>Demonstration that the exemption is limited to the DLT SS for which specific permission is sought</i>	<i>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</i>
<b>Only on outsourcing of a core service to a third party</b> (Article 19 of CSDR) Article 5(4) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	
<b>Admit as participants other natural and legal persons</b> (Article 2(19) of CSDR) Article 5(5) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	
<b>Requirements for participation</b> (Article 33 of CSDR) Article 5(6) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	

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
<b>Transparency</b> (Article 34 of CSDR) Article 5(6) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Communication procedures with participants and other market infrastructures</b> (Article 35 of CSDR) Article 5(6) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Settlement finality</b> (Article 39 of CSDR) Article 5(7) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Cash settlement</b> (Article 40 of CSDR) Article 5(8) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	
<b>Standard link access</b> (Article 50 of CSDR) Article 5(9) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	[Free text]	[Free text]	[free text/evidence that the general rule applies in other non-DLT MI]	

Exemption	Requested	<i>Short justification, compensatory measures proposed (if any) and means by which conditions attached to exemptions are complied with.</i>	<i>Demonstration that the exemption is proportionate to, and justified by, the use of DLT</i>	<i>Demonstration that the exemption is limited to the DLT SS for which specific permission is sought</i>	<i>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</i>
<b>Customised link access</b> (Article 51 of CSDR) Article 5(9) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	
<b>Access between a CSD and another market infrastructure</b> (Article 53 of CSDR) Article 5(9) of DLTR	<input type="checkbox"/> Yes/ <input type="checkbox"/> No	<i>[Free text]</i>	<i>[Free text]</i>	<i>[free text/evidence that the general rule applies in other non-DLT MI]</i>	

## 4 Annexes to the consultation paper

### 4.1 Annex I - Summary of questions

**Q1: Do you have any comments or suggestions regarding the proposed guidelines? If so, please provide arguments supporting your comments and suggestions.**

**Q2: Is any clarification needed in respect of the content of certain items listed in the tables below? If so, please indicate.**

**Q3: Do you consider more specific forms or templates should be developed for certain items? If so, please specify.**

## 4.2 Annex II - Legislative mandate to draft guidelines

### *Article 8 of DLTR*

#### **Specific permission to operate DLT MTF**

5. *By 23 March 2023, ESMA shall develop guidelines to establish standard forms, formats, and templates for the purposes of paragraph 4.*

### *Article 9 of DLTR*

#### **Specific permission to operate a DLT SS**

5. *By 23 March 2023, ESMA shall develop guidelines to establish standard forms, formats, and templates for the purposes of paragraph 4.*

### *Article 10 of DLTR*

#### **Specific permission to operate DLT TSS**

6. *By 23 March 2023, ESMA shall develop guidelines to establish standard forms, formats and templates for the purposes of paragraph 4.*

### 4.3 Annex III - Preliminary high-level cost-benefit analysis

1. Article 16 of the ESMA Regulation requires ESMA, where appropriate, to analyse the potential costs and benefits relating to proposed guidelines. It also states that cost benefit analyses must be proportionate in relation to the scope, nature and impact of the proposed guidelines.
2. The objective of performing a cost-benefit analysis is to assess the costs and benefits of the various policy or technical options which were analysed during the process of drafting the guidelines.
3. The guidelines included in this consultation paper are of a mandatory nature, i.e. they are envisaged in DLTR in order to ensure uniform, consistent and coherent application of Union Law.
4. There are directly applicable provisions in the DLTR that would not apply in a uniform, consistent and coherent way within the Union in the absence of a clarification from ESMA on the way information should be submitted to competent authorities to apply for a specific permission to operate a DLT MI.
5. The costs implied by these guidelines can be summarised as, for market participants, the cost of preparing the necessary documentation and information for the application and, for competent authorities, the costs of setting up new processes and actually processing those applications.
6. On the basis of the analysis above, ESMA concludes that the benefits of issuing guidelines on standard forms, formats and templates to apply for permission to operate a DLT market infrastructure outweigh the costs.