

Pilot regime on distributed ledger technology market infrastructure

The European Parliament is due to vote on a trilogue agreement on the proposal for a pilot regime for market infrastructure, which will establish a scheme to trade and settle transactions of financial instruments in crypto-asset form. The regime follows the 'sandbox' approach that allows for temporary derogations from some specific requirements. This way, the development of solutions for the trading and settlement of transactions in crypto-assets should be encouraged, while preserving a high level of financial stability, transparency and market integrity and avoiding regulatory arbitrage and loopholes.

European Commission proposal

On 24 September 2020, the Commission adopted a [proposal](#) for a regulation on a pilot regime for market infrastructure based on [distributed ledger technology](#) (DLT). The proposal 'establishes operating conditions for DLT market infrastructures, permissions to make use of them and the supervision and cooperation of competent authorities and ESMA'. Furthermore, it sets out the limitations in terms of DLT [transferable securities](#) that can be admitted to trading on, or recorded by, DLT market infrastructures. This proposal is part of a package of measures – the Digital Finance package, which includes a new [strategy on digital finance for the EU financial sector](#) – with the aim of ensuring that EU financial services legislation is fit for the digital age, while mitigating associated potential risks.

European Parliament position

The European Parliament's Committee on Economic and Monetary Affairs voted to amend the [proposal](#), to limit the financial instruments admitted to trading on, or settled by, a DLT market infrastructure, mainly in terms of market capitalisation (shares), issuance size (bonds) or issuance volume ([exchange-traded funds, ETFs](#)). To allow for competition, new entrants should also be able to access the pilot regime. Furthermore, DLT market infrastructure operators should establish a clear and detailed business plan describing how they intend to offer their services and conduct their business. The European Securities and Markets Authority (ESMA) should have a direct supervisory mandate and should publish annual interim reports as well as an early stocktaking report no later than three years from the date the Regulation enters into force.

By introducing a common EU pilot regime, DLT market infrastructures should be temporarily exempted from some specific requirements under EU 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. Firms within the EU would be able to exploit the full potential of the existing framework, allowing supervisors and legislators to identify obstacles in the regulation, while regulators and firms themselves gain valuable knowledge about the application of DLT. This could facilitate a more reliable and safe secondary market for crypto-assets qualifying as financial instruments.

While the Parliament's amendments set lower thresholds for financial instruments admitted to trading on, or settlement by, a DLT market infrastructure, the limits set in the [provisional political agreement](#) reached between the Council and Parliament on [24 November 2021](#) are more munificent. For instance, the proposal stipulates higher thresholds for shares (market capitalisation of less than €500 million), bonds (issuance size of less than €1 billion) and total market value of DLT transferable securities recorded (shall not exceed €6 billion). The text now needs to be formally adopted by the Parliament in plenary and then by the Council.

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