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Presidency Discussion Paper
Market Integration and Supervision Package
Distributed Ledger Technology Pilot Regime Review

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Introduction

On 4 December 2025, the European Commission published its proposal on the Market Integration and Supervision Package ('**MISP**') which includes amendments to Regulation (EU) 2022/858 on a pilot regime for market infrastructures based on distributed ledger technology ('**DLTPR Regulation**'). The proposed amendments aim to enhance the flexibility and proportionality of the regime, broaden its scale and scope, and address concerns regarding its long-term viability, notably by removing the time limitations currently attached to permissions granted under the pilot.

The MISP was presented by the Commission at the Council Working Party ('**CWP**') kick-off meeting on 15 December 2025 together with references to the accompanying Impact Assessment ('**IA**'). Given the extended scope of the MISP, a more detailed technical presentation took place on 15 January 2026. During the aforesaid presentation, MS had the opportunity to express their preliminary views and comments on the proposal. Following these exchanges, MS also had the opportunity to submit their written comments to the Presidency by 30 January 2026.

The purpose of this paper is to provide a structured basis for the technical discussions of the CWP meeting on 20 February, which will be dedicated to the first reading of Article 8 of MISP, covering the amendments relating to the DLTPR Regulation.

Today's CWP provides an opportunity to engage in constructive technical examination of the proposal and begin the first exchange on the key issues raised. The PCY invites MS to provide comments during today's CWP and, to elaborate their positions in the subsequent written procedure in particular with regard to the following topics:

1. **Definitions, scope and scale of the pilot** (Articles 2, 3, 4 and 6)
2. **Duration of the pilot** (Articles 8, 9, 10, 14 and 15)
3. **Ad hoc exemptions** (Articles 4a and 5a)
4. **The simplified regime** (Article 7a)
5. **Rules on transitioning** (Article 7a(7)-(10) and (12))
6. **Provision of individual CSD services** (Articles 10a, 10b, 10f)

1. Definitions, Scope and Scale of the Pilot

Relevant Articles: Articles 2, 3, 4, and 6

1.1. Scope of eligible entities

The Commission proposes to enhance the scope of eligible entities that can apply for permission to operate a DLT Trading Venue ('**DLT TV**') or a DLT Trading and Settlement System ('**DLT TSS**'). In particular, the proposal would allow investment firms or market operators operating organised trading facilities ('**OTFs**'), as defined in Directive 2014/65/EU (**'MiFID II'**) to apply for such permission. Under the current framework, this possibility is limited to investment firms or market operators operating multilateral trading facilities ('**MTFs**').

Furthermore, the Commission proposes to allow crypto-asset service providers ('**CASPs**') operating a trading platform under Regulation (EU) 2023/1114 ('**MiCAR**'), to apply for permission to operate a DLT TV or a DLT TSS. This would be subject to compliance with the MiFID II and Regulation (EU) 600/2014 ('**MiFIR**') provisions applicable to MTFs or OTFs, as relevant, except for the MiFID II provisions relating to authorisation, the management body, identification of shareholders with qualifying holdings, procedures for the acquisition of qualifying holdings, and capital endowment (Articles 5 to 13 and Article 15 of MiFID II).

Preliminary Views of MS:

No significant concerns were raised thus far regarding the inclusion of OTFs in the scope of eligible entities. However, a clarification was requested by a MS on how the discretionary nature of OTFs would be accommodated within a DLT market infrastructure.

As regards the inclusion of CASPs, views were more divergent. Some MS expressed support, considering that the proposal reflects market developments and emerging business models. Other MS raised concerns that the inclusion of CASPs could introduce additional operational and supervisory complexities, in particular as regards risk segregation and the management of conflicts of interest. A number of MS invited the Commission to further substantiate the rationale for the proposed approach, including through a clearer assessment of the expected benefits (e.g. potential economies of scale) in relation to the identified risks.

Questions

1. **Do MS agree with the possibility for the activities of DLT TVs or DLT TSSs to be extended to OTFs? If not, based on what concerns?**
2. **Do MS agree with the possibility for CASPs to operate DLT TVs and/or DLT TSSs? If not, based on what concerns?**
3. **Do MS agree with the proposed MiFID II exemptions for CASPs operating trading platforms that are authorised to operate DLT TVs and DLT TSSs?**

1.2. Scope of eligible financial instruments

The Commission proposes to remove the current restrictions on the types of financial instruments that may be admitted to trading or recorded on a DLT market infrastructure to include all financial instruments. The existing pilot regime limits the scope to a range of less liquid assets with product-specific limitations, namely shares with market capitalisation of less than EUR 500 million, bonds or other forms of securitised debt with an issue size of less than EUR 1 billion, or units in collective investment undertakings ('**UCITS**') with the market value of the assets under management less than EUR 500 million.

According to the Commission, the use of DLT does not, in itself, render the financial instruments concerned inherently riskier than the instruments managed through other functionally similar technologies. The proposed approach is aligned with the principle of technological neutrality underpinning the EU regulatory framework. Furthermore, broadening the scope of eligible instruments could enhance market interest in testing DLT applications across a wider range of asset classes.

Preliminary Views of MS:

MS expressed general support for expanding the scope of the DLTPR Regulation to cover all financial instruments. However, concerns were raised in relation to the continued application of the exemption under Article 4(2) of the DLTPR concerning dealing on own account. In particular, one MS highlighted potential investor protection implications, notably in the context of complex financial instruments.

<u>Question</u>

4. **Do MS agree with the proposal to remove limitations regarding the type of financial instruments allowed to be admitted to trading or recorded on a DLT market infrastructure? If not, what range of permissible instruments would MS consider?**

1.3. Scale

The Commission proposes to remove product-specific thresholds and to significantly increase the aggregate market value thresholds applicable under the pilot regime.

Under the **regular regime**, the proposal provides that:

a. At the moment of admission to trading or initial recording of a new DLT financial instrument, the aggregate market value of all the DLT financial instruments that are admitted to trading or that are recorded on a DLT market infrastructure shall not exceed EUR 100 billion.
b. The aggregate market value triggering the transition strategy shall be EUR 150 billion.

Under the **simplified regime**, the proposal provides that:

a. At the moment of admission to trading or initial recording of a new DLT financial instrument, the aggregate market value of all the DLT financial instruments that are admitted to trading or that are recorded on a DLT market infrastructure shall not exceed EUR 10 billion.
b. The aggregate market value triggering the transition strategy shall be EUR 15 billion.

The proposal specifies that the aggregate market value thresholds referred to in point (a) above are to be calculated on a group-wide basis. In the interest of clarity, it merits clarification from the Commission whether the aggregate thresholds referred to in point b) above would also apply on a group-wide basis.

The Commission explains that current thresholds of EUR 6 billion for admission to trading or initial recording of a new DLT financial instrument and EUR 9 billion for triggering the transition strategy, have limited the practical use of the pilot framework and constrained the ability of market participants to scale their activities. The introduction of a simplified regime is intended to enhance proportionality, while preserving the exploratory nature of the supervisory sandbox.

In the interest of ensuring flexibility, the Commission also proposes a mandate for a Commission delegated act that would allow for the adjustment of the thresholds in light of market developments. Such a delegated act would need to take into account the risks that an adjustment or omission of adjustment could entail for financial stability, whether an adjustment would give rise to other material risks for financial markets that may not be sufficiently addressed by other mitigating measures and whether market conditions and demonstrated market demand justify an adjustment.

Preliminary Views of MS:

MS generally expressed support for increasing the thresholds. Some MS questioned whether the proposed levels would be sufficient to facilitate meaningful market uptake, in particular when applied on a group-wide basis. Concerns were also raised by a few MS regarding the scope of the Commission's empowerment to amend the thresholds by delegated act, including whether the notion of "market developments" should be further specified.

Finally, at least two MS questioned whether aggregate market value (as currently defined under the DLTPR Regulation) constitutes the most appropriate metric for determining eligibility thresholds (alternative metrics such a trading volume or settlement exposure were suggested). Related questions were raised as to how short-term market fluctuations might affect the activation or deactivation of the transition strategy and the movement between the simplified and regular regimes.

Questions

5. **Do MS agree with the proposed aggregate thresholds, including their application at group level?**
6. **Do MS agree with the possibility for the Commission to adopt a delegated act to adjust the thresholds?**
7. **Do MS agree with the elements that the Commission would need to take into consideration when preparing the delegated act adjusting the thresholds?**
8. **How do MS assess the use of aggregate market value as the metric for the definition of thresholds and the sole trigger for transition between the simplified and regular regimes?**

In particular, do MS consider that this metric ensures sufficient stability and predictability, or should alternative or complementary indicators, such as trading volume or settlement exposure, be examined?

2. Duration of the Pilot

Relevant Articles: Articles 8, 9, 10, 14 and 15

The Commission proposes to maintain the pilot regime as flexible and limited in scale, while removing its current time limitation. In particular, the proposal would abolish the automatic lapse of authorisations after six years. Under the proposed approach, the Commission would be required to decide by 2030, on the basis of a report prepared by the European Securities and Markets Authority ('**ESMA**'), whether the pilot regime should be integrated into the permanent EU regulatory framework, notably into MiFID II and Regulation (EU) No 909/2014 ('**CSDR**'), subject to sufficient market and regulatory maturity.

In the meantime, the proposal would reduce the frequency of ESMA's interim reporting on the functioning of the pilot regime from annual to bi-annual. According to the Commission, these amendments aim to enhance legal certainty regarding the long-term viability of the regime and thereby increase its attractiveness for market participants.

Preliminary Views of MS:

Some MS voiced concerns that an extended period under a "pilot" status could discourage investment, create legal uncertainty and potentially place EU operators at a competitive disadvantage vis-à-vis other jurisdictions. These delegations also called for greater clarity regarding the review timeline and the conditions under which the regime would transition to a permanent framework. Other MS underlined the importance of preserving the pilot character of the regime, considering that its experimental nature remains appropriate in light of the evolving technological and market landscape.

<u>Question</u>

9. **Do MS agree to remove the existing ambiguity regarding the time-limit for the pilot regime and replace this with a report by ESMA and an assessment by the Commission? If not, what do MS suggest?**

3. Ad hoc Exemptions

Relevant Articles: Articles 4a and 5a

In addition to the requirements a DLT market infrastructure has been exempted from under the DLTPR in accordance with Articles 4, 5, and 6, the Commission proposes a new and additional possibility for DLT market infrastructures to request from their national competent authority ('**NCA**') additional exemptions in relation to specific provisions of MiFID II (Title I on scope and definitions and Title II on authorisation and operating conditions for investment firms), MiFIR (new Title Ia on trading venues, Title II on pre-trade transparency, Title IV on transaction reporting, Title V on derivatives, Title VI on non-discriminatory access, that is, all requirements directly applicable to trading venues), or CSDR for the system that they operate (Title II on securities settlement and Title III on CSDs).

This is intended to provide additional flexibility and to future-proof the regulation by making it possible to address issues that could arise in the course of the implementation of the regime. The Commission explains that certain provisions of sectoral legislation may be identified as incompatible with the provision of services on DLT by applicants, as they develop their business models before applying for an authorisation, or after obtaining the authorisation.

The precondition for the application of these exemptions is that the DLT market infrastructure operator demonstrates and duly justifies that compliance with the provision in respect of which an exemption has been requested is incompatible or highly disproportionate with the use of DLT and that all necessary conditions set out in Article 4a(1) or 5a(1) respectively, are met to ensure that the impact of the exemption is limited.

Any such exemption is subject to compensatory measures that can achieve the objective of the provision for which the exemption is requested, which are proposed by the DLT market infrastructure operator in its application for authorisation and assessed and imposed by the NCAs.

Furthermore, the Commission proposes that, prior to granting such an exemption, the NCA shall prepare a draft assessment of the exemption request and submit it to ESMA to issue a non-binding opinion on the draft assessment and on the exemptions requested, which may include recommendations on additional compensatory measures. The NCA shall give due consideration to ESMA's opinion and, at ESMA's request, provide a justification for any significant deviation therefrom. This mechanism is intended to ensure supervisory convergence between NCAs when granting exemptions.

Preliminary Views of MS:

While MS generally acknowledge the objective of providing additional flexibility and future-proofing the DLT Pilot Regime, several MS expressed reservations regarding the introduction of broad ad-hoc exemption mechanisms under Articles 4a and 5a. In particular, some MS questioned whether the proposed amendments could give rise to increased regulatory complexity, a greater reliance on case-by-case supervisory discretion and potential regulatory arbitrage. Concerns were also raised as to whether the scope of potential exemptions from core MiFID II, MiFIR and CSDR provisions is sufficiently circumscribed, with some MS suggesting that a more clearly delimited list of eligible exemptions could enhance legal certainty.

With regard to the ESMA's involvement in the assessment of ad hoc exemption requests under Articles 4a and 5a, some MS recognised the objective of enhancing supervisory convergence and consistency, while others raised questions regarding the duration and procedural aspects of the proposed process. In particular, MS sought clarification on how coordination between ESMA and the NCAs would operate in practice, notably in fast-moving or innovative cases and where national legal or market specificities were relevant. MS also requested clarity on the conditions triggering ESMA's involvement and on the applicable procedural timelines.

<u>Questions</u>

10. **Do MS agree with the proposal to leave flexibility to the operators of DLT TV and DLT SSs to request additional exemptions from some of the requirements under the relevant sectoral law, beyond the requirements already allowed to be disapplied under the pilot regime?**
    If yes, do MS agree with the proposed approach to introduce a broad list of requirements from which exemptions may be requested or do MS prefer a more targeted list of requirements from which exemptions may be requested?
11. **Do MS agree with the proposed conditions that need to be met before granting an additional exemption as set out in Article 4a(1) and Article 5a(1)?**
12. **Do MS agree with the proposal to require a non-binding opinion from ESMA on the ad hoc exemptions from MiFID II/MiFIR and CSDR requirements granted by NCAs?**

4. The Simplified Regime

Relevant Article: Article 7a

The Commission proposes the introduction of a simplified regime for smaller DLT SS and DLT TSS operating below the relevant activity thresholds (EUR 10 billion and EUR 15 billion) as presented in section 1.3 above.

The objective is to introduce greater proportionality into the DLT Pilot framework, reduce regulatory burden for smaller and innovative operators, and facilitate market participation, while maintaining essential safeguards for investor protection, market integrity and financial stability.

Under the simplified regime, entities would not be subject to the full CSDR framework. Instead, they would comply with a lighter and more targeted set of requirements.

The intention is to preserve the “safety core” of CSDR while avoiding disproportionate obligations for smaller-scale infrastructures, by reducing regulatory burden for those infrastructures and at the same time preserving essential prudential and organisational protections.

A detailed list of the exemptions from the CSDR (as proposed to be amended under Article 4 of the MISP Master Regulation) in the context of the simplified regime can be found in the Annex of this paper.

Furthermore, the proposal mandates the European Banking Authority (‘**EBA**’) to develop technical standards specifying capital requirements and related safeguards, ensuring a proportionate and harmonised approach across MS. In addition, ESMA, in cooperation with the European System of Central Banks (‘**ESCB**’), would review and adjust relevant CSDR technical standards where necessary to reflect the reduced scale and risk profile of simplified-regime entities.

Preliminary Views of MS:

Concerns were raised by some MS regarding the clarity and coherence of paragraphs 4 to 6 of Article 7a, the potential risk of regulatory arbitrage between entities operating under the simplified regime and those subject to the full CSDR framework, and the need to ensure that RTS on prudential safeguards remain proportionate and do not create barriers to market entry.

Questions:

13. **Do MS support the introduction of a simplified regime under the DLT Pilot framework?**
14. **In the view of MS, does the proposed simplified regime strike an appropriate balance between proportionality and the preservation of adequate safeguards?**
15. **Do MS agree with the proposal for EBA regulatory technical standards on prudential requirements for CSDs under the simplified regime?**
16. **Do MS agree with the proposal to mandate ESMA to draft or adjust CSDR RTS to better suit the needs of entities authorised under the simplified regime?**

5. Rules on Transitioning

Relevant Article: Article 7a(7) to (10) and (12) of DLTPR

5.1 Transition from the simplified regime to the regular regime

The Commission proposes to introduce a structured mechanism governing the transition from the simplified regime to the regular regime under the DLT Pilot framework.

Capital Requirements: The proposal foresees a phased application of CSDR capital requirements for DLT SS and DLT TSS operating under the simplified regime:

- Upon reaching the EUR 10 billion threshold of aggregate activity, operators would be required to comply with 50% of the applicable CSDR capital requirements.
- Upon reaching the EUR 15 billion threshold, full compliance with CSDR capital requirements would be required.

Early Notification Mechanism: When operating under the simplified regime an operator's aggregate activity reaches EUR 8 billion, it must notify its NCA whether it intends to transition to the regular regime. This mechanism is designed to provide early transparency and allow both operators and supervisors to anticipate the next steps.

Transition Plan: Where an operator intends to transition to the regular regime, it must submit a transition plan within two monthsfrom the date submitting a notification of its intention to transition to the regular regime. This plan should in practice explain how the operator will achieve compliance with the requirements of the regular regime. The operator must then comply with the regular regime within two months of reaching the relevant threshold. Where an operator does not intend to transition, it must demonstrate to the NCA, within two months of the transition notification, how it will ensure that its activities remain within the thresholds of the simplified regime.

Supervisory Safeguard: Finally, the proposal provides that, where there are strong indications that an operator may not be able to complete the transition within the prescribed timeframe, the NCA may require the temporary cessation of activities until compliance is restored. This measure is intended to safeguard orderly market functioning and investor protection.

Preliminary Views of MS:

MS raised concerns that reliance solely on the aggregate market value threshold as the trigger for transition could lead to frequent shifts between the simplified and regular regimes as a result of short-term market fluctuations, thereby increasing operational complexity.

Question

17. Do MS agree with the proposed transition between the simplified and regular regimes?

5.2 Transition from the regular regime to the MiFID II/MiFIR and CSDR regime

The Commission's proposal largely maintains the existing framework governing the transition from the DLT Pilot Regime to the applicable sectoral legal frameworks under MiFID II/MiFIR and CSDR, which is triggered when the aggregate market value of all DLT financial instruments admitted to trading or recorded on a DLT market infrastructure has reached EUR 150 billion.

The main amendment concerns specifically the situation of operators of DLT TSSs that exceed the applicable thresholds and do not intend to seek authorisation as a CSD under CSDR as part of their transition strategy. In this context, the Commission proposes to clarify and strengthen the transition obligations.

Rather than requiring such operators to make their "best efforts" to arrange for an authorised CSD to assume their operations, the proposal replaces this formulation with a requirement to comply with Article 20(5) of CSDR. In practical terms, this change strengthens the legal certainty as regards the transfer of activities when a DLT market infrastructure exits the pilot regime, ensuring that the transfer of settlement functions and assets takes place in an orderly and secure manner.

Preliminary Views of MS:

A suggestion was made by a MS that further consideration be given to adapting the CSDR framework in a more technologically neutral manner, in order to facilitate smoother and more coherent transitions from the pilot regime to the sectoral framework.

Questions

18. **Do MS agree with the proposed transition between the DLT pilot and the regular applicable legal frameworks?**
19. **Do MS agree with the proposed change regarding the takeover of assets of a DLT SS or DLT TSS that is to be wound down as part of its transition strategy?**
20. **Do MS consider that further adjustments to the CSDR could facilitate the effective functioning of, and transition from, the DLT Pilot Regime?**

6. Provision of Individual CSD Services

Relevant Articles: Articles 10a, 10b, 10f

The Commission proposes to introduce the possibility for investment firms, regulated markets, credit institutions, CSDs and CASPs to obtain authorisation from their NCA to provide a DLT notary service (as "**DLT notaries**") or a DLT central maintenance service (as "**DLT account keepers**"), as well as related non-banking type ancillary services. According to the Commission, this approach is intended to enable market participants to leverage the platform-based features of DLT.

DLT notaries and DLT account keepers would be subject only to those provisions of CSDR that are relevant to their specific activities, as well as the general requirements including on business plans and cybersecurity. They would also be required to comply with transition planning and disclosure obligations. Furthermore, NCAs would have the power to impose additional prudential safeguards in the form of own funds or via an insurance policy. They would also benefit from passporting across the Union either through the freedom of establishment or the freedom to provide services.

In view of the experimental nature of the new regime, DLT account keepers would be allowed to keep in securities accounts an aggregate market value of DLT financial instruments equal to the threshold of the simplified regime, currently set at EUR 10 billion in at the time of settlement of the first transaction. For DLT financial instruments that are transferable securities issued by SMEs, the allowed threshold is increased to EUR 30 billion.

The Commission further proposes that DLT notaries and DLT account keepers would be required to settle in CSDs, DLT SSs or DLT TSSs, or within settlement schemes.

Where a DLT notary or a DLT account keeper provides core CSD services jointly with a CSD, a DLT SS or a DLT TSS, the proposal provides that each entity would remain responsible only for compliance with the CSDR requirements applicable to its own activities. The allocation of responsibilities would need to be set out in a legally binding written agreement, to be notified to the relevant NCAs.

Finally, the Commission proposes to mandate ESMA to develop draft technical standards specifying the core requirements for DLT notaries and DLT account keepers, which should be aligned with the relevant objectives and principles of the CSDR and proportionate to the risk profile of the DLT notary and the DLT central account maintenance service.

Preliminary Views of MS:

Several MS requested further clarification on the rationale for the proposed unbundling of core CSD services and the provision of individual services. Concerns were expressed that allowing the provision of individual services could increase fragmentation and operational complexity, given that, under the traditional CSDR framework, the three core services are most of the time provided together due to efficiencies.

One MS suggested that, in addition to being set out in a legally binding written agreement, the allocation of liabilities between a DLT notary or DLT account keeper and a CSD, DLT SS or DLT TSS should also be explicitly disclosed to end investors.

Questions

21. **Do MS agree in principle with the proposal to allow for the provision of individual CSD services in the form of notary and central maintenance?**
22. **Do MS agree with the proposed applicable thresholds in relation to the activities of DLT account keepers?**
23. **Do MS agree to have DLT notaries and DLT account keepers benefit from passporting?**
24. **Do MS agree with the proposal on the segregation of liabilities of DLT notaries, DLT account keepers and entities providing settlement services, respectively? Do MS agree with the proposal to require a binding written agreement regarding those liabilities and do they share the view that the liability allocation should be explicitly disclosed to the end investor?**
25. **Do MS agree with the proposal to require ESMA to develop draft regulatory technical standards on the core requirements for DLT notaries and DLT account keepers?**