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| MALTA FINANCIAL SERVICES AUTHORITY |
| **Authorisation Forms** |
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| **Form AA40: Distributed Ledger Technology (DLT) Application Form** |
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| **High Level Guidelines** |
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| 1. General   This form, Form **AA40:** **Distributed Ledger Technology (DLT) Application Form** (‘Application’), shall be duly filled in by the persons wishing to obtain permission to operate a DLT Market Infrastructure under Article 4(1) of the Financial Markets Act (Chapter 345 of the Laws of Malta). This Form should be considered in conjunction with the applicable rules and regulations, including Regulation (EU) [2022/858](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32022R0858&from=EN) OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 30 May 2022 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  In this respect, the Applicant shall to the best of its knowledge, provide information, which is truthful, accurate and complete. The Applicant shall notify the MFSA immediately if the information provided changes in any respect either prior to or subsequent to authorisation.  The Applicant shall note that it is an offence to furnish information or to make a statement which one knows to be inaccurate, false or misleading in any material respect, or to recklessly furnish information or to make a statement which is inaccurate, false or misleading in any material respect, pursuant to any of the provisions laid out under the relevant EU Directives and/or Regulations, of the Investment Service Act and/or of the Financial Markets Act or of any Regulations made or of any Rules issued thereunder, or any condition, obligation, requirement, directive or order made or given as aforesaid.  The Applicant is required to make reference, and where applicable comply with, the Act, the Regulations made, or Rules issued thereunder during the completion of the Application. The Applicant shall also refer to the respective National and/or European Regulatory Frameworks or other binding regulation as may be applicable.  The Applicant shall not tamper with, or modify in any manner, this document. Should it transpire that the document was tampered with, or modified in any manner, the Authority shall consider the Applicant to be in breach of the Guidelines. Any potential improvements should be communicated to the MFSA for consideration.  The Authority may at its sole discretion request from the Applicant further information/ documentation.  **Note:** If, when compiling this Form, the Applicant does not hold a licence to act as an Investment Firm or a licence to operate a trading venue (including a Multilateral Trading Facility or a Regulated Market) or a Central Securities Depository, the Applicant is required to submit the respective licence application together with the required supporting documentation.   1. Definitions   For the purposes of this Application, the definitions identified below should be read in conjunction with the provisions of the Act and other respective national or European regulatory frameworks or other binding regulation as may be applicable.  In the event that any of the definitions contained hereunder conflict with a definition under the Act, the definitions set out in the Act or in any other such law shall prevail, unless otherwise specified herein.   |  |  |  | | --- | --- | --- | |  |  |  | | **‘Act’** | | means the Financial Markets Act (Chapter 345 of the Laws of Malta) | |  | |  | | **‘Applicant’** | | means any person applying to obtain authorisation under Regulation (EU) 2022/858 | |  | |  | | **‘Authorisation’** | | shall for the purpose of this Form, mean an approval, exemption or specific permission granted under Regulation (EU) 2022/858 | |  | |  | | **‘Authority’** | | means the Malta Financial Services Authority established by the Malta Financial Services Authority Act (Chapter 330 of the Laws of Malta) | |  | |  | | **‘Formed’** | | shall for the purpose of this Application, mean a person that has already been incorporated with the Malta Business Registry | |  | |  | | **‘Regulatory framework’** | | means the respective National and/or European Regulatory Frameworks or other binding regulation, as may be applicable | |  | |  |  1. Instructions   The Applicant is required to complete all the respective sections under all the three parts of the Application, as follows:   * + Section 1 – Applicant Details   + Section 2 – Business Model, Strategy and Activity   + Declaration Form   Applicants are to note that further instructions in relation to the Application may be found on the Guidelines to the Authorisation Forms ([link](https://www.mfsa.mt/wp-content/uploads/2021/05/AG01-Applications-Guidelines.pdf)). It is noted that the Application should reflect the Applicant’s structure and method of operations at time of authorisation.  Following submission of the Application via the LH Portal, the Declaration Form should be printed and sent, originally signed, to the Authority. In the printed Declaration Form, the Applicant is reminded to enter the Application ID, which is provided automatically through the LH Portal upon on-line submission of the Application. It is to be noted that only this Declaration Form should be sent physically to the Authority. Further instructions can be found in the Declaration Form itself.  In order for the Application to be considered complete, the Applicant is required to have submitted, along with a duly filled Application, all the required documentation as identified within this Application.   1. Privacy Notice   The MFSA ensures that any processing of personal data is conducted in accordance with Regulation (EU) 2016/679 (General Data Protection Regulation), the Data Protection Act (Chapter 586 of the Laws of Malta) and any other relevant European Union and national law. For further details, you may refer to the MFSA Privacy Notice available on the MFSA webpage <https://www.mfsa.mt/privacy-notice/>.   1. Disclaimer   It is noted that the submission of this Application and/or its determination of ‘completeness’ shall not be construed as a granting of Authorisation by the MFSA. Furthermore, the Applicant is referred to Article 4(A) of the MFSA Act, wherein the granting of an Authorisation is a concession and a revocable privilege, and no holder thereof shall be deemed to have acquired any vested rights therein or thereunder. |

| * 1. Applicant Details | | | | | |
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|  | **Applicant Person Type** | | | | |
|  | Person Type | Select item |  | If ‘*Other Legal Form*’:  Specify Form | Enter text |
|  | **Applicant – General and Identification Details** | | | | |
|  | **Identification** | | | | |
|  | Registered Name  *(If not yet Formed, provide proposed name)* | Enter text | | | |
|  | Registered Number | Enter text |  | Date of Registration | Enter date |
|  | Name of Registry | Enter text |  | Country of Registration | Select country |
|  | LEI Code *(if applicable)* | Enter text |  | Segment MIC (*applicable for DLT MTFs*  *or DLT TSS*) | Enter text |
|  | **Addresses** | | | | |
|  | **Registered Address**  *If Formed, indicate registered address as indicated on the Registration Document.*  *If not yet Formed, indicate proposed registered address.* | | | | |
|  | Number/Name | Enter text |  | Street/Road | Enter text |
|  | City/Town/Village | Enter text |  | Region/State  *(if applicable)* | Enter text |
|  | Post Code | Enter text |  | Country | Select country |

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|  | **Representation**  *Indicate the details of the external / internal representatives of the Applicant and their contact details, as applicable.* | | | | | |
|  | Type of Representation | Select item | | | | |
|  | Representative Entity Name *(if applicable)* | Enter text | | | | |
|  | Position | Enter text | | | | |
|  | Title | Select item | | | | |
|  | Name | Enter text |  | Surname | Enter text |
|  | Representative’s Business Email Address | Enter text |  | Representative’s Business Direct Number | Enter text |

| 1. Business Model, Strategy and Activity | | | | | |
| --- | --- | --- | --- | --- | --- |
|  | **Rationale** | | | | |
|  | Nature of the application | Select item | | | |
|  | *If applying for a Change* | | | | |
|  | Authorisation ID | Enter text |  | Authorisation date | Enter date |
|  | Where already obtained by the applicant,  authorisation under Directive 2014/65/EU or  Regulation (EU) 909/2014 | Select item | | | |
|  | Authorisation ID | Enter text |  | Authorisation date | Enter date |
|  | Trading venue(s) or SSS the applicant  operates or intends to operate (where  applicable) | Select item |  | Name | Enter text |
|  | Simultaneous application under  Directive 2014/65/EU or Regulation (EU)  909/2014 | Select item | | | |
|  | Application ID | Enter text |  | Application date | Enter date |

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|  | **Business Model** | |
|  | Provide a description of the Applicant’s proposed business model and a description of how the scope of this Application aligns with the proposed activities, the rules of the DLT MI and any legal terms as referred to in Article 7(1) of Regulation (EU) 2022/858.  Description of the critical staff which should include a description of which staff is considered critical and of their role per domain (IT, internal control, risk management etc) | |
|  | Enter text | |
|  | Type of clients targeted (status, geographical location) | |
|  | Enter text | |
|  | Description of the technical aspects.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 computing guidelines. ([link](https://www.esma.europa.eu/sites/default/files/library/esma50-157-2403_cloud_guidelines.pdf)) | |
|  | Enter text | |
|  | 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) | |
|  | Enter text | |
|  | Other relevant information if applicable. | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | Please also provide specific information on the following aspects: | |
|  | The governing law of the DLT MI | |
|  | Enter text | |
|  | The pre-litigation dispute settlement mechanism | |
|  | Enter text | |
|  | Any insolvency protection measures under Directive 98/26/EC | |
|  | Enter text | |
|  | The jurisdiction for bringing legal action | |
|  | Enter text | |
|  | Other relevant information if applicable | |
|  | Enter text | |
|  | **Proposed Activity** | |
|  | **Proposed Financial Service Activity**  *Indicate the proposed activities which the Applicant intends to undertake.* | |
|  | Type of DLT Financial Instruments traded and or/settled | Select item |
|  | If ‘other’, please specify | Enter text |
|  | Type of DLT used | Select item  *(Add multiple as applicable)* |
|  | If ‘other’, please specify | Enter text |
|  | Description of how the operators carry out their functions, services and activities (including description of outsourcing arrangements if any) | Enter text |
|  | Description of services provided to clients | Enter text |
|  | 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 | Enter text |
|  | 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 | Enter text |
|  | Other relevant information if applicable | Enter text |
|  | **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 | Enter text |
|  | Information of the rules on accessing the distributed ledger | Enter text |
|  | Information on the rules on the participation of the validating node(s) | Enter text |
|  | Information on the validation process of transactions on DLT FI | Enter text |
|  | Information on the rules addressing or detecting potential conflicts of interests | Enter text |
|  | Information on the rules on risk management including any mitigation measures to ensure investor  protection, market integrity and financial stability | Enter text |
|  | Other relevant information if applicable | Enter text |
|  | **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*  ***Note:*** *if some or all the below 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.* | |
|  | **Governance and strategy**  Internal control and governance arrangements for the IT and information security risks, as well as IT and information security strategy | |
|  | Enter text | |
|  | **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 | |
|  | Enter text | |
|  | **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:   * logical security controls (including segregation of duties, identity and access management, logical separation arrangements * physical security * IT and information security operations * Security monitoring arrangements - security reviews, assessment and testing, training and awareness * IT and information security incident management policies and procedures | |
|  | Enter text | |
|  | **System development Life Cycle (SDLC), IT project and change management**  Policies & procedures, governance and control arrangements | |
|  | Enter text | |
|  | **Business continuity management**  Policy and procedures | |
|  | Enter text | |
|  | **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). | |
|  | Enter text | |
|  | **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 | |
|  | Enter text | |
|  | 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 | |
|  | Enter text | |
|  | 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 | |
|  | Enter text | |
|  | Other relevant information if applicable | |
|  | Enter text | |
|  | **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 | |
|  | Enter text | |
|  | Description of the arrangements ensuring investor protection and demonstration they are transparent and adequate | |
|  | Enter text | |
|  | Description of the mechanisms for handling client complaints | |
|  | Enter text | |
|  | Description of procedures for compensation or redress in case of investor loss or cessation of the business | |
|  | Enter text | |
|  | Other relevant information if applicable | |
|  | Enter text | |
|  | **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 | |
|  | Enter text | |
|  | 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 | |
|  | Enter text | |

| **Declaration Form** | | | |
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| *Following submission of the Application, this Declaration Form should be printed and sent, originally signed, to the attention of* ***Authorisations, Securities and Markets Supevision Function, MFSA****. It is to be noted that only this form should be sent physically to the Authority and that should the Applicant submit the entire Application, only the version submitted via the LH Portal shall be maintained and used for the purposes of the MFSA’s authorisation processes.*  *This Declaration Form should be signed by the two signatories vested with legal representation of the Entity.* | | | |
| The undersigned, on behalf of Applicant, declare that:   1. Application Submission and Authorisation Requirements    1. the Applicant has resolved to apply for authorisation with the MFSA for the activities provided for within this Application;    2. the Applicant has duly authorised the undersigned to complete and submit this Application to the MFSA;    3. the Applicant is aware of the requirements under the provisions of the Act and other respective national or European Regulatory Frameworks or other binding regulation as may be applicable; and    4. the Applicant shall at time of authorisation, should this be granted, be in adherence with the obligations stipulated under point 1 (c) above. 2. Information Provided to Authority    1. the information given in answer to the questions within the Application is complete and accurate to the best of our knowledge, information and belief and that there are no other facts relevant to this Application of which the Authority should be aware;    2. the Applicant has not tampered with, or modified in any manner, this Application or its respective Annexes, and understands that such tampering with, or modification in any manner of these documents will result in a refusal of this Application;    3. there are no inconsistencies between the provisions of the Constitutional Documents, the documents submitted with this Application (where applicable) and the information given in answer to the questions within the Application;    4. the MFSA will be notified immediately if the information given in answer to the questions within the Application changes and/or affects the completeness or accuracy the Application either prior to or subsequent to authorisation should this be granted; and    5. this Declaration Form corresponds to the Application submitted to the Authority via the LH Portal bearing the following ID:  |  |  | | --- | --- | | **Application ID**  *This ID is provided automatically by the MFSA through the LH Portal and is not required for the on-line submission of the Application. In this respect, following submission of this Application via the LH Portal the Application ID will be available on the submission page and also within the acknowledgement email.* | Enter text |  * 1. the following documentation as indicated in the below have been submitted together with this Application:  |  |  |  | | --- | --- | --- | | Checklist of Documentation to be Submitted with the Application | | | |  | Memorandum and articles of association | Select item | |  | Other constitutional and statutory documentation | Enter number of submissions | |  | 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 | Enter number of submissions | |  | 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 | Enter number of submissions | |  | A business plan as per rules of the DLT MI and any legal terms as referred to in Article 7(1) of Regulation (EU) 2022/858 | Select item | |  | MFSA Annex AX30 | Select item | |  | MFSA Annex AX31 | Select item |  1. Representatives and Disclosure    1. the MFSA is hereby being authorised to contact the representatives provide by the Applicant under Section 1 of Part 1 of this Application;    2. the MFSA is hereby being authorised to make such enquiries as it may consider necessary in connection with this Application; and    3. the MFSA is hereby being authorised to contact any or all of the above-named or any other person considered by the Authority to be relevant, both at the date of application and at any time in the future unless and until I/we rescind this authority in writing. 2. Privacy Notice    1. I/ we have read and understood the [MFSA Privacy Notice](https://www.mfsa.mt/privacy-notice/)[[1]](#footnote-2) and the terms and conditions included therein. | | | |
| Signature 1 |  |  | |
| Name | Enter text | Surname | Enter text |
| Position | Enter text |
| Date | Enter date |
|  | |
| Signature 2 |  | | | |
| Name | Enter text | Surname | Enter text | |
| Position | Enter text |
| Date | Enter date |

1. For further information visit: <https://www.mfsa.mt/privacy-notice/> [↑](#footnote-ref-2)