|  |  |
| --- | --- |
|  |  |
| MALTA FINANCIAL SERVICES AUTHORITY |
| **Authorisation Forms - Annex** |
|  |

|  |
| --- |
| **Annex AX31: Table 4 - Application for a permission to operate a DLT SS or DLT TSS:**  **Exemption(s) to Regulation (EU) No 909/2014** |
|  |
| **High Level Guidelines** |
|  |
|  |
| 1. General   This form, **Annex AX31:** **Application for a permission to operate a DLT SS or DLT TSS: Exemption(s) to Regulation (EU) No 909/2014** (‘Annex’), shall be duly filled in by persons wishing to obtain authorisation from the MFSA to carry out financial services activities. This Annex shall be submitted as part of and in conjunction with the relevant Authorisation Application Form, as indicated therein.  This Annex primarily aims to capture relevant information in relation to the permission to operate a DLT Market Infrastructure.  According to Article 9(4)(h) of Regulation (EU) 2022/858 the application for a specific permission to operate a DLT SS shall contain information on the exemptions that the applicant is requesting in accordance with Article 5 of that same Regulation, the justification for each exemption requested and any compensatory measures proposed and the means by which it intends to comply with the conditions attached to those exemptions.  Please refer to Article 5(2) to (9) of Regulation (EU) 2022/858 for the specific conditions attached to each exemption. According to article 5(10) of Regulation (EU) 2022/858 the applicant shall demonstrate that each exemption requested is:   * proportionate to, and justified by, the use of its distributed ledger technology; and * limited to the DLT SS and does not extend to a securities settlement system that is operated by the same CSD.   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 material respect either prior to or subsequent to authorisation.  The Applicant is required to make reference, and where applicable comply with, the relevant 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 Annex or its respective Application. Should it transpire that the documents were tampered with, or modified in any manner, the Authority shall consider the submission to be invalid. 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.   1. Definitions   Unless otherwise specified, terms used in this Annex shall have the same meaning assigned to them within the respective Application.   1. Instructions   In order for this Annex to be considered complete, the Applicant is required to complete all the respective sections under this Annex. It is noted that the information provided should reflect the Applicant’s structure and method of operations at time of authorisation.   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. Applicant Details | | |
| --- | --- | --- |
|  | **Applicant – Identification Details** | |
|  | Registered Name | Enter text |
|  | Registered Number | Enter text |
|  | LEI Code  (*if applicable)* | Enter text |

| 1. Exemption requested | | |
| --- | --- | --- |
|  | **Dematerialised form**  *Article 2(1)(4) of Regulation (EU) No 909/2014 and Article 5(2) of Regulation (EU) 2022/858* | |
|  | Dematerialised form | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Transfer orders**  *Article 2(1)(9) of Regulation (EU) No 909/2014 and Article 5(2) of Regulation (EU) 2022/858* | |
|  | Transfer orders | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Securities accounts**  *Article 2(1)(28) of Regulation (EU) No 909/2014 and Article 5(2) of Regulation (EU) 2022/858* | |
|  | Securities accounts | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Recording of securities in book-entry form**  *Article 3 of Regulation (EU) No 909/2014 and Article 5(2) of Regulation (EU) 2022/858* | |
|  | Recording of securities in book-entry form | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Integrity of issue**  *Article 37 of Regulation (EU) No 909/2014 and Article 5(2) of Regulation (EU) 2022/858* | |
|  | Integrity of issue | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Segregation of assets**  *Article 38 of Regulation (EU) No 909/2014 and Article 5(2) of Regulation (EU) 2022/858* | |
|  | Segregation of assets | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Measures to prevent settlement fails**  *Article 6 of Regulation (EU) No 909/2014 and Article 5(3) of Regulation (EU) 2022/858* | |
|  | Measures to prevent settlement fails | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Measures to address settlement fails**  *Article 7 of Regulation (EU) No 909/2014 and Article 5(3) of Regulation (EU) 2022/858* | |
|  | Measures to address settlement fails | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Outsourcing of a core service to a third-party**  *Article 19 of Regulation (EU) No 909/2014 and Article 5(4) of Regulation (EU) 2022/858* | |
|  | Outsourcing of a core service to a third-party | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Admit as participants other natural and legal persons**  *Article 2(19) of Regulation (EU) No 909/2014 and Article 5(5) of Regulation (EU) 2022/858* | |
|  | Admit as participants other natural and legal persons | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Requirements for Participation**  *Article 33 of Regulation (EU) No 909/2014 and Article 5(6) of Regulation (EU) 2022/858* | |
|  | Requirements for Participation | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Transparency**  *Article 34 of Regulation (EU) No 909/2014 and Article 5(6) of Regulation (EU) 2022/858* | |
|  | Transparency | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Communication procedures with participants and other market infrastructures**  *Article 35 of Regulation (EU) No 909/2014 and Article 5(6) of Regulation (EU) 2022/858* | |
|  | Communication procedures with participants and other market infrastructures | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Settlement finality**  *Article 39 of Regulation (EU) No 909/2014 and Article 5(7) of Regulation (EU) 2022/858* | |
|  | Settlement finality | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Cash settlement**  *Article 40 of Regulation (EU) No 909/2014 and Article 5(8) of Regulation (EU) 2022/858* | |
|  | Cash settlement | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Standard link access**  *Article 50 of Regulation (EU) No 909/2014 and Article 5(9) of Regulation (EU) 2022/8* | |
|  | Standard link access | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Customised link access**  *Article 51 of Regulation (EU) No 909/2014 and Article 5(9) of Regulation (EU) 2022/858* | |
|  | Customised link access | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |
|  | **Access between a CSD and another market infrastructure**  *Article 53 of Regulation (EU) No 909/2014 and Article 5(9) of Regulation (EU) 2022/858* | |
|  | Access between a CSD and another market infrastructure | Select item |
|  | Short justification, compensatory measures proposed (if any) and means by which conditions attached to  exemptions are complied with. | |
|  | Enter text | |
|  | Demonstration that the exemption is proportionate and justified by the use of the DLT | |
|  | Enter text | |
|  | Demonstration that the exemption is limited to the DLT SS for which specific permission is sought | |
|  | Enter text | |
|  | 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. | |
|  | Enter text | |