



Notification Number: 2018/367/F

Decree on the use of shared electronic recording devices for the representation and transmission of financial securities

Date received : 17/07/2018

End of Standstill : 18/10/2018

Message

Message 002

Communication from the Commission - TRIS/(2018) 01992

Directive (EU) 2015/1535

Translation of the message 001

Notification: 2018/0367/F

No abre el plazo - Nezahajuje odklady - Fristerne indledes ikke - Kein Fristbeginn - Viivituste perioodi ei avata - Καμμία έναρξη προθεσμίας - Does not open the delays - N'ouvre pas de délais - Non fa decorrere la mora - Neietekmē atlikšanu - Atidėjimai nepradedami - Nem nyitja meg a késések - Ma' jiftaħ il-perijodi ta' dawmien - Geen termijnbegin - Nie otwiera opóźnień - Não inicia o prazo - Neotvorí oneskorenia - Ne uvaja zamud - Määräaika ei ala tästä - Inleder ingen frist - He ce предвижда период на прекъсване - Nu deschide perioadele de stagnare - Nu deschide perioadele de stagnare.

(MSG: 201801992.EN)

1. Structured Information Line

MSG 002 IND 2018 0367 F EN 17-07-2018 F NOTIF

2. Member State

F

3. Department Responsible

Direction générale des entreprises – SQUALPI – Bât. Sieyès -Teledoc 151 – 61, Bd Vincent Auriol - 75703

PARIS Cedex 13

d9834.france@finances.gouv.fr

tél : 01 44 97 24 55

3. Originating Department

Direction générale du Trésor – Bureau Epargne et marchés financiers

139 rue de Bercy – 75572 Paris Cedex 12

Contact : Carole Vachet

Tel : +33 (0)1 44 87 71 63 | Email : carole.vachet@dgtresor.gouv.fr



4. Notification Number

2018/0367/F - SERV

5. Title

Decree on the use of shared electronic recording devices for the representation and transmission of financial securities

6. Products Concerned

- Financial securities
- Minibons (category of 'savings certificates')

7. Notification Under Another Act

-

8. Main Content

This notification relates to the provisions of Article 4(8) of the draft Decree introducing conditions for the use of blockchain - or other technology enabling secure and shared recording – in order to transmit the financial securities in question and minibons. The term 'shared electronic recording device' used in the decree corresponds to the manner in which blockchain technology, among others, is already designated by the provisions of Article L223-12 of the French Monetary and Financial Code [code monétaire et financier] on minibons, introduced by Ordinance No 2016-520 of 28 April 2016 on savings certificates. This designation remains broad and neutral as regards different processes so as not to exclude future technological developments. The term 'shared electronic recording device' covers the main features of blockchain as a recording device and its shared nature.

The provisions merely set objectives for shared electronic recording devices and do not restrict the technology itself. A shared electronic recording device must in particular:

- Guarantee the recording and integrity of entries;
- Enable the identification, directly or indirectly, of owners of securities, and the nature and number of securities held;
- Have an up-to-date continuity plan including in particular an external device for periodic data storage;
- Enable owners of these securities to access statements of their transactions (including indirect access via the reprocessing of information registered on the shared electronic recording device).

These requirements do not pre-empt the technical solutions that will be used to meet them.

9. Brief Statement of Grounds

The purpose of this decree is to apply Ordinance No 2017-1674 of 8 December 2017 on the use of shared electronic recording devices for the representation and transmission of financial securities, Article 2 of which states in particular that 'A Council of State decree sets out the conditions in which financial securities may be registered in a shared electronic recording device as mentioned above, providing guarantees, particularly in terms of authentication, at least equivalent to those provided through registration in a custody account.'

This Ordinance, issued pursuant to Article 120 of Act No 2016-1691 of 9 December 2016 on transparency, the fight against corruption and the modernisation of the economy, adapted the law applicable to financial securities and transferable securities to enable the representation and transmission, using a shared electronic recording



device, of financial securities that are neither eligible for the transactions of a central depository nor delivered within a system for the settlement and delivery of financial instruments. In essence, it brings the effects of registration in a shared electronic recording device with those of registration in a custody account, on which ownership of financial securities is based under French law.

This decree stipulates the conditions expected of a shared electronic recording device, with a view to ensuring that the security and transparency conditions are sufficient for the use of blockchain-type technology to transmit and represent financial securities.

The purpose of the ordinance and its implementing decree is to remove the regulatory barriers that may hinder the adoption of blockchain-type technologies in the financial sector. In order to best meet this objective without hindering technological innovation, the regulatory authorities have restricted themselves to setting minimal fundamental guarantees, which may be consolidated by stakeholders themselves or by regulators, if the constraints specific to certain markets justify doing so (for example in the case of fund shares, which are under the supervision of the Financial Markets Authority).

10. Reference Documents - Basic Texts

Reference(s) to basic text(s): – Ordinance No 2017-1674 of 8 December 2017 on the use of shared electronic recording devices for the representation and transmission of financial securities

- Ordinance No 2016-520 of 28 April 2016 on savings certificates

11. Invocation of the Emergency Procedure

No

12. Grounds for the Emergency

-

13. Confidentiality

No

14. Fiscal measures

No

15. Impact assessment

-

16. TBT and SPS aspects

TBT aspect

No - the draft is neither a technical regulation nor a conformity assessment procedure.

SPS aspect

No - the draft is neither a sanitary nor phytosanitary measure.



EUROPEAN COMMISSION
GROWTH DIRECTORATE-GENERAL

Single Market for goods
Prevention of Technical Barriers

European Commission

Contact point Directive (EU) 2015/1535

Fax: +32 229 98043

email: grow-dir2015-1535-central@ec.europa.eu