

Linklaters



The new Blockchain 4 Law – Luxembourg further extends its pre-eminent position as a digital assets hub

January 2025

Luxembourg has always been at the forefront of using distributed ledger technology (“**DLT**”) in the context of financial services, making it one of the major digital assets hubs of the world. A key contributor to this success is Luxembourg’s progressive legislative framework, offering the required legal certainty, as well as an easy-to-use set of rules to market participants, to bring their projects to fruition. This in turn has favoured the emergence of tokenised bonds, investment funds, as well as other digital assets.

In a strategic effort to further enhance the existing legal framework, the legislator has now taken yet another significant step with a brand new blockchain law¹ which was published on 27 December 2024 (the “**Blockchain 4 Law**”).

1. Legislative context and objectives

Like its predecessors², the Blockchain 4 Law emerges from the need to create a comprehensive (yet not overly complex) legal framework, while making as few changes as possible to the existing rules. The primary objective being to create an environment where DLT-based use-cases can flourish while ensuring compliance with existing legal and regulatory standards. By doing so, Luxembourg seeks to further enhance its attractiveness as a digital assets hub, in turn boosting its financial sector.

2. Key provisions and innovations

What is it?

The law provides for full legal certainty and a simplified regime for the issuance, and recording and transfer of ownership of dematerialised debt and equity securities using DLT, underpinned by a new concept of “Control Agent”.

¹ Law of 20 December 2024 notably amending the law of 6 April 2013 on dematerialised securities and the law of 5 April 1993 on the financial sector.

² Law of 1 March 2019 – “Blockchain 1 Law”, Law of 22 January 2021 – “Blockchain 2 Law”, and Law of 15 March 2023 – “Blockchain 3 Law”.

New Control Agent concept

The Blockchain 4 Law introduces the role of “Control Agent”, which is the central pillar of the new regime, eliminating past inefficiencies and further simplifying the issuance of tokenised debt and equity securities. The role of the Control Agent is threefold: (i) maintaining the issuance account of the tokenised securities, (ii) overseeing the custody chain of the tokenised securities, and (iii) ensuring reconciliation between the DLT-based issuance account and securities accounts.

Why does this matter?

- > Previously, the issuance of certain tokenised securities (notably tokenised dematerialised fund shares/units) required a Luxembourg central account keeper or settlement organisation. These are highly regulated entities and the number of entities currently holding such authorisation is extremely limited. The scope of entities which can act as Control Agent is much wider and includes credit institutions/banks, investment firms, and settlement organisations. More importantly, duly passported EU credit institutions and investment firms can also become Control Agents, which significantly increases the pool of service providers which can support an issuance of tokenised dematerialised securities. This, in turn, removes a significant obstacle under the previous regime and is likely to spark innovation.
- > The previous regime required a second custody layer: Custodians not only had to maintain their own customers’ custody accounts, but also needed a custody account maintained with the keeper of the issuance account. This second custody layer falls away under the new regime, significantly streamlining the operating structure, thereby reducing costs.
- > The possibility of combining the statuses of Control Agent and investment firm or credit institution opens the door to one single entity in charge of the distributed ledger supporting the issuance, the custody, the transfer of ownership, as well as potentially³ the trading and settlement of the securities. This could significantly foster innovation and streamline existing processes, including fund distribution models.

How to act as Control Agent?

To act as Control Agent, the applicant must notify the Luxembourg financial sector regulator (the “CSSF”) at least two months before commencing its activities.

The Blockchain 4 Law contains only limited requirements for the Control Agent, notably that it must have a robust internal governance framework, effective risk management processes, adequate internal control mechanisms, as well as IT systems and control and security mechanisms adapted to the tasks of the Control Agent. The law also requires at least one of the persons responsible for managing the Control Agent to possess appropriate professional experience.

Given their regulatory status as credit institution, investment firm, or settlement organisation, we would not expect the regulatory uplift to be significant. We would expect the CSSF to publish further details on the notification process and the information to be provided, in due course.

Keep an eye out for further Linklaters publications as additional details emerge on the CSSF notification process.

3. Food for thought

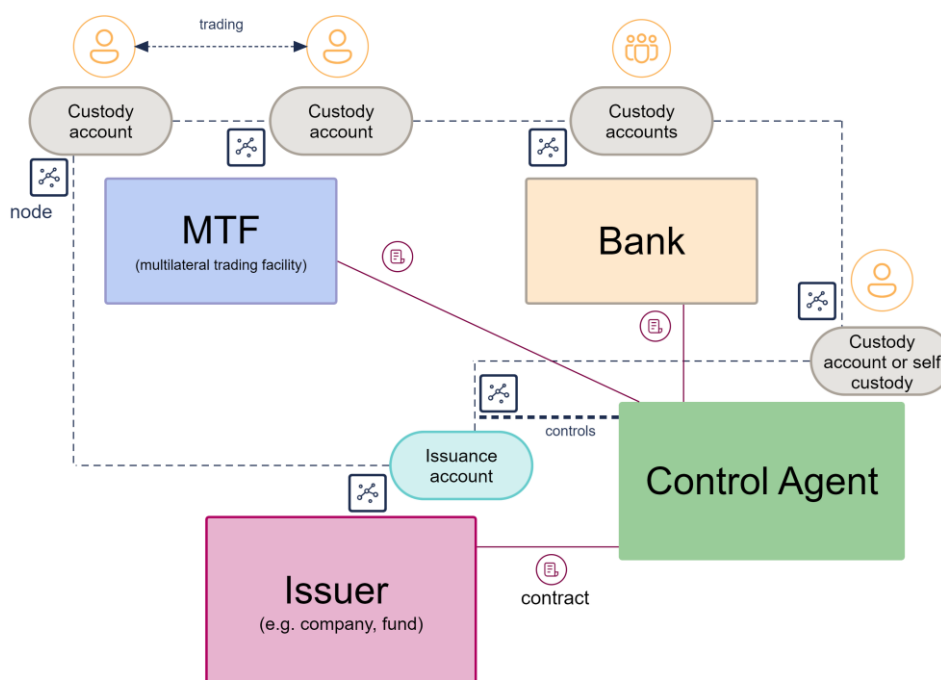
- > The new legal framework applies to securities issued in dematerialised form only. It remains to be seen whether a new trend towards dematerialised securities will emerge within the

³ Leveraging the EU DLT pilot regime.

investment fund industry, where securities in registered form (hence not subject to the new regime) remain the norm.

- > It remains to be seen how the new regime will interact with the UCI administrator regime under CSSF Circular 22/811, notably in respect of the registrar function for investment funds.
- > After several high-profile issuances of tokenised bonds, notably by the EIB, and some issuances of tokenised fund shares/units, Luxembourg seems ideally placed to lead the trend towards tokenised securities. The current retailisation trend in the alternative investment funds sector would notably benefit from the inherent advantages of DLT-based investment funds⁴.

4. The new framework at a glance



5. How we can help

At Linklaters, we are committed to providing you with the expertise needed to navigate these legal changes and opportunities effectively. Our specialists are equipped to help you understand the technicalities of the new legal regime and strategically explore the opportunities presented by the new law. This can be as broad as:

- > Structuring new or amending existing investment funds to provide for the possibility of issuing tokenised fund shares/units.
- > Drafting or amending prospectuses of debt or equity securities (including bonds and investment fund shares/units) to cater for DLT-specific features and risk factors.
- > Assisting you with the CSSF notification process in view of acting as Control Agent, as well as related regulatory challenges.
- > Assistance with digital distribution set-ups and legal aspects of smart contracts.
- > Reviewing agreements with asset managers, custodians, and technology or other service providers governing the issuance of tokenised securities.

⁴ Efficiency gains, greater speed and improved settlement, reduced costs and cheaper fractionalisation.

Your key contacts



Nicki Kayser

National Managing Partner, Luxembourg
+352 2608 8235
nicki.kayser@linklaters.com



Raoul Heinen

Partner, Luxembourg
+352 2608 8331
raoul.heinen@linklaters.com



Hannah Peters

Junior Associate, Luxembourg
+352 2608 8267
hannah.peters@linklaters.com

Linklaters LLP

35 Avenue John F. Kennedy
P.O. Box 1107
L-1011 Luxembourg
Telephone (+352) 26 08 1

This publication is intended merely to highlight issues and not to be comprehensive, nor to provide legal advice. Should you have any questions on issues reported here or on other areas of law, please contact one of your regular contacts.

Linklaters LLP is a limited liability partnership registered in England and Wales with registered number OC326345. It is a law firm authorised and regulated by the Solicitors Regulation Authority. Linklaters LLP is registered on the list V of the Luxembourg Bar. The term partner in relation to Linklaters LLP is used to refer to a member of Linklaters LLP or an employee or consultant of Linklaters LLP or any of its affiliated firms or entities with equivalent standing and qualifications. A list of the names of the members of Linklaters LLP together with a list of those non-members who are designated as partners and their professional qualifications is open to inspection at its registered office, One Silk Street, London EC2Y 8HQ, England or on www.linklaters.com. This document contains confidential and proprietary information. It is provided on condition that its contents are kept confidential and are not disclosed to any third party without the prior written consent of Linklaters. Please refer to www.linklaters.com/regulation for important information on our regulatory position.