

How Can Collateral Management Benefit from DLT?

Securities represented on a DLT

	1 Information Token	2 Extended Token	3 Native Token
Nature of the token	<ul style="list-style-type: none"> Digital twin carrying information only, no legal rights 	<ul style="list-style-type: none"> Digital twin certifying certain rights and obligations 	<ul style="list-style-type: none"> Original asset carrying all information and all rights and obligations
Location of security	<ul style="list-style-type: none"> Off-DLT 	<ul style="list-style-type: none"> Off-DLT 	<ul style="list-style-type: none"> On-DLT

5.3 Legal Classification of the Stakeholders Involved

The collateral taker and collateral giver need to acknowledge tokens and need to trust both the technological and functional set-up. Specific regulations facing them in their roles as giver and taker of collateral in the form of tokens are currently often not available or in an early stage of development.

More complex is the role of the TTP. The TTP provides services which are comparable to those of a custodian. It holds securities on behalf of the beneficial owners at one or even multiple custodians and allows the beneficial owner to transfer ownership of these securities through the transfer of tokens. As in the case of a traditional custodian, insolvency of the TTP should not affect the holdings of its customers. It has to be guaranteed that the TTP does not misuse the securities of a customer and makes sure that all tokens are backed by securities.

Following the principle of “same risk, same rules”, regulators might think about treating TTPs similarly as custodians. In the absence of regulation for TTPs, trust must be established by incorporating these rules in the contractual set up.

A further function of great importance in a DLT network is the operation of the IT infrastructure; this includes e.g. the definitions and oversight of hardware and software or IT security and business contingency measures. The operator of such a DLT network could well be a specialized provider of IT services who has no role in providing financial services. However, such a service provider also needs clear governance and liability provisions.

5.4 Legal Obstacles Posed by the Current Regulatory Environment

The current regulatory environment has grown over many years and is designed to regulate actors and services regardless of the technology used. The challenge in regulating DLT activities is not so much the new technology but the new business models they allow.