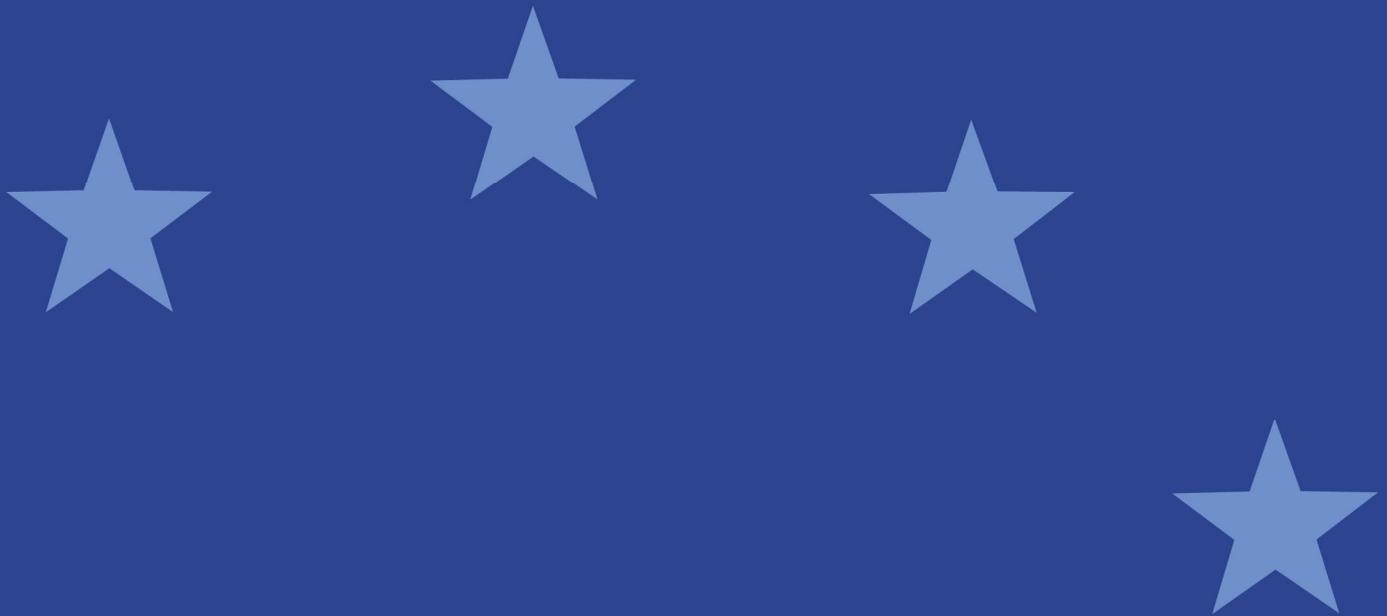




European Securities and  
Markets Authority

# Response Form to the Consultation Paper

**Guidelines for reporting under Articles 4 and 12 SFTR**



## Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex III. Comments are most helpful if they:

- respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

ESMA will consider all comments received by **29 July 2019**.

All contributions should be submitted online at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading 'Your input - Consultations'.

### Instructions

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_RSFTTR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text "TYPE YOUR TEXT HERE" between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_RSFTTR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_RSFTTR\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA's website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading "Your input – Open consultations" → "Consultation on Position limits and position management in commodities derivatives").

## **Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

## **Data protection**

Information on data protection can be found at [www.esma.europa.eu](http://www.esma.europa.eu) under the heading [Legal Notice](#).

## **Who should read this paper**

All interested stakeholders are invited to respond to this consultation. In particular, responses are sought from financial and non-financial counterparties to securities financing transactions, tri-party agents, agent lenders, central counterparties (CCPs) and trade repositories (TRs), as well as from all the authorities having access to the TR data.

## General information about respondent

Name of the company / organisation	ABN AMRO Bank N.V.
Activity	Banking sector
Are you representing an association?	<input type="checkbox"/>
Country/Region	Netherlands

## Introduction

*Please make your introductory comments below, if any*

<ESMA\_COMMENT\_RSFTTR\_1>

TYPE YOUR TEXT HERE

<ESMA\_COMMENT\_RSFTTR\_1>

## Questions

**Q1** : Do you agree with the above assessment? Are there any other transactions for which clarification is needed? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_1>

Yes we agree, but what is ESMA's stance on CREST auto-collateralisation or the CREST overnight DBV switch?

We concur with the exclusion of retail client lending for the reasons outlined in par. 14, 16 and 17.

In order to make this workable in practice by creating clear demarcation lines, we would highly welcome that “retail” is defined by reference to the notion of “undertaking” as applied for EMIR (transaction) reporting.

We concur with the exclusion of private banking and Lombard loans for the reasons outlined in par. 19-21.

We understand that this aims to exclude lending transactions with a broader range of clients than “retail client”, but under tighter conditions. We think this is a very constructive reasoning.

The tighter conditions are defined in par. 22. However, the notion of “high net-worth” individual needs precision, referencing to the definition of “retail client” (see above).

We are very content with the exclusion of syndicated lending and other corporate loans as outlined in 5.1.1.4 and think that the detailed descriptions given are adequate.

With regard to other transactions:

We appreciate the clarification given by ESMA in Paragraph 11 and 12 of the consultation. As we understand from these paragraphs, the definitions of SFTs should be considered in the context of the SFTR’s objectives. This is also confirmed in Paragraph 46, which states: “(...) the objectives of SFTR stated in Recital (7) SFTR and in Recital (2) of the Commission Delegated Regulation, ESMA believes that some of the transactions cited by market participants do not fall under the definition of SFT and more generally to shadow banking activities as described by the FSB, hence their reporting will not contribute to the objectives of the regulation.”. In light of this statement, we would like to ask ESMA to clarify whether forward sales in commodities are covered by the objectives and scope of the SFTR or whether these types of transactions can be excluded from the scope.

A forward sale in commodities, for the purpose of this question, is defined as a transactions between two counterparties in which commodities are purchased by the buyer from the seller and sold to the seller by the buyer on a specified date against a specified price. These types of transactions provide the seller, often corporates, the opportunity to lower its inventories and decreases its working capital needs. We believe that these types of transactions might be unintentionally captured by the SFT definitions in a strict sense, but do not fall in scope of the overall objectives that the

SFTR addresses. In addition, the reporting obligation imposes numerous practical challenges. For example, if the price is not fixed, are we expected to update the price on a daily basis? Furthermore, taken into account the type of clients (non financial counterparties), we expect difficulties with regard to obtaining the correct information we need to report on their behalf. And if as a result of this, a trade does not match, are we being held accountable?

The commodity forward sales transactions have a significant overlap with the transactions described in Section 5.1.1.1, 5.1.1.2., and 5.1.1.4. of the consultation. Typically, forward sales transactions in commodities do not have the same (economic) characteristics as traditional SFTs in securities, such as repos and securities lending. These transactions are not used by financial market participants for leverage, liquidity transformation, maturity transformation or collateral management. These transactions have a commercial purpose, which is comparable to syndicated lending and corporate loans (please refer to Paragraph 33 of the consultation). In addition, the purchased commodities are not reused by the buyer and they are physically held in custody by storage facilities. We are of the opinion that the reporting of these types of transactions do not contribute to the objectives of the SFTR (please refer to recital 7 SFTR). In addition, we are of the opinion that these transactions do not contribute to the systemic risks to which the SFTR refers (please refer to paragraph 11 of the consultation), nor do we believe that these types of transactions fall under the definition of shadow banking. We would, therefore, strongly like to as ESMA to include forward commodity sales in its list of transactions that should not be reported under SFTR.

<ESMA\_QUESTION\_RSFTTR\_1>

**Q2** : Do you agree with the approach set out for reporting of SFTs under Article 4 of SFTR as detailed above? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_2>

<ESMA\_QUESTION\_RSFTTR\_2>

**Q3** : Do you agree with the approach for reporting repos and reverse repos as detailed in this section? Please detail the reasons for your response

<ESMA\_QUESTION\_RSFTTR\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_3>

**Q4** : Are there any other types of repos and reverse repos transactions for which reporting needs to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_4>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_4>

**Q5** : Are there any other aspects on reporting of master agreements or other elements of BSB/SBB that need to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_5>

Guidance is requested as to what field should be populated to reflect a benchmark-based repurchase price? Furthermore, the list of agreement types does not include the EMA agreement, which is a very common agreement type. Perhaps this could be included.

<ESMA\_QUESTION\_RSFTTR\_5>

**Q6** : Do you foresee any issues relating to the non-availability of information on the counterparties and the securities by T+1? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_6>

Reporting by T+1 will prove especially problematic where time zone differences exist between, say a Japanese branch of an EU entity and an American lending agent.

<ESMA\_QUESTION\_RSFTTR\_6>

**Q7** : To what extent the SFTs that are cancelled and replaced bear price-forming information, i.e. does the cancellation imply an additional fee or price charged? If so, how can this information be better included in the reports? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_7>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_7>

**Q8** : Which approach would you favour in terms of reporting cash-driven SLB? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_8>

We recognise your definitions of the cash-driven trades. In the industry another, fourth, means of booking such structure would be booking a cash borrow/loan against a non-cash pool. We realise SFTR does not define a cash borrow/loan. We normally prefer both this fourth option as well as a cash pool against (FOP) SBL trades. May we also ask what your intentions are with this question? Enforce a standard? That might pose challenges for firms, but on the other hand obviously reduce mismatches due to conflicting trade types.

<ESMA\_QUESTION\_RSFTTR\_8>

**Q9** : Do you agree with the proposal with regards to reporting of SFTs involving commodities? What other aspects should be clarified with regards to these SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_9>

We would, therefore, like ESMA to clarify the following:

1. Paragraph 75 of the Guidelines clarifies that transactions where the collateral taker sells a commodity to the collateral provider with a contractual option (but not a commitment or agreement) to buy back such commodity, are not in scope of article 3(8) SFTR. Can ESMA confirm that:
  - a. this interpretation also applies to cases in which the collateral provider has a contractual option but not a commitment, obligation, or agreement to sell back such commodity? DACSI is of the opinion that these types of

- transactions do not constitute an SFT, because at the time the agreement is entered into the commitment to buy back does not exist.
- b. this interpretation also applies to the definitions stated in article 3(7) and 3(8) as is suggested by paragraph 181 of ESMA's Final Report dated 31 March 2017.
  2. The definitions in article 3(7) and 3(8) SFTR include references to a specified repurchase price. For certain commodity transactions a fixed repurchase price is not agreed upon. The counterparties agree to sell back or repurchase the commodities at the prevailing price of the commodity on that date potentially with the exchanging of futures. This means that the commodity buyer bears the price (market) risks of the commodity, which is fundamentally different from normal repurchase and buy-sell back transactions. Can ESMA confirm that commodity transaction for which a specified fixed price does not exist, do not fall in the definitions of article 3(7) and 3(8) SFTR.
  3. The definitions in article 3(7) and 3(9) refer to equivalent commodities and substituted commodities. Can ESMA explain the difference between equivalent and substituted commodities?
  4. The definition in article 3(7) refers to the return of equivalent commodities. Equivalent commodities suggests that the aforementioned definitions in SFTR only apply to transactions in which the repurchased commodity is or might not be exactly the same asset / title that was transferred to the borrower. However, in certain commodity transactions the concept of equivalence does not exist. Can ESMA confirm that these transactions do not fall under the scope of the definition in article 3(7)?

<ESMA\_QUESTION\_RSFTTR\_9>

**Q10** : Are there any aspects that need to be clarified with regards to this type of SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_10>

**Q11** : Do you agree with the proposal with regards to reporting of margin lending? What other aspects should be clarified with regards to these SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_11>

**Q12** : Having in mind that position reporting of CCP-cleared SFTs is optional only when transaction-level reporting was made in accordance with paragraph 84, do you believe that additional clarifications need to be provided by ESMA? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_12>

Guidance is requested with regard to a commodity finance solution where the far leg (Forward) of a bilateral commodity repo is immediately submitted for clearing (Future)? Should the far leg be reported under MiFID or as part of a repo under SFTR? See also page 11/12 of <https://www.lme.com/-/media/Files/Other/Regulation/Mifid-ii/17-344-Appendix-7-Matching-Rules.pdf>

<ESMA\_QUESTION\_RSFTTR\_12>

**Q13** : Do you agree with the approach regarding allocation of responsibility with regards to SFTs concluded between TC-FC and EU SME-NFC? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_13>

Taking into account that a counterparties qualification can change over time, can ESMA confirm it is an NFCs own responsibility to inform their counterparties of any changes to their financial status.

<ESMA\_QUESTION\_RSFTTR\_13>

**Q14** : Do you agree with the approach regarding allocation of responsibility with regards to UCITS management company and AIFM, established in third country? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_14>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_14>

**Q15** : Do you agree with the approach for determining conclusion of SFTs by EU branches of non-EU entities? Are there any other instances in addition to the ones in paragraph 102 that would need to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_15>

The proposed approach is not in line with the approach under EMIR, where the regulatory purpose is ascertain outstanding derivatives held in the EU and is also likely to create important practical.

Who is responsible for making the assessment whether a branch complies with one of the conditions as set out in 102 (a) until (d)?

<ESMA\_QUESTION\_RSFTTR\_15>

**Q16** : Is the proposed guidance for determining whether an SFT conducted by a branch needs to be reported clear and comprehensive? Which areas require further clarification? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_16>

The proposed guidance is clear, however we are expecting difficulties in obtaining information from Branches located outside the EU.

<ESMA\_QUESTION\_RSFTTR\_16>

**Q17** : Is the proposed guidance for reporting of intragroup SFTs clear and comprehensive? Which areas require further clarification? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_17>

The proposed guidance is clear.

<ESMA\_QUESTION\_RSFTTR\_17>

**Q18** : Do you agree with the approach for reporting by NFCs? Is there any additional aspect relating to reporting by NFCs that needs to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_18>

According to article 4(3) SFTR, the FC is responsible for reporting on behalf of both counterparties (NFC). Sourcing the data from small NFCs might prove very difficult in practice. Especially as they'd need to disclose sensitive information on balance sheet in order for the FC to report on re-use on their behalf. Next to that it poses a great logistical challenge when there is no centralised portal where companies can push/pull such information in a standardised format, with anonymising facilities etc.

<ESMA\_QUESTION\_RSFTTR\_18>

**Q19** : Do you agree with the proposal for reporting conclusion of SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_19>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_19>

**Q20** : Do you agree with the proposal for reporting modifications to SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_20>

This means that reporting modifications follows a value-date based approach, which is a bit in contrast with the regular T+1 approach of new trades? As most modifications would normally be either back-dated or input on value-date itself, this should not pose a big problem. However, some changes are actually put in on a forward basis; this means that systems are required to 'hold back' reporting modifications until value date, which for some systems may prove difficult. Furthermore, we assume back-dated changes need reporting on T+1? Finally, we'd like to remark that a perspective of 'risk to financial stability' is mentioned, however some forward modifications (for instance an open repo being changed into a matured one with a given end date) can from a finance/accounting perspective have very significant impact on books of financial firms, as you are no doubt aware of.

<ESMA\_QUESTION\_RSFTTR\_20>

**Q21** : Do you agree with the proposal for reporting collateral updates to SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_21>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_21>

**Q22** : Do you have any issues with reporting in a timely manner valuation, margin and reuse updates pertaining to SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_22>

The reporting on re-use will be very challenging for us, and a project in itself, and for most parties involved. To report on behalf of small NFCs will be extremely challenging even (see indicated reason above).

<ESMA\_QUESTION\_RSFTTR\_22>

**Q23** : Do TRs require additional guidance in relation to how reports submitted by the entities mentioned in Article 2(2) and (3) of SFTR should be treated and the relevant procedures to follow? If so please confirm where further guidance is required.

<ESMA\_QUESTION\_RSFTTR\_23>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_23>

**Q24** : Do you agree with the proposed rules for reporting of field 1.17? Are there any other instances that would need to be clarified? Please detail the reasons for your answer.

<ESMA\_QUESTION\_RSFTTR\_24>

The rules as to which LEI to report are clear. However we feel there's still unclarity on the distinction between direct and indirect CSD participant. Are we required to know whether our custodian is a direct or indirect CSD participant for each market? Or does regulation basically require us to report the LEI of our custodian (as they would either be the direct CSD participant or, in case they use sub-custodians, the indirect participant) always? Unless we ourselves are the direct CSD participant? Or would we ourselves always be regarded as the indirect participant when we settle via our custodian?

<ESMA\_QUESTION\_RSFTTR\_24>

**Q25** : Do you consider proposal A or proposal B to be the most efficient way to ensure that details of SFTs are reported accurately, and why? What would be the costs and benefits of each approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_25>

Our preference would be Proposal A

<ESMA\_QUESTION\_RSFTTR\_25>

**Q26** : Do you agree with the sequences proposed? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_26>

If an Error was erroneously sent, what would be the correct method of undoing this Error message? There's the risk of 'loosing' a used UTI for instance when a Error was erroneously sent

<ESMA\_QUESTION\_RSFTTR\_26>

**Q27** : Do you agree with the proposed mapping between business events and action types? Are there any additional business events that should be included? Please detail the reasons for your answer.

<ESMA\_QUESTION\_RSFTTR\_27>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_RSFTTR\_27>

**Q28** : Are there any other relationships that would need to be defined? If so, please detail which ones.

<ESMA\_QUESTION\_RSFTTR\_28>  
Can you confirm the list as set out in table 5 is not considered exhaustive?  
<ESMA\_QUESTION\_RSFTTR\_28>

**Q29** : Is there any aspect not covered by the ITS on reporting that would require further clarification? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_29>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_RSFTTR\_29>

**Q30** : Do you agree with the proposed approach for reporting of counterparty side in the case of CCP-cleared SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_30>  
Yes we agree  
<ESMA\_QUESTION\_RSFTTR\_30>

**Q31** : Do you agree with the proposed approach to determine which side of a transaction is the collateral provider and which is the collateral taker for unsecured lending/borrowing of securities? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_31>  
Yes we agree  
<ESMA\_QUESTION\_RSFTTR\_31>

**Q32** : Please indicate how frequently is a haircut, margin or any other type of discount/add-on, applied to the loan side of SLB?

<ESMA\_QUESTION\_RSFTTR\_32>  
Almost never, if not never at all.  
<ESMA\_QUESTION\_RSFTTR\_32>

**Q33** : Do you agree with the proposed approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_33>  
Yes we agree  
<ESMA\_QUESTION\_RSFTTR\_33>

**Q34** : Do you agree with the proposed approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_34>

Yes we agree

<ESMA\_QUESTION\_RSFTTR\_34>

**Q35** : Do you agree with the proposed approach on timing and use of FX rates?  
Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_35>

AAB does not agree with the approach. Mismatches in reconciliation of valuations are not caused merely by erroneous market prices / FX rates but by global differences in cut-off times for FX, different market data vendors etc. Loan value fixing: what FX rate to use? Please provide guidance on sourcing and timing, as we feel it would be impossible to align FX between counterparties (each potentially with their own data vendor, cut-off time etc) every single day.

In general, requiring all parties to match on market data such as prices, FX rates, interest rates etc, with sometimes very low tolerances on data mismatches, is a recipe for mismatches on a large scale.

<ESMA\_QUESTION\_RSFTTR\_35>

**Q36** : Does ESMA need to provide additional guidance on the reporting of the valuation fields? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_36>

Please provide guidance on fallback scenario of Market Price of a security is not available (for example: securities in still Primary Market, or corporate action outcome stock etc)

<ESMA\_QUESTION\_RSFTTR\_36>

**Q37** : Do you have any remarks concerning the reporting of CFI? What other aspects need to be clarified to ensure that reporting is consistently performed? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_37>

Yes, paragraph 163 refers to the 'use of official sources for the CFI'. We would like to point out that CFI codes are not always available. Can ESMA clarify which sources qualify as an 'official' source? Can data from platforms in the market be used?

<ESMA\_QUESTION\_RSFTTR\_37>

**Q38** : Do you agree with the approach for back-loading? What other aspects have to be considered to make the reporting of backloaded SFTs more efficient for counterparties and TRs, i.e. the costs of this approach are minimised and also the usefulness of the reports submitted going forward is maximised? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_38>

Have you considered that 13 April 2020, a day before the backloading start date, is a public holiday in some EU Member states?

Can you confirm that only the state of the transactions on RSD needs to be reported?  
Henceforth, regular life-cycle event as per usual?

<ESMA\_QUESTION\_RSFRTR\_38>

**Q39** : What other aspects with regards to the UTI have to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFRTR\_39>

Guidance is requested on fallback scenario in case the relevant counterparty does not generate and provide an UTI in time. Can the report be submitted without UTI in order to show the report was ready in time?

<ESMA\_QUESTION\_RSFRTR\_39>

**Q40** : Are there any other instances that need to be clarified? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_RSFRTR\_40>

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<ESMA\_QUESTION\_RSFRTR\_40>

**Q41** : Please provide the relative volume of transactions for which issuer's LEI (of securities used as collateral) or ISIN is not available in principle.

<ESMA\_QUESTION\_RSFRTR\_41>

Systems are not ready to provide this data, however, as commented by ICMA, mandating field 2.93 is impractical and would lead to a very significant number of rejections. Guidance should be provided on fall back scenario.

<ESMA\_QUESTION\_RSFRTR\_41>

**Q42** : Do you agree with this approach? What other aspects need to be considered? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_RSFRTR\_42>

We do not agree with this approach. This would cause an dependency on parties for which the reporting start date has not yet commenced. Furthermore, these may not prepared for providing such data as there is no industry standard nor technical platform for providing such data. This challenge is too big, guidance requested on the situation data is not provided.

<ESMA\_QUESTION\_RSFRTR\_42>

**Q43** : Do you believe there are other use cases that need to be further defined in this subsection? Do you agree with the applicability of those use cases to the different types of SFTs as outlined above? Please detail the reasons for your answers.

<ESMA\_QUESTION\_RSFRTR\_43>

We are not really sure what the basis is of this list. It is not an exhaustive list it seems. Sometimes it seems to combine various options into one use case, sometimes it seems not to.

<ESMA\_QUESTION\_RSFRTR\_43>

**Q44** : Do you agree with the population of the counterparty data fields? Please detail the reasons for your response and indicate the table to which your comments refer.

<ESMA\_QUESTION\_RSFR\_44>  
Scenario 6.1.10. is not included is table 6  
<ESMA\_QUESTION\_RSFR\_44>

**Q45** : Do you agree with the approach to reporting action types? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFR\_45>  
We are confused about the phrase "cleared on the same day and therefore reported as a position component" in paragraph 21q. We are under the assumption that position reporting is optional? For the rest, we agree.  
<ESMA\_QUESTION\_RSFR\_45>

**Q46** : Do you agree with the approach to reporting event date? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFR\_46>  
Yes, we agree, but please see our comments with regards to Q20.  
<ESMA\_QUESTION\_RSFR\_46>

**Q47** : Do you agree with the approach to reporting clearing? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFR\_47>  
Yes, we agree although we are not sure why there is seemingly not an example of a novation model trade where novation takes place a day or even two days after the bilateral trade.  
<ESMA\_QUESTION\_RSFR\_47>

**Q48** : Do you agree with the approach to reporting trading venue field? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFR\_48>  
Field 2.8 shall be aligned with trading venues under MiFID II. As a result, voice brokers (OTF) are no longer considered to be part of the OTC market.  
<ESMA\_QUESTION\_RSFR\_48>

**Q49** : Do you have any remarks or questions concerning the reporting of master agreements? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFR\_49>  
Field 2.11 (Master Agreement Version) is not applicable to some agreements, we therefore suggest to make this field optional.  
<ESMA\_QUESTION\_RSFR\_49>

**Q50** : Do you agree with the approach to reporting conclusion and beginning of an SFT? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_50>

Yes we agree, but it would have been better to have used the term 'agreed settlement date' instead of 'value date' because of securities lending starting/ending on actual settlement, whereas rev) repo and BSB/SBB starts/ends on agreed settlement date

<ESMA\_QUESTION\_RSFTTR\_50>

**Q51** : Do you agree with the approach to reporting term of the SFT? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_51>

Can you confirm that we are not required to update field 2.17 daily in case of an open repo?

In table 61, where does the "earliest call-back date" come from? Shouldn't the "earliest call-back date" always be T + [Minimum Notice Period? And if so, should that be updated every day towards the TR?

<ESMA\_QUESTION\_RSFTTR\_51>

**Q52** : Do you see any issues with the approach to reporting termination optionality? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_52>

With NOAP, Evergreen and Extendible being the only 3 options, we feel that unclarity remains with regards to denoting the fact whether a deal is Callable or not. Or is the mere presence of a Minimum Notice Period (even if it is being filled as zero) in a record an indicator that the trade is callable?

<ESMA\_QUESTION\_RSFTTR\_52>

**Q53** : Which of these approaches do you favour for reporting general and specific collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_53>

We strongly prefer the second approach as it eliminates undoubtedly differing definitions between counterparties of what is GC and what is not. The second approach is unambivalent if defined well.

<ESMA\_QUESTION\_RSFTTR\_53>

**Q54** : Do you agree with the approach to reporting collateral arrangements? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_54>

That are only three examples included in table 66, 67 and 68. Are these the only viable options ESMA foresees? Or just three examples based on what ESMA deems the most common scenarios?

<ESMA\_QUESTION\_RSFTTR\_54>

**Q55** : Do you agree with the approach to reporting fixed and floating rates of SFTs? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_55>

We do not agree with par. 278 of the Consultation Paper. With regards to changes of a floating rate repo linked to an interest rate index, we are of the opinion that only modification of the spread or the index should be reported, and not the scheduled and published fixing of the rate itself?

Furthermore why has a 1-week time period been used as frequency par. 275? The market standard is end of month (SBL) or at term (repo).

<ESMA\_QUESTION\_RSFTTR\_55>

**Q56** : Do you see any issues with the approach to reporting repo and BSB/SBB principal amounts? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_56>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_56>

**Q57** : Do you agree with the approach regarding reporting fields 2.51 and 2.90? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_57>

We do not agree, investment versus non-investment grade categorisation differs per CRA, and agreement on trade-by-trade basis is impossible. Admittedly for most securities the categorisation will be the same throughout the whole industry, but definitely not always. Especially near the 'border' there will be differences, and therefore breaks when this field becomes a matching field in phase 2.

<ESMA\_QUESTION\_RSFTTR\_57>

**Q58** : Do you agree with the approach to reporting securities on loan? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_58>

According to us, par. 290 should not read nominal amount but quantity.

<ESMA\_QUESTION\_RSFTTR\_58>

**Q59** : Do you agree with the approach to reporting SFTs involving commodities? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_59>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_RSFTTR\_59>

**Q60** : Do you agree with the approach to reporting cash rebate SLBs? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_60>  
Yes we agree.  
<ESMA\_QUESTION\_RSFTTR\_60>

**Q61** : Do you agree with the approach to reporting non-cash collateral SLBs? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_61>  
Yes we agree. Is there any particular reason why the 2 examples only depict rebate and non-cash scenarios, and not a cash pool scenario?  
<ESMA\_QUESTION\_RSFTTR\_61>

**Q62** : Do you agree with the approach to reporting margin loan data? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_62>  
TYPE YOUR TEXT HERE  
<ESMA\_QUESTION\_RSFTTR\_62>

**Q63** : Do you agree with the approach to reporting collateralisation? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_63>  
Is there any particular reason why there's seemingly no example of collateralisation against a basket of securities, known at the time of reporting but not identifiable by an ISIN? I.e. a tri-party non-cash basket or even a bilateral non-cash basket for a T+0 trade? Furthermore, we are not sure whether table 89 depicts a rebate trade or a trade against a net exposure cash pool? Because in the case of a trade against a net exposure cash pool there is, as ESMA is undoubtedly aware of, not a one-to-one relation between trade and one cash collateral movement per se.  
<ESMA\_QUESTION\_RSFTTR\_63>

**Q64** : Do you agree with the approach to reporting cash collateral? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_64>  
We feel ESMA could provide clarity on reporting of cash pools (both used to cover the full initial exposure, or part of the initial exposure, or only the daily margining etc). If a trade is booked against cash pool but the exposure manager books a rounded cash pool movement that covers for instance a few trades and/or a few returns, perhaps adhering to certain thresholds, minimum transfer amounts etc, is it still mandatory to fill in 76 and 77 for each trade?

<ESMA\_QUESTION\_RSFTTR\_64>

**Q65** : Do you agree with the proposed approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_65>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_65>

**Q66** : Do you agree with the proposed approach for calculating collateral haircuts or margin? Please provide justification for your response.

<ESMA\_QUESTION\_RSFTTR\_66>

We would like to ESMA to clarify the reference to FSB and BCBS. Except for the haircut floors that a trader should be aware of in the light of potentially higher capital requirements, we do not see the goal of the phrase "calculated in line with the FSB and BCBS haircut framework". Furthermore we'd like to point out that in the case of tri-party non-cash collateral, reporting parties will probably mostly be dependent on the tri-party agents' correct reporting on market and haircutted values towards their clients.

<ESMA\_QUESTION\_RSFTTR\_66>

**Q67** : Do you agree with the proposed approach for reporting collateral type field? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_67>

We feel that there will be different opinions on the categorisation, especially supra-nationals/agencies vs governmental amongst counterparties and this will potentially compromise matching rates.

<ESMA\_QUESTION\_RSFTTR\_67>

**Q68** : Do you agree with the proposed approach for reporting Availability for collateral reuse? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_68>

Yes, we agree, assuming ESMA poses a fixed, explicit rule that when collateral is transfer of title or right of use, reusability should ALWAYS be reported as yes.

<ESMA\_QUESTION\_RSFTTR\_68>

**Q69** : Do you agree with the proposed approach for reporting fields Identification of security and LEI of issuer? Are you aware of instances where securities provided as collateral do not have an ISIN? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_69>

As set out in Question 41, systems are not ready to provide this data. Nevertheless, a relative number of trades will fail to pass TR validation due to a lack of issuer LEI, also taking into account that most SFTs include multiple lines of collateral securities.

<ESMA\_QUESTION\_RSFTTR\_69>

**Q70** : Do you agree with the proposed approach for reporting plain vanilla bonds as collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_70>

Yes, we agree

<ESMA\_QUESTION\_RSFR\_70>

**Q71** : Do you agree with the proposed approach for reporting perpetual bonds as collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_71>

Yes, we agree

<ESMA\_QUESTION\_RSFR\_71>

**Q72** : Do you agree with the proposed approach for reporting main index equities as collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_72>

Yes, we agree

<ESMA\_QUESTION\_RSFR\_72>

**Q73** : Do you agree with the proposed approach for reporting variation margining with additional provision of securities by the collateral provider? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_73>

Yes, we agree

<ESMA\_QUESTION\_RSFR\_73>

**Q74** : Do you agree with the proposed approach for reporting variation margining with return of the same securities to collateral provider? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_74>

Please provide clarity on whether this is returning of collateral within one repo or just a regular net exposure non-cash pool movement in and out? The paragraph titles mentions net exposure collateral, but the message seems a single repo? We would normally not return repo trade collateral, but handle variation margin either with cash pools or via GC in a non-cash pool. We would not return the bond within the context of a single repo to handle variation margin. In case this sample message is just a regular net exposure non-cash pool movement, we agree and have no need for further clarification.

<ESMA\_QUESTION\_RSFR\_74>

**Q75** : Do you agree with the proposed approach for reporting variation margining with return of different securities to the collateral provider? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_75>

Please provide clarity on whether this is returning of collateral within one repo or just a regular net exposure non-cash pool movement in and out? In case of the latter, we agree

<ESMA\_QUESTION\_RSFR\_75>

**Q76** : Do you agree with the proposed approach for reporting prepaid collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_76>

Yes, we agree

<ESMA\_QUESTION\_RSFR\_76>

**Q77** : Do you agree with the proposed approach for reporting portfolio code? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFR\_77>

Yes, we agree

<ESMA\_QUESTION\_RSFR\_77>

**Q78** : Do you agree with the approach to reporting margin data? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFR\_78>

Yes, we agree

<ESMA\_QUESTION\_RSFR\_78>

**Q79** : Do you have any comments on the scope of the non-cash collateral re-use measure, and are there practical obstacles to the reporting? In the case of margin lending, do you agree with the exclusion of securities that cannot be transferred to the prime broker's account due to rehypothecation limits agreed contractually?

<ESMA\_QUESTION\_RSFR\_79>

With regards to paragraphs 368 and 371, does d. imply that net exposure non-cash pools are included, also non-cash pools to cover initial exposure and not only variation after day 1 (which in our opinion should be included) in the formula? Also, looking at the collateral reuse formula, is "assets" indeed only the asset-side on the on-balance? Having asked that, we would like to stress to ESMA again that obtaining these figures will be extremely difficult for most firms. Especially since ESMA has decided on a daily frequency to comply with FSB recommendations. Furthermore, again, sourcing this for small NFCs is sensitive, logistically and operationally extremely challenging. Finally, filtering out the ESCB collateral might be simple conceptually, yet in practice probably potentially problematic.

<ESMA\_QUESTION\_RSFR\_79>

**Q80** : Do you have any comments on cash collateral reinvestment, and do you agree with the scope?

<ESMA\_QUESTION\_RSFR\_80>

Assuming we correctly interpret the details on this, this will also be extremely difficult to source for firms, calculating average rates, split per type of reinvestment etc. Additionally we would need confirmation that only securities borrowing/lending needs to be taken into account, no repo (nor any cash pools associated with GMRA).

<ESMA\_QUESTION\_RSFTTR\_80>

**Q81** : Do you agree with the proposed approach for reporting reuse, reinvestment and funding sources? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTTR\_81>

We are not sure whether this question seeks answers or comments to reuse/reinvestment, delegated reporting or margin lending funding sources. Our comments and reuse/reinvestment have been made above, the delegated reporting aspect of these examples are clear enough and we would require no further clarification, and we do not conduct any margin lending.

<ESMA\_QUESTION\_RSFTTR\_81>

**Q82** : What other aspects need to be considered with regards to the aforementioned approach with regards to treatment of rejection feedback? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_82>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_82>

**Q83** : What other aspects need to be considered with regards to the aforementioned approach with regards to treatment of reconciliation feedback? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTTR\_83>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTTR\_83>

**Q84** : What other aspects need to be considered to make the process more efficient? Please elaborate on the reasons for your response?

<ESMA\_QUESTION\_RSFTTR\_84>

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<ESMA\_QUESTION\_RSFTTR\_84>

**Q85** : Do you have any comments on the aforementioned practicalities relating to the provision of access to SFT data to authorities? What other aspects need to be considered to make the process more efficient? Please elaborate on the reasons for your response?

<ESMA\_QUESTION\_RSFTTR\_85>

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<ESMA\_QUESTION\_RSFTTR\_85>

