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| 11 March 2016 |

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| Reply form for the  SFTR Discussion Report |
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| Date: 11 March 2016 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in the ESMA SFTR Discussion Report, published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_ QUESTION\_SFTR\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

* if they respond to the question stated;
* contain a clear rationale, including on any related costs and benefits; and
* describe any alternatives that ESMA should consider

**Naming protocol**

In order to facilitate the handling of stakeholders responses please save your document using the following format:

ESMA\_SFTR\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

E.g. if the respondent were XXXX, the name of the reply form would be:

ESMA\_SFTR\_XXXX\_REPLYFORM or

ESMA\_SFTR\_XXXX\_ANNEX1

***Deadline***

Responses must reach us by 22 April 2016**.**

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

***Publication of responses***

All contributions received will be published following the end of the consultation period, unless otherwise requested. **Please clearly indicate by ticking the appropriate checkbox in the website submission form if you do not wish your contribution to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure.** Note also that 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 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 headings ‘Legal notice’ and ‘Data protection’.

# Introduction

Please make your introductory comments below, if any:

< ESMA\_COMMENT\_SFTR\_1>

FIA is pleased to submit its response to the ESMA Discussion Paper on Draft RTS and ITS under SFTR. FIA has chosen to submit responses related to commodities financing transactions, and has not responded to sections relating to other types of securities financing transactions.

Our members point out that they will require additional time for a more detailed analysis of the reporting requirements, both in response to Question 22 and the proposed reporting consistency with EMIR and in relation to the fields in the proposed reporting tables in section 6.1.3 of the Discussion Paper. We would welcome the opportunity to provide you with a more detailed analysis in the near future and remain at your disposal to discuss our response further.

< ESMA\_COMMENT\_SFTR\_1>

1. Are these amendments to the provisions included in EMIR RTS 150/2013 sufficient to strengthen the registration framework of TRs under SFTR? If not, what additional provisions should be envisaged? What are the cost implications of the establishment of the provisions referred to in paragraphs 41-53? What are the benefits of the establishment of the provisions referred to in paragraphs 41-53? Please elaborate.

<ESMA\_QUESTION\_SFTR\_1>

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<ESMA\_QUESTION\_SFTR\_1>

1. Are these procedures sufficient to ensure the completeness and correctness of the data reported under Article 4(1) SFTR? If not, what additional provisions should be envisaged?

<ESMA\_QUESTION\_SFTR\_2>

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<ESMA\_QUESTION\_SFTR\_2>

1. What are the cost implications of the establishment of the provisions referred to in paragraph 56 to ensure the completeness and correctness of the data reported under Article 4(1) SFTR? Please elaborate and provide quantitative information to justify the cost implications.

<ESMA\_QUESTION\_SFTR\_3>

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<ESMA\_QUESTION\_SFTR\_3>

1. Are these additional procedures sufficient to strengthen the registration framework of TRs under SFTR? If not, what additional provisions should be envisaged?

<ESMA\_QUESTION\_SFTR\_4>

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<ESMA\_QUESTION\_SFTR\_4>

1. What are the cost implications of the establishment of the provisions referred to in paragraphs 58-65?

<ESMA\_QUESTION\_SFTR\_5>

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<ESMA\_QUESTION\_SFTR\_5>

1. What are the benefits of the establishment of the provisions referred to in paragraphs 58-65? Please elaborate.

<ESMA\_QUESTION\_SFTR\_6>

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<ESMA\_QUESTION\_SFTR\_6>

1. Do you agree with the information that should not be provided in the case of extension of registration? Please elaborate.

<ESMA\_QUESTION\_SFTR\_7>

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<ESMA\_QUESTION\_SFTR\_7>

1. Are there additional provisions that should be removed / included? Please elaborate.

<ESMA\_QUESTION\_SFTR\_8>

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<ESMA\_QUESTION\_SFTR\_8>

1. What are the benefits of providing less documentation? Please elaborate.

<ESMA\_QUESTION\_SFTR\_9>

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<ESMA\_QUESTION\_SFTR\_9>

1. Do you agree with the proposed format of the application for registration and the application for extension of registration? If not, do you consider that the format of the application for extension of registration should be different? What are the costs and benefits of the proposed approach? Please elaborate.

<ESMA\_QUESTION\_SFTR\_10>

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<ESMA\_QUESTION\_SFTR\_10>

1. Do you agree with the proposed technical format, ISO 20022, as the format for reporting? If not, what other reporting format you would propose and what would be the benefits of the alternative approach?

<ESMA\_QUESTION\_SFTR\_11>

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<ESMA\_QUESTION\_SFTR\_11>

1. How would the proposed format comply with the governance requirements in paragraph 75? Please elaborate.

<ESMA\_QUESTION\_SFTR\_12>

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<ESMA\_QUESTION\_SFTR\_12>

1. Do you foresee any difficulties related to reporting using an ISO 20022 technical format that uses XML? If yes, please elaborate.

<ESMA\_QUESTION\_SFTR\_13>

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<ESMA\_QUESTION\_SFTR\_13>

1. Do you foresee issues in identifying the counterparties of an SFT trade following the above-mentioned definitions?

<ESMA\_QUESTION\_SFTR\_14>

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<ESMA\_QUESTION\_SFTR\_14>

1. Are there cases for which these definitions leave room for interpretation? Please elaborate.

<ESMA\_QUESTION\_SFTR\_15>

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<ESMA\_QUESTION\_SFTR\_15>

1. Is it possible to report comprehensive information at transaction level for all types of SFTs and irrespective of whether they are cleared or not?

<ESMA\_QUESTION\_SFTR\_16>

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<ESMA\_QUESTION\_SFTR\_16>

1. Is there any need to establish complementary position-level reporting for SFTs? If yes, should we consider it for particular types of SFTs, such as repo, or for all types?

<ESMA\_QUESTION\_SFTR\_17>

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<ESMA\_QUESTION\_SFTR\_17>

1. Is there any need to differentiate between transaction-level data and position-level data on loans from financial stability perspective? Please elaborate.

<ESMA\_QUESTION\_SFTR\_18>

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<ESMA\_QUESTION\_SFTR\_18>

1. Would the data elements included in section 6.1 be sufficient to support reporting of transactions and positions?

<ESMA\_QUESTION\_SFTR\_19>

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<ESMA\_QUESTION\_SFTR\_19>

1. Would the data elements differ between position-level data and transaction-level data? If so, which ones?

<ESMA\_QUESTION\_SFTR\_20>

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<ESMA\_QUESTION\_SFTR\_20>

1. Would the proposed approach for collateral reporting in section 4.3.5 be sufficient to accurately report collateral data of SFT positions? Please elaborate.

<ESMA\_QUESTION\_SFTR\_21>

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<ESMA\_QUESTION\_SFTR\_21>

1. From reporting perspective, do you foresee any significant benefits or drawbacks in keeping consistency with EMIR, i.e. applying Approach A? What are the expected costs and benefits from adopting a different approach on reporting of lifecycle events under SFTR with respect to EMIR? Please provide a justification in terms of cost, implementation effort and operational efficiency. Please provide concrete examples.

<ESMA\_QUESTION\_SFTR\_22>

We support reporting consistency, but the parameters of SFTR transactions may not fit into the EMIR format. The timing of this consultation did not allow sufficient time to perform a detailed analysis of the reporting format to EMIR. More analysis is required to determine the full cost of implementation and our members are currently undertaking such analysis.

<ESMA\_QUESTION\_SFTR\_22>

1. Do you agree with the proposed list of “Action Types”? If not, which action types should be included or excluded from the above list to better describe the SFT? Please elaborate.

<ESMA\_QUESTION\_SFTR\_23>

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<ESMA\_QUESTION\_SFTR\_23>

1. Do you foresee any benefits or drawbacks of implementing the proposed reporting logic of event types and technical actions (Approach B)? Please elaborate.

<ESMA\_QUESTION\_SFTR\_24>

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<ESMA\_QUESTION\_SFTR\_24>

1. Do you agree with the proposed list of event types and technical actions? If not, which ones should be included or excluded?

<ESMA\_QUESTION\_SFTR\_25>

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<ESMA\_QUESTION\_SFTR\_25>

1. Do you foresee any need to introduce a unique reference identifier for the lifecycle events or for technical actions? Please elaborate.

<ESMA\_QUESTION\_SFTR\_26>

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<ESMA\_QUESTION\_SFTR\_26>

1. From reporting perspective, do you foresee any drawbacks in keeping consistency with EMIR? If so, please indicate which ones?

<ESMA\_QUESTION\_SFTR\_27>

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<ESMA\_QUESTION\_SFTR\_27>

1. Are the proposed rules for determination of buyer and seller sufficient? If not, in which scenarios it might not be clear what is the direction of the trade? Which rules can be proposed to accommodate for such scenarios?

<ESMA\_QUESTION\_SFTR\_28>

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<ESMA\_QUESTION\_SFTR\_28>

1. Are the proposed rules consistent with the existing market conventions for determination of buyer and seller? If not, please provide alternative proposals.

<ESMA\_QUESTION\_SFTR\_29>

No, the proposed rules are not consistent with the existing market conventions. In the securities and commodity lending space, there are neither buyers or sellers but rather lenders and borrowers. Requiring the lenders and borrowers to be identified as buyers or sellers may introduce confusion in the reporting requirements and lead to bad quality of data being reported. The counterparties involved in an SFT are described as being either ‘borrowers’ or ‘lenders’ or the ‘givers’ or ‘receivers’ in respect of any collateral provided or received.

Therefore, we propose to replace in paragraph 140 of the Discussion Paper the existing text with the following:

* *In the case of securities or commodities borrowing and securities or commodities lending, the counterparty that lends the securities or commodities, subject to a commitment that equivalent securities or commodities will be returned on a future date or on request, shall be identified as the lender. The other counterparty shall be identified as the borrower. [emphasis added]; OR*
* *In the case of securities or commodities borrowing and securities or commodities lending, the counterparty that borrows the securities or commodities, subject to a commitment that equivalent securities or commodities will be returned on a future date or on request, shall be identified as the borrower. The other counterparty shall be identified as the lender. [emphasis added].*

<ESMA\_QUESTION\_SFTR\_29>

1. Are you aware of any other bilateral repo trade scenario? With the exception of tri-party agents that are documented in section 4.2.5, are there any other actors missing which is not a broker or counterparty? Please elaborate.

<ESMA\_QUESTION\_SFTR\_30>

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<ESMA\_QUESTION\_SFTR\_30>

1. Do you consider that the above scenarios also accurately capture the conclusion of buy/sell-back and sell/buy back trades? If not, what additional aspect should be included? Please elaborate.

<ESMA\_QUESTION\_SFTR\_31>

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<ESMA\_QUESTION\_SFTR\_31>

1. Do you agree with the description of the repo scenarios?

<ESMA\_QUESTION\_SFTR\_32>

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<ESMA\_QUESTION\_SFTR\_32>

1. Are you aware of any other repo scenarios involving CCPs?

<ESMA\_QUESTION\_SFTR\_33>

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<ESMA\_QUESTION\_SFTR\_33>

1. Are there any other scenarios that should be discussed? Please elaborate.

<ESMA\_QUESTION\_SFTR\_34>

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<ESMA\_QUESTION\_SFTR\_34>

1. Do you consider that the documented scenarios capture accurately the conclusion of buy/sell-back trades? If not, what additional aspects should be considered?

<ESMA\_QUESTION\_SFTR\_35>

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<ESMA\_QUESTION\_SFTR\_35>

1. According to market practices, can buy/sell-back and sell/buy back trades involve a CCP?

<ESMA\_QUESTION\_SFTR\_36>

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<ESMA\_QUESTION\_SFTR\_36>

1. Are there any other actors missing which are not mentioned above, considering that tri-party agents are be covered in section 4.2.5? Please elaborate.

<ESMA\_QUESTION\_SFTR\_37>

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<ESMA\_QUESTION\_SFTR\_37>

1. Are there any differences in the parties involved according to the different agency lending models?

<ESMA\_QUESTION\_SFTR\_38>

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<ESMA\_QUESTION\_SFTR\_38>

1. When would the both counterparties know the other’s identity in an undisclosed lending agreement?

<ESMA\_QUESTION\_SFTR\_39>

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<ESMA\_QUESTION\_SFTR\_39>

1. What other solution would you foresee for the reporting of trades involving the agent lender? Please elaborate.

<ESMA\_QUESTION\_SFTR\_40>

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<ESMA\_QUESTION\_SFTR\_40>

1. Would an open offer clearing model possibly apply to securities lending too?

<ESMA\_QUESTION\_SFTR\_41>

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<ESMA\_QUESTION\_SFTR\_41>

1. Would a broker be involved in addition to lending agent in such a transaction?

<ESMA\_QUESTION\_SFTR\_42>

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<ESMA\_QUESTION\_SFTR\_42>

1. Would it be possible to link the 8 trade reports to constitute the “principal clearing model” picture? If yes, would the method for linking proposed in section 4.3.4 be suitable?

<ESMA\_QUESTION\_SFTR\_43>

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<ESMA\_QUESTION\_SFTR\_43>

1. In the case of securities lending transactions are there any other actors missing, considering that tri-party agents will be covered in section 4.2.5?

<ESMA\_QUESTION\_SFTR\_44>

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<ESMA\_QUESTION\_SFTR\_44>

1. What potential issues do reporting counterparties face regarding the reporting of the market value of the securities on loan or borrowed?

<ESMA\_QUESTION\_SFTR\_45>

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<ESMA\_QUESTION\_SFTR\_45>

1. Do such securities lending transactions exist in practice?

<ESMA\_QUESTION\_SFTR\_46>

FIA understands that such securities lending transactions, insofar as they relate to commodities, may exist in practice. However, FIA understands that in most commodities lending and borrowing transactions as defined in Art 3(7) SFTR, the lenders provide cash to their counterparty and take title or a security interest over existing commodities owned by the counterparty by way of credit risk mitigation; and so the market in commodities lending and borrowing does not typically lend itself to unsecured transactions.

<ESMA\_QUESTION\_SFTR\_46>

1. Do you agree with the proposal to explicitly identify non-collateralised securities or commodities lending transactions in the reporting fields? Please elaborate.

<ESMA\_QUESTION\_SFTR\_47>

Kindly note our answer to Q46, where we delineate our understanding that, for the purpose of commodities financing transactions as defined under SFTR, non-collateralised transactions are not prevalent in commodities lending and borrowing markets.

<ESMA\_QUESTION\_SFTR\_47>

1. Would it be possible that an initially unsecured securities or commodities lending or borrowing transaction becomes collateralised at a later stage? Please provide concrete examples.

<ESMA\_QUESTION\_SFTR\_48>

Kindly note our answer to Q46, where we delineate our understanding that, for the purpose of commodities financing transactions as defined under SFTR, non-collateralised are not prevalent in commodities lending and borrowing markets.

Conceptually however, we would not envisage circumstances in which a lender would enter into a non-collateralised transaction with a counterparty and not allow for the transaction to be collateralised at a later stage.

<ESMA\_QUESTION\_SFTR\_48>

1. Which of the scenarios described for securities lending (Section 4.2.4.2), repo and buy-sell back (Section 4.2.4.1) are currently applicable to commodities financing transactions? Please provide a short description of the commodity financing transactions that occur under each scenario and the involved actors.

<ESMA\_QUESTION\_SFTR\_49>

FIA notes that scenario 1 (i.e. bilateral commodities lending transactions) is typical to the commodities lending market. Whilst brokers, agents, CCPs and other intermediaries may be involved in a scenario where a lender is hedging its exposure to a commodities financing transaction, commodity lenders would typically engage with their counterparties on a bilateral basis and would enter into commodities lending transactions without the use of intermediaries.

<ESMA\_QUESTION\_SFTR\_49>

1. Are you aware of commodity financing transactions that would fall in the scope of the Regulation but are not covered in the scenarios described for securities lending (Section 4.2.4.2), repo and buy-sell back (Section 4.2.4.1)? If yes, please describe the general characteristics of such a transaction.

<ESMA\_QUESTION\_SFTR\_50>

FIA notes that broadly, the commodities financing transaction market is a bilateral market and consequently does not incorporate the use of intermediaries in the same way that securities repo and lending markets do.

Whilst there are various other commercial pre-payment and leasing structures used by the industry we believe that the scenarios which have been described in section 4.2.4.2 and section 4.2.4.1 adequately represent the types of transactions which fall within the definitions of in scope transactions in Art 3 SFTR i.e. transactions which involve: (1) the transfer of legal title of a physical commodity to secure a repayment obligation between the asset owner and the lender; or (2) the sale of a physical commodity in return for funds where there is an irrevocable obligation on the entity receiving the funds to repurchase or buy back the same or similar commodities in the future from the entity which purchased the physical commodities.

We understand that transactions, which do not satisfy these criteria, fall outside of the scope of the definitions in Art 3 SFTR.

<ESMA\_QUESTION\_SFTR\_50>

1. Are the types of transactions recognised sufficiently clear for unambiguous classification by both reporting counterparties of commodity financing transactions into one of the types?

<ESMA\_QUESTION\_SFTR\_51>

FIA notes that there is no clear distinction between a commodities buy-sell back transaction and a repurchase transaction in Art. 3(8) and (9) SFTR. In particular, would ESMA be able to clarify that a buy-sell back transaction does not include a transaction where the seller sells a commodity to a buyer with the option (but not an obligation) to buy back such commodity? We read this type of transaction to be outside of the scope of Art. 3(8).

<ESMA\_QUESTION\_SFTR\_51>

1. What additional details may help to identify the type of transactions used?

<ESMA\_QUESTION\_SFTR\_52>

As delineated in our response to Q51, FIA notes that there is a lack of clarity around the distinction between a commodities buy-sell back transaction and a commodities repurchase transaction. We believe that the industry would benefit from further clarity around what the conceptual or practical differences between the two are in terms of practice and regulation.

As set out in our response to Q50, there are various structures, which do not include a two-way exchange of commodities or there is no transfer of title involved. In order to avoid any confusion regarding their exclusion from the SFTR, we urge ESMA to avoid the terminology “commodity finance transaction” in the level 2 legislation; and instead refer to buy-sell-back transactions, commodity lending and borrowing and repurchase transactions in line with the definitions in Art. 3 SFTR.

<ESMA\_QUESTION\_SFTR\_52>

1. What are the main types of commodities used in SFTs?

<ESMA\_QUESTION\_SFTR\_53>

Commodities lending, borrowing, buy and sell-back and repurchase transactions lend themselves to any commodities that may be physically delivered. However, in practice, due to the ability of metals, oil and agricultural products to be stored, and consumption patterns of energy products that are consumed rather than stored in the longer term (e.g. electricity cannot be stored), securities financing transactions are predominantly used for metals, oil and agricultural commodities.

<ESMA\_QUESTION\_SFTR\_53>

1. How often, in your experience, are other commodities used?

<ESMA\_QUESTION\_SFTR\_54>

We refer to our answer in Q53 – we understand that commodities financing transactions are used most commonly, though not exclusively, for metals, oil and agricultural products.

<ESMA\_QUESTION\_SFTR\_54>

1. In your experience, what share of the transactions involves standardised commodity contracts, such as most traded gold and crude oil futures? Please provide concrete examples.

<ESMA\_QUESTION\_SFTR\_55>

FIA understands that ESMA is asking what share of the transactions involve standardised commodity contracts, that is, what share of transactions involve commodities, which fall within a basket of deliverable products meeting contract specifications to be delivered in contracts traded on a trading venue. We would welcome some clarity over what ESMA means in this context.

As the lender is always concerned that it may have to liquidate the commodity, the commodity would normally conform to market standard specifications, in the case of base metal these specifications would be LME deliverable only and in the case of precious metal London Good delivery, etc. In the case of commodities that are not traded on an exchange via warrants like oil and coal and dry bulks the commodity would have to conform to market standard quality and description to enable the financier to liquidate the commodity if needed.

If, however, the question relates to the contractual documentation being used for commodity lending and borrowing, buy and sell-backs and repurchase agreements, then for the first two types of transactions bespoke agreements are used by the majority of counterparties. Repurchase agreements may be based on the Global Master Repurchase Agreement (GMRA) although again some counterparties rely on bespoke agreements.

<ESMA\_QUESTION\_SFTR\_55>

1. In your experience, what share of the transactions involve commodities that meet the contract specification for the underlying to derivative contracts traded on at least one [EU] exchange?? If yes, please elaborate and provide concrete examples.

<ESMA\_QUESTION\_SFTR\_56>

We refer to our answer to Q 55.

In addition, we note that base metal tend to be deliverable – if the base metal can be recorded on a warrant on an exchange, for example the London Metals Exchange, then it would meet contract specifications.

However, we note that only a small portion of agricultural and metal commodity derivatives result in physical delivery (and are thus assessed accordingly) because most are not settled via clearing mechanisms but would be settled through bilateral repos and lending structures. As noted above in our response to Q55 the issue is not that the repos is settled on the exchange but the commodity needs to be potentially liquidated into an exchange.

<ESMA\_QUESTION\_SFTR\_56>

1. Do the proposed fields and attributes in Section 6.1 sufficiently recognize the characteristics of commodity financing transactions? Please describe any issues you may see and describe any reporting attributes that should be added in order to enable meaningful reporting of commodity financing transactions.

<ESMA\_QUESTION\_SFTR\_57>

Generally, FIA notes that a number of fields proposed in the reporting tables of Section 6.1.3 refer to characteristics, which predominantly relate to securities repurchase transactions and lending, and do not take into account the characteristics of the commodities market. FIA members are continuing to consider the reporting fields and would very much welcome the opportunity to provide ESMA with a more in-depth analysis in the near future.

It would also be good to understand which fields are mandatory or optional. As not all transactions will have each and every field apply, there should be the ability to report a null value.

We have identified a number of fields, which we believe may be problematic to populate in practice:

* Table 1, 4, 7 and 10 – Field 4 – Sector of the reporting counterparty – we note that the taxonomy for non-financial counterparties (NFCs) is very granular. However, we note that many large commodity market participants could be engaged across a number of sectors (for example, a commodities trading firm might be engaged in mining and quarrying (2) as well as transportation and storage (8)). We recommend that ESMA provide guidance on how such fields should be populated to avoid confusion where an entity covers a number of activities.
* Table 1, 4, 7 and 10 – Field 7 – Counterparty Side – in line with the comments raised in our response to Q29, we note that there may be confusion over the definition of seller and buyers in commodities borrowing and lending transactions.
* Table 1, 4, 7 and 10 – Field 10 – Beneficiary – we note that in various other regulations (for example, REMIT and MiFID II) there is a lack of clarity over the level of granularity at which the beneficiary field should be populated – for example, it is unclear whether a trade should be attributed to the investment manager which places the order, or the underlying fund (or funds) to which the trade would be attributed. It would be helpful for ESMA to elaborate on the policy objectives related to the information collected in this field.
* Table 1, 4, 7 and 10 – Field 14 and 15 – need more clarity on what a CSD is in this context.
* Table 1, 4, 7 and 10 – Field 16 – Collateral Component – many commodities transactions cover commodities, which may be held by producers in their raw state and consequently cannot be identified as collateral through an ISIN or any other standardised identifier.
* Table 1, 4, 7 and 10 – Field 19 – Estimated Re-use of collateral – the purpose of this field does not seem to be clear – is this on the basis of the value of the underlying commodity, or the actual number of barrels/bushels of the underlying commodity?
* Table 2, 5, 8 and 11 – Field 1 – UTI – please clarify which methodology would be used to allow for a UTI to be generated for commodities.
* Table 2, 5, 8 and 11 – Field 10, 11 – Master Agreement Type, Version – although master agreements are widely used in securities financing transactions, many financiers in the commodities financing space rely on bespoke documentation to document relationships with clients and consequently they would not conform to the master agreement taxonomy.
* Table 2, 5, 8 and 11 – Field 13 – Entities may decide to amend the master agreement over time, should this be noted in Field 13?
* Table 2, 5, 8 and 11 – Field 14 – What date is expected here, the date that the master was agreed or the date of the first transaction under the agreement? We would interpret this to be the date of the first confirmation executed under the master agreement.
* Table 2, 5, 8 and 11 – Field 17 – Is this meant to be the termination date of the master agreement or the transaction?
* Table 2, 5, 8 and 11 – Field 19 – Is this the same as the maturity date?
* Table 2, 5, 8 and 11 – Field 21 – What is a DBV Indicator?
* Table 2, 5, 8 and 11 – Field 18 – Please kindly clarify what a day count refers to in commodities SFTR transactions.
* Table 3, 6, 9 and 12 – Field 2 – Collateral Component – many commodities financing transactions cover commodities, which may be held by producers in their raw state and consequently cannot be identified as collateral through an ISIN or any other standardised identifier.
* Table 3, 6, 9 and 12 – Field 12 – Collateral Quality – although many commodities may be graded to conform to different quality standards and assessments, we understand that commodities do not conform to the proposed taxonomy of ‘investment grade’, ‘non-investment grade’, or ‘non-rated’.
* Table 3, 6, 9 and 12 – Field 17 – An ISIN is not available in commodities so FIA members do not believe that it is relevant for reporting these types of transactions.

<ESMA\_QUESTION\_SFTR\_57>

1. Could all scenarios described for securities lending, repo and buy-sell back theoretically apply to future forms of commodities financing transactions?

<ESMA\_QUESTION\_SFTR\_58>

As pointed out in our response to Q50, there are a number of commodity finance transactions that do not fall under the definitions of securities lending, repo and buy-sell back and there may be additional transaction types that are equally out of scope of the SFTR.

<ESMA\_QUESTION\_SFTR\_58>

1. Should other scenarios be considered? If yes, please describe.

<ESMA\_QUESTION\_SFTR\_59>

We are not aware of other scenarios that should be in scope of the SFTR.

As set out in our response to Q50, there are various structures used by the industry, however, we believe those transactions are not intended to be in scope of the SFTR. They either do not include a two-way exchange of commodities or there is no transfer of title involved.

<ESMA\_QUESTION\_SFTR\_59>

1. Would you agree that the ISIN could be used to uniquely identify some commodities used in SFTs? If yes, which one and what prerequisites would need to be fulfilled? If no, what alternative solution would use propose for a harmonised identification of commodities involved in SFTs?

<ESMA\_QUESTION\_SFTR\_60>

We understand that ISINs, whilst useful for securities based SFTs, may not be appropriate for commodities transactions as defined under SFTR. Although commodities may be used as security in financing transactions, commodities are frequently taken as security in their raw state or during some stage within the production chain, e.g. as stored in warehouses and thus are not assigned ISINs.

Some commodities are represented by warehouse receipts or warrants, which may be issued or numbered by the entity which stores such commodities, however this may not be appropriate for all commodities.

<ESMA\_QUESTION\_SFTR\_60>

1. Would the classification as described in RTS 23 of MiFIR be the most effective way to classify commodities for the purposes of transparency under SFTR?

<ESMA\_QUESTION\_SFTR\_61>

Broadly, we consider the proposed taxonomy for identifying commodities as accurate.

<ESMA\_QUESTION\_SFTR\_61>

1. Is there another classification that ESMA should consider?

<ESMA\_QUESTION\_SFTR\_62>

No, we agree with ESMA’s classification.

<ESMA\_QUESTION\_SFTR\_62>

1. Are there transactions in which a pool of commodities is financed that the reporting needs to take into account? Please provide concrete examples.

<ESMA\_QUESTION\_SFTR\_63>

Typically, commodities lending, borrowing, buy and sell-back and repurchase transactions would refer to one type of asset class rather than a pool of different commodity asset classes.

<ESMA\_QUESTION\_SFTR\_63>

1. Do you agree with this basic scenario? If no, please explain what changes would need to be made to the scenario.

<ESMA\_QUESTION\_SFTR\_64>

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<ESMA\_QUESTION\_SFTR\_64>

1. Are there other entities that do not act as counterparties but can be involved in the transaction chain (e.g. brokers or intermediaries)?

<ESMA\_QUESTION\_SFTR\_65>

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<ESMA\_QUESTION\_SFTR\_65>

1. Are there standard margin agreements used in the market? If yes, which ones? If no, are there standard elements in margin agreements in the EU that are noteworthy from a financial stability perspective and not included in the list of questions or current data tables included in Section 6.1?

<ESMA\_QUESTION\_SFTR\_66>

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<ESMA\_QUESTION\_SFTR\_66>

1. Are there margin loans that do not have a fixed maturity or repayment date, or other conditions in the agreement on which full or partial repayment of the loan can be conditioned?

<ESMA\_QUESTION\_SFTR\_67>

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<ESMA\_QUESTION\_SFTR\_67>

1. Are floating rates used in margin lending transactions? Are there specificities that ESMA should be aware of regarding interest rates in the context of margin lending transactions?

<ESMA\_QUESTION\_SFTR\_68>

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<ESMA\_QUESTION\_SFTR\_68>

1. What potential issues do reporting counterparties face regarding the reporting of margin account/credit balances?

<ESMA\_QUESTION\_SFTR\_69>

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<ESMA\_QUESTION\_SFTR\_69>

1. How is information regarding the market value of short positions in the context of margin lending used by the lender (if at all)?

<ESMA\_QUESTION\_SFTR\_70>

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<ESMA\_QUESTION\_SFTR\_70>

1. What kind of provisions do lenders have in place to limit or mitigate client losses from short positions?

<ESMA\_QUESTION\_SFTR\_71>

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<ESMA\_QUESTION\_SFTR\_71>

1. Do you foresee any issues with reporting information on SFT involving tri-party by the T+1 reporting deadline? If so, which ones – availability of collateral data, timeliness of the information, etc.? Please elaborate.

<ESMA\_QUESTION\_SFTR\_72>

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<ESMA\_QUESTION\_SFTR\_72>

1. Would you agree with the proposed split between the counterparty and transaction data?

<ESMA\_QUESTION\_SFTR\_73>

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<ESMA\_QUESTION\_SFTR\_73>

1. Is the reporting of the country code sufficient to identify branches? If no, what additional elements would SFT reporting need to include?

<ESMA\_QUESTION\_SFTR\_74>

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<ESMA\_QUESTION\_SFTR\_74>

1. Do you foresee any costs in implementing such type of identification?

<ESMA\_QUESTION\_SFTR\_75>

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<ESMA\_QUESTION\_SFTR\_75>

1. Would it be possible to establish a more granular identification of the branches? If yes, what additional elements would SFT reporting need to include and what would be the associated costs?

<ESMA\_QUESTION\_SFTR\_76>

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<ESMA\_QUESTION\_SFTR\_76>

1. What are the potential benefits of more granular identification of branches? Please elaborate.

<ESMA\_QUESTION\_SFTR\_77>

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<ESMA\_QUESTION\_SFTR\_77>

1. Are there any situations different from the described above where the actual transfers between headquarters and branches or between branches can be considered transactions and therefore be reportable under SFTR? Please provide specific examples.

<ESMA\_QUESTION\_SFTR\_78>

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<ESMA\_QUESTION\_SFTR\_78>

1. Are there any other cases which are not identified above, where the beneficiaries and the counterparties will be different? Please elaborate.

<ESMA\_QUESTION\_SFTR\_79>

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<ESMA\_QUESTION\_SFTR\_79>

1. Do you agree with the proposal to link the legs of a cleared transaction by using a common identifier?

<ESMA\_QUESTION\_SFTR\_80>

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<ESMA\_QUESTION\_SFTR\_80>

1. Could you suggest robust alternative ways of linking SFT reports?

<ESMA\_QUESTION\_SFTR\_81>

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<ESMA\_QUESTION\_SFTR\_81>

1. Are the different cases of collateral allocation accurately described in paragraphs 221-226? If not, please indicate the relevant differences with market practices and please describe the availability of information for each and every case?

<ESMA\_QUESTION\_SFTR\_82>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_82>

1. Is the assumption correct that manly securities lending would require the reporting of cash collateral? If no, for which other types of SFTs is the cash collateral element required? Please elaborate.

<ESMA\_QUESTION\_SFTR\_83>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_83>

1. Does the practice to collateralise a transaction in several amounts in different currencies exist? Please elaborate.

<ESMA\_QUESTION\_SFTR\_84>

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<ESMA\_QUESTION\_SFTR\_84>

1. Do you foresee any issues on reporting the specified information for individual securities or commodities provided as collateral? If yes, please elaborate.

<ESMA\_QUESTION\_SFTR\_85>

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<ESMA\_QUESTION\_SFTR\_85>

1. Are there any situations in which there can be multiple haircuts (one per each collateral element) for a given SFT? Please elaborate.

<ESMA\_QUESTION\_SFTR\_86>

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<ESMA\_QUESTION\_SFTR\_86>

1. Would you agree that the reporting counterparties can provide a unique identification of the collateral pool in their initial reporting of an SFT? If no, please provide the reasons as to why this would not be the case.

<ESMA\_QUESTION\_SFTR\_87>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_87>

1. Are there cases where a counterparties to a repo, including those executed against a collateral pool, would not be able to provide the collateral with the initial reporting of the repo trade? If yes, please explain.

<ESMA\_QUESTION\_SFTR\_88>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_88>

1. Are there any issues to report the collateral allocation based on the aforementioned approach? Please elaborate.

<ESMA\_QUESTION\_SFTR\_89>

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<ESMA\_QUESTION\_SFTR\_89>

1. In the case of collateral pool, which of the data elements included in Table 1 would be reported by the T+1 reporting deadline? Please elaborate.

<ESMA\_QUESTION\_SFTR\_90>

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<ESMA\_QUESTION\_SFTR\_90>

1. Which option for reporting of collateral would be in your opinion easier to implement, i.e. always reporting of collateral in a separate message (option 2) or reporting of collateral together with other transaction data when the collateral is known by the reporting deadline (option 1)?

<ESMA\_QUESTION\_SFTR\_91>

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<ESMA\_QUESTION\_SFTR\_91>

1. What are the benefits and potential challenges related to either approach? Please elaborate.

<ESMA\_QUESTION\_SFTR\_92>

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<ESMA\_QUESTION\_SFTR\_92>

1. Do you foresee any challenges with the proposed approach for reporting updates to collateral? What alternatives would you propose? Please elaborate.

<ESMA\_QUESTION\_SFTR\_93>

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<ESMA\_QUESTION\_SFTR\_93>

1. Is it possible to link the reports on changes in collateral resulting from the net exposure to the original SFT transactions via a unique portfolio identifier, which could be added to the original transactions when they are reported?

<ESMA\_QUESTION\_SFTR\_94>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_94>

1. Do you foresee any difficulties related to the linking of the collateral report to the underlying SFTs by specifying UTIs of those SFTs in the collateral report?

<ESMA\_QUESTION\_SFTR\_95>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_95>

1. Are there additional options to uniquely link a list of collateral to the exposure of several SFTs to those specified? If yes, please detail them.

<ESMA\_QUESTION\_SFTR\_96>

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<ESMA\_QUESTION\_SFTR\_96>

1. What would you deem to be the appropriate option to uniquely link collateral to the exposure of several SFTs? Are you using any pro-rata allocation for internal purposes? What is the current market practice for linking a set of collateralised trades with a collateral portfolio? Please elaborate.

<ESMA\_QUESTION\_SFTR\_97>

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<ESMA\_QUESTION\_SFTR\_97>

1. Do you foresee any issues between the logic for linking collateral data and the reporting of SFT loan data? Please elaborate.

<ESMA\_QUESTION\_SFTR\_98>

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<ESMA\_QUESTION\_SFTR\_98>

1. Do you agree with the description of funding sources mentioned above?

<ESMA\_QUESTION\_SFTR\_99>

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<ESMA\_QUESTION\_SFTR\_99>

1. Are there other funding sources used in the context of margin lending?

<ESMA\_QUESTION\_SFTR\_100>

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<ESMA\_QUESTION\_SFTR\_100>

1. What are the obstacles to lenders reporting the market value of funding sources?

<ESMA\_QUESTION\_SFTR\_101>

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<ESMA\_QUESTION\_SFTR\_101>

1. Would reporting pro-rata amounts address some of the challenges or facilitate reporting?

<ESMA\_QUESTION\_SFTR\_102>

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<ESMA\_QUESTION\_SFTR\_102>

1. Should the cash in the margin accounts be considered also as part of the collateral for a given margin lending transaction? Please elaborate.

<ESMA\_QUESTION\_SFTR\_103>

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<ESMA\_QUESTION\_SFTR\_103>

1. What are the metrics used (other than LTV ratios) to monitor leverage from margin lending, and more broadly to address risks related to the value of collateral? How are these calculated?

<ESMA\_QUESTION\_SFTR\_104>

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<ESMA\_QUESTION\_SFTR\_104>

1. Using these metrics, what are the current limits or thresholds used by margin lenders that will trigger a collateral action? How are these limits determined? Are there different thresholds triggering different actions? Can they vary over time, and for what reasons?

<ESMA\_QUESTION\_SFTR\_105>

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<ESMA\_QUESTION\_SFTR\_105>

1. What kind of collateral actions can be triggered by crossing these limits or thresholds? Please describe the actions, their impact on the metrics described in Question 13, and the potential associated changes in limits or thresholds.

<ESMA\_QUESTION\_SFTR\_106>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_106>

1. Are there any other important features, market practices or risks that you would like to bring to our attention in the context of margin lending?

<ESMA\_QUESTION\_SFTR\_107>

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<ESMA\_QUESTION\_SFTR\_107>

1. Do you have any alternative proposals for reporting information related to funding sources that might reduce the burden on reporting entities?

<ESMA\_QUESTION\_SFTR\_108>

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<ESMA\_QUESTION\_SFTR\_108>

1. Do you agree with the collateralisation and margin lending practices described above? Are there instances where margin loans are not provided (or haircuts applied) on a portfolio basis?

<ESMA\_QUESTION\_SFTR\_109>

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<ESMA\_QUESTION\_SFTR\_109>

1. What are the potential obstacles to reporting information regarding the individual securities set aside in margin accounts by the lender?

<ESMA\_QUESTION\_SFTR\_110>

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<ESMA\_QUESTION\_SFTR\_110>

1. Would you agree that in the context of margin lending the entire collateral portfolio, i.e. both cash and securities, would require reporting? If no, please explain.

<ESMA\_QUESTION\_SFTR\_111>

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<ESMA\_QUESTION\_SFTR\_111>

1. What are the obstacles to the reporting of reuse of collateral for transactions where there is no transfer of title? What are the current market practices aimed at mitigating risks from collateral re-use specifically in the context of margin lending?

<ESMA\_QUESTION\_SFTR\_112>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_112>

1. What options exist to link collateral that is re-used to a given SFT or counterparty? Please document the potential issues.

<ESMA\_QUESTION\_SFTR\_113>

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<ESMA\_QUESTION\_SFTR\_113>

1. In which cases can the re-use be defined at transaction level?

<ESMA\_QUESTION\_SFTR\_114>

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<ESMA\_QUESTION\_SFTR\_114>

1. Do you see other ways to calculate the collateral re-use for a given SFT?

<ESMA\_QUESTION\_SFTR\_115>

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<ESMA\_QUESTION\_SFTR\_115>

1. Are there any circumstances in which the re-use percentage applied at entity level could not be calculated for a given security (e.g. per ISIN)?

<ESMA\_QUESTION\_SFTR\_116>

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<ESMA\_QUESTION\_SFTR\_116>

1. Which alternatives do you see to estimate the collateral re-use?

<ESMA\_QUESTION\_SFTR\_117>

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<ESMA\_QUESTION\_SFTR\_117>

1. When the information on collateral availability for re-use becomes available? On trade date (T) or at the latest by T+1?

<ESMA\_QUESTION\_SFTR\_118>

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<ESMA\_QUESTION\_SFTR\_118>

1. Is it possible to automatically derive the collateral re-use in some cases given the nature of the SFT (meaning based on the GMRA, GMSLA or other forms of legal agreements)? If yes, please describe these cases and how the information could be derived. Please explain if deviations could be drafted within legal agreements to deviate from the re-usability.

<ESMA\_QUESTION\_SFTR\_119>

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<ESMA\_QUESTION\_SFTR\_119>

1. Do you agree with the rationale for collection of information on the settlement set out in this section?

<ESMA\_QUESTION\_SFTR\_120>

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<ESMA\_QUESTION\_SFTR\_120>

1. Do you consider that information on settlement supports the identification and monitoring of financial stability risks entailed by SFTs?

<ESMA\_QUESTION\_SFTR\_121>

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<ESMA\_QUESTION\_SFTR\_121>

1. Do you agree with the approach to identify the settlement information in the SFT reports?

<ESMA\_QUESTION\_SFTR\_122>

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<ESMA\_QUESTION\_SFTR\_122>

1. Do you envisage any difficulties with identifying the place of settlement?

<ESMA\_QUESTION\_SFTR\_123>

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<ESMA\_QUESTION\_SFTR\_123>

1. Are there any practical difficulties with identifying CSDs and indirect or direct participants as well as, if applicable, settlement internalisers in the SFT reports? Would this information be available by the reporting deadline? Please elaborate.

<ESMA\_QUESTION\_SFTR\_124>

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<ESMA\_QUESTION\_SFTR\_124>

1. Will this information be available by the reporting deadline? What are the costs of providing this information?

<ESMA\_QUESTION\_SFTR\_125>

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<ESMA\_QUESTION\_SFTR\_125>

1. What other data elements are needed to achieve the required supervisory objectives? Please elaborate.

<ESMA\_QUESTION\_SFTR\_126>

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<ESMA\_QUESTION\_SFTR\_126>

1. Do you agree with the proposed categories of trading methods to be reported by SFT counterparties?

<ESMA\_QUESTION\_SFTR\_127>

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<ESMA\_QUESTION\_SFTR\_127>

1. Are there any other methods of trading that are not covered?

<ESMA\_QUESTION\_SFTR\_128>

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<ESMA\_QUESTION\_SFTR\_128>

1. Do you agree with the proposed types of validations? Would you include any further validations? If so which ones? Please elaborate.

<ESMA\_QUESTION\_SFTR\_129>

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<ESMA\_QUESTION\_SFTR\_129>

1. Do you agree with the proposed scope of the reconciliation process? Should trades expired or terminated more than a month before the day on which reconciliation takes place be included in the reconciliation process? Please elaborate.

<ESMA\_QUESTION\_SFTR\_130>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_130>

1. What is the earliest time by which the reconciliation process can be completed? If not, please indicate what other characteristics need to be included? Please elaborate.

<ESMA\_QUESTION\_SFTR\_131>

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<ESMA\_QUESTION\_SFTR\_131>

1. Do you foresee issues with following the EMIR approach on reconciliation of data for SFT? What other approaches for reconciliation of transactions exist? How many data elements are reconciled under those approaches? What is the timeframe of reconciliation under those approaches? Please elaborate.

<ESMA\_QUESTION\_SFTR\_132>

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<ESMA\_QUESTION\_SFTR\_132>

1. What are the expected benefits from full reconciliation? What are the potential costs from TR and counterparty perspective to adopt a full reconciliation approach? In terms of the matching of data, which of the data fields included in Section 6.1 can be fully reconciled and for which ones certain degrees of tolerance has to be applied? Please provide concrete examples. Please elaborate.

<ESMA\_QUESTION\_SFTR\_133>

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<ESMA\_QUESTION\_SFTR\_133>

1. Do you foresee any potential issues with establishing a separate reconciliation process for collateral data? What data elements have to be included in the collateral reconciliation process? Alternatively, should collateral data be reconciled for each collateralised SFT individually? What would be the costs of each alternative? Please elaborate.

<ESMA\_QUESTION\_SFTR\_134>

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<ESMA\_QUESTION\_SFTR\_134>

1. What additional feedback information should be provided to the reporting counterparties? What should be the level of standardisations? What would be the benefits of potential standardisation of the feedback messages? Do you agree with the proposed timing for feedback messages?

<ESMA\_QUESTION\_SFTR\_135>

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<ESMA\_QUESTION\_SFTR\_135>

1. Would you be favourable of a more granular approach for public data than the one under EMIR? Would you be favourable of having public data as granular as suggested in the FSB November 2015 report? What are the potential costs and benefits of such granular information? Please elaborate.

<ESMA\_QUESTION\_SFTR\_136>

We believe that the content of the information to be made public by Trade Repositories (TR) should be very carefully considered in order to ensure no commercial sensitive information is being made public. We very much welcome the Level 1 requirement, which states that the information published under Article 12(1) should not enable the identification of a party to any SFT. However, we are conscious that other type of data, such as the underlying securities for example, could also lead to sensitive information being made public. We therefore believe that the data that the TR will be required to make public should provide as little granularity as possible, as it is currently the case under EMIR.

We believe that the total cost of publishing more granular data could be significant as this would risk being at the detriment of trading activity and liquidity in the market.

With regards to the FSB report (as mentioned in ESMA’s DP), we note that the FSB has still not yet decided the level of granularity of the data to be made public. The FSB report very clearly recognizes the need to safeguard the confidentiality of the data reported by national authorities to the FSB. In their report (FSB report page 25, 26), the FSB states that the treatment of data and the sharing of aggregates with other reporting authorities and, potentially, the general public, will be handled according to three levels of confidentiality (public, restricted, confidential), which will have to be specified by national authorities.

<ESMA\_QUESTION\_SFTR\_136>

1. In terms of criteria for aggregation, which of the following aspects ones are most important to be taken into account – venue of execution of the SFT, cleared or not, way to transfer of collateral? What other aspects have to be taken into account for the purposes of the public aggregations? Please elaborate.

<ESMA\_QUESTION\_SFTR\_137>

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<ESMA\_QUESTION\_SFTR\_137>

1. Do you foresee any issues with publishing aggregate data on a weekly basis? Please elaborate.

<ESMA\_QUESTION\_SFTR\_138>

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<ESMA\_QUESTION\_SFTR\_138>

1. At which point in time do you consider that the additional data elements regarding the reconciliation or rejection status of an SFT will be available? What are the potential costs of the inclusion of the above mentioned additional data elements? What other data elements could be generated by the TRs and provided to authorities? Please elaborate.

<ESMA\_QUESTION\_SFTR\_139>

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<ESMA\_QUESTION\_SFTR\_139>

1. Do you consider that all the relevant data elements for generation of the above reports will be available on time? What are the potential costs of the generation of above mentioned transaction reports? What are the benefits of the above mentioned transaction reports? What other transaction reports would you suggest to be provided by the TRs? Please elaborate.

<ESMA\_QUESTION\_SFTR\_140>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_140>

1. Do you consider that all the relevant data elements for calculation of the above reports will be available on time?

<ESMA\_QUESTION\_SFTR\_141>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_141>

1. What are the potential costs of the generation of above mentioned position reports? other reports would you suggest to be provided by the TRs? Please elaborate.

<ESMA\_QUESTION\_SFTR\_142>

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<ESMA\_QUESTION\_SFTR\_142>

1. Do you consider that there should be one position report including both reconciled and non-reconciled data or that there should be two position reports, one containing only reconciled data and the other - one only non-reconciled data? What are the potential costs of the separation of above mentioned position reports? What are the benefits of the separation above mentioned position reports? Please elaborate.

<ESMA\_QUESTION\_SFTR\_143>

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<ESMA\_QUESTION\_SFTR\_143>

1. Do you foresee any technical issues with the implementation of XSD in accordance with ISO 20022? Do you foresee any potential issues related to the use of same cut-off time across TRs? Do you foresee any drawbacks from establishing standardised xml template in accordance with ISO 20022 methodology for the aggregation and comparison of data? Please elaborate.

<ESMA\_QUESTION\_SFTR\_144>

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<ESMA\_QUESTION\_SFTR\_144>

1. Further to the aforementioned aspects, are there any other measures that have to be taken to avoid double counting? Please elaborate.

<ESMA\_QUESTION\_SFTR\_145>

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<ESMA\_QUESTION\_SFTR\_145>