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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>

In KDPW opinion the current scope of reporting data seems to be very wide. This approach will result in a significant amount of data, which may not be practically reported and will result in significant cost for market participants. A simplification of the reporting process, focusing on key data elements (such as counterparties, transaction value, settlement maturity, collateral amount and identity of custodian) would reduce the implementation costs and would improve data quality.

It is also worth to notice the lack of mechanism for differentiation in SFT reporting cleared transactions and CCP as user’ transactions.< 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>

KDPW wishes to point out that some of the proposed amendments concerning the registration of TRs under SFTR, as compared to the solutions introduced under RTS 150/2013, may generate additional costs to TRs. We have particular concerns about paragraph 46 of the Discussion Paper, which foresees that the TR applying for registration under SFTR or for extension of its registration should be able to demonstrate that there are procedures, people and systems to support the services provided by the TR under SFTR, separate for instance from those provided under EMIR (operational separation). If it is ESMA’s intention to ensure a complete separation of the activities of TRs under EMIR from the activities under SFTR, it should be noted that this will involve heavy costs to TRs which are extending their registration under SFTR. KDPW is not completely convinced that it is ESMA’s intention that persons employed for the performance of TR’s activities under EMIR must not do work related to the TR’s activities under SFTR. KDPW wishes to stress that no legal or practical circumstances impose such separation of people involved in services provided by TRs both under EMIR and SFTR. The very nature of services provided by TRs is very similar under both these Regulations as its amounts to the receipt of reports, the only difference being the scope (content) of the reports and potentially different reporting entities. Consequently, we would oppose any limitations to that effect.

Given that under Article 4(9) and (10) of SFTR, reporting of SFTs should ensure, to the extent feasible, consistency with the reporting pursuant to Article 9 of Regulation (EU) No 648/2012, KDPW would propose that no operational separation of services should be required and that TRs are allowed to operate with the existing structures and resources. A consistent approach would reduce the costs incurred by all market participants, in particular those active mainly on smaller local markets. Maximum use of the existing resources would also facilitate access to, processing and analysis of data by supervisory authorities.

Furthermore, we wish to emphasise the specificity of TRs operated by entities such as KDPW, i.e., providers of services other than TR services alone. Such entities have in place systems for internal controls, management of conflicts of interest, access to confidential information, mitigation of operational risk, as well as business continuity. According to our understanding of the development of appropriate procedures for a TR, those procedures applicable across the company (organisation) which take into account the operation of a TR (both under EMIR and under SFTR) are sufficient for the registration or extension of registration under SFTR. For instance, the Internal Audit Committee referred to in paragraph 43 would not need to be established specifically for the TR, and the Internal Audit Committee of the company as a whole would fulfil the requirements of this paragraph.

<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>

Please see our response to Q3

<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>

In the opinion of KDPW, the procedures proposed in the document are largely sufficient. However, we wish to point out the issue described in paragraph 56(c) whereby TRs should put in place a procedure to ensure that the reporting entity is permissioned to report for other entities. Under SFTR, as well as under EMIR, the reporting obligation is on the party (parties) to the contract, and we see no reason to impose additional (on top of those under EMIR) obligations for TRs and their members. In our opinion, such checks run by TRs would prolong the verification of all members applying for access to the TR and generate additional costs both to TRs and to reporting members.

Furthermore, in the opinion of KDPW, if they were mandatory for TRs to put in place, the procedures for verification of entities permissioned to report for other entities would have to be clearly specified. The procedures should be as simple as possible in order to generate the smallest burden for TRs and their members.

For additional comments to point 56(g) (feedback to participants) please see our answer to Q135.<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>

KDPW is not certain how to understand the notion that at least one person with education and experience in Information Technology should be directly employed by the TR. Would en entity such as KDPW, where the TR is an organisationally separate Department, be required to employ an IT officer directly in the TR Department, or would the requirement be met because KDPW   employs many IT officers in its business (including the operation of the TR)? If ESMA considers it insufficient that IT officers are employed in the company rather than directly in the TR Department, KDPW wishes to point out that this would cause unnecessary additional costs of the TR without improving the quality of provided services since KDPW’s IT Departments employ many first-class specialists who support the TR on an on-going basis (while some of them are dedicated exclusively to TR services).

Furthermore, KDPW wishes to point out that the obligation under paragraph 64 to provide a procedure to ensure that if its registration is withdrawn, the TR will be orderly substituted including the transfer of data, would be difficult to meet at the stage of registration of TRs under SFTR. In the opinion of KDPW, it is hard to predict in advance to which TR such data would be transferred: the transfer of data from one TR to another TR would require bilateral arrangements between the two TRs involved. As an optimal solution, the procedure would be put in place after the registration of most TRs, enabling joint development of uniform standards of the transfer of data between TRs.

Paragraph 65 requires that the TRs should provide the relevant policies, procedures, as well as detailed information to protect TR data from cyber-attacks. KDPW submits for your consideration whether separate procedures to such extent really need to be developed; perhaps confidentiality policies and IT systems would protect TR data from cyber-attacks (without unnecessary duplication of existing procedures).

<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>

Please see our response to Q4

<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>

Please see our response to Q4

<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>

KDPW submits for your consideration whether mandatory provision of information listed in Article 1(2)(h) of RTS 150/2013, i.e., the identification of any subsidiaries and, where relevant, the group structure, is really required: ESMA should have access to such current data in its on-going supervision of TRs (TRs’ reporting obligations to ESMA). The same applies to information about any service, other than the trade repository function, that the applicant intends to provide (Article 1(2)(i) of RTS 150/2013).

The documents required from a TR which is planning to add SFTR services to its business include staff information (Article 11 of RTS 150/2013). KDPW suggests that in the absence of any personnel changes, the application for extension of registration under SFTR need not contain all the specific details of staff where no change has taken place to such extent since the registration under EMIR (possibly subject to a statement of the applicant to the effect that the staff details have not changed).

For reasons unclear to KDPW, confidentiality policies are considered to be up-to-date and need not be attached to the application for extension of registration under SFTR whereas conflict of interest management policies have to be attached to the application for extension of registration. Instead, however the applying TR’s conflict of interest management policies could be considered to be up-to-date?

Furthermore, KDPW submits for your consideration that TR access procedures allow for a simplified procedure of granting access to a TR registered under SFTR to entities which became the TR’s members under EMIR (in our opinion, this should be covered by the draft RTS).

<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>

KDPW accepts the proposed format of the application for extension of registration.

<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>

We support the ISO 20022 format subject to the reservations raised under Q129. We foresee no difficulties related to TR reporting using an ISO 20022 format.

<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>

Please see our response to Q11.

<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>

KDPW acting as a CSD responsible for settlement based on instructions provided by members or CCPs has no information whether an instruction covers a single transaction or more than one transaction, especially for instructions coming from a clearing house.

<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>

TYPE YOUR TEXT HERE

<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>

Yes. However, KDPW CSD does not have the following information:

* use of securities which are posted as collateral for one repo to secure another repo;
* clearing member details (we do have details of the settlement counterparty);
* mode of conclusion of the transaction;
* type of master agreement.

<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>

Considering the experience of reporting to date (EMIR – Regulation No 648/2012), it seems reasonable to add a compression flag for positions. In that case, the data elements used to report transactions would be the same as those used to report a position.

<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>

Yes. For our comments, see Q19.

<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 recommend Approach A, which is closer to the approach used in reporting under EMIR: it is broadly understood and familiar to the market. It seems that this approach is more intuitive and less complex in structure. It also seems that the implementation of Approach A would be less expensive to all market participants as it is similar to the approach used in reporting under EMIR.

<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>

TYPE YOUR TEXT HERE

<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>

The proposed list of event types and technical actions seems to be exhaustive.

<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>

In our opinion, it should be up to TRs to decide about the use of a unique reference identifier because the need of using such identifier will largely depend on the architecture of the transaction registration system.

<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>

TYPE YOUR TEXT HERE

<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>

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<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

In the opinion of KDPW\_CCP, the reporting obligation should not apply to transactions concluded by CCPs in order to invest assets deposited by clearing members and to their management of own assets for the purpose of liquidity maintenance.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

No, not in practice. In the absence of collateral, the loan should be closed out.

<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>

Please see our response to Q46

<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>

Please see our response to Q46

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

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<ESMA\_QUESTION\_SFTR\_51>

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

<ESMA\_QUESTION\_SFTR\_52>

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<ESMA\_QUESTION\_SFTR\_52>

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

<ESMA\_QUESTION\_SFTR\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_53>

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

<ESMA\_QUESTION\_SFTR\_54>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_58>

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

<ESMA\_QUESTION\_SFTR\_59>

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<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>

ISIN would be preferable as it is the most broadly used instrument identifier given that ISIN numbering agencies operate world-wide. We recommend co-operation with ANNA in the work aiming to standardise the identification of instruments and 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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_61>

1. Is there another classification that ESMA should consider?

<ESMA\_QUESTION\_SFTR\_62>

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<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_68>

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

<ESMA\_QUESTION\_SFTR\_69>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

In our opinion, T+1 reporting is feasible.

<ESMA\_QUESTION\_SFTR\_72>

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

<ESMA\_QUESTION\_SFTR\_73>

TYPE YOUR TEXT HERE

<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>

In technical terms, the country code is sufficient to identify a branch of a foreign company provided that the field is mandatory in the SFTR technical standards; however, identification of branches on that basis would generate a high risk of error where the reporting entity completes the filed incorrectly. This generates additional problems in reconciliation and makes reconciliation more complex. We submit for your consideration a solution where separate LEI codes would be issued to branches of foreign companies. To the best of our knowledge, the ROC, the GLEIF and LOUs are currently working on this issue.

<ESMA\_QUESTION\_SFTR\_74>

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

<ESMA\_QUESTION\_SFTR\_75>

The TR foresees no such costs; however, there is the risk referred to under Q74.

<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>

Yes – see our proposal under Q74. In this case, there would be the cost of the maintenance of an LEI by the branch of a foreign company.

<ESMA\_QUESTION\_SFTR\_76>

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

<ESMA\_QUESTION\_SFTR\_77>

Mitigation of risks in the identification of branches of foreign companies; easier access of supervisory authorities to data; less complex reconciliation. LEI level 2 includes information on parent-subsidiary relations, which would make it easier to identify parent companies.

<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>

Clarification is needed as to what the last column in the « Table 3 – Reporting by branches » is meant to refer to. It is not clear in which cases branch reporting is not required. Is it possible only if there is no EU entity at all, or also if the SFT is between EU entities/EU branches?

<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>

Under EMIR, CCPs may operate omnibus accounts. In that case, the clearing member (CM) is the CCP’s counterparty while the beneficiary can only be identified by the CM.

<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>

KDPW\_CCP does not endorse the proposal to use a bilateral UT0 (treated as a TRN) to build UTI1-UTI4.  KDPW\_CCP assumes full liability for the reports which it submits to the TR. Market participants are subject to a less restrictive regulatory regime and oversight of the regulator while they generate a much higher risk of complications relating to UTI. Below please find an enumeration of the issues which may arise if UTI1-UTI4 is generated on the basis of UT0:

* members fail to provide UT0s;
* members provide different UT0s;
* several members use an algorithm which generates the risk of UT0 duplication;
* members provide the wrong UT0.

Considering the foregoing, KDPW\_CCP suggests that CCPs generate UTI1-UTI4. Under the existing solutions used on the regulated and OTC markets, KDPW\_CCP provides its members with the UTIs. The model ensures that the submitted reports are correct.

Please note an inconsistency in Table 5, Report 8. In our opinion, CCP should not be there.

<ESMA\_QUESTION\_SFTR\_80>

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

<ESMA\_QUESTION\_SFTR\_81>

It seems advisable that transactions (transaction legs) have an additional shared trade identifier. The report of a transaction which is being cleared should include the original UTI of the original transaction (leg), as well as the UTI shared by all legs.

<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>

It is not clear for KDPW\_CCP how to process/report securities involved in a transaction. Where a repo trade is accepted for novation, KDPW\_CCP transfers securities from CM1 to CM2 and does not classify the securities as collateral of the transaction. In the understanding of KDPW\_CCP, collateral consists of assets deposited by a CM as a margin with KDPW\_CCP. This means that securities in a repo transaction would not be reported as collateral. We request that the regulations specify how CCPs should report CM’s collateral deposited with the CCP and how to report securities used as collateral according to the document. Section 6.1.1 on repurchase agreements does not include a section for ISIN identification of the repo. Such a field is however used for SBS/BSB in section 6.1.2: field 24. In the opinion of KDPW\_CCP, the field is necessary to report repo transactions correctly.

ESMA has proposed highly detailed requirements for how the collateral should be reported for each trade, and their respective values. No differentiation between reporting of the collateral that is part of the contractual agreement and collateral that is posted in line with the EMIR clearing causes some problems:

* CCP does not actually hold the underlying components but only passes these along between the counterparties. Instead the CCP calculates a margin requirement for each of the parties that needs to be covered using separate collateral. This requirement is calculated on a portfolio basis based on the members’ net exposure. How CCPs should report this type of collateral both on a trade by trade, and on an individual collateral instrument basis?
* CCP allow clearing members to clear repos (under SFTR) and derivatives (under EMIR) in the same collateral portfolio allowing margin offsetting between the different types of instruments. As the value of the collateral posted to cover the margin of the whole combined portfolio is already reported under EMIR it would need to be reported twice;

**We assume that reporting of collateral to cover a CCP’s margin requirement will not become part of the SFTR reporting.** We suggest that separate fields for portfolio-based collateral are introduced in line with the EMIR reporting standards and that when the collateral is already reported in full under EMIR it should be possible to only include a reference to the collateral portfolio code in the reporting under SFTR.

<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>

TYPE YOUR TEXT HERE

<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>

KDPW\_CCP accepts collateral provided in Treasury bonds issued by the State Treasury represented by the Minister of Finance of the Republic of Poland. According to our knowledge, this specific issuer of bonds holds no LEI code. We propose that the technical standards allow for such specific issuer to be identified in the relevant field.

The Draft Rules do not fully take into account delivery by value (‘DBV’) repo trades, which are frequently executed on a short term basis. The substitution of securities is common and frequent. This may present practical difficulties in implementing the proposed reporting of collateral (in particular the level of detail contemplated in question 85 and the unique identification contemplated in question 87), collateral pools and collateral baskets. The value of, and potentially parameters for, such collateral (rather than composition) should be sufficient as reporting fields.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

We suggest to implement both options so that reporting entities can select the more convenient option of reporting of collateral.

<ESMA\_QUESTION\_SFTR\_91>

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

<ESMA\_QUESTION\_SFTR\_92>

The experience of reporting under EMIR suggests that reporting members use both approaches; therefore, it would be best for the market if both options were offered.

Collateral provided by a CM to a CCP for transactions such as repos and interest rate trades is maintained in a collateral account (broken down by house, client’s, and omnibus collateral). The final margin requirement is calculated as a net requirement for all positions in the account (repos under SFTR, derivatives under EMIR). The CCP may be unable to specify in the report the amount of collateral for transactions reported under SFTR and those reported under EMIR.

<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>

We recommend to report the full collateral rather than the delta as this notion is consistent with reporting under EMIR. Reporting of the delta increases the risk both to the reporting entity and the trade repository when building current exposure of collateral.

<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>

Yes, it works under EMIR.

<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>

In the opinion of KDPW\_CCP, this approach is wrong and could generate serious issues when allocating all UTIs to a single portfolio. Clearing members may hold many clearing accounts in which transactions are registered, yet they hold a single collateral account.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

In the opinion of KDPW, the logic for reporting of collateral under SFTR should be consistent with the logic for reporting of collateral under EMIR – Regulation No 648/2012.

<ESMA\_QUESTION\_SFTR\_98>

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

<ESMA\_QUESTION\_SFTR\_99>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_99>

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

<ESMA\_QUESTION\_SFTR\_100>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_100>

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

<ESMA\_QUESTION\_SFTR\_101>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_113>

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

<ESMA\_QUESTION\_SFTR\_114>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_114>

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

<ESMA\_QUESTION\_SFTR\_115>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_116>

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

<ESMA\_QUESTION\_SFTR\_117>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

KDPW disagrees with the statement in paragraph 280 (p. 85) that “CSDs and direct and indirect participants, by virtue of the fact that they are providers of settlement and safekeeping services, could have a role in exacerbating the risks above [contagion risks, leverage building up and interconnectedness stemming from the re-use of collateral].” The settlement and safekeeping of assets (i.e. collateral) in a central market infrastructure is CSDs’ “reason for being”. Stating that the use of a central securities depository (rather than decentralised settlement locations) could exacerbate contagion risks or leverage goes against the regulatory objective of promoting safe and transparent securities transactions through the use of central market infrastructures.

For cleared SFTs, the CSD reported at registration of a trade may be different to the CSD at which settlement actually takes place. Indeed, some collateral may settle in different CSDs, and the actual place of settlement is only known on the settlement date. We therefore recommend that these fields should not be mandatory for cleared SFTs or that this data may be reported once, at end-of-day on the settlement date.<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_121>

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

<ESMA\_QUESTION\_SFTR\_122>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_122>

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

<ESMA\_QUESTION\_SFTR\_123>

Paragraph 278 (p. 84) states that reporting the place of settlement would “allow identifying concentrations at the level of settlement” and would “facilitate the analysis of operational and legal risks when looking for weak links or dependencies on systemically important market infrastructure”. KDPW partly disagrees with this statement. Irrespective of whether there is a triparty agent, the fact that several SFTs settle in the same CSD does not in itself create concentration risk. Indeed, securities used as collateral in the context of SFTs are ultimately held in CSD accounts and the fact that SFTs settle in these accounts rather than at a lower level of the holding chain (e.g. in the books of intermediaries) does not create any risk. On the contrary, the strict prudential framework applied to CSDs in Europe and across the world means that settling SFTs in CSD accounts entails less risk than settling SFTs outside of a CSD environment. The likelihood of a CSD failure is extremely low (and has no precedent, in Europe at least), especially compared to the likelihood that an intermediary fails. The occurrence of settlement at CSD level (i.e. in the accounts of CSD participants) should thus be encouraged and cannot be considered as a “concentration of risk”.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_125>

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

<ESMA\_QUESTION\_SFTR\_126>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_127>

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

<ESMA\_QUESTION\_SFTR\_128>

TYPE YOUR TEXT HERE

<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>

Schema validation: As much as we understand the need of common XSD schema for data delivered to regulators, we do not agree with common XSD schema for report submissions to TRs. We believe TRs databases architecture might require some flexibility allowed for the information specific to each of the TRs, such as participation codes, types or any other fields required by how TR system is built. KDPW\_TR has common XML structure implemented for all its services; it does require some rules to be compliant with, which might not be incorporated into the proposed XML schema. This might possibly cause some disturbance in message processing by the system. What is more, XML schema will impose which fields should be populated when submitting reports. This should also be flexible enough, as some TRs will not require to submit full information for modifications, while others might require all fields to be populated. XML schema should be flexible enough for every TR to optimize reporting process, to avoid reporting costs for the market participants.

Validation rules for fields content/formats itself should also be followed by very detailed guidance on when the proposed values should be populated, not only to ensure common format, but to ensure that market participants understanding of what should actually be reported is common. This is also a key element to the successful reconciliation process.

<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>

We agree with the proposed scope of the process, we believe trades terminated or expired more than month ago should be excluded from reconciliation process.

<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>

Taking from EMIR experience, the T+2 COB (T+1 is reporting day) will be the earliest moment to be achieved, as TRs will require time to exchange data in the inter-TR part of the process.

<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>

We do not foresee any issues coming from the proposed framework for reconciliation process. KDPW\_TR does participate in EMIR reconciliation process which the proposal seems to be based on and it is currently working well between EMIR registered TRs<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>

As much as we understand that there is a need for data delivered to regulators to be of a highest possible quality, we do not perceive full reconciliation to be realistic, for several reasons, which can be taken from EMIR reconciliation process coming from consultations between TRs and market associations:

* the data reported by entities is not specified clear enough to ensure that both counterparties understand the regulations and populate reports with the same values,
* some fields will actually be populated with different values by each reporting side and this is complaint with regulations, the differences are coming from some logic for populating the fields by both counterparties which was not taken into account when reconciliation process was planned.

We believe there should be a guidance coming from regulators on which fields are:

* crucial (non-matched values change the core understanding of what transaction is being

analyzed)

* reconciled with lower priority (non-matched values are important but the overall understanding on what transaction is being analyzed would not change)
* can never be matched.

This kind of guidance would allow TRs to optimize the reconciliation process to allow for inconsistencies that are of a smaller significance and do not interrupt or cause delays in necessary analyses performed daily by regulators. The very similar approach is currently adopted under EMIR and its idea seems to work fine.

The reconciliation process itself (in particular matching process) should also be broadly consulted with market participants to ensure common understanding and optimization of the process to avoid delays of delivering accurate data to regulators.

<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>

TYPE YOUR TEXT HERE

<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>

The proposed timing for feedback messages (1 hour) is acceptable. In fact (in case of EMIR reporting) feedback messages, specifying whether the submitted report was accepted or rejected (indicating the reason for rejection) are sent to reporting entities within minutes.

We do not see the need of sending end-of-day information on whether the trade was reconciled or not, as such information would also be included in reconciliation stratus report, which is also proposed to be sent daily (end-of-day).

With reference to the proposed minimum set of feedback reports to the report submitting entities and reporting counterparties (end-of-day): we do not see any use of sending back rejected submissions to reporting entities. It is proposed that reporting entities should be notified that the trade was rejected within 1 hour after the submission, so they can quickly react and resubmit messages. Hence, most of the rejected submissions should be sent back and accepted successfully by the end of the day. There is no sense to send the information repeatedly – it might be out-of-date, whatsoever.

We believe TRs should have some flexibility left on providing information to participants. Some participants might not be interested in receiving all the reports daily, some might not be interested in receiving some types of reports, some will prefer to have it downloaded from webservices. Obviously, TRs mission is to provide data to regulators, but they also need to serve their customers (these entities are covering the costs of reporting to TRs), so the services provided to participants should be regulated only in minimum. The way of providing the information to participants, the level of information they need should be rather specified by reporting entities in agreements with TRs than set by regulations.<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 would not recommend any approach more granular than EMIR, to avoid situations where the trade details can be easily read from the public data, for example where there is only one or few trades reported at a certain granularity level. <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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_137>

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

<ESMA\_QUESTION\_SFTR\_138>

We do not envisage any issues with publishing weekly aggregate data.<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>

The reconciliation process will be executed on day T+2, where T+1 is day of reporting. TRs will need time to incorporate the statuses as additional data elements presented in reports for regulators, so the real time to present additional data elements would be T+3 for reconciliation status, T+2 for rejections.<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>

We do not envisage any issues with data elements for generation of reports a, b and d.

Report c: All SFT submissions made by the counterparties in accordance with certain criteria made as of the day of the request by the authority – is potentially most challenging, the requirements for the report generation should be clear and well described, as this will be possibly the most costly report from the list as it has to be flexible enough to meet regulators need and TRs possibilities. It is difficult to judge on potential cost of that report as it depends much on the specified list of criteria.

Report e: Daily report detailing the reconciliation status of all the accepted SFTs and the reasons for lack of reconciliation – it should be noted that all SFTs accepted on previous day will be only included in reconciliation the day after, so this report should be generated on day T+3 rather than T+1 end of day.

Obviously, the costs of generation of reports will depend on the amount of data submitted daily, on the granularity of data included in reports, the number of authorities that those reports are delivered, etc. We envisage the highest implementation costs for report c which seems to be dedicated to ad-hoc queries. It cannot be implemented as simple built-in query but it will require some logic to be implemented which will allow for flexibility in criteria definition that will then be applied while processing the query in the TR database. The complexity of requirements for this report will have high impact on the costs of its implementation.

<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>

Assumption that only fully matched trades will be included in the position might cause in fact that the majority of trades will be included in this report with delays. We would suggest to include all transactions that in reconciliation show no significant discrepancies, i.e. all significant (this should be defined by regulators) fields are reconciled and those of lower importance might not be fully compatible. This should allow including the majority of transactions into the reports with no significant delays.

<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>

For our comments, see Q140.

<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>

We would strongly recommend one position report based on reconciled data, but not fully reconciled, i.e. significant fields (those necessary to report generation) should be reconciled, while other, less significant reports might not be reconciled. <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>

We do not envisage any issues with regards to the xml/ISO 20022 standards for reports delivered to regulators at the moment. We agree with same cut-off time set for all TRs.<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>

The key mechanism that will ensure that the double-counting is avoided by TRs is UTI generation process and the use of properly generated UTI and LEI codes in reports submitted to TRs. Reconciliation process that is proposed to be implemented internally (on TR level) and externally (between TRs) will then be able to guarantee that both reported sides of trade will be identified as one transaction and thus included only once in position/aggregation. Once the pair is found and identified by TR (TRs) no double counting should be expected.<ESMA\_QUESTION\_SFTR\_145>