Luxembourg, 18th April 2016

ABBL answer to the ESMA Discussion Paper on draft RTS and ITS under SFTR

The Luxembourg Bankers' Association ("ABBL") is the professional organisation representing the majority of banks and other financial intermediaries established in Luxembourg. Its purpose lies in defending and fostering the professional interests of its members. As such, it acts as the voice of the whole sector on various matters in both national and international organisations.

The ABBL counts amongst its members universal banks, covered bonds issuing banks, public banks, other professionals of the financial sector ("PSF"), financial service providers and ancillary service providers to the financial industry.

Information about the ABBL:

ABBL ID number in the COM Register of interest representatives: 3505006282-58

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General comments

The ABBL welcomes the possibility to comment the ESMA discussion paper on draft RTS and ITS under SFTR.

The SFT regulation imposes new reporting requirements on SFTs, on margin lending, on repo and on collateral transaction. Thus, by its large scope, the SFT regulation is an unprecedented exercise that should be carefully assessed before being implemented.

Hence, we would like to underline that, as the scope of the regulation is capturing a wide range of transactions, it is necessary to remain concise in the implementation so as to be able to meet the set objectives of monitoring financial stability risks in the SFT market. The scope of the reporting fields should be as precise and concise as possible so as to avoid any duplicative, burdensome and uncertainty. As a general comment we fear that there is a wide range of data required, that are not necessarily useful to meet the objective of monitoring the SFT market. Just as few examples, we are doubtful on the usefulness of requiring: master agreement year version or annexes.

Similarly, we regret that with the SFTR the opportunity is taken to broaden the requirements vis-à-vis registration of trade repositories. Trade repositories registration processes were already complete and we struggle to understand the rationale for such extension of the requirements.

Furthermore, we would like to remind that the implementation of EMIR was a real challenge and that, even though synergies are welcome, one should not rely on principles that have proven to be difficult in the past. In that vein, we have a particular issue with the requirement to identify the transaction with an UTI. Similarly then, we will have a problem with the proposal to link the different counterparties reports with the said UTI. In light of the issues encountered with EMIR, providing for the proposal to get an UTI without determining who and how to determine it, is quite problematic. If such approach is retained we would argue that it should be determined a mechanism to set which entity has to establish the UTI as well as a standardized method to determine it. The method could be based on the IOSCO principles relative to derivatives identification.

Specific comments

Q1. 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.

The proposed amendments to be included in EMIR RTS 150/2013 are sufficient to strengthen the registration framework of TRs under SFTR. The proposed amendments are probably going beyond what is necessary and required to adapt the registration framework to the SFTR.

The amount of information to be provided by TRs when registering is important so it always bear additional costs to prepare reports on the information details required. Also, we would see merit in properly ensuring the confidentiality of information to be provided.

Q2. 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?

The procedures are sufficient to ensure the completeness and correctness of the data reported under Article 4(1) SFTR. We do not see the need for additional provisions. We would nonetheless underline that when TRs are required to ensure a proper authentication of users / participants they should ensure to set up a coherent procedure, which is not too heavy.

Q3. 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.

No comment.

Q4. Are these additional procedures sufficient to strengthen the registration framework of TRs under SFTR? If not, what additional provisions should be envisaged?

The additional procedures are sufficient to strengthen the registration framework of TRs under SFTR. We would nonetheless underline the necessity for ESMA to preserve the confidentiality of the information provided as these can be of a sensitive nature. For example, the information required vis-à-vis the IT systems like the business requirements, the functional specifications, the technical specification, the system design etc. should be safeguarded by ESMA.

Q5. What are the cost implications of the establishment of the provisions referred to in paragraphs 58-65?

Submitting information is always costly and these costs are associated with the complexity of the reports to be sent or updated. In this case, as it necessitates gathering the full information, aggregating them into reports that are exhaustive and readable, the costs bases shall be even more expensive than the EMIR reporting.

Q6. What are the benefits of the establishment of the provisions referred to in paragraphs 58-65? Please elaborate.

We do not see any particular benefits in the provisions referred to in paragraphs 58-65 at registration time. Except for information on the IT tools, inherently linked to the TR activities, we believe that such information can either be transmitted ex-post to ESMA or on request.

Q7. Do you agree with the information that should not be provided in the case of extension of registration? Please elaborate.

We do agree with the information that should not be provided and as a general principle we strongly favor any tentative to avoid duplication of exercise. In this respect we note that some information will go through ARM / TR is of a very similar nature, we urge ESMA to ensure that these nodes are in a capacity to simplify the user's life by acting as aggregator of data which through consistency across the reporting requirements may prevent multiple submissions of the same information in different format or through different channels.

Q8. Are there additional provisions that should be removed / included? Please elaborate.

No comment.

Q9. What are the benefits of providing less documentation? Please elaborate.

Providing less documentation is always beneficial. It ensures a faster registration process, allows synergies, avoid duplications and reduce the costs of producing these documentations.

Q10. 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.

We always favor pre-existing solutions; therefore we agree having the same format of application as for EMIR registration.

Q11: 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?

The ISO 20022 format should be the used standard as it is a commonly used format for reporting.

Q12. How would the proposed format comply with the governance requirements in paragraph 75? Please elaborate.

The governance requirements in paragraph 75 provide that the format should be based on open and transparent standards and should be subject to robust governance from regulatory community. As such, the proposed ISO 20022 format fulfils these requirements as it is a commonly used format, notably for other reporting regulations (MAR, MiFIR) as correctly underlined in the Discussion Paper. It is therefore based on open and transparent standards.

Q13: Do you foresee any difficulties related to reporting using an ISO 20022 technical format that uses XML? If yes, please elaborate.

No comment.

Q14. Do you foresee issues in identifying the counterparties of an SFT trade following the above-mentioned definitions?

The definitions allow a proper identification of counterparties of an SFT trade: counterparties acting as principal, intermediaries and tri-party agents being the most prominent. However we would suggest slightly amending the definition of a party to an SFT that acts as an intermediary so as to avoid leaving room for interpretations and avoid uncertainty. As such, we would suggest the following:

"*97. A party to an SFT that acts as an intermediary and on behalf of a customer shall be defined as* ***an agent*** *or as a broker. A counterparty may use the services of a broker or a lending agent to conclude an SFT".*

Q15. Are there cases for which these definitions leave room for interpretation? Please elaborate.

As mentioned above we would suggest slightly amending the definition of a party to an SFT that acts as an intermediary so as to avoid leaving room for interpretations and avoid uncertainty. As such, we would suggest the following:

"*97. A party to an SFT that acts as an intermediary and on behalf of a customer shall be defined as* ***an agent*** *or as a broker. A counterparty may use the services of a broker or a lending agent to conclude an SFT".*

Q16. Is it possible to report comprehensive information at transaction level for all types of SFTs and irrespective of whether they are cleared or not?

We can identify several issues stemming from the reporting required. First, as often underlined by the industry we would see difficulties in informing the LEI for non-financial counterparties that sometimes do not have updated their LEI nor got a LEI. We would also have issues regarding the identification of beneficiary that we would develop further later on.

Also, we consider the argumentation of ESMA vis-à-vis developing a "end-of-day" reporting very weak. Indeed, the regulation provides that transactions details (concluded, modified, terminated) should be reported "no later than the following day" (article 4(1) SFTR Regulation). ESMA relies on a recital (recital 10) that states it should be reported "the substitution of collateral at the end of the day" to conclude that the reporting should be "end-of-day". We consider that when the position is unwound and when collateral is substituted, it might be reported end-of-the-day but when entering a transaction with a longer timer horizon (posting the collateral) it should still be possible to report on day +1.

Concerning the information to be reported at transaction level, it is possible to report some information but it seems peculiar to require information on the feasibility of reporting "comprehensive information" without giving an indication of the degree of comprehensiveness. It seems therefore premature to properly assess the degree of difficulty it can bring.

Q17. 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?

Again, we consider that ESMA argumentation with regard to developing standards on position-level reporting is very weak. ESMA relies on the antepenultimate paragraph of article 4(9) SFTR that stipulates that ESMA "shall provide the ***possibility*** of reporting position level collateral data ***where appropriate***".

In light of the already heavy load of information to be reported, we are of the view that either the report is at transaction level or at position level but there is no need for "complementary" position-level reporting. As such, reporting at the transaction level allows for ESMA to ultimately aggregate positions and as such have an overview of the market. It should therefore not be imposed to impose a double reporting of transactions and positions.

Q18. Is there any need to differentiate between transaction-level data and position- level data on loans from financial stability perspective? Please elaborate.

Reporting transaction is probably process-wise easier for stakeholders, however we are not convinced of the usefulness of such information at supervisory level. Indeed, this may not reflect appropriately the underlying risks. This being said, reporting at position level may be complex, and in light of the mild success of the current EMIR reporting, we are not convinced that it is feasible without substantial reconsideration of the way reports are sent and matched at TR level and cross-TR.

Q19. Would the data elements included in section 6.1 be sufficient to support reporting of transactions and positions?

We would like to remind that asking for a new or additional field does not cost but operationally each additional field is a costly challenge.

We have some comments on the data elements to be included as provided for in section 6.1:

Table 1, field 9 – Other counterparty: when the counterparty is a private individual client, the field requires entering a client code. As such, we would see merit in ESMA specifying further what this code covers. We also would like to acknowledge that if such code is to be applied, it should be consistent with other regulations. It leads us to underline the difficulty linked to having such as code. Indeed, only in MiFID there are 26 different codes for these types of elements.

Table 1, field 10 – Beneficiary: we consider it is important to recall that in any case the name of the end client should never be required. We would suggest having a code identifying if the client is a retail client, or an institutional client. If the suggested code refers to individuals' codes, we reiterate our above-mentioned remarks.

The above-mentioned remarks also apply for the Table 4 and Table 7.

Table 2, field 7 & Table 5, field 7 – Method of trading: we are of the view that these kinds of information are not necessary to achieve the purpose of SFTR. Indeed, the SFTR aims at identifying risks related to SFTs and the method used for passing an order is not of interest to identify potential risks. As such, it is what we call "noisy" information. As such it bears more costs and complications than benefits to report them.

Table 2 and table 5, fields 10, 11, 12 – Master agreements: we can see the interest of having information on the types of master agreements used. However, we consider it difficult and burdensome and probably useless to report such type of information at a transaction level. Therefore, we would suggest to submit information on the types of master agreements used once a year.

Table 2, and table 5 field 18 – Minimum notice period: we do not understand the rationale to include such information. Most of the transactions are intra-day transactions where there is by definition no notice period.

Table 2, field 24 – Termination optionality: this field requires to indicate whether the counterparties have opted for an evergreen repo or extendible repo. We would see merit in clarifying further what ESMA means by differentiating between evergreen and extendible repo.

Table 3, field 16 and similar – Availability for collateral re-use: the field should be completed by adding a "not specified" option to be filled. It can happen that along the chain of collateral re-use, one might not be aware of the re-use possibility.

Table 4, field 4 and similar: sector of the reporting counterparty: this field establish a taxonomy for financial counterparties and for non-financial counterparties. Regarding the taxonomy for non-financial counterparties while there is a code for "other services activities" there is none for "other industry activities". This possibility should be added.

Table 5, field 1 and similar: the table of information to be filled relative to transaction data requires identifying a SFT via a Unique Transaction Identifier. In light of the problems already encountered with EMIR when it comes to a unique identifier, we would argue that it should be determined a mechanism to set which counterparty has to establish the UTI as well as a standardized method to determine it. ESMA should base this method on the IOSCO principles

relative to derivatives identification. We remind ESMA that EMIR in general and the reporting has not been a frank success, we strongly hope SFTR will not be a copy paste of that process.

Q20. Would the data elements differ between position-level data and transaction-level data? If so, which ones?

The data elements differ between position-level data and transaction-level data as the type of information that are looked at and the objectives are different.

Q21. Would the proposed approach for collateral reporting in section 4.3.5 be sufficient to accurately report collateral data of SFT positions? Please elaborate.

The proposed approach for collateral reporting in section 4.3.5 needs to be carefully assessed. The proposed approach is for the time being not sufficiently described. It would be beneficial to carefully describe the proposed approach.

Q22. 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.

When it is possible to keep consistency with already existing practices and regulations, this is always favoured. The approach A (consistent with EMIR) is comprehensible. Indeed, as the reporting is extensive and as the reporting implies submitting lots of data on SFTs, a classification by action type better fits the objective of the Regulation. We would however suggest few amendments on the action types: it can be beneficial to classify re-pricing and principal increase under an umbrella action type called “update”. The current classification risks to be confusing, notably between modification, re-pricing and principal increase. Modification and update better capture the difference between the two. We should also be concerned by the MIFIR reporting and ensure that there exists consistency as well to avoid duplications.

Concerning the approach B, the classification better reflect the results of the reporting than the initiation. As such, we consider that it does not reflect the objective of the regulation, which is to report any conclusion, modification and termination of SFTs. Also, we fear that it can be confusing if one is lost in the reporting field. However, we would see merit in adopting such classification when drawing aggregated reports on SFTs.

Q23. 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.

The list of the types of action regarding SFTs is better captured by the approach A than B. The approach B is too restrictive and captures too broadly the kind of actions. As such we would favour the approach A which captures in addition to the following categories: new, modification, correction, these elements: error, early termination, re-pricing and principal increase vs. collateral update. However, as mentioned above, the re-pricing and principal increase should be classified under an “update” umbrella (like the collateral update). Also the approach would benefit from adding the cancellation action type, present under the approach B but not under the approach A.

Q24. Do you foresee any benefits or drawbacks of implementing the proposed reporting

logic of event types and technical actions (Approach B)? Please elaborate.

The approach B would better fit a result-oriented approach. As such, we invite ESMA to use this classification tool when drawing conclusion on SFTs market.

Q25. Do you agree with the proposed list of event types and technical actions? If not, which ones should be included or excluded?

We agree with the list of action types and event types. But the approach B is less clear than the approach A. First it will be necessary to appropriately describe what the generic action types cover. It is not intuitive where to report re-pricing or principal increase for example in this approach. If an approach by type of transaction is to be adopted, the list of action type should be completed so as to be more intuitive and less generic.

Q26. Do you foresee any need to introduce a unique reference identifier for the lifecycle events or for technical actions? Please elaborate.

The idea of not double reporting a same life-cycle event is appealing. However, having an UTI to allow such avoidance might not be realistic. As already foreseen in different legislation (like EMIR) having a unique identifier is not easy, especially when this has to be determined among market participants in an evolving market. As such a taxonomy of events can better capture this idea, but if it is to be applied, this should be proposed in the RTS in a comprehensive and flexible manner.

Q27. From reporting perspective, do you foresee any drawbacks in keeping consistency with EMIR? If so, please indicate which ones?

Here the approach consists in identifying whether the counterparty is “buyer” or “seller”. We do not see any important drawbacks hampering to keep this approach. We however question how an intermediary or broker positions itself in this dichotomy.

Q28: 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?

The rules for determination of buyer and seller seem sufficient especially as it applies as a default rule. That is, in any case if the counterparty is not the buyer it is identified as a seller. We however question how an intermediary or a broker positions itself in this dichotomy.

Q29: Are the proposed rules consistent with the existing market conventions for determination of buyer and seller? If not, please provide alternative proposals.

No comment.

Q30. 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.

The section 4.2.4 on trade scenarios appropriately describe the trade scenario currently entered into on the market.

Regarding the paragraph 142 on repo-trade, we would like to underline that similarly to other parts of the ESMA consultation paper, there are misunderstanding on the roles of lenders

/borrowers in the trade. As such, we would like to recall that the lender of security is actually the borrower of cash in a repo.

Q31. 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.

The scenarios capture the conclusion of any “repo” as the generic terms covering either repo / reverse repo of buy / sell-back and sell / buy-back trades. The differences in these trades do not lie on the types of the counterparties to the trade (the main difference is usually the presence of a documentation or not) so it perfectly captures such transactions.

Q32. Do you agree with the description of the repo scenarios?

Scenario 3 – Ok, except for the link to be made through a unique code. Also, even though the regulation foresees that all counterparties should report, it is duplicative to require four reports.

Scenario 4 – Counterparty 1, with Clearing Member 1 vs. Counterparty 2 with Clearing Member 2 (legal contract between clearing members and their clients) and a CCP in between. The scenario is said to capture an agency model and is said not to exist in Europe.

Scenario 5 – a CCP interposing itself between the two counterparties that are not clearing members. Here Clearing Members act as agents and do not become counterparties subject to the SFTR reporting obligations.

When entities subject to the reporting are numerous (more than the two initial counterparties), it is duplicative to require several entities to report the same information. Although we understand that requiring the same information might serve as a tool to cross check the transactions. One could build a reporting system where the two counterparties, or the CCP or the two clearing members report the full elements and the others report only partial elements.

Q33. Are you aware of any other repo scenarios involving CCPs?

No

Q34. Are there any other scenarios that should be discussed? Please elaborate.

No

Q35. Do you consider that the documented scenarios capture accurately the conclusion of buy / sell-back trades? If not, what additional aspects should be considered?

Buy / sell-back trades follow the same structure as of repo trades, they differ only on the prices structure and the structural documentation. Therefore, the documented scenarios are adapted to buy / sell-back trades.

Q36. According to market practices, can buy / sell-back and sell / buy back trades involve a CCP?

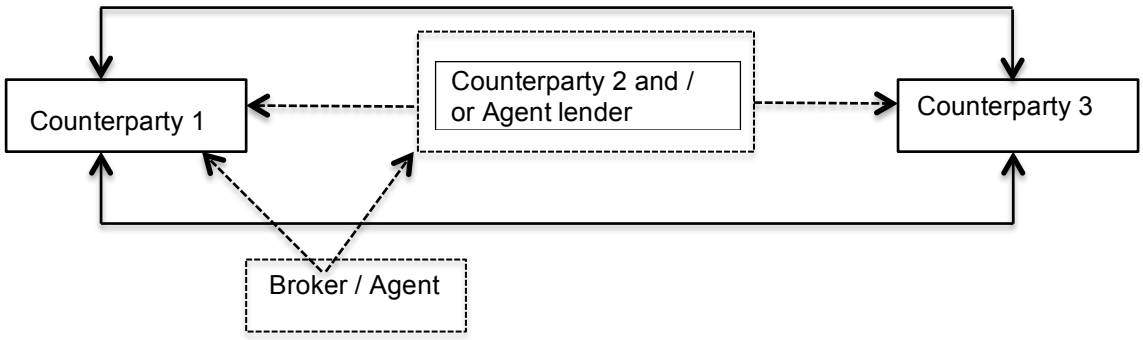
No comment.

Q37. 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.

At first glance, the scenarios are well-capturing the potential actors in the transactions, noting that tri-party agents are covered in section 4.2.5.

Q38. Are there any differences in the parties involved according to the different agency lending models?

The scenario adequately captures for the different agency lending models. We however fear that the scenario might not be enough precise at first glance. It is not sufficiently clear that one of the counterparty is acting as an agent lender in the scenario. The “agent lender box” should may as well be inserted as a “counterparty” box as follow in some scenarios:



Q39. When would the both counterparties know the other’s identity in an undisclosed lending agreement?

In an agency model the disclosure of the principals for which the agent acts is taking place no later than the business day following the lending agreement. However, it might happen that principals are not identified on each lending.

Q40. What other solution would you foresee for the reporting of trades involving the agent lender? Please elaborate.

Reporting is a burdensome task that should be done in a careful and appropriate manner so as to be able to be the most effective possible. Therefore, the more reporting entities involved the most costly and difficult to reconcile it is. On the opposite, reporting should not lie on a single entity. Given the diversity of set-ups it is therefore, difficult to set an appropriate solution.

Q41. Would an open offer clearing model possibly apply to securities lending too?

Securities lending are usually of a contractual nature operated through a close chain of actors. Open offer clearing model can apply to the above-mentioned scenario but it might be difficult to operate such a reporting on an end-of-day basis.

It is to be noted that the Scenario 4 (Securities lending CCP model under development) is no more under development but applies.

Q42. Would a broker be involved in addition to lending agent in such a transaction?

The option of passing through a broker might hold in some situations.

Q43. 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?

Although the idea of linking trade reports as to create coherency in the reporting is appealing, we strongly recommend ESMA to take into consideration the various drawbacks of such a model. ESMA considers that reports should be identified through a Unique Transaction Identifier. ESMA relies on the EMIR model to provide such identifier. However, in practice we have experimented extreme difficulties in getting such identifier notably as there are no clear rules. ESMA proposed that "such an identifier could be generated by the venue and passed onto the counterparties", and for "outside trading venues, the prior UTI could be included in the post-clearing reports". We consider this approach as insufficiently clear and insufficiently solid. We would suggest to ESMA to, besides the SFTR paper, work closely in cooperation with the actors in order to develop a model that works in practice.

Q44. 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?

The scenarios for securities lending transactions appropriately capture the concerned actors.

Q45. What potential issues do reporting counterparties face regarding the reporting of the market value of the securities on loan or borrowed?

Regarding the reporting of securities as described in the 6.1.3.2 part, we would like to reiterate our precedent comments on: the difficulty to apply an UTI, the incoherence of requiring a notice period, the lack of utility of requiring (on a regular basis) several elements on master agreements (such as the annexes and the year version).

As for reporting the market value, the draft paper proposes to update this information on a daily basis. We do not consider that such strict wording should be efficient. Instead, ***when the market value changes***, it should be reported within the day.

Q46. Do such securities lending transactions exist in practice?

We fear there is confusion in the SFTs practice. One should not be confused by collateralized transactions and pledged transactions. SFTR defines such securities or commodities lending / borrowing as "a transaction by which a counterparty transfers securities or commodities subject to a commitment that the borrower will return equivalent securities or commodities on a future date or when requested to do so by the transferor, that transaction being considered as securities or commodities lending for the counterparty transferring the securities or commodities and being considered as securities or commodities borrowing for the counterparty to which they are transferred". Thus by definition the security or commodity is "transferred" which constitute a pledge and as such there is no "unsecured securities or commodities lending / borrowing". The pledge (here the securities / commodities transferred) constitutes, in other words the "collateral".

Q47. Do you agree with the proposal to explicitly identify non-collateralised securities or commodities lending transactions in the reporting fields? Please elaborate.

We do not consider that this should be applied, for the above-mentioned reasons.

Q48. 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.

We do not see any rationale, in theory, for collateralising such a transaction at a later stage.

Q49. 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.

Usually commodities financing transactions are less common than securities financing transactions. However, it might happen that a commodity financing transaction is operated, whether to finance inventory, or for other reasons. Therefore we do not believe we should close the scenarios to only one type of commodity financing transactions and as such all the scenarios should, in theory, be considered.

Q50. 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.

We are not aware of commodity financing transactions falling outside the of the scope.

Q51. Are the types of transactions recognised sufficiently clear for unambiguous classification by both reporting counterparties of commodity financing transactions into one of the types?

The types of transactions are clear, however it is doubtful that the type of reporting is adapted to commodities financing transactions. There are too much fields counterparties to commodities financing transactions won't be able to fill. Or, the fields will probably confuse the counterparties as they are much more focused on SFTs.

Q52. What additional details may help to identify the type of transactions used?

No comment.

Q53. What are the main types of commodities used in SFTs?

The main types of commodities used in SFTs are: gold, oil, and corn.

Q54. How often, in your experience, are other commodities used?

This is not so common in Luxembourg.

Q55. 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.

No comment.

Q56. 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.

No comment.

Q57. 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.

We fear that the fields and attributes in Section 6.1 might be confusing and too broad for commodity financing transactions. We would favour a simpler reporting for commodity financing transactions.

Q58. Could all scenarios described for securities lending, repo and buy-sell back theoretically apply to future forms of commodities financing transactions?

Theoretically all forms of scenario can apply to commodities financing transactions.

Q59. Should other scenarios be considered? If yes, please describe.

No opinion.

Q60. 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?

It is difficult to use the ISIN code to uniquely identify some commodities used in SFTs because many commodities do not have an ISIN. Requiring such identification will de facto be out of the scope of the RTS / ITS as it will force the implementation of ISIN for some instruments.

Q61. 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?

As the RTS 23 is not yet adopted nor implemented it seems premature to judge whether the method will be effective to classify commodities for the purposes of transparency under SFTR.

Q62. Is there another classification that ESMA should consider?

There is no preferred solution for the time being.

Q63. Are there transactions in which a pool of commodities is financed that the reporting needs to take into account? Please provide concrete examples.

In theory, nothing restrains from setting commodities financing transactions based on a pool of commodities.

Q64: Do you agree with this basic scenario? If no, please explain what changes would need to be made to the scenario.

We do agree with the scenario drafted by ESMA on margin lending.

Q65: Are there other entities that do not act as counterparties but can be involved in the transaction chain (e.g. brokers or intermediaries)?

Conceptually speaking margin lending is a bilateral relationship and this by this intrinsic nature. However we see through the development of tri-party REPO that the role of intermediaries might appear notably to facilitate the agreement and as well to mitigate risks between counterparties that do not know each others from the outset.

Q66: 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?

Margin lending agreements are heavily negotiated between the concerned parties and are as such not standardised. However, it is common to rely on ISDA definitions, notably on ISDA Equity Derivative definitions, adjustment events.

Q67: 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?

Both situation exist, some margin loans do not have any fixed maturity and terminate at any time, this is notably due to the fact that several margin loans are overnights. It also exists the situation of a margin loan having a term where it is agreed to provide funding for a given period.

Q68: 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?

Floating rates might be used in margin lending transactions.

Q69: What potential issues do reporting counterparties face regarding the reporting of margin account / credit balances?

By definition, margin lending operates as a credit line, secured by a portfolio. When the value of the portfolio decreases a margin call might be triggered. Therefore, we can see that there might be reporting issues due to importance of changes in the portfolio valuation and of the changes in the transactions that might be difficult to report each time.

Q70: How is information regarding the market value of short positions in the context of margin lending used by the lender (if at all)?

The market value of short positions in the context of margin lending is very important for the valuation of the margin lending on a short time frame as it might be the basis for the outstanding lent amount.

Q71. What kind of provisions do lenders have in place to limit or mitigate client losses from short positions?

No comment.

Q72. 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.

Tri-party agent should have in place information on the availability of collateral. Tri-party agents may provide real-time reporting or on demand reporting.

As concerning paragraph 183, the ABBL would like to underline the terminology inconsistencies. As such, a lender of security is actually a borrower of cash in a repo. This should be clarified so as to avoid confusion.

Similarly, attention should be paid to the wording of the relation of tri-party agent with regard collateral. We would propose that the tri-party agent "is in charge of selecting the necessary collateral (…) from the account of the ***borrower*** and delivering it to the ***lender*** against principal".

Q73. Would you agree with the proposed split between the counterparty and transaction data?

Theoretically, the distinction between counterparty data and transaction date makes sense. However, from a practical point of view, the SFTR requires the reporting on transactions and not on counterparties. As such, we would therefore link information so as to first target which type of transaction and with which counterparty. The distinction should be made between: "basic transaction identification data" like: filling up basic data on counterparty and type of transaction, and then go to more details about the transactions. Thus it would be better to fill up the fields: 1, 2 and 3 of the table 1 (report time, report submitting entity, reporting counterparty) and 1, 2 and 3 of the table 2 (reference of the SFT, report number, reporting business day first, and only after that distinguishing between transaction data and counterparty data as it is currently proposed. In the same basic transaction identification data, it could also be added data on collateral like: if it is securities or commodities (field 1 table 3).

Q74. Is the reporting of the country code sufficient to identify branches? If no, what additional elements would SFT reporting need to include?

The country code is sufficient to identify whether it is a branch or not. In the longer run we may invite ESMA to consider relying on the LEI once it becomes the norm used by financial stakeholders as that number may be sufficient to contain all information on the counterparties (which implies dropping other types of information).

Q75. Do you foresee any costs in implementing such type of identification?

ISO country codes are common and recognised. This should not be a difficulty to report. However, flagging the country code in a transaction might be more difficult to implement.

Q76. 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?

Requiring the country code is the most appropriate solution to identify branches and the least costly as it requires a minimum information for a maximum of efficacy.

Q77. What are the potential benefits of more granular identification of branches? Please elaborate.

We do not see benefits in having a more granular process to identify branches. Indeed, using an ISO country code will be the simplest and the most effective solution.

Q78. 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.

We do not see any other situation for potential transfers between branches and headquarters to be considered reportable transactions under SFTR.

Q79. Are there any other cases which are not identified above, where the beneficiaries and the counterparties will be different? Please elaborate.

The section 4.3.3 on beneficiary bases the different cases on definition rather than description. It therefore allows capturing different type of cases.

We however have some doubt on the definitions and especially on the reporting obligations deriving from these definitions. As such, we are doubtful on applying the EMIR requirement to identify the beneficiary by a unique code. This has proven very difficult if not impossible to apply and therefore it is therefore highly probable that difficulties will again arise.

The section provides that when there is a structure (like a trust or fund), the said structure might be identified as the beneficiary itself. This will therefore allow, in most cases, to identify the beneficiary through the structure LEI. As a consequence, sub-funds should not be considered beneficiary but instead the umbrella structure should be considered as such.

Q80. Do you agree with the proposal to link the legs of a cleared transaction by using a common identifier? Q81. Could you suggest robust alternative ways of linking SFT reports?

Paragraph 203 of the discussion paper evokes the possibility to link reports thanks to a common identifier. Again, we would like to remind here of the difficulties of having a common identifier for transactions, trades or reports.

Also, the SFTR provides for the reporting of Securities Financing Transactions. Linking the reports should be of the responsibility of the concerned authorities. It is underlined that such linking would allow to: identify financial stability risks, identify related transactions, monitor the evolution of transactions over time and ensure the quality of data. This is an analysis to be developed by the concerned authorities and this should not lead to further obligations for reporting entities. However, we fear that linking reports by using an UTI or a common identifier might in fact impose additional burdens on reporting entities.

As a first step, the way UTI are provided should be cleared up and determined precisely so as to be able to judge if this is an effective solution.

Q82. 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?

In general, the different cases of collateral allocation are accurately described.

Q83. 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.

We agree with the fact that for margin loans there is no cash collateral involved. We would also

underline that the approach presented might be misleading. It should be underlined that cash collateral intervenes when securities are lent to a counterparty that in exchange provides cash as collateral. The situation should not be misunderstood nor understood as reverse types of transaction where cash is provided in exchange of securities pledges.

Q84. Does the practice to collateralise a transaction in several amounts in different currencies exist? Please elaborate.

No comment.

Q85. Do you foresee any issues on reporting the specified information for individual securities or commodities provided as collateral? If yes, please elaborate.

Reporting entities should report information only when these information are available. Thus, some information might not be available and not be mandatorily required such as: the collateral quality, the jurisdiction of the issuer, the maturity date and the mention of the availability for re-use. Referring to these fields in table 3:

- Regarding the collateral quality (field 12, table 3) we support the possibility to indicate the collateral is not rated.
- Regarding the jurisdiction of the issuer (field 14, table 3), we support the possibility to indicate the jurisdiction of the subsidiary if the parent company's jurisdiction is not known.
- Regarding the availability for re-use (field 16, table 3) we would like to add a mention "not determined" in addition to "true" or "false".

Q86. Are there any situations in which there can be multiple haircuts (one per each collateral element) for a given SFT? Please elaborate.

First, the meaning of collateral element is not clear in that context. The text would merit precision.

At a high level we expect that there may at least be haircuts at 2 potential level, one on the securities themselves and then on the currency used if different from the base currency of the counterparties. Additional haircut may apply, notably tri-party agents can apply incremental haircuts on the basis of the security price, age, security, currency, credit rating, etc.

Q87. 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.

It seems difficult to provide a unique identification of the collateral pool in the initial reporting of an SFT. When an ISIN is available there is no particular issue. However, the proposed approach for identification when there is no ISIN has particular issues. First the use of alternative proprietary identifier like the identifier of the security account is not a precise enough solution. The identifier should be described more precisely. Then, this risks double counting some of the collateral.

Q88. 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.

Given the high number of transactions that may fall in the scope of this regulation we expect that this situation could happen.

Q89. Are there any issues to report the collateral allocation based on the aforementioned approach? Please elaborate.

As said, the discussion paper is not precise enough. Reporting the ISIN code is a possible solution but that does not apply in all situations. When it does not apply, requiring a proprietary identifier is not precise enough. We are also afraid that having a code for the proprietary will result in double counting collateral. The collateral element can also be difficult to obtain.

Q90. 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.

Table 12 (proprietary code) and table 13 (collateral element) data elements should be reported on a T+1 reporting deadline.

Q91. 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)?

The option 1 provides that the collateral element should be reported as an element in SFT transaction data and the option 2 provides that the collateral should be reported in a separate collateral report. The option 2 is said to be consistent with the EMIR model. As a general principle, consistency across models and across regulations is always preferred. However, the objective of the SFT regulation is to obtain data on transactions. Thus filling up data on collateral in the transaction report might be appropriate in this situation and can avoid double reporting.

Also tri-party agents provide reporting collateral together with (some) transaction data (option 1). This is readily available to customers and can supposedly be transposed into a SFT reporting.

Q92. What are the benefits and potential challenges related to either approach? Please elaborate.

The option 2 has the benefits of being an already known approach but has for drawback to double the reporting burden as there will be two reportings: one on the transaction and one on the underlying collateral. Also the option 2 might not be clear enough and might be confusing in such types of transactions, which are based on the basic principle of using a collateral.

The option 1 is much clearer in the sense that the collateral is really linked to the transaction. Also, it avoids a double reporting as it reduces the reporting volume.

Q93. Do you foresee any challenges with the proposed approach for reporting updates to collateral? What alternatives would you propose? Please elaborate.

It is proposed to report, as an update to the collateral information, the full snapshot of the total amount of allocated collateral at the end of the day rather than the change versus the previous day. We do not see any particular difficulty with this approach.

Q94. 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?

It seems very difficult to link the reports on changes in collateral resulting from the net exposure of the original SFT transactions via a unique portfolio identifier. As explained, there are two possibilities: using a common agreed code or using the unique transactions identifier. However, none of the above-mentioned possibilities seems effective. Getting a proper UTI has proven to be difficult and agreeing on a common code will be a true challenge. Therefore as long as there is no proper solution for an UTI, this kind of approach is not workable in practice.

Q95. 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?

Yes, it is very difficult to obtain an UTI especially when the UTI approach is not granular enough. Also, operational errors could occur on using such an UTI that might false the links. We would like to stress that in the first place there is a clear need for a robust framework to create and manage the UTI, then will come the time to consider what can be done at which level of granularity. It may be possible to envisage the report 2 steps, and this one shall come at a later stage but may be communicated so as to ease the planning of implementation by firms.

Q96. 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.

Linking a list of collateral to the exposure of several SFTs is already explored in the sections above. However, here the question concerns linking collateral when SFTs exposures are netted. This is very difficult to link, except if for these types of transactions, it is allowed to report on a later basis, that is when the exposure is netted. This will avoid double counting and would still allow, on an ex-post basis to get an overview of the SFTs market.

Q97. 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.

As said, this is very difficult to link, except if for these types of transactions, it is allowed to report on a later basis, that is when the exposure is netted. This will avoid double counting and would still allow, on an ex-post basis to get an overview of the SFTs market.

Pro-rata allocation can be an option, but this is not a practice used by all.

Q98. Do you foresee any issues between the logic for linking collateral data and the reporting of SFT loan data? Please elaborate.

As said, linking a list of collateral to the exposure of several SFTs is already explored in the sections above. However, this question concerns linking collateral when SFTs exposures are netted. Therefore, either the report is done on an ex-post basis, or reporting does not require any linking at all.

Q99: Do you agree with the description of funding sources mentioned above? Q100: Are there other funding sources used in the context of margin lending?

The funding sources of margin lending mentioned are the following: repos, cash collateral from

securities lending, proceeds from customer or broker short sales, unsecured borrowing, liabilities subject to immediate cash payments.

The following funding sources seem correct.

Q101: What are the obstacles to lenders reporting the market value of funding sources?

The lender (i.e. the buyer of the collateral) uses margin lending as a business practice. Therefore, the lender does not link a particular source of funding to this type of activities. Thus, it is highly difficult to precise these funding sources.

Market value might be difficult to be reported for lenders on a continuous manner.

Q102: Would reporting pro-rata amounts address some of the challenges or facilitate reporting?

Using pro-rata amounts will not facilitate the reporting because the estimation should be developed and up-to-date, but it might be used to solve the challenges of reporting such funding sources evaluation.

Q103. Should the cash in the margin accounts be considered also as part of the collateral for a given margin lending transaction? Please elaborate.

The cash in the margin accounts is not necessarily present and part of the transaction, it rather is cash for operational purposes, and therefore it should not be part of the collateral.

Q104: 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?

The LTV ratio is the most common tool to monitor leverage from margin lending, especially on an on-going basis. Margin lending is also subject to due diligence and borrower's capacity to repay analysis.

Q105: 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?

Each trigger or limit is usually discussed between the counterparties and will be dependent of the relationship, but will be defined in most cases in the margin lending agreement.

Q106: 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.

There are mainly three types of actions: margin calls, top up and sell out.

In the event the limits are crossed, it will be required to either pay down the loan (margin call) or to top up the collateral portfolio with additional collateral (top up). In case of failure to do so, the right to sell out the collateral is exercised (sell out). The modalities of these actions are often described in the margin lending agreement.

Q107: 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?

No

Q108: Do you have any alternative proposals for reporting information related to funding sources that might reduce the burden on reporting entities?

As provided in table 14 and contrary to paragraph 251, which requires more information, information on funding sources should be limited to the currency and the amount.

Q109: 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?

In some cases, cash can come in addition to a portfolio to grant a margin loan. However, cash in margin accounts cannot be counted as collateral in full as already stated. Indeed, cash present in margin accounts can also serve for other purposes (e.g. payment of interests).

Q110: What are the potential obstacles to reporting information regarding the individual securities set aside in margin accounts by the lender?

Margin loans can be subject to triggered actions like margin calls, or top up that might change the composition of securities set aside. Therefore, it is difficult to report on time such information.

Q111. 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.

As said, portfolio composed of securities can be subject to a reporting obligation, however cash is not always part of the collateral composition.

Q112: 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?

Identifying whether the collateral is available for reuse is now in place. However, report information on specific collateral that are in the reuse chain might be more difficult.

Q113. What options exist to link collateral that is re-used to a given SFT or counterparty? Please document the potential issues.

We would like to remind that the FSB has recently published a consultation on “transforming shadow banking into resilient market-based finance, possible measures on non-cash collateral re-use” on 23 February 2016. In its consultation paper, the FSB proposed different approaches to estimate collateral reuse. We would therefore prefer having a similar approach.

Q114. In which cases can the re-use be defined at transaction level?

A priori this could be done when there is a pledging of the underlying assets, otherwise the assets have become the property of the counterparty and in theory it can use them as it wants, thus there may not always be a need for a formal tracking of the assets.

Q115. Do you see other ways to calculate the collateral re-use for a given SFT?

We do not consider a particular way to calculate the collateral re-use for a given SFT.

Q116. 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)?

No comment.

Q117. Which alternatives do you see to estimate the collateral re-use?

No comment.

Q118. When the information on collateral availability for re-use becomes available? On trade date (T) or at the latest by T+1?

Regarding the availability for re-use, it is to underline that the options for reporting, id est, reporting whether it is available for re-use: “yes” or “no” might not be sufficient to capture all the situation. The field should be completed by adding a “not specified” option to be filled. Regarding the moment at which the information becomes available, we consider that the information can become available in both cases, and that one specific date cannot be prescribed.

Q119. 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.

As stated, under the GMRA and GMSLA, the repo and reverse repo represent transfers of titles and therefore securities that are provided as collateral would be available for re-use. Otherwise, in light of what the SFTR regulation specifies regarding collateral re-use (that is, to have a written consent or be informed (see article 15)) one can derive from it a certain scope from which the availability could be derived. In practice, however, it will necessitate flagging some SFTs and will be difficult to implement.

Q120. Do you agree with the rationale for collection of information on the settlement set out in this section?

We do not totally agree with the argumentation developed under the settlement section. We recognise that having information on settlement can help picture market situations and concentration situations. However, we disagree on some of the arguments, notably on the analysis of dependencies. In the developed argumentation reuse of collateral is said to be enhanced by the use of settlement services. We would rather argue that the services listed in the argumentation are of a management nature (e.g. collateral exchange) and are not participating in “creating long chain of dependencies”. We are of the view that CSDs are facilitating SFTs rather than making it more complex.

Q121. Do you consider that information on settlement supports the identification and monitoring of financial stability risks entailed by SFTs?

Information on settlement supports identification and monitoring of the SFTs market. However, as stated, we are of the view that CSDs are facilitating SFTs rather than making it more complex. Thus, in our sense, financial stability risks cannot be monitored, by solely relying on CSDs information and settlement information.

Q122. Do you agree with the approach to identify the settlement information in the SFT reports?

In generic terms, the Consultation paper requires to indicate the CSD from which the collateral will be delivered, the participants of the CSD settling the transaction, and the CSD where collateral will be received.

This information seems appropriate to capture the settlement process.

Q123. Do you envisage any difficulties with identifying the place of settlement?

In the case of the SFT transactions there may in most cases be done on a bilateral basis or via a pure agent in the case of tri-party REPO, we therefore do not think that there is always as such a settlement place.

Q124. 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.

It is possible to identify, at the time of settlement, the participants of the settler CSD.

Q125. Will this information be available by the reporting deadline? What are the costs of providing this information? Q126. What other data elements are needed to achieve the required supervisory objectives? Please elaborate.

It is possible to report whether the transaction is part of a Master Agreement. However, the information required on the Master Agreement are quite extensive. Indeed, it is required to report the year of the agreement model, and the annexes to the master agreement. While the type of agreement is possible to provide, we fear that the other information are of little added-value to meet the regulation objective, and should not be reported, or at least only partially and not systematically.

Q127. Do you agree with the proposed categories of trading methods to be reported by SFT counterparties? Q128. Are there any other methods of trading that are not covered?

The listed trading methods (i.e. telephone, automated trading systems, automatic trading systems) are extensive, but the list in our view not complete. It should be added: fax and communication platforms.

Q129. Do you agree with the proposed types of validations? Would you include any further validations? If so which ones? Please elaborate.

The proposed types of validations are based on: an authentication process, authorization / permission process, a logical validation, and on business rules or content validation. We understand the necessity for a proper authentication process. Regarding the authorisation / permission process, it is required that TRs check whether the reporting entities are permissioned / authorized to do it, notably by checking its LEI against an internal database it should constitute. This process might be very difficult to set up and will be operational only after the setting up of the said database. Also, TRs should not be liable for any mistake in that process. Regarding the logical validation process, ESMA suggests to base the validation process on the UTI of the counterparties so as to determine the uniqueness of the SFT (avoid duplicative reporting that will create confusion). As such, we understand the rationale for such a check. However, in light of the issues around providing such an UTI, it might be very difficult to

implement in practice, and this is therefore not a perfect and exhaustive check.

Q130. 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.

In order to have the most accurate picture of SFTs as provided for in the Regulation, reconciliation is important. Thus, while having for objective to complete reconciliation cycles within a day is welcome, this might not be effective in practice. Therefore, more flexibility should be granted so as to be able to solve difficult not-reconciled data on some transactions at a later stage.

Q131. 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.

No Comment.

Q132. 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.

Following the EMIR approach will allow Trade Repositories to build on the existing reconciliation method and it will allow them to manage the costs of establishing a new model. However, the introduction of EMIR has evidenced the need for strong data quality requirements. This leads to question whether it is more important to have a full range of data or whether it is more important to have less but of better quality data. The objective of the regulation is to get an overview of the SFT market so as to be able to identify potential risks. Thus, much of the required data will be unnecessary to meet this objective.

Q133. 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.

Full reconciliation is in theory the best solution to have a clear, precise and accurate vision of the market. However, in practice, having a full reconciliation will hardly be possible because:

- when an error is identified, the correction might take time;
- there will always be incoherencies in the reporting of data (operational risks / challenges);
- obtaining a full reconciliation will trigger enormous costs and resources.

We therefore suggest to apply the tolerance and flexibility principle evoked in the draft ESMA paper. As such, on the reporting fields listed in Section 6.1, we think that only data necessary to identify the transaction, its type and its values and counterparties should be subject to a careful reconciliation. As an example, the following field should be subject to this careful reconciliation:

- counterparty data: reporting timestamp (field 1), report submitting entity (field 2 and other if applicable, codes), sector of the reporting entity (field 4), country (field 5 and 6), counterparty side (field 7), broker (field 12), clearing member (field 13), collateral component (field 16);

- transaction data: reporting business day (field 3), cleared (field 4), clearing timestamp etc.

Q134. 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.

In the SFT regulation context, collateral is part of the transaction / loan. Therefore, we do not see any rationale for providing i) a separate reporting on the collateral and ii) a distinct reconciliation process.

Q135. 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?

We do support the feedback to be provided to reporting entities, especially as it is provided that in case a report is rejected, it should be accompanied by the specific reasons for rejection. The proposed timing for feedback is correct. Regarding standardisations of the feedbacks, it is difficult to define, for the time being, a standardised format as it risks contravening to the efficiency of the system at first. If standardisation is to be applied, it should be at a later stage so as to be able to apprehend the standardisation.

Q136. 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.

We would not be favourable of having public data as granular as suggested in the FSB November 2015 report and we would rather support having a similar approach than in EMIR. We would not support public data of a more granular nature. The more information is circulating, the more difficult it is to get a proper idea of the market or to understand the market features. As such, we do not consider it useful to publish more granular public data. Also, ESMA's intention is to impose strict deadlines and frequency for the publication of such data. In order to respect these deadlines and for readers to digest information, it is important to keep granularity to an acceptable level.

Q137. 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.

This may depend on the information that is expected or the focus one wants to give to the report or its analysis, that information may be done at supervisory level on raw data reported by the different contributors.

Q138. Do you foresee any issues with publishing aggregate data on a weekly basis? Please elaborate.

Publishing aggregate data on a weekly basis is the EMIR requirement. However, the level of data reported under SFTR is quite broad and granular and this frequency might be questioned.

Q139. 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.

Data elements regarding the reconciliation or rejection will be available once the reconciliation is done.

Q**140. 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**.

The experience from the EMIR reporting has proved particularly painful notably the access to data has proved difficult; some of the data did not exist at the time. This type of reporting is also very complex, thus providing such reports will be difficult also as it may imply the tracking of assets under SFT transactions but no longer “in house”. While the availability of data is an issue, the difficulty arises from providing information on the data on time. Indeed, while rejected reports are identified, providing detailed information on the rejects on time is more difficult. The similar approach applies for non-reconciled reports.

Reporting is a costly and time consuming exercise and analysing data to produce reports is even more consuming.

Q141. Do you consider that all the relevant data elements for calculation of the above reports will be available on time?

In light of the difficulties encountered concerning reconciliation, it is doubtful to provide such reports on a daily basis. As such, data elements for the calculation are supposed to be available for the reports, but the reports necessitate to be reconciled and to go through some calculation.

Q142. 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.

As stated above, it is not vain to remind that reporting is a costly and time consuming exercise and analysing data to produce reports is even more consuming. It is necessary to develop or adapt systems to aggregate data, to calculate the element required, to assemble together the results, to check and to control. Thus, it requires developments resources, human resources, and time.

Q143. 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.

It can be imagined to produce one report with reconciled data when available and another report on non-reconciled data. Regarding non reconciled-data, producing the reports can be postponed. Data that are not reconciled are of less accuracy and therefore are not as critical as reconciled data.

Q144: 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.

We do not understand the rationale of the question, as XSD is intrinsic to ISO20022. ISO 200022 is a norm operated with an XML language that needs XSD to be decrypted. Thus XSD is necessary to the ISO20022 norm.

It is preferable to use the same cut-off time across TRs as it facilitates the reporting.

There is no drawback in establishing an xml template as standardisation is welcome in the transmission of data so as to be able to properly report the said data. Standardisation, in that case, also facilitates the implementation.

Q145. Further to the aforementioned aspects, are there any other measures that have to be taken to avoid double counting? Please elaborate.

No comment.