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| 30 September 2016 |

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| Reply form for the Consultation Paper  Draft RTS and ITS under SFTR and amendments to related EMIR RTS |
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| Date: 30 September 2016 |

Responding to this paper

The European Securities and Markets Authority (ESMA) invites responses to the specific questions listed in Draft RTS and ITS under SFTR and amendments to related EMIR RTS, 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\_CP\_SFTR\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

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

ESMA\_CP\_SFTR\_XXXX\_REPLYFORM or

ESMA\_CP\_SFTR\_XXXX\_ANNEX1

***Deadline***

Responses must reach us by **30 November 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>

ISLA welcomes this further opportunity to engage with ESMA on the important topic of the SFTR and work with you and other interested parties to ensure that our market participants are able to comply with the reporting obligation in a balanced and appropriate manor. We have of course responded to the specific questions within the body of this latest consultation but by way of introduction there are two of overarching  issues  that we feel it appropriate to outline separately here.

Feedback from our member firms suggest that between circa 40% to 60% of lending principals that would be party to a reportable securities lending transaction here in Europe will fall outside of the SFTR reporting obligation by reason of either jurisdiction or specific exemption from the reporting obligation (e.g. North American entities).

In certain instances , we understand that up to 90% of all lending principals in a block or bulk transaction could be out of scope.  While this would not necessarily be an issue if we reference other reporting regimes such as EMIR where the reporting counterparty would simply report the transaction on an effective single sided basis, that approach if adopted in full under the SFTR, will present challenges, potentially for principal borrowers.

We have outlined previously that whilst a principal borrower is fully aware of whom its lending principals are in any block or bulk transaction, the allocation of any given trade is determined by the lending agent normally using some form of allocation algorithm. This means that the borrower is reliant on the disclosure of this information in a timely fashion by the lending agent.

Similarly, the allocation of any non- cash collateral received from a borrower is routinely undertaken by the lending agent. Again this means that the borrower cannot comply with is obligation to report loan and collateral allocations, at the level required in the draft technical standards, until such time the information is received from the lending agent.

Whilst much of this information already flows around the system to allow both lenders and borrowers to effectively manage their risks it should be noted that at the present time it may not be at the granular level required to comply with the SFTR and not necessarily in the time frames envisaged by the draft technical standards.

From a market perspective it would be extremely helpful if ESMA could consider phasing in reporting requirements over a period of time, our members believe 2 years is reasonable. This would enable reporting parties time to make the necessary infrastructural changes to the disclosure processes.

Although we will look to leverage current infrastructure and procedures, it is worth noting that where we have to engage with lenders who fall outside the scope of the SFTR, they may be reluctant to either change existing procedures or incur additional costs . We would point out here that lending of securities by institutional investors is a discretionary optional activity, and progressive and incremental reporting and regulatory requirements that increase both adherence obligations and costs, could mean that these institutions simply exit the market. Over time this could have consequences for market liquidity and collateral mobility.

The second point that we wanted to highlight with ESMA relates to the reporting of non-cash collateral. We welcome and acknowledge ESMA’s proposals to base collateral reporting on settlement rather than trade date and confirm that for the purposes of SFTR reporting we will be using value date as a proxy for settlement date. However, and notwithstanding ESMA’s proposal, we want to highlight to you that for operational reasons it will be problematic for the industry to report meaningful high quality non-cash collateral data on settlement date. First, many institutions run collateral books on a global basis and it is routine for collateral positions securing a particular trade or group of trades to be changed between the close of business in Europe and close of business in North America. Collateral givers undertake complex optimisation methodologies to ensure the most efficient use of available collateral and these automated processes allow for additional efficiencies in inventory management.  However, these efficiencies mean that collateral substitutions can occur at any time and may frequently occur after European markets have closed (for example US treasuries settling with the US market timeframes) If strict settlement date reporting is required this will have a detrimental impact on the efficiencies that are established in the securities lending market, as collateral positions will need to be finalised at an earlier time just in order to meet the reporting deadline.

We therefore maintain that reporting of collateral transactions should occur on VD+1; which is still a challenging deadline for the securities lending market, but will still enable the regulator to receive accurate matched information in a sufficient timeframe for any analysis required without the need to significantly change market behaviour and reduce established efficiencies.

We would of course be happy to discuss any of these issues or our responses to your specific questions in more detail at your convenience.

<ESMA\_COMMENT\_SFTR\_1>

1. Do you agree with the above proposals? What else needs to be considered? What are the potential costs and benefits of those? Please elaborate.

<ESMA\_QUESTION\_SFTR\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_1>

1. Do you agree with the above proposals? What else needs to be considered? What are the potential costs and benefits of those? Please elaborate.

<ESMA\_QUESTION\_SFTR\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_2>

1. Do you agree with the above proposals? What else needs to be considered? What are the potential costs and benefits of those? Please elaborate.

<ESMA\_QUESTION\_SFTR\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_3>

1. Do you consider that the currently used classification of counterparties is granular enough to provide information on the classification of the relevant counterparties? Alternatively, would the SNA be a proper way to classify them? Please elaborate.

<ESMA\_QUESTION\_SFTR\_4>

Our members would like to highlight that the definition of counterparties in paragraph 88 does not match that of the Level 1 text and therefore seek re-clarification of the definition of counterparties in scope. The level 1 text states in Article 2 that SFTR applies to;

(a)    a counterparty (FC and NFC)  to an SFT that is established

(i)      in the Union ….

(ii) in a third country if acting though a branch in the Union

Our understanding is that this means a third country entity that would be a FC or NFC if it was established in the EU is in scope, but only if acting via an EU Branch.

Paragraph 88(i) seems to omit the requirement of acting through a branch as it suggests “any third country entity which would require authorisation or registration in accordance with the legislative acts… if it were established in the union”.

It would be helpful if ESMA can provide guidance, as they did for EMIR, stating that non-financial counterparties are responsible for advising financial counterparties whether they are defined as a small non-financial counterparty under the EU Accounts Directive. If the non-financial counterparty does not provide this to the financial counterparty, then the financial counterparty can assume that they are not a small non-financial counterparty and will therefore not be responsible for reporting on their behalf.

Furthermore, it would be helpful for ESMA to provide guidance on the reporting responsibilities where an EU resident NFC is transacting with a non-EU counterparty – as neither the Level 1 text or the consultation document is clear on whether reporting this creates a reporting obligation and if so on whom.

Finally, we do not believe that using the SNA or ESA counterparty classification would be a preferable alternative as these are not currently widely used internally by firms and we believe that the introduction of a new classification scheme would be expensive, and would require a considerable lead-time.

<ESMA\_QUESTION\_SFTR\_4>

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

<ESMA\_QUESTION\_SFTR\_5>

We welcome further clarification on the definitions of counterparties to an SFTR. However in discussions with our members, it is clear that the terms “collateral taker” and “collateral giver” has the potential to cause confusion with the reporting entities. For further details, please see our response to Q14 as detailed below:

The terms collateral taker and giver for securities lending trades may lead to misleading reporting.

For example, a firm may borrow securities to cover a settlement obligation, and provide cash collateral for 105% of the value of the loan and under the proposed definitions would be classified as a collateral giver. However, the same firm may agree to finance the same securities and provide only 98% value of the securities in cash. In this scenario, it is less clear whether the firm providing cash is classified as the collateral giver or taker, and both parties could interpret themselves as either definition.

Equally the term could apply differently to repo and securities lending trades transactions and could lead to confusion where a firm transacts under both GMRA and GMSLA.

In consultation with our members, we would therefore propose that ESMA adopt distinct terms for different types of SFT transactions: the terms “borrower” and “lender” rather than collateral taker and giver for securities lending and “buyer” and “seller” for repo transactions. This would clearly align with the legal status of the parties to the transaction under the legal document.

We would assume that using distinct terms for different types of SFTs should be relatively easy to achieve given the division of reporting by instrument type and note that this would of course not prevent ESMA (or the relevant TR) from itself mapping these distinct terms, across the different types of SFTs, into a consolidated item.

<ESMA\_QUESTION\_SFTR\_5>

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

<ESMA\_QUESTION\_SFTR\_6>

We believe that further clarification should be provided between the definition of agent lender and broker as no separate definition is given for broker except that it is not identical to the definition of prime broker.

For securities lending, an agent lender is a third-party that facilitates the lending process on behalf of underlying investors who are the principals to the transaction. Whilst brokers may be used in repo transactions they are not utilised in securities lending transactions. We believe this clarification is important for the avoidance of doubt or misinterpretation as agent lender and broker/agent are used separately in the scenarios provided in *4.2.4.2 Securities Lending scenarios*, and it is unclear what intended role the broker/agent has in these scenarios,. We provide further comment on this in our response to Q19.

We note that the field “broker” is a requirement for securities lending trades and this needs to be amended for the above reasons.

<ESMA\_QUESTION\_SFTR\_6>

1. Based on your experience, do you consider that the conditions detailed in paragraph 105 hold for CCP-cleared SFTs? Please elaborate.

<ESMA\_QUESTION\_SFTR\_7>

In general we expect that the conditions as outlined under paragraph 106 hold for CCP-cleared SFTs. However, please consider that CCPs can provide different netting models for SFTs. Netting of front and term leg may be processed separately and a new UTI may not be created in every case. Hence, this would limit the possibility of position-level reporting

<ESMA\_QUESTION\_SFTR\_7>

1. In the case of CCP-cleared SFT trades, is it always possible to assign and report collateral valuation and margin to separately concluded SFTs? If not, would this impair the possibility for the counterparties to comply with the reporting obligation under Article 4 SFTR? Please provide concrete examples.

<ESMA\_QUESTION\_SFTR\_8>

There are currently limited CCP models in the securities lending market to consider, and it should be noted that other CCP’s may develop alternative models in the future, which may operate differently and require other considerations.

Currently, it will not always be possible to report collateral valuation and margin to separately concluded SFTs. Margin (IA or VM) required by a CCP from its clearing members is not capable of being assigned to a single SFT as it represents the risk the CCP has to the Clearing Member on a given day, taking into account all trading activity. Valuation margin may be held separately and may be held as a collateral “pool” (as defined in paragraph 248.a.).

Equally, collateral margin may be held against the net exposure of SFT’s and other exposures to the CCP (created by other transaction types outside the scope of SFTR.

How do CCP

<ESMA\_QUESTION\_SFTR\_8>

1. Would the suggested data elements allow for accurate reporting at individual SFT level and CCP-cleared position level? in line with approach described above?

<ESMA\_QUESTION\_SFTR\_9>

We believe that from the CCP perspective the data elements seem to be sufficient for consideration of position-level reporting.

<ESMA\_QUESTION\_SFTR\_9>

1. If so, are there any specific issues that need to be taken into account to adapt the EMIR approach to the SFT reporting?

<ESMA\_QUESTION\_SFTR\_10>

Whilst we recognise the value of adopting the EMIR approach to the SFTR reporting there is currently no concept of “execution timestamp” for securities lending, unless the transaction is executed via an MTF and we do not believe that the inclusion of one is relevant or feasible for SFT’s.

SFT’s are generally agreed bilaterally and recorded on independent systems by the lender (collateral taker) and borrower (collateral giver). Whilst systems may record the time of booking, this is for internal audit purposes only and will not match between firms.

As the recording of execution time has never been relevant or required systems do not have this functionality currently. Once transactions have been recorded, approved and released for settlement, counterparties rely on contract compare procedures/vendors and the clearing house matching process to confirm transaction details.

Adding an execution timestamp would involve expensive development requirements across the market and would still require counterparties to verbally agree a time to record.

Under MiFID and MiFID II SFTs are recognised as “non-price forming transactions” in relation to best execution requirements, and as such do not require the recording of execution timestamps. Moreover, the SFT reporting is intended to capture the exposures and leverage across the financial system, not market risk. Our members believe that the inclusion of this in the reporting requirements would serve no purpose to regulators, but be an expensive development that ultimately would still require manual intervention to ensure counterparties record the same time.

If a transaction is to be centrally cleared this is agreed between the bilateral parties at the point of trade and is always a contingent requirement of the transaction. If the transaction is for any reason not subsequently matched at the CCP, the transaction is cancelled. At no point would the two bilateral parties contemplate the transaction outside of the CCP, and a decision to do so would represent a new transaction, leading to a cancellation and new trade being reported to the trade repositories.

In these scenarios the transaction will be instructed as soon as practicable to the CCP for matching. The CCP may be able to report a clearing timestamp for each transaction, but this information is not currently recorded by the parties. Therefore, if both the CCP and the borrower/lender (collateral giver/taker) is required to report this information, system development will be required and, in this instance, further connectivity created in order for the CCP to report back to the counterparty the clearing timestamp in order to ensure both parties (CCP and counterparty record the same time.

Further to discussion at the open hearing relating to this regulation on November 24th, a question was raised about compliance with the Short Selling rules if timestamps are not used in securities lending activity.

We would like to take this opportunity to highlight how, that when utilising securities lending in order to meet the obligations stated in the Short Selling Regulations ( (EU) No 236/2012), firms meet the requirements without timestamps.

Article 12 of the regulation allows an entity to enter into a short sale where one of the following conditions is fulfilled… *“i)has borrowed the share, ii) has entered into an agreement to borrow a share or iii) a third party has confirmed the share has been located and has taken measures to have reasonable expectation that settlement can be effected*”

Paragraph 2 states “*The arrangements, confirmations and instructions will typically be provided in the form of letters, emails recorded telephone conversations and other durable media* …”.

Firms rely on oral or written confirmations that the appropriate actions have been taken prior to executing the short sale.

This clearly illustrates that the short selling regulation does not rely on executed transactions, and therefore timestamps for proof of compliance. The use of confirmations, whether for locates or executed SFT’s are used.

SFT markets operate differently to derivative and security markets. Derivative markets, covered by EMIR have contractually specified dates and amounts (settlement/value, maturity, no. of securities) that are legally considered binding by all counterparties and participants, and deviation from the agreed amounts and dates only occurs in exceptional circumstances. For these markets, aggregation on the basis of the contractual details of individual transactions will produce an accurate overall picture of overall counterparty position and risk in the market. This is not the case in most SFT markets. Contractual details may only represent the availability of a lending/borrowing possibility, or the approximate intentions of the counterparties. Contractual details are generally subject to change at any time – also after the contractually projected dates. Consequently, aggregation on the basis of the contractual details of individual SFT transactions will not produce an accurate overall picture of overall counterparty position and risk in the market. This can only be obtained by the reporting of the lending/borrowing and collateral positions.

<ESMA\_QUESTION\_SFTR\_10>

1. Do you agree with the proposed report types and action types? Do you agree with the proposed combinations between action types and report types? What other aspects need to be considered? Please elaborate.

<ESMA\_QUESTION\_SFTR\_11>

We recognise that ESMA have received varying opinions about the utilisation of Action types and have attempted to reach a compromise. We recognise the value of aligning the approach to EMIR and to base reporting on action types. However, our members still believe it is unnecessary to have more than one action type when reporting modifications and that having more than one will lead to significant increases in data requirements. We believe that by having one action type to cover “business modifications” and “other modification” would be simpler for the market to apply and reduce the number of mismatching errors.

From a market perspective it will be more efficient and cost effective to report all changes to a single transaction under one action type and in one line of reporting data. Submitting a single modification report for all modifications occurring during the business day would be an extremely welcome simplification of the operational process, particularly in view that reporting entities will already have to implement a complete system of daily valuation updates solely for the reporting purpose and distinguish these from actual trade modifications.

Using the same terms for both repo and securities lending transaction will create confusion as the definition will be interpreted differently for each product. We therefore suggest that ESMA adopt distinct terms for each type of SFT.

<ESMA\_QUESTION\_SFTR\_11>

1. The modifications of which data elements should be reported under action type “Modification of business terms”? Please justify your proposals.

<ESMA\_QUESTION\_SFTR\_12>

Notwithstanding our response to Q11, if modifications are to be made under two action types, ESMA need to clarify exactly which activity types are reportable under each.

It should be noted that often a number of fields will be amended at the same time (for example a fee rate may change because a change in term is agreed). Therefore, it is assumed that all amendments made during a business day can be reported as one amendment and that there is not a requirement to provide separate reports for each aspect of a trade that may be amended

We note that the table provides as an example of an amendment to the price of the security. Our members do not believe that market price is a relevant modification of business terms. The price of the security is only used for the purposes of risk mitigation (through collateralisation) and is accessed daily for the purposes of calculating exposures but not generally stored in systems. The relevant “price” for SFT is the loan price. This is the price agreed at execution that fees are calculated on and that is amended periodically when counterparties agree to mark to market. Our members believe this is a relevant field to be included as a modification to business terms action type as described above.

<ESMA\_QUESTION\_SFTR\_12>

1. The modifications of which data elements should be reported under action type “Other modification”? Please justify your proposals.

<ESMA\_QUESTION\_SFTR\_13>

Please refer to our response to Q11 and Q12.

<ESMA\_QUESTION\_SFTR\_13>

1. Do you agree with the revised proposal to use the terms “collateral taker” and “collateral giver” for all types of SFTs?

<ESMA\_QUESTION\_SFTR\_14>

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The terms collateral taker and giver for securities lending trades may lead to misleading reporting.

For example, a firm may borrow securities to cover a settlement obligation, and provide cash collateral for 105% of the value of the loan and under the proposed definitions would be classified as a collateral giver. However, the same firm may agree to finance the same securities and provide only 98% value of the securities in cash. In this scenario, it is less clear whether the firm providing cash is classified as the collateral giver or taker, and both parties could interpret themselves as either definition.

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In consultation with our members, we would therefore propose that ESMA adopt distinct terms for different types of SFT transactions: the terms “borrower” and “lender” rather than collateral taker and giver for securities lending and “buyer” and “seller” for repo transactions. This would clearly align with the legal status of the parties to the transaction under the legal document.

We would assume that using distinct terms for different types of SFTs should be relatively easy to achieve given the division of reporting by instrument type and note that this would of course not prevent ESMA (or the relevant TR) from itself mapping these distinct terms, across the different types of SFTs, into a consolidated item.

<ESMA\_QUESTION\_SFTR\_14>

1. Are the proposed rules for determination of the collateral taker and collateral giver clear and comprehensive?

< ESMA\_QUESTION\_SFTR\_15> >

Please see response to Q14

<ESMA\_QUESTION\_SFTR\_15>

1. Are you aware of any other bilateral repo trade scenario? Are there any other actors missing which is not a broker or counterparty? Please elaborate.

<ESMA\_QUESTION\_SFTR\_16>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_16>

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\_17>

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<ESMA\_QUESTION\_SFTR\_17>

1. Are the most relevant ways to conclude a repo trade covered by the above scenarios? Are the assumptions correct? Please elaborate.

<ESMA\_QUESTION\_SFTR\_18>

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<ESMA\_QUESTION\_SFTR\_18>

1. Are the most relevant ways to conclude a securities lending transaction covered by the above scenarios? Are the assumptions correct? Please elaborate.

<ESMA\_QUESTION\_SFTR\_19>

Securities lending scenario 1 – Bilateral securities lending trade. This scenario is correct although it is not the most used structure in the market as stated in paragraph 152. It should also be noted that in this scenario it is still common to utilise a tri-party agent for collateral purposes. Our analysis suggests that over 90% of non-cash collateral is managed by tri-party agents and this is not dependent on the trade scenario. Therefore, we believe that reporting field for tri-party agent will still require populating.

Securities lending scenario 2 – Bilateral securities lending trade with agency intermediary. This scenario is partially correct. It is unclear to our members who the box Broker/Agent is intended to be )please also see our comments in answer to Q6)

The Agent lender facilitates the transactions between two counterparties who are the principals to the transaction and, where most commonly, one counterparty is a beneficial owner of securities and the other is a financial institution. This may be on a one to one basis or a many to one, (as shown in the scenario) but it should be noted that in this scenario the agent is facilitating the transaction. However the explanation provided in respect of reporting obligations is correct.

Equally, we do not agree with the proposal that the agent lender should be defaulted into the counterparty field as this misrepresents the underlying transaction and may create a misinterpretation of the industry risk profile.

Securities Lending Scenario 3 – Securities lending trade with principal intermediary. This scenario is incorrect in two ways. Firstly it is technically incorrect to refer to counterparty 3 (the principal intermediary) as a lending agent. Whilst this entity may also act as an agent in other transactions, in this trade scenario they are acting as a principal to the transaction. Secondly, it is incorrect to link the transactions with counterparty 1 and 2 to the transaction with counterparty 4. Whilst the principal intermediary may act as borrower (collateral giver) to one and lender (collateral taker) to the other, these transactions are not legally linked. It is our understanding that in this case the principal intermediary would report separate transactions,

Securities lending Scenario 4 – Securities Lending CCP model under development. This scenario does not consider the direct CCP access model which is in development and it is not clear what purpose the “broker” plays in the scenario. It should be noted that other models may be developed by CCPs in the future but the following flowchart illustrates the CCP model currently being developed.

Flow without Agent Lender



Flow with Agent Lender



We note the requirement to report a transaction which is intended for central clearing as a bilateral transaction and then report an amendment when the transaction has been accepted by the CCP. With reference to our response in Question 10, if a transaction is agreed for settlement through central clearing, the transaction will be contingent on this, and if for some reason this is not able to happen the transaction will be cancelled, not settled bilaterally.

When the transaction is agreed both counterparties will be considering similar factors which are directly impacted by the chosen settlement method (bilaterally or centrally cleared) such as capital costs, single counterparty credit limits, cost of settlement. The financial terms of a transaction will be agreed on the basis of the CCP novation and therefore the transaction will not go ahead unless these terms, including novation, are met. Indeed, it may be the case that the transaction is agreed between counterparties who do not have bilateral agreements in place and who are relying on the novation process to make the transaction viable at all. In this case to report a bilateral trade would be misleading.

Equally, if one party to the transaction enters into an event of default prior to the transaction being novated and matched at the CCP, then the transaction will be cancelled. Under no circumstances would the party require the transaction to proceed bilaterally.

This means that these transactions are never booked as bilateral transaction for an initial period of time and instead would be booked and instructed to the CCP. In general it is expected the transaction will be sent to the CCP within minutes of being booked and authorised on internal systems, and the CCP is expected to match the transaction within minutes.

<ESMA\_QUESTION\_SFTR\_19>

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\_20>

It will be very difficult to link the 8 reports to constitute the “principal clearing model” with the CCP design for securities lending transactions as this would require a single UTI across the 8 reports.

From the CCP perspective linking would also be very difficult. The CCP would only be able to report against the clearing member who is disclosed to the CCP (ref paragraph 212 ).

<ESMA\_QUESTION\_SFTR\_20>

1. In the case of securities lending transactions are there any other actors missing?

<ESMA\_QUESTION\_SFTR\_21>

Subject to the clarifications requested in our answer to question 14, we believe that all actors have been described.

<ESMA\_QUESTION\_SFTR\_21>

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\_22>

Securities lending transactions are transacted initially at an agreed market price, and undergo a mark to market on a pre agreed timeframe through-out the lifecycle of the transaction. It is the loan price and loan valuation that are the most commercially relevant terms and are subject to daily contract compare requirements.

Close of business market prices are used for the purposes of collateralisation, but not generally recorded in internal systems against the individual transaction. For this purpose market valuations are converted to a base currency using a pre agreed FX rate and this occur weekly or more frequently. It should be noted that the utilisation of different price feeds may lead to minute differences in market process, FX rate and subsequent valuations.

Even if it were possible through significant system development to maintain records of daily prices, different price sources will lead to differences between market participants,. Market price can be recorded to 5 decimal places for some securities and using different pricing source can lead to minute differences in valuations. This means that each counterparty is likely to have different pricing and market valuations for transactions in the same security, which is currently managed by the market utilising tolerance levels across the portfolios of transactions, but means that regulators will not be able to make comparisons easily. Equally market participants are subject to contracts with price providers which restrict their ability to extend this information to third parties, so may not be able to provide this data under current commercial arrangements.

Our members believe it would be far more efficient and effective if regulators source a market pricing source directly rather than rely on variable market prices from market participants. Alternatively, the role of pricing and valuation could be given to the trade repositories. This would mitigate the risk of mismatching and ensure a consistent pricing source. Otherwise, if these fields are sourced from reporting entities and require matching by the TRs with no tolerance as proposed in paragraph 365, this is very likely to create reconciliation breaks on virtually every transaction.

<ESMA\_QUESTION\_SFTR\_22>

1. Do you agree with the proposal with regards to reporting of uncollateralised SFTs? Please elaborate.

<ESMA\_QUESTION\_SFTR\_23>

In securities lending uncollateralised transactions are rare and therefore we do not foresee any issues with the proposals regarding the reporting of these transactions.

<ESMA\_QUESTION\_SFTR\_23>

1. Do you agree with the proposal with regards to reporting of SFTs involving commodities? Please elaborate.

<ESMA\_QUESTION\_SFTR\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_24>

1. Are there any obstacles to daily position reporting by margin lending counterparties? Do prime brokers provide information to their clients about intraday margin loans?

<ESMA\_QUESTION\_SFTR\_25>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_25>

1. Which kind of guarantees or indemnifications exist in relationship to prime brokerage margin lending? Are there other parties possibly involved in a margin loan? Please provide an example.

<ESMA\_QUESTION\_SFTR\_26>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_26>

1. What types of loans or activities, other than prime brokerage margin lending, would be captured in the scope of margin lending under the SFTR definition? Please provide details on their nature, their objective(s), the execution and settlement, the parties involved, the existing reporting regimes that these may already be subject to, as well as any other information that you deem relevant for the purpose of reporting.

<ESMA\_QUESTION\_SFTR\_27>

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<ESMA\_QUESTION\_SFTR\_27>

1. Are there any obstacles to the collection of data on the amount of margin financing available and outstanding margin balance? Are there any alternatives to collect data on “Free credit balances”, as required by the FSB? Please provide an example.

<ESMA\_QUESTION\_SFTR\_28>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_28>

1. Are there any obstacles to the reporting of (positive or negative) cash balances in the context of margin lending?

<ESMA\_QUESTION\_SFTR\_29>

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<ESMA\_QUESTION\_SFTR\_29>

1. Are data elements on margin financing available and outstanding balances relevant for margin loans outside the prime brokerage context? Please provide examples.

<ESMA\_QUESTION\_SFTR\_30>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_30>

1. Is the short market value reported to clients at the end of the day part of the position snapshot? What is the typical format and level of granularity included in the information communicated to clients?

<ESMA\_QUESTION\_SFTR\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_31>

1. Is the data element on short market value relevant for margin loans outside the prime brokerage context? Please provide examples.

<ESMA\_QUESTION\_SFTR\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_32>

1. Do you agree with the proposed structure of the SFT reports? If not, how you would consider that the reporting of reuse and margin should be organised? Please provide specific examples.

<ESMA\_QUESTION\_SFTR\_33>

Our members agree with the proposed structure for the reports and the grouping of the data into four subsets.

However the new proposals to capture cash re-investment information should be considered separately to re-use data so we would propose this is clearly defined as a separate data group.

For the avoidance of doubt, we would like ESMA to confirm that when populating collateral data there is no requirement to populate loan data fields in the same report, as this would not be feasible where loans are not collateralised at trade level. As ESMA have acknowledged, it is not possible to link loans to specific collateral in many cases.

<ESMA\_QUESTION\_SFTR\_33>

1. What are the potential costs and benefits of reporting re-use information as a separate report and not as part of the counterparty data? Please elaborate.

<ESMA\_QUESTION\_SFTR\_34>

The reporting of re-use information is one of the most complex aspects of the SFTR requirements because the data required is usually held across a number of systems, so this report will require significant system development. Therefore our members support the proposal to provide this data in a separate report

Counterparty data will be consistent across all reports whereas re-use data will vary across SFT types. We support the proposal that re-use data should be reported at ISIN level rather than trying to link it back to specific SFTs, and it therefore is more logical that the report should be separate to counterparty data

We note in the .xls attached that fields 83 and 84 of the loan and collateral data appear to be attempting to link collateral re-use back to specific SFT’s which ESMA have already acknowledges is not possible, so we have requested these fields are omitted from the loan and collateral data reports and, if still required, added to the reuse data reports.

<ESMA\_QUESTION\_SFTR\_34>

1. What are the potential costs and benefits of reporting margin information as a separate report and not as part of the counterparty data? Please elaborate.

<ESMA\_QUESTION\_SFTR\_35>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_35>

1. Are there any fields which in your view should be moved from the Counterparty to the Trade-related data or vice-versa? If so, please specify the fields clarifying why they should be moved.

<ESMA\_QUESTION\_SFTR\_36>

In general, we agree with the distribution of data fields across the various reports, however we do have some specific comments relating to specific fields which we have detailed in the attached .xls file

<ESMA\_QUESTION\_SFTR\_36>

1. Is Triparty agent expected to be the same for both counterparties in all cases? If not, please specify in which circumstances it can be different.

<ESMA\_QUESTION\_SFTR\_37>

In most cases the tri-party agent is the same for both counterparties to a securities lending transaction. However this is not always the case and where there is interoperability between arrangements between the triparty agent, counterparties may have different triparty agents. Whilst this is a minority case at the current time it should be noted that there are ongoing initiatives between triparty agent to increase levels of interoperability.

<ESMA\_QUESTION\_SFTR\_37>

1. Do you agree with the proposed fields included in the attached Excel document? Please provide your comments in the specified column.

<ESMA\_QUESTION\_SFTR\_38>

Please see the detailed comments in the attached ,xls file.

<ESMA\_QUESTION\_SFTR\_38>

1. Do you agree with the proposal to identify the country of the branches with ISO country codes?

<ESMA\_QUESTION\_SFTR\_39>

Whilst our members would prefer to use LEI codes for branches, we recognise these may not be available before the SFTR reporting requirements are imposed. Therefore we agree that that using ISO country codes is an acceptable alternative in line with current EMIR requirements. However we would like ESMA to consider also accepting LEI codes when these become available.

<ESMA\_QUESTION\_SFTR\_39>

1. Do you agree with the proposed approach with regards to the reporting of information on beneficiaries? If not, what other aspects need to be considered? Please elaborate.

<ESMA\_QUESTION\_SFTR\_40>

We are concerned about ESMA’s consideration for sub-funds. Whilst they can be considered beneficiaries to the trade (ie the benefits of the transaction are received at sub-fund level) we believe the reporting should be provided at the level where the risk is held and we believe this is the intention of ESMA, however further clarification of this is required.

Umbrella funds with sub-funds that are ring fenced under a statutory instrument and where the default risk is at the sub fund level will have LEI’s and will be reported at this level in the counterparty field.  If the sub-fund is just a contractually ring fenced pool of assets and therefore has no LEI then we assume the umbrella fund is the counterparty as in that situation, that would be where the legal risk sits.  In that situation, the sub fund may be reported in the beneficiary field but not otherwise.

Paragraph 214 refers to where the transaction is concluded and in most cases this will be sub-fund level, in order to ensure that the benefits are recorded at this level even when the default risk is at the umbrella level. Providing an LEI for the sub-fund as a beneficiary adds additional costs in obtaining these but does not provide the regulator with any information which is useful or helpful in monitoring systemic risk, as this risk is held at the umbrella fund level, which is identified as the counterparty.

<ESMA\_QUESTION\_SFTR\_40>

1. Would exempting CCPs from reporting the Report Tracking Number field would reduce the reporting burden on the industry.

<ESMA\_QUESTION\_SFTR\_41>

We agree with the proposal to exempt the reporting of the Report Tracking Number field. Moreover, further to our response to question 14, we do not believe a prior UTO will be created for CCP agreed transactions as it is not viable to report a transaction as a bilateral trade which is contingent on novation to a CCP as a bilateral transaction. Therefore the initial UTI is likely to be created by the CCP on completion of the matching process and reported back to the counterparty to allow for SFTR reporting purposes.

<ESMA\_QUESTION\_SFTR\_41>

1. Could you please provide information on incremental costs of implementing the proposal, taking into account that systems will have to be changed to implement the SFTR reporting regime in general?

<ESMA\_QUESTION\_SFTR\_42>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_42>

1. Could you please provide views on whether you would prefer Alternative 1 (prior-UTI) over Alternative 2 (relative referencing solution)? Please provide relative costs of implementing both proposals.

<ESMA\_QUESTION\_SFTR\_43>

With reference to our response in Q41, the provision of a UTI created bilaterally, to the CCP for onward reporting and linking will not be feasible. As explained the transaction will only be agreed as contingent on central clearing, and consequently recorded immediately as a transaction with the CCP. If for any reason the CCP does not accept the transaction for clearing the transaction will become obsolete.

<ESMA\_QUESTION\_SFTR\_43>

1. Do you agree with the above rules for determining the entity responsible for the generation and transmission of the UTI? If not what other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_44>

We welcome ESMA’s intention to provide clarity for determining the entity responsible and believe this is a helpful flowchart. However we note that the application of Figure 1 – UTI generation flow chart means that the creation of UTI0 in paragraph 226 is not applicable.

According to the flowchart, the CCP will be responsible for creating a single UTI which will be used through-out the lifecycle of the transaction. This is how the market believes the process should work.

It should be noted that where a CCP provides a backload functionality to novate existing transactions to a centrally cleared regime, the CCP will provide new UTIs which will replace the prior UTI and this will generate a modification amendment report from the bilateral counterparties.

<ESMA\_QUESTION\_SFTR\_44>

1. Do you agree with the logic and framework for reporting of margins for CCP-cleared SFTs? What other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_45>

We believe that the model as described is generally acceptable. Both counterparties typically deliver margin collateral to the CCP. It’s also true that this margin collateral is independent of the trade collateral which is exchanged between Borrower and Lender.

However, the remark with regards to Variation Margin is not correct as Variation Margin is a term in centrally cleared business which is linked to Derivatives business only. It’s important to note that there is no 1:1 relationship between margin collateral and a dedicated loan, as the margin collateral covers all activities of the clearing member with the CCP.

<ESMA\_QUESTION\_SFTR\_45>

1. Would you agree with the definition of terms? If not, please explain.

<ESMA\_QUESTION\_SFTR\_46>

In general we agree with the definitions although it should be noted that;

248a should be clarified by including a reference that the collateral “pool” is a range of securities in a securities account that can be used to collateralise any given set of current of future transactions *across any number of counterparties.*

248b states that collateral schedule means a list of securities agreed to be eligible for delivery against a given SFT. Collateral basket or Collateral schedule are more accurately described as a list of criteria that securities should meet in order to be eligible for delivery against a given set of current or future transactions.

Generally a transaction will be grouped against a given collateral basket of schedule (this could be just one transaction or many) or if to be collateralised on a one to one basis the collateral is generally agreed at the point of execution on a named security basis.

<ESMA\_QUESTION\_SFTR\_46>

1. Are the cases for which collateral can be reported on trade level accurately described? If not, please explain.

<ESMA\_QUESTION\_SFTR\_47>

We believe that the cases are accurately described.

<ESMA\_QUESTION\_SFTR\_47>

1. In addition to the exceptions listed above, when would the collateral for a repo trade that does not involve a collateral basket not be known by the reporting deadline of end of T + 1?

<ESMA\_QUESTION\_SFTR\_48>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_48>

1. Could the counterparties to a CCP-cleared cash rebate securities lending trade report an estimated value for the cash collateral in the markets in which the CCP calculates the initial cash value on the intended settlement date? If not, please explain.

<ESMA\_QUESTION\_SFTR\_49>

The initial cash value for cash collateral will be the current market value of the transaction which can be derived from the current price of the security. Notwithstanding our comments re this being data that regulators are able to source themselves, we do not believe it is necessary to further report this valuation.

<ESMA\_QUESTION\_SFTR\_49>

1. Are the cases for which collateral would be reported on the basis of the net exposure accurately described? If not, please explain.

<ESMA\_QUESTION\_SFTR\_50>

We agree with the definitions provided in paragraph 252. However it should be noted with reference to 252.d. that the transactions through a CCP are not included into the calculation of bilateral net exposures because the counterparty to these transactions is the CCP, not the counterparty which you may or may ot have bilateral exposures with. Whilst the statement is correct, we believe that it is important to recognise there is no bilateral relationship or contract for a transaction which is centrally cleared.

Equally the statement 252.c. should be expanded to include state “…securities lending trades collateralised through securities” *and cash pool*

<ESMA\_QUESTION\_SFTR\_50>

1. Is the understanding of ESMA correct that CCP-cleared trades are excluded from the calculation of net exposures between two counterparties? If not, please explain.

<ESMA\_QUESTION\_SFTR\_51>

Please see our response to question 50. It is correct that these calculations are excluded but this is because no legal relationship exists between counterparties when the trade has been novated to a CCP. This is a fundamental requirement of CCPs.

<ESMA\_QUESTION\_SFTR\_51>

1. Is the assumption correct that the counterparties can report the assets available for collateralisation in the collateral portfolio for margin lending with the balance of the outstanding loan? If not, please explain.

<ESMA\_QUESTION\_SFTR\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_52>

1. Are you aware of any scenarios that would require at the end of day the reporting of cash not only as principal amount, but also as cash collateral for repos? If yes, please describe.

<ESMA\_QUESTION\_SFTR\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_53>

1. Would you foresee any specific challenges in implementing the proposed logic for linking? If yes, please explain.

<ESMA\_QUESTION\_SFTR\_54>

We believe that the logic proposed is generally feasible. However it should be noted that collateralisation occurs based on actual settlement rather than intended settlement. This means that linking trade and collateral reporting based on an intended settlement date may lead to the reports suggesting over and under collateralisation due to failing settlements captured in the trade reporting.

Equally, some lenders (collateral takers) may require collateral to be pre-paid, ie delivered before the loan transaction is released for settlement. In this situation collateral may have a value date earlier than the loan transaction and lead to misleading reports.

<ESMA\_QUESTION\_SFTR\_54>

1. In which case would counterparties need to provide a bilaterally agreed unique code to for linking trades to collateral? If yes, please explain.

<ESMA\_QUESTION\_SFTR\_55>

A bilaterally agreed code may be required if fully bespoke bilateral agreements are in place but this is rare in securities lending. Also the lead time for preparation of these type of agreements is likely to be relatively long time which would be sufficient to propose and obtain agreement from national regulators prior to use.

<ESMA\_QUESTION\_SFTR\_55>

1. Is there a case where more than one bespoke bilateral agreement is concluded between two counterparties?

<ESMA\_QUESTION\_SFTR\_56>

This is very unlikely to be the case for securities lending transactions and we are unaware of any examples. However, it is feasible and should be considered. Bespoke master agreements may exist for different transactions types (securities lending, repo etc.) analogous to industry standard agreements However it is feasible and should be considered.

<ESMA\_QUESTION\_SFTR\_56>

1. Is it possible, for a pair of counterparties to have more than one master agreement or more than one bespoke agreement per SFT type? In these cases, please specify, how these agreements are identified between the counterparties? Please provide examples.

<ESMA\_QUESTION\_SFTR\_57>

It is entirely possible for two firms to transact securities lending under more than one master agreement. This may occur where different departments within a large firm, and representing a single LEI, transact and wish to distinguish their respective transactions, or for accounting purposes. In this situation the master agreements could be identified using the agreement date (which is extremely unlikely to be the same for both). This data could be populated in field 10

<ESMA\_QUESTION\_SFTR\_57>

1. How costly would it be for your firm to report individual securities? If possible, please provide a quantitative estimation of the costs.

<ESMA\_QUESTION\_SFTR\_58>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_58>

1. Would the reporting of outstanding balances by asset class facilitate reporting? How costly would it be for your firm to develop and implement such a reporting? If possible, please provide a quantitative estimation.

<ESMA\_QUESTION\_SFTR\_59>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_59>

1. Are there other obstacles to collecting position-level data on funding sources for each prime broker? If this is the case, please provide an example, and whether there is a viable alternative.

<ESMA\_QUESTION\_SFTR\_60>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_60>

1. What type of information or guidance would be required in order for funding sources to be reported consistently across all reporting counterparties?

<ESMA\_QUESTION\_SFTR\_61>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_61>

1. Can data elements on funding sources be reported for margin loans outside the prime brokerage context? Please provide examples.

<ESMA\_QUESTION\_SFTR\_62>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_62>

1. How are portfolio leverage ratios calculated? Please provide an example of the formulas typically used.

<ESMA\_QUESTION\_SFTR\_63>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_63>

1. What are the potential costs of providing the re-use data as outlined in this section? Are there other options to link collateral that is re-used to a given SFT or counterparty? Please document the potential issues. Please elaborate.

<ESMA\_QUESTION\_SFTR\_64>

We do not believe that linking re-sue to a given SLT or counterparty will be feasible for most firms under current industry standard collateral management practices. Consequently, we believe this would not be feasible without significant costs and changes in standard practices.

<ESMA\_QUESTION\_SFTR\_64>

1. Would it be easier to report collateral re-use in a separate message as proposed or, it will be better repeating the information as part of the counterparty data?

<ESMA\_QUESTION\_SFTR\_65>

Please refer to our response to question 34

:<ESMA\_QUESTION\_SFTR\_65>

1. Would the effort of reporting re-use on a weekly or monthly basis reduce significantly the costs?

<ESMA\_QUESTION\_SFTR\_66>

There is significant cost in building the reporting requirements for collateral re-use as discussed in our response to question 34. Once the report is developed, most costs incurred will be based on the volume of data reported and we are concerned about the volume of data re-use reporting will require. We believe that the frequency of reporting should be monthly for this reason and believe that monthly will be sufficient for regulators as there is unlikely to be significant changes in the data on a weekly basis.

<ESMA\_QUESTION\_SFTR\_66>

1. Are there cash re-investment programmes for agent lenders acting as principal?

<ESMA\_QUESTION\_SFTR\_67>

Where a firm acts as an agent lender to facilitate securities lending transactions, it will not act as principal for the cash re-investment process for these transactions. The agent lender may facilitate the cash re-investment, but this would also be undertaken in an agent capacity and may be done on behalf of an individuvidul lender or on a pooled basis for a group of lenders.

<ESMA\_QUESTION\_SFTR\_67>

1. Do you agree that the term type and the way maturity is measured (e.g. weighted average maturity) are appropriate elements for the purpose of monitoring potential liquidity risks from maturity mismatch between the securities loan and the reinvestment of cash collateral? Are there other elements you believe ESMA should consider collecting? Do you see any obstacles to the reporting of these elements, or their analysis? Please explain.

<ESMA\_QUESTION\_SFTR\_68>

The reporting of cash re-investment data is a new aspect of SFTR and we do not believe requirements have been fully considered. We agree that Weighted Average Maturity (WAM)is an appropriate measure for monitoring maturity mismatch and indeed this is the most common measure used by the market. However, is should be noted that for certain vehicles such as registered money market funds, the WAM provided to the investor may be a maximum WAM rather than an actual WAM so this data field should be considered to be indicative

The term cash re-investment needs to be clearly defined and we believe should exclude transactions in the repo market as these will be captured as separate transactions under the loan and collateral data and so risk being double-counted. Equally, consideration should be given to cash re-investment via registered money market funds or other co-mingled pools as these too may include a significant amount of repo activity which will be captured elsewhere in the reporting requirements of the re-investment vehicle entity, but that the reporting entity may be unable to identify separately.

We note that the requirements are detailed in the re-use report and believe this is misleading and that cash re-investment data should be represented in a separate report. Equally we believe that the fields defined in the re-use data file are incorrectly labelled for cash re-investment (the report suggest fields 10 to 12 are required but we believe this should read fields 9 to 12.

We also note that there is a requirement to provide an average return on cash re-investment but highlight that when using a registered money-market fund this may not be available at the time of reporting as it is provided in arrears by the money-market funds.

We have further concerns about the specific data fields required and these are included in the attached spreadsheet.

<ESMA\_QUESTION\_SFTR\_68>

1. What is the methodology your firm uses to compute the weighted-average life and maturity of cash collateral portfolios? Do you expect this methodology to vary significantly across firms?

<ESMA\_QUESTION\_SFTR\_69>

We are unable to comment on firm specific methodology or to the extent that it varies across firms

<ESMA\_QUESTION\_SFTR\_69>

1. Do you agree with the proposed approach? What other aspects need to be taken into account? Pleas elaborate.

<ESMA\_QUESTION\_SFTR\_70>

We do not believe that collecting data on collateral re-use is appropriate as part of the loan and collateral data as this would imply that there is an attempt to link re-use to specific SFT’s which ESMA have acknowledged as not feasible.

Furthermore, consideration needs to be given where the legal right and the practicalities of doing so are different. For example a lender (collateral taker) in securities lending may hold collateral securities at a triparty agent. Whilst they have a legal right to re-use these assets, the practicalities of triparty mean they are unable to do so.

Equally, consideration should be given to lenders (collateral takers) who are unable to re-use collateral due to regulatory or legal constraints, not only contractual.

It should also be noted that it cannot be assumed that all collateral which is reported as being available for re-use is actually being re-used.

<ESMA\_QUESTION\_SFTR\_70>

1. Do you agree with the proposed approach? Please elaborate.

<ESMA\_QUESTION\_SFTR\_71>

We welcome ESMA’s proposed approach and believe this will assist the market in the delivery of accurate data whilst providing the regulators with enough information to meet its objectives.

<ESMA\_QUESTION\_SFTR\_71>

1. Do you agree with the proposed approach with regards to reporting of master agreements? What other aspects need to be considered? Please elaborate.

<ESMA\_QUESTION\_SFTR\_72>

Whilst we agree with the proposed approach, some members commented on paragraph 330. It should be noted that counterparties will sometimes adopt specific sections of updated master agreements by mutual agreement or protocol rather than entering into a process of replacing existing agreements through a potentially lengthy and expensive legal process. Assumptions cannot be made based only on the type and version of the Master agreement.

An example of this is the adoption of GMSLA 2000 and/or 2010 version default procedures into the OSLA 1995 Master agreement from 2009 onwards, via a protocol which some counterparties chose to sign. This means regulators would be unable to assume the post default provisions (and specifically timeframes) for an OSLA 1995, as this would depend on whether the protocol has been signed

<ESMA\_QUESTION\_SFTR\_72>

1. Do you agree with the proposed approach with regards to reporting of method of trading? What other aspects need to be considered? Please elaborate.

<ESMA\_QUESTION\_SFTR\_73>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_73>

1. In your view, what information on the nature of the indemnification (guarantee of the value, replacement of the securities, etc.), relevant for the monitoring of financial stability in relation to indemnifications could be reported? What type of data would be reported for each of the suggested elements reported e.g. values, percentages, other? Please elaborate.

<ESMA\_QUESTION\_SFTR\_74>

Given the diversity and levels of liabilities covered by indemnification it is difficult to see how standardised reporting will provide accurate information to regulators without increasing the risk of misinterpretation. We do not believe that even introducing a series of standardised codes will accurately be able to reflect the diversity of indemnification.

Indemnifications will vary across all providers (and will cover different levels of loss, depending on the context in which they may materialise). Some indemnifications will cover all losses under any circumstances whilst others may limit the level of liability, or the circumstances under which the indemnification can be invoked. It may be the case that indemnification is provided to the lending entity at LEI, sub-fund or even individual investor level within some fund structures. Equally the way in which the agent lender supports the indemnifications offered will differ, most commonly this will be either with capital or a third party insurance arrangement. As these are bi-laterally agreed between agent lender and lender (collateral taker), no two are the same and indeed an agent lender may indemnify different clients on different terms. The terms and conditions of any indemnification will be agreed with the lender (collateral taker) at the outset of any relationship and re-visited on a regular basis. Due to the varied nature of these arrangements we do not believe it is feasible to define a series of fields that will capture all indemnifications accurately.

Given the diversity and levels of liabilities covered by indemnification it is difficult to see how standardised reporting, will provide accurate information to regulators that doesn’t increases the risk of misinterpretation. Even the introduction of a series of standardised codes will be complex and virtually impossible to formulate in sufficient granularity.

It should also be noted that the provision of indemnification by agent lenders is a commercially sensitive action and it is not generally disclosed to borrowers whether indemnifications are in place for specific trades or LEI’s trades.

The risk of securities lending is between borrower (collateral giver) and lender (collateral taker). Most commonly indemnifications are provided to the lender by their agent as an additional level of protection, and do not change the level of collateralisation. All indemnification providers are required to make contingency in case of the need to support any indemnification and this is done via capital or ICAAP requirements which are already tracked and monitored by national regulators. In order to meet the objectives of SFTR we do not believe there is a further need to capture indemnification levels.

<ESMA\_QUESTION\_SFTR\_74>

1. Do you agree with the proposed structure of the validation rules? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_75>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_75>

1. Do you agree with the proposed scope of the reconciliation process? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_76>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_76>

1. Do you consider that the proposed framework for collateral reconciliation process should take place in parallel with the reconciliation of the loan data? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_77>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_77>

1. Do you agree with the use of ISO 20022 for the purposes of ensuring common format and common encoding of files exchanged between TRs during the inter-TR reconciliation process? If not, what other common standard would you propose?

<ESMA\_QUESTION\_SFTR\_78>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_78>

1. Do you agree with standardising the timeline for finalisation of the inter-TR reconciliation process? Do you agree with the proposed timeline for finalisation of the inter-TR reconciliation process? If not, what would be a most appropriate timeline? What other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_79>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_79>

1. Do you agree with the fields proposed for reconciliation? Which other should be included, or which ones should be excluded? Please elaborate.

<ESMA\_QUESTION\_SFTR\_80>

We have significant concerns about the number of fields required to be matched, their appropriateness, and the proposed tolerances proposed, all of which we believe will have a significant detrimental effect on the markets ability to meet the reporting requirements.

For a number of fields, it is difficult to see how a reconciliation will occur as the information will be one sided – such as the first field listed in paragraph 365: Reporting counterparty. It is unclear what data this will be reconciled to. The same concerns apply to a number of the reconciliation fields.

We are equally concerned about the number of required matching fields and believe this will have a detrimental impact on the number of transactions successfully matched by the TRs. We believe matching requirements should be restricted to only the fields that have an economic impact on the transaction.

Further comments on specific fields are detailed in the attached .xls file.

<ESMA\_QUESTION\_SFTR\_80>

1. Do you agree with the proposed tolerance levels? Which other tolerance levels would you suggest? Please elaborate.

<ESMA\_QUESTION\_SFTR\_81>

With reference to our response to Q80, we believe that greater tolerances should be applied to a number of fields which have no impact on the economics of the trade in order to reduce the number of mismatches.

We recommend that ESMA engage with the existing contract compare vendors in the securities lending market who will be able to provide objective insights into realistic tolerances.

<ESMA\_QUESTION\_SFTR\_81>

1. What other fields are suitable for establishing tolerance levels? What should be the tolerance level for those fields? Should the tolerance level be linearly or logarithmically related to the values? What other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_82>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_82>

1. Do you agree with the proposed logic for rejections messages? Do you agree with the proposed statuses of rejection messages? What other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_83>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_83>

1. Do you agree with the proposed reconciliation statuses? What other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_84>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_84>

1. Do you agree with the proposed end-of-day response to reporting counterparties, report submitting entities and entities responsible for reporting? What other information should be included? What are the potential costs of this information? Please elaborate.

<ESMA\_QUESTION\_SFTR\_85>

We agree with the proposal and believe this would be especially useful as it would allow complementary manual data quality processes to be implemented.<ESMA\_QUESTION\_SFTR\_85>

1. What other End-of-day reports can be provided to reporting counterparties, report submitting entities and entities responsible for reporting

<ESMA\_QUESTION\_SFTR\_86>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_86>

1. Do you agree with the proposed aggregation criteria? What other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_87>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_87>

1. Do you agree with the proposed technical aspects on aggregation of data? What other aspects should be taken into account?

<ESMA\_QUESTION\_SFTR\_88>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_88>

1. Do you agree with the proposed timeline for keeping the data available on the website? Please elaborate.

<ESMA\_QUESTION\_SFTR\_89>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_89>

1. At which point in time do you consider that the additional data elements regarding an SFT will be available for authorities? What are the potential costs of the inclusion of the above mentioned additional data elements? Please elaborate.

<ESMA\_QUESTION\_SFTR\_90>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_90>

1. What other data elements could be generated by the TRs and provided to authorities? Please elaborate.

<ESMA\_QUESTION\_SFTR\_91>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_91>

1. In case a preliminary reconciliation status report is provided, what elements it should include? Please elaborate

<ESMA\_QUESTION\_SFTR\_92>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_92>

1. Considering the proposed termination of the inter-TR reconciliation process at 18:00, when at the earliest can a TR submit the reconciled data to the authorities?

<ESMA\_QUESTION\_SFTR\_93>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_93>

1. What is the optimal delay for provision of SFT position-level reports? What are the potential costs of the generation of above mentioned position reports? What other reports would you suggest to be provided by the TRs? Please elaborate.

<ESMA\_QUESTION\_SFTR\_94>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_94>

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 containing 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\_95>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_95>

1. Do you agree with the proposal? What other aspects should be taken into account? Please elaborate.

<ESMA\_QUESTION\_SFTR\_96>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_96>

1. Do you agree with the proposed approach to avoid double counting? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_97>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_97>

1. Do you agree with the proposed approach for single access per authority irrespective of the number of responsibilities and mandates it has? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_98>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_98>

1. Do you agree with the proposed way to establish transaction level access to data reported under EMIR? What are the costs of establishing such a level of access? Please elaborate.

<ESMA\_QUESTION\_SFTR\_99>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_99>

1. Do you agree with the proposed way to establish transaction level access to data reported under SFTR? What are the costs of establishing such a level of access? Please elaborate.

<ESMA\_QUESTION\_SFTR\_100>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_100>

1. Do you agree with the proposed functional approach under EMIR? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_101>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_101>

1. Do you agree with the proposed territorial approach under SFTR? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_102>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_102>

1. Do you agree with the proposed levels of access do data reported by branches included in section 6.5? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_103>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_103>

1. Do you agree with the proposed levels of access do data reported by subsidiaries under EMIR included in sections 6.5.1 – 6.5.5? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_104>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_104>

1. Do you agree with the proposed levels of access data reported by subsidiaries under SFTR included in sections 6.5.1 –6.5.5? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_105>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_105>

1. Is there any possible way to ensure the access to TR data from the perspective of commodities? Please elaborate.

<ESMA\_QUESTION\_SFTR\_106>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_106>

1. Do you agree with the proposed access levels under SFTR for authorities competent for securities and markets? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_107>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_107>

1. Do you agree with the proposed access levels under SFTR for authorities supervising CCPs? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_108>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_108>

1. Do you agree with maintaining the current access levels under EMIR for ESCB issuer of the currency? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_109>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_109>

1. Do you agree with the proposed access levels under SFTR for ESCB issuer of the currency? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_110>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_110>

1. Do you agree with the proposed access levels under SFTR for authorities competent for takeover bids? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_111>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_111>

1. Do you agree with the proposed access levels under SFTR for ESMA and ESRB? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_112>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_112>

1. Do you agree with the proposed access levels under SFTR for ACER? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_113>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_113>

1. Do you agree with the proposed access levels under EMIR for EBA and EIOPA? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_114>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_114>

1. Do you agree with the proposed access levels under SFTR for EBA and EIOPA? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_115>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_115>

1. Do you agree with the proposed access levels under EMIR for ECB in carrying out its tasks within a single supervisory mechanism? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_116>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_116>

1. Do you agree with the proposed access levels under SFTR for ECB in carrying out its tasks within a single supervisory mechanism? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_117>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_117>

1. Do you agree with the proposed access levels under EMIR for national authorities competent for the prudential supervision under CRD IV and CRR which participate in the SSM? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_118>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_118>

1. Do you agree with the proposed access levels under SFTR for national authorities competent for the prudential supervision under CRD IV and CRR which participate in the SSM? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_119>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_119>

1. Do you agree with the proposed access levels under EMIR for national authorities competent for the prudential supervision under CRD IV and CRR which do not participate in the SSM? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_120>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_120>

1. Do you agree with the proposed access levels under SFTR for national authorities competent for the prudential supervision under CRD IV and CRR which do not participate in the SSM? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_121>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_121>

1. Do you agree with the proposed access levels under EMIR for national supervisory authorities under Solvency II? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_122>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_122>

1. Do you agree with the proposed access levels under SFTR for national supervisory authorities under Solvency II? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_123>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_123>

1. Do you agree with the proposed access levels under EMIR for national competent authorities under UCITS and AIFMD? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_124>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_124>

1. Do you agree with the proposed access levels under SFTR for national competent authorities determined under Solvency II? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_125>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_125>

1. Do you agree with the proposed access levels under EMIR for national resolution authorities? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_126>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_126>

1. Do you agree with the proposed access levels under EMIR for SRB? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_127>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_127>

1. Do you agree with the proposed access levels under SFTR for national resolution authorities? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_128>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_128>

1. Do you agree with the proposed access levels under SFTR for SRB? If not, what other aspects should be taken into account. Please elaborate.

<ESMA\_QUESTION\_SFTR\_129>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_129>

1. Are there any other aspects that need to be included in the procedure to be put in place by the trade repository? Please elaborate.

<ESMA\_QUESTION\_SFTR\_130>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_130>

1. Is there any additional information that needs to be included in the templates and tables? Please elaborate.

<ESMA\_QUESTION\_SFTR\_131>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_131>