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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>

TYPE YOUR TEXT HERE

<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>

Referring to the paragraph 42, REGIS-TR is of the opinion that the manner that the policies and procedures should be approved within the organisation is a corporate law matter and should then remain to an internal organisation / repartition of the powers among the different corporate bodies. The term of “board” needs to be clearly defined and the current proposal only considers a one-tier structure and will not be applicable for a two-tiers structure given the power granted by the law to a supervisory board for instance.

<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>

As previously mentioned in the response to the question 1, REGIS-TR would like to draw the attention of ESMA, that the “Board” would need to be clearly defined and that all licensed TRs and corporate law to which the TRs are subject, made not be identical.

<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>

REGIS-TR finds no objection from a legal or functional perspective as to the proposal made. The main benefits associated to the defined approach are those related to the leverage on the existing requirements for the TRs infrastructure, which in the end will derive in a benefit to the industry

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_5>

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

<ESMA\_QUESTION\_SFTR\_6>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_18>

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\_19>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_20>

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

<ESMA\_QUESTION\_SFTR\_21>

TYPE YOUR TEXT HERE

<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>

It is common sense in the market that market values reported by counterparties are not the same, mostly due to different price sources used. If the market value field needs to be matched, a reasonable tolerance for pricing market value needs to be adapted (currently not suggested in the consultation paper). If failing so, reconciliation will become impossible as the market value field cannot be matched by TRs due to differences in terms of value reported by counterparties.

REGIS-TR also wants to emphasize that it is not the role and business of TRs to source market pricing and valuations.

<ESMA\_QUESTION\_SFTR\_22>

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

<ESMA\_QUESTION\_SFTR\_23>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

REGIS-TR agrees with the proposed structure of the SFT reports.

<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>

TYPE YOUR TEXT HERE

<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>

REGIS-TR has no views in this respect. The proposed structure of categories and fields seems OK for REGIS-TR.

<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>

TYPE YOUR TEXT HERE

<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>

REGIS-TR agrees with the proposed fields.

<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>

REGIS-TR agrees with the identification of branches with the ISO country code as this field would serve as a base to filter the report towards the generation of reports for Regulators. Hence, the use of a standard would always favour this exercise.

<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>

REGIS-TR agrees with this proposal.

<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>

This exemption would reduce the reporting burden for CCPs.

<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>

TYPE YOUR TEXT HERE

<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>

REGIS-TR agrees with the proposal for determining the entity responsible for the generation and transmission of the UTI. However, it is important that counterparties to the SFT follow these rules and that the UTIs are consumed by the counterparties in order to avoid some of the issues faced in EMIR.

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_45>

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

<ESMA\_QUESTION\_SFTR\_46>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_66>

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

<ESMA\_QUESTION\_SFTR\_67>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_SFTR\_70>

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

<ESMA\_QUESTION\_SFTR\_71>

TYPE YOUR TEXT HERE

<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>

REGIS-TR agrees with the proposed approach and supports the definition of a closed list of acceptable values in field master agreement.

<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>

TYPE YOUR TEXT HERE

<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>

REGIS-TR agrees with the proposed validation rules and welcomes unique schema validations to avoid own TR interpretations of field formats as defined in the TS and welcomes the harmonization of the applicable business rules and field dependencies before the reporting start date.

Regarding the delegation control referred to in paragraph 345, REGIS-TR has concerns that, considering the usual practices of the industry, there are many scenarios in which the authorisation would reach the TR later than the report, generating a lot of rejections. In REGIS-TR we believe that it is going to be very costly for the industry to amend the rejections backwards. Therefore, REGIS-TR recommends to go towards a less restrictive model in a first instance and once we can analyse the model behaviour, ESMA could implement a more guarantee-based model. This would be aligned with the approach defined for EMIR.

Furthermore, REGIS-TR believes that validating that no control is actually required if one of the counterparties is obliged to report the two sides of the trade should be based on a static rule. That is, for the case described in this paragraph, the exemption in Art. 4.3 SFTR depends on the counterparty nature (it needs to be a non-financial entity) and conditions from Article 3(3) of Directive 2013/34/EU. Therefore, REGIS-TR believes that deactivating the delegation control for these cases would be too complex as a non-Financial Entity may not be covered by the exemption in all cases. Consequently, REGIS-TR believes that a common validation rule for these cases should be defined and implemented by all TRs. For this purpose, REGIS-TR suggests that the delegation control is not performed when the two counterparty data sets are reported in the same message provided that Field No. 4 from one counterparty data set is populated with Code N and Fields No 4 and 5 of the other counterparty data set are populated with codes F and L

<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>

REGIS-TR agrees with the scope defined in this section. REGIS-TR takes the opportunity to recommend the harmonization of the reconciliation process before the reporting obligation enters into force. The reconciliation process should follow the same rules as the ones for EMIR.

<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>

REGIS-TR agrees with the statement in paragraph 355 where ESMA states that the latest state of the SFT on a given date should be reconciled. Additionally, it is understood that, as collateral data is part of the economic terms of the SFT, the TR should record the latest status of all STF details in one table to ease the processes that are used to display the latest status of the SFT to TR members and Regulators.

Consequently, it is our understanding that two different processes to perform reconciliation of the latest status of the SFT which would be stored in the same table within the database is not efficient because the processes would be executed over the same tables.

Finally, one reconciliation process, that informs of the reconciliation results, simplifies and reduces TR responses and therefore, processing costs.

For the above reasons, REGIS-TR preferred option towards an efficient reconciliation would be to implement one single process.

<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>

Yes, REGIS-TR agrees with the use of ISO20022 for this purpose.

<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>

REGIS-TR can only commit to a standardised file exchange process as in EMIR. However, the proposed timeline to finalise this process may vary depending on each TRs volumes and should not in any case impact the file processing.

Further to the above, the cut offs to exchange files between TRs should be strictly defined and followed to ensure a smooth process. Finally, it is key to determine which trades are part of the daily process, i.e, reporting timestamp prior to T

<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>

Regarding reconciliation rules defined in paragraph 365 of this section and bearing in mind the existing approach for the reconciliation of derivatives reported under EMIR, REGIS-TR would recommend the below changes to the proposed checks in this section.

Additionally, for the purpose of this answer, it is understood fields flagged with tolerance “Calculated” and “Percentage” in the tables available in paragraph 365 of the Consultation paper imply tolerance checks defined in paragraph 364.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Table**  | **Section**  | **Field**  | **Tolerance**  | **REGIS-TR comment** |
| Transaction data  | Loan  | Master agreement  | No  | Only closed code list should be allowed in this field  |
| Transaction data  | Loan  | Clearing timestamp  | Timestamp  | Apply tolerance check (i.e in EMIR +/- 1 hour difference) |
| Transaction data  | Loan  | Execution timestamp  | Timestamp  | Apply tolerance check (i.e in EMIR +/- 1 hour difference) |
| Transaction data  | Loan  | Fixed rate  | Percentage  | Matching up to the third digit after the decimal would be applied |
| Transaction data  | Loan  | Day count convention  | No  | Free text field should not be reconciled. |
| Transaction data  | Loan  | Floating rate  | No  | Free text field should not be reconciled. |
| Transaction data  | Loan  | Spread  | Percentage  | Matching up to the third digit after the decimal would be applied |
| Transaction data  | Loan  | Adjusted rate  | Percentage  | Matching up to the third digit after the decimal would be applied |
| Transaction data  | Loan  | Principal amount on value date  | No  | Apply tolerance check (in EMIR, within 1% difference) |
| Transaction data  | Loan  | Principal amount on maturity date  | Calculated  | 1 basis point from the midpoint would be applied |
| Transaction data  | Loan  | Principal amount currency  | No  | Apply tolerance check (in EMIR, within 1% difference) |
| Transaction data  | Loan  | Quantity or nominal amount  | No  | Apply tolerance check (in EMIR, within 1% difference) |
| Transaction data  | Loan  | Forward price  | Calculated  | 1 basis point from the midpoint would be applied |
| Transaction data  | Loan  | Trade amount on value date (spot leg)  | No  | Apply tolerance check |
| Transaction data  | Loan  | Trade amount on maturity date (forward leg)  | Calculated  | 1 basis point from the midpoint would be applied |
| Transaction data  | Loan  | Loan value  | No  | Apply tolerance |
| Transaction data  | Loan  | Rebate rate  | No  | Apply tolerance |
| Transaction data  | Loan  | Reinvestment rate  | No  | Apply tolerance |
| Transaction data  | Loan  | Lending fee  | No  | Apply tolerance |
| Transaction data  | Loan  | Outstanding loan  | No  | Apply tolerance |
| Transaction data  | Loan  | Total margin financing available  | Calculated  | 1 basis point from the midpoint would be applied |
| Transaction data  | Loan  | Remaining margin financing balance available  | Calculated  | 1 basis point from the midpoint would be applied |
| Transaction data  | Loan  | Short market value  | Calculated  | 1 basis point from the midpoint would be applied |
| Transaction data  | Loan  | Adjusted rate  | No  | Apply tolerance |
| Transaction data  | Loan  | Principal amount on value date  | No  | Apply tolerance |
| Transaction data  | Collateral  | Cash Collateral Amount  | No  | Apply tolerance |
| Transaction data  | Collateral  | Collateral quantity or nominal amount  | No  | Apply tolerance |

Finally, REGIS-TR suggests that Counterparty Data fields are reconciled as per the below rules:

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **No** | **Field** | **Repo** | **BSB** | **SL** | **ML** | **REGIS-TR Recommendation** |
| 3 | Reporting counterparty | Y | Y | Y | Y |  Mirror Field 11 from SFT second leg |
| 7 | Country of the branch of the reporting counterparty | Y | Y | Y | Y | To be reconciled with field 8 table counterparty data  |
| 8 | Country of the branch of the other counterparty | Y | Y | Y | Y | To be reconciled with field 7 table counterparty data  |
| 9 | Counterparty side | Y | Y | Y | Y |  Mirror Field 9 from SFT second leg  |
| 11 | Other counterparty | Y | Y | Y | Y |  Mirror with Field 3 from SFT second leg |

<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>

REGIS-TR agrees with the tolerance checks defined in paragraph 364. However, for Timestamp fields: +/- 1 hour difference should be considered as the tolerance check.

<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>

Tolerance checks should be applied to those fields that must match. However, tolerance checks implement certain flexibility to obtain significant breaches in the reporting obligation and avoiding minor differences that do not entail counterparty nor credit risk.

However, tolerance checks should be applied to those fields where a standard format is expected. Therefore, free Text fields should not be subject to reconciliation and fields where a fixed Code (i.e Type of SFT) or international identifiers (i.e. ISIN Codes) should be fully reconciled.

<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>

REGIS-TR believes that the defined rejection messages are sufficient to standardise this responses type.

However, it should be taken into account that TRs would implement the same XSD to validate XML files which allows same rejection reasons to inform of XSD errors but this tool would not be available for the rest of rejection types (permission/logical/business) unless ESMA defines the actual validations that need to be performed to accept and record the new trade (and any further action types reported over a registered trade). Consequently, it is recommended that common delegation rules are defined as soon as possible in order to monitor delegated trades as well as those minimum cross checks to be performed at field level.

<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>

REGIS-TR strongly recommends that the reconciliation status respond to harmonized and static rules. This way, various interpretations for the same reconciliation status will not take place by the TRs.

Given the above, REGIS-TR would like to highlight the need to define a static rule to validate delegation controls on those SFTs that need to be reported by one counterparty as per the exemption described in Art. 4.3 SFTR.

Additionally, it is worth noting that under REGIS-TR´s view, a single reconciliation status should cover both loan and collateral details. As already stated in Question 77 “it is understood that, as collateral data is part of the economic terms of the SFT, the TR should record the latest status of all STF details in one table to ease the processes that are used to display the latest status of the SFT to TR members and Regulators.

Consequently, it is our understanding that two different processes to perform reconciliation of the latest status of the SFT which would be stored in the same table within the database is not efficient because the processes would be executed over the same tables. Finally, one reconciliation process, that informs of the reconciliation results, simplifies and reduces TR responses and therefore, processing costs.”

Finally, REGIS-TR would need clarification on the following statuses:

Reporting type. It is assumed that it indicates whether the information has been reported in the same message to the TR (single-sided) or not (dual-sided). In case the assumption is correct, REGIS-TR would recommend to harmonize this category with current EMIR reconciliation categories which would be “DELEGATION”

Further Modifications. It is unclear the meaning of this category and its use.

|  |  |  |
| --- | --- | --- |
| **Reconciliation categories** | **Allowable values** | **REGIS-TR comments** |
| Reporting type | Single- Sided/ Dual-sided | REGIS-TR would need confirmation on the meaning of this status |
| Reporting requirement for both counterparties | Yes/No | REGIS-TR believes that a standard validation rule shall be implemented for this purpose. Additionally, it is assumed that value Yes in this category automatically implies value Dual-Sided in Category Reporting Type  |
| Pairing status | Paired/Unpaired | REGIS-TR agrees on providing this information |
| Loan reconciliation status | Reconciled/Not reconciled | REGIS-TR encourages that a single reconciliation status is provided per SFT |
| Collateral reconciliation status | Reconciled/Not reconciled | REGIS-TR believes that this information should be part of the reconciliation status |
| Further modifications | Yes/No | REGIS-TR would need further clarification on the meaning of this status |

 <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>

REGIS-TR has no issue with the proposed end-of-day reports. However, with regards to the Rejection Report described in point d., REGIS-TR believes it would be more convenient to provide such information to reporting counterparties and report submitting entities in the form of a response message each time an SFT is submitted to the TR, instead of providing this via the end-of-day reports. Providing rejection information in the form of a response message enables participants to better comply with the reporting deadline of T+1, while if they received this information at the end of the day, they would have less time to amend and resubmit the failed reports, increasing participants’ risk of reporting late. On another hand, providing the information of rejected trades in both the Response Messages and the end-of-day reports would be redundant and inefficient.

As per the Reconciliation Report described in point e., REGIS-TR would like to point out, that if this report is to hold the reconciliation status of all SFTs reported so far, the report could become unmanageable at some point. To tackle this, REGIS-TR suggests including in this report only the status of those SFTs that have suffered a modification in their reconciliation status since the previous day. On another hand, it is worth noting that since the Trade State report described in point b. will also include the reconciliation status of outstanding trades, part of the data contained in the reports will be redundant.

Finally, REGIS-TR would need clarification on how the result of the reconciliation of collateral data would be communicated to the customer. REGIS-TR assumes that the Trade State and Reconciliation Status reports will also provide with the reconciliation result of collateral data. Consequently, and in order to simplify the inbound-outbound flow, REGIS-TR recommends that the reconciliation of the collateral and SFT data take place through a single process.

Potential costs of this information are related to hardware infrastructure, software and system maintenance and storage capacity.

<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>

REGIS-TR considers that providing End-of-day reports with information on reconciliation mismatches and information on trades that have not been submitted to reconciliation for some reason would be appropriate.

<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>

REGIS-TR agrees with the proposed aggregation criteria for the Public Data but has the following concerns:

b. the location of the other counterparty: Clarification on whether the aggregation should be done by differentiating EEA vs. Non EEA (like in point a. location of the other counterparty), or if more granular aggregation, i.e. by country, is required, is necessary.

d. reconciliation status of the SFT: REGIS-TR is not completely sure of the appropriateness of including this information into the Public Data reports, as there are several reconciliation statuses, and the final Public Data report might be far too complex to understand. It is worth noting as well, that reconciliation is done at trade state level, and not at transaction level, thus the reconciliation status would in any case only be applicable certain Public Data reports. Consequently, REGIS-TR recommends not to include this information in the Public Data reports.

g. how the collateral was transferred (bilaterally, tri-party, etc.): REGIS-TR believes that this information is not provided upon reporting the SFT, as per the current SFTR tables. Therefore, it is not feasible to aggregate by this criterion unless the field is reported and the values reported are within a closed list and not though a free text field.

<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>

REGIS-TR agrees with the proposed technical aspects on aggregation of data, and although no technical issues are encountered, we would like to point out the following concerns:

c. use of ECB published exchange rates for rates conversion: not all currencies are available here. REGIS-TR suggests that ESMA provides the sources to be used in order to covert the rates not published by the ECB.

e. Maintenance of public record of the last 52 weeks: In case “e. Maintenance of public record of the last 52 weeks” means having available in the public website 52 files for the last 52 weeks, the result would be an overloaded website, whilst if this means having for example 12 reports for the last 12 months, plus a series of the latest weekly reports as well, users would in the end have the same information and the website would look more friendly-user.

<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>

As described in Q88, as long as the information of the last 52 weeks does not imply showing the last 52 files, but other alternatives are permitted as well, REGIS-TR agrees with the proposed timeline.

<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>

REGIS-TR would be able to provide additional data elements on the day after the SFT has been processed, never on the same day as this is dependent on the termination of the end of day processes. The potential costs of providing reconciliation status and the name of the TR holding the other side of the SFT would be derived from the implementation, hardware infrastructure, software and system maintenance costs. The inclusion of rejected trades in the reports (including all fields as they have been reported) would imply a significantly higher cost, as the reported data would have to be maintained in a different database from that in which the accepted SFTs is stored. REGIS-TR still has concerns on how rejected trades could then pass the XSD.

<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>

REGIS-TR does not foresee the need for including any further data elements to authorities.

<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>

REGIS-TR strongly discourages the generation of preliminary reports as they will add no extra value to authorities. The generation of preliminary reports would not provide any added value and would require double work on the TR’s side to generate one preliminary report and one final report.

<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>

Please bear in mind that REGIS-TR will not be able to reconcile by 18:00. The reconciled data could be submitted on the next day following the reconciliation date.

<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>

Optimal delay for provision of SFT position-level reports would be T+2, just like the trade state reports. In any case, both the trade state and the position level reports will refer to the reported position for T, and not to the real position as this can always be reported during T or T+1.

REGIS-TR estimates that the costs of generating position-level reports would derive from the implementation, hardware infrastructure and software and system maintenance costs.

Aggregate level reports, as the ones currently generated under EMIR, might also be useful for authorities.

<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>

REGIS-TR suggests that there should be two position reports, one containing only reconciled data and the other one containing only non-reconciled data.

In REGIS-TR´s view, generating two separate reports would not entail a relevant additional cost in terms of implementation, software or system adaptation. However, if provided separately, reconciled and non-reconciled data will be easily identifiable which eases supervision. Additionally, generating two reports would reduce their size which also supports a swifter generation and distribution.

<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>

Yes, REGIS-TR agrees with the proposed use of ISO 20022. Indeed REGIS-TR is participating in several working groups to support ISO 20022 schema definition for several market communication flows and products.

REGIS-TR also agrees in moving the deadline and make data available to authorities by midday as it is our understanding that this approach is in line with the reporting deadline set out by ESMA under EMIR and will assist TRs to provide data in a more accurate manner.

<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>

Yes, REGIS-TR agrees with the proposed approach to avoid double counting. TRs providing the position reports as per the defined criteria and assigning the reconciliation status of SFT would be enough to avoid double counting.

<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>

Currently REGIS-TR provides the possibility to Authorities to request different accesses depending of the supervisory duty and division within the institution. We believe that this organization is easier for the authorities and better ensures that no breach of confidentiality takes places within the relevant institution.

On the other hand, from a legal perspective, there is no concern of the proposal as long as there is no shift of the responsibilities on the verification of the reporting obligation and the access to data. Par. 426 does not indicate by whom the access to data reported by EU branches of non-EU entities and EU branches of EU entities shall be assessed. The reporting entities should be in position to self-assess and take the responsibilities as it is ultimately their legal obligations. TRs are not offering legal assistance as to determine whether an entity has obligation under SFTR. It is out of the scope of TRs' activities.

Finally, from a practical perspective, please note that branches currently share the same LEI and therefore country identification of the reporting entity. Should the TR filter by “country of the branch” in order to provide the trade information to the relevant authority, this filed should be available. If not, other mean that would allow TRs to identify EU branches of non-EU entities shall be made available in order to properly filter the data and provide it to the relevant NCA.

<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>

REGIS-TR partially agrees with the definition of “transactional data” for EMIR described in the consultation paper. We agree with the description provided in Par. 419, regarding the inclusion of the information of both sides of the trade when providing information to the authorities, as long as both sides of the trades are contained on the same TR. If this methodology of always providing both sides of the trade was to be applied always, even when the second leg is reported to a different TR, authorities would be receiving the data duplicated, plus the process would become much more costly and cumbersome.

On the other hand, REGIS-TR strongly disagrees with Par. 420 & 421, when considering as “transactional data” reports which have not passed the validations imposed by ESMA when reporting information to a TR. When the information does not pass the relevant validations or schema, the data contained does not accurate reflect the information concerning the transaction and can be misleading for authorities, additionally key information for the TR to store or classify the trade might be missing, impeding the filtering process which allows offering this information to regulators. Therefore, REGIS-TR understands that this information is not relevant from a systemic risk supervision point of view.

Nevertheless, REGIS-TR understands that while not being relevant for a systemic risk analysis, this information might be needed by NCAs to overview the reporting obligation and quality of the reporting duty performed by participants. On this sense, TRs could offer the possibility of storing this information for a period of 6 months which would allow authorities to monitor the reporting activity of their participants during the learning process.

<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>

Regarding the SFTR data, REGIS-TR shares de same view and concerns as expressed for the definition of EMIR transactional data. Regarding the data on margins and reuse mentioned in Par. 425, we do not see any objection as far as this information passes the relevant validations and can be filtered in order to be shown to regulators.

<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>

It is our believe that having different understandings for the same concept “jurisdiction” for different regulations can be misleading and create confusion in the market. From our perspective it will be beneficial to agree on a common understanding to be applied in any occasion. Nevertheless, if the final conclusion is to keep different interpretations for different regulations, ESMA will need to issue a concrete and in detail description of the information to be accessed by each regulator under each circumstance through a legally binding document such as an RTS and not at Q&A level. Additionally, ESMA should always keep in mind, that whatever is decided the appropriate fields should be in place, to permit TRs to filter the relevant data for each authority.

<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>

Same comment as in Q 101.

<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>

From a TR perspective, we do not have a particular view regarding the proposed levels of access. But, we would like to remind that whatever decisions is concluded, this must clearly reflect the different access levels that each authority must hold and this information must be made public through a legally binding document such an RTS.

From a practical perspective, ESMA must ensure that the relevant fields in order to filter the data to be provided to each authority or division within the authority, are reported by participants. TRs will not be able to comply with the data access levels definitions if we do not have the relevant information through which filter and classify the data for the authorities.

For example, that is the case for the information of Non-Financial counterparties which fall under the supervision of a prudential or sectorial authority, as the “corporate sector” field is only to be reported by Financial counterparties under EMIR.

<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>

Same answer as Q. 103.

<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>

Same answer as Q. 103.

<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>

No comment on the access to TR data reported for commodities.

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103. Additionally, given the special mandate of this types of supervisors, a procedure through which the information will be requested to and retrieved from the TR should be pre-defined to allow the fast and smooth transfer of the data when required.

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

As mentioned before, for the prudential and sectorial authorities we can provide a concrete example in which EMIR data cannot currently go through the filtering process in order to provide the information to the competent authority. The corporate sector field is only compulsory for Financial counterparties, therefore it is not possible for the TR to identify non-Financial counterparties which fall under a concrete sector in order to provide this information to the authority.

This situation might be similar for different cases. Any access level granted to an authority must be accompanied with the possibility of filtering such information by the TRs

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

Same answer as Q.103

<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>

REGIS-TR agrees with the proposal of having a harmonized procedure on the access to TR data by the authorities, including the definition of common templates and tables to be filled out by the competent authorities. Moreover, regarding Par. 523 it is our believe that this exercise should not be limited to regulators across the Union, but that the same procedure should apply to Third Countries requesting for information on the basis of an agreement or MoU with ESMA or the Commission. This will avoid inconsistencies and provide a clear framework of the access rights to the EU TR data.

We would like to point out that although ESMA has a growing experience under EMIR as extensively described in the document, its practice should nevertheless be aligned with the principles set out by CPMI IOSCO and adopted by other regulators (as for the FINMA under FinfraG and the CFTC). The burden of the proof as to the responsibility and the mandates of the foreign authorities should be on the foreign authorities. We may wish that ESMA could enrich its experience by checking again (i) the recommendation issued by CPMI IOSCO as set out in the section 5.2, p. 31 of the Authorities' access to trade repository data consultation report, (ii) the article 64 (3) of FinfraG's Ordinance and (iii) the § 49.17 of the CFTC Swap Data Recordkeeping and reporting Requirement Act 17 CFR Part 45. We still believe and would like to stress that the requesting authority shall indicate and demonstrate to the TRs that the access requested is satisfying its mandate. It shall not be a burden of proof for the TRs to consult external legal advisors and pay for it. This practice of the ESMA is definitely not in line with other market rules and the recommendation of CPMI IOSCO.

<ESMA\_QUESTION\_SFTR\_130>

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

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Additionally, we believe that it will be beneficial for all stakeholders to count with the experience of the TRs when defining the before mentioned tables, to make sure that in practice it is clear to the TR which and how to classify the data to be provided to the relevant authorities.

Regarding Par. 525 c. a maximum timespan of 30 days will be fine, as long as there are no doubts with the access or mandates of the authority that might imply asking for external legal opinion and given that the necessary fields are reported to the TRs enabling the filtering of the data with no need of any technical development.

And in relation to Par. 528, it should be specified within the template form, the person or persons within the regulatory institution allowed to modify the access of the authority, other basic information or user details. And in Par. 528 c. it should be specified within the EU or national law, the relevant articles.

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