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| Response Form to the Consultation Paper |
| Guidelines for reporting under Articles 4 and 12 SFTR |

**Responding to this paper**

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex III. Comments are most helpful if they:

* respond to the question stated;
* indicate the specific question to which the comment relates;
* contain a clear rationale; and
* describe any alternatives ESMA should consider.

ESMA will consider all comments received by **29 July 2019.**

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

**Instructions**

In order to facilitate analysis of responses to the Consultation Paper, respondents are requested to follow the below steps when preparing and submitting their response:

1. Insert your responses to the questions in the Consultation Paper in the present response form.
2. Please do not remove tags of the type <ESMA\_QUESTION\_RSFTR\_1>. Your response to each question has to be framed by the two tags corresponding to the question.
3. If you do not wish to respond to a given question, please do not delete it but simply leave the text “TYPE YOUR TEXT HERE” between the tags.
4. When you have drafted your response, name your response form according to the following convention: ESMA\_RSFTR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_RSFTR\_ABCD\_RESPONSEFORM.
5. Upload the form containing your responses, in Word format, to ESMA’s website ([www.esma.europa.eu](http://www.esma.europa.eu) under the heading “Your input – Open consultations” 🡪 “Consultation on Position limits and position management in commodities derivatives”).

**Publication of responses**

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. 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 not to disclose the response 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 heading [Legal Notice](http://www.esma.europa.eu/legal-notice).

**Who should read this paper**

All interested stakeholders are invited to respond to this consultation. In particular, responses are sought from financial and non-financial counterparties to securities financing transactions, tri-party agents, agent lenders, central counterparties (CCPs) and trade repositories (TRs), as well as from all the authorities having access to the TR data.

**General information about respondent**

|  |  |
| --- | --- |
| Name of the company / organisation | NORD/LB Hannover |
| Activity | Banking sector |
| Are you representing an association? |  |
| Country/Region | Germany |

**Introduction**

***Please make your introductory comments below, if any***

<ESMA\_COMMENT\_RSFTR\_1>

<ESMA\_COMMENT\_RSFTR\_1>

**Questions**

1. : Do you agree with the above assessment? Are there any other transactions for which clarification is needed? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_1>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_1>

1. : Do you agree with the approach set out for reporting of SFTs under Article 4 of SFTR as detailed above? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_2>

1. : Do you agree with the approach for reporting repos and reverse repos as detailed in this section? Please detail the reasons for your response

<ESMA\_QUESTION\_RSFTR\_3>

Yes

<ESMA\_QUESTION\_RSFTR\_3>

1. : Are there any other types of repos and reverse repos transactions for which reporting needs to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_4>

No

<ESMA\_QUESTION\_RSFTR\_4>

1. : Are there any other aspects on reporting of master agreements or other elements of BSB/SBB that need to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_5>

1. : Do you foresee any issues relating to the non-availability of information on the counterparties and the securities by T+1? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_6>

1. : To what extent the SFTs that are cancelled and replaced bear price-forming information, i.e. does the cancellation imply an additional fee or price charged? If so, how can this information be better included in the reports? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_7>

The termination of a SLB does not have any impact on the lending fee. The lending fee is initially agreed and remains applicable until the end of the transaction. Any transaction following the terminated one is subject to new negotiations and the lending fee agreed regarding that new transaction. Even if the same ISIN is to be lent to the same counterparty after the termination of the former transaction concerning that ISIN, it is a new price not being influenced by the price applied to the preceding transaction. Instead, when negotiating the lending fee of the new transaction, aspects like the current availability of that ISIN in the market or its price volatility or the volume offered are impacting the lending fee of the new transaction.

In case that a SLB is agreed, but not settled and cancelled, there are no costs evolving from that cancellation. It is market practice that if the settlement did not take place, no fees or costs are arising from that SLB.

<ESMA\_QUESTION\_RSFTR\_7>

1. : Which approach would you favour in terms of reporting cash-driven SLB? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_8>

A clear decision is required on the message format to use for SLB trades under GMSLA but with repo-style economics. Our proposal is to report these as repos with repo fields although the Master Agreement will be a securities lending agreement.

<ESMA\_QUESTION\_RSFTR\_8>

1. : Do you agree with the proposal with regards to reporting of SFTs involving commodities? What other aspects should be clarified with regards to these SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_9>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_9>

1. : Are there any aspects that need to be clarified with regards to this type of SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_10>

1. : Do you agree with the proposal with regards to reporting of margin lending? What other aspects should be clarified with regards to these SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_11>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_11>

1. : Having in mind that position reporting of CCP-cleared SFTs is optional only when transaction-level reporting was made in accordance with paragraph 84, do you believe that additional clarifications need to be provided by ESMA? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_12>

We would welcome a use-case showing a position level reporting for Eurex GC Pooling trades if position level reporting is applicable for that.

<ESMA\_QUESTION\_RSFTR\_12>

1. : Do you agree with the approach regarding allocation of responsibility with regards to SFTs concluded between TC-FC and EU SME-NFC? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_13>

Yes. But in general we see problems with the delegation of the NFC reporting to FC. There will be a great burden/effort for the technical implementation (e.g. availability of re-use date).

With regard to the availability of re-use data, it will be nearly impossible for the reporting counterparty to obtain the relevant data. And this is not a matter of how much energy and technical implementation are invested by the reporting counterparty. It is unlikely that the NFC will provide the reporting party with all the relevant data in order for the reporting party to carry out the necessary calculations and estimates (all assets, all SFTs concluded, also with other counterparties, etc.). Thus, we would strongly recommend not to apply the section on re-use data at least for the mandatory reporting.

<ESMA\_QUESTION\_RSFTR\_13>

1. : Do you agree with the approach regarding allocation of responsibility with regards to UCITS management company and AIFM, established in third country? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_14>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_14>

1. : Do you agree with the approach for determining conclusion of SFTs by EU branches of non-EU entities? Are there any other instances in addition to the ones in paragraph 102 that would need to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_15>

In generally yes. Explicit clarification is requested on whether trader or salesman location is relevant to SFTR given the practical implications of trying to report outside the EU. Our proposal is that a SFT should only be SFTR-relevant if it is actually committed to the books and records of a SFTR-relevant entity / branch, irrelevant of trader or salesman location.

<ESMA\_QUESTION\_RSFTR\_15>

1. : Is the proposed guidance for determining whether an SFT conducted by a branch needs to be reported clear and comprehensive? Which areas require further clarification? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_16>

Yes

<ESMA\_QUESTION\_RSFTR\_16>

1. : Is the proposed guidance for reporting of intragroup SFTs clear and comprehensive? Which areas require further clarification? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_17>

Yes.

However, we would prefer to see reporting of intragroup transactions deleted, and, thus, aligned with EMIR Refit 2019/834. This should be revised as soon as possible.

<ESMA\_QUESTION\_RSFTR\_17>

1. : Do you agree with the approach for reporting by NFCs? Is there any additional aspect relating to reporting by NFCs that needs to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_18>

With regard to the availability of re-use data, it will be nearly impossible for the reporting counterparty to obtain the relevant data. And this is not a matter of how much energy and technical implementation are invested by the reporting counterparty. It is unlikely that the NFC will provide the reporting party with all the relevant data in order for the reporting party to carry out the necessary calculations and estimates (all assets, all SFTs concluded, also with other counterparties, etc.). Thus, we would strongly recommend not to apply the section on re-use data at least for the mandatory reporting.

<ESMA\_QUESTION\_RSFTR\_18>

1. : Do you agree with the proposal for reporting conclusion of SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_19>

Yes. In case that a SFT is agreed but not settled and therefore cancelled, it is market practise that no costs result from that cancellation. If SFTs are cancelled following a failed settlement, an ERROR should be reported.

<ESMA\_QUESTION\_RSFTR\_19>

1. : Do you agree with the proposal for reporting modifications to SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_20>

Given that Repo/Lending activities are contractually binding on the value-date, then vanilla settlement fails fall outside the scope of SFTR. It is our understanding the SFTR reporting is therefore based on contractual settlement dates. The statement in para. 117 “counterparties should report only the modifications that have taken place” is understood to mean on the contractually agreed date. This approach will be taken for Repo and SBL trades. An explicit statement of clarification is requested from ESMA if they believe something different is required.

However, the proposal considers reporting the event date of the modification as the effective date. ESMA states, that “counterparties should report only the modification that have TAKEN PLACE”. In the case of a partial return, the event date shall be the contractual settlement date agreed between the two counterparties. . This is in line with para. 67: “[...] Given that Article 4(1) of SFTR requires the reporting of conclusions, modification and termination of SFTs no later than the following working day, all SFTs that have been concluded should be reported. This includes all SFTs that were generated even though they might not be settled.“

It is our understanding, that a modification is deemed to have „TAKEN PLACE“ when the contractually agreed settlement date is reached, not when it has actually settled. A failure to settle should therefore not affect the way a modification is reported (unless the settlement failure leads to the termination of the trade or any other similar reportable event).

In this context exists uncertainty what does “modifications that are agreed but not have taken place should not be reported until the actual modification takes place” mean and what the benefit for the reporting is?

<ESMA\_QUESTION\_RSFTR\_20>

1. : Do you agree with the proposal for reporting collateral updates to SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_21>

We would like to clarify once more that reports shall refer to the agreed settlement date, not the date when settlement actually occurred (in the case of partial or full settlement failure).

Example:

SLB concluded on 18 June (T)

Value date: 20 June

Value date collateral 20 June (S)

Report latest 19 June (T+1) NEWT

Haircut 0

Settlement fail on 20 June

COLU on latest 21 June (S+1)

With regard to the COLU report of 21 June, it is our understanding that all collaterals with agreed settlement for 20 June are to be reported, irrespective of whether they have actually been settled.

The additional example below demonstrates the following:

The loan side is reported as NEWT on t/t+1.

The fact, that the loan side does not settle on the 20 June is not visible in the report.

Therefore, on the 20 June the exposure is assumed to be 100 on the loan side and when the COLU is sent on 21 June, all the collaterals with contractual settlement 20 June are included (i.e. 50 +30 +20) irrespective of whether these collaterals were actually settled on 20 June

This report would depict the contractual agreement i.e. 100 loan side and 100 collateral side.

|  |  |  |  |
| --- | --- | --- | --- |
| **EXAMPLE** | 19. Jun | 20. Jun (fail) | 21. Jun (settlement) |
| Loan side | NEWT |  |  |
| Loan value | 100 |  | 100 |
| value date | 20. Jun |  |  |
| Collateral side | - |  | COLU |
| Collateral value date | 20. Jun |  | 20. Jun |
| collateral |  |  | 50 - ISIN 1 30 - ISIN 2 20 - ISIN 3 |

<ESMA\_QUESTION\_RSFTR\_21>

1. : Do you have any issues with reporting in a timely manner valuation, margin and reuse updates pertaining to SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_22>

An explicit clarification is requested on:

(1) The timeline for reporting “Valuation update”, “Margin update” and “Reuse update”. The Level 3 Guidance states “The timeline for reporting “Valuation update”, “Margin update” and “Reuse update” is the same as for the conclusion of a SFT.” This would be T+1 (i.e. booking date + 1 day) whereas the RTS states S+1 i.e. collateral settlement date + 1 day.

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(2) In line with SFT transaction reporting, our understanding is that Collateral Re-Use reporting should be based on contractual settlement. ESMA must advise if this is not correct.

<ESMA\_QUESTION\_RSFTR\_22>

1. : Do TRs require additional guidance in relation to how reports submitted by the entities mentioned in Article 2(2) and (3) of SFTR should be treated and the relevant procedures to follow? If so please confirm where further guidance is required.

<ESMA\_QUESTION\_RSFTR\_23>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_23>

1. : Do you agree with the proposed rules for reporting of field 1.17? Are there any other instances that would need to be clarified? Please detail the reasons for your answer.

<ESMA\_QUESTION\_RSFTR\_24>

This field is however critical in the case of (voluntary) delegation of reporting since the information is not availbale for the reporting counterparty.

<ESMA\_QUESTION\_RSFTR\_24>

1. : Do you consider proposal A or proposal B to be the most efficient way to ensure that details of SFTs are reported accurately, and why? What would be the costs and benefits of each approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_25>

Proposal A is preferred.

From the technical point of view, it is much easier to report a snapshot of a SFT than a delta. A delta would imply, that each reporting field needs to be checked for changes which again requires much more computing effort. Furthermore, does the reporting of a snapshot provide a full picture of the SFT, which can be used as proof, that the fields which not have been altered is still correctly reported.

Hence, proposal A should be easier and cheaper (no need for technical comparison of data, less manual effort), nevertheless the need for data capture is higher.

An explicit clarification is requested on what message type to report for the close-out of an open-ended trade or the amendment of the end-date on an already closed or term-dated trade. Is ETRM reserved for the case of a complete counterparty default and MODI for all other lifecycle event such as close-out of open-ended repo and change to the end-date of a term repo?

<ESMA\_QUESTION\_RSFTR\_25>

1. : Do you agree with the sequences proposed? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_26>

We recognized that after a termination a collateral update is not possible. In practice it is possible to substitute a collateral during the time an evergreen trade is closed out but the maturity date is not reached. This action wouldn´t be reportable according to table 2 under section 5.11.3.. For this question please also refer to our answer in question 27.

Table 2:

In case a full return is cancelled, the logic provided by ESMA would not support this scenario properly. The securities lending markets are quite often impacted by settlement fails. It happens from time to time that a full return of a securities lending transaction is agreed and booked rather than settling on contractual settlement date.

If a full return (following a termination) is not settling as expected, such could result in a cancellation of the termination / return, subject to an additional agreement between the counterparties. Motive might be that the borrower requires the loaned security again or struggles having the borrowed securities available for their return to the lender. The latter cannot be anticipated.

It would be our understanding that the termination of the SLB itself would be reported as ETRM. The cancellation of the termination would lead to the circumstance that the position is being reopened triggering a sequence of ETRM 🡪 MODI.

On open repos, we expect the closing of the trade to report as MODI. In case the trade is re-opened again on the Value Date of the closing, we expect this to be reported as MODI, too. Please find an example (Excel file “20190722\_SFTR\_Bsp\_Question 26”) of the reporting attached to this response form. Could ESMA confirm, that

-the termination has to be reported on the day following the Event date

-the cancellation of the termination has to be reported on the day following the Event date

-the minimum notice period is the same as it was before the trade was terminated

-the UTI remains unchanged for this trade

Booking a new trade instead would not make sense in an operational manner as no settlement would be required for such trade. Further a linkage between the old trade and the new trade must be implemented front-to-back in order to understand, why a trade was closed and a new trade was opened without a settlement. This would cause additional burden on the reporting counterparties.

The only sequence allowed by ESMA would be CORR after an ETRM. This however would not reflect properly the economic reason behind the cancellation, as ESMA defines a CORR as “erroneous data field”.

For the reasons provided ESMA should allow the following sequence: MODI after ETRM, to correctly depict the situation of an agreed cancellation of a full return.

<ESMA\_QUESTION\_RSFTR\_26>

1. : Do you agree with the proposed mapping between business events and action types? Are there any additional business events that should be included? Please detail the reasons for your answer.

<ESMA\_QUESTION\_RSFTR\_27>

The action type MODI seems not to be appropriate according to the booking of tickets (market standard). E.g. a partial close out of an open trade is booked as termination and new. The guidelines expect a MODI.

As a general remark:

The contractual settlement date is electronically booked. In order to correctly reflect the agreed value/ settlement date, this date is not altered following settlement fails. The contractually agreed date can be [decisive](https://www.dict.cc/englisch-deutsch/decisive.html) for any indemnity payment due to delayed delivery.

1. Business Event - Extension Repo --> Reportable action type: MODI

When a repo is extended NOT in the sense of an evergreen or an extendable repo, in practice the deal is booked as a new deal.

This goes along with ICMA’s interpretation of “Roll-overs into new transactions would be reported as new transactions (Action Type = NEWT)”

We suggest ESMA to change the rollover of a repo as reportable action type: NEWT as this would correctly reflect how the market works.

Does the regulator expect lifecycle events that do not affect exposure to be reported e.g variable Fee Price changes?

<ESMA\_QUESTION\_RSFTR\_27>

1. : Are there any other relationships that would need to be defined? If so, please detail which ones.

<ESMA\_QUESTION\_RSFTR\_28>

The Close-out of open security loan is missing

<ESMA\_QUESTION\_RSFTR\_28>

1. : Is there any aspect not covered by the ITS on reporting that would require further clarification? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_29>

No.

<ESMA\_QUESTION\_RSFTR\_29>

1. : Do you agree with the proposed approach for reporting of counterparty side in the case of CCP-cleared SFTs? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_30>

Yes.

<ESMA\_QUESTION\_RSFTR\_30>

1. : Do you agree with the proposed approach to determine which side of a transaction is the collateral provider and which is the collateral taker for unsecured lending/borrowing of securities? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_31>

Yes., however, for unsecured lending the wording TAKE/GIVE is confusing.

<ESMA\_QUESTION\_RSFTR\_31>

1. : Please indicate how frequently is a haircut, margin or any other type of discount/add-on, applied to the loan side of SLB?

<ESMA\_QUESTION\_RSFTR\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_32>

1. : Do you agree with the proposed approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_33>

No.

The final price does not include such collateral related aspects (if ESMA refers to the lending fee). If ESMA refers to the value of the security lent – such is not subject to a negotiation (differing from a repo). It is just the current market value. ESMA should further evaluate on that issue also considering our response to Q 32.

Paragraph 150 is not clear to us concerning the application of haircut/margin.

“The “Security or commodity price”(field 2.49) …... The security price should not include “Haircut or margin” (field 2.89), which only applies to the collateral side of the trade. Any margin, add-on or discount that might apply to the security on the loan side of the trade should be included in field 2.49,i.e. the final price agreed between the counterparties for the transaction to take place.”

A complete use case for this would be very usefull.

Rather than the message excerpts in the current Level 3 Guidance document, ESMA should provide a complete example of all field population for a NEWT message for a repo or stock versus cash trade with different security and cash currencies (to incorporate the impact of FX rates) and a haircut or margin and thereby explain clearly the population of Security Price (field 2.49), Market Value (field 2.57), Price Per Unit (field 2.87), Collateral Market Value (field 2.88) and Loan Value (field 2.56) etc removing the necessity for ongoing discussions on interpretation in the market.

<ESMA\_QUESTION\_RSFTR\_33>

1. : Do you agree with the proposed approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_34>

It will not be possible to agree with the counterparty on the market value. Counterparts use different pricing sources and systems so that the data will differ

Tolerance of market value as reconciliation field should be set higher than 0.0005%. Not only price differences resulting from different sources and cut off time but also differences in the fx rates for conversion of the market price into loan ccy, can lead to larger differences in the reportings of the two counterparties.

Rather than the message excerpts in the current Level 3 Guidance document, ESMA should provide a complete example of all field population for a NEWT message for a repo or stock versus cash trade with different security and cash currencies (to incorporate the impact of FX rates) and a haircut or margin. The current examples in the Level 3 Guidance are not clear.

<ESMA\_QUESTION\_RSFTR\_34>

1. : Do you agree with the proposed approach on timing and use of FX rates? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_35>

In general ok, but timing differs from bank to bank (time zone, close of business etc.). A wider range of differences in the price should be accepted.

<ESMA\_QUESTION\_RSFTR\_35>

1. : Does ESMA need to provide additional guidance on the reporting of the valuation fields? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_36>

No.

The reconciliation of market valuation is critical. The tolerance range should be wide enough because a daily recon with the counterpart is not realistic.

<ESMA\_QUESTION\_RSFTR\_36>

1. : Do you have any remarks concerning the reporting of CFI? What other aspects need to be clarified to ensure that reporting is consistently performed? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_37>

If one of the official sources does not have a CFI code fort he relevant instrument ESMA should clarify that the code XXXXXX can be used.

<ESMA\_QUESTION\_RSFTR\_37>

1. : Do you agree with the approach for back-loading? What other aspects have to be considered to make the reporting of backloaded SFTs more efficient for counterparties and TRs, i.e. the costs of this approach are minimised and also the usefulness of the reports submitted going forward is maximised? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_38>

The suggested approach for back-loading (full reporting of backloaded SFTs) makes the reporting more efficient. Therefore we agree.

In our view it remains open, wether there is an option for the counterparties ("..both counterparties agreed to report this way" (point 171).

In this case again an additional effort of coordination would be necessary, which should be avoided.

A substantial simplification could be pursued by abolition of the backloading obligation.

We agree with ESMA`s approach of reporting all living trades at the reporting start date. Since a coordination for the reporting of backloading-trades between the CPs is enormously time-consuming, we would like to dispense with the delivery of a UTI if the UTI structure cannot be determined from the available data (see Q39).

Within the period of backloading, the mandatory fields will not match, if the counterparty starts at a later time. How will ESMA identify these trade in order to avoid unnecessary requests on the reporting counterpart?

<ESMA\_QUESTION\_RSFTR\_38>

1. : What other aspects with regards to the UTI have to be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_39>

ESMA should answer what should happen in the scenario that one party expects to receive a UTI but it is not delivered in time to make a report (e.g. as stated in the ICMA Annex Recommendation 14). For example, tri-party agents publish their UTI usually in the evening, as does Eurex. This is too late in order to:

* match the UTI with the counterparty right after the transaction and / or
* to assign the UTI automatically to a trade, which will have to be assigned manually.

ESMA should clarify at what point in time the parties to an SFT should escalate the late delivery of a UTI and also, how the counterparties should act in case there is no UTI (either not at all, or to late) and an orderly / complete report is not possible.

The default UTI Hierarchy Logic for security lending proposes that the “Collateral provider shall generate the UTI”. In practice the security lender (collateral taker) is best placed to provide the UTI.

<ESMA\_QUESTION\_RSFTR\_39>

1. : Are there any other instances that need to be clarified? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_40>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_40>

1. : Please provide the relative volume of transactions for which issuer’s LEI (of securities used as collateral) or ISIN is not available in principle.

<ESMA\_QUESTION\_RSFTR\_41>

Approx. 10% of the yearly trading volume does not have an Issuer LEI, i.e. roughly 700 out of 7600 SLB transactions.

<ESMA\_QUESTION\_RSFTR\_41>

1. : Do you agree with this approach? What other aspects need to be considered? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_42>

Yes. But point 187 should be worded more precisely by naming the responsibilities of the NFC such as provision of LEI, etc

<ESMA\_QUESTION\_RSFTR\_42>

1. : Do you believe there are other use cases that need to be further defined in this subsection? Do you agree with the applicability of those use cases to the different types of SFTs as outlined above? Please detail the reasons for your answers.

<ESMA\_QUESTION\_RSFTR\_43>

No.

<ESMA\_QUESTION\_RSFTR\_43>

1. : Do you agree with the population of the counterparty data fields? Please detail the reasons for your response and indicate the table to which your comments refer.

<ESMA\_QUESTION\_RSFTR\_44>

Yes.

<ESMA\_QUESTION\_RSFTR\_44>

1. : Do you agree with the approach to reporting action types? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_45>

Yes.

As statet in answer to question 27 we see action type MODI problematic for some trade events.

<ESMA\_QUESTION\_RSFTR\_45>

1. : Do you agree with the approach to reporting event date? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_46>

ESMA is asked to clarify the term “takes place”. Our understanding is:

A modification is booked with settlement/effective date on 23 August, which would be the event date. Therefore the modification must be reported latest on the 24 August, although the settlement fails

<ESMA\_QUESTION\_RSFTR\_46>

1. : Do you agree with the approach to reporting clearing? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_47>

ESMA should provide further guidance on table 49.

The use case is as follows:

Counterparty A is concluding an SLB with counterparty B via a trading platform, e.g. NGT. This is a bilateral agreement, details are sent to the CCP for clearing in a novation model on the same day.

As the reporting obligation requires the reporting of the SFT latest on t+1, but the conclusion and the clearing of the bilateral trade takes place on the same day, it should be clarified wether the bilateral trade beeing being rplaced by a cleared SFT on the same day is to be reported as well.

It is our understanding that the cleared transaction must be reported with the report tracking number, i.e. the UTI of the bilateral trade. This would imply for the described case, that the reporting timeline of t+1 cannot be met, as this trade must be reported before the novated deal with the CCP is subsequently reported as well.

ESMA should provide a clarification.

We need further clarification for DBV model . Is this only relevant for LCH cleared trades ? Please provide an explanation what ESMA understands when talking about a “DBV model”

Explicit clarification on the practicalities of requiring RTN is requested.

<ESMA\_QUESTION\_RSFTR\_47>

1. : Do you agree with the approach to reporting trading venue field? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_48>

Yes.

<ESMA\_QUESTION\_RSFTR\_48>

1. : Do you have any remarks or questions concerning the reporting of master agreements? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_49>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_49>

1. : Do you agree with the approach to reporting conclusion and beginning of an SFT? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_50>

Yes.

<ESMA\_QUESTION\_RSFTR\_50>

1. : Do you agree with the approach to reporting term of the SFT? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_51>

Yes.

<ESMA\_QUESTION\_RSFTR\_51>

1. : Do you see any issues with the approach to reporting termination optionality? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_52>

1. : Which of these approaches do you favour for reporting general and specific collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_53>

We have a strong preference for a more restrictive definition of general collateral, i.e. ESMA’s option 2 described in paragraph 265. In our view this is the only workable approach. Anything closer to option 1 would be very problematic in terms of reconciliation. In line with ESMA’s proposal, we suggest that only repos transacted on GC facilities on ATS and/or managed by a tri-party agent should be reported as general collateral.

This would include repos that are:

* traded on what are advertised as GC facilities provided by an automatic trading system (ATS), including GC financing facilities such as Eurex EGCP and LCH’s €GC Plus and £GC (which are cleared by a CCP and managed by a tri-party agent);
* not traded on an ATS but managed by a tri-party agent.

In all these cases, the seller or its agent can allocate collateral from “a relatively wide range of securities meeting predefined criteria”, which would be in line with ESMA’s definition of GC.

So-called bilateral GC trades draw on inexact and informal sets of securities and the buyer has wide latitude to refuse what is proposed as collateral (in contrast to GC facilities and triparty repo), even if the collateral-giver believes the proffered securities meet the general understood definition of GC. In other words, for clarity, we believe GC should be reported where there is an explicit list of eligible collateral.

<ESMA\_QUESTION\_RSFTR\_53>

1. : Do you agree with the approach to reporting collateral arrangements? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_54>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_54>

1. : Do you agree with the approach to reporting fixed and floating rates of SFTs? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_55>

Explicit clarification is requested from ESMA on whether they intend market participants to send daily rate update notification messages on floating rate trades and, if so, confirmation of what Action Type to use. There would seem to be no reason to provide a daily adjustment message for index-linked EONIA-type rate. Our proposal would be to report index rate info on NEWT and not on each day thereafter as the index (EONIA) moves, which from our point of view creates noise with no value to the regulator.

<ESMA\_QUESTION\_RSFTR\_55>

1. : Do you see any issues with the approach to reporting repo and BSB/SBB principal amounts? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_56>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_56>

1. : Do you agree with the approach regarding reporting fields 2.51 and 2.90? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_57>

Default option should be b., as an agreement on credit rating references with each counterparty will be not possible.

Assuming doing the first and detecting differences in the rating reference, would mean that either one party will adopt the others party reference, which from practical view will be not possible or option b would come into effect.

Credit rating of the underlying shouldn’t be a matching criteria. Banks use different rating agencies and maybe don’t have all ratings available. Some bank also use issuer ratings instead of single bond ratings. In case a single issue is not ratet, the issuer rating can be used anyway.

Some bank also use issuer ratings instead of single bond ratings. We suggest that ESMA reconsiders if a reconciliation of these fields is necessary.

<ESMA\_QUESTION\_RSFTR\_57>

1. : Do you agree with the approach to reporting securities on loan? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_58>

Yes.

Is paragraph 298 even applicable for collateral basket ISINs which are not official (e.g. for triparty baskets an ISIN is only internally setup and has no legal maturity date.)?

Explicit clarification of the population of the Security Price (field 2.49) needs to be provided in terms of the currency, FX rate and margin / haircut as well as confirmation how this relates to the Loan Value, Market Value and Collateral Market Value fields.

<ESMA\_QUESTION\_RSFTR\_58>

1. : Do you agree with the approach to reporting SFTs involving commodities? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_59>

Yes.

<ESMA\_QUESTION\_RSFTR\_59>

1. : Do you agree with the approach to reporting cash rebate SLBs? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_60>

Yes.

<ESMA\_QUESTION\_RSFTR\_60>

1. : Do you agree with the approach to reporting non-cash collateral SLBs? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_61>

Yes. We would welcome a complete example for unsecured SLB with lending fee.

<ESMA\_QUESTION\_RSFTR\_61>

1. : Do you agree with the approach to reporting margin loan data? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_62>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_62>

1. : Do you agree with the approach to reporting collateralisation? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_63>

Yes.

Refering to table 85 “ single transaction with basket” is there no need to report the single ISINs (allocated in the basket)? E.g. GC Pooling ?

<ESMA\_QUESTION\_RSFTR\_63>

1. : Do you agree with the approach to reporting cash collateral? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_64>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_64>

1. : Do you agree with the proposed approach? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_65>

We suggest that ESMA clarifies the ambiguities in the Level 3 guidance through provision of a Repo and SBL example with cross-currencies and haricut/margin to ensure that the field definition for the following is clear i.e. which currency and with margin or not?

* Field 2.49 Security Price
* Field 2.56 Loan Value
* Field 2.57 Market Value
* Field 2.88 Collateral Market Value

<ESMA\_QUESTION\_RSFTR\_65>

1. : Do you agree with the proposed approach for calculating collateral haircuts or margin? Please provide justification for your response.

<ESMA\_QUESTION\_RSFTR\_66>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_66>

1. : Do you agree with the proposed approach for reporting collateral type field? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_67>

Yes.

<ESMA\_QUESTION\_RSFTR\_67>

1. : Do you agree with the proposed approach for reporting Availability for collateral reuse? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_68>

Yes.

<ESMA\_QUESTION\_RSFTR\_68>

1. : Do you agree with the proposed approach for reporting fields Identification of security and LEI of issuer? Are you aware of instances where securities provided as collateral do not have an ISIN? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_69>

The probability of the absence of an ISSUER LEI is definitely higher for non-EU securities than for EU securities. The fact, that there still exists a lack in ISSUER LEI data makes it crucial for the reporting obligation as this is a reconciliation field.

We suggest to make this field optional as the non-availability of an ISSUER LEI would result in a reject of the entire report though all other required data are complete. With the legislator’s intention to monitor the exposure we think it is more favorable to report the exposure without an ISSUER LEI than not receiving the exposure due to a missing ISSUER LEI.

Alternatively we suggest to keep the field as mandatory and to allow for a default value in case an ISSUE LEI is not available.

<ESMA\_QUESTION\_RSFTR\_69>

1. : Do you agree with the proposed approach for reporting plain vanilla bonds as collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_70>

Explicit clarification of the population of the price and value fields needs to be provided. For example it is unclear if “price per unit” means the dirty price?

<ESMA\_QUESTION\_RSFTR\_70>

1. : Do you agree with the proposed approach for reporting perpetual bonds as collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_71>

Yes.

<ESMA\_QUESTION\_RSFTR\_71>

1. : Do you agree with the proposed approach for reporting main index equities as collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_72>

Yes.

<ESMA\_QUESTION\_RSFTR\_72>

1. : Do you agree with the proposed approach for reporting variation margining with additional provision of securities by the collateral provider? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_73>

Generally we agree with the approach to report variation margins on repo not cleared by CCP as a collateral update (action type = COLU).

Therefore, we understand the reporting logic as follows:

If variation margin is being called against individual repos (which is typical of tri-party repos and structured transactions which the parties have expressly agreed to margin separately from the rest of the repos between them), variation margins should be reported as part of the normal end-of-day collateral update report linked to the relevant transaction by its UTI.

If, as is more usual, variation margin is being called against the net exposure of a portfolio of repos --- in other words, variation margin represents collateralization on a net basis --- an extra end-of-day collateral update report will be required for each daily variation margin which should include:

* *Table 2, field 73, Collateralization of Net Exposure* = TRUE

and should be linked to the underlying transactions by the following fields:

* Table 2, field 9, Master Agreement Type
* Table 1, fields 3 & 11, LEIs of the parties
* Table 2, field 74, Value Date of the Collateral --- this is the latest Value Date (field 2.14) of the repos in the portfolio being margined.

Additionally the provided examples (tables 97-99 on pp.137-141) do not seem to accurately reflect VM practicalities for Repo. For example, even if the examples are marked as net collateralization, we noted that the VM still involves increasing/reducing the collateral of an individual trade (although this might be a result of the very simplified example). Also, neither of the examples includes any cash component, which needs to be possible. It would be very helpful I ESMA would provide an additional use case including VM on net exposure basis in cash.

We assume that the example in table 97 includes an error as the quantity/nominal of collateral and the collateral price changed but the Market value of the collateral did not change.

According to our understanding the market value of collateral should be 10.199.990.000,00 instead of the reported 102.000.000.

The value for the collateral market value in table 97 do not match the text in paragraph 352. The value for field 88 should be 101.999.900 and not 102.000.000

<ESMA\_QUESTION\_RSFTR\_73>

1. : Do you agree with the proposed approach for reporting variation margining with return of the same securities to collateral provider? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_74>

Yes, we agree with the approach.

However, we assume that the example in table 98 includes an error as the quantity/nominal of collateral and the collateral price changed but the Market value of the collateral did not change.

According to our understanding the market value of collateral should be 10.199.990.000,00 instead of the reported 102.000.000

The value for the collateral market value in table 98 do not match the text in paragraph 353. The value for field 88 should be 101.999.700 and not 102.000.000

<ESMA\_QUESTION\_RSFTR\_74>

1. : Do you agree with the proposed approach for reporting variation margining with return of different securities to the collateral provider? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_75>

No.

The example shows, that the change of quantity is reported instead of the final quantity which ist still posted against the loan. I.e. the reduction of the French bond should not be reported as -2000000 in collateral quantity (i.e. not the delta), as this does not reflect the market practice. The remaining quantity of that ISIN posted as collateral needs to be reported, as this is the value, the collateral calculation is based on.

We wonder if in table 99 the price per unit for the DE-collateral is correctly shown. The text in paragraph 354 say 103,3. Table 99 shows 103,03. Furher more the price for the FR-collateral say 1,03 but according to the values in paragraph 354 it should be 103.

More clarification of how to report variation margin for Repo and SBL scenarios is required.

<ESMA\_QUESTION\_RSFTR\_75>

1. : Do you agree with the proposed approach for reporting prepaid collateral? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_76>

Yes.

<ESMA\_QUESTION\_RSFTR\_76>

1. : Do you agree with the proposed approach for reporting portfolio code? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_77>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_77>

1. : Do you agree with the approach to reporting margin data? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_78>

Clarification is required whether table 3 contains only absolute amounts for one margin class (variation or initial margin), regardless of whether margin is posted in cash or securities.

<ESMA\_QUESTION\_RSFTR\_78>

1. : Do you have any comments on the scope of the non-cash collateral re-use measure, and are there practical obstacles to the reporting? In the case of margin lending, do you agree with the exclusion of securities that cannot be transferred to the prime broker’s account due to rehypothecation limits agreed contractually?

<ESMA\_QUESTION\_RSFTR\_79>

ESMA should confirm, that the re-use report is only to be submitted, when securities as stated [*The intuition behind the FSB formula is that entities should provide an estimate of the amount of collateral they are re-using…]* are re-used and/or the formula result is >0.

What should be reported if a positive re-use was reported but the result than changed because the result of the formula is “0” (reusable collateral is no longer re-used)? How should the termination of re-use be reported (collateral is no longer posted)? Is it right to report an update with 0 ?.

The calculation of re-use will be a challenge as it brings a new level/aspect to the SFTR reporting . Furthermore it is to say that it is a technical issue as additionally to the reportable trades (e.g. repo and security lending) own assets have to be considered and brought into the calculation scheme.

The delegation of re-use reporting seems not feasible to us as the relevant components are not available for the reporting counterparties. We suggest that ESMA reconsiders if NFCs should submit a re-use calculation.

<ESMA\_QUESTION\_RSFTR\_79>

1. : Do you have any comments on cash collateral reinvestment, and do you agree with the scope?

<ESMA\_QUESTION\_RSFTR\_80>

The need to state the typ of re-invested cash investment (fiel 12 table 4) is not useful. In practice cash is managed in accounts without flagging re-investment and type of re-investment.

Question: The validation rules differ in term (row D says OTHR, row I says CASH). What is right ?

<ESMA\_QUESTION\_RSFTR\_80>

1. : Do you agree with the proposed approach for reporting reuse, reinvestment and funding sources? Please detail the reasons for your response and include a reference to the specific table.

<ESMA\_QUESTION\_RSFTR\_81>

The need to state the typ of re-invested cash investment (fiel 12 table 4) is not useful. In practice cash is managed in accounts without flagging re-investment and type of re-investment.

Question: The validation rules differ in term (row D says OTHR, row I says CASH). What is right ?

<ESMA\_QUESTION\_RSFTR\_81>

1. : What other aspects need to be considered with regards to the aforementioned approach with regards to treatment of rejection feedback? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_82>

Yes.

<ESMA\_QUESTION\_RSFTR\_82>

1. : What other aspects need to be considered with regards to the aforementioned approach with regards to treatment of reconciliation feedback? Please detail the reasons for your response.

<ESMA\_QUESTION\_RSFTR\_83>

We once again appeal to ESMA to consider softening the reconciliation requirements with regards to certain fields deemed to be difficult, such as the Market Value, the Security and Collateral Quality, the price, etc. .

<ESMA\_QUESTION\_RSFTR\_83>

1. : What other aspects need to be considered to make the process more efficient? Please elaborate on the reasons for your response?

<ESMA\_QUESTION\_RSFTR\_84>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_84>

1. : Do you have any comments on the aforementioned practicalities relating to the provision of access to SFT data to authorities? What other aspects need to be considered to make the process more efficient? Please elaborate on the reasons for your response?

<ESMA\_QUESTION\_RSFTR\_85>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_85>