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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 | Nordic Securities Association |
| Activity | Investment Services |
| Are you representing an association? |  |
| Country/Region | Other |

**Introduction**

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

<ESMA\_COMMENT\_RSFTR\_1>

Nordic Securities Association, NSA, response to ESMA Consultation paper on the Guidelines for reporting under Articles 4 and 12 SFTR.

The association is a Nordic cooperation that works to promote a sound securities market primarily in the Nordic region. The association is formed by the Danish Securities Dealers Association (Børsmæglerforeningen), the Finance Finland (Finanssialan Keskusliitto), the Norwegian Securities Dealers Association (Verdipapirforetakenes Forbund) and the Swedish Securities Dealers Association (Svenska Fondhandlareföreningen).

This response is produced by NSA in cooperation with member firms that are Investment firms in the Nordic region.

<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>

**Limits to margin lending for retail clients and others**

Generally speaking, it’s not clear if the exemption for securities financing transactions involving retail clients applies to securities lending, buy-sell back, sell-buy back and repurchase transactions also (or exclusively to margin lending). It’s worth appointing that, considering that the purpose of SFT Regulation is not investor protection, the same exemption should apply to individual professional clients according to MiFID 2 definitions (clients who may be treated as professionals on request).

Hundreds of thousands of clients in the Nordic countries, mostly private individuals, but also many smaller legal entities have portfolios where the assets consist of securities that is used as collateral for the customers' credits. The credits are normally used to purchase and trade in securities. According to the rules the collateral shall consist of a pool of mixed securities.

According to the proposal in the Guidelines CP, margin lending do not apply for retail clients (recital 46). In the Guidelines CP, ESMA has defined “retail” as “private individual”; we would prefer to keep the definition in line with the retail definition in MiFID II/MiFIR where it means “non-professional client” as that would use existing data for this assessment.

It is still not clear what constitutes margin lending when smaller entities, for instance day traders, use securities in a portfolio as collateral for credits for the trading. The technical standard (EU 2019/356) mentions in recital 2 that “While margin lending therefore includes transactions subject to margin agreements between financial institutions and their clients where financial institutions provide prime brokerage services to their clients, it does not include other loans such as loans for corporate restructuring purposes which, despite the possibility of involving securities, do not contribute to the systemic risks addressed by Regulation (EU) 2015/2365.”

Nordic non-financial clients often have setups that are similar to margin lending for lending with their depot/account as collateral. However, note that, according to the rules, the collateral shall consist of a pool of mixed securities. The clients are mostly retail clients, both companies and physical persons that are mostly non-professional in the MiFID II/MiFIR sense. The loan is limited by a detached limit. The entire account is used as collateral for the loan but there is no prime brokerage agreement. We expect this to be out of scope for margin lending given the wording in preamble 2 of the RTS (Regulation (EU) 2019/356) where margin lending is described to include margin loans that are part of prime brokerage services but excludes other loans even if those are similar. There are many subtly different designs of these loans in the Nordic region and they are common for retail clients that use them to increase the leverage in their portfolio. We also understand section 5.1.1 in the consultation as limited to Margin Lending although a number of points in subsections only refer to “loans” without specification which could also include other SFTs.

The writing in the final report was clearer where point 188 states that “Therefore, ESMA is of the view that, consistently with the FSB, the margin lending reporting obligation should only apply to prime brokerage margin lending, i.e. cash lending from prime brokers to their clients against collateral as part of a prime brokerage agreement. …”

The writing in the Final Report was also clearer saying that loans to retail clients “…Should be exempted from the reporting obligation”. This was quite clear when applying MiFID´s definition (Article 4 1 (11)) of retail client. “retail client’ means a client who is not a professional client”. The writing in the Final Report was also clearer saying “the margin lending reporting obligation should only apply to prime brokerage margin lending, i.e. cash lending from prime brokers to their clients against collateral as part of a prime brokerage agreement.”   
  
To make the writing clear the NSA proposes a writing where “retail clients, according to MiFID´s definition, are excluded from the reporting of margin lending”. An alternative could be to explicitly point out which categories of clients that should be included in the reporting. Any reference to prime brokerage agreement should preferable also refer to FCA´s definition of prime brokerage agreement.

**On retail clients’ collateral for SLBs**

For Swedish securities Lending for non-financial clients, we see a challenge to report the specific collateral, since this type of client use a pool of collateral not only for SLB, but also for purchase of derivatives and for depot loan as mentioned above.

**On liquidity swaps**

According to recital 7 in the regulation transactions that are commonly referred to as liquidity swaps and collateral swaps are reportable. However, they are not defined and a definition in the Guidelines would be helpful. The NSA interprets these transactions as normal security loans with securities as collateral.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

The NSA supports what is said in the Consultation Paper.<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>

The NSA supports what is said in the Consultation Paper.<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>

In our context no fee is triggered/incurred in case of a cancellation. Fees only start to accrue once settled. Trades cannot be cancelled after settlement. Then they are terminated, and new trades are booked independently.

<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>

There are different ways of reporting cash-driven SLB. Some members argued to report these as the SLBs they are but accepting that there are scenarios where no security is at loan, only cash loan and net collateral.  This could work for some members but might not work for all the trades in the market. There is an actual case attached of how a report would look like using the proposal suggestion, however it will require ESMA to relax some of the validations and extend the domain values for some of the fields. It might also lack support in the delegated act. One member proposed to report cash driven SLBs as repos.

See attached spreadsheet



However, there is one important standpoint and that is that it should not be reported as margin lending for several reasons. If reported as Margin Lending, cash-driven SLB would also require reporting of funding sources for the cash-driven SLBs. This would require funding sources reporting from organisations that do not provide Margin Lending. More importantly we do not think that the definition of margin lending in the Level 1 text is possible to extend to cash-driven SLBs and we therefore would find it hard to motivate reporting cash-driven SLBs as margin loans. We do also expect market conventions to be developed, these are also very important as they will minimise the risk of that the counterparties reports will not match each other.

<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>

TYPE YOUR TEXT HERE

<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>

We agree to the intent to ease the regulatory reporting burden of the NFCs by the means of mandatory delegation. The extraterritorial reach of the legislation could potentially limit NFCs from interacting with FCs outside the EU. While reducing competition, this creates unnecessary confusion for the NFC's. Given the detailed reporting requirements 3. party report delegation is not a likely scenario and the task for the NFC would be equal to that of reporting directly to a TR.

Regarding the question if the counterpart is a small NFC the NSA is of the opinion that it should be accepted to rely on the information provided by the SME NFC. We are also of the opinion that the status can change only on a yearly basis and that the SME NFC should be responsible to report changes to the FC.

<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>

Regarding 5.1.1 it should be stressed that the explanation just clarifies when there is an obligation to report and not where it has taken place.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

The NSA supports what is stated in the Consultation Paper.

<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>

We are experiencing some uncertainty about what is stated in paragraph 117. The writing says that modifications that are agreed but have not taken place should not be reported until the actual modification takes place. We assume that analysis should always be done on the latest information. Other information is incorrect information and means poorer quality of the analysis.

For making it possible for the authorities to make the best analyse from the data contained in the trade state reports provided by the TRs the NSAs opinion is that modfications should be reported when they are agreed between the counterparties regardless if the transaction has been settled or not.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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!

This one is most for our selected reporting agent, but our experiences from EMIR and other regulatory reporting is biased towards full reporting as it allows validation without having to look up data during ingestion by the TR so it will give a better/faster process.

<ESMA\_QUESTION\_RSFTR\_25>

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

<ESMA\_QUESTION\_RSFTR\_26>

For margin updates there is no termination event. In theory when a position goes to 0 then we need to keep the all historic positions to correctly decide if we in case of a new balance has already opened the position or not. Say we have a variation margin in DKK just after go live and then the balance goes to 0. Then after 5 years a balance in DKK is created again this would fail if reported with New but should be reported with Margin Update.  The cost of this is that we need to have a complete repository of all the margin positions ever reported, beyond the 5 year record keeping requirement.

Similar arguments on the Reuse. We need to keep track on all historical reuse positions beyond the five year record keeping requirement.

We really would like to avoid reporting NEW on these things, only to report updates as that should be enough to report what happens. This is quite different for margin loans as in that case we will have to store a UTI so there we will have to differ between new and updates for that reason and this is in theory simpler – if there is a UTI for margin lending with that client we will send updates, otherwise we will create a UTI and send a new once. This will NOT work for reuse, reinvestment or margin updates as there is no associated UTI.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_RSFTR\_33>

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

<ESMA\_QUESTION\_RSFTR\_34>

TYPE YOUR TEXT HERE

<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>

The NSA believes that it will be difficult or in many cases impossible to stay within the matching range for market value if FX rates are involved. This worry does also apply for the market value for other financial instruments.

<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>

The tolerance for future matching of valuation fields is in many cases, in practice, non-existent. As the values are in many cases retrieved from different sources, we expect a high degree of mismatch. We would like to understand the reasons for the high demands on the value in the valuation fields. In order to get the fields to match, with presented requirements, systems are needed to exchange values on a daily basis between counterparties so that both parties report the same data. This infrastructure does not exist.

<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>

It would be helpful to know which sources that are official sources for CFI

<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 NSA interprets guidelines so that ESMA wants to go further back in time when backloading for open ended securities loans than the regulation mandates.

We (aligned with ICMA) suggest going back to the Level 2 suggestion of reporting backloading after 180 days and encouraging ESMA to give a grace period until then if other market participants opt to backload before then leaving unmatched and unpaired trades. Our primary motive for suggesting the delayed backloading model is a) to reduce the number of trades we need to backload b) because go live is phased and some of the counterparts that we need to match and pair against will not start reporting until after the 180 days, but most importantly it will allow us to focus on resolving the root causes on the smaller volume of the daily trades rather than drowning from day one in the full backload portfolio.

We also highlight the fact that with the 180 days go live the net exposure collateral will cover also the trades not reported, so the data quality of the link between loan value and collateral coverage will not be usable/complete until after the backloading has been completed.

The only problem then is handling any updates to living trades which have not been reported. According to L1 transactions concluded prior to the go-live are not covered by the reporting regulation until 180 days have passed. We expect to backload these transactions in the state they have after 180 days. For trades with fixed maturity with longer time that 180 days we could probably front-load them as they will have to be reported anyway. In practice that long fixed length repos or security loans are very uncommon.

<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>

Will ESMA provide best practices for standard format as was issued under EMIR and drawing attention to the missing engagement by CSDs and custodian banks in exchanging UTIs via swifts on instruction level. (We have reached out to several of the Nordic CSDs none of which had plans to support the exchange of UTI’s between the market participants).

Is there anything more that ESMA could do in the guidance in order to support the UTI exchange process i.e. endorse a standard information exchange format to avoid market participants having to build multiple interfaces and bespoke formats.

Does ESMA have any recommendations as to the format of the UTI. Will ESMA expect the format to follow the guidelines set out under EMIR (E01 and E02<LEI><transaction reference>.)

We will also draw the attention to the fact there are heavy costs to buy UTI-supporting services from sources for instance exchanges that provide this service.

The Waterfall does indeed clarify the responsibility for the UTI generation in most cases however does not set any guidance for the exchange of UTI's. Especially the sector is aware of the problem to exchange the UTI in bilateral trades done over voice/phone. As the UTI needs to be globally unique the risks associated with exchanging a long string of characters will be error prone and push for a simple UTI structure (at least for bilateral trades).

Will ESMA issue any guidance/standard on the format for exchanging UTIs. As it is now the post deal capture exchange of UTIs takes place based on bilateral exchange of data. Each party has its own format/tool for providing the collateral some has a portal; some send files some use intermediate platforms. There is no single standard. When ESMA in 179 prescribe that counterparties should be able to ingest the generated the UTI then it would be beneficial if ESMA outlines a standard for the exchange, so each party does not need to build as many ingestion solutions as it has counterparts.  The format should contain enough information for the party to uniquely match a transaction to the parties’ internal trade register.

<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>

When looking up the unique ISINS across trades and collateral on the MIFID RTS22 Rest service we have Issuer LEI on all except 2.7%. Of which some are synthetic ISIN codes, some are actually wrong ISIN codes, but the majority are non EU ISINSs AU, CA, KY, US and VG. So as expected.

|  |  |
| --- | --- |
| **Lei State** | **Ratio** |
| HAS LEI | 97.3% |
| MISSING LEI | 2.7% |
|  |  |

<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>

We feel that accepting the mismatch regarding the net exposure on net collateralized loans in the phase in period and waiting with the backloading (following level 2 text) would allow market participants to focus on resolving mismatches and disputes on new trades and avoid having to deal with false unmatches due to the counterpart not being part of phase 1. So we support waiting until 180 days with the backloading and accepting unpaired/unmatched historical trades in the phase in period if any participants opt to start reporting everything from day 1.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

Yes, we agree to the approach of reporting clearing.  We would like to see an example of the handling of a bilateral trade given up for clearing after T+1.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

The delegated regulation (EU) 2019/356 as of 13 December 2018 states when reporting Loan and collateral data in Table 2, for field 18, General collateral Indicator;

*Indication of whether the SFT is subject to a general collateral arrangement. In the case of a securities lending transaction, the field refers to securities provided as collateral, and not to the security provided on loan.*   
  
*The code ‘GENE’ shall be specified for an SFT which is subject to a general collateral arrangement. A general collateral arrangement specifies a collateral arrangement for a transaction in which the collateral giver may choose the security to be provided as collateral amongst a relatively wide range of securities satisfying      predefined       criteria.*   
  
*The code ‘SPEC’ shall be specified for an SFT which is subject to a specific collateral arrangement. A specific collateral arrangement specifies a collateral arrangement for a transaction in which the collateral taker requests a specific International Securities Identification Number ('ISIN') to be provided by the collateral provider.*

However, ESMAs proposed writing in the guideline states that reporting, in practice should make a difference between cash-driven and securities-driven transactions. We find it hard to understand this proposal as an interpretation of the Level 2 text quoted above and therefore view it as a new rule. The challenge is that you do not always know why the customer wanted to do it in one way or another. The regulation is sufficiently clear. The guideline increases complexity and makes it harder to understand how to report.

We would like to draw the attention to the overlapping definitions within the ISO20022 standard asking ESMA to align definitions with ECBs definition on the same concept.

The general collateral indicator is used indirectly elsewhere in the ISO20022 standard. We have seen this for ECB reporting under the MMSR regime. We would urge ESMA to adopt a harmonized view on this, so the same concept is not defined differently for different reporting regimes. Below an excerpt taken from the ECB definitions

|  |  |
| --- | --- |
| SPECIAL COLLATERAL INDICATOR | This variable identifies all repurchase agreements conducted against general collateral and those conducted against special collateral.  - General collateral is a repurchase transaction in which the security lender may choose the security to pledge as collateral with the cash provider amongst a relatively wide range of securities meeting predefined criteria;  - Special collateral is a repurchase transaction in which the cash provider requests a specific security (individual ISIN) to be provided by the cash borrower.  - ‘Matched and reverse repurchase agreement’ identifies securities lending transactions made of repurchase agreements and reverse repurchase agreements versus cash. Further information on the securities lending transactions against cash which have to be reported is provided in Section 3.2.  *This field is optional but it should be provided if feasible for the reporting agent.*  GENE General collateral  SPEC  Special collateral  MRRP Securities lending |

Given ESMA’s two alternatives: To have consistency we would recommend to follow paragraph 265 and only use general collateral for the GC facilities to avoid the arbitrary definition of how many securities goes to define a relative wide range of securities (if that is 2, 5, 10, 100 or 1009 or more)). Alternative a clear definition should be set by ECB and ESMA in collaboration to secure alignment between the special collateral indication of ECB and general collateral indicator for MMSR.

<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>

We would like to seek clarification on whether ESMA want the actual fixed rate reported with every fixing, event for rates that could be fixed every day. More specifically if ESMA expects field 2.35 and 2.36 is to be populated for every rate fixing also for Repos or if it only to be used under margin lending.

<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>

For repo/reverse/BSB/SBB using callable Danish mortgage bonds as collateral across one or more paymentdates for the bonds the “Principal amount on the maturity date” might not be known in advance.

The best prognosis is based on preliminary redemptions-data published by the issuer.

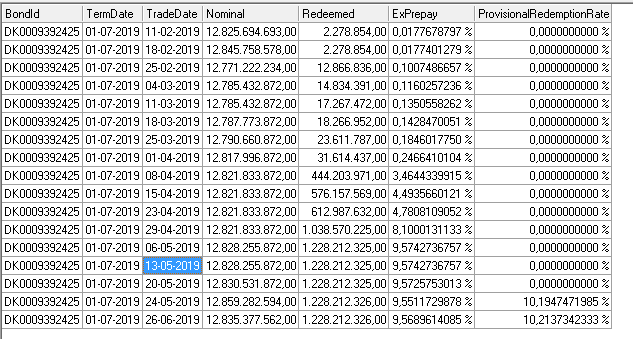
However the actual drawing is not known until the Danish business day before the bond’s paymentdate.

Further the drawing fluctuates with:

* Known prepayments from the underlying loans.  
  This value is known from roughly 1 month and 1 week before the bond’s paymentdate.
* The known (fixed) redemptions for the underlying loans for that payment.  
  Also a known amount from roughly 1 month and 1 week before the bond’s paymentdate.
* The total amount of issued bonds.  
  This value is not known until the Danish businessday before the bond’s paymentdate. As the issuer can issue new bonds and underlying loans can be redeemed through buying the bonds and handing them in for a complete cancellation of the loan.

So it can both increase and decrease through the period leading up to the bond’s paymentdate

Example preliminary redemptions-data for a bond:



Questions:

* Given the frequent (daily) changes in preliminary redemptions-data must the parties to any such repo/reverse/BSB/SBB submit (daily) modifications of the trade to the repository?
* Given the frequent (daily) changes in preliminary redemptions-data how closely must the “Principal amount on the maturity date” align for a proper matching to occur?

<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>

The use of Internal Ratings as suggested by ESMA might force us to disclose information to the party to the trade that is not publicly known in the market (if a bank has downgraded a client in the internal rating compared to the official external ratings based on the knowledge about the clients debt and financing situation) plus highlighting the difficulties for a reporting setup to obtain access and distribute internal credit ratings in the first place as this is seen as confidential information and access granted on a need to know basis.

<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>

Reporting collateral for loans and the Security Type and Collateral Type fields is a challenge. In order to enter these fields, you must know which, usually shares, are included in different indexes. This information is perishable goods, is not always available or has to be bought at high costs.

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

We do not understand why the proposed validation rules indicate that you do not need to report details of collateral when collateral basket identifier is not available (= NTAV).

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

TYPE YOUR TEXT HERE

<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>

The description of feedback in the consultation is unclear. We need a very clear description on how the feedback is intended to work to ensure compatible solutions between different TRs. The MiFIR Reporting Instructions document is a good example of clear instruction of the reporting mechanisms.

As we currently understand the feedback design it will be impossible to associate one feedback report to a specific report that we submitted for that UTI (or combination of key fields for the COLU-message). This can be alleviated in several ways. Our preferred solution is to add an optional reference to the submitted report that will be included in any feedback on that report. This would enable us to send several messages related to the same UTI in the same file. The current best solution in MiFIR limit us to sending one update for one transaction at a time, then waiting for clear feedback before sending any further updates - this is complicated and delays any correction of previous reports.

Also, we would like a clarification on what “the relevant ISO20022 XML message” means in point 393. If this is the MiFIR message as we suspect given the documentation from ISO we would suggest adding a reference to enable us to map feedback on several versions of one trade to the correct version and thus enabling quicker reporting and better state-keeping of submitted transactions. In the current implementation of the MiFIR messaging we must deduce what transactions were accepted by an inclusion-exclusion principle, we would prefer to receive clear identification of what transactions and updates were accepted to make our reporting process more efficient and less error prone. To identify a message we would need the message key (e.g. UTI or the (counterparty, other counterparty, master agreement) 3-tuple ) as well as the message reference mentioned above if it was included in the message that relates to the feedback.

<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>

The description of feedback in the consultation is unclear. We need a very clear description on how the feedback is intended to work to ensure compatible solutions between different TRs. The MiFIR Reporting Instructions document is a good example of clear instruction of the reporting mechanisms.

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<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>