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| Response Form to the Consultation Paper |
| Technical standards on reporting, data quality, data access and registration of Trade Repositories under EMIR REFIT |

**Responding to this paper**

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Annex 1. 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 **19 June 2020.**

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\_CP\_TSTR\_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\_TSTR\_nameofrespondent\_RESPONSEFORM. For example, for a respondent named ABCD, the response form would be entitled ESMA\_TSTR\_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 MiFIR report on Systematic Internalisers in non-equity instruments”).
6. If you wish to provide comments on the definitions, formats, allowable values or reconciliation tolerances for the specific reporting fields, please use for that purpose the additional response form in excel format.

**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 paper. In particular, responses are sought from financial and non-financial counterparties of derivatives, 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 | BME CLEARING, S.A.U. |
| Activity | Central Counterparty |
| Are you representing an association? |  |
| Country/Region | Spain |

**Introduction**

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

<ESMA\_COMMENT\_TSTR\_1>

BME CLEARING is an authorized CCP under EMIR. We appreciate the opportunity to participate in the ESMA consultation paper on EMIR reporting.

Before answering the ESMA consultation paper we would like to take this opportunity to set out some previous thoughts about EMIR reporting and this consultation paper.

First, although BME CLEARING has a segment to clear IRS products, our volume comes mainly from ETD products. Therefore, most of our answers will be focused on ETD reporting.

Second, we believe that in EMIR reporting there are two very different worlds: OTC trades and ETD trades and positions. On one hand, OTC derivative transactions are traded and normally tend to remain in the counterparties trading books. On the other hand, ETD trades are completely different because of the netting process that CCPs do, so that all trades become eventually part of an ETD position. We strongly believe that the main goal of EMIR reporting is identifying financial stability risks in due time[[1]](#footnote-2), therefore we think that EMIR reporting in relation to ETD, should focus on ETD positions which are directly risk related and not on ETD trades.Furthermore, we believe OTC and ETD products should be treated separately under EMIR Article 9.

We think that, unfortunately, so far EMIR reporting has had a disappointing result, especially on reconciliation rates, compared with all the efforts the industry has placed into it[[2]](#footnote-3).

There are several reasons that had influenced in achieving this result in EMIR reporting. We consider that one of the reasons is that EMIR reporting was too ambitious and therefore it has been very difficult to implement.

This has been widely discussed in many forums and the prevailing idea is that firms are making an effort to produce the EMIR reporting in the best possible way, but there are big differences in the interpretation of the criteria, which lead to low levels of pairing and matching.

From our point of view a less ambitious approach would provide better results. And once the better results are achieved, the authorities could reconsider more ambitious goals in EMIR reporting. We believe that it is necessary to fix the different drawbacks that the EMIR reporting already has, rather than adding complexity.

We also would like to ask ESMA to provide comprehensive guidance; practical examples, where applicable, in order to reduce ambiguity and the need for prolonged efforts to update the Q&A. Where appropriate, ESMA may consider the use of industry workshops to garner support and feedback when preparing practical examples.

Last but not least, we encourage ESMA to simplify the reconciliation process, minimizing the number of fields to reconcile. Reconciliation should only apply to essential fields. Many ‘errors’ are not errors in the strict sense and very often, they just show an inconsistent interpretation of the rules between reporting entities.

<ESMA\_COMMENT\_TSTR\_1>

**Questions**

1. [: Do you see any other challenges with the information to be provided by NFC- to FC which should be addressed? In particular, do you foresee any challenges related to the FC being aware of the changes in the NFC status?](#_Toc34747676)

<ESMA\_QUESTION\_TSTR\_1>

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<ESMA\_QUESTION\_TSTR\_1>

1. [: Do you agree with the proposals set out in this section? If not, please clarify your concerns and propose alternative solutions.](#_Toc34747677)

<ESMA\_QUESTION\_TSTR\_2>

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<ESMA\_QUESTION\_TSTR\_2>

1. : [Do you need any further clarifications regarding the scenario in which the FC and NFC- report to two different TRs?](#_Toc34747678)

<ESMA\_QUESTION\_TSTR\_3>

Paragraph 18 assumes that an NFC- will only trade OTC derivatives against a unique counterparty, which, in our opinion, is unrealistic. If a NFC- trades OTC derivatives with different FCs, the allocation of the NFC-trades in a single TR becomes a very complicated issue.

Furthermore, we question the need that all NFC- trades must be allocated in a single TR. On the one hand, NFC- by definition are not systemic entities and therefore the need for the authorities to assess the whole derivatives position of a particular NFC- seems rare. In our view, this is another case that proves that EMIR reporting regulation is too ambitious. On the other hand, if Authorities consider that they would need to assess the derivatives position of a particular NFC- or a conjunct of NFC-in our opinion, it would be better that TRs are asked to produce that information. It will be easier that 8 to 10 TRs collaborate to have this ability rather than the proposals suggested in paragraph 18.

<ESMA\_QUESTION\_TSTR\_3>

1. [: Are there any other aspects related to the allocation of responsibility of reporting that should be covered in the technical standards? If so, please clarify which and how they should be addressed.](#_Toc34747679)

<ESMA\_QUESTION\_TSTR\_4>

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<ESMA\_QUESTION\_TSTR\_4>

1. [: Do you see any other challenges with the information by NFC- to FC of their decision to perform the reporting of OTC derivatives which should be addressed?](#_Toc34747680)

<ESMA\_QUESTION\_TSTR\_5>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_5>

1. [: Do you agree with the proposals set out in this section? If not, please clarify your concerns and propose alternative solutions.](#_Toc34747681)

<ESMA\_QUESTION\_TSTR\_6>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_6>

1. [: Do you see any issues with the approach outlined above? Do you see any other challenges with the delegation of reporting which should be addressed?](#_Toc34747682)

<ESMA\_QUESTION\_TSTR\_7>

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<ESMA\_QUESTION\_TSTR\_7>

1. [: Which errors or omissions in reporting should, in your view, be notified to the competent authorities? Do you see any major challenges with such notifications to be provided to the competent authorities? If yes, please clarify your concerns.](#_Toc34747683)

<ESMA\_QUESTION\_TSTR\_8>

We are very cautious to increase the reporting burden of counterparties. In our opinion, ESMA consultation paper tends to increase the reporting burden to counterparties. From our point of view, it would be more effective to focus on TRs or NCAs.

For instance, regarding the issue stated on paragraph 40 that ‘counterparties should notify the NCA if they experience a problem (e.g. IT incidence) that prevents them from submitting the reports to the TRs’. In the over six years of experience of EMIR reporting we have not had this kind of failure. But let’s assume it can happen. Instead of requiring counterparties to report this kind of incidence, it would be much easier to ask TRs to do that task. TRs can easily control the daily flow of messages of any relevant counterparty. If they notice that there is a particular day with no messages or where the number of messages is an outlier, they could have the obligation to ask first their client and then, if their client has effectively had an incident, report it to the NCA of the counterparty that has had the incident.

Additionally, it is very important to take into account that there are many different counterparties and various sizes. The focus should be first in the most important ones. Only once this milestone has been reached with one group of counterparties, then authorities should try to reach the same milestone with another group of less important counterparties.

It is reasonable that Regulators have a desire to be informed of significant omissions in reporting where records are not submitted to the TR at all. However, in line with the objective of EMIR, it is only significant omissions (not all omissions regardless of nature or quantum) that would materially impact Regulators ability to monitor systemic risk. For example, notification of the exclusion of a new derivative from EMIR reporting due to the derivative not being identified as EMIR reportable or a technical issue that excludes a large percentage of records from TR submission may be desirable although many organisations already notify their NCAs of these type of issues identified.

Additionally, a notification obligation may negatively impact the administrative burden of firms that have better detective controls in place to identify omissions in the first place who already have strong relationships and do notify regulators of significant issues on a voluntary basis, while doing little to tackle the issue of omissions from other firms that do not have strong controls in place to identify the omission in the first place to be in a position to notify their NCA of the issue. Efficient controls use a risk-based approach to prioritise the identification and resolution of significant risks of EMIR compliance breaches due to omissions and many controls use thresholds which vary based on internal and external risk factors of the entity. Significant time and resource would be required to identify, investigate, confirm and disclose all potential omissions regardless of materiality and such a mandate would be out of line with the proportional risk-based approach taken in best practice risk management frameworks across the industry.

Perhaps it would be more effective if ESMA issued guidance on best practice controls to prevent or detect omissions and principles for effective prioritisation of reporting risks in line with the use and aims of Regulators receiving the data.

Proposed Misreporting of Errors Mandatory Notification

For misreporting due to errors, the use of the error action type signals to Regulators the identification and rectification of errors in reporting is already in place. Therefore, we do not believe an additional obligatory notification is required. Furthermore, such an onerous notification obligation “for a counterparty or a CCP to promptly notify their competent authority when it becomes aware of misreporting” would potentially disincentive investment in effective controls (or higher thresholds in existing controls) to identify misreporting whilst doing little to change the Regulators awareness of omissions from firms with weak controls where misreporting goes unidentified.

However, for the purpose of identifying and rectifying misreporting, the definition of misreporting and what constitutes an error would be an useful guidance. There is a difference between an error such as two counterparties both identified as the buyer in a transaction (therefore one party has likely erroneously reported) and an inconsistency in interpretation of a field (where probably neither counterparty is mistaken) as described in our response to question 9 on reconciliation break management. Furthermore, we believe that not all errors are of equal significance to Regulators as not all fields or even reports are of equal importance to the aim of effectively monitoring systemic risk.

We would like to suggest that Regulators prioritise the significance of risk setting at the position level reports, instead of transaction level reports. Moreover, the categorisation of fields for reconciliation and potential enhanced validation controls to identify potential errors would be very useful and effective.

Additionally, in respect of rectifying historical errors, guidance should clearly state ESMA’s expectations for resubmissions of historical data considering for example that resubmission of no longer outstanding records may not be necessary since the corresponding risk has also expired.

Conclusion

In summary, we believe that there are more effective ways to manage risks of omissions and misreporting. The obligation of notification to Regulators, if deemed necessary by ESMA and NCAs, should be limited to significant omissions only based on materiality set by firms using a risk-based approach and good guidance from ESMA on effective controls and prioritisation principles.

<ESMA\_QUESTION\_TSTR\_8>

1. [: Do you see any issues with the approach outlined above? Do you see any other challenges with the reconciliation of trades which should be addressed?](#_Toc34747684)

<ESMA\_QUESTION\_TSTR\_9>

We do not agree with the approach suggested in paragraph 45. We believe that such approach would increase the reporting burden of all counterparties, and it would be ineffective in the end. In our view, there are better approaches. Let’s explain our position.

Although we are aware of the reconciliation issues, the approach suggested would result basically in a bureaucratic system: ‘Under this provision the counterparties should establish written procedures to be able to ensure the successful reconciliation of both sides of reported derivative contract. Counterparties should keep a log of reconciliation failures with other counterparties or entities responsible for reporting, as applicable, with the records of actions taken to resolve each reconciliation failure’. That is, if a counterparty complies with this requirement as it is written, it will fulfil its obligations regarding resolution of reconciliation failures but most probably it would not achieve a successful result, if any, in relation of the goal to increase the ratio of reconciliation failures.

In our opinion, a much effective approach is to involve the NCAs. Under this approach, the NCAs should focus on the counterparties that have some level of importance and that have very low ratios of reconciliation rates. NCAs should approach these counterparties with a carrot and stick approach. With any of these two methods the reconciliation ratios of these counterparties will improve significantly. After these counterparties have increased substantially their reconciliation ratios, NCAs should concentrate on the next group of counterparties with low ratios of reconciliation rates. We believe that the objective of having good reconciliation ratios will be achieved by using this method in four or five phases.

We also suggest ESMA to reconsider this proposal and assess whether the current reconciliation process is fit for purpose. Reconciliation should only apply to essential fields which are pivotal to facilitating oversight of systemic risk. This is currently not the case. Currently there are over 30 fields that need to have a perfect match and there are other fields that have some leeway. If the fields to be reconciled were reduced to 5[[3]](#footnote-4) or 10, the reconciliation process would be improved without any reduction on the levels of quality provided. We believe that many ‘unmatched’ are not errors as such, but relate to inconsistent interpretation of the rules between reporting entities. If there were much less fields to be reconciled, ESMA could give guidance on these fields and Industry could focus on these important fields.

Last but not least, as previously stated in this document, we believe that applying the same rules to OTC and ETD products fails to account for the nuances between OTCs and ETDs. We propose ESMA to apply a clear distinction between OTC and ETD derivatives separately under EMIR Article 9. Reporting transaction-level data for ETDs offers little to no benefit for regulatory authorities while it places a significant burden on reporting firms. For the reporting of ETDs, ESMA should consider placing priority on the reporting of position data over transaction-level data. Gaining oversight of systemic risk in ETD markets stems from industry reports at position-level and both firms and regulatory authorities will benefit from streamlining the reporting process.

<ESMA\_QUESTION\_TSTR\_9>

1. [: Do you see any other data quality issues which should be addressed?](#_Toc34747685)

<ESMA\_QUESTION\_TSTR\_10>

We believe that regarding ETD reporting, as we explained in the introduction of this document, all the focus should be placed on ETD position reporting. In our opinion EMIR reporting is set so that authorities can control risk[[4]](#footnote-5). The reporting of ETD trades is clearly ineffective to control ETD risk due to the netting process that all CCPs do during the day. Focusing on the quality issues of the reporting of ETD trades is ineffective, as well as it is not related to risk, and, as there are so many ETD trades in a single day, it creates noise and inefficiencies in EMIR reporting. We strongly believe that the industry and regulators should only focus on ETD position reporting in connection with quality issues. ETD positions are the data related to risk of any counterparty.

Additionally, all CCPs and significant counterparties report thousands of ETD positions. It is practically impossible for any significant counterparty to have a 100% accurate report which is also reconciled 100% with the other counterparties. In our opinion, the approach should be to increase continuously and gradually and without pause the ratios of reconciliation first regarding pairing and then regarding matching. See our answer to questions 9, 118 and 119.

<ESMA\_QUESTION\_TSTR\_10>

1. [: Do you agree with the proposed technical format, ISO 20022, as the format for reporting? If not, what other reporting format would you propose and what would be the benefits of the alternative approach?](#_Toc34747686)

<ESMA\_QUESTION\_TSTR\_11>

We agree in a standard format to perform the EMIR reporting.

In our opinion one of the advantages of a standard format is that barriers of entries are lowered significantly so that counterparties will have less difficulties to change from one TR to other TR. It is curious that this advantage is not mentioned in the report.

However, the change of the format into a structured XML message will result in significant cost, so ESMA should give enough time to the industry to implement it.

<ESMA\_QUESTION\_TSTR\_11>

1. [: Do you foresee any difficulties related to reporting using an ISO 20022 technical format that uses XML? If yes, please elaborate.](#_Toc34747687)

<ESMA\_QUESTION\_TSTR\_12>

This change obviously involves cost and time in order to be implemented. Authorities should give enough time to implement the new standards.

<ESMA\_QUESTION\_TSTR\_12>

1. [: Do you expect difficulties with the proposed allocation of responsibility for generating the UTI?](#_Toc34747688)

<ESMA\_QUESTION\_TSTR\_13>

Being BME CLEARING a CCP, it is clear that we are the entity which will generate the UTI. The waterfall approach determining the entity responsible for the generation of the UTI is clear for CCPs.

<ESMA\_QUESTION\_TSTR\_13>

1. [: Is any further guidance needed with respect to the generation and exchange of the UTI for derivatives reported at position level?](#_Toc34747689)

<ESMA\_QUESTION\_TSTR\_14>

In the existing regulatory guidance, it is clear that CCPs are responsible for providing position UTIs to clearing participants.

However, the clearing members may have a different opinion and ask for further consideration and guidance from ESMA to generate a consistent view across the industry on what constitutes the position to be reported against the clearing member. For example, where a CCP might report a position at account level, a clearing firm may report positions at a desk level. A firm may have 5 desks which hold positions at a house account (i.e. 5 different portfolios). From this point of view, to ensure successful position level pairing and matching guidance on the level of position aggregation across CM’s and CCP’s would be much appreciated.

<ESMA\_QUESTION\_TSTR\_14>

1. [: Is it clear which entity should generate the UTI for the derivatives that are executed bilaterally and brought under the rules of the market (‘XOFF’)? Are there any other scenarios where it may be unclear whether a derivative is considered to be “centrally executed”? Please list all such specific scenarios and propose relevant clarifications in this respect.](#_Toc34747690)

<ESMA\_QUESTION\_TSTR\_15>

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<ESMA\_QUESTION\_TSTR\_15>

1. [: Should the hierarchy on UTI generation responsibility include further rules on how to proceed when the responsibility for generating the UTI is allocated to an entity (e.g. trading venue or a CCP) from a jurisdiction that has not implemented the UTI guidance?](#_Toc34747691)

<ESMA\_QUESTION\_TSTR\_16>

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<ESMA\_QUESTION\_TSTR\_16>

1. [: Should the hierarchy on UTI generation responsibility include more explicit rules for the case of the delegated reporting? If so, propose a draft rule and its placement within the flowchart.](#_Toc34747692)

<ESMA\_QUESTION\_TSTR\_17>

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<ESMA\_QUESTION\_TSTR\_17>

1. [: Which policy option presented in the flowchart do you prefer? Please elaborate on the reasons why in your reply.](#_Toc34747693)

<ESMA\_QUESTION\_TSTR\_18>

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<ESMA\_QUESTION\_TSTR\_18>

1. [: Is the additional clarification concerning the sorting of the alphanumerical strings needed? If so, which should method of sorting should be considered?](#_Toc34747694)

<ESMA\_QUESTION\_TSTR\_19>

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<ESMA\_QUESTION\_TSTR\_19>

1. [: Are there any other rules that should be added to the hierarchy on UTI generation responsibility? To the extent that such rules are not contradictory to the global UTI guidance, please provide specific proposals and motivate why they would facilitate the generation and/or exchange of the UTIs.](#_Toc34747695)

<ESMA\_QUESTION\_TSTR\_20>

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<ESMA\_QUESTION\_TSTR\_20>

1. [: Do you support including more specific rules provision on the timing of the UTI generation? If so, do you prefer a fixed deadline or a timeframe depending on the time of conclusion of the derivative? In either case, please specify what would be in your view the optimal deadline/timeframe. Please elaborate on the reasons why in your response.](#_Toc34747696)

<ESMA\_QUESTION\_TSTR\_21>

No systemic timing issues in UTI generation have been identified for trade or position UTIs. Clearing participants are provided the trade UTI on the trade confirmation and the position UTI or position UTI components in a timely manner following the market close to enable consuming counterparties to report in the morning of T+1. Therefore, we do not believe additional rules are necessary.

Although we do not believe additional rules are required, we can comment on the approach and times proposed. A set time is preferable to a variable time based on the market close. The reason is that it is easier to create controls at a set time, in order to prevent or detect a compliance breach of any new specific timing rules on CCP UTI dissemination.

If specific rules are set in the regulatory text, the time set should be practical. The time proposed of 12 pm on T is not a reasonable timeframe considering the end of day close of particular US markets. If a set time is considered for a new timing rule, 12 pm on T + 1 at the latest would be reasonable to account for technical issues and reasonable delays that may possibly occur. Most CCPs usually generate UTIs on T or early in the morning on T+1 for markets with a late close, however, any new rules should account for the possibility of issues or delays.

Additionally, for avoidance of doubt, we believe the wording in paragraph 75 (quoted below) should be clarified to reflect that CCPs generate the position UTI following the end of day market close:

“For example, in the case of CCP-cleared positions, the CCP should generate the UTI for the clearing member when the position is first created”

The current statement does not specify the end of day position as opposed to the intraday position and it does not reflect the time needed for UTI generation acknowledged in later paragraphs on timing.

<ESMA\_QUESTION\_TSTR\_21>

1. [: Do you expect issues around defining when you will need to use a new UTI and when the existing UTI should be used in the report? Are there specific cases that need to be dealt with?](#_Toc34747697)

<ESMA\_QUESTION\_TSTR\_22>

We appreciate ESMA has adopted the CPMI-IOSCO UTI guidance on lifecycle events leading to a new UTI and giving a specific guidance on lifecycle events that it is not covered in the current CPMI-IOSCO UTI guidance.

In our opinion, guidance should specify for both ETD trade UTIs and ETD position UTIs which events result in a new UTI generated and a detailed example of how to report each lifecycle event resulting in a new UTI or cases where it is expected that the UTI remains the same.

Below, there is an example of lifecycle events that from our point of view need more explanation at transaction and position level reporting as well as clarity on when a new UTI is required:

* corporate actions (with and without a change in the ISIN of the underlying);
* cascading and splits;
* merge trades, unmerge trades and average price trades (original trades replaced by an average price trade);
* rectify trade and rectify one side of the trade only;
* annulation of trades due to error or early termination;
* position transfers, give-ups and take-ups;
* netting and partial netting

Furthermore, it would be useful to clarify where applicable the differences in reporting where lifecycle events occur on T (before end of day reports are created) and reporting expectations for events which occur on T + 1 or later (after initial submission of the prior day end of day state trade or position).

We believe that thorough guidance on lifecycle events through specific worked examples would significantly reduce the potential for inconsistent reporting.

Finally, we would appreciate guidance from ESMA in order to enable consistent reporting of net zero positions. The absence of industry guidance may result in inconsistent matching rates as some reporting firms continue to report flat positions while others exit such position.

<ESMA\_QUESTION\_TSTR\_22>

1. [: Do you expect any challenges related to the proposed format and/or structure of the UTI? If yes, please elaborate on what challenges you foresee.](#_Toc34747698)

<ESMA\_QUESTION\_TSTR\_23>

We think that including the LEI of the generating party for ETD position reporting as a mandatory obligation should be avoided.

As in all ETD positions reporting, the entity responsible for generating the UTI will be the CCP, it is much better to use the MIC code of the CCP, because it is unique and it is much shorter than the LEI.

In the last months FIA intended to create a logic for constructing positions ETD UTI and the agreed format was like the following:

|  |  |  |  |
| --- | --- | --- | --- |
| Market Type | Field | Character Length | Example |
| Regulated Markets | CCP MIC Code | 4 | ABCD |
| Clearing Member Code | 5 | ABCDE |
| Clearing Indicator | 1 | C |
| UTI Type | 1 | P |
| Version | 1 | 0 |
| Clearing Member Account Code | 28 | J999999999999999999999999999 |
| ISIN | 12 | ABCDEF123456 |

It can be observed that the total characters length of this position UTI is 52. If we substituted in this approach the CCP MIC Code with the CCP LEI, we would get a position UTI of 76 characters. We believe that any CCP that uses similar approaches to this position UTI suggested by FIA, must include the CCP indicator (in case of the MIC, four characters and 20 characters in the case of the LEI), the clearing member code (up to five characters), the clearing member account code (for some CCPs up to 28 characters) and the ISIN code (12 characters). This gives a position UTI length of 49 characters in case the CCP MIC code is used or 63 characters in case the CCP LEI is used.

There are two other reasons for this recommendation of not using the CCP LEI in case of the ETD position UTI. First, although there may be thousands of FC in the world, there are probably less than 60 CCPS all around the world. You do not need the LEI to identify a reduced number of firms. Second, Dodd-Frank reporting does not force ETD reporting. Therefore, in our view, it is convenient that there are some discrepancies between Dodd-Frank and EMIR reporting.

<ESMA\_QUESTION\_TSTR\_23>

1. [: Do you have any comments concerning the use of ISINs as product identifiers under EMIR for the derivatives that are admitted to trading or traded on a trading venue or a systematic internaliser?](#_Toc34747699)

<ESMA\_QUESTION\_TSTR\_24>

We support the idea of using the ISINs code for the reporting of ETD as it is written in paragraph 106: “In particular, the ISINs should continue to be used for the identification of derivatives admitted to trading or traded on a trading venue or a systematic internaliser, given that these derivatives are identified with ISIN under MiFIR. This requirement would apply both to the contracts concluded on a venue as well as to OTC conclusion of contracts that are admitted to trading or traded on a trading venue. Consistent use of the same identifier under EMIR and MiFIR is supporting regulators’ capacity to cross-analyse the data”.

It would be good to take further steps to harmonise the reporting requirements under EMIR with MiFID II so that reporting parties are only required to report the underlying instrument data in such instances where an ISIN is not reported. This change would reduce the existing myriad of matching fields and help to address a number of existing matching issues such as ‘Maturity Date’. Furthermore, this would ease the burden of obtaining extensive Commodity Reference data that is not widely available.

<ESMA\_QUESTION\_TSTR\_24>

1. [: Do you have any comments concerning the use of UPIs as product identifiers under EMIR? Should in your view UPI be used to identify all derivatives or only those that are not identified with ISIN under MiFIR? ?](#_Toc34747700)

<ESMA\_QUESTION\_TSTR\_25>

We think that ISINs should be used for the reporting of ETD. We do not see a need to use UPI as product identifiers under EMIR as ISIN has generally met the criteria required for effective product identification. Therefore, we would prefer use of UPI only for derivatives which are not identified with an ISIN under MiFIR as opposed to use of the UPI to identify all derivatives.

Regarding the reporting of OTC trades, the use of UPIs could be an advantage. However, we think regulators should be cautious. Requiring counterparties in 2020 or at the beginning of 2021 to use UPIs when in paragraph 107 it is said that “the UPI standard will be developed and the framework for the generation of the UPIs will be set in place within a timeline allowing for the global implementation of the UPI by Q3 2022” does not seem very prudent.

At the introduction of this response, we outlined that, in our opinion, one of the drawbacks of EMIR reporting is that it has been very ambitious from the very beginning. From our point of view this proposal of using the UPI when the design of this identifier has not finalized could result in another example of excessive ambition.

We believe that the improvement of EMIR reporting should be a gradual process. This process should have the aim of improving the EMIR reporting both in the quality of the data reported and in the information provided in the reporting but progressively. Authorities should have in mind a medium-term process of improvement of EMIR reporting. Of course, EMIR reporting cannot change each year because it would involve a high cost for counterparties and TRs, but it can have a change every four or five years. If in 2020 there is not enough definition of the UPI, then in our opinion the implementation of the UPI in the EMIR reporting should be postponed to the next change in EMIR reporting.

For all these reasons, we completely disagree with the idea of using UPI to identify all derivatives in EMIR reporting. For the time being, ISIN should be used if available so that reporting is consistent with MiFID. UPI should only be required for derivatives that are not identified with ISIN.<ESMA\_QUESTION\_TSTR\_25>

1. [: Do you agree with the assessment of the advantages and disadvantages of the supplementary reporting of some reference data? Are there any other aspects that should be considered?](#_Toc34747701)

<ESMA\_QUESTION\_TSTR\_26>

We agree with the ideas given in paragraph 115: “ESMA considers that any duplication or redundancies in the reporting should be avoided, to the extent possible. It is ESMA’s understanding that reliance on the reference data library instead of requirement to report the instrument reference data in trade reports could facilitate reporting, decrease reporting costs and increase the reconciliation rates”. This should be the goal of EMIR reporting with regard to reference data.

We disagree with the statement in paragraph 117: “many of the conditional validations expected from the TRs are specific to asset classes and product types. From a technical perspective, such validations can be more easily performed, if the relevant fields are submitted in the same message rather than if the relevant values must be researched each time in a separate database”. One of the problems of EMIR reporting is matching reconciliation. It is clear that the more data to be reconciled the more difficult is matching reconciliation. We believe that it would be positive if just one field such as the ISIN or the UPI could be used to identify the product. This would prevent mismatches in other fields used to identify the product that can be found in a reference data library.

We also disagree with the statement in paragraph 119: “from the perspective of the data users, retaining of some basic instrument reference data in the trade reports may facilitate the analyses, in particular where the user is interested only in a subset of the data (e.g. a single asset class) or where such basic characteristics are used as dimensions in all analyses”. In our opinion it could be simpler if the data users identify this basic instrument reference data they use, so they can ask TRs to implement consults using this basic instrument reference data. There are only a few TR while there are hundreds or thousands of counterparties. In our opinion the more workload is allocated to TRs, the easier EMIR reporting will be.

<ESMA\_QUESTION\_TSTR\_26>

1. [: Some of the instruments’ characteristics that are expected to be captured by the future UPI reference data are already being reported under EMIR, meaning that they have already been implemented in the counterparties’ reporting systems. If this data or its subset were continued to be required in trade reports under EMIR, what would be the cost of compliance with this requirement (low/moderate/high)? Please provide justification for your assessment. Would you have any reservations with regard to reporting of data elements that would be covered by the UPI reference data?](#_Toc34747702)

<ESMA\_QUESTION\_TSTR\_27>

The associated cost related to duplicate information is not justified in our view. The cost of compliance with a requirement to continue to report reference data is mostly related to the time and effort to resolve reconciliation breaks should these fields continue to be matching fields.

If duplicate reference data elements are required regardless UPI adoption, we suggest that these fields are no longer reconciled as matching fields considering the UPI will be reconciled and data can be cross referenced to the UPI for TR and Regulator data quality validations.

<ESMA\_QUESTION\_TSTR\_27>

1. [: Do you foresee any issues in relation to inclusion in the new reporting standard that the LEI of the reporting counterparty should be duly renewed and maintained according to the terms of, any of the endorsed LOUs (Local Operating Units) of the Global Legal Entity Identifier System?](#_Toc34747703)

<ESMA\_QUESTION\_TSTR\_28>

We would like to seize this opportunity to raise a concern we have had on one particular topic. The obligation to duly renew LEIs should not be set in a Q&A and a Validation Rule. Instead, and for the sake of legal certainty, this issue should be set in the RTS.

Regarding the wording in 4.2.2.1, paragraph 129, we would like to ask for clarity on ESMAs expectations for GLEIF database checks. As GLEIF database checks are used by TRs in validation of submissions, it would appear redundant for CCPs to pre-check against the same database before TR submission.

<ESMA\_QUESTION\_TSTR\_28>

1. [: Do you foresee any challenges related to the availability of LEIs for any of the entities included in the Article 3 of the draft ITS on reporting?](#_Toc34747704)

<ESMA\_QUESTION\_TSTR\_29>

We do delegated reporting (what we call level 2 reporting, i.e., our clients versus their clients) for our counterparties (which are all FCs) and we have faced many times difficulties with not renewed LEIs in the case of NFCs.

There are many minor NFCs that have the obligation to report. These NFCs need to have a LEI and they need to renew its LEI yearly. It is relatively common that this type of companies do not renew their LEIs in due time and therefore, its reporting is stopped for 5 to 10 days (this is the time it takes to renew the LEI in Spain).

In our opinion, the LEIs for NFCs (especially for the small ones) should be renewed for 3 to 5 years. This would alleviate this issue.

<ESMA\_QUESTION\_TSTR\_29>

1. [: Do you have any comments concerning ESMA approach to inclusion of CDEs into EMIR reporting requirements?](#_Toc34747705)

<ESMA\_QUESTION\_TSTR\_30>

The CDE Guidance has been prepared strictly with OTC derivatives in mind. Given that EMIR Article 9 includes the reporting of ETD, as well as OTC, ESMA is encouraged to state clearly that the CDE Guidance does not apply when reporting ETDs.

<ESMA\_QUESTION\_TSTR\_30>

1. [: Is the list of Action types and Event types complete? Is it clear when each of the categories should be used?](#_Toc34747706)

<ESMA\_QUESTION\_TSTR\_31>

We suggest that thorough examples are given. In many cases the explanation of Table 7 is too short and therefore it can lead to misunderstanding.

|  |  |  |  |
| --- | --- | --- | --- |
| **Action Type** | **Event** | **Type Applicability** | **Our comment** |
| New | Clearing | When a derivative with a new UTI is created for the first time due to a Clearing event. | Could this case an OTC trade that is sent to clearing? What would be the difference with New/Trade |
| Modify | Allocation | When a derivative with an existing UTI is partially allocated. This is used to report the amended notional of the existing derivative. | In our conception, allocation refers to ‘allocate a trade in a particular account’ and not the change of the notional. |
| Terminate | Clearing | When a derivative with an existing UTI is terminated due to a Clearing event. This is used for terminating alpha trades. | This is a good explanation. |

It is difficult to confirm whether this list is complete without more detailed guidance on when each category should be used, and exactly which events fall into each category. A full list of applicable events for each event type and worked examples would be very useful.

There is also some clarification needed when CCPs use the Clearing event and if Clearing is intended to include all cleared transactions including OTC transactions which were previously bi-laterally agreed among counterparties and subsequently cleared.

Additionally, it is unclear when each action type and event type should be used when the transaction falls into more than one option of the available combinations. For example, should early termination be used only if there is no other event type applicable?

<ESMA\_QUESTION\_TSTR\_31>

1. [: Is it clear what is the impact of the specific Action Types on the status of the trade, i.e. when the trade is considered outstanding or non-outstanding?](#_Toc34747707)

<ESMA\_QUESTION\_TSTR\_32>

As requested in the Q31 response, worked examples of the combinations of event types and action types would be useful. Including in the example the impact on the status of trade would be very useful.

As ETD trades reported as position components are not considered outstanding, for a CCP like us, this would mean mostly just OTC transactions are considered outstanding.

Regarding trades considered non-outstanding, clarity is needed on whether these trades should be subject to reconciliation or not.

The consultation paper indicates in paragraph 45 “counterparties should keep a log of reconciliation failures with other counterparties or entities responsible for reporting, as applicable, with the records of actions taken to resolve each reconciliation failure.” Is this applicable to non-outstanding derivatives? As previously mentioned, thorough guidance will be one of the keys to improve EMIR reporting and any text that may bring uncertainties, as the one mentioned, should be avoided.

<ESMA\_QUESTION\_TSTR\_32>

1. [: Is it clear what are the possible sequences of Action Types based on the Figure 1?](#_Toc34747708)

<ESMA\_QUESTION\_TSTR\_33>

Figure 1 may be too simple. As mentioned in our answer to question 31, we recommend providing as guidance a couple of worked examples for each combination of Action Type/Event.

<ESMA\_QUESTION\_TSTR\_33>

1. [: Are the possible combinations of Action type and Event type determined correctly? Is their applicability at trade and/or position level determined correctly?](#_Toc34747709)

<ESMA\_QUESTION\_TSTR\_34>

As mentioned in our answers to question 31 and 33, we recommend providing a couple of examples for each combination of Action Type/Event.

Some of the examples of combinations that require more clarity are:

* the combination of Action Type “Terminate” and Event Type “Inclusion in Position” for position level;
* reporting of position component appears to have no applicable event types (as the majority of CCPs report ETD trades once as a position component and then modify the position for subsequent lifecyle events, it would appear the majority of the event types will not be used by CCPs for ETD trades)

We would very much welcome ESMA to work collaboratively with the industry to produce the detailed guidance and examples requested.

Some worked examples from a CCP reporting perspective would be appreciated to clarify the reporting actions required when a transaction is cleared. This would be particularly relevant to ETD reporting. For example, for ETD transactions that are reported only as a position component there appears to be no applicable event types in the guidance. Most CCPs report ETD trades only once as a position component. Afterwards, they modify the position for subsequent lifecyle events. This may make it look like many of the event types will not be used by CCPs for ETD transaction reporting.

Furthermore, currently most intraday event reporting is optional in the ESMA Q&A and most CCPs report on an end of day state basis. It would be extremely useful to get guidance on how these combinations apply and the sequence of reporting applicable to intraday events.

<ESMA\_QUESTION\_TSTR\_34>

1. [: Is the approach to reporting Compression sufficiently clear? If not, please explain what should be further clarified or propose alternatives.](#_Toc34747710)

<ESMA\_QUESTION\_TSTR\_35>

We think that to separate the effect of compression of OTC trades to the effect of netting of ETD trades is a good idea. These are two different components that are currently reported under the same label.

However, It is unclear whether a ETD trade should be initially reported only as a position component on T + 1 (no other transaction level reports submitted) or if ESMA expects the trade to be reported as both action type new (event type clearing) and action type early termination (event type inclusion in position) simultaneously on T + 1 when initially reported and forming part of an existing or new position.

<ESMA\_QUESTION\_TSTR\_35>

1. [: Do you agree with the proposal to include two separate action types for the provision of information related to the valuation of the contract and one related to margins?](#_Toc34747711)

<ESMA\_QUESTION\_TSTR\_36>

Yes, we think this is a good idea. Moreover, we think this approach is similar to the approach used in SFTR reporting.

<ESMA\_QUESTION\_TSTR\_36>

1. [: Do you agree with the proposal to include the Action Type “Revive”? Are there any further instances where this Action Type could be used? Are there any potential difficulties in relation to this approach?](#_Toc34747712)

<ESMA\_QUESTION\_TSTR\_37>

We agree with the proposal.

Action type “Revive” may be suitable in the reporting of net zero positions. Nowadays, some firms reporting net zero positions make the decision to modify the position to zero and if the relevant instrument is traded again, they modify these positions back to a positive quantity, all the while maintaining the original UTI. Others firms do what ESMA suggests on Q&A TR 3b(e). So, in our view, using this action type is positive for those firms that use Early terminate in the flat position. But, from the consultation paper it seems that this action type is to be mainly used for the purpose of reviving wrongfully errored out submissions. In the case Action type “Revive” should be used to revive zero positions, the RTS should say so, or perhaps use other additional action type.

<ESMA\_QUESTION\_TSTR\_37>

1. [: Is the approach to reporting at position level sufficiently clear? If not, please explain what should be further clarified?](#_Toc34747713)

<ESMA\_QUESTION\_TSTR\_38>

In relation to paragraph 182 which states “ESMA clarifies that the reporting at position level should be agreed between the two counterparties”, we strongly believe that ETD reporting should be done at trade and at position level.

As noted in some other sections of this response, we believe that EMIR reporting is about risk. We also believe that due to the netting process that CCPs perform, ETD trades are not significant for risk evaluation and in an ideal world they should not be reported under EMIR.

But, on the other hand ETD position is relevant in order to assess the risk of any CCP or FC that has positions in a CCP. Therefore, we recommend that the RTS sets that ETD reporting should be done at least at a position level.

Additionally, taking up again paragraph 182, “the reporting at position level should be agreed between the two counterparties, i.e. the two counterparties to a trade should either both include it in a position, or both continue to report the relevant lifecycle events at trade level.” CCPs have hundreds of clearing members and it is not practical to agree bi-laterally with all clearing participants in advance and create a reporting logic bespoke to hundreds of bi-lateral agreements with individual clearing participants. This would also create an inconsistent reporting framework that would make CCPs unable to provide consistent guidance to clearing members on their reporting policies. Agreement between hundreds of counterparties is not possible, therefore, it would be preferable for ESMA to clarify its preference on when additional position level reporting is appropriate or not and to provide examples. As stated previously, good guidance should be the basis of EMIR reporting. For instance, it is understood that the position is modified for lifecycle events, but it is less clear if reversing entries at the transaction level are reported or not where these lifecycle events occur after initial reporting on T + 1.

<ESMA\_QUESTION\_TSTR\_38>

1. [: Are all reportable details (as set out in the Annex to the draft RTS on details of the reports to be reported to TRs under EMIR (Annex IV)) available for reporting at position level? If not, please clarify which data elements and why.](#_Toc34747714)

<ESMA\_QUESTION\_TSTR\_39>

This section of the consultation paper is called Reporting of lifecycle events. In ETD during a day there are many lifecycle events as give-ups, position transfers, allocation of trades. There is a statement in the Q&A on EMIR reporting that says “All information should be reported at the end of the day in the state that it is in at that point. Intraday reporting is not mandatory”.

It is very typical in ETD trading and clearing, for instance, that a trade done by a clearing member is given up to another member. If we follow the statement “Intraday reporting is not mandatory”, in this case in ETD trade reporting only the acceptance of the give-up by the member that receives the trade should be reported. But this may cause mismatching if the member that performed the trade originally reported the trade.

We think that ESMA should review the most typical lifecycle events of ETD trading and clearing and provide guidelines, ideally in the RTS or at the time of publishing the RTS, on how to deal with them on EMIR reporting.

<ESMA\_QUESTION\_TSTR\_39>

1. [: Are there any products other than derivatives concluded on a venue and CfDs that may need to be reported at position level?](#_Toc34747715)

<ESMA\_QUESTION\_TSTR\_40>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_40>

1. [: Do you have any general comments regarding the proposed representation of the reporting requirements in the table of fields? Please use the separate excel table to provide comments on the specific fields in the table.](#_Toc34747716)

<ESMA\_QUESTION\_TSTR\_41>

We encourage to take steps to avoid confusion arising from the reporting of ETD contracts. The overwhelming majority of the proposed changes are set out to facilitate the reporting of OTC contracts. ESMA is encouraged to consider having a separate report clearly setting out the reportable fields for the reporting of ETD contracts. Alternatively, where such amendments are included (eg. CDE guidance), the validation rules should explicitly state that such fields are not applicable to ETD. Furthermore, for ETD, the UPI should only be required for derivatives that are not identified with ISIN.

<ESMA\_QUESTION\_TSTR\_41>

1. [: Is the proposed definition adequate? Can you think of any cases where further clarification would be needed or further problems might be expected? What would you expect to be reported as effective date when the trade is not confirmed?](#_Toc34747717)

<ESMA\_QUESTION\_TSTR\_42>

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<ESMA\_QUESTION\_TSTR\_42>

1. [: Is the proposed definition adequate? Can you think of any cases where further clarification would be needed, or further problems might be expected? What would you expect to be reported as maturity date when the trade is not confirmed?](#_Toc34747718)

<ESMA\_QUESTION\_TSTR\_43>

We welcome the clarification on this field as it has been raised as an area of inconsistent reporting between CCPs and members. We support ESMA’s proposal to align with the CDE guidance and use the maturity date as populated on the trade confirmation.

<ESMA\_QUESTION\_TSTR\_43>

1. [: Do you agree with the proposed definition? Are there any other aspects that should be covered in the technical standards?](#_Toc34747719)

<ESMA\_QUESTION\_TSTR\_44>

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<ESMA\_QUESTION\_TSTR\_44>

1. [: Do you agree with the proposed definition? Are there any other aspects that should be covered in the technical standards?](#_Toc34747720)

<ESMA\_QUESTION\_TSTR\_45>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_45>

1. [: Do you foresee any difficulties with the reporting of Event date? Please flag these difficulties if you see them.](#_Toc34747721)

<ESMA\_QUESTION\_TSTR\_46>

We do not believe the addition of this field is useful and would be duplicative considering the transaction level record for lifecycle events already includes the date of the event (not a date of an agreement to modify a trade).

<ESMA\_QUESTION\_TSTR\_46>

1. [: In relation to the format of the “client code”, do you foresee any difficulties with reporting using the structure and format of the code as recommended in the CDE guidance? If you do, please specify the challenges.](#_Toc34747722)

<ESMA\_QUESTION\_TSTR\_47>

We do not foresee difficulties. We think the CDE guidance makes sense. Perhaps it should be specified that the LEI to be used is the LEI of the counterparty of the private individual.

<ESMA\_QUESTION\_TSTR\_47>

1. [: Alternatively, would you prefer to replace the internal client codes with national identification number as defined in MIFIR transaction reporting? Please specify the advantages and disadvantages of both alternatives.](#_Toc34747723)

<ESMA\_QUESTION\_TSTR\_48>

We do not like the idea of using the national identification number. On the one hand, it very probably may go against data protection regulations, raising privacy issues. Furthermore, as private individuals will never have big derivatives position, we doubt the assumption done in paragraph 216 that, if reporting were done using the national identification number this “would increase supervisors’ capacity to monitor market abuse”. We believe that a situation where an authority would need to know the identity of an individual person due to EMIR reporting (which basically is focused on risk), will be very rate and, therefore, could be tackled through other simpler mechanisms. MiFIR, on the contrary focuses on market abuse or the use of confidential information. Thus, in the case of MiFIR reporting it is reasonable that authorities must know the identity of an individual person with a certain frequency.

<ESMA\_QUESTION\_TSTR\_48>

1. [: Do you agree on the proposal to include this process in the draft RTS on procedures for ensuring data quality?](#_Toc34747724)

<ESMA\_QUESTION\_TSTR\_49>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_49>

1. [: Do you agree that one month is the good timespan between the notification by the counterparty to the TR the corporate restructuring event and the actual update of the LEI by the TR?](#_Toc34747725)

<ESMA\_QUESTION\_TSTR\_50>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_50>

1. [: Do you agree on the fact that transactions that have already been terminated at the date when the TR is updating the LEIs should be included in the process?](#_Toc34747726)

<ESMA\_QUESTION\_TSTR\_51>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_51>

1. : [In the case of transactions where an impacted entity is identified in any role other than the reporting counterparty (e.g. Counterparty 2, Broker etc), when the TRs should inform the reporting counterparties of the change in the identifier of that entity?](#_Toc34747727)

<ESMA\_QUESTION\_TSTR\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_52>

1. [: Which entity should identify all transactions that should be amended due to a partial modification of the identifier of an entity?](#_Toc34747728)

<ESMA\_QUESTION\_TSTR\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_53>

1. [: In cases where the counterparty is not responsible and legally liable for reporting transactions, which entity should be in charge of notifying the TR and what should be the related requirements between the counterparty itself and the entity who is responsible and legally liable for the reporting?](#_Toc34747729)

<ESMA\_QUESTION\_TSTR\_54>

We believe the obligation to communicate the change to the TR should be option 1 where the responsibility for TR notification belongs to the counterparty affected by the event and not the counterparty reporting on its behalf.

<ESMA\_QUESTION\_TSTR\_54>

1. [: Do you see any other challenges related to LEI updates due to mergers and acquisitions, other corporate restructuring events or where the identifier of the counterparty has to be updated from BIC (or other code) to LEI because the entity has obtained the LEI?](#_Toc34747730)

<ESMA\_QUESTION\_TSTR\_55>

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<ESMA\_QUESTION\_TSTR\_55>

1. [: In relation to the field “Beneficiary ID”, do you have any concerns regarding the elimination of this field? Based on your reporting experience, which trading scenario may be missed if this field is eliminated, with exception of the cases explained in Q&A General Question 1 (c)?](#_Toc34747731)

<ESMA\_QUESTION\_TSTR\_56>

No, we support the decision of eliminating this field.

<ESMA\_QUESTION\_TSTR\_56>

1. [: In relation to the field “Trading capacity”, do you have any concerns regarding the elimination of this field? Based on your reporting experience, which trading scenario may be missed if this field is eliminated?](#_Toc34747732)

<ESMA\_QUESTION\_TSTR\_57>

No, we support the decision of eliminating this field.

In relation to the second question of which trading scenarios may be missed, we consider that the question is irrelevant. EMIR reporting is about risk and therefore, what it is important is the derivatives position of any counterparty. The reason behind any trade or position is not important. The important issue is the whole position.

<ESMA\_QUESTION\_TSTR\_57>

1. [: In relation to the “Direction of trade”, do you foresee any difficulties with the adoption of CDE guidance approach? Please provide a justification for your response.](#_Toc34747733)

<ESMA\_QUESTION\_TSTR\_58>

We agree with ESMA’s preference for the hybrid approach outlined in paragraph 230. The additional fields’ option in paragraph 231 may create reporting inconsistencies as some parties may leave some of the new fields blank or use a value to indicate the field is not applicable resulting in increased reconciliation breaks.

<ESMA\_QUESTION\_TSTR\_58>

1. [: Are there any products for which the direction of the trade cannot be determined according to the rules proposed in the draft technical standards (based on the CDE guidance)? If so, please specify the products and propose what rules should be applied.](#_Toc34747734)

<ESMA\_QUESTION\_TSTR\_59>

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<ESMA\_QUESTION\_TSTR\_59>

1. [: Do you foresee any difficulties with reporting in case the value “Intent to clear” is not included in the list of allowable values for Field « Cleared » ? Please motivate your answer.](#_Toc34747735)

<ESMA\_QUESTION\_TSTR\_60>

We agree with ESMA’s proposal of not including “Intent to clear”.

<ESMA\_QUESTION\_TSTR\_60>

1. [: Do you have any other comments concerning the fields related to clearing?](#_Toc34747736)

<ESMA\_QUESTION\_TSTR\_61>

We would like to have a clear understanding on when a cleared ETD trade should be reported using action type “New” as opposed to “Position Component”.

The scenario in paragraph 234 is specific to where a bi-lateral trade previously reported is subsequently cleared, reported as “Early Termination” and then reported by both counterparties as new trades against the CCP. It is understood in the second scenario in paragraph 235 that for trades cleared on the same day as the original bi-lateral trades, only the cleared trade would be reported by the counterparties and the CCP.

It is unclear if these trades in either scenario can be reported by the CCP as only “Position Component” or if the cleared trades must also be reported as “New”. Currently many CCPs report both scenarios for ETD trades as action type “Position Component” rather than “New” at the transaction level.

More broadly, enough guidelines are needed on how CCPs are expected to report all cleared trades.

<ESMA\_QUESTION\_TSTR\_61>

1. [: The timely confirmation requirement applies only to non-cleared OTC contracts. However, under the rules in force, the confirmation timestamp and confirmation means are reported also for ETD derivatives by some counterparties, leading to problems with reconciliation of the reports. ESMA proposes to clarify that the abovementioned fields should be reported only for OTC non-cleared derivatives. Do you agree with the proposed approach for clarifying the population of the fields “Confirmation timestamp” and “Confirmation means”? Please motivate your response.](#_Toc34747737)

<ESMA\_QUESTION\_TSTR\_62>

In general, we agree with every little measure that simplifies EMIR reporting. We also agree with every instruction that distinguishes between OTC trades and ETD trades and positions.

Yes, we agree with the approach. Confirmation clearly applies to OTC non-cleared derivatives.

If it is finally decided to report these fields for ETD derivatives, we recommend that the eventual reconciliation is done only at the date time, without considering the hour. We believe that reconciling the time of the “confirmation timestamp” for ETDs does not provide any useful information.

<ESMA\_QUESTION\_TSTR\_62>

1. [: Do you have any comments concerning the fields related to settlement?](#_Toc34747738)

<ESMA\_QUESTION\_TSTR\_63>

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<ESMA\_QUESTION\_TSTR\_63>

1. [: Do you have any comments concerning the proposed way of reporting of the trading venue?](#_Toc34747739)

<ESMA\_QUESTION\_TSTR\_64>

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<ESMA\_QUESTION\_TSTR\_64>

1. : [Do you foresee any difficulties related to the proposal for reporting the data elements related to the regular payments?](#_Toc34747740)

<ESMA\_QUESTION\_TSTR\_65>

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<ESMA\_QUESTION\_TSTR\_65>

1. [: Do you agree to leave the valuation fields unchanged? If not, what changes do you propose?](#_Toc34747741)

<ESMA\_QUESTION\_TSTR\_66>

Yes, we agree.

<ESMA\_QUESTION\_TSTR\_66>

1. [: Do you agree that the contract value is most relevant for authorities when reported as the IFRS 13 Fair Value without applying valuation adjustments?](#_Toc34747742)

<ESMA\_QUESTION\_TSTR\_67>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_67>

1. [: Do you anticipate practical issues with reporting IFRS 13 Fair Value without applying valuation adjustments? If so, what measures can be taken to address these or what alternative solutions can be considered (that would ensure consistent reporting of valuation by the counterparties)?](#_Toc34747743)

<ESMA\_QUESTION\_TSTR\_68>

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<ESMA\_QUESTION\_TSTR\_68>

1. [: Is more guidance needed for the determination of the “valuation type”, e.g. similar to the guidance provided in the CDE guidance on page 41-42?](#_Toc34747744)

<ESMA\_QUESTION\_TSTR\_69>

Just one comment, regarding ETD products the valuation of the contract for an ETD trade is irrelevant as the contract will be netted at the CCP. As noted in several of our answers of this document, ETD positions should be the important issue of EMIR reporting. For this reason, we would appreciate some guidance from ESMA stating that it is not necessary to report data elements related to valuation for ETD trades and that it is compulsory to report these data elements for ETD positions.

<ESMA\_QUESTION\_TSTR\_69>

1. [: Do you agree that the fields IM/VM Posted/Received fields are provided in with both a pre- and post-haircut value?](#_Toc34747745)

<ESMA\_QUESTION\_TSTR\_70>

No, we don’t agree. This is another example of complexity of EMIR reporting, EMIR reporting is already complicated, and this information doesn’t have significant value[[5]](#footnote-6). We recommend not to implement this approach, with the idea of implementing it in a future revision of EMIR.

<ESMA\_QUESTION\_TSTR\_70>

1. [: Do you agree to change the format of the collateralisation field to one that is compatible with single sided reporting?](#_Toc34747746)

<ESMA\_QUESTION\_TSTR\_71>

Yes, it is more flexible and reduces the complexity of EMIR.

<ESMA\_QUESTION\_TSTR\_71>

1. [: Do you agree that the fields “Counterparty rating trigger indicator” and “Counterparty rating threshold indicator” are added?](#_Toc34747747)

<ESMA\_QUESTION\_TSTR\_72>

The fields “Counterparty rating trigger indicator” and “Counterparty rating threshold indicator”, as explained in paragraph 270, only applies to OTC trades which are not cleared. We recommend setting in the RTS that these fields should only be reported to non-cleared OTC trades.

Additionally, as a principle, we do not agree with the inclusion of additional fields for indication of counterparty party triggers and thresholds. We believe each organisation has different approaches to managing counterparty risk and collateral which limits meaningful comparability. Furthermore, the integration of data from risk systems creates further complexity and cost to reporting obligations that we believe are not proportionate to benefits of inclusion.

<ESMA\_QUESTION\_TSTR\_72>

1. [: Do you agree that a single A rating is the most relevant trigger for the “Counterparty rating threshold indicator” field?](#_Toc34747748)

<ESMA\_QUESTION\_TSTR\_73>

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<ESMA\_QUESTION\_TSTR\_73>

1. [: Is it possible to separate the value of a collateral portfolio exclusively for derivatives?](#_Toc34747749)

<ESMA\_QUESTION\_TSTR\_74>

In our segments (different Asset Class), we have cash segments and derivatives segments. In the past we allocated the collateral at the CCP level. However, SFTR requires to inform about collateral and EMIR requires to inform about collateral. We have been in a process of separating the value of a collateral portfolio by type of products. We are going to need time in order to implement it.

<ESMA\_QUESTION\_TSTR\_74>

1. [: Are there any limitations with regard to ESMA’s proposed adjustments to these EMIR reporting fields? If so please specify what the limitations are and how they could be overcome?](#_Toc34747750)

<ESMA\_QUESTION\_TSTR\_75>

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<ESMA\_QUESTION\_TSTR\_75>

1. [: Do you think that there are other additional fields which would be necessary to fully understand the price of a derivative?](#_Toc34747751)

<ESMA\_QUESTION\_TSTR\_76>

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<ESMA\_QUESTION\_TSTR\_76>

1. [: Are there any further pieces of clarification in relation to these fields (beyond the information in the definitions in the annex) which could be added to the amended standards to ensure reporting is done in a consistent manner? If so, please expand on how ESMA can ensure the standards are clear to reporting entities and reduce ambiguity with regard to what should be reported for different fields.](#_Toc34747752)

<ESMA\_QUESTION\_TSTR\_77>

BME CLEARING suggests that it is prudent to highlight that a number of the fields which describe the product (assuming a scenario where an ISIN or UPI is not available) are defined with the overlying OTC contract in mind and not the underlying in which the listed future or options contract would be traded on. As an example, the fixed rate fields for an ETD would relate to the underlying interest rate swap whereas the OTC contract it would relate to bilateral agreement. ESMA is encouraged to take this opportunity to develop an updated validation table which sets out detailed and unambiguous descriptions of reporting fields. Industry participants would be more than willing to support ESMA in its efforts to produce this.

<ESMA\_QUESTION\_TSTR\_77>

1. [: Do you agree with the clarification in relation to the approach to populating fields which require reference to a fixed rate? If you believe that an alternative approach would be more effective and ensure a consistent approach is followed by reporting counterparties, please explain that approach.](#_Toc34747753)

<ESMA\_QUESTION\_TSTR\_78>

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<ESMA\_QUESTION\_TSTR\_78>

1. [: Should there be any further guidance provided in relation to the population of the ‘notional’ field on top of the content of the CDE guidance? What should this guidance say? Do you foresee any difficulties with reporting of notional in line with the CDE guidance?](#_Toc34747754)

<ESMA\_QUESTION\_TSTR\_79>

Guidance are useful at the time of designing internally EMIR reporting. The more examples and guidance are published, the better. Guidance should be published when the new RTS are published.

<ESMA\_QUESTION\_TSTR\_79>

1. [: Is the guidance provided in ESMA Q&A TR 41 clear? Should any further guidance be provided in addition to ESMA Q&A TR 41?](#_Toc34747755)

<ESMA\_QUESTION\_TSTR\_80>

Yes, it is clear enough.

<ESMA\_QUESTION\_TSTR\_80>

1. [: Do you foresee any challenges with the interpretation of the EMIR data should the fields “Quantity” and “Price multiplier” be removed? In case these fields are maintained, should there be further clarity as to what should be reported therein? What should this guidance say? Should this guidance be per asset class? Should this guidance distinguish between OTC and ETD derivatives?](#_Toc34747756)

<ESMA\_QUESTION\_TSTR\_81>

In our case, we have ETD Stock Derivatives (futures and options) and ETD Energy Derivatives. In this kind of products, we use these two concepts (quantity and price multiplier) very frequently. Therefore, we would recommend keeping these fields, at least for these two kind of products.

Should these fields continue to be reported further guidance and examples are welcome to the extent reporting differs by asset class and between OTC and ETD derivatives.

<ESMA\_QUESTION\_TSTR\_81>

1. [: Do you foresee any challenges with reporting of the Total notional quantity?](#_Toc34747757)

<ESMA\_QUESTION\_TSTR\_82>

We don’t foresee any challenge; the important issue is to publish (at the same time than the RTS are published) guidance of how this field must be reported for different asset classes of cleared ETD and OTC products.

<ESMA\_QUESTION\_TSTR\_82>

1. [: Which of the two described approaches to reporting the notional amount schedules is preferable? Please motivate your view.](#_Toc34747758)

<ESMA\_QUESTION\_TSTR\_83>

We prefer the first approach; to report “the counterparties would report the notional amount schedules upfront (when reporting with Action type New) using a repeatable section of fields”.

We think that it will be easier to report all these fields in the moment of the trade (special attention is always paid to new trades) instead of when it changes according to the schedule.

<ESMA\_QUESTION\_TSTR\_83>

1. [: Do you foresee challenges in relation to the proposed approach for reporting of Delta? Are there any challenges regarding the reporting of Delta every time there is a valuation update?](#_Toc34747759)

<ESMA\_QUESTION\_TSTR\_84>

We acknowledge that Deltas are interesting for risk valuation.

We believe that Deltas should not be reported for ETD trades. Deltas should be reported for ETD positions. It makes sense to report Deltas when there is a valuation update.

In our opinion, Delta information are not kept in the data bases where, at the firms, all or most of the data needed to do the EMIR reporting, is kept. That is to obtain Deltas every day that there is a valuation update will be challenging as they must be very probable be calculated.

We suggest that Deltas should not be subject to reconciliation.

<ESMA\_QUESTION\_TSTR\_84>

1. [: Do you agree with the proposal for reporting of attachment and detachment point?](#_Toc34747760)

<ESMA\_QUESTION\_TSTR\_85>

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<ESMA\_QUESTION\_TSTR\_85>

1. [: Do you consider that the fields Attachment point and Detachment point serve to report additional data or are applicable to other products than those foreseen in the CDE guidance?](#_Toc34747761)

<ESMA\_QUESTION\_TSTR\_86>

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<ESMA\_QUESTION\_TSTR\_86>

1. [: Do respondents believe that any of these new fields would be problematic to report? If so, please explain why.](#_Toc34747762)

<ESMA\_QUESTION\_TSTR\_87>

No. The new fields will provide useful information and will be less error prone than the current “up-front payment” field.

<ESMA\_QUESTION\_TSTR\_87>

1. [: Do you foresee any difficulties related to reporting of the additional fields for package transactions? Please motivate your reply.](#_Toc34747763)

<ESMA\_QUESTION\_TSTR\_88>

We do not consider these additional fields should be included in EMIR reporting. EMIR reporting is about risk and in risk terms, the important information is the derivatives position. It is not relevant whether the positions come from trades that were combined in a strategy or other reason.

Furthermore, additional complex fields, will include the complexity of reporting.

We suggest that these fields are not included in the EMIR reporting, at least for ETD reporting. Neither they should be reconcilable.

<ESMA\_QUESTION\_TSTR\_88>

1. [: Do you foresee any difficulties related to the reporting of prior UTI? Please motivate your reply.](#_Toc34747764)

<ESMA\_QUESTION\_TSTR\_89>

Inclusion of prior UTI functionality would have cost implications for CCPs as a new functionality would need to be developed and implemented to be included in EMIR reporting.

<ESMA\_QUESTION\_TSTR\_89>

1. [: Do you foresee any difficulties related to the reporting of PTRR ID? Please motivate your reply. Are you aware of alternative solutions that would enable regulators to link derivatives entering into and resulting from the same post-trade risk reduction event? Please provide details of such solutions.](#_Toc34747765)

<ESMA\_QUESTION\_TSTR\_90>

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<ESMA\_QUESTION\_TSTR\_90>

1. [: Do you foresee any difficulties related to the generation and reporting of the PTRR ID for cleared derivatives? Please motivate your reply.](#_Toc34747766)

<ESMA\_QUESTION\_TSTR\_91>

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<ESMA\_QUESTION\_TSTR\_91>

1. [: Do you see a need for further adjustment of the reporting requirements to allow for effective reporting of PTRR events, in addition to the ones proposed in the section 4.4.11.3?](#_Toc34747767)

<ESMA\_QUESTION\_TSTR\_92>

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<ESMA\_QUESTION\_TSTR\_92>

1. [: Do you foresee any difficulties related to the reporting of position UTI in the reports pertaining to the derivatives included in a position? Please motivate your reply.](#_Toc34747768)

<ESMA\_QUESTION\_TSTR\_93>

Considering that matching the CCP position UTI to the clearing participant position for UTI consumption and reporting is already an industry challenge, requiring trade submissions to also be mapped to the CCP position UTI adds additional complexity and risks.

Including position UTI or multiple position UTIs on trade submissions would create significant challenges which may not be proportional to the potential benefit of their inclusion. Particularly considering the focus should be on position level reporting as this is where the risk sits. Continuing to focus on transaction level reporting takes valuable time and effort which may be better spent on improving the quality and consistency of position level reporting.

This is another example of ambitious goals with little potential benefits.

<ESMA\_QUESTION\_TSTR\_93>

1. [: Do you foresee any difficulties related to the reporting of any of the additional data elements related to custom baskets? Please motivate your reply.](#_Toc34747769)

<ESMA\_QUESTION\_TSTR\_94>

Underlying ID which is proposed to remain as a matching field has been an issue as some counterparties report the ISIN of the underlying of the derivative and others report the ISIN of the derivative for Indexes. Some clarity could be provided field population for Indexes.

<ESMA\_QUESTION\_TSTR\_94>

1. [: With regard to reporting of delivery interval times, which alternative do you prefer: (A) reporting in UTC time or (B) reporting in local time? Please provide arguments.](#_Toc34747770)

<ESMA\_QUESTION\_TSTR\_95>

We prefer to report UTC time.

<ESMA\_QUESTION\_TSTR\_95>

1. [: Are you currently reporting derivatives on crypto-assets under EMIR? If so, please describe how they are reported. In particular, please clarify how do you identify and classify these derivatives in the reports under EMIR?](#_Toc34747771)

<ESMA\_QUESTION\_TSTR\_96>

We do not clear any derivatives on crypto-assets.

<ESMA\_QUESTION\_TSTR\_96>

1. [: Would you see the need to add further reporting details or amend the ones envisaged in the table of fields (see Annex V) in order to enable more accurate, comprehensive and efficient reporting of derivatives on crypto-assets?](#_Toc34747772)

<ESMA\_QUESTION\_TSTR\_97>

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<ESMA\_QUESTION\_TSTR\_97>

1. [: Do you support the proposal that reports pertaining to the derivatives outstanding on the reporting start date should be updated in order to ensure consistent level of quality of data and limit the operational challenges?](#_Toc34747773)

<ESMA\_QUESTION\_TSTR\_98>

This is a clear case of conflict of interest. It is understandable that Authorities would like to have update outstanding derivatives. However, It is also understandable that counterparties will prefer not update outstanding derivatives.

From this consultation, it is clear that once the new EMIR reporting requirements are implemented, the reporting will be more difficult and expensive. For that reason, we ask for the Authorities to avoid imposing this kind of requirement of updating outstanding derivatives. So, we do not support the proposal.

In any case, we believe that the scope of the obligation to update reports of outstanding derivatives should be limited only to derivatives having a long residual maturity. For long lived outstanding derivatives we believe revision should be on a best effort basis considering the data availability issues foreseen.

<ESMA\_QUESTION\_TSTR\_98>

1. [: Do you foresee challenges with the update of reports pertaining to outstanding derivatives in line with the revised requirements? If so, please describe these challenges. In particular, if they relate to some of the newly added or amended reporting fields, please mention these fields.](#_Toc34747774)

<ESMA\_QUESTION\_TSTR\_99>

The main challenge will be the new added reporting fields. Some of the fields may be in the data base, but some others will have to be found or almost calculated again ex-post if they are required. On the other hand, this would require a time-consuming activity, with very high operational costs involved. On the other, provided the implementation of the new RTS and ITS will require substantial IT changes, the implementation of said changes on outstanding derivatives would require ad hoc procedures, thus adding complexity to the whole process.

<ESMA\_QUESTION\_TSTR\_99>

1. [: Do you think that additional time after the reporting start date should be granted for the counterparties to update the reports pertaining to the outstanding derivatives? If so, how much additional timeline would be required?](#_Toc34747775)

<ESMA\_QUESTION\_TSTR\_100>

First, we would like to point out that we do not support that counterparties have to update the reporting of outstanding derivatives.

Second, if the Authorities decide not to alleviate counterparties of this requirement, we think that additional time after the reporting start date should be granted for counterparties to update the reports.

In our view, it would be necessary at least a year to update the outstanding derivatives. The first two years after the start date will be complicated because the new reporting will be more complex than the current one and, thus, time will be needed to tune up the reporting. After this improvement is achieved, then counterparties could spend time updating outstanding derivatives. This will also give time to look for new fields that are not kept in the firm’s data bases.

<ESMA\_QUESTION\_TSTR\_100>

1. [: Do you agree with the proposed timelines for implementation, i.e. 18 months from the entry into force of the technical standards?](#_Toc34747776)

<ESMA\_QUESTION\_TSTR\_101>

We consider reasonable the 18 months length of time to implement the new EMIR reporting, once the technical standards are published.

It is important, to stress that the day one of the 18 months should be once all the technical standards are published. If some additional technical standard or some Q&A are published since this day one and the entry into force does not change, then it is more difficult to comply with the 18 months period, because the new standards or the Q&A may change the design of the implementation.

It is likely that there will be several unforeseen challenges which arise during implementation that are difficult to predict at the consultation phase. Furthermore, we believe that the industry can assist Regulators with worked examples and can update Regulators on progress and challenges along the way if Regulators facilitate a continued two-way dialog with reporting counterparties.

Finally, a mid-week go-live date is preferable. In addition, the go-live date should take into consideration any month-end expiry or key market events.

<ESMA\_QUESTION\_TSTR\_101>

1. [: Do you agree with the proposed framework for verification of data submission? Please detail the reasons for your response.](#_Toc34747777)

<ESMA\_QUESTION\_TSTR\_102>

Without getting into details, it seems that most of the proposed framework for verification of data submission is already implemented in EMIR reporting.

1. Authentication of participants - We already use a dedicated line to report to our TR.
2. Schema validation – We believe all TRs use a specific format for inbound messages, at least our TR does. If the report doesn’t match with the specific format, the report is rejected. The only change here is the XML template which we consider very useful.
3. Authorization / permission – This is new. We are not aware that this situation is really happening, that there are companies that report on behalf of other counterparties where they should not report which will lead to duplication of reports. We ignore whether this situation is serious enough. If it is severe enough, then the idea is good.
4. Logical validation and Business rules or content validation are already implemented. Perhaps, authorities plan to implement more dependencies or validation rules.

However, we support that these validation rules are included in the standards. In our opinion, validation rules set in an Excel file are questionable from a normative point of view

<ESMA\_QUESTION\_TSTR\_102>

1. [: Are there any additional aspects that would need to be clarified or specified with regards to the verification of logical integrity of submissions with different Action types such as “Revive”? Please detail the reasons for your response.](#_Toc34747778)

<ESMA\_QUESTION\_TSTR\_103>

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<ESMA\_QUESTION\_TSTR\_103>

1. [: Do you consider that the proposed procedure will allow the TRs to verify the compliance by the reporting counterparty or the submitting entity with the reporting requirements, and the completeness and correctness of the data reported under Article 9 EMIR? If not, what other aspects should be taken into account? Please detail the reasons for your response.](#_Toc34747779)

<ESMA\_QUESTION\_TSTR\_104>

As commented in our answer to Q102, we don’t appreciate big changes in the proposed framework. Consequently, we do not think the proposed framework will improve the quality of derivatives reporting.

In our opinion, the lack of quality which the current EMIR reporting has, has to do with other aspects:

* Dual reporting.
* EMIR reporting is too ambitious. In our opinion authorities should reduce the number of reconcilable fields and at the same time, NCAs should work with their supervised financial firms in a continuous process of improving the pairing and matching ratios. Once a significant improvement has been achieved, authorities should increase, the number of reconcilable fields, and continue improving the pairing and matching rations. And so on until they obtain the acceptable ratios.
* As regards ETD reporting, as previously mentioned, we encourage concentrating in ETD position reporting.

Finally, it seems that the proposed framework is focused on the TRs. We believe that TR do not do any reporting. The firms that produce the reporting are the financial counterparties. We recommend focusing the effort in financial counterparties, through their NCAs, which could compel these financial counterparties to produce a better EMIR reporting.

<ESMA\_QUESTION\_TSTR\_104>

1. [: Are there any additional aspects that would need to be clarified or specified with regards to the updates to the LEI that are to be performed by the TRs? Please detail the reasons for your response.](#_Toc34747780)

<ESMA\_QUESTION\_TSTR\_105>

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<ESMA\_QUESTION\_TSTR\_105>

1. [: Are there any other aspects that should be considered with regards to the scope and start of the reconciliation process? Please detail the reasons for your response.](#_Toc34747781)

<ESMA\_QUESTION\_TSTR\_106>

As we have stated previously, we think that ETD trade reporting just brings noise to the EMIR reporting and does not provide any added value in terms of risk assessment. We recommend not to focus in ETD trade reporting.

We welcome proposals to harmonize TR reconciliation procedures, reconciliation timing, tolerances and categorization of fields and implementation timing of changes across TRs.

Paragraph 366 (b) and (c) appear to be contradictory and it is not clear whether derivatives that have been terminated (not revived), matured, cancelled with action type “Error” or reported with action type “Position component” are proposed to be in or out of scope for TR reconciliation.

We believe the scope of reconciliation should be narrowed to focus both TR and reporting counterparties resources on improving ETD position level reporting quality and consistency across the industry. As commented, ETD Trades reporting of non-outstanding derivatives such as those reported as position component should be excluded from the reconciliation process form part of the position which is reconciled. We note that this is closer in line with SFTR which excludes any transaction that is not open. Furthermore, considering expired or terminated records will be removed from the reconciliation process within a month of reconciliation per paragraph 364 (c), it is less likely counterparties will focus much time resolving these type of reconciliation breaks and many will likely focus on breaks that will continue to impact their reconciliation rates further into the future. Exclusion of non-outstanding records from reconciliation all together would be a more pragmatic approach to allow for a more consistent industry focus on the data that will be relied on by regulators for a longer period into the future.

<ESMA\_QUESTION\_TSTR\_106>

1. [: Are there any aspects related to the intra-TR reconciliation that need to be clarified? Please detail the reasons for your response.](#_Toc34747782)

<ESMA\_QUESTION\_TSTR\_107>

We would like to comment here that the TR we work with, always considers the date of the position as the date when it receives the trade. This is a mistake. For instance, we would report the position of a particular day (T) around 2 AM the following day (T+1). Our TR considers that the date of this position is T+1, when we have included in our report the Effective date or the Clearing timestamp which are the relevant date, and both would be T for ETD position reporting. We recommend checking whether this process is consistent trough TRs and correct it, if the same situation is happening in other TRs.

<ESMA\_QUESTION\_TSTR\_107>

1. [: What additional aspects with regards to inter-TR reconciliation will need to be considered? Should additional fields be considered for pairing? Please detail the reasons for your response.](#_Toc34747783)

<ESMA\_QUESTION\_TSTR\_108>

We consider it is not necessary to include additional fields to be considered pairing, as suggested in this question. LEIs of both counterparties and the UTI (which means that the trading identification is unique) should be enough to get the pairing. Including additional fields is not necessary and will inevitably complicate the pairing process.

We do not believe it would beneficial to widen the scope of reconcilable fields given the current challenges with the existing reconcilable fields. On the contrary, focusing reconciliation efforts on the reports and fields that are most used by regulators would like yield better results for Regulators. Given the significant challenges around position level pairing and matching, we believe that the current scope for reconciliation is already a challenging task.

In fact, we believe that regulation should move on the opposite direction regarding this question; that is, reduce the number of reconcilable fields, instead of thinking on increasing them.

Furthermore, fields which are not essential to monitoring systemic risk should not be reconciled. For example, reference data fields where an ISIN is available, fields that rely on the CCP value and transaction level reports for ETD should not be included in the reconciliation process.

<ESMA\_QUESTION\_TSTR\_108>

1. [: What other aspects should be considered to ensure the integrity of the number and values of the reconciled derivatives? Please detail the reasons for your response.](#_Toc34747784)

<ESMA\_QUESTION\_TSTR\_109>

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<ESMA\_QUESTION\_TSTR\_109>

1. [: What other aspects should be considered to reduce data transformation and format issues in the inter-TR reconciliation process? Please detail the reasons for your response.](#_Toc34747785)

<ESMA\_QUESTION\_TSTR\_110>

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<ESMA\_QUESTION\_TSTR\_110>

1. [: What other aspects should be taken into account with regards to the timeline for completion of the inter-TR reconciliation process? Please detail the reasons for your response.](#_Toc34747786)

<ESMA\_QUESTION\_TSTR\_111>

Our main comment is not related to the timeline for completion of the reconciliation process, but with the sentence of paragraph 383: “Following the completion of the inter-TR reconciliation process, ESMA expects that the TRs provide the relevant response, as described in section 5.4[[6]](#footnote-7), to reporting counterparties…” We are interested in what should be the relevant response.

In our opinion, TRs should provide, included in this relevant response, to each reporting counterparty the number of positions and the percentages of pairing and matching that it has with all its counterparties.

With this information, reporting counterparties can concentrate on their relevant counterparties with low percentages of pairing and matching. We understand this information will be useful to the authorities too.

Additionally, harmonization of when reconcilable records are placed on the Inter-TR requested list and for how long records remain on the list would be beneficial. Additionally, as we propose records that have not yet been through the two stage reconciliation process should be given a pairing status distinguishable from records that have completed the reconciliation process and are unpaired to assist counterparties with resolution of actual pairing issues and give regulators more accurate data on pairing.

<ESMA\_QUESTION\_TSTR\_111>

1. [: Do you agree with the proposed approach to establish tolerances for certain fields? Please detail the reasons for your response.](#_Toc34747787)

<ESMA\_QUESTION\_TSTR\_112>

One of the problems of the EMIR reporting is that there are too many fields that need to be reconciled. Therefore, establishing tolerances for certain fields makes sense.

In our opinion, the hour part of a timestamp is not important for EMIR reporting, which basically deals with financial stability risk. Therefore, we disagree completely with establishing tolerances of 1 hour for timestamps fields.

We suggest that tolerances timestamps should be established in the date component of the timestamp.

Additionally, a harmonized approach to establishing tolerances for reconciliation across TRs rather than individual TRs setting tolerances is preferable as this reduces inconsistencies for Regulators in comparing counterparties reconciliation rates and for counterparties which rely on consistent reconciliation status for reconciliation break resolution.

<ESMA\_QUESTION\_TSTR\_112>

1. [: Do you agree with the proposed set of fields? Please detail the reasons for your response.](#_Toc34747788)

<ESMA\_QUESTION\_TSTR\_113>

For CCPs, reconciliation can occasionally identify errors in reporting by one of the reporting parties, however, most reconciliation breaks are due to inconsistent field population caused by interpretation differences and some breaks are due variance when data is produced independently by each counterparties’ trading systems rather than unintended errors by either party. For many reporting parties reconciliation of all matching fields (both category 1 and 2) generally is only attainable for matching against delegated reporting parties. This is because the data comes from the same system and is generated by the same counterparty. In order for the reconciliation process to provide meaningful information on data quality the tolerances need to allow for the normal variances which occur when data is produced independently. CCPs have not had the time to analyse tolerances for each field but CCPs have provided some comments on some of the approaches to different types of fields proposed in the consultation:

• Free text fields – Agreed that free text fields should not be reconciled

• Numerical fields – Clarification needed on what ESMA means by the mid-point in paragraph 386 (b) and considering many of these values will be amounts in currency, perhaps the final guidelines could refer to percentage rather than basis points. CCPs have commented that 0.05% tolerance is very low for numerical fields and should be higher to allow for normal variance

Furthermore, the number of reconcilable fields and reports needs to be manageable for counterparties to work effectively to resolve the root causes of breaks. We recommend that position reports for ETD are reconciled instead of trade reports and within these reports, only the fields that are absolutely essential to systemic monitoring by Regulators are reconcilable.

Additionally, as stated in question 112, we support establishing tolerances in certain fields. However, we disagree completely in establishing tolerances of 1 hour for timestamps fields. In our opinion, the hour part of a timestamp is not important for EMIR reporting, which basically deals with financial stability risk.

We strongly suggest that tolerances timestamps should be established in the date component of the timestamp.

<ESMA\_QUESTION\_TSTR\_113>

1. [: Do you foresee any problem in the reconciliation of field “Valuation amount”? How should the valuation amount be reconciled in the case of derivatives which are valued in different currency by the counterparties, such as currency derivatives? Please detail the reasons for your response.](#_Toc34747789)

<ESMA\_QUESTION\_TSTR\_114>

As the regulation says that CCPs should provide the valuation to cleared trades, we propose that TRs should fill the clearing member valuation with the CCP reported valuation. This would lighten the burden of EMIR reporting to clearing members. Pairing and Matching should not apply to fields where the data originates from a CCP.

<ESMA\_QUESTION\_TSTR\_114>

1. [: Do you agree with excluding the newly added fields from the first stage of the inter-TR reconciliation process? Please detail the reasons for your response.](#_Toc34747790)

<ESMA\_QUESTION\_TSTR\_115>

We strongly agree with the proposal of establishing a two staged approach for reconciliation.

As we have said previously in this response, we believe that the EMIR reporting has many drawbacks and therefore is not working satisfactorily.

One of the drawbacks is that the reconciliation process set in EMIR is very ambitious, it demands to reconcile too many fields and therefore the statistical percentage of trades matched is poor.

We believe that the reconciliation process must be humbler, starting with the reconciliation of not many fields, and as the percentage of trades increases set for more fields to be reconciled. This is the idea of the two-staged approach and hence, we fully support the concept.

An alternative way for reconciliation to work is for ESMA to prioritise matching fields. These key fields should be considered vital in order to provide oversight of systemic risk. The current list of matching fields is not of the same importance nor should they be treated as such. We strongly believe there should be greater focus and prioritisation of a narrower set of reports and fields to improve data quality and consistency of reporting which impacts regulators ability to monitor systemic risk. We strongly believe for ETD that risk sits at the position level and reconciliation of transaction level reports should not be a priority. Similarly, we do not believe all fields are of equal weight in monitoring risk. Failure to match on non-priorised fields should not be treated as a reconciliation break if these fields are to be subject to reconciliation. Following this line of thought, for ETD positions a stage one phase with very few fields to be reconciliable (the ISIN, the direction of the trade, the total notional quantity and the date of the position) should be enough to consider a paired ETD position as matched. Stage two should be set for OTC trades.

Finally, we suggest implementing the stages approach also for inter-TR reconciliation and for intra-TR reconciliation. EMIR reporting is working since February 2014 and all the changes to be implemented as a consequence of the new RTS will entry into force by 2021 or 2022. After all this time, we cannot see why inter-TR reconciliation should be treated differently than intra-TR reconciliation.

<ESMA\_QUESTION\_TSTR\_115>

1. [: Do you consider that any additional requirement in relation with the policies and procedures referred to in Article 78(9) EMIR needs to be added to ensure better performance of the data transfer by TRs? Please detail the reasons for your response.](#_Toc34747791)

<ESMA\_QUESTION\_TSTR\_116>

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<ESMA\_QUESTION\_TSTR\_116>

1. [: Do you agree with the proposed framework for rejection responses? Please detail the reasons for your response.](#_Toc34747792)

<ESMA\_QUESTION\_TSTR\_117>

It is true that EMIR reporting is complicated. As there are so many validation checks, it is easy that the TR rejects the reporting due to some validation issues. BME CLEARING has an automatic process, so rejections are very rare. They only happen when there are lapsed LEI in the delegating report.

<ESMA\_QUESTION\_TSTR\_117>

1. [: Do you agree with the proposed framework for reconciliation responses? Please detail the reasons for your response.](#_Toc34747793)

<ESMA\_QUESTION\_TSTR\_118>

We believe the propose framework may not be effective. The proposed framework supposes that there are only a few trades that need to be reconciled. We are a medium size CCP and in our case we report daily between 10,000 and 20,000 trades and between 10,000 and 20,000 positions.

First, in all the reconciliation information provided by TRs should always distinguish between ETD trades and ETD positions. Furthermore, as we comment several times in this response, we strongly believe that regarding ETDs, it is important to concentrate all the effort in ETD positions. After good percentages of pairing and matching in ETD positions are achieved, the effort at this moment should move to reconciliate ETD trades. That is the reason we suggest always separating ETD trades information and ETD position information and focusing on the second one.

Second, we would like to take up again the huge number of trades to be reconciled, especially if we consider that tomorrow a new set of unreconciled ETD positions will appear. In practice, it is very difficult to reconcile trade by trade. In our opinion NCAs and counterparties should focus in percentage reconciliation pairing and matching rates. TR should provide percentages of unreconciled ETD positions by counterparty, so that CCPs and counterparties can concentrate in the other counterparties with the lower percentage reconciliation rates, and move to other counterparties, as these counterparties achieve higher reconciliation rates, then we can move on to other counterparties. In our opinion this the sensible system to improve EMIR reporting and consequently it is important that TR provide to NCAs and counterparties good statistics of reconciliation rates by counterparties.

Finally, if the proposed categories also apply to ETD position reconciliation, we recommend the inclusion of the date of the position. The position submission can be miss-paired if the dates are not the same, given that the same UTI is used regardless the date.

<ESMA\_QUESTION\_TSTR\_118>

1. [: Do you agree with the suggested reconciliation categories? Please detail the reasons for your response.](#_Toc34747794)

<ESMA\_QUESTION\_TSTR\_119>

In our opinion reconciliation status category is too broad. There are many fields to be equal or very similar in order to get a match status. Moreover, paragraph 388 of the ESMA consultation paper suggests that a two-stage approach may be implemented. For this reason, instead of having a single –reconciliation status- we suggest dividing the fields in about four categories of importance in order to do the reconciliation. Each category should have a status, so instead of having a single reconciliation status, we recommend having a Category One reconciliation status, Category Two reconciliation status, Category Three reconciliation status and Category Four Reconciliation Status.

We also think that there is a need for increased granularity (not decreased as proposed) on reconciliation responses and status so that CCPs can effectively work with counterparties on reconciliation breaks and monitor progress on data quality improvement. For example, losing the distinction of categories 1 and 2 would make our work much more difficult and risks would lose focus on field prioritization. For many counterparties the records which are a perfect match on category 1 and 2 are due to delegated reporting as the data is a mirror report from the same system as opposed to a reconciliation between two counterparties with different systems. Therefore, Regulators may be comparing the size of reporting entities delegated reporting business by only measuring the perfect reconciliation rates as opposed to its consistency of reporting against counterparties which report independently.

One of the big challenges for monitoring matching rate progress is that trade or position records with one category 1 field mismatch are equally weighted to a record with many mismatches (i.e. both are a binary unmatched status). We would propose that a percentage match or matching percentage status bands would assist CCPs and counterparties to monitor progress of these efforts to resolve reporting inconsistencies.

Furthermore, a distinction should be made between an unpaired trade and a trade that has never gone through the reconciliation process. Currently both are given the status of unpaired which creates a misleading understanding for both Regulators and counterparties attempting to resolve reconciliation breaks. We agree that the categories should be harmonized across TRs as there are different types of reconciliation status across TRs which is confusing for counterparties to compare reconciliation statistics when investigating breaks.

<ESMA\_QUESTION\_TSTR\_119>

1. [: Are there any relevant aspects related to the application of action type “Revive” that should be considered for the purposes of carrying out the reconciliation process?](#_Toc34747795)

<ESMA\_QUESTION\_TSTR\_120>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_120>

1. [: Are there any aspects that need to be further specified regarding the end-of-day reports to be provided to reporting counterparties, the entities responsible for reporting and, where relevant, the report submitting entities? Is there any additional information that should be provided to these entities to facilitate their processing of data and improve quality of data? Please detail the reasons for your response.](#_Toc34747796)

<ESMA\_QUESTION\_TSTR\_121>

In relation to the information suggested in paragraph 409:

* The trade-state report should be separate for OTC trades, ETD positions and ETD trades.
* The Reconciliation status report should also inform about the percentage of reconciling rates per counterparty. See our answer to question 118.

<ESMA\_QUESTION\_TSTR\_121>

1. [: Especially regarding the abnormal values, please indicate which of the two approaches you prefer and which other aspect should be taken into account. Please detail the reason for your response.](#_Toc34747797)

<ESMA\_QUESTION\_TSTR\_122>

We are now aware that there are abnormal values in ETD EMIR reporting and therefore, we doubt this is an issue. Furthermore, we doubt TRs are able to define what is an abnormal value for each kind of derivative contract which is traded daily.

Additionally, if the second option is chosen, this should be based on harmonized criteria across TRs and not individually determined by each TR.

In our opinion, this is another example of the ambition of EMIR reporting which does not correspond with the reality that there are many problems with EMIR reporting. If this abnormal value is not really an issue, we would suggest that the RTS do not deal with this issue.

<ESMA\_QUESTION\_TSTR\_122>

1. [: Do you believe that there are any other aspects that need to be aligned between the current RTS on registration under SFTR and the ones under EMIR? Please detail the reasons for your response.](#_Toc34747798)

<ESMA\_QUESTION\_TSTR\_123>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_123>

1. [: Do you agree with the above proposals for provision of information in the case of extension of registration? Please elaborate on the reasons for your response.](#_Toc34747799)

<ESMA\_QUESTION\_TSTR\_124>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_124>

1. [: Do you believe that there are any other aspects that need to be covered by the draft ITS on registration under EMIR? Please detail the reasons for your response.](#_Toc34747800)

<ESMA\_QUESTION\_TSTR\_125>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_125>

1. [: Do you agree with the proposed amendments to the data access requirements with respect to the terms and conditions of data access?](#_Toc34747801)

<ESMA\_QUESTION\_TSTR\_126>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_TSTR\_126>

1. [: What other aspects need to be clarified with regards to the definition of elements for the establishment of direct and immediate access to data?](#_Toc34747802)

<ESMA\_QUESTION\_TSTR\_127>

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<ESMA\_QUESTION\_TSTR\_127>

1. See for instance paragraph 347 of the own ESMA consultation paper “(…) entities that have been granted access to those data to use them to monitor derivatives markets and prevents regulators and supervisors from identifying financial stability risks in due time” or paragraph 142 “Therefore, this information is pivotal for the monitoring of the systemic risk and for increasing the transparency of the derivatives market”. [↑](#footnote-ref-2)
2. See for instance paragraph 360 of the ESMA consultation paper “Looking back to the start of reporting under Article 9 EMIR, the lack of initial specification of the reconciliation process by ESMA, due to the absence of legal mandate, led to (i) inconsistent reconciliation procedures, (ii) inconsistent reconciliation timings, (iii) tolerances and categorisation of fields decided by TRs, (iv) lengthy change request implementation times. This situation, together with specific discretionary issues of particular TRs, resulted in accumulation of significant number of non-reconciled trades and required the implementation of costly ad-hoc processes at authorities (ESMA included) and counterparties to understand the extent of the problem, to put in place solutions, to monitor the subsequent evolution of the reconciliation rates and to assess the suitability of the proposed solutions. Low reconciliation rates and the lengthy process to increase them put at stake any reporting regime.” [↑](#footnote-ref-3)
3. In a ETD paired trade or position, the only fields important to consider it matched, should be the ISIN, the direction of the trade, the total notional quantity and the date of the position. [↑](#footnote-ref-4)
4. See Recital 41 of EMIR “It is important that market participants report all details regarding derivative contracts they have entered into to trade repositories. As a result, information on the risks inherent in derivatives markets will be centrally stored and easily accessible, inter alia, to ESMA, the relevant competent authorities, the European Systemic Risk Board (ESRB) and the relevant central banks of the ESCB” or Recital 43 “In order to allow for a comprehensive overview of the market and for assessing systemic risk, both CCP-cleared and non-CCP-cleared derivative contracts should be reported to trade repositories”. [↑](#footnote-ref-5)
5. “providing both pre- and post-haircut information would enable authorities to identify emerging risks on derivatives markets due to changes in the applied haircuts. On an aggregated basis, they could also be used to determine the weighted average level of haircuts applied per portfolio as well as its evolution over time”. [↑](#footnote-ref-6)
6. This must be a mistake, since section 5.4 deals with procedures for portability. [↑](#footnote-ref-7)