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| 24 May 2021 |

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| Reply form for the Consultation Paper on the Guidelines on transfer of data between Trade Repositories under EMIR and SFTR |
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| Date: 24 May 2021 |

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Section 10 in the Consultation Paper on the Guidelines on transfer of data between Trade Repositories under EMIR and SFTR published on the ESMA website.

*Instructions*

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

* use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
* do not remove the tags of type <ESMA\_QUESTION\_PORT\_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
* if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.

Responses are most helpful:

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

**Naming protocol**

In order to facilitate the handling of stakeholders’ responses please save your document using the following format:

ESMA\_PORT\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA\_PORT\_ESMA\_REPLYFORM or

ESMA\_PORT\_ANNEX1

***Deadline***

Responses must reach us by 23 June 2021.

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

***Publication of responses***

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly 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 headings ‘Legal notice’ and ‘Data protection’.

# General information about respondent

|  |  |
| --- | --- |
| Name of the company / organisation | Italian Banking Association |
| Activity | Banking sector |
| Are you representing an association? |  |
| Country/Region | Italy |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_PORT\_1>

First of all, we highlight the importance of keeping and considering two specific business cases clearly separate and distinct: i) where a TR ceases to provide its services, either voluntarily or following a provision of the competent supervisory authority (e.g. due to lack of compliance with business’ rules of conduct) with a consequent removal of its details from the TR register maintained by ESMA, i.e. Withdrawal of Registration), and ii) the case where a user of a TR decides to migrate to a different TR provider. Indeed,

1. In the case of *withdrawal of registration*, the relevant TR is asked to transfer all non-outstanding data in its possession, taking over the possibility of dividing both data and its users among the various TRs (based on the market shares calculated by ESMA). However, since the implications of this case would be "suffered" by users, and since the related dataset would be useful to the relevant supervisory authorities (ESMA and the NCAs), it does not seem consistent that the costs, incurred by the new TRs for data management assigned to them at the time of such "re-distribution", are borne by the users of the TRs, who find themselves undergoing a migration due to exogenous reasons, certainly not attributable to them;
2. In the event that, in the time span between now and the next 18 months, a TR decides to cease the provision of its services, forcing (*de facto*) its current users-participants to migrate to other TRs, these users would find themselves not only having to comply with the indications of these guidelines (where for example we read of the data-quality upgrade to be carried out before a migration takes place) but shortly after they would also have to implement the provisions of the delegated legislation (Level-2) descending by the EMIR REFIT, whose Final Report (published on 17 December 2020) provides for an implementation period (of the important changes envisaged therein to the reporting layouts) of 18 months.

Therefore, in order to contain the overall implementation costs of reporting pursuant to EMIR and SFTR, and especially in the event that the migration of a user is not voluntary but "exogenously induced", we suggested ESMA to ensure that the present Guidelines (currently under public consultation) become applicable after the entry into force and application of the mentioned RTS descending from EMIR REFIT.

<ESMA\_COMMENT\_PORT\_1>

1. **Do you agree with the analysis in paragraphs 5 to 9 and the need to include the amendments in the EMIR Guidelines? Please detail the reasons for your response.**

<ESMA\_QUESTION\_PORT\_1>

We understand and agree with the analsys described through par. 5 to 9, and consequently agree with the appropriateness of some amendments and additions to the existing EMIR Guidelines and the opportunity to take to provide for new SFTR Guidelines.

<ESMA\_QUESTION\_PORT\_1>

1. **What other issues related to transfer of data have been observed? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_2>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_2>

1. **Do you agree with the inclusion of the on reconciliation and Rejections data in the waterfall described in Guideline 15? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_3>

We can see the rationale underneath the inclusion of the transfer of “data on reconciliation and rejections” in the waterfall described in the amended text of Guideline 15 (providing for the order of data transfer, should a single data-trasfer not be viable). However, we suggest ESMA to circumscribe such data only to outstanding contracts, thus excluding the transfer of data on “Terminated” and “Matured” derivatives. ESMA should consider to leave to the TR Participant deciding and agreeing with the old TR whether to transfer data on reconciliations and rejections limited to a certain period of time, e.g. pre-merge procedure period. Such proposal would be to the benefit also to efficiency of data-transfer process.

<ESMA\_QUESTION\_PORT\_3>

1. **Do you agree with the transfer of data generated and recorded by the old TR on Rejections and reconciliation to the new TR in case of withdrawal of registration? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_4>

With specific regards to Guideline 30 (which provides for *the transfer of data, from the old to the new TR, of all the data generated and recorded by the old TR on rejections (at file level) and all data reconciliation status for the purposes of the inter-TR reconciliation process (at transaction level) relationg to a derivative subject to transfer*), we understand the rationale underneath the new phrased Guideline – as it address the need to transfer all the data generated and recorded by the Old TR (on rejections and reconciliations, **RR**) from the latter to the New TR in case of Registration Withdrawal. However, from our TR-users point of view, the transfer of such data does not seem to be in the interest of and of any immediate benefit to such users and, in order to limit the burden which directly or indirectly would be borne by TR participants, we ask ESMA to consider limiting such transfer of data only to the **RR** of outstanding contracts, thus excluding the transfer of the RR data for “Terminated” and “Matured” derivatives (i.e. basically expired contracts).

<ESMA\_QUESTION\_PORT\_4>

1. **Do you agree that the new TR may charge fees to the TR participants for the transfer of outstanding and non-outstanding derivatives? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_5>

We do not agree on the implications of the described scenario in which, in the forthcoming future, a TR might charge its participants for the migration, “*the record-keeping and the data-maintenance of non-outstanding derivatives data not related to active clients*”, should all this be due to the the withdrawal of registration of a TR. Users would undergo and “suffer” such event (something out of the control). Also, considering the fact the immediate benefit and usefulness of such maintenance and record-keeping activities would be for ESMA and the NCAs (as also stated in par. 23, and not for TRs’ users), we believe that, in this specific case, ESMA should consider to cater for sharing these costs with the relevant NCAs, relieving TR users for such record-keeping and data-maintenance charges. Hence, we suggest to reconsider the principles on which this Guideline is based and to rephrase it.

<ESMA\_QUESTION\_PORT\_5>

1. **Do you agree with the upgrade of outstanding derivatives that are subject to transfer to the most up to date reporting requirement at the latest by 23:59:59 on the Thursday ahead of the weekend on which the porting takes place? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_6>

Before answering the question, it has to be recalled that the contents of ESMA’s Final Report n° 74-362-824 on “*Technical standards on reporting, data quality, data access and registration of Trade Repositories under EMIR REFIT*” dated 17 December 2020 provides for a number amendments to the current reporting requirements, as it details the relevant Level-2 measures of the EMIR REFIT. Such provisions, as indicated in the Final Report, will enter into force and be followed by an 18-months implementation period, a timeframe which is proportionate and adeguate to the significant amendments that the EMIR reporting entities will have to implement and comply with.

Coming to the scope and content of the question, should we agree with the proposed upgrade of the outstanding derivatives (subject to transfer) to the most up to date reporting requirements to be performed prior to the implementation of the above-mentioned EMIR REFIT RTS’s Level-2 requirements, TR users would risk being exposed to performing twice (within the approximate period of the next 18 months) a very pervasive activity on their data (the upgrade of the data quality as per paragraph 25, and then the amendments as per EMIR REFIT RTS’ Level-2).

Hence, we suggest ESMA to consider letting these Guidelines enter into force and into application after the EMIR REFIT RTS Level-2 will be implemented by users.

<ESMA\_QUESTION\_PORT\_6>

1. **Do you agree that TR participants should submit reports pertaining to the outstanding derivatives that are subject to data transfer to the new TR on the first business day following the data transfer? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_7>

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<ESMA\_QUESTION\_PORT\_7>

1. **Do you agree with the allocation of non-outstanding data not related to active TR participants to the new TR in proportion to its market share for a specific reference date? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_8>

We agree with the allocation of non-outstanding data not related to active TR participants to the new TR in proportion to its market share for a specific reference date. However, considering that the data are “non-outstading data” (i.e. not related to active TR participants), we suggest ESMA to consider that any cost related to a data transfer – whose inception depends on a TR wind-down or registration withdrawal – be borne by ESMA and by the relevant NCAs (proportionally), and not by the receiving TRs’ participants, as such data transfer would be beyond their will and control (please, refer also to our considerations under Q.5).

<ESMA\_QUESTION\_PORT\_8>

1. **Do you agree that the new TR can store non-outstanding derivative data of varying data quality and/or in different formats in separate databases/tables and should respond to the queries of authorities on demand? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_9>

We agree that the new TR can store non-outstanding derivative data of varying data quality and/or in different formats in separate databases/tables and should respond to the queries of authorities on demand.

<ESMA\_QUESTION\_PORT\_9>

1. **Do you agree that the old TR should provide the new TR with the necessary technical information on the data that is to be transferred to facilitate the data transfer to and the subsequent storage by the new TR in a timely manner? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_10>

We agree with the approach foreseeing that old TR should provide the new TR with the necessary technical information on the data that is to be transferred to facilitate the data transfer to and the subsequent storage by the new TR in a timely manner.

<ESMA\_QUESTION\_PORT\_10>

1. **Do you agree with confirmation of the aggregate information by the TR participants or the entities reporting on their behalf prior and after the data transfer? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_11>

Paragraph 35 recalls the Procedure for the Data Transfer at the Request of a TR participant, thus a migration of data consequent to a participant’s voluntary move from a TR to another.

Given that the information mentioned under bullet-points iii) and iv) of Guideline 37 (data on Terminad, Compresseed and Matured derivatives, and on Errored derivatives) is preserved by the old TR, in cases where the migration of the TR participant is made on his voluntary basis, we suggest ESMA to make the text of this Guideline more precise, by mentioning that the Guideline 37 refers to the Transfer of Data at the request of a TR participant.

<ESMA\_QUESTION\_PORT\_11>

1. **Do you agree with that the inclusion of TR Q&A 54(d) in the guidelines? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_12>

We understand ESMA’s considerations under paragraph 38 and we agree with the inclusion of TR Q&A 54(d) in the guidelines.

<ESMA\_QUESTION\_PORT\_12>

1. **Should the requirement put forward in Guideline 38 be structured in a different manner? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_13>

The requirement put forward in Guideline 38 should not be structured in a different manner. We consider it sufficiently well structured, despite its readability is less immediate compared to other Guidelines.

<ESMA\_QUESTION\_PORT\_13>

1. **Do you agree with the proposal that only the old and the new TR should carry out the transfer of data? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_14>

We agree with the proposal that only the new TR and the old TR should be involved in the transfer of SFT data. However, the involvement of the TR participants cannot be completely excluded since the new TR should not accept duplicate reports and the old TR should not accept ETRM or EROR reports for the SFTs subject to the transfer. TR participants will have to be informed of the progress of the transfer procedure, possibly by means of appropriate operational notices. Such communications would allow TR participants to manage reports concerning lifecycle events of outstanding SFTs. This is especially necessary if, for organisational reasons, the transfer does not take place entirely on non-business days. A operational communication plan for TR participants could be organised as part of the migration plan (please see Q17).

<ESMA\_QUESTION\_PORT\_14>

1. **Do you agree with the proposal that the TRs should carry out the transfer of data in accordance with a mutually agreed migration plan? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_15>

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<ESMA\_QUESTION\_PORT\_15>

1. **Do you agree with the proposal that all TRs should use a standardised migration plan template mutually agreed across all TRs? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_16>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_16>

1. **Do you agree with the proposed information the migration plan should contain? What additional aspects should be specified? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_17>

As mentioned in response to Q14, the migration plan should also contain the setting up of a operational communication plan to inform the TR participants of the progress of the transfer data.

<ESMA\_QUESTION\_PORT\_17>

1. **Do you agree with that TRs should use the XML format to transfer data to each other? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_18>

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<ESMA\_QUESTION\_PORT\_18>

1. **Do you agree that TRs should use secure machine-to-machine protocols? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_19>

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<ESMA\_QUESTION\_PORT\_19>

1. **Do you agree that TRs should use advanced encryption protocols and should exchange the relevant public information with their peers? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_20>

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<ESMA\_QUESTION\_PORT\_20>

1. **Do you agree that TRs should calculate the number of SFTs and the number of corresponding lifecycle events, then request the participant’s sign-off, and resolve all discrepancies at the earliest convenience? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_21>

We understand the rationale behind guideline 8. However, the question arises as to whether a standard to manage this communication process already exists or whether a specific one will be envisaged. The question also arises as to what would happen if any discrepancies are not resolved before the transfer. Could the transfer itself be blocked? Or can it be assumed that results of the old TR will be accepted and then resolved with the new TR after the transfer?

<ESMA\_QUESTION\_PORT\_21>

1. **Do you agree that for every file generated and transferred, the old TR should generate and include a cryptographic checksum? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_22>

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<ESMA\_QUESTION\_PORT\_22>

1. **Do you agree that the transfer of data requested by a TR participant should be carried out, as a general principle, on a non-working day? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_23>

We agree that the transfer should be carried out on non-working days (e.g. weekends). However, if for operational reasons or due to the need to resolve any unforeseen problems the operation has to be started or continued on working days, the needs of the TR participants to be able to handle the requirement to report on new operations or to update outstanding SFTs must be taken into account (please see also Q24).

<ESMA\_QUESTION\_PORT\_23>

1. **Do you agree that once the transfer of outstanding SFTs is confirmed by the new TR the old TR should not accept reports relating to the SFTs subject to the transfer to the new TR? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_24>

There seems to be an inconsistency between guideline 11 and guideline 12. The former states that the old TR cannot accept reports of lifecycle events and position data on SFTs subject to a transfer until the transfer has been completed, while the latter states that the new TR cannot receive such reports either. This would mean that the TR participants cannot be put in a position to fulfil the reporting obligation if the transfer takes place on working days. If this interpretation is correct, it should also be clarified that there is no liability for TR participants for reporting delays that are not their fault. It should also be clarified whether the process outlined in guideline 12 also covers new SFTs or whether they should be reported directly to the new TR.

<ESMA\_QUESTION\_PORT\_24>

1. **Do you agree that the new TR should not accept lifecycle events and position data relating to the SFTs subject to transfer until the transfer of all the relevant files is completed? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_25>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_25>

1. **Do you agree that the new TR should make the data available to authorities, include the data subject to transfer in the relevant public and authority-only aggregations, and include the data in the inter-TR reconciliation process, once the transfer is completed? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_26>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_26>

1. **Do you agree that the new TR should not charge any specific fees for the recordkeeping of non-outstanding SFTs? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_27>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_27>

1. **Do you agree with the procedure set out in Guideline 15? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_28>

On this point, see the similar answer given on the EMIR guidelines with the appropriate specificities due to the discipline (please see Q3 and Q4).

<ESMA\_QUESTION\_PORT\_28>

1. **Do you agree with the specification of the process from the perspective of the old TR in Guideline 16? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_29>

Please see our answer to Q30.

<ESMA\_QUESTION\_PORT\_29>

1. **Do you agree with the specification of the process from the perspective of the old TR in guideline 17? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_30>

On this point, it is not clear why the transfer of SFT data reported by a TR participant as an RSE is subject to the approval of the counterparty that is not a TR participant. The agreement governing the relationship between the two parties regulates all aspects relating to the fulfilment of reporting obligations and the responsibility of the parties. The choice of the reference TR, on the other hand, relates to the business choices of the reporting counterparty. The provisions of guidelines 16 and 17 are likely to pose problems in the management of the TR participants' processes.

<ESMA\_QUESTION\_PORT\_30>

1. **Do you agree with the scope of data that should be transferred in the case of voluntary transfer of data as set out in Guideline 18? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_31>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_31>

1. **Do you agree with the procedure described in Annex III? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_32>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_32>

1. **Do you agree with the communications foreseen in Guideline 20? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_33>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_33>

1. **Do you agree with the handling of data by the old TR as described in Guideline 21 regarding the retrieval of data for NCAs? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_34>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_34>

1. **Do you agree that any costs charged should be cost-related, non-discriminatory and included in the fee schedule of the relevant TRs? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_35>

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<ESMA\_QUESTION\_PORT\_35>

1. **Do you agree that in the case of withdrawal of registration of a TR, the transfer of data should comprise all the details of SFTs reported to the TR, including the rejected ones, together with the relevant reporting log, and all data on Rejections at file level and all data on reconciliation status for the purposes of the inter-TR reconciliation process at transaction level? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_36>

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<ESMA\_QUESTION\_PORT\_36>

1. **Do you agree that in the case of withdrawal of registration of a TR, the migration plan(s) for data transfer should be included as part of the wind-down plan presented by the TR? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_37>

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<ESMA\_QUESTION\_PORT\_37>

1. **Do you agree that where the data transfer is related to the withdrawal of registration of a TR, the procedure included in Annex IV - Procedure for migration in case of withdrawal of registration should be followed by the old TR and the new TR? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_38>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_38>

1. **Do you agree that in the case of withdrawal of registration at the request of a TR, it should notify ESMA in advance of the intended date of cessation of operations and should then immediately notify the TR participants and the relevant NCAs? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_39>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_39>

1. **Do you agree that in the case of withdrawal of registration, once the transfer(s) has been completed, the new TR should confirm it to the TR participants, all the remaining TRs and the respective NCAs? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_40>

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<ESMA\_QUESTION\_PORT\_40>

1. **Do you agree that in the case of withdrawal of registration, the old TR should isolate and keep safely the transferred data, by applying the same recordkeeping policies, procedures and safeguards to the transferred data as to the rest of the data, until the date of actual cessation of operations and should ensure the timely retrieval of data in no more than seven calendar days? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_41>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_41>

1. **Do you agree that, in the case of withdrawal of registration, none of the TRs should charge fees for the transfer of data? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_42>

We agree with the content of guideline 29. On this point, however, see also the answer to Q44.

<ESMA\_QUESTION\_PORT\_42>

1. **Do you agree with the transfer of data generated and recorded by the old TR on Rejections and Reconciliation to the new TR in case of withdrawal of registration? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_43>

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<ESMA\_QUESTION\_PORT\_43>

1. **Do you agree with that the new TR may charge fees to the TR participants for the transfer of outstanding and non-outstanding SFTs? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_44>

The rationale of guideline 31 is not well understood. If the principle expressed in guideline 29 is that in the event of the withdrawal of the authorization requested by or imposed on a TR there are no costs for the TR participant who suffers the transfer of the data, why does guideline 31 provide that the new TR may charge fees for making the transferred data available to the supervisory authorities?

<ESMA\_QUESTION\_PORT\_44>

1. **Do you agree that costs should adhere to fee requirements and be justified by the TR? Which other aspects related to costs in this regard need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_45>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_45>

1. **Do you agree with the upgrade of outstanding SFTs that are subject to transfer to the most up to date reporting requirement at the latest by 23:59:59 on the Thursday ahead of the weekend on which the porting takes place? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_46>

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<ESMA\_QUESTION\_PORT\_46>

1. **Do you agree that TR participants should submit reports pertaining to the outstanding SFTs that are subject to data transfer, which should be submitted no later than 23:59:59 on the Thursday ahead of the weekend on which the porting takes place, to the new TR on the first business day following the data transfer? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_47>

It is worth clarifying whether guideline 33 complements the meaning of guidelines 11 and 12. In guideline 33, it seems that ESMA wants to clarify that all reports of ongoing SFTs should be reported on the first business day after the transfer is closed. Is this interpretation correct? Does this procedure also apply if the transfer extends beyond non-working days?

<ESMA\_QUESTION\_PORT\_47>

1. **Do you agree with the allocation of non-outstanding data not related to active TR participants to the new TR in proportion to its market share for a specific reference date? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_48>

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<ESMA\_QUESTION\_PORT\_48>

1. **Do you agree that the new TR can store non-outstanding SFT data of varying data quality and/or in different formats in separate databases/tables and should respond to the queries of authorities on demand? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_49>

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<ESMA\_QUESTION\_PORT\_49>

1. **Do you agree that the old TR should provide the new TR with the necessary technical information on the data that is to be transferred to facilitate the data transfer to and the subsequent storage by the new TR in a timely manner? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_50>

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<ESMA\_QUESTION\_PORT\_50>

1. **Do you agree with confirmation of the aggregate information by the TR participants or the entities reporting on their behalf prior and after the data transfer? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_51>

On this point, clarification is requested as to the relationship between guideline 37 and guideline 8. If both guidelines refer to the same requirement for the TR participant, why is the process so detailed in this context? In any case, it would be useful to have more explanations on the fact that it is the TR participants who have to do this check.

<ESMA\_QUESTION\_PORT\_51>

1. **Do you agree with the inclusion of the cases where an FC and a FC- report outstanding SFTs subject to transfer to two different TRs in the Guidelines? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_52>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_52>

1. **Should the requirement put forward in Guideline 37 be structured in a different manner? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_53>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_PORT\_53>

1. **Do you agree with the procedure described in Annex III? Which other aspects need to be considered? Please elaborate on the reasons for your response.**

<ESMA\_QUESTION\_PORT\_54>

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<ESMA\_QUESTION\_PORT\_54>

1. [**Do you agree with the procedure described in Annex IV? Which other aspects need to be considered? Please elaborate on the reasons for your response.**](#_Toc72505760)

<ESMA\_QUESTION\_PORT\_55>

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<ESMA\_QUESTION\_PORT\_55>