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| 08 July 2021 | ESMA74-362-2087 |

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| Reply form for the Consultation Paper on the Guidelines on reporting under EMIR |
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| Date: 08 July 2021 |

Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Section 9 in the Consultation Paper on the Guidelines on reporting under EMIR 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\_REPO\_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.
* if you wish to provide comments on the validation rules and/or reconciliation tolerances for the specific reporting fields, please use for that purpose the additional response form in excel format.

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\_REPO\_NAMEOFCOMPANY\_NAMEOFDOCUMENT.

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

ESMA\_REPO\_ESMA\_REPLYFORM or

ESMA\_REPO\_ANNEX1

***Deadline***

Responses must reach us by 30 September 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 | IHS Markit |
| Activity | Other Financial service providers |
| Are you representing an association? |  |
| Country/Region | UK |

# Introduction

Please make your introductory comments below, if any:

<ESMA\_COMMENT\_REPO\_1>

IHS Markit (NYSE: INFO) is a world leader in critical information, analytics and solutions for the major industries and markets that drive economies worldwide. The company delivers next-generation information, analytics and solutions to customers in business, finance and government, improving their operational efficiency and providing deep insights that lead to well-informed, confident decisions. Headquartered in the UK with offices throughout the EU, US and Asia, IHS Markit has more than 50,000 key business and government customers, including 80 percent of the Fortune Global 500 and the world’s leading financial institutions.

Our core competency is using our expertise to source and transform data into information and analytics that our customers can use when making operational and strategic decisions. By integrating and connecting our information and analytics with proprietary and widely used technology on scalable platforms, we produce critical information and insight designed to meet our customers’ needs. Our product development teams have also created proprietary web services and application interfaces that enhance access to information and allow our customers to integrate our offerings with other data, business processes, and applications (such as computer-aided design, enterprise resource planning, supply chain management, and product data/lifecycle management).

Employing over 16,000 people, IHS Markit provides participants with the tools and intelligence needed to successfully navigate financial market complexities and achieve success across the enterprise. Our leading data, analytics and workflow solutions enhance business-critical functions including risk management, portfolio management, reporting and regulatory compliance.

On 11 January 2021, IHS Markit acquired Cappitech, a compliance technology provider, to expand its suite of global, multi-asset class transaction regulatory reporting offerings to the financial industry. We have a global regulatory reporting coverage across CFTC, EMIR, MIFID, SFTR, MAS, ASIC, HKMA https://www.cappitech.com/transaction-reporting/

IHS Markit is pleased to provide its comments to ESMA EMIR REFIT consultation paper

<ESMA\_COMMENT\_REPO\_1>

1. **Are there any other clarifications that should be provided with regards to the transition to reporting under the revised technical standards?**

<ESMA\_QUESTION\_REPO\_1>

The section 5.1 on transition to reporting is sufficiently clear. Back-loading of all live contracts to new EMIR standard within six months of go-live may lead to divergent approaches across the market impacting pairing and reconciliations.<ESMA\_QUESTION\_REPO\_1>

1. Are there any additional aspects to be considered with regards to the eligibility to reporting of currency derivatives?

<ESMA\_QUESTION\_REPO\_2>

The clarification of the three-day threshold for determining spot vs forward FX swap trades is helpful, as is the instruction to report swaps as swaps and not decompose them into two forwards or into a spot and a forward.<ESMA\_QUESTION\_REPO\_2>

1. Are there any aspects to be clarified with regards to the rest of contract types of currency derivatives? Please provide the relevant examples.

<ESMA\_QUESTION\_REPO\_3>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_3>

1. Are there any additional aspects to be considered with regards to the eligibility for reporting of the derivatives on crypto-assets? Please provide the relevant examples.

<ESMA\_QUESTION\_REPO\_4>

We would welcome further clarification on when and how crypto assets contracts should be reported with further examples.

The flag added by ESMA to identify whether the derivative is a crypto asset may not be sufficient

We think a dedicated typology/ taxonomy should be developed to accurately identify crypto assets.

As the asset class for the derivative follow the categorisation of the underlying, crypto assets could be classed as securities (such as in the US) or utilities / commodity or currency assets

• Securities (giving equity-like exposure to a firm’s profits and losses, or a bond-like guarantee of fixed returns)

• Utilities tokens (giving preferential access or pricing to future benefits, such as file storage or bandwidth)

• pure Currency traits (store of value, transferability, divisibility). <ESMA\_QUESTION\_REPO\_4>

1. Are there any additional aspects to be considered with regards to the eligibility for reporting of Total Return Swaps, liquidity swaps, collateral swaps or any other uncertainty with regards to potential overlap between SFTR and EMIR? Please provide the relevant examples.

<ESMA\_QUESTION\_REPO\_5>

Examples of the structure of liquidity and collateral swaps not reportable under EMIR would be helpful<ESMA\_QUESTION\_REPO\_5>

1. Are there any additional aspects to be considered with regards to the eligibility for reporting of complex derivative contracts? Please provide the relevant examples.

<ESMA\_QUESTION\_REPO\_6>

It will be useful for complex strategy structured trades identified with the field 2.6 ‘package identifier’, to be brought in line with MiFIR reporting. We welcome the fact that the MiFIR rule is also followed in respect of reporting each leg with the price of the strategy rather than the price of individual leg.

We highlight the very complex approach to decompose a trade for one jurisdiction and recompose the package for the reporting in other jurisdictions. We would urge ESMA to bring those examples to international instances such as the CPMI IOSCO. We see participants reporting different ways package trades

For example, EMIR requires the reporting of a straddle or strangle or synthetic forward separately with a combination of put and call options linked by the package identifier (ex- ‘Complex trade component ID’) whereas we see CFTC participants would rather report a straddle as a single trade . FX swaps are required to be reported as a single trade whereas other jurisdictions would require FX swaps to be reported with 2 different legs linked by a Link ID.

We stress the packaged structured trade under EMIR may include reportable and non-reportable transactions which is different from the definition within CFTC reporting and CPMI IOSCO critical data elements. <ESMA\_QUESTION\_REPO\_6>

1. Are there other situations where a clarification is required whether a derivative should be reported?

<ESMA\_QUESTION\_REPO\_7>

Some derivatives are hard to be assigned to a specific asset class and may not be reportable.

For example, could ESMA confirm that the securitised derivatives exemption is applicable to

a) Swaps or other instruments providing income streams from property portfolios, either originating from sales or rentals and

b) Swaps based on “death bonds” where surrendered life insurance products are packaged into instruments paying out on death of the original holder(s)<ESMA\_QUESTION\_REPO\_7>

1. Do you agree with the above understanding?

<ESMA\_QUESTION\_REPO\_8>

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<ESMA\_QUESTION\_REPO\_8>

1. Are there other situations where a clarification is required whether a derivative involving a specific category of party should be reported?

<ESMA\_QUESTION\_REPO\_9>

If a fund manager in the EU has funds domiciled outside the EU, can ESMA confirm that as the funds have no reporting obligation, the fund manager is also exempt.

Likewise, if a trade is allocated to multiple funds in various jurisdictions, could ESMA confirm that only the allocations to EU-domiciled funds should be reported?

Can ESMA confirm where there is cross-jurisdiction fund management (for example, an AIFM based in the UK and the Fund/AIF based in the EU, or vice-versa), ideally the transaction should not be reported to both ESMA and FCA under EMIR. We believe that only the location of the underlying fund should trigger a reporting obligation in order to avoid duplicative reporting<ESMA\_QUESTION\_REPO\_9>

1. Do you agree with the above understanding?

<ESMA\_QUESTION\_REPO\_10>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_10>

1. Are there other specific scenarios where a clarification is required?

<ESMA\_QUESTION\_REPO\_11>

The clarification of novation reporting protocol is welcomed. “the details of the reported derivative should be consistent across both reports” should perhaps stipulate that only the common fields, ie trade details, are required to match between paired reports<ESMA\_QUESTION\_REPO\_11>

1. Do you agree with the above understanding?

<ESMA\_QUESTION\_REPO\_12>

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<ESMA\_QUESTION\_REPO\_12>

1. Are there any other clarifications required with regards to the IGT exemption from reporting?

<ESMA\_QUESTION\_REPO\_13>

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<ESMA\_QUESTION\_REPO\_13>

1. Are there any other clarifications required for the handling of derivatives between NFC- and FC?

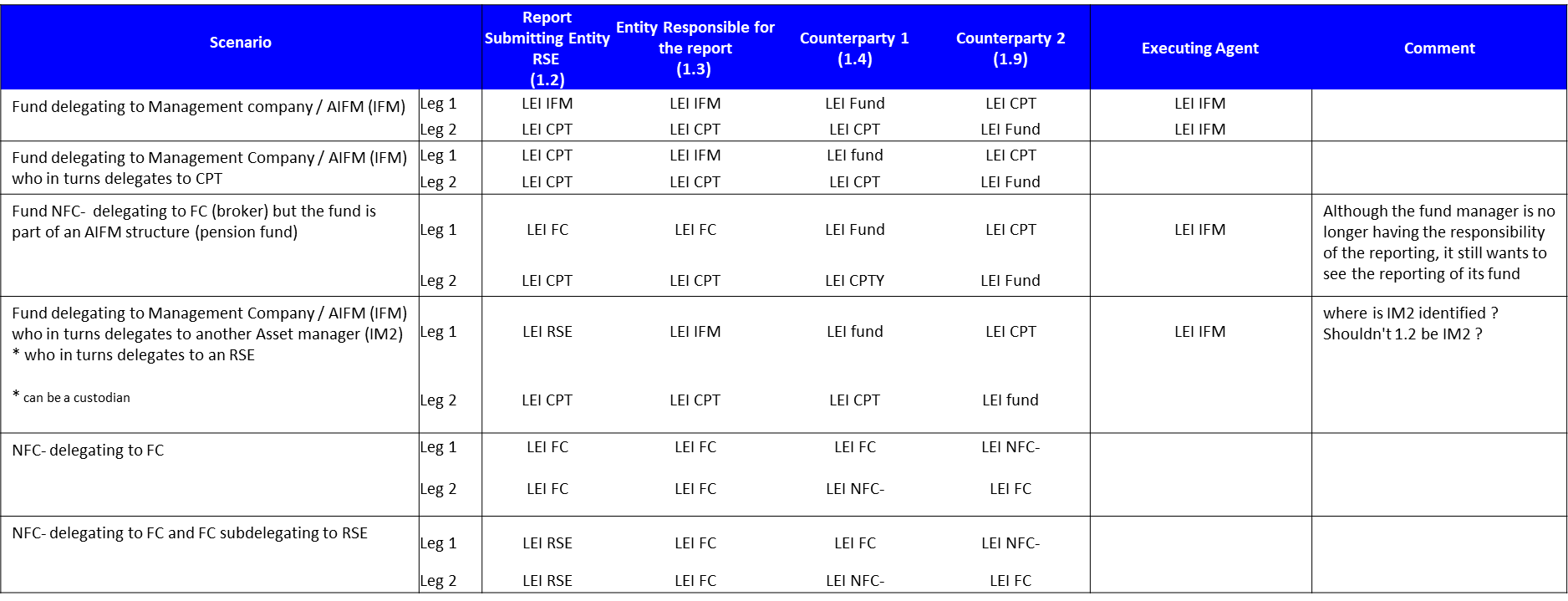
<ESMA\_QUESTION\_REPO\_14>

The further clarification that reporting obligation only passes to FC for OTC derivatives and not ETDs is welcomed. There can be instances where the reporting is delegated through more than one intermediary. Field Submitting Agent would not seem to be sufficient to capture all scenarios

Identification of Executing Agent allows the manager to view and monitor the reporting of its funds

Trade repositories feedback that this executing agent field will be added in the wrapper of the message sent to Trade repositories which seems to be a technical workaround whereas identifying the executing agent is useful in some scenarios. We stress that this data is not mandatory but should only added in scenarios where is it applicable.

Below a table where in line 3 and 4, we show the case where the submitting agent and the entity executing trades and wishing to monitor and control the trades are not the same. The third party provider is not the intermediary amending data as mentioned in question 18

.<ESMA\_QUESTION\_REPO\_14>

1. Are the current illustrative examples providing clarity and / are there other examples that should be incorporated in the guidelines?

<ESMA\_QUESTION\_REPO\_15>

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<ESMA\_QUESTION\_REPO\_15>

1. Are there any other clarifications required for the reporting obligation related to CCPs?

<ESMA\_QUESTION\_REPO\_16>

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<ESMA\_QUESTION\_REPO\_16>

1. Are there any other clarifications required for the reporting obligation related to Investment Funds i.e. UCITS, AIF and IORP that, in accordance with national law, does not have legal personality?

<ESMA\_QUESTION\_REPO\_17>

We observe in practice fund managers reporting on behalf of funds, even for ETDs, as the funds themselves do not typically have the IT or operational capabilities to take on this task

We understand that in case the manager is located in UK with a fund in EU, there is no double reporting obligation required as only the underlying fund should drive the reporting obligation<ESMA\_QUESTION\_REPO\_17>

1. Do you see any other challenges with the delegation of reporting which should be addressed?

<ESMA\_QUESTION\_REPO\_18>

We note ESMA feedback that final party to touch the trade is reported as submitting entity (Field 2) “reporting is carried out by a chain of entities- Field 2 should be populated with the LEI of the entity ultimately submitting the report to the TR.

However as mentioned in question 14, we observe scenarios where an agent could use a data provider as the conduit for reporting their clients trade to a TR, and where we have to choose between using the intermediary agent LEI or the data provider LEI as report submitting entity, we lose the identification of one party in the chain as there are not sufficient granularity in the ISO 20022 schema

As an analogy, if one receives a letter (i.e.report sent to the TR), would anyone really care who the postman is, or would we care more about who sent it, like the website shop such as Amazon etc. (i.e. the agent), on behalf of a underlying seller (reporting party or entity responsible for the report) ….

We believe that an intermediary that do not touch the data and create them would not be identified as report submitting entity but should be considered as a technical router. This would achieve consistency with SFTR and simplify the setup for firms who have to report to both EMIR and SFTR. It also seems logical.<ESMA\_QUESTION\_REPO\_18>

1. Do you agree that only action types ‘Margin Update’ and ‘Correct’ should be used to report collateral?

<ESMA\_QUESTION\_REPO\_19>

Margin update and error reports would be reasonable if starting margin values are reported on the first trade or initial position with a given UTI. As mentioned in Q.20 we would welcome examples on margin reports at UTI and portfolio ID level including for corrections.)<ESMA\_QUESTION\_REPO\_19>

1. Are there any other clarifications required with regards to the use of the action types in general (other than specific aspects covered in the sections below)?

<ESMA\_QUESTION\_REPO\_20>

• It would be helpful to clarify how margin data reported at portfolio level is meant to be reported under the new reporting, i.e., whether values aggregated at account level should be attached to every position, or whether they can be submitted in a separate report margin report.

As a general point based on SFTR experience, we would recommend presenting margin data separately from trade reporting. In SFTR allowing data not related to trades to be included in trade report or separate report has caused confusion. It would be clearer if ESMA states margin data or collateral data are reported separately from trade reporting.

"• Regarding the Action Type Position (‘POSC’), is it permissible to use this to cancel trades which are potentially netted to a position, even in the scenario where the trades net to a zero position, hence there should not be any subsequent position to be reported? This would simplify the reporting (see also response to 24 re PTTR ID)”:

Example to amend below

Trade 1: Buy 50 future POSC

Trade 2: Sell 50 future POSC

We don’t need to report a zero-position report with NEWT as it is redundant with trade 1 and 2 reporting

<ESMA\_QUESTION\_REPO\_20>

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

<ESMA\_QUESTION\_REPO\_21>

• We note ESMA has considered the feedback provided by participants regarding ‘Error’ action type to prevent that if one counterparty reports ‘Error’ by mistake: with EMIR REFIT, the other counterparty will not be prevented from timely reporting of relevant lifecycle events

• We note that counterparties can only use action type ‘Revive’ during 30 days after the submission of ‘Error’ or ‘Terminate’ or after the maturity date. After that time a new UTI should be generated, and the other counterparty would need to cancel the derivative concerned (with action type ‘Error’) and both counterparties would need to report the trade again with a new UTI. This is an issue for global UTI as one of the fundamental principles for CPMI IOSCO guidance of persistency where UTI should remain constant throughout the life of a trade unless where lifecycle events affecting the existing contract create one or more reportable transaction. In such instance where a ESMA reportable entity is facing a US Person Swap Dealer, we could see a potential divergence of UTI between ESMA and CFTC records or UTI change be imposed on the US reporting counterpartywhen the latter has performed its reporting to CFTC correctly.

Reporting entities that have reporting obligations to multiple regimes to implement a robust solution that has ability to consider nuances from each regime yet keep to the principle of a unique UTI for each derivative transaction.

• We agree with ESMA correct sequences based on the ‘Event date’ is more accurate, however may be more burdensome for the TRs. For SFTR reporting, where the sequencing of events was based on submission order, we observed the top rejections were related to the non-respect of sequences of events and logic on dates. Correct sequencing of events was challenging to meet for a lot of firms especially for backdated remediations / corrections and given the tight timeline (one day only in effect) to bring a trade back to life in case or erroneous terminations or cancels

<ESMA\_QUESTION\_REPO\_21>

1. Are there any specific scenarios in which the expected sequence of action types is unclear?

<ESMA\_QUESTION\_REPO\_22>

We do not support the 30 days limit beyond which a new UTI will have to be created (reasons explained in Q21)

We note that counterparties would need to re-report all the lifecycle events when using Revive action type between the incorrect termination/cancelation of the derivative and the submission of ‘New’ report.<ESMA\_QUESTION\_REPO\_22>

1. Are any further clarifications needed with regards to the action type - event type combinations or their applicability?

<ESMA\_QUESTION\_REPO\_23>

• As per ESMA feedback, a termination of a derivative will have to translate into an Action Type ‘MODI’ (modify) with event type ETRM (early termination) in case an early termination is agreed in advance of its effective date. A termination occurring the same day as it is decided will translate into an Action Type ‘ETRM’, Event Type ‘ETRM’. This way to terminate a trade ‘in advance’ i.e., decide the termination ahead of the time when it actually settles is taken from SFTR world to report settlement fails or when an evergreen trade. However, we do not believe this apply to derivatives. Additionally, we currently observe issues within SFTR due to the coexistence of these two ways to terminate a contract whereas it does not seem to bring additional huge benefit from a systemic risk point of view. , it requires parties to build a complex ‘withholding’ logic to retain events to be reported for both trades and positions.

• We point out the challenges around corrections which sometimes are difficult to implement versus the validation rules.

Margin update’ is used for the update of data related to margins (collateral details

The use of action type ‘Correct’ for margin data on a given day as opposed to a genuine margin update will require firms’ collateral source system to be able to differentiate between a genuine margin update reporting versus an error correction for a prior record. Noticeably this requirement is only present in EMIR REFIT which may result in bifurcation of reporting system logic for the reporting entities.

• Valuation Amounts will have to be corrected which as well is not present in other reporting regimes either.

• We note that Modification/ Step in will be used for partial novations as per ESMA guidelines<ESMA\_QUESTION\_REPO\_23>

1. Is it clear when the linking IDs should be used, and in which reports they should be provided? Do you agree that the linking IDs should be reported only in the reports pertaining to a given lifecycle events and should not be included in all subsequent reports submitted for a given derivative? Are any further clarifications on linking IDs required?

<ESMA\_QUESTION\_REPO\_24>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_24>

1. Do you agree with the ESMA´s approach related to leaving the Event type blank in the case of multiple events impacting the same position on a given day? How often multiple events/single events impact the same position on a given day? Have you assessed the single versus multiple events impacting positions on a given day? Do you have systems or methods to distinguish between one or multiple events impacting the positions on a given day?

<ESMA\_QUESTION\_REPO\_25>

We Agree approach of leaving Event type blank in the case of multiple same-day changes

<ESMA\_QUESTION\_REPO\_25>

1. Do you agree with the proposed clarifications concerning population of certain fields at position level?

<ESMA\_QUESTION\_REPO\_26>

Detailed clarification of field population at position level will be helpful as well as further position and ETD reporting examples

<ESMA\_QUESTION\_REPO\_26>

1. Do you need any other clarification with regards to the position level reporting?

<ESMA\_QUESTION\_REPO\_27>

There are considerable logistical complexities in compressing trades into positions, then sending at position level modifications, valuations, terminations, margin updates on those compressed trades

The complexity of compression reporting along with the linkage of all elements could lead to trades being traded elsewhere than in the EU. In addition, agreeing one by one with each counterparty whether to report at trade level or position level for ETD and CFD is very challenging

Should ESMA rather seek having more data reported by accepting to simplify the reporting?

We might suggest a simplified reporting structure, especially suitable for Contract for Differences providers, consisting of limiting the reporting to trades reported at position level (action type POSC) reported and terminated within the same message.

• Positions would be reported as New, with a maturity date set to next business day (hence next day the trade will be ‘exited ‘at the TR) and all current details of valuation and margin attached to the trade as well.

• The following day, when the positions age off, new trades would be reported with POSC and a new set of updated positions constructed, again with a maturity date of following business day.

• In this manner ESMA has the assurance that a) all trades have been reported and b) a current set of position up to date is always available as well its related details related to collateral data.<ESMA\_QUESTION\_REPO\_27>

1. Are there any other aspects that should be clarified with regards to reporting of on-venue derivatives?

<ESMA\_QUESTION\_REPO\_28>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_28>

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

<ESMA\_QUESTION\_REPO\_29>

Agree with the text. In addition, it would be helpful to remind firms that trades, and positions are automatically considered to be exited once the reported Maturity Date has passed, without further report being required. TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_29>

1. Do you agree with the proposal for reporting modifications and corrections to derivatives? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_30>

As mentioned in answer 23, a termination of a derivative translated into action type ‘MODI’ (modify) with event type ETRM (early termination) does not apply to derivatives and is prone to errors, it will require parties to build a withholding logic to retain events to be reported.

We currently observe issues within SFTR that may occur in EMIR which are related to the coexistence of these two ways to terminate a contract, especially in the case of agency allocations where there is one side of the trade totally dependent on the other side coming from the agent regarding the data used to fullfill its reporting obligation.

<ESMA\_QUESTION\_REPO\_30>

1. Do you agree with the specification of the ‘Event date’ for different action types?

<ESMA\_QUESTION\_REPO\_31>

We believe Event Date field should be used as a key to construct the trade state report. It is preferable for EMIR not to align with SFTR on how trade state reports are updated given current operational challenges and the majority of rejections related to life cycle events sequencing logic not respected.<ESMA\_QUESTION\_REPO\_31>

1. Do you agree with the interpretation of the business events and the suggested action and event types?

<ESMA\_QUESTION\_REPO\_32>

we would welcome further examples on the different use cases of step-in. <ESMA\_QUESTION\_REPO\_32>

1. Are there other business events that would require clarification? If so, please describe the nature of such events and explain how in your view they should be reported under EMIR (i.e. which action type and event type should be used).

<ESMA\_QUESTION\_REPO\_33>

It would be useful to provide further details on Business Event ‘Corporate Action’, we advise to use the ISO 20022 codes https://www.iso20022.org/standardsrepository/type/CorporateActionOption5Code and industry best practices where available for standard approach on corporate actions. A corporate action is not always translated into a Modification keeping the same UTI. The timing of a corporate action should be considered. Some use cases and examples should be provided by ESMA. See as an example SFTR corporate actions best practices referencing ISO 20022 codes in the Appendix (https://www.islaemea.org/regulation-and-policy/markets-regulation/securities-financing-transactions-regulation-sftr/)<ESMA\_QUESTION\_REPO\_33>

1. Which approach do you prefer to determine the entity with the soonest reporting deadline? Please clarify the advantages and challenges related to each of the approaches.

<ESMA\_QUESTION\_REPO\_34>

Regarding the UTI generation decision tree, the confirmation platform and the bilateral agreement should take precedence over the checking of cross jurisdictional obligations or rules referring to the nature of counterparties. Bilateral agreement with the counterparty should be placed higher within the UTI generation decision tree after CCP, trading venues and confirmation platforms to simplify the UTI generation process for firms. In the case where one or none of the parties use a CCP, trading venue or confirmation platform, reference to the bilateral agreement is an efficient way for UTI generation, avoiding parties having to go through a complex algorithm for UTI generation.

UTI generation logic related to the global UTI implementation present some operational challenges as follows:

The step on ‘cross jurisdictional contract’ described in the CPMI IOSCO UTI decision tree with precedence of earliest reporting deadline would be overly complex operationally. This would imply that firms building an internal logic would need to be informed about the other counterparty’s jurisdictional reporting requirements, which will not always be shared with or known to the counterpart. Currently it is not market practice at trade execution for firms to exchange each other’s applicable reporting jurisdictions for a trade. Firms typically do not even determine their own reporting jurisdictions until post-trade. For firms that are only reporting to one jurisdiction this process will not only be challenging but also prohibitive and unnecessarily costly to implement. If there was an option to select for soonest reporting timeline, the semantic approach would be preferred as less complex to implement than the follow the sun approach which puts the burden on small counterparties in the East. Lastly we stress that before getting to the TR, for trades that do not go through CCPs, trading venues or confirmation platforms, there is value added for a pre-matching tool that can make the key trade economics match in order to get a UTI , this should be considered as part of the bilateral agreement counterparties may have.

In effect, because of the impracticalities of cross jurisdictional step checking on the jurisdiction of the other counterparty will be difficult to implement so parties are likely to skip to the next step in the UTI decision tree until the bilateral agreement or the LEI sorting

We also note the requirement around the management of UTI generation and communication within the 10 am UTC timeline on T+1 is going to be challenging as controls will have to put in place within that timeframe (Parties could follow an End of Day process via file exchanges).

Within the same ‘cross jurisdictional step in the UTI flowchart, there is an instance where the TR is responsible for generating the UTI: we do not think this is optimal, a TR is not meant to generate a UTI and is not an UTI exchange platform. Therefore, we suggest removing the step of TRs generating a UTI.

Lastly, we would very strongly recommend regulatory guidance on UTI sharing requirements including among others the following points:

• The default use of a digital medium for UTI exchange, avoiding faxes, telephone and other manual processes.

• Preference for automated workflows from booking to reporting.

• UTI and its related data to be shared in a common format.

• Exchange of transaction minimum fields alongside the UTI to facilitate identification of the transaction and facilitate pairing.

We would like to stress once again that the UTI is built on a global approach:it is very important ESMA considers UTI Implementation timeline across different jurisdictions: the US could move to the new global UTI format and generation logic before EMIR (assuming CFTC Rewrite goes live in May 2022) hence firms may have to maintain 3 different UTI formats and logic for the same trade and its prior-UTIs (Global UTI, current EMIR UTI, USI) <ESMA\_QUESTION\_REPO\_34>

1. Are there any other aspects that need to be clarified on UTI generation?

<ESMA\_QUESTION\_REPO\_35>

-UTI generation and exchange do not always occur on a timely basis and in an accurate manner, particularly for manually confirmed trades. ESMA Data Quality Review has put the stress on timeliness leading some firms to prefer timeliness of reporting a UTI over waiting for the accurate UTI

-The reporting of an interim UTI by firms who haven’t received the UTI from the UTI-generator party at close to the reporting deadline (next day midnight after trade execution date) could lead to numerous manual processes, which are likely to be the sources of errors and rejections at the trade repository.

We acknowledge the preference for some firms to report the trade with the official UTI only once it is available and not report an interim UTI because of the challenges of reporting multiple reporting messages per trade when using an interim UTI and then the final UTI. Allowing an interim UTI should go hand in hand with flexibility in life cycle events rules such as on resubmissions of back dated corrections without having to resubmit all the sequences of events since the full history of the trades but only the last meaningful state of the trade

-Replacing the UTI to try to match at the TR is one of the most common issues that we witness in other regimes such as SFTR with discrepancies of life cycle events reporting timing on both sides. Pre-Tr matching platforms could help in matching fields and getting the correct UTI

.<ESMA\_QUESTION\_REPO\_35>

1. Are there any other types of contracts for which the determination of the counterparty side needs more clarity?

<ESMA\_QUESTION\_REPO\_36>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_36>

1. Are there any other clarifications required with regard to the determination of the counterparty side (other than specific aspects covered in other sections)?

<ESMA\_QUESTION\_REPO\_37>

We agree with the details on when to report using Buyer/Seller and when to report using Payer/Receiver. It should leverage on industry bes practices as much as possible <ESMA\_QUESTION\_REPO\_37>

1. Are there any other clarifications requested with regards to the identification of counterparties?

<ESMA\_QUESTION\_REPO\_38>

In general, we stress that the regulatory text appears to place the onus on reporting firms for assessing whether their counterparties have a reporting obligation. This can only properly be assessed by the counterparty themselves, and implementation of this requirement is likely to be problematic.

We think any counterparty related data should take into account the ISO XML schema as well, validation rules go hand in hand with the XML schema. SFTR showed the limits when insufficient time is given to discuss the ISO schema discussions together with the validation rules

<ESMA\_QUESTION\_REPO\_38>

1. Are there any other aspects to clarify in the LEI update procedure when a counterparty undergoes a corporate action?

<ESMA\_QUESTION\_REPO\_39>

Trades that were errored or terminated by mistake need to be revived prior to the corporate event, and if they are not revived before the event the counterparties need to re-report those trades with a new UTI which we believe will be very complex to implement<ESMA\_QUESTION\_REPO\_39>

1. Are there any other aspects to be considered in the procedure to update from BIC to LEI?

<ESMA\_QUESTION\_REPO\_40>

On the procedure for corporate actions, we welcome ESMA fixes a timeline ‘The LEI update should occur on the date of the corporate restructuring event.

TR should perform the update as soon as possible and no later than 30 calendar days from receiving the request to update the LEI due to corporate action.

We have noticed during SFTR events such as branch conversions, entities consolidation etc.., there is a requirement to adopt a consistent approach to handle those mergers under SFTR for reporting parties

There are some pending questions regarding the process depending the dates and the types of trades (legacy trades, open positions, life cycle, CCP etc..).

During a merger, the non-surviving entity LEI will cease to exist to become the LEI of the surviving entity. However, the merger Implementation date would usually not be the same as the actual day the merger occurs (i.e., the legal date of the merger): currently TR would implement mergers on a pre-determined weekend given the requirement of database conversion

Consequently, the status of the LEI of the non-surviving entity could become invalid during that interim period post- legal date of the merger depending on GLEIF process and depending on the length of the elapsed time between the legal date and the implementation date of the merger. It is practically impossible to have the same date between the legal date and the corporate action date in some instances such as mega mergers

We question whether TR can perform merger as and when X parties would like to merge

However, if that was feasible, that would simplify the process for firms.

Else the question is about the approach during the interim period between legal date and implementation date.

During that interim period, parties can still book on the former legacy LEI while waiting for the effective merger date or they can switch to the new LEI, which will be an issue on life cycle events of trades executed before the legal merger date as TR will not have performed the conversion yet.

It is only from the implementation date that the Trade repository will ‘transfer’ positions from the non-surviving LEI to the surviving LEI for open trades. The UTI is kept on those trades. Brand new trades can be booked with the new LEI as they do not depend on TR conversion.

it could be that agreement with counterparties is required after the legal merger date during the interim period on whether to book on new LEI or old LEI. We understand that for CCP cleared trades, process could be different as well depending on what the CCP can provide (new LEI) at which date.

If a split approach is taken, this could overcomplicate the process as it requires different agreement with counterparties depending on the types of trades (new trades and life cycle events of legacy trades, cleared etc..). Hence either there is no difference between the legal date and the effective merger date or the LEI be invalidated during this interim period where conversion is not done yet but old LEI could be with status merged, hence NACKs at the TR

We note that the procedure regarding trades with the old LEI errored or terminated by mistake being “revived” before the corporate event present challenges to be put in place

if the 30-day deadline for the use of action type "Revive" is expired before the corporate event, the counterparty would need to re-report them with a new UTI

Therefore, both counterparties should rereport the derivative with action type ‘New’ and a new UTI. However, if the trades were not outstanding - at the time of corporate event the counterparties would need to re-report them with a new UTI and an updated LEI.

Should participants wait for the technical implementation date to report with the new LEI ?

Can the approach be the same across all TRs?<ESMA\_QUESTION\_REPO\_40>

1. Do you require any further clarification on the use of UPI, ISIN or CFI for derivatives?

<ESMA\_QUESTION\_REPO\_41>

We stress the potential divergence build vs other jurisdictions for the OTC derivatives reference identifiers For the same contracts, ISIN will be required in Europe for EMIR, while other reporting regimes such as CFTC will require UPI. We believe it is important to work closely with ANNA DSB to make UPIs converge with ISINs to avoid creating duplication and forcing firms to obtain two different identifiers for the same contract, or a situation where some OTC derivatives are reported with ISIN and others with UPI due to different jurisdictions requirements

Regarding CFI code, from SFTR experience, the CFI is taken from relevant National Numbering Agency (Lookup Service of the Association of National Numbering Agencies (ANNA) Service Bureau). The best practice from trade associations is that If not available and since the data is reconcilable, parties usually perform the synthesis of the code while making a request to their National Numbering Agency for a code. <ESMA\_QUESTION\_REPO\_41>

1. Do you require any further clarification with regards to the reporting of fields covered by the UPI reference data? Which fields in the future should /should not be sourced exclusively from the UPI reference data rather than being reported to the TRs?

<ESMA\_QUESTION\_REPO\_42>

Unique Product Identifier will represent quite a challenge requiring potentially new connections to ANNA DSB and exchange of product reference data across different internal systems while this could be redundant with other reference data attributes such as CFI codes.

There are data fields which can be derived from UPI, redundancies should be avoided between Contract Type, Asset Class, ISIN (if admitted to trading), UPI and the CFI, all to be included on the transaction report.

We think there will be a duplicating a number of attributes on the report, historically we have seen conflicting interpretations of CFI codes and the product identification fields. This risk increases where there is an increased number of overlapping fields.

New reference data attributes will have to be managed and firms may have to maintain two referential of derivatives identifiers by the way the ISIN and the UPI are currently required in the regulations, CFTC will not require ISINs.

We have observed multiple ISINs for economically comparable products issued, trade-level attributes, such as expiry/ maturity date are problematic especially for IRS.

We believe the role of ISINs should be reviewed in coordination with the implementation of the unique product identifier (UPI). We observe reach out to firms to discuss issues in a practical way can be quite useful.<ESMA\_QUESTION\_REPO\_42>

1. Do you require any further clarification on the reporting of details of the underlying?

<ESMA\_QUESTION\_REPO\_43>

Could ESMA provide further clarification when reporting credit derivatives trades – should firms report the underlying or the reference Entity? Would it always be one or the other or would that depend on the circumstances?

Note in connection with options that systemic risk may not be captured by basing notional on strike price. Risk is asymmetric, with option buyers having a risk limited to their premium while option sellers have risk tied to the strike price (puts) or infinite (calls). Should that aspect be highlighted in abnormal values reports ?<ESMA\_QUESTION\_REPO\_43>

1. Is any further guidance required in relation to the population of the notional field?

<ESMA\_QUESTION\_REPO\_44>

Please find a few comments

-For the reporting of notional and quantity/ Notional amount fields (fields 2.55 and 2.64) we agree with notional reporting as described by ESMA, this aligns with CPMI IOSCO Critical Data Elements.

-Zero notional is sometimes reported e.g. in the case of voluntary right issues given to the holder of a CFD or in the case of CFDs resulting from a corporate action on the underlying (stock split), thus having a purchase price of zero. This is not considered a correct way of reporting,

-Worth noting specificities for the reporting of notional on options as systemic risk may not be captured by basing notional on strike price.

-Risk is asymmetric, with option buyers having a risk limited to their premium while option sellers have risk tied to the strike price (puts) or infinite (calls). We suggest this be highlighted in the abnormal values report ESMA intends to put in place leaving the determination to Trade repositories whereas an industry roundtable would be preferable.

-Notional Amount Schedule – The CPMI IOSCO CDE guidance for ‘Notional Amount Schedule’ says the end data of a period is not required if the “end date of a given schedule’s period is back-to-back with the unadjusted effective date of the subsequent period”. However, the EMIR validation rules for “End date of the notional amount of leg 1” and “End date of the notional amount of leg 2” says the date is to be populated for all notional amount schedules. EMIR Refit should align with CPMI IOSCO CDE standards, the validation rules follow the CDE guidance<ESMA\_QUESTION\_REPO\_44>

1. Is any further guidance required in relation to the population of the Total notional quantity field? How should the Total notional quantity field be populated, distinguishing between ETD and OTC and asset class?

<ESMA\_QUESTION\_REPO\_45>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_45>

1. Are there other instances when we would expect to see a zero notional for Position Reports? Please provide examples. Are there any instances when we would expect to see a notional of zero for Trade Level Reports? Please provide examples.

<ESMA\_QUESTION\_REPO\_46>

Where trades have been reported with POSC action type, and where those trades net to zero, we ask ESMA whether a position report with zero notional could be submitted (unless it is clarified that these are not required). We also point out that firms can identify positions by combination of client and product might maintain a zero position in case the client revives it with a future trade.

We point out that when a position is netted to zero notional but then goes up to non-zero notional, under ESMA new requirement, a new UTI will have to be reported <ESMA\_QUESTION\_REPO\_46>

1. Are there any other aspects in reporting of valuations that should be clarified?

<ESMA\_QUESTION\_REPO\_47>

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<ESMA\_QUESTION\_REPO\_47>

1. Are there any other aspects in reporting of delta that should be clarified? Are there instrument types (in addition to swaption) where further guidance is needed with regards to the calculation of delta?

<ESMA\_QUESTION\_REPO\_48>

We appreciate ESMA added this field to align with CPMI IOSCO Critical Data Element.

We agree that counterparties should report the delta of an option as ratio of absolute change in price (or value) of a derivative to the change in price (or value) of the underlying

Is this adjusted or unadjusted delta to be reported?

Can ESMA provide examples?<ESMA\_QUESTION\_REPO\_48>

1. Are there any further clarifications required with regards to the reporting of margins?

<ESMA\_QUESTION\_REPO\_49>

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<ESMA\_QUESTION\_REPO\_49>

1. Are there any further clarifications required with regards to the reporting of the trading venue?

<ESMA\_QUESTION\_REPO\_50>

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<ESMA\_QUESTION\_REPO\_50>

1. Are there any further clarifications required with regards to the reporting of clearing?

<ESMA\_QUESTION\_REPO\_51>

Paragraph 315 states ‘where a contract is both concluded on a trading venue and cleared on the same day, only the contracts resulting from clearing should be reported (novation clearing model). ‘

For clients reporting in straight through process system this means they will have to implement a logic to "hold" alpha trades until End of Day to verify that the trade is cleared, they have to withhold reporting alpha trades, and will only report beta trades, whereas if there was no clearing on the day then we would report alpha trades for the day.

The implementation is difficult as there would be two logic for cleared trade reporting without any additional clear benefit

We note that for ESMA, execution timestamp of cleared trades is the timestamp of the alpha trade, and that clearing timestamp, should be later than execution timestamp for trades cleared by a CCP by novation (as opposed to open offer, for which the two timestamps should be the same)

However, we stress that in the case of the CCP, execution timestamp could be considered identical to clearing timestamp as it only becomes a party to a transaction when it clears that transaction, which means the two timestamps reported by the CCP should be the same.

Para 320 states that “when a derivative is executed in an anonymized market and cleared by a clearing house, the counterparty executing the derivative should request the trading venue or the clearing house that matches the counterparties to disclose the identity of the other counterparty”. This will have a direct impact on trades executed on a SEF where the No Name Give-Up regulation means the counterparty name cannot be disclosed. This will disadvantage EU firms as it will limit trading on non-EEA trading venues or clearing houses.

<ESMA\_QUESTION\_REPO\_51>

1. Are there any further clarifications required with regards to the reporting of confirmation timestamp and confirmation means?

<ESMA\_QUESTION\_REPO\_52>

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<ESMA\_QUESTION\_REPO\_52>

1. Are there any further clarifications required with regards to the reporting of settlement currencies?

<ESMA\_QUESTION\_REPO\_53>

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<ESMA\_QUESTION\_REPO\_53>

1. Are there any additional clarifications to be considered related to reporting of regular payments?

<ESMA\_QUESTION\_REPO\_54>

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<ESMA\_QUESTION\_REPO\_54>

1. Are there any further clarifications needed with regards to the reporting of other payments?

<ESMA\_QUESTION\_REPO\_55>

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<ESMA\_QUESTION\_REPO\_55>

1. How would you define effective day for novations and cash-settled commodity derivatives?

<ESMA\_QUESTION\_REPO\_56>

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<ESMA\_QUESTION\_REPO\_56>

1. What are reporting scenarios with regards to dates and timestamps which you would like to be clarified in the guidelines? Are there any other aspects that need to be clarified with respect to dates and timestamp fields?

<ESMA\_QUESTION\_REPO\_57>

There is an operational Issue in following local calendars, in effect a single calendar should be used for EMIR Refit reporting such as Target or similar calendars agreed on a global basis.

Worth noting execution timestamp in EMIR REFIT does not always align with other jurisdictions for allocations scenarios where the block trade is re allocated to sub funds. The execution timestamp of new trades allocations will have the same timestamp as the block trade whereas for re-allocations there are different timestamp than the block trade timestamp. We think use cases in ESMA guidelines would be welcome for allocation scenarios taking into account that CFTC also has a near real time reporting requirement for the same trades.<ESMA\_QUESTION\_REPO\_57>

1. Are there any other aspects that need to be clarified with respect to the derivatives on crypto assets?

<ESMA\_QUESTION\_REPO\_58>

Since the Exchange Rate Basis cannot be populated with non-ISO currency codes such as BTC, this would preclude reporting of crypto assets as CU asset type.

We would suggest using CO, with a commodity basis of Index until such time as further differentiation of crypto assets (into for example Equity, Credit etc…) is developed by the regulator.<ESMA\_QUESTION\_REPO\_58>

1. Do you consider any scenarios in which more clarification on the correct population of the fields related to package transaction is needed?

<ESMA\_QUESTION\_REPO\_59>

We advise alignment, following ISDA current best practices for complex and package trades

We see split among participants for reporting of package trades which are cross jurisdictional (for example to be reported to both CFTC and EMIR); for example, requirement to report non-reportable elements of package transactions, contrary to CFTC: it will not be possible to accurately represent non-EMIR products as OTC contracts.

We note ESMA rather expects that packaged trades be systematically reported the decomposition of structured trades in components: for example, In EMIR you would report a straddle or strangle or synthetic forward separately with put + call options linked by the ‘Complex trade component ID’ , whereas we see CFTC participants would rather report a straddle as a single trade <ESMA\_QUESTION\_REPO\_59>

1. Which of the proposed alternatives with regard to significance assessment method do you prefer? Should ESMA consider different metrics and thresholds for assessing the scope of notifications sent to the NCAs? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_60>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_60>

1. Do you prefer Option 1 or Option 2 with regard to the number of affected reports notified to the NCAs? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_61>

Option 2 would make sense for the number of affected reports to be notified to NCAs

Option 2: relate to all the counterparties regardless of whether the Reporting Submitting Entity ( ‘RSE’) is the Entity Responsible for the Reporting (‘ERR’) for all of them. Therefore, under this option, a total number of affected reports at the level of RSE would be notified and the RSE would not have to carve out the counterparties where the threshold is not exceeded and the RSE is not ERR for such counterparties. It is worth clarifying that under this option RSE should send the notification only to the RSE’s NCA and the counterparty 2 ’s NCA, not to NCAs of Counterparty 1and Counterparty 3<ESMA\_QUESTION\_REPO\_61>

1. Should significance of a reporting issue under Article 9(1)(c) of the draft ITS on reporting also be assessed against a quantitative threshold or the qualitative specification only is appropriate? In case threshold should be also applied, would you agree to use the same as under Alternative A or B? Is another metric or method more appropriate for these types of issues? Please elaborate on your response.

<ESMA\_QUESTION\_REPO\_62>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_62>

1. Are there any other aspects or scenarios that need to be clarified with respect to ensuring data quality by counterparties? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_63>

To complement the rejection and reconciliation statistics provided by the TRs to NCAs, the entity responsible for reporting should promptly (as soon as it becomes aware of them) notify its competent authority and, if different, also the competent authority of the reporting counterparty

Could ESMA provide guidance on the format, whether this is in XML format or CSV files or User interface potentially? would those reports to be provided on a regular basis ?

We believe Data providers can be of value added in the presenting the tools to drill down into audit and substantiations of those exceptions reports <ESMA\_QUESTION\_REPO\_63>

1. Are there any other aspects in reporting of IRS that should be clarified?

<ESMA\_QUESTION\_REPO\_64>

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<ESMA\_QUESTION\_REPO\_64>

1. Are there any other aspects in reporting of swaptions that should be clarified?

<ESMA\_QUESTION\_REPO\_65>

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<ESMA\_QUESTION\_REPO\_65>

1. Are there any other aspects in reporting of FRAs, cross-currency swaps, caps and floors or other IR derivatives that should be clarified?

<ESMA\_QUESTION\_REPO\_66>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_66>

1. In the case of FX swaps, what is the rate to be used for notional amount of leg 2? Should it be the forward exchange rate of the far leg as it is in the example provided? Or the spot exchange rate of the near leg?

<ESMA\_QUESTION\_REPO\_67>

We believe the notional amount should be that entered in the Near leg. There is only one Notional Amount field to be reported. It should always be in terms of Notional Currency 1. "<ESMA\_QUESTION\_REPO\_67>

1. In the case of FX swaps, considering that the ‘Final contractual settlement date’ is not a repeatable field, should the settlement date of the near leg be reported, for example using the other payments fields?

<ESMA\_QUESTION\_REPO\_68>

We assume the ‘Final contractual settlement date’ is the settlement date of the near leg be reported, the settlement date is the last settlement which always occurs in the far leg. <ESMA\_QUESTION\_REPO\_68>

1. Do you have any questions with regarding to reporting of FX forwards?

<ESMA\_QUESTION\_REPO\_69>

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<ESMA\_QUESTION\_REPO\_69>

1. Do you have any questions with regarding to reporting of FX options?

<ESMA\_QUESTION\_REPO\_70>

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<ESMA\_QUESTION\_REPO\_70>

1. What is the most appropriate way to report direction of the derivative and of the currencies involved with an objective to achieve successful reconciliation? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_71>

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<ESMA\_QUESTION\_REPO\_71>

1. Do you agree with the population of the fields for NDF as illustrated in the above example? Should other pairs of NDFs be considered? Please provide complete details and examples if possible.

<ESMA\_QUESTION\_REPO\_72>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_72>

1. Do you agree with the population of the fields for CFD as illustrated in the above example? Do you require any other clarifications?

<ESMA\_QUESTION\_REPO\_73>

The population of fields defined by ESMA appears clearly defined. The inclusion of the Price Multiplier field and a separate example with a Spread Bet whose Price Multiplier is a value other than 1 would provide additional guidance.<ESMA\_QUESTION\_REPO\_73>

1. Specifically, in the case of equity swaps, portfolio equity swaps and equity CFDs how should the notional and the price be reported in the case of corporate event and in particular “free” allocations?

<ESMA\_QUESTION\_REPO\_74>

In cases of a corporate event such as a merger or stock split, it should be advisable to apply a modification message keeping the same Unique Trade Identifier and adjust any changes to Price, Notional and Underlying Instrument. Should the upstream system trigger a termination followed by a new trade, counterparties should align with each other’s following best practices.

Price for ‘free allocations’ might follow the MiFIR model of allowing NOAP value (No applicable price)<ESMA\_QUESTION\_REPO\_74>

1. Are there any other clarifications required with regards to the reporting of equity derivatives?

<ESMA\_QUESTION\_REPO\_75>

Notional amount for options should recognise the asymmetry of risk for a buyer versus a seller of an option. Systemic risk is much greater for the seller, while the buyer’s risk is limited to premium price<ESMA\_QUESTION\_REPO\_75>

1. Are there any other clarifications required with regards to the reporting of credit derivatives?

<ESMA\_QUESTION\_REPO\_76>

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<ESMA\_QUESTION\_REPO\_76>

1. Are there any other aspects in reporting of commodity derivatives that should be clarified?

<ESMA\_QUESTION\_REPO\_77>

Virtual Power Purchase Agreements (VPPA) are a fairly new product being transacted between energy producers and corporate off takers.

Typically, they are sold by a solar/wind producer to fix revenues for the expected production of a new production plant.

VPPAs are almost always 10-year contracts with a fixed price and estimated production amounts. As the contract is virtual, there is no delivery of electricity but a monthly settlement of the fixed agreed price to average spot electricity prices (see attached PPT with example).

As these are derivatives, they fall under EMIR reporting and we are submitting a few questions on the correct format.

1) CFD vs Swap - The language in the VPPA contracts almost always refers to a settlement of the 'difference of prices'. The format of the deal also is similar to a Commodity Fixed/Float swap that is cash settled. Therefore, would the product be best defined as a Commodity Swap or Commodity CFD?

2) Notional amount - How would the notional amount be best defined? The ESMA definition for Notional Amounts refers to a Reference Amount for the payments. In Article 5 of 10.4 Annex IV - Draft RTS, it defines Notional for Commodity Swaps as using the total notional quantity. The question is whether we should use a) the Monthly notional value of production as that is used for the monthly payments b) the yearly notional value since the actual written contract between the parties references the annual production or c) to use the 10-year total production which is the total quantity and resembles language for Commodity Swaps even though product is generally classified as a CFD.

3) Quantity – As the contract is a single contract, is quantity of 1 the correct value for this field or should we use a value in MWh of the monthly, yearly or total expected electricity output?

4) Mark to market – What is the correct format to enter mark to market when required for FC and NFC+ counterparties that need to reported valuation changes?

<ESMA\_QUESTION\_REPO\_77>

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

<ESMA\_QUESTION\_REPO\_78>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_78>

1. Is there any other use case related to the population of counterparty data which requires clarifications or examples? Please detail which one and indicate which aspect requires clarification.

<ESMA\_QUESTION\_REPO\_79>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_79>

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

<ESMA\_QUESTION\_REPO\_80>

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<ESMA\_QUESTION\_REPO\_80>

1. Are there any additional clarifications required with regard to the reporting of other payments?

<ESMA\_QUESTION\_REPO\_81>

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<ESMA\_QUESTION\_REPO\_81>

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

<ESMA\_QUESTION\_REPO\_82>

As stated in question 19, margin update and error only is reasonable if starting margin values are reported on the first trade or position with a given UTI.

We believe margin can be reported at a portfolio level without requiring specific UTI<ESMA\_QUESTION\_REPO\_82>

1. Which of the two approaches provide greater benefits for data reporting and data record-keeping? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_83>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_83>

1. In case Approach B is followed, should the TRs update the TSR when counterparties have reported lately the details of derivatives? If so, do you agree with the time limit ten years for such an update? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_84>

We think the event date should be considered when build the trade state report to avoid the re-sent of reports confirmed to the logical sequencing of dates, especially in the case of backdated corrections.

Asynchronous reports sent on different timelines has been a major issue for SFTR in terms of reconciliation. Dyssynchronisation of bookings and life cycle events are also a major issue

We also highlight that only 30 % of the trades are now in scope for TR reconciliation, volumes subject to reconciliation have dropped after Brexit, and any requirements from ESMA do not have to be followed for single sided trades. Hence we believe a pre-TR matching platform could be of huge value added as is the case on SFTR where parties try to get in synchronisation for their bookings and life cycles events in order to pair and match even though they are not on obliged to pair and match when being in UK versus EU counterparties or vice versa

Having an agnostic matching optic is in line with best practices and global UTI implementation

<ESMA\_QUESTION\_REPO\_84>

1. Are there any fields that should be taken into account in a special way not allow change in values?

<ESMA\_QUESTION\_REPO\_85>

We agree with the proposal, the fields not allowed to change being

• the triplet (LEI1-LEI2-UTI) to update the state of the derivatives concluded prior to the go live

• the UTI after the go live<ESMA\_QUESTION\_REPO\_85>

1. Is the guidance on treatment of action type “Revive” clear? What additional aspects should be considered? Please detail the reason for our answer.

<ESMA\_QUESTION\_REPO\_86>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_86>

1. Should the TR remove after 30 calendar days the other side of a derivative for which only one counterparty has reported “Error” and no action type ”Revive”? Please detail the reasons for your answer.

<ESMA\_QUESTION\_REPO\_87>

We agree the TR should only restore the derivative to the Trade State Report (TSR) where a report with action type “Revive” has been received,.<ESMA\_QUESTION\_REPO\_87>

1. Which alternative relating to the provision of the notional schedules and other payments data would be more beneficial? Which of the two alternatives has higher costs? Please detail the reasons for your answer.

<ESMA\_QUESTION\_REPO\_88>

Alternative A would entail the regular update of the Trade State Report based on the schedule reported. This will reduce the amount of data provided to authorities and would facilitate the immediate assessment of exposures.<ESMA\_QUESTION\_REPO\_88>

1. Do you agree with the described process of update of the TSR? What other aspects should be taken into account? Please elaborate on the reasons for your answer.

<ESMA\_QUESTION\_REPO\_89>

We understand the process around dead derivatives, step c to raise an issue on behalf of the other party seems operationally difficult <ESMA\_QUESTION\_REPO\_89>

1. Should only the Field 1.14 be used for determining the eligibility of derivative for reconciliation? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_90>

We do not believe that field 1.14 should be used for determining the eligibility of derivative for reconciliation, GLEIF contains necessary entity related data that should be used as the golden source <ESMA\_QUESTION\_REPO\_90>

1. Is there any additional aspect that should be clarified with regards to the derivatives subject to reconciliation? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_91>

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<ESMA\_QUESTION\_REPO\_91>

1. From reconciliation perspective do you agree with the proposed differentiated approach for the latest state of derivatives subject to reconciliation depending on the level at which they are reported? What are the costs of having such a differentiation? Should the timeline for reconciliation of derivatives at trade level be aligned with the one for positions? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_92>

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<ESMA\_QUESTION\_REPO\_92>

1. From data use perspective, should the information in the TSR and in the reconciliation report be different? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_93>

From experience with SFTR, there are issues on reconciliation due to asynchronous reports

Reconciliations issues arise despite correct reporting by both parties, where one party submits their reports on different reporting dates, i.e.: T vs T+1

Parties report certain lifecycles on T and their counterparty reports those lifecycles on T+1 there may be a reconciliation break at the Trade Repository.

TR reconciliation should be driven by event date not reporting date<ESMA\_QUESTION\_REPO\_93>

1. Which alternative do you prefer? What are the costs for your organisation of each alternative? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_94>

Alternative B: TRs should include all the data in the reconciliation process and flag the derivatives where one of the counterparties have not reported valuation, irrespective of the reason reconciled<ESMA\_QUESTION\_REPO\_94>

1. Which alternative do you prefer? What are the costs for your organisation of each alternative? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_95>

Alternative B is preferable ‘When counterparties report inconsistently the two legs of the derivative, the TR should intend matching the two legs irrespective of the sequence, considering the values reported by the two counterparties under field “direction of leg 1” by matching the legs with opposite values. In case Counterparty 1 has reported it with “payer”, the TR should reconcile it with the leg that is identified as “receiver” or is the leg that is not identified, when leg one is identified with “payer” This would move the burden to the TRs, but it would also limit the existence of reconciliation breaks, as well as it would facilitate their resolution’<ESMA\_QUESTION\_REPO\_95>

1. Do you agree with the proposed approach for reconciliation of notional schedules? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_96>

Reporting upfront all the notional schedule is complex

what would be the benefit for such a reconciliation <ESMA\_QUESTION\_REPO\_96>

1. Do you agree with the proposed approach for reconciliation of venues and the clarification in case of SIs? Please elaborate on the reasons for your response.

<ESMA\_QUESTION\_REPO\_97>

It is not obvious to perform such reconciliation between two SIs, what would be the benefit for showing such a reconciliation break <ESMA\_QUESTION\_REPO\_97>

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

<ESMA\_QUESTION\_REPO\_98>

TYPE YOUR TEXT HERE

<ESMA\_QUESTION\_REPO\_98>

1. Do you agree with the approach outlined above with regards to the missing valuations report? Are there any other aspects that need to be considered? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_99>

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<ESMA\_QUESTION\_REPO\_99>

1. Do you agree with the approach outlined above with regards to the missing margin information report? Are there any other aspects that need to be considered? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_100>

We think with the missing margin information report will be useful, however a stated previously, can ESMA provide further examples on margin reports at UTI level as opposed to portfolio ID level.<ESMA\_QUESTION\_REPO\_100>

1. Do you agree with the approach outlined above with regards to the detection of abnormal values and the corresponding end-of-day report? Are there any other aspects that need to be considered? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_101>

We welcome the report on abnormal values. ESMA could set up workshops with the industry to define abnormal values to apply and potentially review the thresholds which can vary depending on economic environment and market conditions. We do not think Trade repositories should set those abnormal values and then inform ESMA about those as per paragraph 620.<ESMA\_QUESTION\_REPO\_101>

1. Is there any additional aspect related to the provision of reconciliation feedback by TRs that should be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_102>

We note the different reconciliation categories, however, a large majority of the trades are now single sided due to Brexit.

A timeline of T+1 for reconciliations would be neater and avoid SFTR pitfalls due to reporting timeline discrepancies.

We note ESMA would like those reports to be in XML format which is not user friendly for the end users

The ability to drill down to details of aggregates end of day reports is essential and require analytics tools to investigate root causes of reconciliation breaks which a third-party provider can support participants with.<ESMA\_QUESTION\_REPO\_102>

1. Is there any additional aspect related to the rejection of reports with action type “Revive” by TRs that should be clarified? Please detail the reasons for your response.

<ESMA\_QUESTION\_REPO\_103>

The rejection of the report of derivatives with action type “Revive” submitted more than thirty calendar days after Error reports sent by mistake complexifies the reporting process as we pointed out in our answer to question 21, especially in the context of cross jurisdictional trades where a ESMA reportable entity is facing a US Person Swap Dealer or an Asian counterparty.<ESMA\_QUESTION\_REPO\_103>

1. Regarding the requirements in the RTS on registration, as amended, and the RTS on data access, as amended, do you need any further specifications and/or clarification?

<ESMA\_QUESTION\_REPO\_104>

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<ESMA\_QUESTION\_REPO\_104>

1. Are there any specific aspects related to the access to data based on UPI that need to be clarified? Please detail which ones.

<ESMA\_QUESTION\_REPO\_105>

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<ESMA\_QUESTION\_REPO\_105>

1. What access rights would you like to be clarified and/or which access scenarios examples would you consider to be inserted in the guidelines? Please list them all, if appropriate.

<ESMA\_QUESTION\_REPO\_106>

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<ESMA\_QUESTION\_REPO\_106>

1. Are there any aspects, or procedures you would like to be clarified? If yes, please describe in detail.

<ESMA\_QUESTION\_REPO\_107>

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<ESMA\_QUESTION\_REPO\_107>

1. Is there any other information that should be provided by the entity listed in Article 81(3) EMIR to facilitate the swift and timely establishment of access to data?

<ESMA\_QUESTION\_REPO\_108>

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<ESMA\_QUESTION\_REPO\_108>