

ESMA Call for evidence on a comprehensive approach for the simplification of financial transaction reporting (ICMA response)

Introduction

ICMA welcomes the opportunity to respond to *ESMA's Call for evidence on a comprehensive approach for the simplification of financial transaction reporting*. We are responding to this Consultation Paper on behalf of ICMA's European Repo and Collateral Council (ERCC) which was established in 1999 as the main representative body for the cross-border repo and collateral market in Europe. The ICMA ERCC currently has around 120 members, comprising the majority of firms actively involved in this market, including sell-side and buy-side institutions as well as all the major market infrastructures and other service providers.

Among its many focus areas, the ERCC has been instrumental over the past years in leading the industry's successful efforts to implement SFTR Reporting in Europe, which has been coordinated through the ERCC's SFTR Task Force. ICMA's response is therefore focused on the SFTR-related aspects of this consultation. As a first general remark, we note that many of the proposals in the consultation seem to have been drafted mainly from the perspective of EMIR and MiFIR reporting and are therefore not always relevant from an SFTR perspective.

General comments

This consultation focuses on inconsistent and duplicative reporting between regulations, but ICMA believes that, in the first instance, it would make more sense to focus on steps to achieve simplification and burden reduction within each regulation, as there is ample scope for such improvements. Addressing these internal inefficiencies would achieve more immediate and cost-effective relief for market participants.

With that in mind, ICMA, along with members of its SFTR Taskforce, has undertaken a comprehensive review of SFTR reporting requirements and put together a detailed list of proposed improvements based on issues flagged by members over the years, originally with the intention of feeding into the SFTR Refit exercise. The key proposal from the review is listed below and described in more detail in the attached ICMA review.

That said, in parallel to pursuing those structural improvements to SFTR, we strongly encourage ESMA to develop and set out a long-term vision for a more efficient and consistent single digital reporting framework, as well as a Roadmap setting out a realistic and credible implementation plan for such a framework. In our view, such a vision for a future reporting framework needs to go beyond merging the different legal requirements into a single reporting framework as proposed under option 2 of this consultation. More important than the legal form is that any future reporting framework has to be based on a

common agreed data model, such as the Common Domain Model (CDM), which has been developed jointly by ICMA, ISDA and ISLA over the past years. We hope that the CDM can serve as a key building block for a more transparent and efficient future reporting setup and we are keen to collaborate closely with ESMA and other stakeholders to develop and implement such a framework.

Compliance Costs

For this consultation specifically, ICMA conducted a survey (“the Questionnaire”) to collect input from member firms on the cost of compliance with the reporting requirements under EU SFTR. The purpose of this exercise was to collect quantitative evidence to help illustrate the operational burden firms face under SFTR and to identify which of the proposed structural improvements would most effectively achieve the stated goals of simplification and burden reduction. Responses were provided on a best-efforts basis.

Given the short time available, we only received a very limited set of responses from members, so the figures reported cannot be taken as representative for the wider industry. However, as the responses included a good mix of different firms and the input provided has been meaningful, we would like to share the high-level findings with ESMA.

The average reported one-off implementation cost of SFTR was €12.7 million, covering all the relevant cost lines such as familiarisation with obligations, recruitment, training, legal advice, consultancy, project management and investment. Respondents noted that the cost estimates for SFTR are generally likely to be lower relative to those reported for other similar reporting regimes such as MiFIR and EMIR, despite the added complexity of SFTR. This is largely attributed to the fact that SFTR has experienced fewer structural changes, as its formal review has been long overdue (whereas the Refit costs may have been considered as one-off costs for other regimes). Respondents also noted the relatively high reliance on third party vendors in the SFTR space, relative to other reporting regimes, which may also have contributed to lower, although still very significant, initial costs. Finally, we would note that the cost estimate does not take into account the extensive cross-industry work led by the relevant trade associations which was central to the successful implementation and involved the preparation of detailed best practices and related materials which have continued to evolve ever since.

In terms of ongoing costs, the average annual operating cost for complying with EU SFTR is reported to be €4.6 million. In order to scale this to the size of the business of the respective respondents, the overall cost translates to an average cost per SFTR report between €0.17-0.75.

Respondents highlighted several key cost drivers: dual-sided reporting under SFTR and EMIR stood out as a key driver, followed by duplicative reporting of the same derivatives under EMIR and MiFIR, duplicative reporting of reference data, inconsistent terminologies and definitions across regimes, frequent regulatory changes, and the lack of phased or coordinated implantation across reporting frameworks. In addition, firms pointed out that the current requirements for back-dated reporting are particularly burdensome.

In terms of burden reduction, respondents identified the removal of dual-side reporting and associated reconciliation requirements as the most impactful of the proposed options. Simplifying back-dated reporting followed closely, with further support for measures such as direct reporting from financial market infrastructures (FMIs), centralised reference data enrichment by ESMA and a removal of REUU reporting.

In terms of ICMA's concrete suggestions for structural reforms to the SFTR requirements, we would highlight the following key points. We believe that these changes would significantly simplify the reporting regime and reduce operational costs without compromising the quality or granularity of data available to regulators. Rather, these changes are expected to enhance data consistency and usefulness as well as reduce misreporting.

Removal of dual-sided reporting and reconciliation requirements

Under SFTR, both parties are required to report SFTs (dual-sided reporting), with the exception of mandatory delegated reporting obligations on certain parties with respect to UCITS, AIFs and small non-financial corporates. Dual-sided reports of SFTs are subject to reconciliation in respect of up to 96 data fields, of which, 83 are subject to a zero tolerance of mismatches. Dual-sided reporting and reconciliation under SFTR have proven to be one of the most operationally burdensome aspects of the regime, with frequent breaks stemming from the highly restrictive tolerances, timing mismatches, booking differences, differences in the interpretation by counterparties of what is meant by optional conditionality (where one party may not see the need to report) and other non-material discrepancies. The remediation of breaks absorbs significant resources. Moreover, many reconciliation breaks cannot be rectified because of the obstacles to back-dated reporting. In addition, the validity of dual-sided reporting is undermined by the industry's dependence on a single vendor for enrichment with reference data, which means that an error by that vendor has a broad impact. Yet, there is no evidence that dual-sided reporting and reconciliation have made a meaningful difference in improving data quality. And it does not ensure accuracy. The removal of dual-sided reporting and reconciliation would therefore be a welcome step. There are a number of alternatives, including intelligently-targeted audits, as used in other jurisdictions, focused on the most active firms or those with higher-risk strategies. We believe that substantial improvements could be realised by repairing data definitions and providing better reporting guidance. Auditing could be enhanced by the application of controlled AI to identify egregiously poor reporting. The task could also be facilitated by exempting firms below a threshold from reporting at all. A structural improvement in the quality of reporting could be achieved by switching the reporting of CCP-cleared and tri-party repo from firms to infrastructures (see next point).

Direct reporting by Financial Market Infrastructures (FMIs) for CCP-cleared and tri-party repos

Transactions cleared through CCPs or managed by tri-party agents could be reported directly by the relevant FMIs, as they already possess all the necessary data for both counterparties in a complete and standardised format, making them the authoritative source and best positioned to submit complete, accurate and timely reports without reconciliation. This is already the approach taken in the US. This solution would significantly reduce the reporting burden for market participants engaged in CCP-cleared or tri-party repo. It will also ensure data consistency, reduce breaks and eliminate duplication. It would also be a cost-effective and quick solution, which might reduce the number of new trades reported by firms by over 80%. Furthermore, it would also allow the cessation of the requirement for firms to report

CCP margins (MARU reports), which are anyway sourced from CCPs. In these respects, this proposal is the most dramatic way of decreasing overlaps to reduce reporting burdens (one of the four key principles of this consultation).

Centralised reference data enrichment by ESMA

In contrast to regimes like MiFIR, SFTR imposes extensive reference data requirements on reporting counterparties, including fields such as issuer LEI and jurisdiction, security classification, credit quality, maturity and currency, even though these attributes could be derived from the ISIN through established databases. Where firms source these data themselves, differences in interpretation give rise to inconsistency and, given restrictive or zero reconciliation tolerances, these lead to significant reporting breaks. On the other hand, where firms find that the overhead cost of maintaining reference data cannot be justified solely for SFTR reporting, they buy in delegated enrichment services from third-party vendors, which are highly variable in quality and, where incorrect, propagate mistakes across many firms. It would be far more efficient and accurate, and less costly overall, if ESMA were to centrally enrich this data, rather than requiring every reporting party to do so independently.

Establish a simple and effective solution for back-dated reporting

Under the current SFTR framework, back-dated reporting is severely constrained and complicated due to the way TRs are allowed to process the reports - updates to the Trade State Report (TSR) are applied based on Reporting Timestamp, not the Event Date. This creates the “latest is greatest” issue, where a late report of an earlier event can overwrite a later event, leading to sequencing errors. To avoid this, TRs are instructed to ignore reports submitted more than one business day after the event date when updating the TSR. While this prevents overwrites, it also blocks valid corrections, leaving many TSRs permanently inaccurate.¹ ESMA should establish a simple solution for back-dated reporting beyond one day. Importantly, in order to avoid creating additional burden for firms, there needs to be an automatic process in place at TR level to reflect those corrections in all subsequent reports. This would restore TSR accuracy without overburdening firms or disrupting current reporting workflows. In addition, according to the Questionnaire, firms highlighted that resubmitting all the reporting fields to correct an error on one field is burdensome and expressed support for limiting the data needed for back-dated reporting.

Removal of MiFIR reporting for repos conducted with EU central banks

Currently, SFTs conducted with EU central banks are treated inconsistently between SFTR and MiFIR. While SFTR explicitly exempts such transactions under Article 2(3), MiFIR includes these transactions in its reporting obligations under Article 2(5) of its Delegated Regulation (EU) 2017/590, creating a direct conflict. As further explained in ICMA’s response [link] to

¹ For a more detailed description of the underlying issues and current best practice, please see recommendation 9.23 in ICMA’s SFTR Guide.

ESMA's latest consultation on MiFIR transaction reporting (October 2024), the current regulatory discrepancy creates legal ambiguity and imposes operational complexities, inefficiencies and extra costs for market participants. Moreover, MiFIR is structurally unsuited to capture the characteristics of SFTs, meaning that MiFIR reports of SFTs are not meaningful and intrinsically provide minimal supervisory value. We, therefore, strongly recommend that ESMA amend Article 2(5) of Delegated Regulation (EU) 2017/590 to fully and consistently exclude all SFTs from MiFIR transaction reporting, as under UK SFTR. This change would be a direct example of how to meet the key principle of decreasing overlaps to reduce the reporting burden.

Removal of re-use (REUU) reporting requirements

The current re-use reporting under SFTR compels most firms to submit estimates of re-used collateral using a simplistic pro rata formula. The amount derived from this estimation is largely uninformative and does not reflect the actual market practices, offering little analytical value in regulatory studies or risk assessments. The value of the result does not justify the reporting effort. On the other hand, the detailed transaction-level data reported on both the loan and collateral allow re-use to be inferred (as it has been in research papers). Removing the re-use requirement would significantly reduce reporting burden without compromising supervisory insight.

Removal of reporting for settlement fails

For repo transactions, failed delivery does not alter the economic terms of the transaction, that is, interest accrual and contract start/maturity. The obligation to report settlement fails has also caused disproportionate reporting burdens, as an ad hoc method of reporting had to be devised after the launch, which interferes with the post-trade processes of firms (fails have to be reported as extensions of maturity, which then require automatically-generated settlement instructions to be cancelled). Moreover, the adjustment required to report fails cannot be distinguished from the data. These events are anyway already monitored through other post-trade regimes such as CSDR.

Consolidation of REPO and SBSC reporting

There is no need for a separate reporting template for buy/sell-backs, given that the sole substantive difference from a repurchase transaction is what happens when there is an income payment on collateral, which is not directly reportable under SFTR and is not a matter of systemic risk. The buy/sell-back template should therefore be removed, and all repos should be reported using the current template for repurchase transactions. Moreover, buy/sell-backs cannot be properly reported because SFTR incorrectly assumes they are not quoted in terms of the repo rate but fails to provide realistic alternative fields (in practice, many firms nevertheless do report the repo rate for buy/sell-backs).

Balancing the cost and benefit of current reporting requirements and future changes

In line with the key principle of balancing cost and benefit, we urge ESMA to conduct a rigorous cost-benefit reassessment of SFTR in its current form, both in its current form and any future changes, which should be limited to those offering demonstrable benefits. The cost to the industry and operational burden of reporting is substantial, but the data being collected appears to be underutilised by regulators (most official research on repo markets in the EU is based on data sourced from the ECB's MMSR). There is therefore a strong case for pruning existing data fields from SFTR, which would not violate the key principle of preserving the information scope of reporting regulations, given that the data fields to be culled do not yield meaningful data. Unfortunately, regulators do not appear to have considered the cost of reporting to be relevant and are unsighted as to the magnitude, which suggests that the balance of cost and benefit has not been a serious consideration in the past (in contrast to the US, where regulators are required to estimate likely costs).

Equivalent regulation in other jurisdictions provides some valuable lessons. For example, the OFR in US requires only 32 fields for non-centrally cleared bilaterally repos, compared to the 90 loan and collateral fields required by SFTR (on top of which, there are the re-use and margin fields). In addition, OFR sets turnover thresholds to limit the scope to entities posing systemic risk, whereas SFTR applies broadly, capturing firms whose activities pose negligible systemic impact. All of these undermine the competitiveness of EU's financial sector. A recalibration of SFTR's data requirements and scope would help reduce burden significantly.

The need for a strategy starting with quick simplifications within SFTR but with a clear long-term goal of fundamentally harmonising reporting requirements on the basis of a common data model for all regulations

As explained above, the logical objective of a programme of simplification of reporting requirements for SFTs and derivatives must be a single reporting regime based on a common data model that can describe all financial instruments and transactions. Ideally, this should be based on the Common Domain Model (CDM) being developed by ICMA, ISLA and ISDA, which reflects industry expertise, insight and experience. Such a concept would support the idea of direct digital reporting and data-pulling by regulators as opposed to data-pushing by firms. This objective is beyond the horizon of this consultation, but it should nevertheless frame the actions inspired by the consultation, so as to help guide the development of reporting technology and not incur future restructuring costs.

We would therefore recommend that a long-term strategy be laid down. This could start with immediate gains, such as delineation of existing reporting requirements as proposed in Option 1a (but including SFTR). This could be achieved as part of an SFTR Refit, which could also resolve the multiple issues identified within that regulation that are principal burdens for reporting firms and might include the delegation of reporting of CCP-cleared and tri-party repo to the FMIs. Further steps towards a reporting regime based on a common data model should be sketched out and elaborated into a strategic roadmap. As suggested above, the work on such a roadmap should be done in parallel to the SFTR Refit and could start immediately.