Questions and Answers

On SFTR data reporting
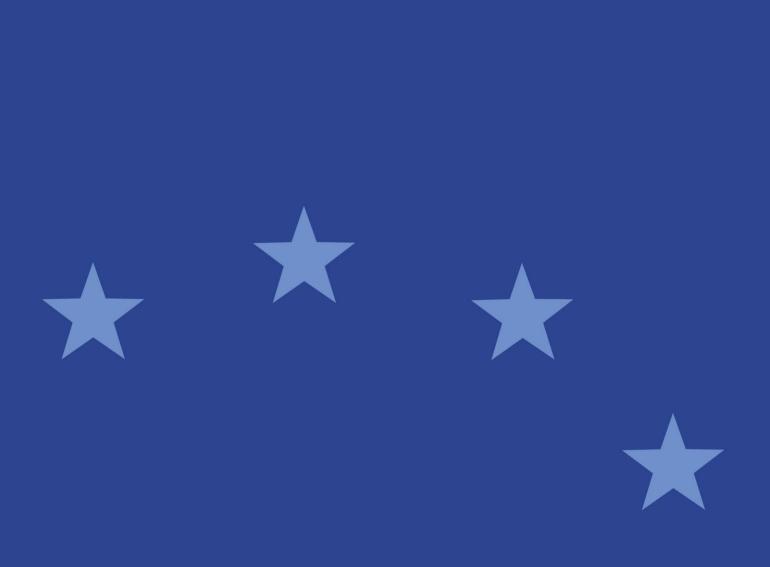
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Acronyms and definitions used

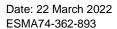|	
SFTR	Securities Financing Transactions Regulation - Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012
EMIR	European Market Infrastructures Regulation – Regulation (EU) 648/2012 of the European Parliament and Council on OTC derivatives, central counterparties and trade repositories
ESMA	The European Markets and Securities Authority
LEI	ISO 17442 Legal Entity Identifier
GLEIF	Global Legal Entity Identifier Foundation
ITS	Implementing Technical Standards
RTS	Regulatory Technical Standard
MiFID II	Markets in Financial Instruments Directive (recast) – Directive 2014/65/EU of the European Parliament and of the Council
MiFIR	Markets in Financial Instruments Regulation – Regulation 600/2014 of the European Parliament and of the Council
NCA	National Competent Authority
Q&A	Question and answer
RTS	Regulatory Technical Standards
BSB	Buy-sell back transaction
SBB	Sell-buy back transaction
ML	Margin lending

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CFI code	Classification of Financial Instruments code
CM	Clearing Member
CCP	Central Counterparty
CSD	Central Securities Depository
CPMI	Committee on Payments and Market Infrastructures
DBV	Delivery By Value
EC	European Commission
ECB	European Central Bank
EEA	European Economic Area
ERR	Entity Responsible for Reporting
ESCB	European System of Central Banks

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1   Introduction

Background

The final legislative text of Regulation (EU) No 2015/2365[1] (SFTR) were approved by the European Parliament on 29 October 2015 and by the European Council on 16 November 2015. The two texts were published in the Official Journal on 23 December 2015 and entered into force on the twentieth day following this publication – i.e. 12 January 2016.

Many of the obligations under SFTR needed to be further specified in the regulatory and implementing technical standards developed by the European Securities and Markets Authority (ESMA). These were adopted by the European Commission on 13 December 2018 and were published in the Official Journal on 22 March 2019. The technical standards entered into force on 13 April 2019.

The SFTR framework is made up of the following EU legislation:

a) Commission Implementing Regulation (EU) 2019/363 of 13 December 2018 laying down implementing technical standards with regard to the format and frequency of reports on the details of securities financing transactions (SFTs) to trade repositories in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council and amending Commission Implementing Regulation (EU) No 1247/2012 with regard to the use of reporting codes in the reporting of derivative contracts;

b) Commission Delegated Regulation (EU) 2019/359 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of the application for registration and extension of registration as a trade repository;

c) Commission Delegated Regulation (EU) 2019/357 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on access to details of securities financing transactions (SFTs) held in trade repositories;

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[1] Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012.

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d) Commission Implementing Regulation (EU) 2019/364 of 13 December 2018 laying down implementing technical standards with regard to the format of applications for registration and extension of registration of trade repositories in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council;

e) Commission Delegated Regulation (EU) 2019/358 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on the collection, verification, aggregation, comparison and publication of data on securities financing transactions (SFTs) by trade repositories;

f) Commission Implementing Regulation (EU) 2019/365 of 13 December 2018 laying down implementing technical standards with regard to the procedures and forms for exchange of information on sanctions, measures and investigations in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council;

g) Commission Delegated Regulation (EU) 2019/360 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to fees charged by the European Securities and Markets Authority to trade repositories;

h) Commission Delegated Regulation (EU) 2019/356 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of securities financing transactions (SFTs) to be reported to trade repositories;

i) Commission Delegated Regulation (EU) 2019/463 of 30 January 2019 amending Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to the list of exempted entities;

In view of ESMA's statutory role to build a common supervisory culture by promoting common supervisory approaches and practices, ESMA has adopted this Q&As document which relates to the consistent application of the SFTR data reporting obligation. The first version of this document was published on 5 November 2020, subsequent updates will be published on a regular basis. This document is expected to be updated and expanded as and when appropriate.

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Purpose

The purpose of this document is to promote common supervisory approaches and practices in the application of SFTR in relation to regulatory data reporting topics. It provides responses to questions posed by the general public, market participants and competent authorities in relation to the practical application of SFTR.

The content of this document is aimed at competent authorities, entities and market infrastructures by providing clarity on the application of the SFTR requirements.

The content of this document is not exhaustive, and it does not constitute new policy.

Status

The question and answer (Q&A) mechanism is a practical convergence tool used to promote common supervisory approaches and practices under Article 16b of the ESMA Regulation[2].

Due to the nature of Q&As, formal consultation on the draft answers is considered unnecessary. However, even if Q&As are not formally consulted on, ESMA may check them with representatives of ESMA's Securities and Markets Stakeholder Group, the relevant Standing Committees' Consultative Working Group or, where specific expertise is needed, with other external parties.

Where the question received requires interpretation of Union law, ESMA forwards the question to the European Commission. Replies from the Commission will be published on ESMA's website and included in Q&A documents, together with the explicit mention that the answer was provided by the Commission.

ESMA will periodically review these Q&As on a regular basis to update them where required and to identify if, in a certain area, there is a need to convert some of the material into ESMA Guidelines and recommendations. In such cases, the procedures foreseen under Article 16 of the ESMA Regulation will be followed.

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[2] Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European Supervisory Authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC Regulation, 15.12.2010, L331/84.

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Questions and answers

This document is intended to be continually edited and updated as and when new questions are received. The date on which each section was last amended is included for ease of reference.

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2 Questions and Answers on SFTR data reporting

Question 1 [Published on 5 November 2020]

Frequency of reports

a) *How should a "working day" be defined for the purpose of determining the deadline for reporting?*

b) *How should the counterparties proceed if they follow different calendars?*

c) *How should the counterparties proceed if they are located in different time zones?*

Answer 1

a) Counterparties should follow their local time to determine the day on which the transaction was concluded, modified or terminated. Branches of third country counterparties should follow the local time of the Member State from which they operate. The deadline for reporting is the working day following that day. The point in time which serves as a starting point to calculate the reporting deadline is the date of conclusion, modification or termination of the transaction, irrespective of the execution process. Therefore, if a transaction is concluded, modified or terminated on date T, the reference day to start calculating the reporting deadline is T, as opposed to the date on which the counterparties start to exchange electronic information related to the conclusion, modification or termination of the transactions.

The determination of the deadline for reporting in the local time does not affect the way in which the relevant dates and times (such as execution timestamp) are reported to the TRs. The time convention for reporting is defined in the Commission Implementing Regulation (EU) 2019/363 ITS as UTC (Coordinated Universal Time). The GMT (Greenwich Mean Time) was not defined as a time convention as it refers to a time zone and not to a time standard.

b) As regards to the calendar, counterparties and branches of third country counterparties should follow the relevant calendar of the Member State from which they operate to determine whether a given day is a working day or holiday.

c) This guidance applies also when the two counterparties (or the branches thereof) to the same SFT follow different calendars and/or are located in different time zones, meaning that each counterparty should follow its own local calendar and use the local time to determine the deadline for reporting.

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Question 2 [Updated on 25 January 2022]

Reporting of settlement fails[3]

In certain instances the reporting under Article 4 of SFTR is affected by events linked to the settlement of the respective SFT or of either of its legs. For this purpose, 'settlement fail' follows the definition included in Article 2(15) of Regulation 909/2014 [4] and it means "the non-occurrence of settlement, or partial settlement of a securities transaction on the intended settlement date, due to a lack of securities or cash and regardless of the underlying cause".

a) When is a settlement fail reportable?

b) How should a settlement fail on the closing leg be reported?

c) By when should a settlement fail be reported?

d) Is a settlement fail reportable, where the Counterparties have been unable to modify the maturity date of an SFT due to a failed settlement that takes place after the day following the maturity date (S+1)?

e) Contractually there is a difference between a settlement fail of the closing leg between securities borrowing and lending transaction and (reverse) repo transactions. Does this mean that the reporting of a settlement fail of the closing leg of a (reverse) repo transaction follows the contractual termination date?

f) How should a settlement fail on the closing leg of a CCP-cleared SFT be reported, where the settlement is on a net basis?
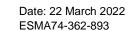
Answer 2

a) A temporary settlement fail, that neither results in a termination of the SFT, nor in a modification of any of the reportable characteristics of the SFT, should not be reported as per paragraph 94 of the ESMA SFTR Reporting Guidelines. If the settlement fail results in an amendment to the transaction, then the amendment should be reported accordingly with the action type "MODI" as per paragraph 98 of the ESMA SFTR Reporting Guidelines.

b) Where on the day following the maturity date the counterparties become aware that the closing leg of the SFT has not been settled, they should send a report with action type "MODI"

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[3] The guidance provided in the SFTR Q&A is circumscribed to the reporting of SFTs and by no means precludes or pre-empts the reporting of settlement fails required under any EU legislation.
[4] REGULATION (EU) No 909/2014 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 23 July 2014 on improving securities settlement in the European Union and on central securities depositories and amending Directives 98/26/EC and 2014/65/EU and Regulation (EU) No 236/2012, p.1. L.257, OJ 28.8.2014

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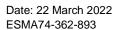
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to amend the maturity date to the next day or other future day on which it is expected to settle, as per paragraph 115 of the ESMA SFTR Reporting Guidelines.

c) An amendment of the maturity date (S) would be possible only until the day following the maturity date (S+1). As from this date the SFT will no longer be outstanding, and it will not be possible to "reopen" it.

d) In case of a settlement fail that takes place after S+1 and (i) there is no possibility to update the maturity date or (ii) the SFT has been early terminated and there is no possibility to revert the early termination, the counterparties should report the remaining/outstanding SFT with a new UTI and specify accordingly the complete and accurate details of that SFT and in particular its maturity date. Special attention should be paid to the consistent reporting by the two counterparties. Notably, when either one or both counterparties do not report the modification on time, both counterparties would need to report the SFT with a new UTI agreed between them.

e) The reporting of settlement fails of the closing leg applies to all types of SFTs. Counterparties should apply paragraph 115 of the ESMA SFTR Reporting Guidelines in the broad scope of the reporting obligation under Art 4(1) SFTR, and it cannot be interpreted as covering only the case where the counterparties agree to amend the settlement date. The reporting of the settlement fail of the closing leg of a (reverse) repo transaction should be made by following the actual settlement date, not the contractual termination date.

f) The reporting of settlement fails of the closing leg of a CCP-cleared SFT, where the settlement is on a net basis, follows the same treatment as for all other SFTs as per paragraph 115 of the ESMA SFTR Reporting Guidelines to the extent that those settlement fails are attributable to individual SFTs. Settlement fails should only be reported if they can be attributed to individual SFTs.

Question 3 [Published on 5 November 2020]

Reporting of repos initially collateralised on a transaction basis and subsequently on a net exposure basis

a) *How should field 2.73 (Collateralisation of net exposure) be reported for repos initially collateralised on a transaction basis whose variation margin is handled by VM collateral pools?*

b) *How should the collateral and the VM on a net exposure basis be reported, since the latter cannot be allocated to the transaction?*

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Answer 3

a) If a repo transaction initially collateralised on a transaction basis is also part of VM collateral pools on a net exposure basis, field 2.73 (Collateralisation of net exposure) should be reported as "TRUE" from the onset. Since netting takes place at the level of the master agreement, the transaction is logically part of the netting set. "FALSE" is reserved for repo transactions exclusively collateralised on a transaction basis.

b) The counterparty should report with action type "COLU" (i) the transaction-based collateral for each UTI and in addition (ii) the net exposure collateral applicable to all the SFTs in the netting set without the UTI.
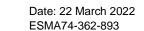
Question 4 [Published on 5 November 2020]

Reporting of trading venue for cleared and non-cleared SFTs

a) *How should the field 2.8 "Trading venue" be reported for SFTs?*

b) Can an SFT concluded bilaterally and cleared by a CCP on the same day be reported in accordance with Article 2(2) of CDR (EU) 2019/356?

Answer 4

a) Trading venue is defined under Article 4(24) of MiFID II as a regulated market, an MTF or an OTF. Counterparties therefore should report in the field 2.8 "Trading venue" the segment MIC of the trading venue for SFTs concluded on regulated markets, MTFs and OTFs, XOFF for SFTs concluded off-venue for SFTs that are admitted to trading on a venue and XXXX in the rest of the cases, including an execution through a systematic internaliser (SI).

b) No. SFTs concluded bilaterally (i.e. not on a trading venue, where trading venue should be understood as defined under MiFID) and cleared by a CCP should be reported pursuant to Article 2(1) of CDR (EU) 2019/356.

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Question 5 [Published on 5 November 2020]

Reporting of zero collateral for margin lending

How should zero collateral be reported for margin lending?

Answer 5

In accordance with Article 5(2) of CIR (EU) 2019/363, counterparties should report the relevant collateral components of a margin loan as long as there is an outstanding exposure. Currently the technical standards do not allow for reporting of cash collateral for margin loans, therefore the counterparties cannot report for margin lending zero collateral in line with section 5.4.4 of the ESMA SFTR Reporting Guidelines. Counterparties should use the ISIN EU000A1G0EB6 (European Financial Stability Facility) as an agreed default value in field 2.78 (Identification of a security used as collateral) to report zero collateral for margin loans.

Question 6 [Published on 28 January 2021]

Reporting of past modifications

In relation to outstanding SFTs, paragraph 88 of the Guidelines provides that counterparties, that submitted several reports with event dates equal to reporting date or day before, breaking the chronological order, may need to resubmit last report(s) to bring the record of the transaction to the most up-to-date state.

   a) How should a counterparty proceed if it has sent reports with action type "MODI" or "CORR" with "past" event dates (earlier than reporting date -1) and no other modification or correction has been submitted since the last event?

   b) If the counterparty needs to report only one "past" modification (and no other modification or correction has been submitted since the day of that modification), can the counterparty submit a single report with a recent event date?

Answer 6

   a) In line with the paragraph 83 of the Guidelines, the reports with the Event date earlier than the reporting date -1 should not be considered by the TRs for the purpose of constructing the trade state report, therefore the reporting counterparty should submit the reports pertaining to the relevant modifications with the respective "past" event

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dates. To confirm the current state of the loan data, the reporting counterparty should subsequently send a report with action type "MODI" populating the field "Event date" with the date when report is made (i.e. the same date as the date provided in the field "reporting timestamp"). This last modification report should contain the most up-to-date state of the SFT.

With respect to collateral data, it is expected that the reporting counterparty updates the collateral on a daily basis as required under Article 5(3) of Commission Implementing Regulation (EU) 2019/363 of 13 December 2018.

b) No. This is a particular case of the scenario described in point a) above, being in this case only one single past modification. Similarly, the reporting counterparty should report this modification with the respective "past" event date and then resubmit an SFT report with action type "MODI" and populating the field "Event date" with the date when report is made (i.e. the same date as the date provided in the field "reporting timestamp").
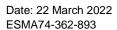
Question 7 [Published on 28 January 2021]

Update of a Trade State Report belonging to an SFT

a) *Paragraph 83 of the Guidelines provides that the Trade Repositories (TRs) should apply changes to the Trade State Report only based on the reports sent with the event dates equal to the reporting date or the day preceding the reporting date. Should the TRs take into account if the day preceding the reporting date is a non-working day (in particular, a holiday in the jurisdiction of the reporting counterparty)?*

b) *Is it possible to update an SFT after its maturity or an early termination?*

c) *Is it possible to report lately a termination of an SFT?*

d) *How should TRs proceed with the reconciliation of SFTs whose termination is reported after the reporting deadline?*

Answer 7:

a) Yes, the TRs when determining, based on the Event date, whether a given report should be taken into account for the update of the Trade State Report, should take into

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account the non-working days, including weekends as well as holidays in line with the national calendars of the reporting counterparties or of the entities responsible for reporting, as applicable. For example, if a given counterparty reports a modification on 2 May, populating the field "Event date" with 30 April, and 1 May is a holiday in the jurisdiction of that counterparty, the TR should consider this report for the purpose of updating the Trade State Report.

b) The latest trade state of an SFT can only be updated by the TRs based on reports submitted with regards to SFTs that are outstanding. Otherwise, with regards to SFTs that are not outstanding, the TRs should record the information but not update the trade state of the SFT. Reopening an SFT is not possible. Furthermore, pursuant to paragraph 83 of the Guidelines TRs should not update the latest state of an SFT, if the Event Date is earlier that Reporting Date -1.

<u>Example for a possible update of the latest state of an SFT:</u>

Maturity Date of the trade: December 31st, 2021

Date of the latest update of the SFT: January 11th, 2021 (Monday)

Event Date: January 15th, 2021 (Friday)

Reporting Date: January 18th, 2021 (Monday)

Since the Event Date is not earlier than the Reporting Date -1 (January 15th, 2021) the TR should update the latest state of the SFT in the example.

<u>Example for a possible report without update of the latest state of an SFT:</u>

Maturity Date of the trade: January 12th, 2021

Date of the latest update of the SFT: January 11th, 2021 (Monday)

Event Date: January 12th, 2021 (Tuesday)

Reporting Date: January 18th, 2021 (Monday)

Since the Event Date (January 12th, 2021) is earlier than the Reporting Date -1 (January 17th, 2021) the TR should not update the latest state of the SFT in the example.

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c) Yes, it is possible. As included under paragraph 83 of the Guidelines, "the TRs should not apply the reported change to the current Trade State Report (if the transaction is still outstanding) nor the past trade state report of the date for which the event was reported." However if the counterparties need to report after the reporting deadline the termination of an SFT [which economically and/or contractually is not any longer outstanding], they should use action type "ETRM" and report fields "Event date" and "Termination date" with the relevant date in the past. This is also how counterparties should report after the reporting deadline a modification of the maturity date which is in the past. In either case, the TRs should update accordingly the latest trade state report and remove those SFTs.

d) TRs should remove those SFTs from reconciliation thirty calendar days after the termination is reported, as required under Article 2(2)(h) of Commission Delegated Regulation 2019/358 supplementing SFTR.

Question 8 [Published on 28 January 2021]

Reporting of SFTs by the FC on behalf of a SME-NFC pursuant to the Article 4(3) SFTR

a) *Which of the reportable details specified in the Commission Delegated Regulation (EU) 2019/356 of 13 December 2018 supplementing Regulation (EU) 2015/2365 should be provided by the SME-NFC to the FC to enable the latter to report on behalf of the SME-NFC pursuant to the Article 4(3) SFTR?*

b) *How should a FC proceed if the SME-NFC does not duly renew its LEI and therefore the reports submitted on its behalf are rejected by a Trade Repository?*

c) *How should a FC proceed if an NFC that has been classified as an non-SME NFC changes its status to SME-NFC, but fails to timely inform the FC of this fact?*

d) *How should FC and SME-NFC proceed if they report to two different TRs? Do they need to onboard to the TR of their counterparty?*

Answer 8:

a) It is understood that the FC cannot be expected to possess the reportable details characterising the SME-NFC itself (e.g. sector of the reporting counterparty) nor the

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details of the execution and clearing arrangements entered into by the SME-NFC itself (e.g. NFC's broker or NFC's clearing member).

Therefore, having in mind the scope of information required under the Regulation (EU) 2019/356, it is understood that SME-NFC should provide to the FC particularly the following details:

Table 1 Counterparty data:

i. Field 1.3 Reporting counterparty ID (Legal Entity Identifier (LEI))

ii. Field 1.4 Nature of the reporting counterparty (Indication of whether the reporting counterparty is a financial or non-financial counterparty)

iii. Field 1.5 Sector of the reporting counterparty (Taxonomy for Non-Financial Counterparties. The categories from A to U correspond to the main sections of NACE classification as defined in Regulation (EC) No 1893/2006 of the European Parliament and of the Council[5])

iv. Field 1.6. Additional sector classification, if applicable

v. Field 1.7 Branch of the reporting counterparty

vi. Field 1.13 Beneficiary

vii. Field 1.14 Tri-party agent

viii. Field 1.15 Broker

ix. Field 1.16 Clearing member

x. Field 1.17 Central Securities Depository ('CSD') participant or indirect participant

xi. Field 1.18 Agent lender

Table 4 Re-use, cash reinvestment and funding sources data:

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[5] ANNEX I Formats to be used for reports on the details of securities financing transactions, as referred to in Article 4(1) and (5) of Regulation (EU) 2015/2365

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xii.   Field 4.8 Value of reused collateral

xiii.   Field 4.9 Estimated reuse of collateral

xiv.   Field 4.12 Type of re-invested cash investment

xv.   Field 4.13 Re-invested cash amount

The reportable details in fields 1.3, 1.4, and 1.5 ,and 1.6 and 1.7 if applicable, are static information not related to a specific SFT, meaning that they can be provided by the SME-NFC on a one-off basis and updated immediately each time when any of such detail's changes. Other reportable details specified in fields 1.13 to 1.18 should be provided for each SFT between the FC and the SME-NFC. Fields 4.8, 4.9, 4.12 and 4.13 as applicable, should be provided for each pair FC – SME-NFC.

If the SME-NFC has not provided to the FC the reportable details specified above, the FC should submit the missing reports without undue delay as soon as it receives all the relevant details.

b)   Financial counterparty should timely liaise with the SME-NFC to so that the latter renews its LEI.

It should be noted that in accordance with Article 1(1) of Commission Delegated Regulation 2015/2365 supplementing SFTR "A report made pursuant to Article 4(1) of Regulation (EU) 2015/2365 shall include the complete and accurate details set out in Tables 1, 2, 3 and 4 of the Annex that pertain to the SFT concerned". The SME-NFC is responsible for ensuring that the details of the SFT provided to the FC are correct. As clarified in point (a), field 1.3 Reporting counterparty ID is one of the details that NFC should provide to the FC. Therefore, the SME-NFC should ensure that its LEI is correct (thus also valid and duly renewed) so that FC can perform the reporting of SFTs on its behalf.

If the SME-NFC has not timely renewed its LEI and therefore FC was not able to successfully report on behalf of SME-NFC, the FC should submit the missing reports without undue delay as soon as the LEI of the SME-NFC is renewed.

c)   In accordance with article 4(3) SFTR, SME-NFC are those « which on its balance sheet dates does not exceed the limits of at least two of the three criteria laid down in Article 3(3) of Directive 2013/34/EU of the European Parliament and of the Council ».

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Specifically, SME-NFC are defined in SFTR by reference to the definition of "medium-sized undertakings". A medium-sized undertaking does not exceed the limits of at least two of the three following criteria:

- Balance sheet total: EUR 20 000 000;

- Net turnover: EUR 40 000 000;

- Average number of employees during the financial year: 250.

In practice, this information should be included in the NFC's annual reports which is published annually.

To the extent possible, the SME-NFC should inform the FC of an anticipated change in its status ahead the publication of its annual report to avoid any disruption in the continuity of reporting.

Given that the status of the NFC is known and primarily assessed by the NFC itself, it is thus part of information that the FC cannot be reasonably expected to possess, it is understood that in the case where non-SME NFC has become an SME-NFC and does not inform the FC of this change, the FC may not be aware of its obligation to report on behalf of that SME-NFC.

When FC becomes aware of such change after the effective change of status, it should submit the missing reports pertaining to the SFTs that were concluded, modified or terminated after that date without undue delay. Such submissions should be done, upon having received from the NFC all relevant details (as per (a) above) pertaining to these SFTs.

d) For any outstanding SFTs where an FC and an SME-NFC report to two different Trade Repositories, the outstanding SFT of the SME-NFC should be transferred to the TR of the FC, unless the FC decides to become client of the TR of the SME-NFC and report the SFT with the SME-NFC to that TR.

Each time a NFC changes its status from non-SME NFC to SME-NFC, it should transfer its outstanding SFT concluded with the FC to the TR of that FC as of the date of its changed status unless the FC decides to become client of the TR of the SME-NFC and report the SFT concluded with the SME-NFC to that TR. Similarly, each time when NFC changes its status from SME-NFC to non-SME NFC, the outstanding SFT concluded with the FC

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should be transferred back to the TR of the NFC, unless the NFC decides to become client of the TR of the FC and report the SFT concluded with the FC to that TR.

For the performance of data transfer, neither the NFC nor the FC (or any report submitting entity reporting on their behalf) are expected to onboard to the TRs of the other counterparty. The reference to TR participant should relate to the NFC and FC (or the report submitting entity reporting on their behalf), as appropriate.

Question 9 [Updated on 23 March 2021]

Reporting of SFTs where an external portfolio manager participates

a) *How should a portfolio manager be identified in a SFT report, i.e. an entity to which the execution of a part of the investment strategy of a counterparty is delegated?*

b) *How should the amount of estimated reuse of collateral or the reinvested cash be calculated where a financial counterparty or the entity responsible for its reporting uses several entities to conclude SFTs, to manage the collateral thereof and to report?*

c) *How should the collateral components pertaining to variation margining on a net exposure basis be reported when a financial counterparty or the entity responsible for its reporting uses more than one portfolio manager or a triparty provider for the SFTs in the same netting set and it delegates the reporting?*

Answer 9:

a) Where that entity performs, de jure or de facto, one of the roles identified in the counterparty data of a SFT report, such as broker or agent lender, it should be included in the relevant field. Otherwise that entity should not be identified.

b) As indicated in paragraph 62 of the ESMA SFTR Reporting Guidelines, in case of delegation of reporting, it is the responsibility of the counterparty to the SFT (or the entity responsible for reporting thereof) to provide to the report submitting entity all the relevant details pertaining to an SFT report. Prior to the reporting to a TR, as pointed out in paragraph 401 of the ESMA SFTR Reporting Guidelines, the counterparty to the SFT (or the entity responsible for reporting thereof) should perform the relevant calculations itself or it should provide the relevant SFT details to the entity to which it

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delegated the calculations. The counterparty or entity responsible for reporting should calculate the estimated reuse of collateral (field 4.9) or the reinvested cash (4.13) for each and every collateral component and across all the SFTs concluded. Where the counterparty or the entity responsible for reporting has delegated the reporting, it should provide the estimate(s) to the report submitting entity.

Example: Counterparty A (financial counterparty) appoints three portfolio managers to manage different segments of a portfolio (also known as sleeves) of assets and their custodian to act as an agent lender. An agreement for delegation of SFTR reporting exists with each one for the transactions they manage.

Each of the above undertakes transactions involving ISIN X, as follows:

- Portfolio Manager 1
  - invests in €2,000,000 of the instrument
  - executes a reverse repo against €1,500,000 of the instrument
  - executes a repo using €1,000,000 of the instrument
- Portfolio Manager 2
  - executes a reverse repo against €500,000 of the instrument
  - executes a repo using €250,000 of the instrument
- Portfolio Manager 3
  - invests in €1,000,000 of the instrument
- Agent lender 1:
  - lends €1,000,000 of the instrument

Financial situation at the reporting counterparty

- Own assets = $2,000,000^{IM1} + 1,000,000^{IM3}$ = 3,000,000
- Held as collateral (eligible for reuse) = $1,500,000^{IM1} + 500,000^{IM2}$ = 2,000,000
- Posted as collateral = $1,000,000^{IM1} + 250,000^{IM2}$ = 1,250,000
- Loaned out = $1,000,000^{AL1}$

Expected values to be reported for the ISIN X and the reporting counterparty

- Estimated reuse: $\frac{2,000,000}{2,000,000 + 3,000,000} \; x \; (1,250,000 + 1,000,000) = $ **900,000**

It is up to the reporting counterparty or entity responsible for reporting to decide which of the three entities should send that report.

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c) Similarly to point b, prior to the reporting to a TR, the counterparty to an SFT or the entity responsible for reporting either should perform the relevant calculations itself or it should provide the relevant SFT details to the entity to which it delegated the calculations. Where the counterparty or the entity responsible for reporting has delegated the reporting, it should provide the relevant details to the report submitting entity.

Question 10 [Updated on 20 May 2021]

Reporting of changes to the reference rate in an SFT

To ensure consistency of reporting of SFTs, it is important to clarify how the counterparties should report SFTs based on reference rates that are not included explicitly in the Commission Implementing Regulation (EU) 2019/363, such as €STR. In particular:

(a) How the counterparties should report the changes to the reference rate in an SFT? In particular, how such changes should be reported in the scenario when, following to the benchmarks reform, the counterparties agree to switch to a different rate or when a fallback is triggered?

(b) How the counterparties should report SFTs based on reference rates that are not included explicitly in the Commission Implementing Regulation (EU) 2019/363, for example €STR?

Answer 10

(a) In all such cases the counterparties should report a modification of an SFT and update the relevant fields, 2.25 Floating rate or 2.59 Floating rebate rate, as applicable.

(b) At the time the Commission Implementing Regulation (EU) 2019/363 was developed, €STR was not yet available, therefore the list of standardised codes for reporting of floating rate specified in this Regulation (for the fields 2.25 Floating rate and 2.59 Floating rebate rate) does not provide the code for reporting of this reference rate. Consequently, the counterparties need to use the free-text field to report €STR.

In order to ensure consistent reporting and enable the reconciliation of the reports in question, counterparties should report in the free-text field "ESTR", i.e. the 4-letter code assigned to €STR in the ISO 20022 standard.

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Similarly, for other reference rates that are not included in the list of standardised codes, counterparties should report in the free-text field the 4-letter code assigned to that reference rate is the ISO 20022 standard, to the extent it is available, as described in ISO 20022 Benchmark Curve Name Code at the following link.

Question 11 [Published on 21 September 2021]

LEI changes due to mergers and acquisitions

a) *Which data fields should be updated in case of corporate restructuring events affecting the LEI?*

b) *To which entities the information on the LEI update should be broadcasted?*

Answer 11:

a. Further to the process described in section 4.19 of the Guidelines, once a notification regarding a corporate restructuring event affecting outstanding SFTs is received, the TR should identify all the outstanding SFTs where the entity is identified with the old identifier in any of the following fields: Reporting counterparty (fields 1.3, 3.4, 4.4), Other counterparty (fields 1.11, 3.6), Entity responsible for the report (fields 1.10, 3.5, 4.5), Report submitting entity ID (fields 1.2, 3.3, 4.3), Beneficiary (field 1.13), Tri-party agent (field 1.14), Broker (field 1.15), Clearing member (field 1.16), Central Securities Depository (CSD) participant or indirect participant (field 1.17), Agent lender (field 1.18), CCP (field 2.7) and LEI of the issuer (fields 2.54 and 2.93), and replace the old identifier with the new LEI.

TRs should ensure that all the subsequent validations of the aforementioned fields are also aligned with the relevant reporting requirements included in the ITS on reporting and in the Validation rules.

b. Other corporate restructuring events, such as, but not limited to, partial acquisitions, spin-offs, may affect only a subset of outstanding SFTs, in which case the new entity should accordingly provide the TR with the UTIs of the SFTs impacted by that event. In addition to the counterparties indicated in paragraph 162 (c) of the Guidelines, the TRs should inform the relevant report submitting entities, entities responsible for reporting (to the extent that they are participants to the TR) as well as third parties

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which have been granted access to information under Article 78(7) of Regulation (EU) No 648/2012[6], as applicable, involved in the SFTs concerned by the LEI change.

Amended Question 12 [Updated on 22 March 2022]

Currency for the Overview and Margin reports (Guidelines on calculation of positions in SFTs by trade repositories)

In the case of the Overview and Margin reports, how should TRs aggregate positions containing multiple currencies, irrespective of whether those currencies belong to the same or different currency buckets as per Guideline 15 of the "Guidelines on calculation of positions in SFTs by trade repositories"?

Answer 12:

For the Overview and Margin reports, TRs should calculate and express the aggregate positions in SFTs in their EUR equivalent value, irrespective of whether a position captures SFTs featuring the same or different currencies.

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[6] As referred under Article 5(2) of Regulation (EU) 2015/2365

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