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SSMA response to ESMA consultation on Reporting, Data Quality, Data Access and Registration of Trade Repositories under EMIR REFIT – 15 June 2020

Summary of questions

SSMA want to highlight the problem with the timeline when introducing new reporting standards. The go-live date is now only dependant on the date the technical standards are published, without considering the need to have file formats, guidelines and validation rules in place. It does not help the industry to get 18 months to implement from the publication date of RTS/ITS if guidelines and file formats comes only 4 months before go-live, which was the case with SFTR reporting. The implementation projects are to a very high degree dependant on having the file formats in place, therefore the timeline should start when they are communicated.

Q1. Do you see any other challenges with the information to be provided by NFC- to FC which should be addressed? In particular, do you foresee any challenges related to the FC being aware of the changes in the NFC status?

SSMA is of the opinion that timely manner should be interpreted as at least 5 days.

Q2. Do you agree with the proposals set out in this section? If not, please clarify your concerns and propose alternative solutions.

No comment

Q3. Do you need any further clarifications regarding the scenario in which the FC and NFC- report to two different TRs?

No comment

Q4. Are there any other aspects related to the allocation of responsibility of reporting that should be covered in the technical standards? If so, please clarify which and how they should be addressed.

No comment

Q5. Do you see any other challenges with the information by NFC- to FC of their decision to perform the reporting of OTC derivatives which should be addressed?

No, SSMA sees no challenge with separate reporting from NFC-.

Q6. Do you agree with the proposals set out in this section? If not, please clarify your concerns and propose alternative solutions.

No, NFC- should not have the right to be able to partially opt out. Instead counterparties could bilaterally agree upon partial reporting on case by case basis.

Q7. Do you see any issues with the approach outlined above? Do you see any other challenges with the delegation of reporting which should be addressed?

Counterparties should onboard them self. They should not be able to delegate to FC.

Q8. Which errors or omissions in reporting should, in your view, be notified to the competent authorities? Do you see any major challenges with such notifications to be provided to the competent authorities? If yes, please clarify your concerns.

SSMA agree that the counterparties should notify the NCA if they experience problem that prevents them from submitting reports to the TR in due time. Beyond that we are of the opinion that notification to the NCA should be done only if a counterparty detects significant errors in submitted reports that severely impairs the NCA analysis of the reported transaction data. SSMA do not think that errors that can be compiled by a TR should be notified by the counterparty, since the NCA have access to the TR statistics and data.

Q9. Do you see any issues with the approach outlined above? Do you see any other challenges with the reconciliation of trades which should be addressed?

It is not reasonable to have written agreements. Counterparties should have routines on how to handle unmatched trades.

Q10. Do you see any other data quality issues which should be addressed?

No comment

Q11. Do you agree with the proposed technical format, ISO 20022, as the format for reporting? If not, what other reporting format would you propose and what would be the benefits of the alternative approach?

Agree that a technical standard will solve some of the reporting problems especially for NFC- described in Q9

Q12. Do you foresee any difficulties related to reporting using an ISO 20022 technical format that uses XML? If yes, please elaborate.

Agree, SSMA see no difficulties

Q13. Do you expect difficulties with the proposed allocation of responsibility for generating the UTI?

Waterfall system to generate UTI works quite well, but SSMA sees a problem when one counterpart depends on another counterpart to generate UTI and they fail to do so. The first counterpart then has 3 options: 1 Report without UTI 2 Generate an own UTI 3 Continue to wait for an UTI from the failing counterpart. All 3 options lead to different problems and SSDA want clarification on how to solve this situation.

Q14. Is any further guidance needed with respect to the generation and exchange of the UTI for derivatives reported at position level?

No comment

Q15. Is it clear which entity should generate the UTI for the derivatives that are executed bilaterally and brought under the rules of the market ('XOFF')? Are there any other scenarios where it may be unclear whether a derivative is considered to be "centrally executed"? Please list all such specific scenarios and propose relevant clarifications in this respect.

No comment

Q16. Should the hierarchy on UTI generation responsibility include further rules on how to proceed when the responsibility for generating the UTI is allocated to an entity (e.g. trading venue or a CCP) from a jurisdiction that has not implemented the UTI guidance?

No comment

Q17. Should the hierarchy on UTI generation responsibility include more explicit rules for the case of the delegated reporting? If so, propose a draft rule and its placement within the flowchart.

No comment

Q18. Which policy option presented in the flowchart do you prefer? Please elaborate on the reasons why in your reply.

SSMA prefer option 2.

Q19. Is the additional clarification concerning the sorting of the alphanumerical strings needed? If so, which should method of sorting should be considered?

No comment

Q20. Are there any other rules that should be added to the hierarchy on UTI generation responsibility? To the extent that such rules are not contradictory to the global UTI guidance, please provide specific proposals and motivate why they would facilitate the generation and/or exchange of the UTIs.

No comment

Q21. Do you support including more specific rules provision on the timing of the UTI generation? If so, do you prefer a fixed deadline or a timeframe depending on the time of conclusion of the derivative? In either case, please specify what would be in your view the optimal deadline/timeframe. Please elaborate on the reasons why in your response.

No comment

Q22. Do you expect issues around defining when you will need to use a new UTI and when the existing UTI should be used in the report? Are there specific cases that need to be dealt with?

No comment

Q23. Do you expect any challenges related to the proposed format and/or structure of the UTI? If yes, please elaborate on what challenges you foresee.

No comment

Q24. Do you have any comments concerning the use of ISINs as product identifiers under EMIR for the derivatives that are admitted to trading or traded on a trading venue or a systematic internaliser?

No comment

Q25. Do you have any comments concerning the use of UPIs as product identifiers under EMIR? Should in your view UPI be used to identify all derivatives or only those that are not identified with ISIN under MiFIR? ?

No comment

Q26. Do you agree with the assessment of the advantages and disadvantages of the supplementary reporting of some reference data? Are there any other aspects that should be considered?

No comment

Q27. Some of the instruments' characteristics that are expected to be captured by the future UPI reference data are already being reported under EMIR, meaning that they have already been implemented in the counterparties' reporting systems. If this data or its subset were continued to be required in trade reports under EMIR, what would be the cost of compliance with this requirement (low/moderate/high)? Please provide justification for your assessment. Would you have any reservations with regard to reporting of data elements that would be covered by the UPI reference data?

No comment

Q28. Do you foresee any issues in relation to inclusion in the new reporting standard that the LEI of the reporting counterparty should be duly renewed and maintained according to the terms of, any of the endorsed LOUs (Local Operating Units) of the Global Legal Entity Identifier System?

No comment

Q29. Do you foresee any challenges related to the availability of LEIs for any of the entities included in the Article 3 of the draft ITS on reporting?

No comment

Q30. Do you have any comments concerning ESMA approach to inclusion of CDEs into EMIR reporting requirements?

No comment

Q31. Is the list of Action types and Event types complete? Is it clear when each of the categories should be used?

No comment

Q32. Is it clear what is the impact of the specific Action Types on the status of the trade, i.e. when the trade is considered outstanding or non-outstanding?

No comment

Q33. Is it clear what are the possible sequences of Action Types based on the Figure 1?

No comment

Q34. Are the possible combinations of Action type and Event type determined correctly? Is their applicability at trade and/or position level determined correctly?

No comment

Q35. Is the approach to reporting Compression sufficiently clear? If not, please explain what should be further clarified or propose alternatives.

No comment

Q36. Do you agree with the proposal to include two separate action types for the provision of information related to the valuation of the contract and one related to margins?

No comment

Q37. Do you agree with the proposal to include the Action Type "Revive"? Are there any further instances where this Action Type could be used? Are there any potential difficulties in relation to this approach?

No comment

Q38. Is the approach to reporting at position level sufficiently clear? If not, please explain what should be further clarified?

No comment

Q39. Are all reportable details (as set out in the Annex to the draft RTS on details of the reports to be reported to TRs under EMIR (Annex IV)) available for reporting at position level? If not, please clarify which data elements and why.

No comment

Q40. Are there any products other than derivatives concluded on a venue and CfDs that may need to be reported at position level?

No comment

Q41. Do you have any general comments regarding the proposed representation of the reporting requirements in the table of fields? Please use the separate excel table to provide comments on the specific fields in the table.

No comment

Q42. Is the proposed definition adequate? Can you think of any cases where further clarification would be needed or further problems might be expected? What would you expect to be reported as effective date when the trade is not confirmed?

No comment

Q43. Is the proposed definition adequate? Can you think of any cases where further clarification would be needed, or further problems might be expected? What would you expect to be reported as maturity date when the trade is not confirmed?

No comment

Q44. Do you agree with the proposed definition? Are there any other aspects that should be covered in the technical standards?

No comment

Q45. Do you agree with the proposed definition? Are there any other aspects that should be covered in the technical standards?

No comment

Q46. Do you foresee any difficulties with the reporting of Event date? Please flag these difficulties if you see them.

No comment

Q47. In relation to the format of the "client code", do you foresee any difficulties with reporting using the structure and format of the code as recommended in the CDE guidance? If you do, please specify the challenges.

No comment

Q48. Alternatively, would you prefer to replace the internal client codes with national identification number as defined in MIFIR transaction reporting? Please specify the advantages and disadvantages of both alternatives.

No comment

Q49. Do you agree on the proposal to include this process in the draft RTS on procedures for ensuring data quality?

No comment

Q50. Do you agree that one month is the good timespan between the notification by the counterparty to the TR the corporate restructuring event and the actual update of the LEI by the TR?

No comment

Q51. Do you agree on the fact that transactions that have already been terminated at the date when the TR is updating the LEIs should be included in the process?

No comment

Q52. In the case of transactions where an impacted entity is identified in any role other than the reporting counterparty (e.g. Counterparty 2, Broker etc), when the TRs should inform the reporting counterparties of the change in the identifier of that entity?

No comment

Q53. Which entity should identify all transactions that should be amended due to a partial modification of the identifier of an entity?

No comment

Q54. In cases where the counterparty is not responsible and legally liable for reporting transactions, which entity should be in charge of notifying the TR and what should be the related requirements between the counterparty itself and the entity who is responsible and legally liable for the reporting?

No comment

Q55. Do you see any other challenges related to LEI updates due to mergers and acquisitions, other corporate restructuring events or where the identifier of the counterparty has to be updated from BIC (or other code) to LEI because the entity has obtained the LEI?

No comment

Q56. In relation to the field "Beneficiary ID", do you have any concerns regarding the elimination of this field? Based on your reporting experience, which trading scenario may be missed if this field is eliminated, with exception of the cases explained in Q&A General Question 1 (c)?

No comment

Q57. In relation to the field "Trading capacity", do you have any concerns regarding the elimination of this field? Based on your reporting experience, which trading scenario may be missed if this field is eliminated?

No comment

Q58. In relation to the "Direction of trade", do you foresee any difficulties with the adoption of CDE guidance approach? Please provide a justification for your response.

No comment

Q59. Are there any products for which the direction of the trade cannot be determined according to the rules proposed in the draft technical standards (based on the CDE guidance)? If so, please specify the products and propose what rules should be applied.

No comment

Q60. Do you foresee any difficulties with reporting in case the value "Intent to clear" is not included in the list of allowable values for Field « Cleared » ? Please motivate your answer.

No SSMA sees no difficulty and agree not to include this field.

Q61. Do you have any other comments concerning the fields related to clearing?

No comment

Q62. The timely confirmation requirement applies only to non-cleared OTC contracts. However, under the rules in force, the confirmation timestamp and confirmation means are reported also for ETD derivatives by some counterparties, leading to problems with reconciliation of the reports. ESMA proposes to clarify that the abovementioned fields should be reported only for OTC non-cleared derivatives. Do you agree with the proposed approach for clarifying the population of the fields "Confirmation timestamp" and "Confirmation means"? Please motivate your response.

SSMA agrees that clarification is needed.

Q63. Do you have any comments concerning the fields related to settlement?

No comment

Q64. Do you have any comments concerning the proposed way of reporting of the trading venue?

No comment

Q65. Do you foresee any difficulties related to the proposal for reporting the data elements related to the regular payments?

No comment

Q66. Do you agree to leave the valuation fields unchanged? If not, what changes do you propose?

No comment

Q67. Do you agree that the contract value is most relevant for authorities when reported as the IFRS 13 Fair Value without applying valuation adjustments?

No comment

Q68. Do you anticipate practical issues with reporting IFRS 13 Fair Value without applying valuation adjustments? If so, what measures can be taken to address these or what alternative solutions can be considered (that would ensure consistent reporting of valuation by the counterparties)?

No comment

Q69. Is more guidance needed for the determination of the "valuation type", e.g. similar to the guidance provided in the CDE guidance on page 41-42?

No comment

Q70. Do you agree that the fields IM/VM Posted/Received fields are provided in with both a pre- and post-haircut value?

No comment

Q71. Do you agree to change the format of the collateralisation field to one that is compatible with single sided reporting?

No comment

Q72. Do you agree that the fields "Counterparty rating trigger indicator" and "Counterparty rating threshold indicator" are added?

No comment

Q73. Do you agree that a single A rating is the most relevant trigger for the "Counterparty rating threshold indicator" field?

No comment

Q74. Is it possible to separate the value of a collateral portfolio exclusively for derivatives?

No, SSMA believes it will be too technically demanding.

Q75. Are there any limitations with regard to ESMA's proposed adjustments to these EMIR reporting fields? If so please specify what the limitations are and how they could be overcome?

No comment

Q76. Do you think that there are other additional fields which would be necessary to fully understand the price of a derivative?

No comment

Q77. Are there any further pieces of clarification in relation to these fields (beyond the information in the definitions in the annex) which could be added to the amended standards to ensure reporting is done in a consistent manner? If so, please expand on how ESMA can ensure the standards are clear to reporting entities and reduce ambiguity with regard to what should be reported for different fields.

No comment

Q78. Do you agree with the clarification in relation to the approach to populating fields which require reference to a fixed rate? If you believe that an alternative approach would be more effective and ensure a consistent approach is followed by reporting counterparties, please explain that approach.

No comment

Q79. Should there be any further guidance provided in relation to the population of the 'notional' field on top of the content of the CDE guidance? What should this guidance say? Do you foresee any difficulties with reporting of notional in line with the CDE guidance?

No comment

Q80. Is the guidance provided in ESMA Q&A TR 41 clear? Should any further guidance be provided in addition to ESMA Q&A TR 41?

No comment

Q81. Do you foresee any challenges with the interpretation of the EMIR data should the fields "Quantity" and "Price multiplier" be removed? In case these fields are maintained, should there be further clarity as to what should be reported therein? What should this guidance say? Should this guidance be per asset class? Should this guidance distinguish between OTC and ETD derivatives?

Q82. Do you foresee any challenges with reporting of the Total notional quantity?

SSMA believes it could be a problem for some derivatives.

Q83. Which of the two described approaches to reporting the notional amount schedules is preferable? Please motivate your view.

No comment

Q84. Do you foresee challenges in relation to the proposed approach for reporting of Delta? Are there any challenges regarding the reporting of Delta every time there is a valuation update?

No comment

Q85. Do you agree with the proposal for reporting of attachment and detachment point?

No comment

Q86. Do you consider that the fields Attachment point and Detachment point serve to report additional data or are applicable to other products than those foreseen in the CDE guidance?

No comment

Q87. Do respondents believe that any of these new fields would be problematic to report? If so, please explain why.

No comment

Q88. Do you foresee any difficulties related to reporting of the additional fields for package transactions? Please motivate your reply.

No comment

Q89. Do you foresee any difficulties related to the reporting of prior UTI? Please motivate your reply.

No comment

Q90. Do you foresee any difficulties related to the reporting of PTRR ID? Please motivate your reply. Are you aware of alternative solutions that would enable regulators to link derivatives entering into and resulting from the same post-trade risk reduction event? Please provide details of such solutions.

No comment

Q91. Do you foresee any difficulties related to the generation and reporting of the PTRR ID for cleared derivatives? Please motivate your reply.

No comment

Q92. Do you see a need for further adjustment of the reporting requirements to allow for effective reporting of PTRR events, in addition to the ones proposed in the section 4.4.11.3?

No comment

Q93. Do you foresee any difficulties related to the reporting of position UTI in the reports pertaining to the derivatives included in a position? Please motivate your reply.

No comment

Q94. Do you foresee any difficulties related to the reporting of any of the additional data elements related to custom baskets? Please motivate your reply.

Yes, SSMA is of the opinion that it will be difficult to match. Increasing number of elements increases the complexity of reporting correctly and makes matching more difficult.

Q95. With regard to reporting of delivery interval times, which alternative do you prefer: (A) reporting in UTC time or (B) reporting in local time? Please provide arguments.

SSMA prefer (A) reporting in UTC time for all contracts.

Q96. Are you currently reporting derivatives on crypto-assets under EMIR? If so, please describe how they are reported. In particular, please clarify how do you identify and classify these derivatives in the reports under EMIR?

No comment

Q97. Would you see the need to add further reporting details or amend the ones envisaged in the table of fields (see Annex V) in order to enable more accurate, comprehensive and efficient reporting of derivatives on crypto-assets?

No comment

Q98. Do you support the proposal that reports pertaining to the derivatives outstanding on the reporting start date should be updated in order to ensure consistent level of quality of data and limit the operational challenges?

SSMA supports this proposal.

Q99. Do you foresee challenges with the update of reports pertaining to outstanding derivatives in line with the revised requirements? If so, please describe these challenges. In particular, if they relate to some of the newly added or amended reporting fields, please mention these fields.

Yes, SSMA thinks it could be a challenge to implement in practice and it should not be done at different points in time.

Q100. Do you think that additional time after the reporting start date should be granted for the counterparties to update the reports pertaining to the outstanding derivatives? If so, how much additional timeline would be required?

No comment

Q101. Do you agree with the proposed timelines for implementation, i.e. 18 months from the entry into force of the technical standards?

No comment

Q102. Do you agree with the proposed framework for verification of data submission? Please detail the reasons for your response.

No comment

Q103. Are there any additional aspects that would need to be clarified or specified with regards to the verification of logical integrity of submissions with different Action types such as "Revive"? Please detail the reasons for your response.

No comment

Q104. Do you consider that the proposed procedure will allow the TRs to verify the compliance by the reporting counterparty or the submitting entity with the reporting requirements, and the completeness and correctness of the data reported under Article 9 EMIR? If not, what other aspects should be taken into account? Please detail the reasons for your response.

No comment

Q105. Are there any additional aspects that would need to be clarified or specified with regards to the updates to the LEI that are to be performed by the TRs? Please detail the reasons for your response.

No comment

Q106. Are there any other aspects that should be considered with regards to the scope and start of the reconciliation process? Please detail the reasons for your response.

No comment

Q107. Are there any aspects related to the intra-TR reconciliation that need to be clarified? Please detail the reasons for your response.

No comment

Q108. What additional aspects with regards to inter-TR reconciliation will need to be considered? Should additional fields be considered for pairing? Please detail the reasons for your response.

No comment

Q109. What other aspects should be considered to ensure the integrity of the number and values of the reconciled derivatives? Please detail the reasons for your response.

No comment

Q110. What other aspects should be considered to reduce data transformation and format issues in the inter-TR reconciliation process? Please detail the reasons for your response.

No comment

Q111. What other aspects should be taken into account with regards to the timeline for completion of the inter-TR reconciliation process? Please detail the reasons for your response.

No comment

Q112. Do you agree with the proposed approach to establish tolerances for certain fields? Please detail the reasons for your response.

No comment

Q113. Do you agree with the proposed set of fields? Please detail the reasons for your response.

No comment

Q114. Do you foresee any problem in the reconciliation of field "Valuation amount"? How should the valuation amount be reconciled in the case of derivatives which are valued in different currency by the counterparties, such as currency derivatives? Please detail the reasons for your response.

Yes, SSMA foresee huge problems with reconciliation on this field. To reconcile on valuation amount is very difficult in practice especially if the tolerance is narrow.

Q115. Do you agree with excluding the newly added fields from the first stage of the interTR reconciliation process? Please detail the reasons for your response.

No comment

Q116. Do you consider that any additional requirement in relation with the policies and procedures referred to in Article 78(9) EMIR needs to be added to ensure better performance of the data transfer by TRs? Please detail the reasons for your response.

No comment

Q117. Do you agree with the proposed framework for rejection responses? Please detail the reasons for your response.

No comment

Q118. Do you agree with the proposed framework for reconciliation responses? Please detail the reasons for your response.

No comment

Q119. Do you agree with the suggested reconciliation categories? Please detail the reasons for your response.

No comment

Q120. Are there any relevant aspects related to the application of action type "Revive" that should be considered for the purposes of carrying out the reconciliation process?

No, SSMA agrees.

Q121. Are there any aspects that need to be further specified regarding the end-of-day reports to be provided to reporting counterparties, the entities responsible for reporting and, where relevant, the report submitting entities? Is there any additional information that should be provided to these entities to facilitate their processing of data and improve quality of data? Please detail the reasons for your response.

No comment

Q122. Especially regarding the abnormal values, please indicate which of the two approaches you prefer and which other aspect should be taken into account. Please detail the reason for your response.

No comment

Q123. Do you believe that there are any other aspects that need to be aligned between the current RTS on registration under SFTR and the ones under EMIR? Please detail the reasons for your response.

No comment

Q124. Do you agree with the above proposals for provision of information in the case of extension of registration? Please elaborate on the reasons for your response.

No comment

Q125. Do you believe that there are any other aspects that need to be covered by the draft ITS on registration under EMIR? Please detail the reasons for your response.

No comment

Q126. Do you agree with the proposed amendments to the data access requirements with respect to the terms and conditions of data access?

No comment

Q127. What other aspects need to be clarified with regards to the definition of elements for the establishment of direct and immediate access to data?

No comment