

SSMA Response - Consultation Paper on MiFIR review report on the obligations to report transactions and reference data

The Swedish Securities Markets Association (SSMA) is in general positive to regulatory harmonisation and standardisation of reference data and transaction reporting. It must however be implemented carefully and over time, in order not to unnecessarily increase short term complexity with new expensive IT investments as a result. Most participants have made their necessary investments and are compliant with the current regulations. All changes will therefore lead to new implementation projects and drive increased costs short term. The situation around Brexit and Covid-19 should also be analysed before changes to the reporting regimes are implemented.

Q1. Do you foresee any challenges for UCITS management companies and AIF managers in providing transaction reports to NCAs? If yes, please explain and provide alternative proposals.

SSMA has no strong view from an Investment Firm perspective. If this is a problem for UCITS and AIF managers, the task to report under MiFIR could probably be delegated in the same way as in EMIR and SFTR reporting.

Q2. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no problems.

Q3. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no major problem with this approach. There would be a need to establish a routine to create a copy of the branch report.

Q4. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA has no strong view on this issue, but there must be good legal and legitimate reasons for exchange of information. This must be carefully implemented so that new routines do not lead to new requirements on our members - only the NCAs.

Q5. Do you envisage any challenges in increasing the scope including derivative instruments traded through an SI as an alternative to the expanded ToTV concept? Please justify your position and if you disagree please suggest alternatives.

The SSMA is of the opinion that this is not a good idea and sees no real benefit from the proposal. It will increase the complexity on reference data reporting for the market participants. It will also be difficult and technically challenging to implement and if implemented will drive new or increased costs. Most of our members are not SIs for mandatory reasons; instead they have opted in because of regulatory reporting reasons. That is also why we do not think that this proposal will lead to any improvement since Firds is updated the next day anyway. In conclusion SSMA believes this proposal increases complexity, which will lead to even poorer data quality.

Q6. Do you agree that the extension should include all Systematic Internalisers regardless of whether they are SI on a mandatory or voluntary basis? Please justify your position.

SSMA believes there should be no difference whether a firm is SI on mandatory or voluntary basis.

Q7. Do you envisage any challenges with the approach described in paragraphs 45-46 on the scope of transactions to be covered by the extension? Please justify your position and indicate your preferred option for SIs under the mandatory regime explaining for which reasons. If you disagree with all of the outlined options, please suggest alternatives.

SSMA do not believe this approach is good. It will result in even bigger problems with poor data quality. Before this is introduced other issues relating to reporting should be solved. To improve problems with reporting data quality the issue with instrument definitions should be solved first – see Q 31.

Q8. Do you foresee any challenges with the proposal to replace the reference to the term “index” in Article 26(2)(c) with the term “benchmark” as defined under the BMR? If yes, please explain and provide alternative proposals.

SSMA believes this is a good proposal. It must however be very clear that reporting requirements are for “benchmark” indices and not BMR indices in general.

Q9. Which of the three options described do you consider the most appropriate? Please explain for which reasons and specify the advantages and disadvantages of the outlined options. If you disagree with all of the outlined please suggest alternatives.

SSMA favours option 3, since it will improve reporting quality without adding new complicated and expensive reporting routines.

Q10. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no problems.

Q11. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no problems.

Q12. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no problems.

Q13. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

Since SSMA does not believe the proposal in Q5 has any merits and therefore no further obligations should be enforced on SIs. We therefore do not think there is a need to make the suggested amendments to the legal text.

Q14. Did you experience any difficulties with the application of the defined list concept? If yes, please explain.

SSMA members has not experienced any major difficulty, but thinks the current routine works fine. It should be enough to report new instruments rather than the full list every day, which will lead to unnecessary reporting and risk of leading to poor data quality.

Q15. Do you foresee any challenges with the approach as outlined in the above proposal? If yes, please explain and provide alternative proposals.

SSMA is of the opinion that this is not a good idea. It should not be needed and will lead to huge amounts of data being reported daily with no real benefit. Potential errors in reporting can always be corrected afterwards under the current regime and therefore this proposal is not needed.

Q16. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no problems.

Q17. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no problems.

Q18. Do you foresee any challenges with the approach outlined in paragraphs 75 and 76? If yes, please explain and provide alternative proposals.

SSMA believes this a huge change, which will be very difficult and expensive to implement. It will also potentially change trading patterns in an undesired way. For non-equities it is probably doable since this kind of allocations are more unusual, but for cash equities is almost impossible in practice. If this proposal is implemented it will lead to new market practices, which could impair clients and make it difficult to treat them equally.

Q19. Do you foresee any difficulties with the implementation of an additional code generated by the trading venue to be disseminated down the transaction chain in order to link all transactions pertaining to the same execution? If yes, please explain and provide alternative proposals.

SSMA is of the opinion that introduction of new fields always creates problems and this new code is particularly problematic. The proposed change would be very complicated and will therefore be very expensive to implement. We therefore strongly oppose the introduction of this additional code.

Q20. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA thinks these changes are too far stretching and demanding and should hence not be introduced. The problem with defining target markets has been highlighted both in Mifid II and PRIIPS before and a proper analysis should be made before any changes are made. New client definitions and reporting standards will also be difficult to implement. The information regarding client category – and in particular whether the client has opted in as professional client – may not necessarily be held within the same system or in the same form as other information reported and may hence require interfaces that may be very complicated to establish.

Q21. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA foresees no problems.

Q22. Which of the two approaches do you consider the most appropriate? Please explain for which reasons.

SSMA believes that option A is most appropriate. Short selling is well regulated in other legislations and it should be enough to enforce those rules. The proposed new indicator in option B will be very difficult and expensive to implement. It will also complicate trading patterns since new controls would need to be implemented before execution.

Q23. Do you foresee any challenges with the outlined approaches? If yes, please explain and provide alternative proposals.

SSMA sees no problems with option A, but huge problems with option B. Option B will make execution services more complicated and could have a negative effect on client experiences, we also see that it will be difficult and expensive to implement.

Q24. Do you foresee any challenges with the outlined approach to pre-trade waivers? If yes, please explain and provide alternative proposals.

SSMA does not see this as a material problem. New fields are however always problematic and drives implementation costs and will increase the burdens for SIs.

Q25. Have you experienced any difficulties with providing the information relating to the indicators mentioned in this section? If yes, please explain and provide proposals on how to improve the quality of the information required.

SSMA sees no problem with this from a transparency perspective. New fields could be a challenge to implement as mentioned in Q24 and elsewhere in this reply.

Q26. Do you foresee any challenges with this proposal? If yes, please explain and provide alternative proposals.

As stated under several other questions SSMA sees problems with introduction of new fields since it adds complexity and new costs. The SSMA does, however, welcome the indirect clarification of the scope of article 25 of MiFIR. Unlike the record keeping requirements in directive 2014/65, article 25 of MiFIR could be read as an open-ended requirement to store all relevant information. Without further guidance, this could be understood as an almost endless amount of data. The storage, management and ability to swiftly extract data is a driver of costs and complexity. We would therefore appreciate if ESMA could confirm in its final report that the data required to be kept under article 25 of MiFIR is the data necessary to populate the transaction reports under article 26.

Q27. Do you agree with this approach? If not, please clarify your concerns and propose alternative solutions

SSMA does not agree to this approach. This must be a decision for each institute whether they want to offer this service or not. It should not be mandatory for the receiving institute to report on behalf of another Investment firm. There should be other ways to increase data quality from smaller entities, it is not certain that the data quality will be better, it is still the information from the smaller entities which will be used by the receiving institute.

The proposed change would also lead to problems with best execution when using automatic order routing via a smart order router set up, with several brokers and investment firms as potential receiving firms of these orders. If this mandatory approach would be implemented, it will be impossible for the receiving institute to transmit to another broker where the price is better and therefore best ex could not be met.

Q28. Do you agree with this analysis? If not, please clarify your concerns and propose alternative solutions.

SSMA agrees with this analysis.

Q29. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA has no view on this proposal.

Q30. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA is of the opinion that ISINs as they work today have problems and does not work properly for all instruments. New information such as UPI will affect the whole reporting implementation and we question if it will solve the problem anyway. Before this new approach is implemented current processes should be analysed and evaluated to see if they instead can be adjusted to function better. At this point SSMA does not see a need to add anything new such as UPI.

Q31. Are there any specific aspects relating to the ISIN granularity reported in reference data which need to be addressed? Is the current precision and granularity of ISIN appropriate or is (for certain asset classes) a different granularity more appropriate?

SSMA believes the whole process needs to be improved. There are several problems with granularity today. Look-alike instruments could for instance get the same ISIN code even though they have not the same characteristics. One ISIN could also have several different CFIs when reported from different trading venues or SI's. This is a problem since the effect is that members could classify the same instrument differently and the same instrument could potentially have different rules depending on how it has been classified. One suggestion to improve this situation is therefore to let ANNA create the CFI codes.

Q32. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

In principle SSMA is in favour of standardisation. SSMA however want to stress the importance that this is done in a way so that it does not create new expensive implementation costs. Today all participants have made their investments to be able to comply with the regulations and any changes will drive cost. SSMA also believes that stating what "at least" should be included is not clear enough and opens for different interpretations, which in the end could lead to poor reporting quality.

Q33. Do you foresee any challenges with the outlined approach? If yes, please explain and provide alternative proposals.

SSMA believes this clarification is good.

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