

SSMA response to ESMA consultation paper on Draft Guidelines for reporting under EMIR

The Swedish Securities Markets Association ("SSMA") welcomes the opportunity to respond to this consultation regarding EMIR reporting.

General comments

- SSMA believes that there are uncertainties between different reporting regimes and would like to see harmonisation and clarifications between especially EMIR and Mifid II, but also with SFTR. Different reporting standards and definitions create unnecessary uncertainty and leads to matching problems and in the end poor reporting quality.
- The UPI standard is referred to in several questions. SSMA is of the opinion that this standard is not completely defined and set and should therefore not be used already. New technical standards must be carefully implemented.
- There are quite a few instruments that are combination of two different instruments or derivatives. In the description on how these should be reported there are references to Leg 1 and Leg 2 which we believe is not clear enough. The introduction of MAKE and TAKE is also unclear. To make it easier and clearer to understand we suggest using "Near Leg/Far Leg" instead of "Leg 1/Leg 2". We also think it would be clearer if the terms buyer/seller and pay/receive was used instead of MAKE/TAKE.

Q1. Are there any other clarifications that should be provided with regards to the transition to reporting under the revised technical standards?

SSMA has no view

Q2. Are there any additional aspects to be considered with regards to the eligibility to reporting of currency derivatives?

SSMA want to highlight the problem with reporting of FX swaps. There seem to be a conflict in this regard between EMIR and Mifid II which creates uncertainty and results in different reporting standards. The problem is whether FX swaps should be seen as one contract or a strategy with two separate legs and consequently reported with 1 or 2 ISINs. It should be clear from the orderbook definition how to report pure FX swaps or swap like FX strategies. SSMA would therefore want further clarification on how FX swaps should be reported both from an EMIR and Mifid II perspective.

Q3. Are there any aspects to be clarified with regards to the rest of contract types of currency derivatives? Please provide the relevant examples.

SSMA refers to Q2 for FX swap problem.

Q4. Are there any additional aspects to be considered with regards to the eligibility for reporting of the derivatives on crypto-assets? Please provide the relevant examples.

No

Q5. Are there any additional aspects to be considered with regards to the eligibility for reporting of Total Return Swaps, liquidity swaps, collateral swaps or any other uncertainty with regards to potential overlap between SFTR and EMIR? Please provide the relevant examples.

SSMA is in favour of harmonisation - also see Q2 for swap related issues

Q6. Are there any additional aspects to be considered with regards to the eligibility for reporting of complex derivative contracts? Please provide the relevant examples.

No

Q7. Are there other situations where a clarification is required whether a derivative should be reported?

SSMA believes there is an uncertainty regarding Bond forwards. Should they be classified as derivatives under EMIR? It should be clarified and consequently used for better reporting.

Q8. Do you agree with the above understanding?

SSMA has no view.

Q9. Are there other situations where a clarification is required whether a derivative involving a specific category of party should be reported?

SSMA has no view.

Q10. Do you agree with the above understanding?

SSMA has no view.

Q11. Are there other specific scenarios where a clarification is required?

SSMA has no view.

Q12. Do you agree with the above understanding?

SSMA has no view.

Q13. Are there any other clarifications required with regards to the IGT exemption from reporting?

SSMA has no view.

Q14. Are there any other clarifications required for the handling of derivatives between NFC- and FC?

SSMA does not want any amendments or additions made of the responsibility for this reporting routine.

Q15. Are the current illustrative examples providing clarity and / are there other examples that should be incorporated in the guidelines?

No.

Q16. Are there any other clarifications required for the reporting obligation related to CCPs?

SSMA has no view.

Q17. Are there any other clarifications required for the reporting obligation related to Investment Funds i.e. UCITS, AIF and IORP that, in accordance with national law, does not have legal personality?

SSMA has no view.

Q18. Do you see any other challenges with the delegation of reporting which should be addressed?

SSMA has no view.

Q19. Do you agree that only action types 'Margin Update' and 'Correct' should be used to report collateral?

SSMA has no view.

Q20. Are there any other clarifications required with regards to the use of the action types in general (other than specific aspects covered in the sections below)?

SSMA has no view.

Q21. Do you agree with the sequences proposed? Please detail the reasons for your response.

SSMA believes that the revive message is not meant to change the message. It requires that the information was correct when it was set to not outstanding.

**Q22. Are there any specific scenarios in which the expected sequence of action types is unclear?
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SSMA has no view.

Q23. Are any further clarifications needed with regards to the action type - event type combinations or their applicability?

SSMA has no view.

Q24. Is it clear when the linking IDs should be used, and in which reports they should be provided? Do you agree that the linking IDs should be reported only in the reports pertaining to a given lifecycle events and should not be included in all subsequent reports submitted for a given derivative? Are any further clarifications on linking IDs required?

SSMA has no view.

Q25. Do you agree with the ESMA's approach related to leaving the Event type blank in the case of multiple events impacting the same position on a given day? How often multiple events/single events impact the same position on a given day? Have you assessed the single versus multiple events impacting positions on a given day? Do you have systems or methods to distinguish between one or multiple events impacting the positions on a given day?

SSMA has no view.

Q26. Do you agree with the proposed clarifications concerning population of certain fields at position level?

SSMA has no view.

Q27. Do you need any other clarification with regards to the position level reporting?

SSMA has no view.

Q28. Are there any other aspects that should be clarified with regards to reporting of on-venue derivatives?

SSMA has no view.

Q29. Do you agree with the proposal for reporting conclusion of derivatives? Please detail the reasons for your response

SSMA has no view.

Q30. Do you agree with the proposal for reporting modifications and corrections to derivatives? Please detail the reasons for your response.

SSMA has no view.

Q31. Do you agree with the specification of the 'Event date' for different action types?

SSMA has no view.

Q32. Do you agree with the interpretation of the business events and the suggested action and event types?

SSMA has no view.

Q33. Are there other business events that would require clarification? If so, please describe the nature of such events and explain how in your view they should be reported under EMIR (i.e. which action type and event type should be used).

SSMA has no view.

Q34. Which approach do you prefer to determine the entity with the soonest reporting deadline? Please clarify the advantages and challenges related to each of the approaches.

SSMA prefers alternative b.

Q35. Are there any other aspects that need to be clarified on UTI generation?

SSMA has no view.

Q36. Are there any other types of contracts for which the determination of the counterparty side needs more clarity?

SSMA has no view.

Q37. Are there any other clarifications required with regard to the determination of the counterparty side (other than specific aspects covered in other sections)?

SSMA has no view.

Q38. Are there any other clarifications requested with regards to the identification of counterparties?

SSMA has no view.

Q39. Are there any other aspects to clarify in the LEI update procedure when a counterparty undergoes a corporate action?

SSMA believes that the practical consequence of this is that a FC must update all its clients when a counterpart undergoes a corporate event or name change and we do not think that is reasonable. It would lead to an undue administrative burden for the FC to continuously monitor changes and to a higher information responsibility. To implement these routines would lead to unnecessary new increased costs. SSMA also thinks central monitoring and information by for example ESMA would work better in practice.

Q40. Are there any other aspects to be considered in the procedure to update from BIC to LEI?

SSMA see no other aspects but want to refer to Q39 for practical impact.

Q41. Do you require any further clarification on the use of UPI, ISIN or CFI for derivatives? ESMA REGULAR USE 236

SSMA is of the opinion that the UPI standard is not completely set and should therefore not be referred to in the regulation before the standard is ready – also see general comment.

Q42. Do you require any further clarification with regards to the reporting of fields covered by the UPI reference data? Which fields in the future should /should not be sourced exclusively from the UPI reference data rather than being reported to the TRs?

SSMA refers to Q41 and does not want the UPI standard implemented before the standard is ready and clear. Further clarification is therefore needed before it comes into practical use.

Q43. Do you require any further clarification on the reporting of details of the underlying?

SSMA has no view.

Q44. Is any further guidance required in relation to the population of the notional field?

SSMA has no view.

Q45. Is any further guidance required in relation to the population of the Total notional quantity field? How should the Total notional quantity field be populated, distinguishing between ETD and OTC and asset class?

SSMA has no view.

Q46. Are there other instances when we would expect to see a zero notional for Position Reports? Please provide examples. Are there any instances when we would expect to see a notional of zero for Trade Level Reports? Please provide examples.

SSMA has no view.

Q47. Are there any other aspects in reporting of valuations that should be clarified?

SSMA has no view.

Q48. Are there any other aspects in reporting of delta that should be clarified? Are there instrument types (in addition to swaption) where further guidance is needed with regards to the calculation of delta?

SSMA has no view.

Q49. Are there any further clarifications required with regards to the reporting of margins?

SSMA has no view.

Q50. Are there any further clarifications required with regards to the reporting of the trading venue?

SSMA has no view.

Q51. Are there any further clarifications required with regards to the reporting of clearing?

SSMA has no view.

Q52. Are there any further clarifications required with regards to the reporting of confirmation timestamp and confirmation means?

SSMA has no view.

Q53. Are there any further clarifications required with regards to the reporting of settlement currencies?

SSMA want it to be made clear which ISO standard this refers to. Is it 4217? If that is the case there is a problem that all currencies are not covered in that standard. One example is the Chinese FX CNH which is not included. SSMA believes clarification is needed.

Q54. Are there any additional clarifications to be considered related to reporting of regular payments?

SSMA has no view.

Q55. Are there any further clarifications needed with regards to the reporting of other payments?

SSMA has no view.

Q56. How would you define effective day for novations and cash-settled commodity derivatives?

SSMA has no view.

Q57. What are reporting scenarios with regards to dates and timestamps which you would like to be clarified in the guidelines? Are there any other aspects that need to be clarified with respect to dates and timestamp fields?

SSMA has no view.

Q58. Are there any other aspects that need to be clarified with respect to the derivatives on crypto assets?

SSMA does not want new fields. Crypto assets should rather be a new approved underlying category of assets. It should not be seen as a commodity.

Q59. Do you consider any scenarios in which more clarification on the correct population of the fields related to package transaction is needed?

SSMA has no view.

Q60. Which of the proposed alternatives with regard to significance assessment method do you prefer? Should ESMA consider different metrics and thresholds for assessing the scope of notifications sent to the NCAs? Please elaborate on the reasons for your response.

SSMA has no view.

Q61. Do you prefer Option 1 or Option 2 with regard to the number of affected reports notified to the NCAs? Please elaborate on the reasons for your response. ESMA REGULAR USE 237

SSMA prefer option 1.

Q62. Should significance of a reporting issue under Article 9(1)(c) of the draft ITS on reporting also be assessed against a quantitative threshold or the qualitative specification only is appropriate? In case threshold should be also applied, would you agree to use the same as under Alternative A or B? Is another metric or method more appropriate for these types of issues? Please elaborate on your response.

SSMA has no view.

Q63. Are there any other aspects or scenarios that need to be clarified with respect to ensuring data quality by counterparties? Please elaborate on the reasons for your response.

SSMA has no view.

Q64. Are there any other aspects in reporting of IRS that should be clarified?

No

Q65. Are there any other aspects in reporting of swaptions that should be clarified?

No

Q66. Are there any other aspects in reporting of FRAs, cross-currency swaps, caps and floors or other IR derivatives that should be clarified?

No

Q67. In the case of FX swaps, what is the rate to be used for notional amount of leg 2? Should it be the forward exchange rate of the far leg as it is in the example provided? Or the spot exchange rate of the near leg?

SSMA thinks this is very unclear. We do not understand what is referred to as Leg 1 and Leg 2 for the 2 different counterparties. The introduction of MAKE and TAKE also makes it more confusing. This needs to be much clearer. We therefore suggest a removal of reference to Leg1/Leg2 and replace it with Near Leg/Far Leg instead. Instead of introducing MAKE/TAKE we suggest keeping buy/sell and use pay/receive instead. It must also be clearer what is meant with the forward exchange rate.

Q68. In the case of FX swaps, considering that the 'Final contractual settlement date' is not a repeatable field, should the settlement date of the near leg be reported, for example using the other payments fields?

SSMA believes that the definition of "Final contractual settlement date" must be specified clearer. It does not seem to be in line with business practice.

Q69. Do you have any questions with regarding to reporting of FX forwards?

SSMA has no view.

Q70. Do you have any questions with regarding to reporting of FX options?

SSMA has no view.

Q71. What is the most appropriate way to report direction of the derivative and of the currencies involved with an objective to achieve successful reconciliation? Please detail the reasons for your response.

SSMA thinks alternative 2 a is preferable. Reporting direction should be based on field “direction of leg 1” and not on how a currency pair is populated in CCY1 and CCY2. As for 418a: Yes, TR reconciliation should be only on currencies irrespective of leg 1 or leg 2. In general TRs should match more which would increase matching and thus help identify true reconciliation breaks.

Q72. Do you agree with the population of the fields for NDF as illustrated in the above example? Should other pairs of NDFs be considered? Please provide complete details and examples if possible.

Yes, SSMA believes other pairs should be considered. Some currencies are not included in the ISO standard and pairs with these should also be considered. For example CNH – see Q53.

Q73. Do you agree with the population of the fields for CFD as illustrated in the above example? Do you require any other clarifications?

SSMA has no view.

Q74. Specifically, in the case of equity swaps, portfolio equity swaps and equity CFDs how should the notional and the price be reported in the case of corporate event and in particular “free” allocations?

SSMA has no view.

Q75. Are there any other clarifications required with regards to the reporting of equity derivatives?

SSMA has no view.

Q76. Are there any other clarifications required with regards to the reporting of credit derivatives?

SSMA has no view.

Q77. Are there any other aspects in reporting of commodity derivatives that should be clarified?

SSMA has no view.

Q78. Do you agree with the population of the counterparty data fields? Please detail the reasons for your response and indicate the table to which your comments refer.

SSMA has no view.

Q79. Is there any other use case related to the population of counterparty data which requires clarifications or examples? Please detail which one and indicate which aspect requires clarification.

SSMA has no view.

Q80. Do you agree with the approach to reporting action types? Please detail the reasons for your response and include a reference to the specific table.

SSMA has no view.

Q81. Are there any additional clarifications required with regard to the reporting of other payments? ESMA REGULAR USE 238

SSMA has no view.

Q82. Do you agree with the approach to reporting margin data? Please detail the reasons for your response and include a reference to the specific table.

SSMA has no view.

Q83. Which of the two approaches provide greater benefits for data reporting and data record-keeping? Please elaborate on the reasons for your response.

SSMA has no view.

Q84. In case Approach B is followed, should the TRs update the TSR when counterparties have reported lately the details of derivatives? If so, do you agree with the time limit ten years for such an update? Please elaborate on the reasons for your response.

SSMA has no view.

Q85. Are there any fields that should be taken into account in a special way not allow change in values?

SSMA has no view.

Q86. Is the guidance on treatment of action type "Revive" clear? What additional aspects should be considered? Please detail the reason for our answer.

SSMA has no view.

Q87. Should the TR remove after 30 calendar days the other side of a derivative for which only one counterparty has reported "Error" and no action type "Revive"? Please detail the reasons for your answer.

SSMA has no view.

Q88. Which alternative relating to the provision of the notional schedules and other payments data would be more beneficial? Which of the two alternatives has higher costs? Please detail the reasons for your answer.

SSMA has no view.

Q89. Do you agree with the described process of update of the TSR? What other aspects should be taken into account? Please elaborate on the reasons for your answer.

SSMA has no view.

Q90. Should only the Field 1.14 be used for determining the eligibility of derivative for reconciliation? Please detail the reasons for your response.

SSMA has no view.

Q91. Is there any additional aspect that should be clarified with regards to the derivatives subject to reconciliation? Please detail the reasons for your response.

SSMA has no view.

Q92. From reconciliation perspective do you agree with the proposed differentiated approach for the latest state of derivatives subject to reconciliation depending on the level at which they are

reported? What are the costs of having such a differentiation? Should the timeline for reconciliation of derivatives at trade level be aligned with the one for positions? Please detail the reasons for your response.

SSMA has no view.

Q93. From data use perspective, should the information in the TSR and in the reconciliation report be different? Please detail the reasons for your response.

SSMA has no view.

Q94. Which alternative do you prefer? What are the costs for your organisation of each alternative? Please elaborate on the reasons for your response.

SSMA has no view.

Q95. Which alternative do you prefer? What are the costs for your organisation of each alternative? Please elaborate on the reasons for your response.

SSMA believes alternative B is much preferred. It would require a one-off logic setup by TRs as opposed to a lifelong regulatory built-in cause of false reconciliation breaks. "Direction of leg 1" would still enable proper matching of trade details. Also see Q71.

Q96. Do you agree with the proposed approach for reconciliation of notional schedules? Please elaborate on the reasons for your response.

SSMA has no view.

Q97. Do you agree with the proposed approach for reconciliation of venues and the clarification in case of SIs? Please elaborate on the reasons for your response.

SSMA has no view.

Q98. What other aspects need to be considered with regards to the aforementioned approach to rejection feedback? Please detail the reasons for your response.

SSMA has no view.

Q99. Do you agree with the approach outlined above with regards to the missing valuations report? Are there any other aspects that need to be considered? Please detail the reasons for your response. ESMA REGULAR USE 239

SSMA has no view.

Q100. Do you agree with the approach outlined above with regards to the missing margin information report? Are there any other aspects that need to be considered? Please detail the reasons for your response.

SSMA has no view.

Q101. Do you agree with the approach outlined above with regards to the detection of abnormal values and the corresponding end-of-day report? Are there any other aspects that need to be considered? Please detail the reasons for your response.

SSMA has no view.

Q102. Is there any additional aspect related to the provision of reconciliation feedback by TRs that should be clarified? Please detail the reasons for your response.

SSMA has no view.

Q103. Is there any additional aspect related to the rejection of reports with action type “Revive” by TRs that should be clarified? Please detail the reasons for your response.

SSMA has no view.

Q104. Regarding the requirements in the RTS on registration, as amended, and the RTS on data access, as amended, do you need any further specifications and/or clarification?

SSMA has no view.

Q105. Are there any specific aspects related to the access to data based on UPI that need to be clarified? Please detail which ones.

As we have stated earlier SSMA is of the opinion that UPI should not be used or referred to before the standard is completely set and ready to use. Implementing it earlier will create uncertainty and poor reporting quality.

Q106. What access rights would you like to be clarified and/or which access scenarios examples would you consider to be inserted in the guidelines? Please list them all, if appropriate.

SSMA has no view.

Q107. Are there any aspects, or procedures you would like to be clarified? If yes, please describe in detail.

SSMA has no view.

Q108. Is there any other information that should be provided by the entity listed in Article 81(3) EMIR to facilitate the swift and timely establishment of access to data?

SSMA has no view.