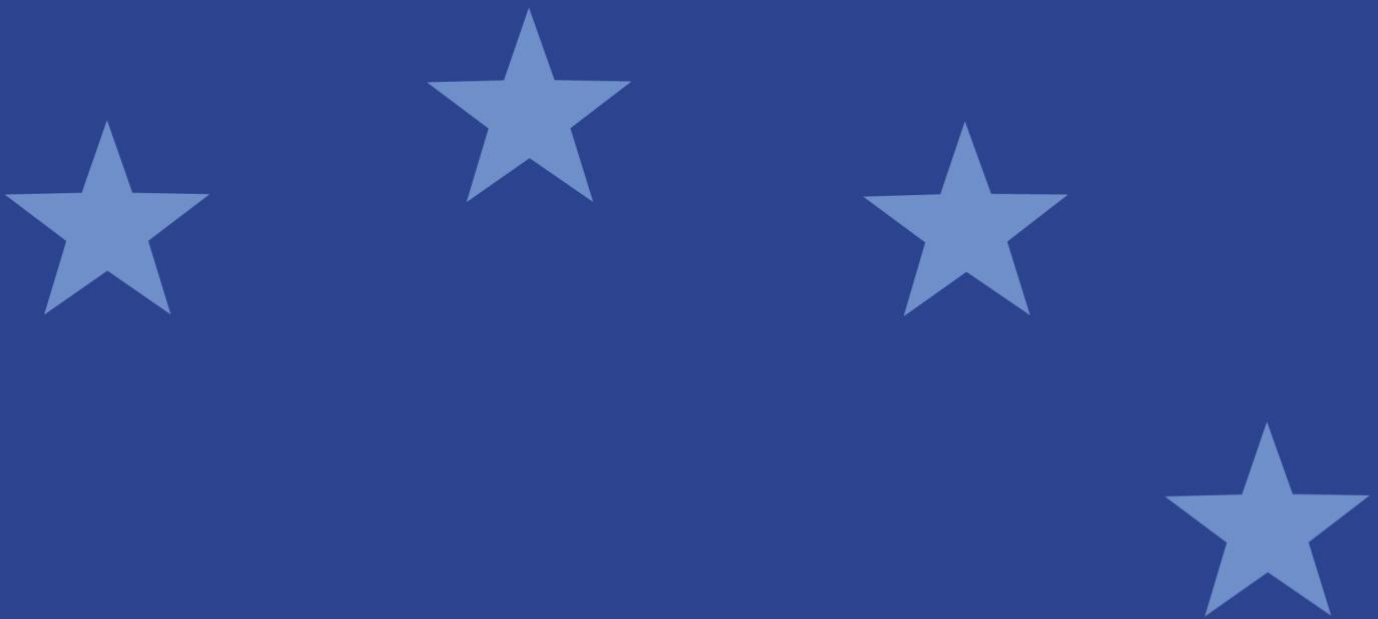




European Securities and
Markets Authority

Reply form for the Consultation Paper on the Guidelines on reporting under EMIR



Responding to this paper

ESMA invites comments on all matters in this paper and in particular on the specific questions summarised in Section 9 in the Consultation Paper on the Guidelines on reporting under EMIR published on the ESMA website.

Instructions

Please note that, in order to facilitate the analysis of the large number of responses expected, you are requested to use this file to send your response to ESMA so as to allow us to process it properly. Therefore, ESMA will only be able to consider responses which follow the instructions described below:

- use this form and send your responses in Word format (pdf documents will not be considered except for annexes);
- do not remove the tags of type <ESMA_QUESTION_REPO_1> - i.e. the response to one question has to be framed by the 2 tags corresponding to the question; and
- if you do not have a response to a question, do not delete it and leave the text “TYPE YOUR TEXT HERE” between the tags.
- if you wish to provide comments on the validation rules and/or reconciliation tolerances for the specific reporting fields, please use for that purpose the additional response form in excel format.

Responses are most helpful:

- if they respond to the question stated;
- indicate the specific question to which the comment relates;
- contain a clear rationale; and
- describe any alternatives ESMA should consider.

Naming protocol

In order to facilitate the handling of stakeholders’ responses please save your document using the following format:

ESMA_REPO_NAMEOFCOMPANY_NAMEOFDOCUMENT.

e.g. if the respondent were ESMA, the name of the reply form would be:

ESMA_REPO_ESMA_REPLYFORM or

ESMA_REPO_ANNEX1

Deadline

Responses must reach us by 30 September 2021.



All contributions should be submitted online at www.esma.europa.eu under the heading 'Your input - Consultations'.

Publication of responses

All contributions received will be published following the close of the consultation, unless you request otherwise. Please clearly and prominently indicate in your submission any part you do not wish to be publicly disclosed. A standard confidentiality statement in an email message will not be treated as a request for non-disclosure. A confidential response may be requested from us in accordance with ESMA's rules on access to documents. We may consult you if we receive such a request. Any decision we make not to disclose the response is reviewable by ESMA's Board of Appeal and the European Ombudsman.

Data protection

Information on data protection can be found at www.esma.europa.eu under the headings 'Legal notice' and 'Data protection'.



General information about respondent

Name of the company / organisation	FIA
Activity	Other Financial service providers
Are you representing an association?	<input checked="" type="checkbox"/>
Country/Region	Europe

Introduction

Please make your introductory comments below, if any:

<ESMA_COMMENT_REPO_1>

FIA welcomes the opportunity to respond to ESMA's consultation paper on 'Draft Guidelines for reporting under EMIR'. FIA's response focuses on the reporting of Exchange Traded Derivatives (ETDs) in line with the requirements set out within the consultation paper and the RTS submitted to the European Commission in December 2020. We commend ESMA's efforts to address areas of concern and provide clarification within the consultation paper. We are confident that the content set out within and further engagement with ESMA will enable market participants to comply with the requirements and ensure improved data quality, accuracy and completeness.

We hope to continue our engagement with ESMA on various elements of the reporting requirements, not least of all in relation to the reporting of futures and options traded on UK markets (post Brexit). Taking into account ESMA's confirmation that futures and options traded on UK markets are now to be reported as OTCs, further clarity is required to enable market participants to accurately report this subset of listed derivative activity as an OTC. Worked examples would be appreciated. One example where clarity is needed is to determine whether ESMA anticipates such trades being reported with a UPI rather than an ISIN. FIA members agree with ESMA's assessment that derivatives traded on, or admitted to trading on, a Trading Venue are expected to have a valid ISIN and that the ISIN continues to be the most efficient and practicable identifier for such derivatives. In addition, the reporting of such activity as OTC may also bring such trades into scope under the mandatory reporting obligation. Further steps should be undertaken in order to ensure consistent interpretation and implementation of the rules. FIA is pleased to offer our assistance to work with ESMA and other stakeholder throughout this process.

FIA commends ESMA's efforts to streamline reporting rules and harmonise reporting regimes, where practicable. One area where FIA is keen to continue working with ESMA is with respect to global standards and identifiers. With the benefit of time and education, we believe the ISIN, much like the LEI, is a mature identifier with authorities and market participants now experienced in the use of ISIN. With that being said, the success of global standard must also result in the reduced burden on reporting entities. ESMA is encouraged to consider removing the need to report underlying reference data fields for products identified with an ISIN.

We welcome ESMA's worked examples within the consultation paper and encourage ESMA to provide additional examples in certain areas in order to reduce ambiguity and the need for prolonged efforts to update Q&A. We have specified such areas within our response. Where appropriate, ESMA may consider the use of industry workshops to garner support and feedback when preparing worked examples.

About FIA:

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers.

FIA's mission is to:

- support open, transparent and competitive markets,
- protect and enhance the integrity of the financial system, and



- promote high standards of professional conduct.

As the principal members of derivatives clearinghouses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets.

<ESMA_COMMENT_REPO_1>



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

<ESMA_QUESTION_REPO_1>

As noted by ESMA in paragraph 12, outstanding ETD positions, at the time of go-live, will be modified daily and such reports must be in line with the revised requirements. As a result, FIA members anticipate an immediate go-live when the 18 month implementation period expires. Given that the additional 6 month transition period will not apply to open ETD positions, FIA members are working to ensure that all outstanding ETD positions can be reported in line with the new XML schema and reporting obligations as set out in the draft RTS.

FIA members are encouraged that ESMA acknowledges in paragraph 11 that during the implementation period and transition period, pairing and matching (reconciliation) rates will be impacted. FIA members encourage ESMA to consider communicating this to all relevant NCAs as we approach the expiration of the 18 month implementation period. In addition, we recommend that ESMA specifically mention that backlogging of terminated trades is not considered to be mandatory under the new reporting framework.

<ESMA_QUESTION_REPO_1>

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

<ESMA_QUESTION_REPO_2>

FIA members would appreciate further guidance on how ESMA foresees bank holidays impacting the eligibility of reporting. More specifically, how does ESMA define bank holidays and normal business days as they relate to FX derivative reporting?

Does the rule relating to T+3 settlement cycle, as outlined in paragraph 18, also apply when there is a bank holiday for at least one of the currencies in the days between T and T+3? Taking the example further, where execution occurs on T, T+2 and T+3 as bank holidays for at least one currency and T+4 is the settlement date, does ESMA consider this to be a reportable transaction?

Can ESMA clarify whether the reporting of cross currencies (for example, EUR/YEN) is impacted by the US holiday schedule?

<ESMA_QUESTION_REPO_2>

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

<ESMA_QUESTION_REPO_3>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_3>

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.

<ESMA_QUESTION_REPO_4>

FIA members recommend ESMA takes steps to define crypto-assets. Where this relates to derivatives on a physical product, the population of field 2.12 'Derivative based on crypto-assets' seems relatively straightforward. With that being said, further clarity would be appreciated where this relates to new products, including but not limited to, indices which include crypto-assets. In such scenarios, how does ESMA expect field 2.12, and other applicable fields, to be reported?

Given the expansion of new products which reference crypto-assets, ESMA is encouraged to consider how best to ensure that relevant details pertaining to the product are contained within the reference data rather than implementing further changes which require this information to be reported as part of the trade data.



Prioritising this data at reference data-level removes the likelihood of inconsistency where one counterparty considers field 2.12 'Derivatives based on crypto-assets' to be 'True' while the other counterparty considers this to be 'False' in line with their respective interpretation of the definition of a financial instrument under MiFID.

In addition, FIA members seek clarification from ESMA on how firms are expected to report the asset class for derivative contracts with a crypto-asset as the underlying. As ESMA is aware, ETDs are determined by the asset class which has been traded, therefore consideration must be given on whether crypto-assets should be categorised as a commodity, a currency or as a separate asset class specifically designed for crypto-assets. Given that the characteristics of a crypto-asset is not a perfect match for any existing asset class currently reported for EMIR, guidance from ESMA would help to ensure accurate reporting of field when reporting derivative contracts with a crypto-asset as the underlying.

<ESMA_QUESTION_REPO_4>

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.

<ESMA_QUESTION_REPO_5>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_5>

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.

<ESMA_QUESTION_REPO_6>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_6>

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

<ESMA_QUESTION_REPO_7>

Does ESMA consider weather derivatives (i.e. security/hedging against severe weather conditions like high/low temperatures or strong winds for power generation assets) to be reportable instruments under EMIR? Furthermore, does ESMA have a view on whether VER (Voluntary Emission Reduction) certificates and/or products relating to Green Gas Certificate Schemes or UK Allowances are reportable instruments under EMIR?

<ESMA_QUESTION_REPO_7>

Q8. Do you agree with the above understanding?

<ESMA_QUESTION_REPO_8>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_8>

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

<ESMA_QUESTION_REPO_9>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_9>

Q10. Do you agree with the above understanding?



<ESMA_QUESTION_REPO_10>
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<ESMA_QUESTION_REPO_10>

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

<ESMA_QUESTION_REPO_11>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_11>

Q12. Do you agree with the above understanding?

<ESMA_QUESTION_REPO_12>
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<ESMA_QUESTION_REPO_12>

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

<ESMA_QUESTION_REPO_13>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_13>

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

<ESMA_QUESTION_REPO_14>
Establishing an obligation on FCs to provide their NFC- counterparty with complete and up-to-date information relating to details of the derivatives that have been reported to a TR blurs the roles of each stakeholder in the reporting process. As the repository of reported data, one would expect that the relevant TR is best placed and most suited to provide such information upon request from the NFC- counterparty.

We remind ESMA that the mandatory reporting obligation under EMIR Refit was established in an effort to ease the burden on NFC- counterparties. It is unclear what ESMA believes to achieve by providing frequent (monthly) information on details of the derivatives that have been reported to a TR. Does this establish a new obligation whereby ESMA expects that the NFC- counterparty review and verify that data contained within the frequent reports? This proposal, as currently drafted, will place additional burden on NFC- counterparties as they will be required to establish an operational process to receive the data from multiple clearing members. This process does not seem practicable or in line with the spirit of the mandatory reporting obligation which aims to reduce the burden on NFC- firms. Further clarity and engagement from ESMA is required prior to establishing this additional process.

It should be noted that FCs should already be liaising with NFC- clients on portfolio reconciliation for outstanding contracts, with the obligation to verify the accuracy of the data being with the FC and not the NFC-. To address the challenges of non-standardised report formats and the ability to review their contracts on demand, an alternative solution would be for the NFC- counterparty to on-board to the TR used by the FC. This will allow the NFC- counterparty to view all their outstanding contracts on a single report regardless of which FC submitted the report and give the NFC- the option to view the reports on demand rather than monthly.

<ESMA_QUESTION_REPO_14>

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

<ESMA_QUESTION_REPO_15>
TYPE YOUR TEXT HERE



<ESMA_QUESTION_REPO_15>

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

<ESMA_QUESTION_REPO_16>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_16>

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?

<ESMA_QUESTION_REPO_17>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_17>

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

<ESMA_QUESTION_REPO_18>

FIA members recommends that ESMA clarify the language in paragraph 85 to state that counterparties and CCPs that are subject to reporting obligations under EMIR may delegate any task related to the reporting of data to a report-submitting entity (rather than limiting this to the reporting obligation).

<ESMA_QUESTION_REPO_18>

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

<ESMA_QUESTION_REPO_19>

We agree with this approach, although we note that the Implementation Technical Standards allow for 'NEWT' and 'EROR' to be reported. These should be removed.

Please correct the language in paragraph 101:

"Similarly, in the case of collateral data, action type 'Margin Update' should be used to report modifications of the collateral data, but not the corrections of the previously reported collateral details. In principle only one report per day, with action type 'Market Margin Update' is expected. However, if a counterparty identifies that it had submitted incorrect collateral data for a given day, it should submit a collateral report with action type 'Correct' for that day (specifying in the field 'Event date' and in the 'Collateral timestamp' the day for which the data are corrected)."

<ESMA_QUESTION_REPO_19>

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)?

<ESMA_QUESTION_REPO_20>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_20>

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

<ESMA_QUESTION_REPO_21>

Is further clarity needed with respect to the language in paragraph 112? FIA members consider this paragraph to be more helpful by amending as set out below:



“Reaching the scheduled maturity date is not an EMIR reportable event by the counterparties. No action type applies in this case, including but not limited to ‘Error (EROR)’ and ‘Terminate (TERM)’ due to the inconsistent interpretation between reporting entities.”

<ESMA_QUESTION_REPO_21>

Q22. Are there any specific scenarios in which the expected sequence of action types is unclear?

<ESMA_QUESTION_REPO_22>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_22>

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

<ESMA_QUESTION_REPO_23>

FIA members recommend that ESMA provide further examples for two Event Types: ‘Step-in’ and ‘Allocation’. Worked examples would assist reporting firms to improve the accuracy of data. More specifically, it would be useful to understand how these Event Types differ from each other. Considering the scenario where a deal novation occurs, would ESMA expect the Event Type ‘Step-in’ or ‘Allocation’ to be reflected within the relevant report?

<ESMA_QUESTION_REPO_23>

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?

<ESMA_QUESTION_REPO_24>

The guidance and additional colour relating to the various linking IDs is helpful and continued dialogue is necessary in order to ensure the IDs work as envisaged.

FIA members wish to emphasise that the reporting of Subsequent Position UTI is technically challenging and will offer little or no benefit to regulatory authorities for oversight of systemic risk in ETD markets. As highlighted to ESMA in the past, ETD positions, which are key to providing oversight of systemic risk in ETD markets, are generated independently by firms and CCPs as part of the end-of-day netting cycle on T+1. More importantly, there is rarely a one-to-one relationship between the executed trade and the end-of-day position into which the trade is compressed. One execution may ultimately end up across multiple positions. In this scenario, it is difficult to understand what benefit ESMA or the relevant NCA will gain from having the Subsequent Position UTI within the trade report. Would ESMA expect to see multiple Subsequent Position UTIs reflected within the underlying trade report? How would ESMA propose using this data? Further clarity from ESMA would be appreciated on whether it is possible to report more than one linking ID for a given trade and whether this applies to multiple linking IDs of the same kind (i.e. multiple Subsequent Position UTIs)?

<ESMA_QUESTION_REPO_24>

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?

<ESMA_QUESTION_REPO_25>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_25>



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

<ESMA_QUESTION_REPO_26>

With respect to the reporting of 'Maturity Date' at position level as described in paragraph 142, ESMA states that this should reflect the furthest maturity date in the future among the trades that are included in the position. FIA members recall dialogue with ESMA in March 2020 where ESMA confirmed that clearing member firms should replicate the Maturity Date as reported by the relevant CCP. As ESMA is aware, the reporting of Maturity Date has been a long-standing issue with many CCPs replicating the Settlement Date as Maturity Date given that the position remains on the CCP's books and records until settlement. This has been queried in the past given that the Settlement Date is captured within another field. Clearing members believe that this field is more accurate when populated with the 'last trade date'. In order to combat this inconsistency and to enable clearing members to replicate the Maturity Date, as reported by the relevant CCP, industry stakeholders have taken steps to remedy this issue by including the Maturity Date data within the CCP Harmonised File. FIA stands ready to discuss this industry initiative with ESMA at ESMA's convenience.

FIA members welcome the opportunity to comment on ESMA's guidance on the reporting of 'Execution timestamp' at position level. In paragraph 145, ESMA states that 'Execution timestamp' at position level should reflect the 'date of the trade that has the most recent execution timestamp'. FIA members disagree with ESMA's explanation on this field and note that existing best practice, documenting the prevailing market view, argues that Execution timestamp should be left blank for position level reporting. The primary rationale for this approach is based on the fact that positions are not executed in the same way that trades are. Capturing and reporting the execution timestamp which reflects the timestamp for the latest trade in a given position is complex given the potential for a late give-in which would require the re-reporting of the position. This additional and unnecessary complexity is with little or no benefit to oversight of systemic risk in ETD markets and should be avoided. Furthermore, it should be noted that ESMA's guidance does not align with CPMI/IOSCO's CDE definition of 'Execution timestamp' which defines this as the 'date and time a transaction was originally executed, resulting in the generation of a new UTI'. Considering this definition and the steps taken by ESMA and other policy makers to harmonise definitions, members argue that the 'Execution timestamp' is not an appropriate field for the reporting of positions which are generated independently by CCPs and clearing members by netting long (buy) or short (sell) transactions across the course of the day. FIA members encourage ESMA to reconsider this guidance and consider the need for an execution timestamp when reporting ETD positions.

In a similar way, FIA members disagree with ESMA's guidance relating to the reporting of the 'Clearing timestamp' at position level. As stated in paragraph 147, ESMA states that, at position level, this field should be reported using the Execution timestamp of the position as the two timestamps are expected to be equal for positions. FIA members note that current best practice is for reporting entities to report a default clearing timestamp of '23:59:00'. As noted, ETD positions are generated independently by CCPs and clearing members by netting long (buy) or short (sell) transactions across the course of the day. As such, FIA members remain unsure of the added benefit of reporting the Execution timestamp in this field. Selecting the latest timestamp adds an additional layer of complexity which may have a negative impact on the accuracy of reported data. Clearing members may close out trades in a different order to the CCP which could result in the reporting of different timestamps at position-level. ESMA is asked to reconsider the reporting of timestamps at position-level. Proportionality is an important feature when developing and implementing reporting requirements. Reporting Execution and Clearing timestamps for positions results in an onerous task with little or no benefit to regulators' oversight of systemic risk in ETD markets.

FIA members appreciate ESMA's confirmation that a review of the reconciliation fields will occur, as stated in paragraph 156, and we offer our assistance to work with ESMA and other stakeholders to review the fields for reconciliation in order to ensure that pairing and matching, and subsequent high levels of successful reconciliation rates, are achieved.

<ESMA_QUESTION_REPO_26>



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

<ESMA_QUESTION_REPO_27>

We request that ESMA reconsider the language relating to the reporting of net zero/flat positions as stated in paragraph 140. FIA members highlight that there is no benefit to reporting zero contract value on a daily basis as outlined in option b. In fact, the reporting of daily zero contract values for net zero ETD positions is likely to have a negative impact on oversight of systemic risk in ETD markets as this reduces oversight capabilities due to the increased volume of submissions for no benefit. Beyond the additional burden created by reconciling zero value reports, submitting a multitude of daily reports for zero contract values does not appear to be in the spirit of what EMIR reporting sets out to achieve (i.e. this enforces a reporting obligation to prove that zero exposure exists).

On a separate note, within paragraph 130, ESMA reiterates the view that 'reporting at position level is generally an option, rather than a requirement'. This view appears to be more relevant to the reporting of OTC derivatives, especially given the fact that there is general understanding that systemic risk can only be accurately assessed at position level for ETDs. As a result, we politely disagree with ESMA's continued assessment that reporting at position level is optional and must be agreed between the two counterparties. FIA encourages ESMA to reconsider this language and remove the voluntary nature of reporting ETD positions, especially given that this is common practice amongst reporting entities across the industry.

<ESMA_QUESTION_REPO_27>

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

<ESMA_QUESTION_REPO_28>

FIA members encourage ESMA to take steps to remove existing inconsistency regarding the generation and dissemination of the Report Tracking Number (RTN). Further clarity is requested from ESMA on what is expected within the field. Inconsistency in approach amongst Venues results in a multitude of values being reported, including but not limited to the UTI, the position UTI or the exchange execution ID within this field. Adopting a consistent value/identifier should be adopted for the RTN as this will improve the accuracy and usability of the data. Does ESMA have a view on what identifier/value should be used for RTN?

We encourage ESMA to consider improving the process for sharing identifiers. Historically, insufficient guidance from policymakers has resulted in a myriad of methods adopted by generating entities. Having more prescriptive policy/guidance would improve the processes and result in more efficient and accurate reporting.

<ESMA_QUESTION_REPO_28>

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

<ESMA_QUESTION_REPO_29>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_29>

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

<ESMA_QUESTION_REPO_30>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_30>

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

<ESMA_QUESTION_REPO_31>

TYPE YOUR TEXT HERE



<ESMA_QUESTION_REPO_31>

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

<ESMA_QUESTION_REPO_32>

Considering the scenario of a full novation. This trade event is EMIR-reportable for the remaining party but if the identifier LEI (Step-Out party/Step-In party) changes, the Action Type 'Modify' is incorrect (i.e. Terminate Step-Out and New Step-In required). Can ESMA provide guidance on this scenario?

In addition, we recommend that ESMA clarify table 5 and table 11 due to inconsistencies for novations, terminations and allocations between the two tables.

<ESMA_QUESTION_REPO_32>

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).

<ESMA_QUESTION_REPO_33>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_33>

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.

<ESMA_QUESTION_REPO_34>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_34>

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

<ESMA_QUESTION_REPO_35>

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<ESMA_QUESTION_REPO_35>

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

<ESMA_QUESTION_REPO_36>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_36>

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

<ESMA_QUESTION_REPO_37>

In paragraph 212, ESMA states that "when a position is the result of netting of the position to 0, if the counterparty 1 concluded a contract which requires the population of field Direction and was the seller in the derivative concluded at trade level, the counterparty 1 should report Seller in the Direction field. The other counterparty, in the same scenario, should report Buyer in the Direction field as it was the Buyer in the derivative concluded at trade level that resulted in the netting of the position."

Clearing members and CCPs agree that the counterparty side for net zero positions often leads to reconciliation breaks as counterparties might book or close down positions in different orders. ESMA



approach, as set out in paragraph 212, adds further complexity to the reporting logic with little benefits for regulators. The value zero is mathematically neither positive nor negative, therefore it is problematic assigning what is effectively a sign in the form of side for netted positions where the quantity by definition is zero. The current suggestion for the derivation of the side is error-prone and it would be better to embrace the non-sided property of the value. We kindly ask ESMA to remove the reconciliation of the counterparty side field when netting a position to 0. Alternatively, this field could be left blank when a position is netted to 0.

<ESMA_QUESTION_REPO_37>

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

<ESMA_QUESTION_REPO_38>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_38>

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

<ESMA_QUESTION_REPO_39>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_39>

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

<ESMA_QUESTION_REPO_40>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_40>

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

<ESMA_QUESTION_REPO_41>

FIA members commend and support the continued efforts of ESMA and other policy makers to adopt the use of global identifiers to improve the accuracy and usability of data. In addition, FIA members agree that further harmonisation is required. The use of the CFI code under EMIR remains unique in that other regions do not utilise the CFI within their reporting regimes. As a result, the reporting of CFI codes is a step away from harmonisation which appears to be out of sync with ESMA's objectives. With the adoption of the UPI, along with the mature ISIN structure, has ESMA considered removing CFI as an identifying code under EMIR?

<ESMA_QUESTION_REPO_41>

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?

<ESMA_QUESTION_REPO_42>

As noted in our response to Q41, FIA members support the use of consistent global standards and identifiers. The successful implementation of such standards will improve the accuracy and usability of reported data while also reducing the burden on reporting parties. FIA members agree with ESMA's assessment that derivatives traded on, or admitted to trading on, a Trading Venue are expected to have a valid ISIN and that the ISIN continues to be the most efficient and practicable identifier for such derivatives. With the added benefit of time and education, the ISIN system is now mature and both authorities and market participants are experienced in the use of ISIN. With that being said, the success of any global standard must also result in the reduced burden on reporting entities. Has ESMA considered removing the need to report reference data fields for products identified with an ISIN? Existing reporting obligations require



firms to report an identifier for both counterparties and contracts (e.g. LEI and ISIN) as well as parts of the data that sit underneath the identifier. This is both duplicative and problematic as firms are required to build not only to the identifiers but also the data that sits beneath them.

Taking into account ESMA's confirmation that futures and options traded on UK markets are to be reported as OTCs, does ESMA anticipate such trades being reported with a UPI? Notably, the concept of UPI was designed for complex, customisable contracts (OTCs). Retrofitting a model for listed derivatives which has been designed primarily for OTC adds unnecessary complexity to the reporting process. As such, FIA members remain confident that the ISIN provides the most granular method of identification for the reporting of listed futures and options. As a result, we encourage ESMA to confirm within their guidance that, where available, the ISIN should be used to accurately identify all listed derivatives.

<ESMA_QUESTION_REPO_42>

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

<ESMA_QUESTION_REPO_43>

ESMA has clarified that in certain scenarios counterparties must report the ISIN of the underlying index, if this is available. FIA members recommend that ESMA consider clarifying further on "if it is available".

Taking a particular example:

ISIN: DE0008469008 (DAX Performance Index) is publicly available, however, some underlying ISINs might require access to a specific ISIN system/data vendor.

Does the availability of underlying ISINs refer to as included in the confirmation (agreement)? Indexes (or custom baskets) are not necessarily managed by one of the counterparties. Having the information included in the confirmation could be blocking in the confirmation process or lead to legal risk as the confirmation might not be comprehensive. In the meantime, Index composition changes would not be shared and thus not reported by both counterparties (generating mis-reporting and matching breaks). This is also the case for Custom Baskets. ESMA is encouraged to provide more guidance on how index or basket composition could be shared.

<ESMA_QUESTION_REPO_43>

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

<ESMA_QUESTION_REPO_44>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_44>

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?

<ESMA_QUESTION_REPO_45>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_45>

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.

<ESMA_QUESTION_REPO_46>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_46>

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

<ESMA_QUESTION_REPO_47>

FIA members strongly recommend that ESMA provide additional clarity and worked examples on how the value of the contract should be determined. The inconsistencies across CCPs are known relating to the calculation methodology being used. Market participants would benefit from worked examples outlining the calculations used for different contracts types (settle-to-market and collateralise-to-market) as well as for different ETD and OTC products that are needed to harmonise the CCP valuation methodologies will facilitate aggregation of comparable CCP valuation data for regulators.

In order to achieve global harmonisation, improve efficiencies and reduce complexity of reporting logics, we recommend that EMIR aligns with the CDE guidance and definition of valuation amount to report the adjusted amount.

<ESMA_QUESTION_REPO_47>

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?

<ESMA_QUESTION_REPO_48>

We recommend ESMA to clarify in more detail the reporting of the delta relating to derivatives with multiple legs.

By way of example:

Weather Swap (with underlying constituents like temperature and solar radiation) and Oil Financials Basis Swap (underlying constituents are different indices). In paragraph 277, ESMA only mentions options and swaptions. Is it correct to assume that only those products would need to be reported with a delta value? Further guidance on this would be appreciated.

Does ESMA anticipate that data in relation to the delta is to be reconciled?

<ESMA_QUESTION_REPO_48>

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

<ESMA_QUESTION_REPO_49>

ESMA is asked to clarify whether this aligns with SFTR Guidelines of March 2021 (see Table 5 on p.26, para.116) regarding SFTR Collateral update reports. More specifically, the “expected” settlement is taken to mean contractual or intended settlement rather than actual settlement.

<ESMA_QUESTION_REPO_49>

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

<ESMA_QUESTION_REPO_50>

Additional guidance is highly recommended from ESMA in order to ensure consistent understanding and interpretation of ESMA’s expectations. FIA members recall changes implemented by ESMA under SFTR which have a direct impact on EMIR (extract below). Given that listed derivatives are standardised, venue-traded and cleared contracts, it is important that ESMA has a clear indication of what is a listed product compared to those that are complex and customizable (OTC) derivatives.



Article 32

Amendments to Regulation (EU) No 648/2012

Regulation (EU) No 648/2012 is amended as follows:

(1) In Article 2, point (7) is replaced by the following:

'(7) "OTC derivative" or "OTC derivative contract" means a derivative contract the execution of which does not take place on a regulated market within the meaning of Article 4(1)(14) of Directive 2004/39/EC or on a third-country market considered to be equivalent to a regulated market in accordance with Article 2a of this Regulation;'

(2) The following Article is inserted:

'Article 2a

Equivalence decisions for the purposes of the definition of OTC derivatives

1. For the purposes of Article 2(7) of this Regulation, a third-country market shall be considered to be equivalent to a regulated market within the meaning of Article 4(1)(14) of Directive 2004/39/EC where it complies with legally binding requirements which are equivalent to the requirements laid down in Title III of that Directive and it is subject to effective supervision and enforcement in that third country on an ongoing basis, as determined by the Commission in accordance with the procedure referred to in paragraph 2 of this Article.

As outlined by ESMA within the consultation paper, FIA members understand that, when reporting to an EU Trade Repository, an ETD contract executed on UK regulated markets must be reported as an OTC contract. This will have an impact on the fields 'Intragroup' and 'Clearing obligation' but also other fields. In addition, this will have an impact on the mandatory delegated reporting obligation whereby a FC executing with a NFC- counterparty may be required to consider a sub-section of their listed derivative activity as being in-scope under the mandatory reporting rules. In order to ensure that the details of the derivative contracts are reported correctly, and to avoid inconsistent interpretation, we recommend ESMA to provide examples of how to report derivatives executed on UK regulated markets as OTC. Further clarification is needed on whether ESMA's guidance applies to all third country, non-equivalent markets? FIA members are available to assist ESMA in order to reduce the complexity and burden on reporting entities and to ensure that reported data relating to listed derivatives is accurate and complete.

It should be noted that some TRs utilize different templates based on whether the contract is ETD or OTC, and to report ETDs executed on UK regulated markets using the OTC template will likely require time and efforts, assuming that TRs will continue to use different ETD and OTC templates once EMIR Refit goes live.
<ESMA_QUESTION_REPO_50>

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

<ESMA_QUESTION_REPO_51>

Since go-live, the industry position has always been to report exchange traded futures and options as ETDs, irrespective of whether an equivalence determination has been granted. The rationale for this approach stems from, amongst other things, the language set out in ESMA's Q&A ETD Q.1 which specifies an ETD contract being where 'the contract is subject to the rules of a trading venue and is executed in compliance with those rules *or on a similar trading venue outside the EU*'.

FIA members appreciate ESMA's efforts to clarify that trades executed on non-equivalent third country markets should be considered as OTC and should be reported as such. As noted in our response to a previous question, FIA members request further guidance in the form of worked examples which demonstrate to the industry how ESMA expects such trades, widely regarded as exchange traded derivatives, to be reported in line with their OTC counterparts. Furthermore, ESMA is asked to consider

clarifying further on whether this subset of listed derivative activity is also in scope for the mandatory reporting obligation as set out in EMIR Refit. FIA members stress the importance of a unified, consistent approach when determining what is in or out of scope for mandatory reporting in order to achieve the objective of reducing the burden faced by NFC- when executing EMIR-reportable derivative contracts. Failure to implement consistently may result in increased burden on NFC- firms where a subset of FC counterparties mandatorily report on the behalf of the NFC- while others do not.

What are ESMA's expectations regarding the treatment of futures and options which were executed post-Brexit on a UK market and were reported as ETDs to an EU trade repository?
<ESMA_QUESTION_REPO_51>

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

<ESMA_QUESTION_REPO_52>

Considering the scenario where a novation takes place but the parties fail to agree on the date and time for the purpose of reporting. In such instance, further clarity is needed concerning whether the date and time when the contract/novation agreement was executed should be reflected within the report as the date the "Execution timestamp"?

<ESMA_QUESTION_REPO_52>

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

<ESMA_QUESTION_REPO_53>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_53>

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

<ESMA_QUESTION_REPO_54>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_54>

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

<ESMA_QUESTION_REPO_55>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_55>

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

<ESMA_QUESTION_REPO_56>

The effective day for novations is the day on which obligations move from one party to another. This date is usually agreed in a contract (novation agreement). For cash-settled commodity derivatives there are several opinions in the market. The most accurate way to reflect this is to report the first day of the delivery period (01.11.2017 in ESMA's example from Table 21) and we recommend this date to be a mandatory field on all confirmations.

<ESMA_QUESTION_REPO_56>

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?



<ESMA_QUESTION_REPO_57>

Taking ESMA's example from Table 21 with one minor amendment – if we were to assume the last payment date is 15.04.2018 (in other words, this is after the last delivery date and the termination date is not explicitly given in the confirmation of this deal). In this scenario, some market participants report the last payment date while others report the last delivery date. Clear guidance from ESMA for deals where the termination date is not explicitly given in the confirmation would be appreciated and would help to create consistent reporting.

<ESMA_QUESTION_REPO_57>

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

<ESMA_QUESTION_REPO_58>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_58>

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

<ESMA_QUESTION_REPO_59>

Further clarity on this is needed. FIA members interpret ESMA's adoption of CDE recommendations relating to package transactions to result in a combination of existing requirements relating to 'Complex trades' and new requirements to identify data elements relating to 'Package transactions'.

FIA members are keen to stress that the definition of a 'package' and 'complex trade' are inherently different and we recommend ESMA to take steps to remove any ambiguity which may come as a result of these obligations. Is it appropriate to consider that a package and complex trade exists where one execution encompasses multiple strands of executions across asset class and financial instruments?

<ESMA_QUESTION_REPO_59>

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.

<ESMA_QUESTION_REPO_60>

When reviewing ESMA's proposed alternatives, Alternative A is the preferred assessment methodology amongst FIA members. As described by ESMA, Alternative B would require firms to monitor on a daily basis compared to the more efficient process of managing this on a monthly basis as set out in A.

Where an entity is reporting on another party's behalf (either through delegated reporting or as a result of the mandatory reporting obligation), it is ESMA's view that the reporting party is obliged to notify the counterparty's NCA of any *significant* issues impacting reporting on the other party's behalf? This is important to consider given that most firms manage their own individual relationship with their respective NCA. If ESMA is of the view that the reporting entity should notify its counterparty's NCA of significant issues when performing delegated reporting or reporting in compliance with the mandatory reporting obligation, FIA members encourage ESMA to take steps to elaborate on this.

In addition, defining 'significant' should not limit the existing relationship and dialogue that exists between a counterparty and their respective NCA. If a market-wide issue were to occur (for example, a vendor supplied incorrect reference data which is used within reports), such event is likely to be reported to a NCA multiple times by multiple FCs. Has ESMA considered how to tackle such market-wide events which could result in NCAs being inundated with notifications?

<ESMA_QUESTION_REPO_60>



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_QUESTION_REPO_61>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_61>

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.

<ESMA_QUESTION_REPO_62>
It is the view of FIA members that the significance of a reporting issue should also be assessed against a quantitative threshold. Assessing significant issues without a quantitative threshold would be an operational burden for reporting counterparties, and will likely result in a large number of reported issues to NCAs.

We agree that the same metrics can be used for assessing the quantitative threshold, where alternative A is the preferable method.
<ESMA_QUESTION_REPO_62>

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.

<ESMA_QUESTION_REPO_63>
In order to have a common understanding of key metrics and thresholds to assess the scope of notifications as well as reducing the burden of calculating thresholds for each ERR or RSE, we encourage ESMA to request that Trade Repositories share monthly statistics relating to the number of submissions (as outlined in paragraph 371) and/ or daily number of submissions (as referenced in paragraph 372) with ERR or RSE.

In an effort to establish a common understanding of key metrics and thresholds to assess the scope of notifications as well as reducing the burden of calculating thresholds for each ERR or RSE, ESMA should consider the benefit of establishing less burdensome procedures by introducing explicit requirements with regards to only the utmost important significant issues for the monitoring of systemic risks to financial stability.

In paragraph 384, ESMA clarifies that the requirement to notify misreporting should not include notifications of individual reconciliation breaks. However, in paragraph 385 c), ESMA states that incorrect or inconsistent interpretation of the content of the fields (e.g. in dispute with the other counterparty) should be understood as a significant issue and thus be reported to NCAs. FIA members consider the above to be conflicting and asks that ESMA provide more guidance to alleviate any confusion. As previously noted to ESMA, inconsistent interpretation of the content of the fields is the primary reason for individual reconciliation breaks. With that being said, inconsistent interpretation does not mean that the reporting is incorrect. Notifying NCAs of every inconsistent interpretation would not only result in an extremely large volume of notifications for which the relevant NCA would struggle to manage, but this would also place a heavy burden on CCPs and counterparties requiring them to report every individual reconciliation break, which ESMA states is not required (see paragraph 384). It is important to examine whether this information would be useful for NCAs, in particular as this information is available in the TR reconciliation feedback. We therefore request that ESMA remove point c) under paragraph 385.
<ESMA_QUESTION_REPO_63>

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

<ESMA_QUESTION_REPO_64>



TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_64>

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

<ESMA_QUESTION_REPO_65>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_65>

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

<ESMA_QUESTION_REPO_66>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_66>

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?

<ESMA_QUESTION_REPO_67>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_67>

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?

<ESMA_QUESTION_REPO_68>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_68>

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

<ESMA_QUESTION_REPO_69>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_69>

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

<ESMA_QUESTION_REPO_70>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_70>

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.

<ESMA_QUESTION_REPO_71>
FIA members strongly believe that Option C which refers to using full agreement between counterparties should be avoided given that this approach is likely to result in multiple reporting logics to facilitate different agreements between counterparties. It is the view of FIA members that TR reconciliation process apply on currencies irrespective of whether these are reported in leg 1 or leg 2.
<ESMA_QUESTION_REPO_71>



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.

<ESMA_QUESTION_REPO_72>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_72>

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

<ESMA_QUESTION_REPO_73>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_73>

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?

<ESMA_QUESTION_REPO_74>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_74>

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

<ESMA_QUESTION_REPO_75>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_75>

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

<ESMA_QUESTION_REPO_76>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_76>

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

<ESMA_QUESTION_REPO_77>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_77>

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.

<ESMA_QUESTION_REPO_78>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_78>

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.

<ESMA_QUESTION_REPO_79>



TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_79>

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.

<ESMA_QUESTION_REPO_80>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_80>

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

<ESMA_QUESTION_REPO_81>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_81>

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.

<ESMA_QUESTION_REPO_82>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_82>

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

<ESMA_QUESTION_REPO_83>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_83>

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.

<ESMA_QUESTION_REPO_84>
In case Approach B is followed, TRs should update the TSR in line with (EU and all local EU member states) record keeping requirements in order to maintain a full audit trail.
<ESMA_QUESTION_REPO_84>

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

<ESMA_QUESTION_REPO_85>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_85>

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

<ESMA_QUESTION_REPO_86>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_86>

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.

<ESMA_QUESTION_REPO_87>

While FIA members acknowledge ESMA's opinion on the need for a deadline, we believe that a 30 day deadline remains too short. It is important to note that many processes run on a monthly basis, with checks being performed after those 30 days, many of these being performed on a quarterly basis. In addition, firms often face the situation where one of the party errors on their side due to a technical error or a misunderstanding of their own obligations (e.g. exiting deals that reach maturity date). It often takes longer than 30 days to identify the error and discuss it between both parties. We do not recognise the necessity to remove deals that were 'Errored' only by one of the parties to the trade. Derivatives should not be removed when only one side sends an Error. As a result, we disagree that a 30 day limit should be imposed on Reviving trades. A UTI should be consistent for the life of a trade even if the trade has been moved to an inactive status in error.

<ESMA_QUESTION_REPO_87>

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.

<ESMA_QUESTION_REPO_88>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_88>

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.

<ESMA_QUESTION_REPO_89>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_89>

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

<ESMA_QUESTION_REPO_90>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_90>

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.

<ESMA_QUESTION_REPO_91>

FIA recommends ESMA to clarify the scope of data subject to reconciliation with respect to countries joining the EU. Considering the scenario whereby Switzerland were to join the EU as of 01/01/2025, is a derivative having Execution timestamp 31/12/2024 in scope for reconciliation or would this only apply for new derivatives following Switzerland joining the EU?

<ESMA_QUESTION_REPO_91>

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.



<ESMA_QUESTION_REPO_92>

FIA members welcome the approach of reconciling derivatives reported at position level for the latest event date applicable to both counterparties (i.e. taking the so called 'latest is greatest' approach). Furthermore, we believe that the timeline for reconciliation of derivatives at position level is a step forward in improving the reconciliation process as it decreases the risk of reconciliation breaks due to counterparties report on different dates (T vs. T+1). With that being said, FIA members do not see the benefits of having different reconciliation approaches between trades and positions. We therefore recommend ESMA to align the trade reconciliation approach with the one for positions.

<ESMA_QUESTION_REPO_92>

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.

<ESMA_QUESTION_REPO_93>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_93>

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

<ESMA_QUESTION_REPO_94>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_94>

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

<ESMA_QUESTION_REPO_95>

With no clear guidance from ESMA it will not be possible to match the same correct legs with a counterparty at all times, especially for parties that trade with a vast amount of different counterparties. Of the 2 options presented within the consultation paper, Alternative B is the preferred option given that the TRs match the legs based on the direction of the leg. Moving the technical burden (signage/reporting direction) without any impact on data quality for monitoring of systemic risks to financial stability reduces the overall costs of compliance. ESMA is asked to give clear guidance on how to report (e.g. first leg always receive). With this solution, all counterparties and the TRs do not need to agree on anything, which reduces compliances risks and mismatching issues.

<ESMA_QUESTION_REPO_95>

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

<ESMA_QUESTION_REPO_96>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_96>

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.

<ESMA_QUESTION_REPO_97>

TYPE YOUR TEXT HERE

<ESMA_QUESTION_REPO_97>

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



<ESMA_QUESTION_REPO_98>
TYPE YOUR TEXT HERE
<ESMA_QUESTION_REPO_98>

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_QUESTION_REPO_99>
FIA members agree with most éléments presented by ESMA within the consultation paper, however we believe it is important to note that paragraph 612 (b) may result in unwanted warning reports. Firms have experienced instances where counterparties (FCs) report derivatives on behalf of a NFC-. While doing so, they also reported valuations, at least once, for the NFC- whereas the NFC- never had the obligation to report valuations. Trade Repositories currently disseminate warning reports for missing valuation reports, the NFC- received those reports on a daily basis although they never sent anything wrong and they also took care of their responsibility to monitor what the FC has reported on behalf of the NFC-. We are of the view that the TR should send such missing valuation reports only if the respective party has the obligation to report valuations in the first place. This is indicated by trade reports for the derivatives (Non-Financial Counterparty and Below the Clearing Threshold).

FIA members strongly recommend ESMA to consider the following points:

- a) Who is the recipient of the missing valuations report in the case of reporting counterparties, ERRs and RSEs being different LEIs?
- b) Replacement of "any outstanding derivative for which field 2.21 Valuation amount was never reported" by "any outstanding derivative post Trade Date (T+1) in scope of valuation reporting requirements for which field 2.21 Valuation amount was never reported".

Furthermore, 100% matching of valuations between two counterparties in an uncleared transaction is unlikely to occur. As a result, we request ESMA to rollout various tolerances for valuation reconciliation (e.g. absolute values must be within 10% of each other).

<ESMA_QUESTION_REPO_99>

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.

<ESMA_QUESTION_REPO_100>
FIA members request that ESMA consider the following points:
a) Who is the recipient of the missing margin information report in event that the reporting counterparties, ERRs and RSEs are represented by different LEIs?
b) Replacement of "any outstanding derivative for which UTI margin report was never reported with action type 'NEWT' (or it was reported but then errored)" by "any outstanding derivative post Trade Date (T+1) in scope of margin reporting requirements for which UTI margin report was never reported with action type 'NEWT' (or it was reported but then errored)".
<ESMA_QUESTION_REPO_100>

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.

<ESMA_QUESTION_REPO_101>
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<ESMA_QUESTION_REPO_101>



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.

<ESMA_QUESTION_REPO_102>

FIA members recommend ESMA to clarify the language set out in paragraph 629 that Reconciliation categories "Reconciliation" is related to "those derivatives for which all the reconcilable fields beyond valuation fields are within the allowed tolerances of reconciliation".

According to paragraph 629, the TRs should identify as reconciled only those derivatives for which all the reconcilable fields are within the allowed tolerances of reconciliation. Currently, the TRs apply categories 1 and 2 matching fields. Losing the distinction of categories 1 and 2 would make reporting firms' work with regards to reconciliation breaks much more difficult and risks losing focus on field prioritization. For many counterparties the records which are a perfect match on category 1 and 2 are due to delegated reporting as the data is a mirror report from the same system as opposed to a reconciliation between two counterparties with different systems. Therefore regulators may be comparing the size of reporting entities delegated reporting business by only measuring the perfect reconciliation rates as opposed to its consistency of reporting against counterparties which report independently. One of the big challenges for monitoring matching rate progress is that trade or position records with one category 1 field mismatch are equally weighted to a record with many mismatches (i.e. both are a binary unmatched status). We would propose that a percentage match or matching percentage status bands would assist CCPs and counterparties to better progress of their efforts to resolve reporting inconsistencies.

In addition to this, there are only two allowable values in the category of valuation reconciliation – 'reconciled' and 'not reconciled'. FIA members remind ESMA that ETD trades are reported with action type 'Position component' and are thus considered as non-outstanding. Subsequent valuation updates are reported at position level, and not on trade level. Since there are only two allowable values in the valuation reconciliation category, and valuation is not reported for ETD trades, we assume that ETD trades will always be labelled as 'not reconciled' in the category of valuation reconciliation. This would be misleading. We therefore encourage ESMA to add 'not applicable' as a value in the category of valuation reconciliation, which should be used for non-outstanding trades. Similar, 'not applicable' would also be used when the other counterparty is not required to report valuation.

<ESMA_QUESTION_REPO_102>

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.

<ESMA_QUESTION_REPO_103>

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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?

<ESMA_QUESTION_REPO_104>

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<ESMA_QUESTION_REPO_104>

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

<ESMA_QUESTION_REPO_105>

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<ESMA_QUESTION_REPO_105>

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.

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

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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?

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