

ESMA Updates Regulation Q&As & Consults on SFTR Guidelines

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ESMA Updates Q&As on CSDR, EMIR, MiFID II and MiFIR

On July 8, the European Securities and Markets Authority (ESMA) published updates to a number of Q&As in respect of various European Union (EU) regulations as set out below:

- the Central Securities Depositories Regulation (CSDR) — the Q&A explores the implementation of the settlement discipline regime and clarifies that, for the purpose of initiating a buy-in process, the concept of ‘business days’ under CSDR refers to the definition given in the rules of the securities settlement systems where the settlement fail occurred (CSDR Q&A);
- the European Markets Infrastructure Regulation (EMIR) — the EMIR Q&A discusses practical questions regarding data reporting issues. For instance, the updated trade repository (TR) Q&A 11(b) clarifies that counterparties should follow their local time and the relevant calendar of their Member State to specify the ‘working day’ in the context of determining the deadline for reporting under EMIR. This clarification should be applied even if the two counterparties to the same derivative follow different calendars and/or are located in different time zones, meaning that each counterparty should follow its own local calendar and use the local time to determine the deadline for reporting (EMIR Q&A);
- the Markets in Financial Instruments Directive (MiFID II) and Regulation (MiFIR) — the new Q&A provides technical clarifications for the performance of the mandatory systematic internaliser (SI) test. The Q&A specifies how the number of transactions and the nominal amount traded of a derivative shall be allocated when a derivative contract changes over the observation period from one sub-class to another (MiFID II and MiFIR Transparency Q&A); and
- the Market in Financial Instruments Regulation (MiFIR) — the Q&A provides clarifications in

relation to the reporting requirements for submission of transaction reports under MiFIR. In particular, the new Q&A provides two reporting scenarios where an investment firm executes a transaction through an execution algorithm provided by another firm (MiFIR Data Reporting Q&A).

The CSDR Q&A is available [here](#).

The EMIR Q&A is available [here](#).

The MiFID II and MiFIR Transparency Q&A is currently unavailable, as we understand that the version circulated in the relevant ESMA press release (available [here](#)) is not the latest version of the Q&A. We will update this link when available.

The MiFIR Data Reporting Q&A is available [here](#).

ESMA Consults on Guidelines for Calculating Positions under SFTR

On July 9, the ESMA published a consultation (the Consultation) regarding draft guidelines (the Guidelines) on the calculation of positions by trade repositories (TRs) under the Securities Financing Transactions Regulation (SFTR).

The aim of the Guidelines is to ensure consistency of position calculation across TRs with regard to the time of calculations, the scope of the data used in calculations, the data preparation, the recordkeeping of data and the calculation methodologies.

ESMA notes that high-quality position data is necessary for the assessment of systemic risks to financial stability by the relevant authorities. These Guidelines intend to also ensure a consistent methodology is used under EMIR and SFTR, while still reflecting the specificities of reporting securities financing transactions.

The closing date for responses to the Consultation is September 15. ESMA will consider the responses to this consultation with a view to finalizing the proposed Guidelines and publishing a final report in Q4 2020 or Q1 2021.

The Consultation is available [here](#), and the Guidelines are available [here](#).

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