



**EACH response to the European
Commission consultation on fitness check
on supervisory reporting**

March 2018

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1. Introduction

The European Association of CCP Clearing Houses (EACH) represents the interests of Central Counterparties Clearing Houses (CCPs) in Europe since 1992. EACH currently has 19 members from 15 different European countries and is registered in the European Union Transparency Register with number 36897011311-96.

EACH welcomes the possibility to respond to the European Commission consultation paper on fitness check on supervisory reporting. EACH fully supports a more simplified and streamlined EU supervisory reporting regime and welcome the initiative of the European Commission to address this important subject.

CCPs are generally subject to different reporting regimes like EMIR, MiFID II/MiFIR or REMIT. This creates heavy reporting burdens and consequently the need to streamline the requirements in order to **avoid double reporting**. However, we would like to raise awareness that what considerably raises compliance costs are **the number of entities that should be receiving the reports**. In order to comply with the reporting regimes under different legislations, CCPs have to set up connections with countless supervisory authorities, such as ESMA and different national competent authorities (NCAs). Different legislations establish different reporting formats and require different interfaces with different testing environments. Each separate receiver has different technical requirements and validations. Every system change on the side of the receiver puts a heavy burden on the reporter. We would therefore encourage **the Commission to only introduce changes that will dramatically simplify reporting** (e.g. the automated ticket system introduced to facilitate REMIT reporting to ACER is of great help and should be expanded to other reporting requirements as well).

Additional burden particularly stems from different data formats for identical data that has to be reported to different receivers. If the obligation to send the data to different receivers cannot be eliminated entirely, the **formats for these identical data should at least be standardised**. For instance, certain field names are identical in REMIT and EMIR, but the format and details to be reported are not identical (e.g. delivery start time and delivery end time must be reported in local time under REMIT and in Coordinated Universal Time (UTC) under EMIR).

Finally, we would request **timely guidance on the implementation of reporting requirements, in the form of Q&As**. The lack of timely guidance creates room for interpretation, creating uncertainties in the market, as well as different approaches across the industry.

2. Assessing whether the supervisory reporting requirements are fit-for-purpose

Question 1.1: Taken together, to what extent have EU level supervisory reporting requirements contributed to improving the following:

i) Financial stability (i.e. monitoring systemic risk)

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- Don't know

Please elaborate and provide examples to justify your answer.

We agree that EU level supervisory reporting requirements have contributed to a certain extent to improving financial stability.

Prior to the implementation of EMIR, NCAs did not have oversight from a systemic perspective of over-the-counter (OTC) derivatives. It should be noted that the EU was one of the only jurisdictions around the globe to include Exchange Traded Derivatives (ETDs) for systemic reporting purposes. By their very nature, ETDs are centrally cleared and a 'golden source' of the transaction is held at the CCPs. These are subject to oversight from NCAs.

EMIR reporting regime was designed primarily with OTC derivatives in mind. However, there is a way to greatly reduce the operational and financial burden on reporting firms with no loss of systemic risk oversight for regulators under EMIR for ETD data. This would be achieved by **moving from transaction to position-based reporting for ETDs whilst providing regulators with the necessary information required to carry out their mandate with regard to systemic risk oversight.**

ETDs operate in a different way to OTC derivatives. The reporting fields that are relevant to OTC derivatives are not necessarily relevant to or accurate for ETDs and this could raise some inefficiencies. In addition, prior to EMIR reporting, the majority of the information was already held within CCPs which are subject to rigorous oversight by NCAs. NCAs continue to access information from CCPs on a regular basis outside of the EMIR reporting framework.

ii) Market integrity (i.e. surveillance of market abuse and orderly functioning of the markets)

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all

- o Don't know

Please elaborate and provide examples to justify your answer.

We understand that there is limited insight as to whether ESMA can use the EMIR data in order to monitor systemic risk. For EMIR's double-sided reporting approach, the biggest issue results from the insufficient reconciliation of each reporting side. Based on our experience, it appears that the majority of reports are unreconciled and therefore not useful for surveillance.

Question 1.2: Are all of the existing supervisory reporting requirements relevant for maintaining financial stability and upholding market integrity and investor protection?

- o Yes, they are all relevant
- o Most of them are relevant
- x Some of them are relevant
- o Very few are relevant
- o Don't know

If you do not think that all of the requirements are relevant, please provide specific examples of any requirements which in your view are superfluous and explain why you believe they are not necessary.

ETD transactions are reported under MiFID II and EMIR with an overlap of reported data. Transaction reporting for ETD does not add any value on top of the position reporting requirements of EMIR with respect to monitoring systemic risks. Therefore, **EMIR transaction level reports can be switched off with no loss of regulatory oversight.**

Position level reporting is currently regarded as a supplement to trade level reporting for ETD contracts in order to allow reporting of life cycle events. Although there is no general obligation to report positions, **it is the position reporting that provides the relevant information to monitor systemic risk.** If EMIR reporting is shifted from transaction reporting to a position reporting-only obligation it would be more efficient as MiFID II reporting is additionally covering position and transaction reporting.

For example, power and gas contracts are covered by different reporting regulations (EMIR, REMIT and MiFID II) leading to high reporting burdens for CCPs and trading venues and forcing the need for a bigger alignment and avoidance of double reporting.

EMIR requires certain commodity information, especially for Gas and Power, to be reported to authorities, while this information is already being reported to the same extent to ACER under REMIT. As REMIT aims to ensure integrity and transparency on the wholesale energy market it adds no value to report detailed information on the delivery of power and gas products under EMIR. A closer alignment and harmonisation is therefore highly recommended.

Question 1.4: To what extent are supervisory reporting requirements across different EU level reporting frameworks coherent (e.g. in terms of scope, content, methodology, timing/frequency of submission, etc.)?

- Fully coherent
- Mostly coherent (a few or minor inconsistencies)
- Somewhat coherent (numerous inconsistencies)
- Not coherent (mostly or totally inconsistent)
- Don't know

Please provide specific examples of reporting requirements which in your view are inconsistent and explain why you believe they are inconsistent.

Please note that one EACH member does not support the answer to this section.

EACH finds it difficult to establish what is the base line for the industry to comply with increasing reporting requirements. In the EU, there seems to be inconsistencies in the reporting requirements included in EMIR, MiFID and REMIT. The potential for inconsistent and/or duplicated reporting requirements is also felt at the global level, where the Financial Stability Board (FSB) plans to aggregate Securities Financing Transactions (SFTs) data and the International Organisation of Securities Commissions (IOSCO) plans to revise Unique Transactions Identifiers (UTIs).

An example of the **incongruity between EMIR and REMIT** is the 'Delivery point or zone' field for commodities contracts. ESMA's Validation Table of 27/04/2015 states that TRs shall implement a validation on this field such that, '[w]hen populated, this field shall contain an EIC code as specified in the EIC Area Codes (Y) code list and pertaining to a delivery point within the European Union.' However, ACER's Transaction Reporting User Manual ('TRUM') instructs counterparties reporting under REMIT to populate 'Delivery point or zone' with an EIC (Z) code when gas can be delivered at the relevant interconnection point. Therefore, a TR would be required to reject the trade under EMIR if the counterparty rightfully reported a Z code under REMIT. Besides, reporting such contract reference data as delivery points for standardised exchange traded energy products is unnecessarily duplicative.

An example of the **incongruity between EMIR and the MIFIR** proposals for market data reporting is the proposed requirement under MIFIR which requires decreases and increases in notional amount to be reported as new transactions. However, counterparties reporting under EMIR report this as modifications to the original contract.

With regard to scope of Article 9 (Reporting requirements), EACH has concerns about the reporting requirements for ETD contracts. A complete record of all ETD contracts is already available from CCPs. The sheer number of ETD transactions has resulted in significant challenge for regulators and trade repositories to consume the data in a meaningful way. **The requirement to report ETD contracts represents a major competitive disadvantage**

for European reporting entities compared to other jurisdictions like the US and is out of the scope of the original G20 mandate agreed in Pittsburgh.

EACH would encourage the Commission **to align the trade reporting requirements under EMIR with the reporting requirements under MIFID II and REMIT in order to ensure greater consistency and data accuracy.**

Furthermore, the **current plan to have Securities Financing Transactions which are not reportable under SFTR** (e.g. transactions with central banks) **reported under MiFIR is from our point of view greatly inefficient.** It would be a lot simpler for the reporting logic, data flow and supervisory systems to treat SFTs only in the SFT specific regulation instead of having a part of it reported under MiFIR. Therefore if supervision of SFT transactions with central banks is required, they should be reported under SFTR and not under MiFIR where the necessary data fields are missing anyway and where a major effort would be required to connect the source systems to a MiFIR NCA/ARM in addition to an SFTR Trade Repository.

Question 1.5: To what extent is supervisory reporting in its current form efficient?

- Very efficient
- Quite efficient
- Rather inefficient
- Very inefficient
- Don't know

If you think that supervisory reporting is not fully efficient, please provide specific examples and explain why you believe it is not efficient.

With regard to the current transaction reporting under EMIR, it would seem that an improved oversight for regulators could be achieved by **further strengthening the inter-TR reconciliation process.** TRs would need to ensure improved performance of their systems in order to facilitate timely and accurate pairing and matching of records

Moreover, EACH is concerned about the requirements to use new reporting standards different to the ones agreed internationally. Using existing standards would avoid unnecessary translation of existing clear trade confirmation data into new concepts. Prescribed standards provide no additional increase in the data quality or validation of data. For example, FIXML and FpML have a practical way to record (e.g. notional schedule) and trying to introduce the concepts of original and current notional amount through EU legislation would make their prescribed fields unnecessarily different and ambiguous.

Under EMIR, reconciliation between the transaction reports from the two counterparty sides is very inefficient since for many data fields the field 'definitions' is still ambiguous. This also makes the reconciliation between Trade Repositories inefficient.

It would be helpful to have EMIR Reporting Guidelines similar to the MIFIR Guidelines with clear data field examples for different transaction types.

EMIR reporting was designed with the reporting of OTC derivatives in mind. This has created some **inefficiencies in terms of the reports that ETD markets provide**. For example, the margin fields in EMIR trade reports are designed to capture the OTC bilateral margin rules. This means for some CCPs that a subjective decision had to be made on how the field would be populated to give an accurate picture to the regulator (for example, where there is VM offsetting for IM requirements). This had to be explained to the NCA to demonstrate compliance, but the reports might not be intuitively understood by central authorities as the details of the ETD do not neatly fit the EMIR report fields.

Separately, CCPs have provided similar (or identical) data to different regulatory bodies, direct to NCA's and then direct to central supervisory bodies. Often the reporting formats are different resulting in a long lead time for regulators to get the data they require. Sharing of data between regulators would be efficient, and using common formats would often save costs for all parties.

Question 1.7: To what extent has the adoption of supervisory reporting requirements at EU level facilitated supervisory reporting in areas where previously only national requirements existed?

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- It has made supervisory reporting more complicated
- Don't know

Please elaborate and provide specific examples.

In our perception EU-wide rules have simplified the reporting for firms active across many different countries.

Question 1.8: To what extent have options left to Member States in terms of implementing EU level supervisory reporting requirements (e.g. due to their adoption as Directives rather than Regulations) increased the compliance cost?

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- Don't know

If you think divergent Member State implementation has increased the compliance cost, please provide specific examples of reporting frameworks or requirements where you believe this to be the case and explain your suggestion.

In the context of MiFID II position and transaction reporting there are **different standards with respect to the units that need to be reported**. This creates additional technical requirements and confusion with respect to market participants.

Additionally, there is a **lack of harmonisation or harmonisation comes only at a very late stage in the process by providing Q&A documents**. This lack of guidance, for instance by ESMA, is leaving room for interpretation for national competent authorities and also within the market (e.g. reporting obligation is not defined accurately leading to uncertainties).

Question 1.9: Are there any challenges in terms of processing the data, either prior to (i.e. within the reporting entity) or subsequent to (i.e. within the receiving/processing entity) it being reported?

- Yes
- No
- Don't know

If you answered 'yes', please elaborate and provide specific examples.

Under EMIR the field 'definitions' is still unclear for some fields which make it difficult to reconcile with the counterparty. Furthermore the different formats used by TRs also add complexity and costs.

Due to the strict reporting deadlines technical issues during the reporting process put high time pressure on the reporting entity. In addition, the required data is often strictly confidential while requiring respective IT security standards and sufficient IT infrastructure in order to process hundreds of thousands of data needs to be built.

3. Quantifying the cost of compliance with supervisory reporting requirements

Question 2.1: Is supervisory reporting in its current form unnecessarily costly for its intended purposes (i.e. ensuring financial stability, market integrity, and investor protection)?

- Yes
- No, it is at an appropriate level
- Don't know

Question 2.2: To what extent have the following factors contributed to the excessive cost of supervisory reporting? Please indicate the relevance of the following factors by giving each a rating from 0 to 4 (4: contributed greatly; 0: not contributed at all).

	0	1	2	3	4	Don't know / not applicable
Too many requirements					X	
Need to report under several different reporting frameworks					X	
Need to report to too many different entities					X	
Lack of interoperability between reporting frameworks and/or between receiving/processing entities or supervisory authorities				X		
Need to report too frequently	X					
Overlapping requirements			X			
Redundant requirements			X			
Inconsistent requirements			X			
Unclear/vague requirements					X	
Insufficient use of (international) standards					X	
Need to introduce/update IT systems					X	
Need for additional human resources					X	
Too many/too frequent amendments in the relevant legislation					X	
Lack of a common financial language		X				

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Insufficient use of ICT Note: use of ICT is understood as presenting data in an electronic format rather than on paper and /or submitting it using electronic means (e.g. by email, via an online template) rather than by post or in person.						X
Insufficient level of automation of the reporting process Note: automation is understood as reducing or even fully eliminating human intervention from the supervisory reporting process.		X				
Lack of (adequate) technical guidance/specifications				X		

Question 2.3: To what extent have the following types of legislative/regulatory requirements been a source of excessive compliance costs in terms of supervisory reporting? Please indicate the relevance of the following types of legislative/regulatory requirements by giving each a rating from 0 to 4 (4: very significant source of costs; 0: not at all a source of costs).

	0	1	2	3	4	Don't know / not applicable
Supervisory reporting requirements imposed by EU Regulations and/or Directives			X			
Different Member State implementation of EU financial legislation, resulting in diverse national supervisory reporting requirements for the same financial entity/product			X			
National supervisory reporting requirements in addition to those in EU legislation for a specific financial entity /product	X					
Other supervisory reporting requirements in addition to those in EU legislation for a	X					

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specific financial entity /product						
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Question 2.4: Does the obligation to use structured reporting (i.e. templates or forms in which specific data elements to be reported are listed) and/or predetermined data and file formats (i.e. (i) the exact way in which the individual data elements are to be encoded or (ii) the file format in which the information to be reported is exchanged/submitted) for supervisory reporting increase or decrease the compliance cost of supervisory reporting?

- Increases the compliance cost
- Decreases the compliance cost
- Does not impact the compliance cost
- Don't know

Please provide specific examples to substantiate your answer.

A clear format and description of data elements to be reported reduces the cost of compliance as long as it fits with industry practice. If there is already an industry standard in use such as FIX and FPML these should be used instead of inventing new standards which have to be translated.

For example, the EFET-FIA ITS4 schema¹ agreed within industry with respect to MiFID II reporting in order to have a harmonized approach.

Question 2.5: Please specify the supervisory reporting frameworks to which you are subject (or, in the case of entities receiving and/or processing the data or supervisory authorities, which you deal with or make use of):

EMIR, SFTR, REMIT, MiFID II

¹ [20171108_EFET-Europex-FIA-LEBA-PR-on-MiFID-II-position-reporting-standard](#)

4. Identifying possible ways to simplify and streamline supervisory reporting

Question 3.1: Please indicate which of the following could reduce the compliance cost while maintaining a sufficient level of supervisory reporting to ensure that the intended objectives are achieved:

	Short term (2 years or less)	Long term (more than 2 years)	Don't know / not applicable
Reduction of the number of data elements		X	
Clarification of the content of the data elements	X		
Greater alignment of reporting requirements		X	
Greater standardisation/use of international standards		X	
Development of a common financial language			
Ensuring interoperability between reporting frameworks and /or receiving/processing entities or supervisory authorities	X		
Greater use of ICT			
Greater automation of the reporting process			
Other			

Please specify what other elements could reduce the compliance cost while maintaining a sufficient level of supervisory reporting to ensure that the intended objectives are achieved:

Remove SFT reporting from MiFIR and instead report all SFTs under SFTR.

Concerning the development of a common financial language (i.e. a set of harmonised definitions of the terms used in supervisory reporting):

Question 3.2: To what extent would the development of a common financial language help reduce the compliance cost of supervisory reporting?

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- Don't know

Please elaborate.

There are already industry-wide standards like FIX or FPML. Adding another one would just increase complexity unless it is done so that it can be used for all relevant regulations globally without any room for ambiguity when interpreting the field definitions.

Question 3.3: To what extent would the development of a common financial language help improve the management (i.e. reporting or processing) of supervisory data required to be reported?

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- Don't know

Please elaborate.

There are already industry-wide standards like FIX or FPML. Adding another one would just increase complexity unless it is done so that it can be used for all relevant regulations globally without any room for ambiguity when interpreting the field definitions.

Question 3.4: Are there any prerequisites for the development of a common financial language?

- Yes
- No
- Don't know

If you answered 'yes', please elaborate and provide specific examples.

Prerequisites would be an agreement among all relevant industry participants.

Question 3.5: Are there any obstacles to the development of a common financial language in the short term (i.e. 2 years or less)?

- Yes
- No
- Don't know

If you answered 'yes', please elaborate and provide specific examples.

The fact that no universal common financial language already exists shows that it is very complex and that trying to define a common standard for all kinds of applications may prove futile. Instead it might make more sense to extend existing industry standards for their respective product scope like FIX for exchange-traded products and FpML for OTC derivatives.

Concerning interoperability between reporting frameworks (i.e. alignment/harmonisation of the reporting requirements) and/or receiving entities (i.e. the ability of entities receiving supervisory data to share it amongst themselves in such a way that it remains legible):

Question 3.6: To what extent would ensuring interoperability between reporting frameworks and/or receiving entities help reduce the compliance cost of supervisory reporting?

- Very significantly
- Significantly
- Moderately
- Marginally
- Not at all
- Don't know

Please elaborate.

Standardisation of reconciliation between Trade Repositories would simplify reconciliation.

Question 3.20: What else could be done to simplify supervisory reporting while ensuring that regulated entities continue to fulfil their supervisory reporting requirements?

We would encourage the inclusion of a precise definition of required data and data elements with a subsequent restriction to only collect the necessary data and also to use reference databases only for true reference data not for contract data (i.e. terms and conditions of an OTC contract).

- END -