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Commission Delegated Regulation (EU) 2019/358 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on the collection, verification, aggregation, comparison and publication of data on securities financing transactions (SFTs) by trade repositories (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/358

of 13 December 2018

supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards on the collection, verification, aggregation, comparison and publication of data on securities financing transactions (SFTs) by trade repositories

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) 2015/2365 of the European Parliament and of the Council of 25 November 2015 on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012[(1)], and in particular Article 5(7)(a) and points (a) and (b) of Article 12(3) thereof,

Whereas:

(1) To ensure the high quality of the SFT details reported to trade repositories, trade repositories should verify the identity of the report submitting entities, the logical integrity of the sequence in which SFT details are reported, and the completeness and correctness of those SFT details.

(2) For the same reason, trade repositories should reconcile the details of each SFT report received. A standardised process should be specified to enable trade repositories to conduct reconciliation in a consistent manner and to reduce the risks of details of SFTs not being reconciled. Certain details of SFTs, however, might not be identical due to the specificities of the technology systems used by the entities submitting the report. Certain tolerances therefore need to be applied, so that minor differences in the reported details of SFTs do not prevent the authorities from analysing the data with an adequate level of confidence.

(3) It is to be expected that report submitting entities will over time improve their reporting, both in terms of a reduction of the number of rejected reports and in terms of reconciled reports. They should however be given sufficient time to adapt to the reporting requirements, in particular to prevent the accumulation of non-reconciled trades immediately after the reporting obligation starts to apply. It is therefore appropriate that in a first phase only a reduced set of fields should be reconciled.

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(4) Report submitting entities and entities responsible for reporting, if applicable, should be able to monitor their compliance with their reporting obligations under Regulation (EU) 2015/2365. They should therefore be able to access certain information, on a daily basis, in respect of those reports, including the result of the verification of those reports, as well as the progress of the reconciliation of the reported data. It is therefore necessary to specify the information that a trade repository should make available to these entities at the end of each working day.

(5) To facilitate the integrity of the details of SFTs, the direct and immediate access referred to in Article 12(2) of Regulation (EU) 2015/2365 should be provided in a harmonised and consistent manner. To standardise the reporting, minimise the costs for the industry and ensure the comparability and consistent aggregation of data across trade repositories, it is appropriate that all output reports and exchanges are delivered in XML format templates and follow a methodology that is widely used in the financial industry.

(6) Access to position level data on the exposures between two given counterparties is essential to enable the entities referred to in Article 12(2) of Regulation (EU) 2015/2365 to determine potential sources of systemic or non-systemic risks to financial stability.

(7) To provide an adequate level of transparency to the public with regard to SFTs, the criteria used for the aggregation of positions should enable the general public to understand the functioning of the SFT markets, without undermining the confidentiality of the data reported to trade repositories. The frequency and details of a trade repository's publication of aggregate positions pursuant to Article 12(1) of Regulation (EU) 2015/2365 should be specified in a manner that builds on the related framework provided for by Regulation (EU) No 648/2012 of the European Parliament and of the Council[(2)] for derivative contracts.

(8) This Regulation is based on the draft regulatory technical standards submitted by the European Securities and Markets Authority (ESMA) to the Commission pursuant to the procedure in Article 10 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council[(3)].

(9) The provisions in this Regulation deal with operational standards for the collection, aggregation and comparison of data by trade repositories, as well as procedures to be applied by trade repositories in order to verify the completeness and correctness of the SFT details reported to them. To ensure coherence between those provisions and to facilitate a comprehensive view for trade repositories, it is desirable to include the related regulatory technical standards in a single Regulation.

(10) ESMA has conducted open public consultations on these draft regulatory technical standards, analysed the potential related costs and benefits and requested the opinion of the ESMA Securities and Markets Stakeholder Group established in accordance with Article 37 of Regulation (EU) No 1095/2010,

HAS ADOPTED THIS REGULATION:

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Article 1

Verification of SFT reports by trade repositories

1 A trade repository shall verify all of the following in a received SFT report:

a the identity of the report submitting entity as referred to in Field 2 of Table 1 of Annex I to Commission Implementing Regulation (EU) 2019/363[(4)]

b that the XML template used to report an SFT complies with the ISO 20022 methodology in accordance with Implementing Regulation (EU) 2019/363;

c that the report submitting entity, if different from the reporting counterparty as referred to in Field 3 of Table 1 of Annex I to Implementing Regulation (EU) 2019/363, is duly authorised to report on behalf of the reporting counterparty, except in the case provided for in Article 4(3) of Regulation (EU) 2015/2365;

d that the same SFT report has not been submitted previously;

e that an SFT report with action type 'Modification' relates to a previously submitted SFT report;

f that an SFT report with action type 'Modification' does not relate to an SFT that has been reported as cancelled;

g that the SFT report does not include the action type 'New' in respect of an SFT that has been reported already;

h that the SFT report does not include the action type 'Position component' in respect of an SFT that has been reported already;

i that the SFT report does not purport to modify the details of the report submitting entity, the reporting counterparty or the other counterparty to a previously reported SFT;

j that the SFT report does not purport to modify an existing SFT report by specifying a value date later than the reported maturity date of the SFT;

k the correctness and completeness of the SFT report.

2 A trade repository shall verify whether information about collateral has been reported in Fields 73 to 96 of Table 2 of Annex I to Implementing Regulation (EU) 2019/363 for SFTs where Field 72 'Uncollateralised SL flag' of that same Table is reported as 'false'. The trade repository shall notify, in accordance with Article 3 of this Regulation, the report submitting entity and the reporting counterparty as well as the entity responsible for reporting, if applicable, of the result of the verification.

3 A trade repository shall reject an SFT report that does not comply with one of the requirements set out in paragraph 1 and assign to it one of the rejection categories set out in Table 2 of Annex I to this Regulation.

4 A trade repository shall provide the report submitting entity and the reporting counterparty as well as the entity responsible for reporting, if applicable, with detailed information on the results of the data verification referred to in paragraph 1 within sixty minutes after it has received an SFT report. A trade repository shall provide those results in an XML format and a template developed in accordance with the ISO 20022 methodology. The results shall include, where applicable, the specific reasons for the rejection of an SFT report in accordance with paragraph 3.

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Article 2

Reconciliation of data by trade repositories

1 A trade repository shall seek to reconcile a reported SFT by undertaking the steps set out in paragraph 2, provided that all of the following conditions are met:

a the trade repository has completed the verifications set out in paragraphs 1 and 2 of Article 1;

b both counterparties to the reported SFT have a reporting obligation;

c the trade repository has not received a subsequent report with the action type 'Error' in respect of the reported SFT.

2 Where all the conditions of paragraph 1 are met, a trade repository shall undertake the following steps, while using the latest reported value for each of the fields in Table 1 of Annex I to this Regulation:

a a trade repository having received an SFT report shall verify whether it has received a corresponding SFT report from or on behalf of the other counterparty;

b a trade repository that has not received a corresponding SFT report as referred to in point (a) shall attempt to identify the trade repository that has received the corresponding SFT report by communicating to all registered trade repositories the values of the following fields of the reported SFT: 'Unique Transaction Identifier', 'Reporting counterparty', 'Other counterparty' and 'Master agreement type';

c a trade repository that determines that another trade repository has received a corresponding SFT report as referred to in point (a) shall exchange with that trade repository the details of the reported SFT in an XML format and a template developed in accordance with the ISO 20022 methodology;

d subject to point (e), a trade repository shall treat a reported SFT as reconciled where the details of that SFT match the details of the corresponding SFT report as referred to in point (a) of this paragraph;

e a trade repository shall seek to match separately the fields pertaining to the loan data and the fields pertaining to the collateral data of a reported SFT in accordance with the tolerance limits and relevant dates of application laid down in Table 1 of Annex I to this Regulation;

f a trade repository shall subsequently assign values for the reconciliation categories for each reported SFT, as set out in Table 3 of Annex I to this Regulation;

g a trade repository shall conclude the steps in points (a) to (f) of this paragraph at the earliest opportunity and shall take no such steps after 18:00 Universal Coordinated Time on a given working day;

h a trade repository that cannot reconcile a reported SFT shall seek to match the details of that reported SFT on the following working day. The trade repository shall no longer seek to reconcile the reported SFT thirty calendar days after the reported maturity of the SFT or after the trade repository has received a report relating to it with action type 'Termination' or 'Position component'.

3 A trade repository shall confirm the total number of reconciled, reported SFTs with each trade repository with which it has reconciled reported SFTs at the end of each working day.

4 No later than sixty minutes after the conclusion of the reconciliation process as set out in point (g) of paragraph 2, a trade repository shall provide the report submitting entity and the reporting counterparty as well as the entity responsible for reporting, if applicable, with the

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results of the reconciliation process performed by it on the reported SFTs. A trade repository shall provide those results in an XML format and a template developed in accordance with the ISO 20022 methodology, including information on the fields that have not been reconciled.

Article 3

End-of-day response mechanisms

By the end of each working day, a trade repository shall make available to the report submitting entity and the reporting counterparty as well as the entity responsible for reporting, if applicable, the following information on the relevant SFTs in an XML format and a template developed in accordance with the ISO 20022 methodology:

(a) the SFTs reported during that day;

(b) the latest trade states of the SFTs that have not matured or for which reports with action types 'Error', 'Termination' or 'Position component', have not been made;

(c) the Unique Transaction Identifiers (UTIs) of the SFTs for which Field 72 of Table 2 of Annex I to Implementing Regulation (EU) 2019/363 is reported as 'false', and information about the collateral in Fields 73 to 96 of the same Table has not yet been reported;

(d) the SFT reports that have been rejected during that day;

(e) the reconciliation status of all reported SFTs, except those SFTs that have expired or for which SFT reports with action type 'Termination' or 'Position component' were received more than a month before that working day.

Article 4

Access to details of SFTs

A trade repository shall provide the entities listed in Article 12(2) of Regulation (EU) 2015/2365 with direct and immediate access, including where delegation under Article 28 of Regulation (EU) No 1095/2010 exists, to the details of SFTs in an electronic and machine-readable form in accordance with Commission Delegated Regulation (EU) 2019/357[(5)]

For the purposes of the first subparagraph, a trade repository shall use an XML format and a template developed in accordance with the ISO 20022 methodology.

Article 5

Calculation of, and access to position level data

1 A trade repository shall calculate position level data on the exposures between counterparties in terms of loan and collateral. The calculation of position level data shall be based on the following criteria:

a the values for reconciliation categories, as per Table 3 of Annex I to this Regulation;

b the type of SFT;

c the sector of the counterparties;

d the status of clearing;