Changes to legislation: *There are outstanding changes not yet made to Commission Delegated Regulation (EU) 2019/356. Any changes that have already been made to the legislation appear in the content and are referenced with annotations. (See end of Document for details)EUR 2019 No. 356 may be subject to amendment by EU Exit Instruments made by both the Financial Conduct Authority and the Bank of England under powers set out in The Financial Regulators' Powers (Technical Standards etc.) (Amendment etc.) (EU Exit) Regulations 2018 (S.I. 2018/1115), regs. 2, 3, Sch. Pt. 5. These amendments are not currently available on legislation.gov.uk. Details of relevant amending instruments can be found on their website/s. (See end of Document for details) View outstanding changes*

Commission Delegated Regulation (EU) 2019/356 of 13 December 2018 supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of securities financing transactions (SFTs) to be reported to trade repositories (Text with EEA relevance)

COMMISSION DELEGATED REGULATION (EU) 2019/356

of 13 December 2018

supplementing Regulation (EU) 2015/2365 of the European Parliament and of the Council with regard to regulatory technical standards specifying the details of securities financing transactions (SFTs) to be reported to 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 4(9) thereof,

Whereas:

(1) To increase efficiency and leverage similarities between the reporting of derivatives and the reporting of securities financing transactions ('SFTs'), the obligation to report the details of SFTs to trade repositories pursuant to Article 4 of Regulation (EU) 2015/2365 should be aligned with the obligation to report derivative transactions to trade repositories pursuant to Article 9 of Regulation (EU) No 648/2012 of the European Parliament and of the Council[(2)]. The reporting requirements that specify the details of SFTs should therefore be similar to the reporting requirements that specify the details of derivative contracts.

(2) To ensure the efficiency and usefulness of reported information on SFTs, the specific details of the SFTs to be reported should be adapted to the different types of SFTs identified in Regulation (EU) 2015/2365. With regards to reporting margin lending transactions, the purpose of Regulation (EU) 2015/2365 is to capture transactions that serve the same purpose as repurchase transactions, buy-sell back transactions or securities lending transactions and therefore pose similar risks to financial stability by allowing the build-up of leverage, pro-cyclicality and interconnectedness in financial markets or by contributing to liquidity and maturity transformation. While margin lending therefore includes transactions subject to margin agreements between financial institutions and their clients where financial institutions provide prime brokerage services to their clients, it does not include other loans such as loans for corporate restructuring purposes which, despite the possibility of involving securities, do not contribute to the systemic risks addressed by Regulation (EU) 2015/2365.

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(3) It is important that the details of any SFT cleared by a central counterparty are correctly reported and can be easily identified, irrespective of whether that SFT was cleared on the same date or on a later date than the date on which that SFT was concluded.

(4) To ensure comprehensive reporting where specific details of the collateral are not known on the day of the trade, counterparties should update information on the collateral as soon as that information becomes available to the counterparties, and no later than the working day following the value date of that SFT.

(5) To provide more useful information to the authorities that access the details of SFTs in trade repositories, counterparties should report to the trade repositories the International Securities Identification Number ('ISIN') of any collateral basket they use to provide collateral to an SFT, if that basket has an ISIN.

(6) Where counterparties provide collateral on a net exposure basis, resulting from the offsetting of a number of SFTs between two counterparties, a specific allocation of collateral to an individual SFT is often not possible, and hence the collateral allocation may not be known. In those situations, counterparties should be able to report collateral independently of the underlying loan.

(7) 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)].

(8) 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:

Article 1

Details of SFTs to be reported

1 A report made pursuant to Article 4(1) of Regulation (EU) 2015/2365 shall include the complete and accurate details set out in Tables 1, 2, 3 and 4 of the Annex that pertain to the SFT concerned.

2 When reporting the conclusion of an SFT, a counterparty shall specify in its report the action type 'New' in Field 98 in Table 2 of the Annex to this Regulation. Any subsequent reports of the details of that SFT shall specify in Field 98 in Table 2 of the Annex to this Regulation the relevant action type that relates to that SFT.

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Article 2

SFTs cleared by central counterparties

1 An SFT whose details have already been reported pursuant to Article 4(1) of Regulation (EU) 2015/2365 and which is subsequently cleared by a central counterparty, shall be reported, once cleared, as terminated by specifying in Field 98 of Table 2 of the Annex the action type 'Termination/Early Termination', and the new SFTs resulting from the clearing shall be reported.

2 An SFT that is concluded on a trading venue and that is cleared by a central counterparty on the same day shall only be reported after that SFT has been cleared.

3 A counterparty shall, for the margin posted or received for a cleared SFT, report the details set out in Table 3 of the Annex to this Regulation and specify the relevant action type laid down in Field 20 of that Table of the Annex.

Article 3

Collateral reporting

1 Counterparties to a securities or commodities lending or a securities or commodities borrowing transaction that agree that no collateral shall be provided, shall specify this in Field 72 of Table 2 of the Annex.

2 Where the collateral of an SFT is linked to an individual loan and the details of the collateral are known by the counterparty by the reporting deadline, the counterparty shall specify the complete and accurate details of all of the individual collateral components of that SFT in Fields 75 to 94 of Table 2 of the Annex when reporting this SFT for the first time with the action type 'New' in Field 98 of Table 2 of the Annex.

3 Where the collateral of an SFT is linked to an individual loan, but the details of the collateral are not known by the counterparty by the reporting deadline, the counterparty shall specify, with the action type 'Collateral update' in Field 98 of Table 2 of the Annex, the complete and accurate details of all of the individual collateral components of that SFT in Fields 75 to 94 of Table 2 of the Annex as soon as they are known and no later than the working day following the value date specified in Field 13 of Table 2 of the Annex.

4 A counterparty collateralising one or more SFTs with a collateral basket that is identified by an International Securities Identification Number ('ISIN'), shall specify the ISIN in Field 96 of Table 2 of the Annex when reporting it with the action type 'New' in Field 98 of Table 2 of the Annex.

5 A counterparty collateralising one or more SFTs with a collateral basket that is not identified by an ISIN, shall specify the code 'NTAV' in Field 96 of Table 2 of the Annex when reporting the SFT with the action type 'New' in Field 98 of Table 2 of the Annex.

6 For the purpose of paragraphs 4 and 5, the counterparty shall also specify, with the action type 'Collateral update' in Field 98 of Table 2 of the Annex, the complete and accurate details of all the individual collateral components of that SFT in Fields 75 to 94 of Table 2 of the Annex as soon as those details are known and no later than the working day following the value date specified in Field 13 of Table 2 of the Annex.

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7 A counterparty collateralising several SFTs on a net exposure basis shall specify the value 'true' in Field 73 of Table 2 of the Annex. That counterparty shall specify, with the action type 'Collateral update' in Field 98 of Table 2 of the Annex, the complete and accurate details of all of the individual collateral components of these SFTs in Fields 75 to 94 of Table 2 of the Annex as soon as those details are known and no later than the working day following the value date specified in Field 13 of Table 2 of the Annex.

Article 4

Reporting of reuse of collateral

1 A counterparty receiving one or several financial instruments as collateral in a SFT shall specify the complete and accurate details of any reuse of each of those financial instruments in Fields 7, 8 and 9 of Table 4 of the Annex.

2 A counterparty receiving cash as collateral in a SFT shall specify the complete and accurate details of all cash collateral reinvestment for each currency in Fields 11, 12 and 13 of Table 4 of the Annex.

Article 5

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 13 December 2018.

For the Commission

The President

Jean-Claude JUNCKER

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ANNEX

TABLE 1

Counterparty data

No	Field	Details to be reported	Repo	BSB	SL	ML
1	Reporting timestamp	Date and time of submission of the report to the trade repository.	Y	Y	Y	Y
2	Report submitting entity	Unique code identifying the entity which submits the report. Where the submission of the report has been delegated to a third party or to the other counterparty, a unique code identifying that entity.	Y	Y	Y	Y
3	Reporting counterparty	Unique code identifying the reporting counterparty.	Y	Y	Y	Y
4	Nature of the	Indication of whether	Y	Y	Y	Y

a Commission Implementing Regulation (EU) 2019/363 of 13 December 2018 laying down implementing technical standards with regard to the format and frequency of reports on the details of securities financing transactions (SFTs) to trade repositories in accordance with Regulation (EU) 2015/2365 of the European Parliament and of the Council and amending Implementing Regulation (EU) No 1247/2012 with regard to the use of reporting codes in the reporting of derivative contracts (See page 85 of this Official Journal).

b 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 (OJ L 337, 23.12.2015, p. 1).