

MEMO# 32301

March 19, 2020

ESMA Statement on SFTR Reporting

[32301]

March 19, 2020 TO: Derivatives Markets Advisory Committee
Equity Markets Advisory Committee
Global Operations Advisory Committee
ICI Global Exchange Traded Funds Committee
ICI Global Regulated Funds Committee
ICI Global Trading & Markets Committee
ICI Global Transaction Reporting Working Group
Securities Operations Advisory Committee RE: ESMA Statement on SFTR Reporting

On 18 March 2020, the European Securities and Markets Authority (ESMA) published a statement^[1] concerning the timing of the reporting obligations under the Securities Financing Transactions Regulation (SFTR) for investment firms.^[2]

ESMA notes the phased-in approach to reporting envisaged under the SFTR wherein reporting obligations for Securities Financing Transactions (SFTs)^[3] become applicable between 12-21 months after the entry into force of the relevant technical standards, depending on SFT counterparty type.^[4] Reporting obligations for SFT counterparties such as MiFID investment firms^[5] are due to apply on 13 April 2020^[6] and for counterparties such as regulated funds and their managers^[7] are due to apply on 12 October 2020.^[8]

As a result of the COVID-19 pandemic, in the statement ESMA acknowledges the challenges that relevant counterparties, the entities responsible for reporting or the report submitting entities and, to the extent applicable, investment firms, may face in finalising their implementation of the SFT reporting requirements and in completing the necessary technical set-up before 13 April 2020.

Furthermore, in the statement ESMA sets out its expectation that competent authorities will not prioritise their supervisory actions towards counterparties, entities responsible for reporting and investment firms in respect of SFT reporting obligations, under SFTR and under MIFIR, as of 13 April 2020 and until 13 July 2020, including regarding to SFTs concluded in that period of time, and to generally apply their risk-based approach in the exercise of supervisory powers in their day-to-day enforcement of applicable legislation in this area in a proportionate manner.

ESMA's statement only addresses the reporting obligations for investment firms that are due to apply from 13 April 2020 and does not deal with those obligations, such for regulated funds and their managers, that are due to apply later in the year. ESMA states

that it continues monitoring closely the evolution of the implementation by the relevant market participants as well as the impact of the relevant measures taken with regards to COVID-19 to ensure alignment of SFT reporting requirements and supervisory practices in the EU.

Giles Swan
Director of Global Funds Policy
ICI Global

endnotes

[1] ESMA Public Statement, Actions to mitigate the impact of COVID-19 on the EU financial markets – postponement of the reporting obligations related to securities financing transactions under the Securities Financing Transactions Regulation and under Markets in Financial Instruments Regulation, 18 March 2020, *available from* https://www.esma.europa.eu/sites/default/files/library/esma80-191-995_public_statement.pdf

[2] 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 (Text with EEA relevance), *available from* <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32015R2365>

[3] Article 4(1), SFTR

[4] Article 33, SFTR.

[5] Article 3(3)(a), SFTR – “an investment firm authorised in accordance with Directive 2014/65/EU”

[6] Article 33(2)(a)(i), SFTR

[7] Article (3)(3(d), SFTR – “a UCITS and, where relevant, its management company, authorised in accordance with Directive 2009/65/EC” and Article (3)(3(e), SFTR – “an AIF managed by AIFMs authorised or registered in accordance with Directive 2011/61/EU”

[8] Article 33(2)(a)(iii), SFTR