

Chapter 3

Commission Delegated Regulation (EU) 2019/358

Preamble

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, and in particular Article 5(7)(a) and points (a) and (b) of Article 12(3) thereof,

01/01/2021

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.

(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 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.

(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: