

Burden reduction for small (financial) counterparties in reporting scenarios under EMIR, MiFIR and SFTR, possibly single-sided reporting in delegated reporting

- Extending the exemptions for NFC- under EMIR / NFC under SFTR to other small (financial) counterparties, thereby reducing reporting obligations and data flows
- Avoidance of redundant data duplication, operational and data efficiency

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I. Burden reduction for FC- / small (financial) counterparties

The exemption from the reporting obligation for NFC- under EMIR as well as NFC under SFTR should be extended to also apply to all **small (financial) counterparties**, i. e.:

- FC- under EMIR (i. e. financial counterparties not subject to the clearing obligation under Art. 4a EMIR),
- “small financial counterparties within the meaning of the SFTR”, i.e. financial counterparties below the thresholds of Art. 4 (3) SFTR, and
- „small financial counterparties within the meaning of MiFIR“ i.e. financial counterparties below the thresholds of Art. 4 (3) SFTR.

Alternatively, the qualification as a “small financial counterparty” under SFTR or MiFIR could be linked to a certain threshold of business activity in the relevant instruments. This would ensure capture of counterparties with only limited business activities in the relevant reporting regimes.

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Such approach is justified by the following key reasons:

1. True burden reduction

The exemption of NFC- from reporting obligations under EMIR was justified on the grounds to reduce the burden of reporting for NFC-(cf. recital 18 of EMIR Refit (Regulation 2019/834)) and has actually led to a significant reduction in administrative burdens. NFC- generally pose only a low systemic risk to the financial markets and the reporting requirements were often disproportionately burdensome compared to their actual contribution to market activity. The same reasoning can also be applied to small (financial) counterparties.

2. Submitted data no longer subject to external audits for FC- / small (financial) counterparties

Since the delegation would be mandated by law, the reporting obligation is fully transferred to the reporting counterparty. The delegating counterparty no longer bears any reporting responsibility. This rule has been set out in recital 18 of EMIR Refit ([Regulation 2019/834](#)) as well as Art. 9 (1a) EMIR : “*Financial counterparties shall be solely responsible, and legally liable, for reporting on behalf of both counterparties, the details of OTC derivative contracts concluded with a non-financial counterparty that does not meet the conditions referred to in the second subparagraph of Article 10(1), as well as for ensuring the correctness of the details reported. To ensure that the financial counterparty has all the data it needs to fulfil the reporting obligation, the non- financial counterparty shall provide the financial counterparty with the details of the OTC derivative contracts concluded between them, which the financial counterparty cannot be reasonably expected to possess. The non- financial counterparty shall be responsible for ensuring that those details are correct.*”

Hence, the reporting counterparty would not have to provide the FC- /small (financial) counterparty the reported data, since the latter has no residual reporting obligations. This would mean that the topic would no longer be relevant in internal or external audits, leading to significant downstream simplifications. Especially for an error-prone requirement such as transaction-based reporting requirements, this would free up considerable capacities and resources. As a result, both compliance and operational processes could become much more efficient.

3. Remaining obligations for FC- / small (financial) counterparties

The FC- /small (financial) counterparty needs to ensure the reporting counterparty has all necessary data to fulfill the reporting obligation accurately, completely and on time. Whether this data could be submitted by the FC- / small (financial) counterparty directly - and via a technological simple reporting channel - to the entity collecting the reports (e. g. the trade repositories, TR) or to the reporting counterparty is up to discussion. A separate, short additional file could be linked to the main report by providing the same UTI.

Reporting directly to the TR would have the advantage that the FC+ would not need to establish a channel with the FC- to receive their data and incorporate it into the report. And FC- might prefer to report the relevant static data to the TRs themselves rather than passing it on to the FC+.

II. A step further: single-sided reporting

1. Avoidance of redundant data duplication

Where one counterparty (the reporting counterparty) submits reports on behalf of both counterparties, the reporting counterparty will inevitably use identical data for both sides. This creates redundant, duplicate reports that serve no additional regulatory purpose. Since the reporting counterparty is bound to report the same data for both counterparties, any divergence is logically impossible, making duplicate submissions unnecessary and inefficient.

2. Operational and data efficiency

A single sided reporting streamlines the reporting process, lowering costs and operational complexity for both the reporting counterparties as well as regulators and supervisory authorities.

The overarching goal of EMIR, MiFIR and SFTR is to enhance transparency and reduce systemic risk. This is best achieved through consistent, non-duplicative reporting. The reporting counterparty is best positioned to ensure accuracy and completeness of the data.

Requiring only the reporting counterparty to report in a single-sided manner aligns with the principle of data efficiency.

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