

ICMA conclusions from ESMA's recent statement related to SFTR & Covid-19

31 March 2020

On 19 March, ESMA issued a [statement](#) that in effect delayed the start of the SFTR reporting obligations on credit institutions and investment firms until 13 July. The statement was updated on 26 March to provide additional clarity.

ICMA welcomes ESMA's rapid and pragmatic response to its [letter](#) of 16 March reporting the severe impact of the Covid-19 pandemic on the implementation of SFTR reporting requirements.

The ICMA SFTR Task Force has discussed both statements and their practical implications for reporting parties and, after consulting with ESMA and some of the NCA, has drawn the following conclusions.

- 1 The legally-binding Reporting Start Date for credit institutions and investment firms, as laid down in the SFTR and its technical standards, has not changed. However, ESMA expects NCAs not to enforce SFTR reporting obligations until 13 July. This means that credit institutions and investment firms are not expected to start SFTR reporting before 13 July, i.e. they effectively become part of the second reporting phase. The same applies to reporting obligations under article 26 of MiFIR for SFTs concluded with EU central banks (ESCB members). ESMA also clarifies that trade repositories will not be authorized on 13 April, although well ahead of the new start date on 13 July. ESMA will also not be available to receive any reports directly.
- 2 The delay extended by ESMA does not apply to CCPs, CSDs, the buy-side or corporates, whose obligations to start reporting on the published Report Starting Dates remain, for the moment, unchanged.
- 3 The statement makes it clear that SFTs concluded between 11 April and 12 July do not have to be back-reported (on 13 July).
- 4 While ESMA's initial statement was silent on the implications for "back-loading", the updated statement clarifies that NCAs are not expected to enforce the back-loading provisions, set out in article 4(1)(a) of the Level 1 text. This change applies to the backloading obligation for banks and credit institutions, but also to all other firms that will become subject to SFTR reporting obligations in the remaining three phases. In effect, this clarification allows all firms subject to SFTR reporting to no longer consider backloading as a requirement. Some NCAs have already or will issue complementary statements to confirm their approach in line with the ESMA statement.

- 5 The delay to 13 July will not affect the scheduled phasing-in of reconciliation.
- 6 Credit institutions and investment firms should continue "finalising their implementation of the SFTR reporting requirements and in completing the necessary technical set-up" for reporting as soon as practicable given current circumstances.
- 7 While the delay in reporting obligations to 13 July is very welcome, the uncertainty about evolution of the COVID-19 pandemic means that further delays may be needed. ICMA will continue to closely monitor any further developments and will liaise with ESMA as required.

This document is provided for information purposes only and should not be relied upon as legal, financial, or other professional advice. While the information contained herein is taken from sources believed to be reliable, ICMA does not represent or warrant that it is accurate or complete and neither ICMA nor its employees shall have any liability arising from or relating to the use of this publication or its contents.

© International Capital Market Association (ICMA), Zurich, 2020. All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any means without permission from ICMA.