THE USER-FRIENDLY GUIDE TO EMIR AND MIFIR TRANSACTION REPORTING IN EUROPE AND THE UK

TRACTION FINTECH LTD
2023 EDITION

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Types of Regulatory Reporting

There are multiple types of regulatory reporting for financial instruments and the regimes have varying reporting requirements and affect entities in different ways. Which ones apply to you?

SFTR

Both Financial Counterparties and Non-Financial Counterparties have the reporting obligations, including EU based entities including all its branches irrespective of where they are located and non-EU entities where the SFT is concluded by an EU based branch.

UK SFTR

Only Financial Counterparties have the reporting obligations, including all UK based entities and third country branches of UK based entities. Non-financial counterparties don’t have the reporting obligations.

EMIR

Applies to any entity established in the EU that has entered into a derivative contract, and applies indirectly to non-EU counterparties trading with EU parties.

UK EMIR

EMIR has been onshored into UK legislation as UK EMIR. The UK legislation requires entities entering into derivative contracts to report transactions to an FCA registered trade repository (TR), clear via a central counterparty (CCP) if subject to a mandatory clearing obligation and implement risk mitigation for OTC derivatives that are not cleared by a CCP.

UK MiFIR/MiFID II

MiFIR/MiFID II reporting obligations in the UK are the same as the EU as they have been adopted locally by the UK parliament. It is important to note that UK entities will now have a dual-reporting obligation if the entity has executed its transactions via an EU branch or vice versa. We've developed a summary to ensure you are reporting your trades/transactions to the correct TR or approved reporting mechanism.

MiFIR/MiFID II

Imposes transaction reporting obligations in respect of specified transactions in financial instruments where the underlying instrument is traded on a European Economic Area (EEA) trading venue.

EMIR Reporting

Under the European Market Infrastructure Regulation (EMIR), all counterparties are required to report details of any derivative contract they have concluded, or which the counterparty has modified or terminated. Due to Brexit, the EU regulations have been onshored as UK EMIR under the European Union (Withdrawal) Act 2018. In this article, EMIR refers to both EU and UK EMIR unless otherwise specified.

EU EMIR

The original EMIR remains in force for EU member states. It continues to evolve under ESMA.

UK EMIR

The EMIR regime was onshored into UK regulation. Over time it will diverge from the EU version as the FCA updates it.

EMIR reporting requirements involve:

- reporting all derivative contracts – both over-the-counter (OTC) and exchange-traded;
- clearing eligible OTC derivatives;
- measures to reduce counterparty credit risk and operational risk for bilaterally cleared OTC derivatives;
- common rules for central counterparties (CCPs) and for Trade Repositories (TRs); and
- rules on the establishment of interoperability between CCPs.

Who has an EMIR reporting obligation?

EMIR requires all counterparties and CCPs to report details of any derivative contract (with the underlying asset classes – interest rate, FX, credit, equities and commodities) they have concluded and of any modification or termination to TRs.
EMIR recognises 2 types of counterparties to a derivative contract:

Financial Counterparties (FC) – investment firms, fund managers, banks, insurers etc.

Non-Financial Counterparties (NFC) – entities not qualified as a financial counterparty, including those not involved in financial services.

Each counterparty must report their leg of a trade unless:

- one counterparty agrees to report on behalf of another counterparty by prior agreement;
- a counterparty to a trade has delegated the reporting obligation to a third-party; or
- a trade is executed between a FC and a NFC- where the FC will be responsible and legally liable for reporting on behalf of itself and the NFC-.

Where one counterparty reports on behalf of another counterparty, or a third-party reports a trade on behalf of one or both counterparties, the report details will include the full set of details as required by each counterparty.

What to report and to whom?

Financial Counterparties (FC) and Non-Financial Counterparties (NFC) trading in derivatives must report details of all derivatives trades via a TR. This includes all the details of trades and any event thereafter that affects the valuation or the terms of the trade. It also includes identification of the country of the counterparty (country of incorporation for legal entities, country of residence for natural persons).

Any derivative contract is required to be reported under EMIR reporting requirements, and includes:

- financial derivatives settled physically or in cash;
- commodity derivatives that must or may be cash settled;
- physically settled commodity derivatives that are traded on a regulated market; and
- physically settled commodity derivatives that have characteristics of other derivative financial instruments.

When do reports have to be made?

Reports are required to be submitted to a registered TR no later than one working day after the trade has been made (T+1).

What is UK EMIR (also known as UKMIR)?

UK EMIR (also known as UKMIR) is the UK version of EMIR.

The European Union (Withdrawal) Act 2018 (EUWA) enabled EMIR to be converted into UK law. To make changes to onshore EMIR at the end of the transition period, 4 statutory instruments were introduced, including The Over the Counter Derivatives, Central Counterparties and Trade Repositories (Amendment, etc., and TransitionalProvision) (EU Exit) Regulations 2018.

What's different in UK EMIR?

UK EMIR is essentially the same as EMIR with slight tweaks made after Brexit. We envisage no substantial difference in the UK EMIR and EMIR instrument reportability for now.

However, here are 2 examples of what is different between the UK EMIR and EMIR regimes:

FCA is the counterpart of ESMA

In terms of trade reporting, the UK Financial Conduct Authority (FCA) has taken over the European Securities and Market Authority (ESMA)'s functions and supervisory roles in the UK to govern the reporting entities that are obliged to report to a UK Trade Repository (TR).

Two sets of EMIR regulations

- Legal terms amended with reference to the UK legislation

Many of the EMIR terms contain references to other EU legislation. Under UK EMIR, these terms have been customised to reference other comparable UK legislation.

- Revocation of some current regulations

Upon Brexit, certain regulations were no longer applicable and were revoked under UK EMIR. For example, 'College' under Article 18 of EMIR was omitted from UK EMIR. The term refers to the groups of EU regulators that supervised the central counterparty clearing houses in the EU before Brexit whereas the Bank of England is the competent authority responsible for such role after Brexit.

What trade repositories can I use?

Following Brexit, UK investment firms need to report to a TR registered by the FCA for EMIR reporting.

There might also be a dual reporting obligation under EMIR for some firms across both EU and UK EMIR. Please refer to our other article for detailed information and different scenarios.

Delegated reporting is common for EMIR, what should I consider?

- If you are a UK firm and want to delegate your reporting to an EU firm (counterparty), you will need to check with them if they are willing to report to a UK TR for you.

- If you are an EU firm and want to delegate your reporting to a UK firm (counterparty), you will need to check with them if they are willing to report to an EU TR for you.

What happens to historical EMIR trade reports?

Data transfer across TRs between EU and the UK was required for firms that needed to change TR as part of the no-deal Brexit. Firms in both the EU and UK should ensure you or your reporting delegate have the correct arrangement with relevant TRs to enable all relevant post-Brexit reporting. Both your open and closed positions is held in the new TR post-Brexit.

MiFID II/MiFIR Reporting

MiFIR (the Markets in Financial Instruments Regulation) and MiFID II (the second Markets in Financial Instruments Directive came into effect on 3 January 2018. Due to Brexit, the EU regulations have been onshored under the European Union (Withdrawal) Act 2018. In this article, MiFIR refers to both EU and UK MiFIR unless otherwise specified.

EU MiFIR

The original MiFIR remains in force for EU member states. It continues to evolve under ESMA.

UK MiFIR

The MiFIR regime was onshored into UK regulation. Over time it will diverge from the EU version as the FCA updates it.

MiFIR and MiFID II together govern all aspects of the financial markets, including trading and reporting of financial instruments. Transaction reporting obligations are a large part of the regulatory regime and are contained in MiFIR.

The scope of the MiFIR reporting regime includes:

- financial instruments admitted to trading or traded on an EEA trading venue or for which a request for admission to trading has been made;
- financial instruments where the underlying financial instrument is traded on a trading venue (ToTV) (guidelines state ‘underlying’ means immediate underlying instrument rather than ‘ultimate’ underlying instrument); and
- financial instruments where the underlying instrument is an index or a basket composed of financial instruments traded on a trading venue.

What is the reporting obligation?

As transaction reporting obligations are contained in the MiFIR regulation, there cannot be differing implementation between European nations. MiFIR imposes transaction reporting obligations in respect of specified transactions in financial instruments where the underlying instrument is traded on a European Economic Area (EEA) trading venue.

It is important to note that where an EU investment firm has executed its transactions via a UK branch or vice versa, the entity will have a dual reporting obligation. The FCA has made it clear post-Brexit that the branch will no longer be able to discharge the reporting obligations by transmitting orders to the other entities.

Who is required to report?
Transaction reporting obligations extend to:

- investment firms;
- investment managers providing advice and portfolio management to individuals;
- credit institutions;
- market operators;
- all financial counterparties under EMIR;
- central counterparties and persons with proprietary rights to benchmarks; and
- third-country firms providing investment services or activities within the EEA.

What to report and to whom?
There are 65 reporting fields under MiFIR, including:

- identification of the relevant parties – the legal entity, natural person or algorithm which submitted the order, made the investment decision or executed the order;
- identifying information – a Legal Entity Identifier (LEI) for legal entities and personal identification information for natural persons;
- product classification and identification – CFIs and ISINs for financial products; and
- date & time of trade – must be provided for each trade.

Trade Parties

Details of legal entity, natural person or algorithm which executed the order.
Same details are required for the counterparty on the other side of the trade.

Identifiers

A Legal Entity Identifier (LEI) for legal entities or personal identification information for natural persons (e.g. National Identifier).

Product Details & Identifiers

Information about the financial instrument traded including asset class, CFI code, quantity, currency, venue, and ISIN if applicable.

Date & Time of Trade

Date and time of trade execution must be provided for each trade, and also for any cancellations.

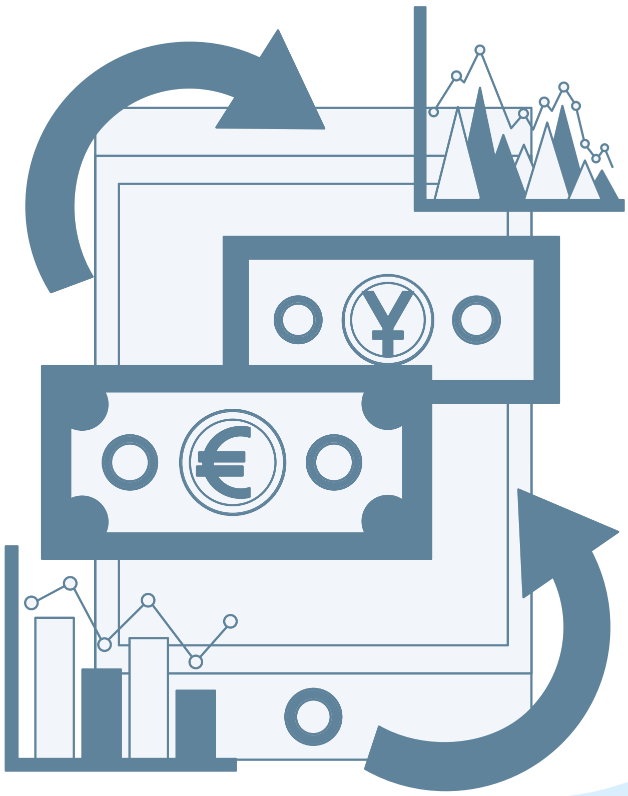
Firms can report directly to their National Competent Authority (NCA), or indirectly through an Approved Reporting Mechanism (ARM) or a third-party solution.

What are the MiFIR trade publication requirements?

The regulation requires European investment firms (IFs) to make public, through an Approved Publication Arrangement (APA), post-trade transparency information in relation to financial instruments which are traded on a Trading Venue or traded over-the-counter (OTC)/off exchange. The obligation only requires one counterparty to report the trade data.

For more information on trade publication requirements, please head to:

- Who has obligations to meet MiFIR trade publication requirements; and
- The differences between trade publication and transaction reporting in the UK and Europe.



What is a trading venue?

Under MiFID II, there are 3 categories of trading venue:

- Regulated Market
- Multilateral Trading Facility
- Organised Trading Facility

EMIR Refit 2024
Top 6 Changes You Need to Know

As anticipated, the new EU EMIR Refit rules have been passed by the European Parliament and require revised reporting to begin on 29 April 2024. This revision is meant to align EU EMIR with global standards and improve data quality, as such there have been major changes introduced.

The UK EMIR consultation paper (CP21/31) released in February 2022 indicates that the FCA proposes to harmonise UK EMIR with the EU EMIR Refit rules (and global CPMI-IOSCO reporting data elements). It is expected that the FCA will publish the supporting documentation and validation rules by end of Q4 2022. With an 18-month implementation timeline, the new UK EMIR is also expected to go-live in 2024. This would mean there will be a gap in implementation between EU and UK EMIR, where UK EMIR will commence a few months after EU EMIR.

What are the major changes in the new EMIR Refit?

1. ISO20022 XML reporting

ISO 20022 is currently used for other regulatory reporting regimes and has been widely accepted in the financial industry. ESMA will introduce the harmonised XML submissions for EMIR reporting as part of the global standardisation. A fully standardised format for reporting aims to eliminate the risk of discrepancies in data.

2. Unique Product Identifier (UPI)

ESMA has specified in ITS Article 6 that derivatives which are admitted to trading or traded on a trading venue or a systematic internaliser should be using an International Securities Identification Number (ISIN) code. The remaining derivatives should be identified using a Unique Product Identifier (UPI) code.

The Derivatives Service Bureau (DSB) Ltd has been designated as the service provider for the future UPI system. DSB will be the sole issuer of UPI codes and operator of the UPI reference data library.

A UPI will be assigned to an over-the-counter (OTC) derivatives product and used for identifying the product in transaction reporting data. This will enable authorities to aggregate data on OTC derivatives transactions by product or by any UPI reference data element. Such aggregation will facilitate the effective use of OTC trade reporting data, including helping authorities assess systemic risk and detect market abuse.

3. Unique Transaction Identifier (UTI)

In order to align with international standards, ESMA is adopting standards promoted by CPMI-IOSCO for defining the logic structure of Unique Trade Identifiers (UTIs). The introduction of these changes will enhance data harmonisation globally.

The change to the UTI generation waterfall model considers bilateral agreements as fallbacks. In a situation where there is no agreement in place, firms follow the UTI waterfall for generation of this identifier. There is a deadline set by ESMA where the counterparty generating the UTI shall communicate the UTI to the other counterparty timely, which is by 10:00 a.m. UTC on T+1 (ITS Article 7)

4. Legal Entity Identifier (LEI)

Moving forward, the renewal of LEIs will be validated only for the reporting counterparty and the entity responsible for reporting. This means lapsed LEIs are allowed for other counterparties. (ITS Article 8)

5. Revised reporting lifecycle events

The Action Type field alone is insufficient to describe the business event, so ESMA has introduced Event Type to provide more granularity about the type of business event triggering a given report. Here is the combination of Action Types and Event Types:

		Event Type												
		TRADE	STEP-IN	PTRR	EARLY TERMINATION	CLEARING	EXERCISE	ALLOCATION	CREDIT EVENT	INCLUSION IN POSITION	CORPORATE EVENT	UPDATE	No Event Type required
Action Type	NEW	T	T,P	T		T	T	T		P	T, P		
	MODIFY	T,P	T,P	T,P	T,P		T, P	T	T,P	P	T,P	T, P	P
	CORRECT												T,P
	TERMINATE		T,P	T,P	T,P	T	T,P	T	T,P	T,P	T,P		
	ERROR												T,P
	REVIVE												T,P
	VALUATION												T,P
	MARGIN UPDATE												T,P
	POSITION COMPONENT												T

Source: ESMA Final Report Technical Standards on reporting, data quality, data access and registration of Trade Repositories under EMIR Refit

6. Changes to reportable fields

There are 89 new additional fields being introduced in EMIR Refit, bringing the total number of fields to 203.

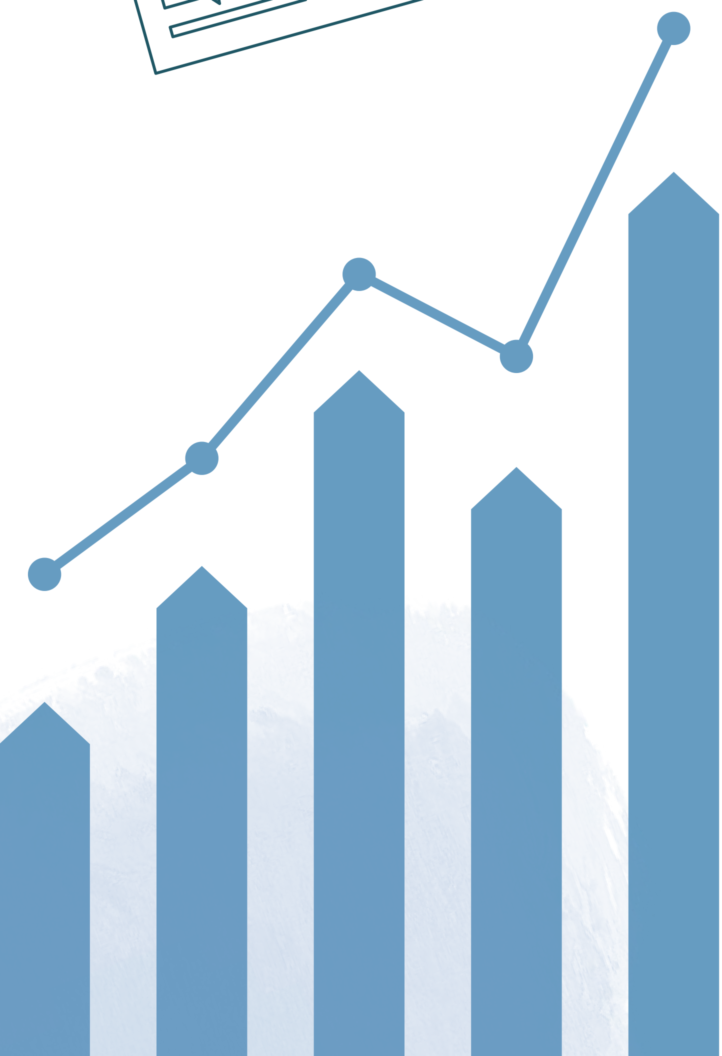
A new field introduced is the Derivative Based on Crypto-assets, where counterparties are expected to indicate whether a security is based on a crypto-asset. This will allow ESMA to assess the trading volumes and risk of crypto-tokens which in turn will facilitate the development of more granular requirements in the future.

Some existing fields have been removed, such as the Trading Capacity and Beneficiary ID fields which were found to provide little to no value.

Background

The technical standards were published in the European Commission's Official Journal on 7 October 2022.

The European Commission adopted the EMIR Refit Final Report on RTS (regulatory technical standards) and ITS (implementing technical standards).



EMIR Refit vs UK EMIR Refit – What are the Differences?

Whilst ESMA's EU EMIR Refit has been finalised with a go-live date of 29 April 2024 for some time, the FCA has only recently published the final rules for UK EMIR Refit with a reporting start date of 30 September 2024.

The UK's FCA has adopted most of the EU's EMIR Refit regulation which has been published by ESMA. The major changes introduced are broadly aligned (see the FCA's consultation paper CP21/31), for example UPI requirements, the introduction of global logic structure for UTI and the number of new fields being introduced (see our previous EMIR Refit article).

The FCA has also released the draft validation rules which contain a list of fields that diverge from ESMA, mainly due to a different version of the XML schema published by ESMA.

Overall there are not many variations in the validation rules for UK EMIR Refit compared with EU EMIR Refit. However, as the go-live dates are different, this might cause some added complexity for firms with dual obligations (i.e. where they are reporting under both ESMA and the FCA).

Over time it is likely that these two schemes will further diverge. As such, TRAction considers it crucial that firms build their reporting systems separately for UK and EU EMIR Refit reporting.

Given the scale of operational challenges, firms need to start preparing for all these changes now – and be ready for future changes too.

What is EMIR 3? Is it the same as EMIR Refit?

Regulatory reporting is complex and with the numerous EMIR updates released by ESMA over the years, it can get quite confusing. Recently, the European Commission has published a proposal called EMIR 3. This new proposal might sound like a major update, however it is unrelated to the upcoming (April 2024) EMIR refit changes which affect derivatives trade reporting.

EMIR 3 is primarily aimed at improving the central clearing system in the EU, making EU CCPs more efficient and attractive to market participants. In the past, ESMA released amendments to European Market Infrastructure Regulations (EMIR), known as EMIR 2.2. The main change was the introduction of a new tiering system for third-country Central counterparties (CCPs).

It has become apparent to the European Commission, based on an ESMA report, that market participants tend to be more reliant on third-country CCPs to clear their derivatives outside the EU. The excessive reliance of EU financial markets on UK based CCPs will bring financial instability to the EU. So the European Commission is encouraging market participants that clear derivatives to use an EU CCP. On top of this, EMIR 3 proposes to mandate that counterparties subject to clearing obligations must hold active accounts with EU CCPs and clear with an EU CCP in Article 7a.

The European Commission has proposed that the clearing threshold be calculated differently. Instead of looking at ETD or OTC derivatives (Article 4a), the revised clearing threshold calculation will focus on cleared or uncleared derivatives. This means derivatives not cleared with an EU authorised CCP (Article 14) or non-EU recognised CCP (Article 25) should be considered for calculation.

Once the EMIR 3 proposal is adopted by ESMA, it will come into immediate effect.

If you have further questions on the EMIR 3 proposal, see ESMA's Q&A.

How does your MiFIR transaction reporting help combat financial crimes?

The UK investment bank, Sapien Capital Ltd, has been fined £178,000 by the Financial Conduct Authority (FCA) for failing to have adequate controls and procedures to monitor transactions that posed fraudulent trading and money laundering risks.

What's the significance of transaction reporting in this incident?

This fine reinforced the importance of complete and accurate transaction reporting in detecting fraudulent activity under MiFIR as this is what enabled the FCA to piece together the trading patterns of organised criminal activity. FCA's announcement also demonstrates their competence and determination to detect compliance failures within the market.

What happened?

For an extended period during 2015, Sapien Capital failed to enforce adequate systems and controls to identify and mitigate the risk of being used to facilitate fraudulent trading and money laundering in relation to business introduced by four authorised entities known as the Solo Group.

The circular pattern in which the trades by Solo Group were conducted, as well as the significant scale and volume was flagged by the FCA as highly suggestive of financial crime and appear to have been undertaken to create an audit trail to support withholding tax reclaims in Denmark and Belgium.

Sapien Capital also failed to exercise due skill, care and diligence in applying its AML policies and procedures. They also failed to properly to assess, monitor and mitigate the risk of financial crime in relation to the Solo Clients and the purported trading.

What can be drawn from FCA's fine?

1. The past isn't the past – Sapien's breaches occurred more than five years ago. It is incredibly important to inform the regulator of any breaches as soon as they happen or are identified in addition to performing remediation where possible.

2. Review your systems – firms are expected to have systems and controls that test the purpose and legitimacy of transactions, reflecting scepticism and alertness to the risk of money laundering and financial crime. Failure to do so constitutes serious misconduct.

3. Check your reporting – ensuring that your transaction reports are accurate and complete is not only about assisting regulators, it enables firms to identify suspicious activity in the first instance.

If you want to know more about improving the accuracy of your reporting, we suggest reading the following articles:

- The 3 Most Common Errors in MiFIR Transaction Reporting;
- FCA identifies 5 common MiFIR reporting errors; and
- MiFIR Reconciliation.

Which Asset Classes are Covered by MiFIR/MiFID II?

Expansion from exchange-centric model

MiFID I required the reporting of equity instruments traded or admitted to trading on a regulated market and OTC derivatives that derived their value from them.

MiFID II has expanded the scope of the regime to cover financial instruments linked to trading venues. The types of trading venue are the Regulated Market (RM), Multilateral Trading Facility (MTF) and Organised Trading Facility (OTF) (trading venues). The scope was expanded to include:

financial instruments traded on a Trading Venue or for which a request for admission to trading has been made;

financial instruments where the underlying financial instrument is traded on a Trading Venue; and

financial instruments where the underlying instrument is an index or a basket composed of financial instruments traded on a Trading Venue.

Asset classes caught

The expansion of the regime means that a wider range of asset classes will be subject to transaction reporting requirements. These asset classes include:

- Equities
- Bonds
- FX
- Interest Rates
- Commodities

Provision of instrument data for asset classes in the expanded scope

The Financial Instruments Reference Data System (FIRDS) is a data collection infrastructure established by the European Securities and Markets Authority (ESMA) to collect data in an efficient and harmonised manner.

Article 27 of MiFIR obliges Trading Venues and Systematic Internalisers to provide instrument data for population of the FIRDS.

FIRDS will cover the range of financial instruments that are included in the increased scope of MiFIR, allowing firms to ascertain the reportability of instruments by providing a data source containing all the financial instruments traded, or admitted to trading, on a Trading Venue.

Are Rolling Spot FX and Metals Reportable under EMIR and MiFIR?

TRAction often gets asked whether Rolling Spot FX and Spot Precious Metals are reportable under MiFIR. Here, we explain why we consider Rolling Spot FX and Spot Precious Metals are not reportable under MiFIR.

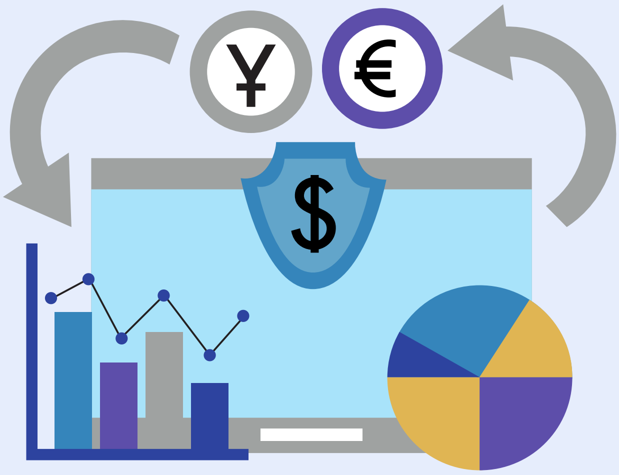
Financial instruments that are subject to MiFIR

Article 26 of MiFIR sets out the reporting obligations that apply where one of the following is traded, irrespective of whether or not such transactions are carried out on a Trading Venue:

1. financial instruments which are admitted to trading or Traded on a Trading Venue (ToTV) or for which a request for admission to trading has been made;
2. financial instruments where the underlying is a financial instrument traded on a Trading Venue; and
3. financial instruments where the underlying is an index or a basket composed of financial instruments traded on a Trading Venue.

With regards to over-the-counter (OTC) derivatives, ESMA's opinion is that "only OTC derivatives sharing the same reference data details as the derivatives traded on a Trading Venue should be considered to be ToTV, hence, subject to the MiFIR transparency requirements and to transaction reporting".

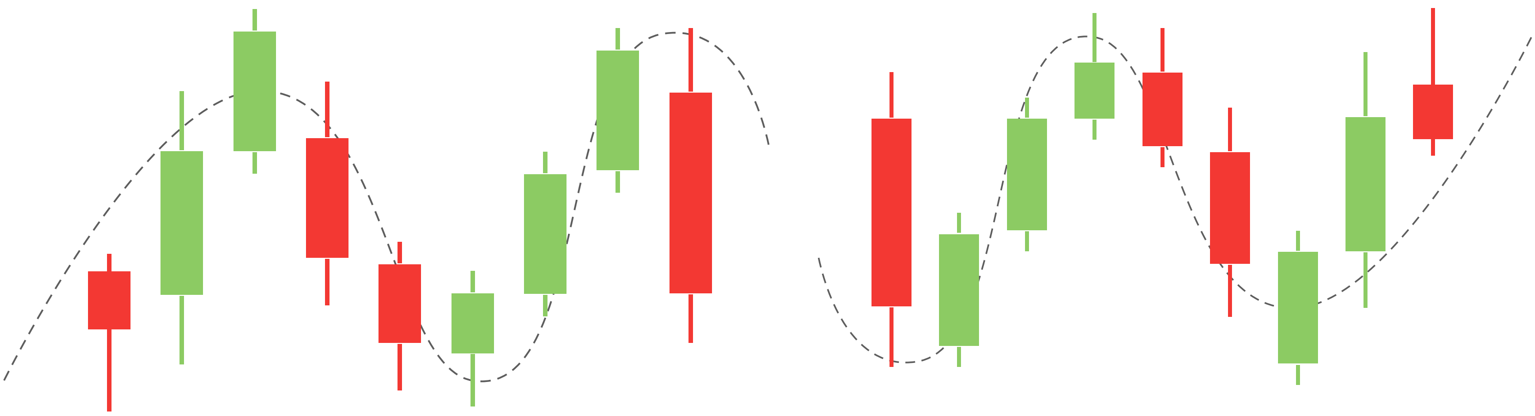
Thus, if the instrument is traded on a Trading Venue but the transaction took place outside of the exchange (OTC derivatives), it will be reportable under MiFIR if it shares the same reference data as the instrument which is ToTV (except for the venue/issuer related fields).



Traded on a Trading Venue

Following the launch of MiFID II, Multilateral Trading Facilities (MTFs) and Organised Trading Facilities (OTFs) have been classified as Trading Venues, which has widened the scope for instruments that are ToTV and thus reportable under MiFIR.

Prior to 3 January 2018, there was some uncertainty as to whether derivatives on Spot FX products offered by a CFD/FX broker would be subject to MiFIR, given that some venues such as LMAX (an MTF) and Eurex (a Regulated Market) offer a Rolling Spot FX product which could have the same reference data details as an OTC instrument.



Financial Instruments Reference Database System (FIRDS)

After monitoring ESMA's FIRDS over a 12-month period and the transactions reported on behalf of our clients, we have come to the conclusion that Rolling Spot FX contracts offered by LMAX or Eurex are not reportable under MiFIR. The rolling Spot FX instruments offered by Eurex and LMAX no longer appear in the FIRDS database under the International Securities Identification Number (ISINs) provided by the two entities. As a result, we are unable to report these transactions as reporting results in receiving rejections from the regulators.

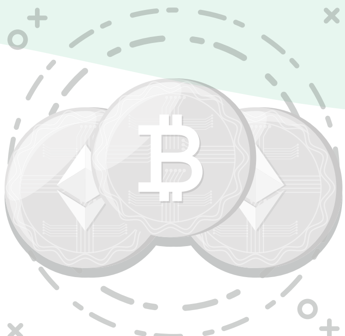
Therefore, even if the same reference data was shared between a CFD/FX broker and the venue, any OTC instruments based on these products would **not reportable.**

Are Cryptocurrency Contracts for Difference (CFDs) Reportable under EMIR and MiFID II (MiFIR)?

There remains a lack of clarity as to whether cryptocurrency derivatives (including crypto CFDs) should be treated as financial instruments and therefore subject to EMIR and MiFIR reporting requirements and hence, submitted to a Trade Repository (TR)/Approved Reporting Mechanism (ARM). Though, as the popularity of cryptocurrency sweeps the market internationally, both ESMA and the FCA are working to amend EMIR and MiFIR regulation to support the adequate reporting of cryptos. In this article, 'EMIR' and 'MiFIR' refer to the regimes operating in both the EU and UK unless specified.

On 4 January 2022, ESMA requested feedback regarding how pre- and post-trade transparency and data reporting requirements should be amended including how regulators can access the data required. This request forms part of ESMA's Distributed Ledger Technology (DLT) Pilot Regime.

While in September 2021, FCA's CEO, Nikhil Rathi, confirmed that the regulator is cooperating with the Bank of England on a digital reporting initiative aimed at reducing the cost of compliance checks.



Despite efforts to improve the regulation of crypto derivatives, ESMA's statement on crypto-assets, issued in January 2019, still stands as the foremost reporting guidance available:

"Our survey of NCAs highlighted that some crypto-assets may qualify as MiFID financial instruments, in which case the full set of EU financial rules would apply. However, because the existing rules were not designed with these instruments in mind, NCAs face challenges in interpreting the existing requirements and certain requirements are not adapted to the specific characteristics of crypto-assets."

Products	EU MiFIR Reportability	UK MiFIR Reportability	EU EMIR Reportability	UK EMIR Reportability
Crypto	No	No	No	No
Non-EEA or non-UK listed Crypto Derivatives	No	No	Yes	Yes
UK listed Crypto Derivatives (do not exist yet)	No	Yes	No	Yes
EEA listed Crypto Derivatives (do not exist yet)	Yes	Yes	Yes	Yes
Non-listed Crypto Derivatives (e.g., CFD Crypto)	No	No	Yes	Yes

Under MiFIR

To be reportable under EU MiFIR, the instrument has to be traded on a trading venue, or the underlying has to be traded on a trading venue, within the EEA. To be reportable under UK MiFIR, the instrument has to be traded on a trading venue, or the underlying has to be traded on a UK, Gibraltar or EU trading venue.

Currently, the only venue listed cryptocurrency we are aware of are Bitcoin and Ether Futures listed outside the EEA (on CBOE and CME) so we currently don't see cryptos as reportable under MiFIR.

Under EMIR

Are cryptocurrencies themselves reportable or just the CFD?

Under EMIR, only derivatives are reportable. Therefore, a CFD on a cryptocurrency is deemed reportable.

Are all crypto CFDs reportable or just Bitcoin CFDs?

TRAction would expect that if a CFD on Bitcoin is reportable, then all cryptocurrency derivatives are also reportable.

What asset class do they fall under?

Due to the fact the EMIR Reporting Rules were not designed with these instruments in mind, there isn't a category that perfectly fits a cryptocurrency and therefore some interpretation is required in order to report these instruments. At this stage, the wider derivative industry and Trade Repositories suggest reporting under the commodity asset class as a cryptocurrency does not have an ISO standard currency code, which is required, for it to be reported as a currency.

When did the reporting obligation for Crypto CFDs commence?

12 February 2014, when the reporting obligation under EMIR commenced. We are of the view that Crypto CFDs will fall under the definition of derivatives. Hence the reporting of Crypto CFDs would have the same commencement date as all other derivatives contracts.

When did the reporting obligation for Crypto CFDs commence?

12 February 2014, when the reporting obligation under EMIR commenced. We are of the view that Crypto CFDs will fall under the definition of derivatives. Hence the reporting of Crypto CFDs would have the same commencement date as all other derivatives contracts.

Is there a backloading requirement for reporting Crypto CFDs?

Yes, if you agree with TRAction's assessment about the reportability of Crypto CFDs, the backloading requirement applies to Crypto CFDs. The reporting obligation applies to derivative contracts which:

(a) were entered into before 12 February 2014 and remain outstanding on that date;
(b) were entered into on or after 12 February 2014.

What should I do next?

We suggest that you review your current product offering and determine whether your Investment Firm has offered or transacted in any cryptocurrency derivatives or CFDs. Where you have done so, this is what you need to do:

- Check if they have been reported

Where any crypto CFDs have not been reported:

- Consider whether all previous transactions should be backloaded under EMIR and MiFIR

- Consider whether you need to lodge a breach report to your NCA

- Make sure you update your systems and processes to ensure daily reporting of all cryptocurrency derivatives along with your other reportable transactions.

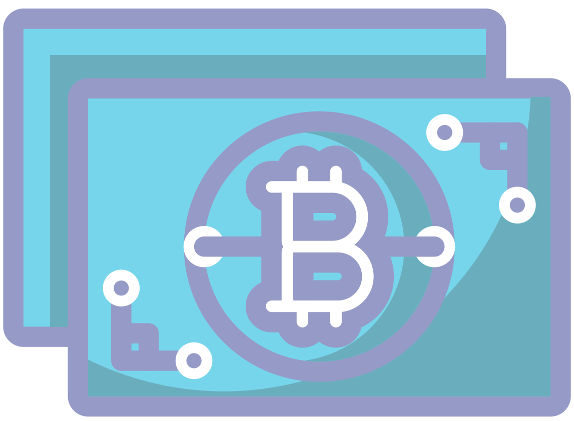
Do Crypto-Asset Service Providers Have MiFIR Reporting Obligations?

To address the Money Laundering/Terrorism Financing (ML/TF) risks emanating from crypto-assets, the Cyprus Securities and Exchange Commission (CySEC) published a policy statement (PS) on 13 September 2021 to outline its approach to the registration and operations of Crypto Asset Services Providers (CASPs).

What is the crypto-asset the PS refers to?

Currently, there is no legal definition of 'crypto-assets' under the European Union's (EU) financial securities laws. For the purpose of the CASP registration as outlined in the PS, the term crypto-asset refers to a product that is:

"a digital representation of value that is neither issued nor guaranteed by a central bank or a public authority, it is not necessarily attached to a legally established currency and does not possess a legal status of currency or money, but is accepted by natural or legal persons as a means of exchange and which can be transferred, stored, and traded electronically, and it does not qualify as fiat currency, financial instruments under MiFID II nor electronic money under the Electronic Money Law." (Refer to paragraph 1.1.6 and 1.1.7 of PS)



Are CASPs required to report these crypto-assets under MiFID II/MiFIR?

No. The crypto-assets referred to for the purpose of the CySEC CASP registration do 'not qualify as financial instruments under MiFID II'. Hence, CASPs don't have MiFIR reporting obligations.

Are crypto-assets generally qualified as financial instruments under MiFID II?

Whether all or certain types of crypto-assets qualify as MiFID II financial instruments is an ongoing topic among ESMA and National Competent Authorities. As yet, there has been no definite answer.

However, ESMA advised that "where crypto-assets qualify as financial instruments, a number of crypto- asset related activities are likely to qualify as investment services/activities such as placing, dealing on own account, operating an MTF or OTF or providing investment advice. The organisational requirements, the conduct of business rules and the transparency and reporting requirements laid down in MiFID II would then apply, depending in some cases on the type of services offered and the type of financial instrument involved" (ESMA's Advice on Initial Coin Offerings and Crypto-Assets).

If you are trading CFDs on crypto-assets, you may have MiFIR reporting obligations. To find out more, view our article on the reportability of crypto CFDs under EMIR and MiFIR.

Who is required to register as a CASP?

Whether you are established in Cyprus, another European Economic Area (EEA) Member State or outside of the EEA, if you provide or exercise one or more of the following services or activities to another person or on behalf of another person in or from Cyprus, you'll be required to register yourself as a Crypto Asset Service Provider (CASP) with CySEC:

a) exchange between crypto-assets and fiat currencies;

b) exchange between crypto-assets;

c) management, transfer, holding and/or safekeeping, including custody, of crypto-assets or cryptographic keys or means which allow the exercise of control over crypto-assets;

d) offering and/or sale of crypto-assets, including the initial offering; and

e) participation and/or provision of financial services regarding the distribution, offer and/or sale of crypto-assets, including the initial offering.

CASP registration exemption

If you are a CASP established in the EEA and registered with one or more EEA National Competent Authorities for Anti-Money Laundering and Counter-Terrorism Financing (AML/CFT) purposes in relation to all services or activities undertaken or intended to be undertaken in Cyprus, you are exempted from the obligation to be registered as a CASP with CySEC but you must submit to CySEC a notification form (Form 188-07).

TRAction continues to monitor the regulatory changes on crypto-assets and will publish updates on any progress in the crypto-asset space that may impact on reporting obligations for EMIR, MIFID and SFTR.

[1] See definition of "virtual currencies" Directive 2018/843 of the European Parliament and Council of 30 May 2018 amending the Anti-Money Laundering Directive (EU) 2015/849

Digital Option Reportability

What are Digital Options

A digital option is an instrument which allows traders to manually set the strike price and expiration date by taking a position with only two possible outcomes and a fixed payout. In order to profit, the price of a security must exceed the predetermined strike price.

A digital option combines the characteristics of a classic option, binary option and on-touch option. The ability of traders to determine their own strike price means that risk can be varied accordingly to the appetite of the individual investor. By placing the strike place close to the market price risk can be minimised at the expense of potential payoffs and vice versa.

Features of a Digital Option

Digital options are generally based on a currency pairing with a short-term lifespan. The maximum losses when using these instruments are 100%, however it is possible to make profits as high as 900%. This payoff disparity can be enticing to some investors, however the greater the target rewards the larger the risk of losing 100% of your position. Traders can close the trade any time before the expiry, helping to further increase the implementation of risk management strategies.

Are Digital Options Reportable?

They are OTC derivative options which occur off exchange to provide more flexibility to traders due to the lack of standardisation in strike price and expiration date, with participants essentially defining their own terms. There is no secondary market for the product types, therefore, these instruments fall under the regulator's requirement for OTC derivative reporting.

How Should You Report Digital Options?

Digital options are traded in a wide range of jurisdictions around the globe and as such can incur reporting obligations for financial entities interacting with this market. These instruments fall under the category of exotic options, as such certain key fields are required for their reporting. Examples include but are not limited to strike price, expiration date, premium amount and product ID.

How Does TRAction Assist Their Clients?

With new financial instruments continually being created against the backdrop of a dynamic regulatory landscape, TRAction's aim is to make trade reporting simple for our clients by staying ahead of any developments that may affect the reportability of our client's transactions. This allows us to work closely with our clients, planning well in advance to implement any changes that may be required and use our expertise to advice on niche situations that arise through the regular course of business.

Summary

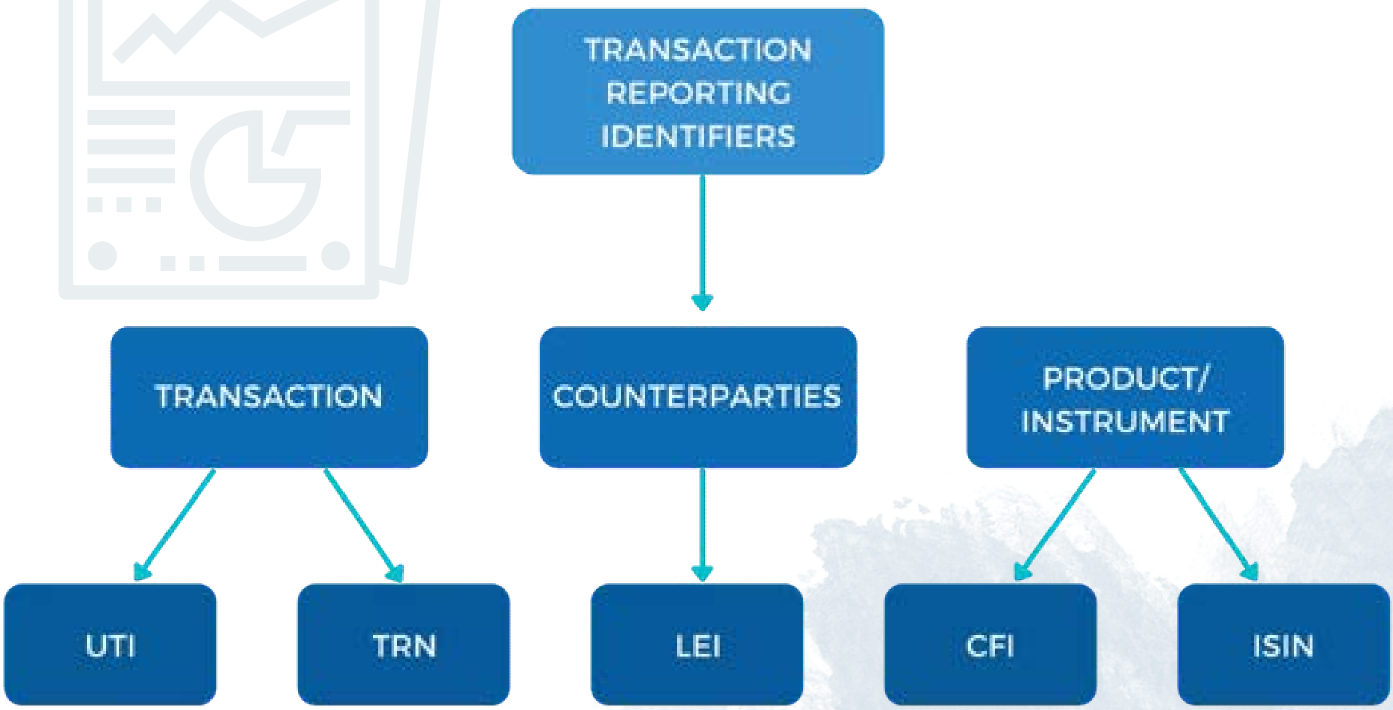
As this area of the industry develops, TRAction remains committed to making trade reporting simple by staying ahead of regulatory developments and monitoring for changes that may affect our clients.

CFI and ISIN Requirements for EMIR and MiFID II Reporting

Reporting of a wide range of identification and classification codes is one of the major aspects of transaction reporting. The range of product identifier codes required by the reporting regimes of EMIR and MiFIR includes:

- International Securities Identification Number (ISIN);
- Classification of Financial Instruments (CFI); and
- Alternative Instrument Identifier (Aii).

Use the decision tree below to help to determine which product identifiers you should be reporting.



1. **What is an ISIN?**

An ISIN is a unique code that is used to identify a financial instrument (security). Its structure is defined in International Securities Identification Number (ISO 6166). ISO 6166 is an international standard promulgated by the International Standards Organisation and has worldwide application.

2. What is the CFI and how is it used to classify products?

The CFI is a 6-character code used to classify a financial instrument, as defined in ISO 10962.	
First character	Highest level of category to which the instrument belongs – e.g. Equities (E), Debt (D), Options (O), Futures (F), Forwards (J) etc.
Second character	Specific groups within each category – e.g. Financial Futures (FF) Commodity Futures (FC).
Third to Sixth characters	Refer to each group's main features or attributes.
N.B. The letter X always means Not Applicable/Undefined	2

By way of example, if we look at the similarities and differences between a CFD and spread-bet on an equity instrument.

The CFI code for a CFD on an equity is JESXCC	
J	Forward
E	Equity
S	Single stock
X	Not applicable/undefined
C	Contract for difference
C	Cash settled

The CFI code for a spread-bet on an equity is JESXSC	
J	Forward
E	Equity
S	Single stock
X	Not applicable/undefined
S	Spread-bet
C	Cash settled

Both instruments are classed as Forwards (J) and have the same underlying instrument so they share the same group and first attribute. They are both cash settled so the only difference is the fifth character which relates to the differing 'return or payout trigger' (the third attribute for forwards).

3. EMIR Reporting

Under the revised EMIR RTS, the CFI and ISIN will need to be submitted with transaction reports.

a) Product classification – reporting of CFI

'Product Classification' is a mandatory field in EMIR transaction reports under the revised EMIR RTS. Until the introduction of an ESMA endorsed Unique Product Identifier (UPI) framework, the CFI code is the only option for classifying an instrument in a transaction report.

b) Product identification – reporting of ISIN

The ISIN is the only method available for identifying instruments in EMIR transaction reports.

4. MiFID II/MiFIR Reporting

The ISIN is required to be reported for MiFIR reporting. Where an ISIN is not available, you will be required to report a CFI and possibly other information.

a) Reporting of ISIN

Where an ISIN for an instrument is available, it must be used to identify the instrument in a MiFID II/MiFIR transaction report. In this instance, a CFI is not required.

Use of the ISIN is to be expanded to identify OTC derivatives traded on venue or by a systematic internaliser (SI). This aligns with the requirement of MiFIR RTS 23 relating to Reference Data:

"Prior to the commencement of trading in a financial instrument in a trading venue or systematic internaliser, the trading venue or systematic internaliser concerned shall obtain the ISO 6166 International Securities Identifying Number (ISIN) code for the financial instrument".
Commission Delegated Regulation (EU) 2017/585 of 14 July 2016.

b) Identifying information to be reported where ISIN is not available

Where there is no ISIN available (meaning that the instrument is not traded on a trading venue or with an investment firm acting as an SI), additional fields are required to identify the instrument including the full name of the instrument, a CFI code classifying the instrument and an ISIN identifying the underlying instrument.

5. The Identifier Framework

Any trade will have counterparties, take a particular transaction form and involve certain products or instruments. The unique trade identifier (UTI) is used to identify transactions under EMIR, and the transaction reference number (TRN) is used for MiFIR. The legal entity identifier (LEI) represents the legal entity issuing the security. Lastly, combinations of CFIs and ISINs are used to identify these elements so that a trade can be holistically defined.

If you would like to discuss the above or learn how it may apply to you, get in touch with us.

EMIR Refit: Unique Transaction Identifiers (UTI)

Both ESMA and the FCA are placing greater emphasis on Unique Transaction Identifiers (UTI) and their consistent application between counterparties. In an effort to align the UK and EU reporting frameworks with global standards, regulators have introduced the UTI generation waterfall developed by CPMI-IOSCO into both EU and UK EMIR Refit 2024. This aims to foster data harmonisation and ensure a more globally consistent dataset.

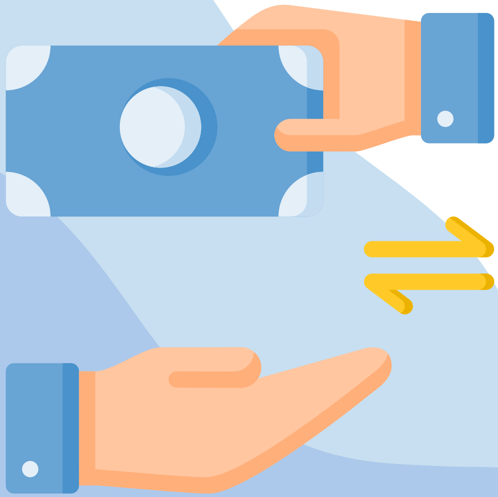
What is UTI?

The primary purpose of the UTI is to uniquely identify individual transactions which are reported to a Trade Repository (TR). They are also used to pair each unique transaction between the trading parties. Every reportable transaction must have a UTI so there is no instance where the transactions are duplicated. The UTI should not be reused, even if the previous transaction is no longer open. An individual transaction should maintain its UTI throughout its lifecycle, including any amendments or updates made to the transaction.

UTIs should consist solely of alphanumeric characters and be composed of a combination of the LEI of the generating entity and a unique code created by that entity. As with the current EMIR regulation, the total number of characters allowed for the UTI remains 52 characters.

UTI = 20 characters of the LEI generating entity + max of 32 character from Trade ID

Example: UTI = 549300QM99I2H4YK1K951234567890ABC



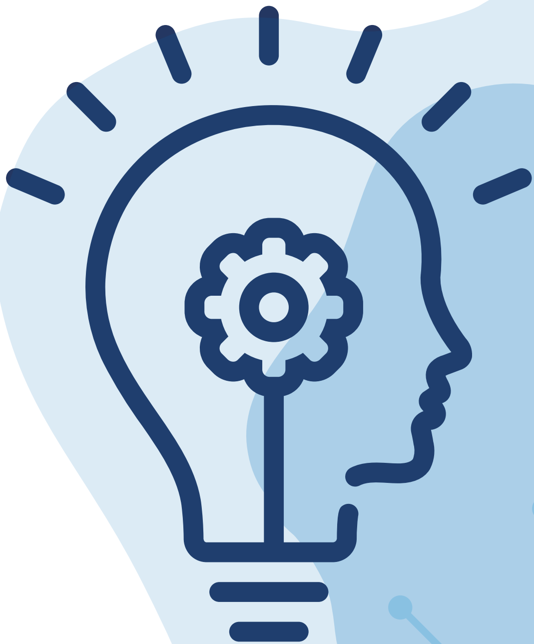
Who is responsible to generate the UTI?

Article 7 of EMIR REFIT's ITS and Article 8(4) of UK EMIR Technical Standards requires the counterparty generating the UTI to communicate the UTI to the other counterparty no later than 10:00 am UTC of the next working day. In case the generating party fails to provide the UTI in due time, the receiving party should contact the generating party and enquire about the process instead of reporting its own UTI. At this stage it remains unclear how plausible it is for entities located in different regions to provide the UTI in a timely manner and how the regulators will approach this.

Firms with sizeable trades will most likely implement a 'bilateral agreement' with their counterparties to generate the same UTI based on an agreed methodology. It is also possible for a third party like a liquidity aggregator or a confirmation platform provider to generate the UTI for both parties.

For example, when a client places a trade with an investment firm on a trading platform, that trade will pass through the liquidity aggregator's bridge and get executed with a Liquidity Provider (LP). This provides the investment firm and the LP access to all trade details including the UTI created by the liquidity aggregator.

Example: UTI = LEI of the Liquidity Provider + Trade ID from Liquidity Aggregator



Cleared transactions should have the UTI generated by the Central Clearing Counterparty (CCP) at the point of clearing. If the transaction is centrally executed by a trading venue, the trading venue is responsible for generating the UTI.

The solution of last resort to determine the entity generating the UTI is to sort the LEIs in reversed order using the ASCII sorting method, where a digit always precedes a letter.

The flowchart at page 152 of the Final Report EU EMIR Refit illustrates how counterparties should determine the entity responsible to generate the UTI.

For investment firms trading with jurisdictions outside of the EMIR regime, some counterparties will be subject to regimes which have not yet or are unlikely to implement the global UTI. In such cases, there will be no need to obtain any bilateral agreement or meet the UTI waterfall flowchart above.

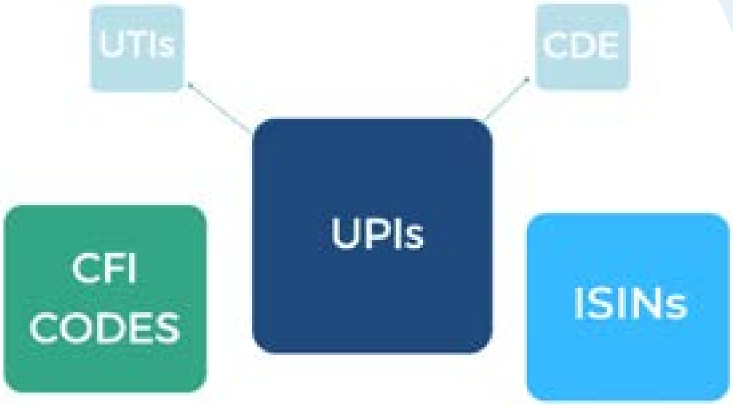
EMIR Refit: Unique Product Identifier (UPI)

EMIR Refit will see the introduction of a new field – the Unique Product Identifier (UPI). The UPI is being added to EMIR, as well as other regimes such as ASIC, MAS and CFTC derivative reporting so as to more closely align regulation worldwide.

Prior to EMIR's inception, there had not been a universal system of identifying financial instruments. Thus, EMIR reporting often has included a mix of CFI codes and ISINs, interpretation of which can be confusing for investment firms as to what exactly is required.

CFI codes are often presented incorrectly, and don't correspond to the same data reported elsewhere in the same report (such as delivery type). Populating solely the first two characters out of six, leaving the remaining characters as XXXX (for example JRXXXX) is an all-too-common reporting error. Under EMIR, the entire CFI code needs populating for accurate reporting.

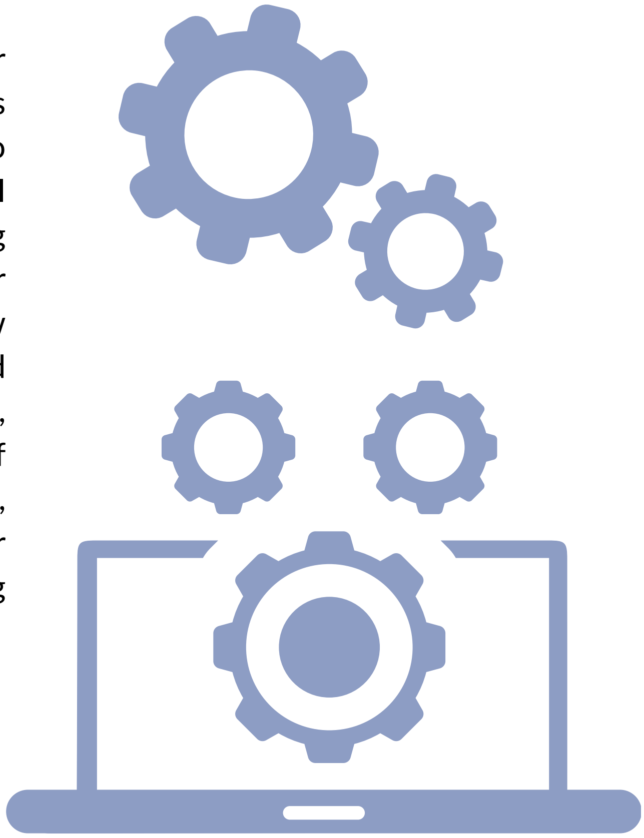
Conceptually, UPIs can be considered to sit between CFI codes and ISINs, both of which are currently EMIR reportable fields. The UPI will work in conjunction with Unique Transaction Identifiers (UTIs) and Critical Data Elements (CDE) which are also expected to be reportable to global regulatory authorities. In the first instance, UPIs are designed to uniquely identify financial instruments involved in OTC derivative transactions to be reported to a trade repository (TR).



The Official Journal of the European Union has published the requirement for the UPI, created and distributed by the Derivatives Service Bureau (ANNA DSB). The mandate is included within EMIR Refit and makes the EU the first jurisdiction among the G20 to enforce use of the UPI alongside the existing Legal Entity Identifier (LEI). The LEI identifies the parties to a derivative trade, whilst the UPI identifies what derivative product was traded.

The introduction of the UPI under the ANNA DSB is a welcome improvement. One centralised place for UPIs will reduce inconsistency and will hopefully reduce the volume of reportable fields in the future, as many separate data elements can be obtained from the UPI.

Once introduced, firms will need to apply for UPIs or use existing UPIs with the same characteristics created by another ANNA DSB user. They will also need to ensure that they have enough time for a UPI to be allocated and still adhere to the T+1 reporting requirements. This is therefore likely to require a fair degree of prior planning, particularly when new derivatives are introduced. ANNA DSB initially had planned to go live with the UPI service in July 2022, but this has since been delayed. A new start date of 29 January 2024 for the UPI service is planned, following the publication of a CFTC designation order confirming the UPI will be required in recordkeeping and swap data reporting in the US.



Understanding MiFIR National IDs

Natural person identifiers in MiFIR transaction reporting

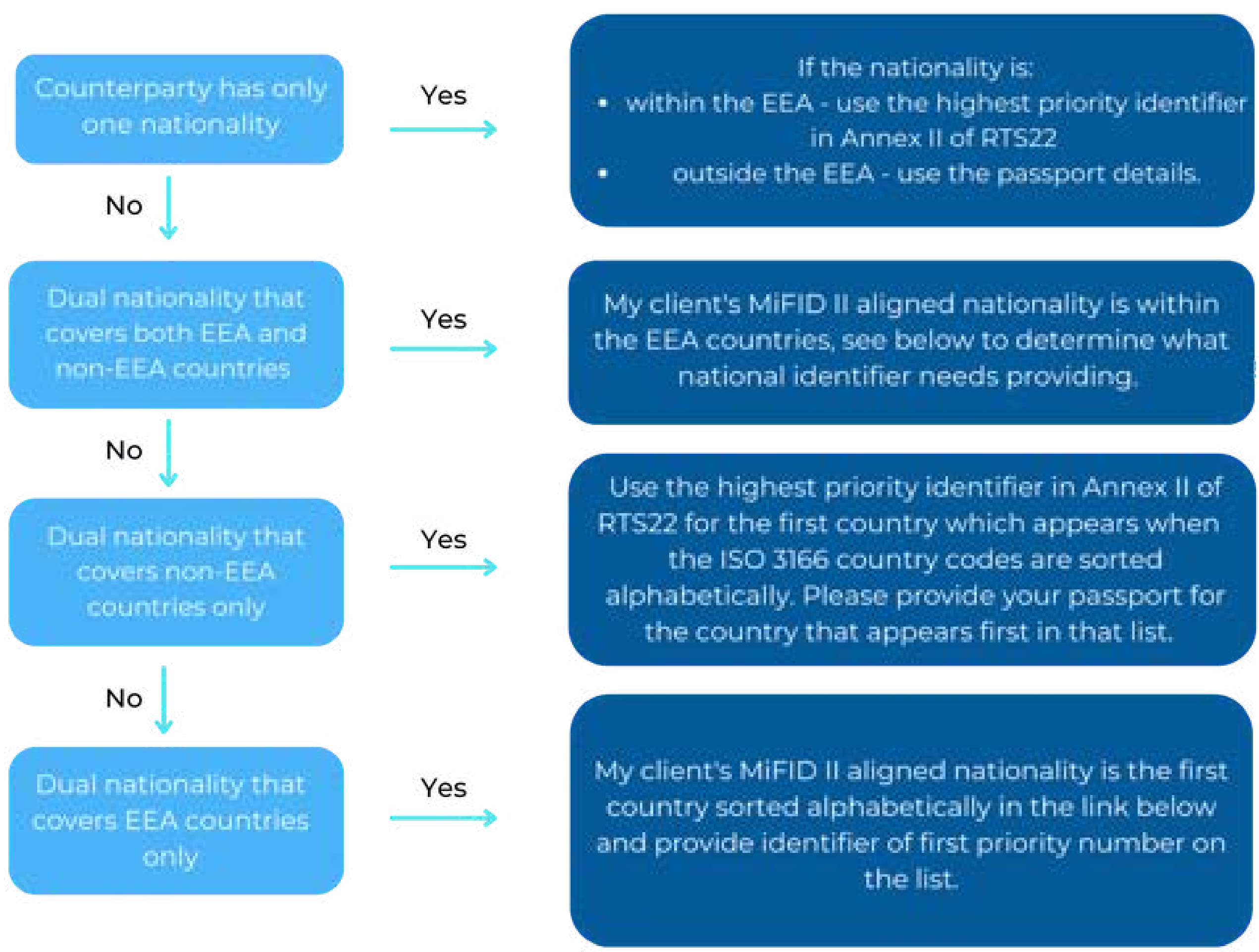
Natural person identifiers are an important part of transaction reporting and contain some complexity in their application due to the variety of identifiers available.

It's widely-known that corporate counterparties need to be identified by their Legal Entity Identifier (LEI) in MiFIR transaction reports. This is simple and straight-forward.

Where the counterparties are natural persons, the reporting of natural person information including identifiers, names and dates of birth will be required.

Natural person requirement under MiFIR – what do I need to do?

Annex II of RTS 22 applies to all EU and UK investment firms as to the type of identifier to use according to the nationality of a natural person counterparty. The type of identifier to be used will depend on the priority given.



Basic rule	**Two-digit “alpha-2” code plus Annex II identifier**
Priority of identifiers	The highest priority identifier that a person has as provided in Annex II should be used. It is not relevant that an investment firm may not know the highest priority identifier.
EU Investment Firm	
Nationality(ies) of the natural person	
EEA	The two-letter “alpha-2” code and the identifier provided in Annex II (i.e. same as EEA only nationality)
Non-EEA (including UK)	“All other countries” field in Annex II to be used – this is the National Passport Number and CONCAT (see column to the right)
More than one European Economic Area (“EEA”) country	Use two-letter “alpha-2” code which is first when arranged alphabetically and use corresponding identifier from Annex II.
UK Investment Firm	
Nationality(ies) of the natural person	
UK	The two-letter “alpha-2” code and the identifier provided in Annex II (i.e. UK National Insurance number as first priority)
UK and EEA	The two-letter “alpha-2” code and the identifier provided in Annex II (i.e. UK National Insurance number as first priority)
EEA	The two-letter “alpha-2” code and the identifier provided in Annex II (i.e. same as EEA only nationality)
Non-UK and non-EEA	“All other countries” field in Annex II to be used – this is the National Passport Number and CONCAT

What is CONCAT?

'CONCAT' is the concatenation or combination of the following four elements:

1. Two-letter "alpha-2" code
2. Date of birth (YYYYMMDD)
3. First five characters of first name
4. First five characters of surname

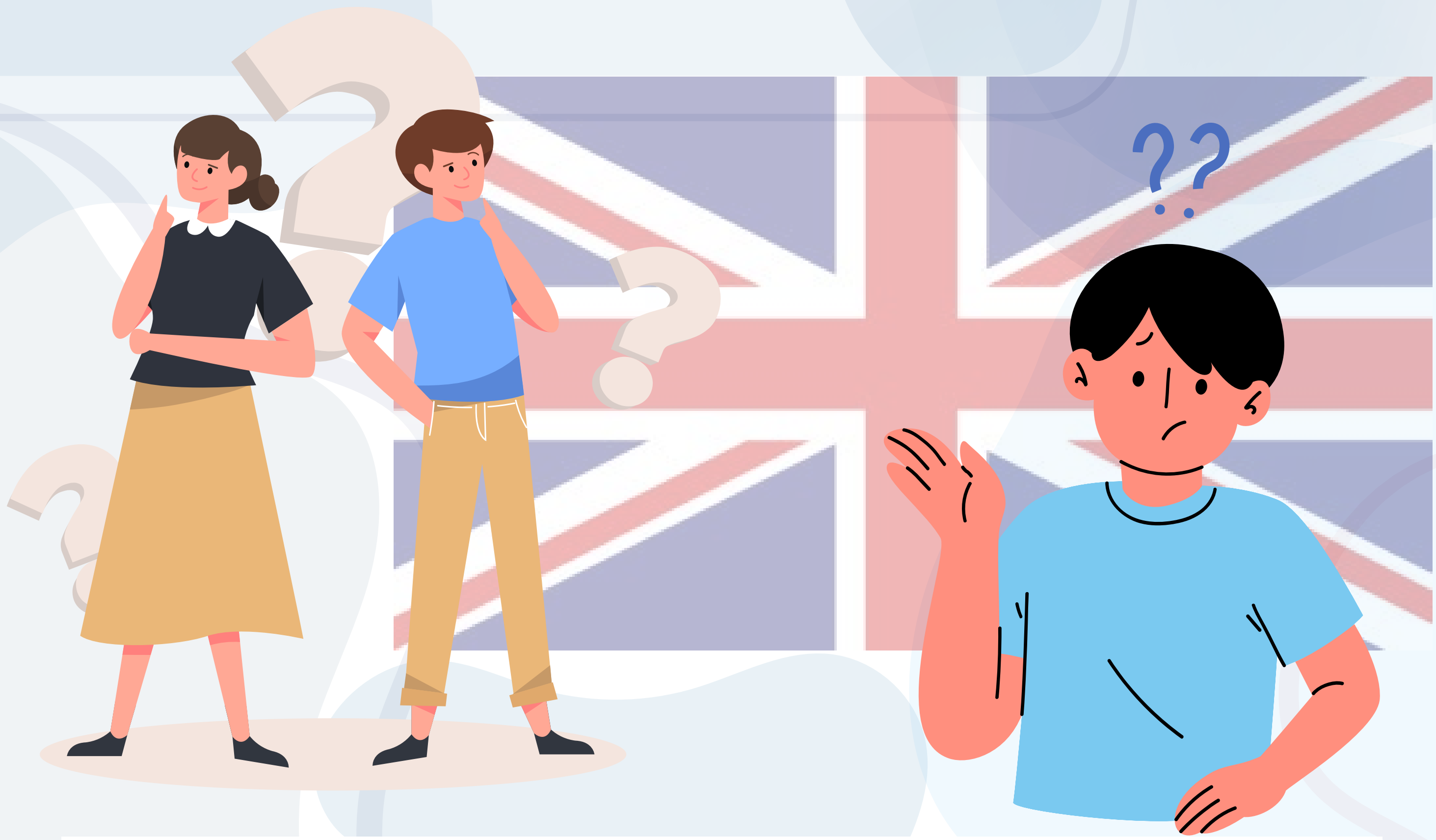
Additional rules:

For first names and surnames, prefixes and punctuation are excluded.
If the name is less than five characters then use # to fill remaining spaces

Example:

For an EU investment firm with a counterparty from Belgium, the 1st priority would be the Belgian National Number. If this identifier is not available, then CONCAT would be used as a 2nd priority. The 3rd priority is not available for Belgium nationals but is available for some others.

ISO 3166-1 alpha 2	*Country*	*1st priority identifier*	*2nd priority identifier*	*3rd priority identifier*
AT	Austria	CONCAT		
BE	Belgium	Belgian National Number (Numero de registre national - Rijksregisternummer)	CONCAT	



What about UK nationals?

Before Brexit, the national ID requirement under MiFIR for a UK national was UK national Insurance Number as priority 1 identifier and CONCAT as priority 2.

After Brexit (1 January 2021), the UK is no longer part of the and is treated as a third country under EU MiFIR reporting.

As a UK investment firm, the requirements for reporting a UK national remain the same as pre-Brexit, where the first priority identifier is the UK National Insurance Number and if this identifier is not available, then CONCAT will be the second priority.

However as an EU investment firm reporting a UK national, the UK is classified as a third country. Therefore you will need to use the requirements under the category of ‘all other countries’, being National Passport Number as 1st priority identifier, CONCAT as 2nd priority.

All other countries	National Passport Number	CONCAT

What do you need to do?

Recommendation 1 – All Clients

We suggest you take the opportunity to review your client onboarding process against Annex II of RTS 22 to ensure that you are requesting the appropriate national identifier information for each client based on their nationalities. It may be worthwhile reviewing national identifiers held across your entire client base to ensure they are current and have provided you with the highest priority identifier they have available.

TRAction suggest you follow up your clients to ensure you have made best endeavours, as required under MiFIR regulation. Use the flow chart above to determine your client's natural person identifier requirements.

Recommendation 2 – UK Nationals

Whether your clients that are UK nationals were onboarded before or after Brexit, you are now required to report their passport numbers. Therefore you should:

1. UK nationals onboarded before Brexit – update their details in your system with their passport numbers.
2. UK nationals onboarded after Brexit – always collect their national passport details.

Will the transactions/identifiers get rejected based on validation?

You should ensure that you have appropriate validation processes in place when collecting the natural person identifiers across the various nationalities so that where there are any queries by a regulator you have appropriate records to provide.

It is not possible for an Approved Reporting Mechanism (ARM) to validate if the correct priority identifier is used in your reporting, or whether the right nationality is reported. This means a report may be accepted by the ARM without necessarily being technically correct according to RTS 22. However, this does not mean that a future and more in-depth review of your reporting by a regulator will not highlight the importance of following these national client identifier requirements.

Fields which require population of a natural person or corporate identifier

Field Number	Field Name	Input (if subject is natural person)
Buyer Fields		
7.	Buyer identification code	Natural person identifier
8.	Country of the branch for the buyer	Country code
If buyer is a client and a natural person:		
9.	Buyer - First name(s)	First name(s)
10.	Buyer - Surname(s)	Surname(s)
11.	Buyer - Date of birth	Date of birth
If buyer is a client and acting under a power of representation:		
12.	Buyer decision maker code	Natural person identifier
If buyer is a client, acting under a power of representation and natural person:		
13.	Buyer decision maker - First name(s)	First name
14.	Buyer decision maker - Surname(s)	Surname
15.	Buyer decision maker - Date of birth	Date of birth
Seller Fields		
16.	Seller identification code	Natural person identifier
17. - 24.	[Mirror buyer fields 8. - 15.]	[Mirror buyer fields 8. - 15.]
Investment Decision and Execution		
57.	Investment decision within firm*	Natural person identifier
59.	Execution within firm*	Natural person identifier

*To learn how to populate these fields and the "trading capacity" field, please visit our page – MiFIR Reporting for STP Brokers.

UK MiFIR Validation Rules

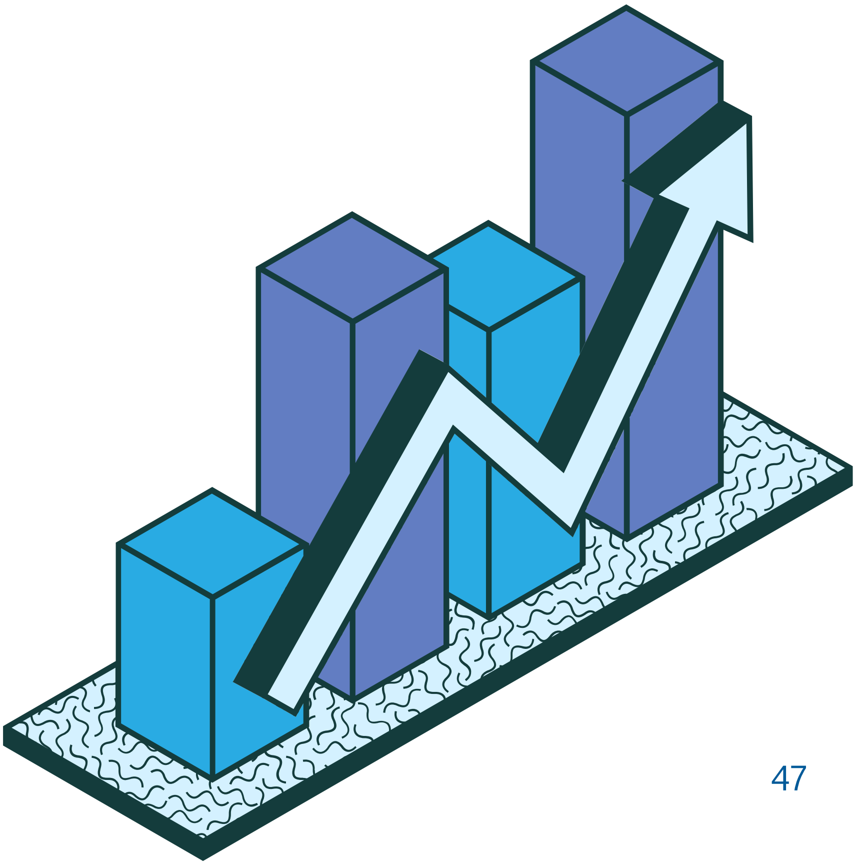
FCA's MiFIR will not be changing the current validation rules used. The UK version of MIFIR will remain with the existing schema validation which will therefore be different from the EU version of MiFIR post 31 May 2022 – the first major divergence in the regime.

What is data validation?

Data validation, the process of ensuring that inputs match requirements as closely as possible so that the data will be considered valid by the Approved Reporting Mechanism (ARM), is covered by ESMA and FCA's Data Validation Rules for Transaction Reporting (Validation File). The Validation File specifies rules to determine the data inputs that will be acceptable and the errors that can result if information is not reported correctly.

Why is data validation difficult?

There are several intricacies and variations involved in the population of MiFIR data fields that make the task far from clear. RTS 22, the standards to supplement MiFID II and MiFIR, provides generic formats and standards for inputs into reporting fields. However, the actual inputs accepted by ARMs may be more technically specific than the regulation. Therefore, it's important to consider the data and IT components of the inputs in conjunction with the regulatory requirements.



ESMA’s New MIFIR Transaction Reporting Validation Rules

MiFIR requires a wide range of data in respect of transaction reporting. ESMA’s revised validation rules commenced on 31 May 2022

What’s changed in ESMA’s update?

The updated rules which commenced on 31 May 2022 contain minor amendments and clarifications including:

- the date of birth fields of the Buyer/Seller;
- Buyer/Seller decision must not be later than the trade date;
- the MIC must be valid in the reference data on the transaction date; and
- the ‘EntityStatus’ must be active on trading date for Buyer/Seller and Buyer/Seller Decision Maker ID codes; and
- Investment decision within firm should be left blank if Buyer decision maker and Seller decision maker are left blank.

Identifiers for Natural Persons

The requirement to identify natural persons as part of the transaction reporting obligation is not without its challenges. This information, typically collected during client onboarding procedures, is often not easily accessible for use in transaction reporting and/or the information itself may not be suitable from a transaction reporting perspective. For example, where a firm collects a client's passport information but the passport is not one of the methods of identification stipulated within Annex II of RTS 2, the investment firm (IF) must request alternative identifiers from the client for the purpose of transaction reporting.

The extent to which a firm should go in verifying and validating the data supplied by a natural person is somewhat clarified by the MiFIR Transaction Reporting Guidelines which state the following:

"In order to ensure fulfilment of this requirement, investment firms could, among others, ask the natural person to prove the correctness and validity of the identifier by providing official documents. Where no identifier is provided by the client, the investment firm would not be able to comply with this detail of the transaction reporting requirements".

An example is the case of citizens of countries within the EU that do not have the 'CONCAT' code (which is a concatenation of country code, date of birth, first name and surname) listed as a natural person identifier. For citizens of these countries, IFs will need to request identification documents such as a passport.

For more detailed guide on natural person identifiers, see our earlier article titled "Understanding MiFIR National IDs".

Legal Entity Identifier Codes for Corporate Counterparties

Since 4 July 2018, IFs have not been able to provide services triggering transaction reporting obligations to non-individual clients who do not have a Legal Entity Identifier (LEI). This is commonly referred to as the *'No LEI, No Trade'* rule.

The ESMA and FCA Validation Rules state that when identifying the buyer or seller where an LEI is used, this field needs to be populated with a valid LEI that is included in the GLEIF database. The status of the LEI needs to be one of the following:

- "Issued",
- "Lapsed",
- "Pending transfer" or
- "Pending archival".

So, whilst an IF is required to make sure their corporate counterparties have a valid LEI prior to trading, the LEI can be in a lapsed state. There is no requirement under Article 13(3) for an IF to ensure that the LEI of a client or a counterpartyhas been renewed.

In contrast, IFs must ensure that their own LEI is renewed according to the terms of any of the accredited Local Operating Units of the Global Legal Entity Identifier Foundation (GLEIF) systems pursuant to Article 5(2) of RTS 22.

Further Reading

MiFID II LEI requirements

CFI and ISIN codes under EMIR and MiFIR

TRAction's Easy Guide to LEIs

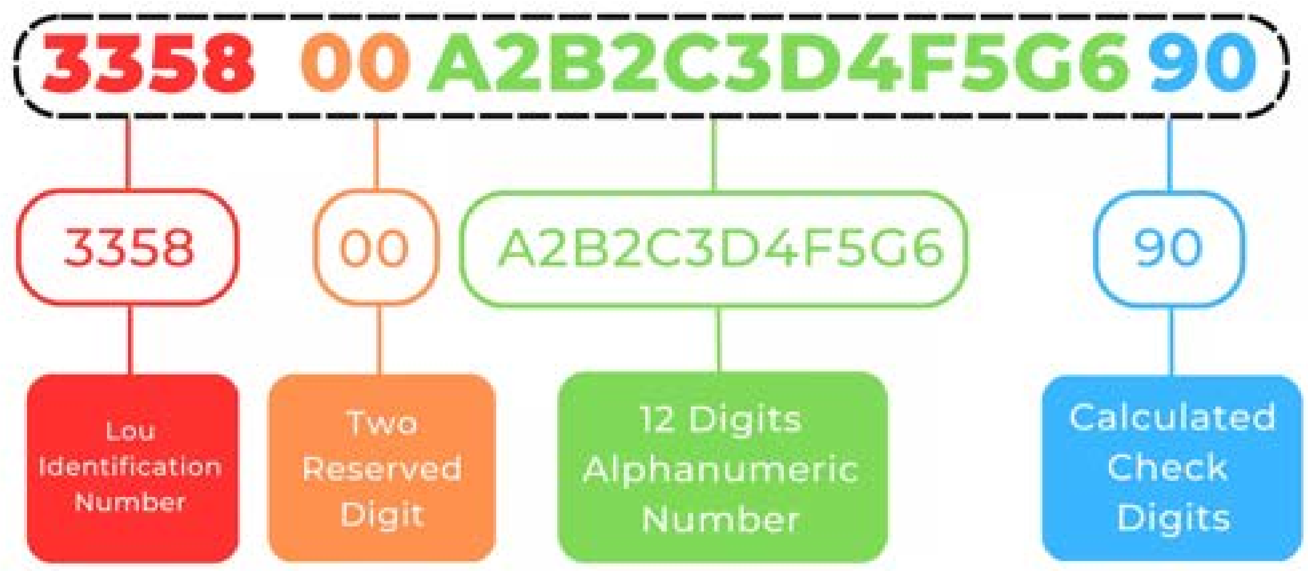
What is an LEI?

A Legal Entity Identifier (LEI) is a 20-digit alpha-numeric code based on the standard developed by the International Organization for Standardization (ISO).

LEI codes enable clear and unique identification of legal entities which are participating in financial transactions; examples include but are not limited to, brokerages, banks and investment companies The aim is to facilitate enhance transparency in the global markets. The LEI dataset can be thought of as a global directory, providing ownership information on market participants.

The LEI code is constructed by several parts, the first four digits identify the local operating unit, the next two are always 0, characters 7-18 are unique to each entity and the last two are used for verification purposes. See the diagram below:

Breakdown of an LEI



How are LEIs used?

The LEI is used in financial transactions to help match and aggregate data as well as track activity by entities across different jurisdictions. The LEI needs to be renewed annually, enabling the data to stay up to date and accurate. This creates a global network which regulators and participants can leverage to understand 'who is who' and 'who owns whom'.

Who needs an LEI?

LEIs are required by any entity operating within the financial system acting as a counterparty in transactions or fulfilling secondary roles. This includes companies that buy and sell or make a market in financial securities.

Under current regulations in many jurisdictions (e.g. UK and EU), a legal entity may be prevented from trading if it does not have an LEI.

LEIs Within Regulatory Reporting

Since the financial crisis in 2008, regulators have been continually trying to boost the transparency of the financial markets as well as the data, they monitor in an attempt to stop the failures of the past occurring again. When fulfilling regulatory reporting obligations, any entity that has an LEI must be reported with this identifier so that overseeing bodies are able to monitor and assess any transactions taking place under the umbrella of the legal entity across different jurisdictions. LEIs have created a harmonious playing field for enhanced oversight in the area of transaction reporting.

We have prepared a summary of the LEI requirements for the major reporting regimes.

How can TRAction assist you with your LEI?

TRAction's mission statement is 'Trade Reporting Simplified', this means we stay on top of and assist our clients across the entire spectrum of their regulatory reporting obligations.

We provide our clients with assistance to lodge their initial LEI application and handle their annual renewal. This helps mitigate scenarios where the LEI inadvertently lapses and prevents on-time submission of transaction reporting data. We also find that many investment firms find the renewal process complicated and fiddly, so doing many of them each year means the TRAction team are able to help streamline processes and further reduce the workload of compliance teams.

Summary

As this area of the industry develops, TRAction remains committed to staying ahead of regulatory developments and monitoring for changes that may affect our clients.

LEI Requirements

There are certain fields within EMIR, MiFIR and SFTR which require populating with an LEI or specifically 'ISO 17442 Legal Entity Identifier (LEI) 20 alphanumerical character code'.

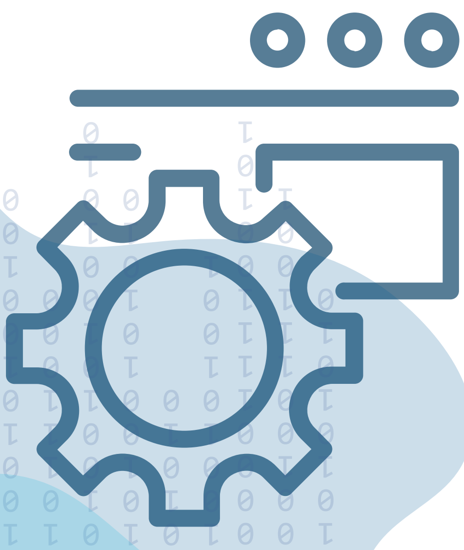
All LEIs for these reporting regimes must be valid and included in the GLEIF database.

As a general overview:

- for new transactions, LEIs for the executing party cannot be lapsed, and must have a status as per GLEIF as "Issued", "Pending transfer" or "Pending archival";
- for the other counterparty within a trade, their LEI is able to be "Lapsed" with GLEIF; and
- the Initial Registration Date of an LEI must be equal to or after the trade date.

Below are the three regimes and the primary fields which require LEIs to be populated. For each field, details are provided alongside as to whether the entered LEI can be lapsed or not in submission.

The regimes differ in terms of specific validation rules and action types, even though field names may be similar in some cases.



	EMIR	
Field	**Use**	**LEI Validity Rule**
Reporting Firm ID	For Action Types “N”, “M”, “R”, “Z”, “V”, “P”: LEI with status “Issued”, “Pending transfer” or “Pending Archival” only.	For Action Type “E”, LEI can be any status.
Submitting Entity ID	LEI status of “Issued”, “Pending Transfer” or “Pending Archival”.	LEI cannot be lapsed in order to submit.
Other Counterparty ID	For Action Types “N”, “M”, “R”, “Z”, “V”, “P”: LEI with status “Issued”, “Lapsed”, “Pending transfer” or “Pending archival” only.	LEI is able to be lapsed.
Beneficiary ID	For Action Types “N”, “M”, “R”, “Z”, “V”, “P”: LEI with status “Issued”, “Pending transfer”, “Lapsed’ or “Pending Archival” only.For Action Type “C’: LEI with status “Issued”, “Pending transfer”, “Pending Archival”, “Lapsed” or “Retired” only.For Action Type “E”, LEI can be any status.	LEI cannot be lapsed in order to submit, except for Action Type “C” or “E”.

	MiFIR	
Field	**Use**	**LEI Validity Rule**
Executing Entity ID	The status of the LEI must be “Issued”, “Pending transfer” or “Pending archival”.	LEI cannot be lapsed in order to submit.
Submitting Entity ID	LEI of Submitting Entity ID must have a status of “Issued”, “Lapsed”, “Pending Transfer” or “Pending Archival”.	LEI is able to be lapsed.
Buyer/Seller IDs	The status of the LEI must be “Issued”, “Lapsed”, “Pending transfer” or “Pending archival”.	LEI is able to be lapsed.
Buyer/Seller Decision Maker IDs	The status of the LEI must be “Issued”, “Lapsed”, “Pending transfer” or “Pending archival”.	LEI is able to be lapsed.

	SFTR	
Field	**Use**	**LEI Validity Rule**
Report submitting entity	For action types “NEWT”, “MODI”, “VALU”, “COLU”, “ETRM”, “CORR”, or “POSC”: status of the LEI must be “Issued”, “Pending transfer” or “Pending Archival”.For action type “EROR”, LEI can be any status.	LEI cannot be lapsed in order to submit, except for action type “EROR”.
Reporting counterparty	For action types “NEWT”, “MODI”, “VALU”, “COLU”, “ETRM”, “CORR”, or “POSC”: status of the LEI must be “Issued”, “Pending transfer” or “Pending Archival”.For action type “ETRM”, LEI can also be “Lapsed” or “Retired”.For action type “EROR”, LEI can be any status.	LEI cannot be lapsed in order to submit, except for action type “EROR” or “ETRM”.
Entity responsible for the report	The status of the LEI shall be “Issued”, “Pending transfer” or “Pending archival”.For action type “ETRM”, LEI can also be “Lapsed” or “Retired”.	LEI cannot be lapsed in order to submit, except for action type “ETRM”.
Other Counterparty	For action types “NEWT”, “MODI”, “VALU”, “COLU”, “ETRM”, “CORR”, or “POSC”: status of the LEI must be “Issued”, “Lapsed”, “Pending transfer” or “Pending Archival”.For action type “ETRM”, LEI can be “Retired”.For action type “EROR”, LEI can be any status.	LEI is able to be lapsed.

What Is An XSD File And Why Is It Important for Your Regulatory Reporting?

With the upcoming EMIR Refit and ASIC Rewrite changes fast approaching, the transition to XML submissions will pose a massive challenge for many reporting entities in those regimes. An XSD file is a text file (in XML format) that defines the schema (structure, content, and data types) of another XML file. It provides a way to describe the elements, attributes, and relationships of an XML document, and is commonly used in applications that require validation of XML data, for example transaction reporting requirements.

ASIC Rewrite for XML

Starting October 2024, in an attempt to streamline the reporting process, ASIC is moving away from easily readable and manually changeable CSV files and adopting XML format file submissions. Once a company submits their regulatory reports in XML format, ASIC's systems can automatically process and validate the information. This can help to reduce errors and ensure that the information is consistent with ASIC's requirements.

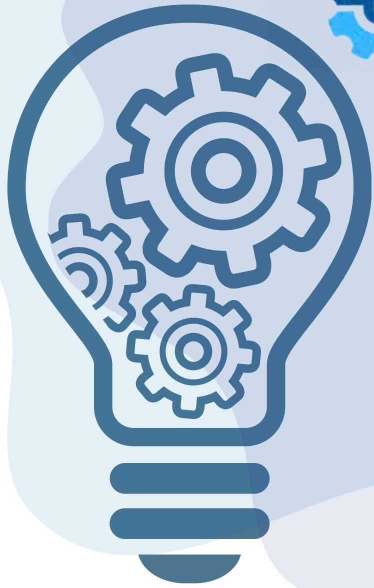
Overall, the transition to XML format for regulatory reporting is intended to make the reporting process simpler, more efficient, and less prone to errors. However, it does require companies to ensure that their information is accurately captured in a less 'human friendly' manner.

EMIR Refit for XML

ESMA and FCA have released the validation rules along with their XML EMIR Reporting Schemas. Starting 29 April 2024 and 30 September 2024 respectively, counterparties and entities responsible for reporting will have to report the OTC derivatives and ETD in XML format according to the new EMIR Refit guidelines.

What is an XSD File?

An XSD file serves as a blueprint or a contract for an XML document. It specifies the rules for the elements and attributes that can appear in an XML file, their data types, order and structure.



How can an XSD File Help?

XSD files are implemented broadly, however, some key use cases for XSD files within reporting are shown below:

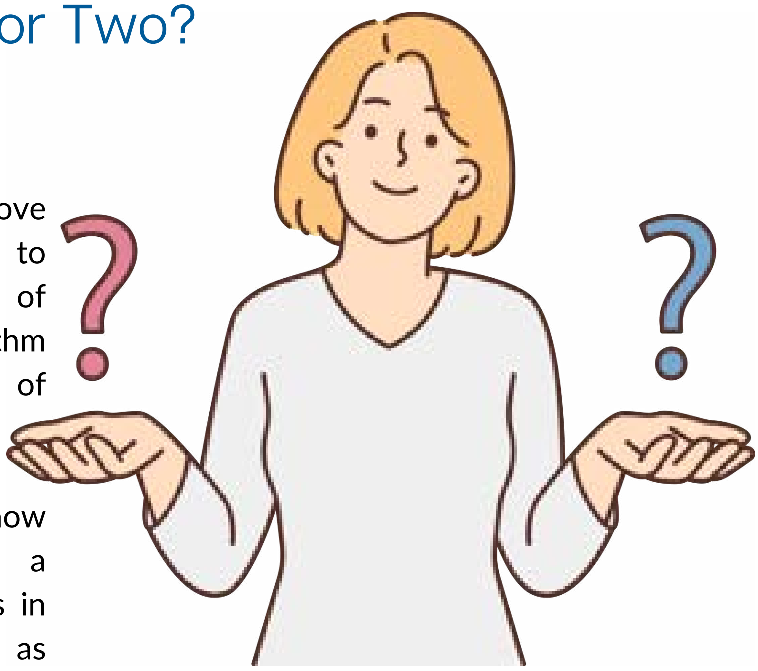
Data validation: An XSD file is used to validate an XML document to ensure that it conforms to a particular schema. Validation checks can include verifying that the data types of elements and attributes match the schema, and that elements are in the correct order and hierarchy.
Data exchange: An XSD file can be used to describe the structure and content of data that is exchanged between systems. For example, an XSD schema can be used to ensure that data exchanged between two web services conforms to a specific format.
Code generation: Many programming languages can automatically generate code based on an XSD schema. This can simplify the process of working with XML data, as developers can use strongly-typed classes and objects that correspond to the elements and attributes in the XML schema.
Overall, an XSD file serves as a contract between systems, providing a standardised way to describe the structure and content of XML documents.

Summary

The upcoming changes in both ASIC, EMIR are significant. At TRAction, we are committed to 'Trade Reporting Simplified', where we will take care of all XML changes for clients, already having experience with this difficult format from other reporting regimes.

TRAction will continue to accept data from its clients and provide confirmations in csv format to facilitate the process of reviewing your reporting delegate.

MiFIR Reporting for STP Brokers: One Transaction Report or Two?



One of the ways that MiFID II seeks to improve transparency in the financial markets is to require disclosure of the trading capacity of investment firms and of the person or algorithm responsible for the execution and making of investment decisions.

Determining how to make the reports and how to populate these fields is often not a straightforward exercise due to differences in licensing and reporting definitions, as well as certain field criteria being conditional on the input of other fields.

Summary of some equivocal fields and potential inputs

Field	**Data Type**	**Inputs**
Field 29 - Trading Capacity	Matched principal trading	"MTCH"
	Dealing on own account	"DEAL"
	Other capacity	"AOTC"
Field 59 - Execution within firm	Natural person	Natural person identifier
	Algorithm	Up to 50-character alphanumeric code, e.g. "TRADESERVER"
	Execution decision made outside of firm	"NORE"
Field 57 - Investment decision within firm	Natural person	Natural person identifier
	Algorithm	Up to 50-character alphanumeric code, e.g. "TRADESERVER"

Field 29 - Trading capacity

Many CFD/FX brokers are 'matched principal' from a regulatory perspective (e.g. they hold an FCA matched principal broker '125K' limited licence) and STP all their trades (back to back) to a third party. However, they may not meet the more stringent criteria in the definition of 'Matched Principal Trading' under MiFID II.

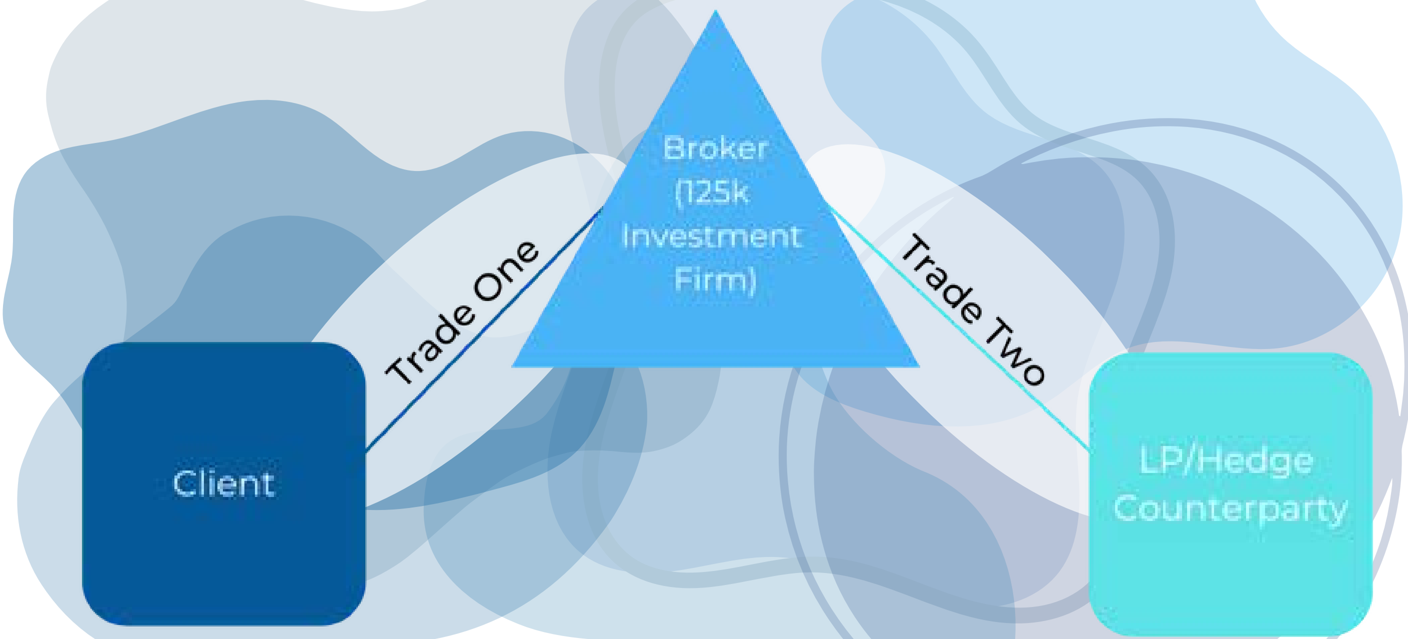
The MiFID II definition of 'Matched Principal Trading' is a transaction where the facilitator interposes itself between the buyer and the seller to the transaction, and has the following three characteristics:

- the facilitator is **never** exposed to market risk throughout the execution of the transaction;
- both sides are executed **simultaneously**; and
- the transaction is concluded at a price where the facilitator makes **no profit or loss**, other than a previously disclosed commission, fee or charge for the transaction.

Most CFD/FX brokers processing client orders as a 125K licence would not be executing the client-side trade and the liquidity provider trade at precisely the same time. Because of this, the broker would briefly be exposed to market risk. Further, the broker may enter into gross long and short positions but nonetheless be in the same net position after the completion of both trades. The fact that the prices can be different (due to the spread mark-up) also raises questions as to whether they are acting within the MiFID II definition of matched principal trading. Therefore, CFD/ FX brokers that may be matched principal from a licensing perspective would, in most circumstances, not be engaging in matched principal trading pursuant to the MiFID II definition.

If a transaction is not reported as executed in a matched principal capacity (MTCH) or any other capacity, then that leaves 'dealing on own account' (DEAL). The trading capacity for matched principal licensed CFD/ FX brokers is 'deal on own account' and the field should be populated with (DEAL).

Matched principal trading which does meet the MiFID II definition requires only a single transaction report to be submitted. In contrast, CFD/FX brokers licensed as matched principal firms but having the trading capacity (DEAL) should submit two transaction reports, one for the client transaction and another for the hedge side.



Field 59 – Execution within the firm

Field 59 is mandatory, so population will be required for all new transaction reports.
In cases where the decision about the execution was made by a client (e.g. the client instructs the details of the trade including the venue of execution) or by another person from outside the investment firm (e.g. an employee of a company within the same group), the value 'NORE' should be used in this field.

If the field is filled with a code other than 'NORE', the code is – as set out in the Article 9 of the Commission Delegated Regulation (EU) 2017/590 – either the identifier of a person within the investment firm or the identifier of an algorithm within the investment firm, depending on which is primarily responsible for the execution. This is the responsibility of the investment firm to determine in accordance with its governance model.

When considering the previous scenario where the interaction is to be reported as two separate transactions and trading capacity as DEAL, it is likely that the bridge/platform would be identified as responsible for execution as it has undertaken the execution without any further intervention by the investment firm. Due to the technology-neutral stance of the regulation, the platform should be identified as an 'algorithm' – which covers any system that automatically executes transactions without human intervention (note: this is different to algorithmic trading).

Field 57 – Investment decision within the firm

As set out in Article 8(1) of Commission Delegated Regulation (EU) 2017/590, this field should always be populated when the investment firm is dealing on own account (i.e. trading capacity = 'DEAL') since it is putting its books at risk and is therefore deemed to be making an investment decision. The only exception to this is within the context of transmission where the investment firm is reporting as a receiving investment firm and dealing on own account in which case it should populate the client side report with the information provided by the transmitting investment firm.

Where brokers are submitting transaction reports with trading capacity as 'DEAL' – it is required to define who within the firm is responsible for the investment decision. This could either be the platform making the decision to accept or refuse trades based on internally set parameters or the person responsible for setting these parameters.
This field is not required to be populated where capacity is 'AOTC' or 'MTCH'.

Example

Acme Brokers is a CFD firm with a 125K matched principal broker licence. It operates on an STP model of automatic execution of orders between clients and liquidity providers. The transactions are not undertaken simultaneously and therefore Acme Brokers is exposed to very brief market risk and its proprietary capital is used in these trades. It would be required to submit **two** transaction reports, with the following field population for both trades.

Field	Data Type	LP Side Trade	Client Side Trade
Field 29 - Trading Capacity	Matched principal trading	"MTCH"	"MTCH"
	Dealing on own account	"DEAL"	"DEAL"
	Other capacity	"AOTC"	"AOTC"
Field 59 - Execution within Firm	Natural person	Natural person identifier	Natural person identifier
	Algorithm	Up to 50-character alphanumeric code, e.g. "TRADESERVER"	Up to 50-character alphanumeric code, e.g. "TRADESERVER"
	Execution decision made outside of firm	"NORE"	"NORE"
Field 57 - Investment Decision within Firm	Natural person	Natural person identifier	Natural person identifier
	Algorithm	Up to 50-character alphanumeric code, e.g. "TRADESERVER"	Up to 50-character alphanumeric code, e.g. "TRADESERVER"

Collateral Reporting under EMIR/UK EMIR: What is required?

**References to EMIR in this article encompass both EMIR and UK EMIR unless otherwise stated.*

For the purpose of EMIR Trade Reports, collateral is broken down into three types:

1. **Initial Margin** – protects counterparties against potential losses which could stem from movements in the market value of the derivatives position.

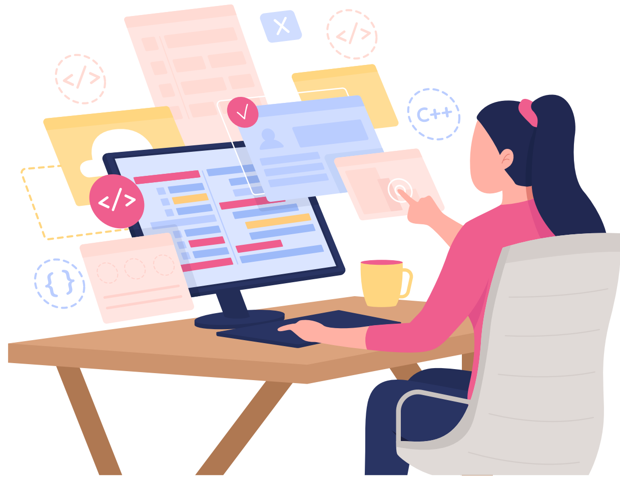
2. Excess collateral – should capture only additional collateral that is posted or received separately and independently from the initial and variation margin.

3. Variation Margin – protects counterparties against exposures related to the current market value of their OTC derivative contracts.

In what way can you report these values?

The EMIR Trade Report breaks these collateral types down into 6 fields:

- Initial Margin Posted
- Initial Margin Received
- Variation Margin Posted
- Variation Margin Received
- Excess Collateral Posted
- Excess Collateral Received



These fields should be reported from the reporting counterparty's point of view.

Example 1 - Reporting on a Per Position basis

Day 1

I have opened an account (as a small firm with a reporting obligation) with my local CFD broker (the other counterparty) and decide to fund my account with £100.

- I place a 'Buy' CFD trade on Vodafone shares, Position ID 'E02LEIABC'.
- To place my trade, my CFD provider takes £30 from the balance in my account, this is 30% of the Notional Value of the CFD trade. (Initial Margin)
- At the end of the day (Day 1), the market price of my open CFD trade is lower than when I opened it. My position is now making a loss of £10.
- To cover my losses, my CFD provider takes this £10 from my balance. (Variation Margin)

Position ID 'E02LEIABC'	I have a reporting obligation so I report the following from my point-of-view (POV)	The CFD provider also has an EMIR/UK EMIR obligation, so would report the following from its point-of-view (POV)
Initial Margin Posted	£30	Blank
Initial Margin Received	Blank	£30
Variation Margin Posted	£10	Blank
Variation Margin Received	Blank	£10
Excess Collateral Posted	Blank	Blank
Excess Collateral Received	Blank	Blank

Day 2

- I open a second CFD position in Vodafone shares, Position ID 'E02LEIXYZ' which requires my CFD provider to take £18 from my balance (30% of Notional Amount of £60)
- By the end of day 2:
    - the market price rises above my executed price and my first position is now in profit by £10. As a result, my CFD provider increases my balance by £10 in recognition of the increase value of my trade
    - my second position is also in profit by £2, but my provider only transfers to/from my balance if my unrealised P&L for a position is more/less than £5/-£5.

Position 1

Position ID 'E02LEIABC'	CFDPROVIDER1	ACCOUNT1001
	My POV	**CFD Provider POV**
Initial Margin Posted	£30	Blank
Initial Margin Received	Blank	£30
Variation Margin Posted	Blank	£10
Variation Margin Received	£10	Blank
Excess Collateral Posted	Blank	Blank
Excess Collateral Received	Blank	Blank

Position 2

Collateral Portfolio Code	CFDPROVIDER1	ACCOUNT1001
	My POV	**CFD Proivder POV**
Initial Margin Posted	£18	Blank
Initial Margin Received	Blank	£18
Variation Margin Posted	Blank	Blank
Variation Margin Received	Blank	Blank
Excess Collateral Posted	Blank	Blank
Excess Collateral Received	Blank	Blank

Example 2 - Reporting on a Portfolio basis

Let's take the same example but see what we should do if we report on a Portfolio basis.

Day 1

Collateral Portfolio Code	CFDPROVIDER1	ACCOUNT1001
	My POV	**CFD Proivder POV**
Initial Margin Posted	£30	Blank
Initial Margin Received	Blank	£30
Variation Margin Posted	£10	Blank
Variation Margin Received	Blank	£10
Excess Collateral Posted	£60	Blank
Excess Collateral Received	Blank	£60

As per the example above, each of the values are independent of each other. If I add together the amounts I have posted, it adds to £100 (the balance I originally transferred to my CFD provider).

Day 2

Collateral Portfolio Code	CFDPROVIDER1	ACCOUNT1001
	My POV	**CFD Provider POV**
Initial Margin Posted	£48	Blank
Initial Margin Received	Blank	£48
Variation Margin Posted	Blank	£10
Variation Margin Received	£10	Blank
Excess Collateral Posted	£52	Blank
Excess Collateral Received	Blank	£52

As per the example above, each of the values are still independent of each other. If I add together the amount, I have posted it adds to £100 (my balance I originally transferred to my CFD provider) plus I have the £10 I received separately for my position being in profit.

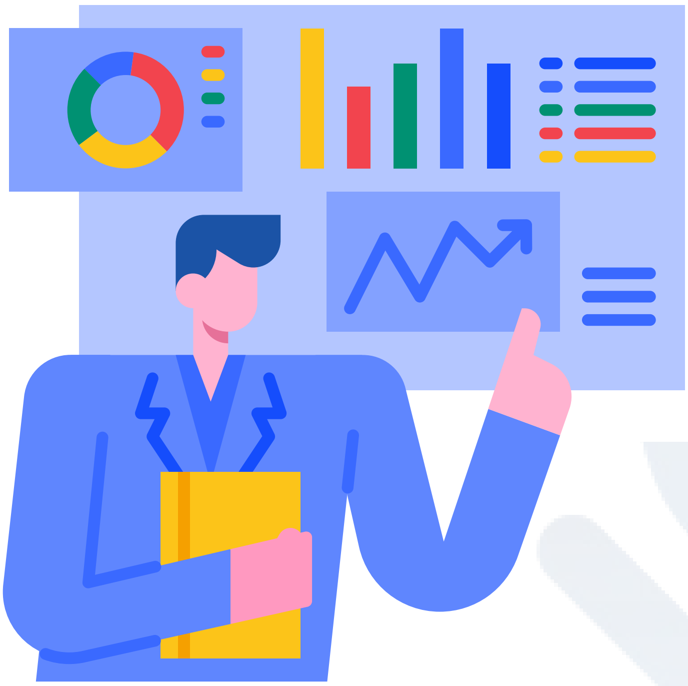
There are many different interpretations of the collateral fields. However, one thing ESMA does clarify in the EMIR Q&A is that if amounts are not transferred, then they shouldn't be reported as 'Posted'. Depending on how a Reporting Counterparty defines 'transferred', the fields could be interpreted in a variety of ways, which leads to interpretation differences that TRAction will work with you to help clarify.

What is Collateralisation?

Collateralisation is another reportable field in EMIR/UK EMIR and helps to explain the collateral agreement between the two counterparties.

The definitions from Article 3b are as follows:

1. Where no collateral agreement exists between the counterparties or where the collateral agreement between the counterparties stipulates that the reporting counterparty does not post neither initial margin nor variation margin with respect to the derivative contract, the type of collateralisation of the derivative contract shall be identified as uncollateralised;



2. Where the collateral agreement between the counterparties stipulates that the reporting counterparty only posts regularly variation margins with respect to the derivative contract, the type of collateralisation of the derivative contract shall be identified as partially collateralised;

3. Where the collateral agreement between the counterparties stipulates that the reporting counterparty posts the initial margin and regularly posts variation margins and that the other counterparty either posts only variation margins or does not post any margins with respect to the derivative contract, the type of collateralisation of the derivative contract shall be identified as one-way collateralised;

4. Where the collateral agreement between the counterparties stipulates that both counterparties post initial margin and regularly post variation margins with respect to the derivative contract, the type of collateralisation of the derivative contract shall be identified as fully collateralised.

For the example given above, I would report the Collateralisation from my point of view (as the Reporting Counterparty) as ‘One-Way Collateralised’ as I’m posting Initial and Variation Margin and the CFD provider only posts Variation Margin.

For the examples given, the CFD provider (as the Reporting Counterparty) would report our relationship as ‘Partially Collateralised’ as the CFD Provider only regularly posts Variation Margins.

Are you forgetting to report your EMIR hedge trades?

TRAction often receives requests from new clients to backload their hedge trades as they had incorrectly assumed:

- their liquidity providers (LPs) had been reporting on their behalf; or
- those trades are not reportable.

Failure to report your hedge trades not only is a breach of your EMIR/UK EMIR reporting obligations but can also attract serious financial penalties from your National Competent Authority (NCA). Hence, it's important for you to ensure your hedge trades are reported. This article provides you some guidelines on:

1. Who should ensure hedge trades are reported?
2. How to report the trades?

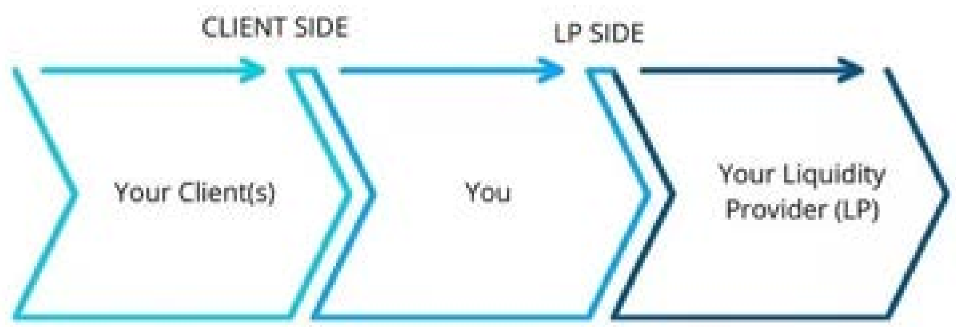
1. Whose responsibility is it to ensure hedge trades are reported?

We've included diagrams below to explain the hedge trade requirements under both EU and UK EMIR.

The responsibility rests with the corporate counterparty in the:

- European Economic Area (EEA) under EU EMIR; and
- United Kingdom under UK EMIR.

However, when a Non-Financial Counterparty below the clearing thresholds (NFC-) trades with a Financial Counterparty (FC), the responsibility lies with the FC.



When you hedge your client(s') trade(s) with your LP, how many reports do you need to submit?

1. You vs Client side; and
2. You vs LP side.

When you delegate the reporting of the LP side of trade, the LP will report for both parties. However, you must not forget to report the client side of trade as the LP will not report this side of the trade for you.

2. How to report the trades?

Get in touch with your LP(s) and discuss their EMIR reporting processes in relation to the trades you enter into with them.

Even if the LP is just an intra-group firm, you will still need to report the trade between you and the intragroup LP.

TRAction works closely with common aggregators and LPs and has experience in processing files in formats provided by these entities.

Reminder: update your reporting delegate with any LP changes

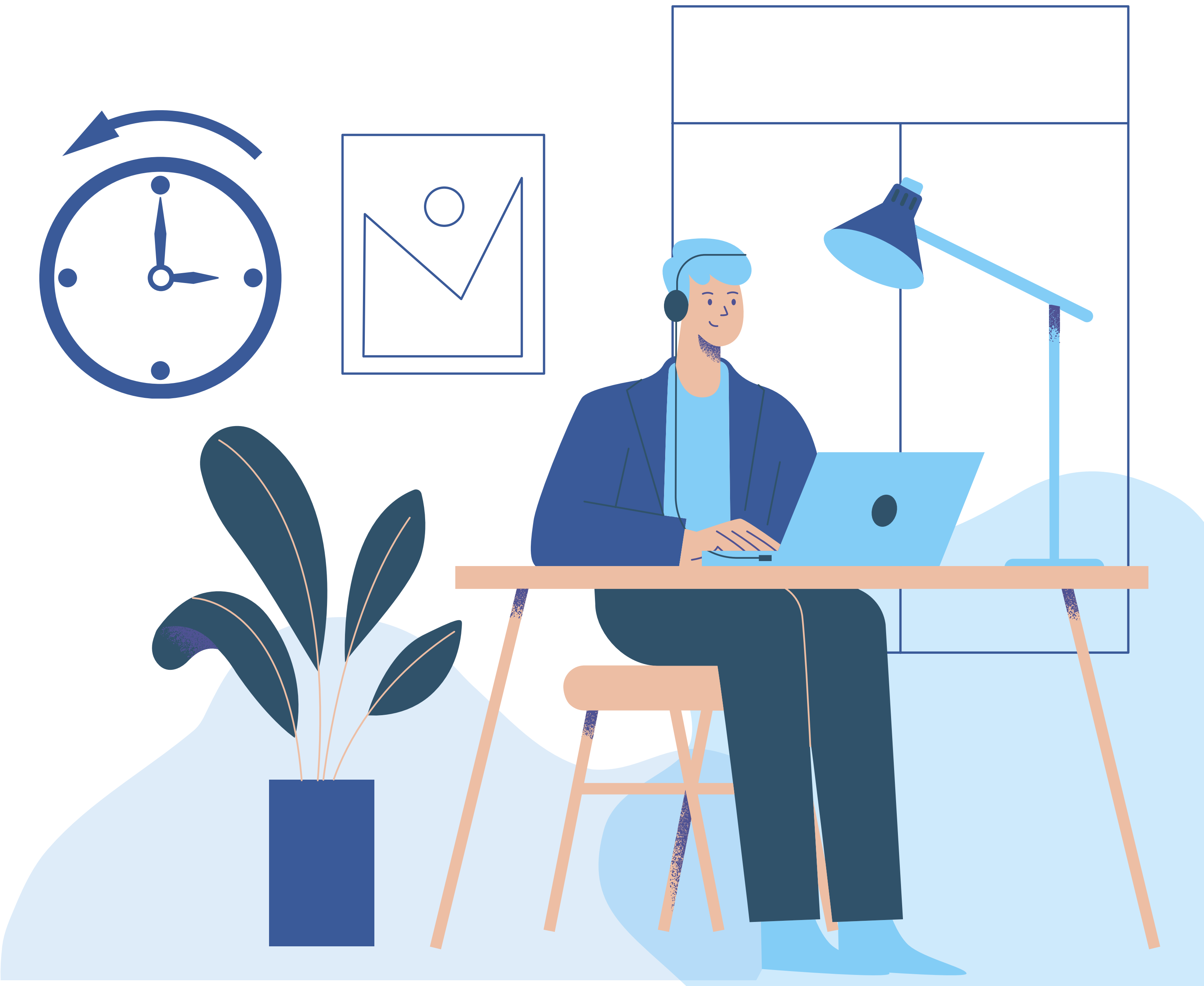
Brokers often change their LPs for commercial and competitive reasons. As a reporting delegate we are unable to identify any addition or removal of an LP unless we are informed. Often clients overlook or forget to inform us about such changes which can result in these hedge trades for the new LP not being reported. We remind clients to promptly inform us of any LP changes to avoid missing any trades. We also encourage you to conduct regular reconciliations to ensure all LPs are properly accounted for in your reporting.

Please don't hesitate to get in touch with TRAction to discuss your specific circumstances.

European Daylight Saving Time
What Do You Need to Do?

Daylight Saving Time will begins and ends simultaneously for the UK and most European countries.

When it ends, you will turn your clocks and watches back by 1 hour at home. And when it begins, you turn your clocks forward. You will also need to ensure the time settings in your trade/transaction reporting are correct.



Here are 2 tips to help you ensure your trades/transactions are reported at the correct time:

1. Check the Time fields in your handback files today

On the first day that you receive handback files for trades/transactions carried out after the end of daylight saving, you will need to cross check the time of your trades/transactions against the UTC time recorded under the following LSEG Post Trade (formerly UnaVista) fields:

MiFIR – Trading Date Time field

EMIR – Execution Timestamp field

SFTR – Execution Timestamp field

The UK's FCA has previously raised concerns with inaccurate trading date time submissions (in Market Watch 59) during daylight saving changes. They have advised firm to have arrangements in place to ensure consistent and accurate reporting of trading date time. In addition, CSSF of Luxembourg performed data quality tests on transaction reports and identified that in several transaction reports, the time indicated in trading date time was the local time instead of UTC.

Firms should synchronise their business clocks to record date and time in Coordinated Universal Time (UTC) as stipulated in both the ESMA and FCA regulations. It is important to do the following checks and act promptly if there is any problem.

How to check?

Pick a few trades from your raw data and convert the time to UTC time; and Compare those against the UTC populated under the fields as described above in your handback files.

2. Check time recorded for daily snapshot (if applicable)

For firms who do a daily snapshot for trade/transaction reporting, double check if it is taking place at the intended end-of-day time.

With these simple checks above, you will save the time and effort from submitting corrections for your trades. This will also minimise breaches in the future.

Do UK NFCs Trading With an Offshore Broker Inherit Their Normally Delegated Reporting Responsibility?

What is mandatory delegated reporting?

Article 9(1)(a) UK EMIR requires non-financial counterparties (NFCs) who benefit from mandatory delegated reporting when trading derivatives with a financial counterparty (FC) to report both sides of their trades with NFC- entities, unless the NFC- entity has specifically requested otherwise. This reduces the burden on smaller non-financial counterparties.

This differs when a UK NFC- entity trades with an Australian broker. Since the Australian broker is located in a third country, the broker does not have the obligation to report under UK EMIR. Hence, the UK NFC- entity is unable to delegate its reporting and is responsible to report the trade to a UK Trade Repository.

What happens post-Brexit?

Post-Brexit, EU EMIR ceased to be applicable in the UK. As such, UK now constitutes a third country under EU EMIR and EU countries are third countries under UK EMIR.

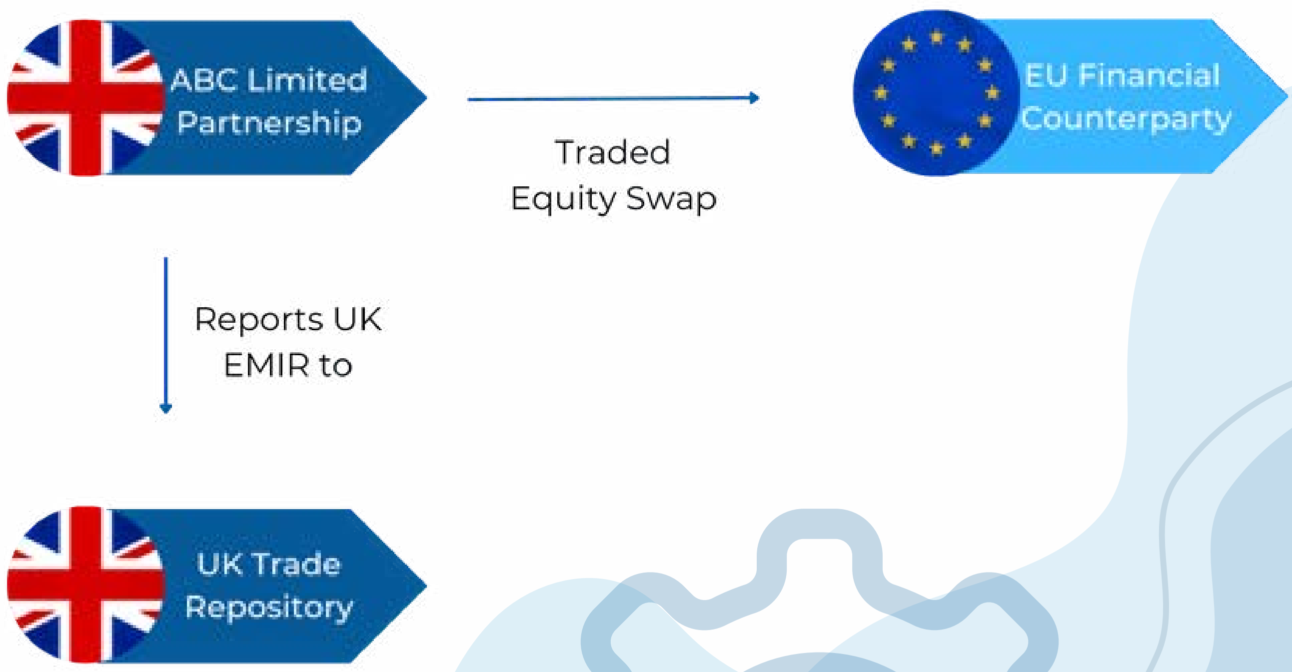
This means that UK NFC- entities who enter into OTC derivates with EU FCs no longer benefit from the mandatory delegation of reporting under UK EMIR. Hence, the UK NFC- entity will need to report these trades to a UK Trade Repository.

A Publication on mandatory delegated reporting for UK EMIR can be found on the FCA website.

UK EMIR	EU EMIR
EU countries are now third countries in UK.	UK is now a third country in EU.
It is mandatory for UK FCs to report under UK EMIR.	It is mandatory for EU FCs to report under EU EMIR.
UK NFC- entities who enter into derivatives with EU FCs are responsible to report under UK EMIR.	EU NFC- entities who enter into derivatives with UK FCs are responsible to report trades to EU EMIR.
UK NFC- entities who enter into derivatives with UK FCs are able to delegate their reporting to UK FCs.	EU NFC- entities who enter into derivatives with EU FCs are able to delegate their reporting to EU FCs.

Here's a real-life example

ABC Limited Partnership is an NFC- entity established in the UK, whom has entered into an equity swap contract with an EU FC. Given that their counterparty is located in a third country, ABC Limited Partnership is required to report this trade to a UK Trade Repository under UK EMIR.



I Delegate Reporting to my LP and now I have a Query from my Regulator, What do I do?

Reporting entities can delegate the process of producing regulatory reports to another party, such as a liquidity provider (LP). The delegate performs the function of preparing and submitting the reports to the relevant authorities on behalf of the delegating party.

Delegated reporting is often used to save time and reduce operational costs. However, it is important to note that even in these circumstances, the delegating party retains ultimate responsibility for ensuring the accuracy of the information reported and may be subject to penalties or fines if the information is found to be incorrect.

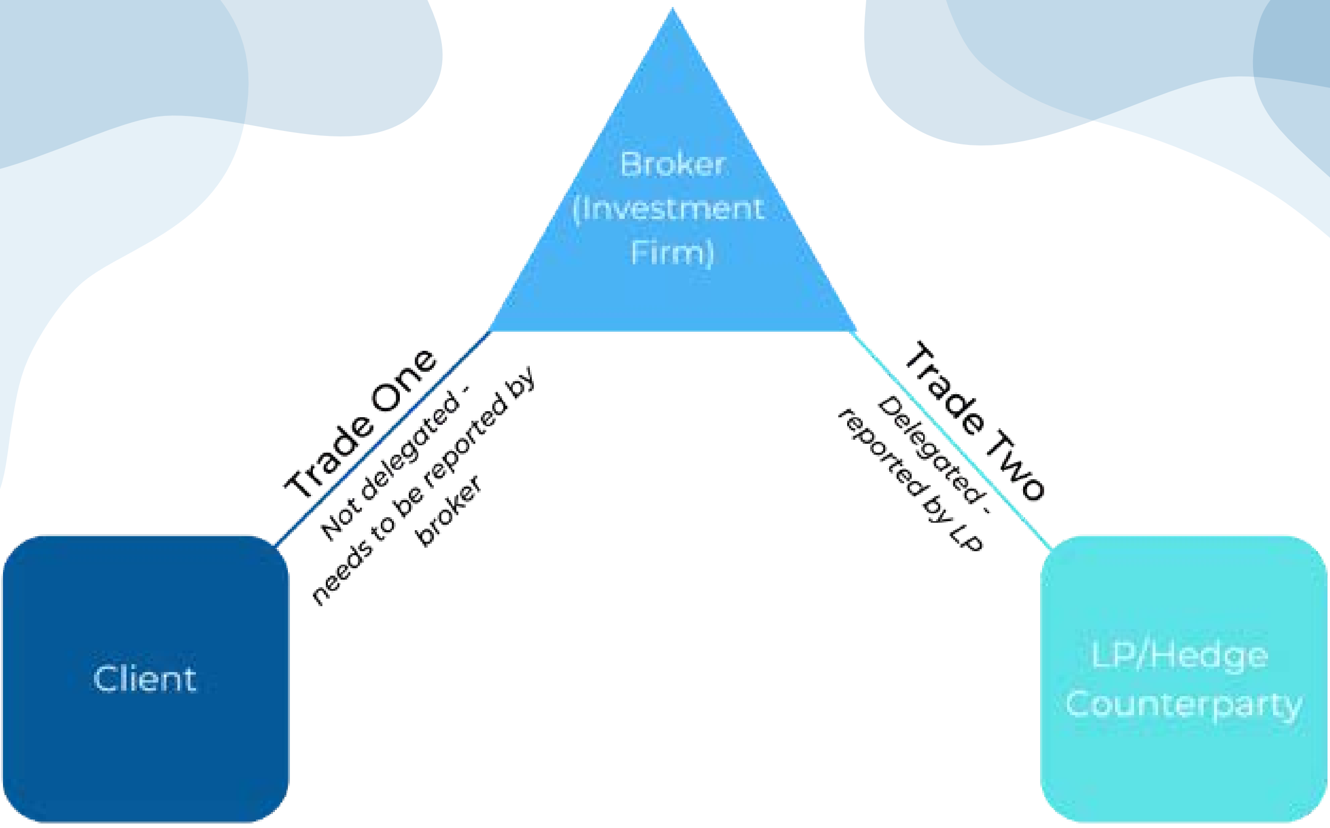
Spot checks by a Regulator

When a regulator does an audit or a spot check to investigate a reporting counterparty and detects an anomaly, they will enquire directly to you, the delegating party, not the LP performing the reporting. As such, you need to ensure that you have completed and documented reconciliations and checks on a frequent basis, and have your submission data readily accessible to provide to the regulator.

What responsibilities are delegated to an LP?

As a reporting entity, it is important to understand what you can and cannot delegate to your LP. The LP may be undertaking the reporting on your behalf; however, they can only cover the leg between themselves and you, not the underlying transactions between you and your clients.

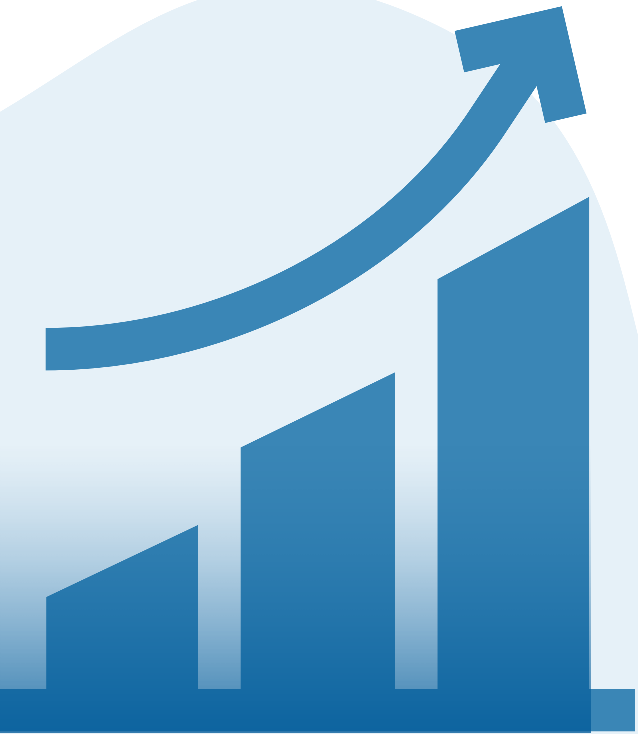
Below is a visual representation of how TRAction would normally see the transaction flow and reporting requirements handled by the parties involved.



Firms should also consider whether their LP is reporting the transactions under the correct reporting regime. For example, an FCA broker may be using a Canadian LP and delegating the reporting of those trades. However, unless the Canadian LP is also reporting the trades under the UK reporting regime (in addition to their Canadian reporting regimes), this will not be sufficient for the FCA broker's reporting requirements.

Similarly, a broker in Australia that is using an LP in the United Kingdom that has FCA reporting requirements will need to ensure that the single-sided reporting requirements are met under the ASIC rules, otherwise they will need to report these transactions to ASIC rather than just relying on the reporting done by the LP.

Conduct careful analysis to understand the transaction flow and reporting regimes where your firm has obligations is highly important.



What is Required from a Reporting Entity?

Ultimately, your firm is responsible for the reported information. You need to perform reconciliations to compare the data reported by the LP with your own records and ensure that the information is consistent and accurate. Reviewing the reports and comparing them to your own records, checking for any discrepancies or errors, and notifying them of any necessary adjustments is a good starting point.

It's important to have a clear understanding of your regulatory reporting obligations and to be proactive in ensuring that accurate and timely information is reported by your delegate.

Assessing Confirmation Reports

Confirmation reports are the files provided back by the Trade Repository, usually straight after a trade report is submitted and processed by the TR.

They serve as a means of verifying that the reporting has been performed correctly by your LP and that the information provided is in line with your internal records database.

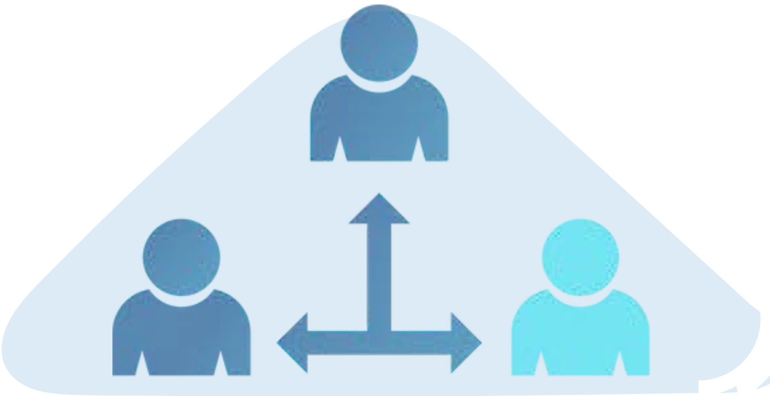
Confirmation reports provide an independent, third-party check on the information reported, helping to reduce the risk of errors or inaccuracies. In short, confirmation reports are an important tool for ensuring the accuracy and completeness of regulatory reporting, and help to demonstrate that the delegating party has taken steps to meet its obligations and responsibilities.

Use of a Third-Party Provider

There is another option of using a third-party service provider, like TRAction, for regulatory reporting.

Using a third-party can have several benefits, including:

Expertise:
Third-party service providers have specialised expertise and experience in regulatory reporting, which can help ensure that the reports are accurate, complete, and in compliance with all relevant regulations.



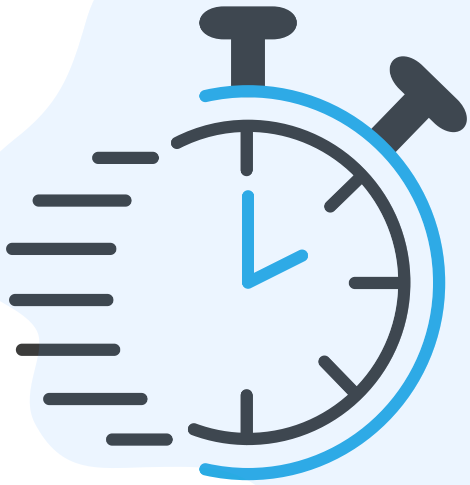
Risk reduction:
By using a third-party provider, the risk of errors or inaccuracies in the reporting process is reduced, as the provider has the knowledge to ensure compliance with all relevant regulations.

Efficiency & cost savings:
Third-party providers can often complete the reporting process more efficiently than in-house staff by utilising economies of scale and a more streamlined process, freeing up time and resources for other tasks.

Access to technology:
Third-party providers often have access to specialised software and technology for preparing and submitting regulatory reports, which can help improve the accuracy and efficiency of the reporting process.

Do You Need to Report (MiFIR) Trade Time in Milliseconds?

Reporting of Milliseconds



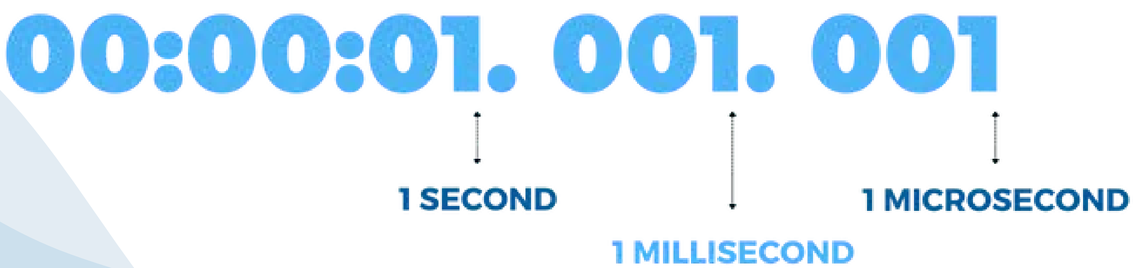
When reporting transactions to regulatory bodies, there are variations in the data format that is required from region to region. An example of this difference is the accuracy of the timestamp that is deemed acceptable. Under MiFID II/ MiFIR, milliseconds are required in an attempt to increase the transparency and detail of the information passed to the regulator.

Regulatory Impact

MiFID II mandated transactions be timestamped with much more accuracy. Regulated organisations are required to maintain a much clearer picture of time across the lifecycle of a trade, as defined under MiFID II through RTS 25. One of the objectives of this increased regulatory scrutiny is to boost market surveillance and reduce market abuse through the reconstruction of transactions with accurate time sequencing.

MiFID II requires accuracy as detailed as microseconds for high frequency trading in an effort to oblige firms to demonstrate that they have taken sufficient steps to ensure best execution for their clients; on both the buy and sell side.

Under MiFID II RTS 22, this scrutiny is currently reserved for transactions traded on a trading venue, with the granularity required set out in Article 3 of RTS 25 on clock synchronisation. For transactions that are not TOTV, the time reported should be rounded to the nearest second.



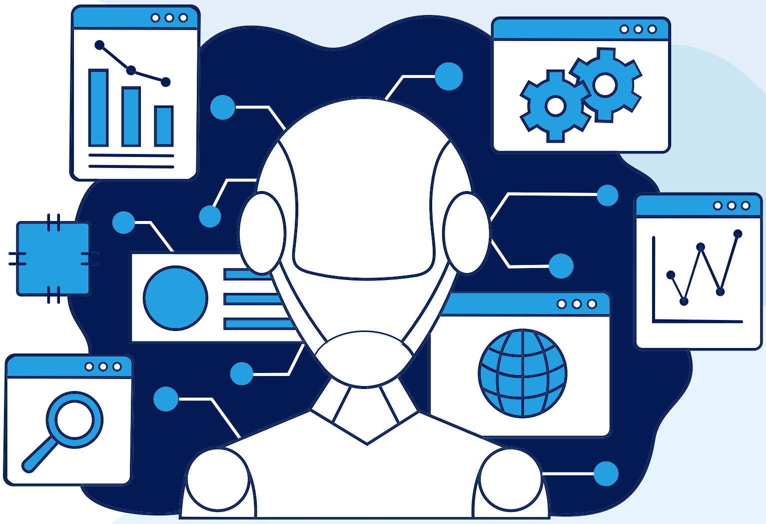
Timestamp Granularity Summary

The table below outlines the timestamp reporting accuracy required for different types of trading activity. Legacy trading through the use of voice orientated or request for quote systems can be rounded to the nearest second, whereas algo trading techniques or other TOTV transactions necessitate a much higher degree of specificity.

Type of Trading Activity	Max Divergence From UTC	Granularity of Timestamp	Granularity Example
Activity using high frequencyalgo trading technique	100 microseconds	1 microsecond or better	<00:00:00.00 0.001
Activity on voice trading systems	1 second	1 second or better	<00:00:01.00 0.000
Activity on request for quote where system does not allow algo trading	1 second	1 second or better	<00:00:01.00 0.000
Activity of concluding negotiated transactions	1 second	1 second or better	<00:00:01.00 0.000
Any other trading activity	1 millisecond	1 millisecond or better	<00:00:00.00 1.000

The Rise of Algorithmic Trading

With transaction volumes topping multiple trillion dollars a day and a large percentage of this increasingly coming from algorithmic trading, the rise of high frequency trading has become a hot topic. Over the last 15 years, the market has seen the spectacular development of HFT from within dark pools and general obscurity to the forefront of the investment management industry. This has led to speed-dependent algorithms growing in importance as institutional and retail investors harness improving computing power and open-source projects such as GitHub.



Monitoring High Volatility Events

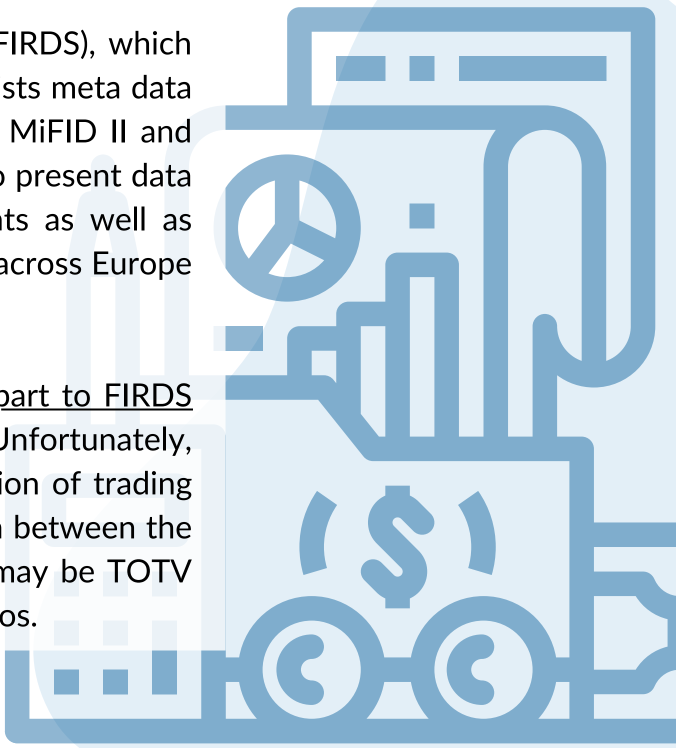
Major news events such as non-farm payrolls or FOMC minutes which tend to spur volatility have become the ideal opportunities for low-latency connections as these technological advancements have become more pronounced in the financial system. As such, this is among one of the many reasons that the EU started to push for more clarification and increased accuracy from reporting entities under their regime.

How Does a Regulator or ARM Ascertain MiFIR Reportability?

The current application of MiFIR requires both the regulators and ARMs to filter through vast quantities of data to determine which transactions should be reported. Trading venues and systematic internalisers (SIs) are obliged to submit reference data for financial instruments to ESMA to be published in FIRDs. This is outlined in Article 27 of MiFIR and Article 4 of Market Abuse Regulation (MAR).

What is FIRDS?

The Financial Instruments Reference Data System (FIRDS), which is published and updated on a daily basis by ESMA, lists meta data of all financial instruments included in the scope of MiFID II and MAR, uniquely identified by their ISIN. FIRDS aims to present data in a harmonised way that allows market participants as well as regulators to determine whether instruments traded across Europe or the UK are reportable.



Due to Brexit, the FCA has built their own counterpart to FIRDS that is constructed in largely the same manner. Unfortunately, there have been some divergences in the classification of trading venues since inception which have led to a mismatch between the UK and EU FIRDS lists. This means that a security may be TOTV under ESMA but not under the FCA in certain scenarios.

What Makes a Transaction Reportable?

To trigger the obligation, a transaction must contain a security that is deemed a 'Financial Instrument' and admitted to a trading venue within scope of the MiFIR framework. The trade becomes reportable if it falls into one of the following categories:

Article 26(2)(a): Request of admission, admitted to or traded on a UK, Gibraltar or EU Venue.
Article 26(2)(b): The underlying is a financial instrument on a trading venue.
Article 26(2)(c): The underlying is an index or basket where one or more of the constituents is a traded on a venue within MiFIR scope.

What do you need to do?

If you are a MiFID Investment Firm, you should check with your local NCA on how you can get access to the transaction reports they hold for you. A firm should be able to request a sample where their LEI is identified as the 'Executing Entity' in the MiFIR Transaction Reports. If downloading from a portal is unavailable (for example in Cyprus through CySEC), you will need to request the reports, for reconciliation purposes, directly from the NCA.

In the UK, the FCA provides access to a Market Data Portal (MDP) where you can download files, up to one file a day, directly from the portal.

Once downloaded, the daily XML file can be used to compare against your internal trade systems to ensure all transactions that are in scope of the reporting requirements have been reported and reported correctly.

How can TRAction help you?

As a service provider, TRAction is not allowed to directly access the or any other NCA portal on an Investment Firm's behalf. TRAction urges its clients to set up their own access and perform regular reconciliations of their in-house data against what is held with the NCA, as well as a reconciliation from in-house data against the ARM Confirmation files TRAction provides on a daily basis. If you are our client and require a detailed explanation of how to conduct a reconciliation, please feel free to request a guide from us or simply call us for a demo.

If there are any discrepancies or logic you are unsure of, TRAction is happy to help assist in investigating and providing explanations.

The 3 Most Common Errors in MiFIR Transaction Reporting

TRAction's reporting services include data validation and data enrichment to ensure any errors identified are resolved and the format meets requirements prior to ARM submission. The content of this article applies to both EU and UK MiFIR.

We've identified the 3 most common errors in the transaction data we receive from our clients:

1. **Missing customer details**

2. **Duplicate transactions**

3. **Incorrectly formatted dates**

1. Missing customer details

This is the most common type of MiFIR error that we receive on a daily basis. The exact error messages for this type of error can differ depending on the fields concerned. There are many fields required to be populated for client details, and the below are just some errors that we get most regularly.

Options ▾ Filters ▾ Party Details Export Clear Exception

		UnaVista ID	Import Date	Regulator	Transaction Status	Error Fields
1		25078227	18 Nov 2019 05:38:41.343	CySEC (CY)	ARM Exceptions	[Seller Surname] Seller ID] Seller First Name]
2		25078229	18 Nov 2019 05:38:41.343	CySEC (CY)	ARM Exceptions	[Seller Surname] Seller ID] Seller First Name]
3		25078167	18 Nov 2019 05:38:41.343	CySEC (CY)	ARM Exceptions	[Seller Surname] Seller ID] Seller First Name]
4		25078228	18 Nov 2019 05:38:41.343	CySEC (CY)	ARM Exceptions	[Seller Surname] Seller ID] Seller First Name]
5		25078230	18 Nov 2019 05:38:41.343	CySEC (CY)	ARM Exceptions	[Seller Surname] Seller ID] Seller First Name]
6		25078168	18 Nov 2019 05:38:41.343	CySEC (CY)	ARM Exceptions	[Seller Surname] Seller ID] Seller First Name]

What goes wrong?

We get these exceptions because some, or all, of the customer details for these transactions are missing in our client's database, or not in their client file (if they send one).

Missing client first name

A	B	C	D	E
Trading Platform ID (Login)	Client - Firstname	Client - Surname	Client - date of birth	Client - Country
880688900		Bloggs	1996-06-07	UAE

Missing Buyer ID and Buyer date of birth

N	O	P	Q	R	S	T
Buyer ID	Buyer ID Type	Buyer ID Sub Type	Buyer Country of Branch	Buyer First Name	Buyer Surname	Buyer DOB
	N	CONCAT	CY	JOE	BLOGGS	

How is this fixed?

Whenever there are missing customer details, we contact our client and ask them to update the details in their database or in the files they send on a daily basis. Once they have provided all the missing details that we need, we then amend the exceptions and resubmit them to the ARM.

2. Duplicate transactions

When there is a duplicate transaction in the client data, we get an error message of [Report Status]. See below highlighted in yellow.

	UnaVista ID	Import Date	Regulator	Transaction Status	Error Fields
1	26017687	21 Jan 2020 09:50:52.793	CySEC (CY)	ARM Exceptions	[Report Status]
2	26017691	21 Jan 2020 09:50:52.793	CySEC (CY)	ARM Exceptions	[Report Status]

What goes wrong?

There are 2 possible reasons behind this ARM exception. See below examples.

(a) Duplication of a transaction

The client has duplicated a row of data (a transaction) in the file they send to us.

	A	B	C	D	E	F	G	H
1	TRef	Tdate	Ttype	SecurityID	TranText	CurrencyID	Units	Price
2	T1911189	00:00.0	SELL	3261	Cocoa future	GBP	50	2255.5
3	T1911189	00:00.0	SELL	3261	Cocoa future	GBP	50	2255.5

What goes wrong?

(b) Reuse of a deal number for different transactions

The client has reused a deal number that has already been used for another transaction in the file.

	A	B	C	D	E	F	G
1	TRef	Tdate	Ttype	SecurityID	TranText	CurrencyID	Units
82	T1906842	00:00.0	SELL	3197	Cocoa future	GBP	100
83	T1906842	00:00.0	SELL	3261	UK Oil future	GBP	11

How is this fixed?

For either of the above scenarios, TRAction will reach out to our client to confirm the data.

In the case where there is a duplicate, we confirm with our clients whether it was added to the file twice by mistake. If it was, we can clear this exception with the ARM as it does not need resubmitting.

However, in the case where a client has mistakenly reused an existing deal ID, we ask them to provide the correct deal ID for the transaction. Once it is provided, we resubmit the exception with the correct information.

3. Incorrectly formatted dates

We often see our clients populate the Trade Date Time fields in the wrong format. This ARM exception gives an error message of *[Trading Date Time]*.

		UnaVista ID	Import Date	Regulator	Transaction Status	Error Fields	Report Status
1	☑	25943680	15 Jan 2020 11:01:38.823	FCA (GB)	ARM Exceptions	[Trading Date Time]	NEWT
2	☑	25943681	15 Jan 2020 11:01:38.823	FCA (GB)	ARM Exceptions	[Trading Date Time]	NEWT

What goes wrong?

This happens when a client incorrectly formats an open or close time for a trade in their file. Date formats must be in '**YYYY-MM-DD**' format, so if the client puts the trading date as '2020-24-06' for a transaction, it will get rejected as it is trying to report it as the 6th of the 24th month, which of course isn't possible.

C	D	E	F	G	H	I
OPEN TIME	TYPE	SYMBOL	VOLUME	OPEN PRICE	PRICE	PROFIT
2020-06-24 22:04	SELL	GOLD	0.01	1769.17	1767.64	1.53
2020-24-06 10:43:35 PM	SELL	USDCAD	0.01	1.3541	1.35523	-0.67

Under certain circumstances, incorrect trading date times are mistakenly accepted by the ARM because the system is not able to pick up the error. For example, if a trade date time of 3 January 2020 is written as 2020-03-01 and it is a date prior to the submission date, this information would be accepted by the system as 1 March 2020.

How is this fixed?

TRAction can either fix the errors for our clients or get them to amend the error and re-submit the file. We can then re-process all the files again once the format is corrected.

What do you need to do?

In order to minimise the burden on your operations and compliance teams and also reduce time spent on back and forth communication to fix errors, it's important to get the raw client data right in the first instance before you submit it to your delegated reporting service provider such as TRAction.

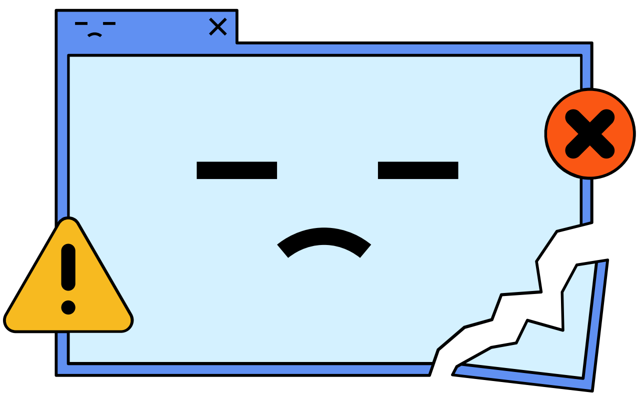
Take the time to review your system settings to ensure the reports are being generated correctly to improve your reporting today. We also recommend our clients check if we can automatically extract the details from their platform to minimise the errors that occur when using 'file submission' method.

The 3 Most Common Errors in EMIR Reporting

TRAction's reporting services include data validation and data enrichment to ensure any errors identified are resolved and the format meets Trade Repository (TR) and regulatory requirements prior to submission. The content of this article applies to both EU and UK EMIR.

We've identified the 3 most common errors in the data we receive from our clients:

- *NonReportingParty Country* field populated with default country
- UTI reused for a new trade
- Invalid LEI used



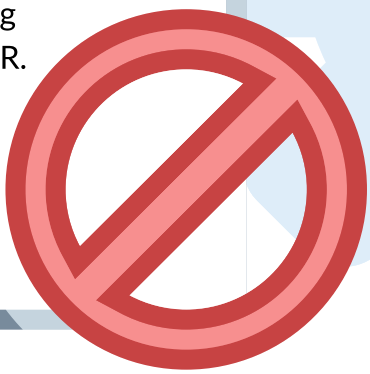
1. *Country of the other Counterparty* field populated with invalid country code

The field *Country of the other Counterparty* should be populated with a valid ISO 3166 country code (2 alphabetical characters).

What goes wrong?

When this field is not correctly populated, it gets identified as an exception either during TRAction's internal validation before submission or during submission to the TR.

We've observed 2 common reasons behind this error:



A. The wrong country code is used

One common example is that "UK" is easily mistaken as the country code where it should actually be "GB"

WRONG	CORRECT
Country of the other Counterparty	*Country of the other Counterparty*
UK	GB

B. This field is left blank

The customer detail is not obtained or populated during the customer onboarding process.

NonReportingPartyCountry

How is this fixed?

We will contact our clients to obtain the correct customer details. We then re-submit the trades once the exception is fixed.

2. UTIs reused for a new trade

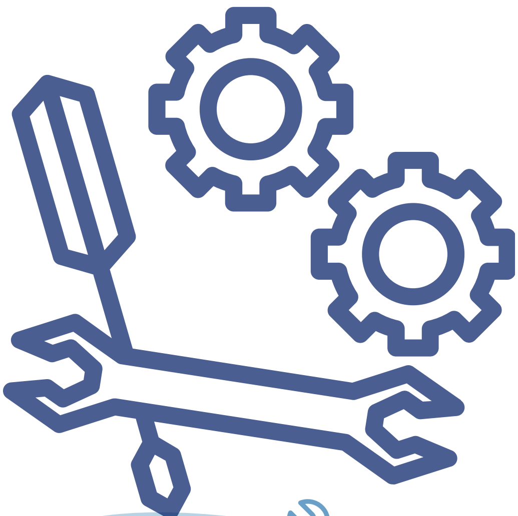
Unique Transaction Identifiers (UTIs) are a unique ID assigned to a trade. It cannot be reused by another trade.

What goes wrong?

Some clients mistakenly recycle and reuse the UTI from an old trade for a new trade. This issue gets flagged as an exception by the TR validation system during TR submission.

In the example below, the same UTI is used twice for two different trades.

ExecutionDateTime	UTI	Action
2020-01-09T20:00:00Z	NZQJG78ABCYBZVYXED	N (NEW)
2020-06-20T18:00:00Z	NZQJG78ABCYBZVYXED	N (NEW)



How is this fixed?

When the TR identifies a duplicate UTI, we clarify with our clients whether the same UTI is being reused for a new trade. Where the same UTI is reused, we ask our clients to supply a new UTI. Where the UTI is not actually being reused, we check with our clients if the Action field is populated incorrectly.

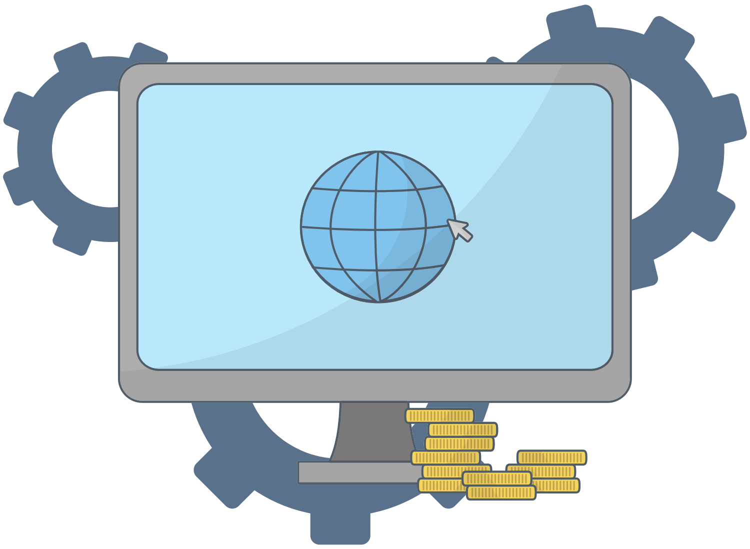
3. Invalid LEI used

Where the action types are N (New), M (Modify), R (Correction), Z (Compression), V (Valuation) and P (Position component), the field *Reporting Firm ID* must contain a valid LEI which is maintained in the GLEIF database. This is a common issue especially where our clients report on behalf of their counterparty under a delegated reporting arrangement or on behalf of their NFC- (Non-Financial Counterparties that are not subject to the clearing obligation) under EMIR Refit.

So, what is a valid LEI? The status of the LEI on the GLEIF database must show either:

- issued;
- pending transfer; or
- pending archival.

(See the examples below and on the next page from GLEIF).



Country	Entity Status	LEI	Reg. Status
Andorra	ACTIVE	5493[redacted]	ISSUED
Austria	ACTIVE	5299[redacted]	PENDING_TRANSFER
Australia	ACTIVE	2138[redacted]	PENDING_ARCHIVAL

What goes wrong?

If the LEI populated in the *Reporting Firm ID* field is not valid, an exception will be raised during TR submission by the TR validation system.

The invalid LEI could either mean:

- the LEI does not exist; or
- its status is “lapsed”, “annulled”, “retired”, “merged”, or “duplicate”.

Often a reporting counterparty is not aware of the status of its counterparty’s LEI especially when the LEI has recently expired (i.e. “lapsed”). Please see below the screenshot taken from GLEIF website.

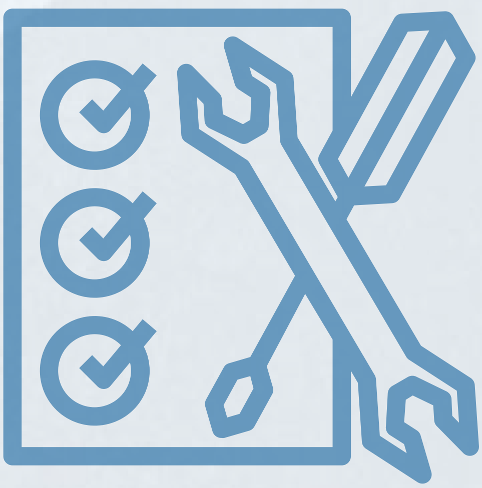
Country	Entity Status	LEI	Reg. Status
Andorra	ACTIVE	[redacted]	LAPSED

How is this fixed?

Once this error is identified during submission, we contact our clients and advise them to liaise with their clients to renew their LEIs (either our clients renew the LEI on behalf of their clients or their clients do it on their own). The trade with this error can only be re-submitted to the trade repository after the LEI is renewed.

We suggest our clients:

- Lapsed LEI – check the status of the LEIs during customer onboarding and make a note of the expiry date in their system.
- Non-existent LEI – Copy and paste the LEI directly from the GLEIF database rather than manually enter the LEIs into their database in order to minimise any transcription error which results in invalid LEIs. We have seen instances where a “Z” has mistakenly been entered as a “2” and “O” entered as “0” causing the LEI sent in transaction reporting to be incorrect and therefore rejected by the trade repository.



EMIR Data Quality Is Now A Regulator Focus

Since the introduction of transaction reporting, firms have spent significant proportions of their compliance budget on the initial implementation and ongoing technological solutions to ensure transactions are being reported to the regulators correctly and on-time.

Firms often wonder out loud if regulators truly scrutinise the data quality and accuracy of their submissions. Whilst regulators state that transaction reporting is a critical component of their oversight framework to detect market abuse or monitor market exposure, their actions now demonstrate an increasing focus on data quality as the transaction reporting landscape matures.

Given that EMIR is an established regime which was first implemented in 2012, it is expected that regulators will only continue to increase scrutiny on data quality.

What are the common issues?
Firms have been actively engaged by regulators in relation to:

- Collateralisation status,
- Corporate sector codes,
- Valuation amount, and
- Notional value fields

to ensure these are accurately populated and reported.

We have recently seen both the Central Bank of Ireland (CBoI) and the Cyprus Securities and Exchange Commission (CySEC) raise concerns with reporting counterparties on data quality and accuracy.

Further, CySEC has been requesting immediate remediation plans where expectations are not met. There are several areas commonly raised by CySEC such as outstanding trades or positions, missing Maturity Date and missing valuations.

Under Article 9(1) of EMIR Regulation (EU) No. 648/2012, counterparties must ensure all lifecycle events such as modification or termination of the contract are reported to the regulator, within the expected deadline.

What went wrong?

Some of the common reasons for outstanding open trades or positions can include:

- Movement of internal groups within a firm,
- Maturity Date field not populated on trades, or
- Trade closes are not reflected in trading systems.

Where there are incorrect notional values or valuation amounts, this could have resulted from inconsistent contract sizes being recorded in the system.

What should you do?

It is important to get the raw data right in the first instance before you or your delegated reported service provider such as TRAction submits to the trade repository.

Clients need to ensure all trades which have been moved internally to a different group are reflected in the reporting data sent to TRAction. Although the Maturity Date field is an optional field, if there is a scheduled Maturity Date for a trade (for example Options or FX Swap), this field must be reported.

As a delegated reporting service provider, TRAction ensures clients reporting under EMIR meet their reporting requirements by performing trade state report reconciliation to review data provided by clients are being reported accurately.

TRAction also provides monthly reporting statistics which contains the number of open positions submitted to the regulator on each business day. This report provides an overview of your daily submissions in a month and can be used to review if there are any outstanding open positions which should be terminated.

LSEG Post Trade (formerly UnaVista) also offers a read-only terminal which our clients can elect to utilise to review open positions. LSEG Post Trade (formerly UnaVista) can be used to monitor trends within transaction reporting, aiding identification of where errors are recurring.

Is your trade data quality good enough? ESMA weighs in.

A recent report published by the European Securities and Markets Authority (ESMA) shows more effort is needed to improve trade data quality under EMIR and SFTR. The report also sheds light on why firms are failing to produce high quality trade data.

Why should you care about your trade data quality?

High data quality is necessary to facilitate the effective monitoring of systemic risk and financial stability by ESMA and National Competent Authorities (NCAs). However, it is not only regulators that benefit from the maintenance of high standards of EMIR and SFTR trade data; it enables firms to identify risk and suspicious activity in the first instance.
Failing to produce complete and accurate data, alongside inadequate or absent oversight arrangements can significantly affect a firm's capacity to detect and remedy systemic issues. With data quality garnering increased attention from regulators, the likelihood of fines issued for potential and actual market abuse is significant.

EMIR Data Quality – Areas of Concern

ESMA's key findings for reported data under EMIR include:

- a significant number of derivatives are being reported late by counterparties or not at all;
- daily valuation updates for up to 11 million derivatives were not reported;
- failure to adhere to the EMIR format and content rules has increased slightly since Brexit; and
- almost half of all open derivatives were unpaired due to counterparties not coordinating on trade ID or on position versus trade level reporting.

SFTR Data Quality – Areas of Concern

Considering the relatively short time period that SFTR reporting obligations have been in force, ESMA's insights into data quality at this point remain limited. Rejection rates for incomplete data peaked in July 2020 coinciding with the introduction of the SFTR reporting regime. However, the rejection rate has been trending downward since then.

EMIR & SFTR – How can you improve the accuracy of your trade data?

- firms must ensure their systems are generating accurate and timely trade data reports and conduct regular reviews of system settings to avoid potential errors;
- adequate communication between counterparties is needed to prevent conflict regarding EMIR reporting obligations as demonstrated in ESMA's findings above;
- firms need to have in place thorough testing and reconciliation processes relative to the firm's trading volume to adequately cross-check the validations received from the trade repositories (TR); and
- if your trades are reported by a third-party such as TRAction, you remain liable for meeting your reporting obligations and must conduct regular quality checks of your reporting delegate to ensure all transaction details are completed and accurate.

What's next?

At TRAction, we extract, convert and enrich your data so that it is accurate and correct prior to submission to a TR. We also report on your behalf and receive validation files from the TR after submission allowing us to manage and rectify any exception in your trade data in a timely manner. Lastly, we support our clients from a compliance perspective and provide the advice to assisting them with meeting their reporting obligations.

ESMA will continue to publish its data quality report annually as part of their initiative to provide transparency to stakeholders regarding the activities ESMA and NCAs undertake to improve to data quality.

Areas of Concern in EMIR Reporting Highlighted by Regulator

Following a series of reviews that the Cyprus Securities and Exchange Commission (CySEC) has recently carried out on EMIR data quality being submitted by Regulated Entities to Trade Repositories (TR), they outlined several areas of concern in Circular C545.

The purpose of the review was to assess the quality, accuracy and timeliness of data reported to TRs. Under Article 9(1) of EMIR, all derivatives contracts that have been concluded, modified or terminated are subject to reporting obligation which must be reported no later than the following working day.

Outlined on the following pages is a list of concerns put together by CySEC.

What are the main concerns?	What it means?	What should you check?
Misreporting of details	• Erroneous details observed for options, CFDs and forwards contracts • Incorrect classification of Asset Class.	Asset Class and Contract Type must be submitted with correct information. • Options should have Contract Type as 'OP' • Forwards should have Contract Type as 'FW' • ISIN of a product should be submitted as Underlying Identification for a CFD • All derivatives should be reported with the accurate Asset Class
Incorrect status of contracts	Derivative contracts were not properly terminated with the TR.	Cross check your daily end of day open trades with the TR i.e. perform reconciliation for open trades in your system vs TR.
Collateralisation	Retail clients reported as Partially Collateralised.	Cross check if your clients are being reported with the correct Collateralisation Type according to Article 3b of EMIR.
Definition of 'working day' in determining deadline of reporting	Regulated Entities should follow the relevant calendar of Republic of Cyprus to determine working day or holiday.	Make sure you plan ahead of time and organise your reporting requirements around public holidays.

What are the main concerns?	What it means?	What should you check?
Delegated reporting rejections	Regulated Entities remain liable for any misreporting by third party entities they rely upon or delegate to.	Where reporting has been delegated to a third-party service provider, Reporting Entities should still perform checks on the trade reports submitted to the TR to maintain accuracy and quality of data.
Reconciliation of reports	Pairing and/or matching issues between reports of Reporting Entities and their counterparties.	Reporting details such as Unique Trade Identifier (UTI) and other common fields should be coordinated between the parties involved in reporting each trade.
Use of valid LEI for counterparties	Some Regulated Entities are using internal client codes to identify counterparties that are legal entities.	According to Article 3 of EMIR, legal entities should be submitted with a valid LEI in the ID of the other Counterparty field.

This is not the first time we have seen CySEC cracking down on the accuracy of transaction reporting for both EMIR and MiFIR. High quality data plays an important role for regulators to ensure financial stability and investor protection. CySEC has also informed Regulated Entities that not complying with the stipulated regulations could make them subject to enforcement action.

Recent Regulator Scrutiny on Unpaired EMIR Transactions

We have recently seen regulators making enquiries to investment firms about pairing and matching discrepancies that have been identified in their reporting.

In line with their active approach on a number of transaction reporting issues in recent years, CySEC has queried investment firms with low matching rates. Further details have been requested from firms regarding historical trades and why:

- the other side of the trade has not been reported, or
- it has not been reported with a consistent UTI.

Trades being queried go as far back as 2018 in some instances with resubmission required in many cases. Many CySEC investment firms have been conducting broad EMIR Data Quality reviews as a result.

Likewise, the Central Bank of Ireland (CBOI) has been querying investment firms over the last year regarding their daily EMIR reporting. Significant swings in net valuations and drastic changes in notional amounts are examples of scenarios where CBOI have asked for clarifications from investment firms. CBOI has recommended firms undertake regular reviews of their reporting data to ensure it is complete, accurate, timely and complies with relevant regulations and associated guidance published by ESMA. Further, they have recommended all EMIR reportable fields are checked.

Correspondence seen by TRAction from both CySec and CBOI:

- imposes a deadline for investment firms to provide a response to their queries, and
- require an explanation of possible remedial work required.

Reconstructing trade methodology and reporting processes completed many years ago can be time consuming and distracting for businesses, especially where there are large volumes of trades, so it's important to get it right first time. We provide a detailed explanation of the pairing and matching process.

The scrutiny is not surprising given it follows on from ESMA's 2021 EMIR and SFTR data quality report which found:

- Pairing rates pre-Brexit were below 50% but have since steadied to around 60%;
- The 60% pairing rate as something that needs improving.
- While less than 10% of reported derivatives tend to be reported late by the counterparties, more than 20% do not receive updated valuation on a daily basis as required by EMIR.
- Non-reporting dropped sharply due to Brexit and is now less than 5%.

The report suggested that the low rates are due to:

- a lack of agreements between parties to share UTIs,
- under/over reporting between counterparties, and
- incorrect identification of counterparties.

You can read more about the findings of this report in our dedicated article.

This increased scrutiny from regulators is likely to become more common as we get nearer to EMIR Refit in 2024. The changes to EMIR reporting are designed to encourage counterparties to set up more internal checks to ensure they are capturing and presenting the correct details to be compliant for pairing and matching.

FCA identifies 5 Common MiFiR reporting errors

The UK's FCA recently released Market Watch 65 identifies 5 common errors relating to MiFIR transaction reporting.

1. Unreported transaction on Non-EEA listed Index with EEA Trading Venue components

"Some firms have misinterpreted these requirements and failed to submit transaction reports for transactions executed in non-EEA listed indices or baskets composed of one or more financial instruments admitted to trading on an EEA trading venue. We expect firms to have arrangements in place to determine when an instrument is in scope for transaction reporting." – FCA

The 3 steps below are a great guide to what makes a transaction reportable:

Step 1	Is the financial instrument admitted to trading or traded on a trading venue or for which a request for trading has been done?	Yes – reportable No – go to step 2
Step 2	Is the immediate underlying instrument of the financial instrument a financial instrument traded on a trading venue?	Yes – reportable No – go to step 3
Step 3	Is the immediate underlying instrument of the financial instrument an index or a basket where any component is traded on a trading venue?	Yes – reportable No – not reportable

If the answer to any of these questions is yes, the financial instruments you are dealing with are reportable under MiFIR.

2. Field 47 – Underlying Instrument

Underlying instrument means immediate underlying NOT ultimate underlying. The ISIN of the underlying should be reported.

Example:

Instrument	Underlying
Option on a future on an equity	future
CFD on an equity option	option contract
FTSE CFD on a future	future

3. Field 3 – Trading venue transaction ID code

The FCA reminded firms that it expects trading venue transaction identification code (TVTICs) to be reported when a transaction is executed on a trading venue (i.e. not OTC).

The TVTICs are generated by trading venues and disseminated to both buying and selling parties.

Example:

Venue Transaction ID
30PQ037BBB2YZLPD4F

4. Fields 8 and 17 – Country of branch fields

These fields should only be populated where the buyer or seller was a client of an investment firm.

The FCA clarified that these fields refer to the country of the branch of the investment firm that the client executed with, not the client's location or nationality.

Example:

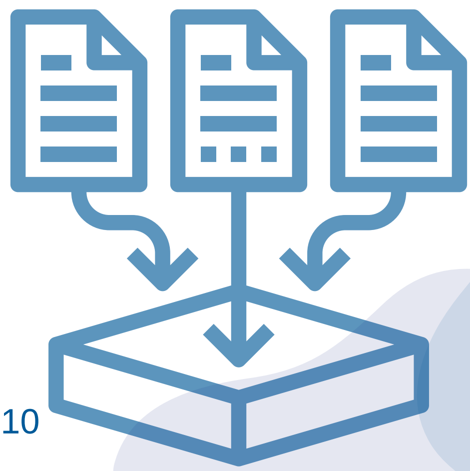
Scenario	Country of branch for buyer (Field 8)	Country of branch for seller (Field 17)
The UK branch of a German firm receives an order from a client to buy	GB	blank

5. Systems and Controls – downloading from FCA

The FCA emphasised that reconciliation of the transaction reports (handback files) against your raw data is important. The acceptance of transaction reports by the FCA does not mean that the data is accurate. The FCA's validation rules are not designed to identify all potential errors and omissions.

"We are encouraged by the number of data extract requests being made by firms for the purposes of reconciling their transaction reports with front office records" – FCA

The FCA also noted there is a good number of firms downloading transaction reports from the FCA Portal for reconciliation purposes. This was both an encouragement and gentle nudge to firms not currently doing so.



Using Reporting Data to Enhance Internal Reconciliation

Often firms view complying with regulation as an obligation to avoid penalties and fines. However, have you considered how compliance can not only improve your business processes but add to your revenue as well?

Here's some ways that you can use your regulatory reporting data to benefit your business.

Aligning key metrics between regulators and businesses

The regulators are strongly encouraging counterparties to use reporting data in their own internal risk and compliance management processes. The aim is to create more consistent reporting by indirectly incentivising counterparties to gather more accurate data. Crucial to this plan is requiring information which can be used to derive business insights and help project future decisions.

Understand Product Demand

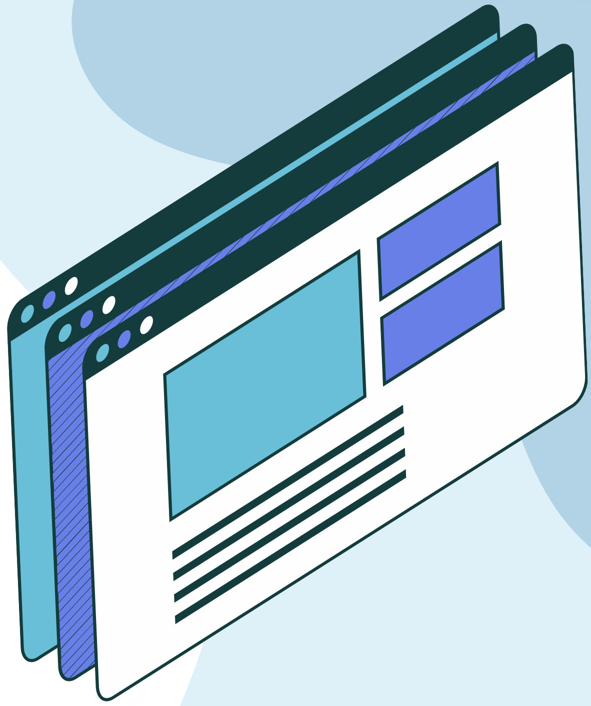
During the reporting process, firms generate a lot of information. Reporting parties are required to report the notional values traded on an asset class and security basis, which can be used to discover their most popular instruments. This can help businesses to improve their risk management processes by targeting areas that will have the most impact.

Further data generated during the reporting process includes P&L, net direction of positions and the volatility in transaction volumes over time. This can allow firms to drill down and tailor their products to client demand. It can also better inform your firm's communication and marketing strategies, saving you from expenditure on products (especially costly data feeds and server space) with little to no return.

Data driven decision making

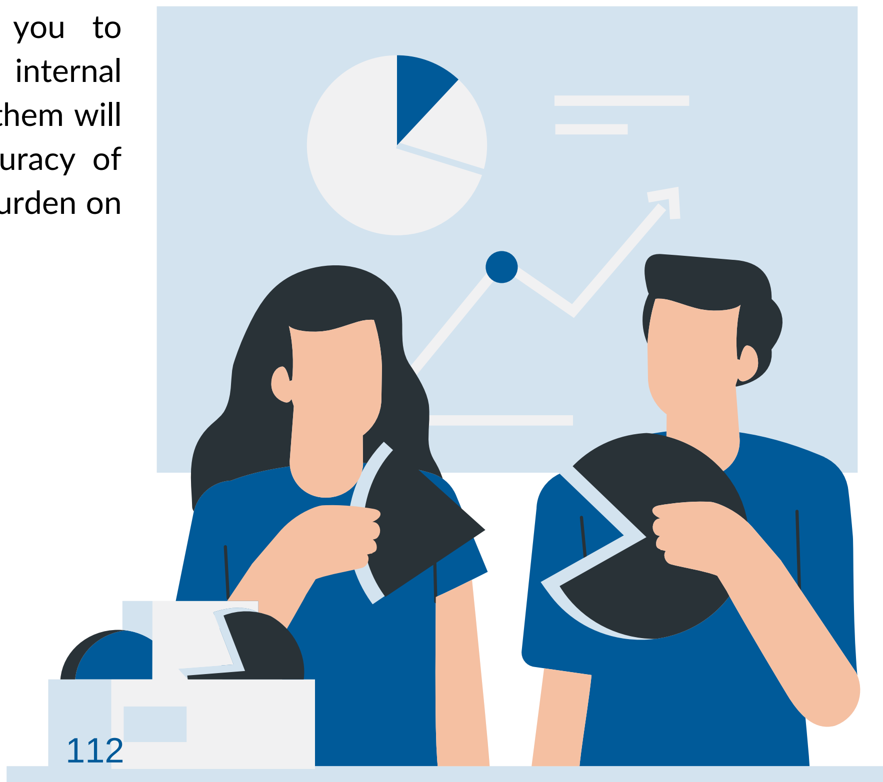
The regulatory requirement to report data creates a scenario where a huge amount of data is stored and easily accessible going back many years. It is possible to digest these files and map out trends to identify business trajectory and areas that need improvement.

The necessity to have clean, accurate and organised data either held internally or with a delegated third-party provider helps firms ensure they have a sophisticated data management system that allows analysis in a much more time efficient manner. The availability of this warehouse of information allows our clients to monitor trends in their key metrics through time and their areas of growth.



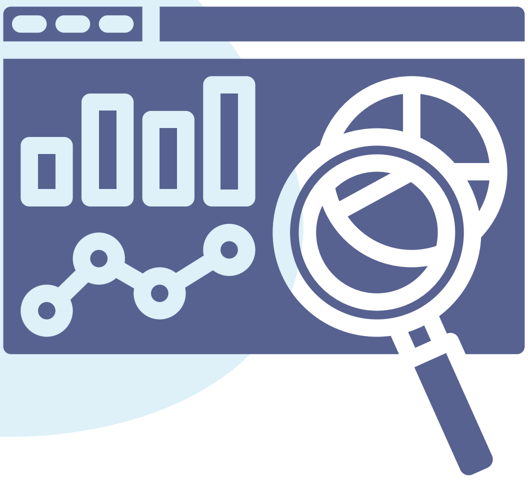
Spot Your Weaknesses

Often the process and discipline of producing daily data exports can identify deficiencies that, once rectified, can deliver improvements in other parts of the business. The ability to produce daily reports enables to you to determine inadequacies in both your internal and outsourced processes. Resolving them will lead to improved efficiency and accuracy of your reporting as well as reduce the burden on your compliance resources.



Stay Competitive in a Growing Market

As trading platforms such as eToro and Robinhood continue to enter the market with 'zero brokerage' and 'payment-for-order-flow' investing structures, it's becoming increasingly difficult for traditional brokers to compete. Although regulatory reporting is complicated, it's also a barrier to entry for many new brokers. This means established brokers with concrete compliance frameworks and regulatory reporting processes will face less competition minimising the potential loss of clients to new competitors.



Eliminate Unnecessary Losses

Utilising Best Execution monitoring can help identify transactions that indicate scalpers or significant slippage, allowing you to take relevant action early to eliminate the associated financial losses.

TRAction's Best Execution Monitor is a smart system that collects, analyses and compares your transaction data against market reference data to compute representative benchmarks that enable consistent and fair evaluation of performance. You are able to quickly and effectively identify a trade execution that is outside of your execution parameters and market prices.

MiFIR Reconciliation

What is it?

As part of MiFIR, Investment Firms should have arrangements in place to regularly reconcile their front office transactions against data samples provided by their National Competent Authority (NCA).

If your NCA does not have samples to provide, as an Investment Firm you should look to reconcile against files that your ARM or Trading Venue has submitted on your behalf, for example, the handback files from your ARM.

Why is it important?

MiFIR/UK MiFIR requires Investment Firms to:

- ensure their transaction reports are complete and accurate; and
- have arrangements and controls in place to monitor reports received by the NCA or sent by the ARM to the regulator.

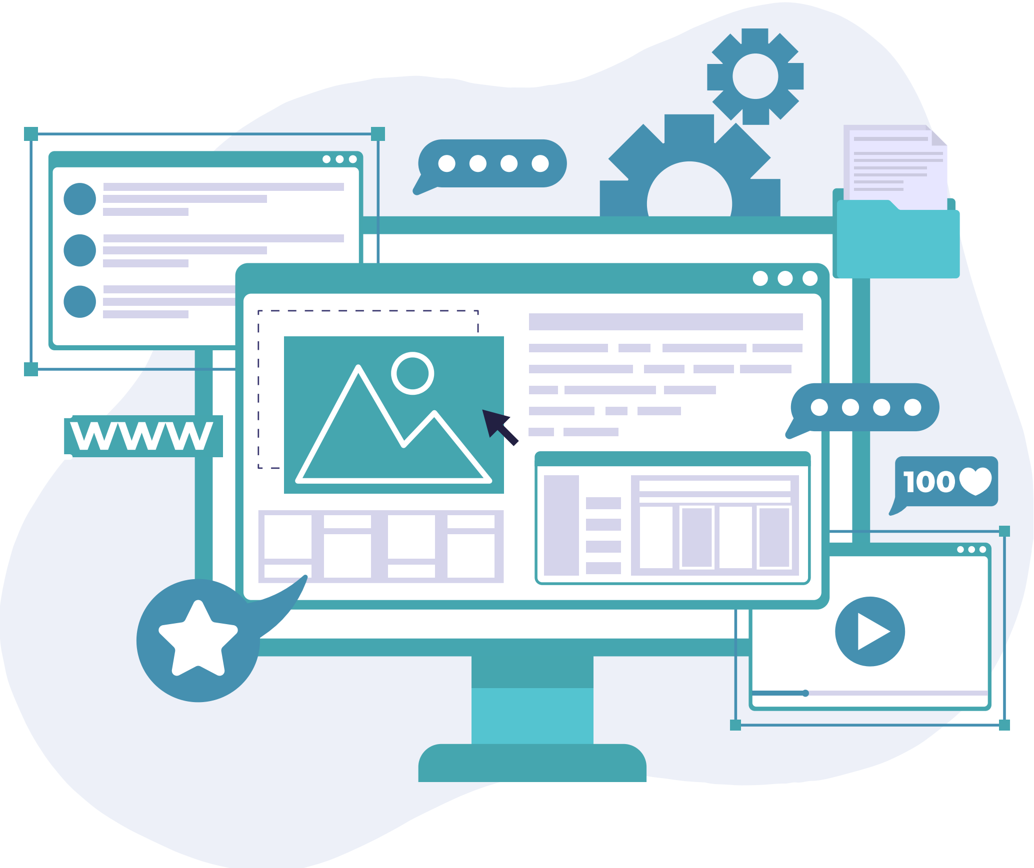
Without accurate and complete transaction reports, the local NCAs are unable to monitor market abuse effectively.

FIRDS Network

The reportability framework outlined under Article 26 of MiFIR, coupled with the requirement for trading venues and SIs to submit reference data creates a network which maintains the FIRDS database in real time and allows ARMs and regulators to stay on top of new instrument as well as old that fit the criteria to be reported under the regime.

Weaknesses of FIRDS

There are scenarios that FIRDS cannot be solely relied on for complete accuracy. It is possible for a financial instrument to be TOTV, however due to oversight issues by the venue, not be included in the FIRDS dataset. TRAction's view is that an attempt to report the transaction is enough to comply with a firm's obligation. This is a situation we mitigate for our clients by looking up any newly traded products on FIRDS and Refinitive, so they don't have to worry about it.



Summary

This system creates a dynamic data series which helps the regulatory bodies to function by leveraging the use of market participants to provide information on a continuous basis. This creates an environment where market oversight is more manageable amidst the extensive sea of securities and transactions across the the European and United Kingdom landscape.

How to Reconcile When Trades are Reported Using the Compression Method

EMIR transaction reporting rules allow reporting entities to delegate their reporting obligations to a third party, however, the firm still remains ultimately responsible for ensuring the details of their transactions are reported correctly and accurately under Art 9(1) of EMIR.

It is important that you take all reasonable steps to ensure the completeness, accuracy and timeliness of the trade information reported. Our recommendations are that you confirm who within your organisation conducts this process and document each occasion it is performed. You should reconcile your raw data and invoice against the handback files or confirmations received from your delegated reporting provider.

How does TRAction help its clients meet these obligations?

TRAction provides its clients handback files for review along with guidance to help reconcile the regulatory reporting done on your behalf against your raw data. This helps you ensure that TRAction is meeting its obligations as a reporting delegate.

On a daily basis, TRAction provides its clients with handback files which detail the transactions and positions that have been uploaded to the Trade Repository (TR) or Approved Reporting Mechanism (ARM). These files are generated every day upon successful completion of transaction uploads to the TR or the ARM and are returned daily to the secure portal. We provide a handback guide to assist clients with this process and our staff are available to answer any questions.

What is the Compression Method of reporting?

The Compression Method (CM) is used to define your own positions manually instead of the Trade Repository (TR) creating them from your trades. This method allows the consolidation of positions when multiple trades occur in the same instrument and on the same account. It is the process in which a combination of open positions is netted together to yield a remainder. If you don't use CM, each open trade will have its own position. The CM also specifically helps with the challenges of reporting when using the partial close function in some trading platforms; an example is MT4 which allows a trader to close out a part of their open position, leaving the remaining quantity unaffected.

How to Reconcile?

Use the handback files to make sure that the total number of trades and positions reported are correct by comparing the raw data to:

- the files uploaded to the TR; and
- the Trade State Report (TSR) files that you receive back from TRAction on a T+2 basis.
- The TSR files are downloaded from the TR each morning containing a full snapshot of the open positions per asset class.

Below is an example of how you can use the order ID or UTI in the raw data to track the position through the trade reporting lifecycle for reconciliation purposes. To investigate individual transactions, the following fields contained in the handback files will assist you with the process:

Raw Client File			
order	login	usergroup	name
9753059	8500859	TRAction	Entity
Traction Post-Processing File			
Action	Trade Party 1 - Transaction ID	Message Type	Submitting Party - ID Type
New	9753059	Valuation	LEI
Trade State Report			
TradeAllege	Uniquetransactionidentifier	UniqueSwapIdentifier	PartyTransactionIdentifier
Trade		INTERNAL9753059	9753059

To investigate that your transaction reporting is being done correctly overall, please use the following steps.

Positions:

Any new, exit or partial close positions should be reflected in the positions file uploaded to the TR, with their net impact demonstrated by the number of rows in the valuation file containing the mark to market values of all the open positions. The total count in the raw position data should match the aggregate number of the TSR files across the asset classes traded, negating entries that have been compressed or excluded based on client logic requested.

Transactions:

Under the compression method, each intra-day transaction will produce two entries in the trades file uploaded to the TR. For these you can check that each transaction ID has a ‘New’ and an ‘Exit’ row.

The Differences between Trade Publication and Transaction Reporting

These terms are a source of confusion for many firms trying to determine their regulatory obligations under MiFID II. The main difference relates to the respective audience and purpose: Trade Publication (TP) (also often called trade reporting) is directed to the public and made for disclosure purposes, whereas Transaction Reporting (TR) is made to regulators for oversight of transactions.

What's the difference?

The differences between some of the main characteristics of TP and TR are summarised in the following table:

Items	Trade Publication	Transaction Reporting
Audience	Public	Regulators
Purpose	Disclosure	Market oversight
Reported to	Authorised Publication Arrangement (APA)	Approved Reporting Mechanism (ARM)
Content	Instrument identifier, price, volume, timing, venue	More elaborate - information relating to execution algorithmic trades and decision-making, spanning 60 fields
Frequency	Near real-time	T+1
Who has the obligations?	Seller, unless the buyer is a systematic internaliser	MiFID II investment firms

Which do I need to prepare?

Your TP and/or TR obligations under MiFID II will depend on whether the instrument is traded on a EEA trading venue and if it isn't, whether it has an underlying instrument traded on an EEA trading venue. The Financial Instrument Reference Data System (FIRDS), published by ESMA daily, will contain details of financial instruments covered by MiFID II.

Who has Obligations to Meet MiFIR Trade Publication Requirements?

Articles 6, 10, 20 and 21 of MiFIR require European Investment Firms (IFs) to make public, through an Approved Publication Arrangement (APA), post-trade transparency information in relation to financial instruments which are traded on a Trading Venue or traded Over-The-Counter (OTC)/off exchange.

Transactions executed on an EEA trading venue

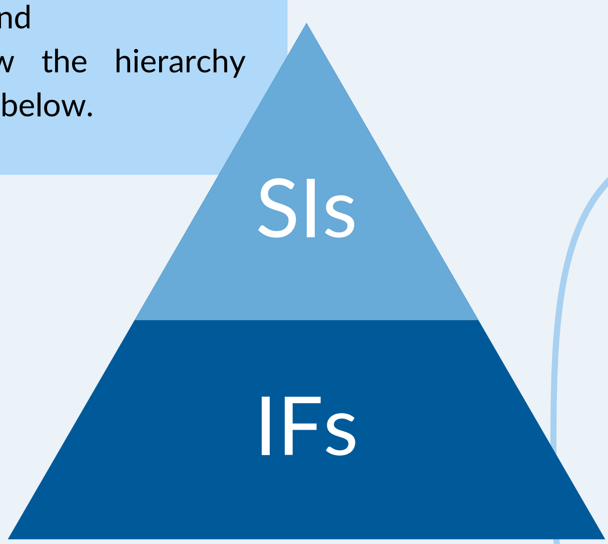
Where the transaction is executed on a European Economic Area (EEA) Trading Venue, the market operators or IFs who operate the Trading Venue have the trade reporting obligations (Article 12 of RTS 1).

Transaction executed outside of an EEA trading venue

Where the transaction is executed outside the scope of an EEA Trading Venue, it can be difficult to determine who has the reporting obligation.

Here's some tips:

1. Determine if you are a Systematic Internaliser (SI); and
2. Follow the hierarchy chart below.



Systematic Internalisers (SIs)

Scenario	Buyer	Seller	Who has the obligation to report?
(a)	SI	SI	SI Seller
(b)	SI	IF	SI
(c)	IF	SI	SI

As shown in scenario (a), if both investment firms are SIs, the seller has an obligation to report the post-trade transparency data (section 15 of RTS 1).

However, where the investment firm is a SI and it entered into a transaction with another non-SI investment firm which refers to scenario (b) or (c) above, the SI will make the transaction public through an APA regardless of which side it is acting for (Article 12(5) of RTS 1 and Article 7(6) of RTS 2).

Investment Firms

Scenario	Buyer	Seller	Who has the obligation to report?
(a)	EU IF	EU IF	EU IF Seller
(b)	EU IF	Non-EU IF	EU IF
(c)	Non-EU IF	EU IF	EU IF

As illustrated in scenario (a), if a transaction is executed between two investment EU IFs, the seller is required to make the transaction public through an APA (Article 12(4) of RTS 1 and Article 7(5) of RTS 2).

If the financial instrument is entered between an EU IF and non-EU IF, the reporting obligation will rest on the EU IF regardless of which side they are acting for.

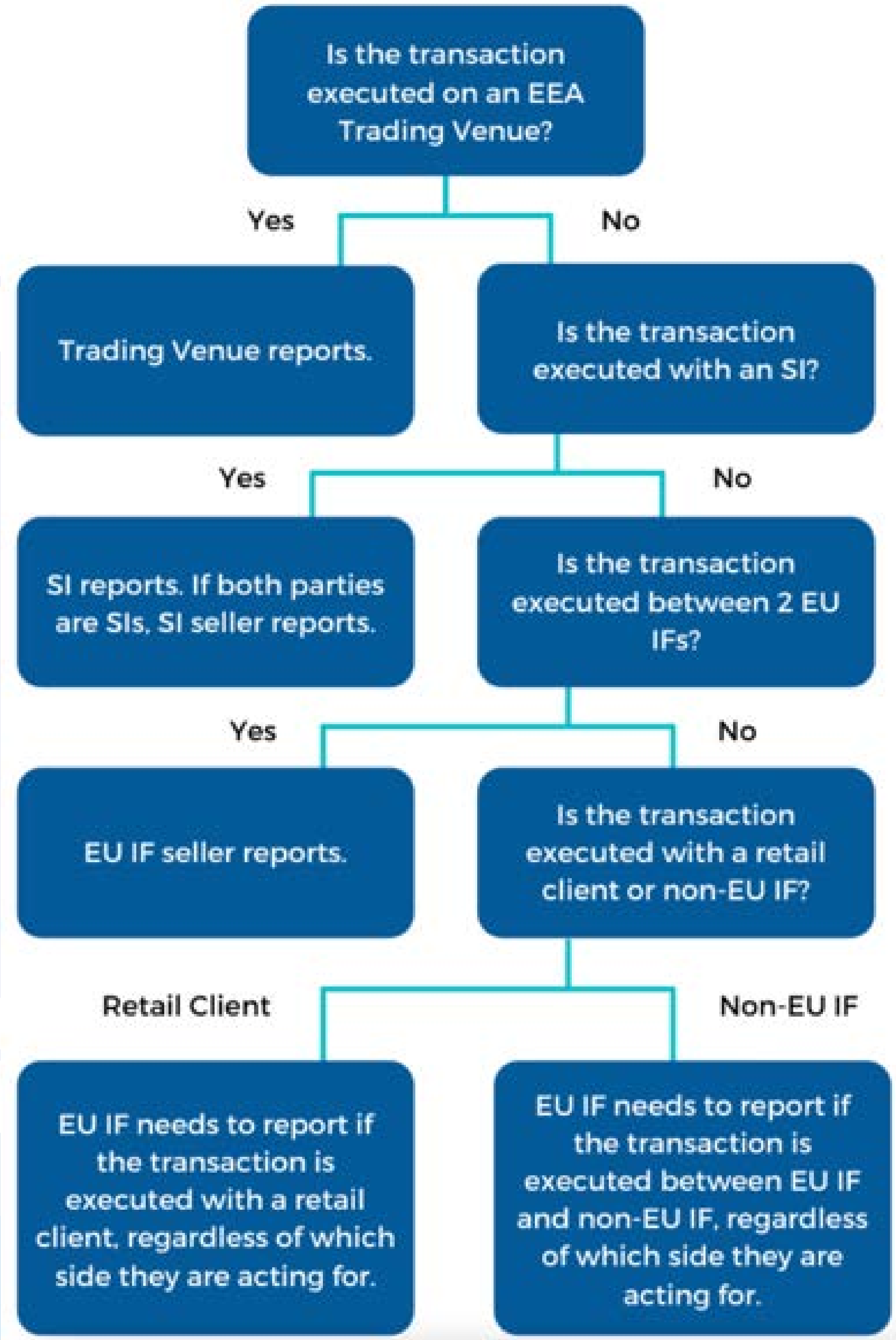
If both sides are non-EU IFs, they would be out of the scope of reporting obligations under MiFIR.

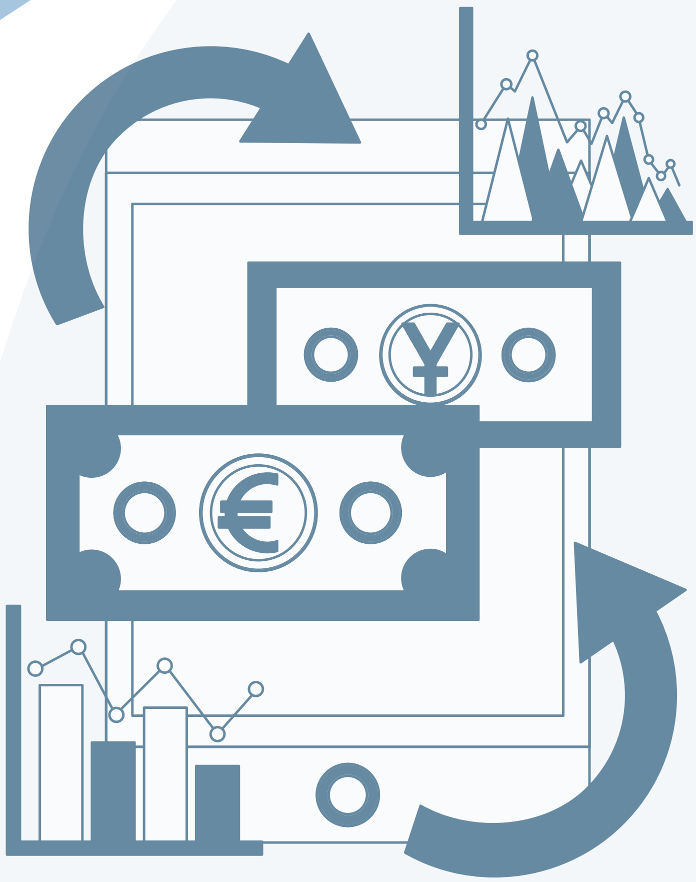
Retail Clients

Scenario	Buyer	Seller	Who has the obligation to report?
(a)	EU IF	Retail Client	EU IF
(b)	Retail Client	Non-EU IF	EU IF

When a transaction is executed between an EU IF and a retail client, the obligation always rests on the EU IF, as a Retail Client is out of the scope of reporting obligations under MiFIR.

We have created a tree diagram below to help you determine who has the MiFIR Trade Publication obligation. (This is only applicable to products that are traded on a Trading Venue or traded OTC/off exchange, and therefore not applicable to products where only the underlying is traded on a Trading Venue, such as non-venue traded CFDs).





When does the post-trade transparency information need to be reported by?

Post-trade information shall be made available to the public as close to real time as is technically possible (Article 7(4) of RTS 2) with the following parameters:

1. on or before 3 January 2021, within 15 minutes after the execution of the relevant transaction;
2. after 3 January 2021, within 5 minutes after the execution of the relevant transaction.

What needs to be reported?

The following needs to be reported in a post-trade transparency report:

- Trading date and time
- Instrument identification code
- Unit price
- Price currency
- Quantity
- Venue of execution
- Publication date and time
- Venue of Publication
- Transaction identification code

For more details see Table 3 of Annex I of the RTS 1.

For more information, review the Questions and Answers on MiFID II and MiFIR transparency topics published by ESMA.

What is a Systematic Internaliser?

Each Investment Firm (IF) is required to make a quarterly assessment on its previous 6 months' data to determine if it qualifies as a Systematic Internaliser (SI). Where an IF is classified as a SI, it will be obliged to meet the pre- and post-trade transparency requirements. In this article, we guide you through the assessment process.

What is a Systematic Internaliser?

As defined in Article 4(1)(20) of Directive 2014/65/EU (MiFID II), a SI is an investment firm which executes client orders OTC (off exchange off exchange or outside a regulated market (RM), multilateral trading facility (MTF) or organised trading facility (OTF)) on its own account on a frequent, systematic and substantial basis.

What does a 'frequent, systematic and substantial basis' mean?

The definition of frequent, systematic and substantial basis, as per EU Regulation 2017/565, depends on the instruments that have been traded, measured over a 6-month period.

Systematic basis –

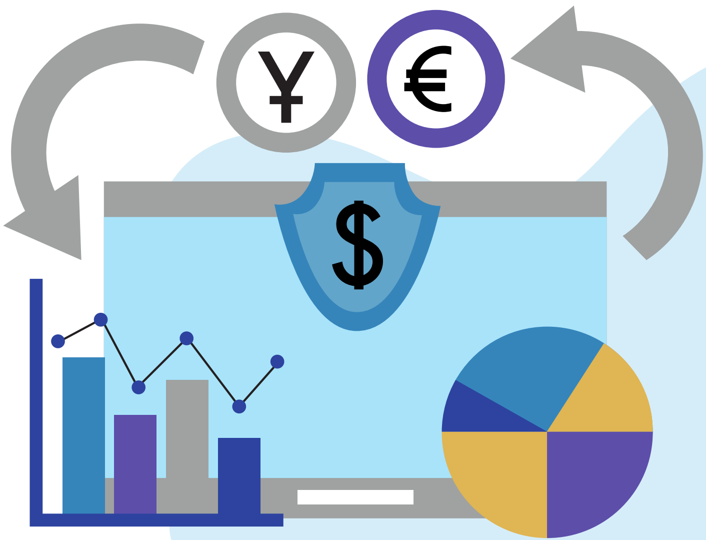
the number of OTC client executions taking place on own account as a proportion of the number of transactions in the relevant instrument or class executed in the European Union (EU) on any trading venue or OTC. (ESMA publishes data on its website by the first calendar day of February, May, August and November every year)

Substantial basis –

the size of OTC client executions on own account as a proportion of total turnover of the IF or total turnover across the EU.

Frequent basis –

on average how often OTC client executions take place own account



When is an IF considered a SI?

The following table shows the criteria that qualifies an IF to be a SI. A few examples are in the tables that follow.

Instrument	Where there is a Liquid Market			Where there is not a Liquid Market	
	Systematic basis (minimum)	Frequent basis	Frequent basis Substantial basis	Frequent and Systematic Basis	Substantial basis (minimum)
• shares • depositary receipts • ETFs • certificates • other similar financial instruments	0.4%	Daily	15% of IF's total turnover **OR** 0.4% of EU's total turnover	Daily	15% of IF's total turnover **OR** 0.4% of EU's total turnover
bonds	2.5%	Weekly	25% of IF's total turnover **OR** 1% of EU's total turnover	Weekly	25% of IF's total turnover **OR** 1% of EU's total turnover
structured Finance Products	4%	Weekly	30% of IF's total turnover **OR** 2.25% of EU's total turnover	Weekly	30% of IF's total turnover **OR** 2.25% of EU's total turnover
derivatives	2.5%	Weekly	25% of IF's total turnover **OR** 1% of EU's total turnover	Weekly	25% of IF's total turnover OR 1% of EU's total turnover
emission Allowances	4%	Weekly	30% of IF's total turnover **OR** 2.25% of EU's total turnover	Weekly	30% of IF's total turnover **OR** 2.25% of EU's total turnover

*Liquid Market is defined in Article 2(1)(17)(b) of Regulation (EU) No 600/2014.

Example 1

ABC Broking has the ‘dealing on own account’ authorisation on their licence and deals on their own account.

Conditions		Meet Criteria?
Step 1 - determine if there is a liquid market		
Offers DAX ETFs		There is a liquid market
Step 2 - determine if there is a frequent, systematic and substantial basis		
Systematic basis	Internalises 10% of all ordered	**Yes** - 10% > 0.4%
Frequent basis	Deal with OTC transactions on own account everyday	**Yes** - daily
Substantial basis	The total turnover they internalise over 6 months is EUR 500 billion and the total turnover they have during the same period is EUR 1.5 trillion	**Yes** - 500 billion/1.5 trillion = 33% > 15%
Step 3 - conclusion		

Yes - ABC Broking is considered a SI in this instrument as all criteria have been met

Example 2

DEF Broking has the 'dealing on own account' authorisation on their licence and deals on their own account.

Conditions		Meet Criteria?
Step 1 - determine if there is a liquid market		
Offers illiquid bonds		There is not a liquid market
Step 2 - determine if there is a frequent, systematic and substantial basis		
Frequent and systematic basis	Deal with OTC transactions on own account everyday	**Yes** - weekly
Substantial basis	The total turnover they internalise over 6 months is EUR 200 billion and the total turnover they have during the same period is EUR 10 trillion	**Yes** - 200 billion/10 trillion = 2% > 1% (substantial basis)
Step 3 - conclusion		

Yes - DEF Broking is considered a SI in this instrument as all criteria have been met

Example 3

XYZ Broking has the 'dealing on own account' authorisation on their licence and deals on their own account.

Conditions		Meet Criteria?
Step 1 - determine if there is a liquid market		
Offers Vodafone shares		There is a liquid market
Step 2 - determine if there is a frequent, systematic and substantial basis		
Systematic basis	Internalises 20% of all orders received	**Yes** - 20% > 0.4%
Frequent basis	Deal with OTC transactions on own account everyday	**No** - weekly, it needs to be daily in order to meet the criteria
Substantial basis	The total turnover they internalise over 6 months is EUR 10 billion and the total turnover they have during the same period is EUR 500 billion	**No** - 10 billion/500 billion = 2% < 15%
Step 3 - conclusion		

Yes - XYZ Broking is considered a SI in this instrument as not all criteria have been met

How does an IF become an SI?

As illustrated above in the examples, if the threshold is met in any of the relevant instruments, an IF will become as SI in that specific instrument and has an obligation to notify their local NCA of the status.

As IFs are able to opt-in to, or opt-out of, the SI regime for different asset classes at any time, they are required to notify their NCA in any one of the following circumstances:

- opt-in to act as SI;
- cease to be a SI while they previously opt-in;
- cease acting as SIs in all the classes of financial instruments previously notified;
- start acting as SIs in a class of financial instruments; or
- cease acting as SIs in a class of financial instruments.

What does an SI have to do differently to an IF?

SIs are subject to pre- and post-trade transparency requirements. They must make public pre-trade quotes (on request or by choice) through a Trading Venue, Approved Publication Arrangement (APA) or on the firm's website. Accordingly, SIs will need to establish means for responding to requests for quotes.

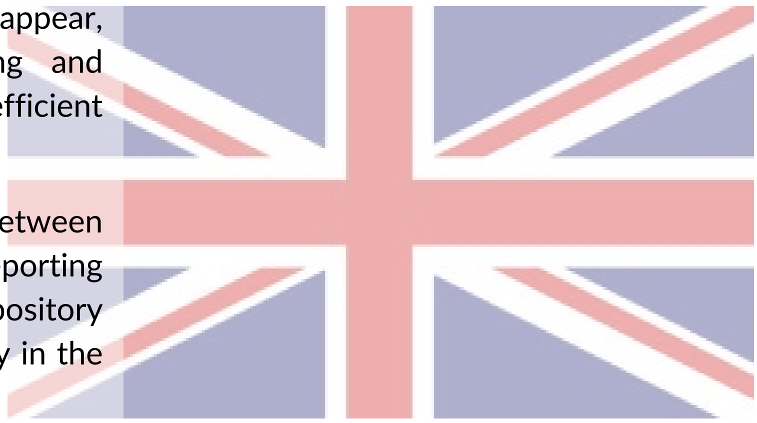
They are also subject to post-trade transaction reporting requirements, whereby a wide range of information in relation to the trades executed needs to be reported to an Approved Reporting Mechanism (ARM). SIs will need to have systems in place for gathering and reporting relevant data.

Additionally, IFs should also create and maintain a list of all financial instruments for which they are a SI and the list should be made available if at any time their NCA request to access such information.

How Can You Reduce Transaction Reporting Costs in UK and Europe?

We all know that meeting all the requisite trade/transaction reporting obligations for EMIR, MiFID II/MiFIR and SFTR can pose a considerable cost to an investment firm.

Firstly, determining your reporting obligations requires allocation of internal resources and/or engagement of external consultants to analyse the application of the regulations to your firm. Where you are potentially subject to multiple reporting regimes or operate across jurisdictions, the analysis may become very complex. Reporting of trade/transaction information itself also comes with costs. While the regulatory burden is not going to disappear, it can be minimised by outsourcing and choosing the most cost-effective and efficient option for you.



TRAction compares the difference between you reporting directly to Approved Reporting Mechanism (ARM) and/or Trade Repository (TR) and through a delegated third party in the following aspects:

- Internal Resources
- Infrastructure
- ARM/TR Fees

	Traditional Approach (Reporting Directly)	**Efficient Approach (Reporting through a Delegated Third-party)**
Internal Resources	Meeting the reporting requirements may require re-training existing staff or hiring additional staff. The former can divert human resources from existing projects and the latter adds to employment expenses.	Free up your internal resources and allow your team to focus on delivering your core offering/service.
Infrastructure	Firms need to spend time and resources to develop ways of generating transaction reports in the correct formats. This in addition to the procurement and storage of all the required data.	Limit the infrastructure expenditure you incur. We have IT specialists who can work with your IT team to adjust your systems to be reporting-ready, again without additional charge.
ARM/TR Fees	Firms can directly engage with an ARM or a TR for MiFIR, EMIR and SFTR. Charges are generally a fixed monthly or annual account fee plus a per-transaction charge.	We charge you the similar fees as you would incur if reporting directly to a TR or ARM. What's more, we provide complimentary advisory and consulting services to unwind the complexity of the EMIR, MiFIR/MiFID II and SFTR regimes for you and answer all your regulatory questions.

NEXT STEPS: HOW TO COMMENCE TRANSACTION REPORTING

How to Reduce Transaction Reporting Costs

Regulatory reforms such as MiFID II, MiFIR and EMIR aim to reduce the likelihood of financial crises through increased market integrity, though they have come at a cost. While regulators were originally not expecting compliance in complete conformity with the new rules *“have taken sufficient steps to meet the new obligations by the start date”* (Mark Steward, FCA), that honeymoon phase has now well and truly passed. Any firm that has not yet implemented the full scope of transaction reporting requirements should act quickly.

How can individual firms minimise the costs?

It is important to build efficiencies into systems so that costs can be minimised from the start. One way of doing this is to capitalise on huge advancements in data management and technology that allow automation and outsourcing in transaction reporting. The costs around EMIR and MiFIR transaction reporting involve firstly, determining your reporting obligations - requiring allocation of internal resources and/or engagement of external consultants to analyse the application of the regulations to your firm. Where you are potentially subject to multiple reporting regimes or operate across jurisdictions, the analysis may become complex. Different costs apply to reporting directly to an Approved Reporting Mechanism (ARM) or Trade Repository (TR) compared with reporting through a third-party reporting solution.

1. The traditional approach: reporting directly

• Internal Resources
Meeting the reporting requirements may require re-training existing staff or hiring additional staff. The former can divert human resources from existing projects and the latter adds to employment expenses.

• Infrastructure
Firms need to spend time and resources to develop ways of generating transaction reports in the correct formats. This in addition to the procurement and storage of all the required data.

• ARM and Trade Repository Fees
Firms can directly engage with an ARM or TR. Charges are generally a fixed monthly or annual account fee plus a per-transaction charge. There may also be integration or set up fees.

Reporting through a delegated third party

Outsourcing your reporting obligations to a specialised transaction reporting provider can result in the following cost savings:

- Free up your internal resources and allow your team to focus on the core offering;
- Reduce the need to obtain and pay for external advice;
- Limit the infrastructure expenditure you incur.

2. A major cost – Transaction reporting

A representative of the US bank Brown Brothers Harriman told the Financial Times that *“complying with transaction reporting requirements will require significant investment”.* Transaction reporting requirements for MiFIR have greatly increased in scope: OTC derivatives have been brought into the scope of reporting, the number of fields has gone from 23 to 65, a wider range of entity and product identifiers is required and LEIs of clients will need to be reported – all on a T+1 basis.

Costs include implementation as well as ongoing compliance expenditure. In 2017, it was expected that MiFID II would cost the finance industry at least €2.5 billion for its implementation.

The costs of implementation and of ongoing compliance don’t just affect the books, but also operations. With human resources and organisational focus shifting away from business development, product enhancement and other key areas, the focus on regulatory compliance has an impact on enterprise and growth. This is particularly important for small fund managers, small banks and brokers, which typically have smaller regulatory teams that proportionately bear more costs. The high cost of ensuring compliance also means that the incidence of the costs cannot fall solely on clients and counterparties. The remaining cost will indeed have an impact on ratios and therefore it’s important to determine how the costs can be minimized.

4 Attracta Mooney “€2.5bn cost of Mifid II rattles asset managers” Financial Times, 27 January 2017.

How to Commence Transaction Reporting

It is critical to ensure that your firm complies with EMIR and MiFIR regulatory reporting requirements, and does so with minimal disruption to core business operations.

Here's the main steps you'll need to take to be ready for this requirement.

1. Determine your transaction reporting obligations

The first step is to work out whether you have reporting obligations i.e. are you are engaging in trades that need to be reported under MiFIR? The following factors may mean that you have such obligations:

- You are an investment firm within the EU or an overseas firm with a branch in the EU (and some other limited circumstances for overseas firms);
- You are dealing in a financial instrument, as defined in Section C of Annex I of MiFID II;
- The financial instrument is traded on an EU trading venue – Regulated Market (RM), a Multilateral Trading
- Facility (MTF) or an Organised Trading Facility (OTF); and/or
- A financial transaction is involved, as defined Article 3 of the MiFIR RTS 22 (Regulatory Technical Standards) and it is not an excluded transaction.

Hedge trades will need to be reported as well as client-side trades, unless you meet the matched principal definition.

Once you've determined which transactions are captured by the reporting obligations, you will need to ensure that you have access to all of the necessary information for the reporting fields, including the entity and product identifiers explained in the following paragraphs.

2. Obtain LEIs – Corporate Client Identification

All clients who are party to a transaction will need to be identified. A corporate client will need to be identified by a Legal Entity Identifier ("LEI") code. LEIs are issued by the Global LEI Foundation through a number of its Local Operating Units.

4. Obtain ISIN and CFI codes

Product identification is required to be done for MiFID II, in the form of an International Securities Identification Number (ISIN) used to uniquely identify a security or where an ISIN is not available, a Classification of Financial Instruments (CFI) code used to classify a financial instrument. ISIN codes are generally assigned by national numbering agencies, whereas the CFI needs to be attributed by you to each type of financial instrument

3. Obtain/Find Client Identifiers – Natural Person Identifiers

Clients that are natural persons will be identified in transaction reports by their first name, surname, date of birth and an identification code that varies depending on the citizenship of the person. This will typically be a passport number or a unique code specific to a country e.g. UK National Insurance Number. For citizens of some countries, or where the primary mode of identification is unavailable, a CONCAT code will be required to identify the natural person which is a concatenation of the name, date of birth and country code.

Annex II of Commission Delegated Regulation (EU) 2017/590 contains a list of the identifiers to be used for citizens of each EEA country. For all other countries, natural persons are to be identified by passport number and a CONCAT code if the passport isn't available.

Firms will need to make sure that this data is not only in their possession but that is stored in such a way as to make it accessible for the purpose of generating reports.

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5. Decide whether to report yourself or report through a third party service

The two options involve the following:

a) Self-reporting to an ARM

- Complete onboarding with an ARM
- Obtain file specifications from the ARM
- Review field requirements
- Test connections to ensure you can submit files
- Populate files and upload to the ARM in the User Acceptance Testing (UAT) environment Review the output file and correct if necessary

b) Reporting through a third-party reporting service provider (using TRAction procedures)

- Complete onboarding withTRAction including signing legal agreements
- Provide a file sample or access to data (for automated data transfer)
- Work with the onboarding team to ensure that the data is in the correct format
- Finalise submission procedures

c) Analyse business impacts

Analysing operational impacts of compliance efforts is paramount to achieving minimal disruption. You should be determining the resources (financial, people, technology) required for ongoing compliance and allocate sufficient resources to the task. The staff involved should focus on iteratively improving procedures during the first few months and also monitor developments in regulator approaches.

Trade Reporting Readiness Checklist

□ Determine your reporting obligations

□ Ensure corporate clients have LEIs

□ Compile natural person identifiers for other clients

□ Obtain ISIN and CFI codes

□ Decide whether to report directly to an ARM or through a third-party reporting solution

□ Undertake testing with the ARM/ third-party reporting solution

□ Analyse business impacts and allocate resources accordingly

How to Seamlessly Report Trades under EMIR, MiFIR and SFTR?

As a delegated reporting service provider, TRAction is asked a lot of questions regarding EMIR, MiFIR and SFTR reporting. That's why our team has put together some of our most frequently asked questions, so that you can learn how to seamlessly report transactions under multiple regimes.

Do I have to report transactions separately under both EMIR and MiFIR?

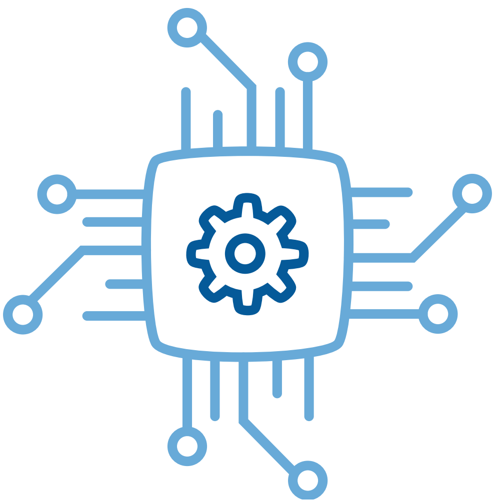
Yes, as EMIR and MiFIR have different requirements and the regimes were developed for different reasons, you may find that both regimes require a single transaction. For example, an OTC derivative that has an underlying instrument that is venue traded (e.g., a company listed on the London Stock Exchange) will be reportable under both regimes by virtue of being a derivative (EMIR) and having a venue-traded underlying instrument (MiFIR).

What is the overlap between EMIR, MiFIR and SFTR reporting?

Whilst there is significant overlap in the data that is required for EMIR and MiFIR, especially in relation to the specifics of a transaction (time, price, quantity etc.), EMIR reporting requires data relating to collateralisation. In contrast, MiFIR transaction reporting requires much more granular information in terms of client identification.

SFTR reporting is similar to that of EMIR in that both regimes aim to monitor risk and transparency. The scope, asset classes and content of transaction data covered by SFTR however, are quite different to EMIR and also MiFIR. SFTR requires the reporting of repurchase, securities lending or borrowing, commodities lending or borrowing, buy-back/sell-back, margin lending and total returns transactions. Accordingly, no method of reporting adequately conveys the information requirements of the other.

Do EMIR, MiFIR and SFTR reports go to the same place?
No – MiFIR reports are submitted to an Approved Reporting Mechanism (ARM) or direct to NCA). EMIR and SFTR reports are sent to TRs. There are some entities which act in the capacity of both an ARM and a TR.



What are the objectives of each regime?
EMIR and SFTR focus on the reduction of systemic risk and helping prevent future financial system collapses, whereas MiFIR is centred on the detection of market abuse, strengthening investor protection and increasing the efficiency of the financial markets.

Do I identify my counterparties in the same way for all regimes?

Counterparty Type	EMIR	MiFIR	SFTR
Corporate	Legal Entity Identifier (LEI)	LEI	LEI
Individual	An internally allocated client code and the country of residence	The identifier codes vary per jurisdiction, refer to Annex II of RTS 22 for further information	An internally allocated client code and the country of residence

Can I report trades for EMIR, MiFIR and SFTR with one service?

By delegating your EMIR, MiFIR and SFTR reporting to the same third party, such as TRAction, you will reduce the need to produce three separate data flows that incur significant data repetition. A specialist third party can improve compliance by determining the reportability of your transactions under the different regimes on your behalf and route your submissions to the designated ARM or TR. It is also likely to reduce your organisation's expenditure and burden on internal compliance teams as opposed to maintaining separate relationships with an ARM and TR.

How can TRAction make it easier to report for both regimes?

TRAction's regulatory trade reporting solution covers multiple reporting regimes so that the costs and resource burden for investment firms can be reduced. Reporting through TRAction can save you time and money by streamlining your reporting under EMIR, MiFIR and SFTR.

Trade Reporting Simplified: A Snapshot of TRAction's Services

TRAction can help you to understand regulatory regimes and simplify your transaction reporting with the following core services:

- Specialist advisory and consultation;
- Data extraction, conversion and enrichment; and
- Reporting trades on your behalf.
- The key advantages of reporting through TRAction include:
- Avoiding having to devote internal resources to compliance;
- Knowing that your compliance aligns with industry norms; and
- Gaining the benefit of TRAction's aggregated knowledge and experience developed through reporting for a pool of clients, including learning from any hurdles experienced.

Additional Links

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