

Reporting of securities financing transactions under UK SFTR after the transition period

This statement explains what Trade Repositories (TRs), and UK counterparties that use them, should do to make sure they are compliant with UK Securities Financing Transactions Regulation (UK SFTR) reporting obligations from the end of the transition period.

For the purposes of this statement, 'UK SFTR counterparties' refers to counterparties who will be subject to the UK SFTR reporting regime. This includes all financial counterparties established in the UK (including third-country branches as well as central securities depositories (CSDs) and central counterparties (CCPs)).

Background

The European Union (Withdrawal) Act 2018 (EUWA) will convert existing EU legislation which currently has direct effect in the UK into UK law at the end of the transition period and will preserve existing UK laws which implement EU obligations. The UK Government has been given powers to amend this retained EU legislation so that it works effectively when the UK leaves the EU. It has conferred on the FCA (and, where relevant, the Bank of England and the Prudential Regulation Authority) responsibility for amending and maintaining certain EU-binding technical standards which become UK law at the end of the transition period. We have also amended our Handbook to ensure it is consistent with these changes. These amendments are not intended to make policy changes, other than where necessary to reflect the UK's new position outside the EU.

To ensure a smooth transition for UK counterparties fulfilling their SFTR reporting obligations and TRs who wish to continue to offer services in the UK, a number of Statutory Instruments, Binding Technical Standards and other publications have been made. A full list of the relevant materials can be found on the FCA's [SFTR webpage](#).

What changes for UK counterparties?

From the end of the transition period (11.00pm on 31 December 2020), all UK SFTR counterparties that enter into securities financing transactions that are in scope of UK SFTR are required to report details of those transactions to an FCA-registered, or recognised, TR.

UK branches of third-country financial counterparties (including branches of firms from EU27 countries) are **in scope** of the SFTR reporting regime and are required to report under UK SFTR.

Third-country (including EU27) branches of UK established financial counterparties are **in scope** of the SFTR reporting regime and must report details of their securities financing transactions to an FCA-registered, or recognised, TR.

On 23 June 2020, a [Written Ministerial Statement](#) was presented to Parliament, further confirming the UK approach to onshoring the SFTR. The statement confirmed that the UK has not currently implemented the SFTR reporting obligation for non-financial counterparties (NFCs).

UK NFCs (including third country branches of NFCs located in the UK) are **not in scope** of the UK SFTR reporting regime.

Currently third-country (including EU27) Alternative Investment Funds (non-UK-AIFs) are **not in scope** of the UK SFTR reporting regime. This includes instances where a non-UK AIF is managed by an Alternative Investment Fund Manager that is authorised or registered under the UK Alternative Investment Fund Managers Regulations. However, SFTs concluded in the course of the operations of a UK branch of a non-UK AIF are in scope of the UK SFTR reporting obligation.

Regulation 11 of the [Gibraltar \(Miscellaneous Amendments\) \(EU Exit\) Regulations 2019](#) ensures that relevant matters in relation to Gibraltar can generally be treated as they were before the end of the transition period, with any necessary modifications to take into account the UK and Gibraltar's exit from the EU. No action is required by UK TRs in relation to Gibraltar counterparties (unless it is requested by those parties). However, TRs should confirm their position with the Gibraltar FSC in relation to the obligations imposed by the law of Gibraltar.

Temporary Transitional Powers: exception for SFTR reporting and TR requirements

To help firms adapt to their new requirements under UK legislation, HM Treasury has given UK financial regulators the power to make transitional provisions to financial services legislation for a temporary period. This is known as the Temporary Transitional Power (TTP). This means firms and other regulated persons do not generally need to prepare now to meet the changes to their UK regulatory obligations brought about by onshoring, but we expect firms to use the duration of the TTP period to prepare for full compliance with the onshored UK regime by 31 March 2022. There are, however, some areas where the TTP will not apply.

In a statement published on 1 October 2020, we confirmed that the SFTR reporting requirements for UK SFTR counterparties and requirements for TRs are "key areas" which are excluded from the TTP. These firms must comply from the end of the transition period

The TTP does not apply to onshoring changes for UK counterparties subject to the reporting obligation under the UK SFTR regime, or to the onshored requirements for TRs. Therefore, from the end of the transition period, all UK SFTR counterparties who enter into securities financing transactions in scope of UK SFTR will be required to report details of those transactions to an FCA-registered, or recognised, TR.

In addition, the TTP does not apply to requirements for TRs under the UK SFTR regime.

The TTP **will apply** to securities financing transactions in one respect where one of the counterparties is a member of the European System of Central Banks (ESCB).

For these transactions, the status quo is retained and UK counterparties will not need to report these transactions under SFTR until 31 March 2022.

However, where firms are subject to MiFIR transaction reporting obligations they will need to report these securities financing transactions to the FCA under the UK MiFIR, where the counterparty is a member of the ESCB.

The following requirements will therefore apply immediately from the end of the transition period:

- UK SFTR counterparties will be required to report details of SFTs to an FCA registered, or recognised, TR.
- UK TRs must fulfil their requirements under UK SFTR.

Reporting of new and outstanding trades under the SFTR reporting regime by UK counterparties

All new securities financing transactions entered into by UK counterparties on or after 11:00pm on 31 December 2020 are in scope of the UK SFTR reporting regime and are required to be reported to an FCA-registered, or recognised, TR.

All outstanding securities financing transactions entered into by UK SFTR counterparties prior to 11.00pm on 31 December 2020 need to be held in a FCA-registered, or recognised TR.

- For outstanding trades that need to be ported to a UK TR following the end of the transition period, TRs will be required to ensure the porting of the reports of all outstanding SFTs on behalf of UK counterparties to an FCA-registered, or recognised, TR in time for the end of the transition period. UK counterparties are encouraged to engage with their TRs to understand how the porting will be executed and to ensure all their relevant securities financing transactions are captured.
- UK counterparties currently using EU27 based TRs are encouraged to engage with their TR to ensure all outstanding securities financing transactions are ported to a registered UK TR of their choice by the end of the transition period.

UK SFTR validation rules

Following the end of the transition period, UK reporting counterparties and UK TRs should use the [UK SFTR validation rules](#) when submitting securities financing transactions entered into, or amended, from the end of the transition period.

EU non-legislative material

The FCA has [set out its approach](#) to EU non-legislative material which applies prior to the end of the transition period. TRs and reporting counterparties should continue to follow EU non-legislative material (such as ESMA Q&As, guidelines, technical specification documents) that has been implemented before the end of the TP to the extent that the guidance is relevant under UK SFTR.

What changes for TRs?

We will become the UK authority responsible for the registration and supervision of TRs operating in the UK.

TRs who want to offer services from the UK immediately following the end of the transition period are required to have a UK legal entity registered by us. The [Securities Financing Transactions, Securitisation and Miscellaneous Amendments \(EU Exit\) Regulations 2020](#) provides both a conversion regime and a temporary registration regime to ensure TRs can be registered and operational from 11:00pm on 31 December 2020.

Further details on the options available for TRs can be found on the [our TR webpage](#). UK counterparties are encouraged to engage with their TRs to understand the choices their TR has made and how this will affect them.

A list of the TRs who intend to offer services in the UK is available on the TR webpage.

Historic SFTR data

UK-based TRs seeking conversion under the [TR SI](#) have been instructed to maintain a copy of historic SFTR data in relation to transactions reported under SFTR since 13 April 2020 to which we and Bank of England currently have access.

EU27 based TRs that establish a new TR in the UK and seek temporary registration under the TR SI should hold a copy of the historic SFTR data in relation to trades reported since 13 April 2020 to which the FCA and Bank of England currently have access to in that UK TR group entity. This is to enable us and Bank of England to gain access to these data after the end of the transition period based on our current mandates under the SFTR regime.

TRs are not expected to store data relating to historical SFTR rejection statistics or reconciliation statistics.

Firms are encouraged to engage with their TR to ensure they continue to have the relevant access to their historic SFTR data after the end of the transition period, if required.

Inter-TR Reconciliation under UK SFTR

We recognise the importance of inter-TR reconciliation in enhancing data quality. We have communicated our expectations on this to TRs, taking into account the operational requirements required in order to achieve inter-TR reconciliation.

Under UK SFTR, inter-TR reconciliation will only be required between FCA-registered, or recognised, TRs in relation to securities financing transactions submitted by UK

counterparties. There is no requirement for inter-TR reconciliation to be performed between UK and EU TRs.

Publication of TR Data

TRs should publish public reports as listed in Commission Delegated Regulation (EU) 2019/358 of 13 December 2018 as amended by Annex B of the [Technical Standards \(Securities Financing Transactions Regulation\) \(EU Exit\) \(No 1\) Instrument 2020](#) one week following implementation of the UK SFTR reporting regime on Monday 11 January 2021. The public reports should be published weekly thereafter.

TRs may continue to use EUR as the currency, there is no requirement to change the rates to GBP.

In addition, TRs may continue to use UTC as the universal time zone, there is no requirement to change to GMT.

Suspension of the reporting requirements

The SFTR SI introduces a new power for us to suspend the reporting obligation for a period of up to one year, with the agreement of the Treasury.

The use of this suspension power is limited only to the event that there are no FCA-registered, or recognised, TRs available for UK counterparties to report to.

Firms are best placed to understand their own compliance with UK SFTR requirements. This note is not exhaustive of the circumstances in which actions will be needed. Each firm will need to consider whether, in the light of their own specific business model, there are actions they need to take.