

Follow-up Report

to the Peer Review into supervisory actions aiming at enhancing the quality of data reported under EMIR

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List of Acronyms and Terms Used

BoS	Board of Supervisors
CCP	Central Counterparties
CP	Counterparty
DQI	Data Quality Indicators
ECB	European Central Bank
EMIR	European Market Infrastructure Regulation
ESA	European Supervisory Authority
ESMA	European securities and markets authority
ESRB	European Systemic Risk Board
FCP	Financial Counterparty
ITS	Implementing Technical Standards
LEI	Legal Entity Identifier
MiFIR	Markets in Financial Instruments Regulation
NCA	National Competent Authority
RTS	Regulatory Technical Standard
SFTR	Sustainable Finance Disclosures Regulation
TR	Trade Repository
USSP	Union Strategic Supervisory Priority
UTI	Unique Transaction Identifier
XML	Extensible Markup Language

1 Executive Summary

1. This follow-up peer review report updates on the actions that National Competent Authorities (NCAs) and ESMA in its role as supervisor or TRs have undertaken to address the issues identified in the ESMA 2019 peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR¹ (the peer review).
2. It is important that EMIR data reported to supervisors is of high-quality in order to allow them to make informed, data driven decisions of related risks.
3. The peer review assessed 5 NCAs [CY, DE, FR, IE, NL] as well as ESMA in its role as supervisor of Trade Repositories (TRs).
4. The peer review presented a mixed picture of the supervisory practices of the five NCAs and noted that the five NCAs were at very different stages of their supervisory journey regarding the supervision of EMIR data quality. The peer review assessed ESMA in its role of supervisor as either broadly or fully meeting expectations.
5. To address the shortcomings identified, the peer review set out supervisory and policy actions to be considered by all NCAs and ESMA. Subsequently, ESMA decided to define and launch an EU wide approach to improving EMIR data quality applicable to all NCAs.
6. The publication of the peer review coincided with the 2019 ESA Review which provided new supervisory convergence tools to ESMA such as the Union strategic supervisory priorities (USSP). Market data quality was the first USSPs and remained in place until 2023. Under the USSP framework, ESMA and NCAs carried out intensive and concerted supervisory efforts to make structural, long-lasting improvements in the area of data quality. Building on the momentum achieved under the market data quality USSP, ESMA developed a framework for the provision of data and the follow-up of EMIR data quality issues. This provided an important mechanism to address EMIR data quality issues at EU level.
7. To further strengthen EMIR data quality, in 2022 ESMA and NCAs implemented a more outcome-focused, data driven and risk-based approach to data quality monitoring.
8. The five NCAs also reported that in conjunction and in parallel to ESMA's EU wide approach, they also took measures at national level such as rolling out data quality dashboards, undertaking more granular data quality checks, using EMIR data as part of day-to-day supervision. Three NCAs (DE, FR, IE) also took enforcement action against counterparties (CPs) in relation to data quality issues.
9. In 2021, ESMA in its role as supervisor of TRs, established the access to EMIR data by authorities as one of its main supervisory priorities. ESMA launched projects to

assess the correct implementation of the data filtering rules by TRs to supervise the provision of EMIR data to authorities in accordance with their mandates. ESMA also took action against TRs for poor systems and controls regarding their provision of access to EMIR data for authorities. In respect of supervising TRs' verification of the correctness and reconciliation of derivatives, ESMA increased its focus on checking whether the trade state reports are the correct consolidation of all action types sent in relation to a given trade and that they correctly reflect the end of day state of a trade.

10. This follow-up report notes the combined substantial work carried out at horizontal level by NCAs and ESMA that has led to observable results and improvements in EMIR data quality². Notwithstanding the reported improvements, further work is needed. Data quality is recognised as – and remains – a key area of attention for supervisors and NCAs should use the appropriate tools – including enforcement when needed – to drive up standards and ensure that CPs meet their regulatory requirements.

¹ https://www.esma.europa.eu/sites/default/files/library/esma42-111-4895_emir_data_quality_peer_review.pdf

² See paras 4.13 and 4.15 of the ESMA 2023 Report on Quality and Use of Data: https://www.esma.europa.eu/sites/default/files/2024-04/ESMA12-1209242288-852_2023_Report_on_Quality_and_Use_of_Data.pdf

2 Background

11. This follow-up report provides an update on the actions that NCAs and ESMA in its role as supervisor of TRs have undertaken since the 2019 peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR³ (the peer review).
12. The financial crisis identified that derivative contracts lack transparency and create a complex web of interdependence that can make it difficult to identify the nature and scale of risks involved. To address this risk, EMIR came into effect in 2013. It requires CPs to report details of their derivative contracts to a TR (EMIR data).
13. Access to EMIR data is crucial for regulatory authorities to fulfil their respective supervisory responsibilities, to identify and assess risks and take appropriate action. However, the poor quality of this data limits and severely inhibits the capacity of regulatory authorities to identify and respond to systemic CP and financial system risks.
14. To improve data quality and further strengthen the consistency and effectiveness of supervisory outcomes in relation to EMIR data quality, the Board of Supervisors (BoS) decided in 2018 to conduct a peer review into supervisory actions aiming at enhancing the quality of data reported under EMIR. This peer review covered NCAs⁴ selected based on the data quality of outstanding derivative contracts and the derivative market size and ESMA in its specific role as supervisor of TRs.
15. The peer review looked at NCAs' supervisory approaches to EMIR data quality⁵ and their ability to promote firms' adherence with their reporting obligations under EMIR.
16. The peer review report, published in October 2019, presented a mixed picture of the NCAs' supervisory approach. NCAs were at very different stages of their supervisory journey regarding the supervision of EMIR data quality: while the majority had a supervisory approach to EMIR data quality, there was room for improving those approaches. Accordingly, the report proposed short and long-term supervisory and policy recommendations to further enhance the quality of EMIR data. These recommendations included revising ESMA's EMIR Data Quality Action Plan⁶.
17. To assess the progress made since 2019, the BoS agreed on conducting this follow-up to the peer review.
18. ESMA carried out this follow-up exercise through a desk-based information gathering exercise to determine progress made since the peer review.

³ https://www.esma.europa.eu/sites/default/files/library/esma42-111-4895_emir_data_quality_peer_review.pdf

⁴ Targeted NCAs: CY, DE, FR, IE, NL, UK. The UK is not covered in this follow up.

⁵ such as an NCA's general approach, the analytical tools used and level and depth of analysis undertaken by an NCA as well as how the NCAs used the information reported by CPs under EMIR.

⁶ The EMIR Data Quality Action Plan is a major project that NCAs and ESMA jointly launched in September 2014. It aims at improving the quality and usability of data that is reported by CPs and made available by the TRs.

19. Owing to the important work that ESMA performed to revise and revamp the EU-wide approach to data quality, the analysis below focuses on the numerous initiatives launched by ESMA to prompt and coordinate NCAs on this topic. This is complemented by further references to NCAs and ESMA specific supervisory work.

3 Findings of the follow-up in relation to NCAs

3.1 Selection of Market Data Quality as Union Strategic Supervisory Priority

20. USSPs are an important tool through which ESMA coordinates and gives impetus to intensive supervisory action by NCAs on highly important topics.⁷ Notably, through this tools, ESMA (i) periodically sets out Union-wide priorities that NCAs shall take into account when drawing up their work programmes; and (ii) takes stock annually on the supervisory work undertaken by NCAs and progress achieved in that area.
21. At the end of 2020, ESMA identified market data quality as a USSP, flagging the importance, as part of it, to focus on the EMIR reporting dataset. ESMA maintained market data quality as a Union-wide priority until the end of 2023. Setting market data quality as a USSP for three years recognises how essential data quality is for the effectiveness of many of the core regulatory and supervisory activities, and consequently, the need for prioritisation in the supervisory agenda.
22. Under the USSP, NCAs, with ESMA's support and coordination, have carried out intensive and concerted supervisory efforts to make structural, long-lasting improvements in this area. Notably: (i) building common data quality methodologies and data sharing frameworks (see Section 3.2); and (ii) developing supervisory tools to extract further intelligence from the data reported and undertaking a wide range of supervisory work. On the latter, the five NCAs subject to this follow up reported the activities summarised in the paragraphs below⁸.

Cyprus

23. CY reported that, throughout the USSP, it undertook desk-based research, conducted outreach to CPs that misreported and requested them to provide details of the steps taken to remediate issues. As part of this, in 2021 - 2022, based on data provided by ESMA (see section 3.2), CY conducted a desk-based review in relation to the proper use of LEI for the reporting of derivatives concluded with other CPs and/ or behalf of other CPs that are legal entities.

⁷ USSPs are established under Article 29a of ESMA's founding regulation.

⁸ The following paragraphs include information on controls set up by NCAs beyond the USSP but are reported here for completeness and ease of reading.

24. CY also reported that it called for representations from three CPs regarding weaknesses identified in the quality of their reporting. In all three cases, the CySEC board decided that there were violations of the EMIR reporting obligations and reminded the three CPs of their EMIR reporting obligations.
25. CY also monitored on an ongoing basis EMIR data in such areas as the pairing, matching, notional, valuation, collateral, timeliness, rejections, duplications, UTI construction, modifications, reconciliation of CP reports, correct use of the LEI and correctness of outstanding trades. It run EMIR data quality tests on a monthly basis and communicated with the top CPs per reporting issue every two months.
26. CY also issued a circular to their market regarding a series of reviews on the quality of data reported to TRs.⁹
27. CY also reported that it established a dedicated team to supervise data reporting, including EMIR. In 2021, it also launched a project on data driven supervision using data received in accordance with EMIR, MiFIR and SFTR, with enhanced/automated tests on the quality of data and on the firms' activities.
28. CY reported that it provides senior management with regular (quarterly) EMIR Data Quality Reports that including EMIR reporting issues, breaches and overall data quality.

Germany

29. DE reported that throughout the USSP it conducted a mix of desk-based research and outreach to firms, requests for information, meetings with executives, investigations / on-site inspections and communications to the market. DE also reported that in 2020 it engaged in a special evaluation of auditors' processes. Subsequently, it regularly carried out cross-sectional evaluation of audit reports and, as appropriate, discussed the results with the goal to improve data quality.
30. In 2023, DE initiated sanction and enforcement proceedings to further promote compliance among CPs¹⁰.
31. DE also developed dashboards with BaFin-specific quality indicators to monitor selected CPs and data quality across the board. DE uses them for a monthly selection of the CPs (selected on the basis of potential errors rejections and data reconciliations). DE reported that for CCPs and global systemically important credit institutions it undertakes a data reconciliation and a "UTI reconciliation" test.

⁹ <https://www.cysec.gov.cy/CMSPages/GetFile.aspx?guid=d1124595-0e40-4787-b222-b6c79b59d405>

¹⁰ DE reported that it has initiated administrative offence proceedings against an entity regarding possible offences against Article 9 (1) EMIR. DE plans to issue an administrative act to comply with Article 9 (1) EMIR and the imposition of a coercive fine in case of non-compliance.

32. DE also stressed its focus on reporting errors by CPs outside DE. The supervising NCAs are notified to enhance both the flow of information and data quality throughout the entire Union.
33. DE reported that irrespective of a potential data issue, FCPs (inter alia credit institutions, insurance companies and funds) are examined at least once a year, the selection process for this examination being risk-based (considering the number and value/nominal value of contracts).
34. DE noted that when data quality issues are identified they are swiftly followed, informing promptly the CPs to resolve the issue. It also noted that when a CP makes systematic reporting errors (resulting from insufficient organisation or the lack of internal supervision with the CP). DE issues a formal letter of instruction ("last warning"). This occurs when a CP has not identified the reporting error independently and not taken steps to remediate the issue. If such deficiencies are not resolved satisfactorily, administrative offence proceedings would be initiated.
35. As an important way to increase data quality, DE noted that EMIR data is used in funds supervision, market analysis, market abuse cases, and to analyse the impact of unprecedented market and geopolitical events.

France

36. FR reported that throughout the USSP it undertook desk-based research, outreach to firms, requests for information, meetings with executives and investigations / on-site inspections.
37. FR also reported that in 2020 it published an enforcement action and fined an investment firm €500,000 in January 2020 for several breaches including its reporting obligations under EMIR¹¹
38. In 2022, it completed the migration of its analytical tools to an enhanced data system under a new data governance framework. This new system provides FR with the ability to scrutinise the completeness, accuracy and timeliness of reporting. FR noted that it onboarded ESMA's data quality tests to the new platform and performs such tests regularly.
39. FR reported to monitor outliers and share data quality dashboards with selected entities under on a risk-based approach. It also shares data quality dashboards with supervised entities and exchanges with these FCPs to monitor progress and their plans for

¹¹ <https://www.amf-france.org/en/news-publications/news-releases/enforcement-committee-news-releases/its-decision-24-january-2020-enforcement-committee-fined-bred-banque-populaire-eu500000-breaching>.

remediation when issues arise. The monitoring of outliers is performed through daily alerts and raised to the entities responsible for them, including FC and NFCs.

40. FR also noted that the frequent use of EMIR data as part of its supervisory activities may trigger action by FCPs when data quality issues are identified.
41. FR noted that despite data quality no longer being a USSP, it has enshrined data quality, including in relation to EMIR reported, in its supervisory priorities for 2024¹².

Ireland

42. Throughout the USSP, IE carried out desk-based research, outreach to firms, requests for information, meetings with executives, investigations / on-site inspections, as well as issued communications to the market.
43. In November 2023, IE published an enforcement action and fined an investment fund €192,500 for breach of its reporting obligations under EMIR between January 2018 and May 2020.¹³
44. In 2023, IE developed a new supervisory dashboard which is being rolled out to supervisors of FCPs. This dashboard provides supervisors with an overview of FCPs derivative use, enabling supervisors to interact with them on their EMIR reporting from a business level. IE also reported that it engages daily with CPs in respect of EMIR data quality issues. IE runs its existing dashboards in parallel with a new data quality tool that runs DQI tests on a daily basis. This new tool allows IE to monitor improvements in data quality over time at both holistic and CP level. IE also engages with CPs when significant data quality issues arise.
45. Since the peer review, IE has also increased the number of fields for data quality testing. IE now assesses, amongst other fields, the EMIR data quality of client codes, UTIs, modifications to transaction reports, late and non-reporting by CPs and trade duplications. IE also reported that the expanded dataset includes the EMIR trade activity report which can be used for EMIR data quality monitoring purposes.
46. IE also undertakes an annual EMIR data quality review, requiring identified CPs to provide quarterly updates and recreate the relevant data quality tests for which they have been identified. The CPs have to provide their results, including narrative on their efforts to remediate the data quality issues. IE reported that this annual review has

¹² FR will undertake supervisory activities in this area of data quality, including on-site inspections. FR noted it will play close attention to the implementation of the reporting changes brought about by EMIR Refit and continue to work on improving the quality of reporting, both independently and through its participation in the data quality exercises organised by ESMA. FR will also pay close attention to ensuring that reporting control systems are in place to enable compliance teams and business units to verify the quality of reporting. <https://www.amf-france.org/sites/institutionnel/files/private/2024-01/pa2024-priorites-de-supervision-va.pdf>

¹³ <https://www.centralbank.ie/news-media/press-releases/press-release-globalreach-fined-192-500-and-reprimanded-by-central-bank-of-ireland-under-emir-30-november-2023>

resulted in significant improvements since the first quarterly tests were performed in Q4 2022.

47. IE has commenced preparations for EMIR Refit including presenting at industry events, regularly engaging with TRs and significant CPs and updating its website with relevant information.

Netherlands

48. NL reported that through the USSP it undertook desk-based research, outreach to firm, requests for information, meetings with executives. NL engages with the largest reporting entities to address structural cross-border reporting issues, such as the harmonised exchange of transaction identifiers and data with CCPs.
49. NL noted that following the peer review it upgraded its IT system to allow for the ingestion of XML files from TRs. This change positively impacted data reliability and operational efficiency.
50. NL reported that, in 2023, it built an automated dashboard for the timely detection of data quality issues. This dashboard is used to share data quality results with CPs. NL also reported that on a monthly basis it checks for threshold breaches using its dashboard.
51. When NL - through its monitoring or ESMA's framework (see below) - detects an issue with the quality of data submitted by a CP, it contacts the CP to investigate and to provide details of their remediation plan. It may also set up meetings with CPs to discuss their feedback and concerns with the aim of improving the quality of data reported. NL noted that remediation may require a more complex solution that in many cases will form part of their EMIR refit work programme.
52. NL is focussing strongly on EMIR Refit preparedness for 2024.

3.2 New framework for provision of data and follow-up on EMIR data quality issues

53. In November 2020, ESMA developed a framework for the provision of data and the follow-up on EMIR data quality issues. This was an important step to address data quality issues.
54. The aim of the framework is for ESMA to timely inform NCAs of the identified relevant EMIR data quality issues and to provide them with the country and CP specific statistics. The information prompts action by NCAs.
55. The framework applies to the resolution of significant data quality issues, affecting the use of data at EU-level. Under the framework, NCAs are expected to follow-up with the

reporting entity and provide ESMA with details on whether the issue has been resolved, and on remedial actions implemented by the reporting entity. Indeed, some of the actions reported in section 3.1 above, originated from such reporting.

56. The first exercise of data sharing under the framework started in Q1 2021 and focused on the timeliness of data reporting. It included a follow-up with six Cypriot and one Dutch entity and brought an observable improvement in the reporting practices of the selected CPs.
57. The second exercise started in Q4 2022 and included follow-up on the following five data quality aspects: discrepancies in the number of outstanding derivatives at trade and at position level, outdated valuations, missing valuations and missing or abnormal maturity dates. Four out of five NCAs covered in the peer review (CY, DE, FR, NL) were requested to perform that follow-up. As described in the 2022 Data Quality Report¹⁴, overall, the exercise led to observable improvements in reporting.
58. In Q3 2023 ESMA launched another follow-up on the results of the DQIs under the framework, this time including 11 different data quality aspects. The exercise involved 17 NCAs, including all five NCAs subject to the follow up to the peer review. In this regard, a significant improvement was observed for about 25% of the identified issues, however the proportion differed across NCAs (including those under the peer review). Many of the identified issues are expected to be resolved as part of EMIR Refit implementation in April 2024.
59. The 2023 Report on the Quality and Use of Data noted the combined substantial work carried out at horizontal level by NCAs and ESMA that has led to observable results and improvements in EMIR data quality¹⁵.

3.3 Enhanced data driven, risk-based and outcome-focused approach to supervisory convergence activities relating to data quality

60. To further strengthen EMIR data quality and best use ESMA and NCAs resources, in 2022 ESMA and NCAs implemented a more outcome-focused, data driven and risk-based approach to data quality monitoring. This approach has several components:

¹⁴ https://www.esma.europa.eu/sites/default/files/2023-04/ESMA74-427-719_2022_Report_on_Quality_and_Use_of_Transaction_Data.pdf

¹⁵ See paras 4.13 and 4.15 of the ESMA 2023 Report on Quality and Use of Data: https://www.esma.europa.eu/sites/default/files/2024-04/ESMA12-1209242288-852_2023_Report_on_Quality_and_Use_of_Data.pdf

- a. As identified in Section 3.2, ESMA monitors EMIR data quality at EU level and shares with NCAs information on the detected issues (focusing on the most significant ones, notably those impacting the overall quality of data at EU level and the top worst performing CPs with cross-border footprint contributing to those data quality issues).
 - b. Further, ESMA developed a data quality dashboard, including a set of 19 tests to monitor EMIR data quality at EU level, allowing to monitor on an objective basis the improvement/decline in the EMIR data quality both at EU and national level. This dashboard is used not only for the assessment and evolution of EMIR data quality but also to assist NCAs and ESMA to proactively set supervisory priorities and timely detect any major irregularities in reporting. In the case of significant irregularities detected via the dashboard, ESMA shares the relevant statistics with the NCAs.
61. In addition to the above coordinated actions, each NCA, on the basis of the EMIR data quality methodologies set out by ESMA, defines the frequency, entities assessed and issues to cover under their work programme.
62. In addition to the publication of the annual Data Quality Reports (discussed further below), to enhance efficiency of its initiatives, ESMA has also expanded the stakeholders engaged regarding EMIR data quality issues. For instance, in 2020 ESMA initiated regular interactions and joint sessions with ESRB/ECB members to discuss data quality issues.

3.4 Enhanced transparency

63. Since 2021¹⁶, ESMA has published annual Data Quality Reports focusing on the work carried out in the previous exercise to enhance the quality and use of data. The aim of these annual reports is to highlight ESMA's supervisory and supervisory convergence activities regarding the quality of data reported to TRs under EMIR and SFTR. These reports aim to provide an overview of the state of play under the two reporting regimes, while also providing insights on NCAs' and ESMA's ongoing efforts to improve the quality of the data.
64. By doing so, these reports play an important role in ESMA and NCAs' data quality efforts, as they provide an important mechanism to highlight authorities' expectations of CPs and TRs and to overall foster accountability for data quality issues.

¹⁶ 2020 Report: https://www.esma.europa.eu/sites/default/files/library/esma80-193-1713_emir_and_sftr_data_quality_report.pdf;
2021 Report: https://www.esma.europa.eu/sites/default/files/library/esma74-47-607_2021_emir_and_sftr_dq_report.pdf
2022 Report: https://www.esma.europa.eu/sites/default/files/2023-04/ESMA74-427-719_2022_Report_on_Quality_and_Use_of_Transaction_Data.pdf

65. The 2023 report points to substantial immediate improvements of data quality following the NCAs engagement with the relevant entities under the framework (see Section 3.2). Indeed, this follows the positive momentum identified in the 2022 report¹⁷.

4 Findings of the follow-up in relation to ESMA (as supervisor of Trade Repositories) since 2019

66. Since 2019, ESMA worked to ensure the appropriate, accurate and complete data access to authorities and progress in its supervision of TRs verification of the correctness and reconciliation of trades.

4.1 Reporting and data access to authorities

67. ESMA continued its efforts to ensure authorities' access to EMIR data. For this purpose, ESMA undertook important policy and supervisory work.

68. In 2020, ESMA developed technical standards under EMIR Refit.¹⁸ ESMA published them in December 2020. Subsequently, in June 2022, the European Commission adopted the regulatory technical standards (RTS) and implementing technical standards (ITS) on reporting, data quality and registration of trade repositories under EMIR Refit¹⁹. These technical standards cover some important topics such as providing access to the relevant authorities to EMIR data, data reporting to TRs, procedures to reconcile and validate the data, and the registration of TRs. They support further harmonisation of the reporting requirements and enhancements in CPs' and TRs' procedures on ensuring data quality.

69. ESMA also worked on the guidance and technical documentation to assist the industry with the implementation of EMIR Refit. ESMA published the final package including the Guidelines on reporting, XML schemas, validation rules and reconciliation tolerances in December 2022. These deliverables are expected to substantially contribute to the consistent implementation of the requirements by TRs and market participants and to the quality of the reported transactions.

70. In addition to the important policy work identified above, in 2021 ESMA set access to EMIR data for ESMA and other public authorities as one of its main supervisory focus areas. In this respect, ESMA launched two iterations of a dedicated horizontal off-site review to assess the correct implementation of the data filtering rules by TRs to provide

¹⁷ See Section 4.1.2.1 "EMIR DQIs and dissemination of the results to the NCAs" in the 2022 Report on Quality and Use of Transaction Data: https://www.esma.europa.eu/sites/default/files/2023-04/ESMA74-427-719_2022_Report_on_Quality_and_Use_of_Transaction_Data.pdf

¹⁸ https://www.esma.europa.eu/sites/default/files/library/esma74-362-824_fr_on_the_ts_on_reporting_data_quality_data_access_and_registration_of_trs_under_emir_refit_0.pdf

¹⁹ https://ec.europa.eu/finance/docs/level-2-measures/emir-rts-2022-3581_en.pdf

EMIR data to authorities in accordance with their mandates. Notably, ESMA monitored TRs for reporting issues and worked with NCAs to support their supervisory activities.

71. To complement this work, ESMA used its enforcement powers. Indeed, ESMA took action against TRs for poor systems and controls regarding their provision of access to EMIR data for authorities:

- In 2019, ESMA fined a TR €56,000 for negligently failing to provide regulators with direct and immediate access to details of derivative contracts as required under EMIR. ESMA found that the TR had failed to put in place systems capable of providing regulators with direct and immediate access to trade terminations, trade modifications, trade valuations and collateral updates from the start of the EMIR reporting obligation to October 2016²⁰.
- In 2021, ESMA sanctioned two TRs for failure to ensure the integrity of the data they make available and to provide regulatory access. In July 2021, ESMA fined one TR €408,000²¹ for seven infringements of EMIR regarding data confidentiality, data integrity, and direct and immediate access to data. In September 2021 ESMA fined another TR €238,500²² for breaches committed between 2016 and 2018 relating to failures in ensuring the integrity of data and providing direct and immediate access to regulators.
- In 2022 ESMA fined a TR a total of €186,000²³ and issued a public notice for eight breaches of EMIR. The breaches related to failures in ensuring the integrity of EMIR data and providing direct and immediate access to regulators.

4.2 ESMA's supervision of TRs verification of the correctness and reconciliation of trades

72. Following the peer review, ESMA increased its focus on checking whether the trade state reports are the correct consolidation of all action types sent in relation to a given trade and that they correctly reflect the end of day state of a trade. For that purpose, over 2020 and 2021, ESMA aimed at improving data quality and system resiliency. This included focusing on the accuracy and integrity of EMIR reports and identifying and addressing potential TR data quality issues.

²⁰ <https://www.esma.europa.eu/press-news/esma-news/esma-fines-regis-tr-sa-%E2%82%AC56000-data-access-failures>

²¹ <https://www.esma.europa.eu/press-news/esma-news/dtcc-derivatives-repository-fined-%E2%82%AC408000-emir-data-breaches>

²² https://www.esma.europa.eu/sites/default/files/library/esma71-99-1734_press_release_-_esma_fines_unavista_trade_repository_eu238500_for_emir_data_failures.pdf

²³ <https://www.esma.europa.eu/press-news/esma-news/esma-fines-regis-tr-%E2%82%AC186-000-emir-data-breaches>

73. ESMA also launched a specific project that assessed (i) the adherence to EMIR validation rules by TRs; (ii) the consistency and correct generation by TRs of trade activity and trade state reports; and (iii) the correct TR data ingestion.
74. In 2023, amongst other issues, ESMA focused its supervisory activities on monitoring the correct reconciliation of data and the adequate verification of accuracy and integrity of all EMIR regulatory reports carried out by TRs. ESMA also focused on the implementation of the new EMIR Refit requirements by TRs and by reporting participants. In 2024, ESMA continued doing so until the go-live of EMIR Refit on 29 April. ESMA will also increase its supervisory and data monitoring activities and engagement with TRs after that date to identify any required data policy clarifications and follow up on erroneous implementations. In addition, considering the scale and scope of changes in the reporting regime, ESMA expects that EMIR Refit will bring significant enhancements to data quality.

5 Assessment

75. ESMA considers that the important supervisory attention put on this topic by selecting this as a Union-wide priority for three years and the use of a risk-based, outcome-focused and data driven approach to EMIR data quality by NCAs and ESMA has yielded significant results.
76. The five NCAs subject to the peer review and ESMA have carried out important work since 2019 to address the peer review findings. This includes the development of common frameworks and methodologies, thematic reviews, on and off-site investigations, discussion with firms' executives and stakeholders' engagement, the roll out of monitoring tools and dashboards, and regular monitoring and structured follow-up on detected significant data quality issues. ESMA and NCAs have carried out intensive and concerted supervisory efforts to make structural, long-lasting improvements in this area.
77. Such improvements are reflected in the 2023 Report on Quality and Use of Data published in April 2024²⁴.
78. The first chart below shows the discrepancies in the number of reported outstanding derivatives at the trade level between two counterparties engaged in trading. Such discrepancies pose challenges to authorities in obtaining an accurate understanding of entities' relevant exposures. The chart illustrates the evolution of EEA30-level results. Discrepancies fluctuated, reaching a peak of 26.1% in September 2021, but a positive trend of gradual decrease has been observed since then. The chart provides insights into the gradual reduction of discrepancies, with the latest recorded percentage at

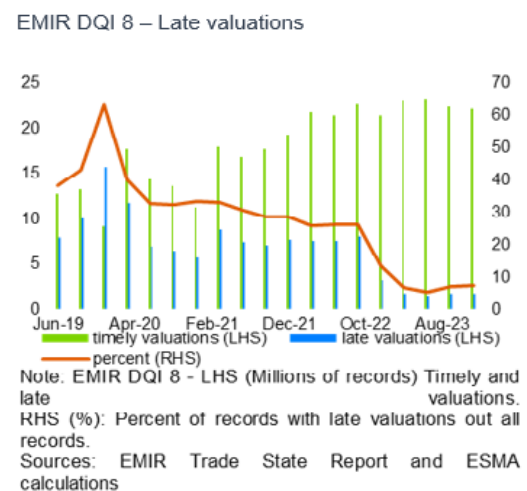
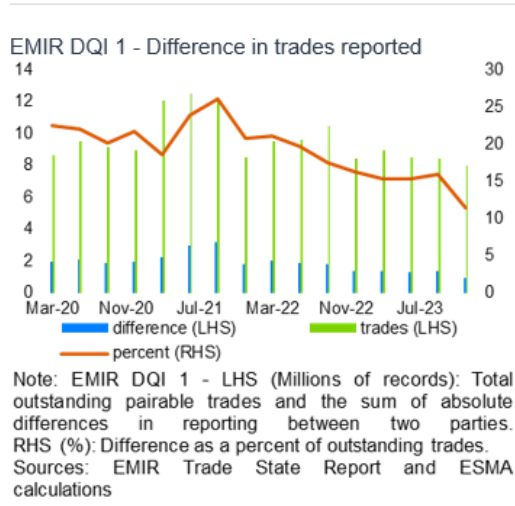
²⁴https://www.esma.europa.eu/sites/default/files/2024-04/ESMA12-1209242288-852_2023_Report_on_Quality_and_Use_of_Data.pdf

11.5% as of December 2023, indicating continued positive developments in resolving this mismatch of this at counterparty level reported information.

79. The second chart shows the number of outstanding derivatives with timely valuations and late valuations. The absence of up-to-date information on the valuation of outstanding derivatives limits authorities' capacity to reliably monitor exposure of key market participants which is especially crucial during crisis situations where supervisors need obtain a clear picture within short time spans. Regarding the developments it can be observed that the percentage of late valuations demonstrates a robust downward trend. These figures indicate a substantial reduction in the percentage of late valuations, reaching a low of 7.3% as of December 2023. This consistent downward trend signals the effective efforts in improving data quality in EMIR, enhancing the usability of valuation information critical for many data users.

80. Consistent with these results, it is noted that data quality has been evolving positively thanks to the increased continuous focus and initiatives taken.

81. ESMA also positively notes the use of enforcement measures by some NCAs (DE, FR, IE) and ESMA as supervisor of TRs. Indeed, the use of the enforcement tool can act as a credible deterrent to having poor systems and controls by CPs and TRs regarding their compliance with the EMIR reporting requirements.



6 Conclusion

82. Since the peer review, substantial work was carried out on EMIR data quality by building on and expanding previously performed data quality activities. This has yielded observable results and has set the path to continue strengthening this regime and increasing the quality of data.

83. Nevertheless, it is important to convey through this follow-up report to the community of supervisors that data quality is recognised as – and will remain – a key area of attention for supervision to ensure sound, timely and effective supervision of the financial markets.
84. This is important not only in order to maintain constant attention to the quality and use of data reported, but also with the development of new reporting regimes (e.g. SFDR) and with the upcoming EMIR Refit in 2024. NCAs and ESMA should continue working on enhancing EMIR data quality and on using the appropriate tools – including enforcement when needed – to drive up standards and ensure that CPs submit information in an accurate, complete, consistent and timely manner. Paying close attention to this topic remains fundamental in building a data-driven supervisory approach, a key strategic objective under the ESMA Strategy²⁵.
85. Most importantly, ESMA stresses that ensuring data quality remains a primary duty of supervised entities. Firms, and in particular their top management, are expected to take ownership of the data they report and increase its use also for internal purposes, as the more data is used, the more it can improve.
86. ESMA concludes that the joint engagement by ESMA and NCAs on the improvement of the quality of transaction data, as well as the input of stakeholders (notably ECB and ESRB), have brought tangible and observable benefits for all data users, which in turn have enriched the data quality process with their own findings and observations. Today, authorities have better tools and better data to monitor the orderly functioning of markets and the evolution of the systemic risks to financial stability. Thus, the implementation of further targeted efforts must continue to be pursued and further enhancements across datasets should continue taking place to ensure the consistency, quality and reusability of data made available to ESMA and NCAs.

²⁵ ESMA Strategy 2023 – 2028: https://www.esma.europa.eu/sites/default/files/library/esma_strategy_2023-2028.pdf