EMIR Reporting: Prepare for the Next Challenges

CSSF & CAA joint conference on
EMIR Refit Reporting and EMIR Data Quality Supervision

5 June 2023

cssf
Commission de Surveillance
du Secteur Financier

CAA

Agenda

- Derivative market in Luxembourg
- What is next? EMIR Refit
- What is coming? New Data Quality supervision

Derivative market in Luxembourg

Key concepts around EMIR

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EMIR Reporting: EMIR and ESMA

EMIR is an EU Regulation, and together with its technical standards, is directly applicable in the EU.

ESMA is the leading ESA on EMIR topics and plays a key role on EMIR Reporting, notably by :

- Drafting the Regulatory/Implementing Technical Standards, considering also CPMI and ROC (for UTI and UPI) technical guidance.
- Drafting specific report for the European Commission leveraging on EMIR data.
- Ensuring supervisory convergence amongst NCAs.
- Collaborating with non-EU jurisdictions.
- Supervising trade repositories.

CPMI: Committee Payments and Market Infrastructures
ROC: Regulatory Oversight Committee, established in 2012 to coordinate and oversee a worldwide framework of legal entity identification (GLEIS).

EMIR Reporting: NCAs involved

In Luxembourg, CSSF and CAA are the NCAs in charge of supervising the compliance with EMIR:

- CAA for counterparties under its supervision.
- CSSF for all other counterparties established in Luxembourg.

CSSF is member of ESMA and in the EMIR related Standing Committees, because of that, it has a leading role in EMIR topics.

Many other authorities and institutions (e.g. ESRB, SRB) as well as NCAs in other EU Member States receive Luxembourg EMIR data, depending e.g. on where the other counterparties are established, on the type of underlying or the currency of the derivative contract.
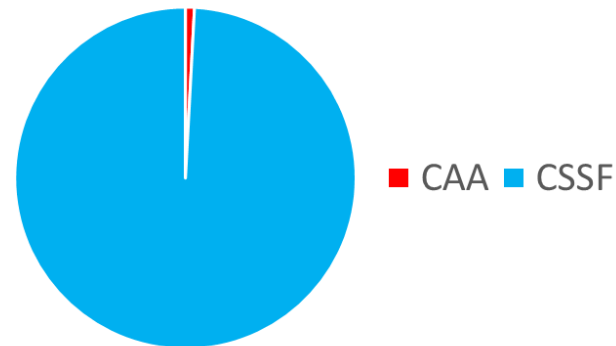
EMIR Reporting

| Nature	Type	Number of Cpts	Number of trades	Notional in Bln EUR	LU NCA
FC	UCI	9'495	639'011	5'456	CSSF
NFC	NPS	1'848	97'603	1'022	CSSF
FC	Bank	62	170'800	828	CSSF
FC	Insurance	29	7'939	14	CAA
NFC	PSF / PI / EMI	4	1'775	1	CSSF
FC	Inv. Firms	4	18'884	0,4	CSSF

Based on LEI

Source: EMIR reporting as of 30/12/2022 and CSSF data
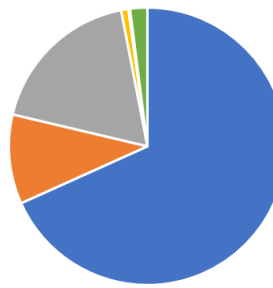
Number of Trades

■ CAA ■ CSSF

■ Undertakings Collective Investments
■ Not Prudentially Supervised (e.g. Corporates)
■ Bank
■ Insurance
■ Investment Firms
■ Professionals Financial Sector / Payment Institutions / Electronic Money Institutions
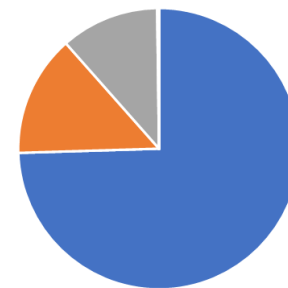
Number of Cpts
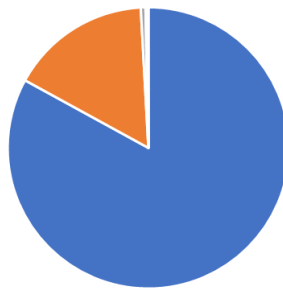
Number of Trades

Notional in Bln EUR

Considerations related to the derivative market

Data is king, but data models are poor

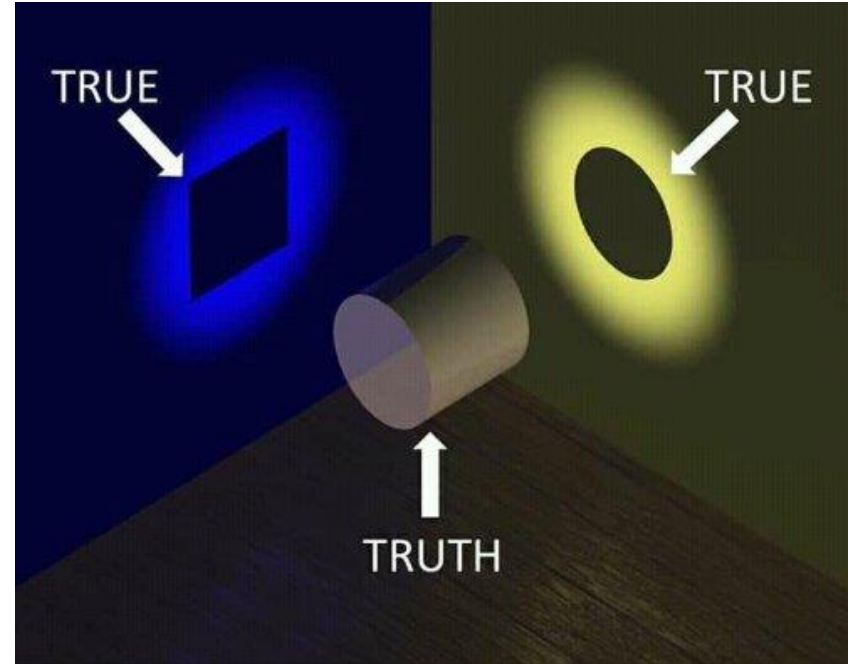Excessive regulation?
No, reasonable reaction of legislators

DQ issues affects how firms are viewed by authorities

Derivative market structure in Luxembourg

Derivatives Transactions: Different views

- Several stakeholders intervene in the derivative value chain.

- Each of them sees its portion of what is true.

- It's up to the counterparty to the derivative to ensure that the reported picture reflect the truth.

Data quality is only the visible part of larger issues

Data Quality

IT systems

Data models

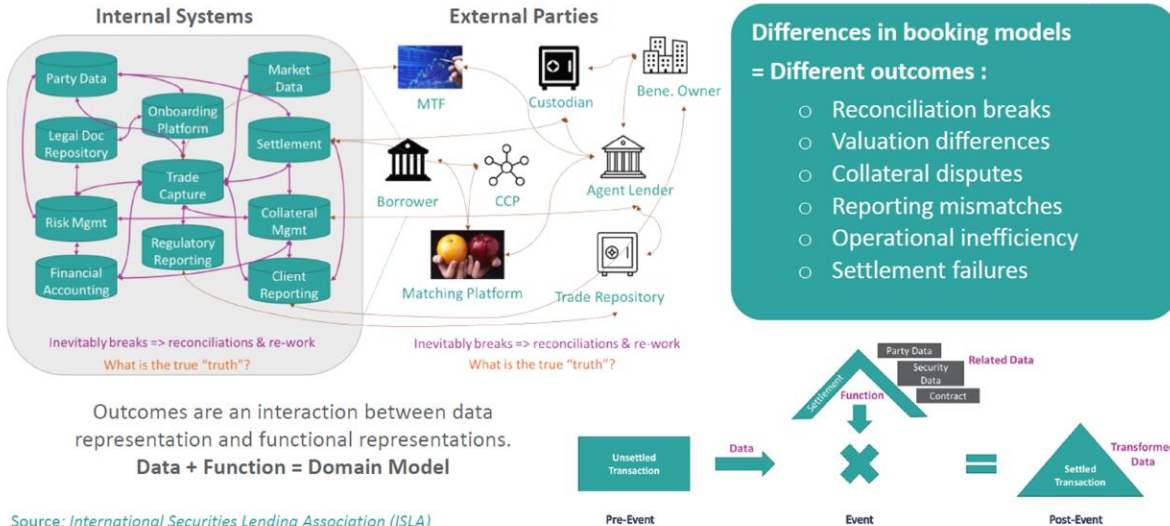Controls and processes

Governance

- DQ is a key indicator of soundness of:
  - IT systems, controls and processes;
  - data models; and
  - overall governance.

Data model:
the key to extract value from data

Source: *International Securities Lending Association (ISLA)*

- EMIR Data are still not organised.
- Processes not fully under control.
- EMIR obligations still managed in a silo-approach.

Excessive regulation?
No, reasonable reaction of legislators

no. of mandatory fields for TR reconciliation
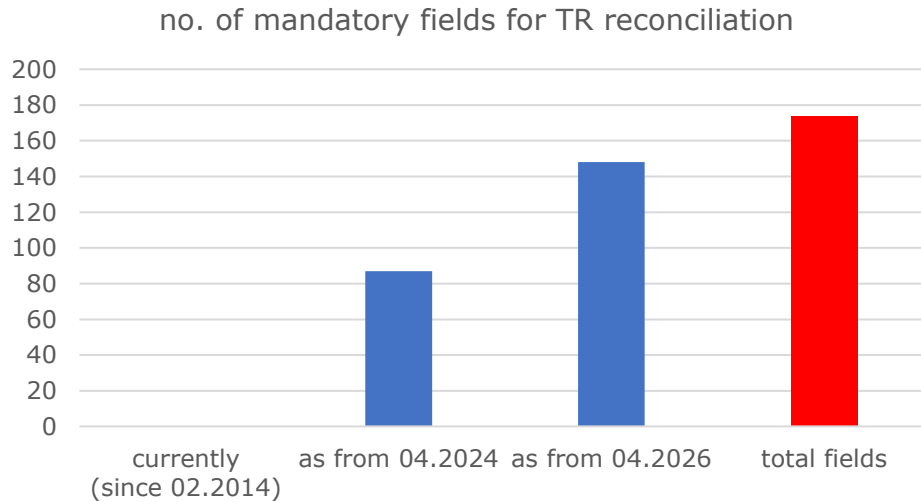
- TR reconciliation is currently based on few fields agreed between TRs.

- Reconciliation rate is still very poor despite 9 years of EMIR Reporting.

- EU legislator has decided to take action.
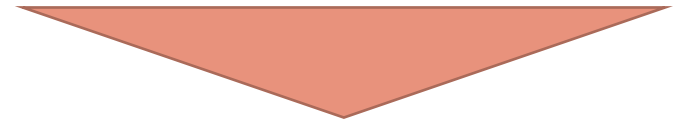
With EMIR Refit Technical Standards TR reconciliation is set in law.

Data Quality:
how firms are viewed by authorities

- More than 50 authorities and EU institutions look and use EMIR data.
- Each authority looks with its own perspective, therefore all fields are relevant.

**How firms look
with Data Quality**

**How firms look
without Data Quality**

Source: https://scifi.stackexchange.com/questions/99497/what-was-the-inspiration-for-the-design-of-r2-d2

Luxembourg: Fragmented Derivative Market

12 000 LU counterparties

1 Mln outstanding derivative contracts

10 000 Bln EUR notional outstanding

The market is highly fragmented
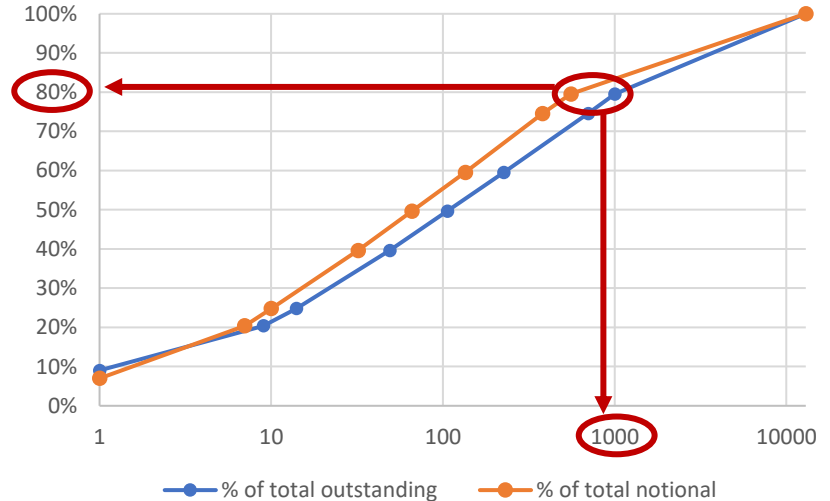
Publications based on EMIR data

■ Increasing number of publications and work based on EMIR data such, as:
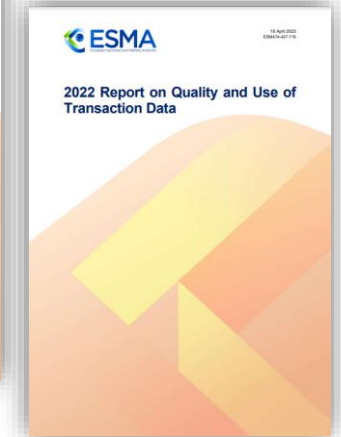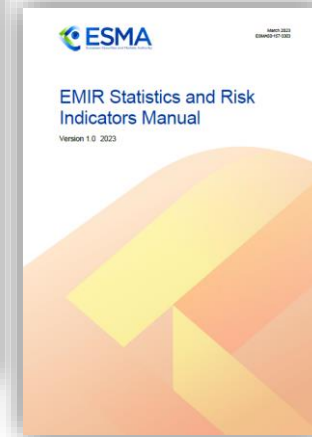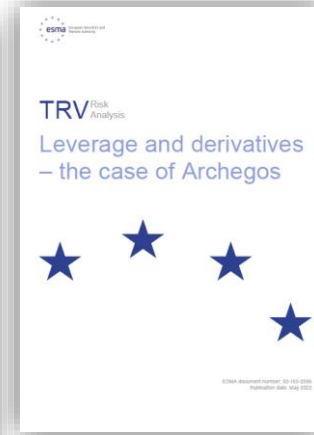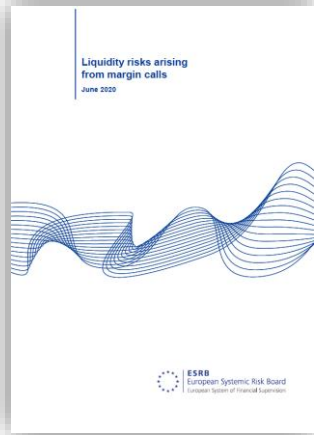
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What next?
EMIR Refit Reporting

'Big bang' on 29 April 2024

Focus on EMIR Refit Reporting

- EMIR Refit Reporting is based on 4 pillars as **from 29 April 2024**.

- End-to-end XML reporting (ISO20022)
- Validation rules

- Framework for mandatory delegation

- Information to NCAs for significant reporting issues

- New controls and feedback reports by Trade Repositories

EMIR Refit Reporting messages
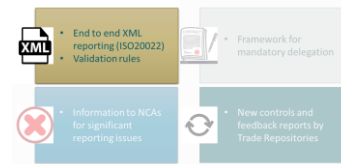
- End-to-end xml based reporting (no proprietary formats allowed) :
  - All stakeholders access the same level of information, i.e. less transformations
  - Structured data increases data quality
  - 3 reporting tables: (i) Parties to the contract; (ii) contract details and (iii) collateral details

- Event based reporting (e.g. clearing / allocation) in addition to updated action types (e.g. revive).

- Transition period of 180 calendar days only for contracts that do not require any update or that mature during the period.

- New details or modified values to be reported (subsequent/prior UTI, collateralisation, counterparty data) – refer to guidelines
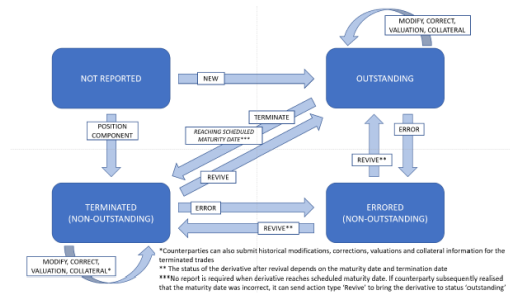
UTI: Unique Trade Identifier

Scenarios					Reporting of 'Collateralisation'	
	Collateral to be posted (acc. to the agreement)					
Nr.	CP A		CP B		CP A	CP B
	IM	VM	IM	VM	report	report
1	-	-	-	-	UNCL	UNCL
2	-	Y	-	-	PRC1	PRC2
3	-	-	-	Y	PRC2	PRC1
4	-	Y	-	Y	PRCL	PRCL
5	Y	Y	-	-	OWC1	OWC2
6	-	-	Y	Y	OWC2	OWC1
7	Y	Y	-	Y	OWP1	OWP2
8	-	Y	Y	Y	OWP2	OWP1
9	Y	Y	Y	Y	FLCL	FLCL

EMIR Refit Reporting messages: some changes
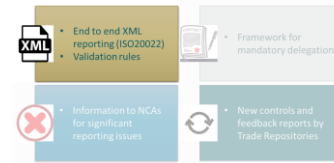
Field no.	Field name	Change
2.3 / 2.4 2.8 2.152 / 2.153	Prior / Subsequent position UTI UPI Event type / Event Date	New Fields
2.1 / 3.10* 2.27 / 3.9	UTI (incl. new waterfall logic) Collateral portfolio code	Special characters (i.e. :.-_) forbidden * Uncapitalised letters forbidden too
1.2 1.7 / 1.13* 2.2** 2.26 2.34	Report submitting entity ID Clearing threshold counterparty 1 & 2 Report tracking number Collateral portfolio indicator Master Agreement type	Mandatory * Applies also to FC now ** If MIC in 2.41 Venue of execution belongs to a TV
1.3	Entity responsible for reporting	For OTC trades: IFM for funds --- FC for NFC- as per 9(1a), 9(1b), 9(1c), 9(1d)
>2.50	Repeatable fields	

"The population of fields that are specified as optional in the validation rules is not left at the discretion of the reporting counterparties. Optional fields should be always populated in all cases where the field is relevant in the given scenario or for the given derivative."

ESMA - Final report on the Guidelines for reporting under EMIR (ESMA74-362-2281)

EMIR Refit Information to NCAs

- ITS Art. 9 introduces requirement to notify NCAs of both ERR and Counterparty for:
  - Flaws in the system affecting <u>significant</u> number of reports
  - Obstacle preventing to report
  - <u>Significant</u> reporting errors that do not cause a rejection

- Definition of "<u>significant</u>" is included in guidelines Section 4.29

TABLE 23			
	Average monthly number of submissions (AverageMonthNum)		
	0<=A<100 000	100 000<=A<1 000 000	1 000 000<=A
X	100	20000	150000
Y %	20%	15%	10%

- Common template for all adhering NCAs available on ESMA website including examples (as part of the validation rules Excel workbook)

EMIR Refit Mandatory delegation

- Mandatory delegation i.e. an entity is responsible and legally liable to report on behalf of other counterparties has been introduced by EMIR-Refit in 2019:
  - FCs when counterparty to NFC-.
  - Investment Fund Manager (IFM) for funds.

- ITS introduces requirement to have an agreement between FC and NFC-.

- NFC- remain responsible of EMIR duties (other than reporting) and are thus encouraged to have access to data. The ESMA EMIR Refit Guidelines encourage FCs to provide such data on a regular basis to NFC-.

- NFC- are entitled to receive information from TRs.
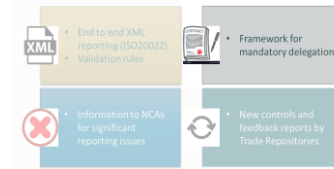
EMIR Refit New TRs Controls and Reports

- TRs are required to control derivatives received (e.g. xml compliance, validation rules) as well as to reconcile outstanding reports and to provide feedback reports – in xml.
  - Immediate feedback (within 60 minutes) reports to Report Submitting Entities
  - Daily reconciliation report to Report Submitting Entities
  - End-of-day reports to:
    - Reporting counterparties,
    - Report submitting entities,
    - Entities responsible for reporting,
    - Third party where access has been granted,
    - Authorities.

TAR
TSR
Rejections
Reconciliation status
No Valuation update
No margin update
Abnormal notional

What entities shall do before 29 April 2024

- Ensure current transaction reports meet latest reporting standards.

- Terminate no longer outstanding transactions.

- Improve internal data to meet REFIT reporting requirements:
  - Update format and content to meet new requirements on existing data;
  - Collect data that is not yet available (counterparty information, UPI).

- Prepare the infrastructure for:
  - New reporting logics (UTI, lifecycle events);
  - xml reporting IN and OUT.

- Ensure upgrading capabilities in due time to accurately report outstanding derivatives throughout the big bang day (29 April 2024).

- Define processes to use TR feedback reports (e.g. internal KPIs, reconciliation with other reporting regimes / internal books, use of data to ensure compliance with other EMIR obligations).

CSSF and CAA communication

■ CSSF Press release 22/33 on EMIR Refit reporting.
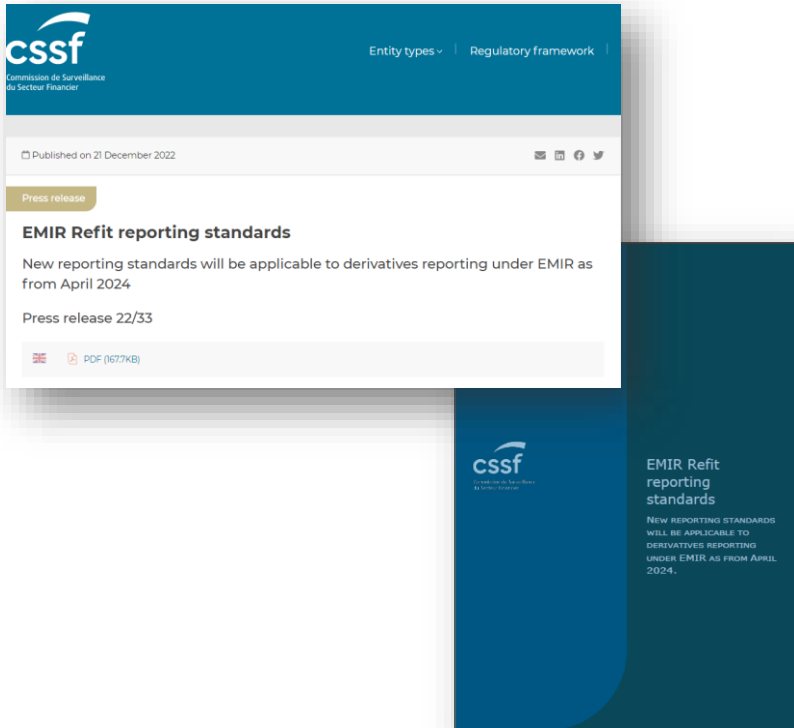
"*The CSSF considers that there is sufficient time for stakeholders to implement the changes until 29 April 2024 and that **any failure to report accurately as from 29 April 2024 will be considered as a non-compliance with Article 9 of EMIR**.*"

The CAA intends to publish a similar message

EMIR Refit: CSSF & CAA key messages

- Ensure continuity across 29 April 2024.

- Start preparing for these changes as soon as possible.

- Any failure to report accurately as from 29 April 2024 will be considered as a non-compliance with Article 9 of EMIR.

What is coming?
New DQ supervision

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New EMIR DQ assertive supervision

A new approach for Data Quality Supervision

■ CSSF and CAA, following ESMA's lead, are becoming stricter with entities regarding their data quality supervision.

	from ESMA DQR...	**to ESMA DQEF**
EMIR	• 1 exercise/year (Sept.-Nov.)	• **Targeted DQ Activity** (no limitation of # exercises / year) • **DQ Dashboard** (19 indicators) calculated on a monthly basis
Approach	• **Effort** based	• **Result** based
Outcome	• ESMA yearly report based on **participation** to DQR	• ESMA yearly report based on DQ **improvements observed** over time

■ ESMA Data Quality **currently** based on 18 indicators.

→ Goal is to improve DQ for all of them.

■ **Indicators will evolve** in the future based on e.g. new issues to be monitored, EMIR Refit reporting.

New DQIs

Misreporting by reporting entity

- DQI 6 Rejections
- DQI 7 Late reports
- DQI 8 Outdated valuation
- DQI 9 Blank/abnormal maturity date
- DQI 10 Missing Valuation
- DQI 11 Missing Collateralisation
- DQI 16 Duplicate reports
- DQI 17 Counterparty nature
- DQI 18 Corporate Sector

Misreporting by either one of the entities:

- DQI 1 **Difference** in Outstanding trades
- DQI 2 **Difference** in Outstanding positions
- DQI 3 **Difference** of reports with AT=N
- DQI 4 **Difference** of reports with AT=P
- DQI 5 Unpaired reports
- DQI 13 Matching
- DQI 19 **Difference** in Margins

DQ1-DQ4 and DQ19 are evaluated between counterparty pairs

Potential misreporting

- DQI 12 Missing VM
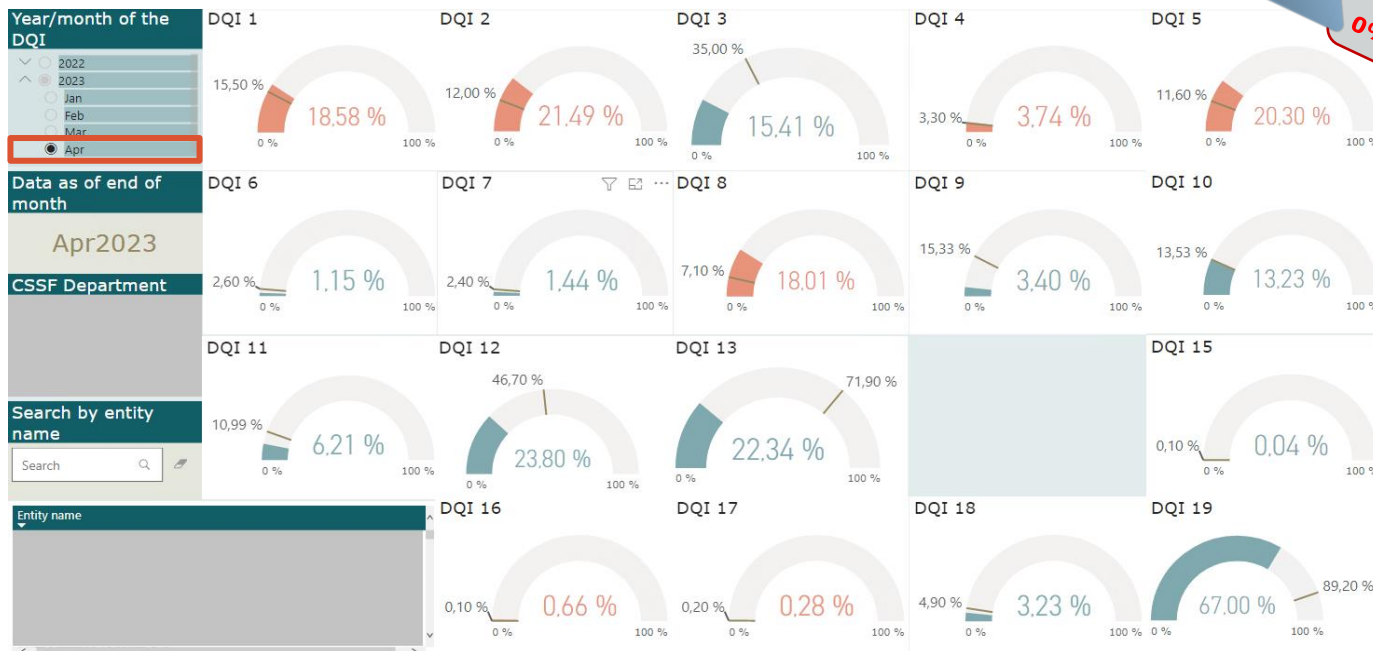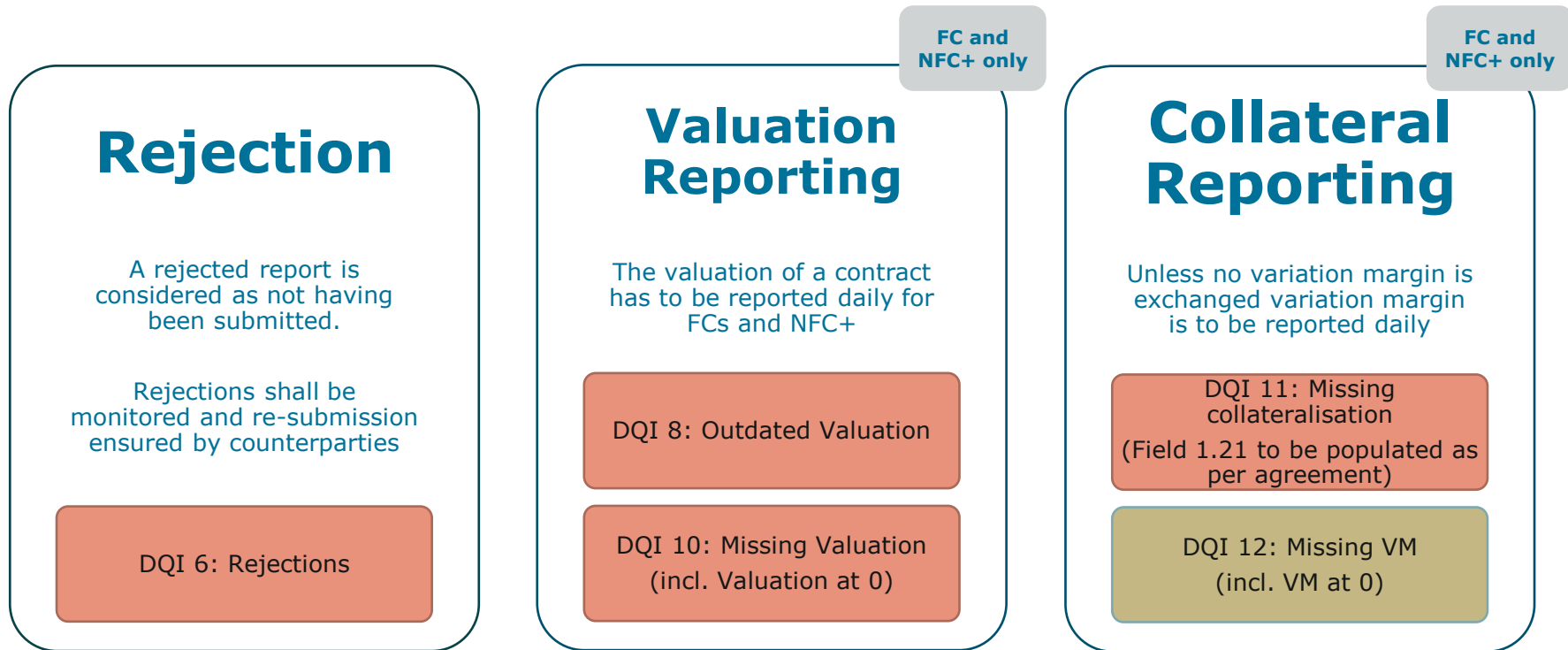- DQI 14 Anomalies
- DQI 15 Lack of LEI

AT=N means Action Type is 'New' while AT=P is '

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New DQ Data driven supervision

- CSSF has developed 18 DQIs based on ESMA approach.
- The goal is to reduce DQ issues with a new assertive supervision.

Underreporting (DQI 6 8 10 11 12)

Rejection

A rejected report is considered as not having been submitted.

Rejections shall be monitored and re-submission ensured by counterparties

DQI 6: Rejections

Valuation Reporting

FC and NFC+ only

The valuation of a contract has to be reported daily for FCs and NFC+

DQI 8: Outdated Valuation

DQI 10: Missing Valuation
(incl. Valuation at 0)

Collateral Reporting

FC and NFC+ only

Unless no variation margin is exchanged variation margin is to be reported daily

DQI 11: Missing collateralisation
(Field 1.21 to be populated as per agreement)

DQI 12: Missing VM
(incl. VM at 0)

Misreporting by reporting entity

Misreporting by either one of the entities

Potential misreporting

Double-sided (DQI 1 2 3 4 5 13 19)

Differences

Differences reported by Cpt A with Cpt B compared to Cpt B with Cpt A

Reporting Cpt	Other Cpt	Number	Margins (VM & IM)
Cpt A	Cpt B	500	EUR 2 Mln (received – paid)
Cpt B	Cpt A	800	EUR 5 Mln (paid – received)
	Difference	300	EUR 3 Mln

DQI 1: Nr of outstanding trades

DQI 3: Nr of reports with AT=N

DQI 2: Nr of outstanding positions

DQI 4: Nr of reports with AT=P

DQI 19: Consistent Margins (Portfolio codes)

TR reconciliation

DQI 5: Unpaired reports

DQI 13: Matching

Misreporting by reporting entity

Misreporting by either one of the entities

Potential misreporting

Incorrect reporting (DQI 7 9 14 15 16 17 18)

DQI 7: Late reports

DQI 9: Blank / abnormal maturity date

DQI 16: Duplicate reports

DQI 17: Counterparty nature

DQI 18: Corporate Sector

DQI 14: Anomalies*

DQI 15: Lack of LEI (for large contracts)

* Abnormal values based on statistical methods on quantitative data :

- Notional
- Value of the contract
- Initial margin posted
- Initial margin collected
- Variation margin posted
- Variation margin collected
- Excess collateral posted
- Excess collateral collected
- Price/rate
- Fixed rate 1
- Fixed rate 2
- Quantity

Misreporting by reporting entity

Misreporting by either one of the entities

Potential misreporting

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EMIR Data Quality: CSSF & CAA key messages

- EMIR data quality is a key priority for ESMA as well as for CSSF and CAA.

- Leverage on existing EMIR obligations to reduce the compliance effort for data quality:
  - use or upgrade confirmation process
  - use or improve reconciliation process

    RTS 149/2013

- Both counterparties shall agree on details to be reported, involving all stakeholders in the reporting value chain.

- Bad data quality is a signal of other issues within the organisation.

- Outsourcing EMIR reporting does not relieve an entity from its duties. The entity must have access to its data and understand it.

- The CAA asks its entities to make sure that their TR reporting is consistent with its Solvency 2 reporting and the rapport distinct of its auditors.

- The CSSF asks its entities to make sure that their TR reporting is consistent with the information shared in other regulatory reporting.

Useful links:

- CSSF press release 22/33
https://www.cssf.lu/wp-content/uploads/PR22_33_EMIR_Refit_reporting_standards_211222.pdf

- ESMA EMIR Reporting
https://www.esma.europa.eu/data-reporting/emir-reporting

- ESMA 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

- ESRB's view regarding data quality issues and risks for financial stability
https://www.esrb.europa.eu/pub/pdf/other/esrb.letter220713_on_data_quality_issues~18eccb6993.en.pdf