Procedure file

Basic information

COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2014/0017(COD)
Transparency of securities financing transactions and of reuse Amending Regulation (EU) No 648/2012 2010/0250(COD) Amended by 2016/0365(COD) Subject 2.50.03 Securities and financial markets, stock exchange, CIUTS, investments 2.50.08 Financial services, financial reporting and auditing 2.50.10 Financial supervision 2.80 Cooperation between administrations	Procedure completed

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs		22/07/2014
	S&D SORU Renato	
	Shadow rapporteur	
	epp HÜBNER Danuta Maria	
	ECR SWINBURNE Kay	
	DE BACKER Philippe	
	JOLY Eva	
	EFD VALLI Marco	
Former committee responsible		
ECON Economic and Monetary Affairs		

Committee for opinion	Rapporteur for opinion	Appointed
JURI Legal Affairs	The committee decided not to give an opinion.	
Former committee for opinion		
JURI Legal Affairs		

Council of the European Union

Council configuration	Meeting	Date
Agriculture and Fisheries	3425	16/11/2015
Employment, Social Policy, Health and Consumer Affairs	3351	01/12/2014

European Commission

Commission DG	Commissioner
Financial Stability, Financial Services and Capital Markets Union	HILL Jonathan

European Economic and Social Committee

Key events

29/01/2014	Legislative proposal published	COM(2014)0040	Summary
25/02/2014	Committee referral announced in Parliament, 1st reading		
20/10/2014	Committee referral announced in Parliament, 1st reading		
24/03/2015	Vote in committee, 1st reading		
24/03/2015	Committee decision to open interinstitutional negotiations with report adopted in committee		
08/04/2015	Committee report tabled for plenary, 1st reading	A8-0120/2015	
15/07/2015	Approval in committee of the text agreed at 1st reading interinstitutional negotiations	PE604.741	
28/10/2015	Debate in Parliament		
29/10/2015	Results of vote in Parliament		
29/10/2015	Decision by Parliament, 1st reading	T8-0387/2015	Summary
16/11/2015	Act adopted by Council after Parliament's 1st reading		
25/11/2015	Final act signed		
25/11/2015	End of procedure in Parliament		
23/12/2015	Final act published in Official Journal		

Technical information

Procedure reference	2014/0017(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
	Amending Regulation (EU) No 648/2012 2010/0250(COD) Amended by 2016/0365(COD)
Legal basis	Treaty on the Functioning of the EU TFEU 114
Other legal basis	Rules of Procedure EP 159
Mandatory consultation of other institutions	European Economic and Social Committee
Stage reached in procedure	Procedure completed
Committee dossier	ECON/8/00344

Documentation gateway

Legislative proposal		COM(2014)0040	29/01/2014	EC	Summary
Document attached to the procedure		SWD(2014)0030	29/01/2014	EC	
Document attached to the procedure		SWD(2014)0031	29/01/2014	EC	

European Central Bank: opinion, guideline, report		CON/2014/0049 OJ C 336 26.09.2014, p. 0005	24/06/2014	ECB	Summary
Committee of the Regions: opinion		CDR1321/2014	26/06/2014	CofR	
Economic and Social Committee: opinion, report		CES1466/2014	09/07/2014	ESC	
Committee draft report		PE544.170	22/12/2014	EP	
Amendments tabled in committee		PE549.104	04/02/2015	EP	
Committee report tabled for plenary, 1st reading/single reading		A8-0120/2015	09/04/2015	EP	
Text agreed during interinstitutional negotiations		PE604.741	29/06/2015	EP	
Text adopted by Parliament, 1st reading/single reading		T8-0387/2015	29/10/2015	EP	Summary
Draft final act		00041/2015/LEX	25/11/2015	CSL	
Commission response to text adopted in plenary		SP(2015)750	10/12/2015	EC	
Follow-up document		COM(2017)0604	19/10/2017	EC	Summary
Follow-up document		COM(2019)0063	30/01/2019	EC	

Additional information

European Commission	EUR-Lex

Final act

Regulation 2015/2365
OJ L 337 23.12.2015, p. 0001 Summary

Final legislative act with provisions for delegated acts

Delegated acts

2019/2547(DEA)	Examination of delegated act
2018/2988(DEA)	Examination of delegated act
2018/2990(DEA)	Examination of delegated act
2018/2992(DEA)	Examination of delegated act
2018/2987(DEA)	Examination of delegated act
2018/2986(DEA)	Examination of delegated act

Transparency of securities financing transactions and of reuse

PURPOSE: to improve transparency in securities financing transactions (SFT) and therefore in the financial system.

PROPOSED ACT: Regulation of the European Parliament and of the Council.

ROLE OF THE EUROPEAN PARLIAMENT: the European Parliament decides in accordance with the ordinary legislative procedure and on an equal footing with the Council.

BACKGROUND: the 2008 global financial crisis revealed important regulatory gaps in the financial system. It also highlighted the need to improve transparency and monitoring not only in the traditional banking sector but also in areas where non-bank credit activities took place, called shadow banking.

Confronted with new legislative developments in the banking sector, including structural measures, it is possible that banks will shift parts of

their activity into less regulated areas as shadow banking. At the end of 2012 global shadow banking assets accounted for EUR 53 trillion, representing about half the size of the regulated banking system and mainly concentrated in Europe (around EUR 23 trillion) and in the United States (around EUR 19.3 trillion).

On 19 March 2012, the Commission published a Green Paper on shadow banking, and on 4 September 2013, it published a Communication on the subject. It stressed that the complex and opaque nature of securities financing transactions (SFTs) makes it difficult to identify counterparties and monitor risk concentration. This also leads to the built-up of excessive leverage in the financial system. A High-Level Expert Group chaired by Erkki Liikanen adopted a report on reforming the structure of the Union banking sector in October 2012. The report recognised the risks of shadow banking activities such as high leverage and pro- cyclicality, and it called for a reduction of the interconnectedness between banks and the shadow banking system, which had been a source of contagion in a system-wide banking crisis.

Actions regarding these matters have been international and coordinated through the G20 and the Financial Stability Board (FSB) which, in August 2013, adopted a policy framework consisting of eleven Recommendations addressing shadow banking risks in securities lending and repos. These Recommendations were subsequently endorsed in September 2013 by the G20 Leaders.

In order to closely follow market trends regarding entities whose activities qualify as shadow banking, in particular in the area of securities financing transactions, the Commission feels it necessary to implement transparency requirements.

The proposal regarding structural reforms of the EU banking sector, which is presented in a package with this proposal, is the final piece of the new regulatory framework, ensuring that even the largest banks in the EU become less complex and can be effectively resolved, with minimum implications for tax payers.

IMPACT ASSESSMENT: the impact assessment concludes that a combination of different measures is necessary including reporting of SFTs to trade repositories, disclosure on the use of SFTs to fund investors, and the need for prior consent to rehypothecation of the financial instruments. The latter must be transferred to an account opened in the name of the receiving counterparty before rehypothecation can take place.

This will ensure that the shadow banking activity of using SFTs is properly supervised and regulated. The use of SFTs as such will not be prohibited nor limited by specific restrictions but be more transparent.

CONTENT: the Regulation aims at enhancing financial stability in the EU by means of increasing transparency of certain market activities, such as SFTs, rehypothecation and other financing structures having equivalent economic effect as SFTs.

The Regulation introduces measures to improve the transparency in three main areas: (1) the monitoring of the build-up of systemic risks related to SFT transactions in the financial system; (2) the disclosure of the information on such transactions to the investors whose assets are employed in these or equivalent transactions; and (3) the contractual transparency of rehypothecation activities.

In practice, the proposed measures will cover the FSB recommendations, these being:

The obligation for competent authorities to collect additional data on the use of SFTs: the draft Regulation creates a Union framework under which financial or non-financial counterparties of a SFT will efficiently report the details of the transaction to trade repositories.

This information will be centrally stored and easily and directly accessible to the relevant authorities, such as ESMA, ESRB, the ESCB, for the purpose of identification and monitoring of financial stability risks entailed by shadow banking activities of regulated and non-regulated entities.

The requirement that requires fund managers be transparent towards their investors: in order to enable investors to become aware of the risks associated with the use of SFTs and other financing structures, fund managers should include detailed information on any recourse they have to these techniques in regular reporting intervals. The existing periodical reports that UCITS management or investment companies and AIF managers have to produce will be supplemented by this additional information on the use of SFTs and other financing structures.

The requirement for financial intermediaries to provide sufficient disclosure to their clients in relation to re-hypothecation of assets: any rehypothecation should therefore take place only with the express knowledge of inherent risks and prior consent of the providing counterparty in a contractual agreement and should be appropriately reflected in the securities accounts.

The counterparty receiving financial instruments as collateral will be allowed to rehypothecate them only with the express consent of the providing counterparty and only after having them transferred to its own account.

BUDGETARY IMPLICATIONS: the proposal involves the hiring of two new temporary agents at EBA from January 2016. The new tasks will be carried out with the human resources available within the annual budgetary allocation procedure, and in line with the financial programming for agencies.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.

Transparency of securities financing transactions and of reuse

OPINION OF THE EUROPEAN CENTRAL BANK (ECB) on a proposal for a Regulation of the European Parliament and of the Council on reporting and transparency of securities financing transactions (SFTs).

The ECB broadly welcomes the proposed regulation, which is aimed at increasing the safety and transparency of the financial market, in line with recommendations issued by the Financial Stability Board (FSB) and endorsed in September 2013 by the G20 leaders. The ECB considers that the new uniform rules on reporting and transparency of SFTs, as well as the provisions on rehypothecation, may play an important role in enhancing financial stability in the Union.

The ECB makes the following recommendations:

Exemption for central bank transactions from reporting and transparency obligations: the ECB notes that proposed reporting and transparency framework does not provide an exemption with regard to transactions to which an ESCB central bank is a counterparty. The ECB would strongly recommend including a transaction-based exemption in the proposed regulation. Failure to include such an exemption would have the same effect as imposing such reporting and transparency obligations on the ESCB itself.

Clarification of the Commissions power to amend the list of exemptions: the ECB suggests clarifying Article 2(3) of the proposed regulation, which gives the Commission power to amend the list of exemptions under Article 2(2) by means of a delegated act. The ECB considers that Article 2(3) should contain a direct reference to the possibility of extending the list of exemptions to include central banks of third countries.

Rehypothecation: with regard to contractual transparency requirements, the proposed regulation does not make a distinction between financial collateral transferred under a title transfer financial collateral arrangement and provided under a security financial collateral arrangement within the meaning of Directive 2002/47/EC of the European Parliament and of the Council.

The ECB notes that a collateral taker should not be restricted from enjoying full ownership or full entitlement to the financial collateral, once a title transfer financial collateral arrangement has been entered into. It should be clarified that entering into a title transfer financial collateral arrangement already implies a consent to reuse and that any breach of requirements under Article 15 will not affect the validity or enforceability of the SFT, and the receiving counterparty could only be subject to administrative sanctions under the proposed regulation.

The ECB notes that the proposed regulation focuses only on introducing reporting and transparency requirements. However, the recent financial crisis has shown that significant financial stability risks may arise from the practices of reuse and rehypothecation of client assets.

Therefore, the ECB considers that it is important for the Commission to assess the need for further regulatory measures, which go beyond the proposed reporting and transparency requirements, including quantitative limits on reuse and on rehypothecation of client assets, which could be implemented in a future legal act.

Modalities for the reporting of data on securities financing transaction (SFTs): the ECB recommends that the SFT details should be reported, compiled and made accessible to the ESCB with the maximum degree of granularity and in a fully standardised form.

With regard to the data items to be reported, the ECB recommends that the technical standards prepared under the proposed regulation require details of the individual assets being used as collateral and the principal amount, currency, type, quality and value of each asset to be reported. The technical standards should also allow reporting of individual assets subject to securities or commodities lending or borrowing.

In addition, the ECB suggests that the technical standards should require counterparties to report additional items to facilitate more comprehensive monitoring for financial stability purposes and for the fulfilment of the ESCB tasks.

Lastly, the ECB recommends that technical standards under the proposed regulation require the reported data to include appropriate identifiers by using current and forthcoming internationally agreed standards. ESMA should make the use of such identifiers obligatory for all counterparties which fall within the scope of the proposed regulation, in particular, the international securities identification number (ISIN), the global legal entity identifier (LEI) and a unique trade identifier.

Transparency of securities financing transactions and of reuse

The Committee on Economic and Monetary Affairs adopted the report by Renato SORU (S&D, IT) on the proposal for a regulation of the European Parliament and of the Council on reporting and transparency of securities financing transactions.

The committee recommended that the European Parliaments position at first reading following the ordinary legislative procedure should amend the Commission proposal as follows:

Securities financing transactions (SFTs): the Regulation should cover repurchase transactions, securities or commodities lending, securities or commodities borrowing, buy-sell back or sell-buy back transactions, liquidity swaps and collateral swap transactions as laid down in Regulation (EU) No 575/2013 or total return swaps as defined in Commission Regulation (EU) No 231/2013.

Reporting obligation: counterparties to securities financing transactions (SFTs) shall report the details of such transactions to a trade repository registered or recognised in accordance with this Regulation. The details shall be reported no later than the third working day following the conclusion, modification or termination of the transaction but as soon as the reporting is possible.

The central banks of the European System of Central Banks (ESCB) are exempt from the obligation to report their SFTs to trade repositories but must cooperate with competent authorities, including by providing them directly with a description of their SFTs, upon request.

Transparency obligation towards investors: the amended text stipulated that securities financing transactions are also used by other financial counterparties, such as credit institutions, and by non-financial counterparties, thereby creating specific risks for those who hold shares or who are clients of those counterparties.

Members proposed that credit institutions should therefore disclose their activities in SFTs. Likewise, listed companies are required to disclose any activities in SFTs to their shareholders, who should be able to make informed choices about the risk profile of the companies in which they invest.

Consequently, those credit institutions and listed companies should also inform the public of their activities in SFTs as part of their regular public report.

Transparency and re-use: this Regulation shall apply to a counterparty engaging in re-use that is established in the Union, including all its branches irrespective of where they are located or in third country, under specific conditions.

The term "re-use" is defined as the use by a receiving counterparty, in its own name and for its own account or for the account of another counterparty, including any natural person.

Members specified the conditions to be met for the counterparties to be able to re-use the financial instruments received as collateral.

Report and review: by 15 months following the entry into force of the Regulation, the Commission shall submit a report on the effectiveness and efficiency of this Regulation and on further international efforts to enhance the transparency of securities financing transaction markets as well as to further mitigate the risks associated with these transactions. The Commission shall submit that report together with any appropriate legislative proposals.

Transparency of securities financing transactions and of reuse

The European Parliament adopted by 546 votes to 89, with 7 abstentions, a legislative resolution on the proposal for a regulation of the European Parliament and of the Council on reporting and transparency of securities financing transactions.

The European Parliaments position at first reading following the ordinary legislative procedure amended the Commission proposal as follows:

Subject matter and definitions: this Regulation lays down rules on the transparency of securities financing transactions (SFTs) and of reuse.

Under this proposal, "reuse" shall mean the use by a receiving counterparty, in its own name and on its own account or on the account of another counterparty, including any natural person, of financial instruments received under a collateral arrangement.

The Regulation seeks to create a Union framework under which details of SFTs can be efficiently reported to trade repositories and information on SFTs and total return swaps is disclosed to investors in collective investment undertakings.

The definition of "securities or commodities lending" or "securities or commodities borrowing" has been defined as well as "buy-sell back transaction" or "sell-buy back transaction" and "repurchase transaction" and "margin lending transaction".

Reporting obligation and safeguarding in respect of SFTs: counterparties to SFTs shall report the details of any SFT they have concluded, as well as any modification or termination thereof, to a trade repository registered. Those details shall be reported no later than the working day following the conclusion, modification or termination of the transaction.

Transactions with members of the European System of Central Banks (ESCB) should be exempted from the obligation to report SFTs to trade repositories.

Counterparties shall keep a record of any SFT that they have concluded, modified or terminated for at least five years following the termination of the transaction.

In order to ensure consistent application of this Regulation, the ESMA shall:

- develop draft regulatory technical standards specifying the details of the reports;
- develop draft implementing technical standards specifying the format and frequency of the reports. The format shall include, in particular: (a) global legal entity identifiers (LEIs), or pre-LEIs until the Global Legal Entity Identifier System is fully implemented; (b) international securities identification numbers (ISINs); and (c) unique trade identifiers.

Transparency: information on the risks inherent in securities financing markets should be centrally stored, and easily and directly accessible by, inter alia, ESMA, the European Supervisory Authority (European Banking Authority) ("EBA"), the European Supervisory Authority (European Insurance and Occupational Pensions Authority) ("EIOPA"), the relevant competent authorities, the ESRB and the relevant central banks of the ESCB, including the European Central Bank (ECB).

Parliament also enhanced measures as regards the transparency of collective investment undertakings in pre-contractual documents and in periodical reports.

Reuse of financial instruments received under a collateral arrangement: in order to increase transparency of reuse, minimum information requirements should be imposed. Reuse should take place only with the express knowledge and consent of the providing counterparty.

This measure is without prejudice to stricter sectoral legislation and to national law that aims to ensure a higher level of protection for providing counterparties.

Cooperation between the competent authorities: the amended Regulation introduces provisions on the exchange of information between competent authorities and to strengthen the duties of assistance and cooperation which they owe each other.

Due to increasing cross-border activity, competent authorities should provide each other with the relevant information for the exercise of their functions in order to ensure the effective enforcement of this Regulation, including in situations where infringements or suspected infringements may be of concern to authorities in two or more Member States. In the exchange of information, strict professional secrecy is needed to ensure the smooth transmission of that information and the protection of particular rights.

Equivalence of reporting: the Commission may adopt implementing acts determining that the legal, supervisory and enforcement arrangements of a third country: (a) are equivalent to the requirements regarding the reporting obligation and safeguarding laid down in the Regulation; (b) ensure protection of professional secrecy equivalent to that laid down in this Regulation; (c) are being effectively applied and enforced in an equitable and non-distortive manner in order to ensure effective supervision and enforcement in that third country.

Sanctions: competent authorities may have the power to apply at least the following administrative sanctions and other administrative measures in the event of the infringements. In respect of legal persons, maximum administrative pecuniary sanctions of at least:

- EUR 5 000 000 or up to 10 % of the total annual turnover of the legal person according to the last available accounts approved by the management body for infringements regarding the reporting obligation and safeguarding;
- EUR 15 000 000 or up to 10 % of the total annual turnover of the legal person according to the last available accounts approved by the management body for infringements regarding the reuse of financial instruments received under a collateral arrangement.

The powers to impose sanctions conferred on competent authorities should be without prejudice to the exclusive competence of the ECB, pursuant to Regulation (EU) No 1024/2013, to withdraw authorisations of credit institutions for prudential supervisory purposes.

Reports: with the assistance of ESMA, the Commission should monitor and prepare reports to the European Parliament and to the Council on the international application of the reporting obligation laid down in this Regulation. The time provided for submission of the Commission reports should allow for the prior effective application of this Regulation.

Following the outcome of the work carried out by relevant international fora, and with the assistance of ESMA, EBA and the ESRB, the Commission should submit a report to the European Parliament and to the Council on progress in international efforts to mitigate the risks associated with SFTs, including the FSB recommendations for haircuts on non-centrally cleared SFTs, and on the appropriateness of those recommendations for Union markets.

Transparency of securities financing transactions and of reuse

PURPOSE: to enhance the transparency of certain activities in financial markets such as the use of SFTs and reuse of collateral in order to enable the monitoring and identification of the corresponding risks.

LEGISLATIVE ACT: Regulation (EU) 2015/2365 of the European Parliament and of the Council on transparency of securities financing transactions and of reuse and amending Regulation (EU) No 648/2012.

CONTENT: a lack of transparency in the use of SFTs has prevented regulators and supervisors as well as investors from correctly assessing and monitoring the respective bank-like risks and level of interconnectedness in the financial system in the period preceding and during the financial crisis.

This Regulation lays down rules on the transparency of securities financing transactions (SFTs) and of reuse. It creates a Union framework under which details of SFTs can be efficiently reported to trade repositories and information on SFTs and total return swaps is disclosed to investors in collective investment undertakings. It is intended to counter the risk of trading activities developing outside the regulated banking system, or otherwise without proper oversight.

- The definition of securities financing transaction or SFT shall cover a repurchase transaction; securities or commodities lending and securities or commodities borrowing; a buy-sell back transaction or sell-buy back transaction and a margin lending transaction.
- Reuse shall mean the use by a receiving counterparty, in its own name and on its own account or on the account of another counterparty, including any natural person, of financial instruments received under a collateral arrangement.

Reporting obligation and safeguarding: counterparties to SFTs shall report the details of any SFT they have concluded, as well as any modification or termination thereof, to a trade repository registered with European Securities and Markets Authority (ESMA) or recognised in accordance with this Regulation. Those details shall be reported no later than the working day following the conclusion, modification or termination of the transaction.

Counterparties shall keep a record of any SFT that they have concluded, modified or terminated for at least five years following the termination of the transaction.

In order to ensure consistent application of this Regulation, ESMA shall, in close cooperation with, and taking into account the needs of, the European System of Central Banks (ESCB): (i) develop draft regulatory technical standards specifying the details of the reports for the different types of SFTs; (b) develop draft implementing technical standards specifying the format and frequency of the reports for the different types of SFTs.

Transparency towards investors: in order to enable investors to become aware of the risks associated with the use of SFTs and total return swaps, managers of collective investment undertakings should include detailed information on any recourse they have to those techniques in periodical reports.

A collective investment undertakings investment policy with respect to SFTs and total return swaps should be clearly disclosed in the pre-contractual documents, such as the prospectus for undertakings for collective investment in transferable securities (UCITS) and the pre-contractual disclosure to investors for alternative investment funds (AIFs).

Transparency of reuse: reuse of collateral provides liquidity and enables counterparties to reduce funding costs. However, it tends to create complex collateral chains between traditional banking and shadow banking, giving rise to financial stability risks. The lack of transparency on the extent to which financial instruments provided as collateral have been reused and the respective risks in the case of bankruptcy can undermine confidence in counterparties and magnify risks to financial stability.

In order to increase transparency of reuse, minimum information requirements should be imposed. Reuse should take place only with the express knowledge and consent of the providing counterparty.

Cooperation between competent authorities: the Regulation provides that the competent authorities referred to in the Regulation and ESMA shall cooperate closely with each other and exchange information for the purpose of carrying out their duties pursuant to this Regulation, in particular in order to identify and remedy infringements of this Regulation.

A competent authority may refuse to act on a request to cooperate and exchange information in exceptional circumstances.

Any confidential information received, exchanged or transmitted shall be subject to the conditions of professional secrecy.

Relationship with third countries: in order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to take decisions on the assessment of the rules of third countries for the purposes of recognising third-country trade repositories, and in order to avoid potentially duplicate or conflicting requirements.

Where appropriate, the Commission should cooperate with third-country authorities in order to explore mutually supportive solutions to ensure consistency between this Regulation and the requirements established by those third countries and thus avoid any possible duplication in this respect.

ESMA shall publish on its website a list of the trade repositories recognised in accordance with this Regulation.

Sanctions: Member States shall ensure that competent authorities have the power to impose administrative sanctions and other administrative measures which are effective, proportionate and dissuasive. These sanctions shall satisfy certain essential requirements in relation to addressees, criteria to be taken into account when applying a sanction or measure, publication of sanctions or measures, key powers to impose sanctions and levels of administrative pecuniary sanctions.

Reports: with the assistance of ESMA, the Commission shall monitor and prepare reports to the European Parliament and to the Council on the international application of the reporting obligation laid down in this Regulation. The time provided for submission of the Commission reports shall allow for the prior effective application of this Regulation.

By 13 October 2017, the Commission shall submit a report on progress in international efforts to mitigate the risks associated with SFTs.

ENTRY INTO FORCE AND APPLICATION: from 12.01.2016 (with the exception of certain provisions which shall apply at the end of a delay

following the adoption of the delegated acts by the Commission).

DELEGATED ACTS: the Commission should be empowered to adopt regulatory technical standards in the following areas: the details to be reported for different types of SFTs; the details of the application for registration or extension of the registration of a trade repository, etc. The power to adopt delegated acts shall be conferred on the Commission for an indeterminate period of time from 12 January 2016. The European Parliament or the Council may formulate objections with regard to the delegated act within a period of two months of its notification (this period may be extended by two months). If the European Parliament and the Council object, the delegated act may not enter into force.

Transparency of securities financing transactions and of reuse

In accordance with Regulation (EU) 2015/2365 on the transparency of securities financing transactions and of reuse (SFTR), the Commission presented a report on the progress in international efforts to mitigate the risks associated with SFTs.

Regulation (EU) 2015/2365 aims to get a better understanding of the effects of shadow banking (non-bank credit intermediation) and to address the risks posed by securities financing transactions (SFTs).

SFT markets play an essential role in today's financial system by supporting market participants in their secured funding and collateralisation needs. Repos are particularly important for the functioning of interbank markets, offering an alternative to unsecured interbank lending and time deposit, to cover reserve requirements and manage liquidity needs.

By facilitating credit growth, SFTs create leverage beyond the banking system with its prudential regulation.

The specific contribution of SFTs to the build-up of leverage is difficult to assess due to a lack of granular data (e.g. the volume of margin lending transactions, data on the reinvestment and reuse of collateral) and the potentially different purposes for which SFTs are undertaken.

Recommendations of the Financial Stability Board (FSB): in August 2013 and November 2015, the FSB published reports that set out recommendations for addressing financial stability risks in relation to SFTs. These recommendations broadly aim at:

- enhancing the transparency of securities financing markets via frequent and granular regulatory reporting and disclosure;
- introducing regulatory standards for cash collateral reinvestment;
- introducing principles for the re-hypothecation of client assets;
- introducing regulatory standards for collateral valuation / management; and
- introducing qualitative standards for methodologies to calculate collateral haircuts and implementing a framework for numerical haircut floors.

The report concluded that to a large extent, the FSB recommendations on SFTs have been addressed in the EU through the adoption of SFTR and specific provisions in sectoral financial services legislation and guidelines. As such, there does not seem to be a need for further regulatory action at this stage.

Collateral haircuts: the FSB framework on haircuts recommends a two-prong approach:

- qualitative standards for methodologies used by market participants to calculate collateral haircuts. The minimum standards for the methodology used to calculate haircuts complement the existing entity-based regulation of leverage (for credit institutions and investment firms) and specifically address pro-cyclicality. There are currently no such standards applying to all market participants in the EU. However, ESMAs Guidelines on ETFs and other UCITS issues contain such standards for UCITS;
- numerical haircut floors seek to address the build-up of system-wide leverage outside the banking system. The scope of the numerical haircut floor recommendation is narrower (i.e. non-centrally cleared SFTs, in which financing against collateral other than government debt securities is provided to non-banks) than the one of the recommendation on the methodology to calculate haircuts. Currently, there are no regulatory requirements at EU level as regards numerical haircut floors for the bank / non-bank to non-bank SFTs in the scope of the FSB recommendation.

As regards the cross-sector qualitative standards for the calculation of haircuts and the introduction of numerical haircut floors, an assessment of the need for and the scope of a potential regulatory action in this field should be based on comprehensive and detailed data on SFT markets which will be available once the SFTR reporting obligation becomes effective.

Moreover, the current market dynamics reinforce the need for a certain degree of caution and robust evidence when reflecting on regulatory action implying quantitative requirements.

Progress at international level is comparable to the EU (i.e. in the early assessment phase) and no other region has taken a decision on regulatory action on haircut floors at this stage. If applicable, the introduction of numerical haircut floors should ideally happen in a globally coordinated manner to avoid compromising a level playing field or putting market participants in the 'first-moving' jurisdiction at a competitive disadvantage.

The Commission will continue to thoroughly monitor developments in SFT markets and the international regulatory space. The Commission will reassess the added value of qualitative standards and haircut floors on the basis of a report to be prepared by ESMA once comprehensive SFT data is available.