|  |  |
| --- | --- |
| January2017 | ESMA65-8-2556 |  |

|  |
| --- |
| MiFID/UCITS/2003 MAD/MAR/EMIR/SFTR/CSDR/SECU sanctions and measures  |
| Business Requirements Document |

|  |
| --- |
| ESMA65-8-2556 |

Approval - Review

|  |  |  |
| --- | --- | --- |
| Name | Version | Date |
| Drafted: Xavier Suraud (IT), Matteo Rava (MIF), Francesca Fiamma (MiFID), Teresa Rodriguez (MAD/MAR), Christophe Polisset (MAD/MAR), Antonio Barattelli (UCITS), Emmanuel Boyer (EMIR/SFTR/CSDR) | V 0.1 | 15.01.2017 |
| Approved: PTSC | V1.0 | 12.12.2016 |
| Approved: MISC | V1.0 | 01.02.2017 |
| Approved: IPISC | V1.0 | 21.02.2017 |
| Approved: IMSC (written procedure) | V1.0 | 10.03.2017 |
| Securitisation sanctions update | V.1.1 | 17.09.2019 |

Table of Contents

[I. Introduction 4](#_Toc1037685)

[I.I. Purpose and audience 4](#_Toc1037686)

[I.II. Context description 4](#_Toc1037687)

[A. MiFID II/MiFIR sanctions and measures 4](#_Toc1037688)

[B. UCITS sanctions and measures 5](#_Toc1037689)

[C. Omnibus Directive amendments to 2003 MAD sanctions or measures 6](#_Toc1037690)

[D. MAR sanctions and measures 6](#_Toc1037691)

[E. EMIR sanctions and measures 7](#_Toc1037692)

[F. SFTR sanctions and measures 7](#_Toc1037693)

[G. CSDR sanctions and measures 8](#_Toc1037694)

[H. Securitisation sanctions and measures 8](#_Toc1037695)

[I.III. Scope of ESMA’s IT registers project 8](#_Toc1037696)

[II. Overall description of the proposed IT solution 8](#_Toc1037698)

[III. Information Collection and Exchange Process 9](#_Toc1037699)

[IV. Data storage in the “Sanctions ESMA Database” 12](#_Toc1037700)

[V. Publication of information in the “Sanctions ESMA Register”. 13](#_Toc1037701)

[VI. Non-functional requirements 15](#_Toc1037702)

[VI.I. Availability 15](#_Toc1037703)

[VI.II. Security 15](#_Toc1037704)

[Table 1 - Security classifications 16](#_Toc1037705)

[VI.III. Backup and Disaster recovery 16](#_Toc1037706)

[VI.IV. Compliance with standard 16](#_Toc1037707)

[VI.V. Ergonomic requirements 16](#_Toc1037708)

1. Introduction
	1. Purpose and audience
2. This document forms part of the business analysis phase of the ESMA IT project set up to develop a suitable tool for ESMA to meet its obligations with regard to establishing sanctions or measures register as notified to ESMA by the national competent authorities (NCA) of the Member States (MS) .
3. This document sets out the business requirements for this IT project, as well as an overview of the functional and non-functional requirements. Annex 1 sets out high-level summaries of information gathered from NCAs sanctions or measures – which information was used as a basis for establishing these business requirements.
4. These business requirements are based on discussions with various internal ESMA stakeholders (ESMA Register IT Task Force, ESMA’s Investors and Issuers Department, Markets Division, Legal and IT teams, IMSC Members, MISC Members, PTSC Members). However, these requirements may change or evolve in some areas and therefore this document will be reviewed to ensure accuracy and consistency.
5. The intended audience of this document is ESMA business and IT staff as well as the Investor Protection & Intermediaries Standing Committee (IPISC), Investment Management Standing Committee (IMSC), Market Integrity Standing Committee (MISC), Post Trading Standing Committee (PTSC), the IT Management and Governance group (ITMG) and the service providers that will develop the IT solution. The content of this business requirements document, once approved by relevant parties, will serve as the basis for drafting the functional specifications of the IT solution.
	1. Context description
6. MiFID II/MiFIR sanctions and measures
7. With respect to sanctions and measures, MiFID II Article 71 requires the following:

“ *3. … Competent authorities shall inform ESMA of all administrative sanctions imposed but not published in accordance with point (c) of paragraph 1 including any appeal in relation thereto and the outcome thereof. Member States shall ensure that competent authorities receive information and the final judgement in relation to any criminal sanction imposed and submit it to ESMA. ESMA shall maintain a central database of sanctions communicated to it solely for the purposes of exchanging information between competent authorities. That database shall be accessible to competent authorities only and it shall be updated on the basis of the information provided by the competent authorities.*

*5. Where the competent authority has disclosed an administrative measure, sanction or criminal sanction to the public, it shall, at the same time, report that fact to ESMA.*

*6. Where a published criminal or administrative sanction relates to an investment firm, market operator, data reporting services provider, credit institution in relation to investment services and activities or ancillary services, or a branch of third-country firms authorised in accordance with this Directive, ESMA shall add a reference to the published sanction in the relevant register.”*

1. ESMA was requested under Article 71(7) of MiFID II to develop the draft implementing technical standards (ITS) concerning the procedures and forms for submitting information under Article 71 of MiFID II. ESMA submitted, in December 2015, its final report including the draft ITS (ESMA/2015/1858)[[1]](#footnote-2) to the European Commission, which still has to adopt it. Nevertheless, the draft ITS mandate the use of the ESMA interface and related database to report files in the format prescribed in Annex II of the draft ITS. This format lists information fields to be provided. The draft ITS also describe the invalidation and updating of reports.
2. ESMA is required to implement the MiFID II requirements by 03 January 2018.
3. UCITS sanctions and measures
4. Directive 2014/91/EU (« UCITS V ») introduced a new Article 99e in Directive 2009/65 (« UCITS Directive ») which states as follows:

*“1. Competent authorities shall provide ESMA annually with aggregated information regarding all penalties and measures imposed in accordance with Article 99. ESMA shall publish that information in an annual report.*

*2. Where the competent authority has disclosed administrative penalties or measures to the public, it shall simultaneously report those administrative penalties or measures to ESMA. Where a published penalty or measure relates to a management company or investment company, ESMA shall add a reference to the published penalty or measure in the list of management companies published under Article 6(1).*

*3. ESMA shall develop draft implementing technical standards to determine the procedures and forms for submitting information as referred to in this Article. […]”*

1. ESMA was requested to develop the draft implementing technical standards (ITS) referred to under Article 99e(3) by 18 September 2015. On such date, ESMA submitted its final report including the draft ITS (ESMA/2015/1409)[[2]](#footnote-3) to the European Commission, which endorsed them through Commission Implementing Regulation (EU) 2016/1212 of 25 July 2016 (“UCITS ITS”). The UCITS ITS mandate the use of the ESMA interface and related database to report files in the format prescribed in Annex II of the UCITS ITS. This format lists information fields to be provided. The UCITS ITS also describe the invalidation and updating of reports.
2. UCITS V also introduced a new Article 99b in the UCITS Directive. The second paragraph of such article reads as follows:

*“2. Competent authorities shall inform ESMA of all administrative sanctions imposed but not published in accordance with point (c) of the second subparagraph of paragraph 1 including any appeal in relation thereto and the outcome of such an appeal. Member States shall ensure that competent authorities receive information and the final judgement in relation to any criminal sanction imposed and submit it to ESMA. ESMA shall maintain a central database of sanctions communicated to it solely for the purpose of exchanging information between competent authorities. That database shall be accessible only to competent authorities and it shall be updated on the basis of the information provided by the competent authorities.”*

1. The transposition deadline of UCITS V was on 18 March 2016.
2. Omnibus Directive amendments to 2003 MAD sanctions or measures
3. Article 3(4) of the Omnibus Directive amends the Market Abuse Directive (2003 MAD) with respect to sanctions and measures by adding the following paragraph (5) to 2003 MAD Article 14.

*“[5]. Member States shall provide ESMA annually with aggregated information regarding all administrative measures and sanctions imposed in accordance with paragraphs 1 and 2.*

*Where the competent authority has disclosed an administrative measure or a sanction to the public, it shall contemporaneously report that fact to ESMA.*

*Where a published sanction relates to an investment firm authorised in accordance with Directive 2004/39/EC, ESMA shall add a reference to the published sanction in the register of investment firms established under Article 5(3) of Directive 2004/39/EC.”*

1. ESMA was required to implement these provisions by 31 December 2011.
2. MAR sanctions and measures
3. MAR has entered into application on 3 July 2016 and repeals the 2003 MAD. With respect to sanctions and measures, MAR Article 33(4) and (5) requires the following:

*“3. Where the competent authority has disclosed administrative or* ***criminal*** *sanctions or other administrative measures to the public, it shall* ***simultaneously*** *notify ESMA thereof.*

 *4. Where a published administrative or* ***criminal*** *sanction or* ***other administrative measure*** *relates to an investment firm authorised in accordance with Directive 2014/65/EU, ESMA shall add a reference to that published sanction or measure in the register of investment firms established under Article 5(3) of that Directive.” [emphasis added]”*

1. ESMA was requested under 33(5) MAR to develop the draft Implementing Technical Standard (ITS) concerning the procedures and forms for the exchange of information between NCAs and ESMA under Article 33 of MAR. On 26 July 2016, ESMA submitted the draft ITS (ESMA/2016/1171) to the European Commission, which still has to adopt it before it is published in the Official Journal. Nevertheless, the draft ITS mandate the use of interfaces provided by the ESMA information technology system and related database to report files in the format prescribed in Annex II of the draft ITS. This format lists information fields to be provided. The draft ITS also describe the invalidation and updating of reports.
2. EMIR sanctions and measures
3. According to Article 88(1)(b), (d) and (g) of EMIR respectively, ESMA has to maintain a website with details of:

 “b*) penalties imposed for breaches of Articles 4, 5 and 7 to 11 (Scope: penalties imposed by NCAs to counterparties with respect to their obligations in relation to their OTC derivatives activity);*

1. *penalties imposed for breaches of Titles IV and V (Scope: penalties imposed by NCAs to CCPs); and*
2. *fines and periodic penalty payments imposed in accordance with Articles 65 & 66 (Scope: penalties imposed by ESMA to TRs).”*
3. SFTR sanctions and measures
4. According to Art. 25.3 of SFTR, NCAs have to notify ESMA with the public sanctions and measures:

*“Where the competent authority has disclosed an administrative sanction or other administrative measure, or criminal sanction to the public, it shall, at the same time, report that information to ESMA.”*

1. Under Article 9(1), ESMA’s supervisory role for TRs under EMIR is extended to SFTR, including in relation to penalties imposed to TRs:

“The powers conferred on ESMA in accordance with Articles 61 to 68, 73 and 74 of Regulation (EU) No 648/2012, in conjunction with Annexes I and II thereto, shall also be exercised with respect to this Regulation.”

1. Under SFTR (Art. 26(5)), NCAs are required to report non-public sanctions to ESMA for the benefit of other NCAs:

 *“ESMA shall maintain a central database of administrative sanctions, other administrative measures and criminal sanctions communicated to it solely for the purposes of exchanging information between competent authorities. That database shall be accessible only to competent authorities and it shall be updated on the basis of the information provided by the competent authorities.”*

1. CSDR sanctions and measures
2. Under CSDR (Art. 61.7), NCAs are required to report public sanctions to ESMA:

*“Where the competent authority has disclosed an administrative sanction or other administrative measure, or criminal sanction to the public, it shall, at the same time, report that fact to ESMA.”*

1. Under CSDR (Art. 62(1)) NCAs are required to report non-public sanctions to ESMA for the benefit of other NCAs:

“*ESMA shall maintain a central database of administrative sanctions, other administrative measures and criminal sanctions communicated to it solely for the purposes of exchanging information between competent authorities. That database shall be accessible only to competent authorities and it shall be updated on the basis of the information provided by the competent authorities.”*

1. Securitisation sanctions and measures
2. Under Securitisation (Art. 37) CAs are required to report to ESMA on the imposed sanctions.

*“ESMA shall maintain a central database of administrative sanctions communicated to it. That database shall be only accessible to ESMA, the EBA, EIOPA and the competent authorities and shall be updated on the basis of the information provided by the competent authorities in accordance with paragraph 6 of the article 37.”*

* 1. Scope of ESMA’s IT registers project
1. In order to implement those requirements, the ITMG set up a dedicated IT project.
2. The project aims at consolidating the notification to ESMA of sanctions or measures across all legal framework.
3. Overall description of the proposed IT solution
4. These business requirements cover:
5. the notification process for sanctions or measures (section III);
6. the data storage in ESMA (section IV) and
7. the publication of information on the ESMA website (section V).
8. Information Collection and Exchange Process
9. Scope of notification: Every sanction and measure imposed in the scope of MiFID, UCITS, SFTR and CSDR shall be reported to ESMA. Only sanctions and measures imposed under 2003 MAD , MAR and EMIR that are published by a NCA must be reported to ESMA. . Every sanction or measure imposed to TR under EMIR or SFTR must be reported by ESMA.
10. Tool: In order to develop a common technical definition of “notification process”, in the perimeter of the scope described above, ESMA will provide an automatic file exchange system and an entry form with feedback reporting. It shall be easily manageable, user friendly, and flexible. A common standard for the exchange of data will be detailed in the subsequent ‘technical specifications’ and ‘detail functional requirements’ document.
11. NCA: Each NCA shall notify ESMA of the sanctions and measures imposed in its jurisdiction. ESMA will be notified only by one unique competent authority (NCA) in each MS. In each Member State other authorities responsible for imposing sanctions or measures will communicate them to the relevant NCA of their Member State. ESMA will be notified by the single competent authority designated in each MS under the relevant directive or regulation.
12. ESMA: The System will be used by ESMA supervisors when imposing sanction or measure to TR under EMIR and SFTR.
13. Timeline/update frequency: NCAs should:
14. Notify ESMA no later than 10 working days after the date of publication of the sanction or measure. This time is reduced to 1 working day in case of UCITS V administrative penalties and measures disclosed to the public and 2003 MAD/MAR sanctions and measures when disclosed to the public at national level.

(b) Notify ESMA no later than 10 working days after the date of removal of the sanction or measure, if applicable. This time is reduced to 1 working day in case of UCITS V administrative penalties and measures disclosed to the public and 2003 MAD/MAR sanctions and measures when disclosed to the public at national level.

1. Security:
2. Sender identification: ESMA will be able to identify the sender of the notification.
3. Access control: each NCA is accountable for defining the access rights to the exchange system of its own members.
4. The System must endorse the classification requirements as per Table 1 - Security classifications in section VI.
5. Integrity:
6. The relevant NCAs are responsible for the content of any notification.
7. ESMA is not liable for the content (completeness/correctness) of any notifications received.
8. Data will not be manipulated during the transmission from the sender to the receiver.
9. NCAs will be prevented from mistakenly updating information that is not under their jurisdiction.
10. Contents of notification: The notification shall contain the following attributes:
11. The sanctioning institution imposing the sanction or measure. Except for EMIR, the sanctioning institution is not necessarily a Competent Authority but any other institution that has been the given legal ability to impose a sanction (e.g. a criminal court in a Member State).
12. The legal framework under which the sanction or the measure is imposed (MiFID, UCITS, 2003 MAD, MAR, EMIR, SFTR, CSDR, Securitisation).
13. The date when the sanction or measure is imposed.
14. The date when the sanction or measure expires, if applicable.
15. Text of the sanction or measure, and, if applicable and on optional basis, in two different languages. For MAR, the text for the second language, if reported, must be drafted in English[[3]](#footnote-4).
16. If the MiFID/2003 MAD/MAR/EMIR/SFTR/CSDR sanction or measure is imposed on an IF/RM/SI/APA/CTP/ARM[[4]](#footnote-5):
	* + Keys identifying unambiguously the IF/RM/SI/APA/CTP/ARM in the Authorised/Registered entity register (Entity National identifier, Entity authority Key, Entity legal framework).
		+ Optionally, the LEI of the entity[[5]](#footnote-6).
17. If the MiFID/2003 MAD/MAR/EMIR/SFTR/CSDR sanction or measure is imposed on an MTF/OTF[[6]](#footnote-7):
	* + Keys identifying unambiguously the corresponding IF in the Authorised/Registered entity register (Entity National identifier, Entity authority Key, Entity legal framework).
		+ Optionally, the LEI of the entity[[7]](#footnote-8).
18. If the UCITS/2003 MAD/MAR/EMIR/SFTR/CSDR sanction or measure is imposed on a MC:
	* + Keys identifying unambiguously the MC in the Authorised/Registered entity register (Entity National identifier, Entity authority Key, Entity legal framework).
		+ Optionally, the LEI of the entity[[8]](#footnote-9).
19. If the 2003 MAD/MAR/EMIR/SFTR/CSDR sanction or measure is imposed on an AIFM:
	* + Keys identifying unambiguously the AIF in the Authorised/Registered entity register (National identifier, Entity authority Key, Entity legal framework).
		+ Optionally, the LEI of the entity[[9]](#footnote-10).
20. If the sanction or measure is imposed on an entity which is not included in the ESMA registers (i.e. is not an IF/MC/AIFM/RM/MTF/OTF/SI/APA/CTP/DRSP) or on a natural person:
	* + Full name of the person/entity sanctioned or subject to measure.
		+ If applicable, optionally, the LEI of the entity[[10]](#footnote-11).
21. If the Securitisation sanction or remedial measure is imposed under article 32 of the Securitisation regulation
	* + Type of the sanction or measure as classified by the article 32 points a) – h)
		+ In case sanction or measure is related to particular securitisation indication whether it results in the STS status loss or not,
		+ In case sanction is related to any of the entities involved in the securitisation and results in the STS status loss, indication whether all securitisations to which this entity is related to shall be amended by losing STS status or not
22. The Nature of the sanction or measure:
	* + For MiFID/2003 MAD/MAR/SFTR/CSDR: indicating where it is a criminal sanction, an administrative sanction or Other administrative measure.
		+ For EMIR: indicating it is an EMIR Penalty.
		+ For any other legal framework: this field shall not be reported.
23. A flag indicating whether the sanction or measure is disclosed to the public at national level. As per section 24, for 2003 MAD, MAR and EMIR, this flag shall be TRUE.
24. Error management:
25. The system will immediately notify users of any errors in uploading using an appropriate method.
26. The system should be able to reject erroneous, duplicate or incomplete files following the end of the process.
27. Update management:
28. NCAs shall be able to update the notification.
29. NCAs shall be able to remove from publication the sanction or measure by using the expiration date.
30. A sanction or measure shall be identified uniquely in the ESMA register.
31. Data storage in the “Sanctions ESMA Database”
32. Scope of storage: The content of the notifications above will be registered in a single database: the “*Sanctions ESMA database*”.
33. Tool: The database will be administrated by a management system. It will enable multiple applications to connect to it for example a publication module, a reporting module for internal survey (not described here) or a supervision module tool (please refer to VI).
34. Timeline:
35. On reception of data on ESMA side, high-level validation checks (format, identifiers data, functional checks, etc) will be processed.
36. If (a) is achieved, then instantly afterwards, the “*Sanctions ESMA database*” in ESMA will be updated accordingly.
37. The data will be maintained in the “*Sanctions ESMA database*” in ESMA five years after the end of publication validity period (please refer to next topic).
38. Security: Private access, in write mode, will be made available in order to make manual corrections exceptionally as defined in the further “detailed specification document”. NCAs shall follow the notification update process defined below. Therefore, access permissions should distinguish between different user roles.
39. Accessibility and confidentiality: The content of the ESMA database is accessible to NCAs and ESMA though a restricted access module of the IT System. All sanctions including the attributes (a) to (l) which are stored in the ESMA database must be accessible for consultation to all NCAs.
40. Integrity: A NCA/ESMA user can add/modify/cancel a record in the “*Sanctions ESMA database*” only if that record was reported by its NCA/ESMA.
41. Content:
42. The database will be updated only via the NCA’s notification process.
43. The history of the successive updates of each data will be kept in the database.
44. Error management:
45. The system will notify users of any errors, using an appropriate method, immediately at the end of the process.
46. The system should be able to reject erroneous, duplicate or incomplete files following the end of the process.
47. Publication of information in the “Sanctions ESMA Register”.
48. Scope of application: From the content of the “Sanctions ESMA Database”, ESMA shall:
49. Publish the list of MIFID sanctions and measures in case they are disclosed to the public at national level . The detail of the sanction or measure will be published and will be composed of the master attributes (a), (b), (c), (d), (e), (f), (g), (j) and (k) defined as per paragraph 31. In addition, in case the sanction or measure is imposed on an authorised IF/RM/DRSP, a link to the sanction or measure will be added to the master attributes of the IF or branch, RM and DRSP.
50. Publish the list of UCITS sanctions and measures in case they are disclosed to the public at national level AND they refer to a MC. The detail of the sanction will be published and will be composed of the master attributes (a), (b), (c), (d), (e) and (h) defined as per paragraph 31. A reference to the sanction or measure will be added to the master attributes of the MC or branch.
51. Publish the list of 2003 MAD sanctions and measures in case they are disclosed to the public at national level AND they refer to an IF. The detail of the sanction will be published and will be composed of the master attributes (a), (b), (c), (d), (f), (g) and (k) defined as per paragraph 31. A reference to the sanction or measure will be added to the master attributes of the IF or branch.
52. Publish the list of MAR sanctions and measures in case they are disclosed to the public at national level AND they refer to an IF. The detail of the sanction will be published and will be composed of the master attributes (a), (b), (c), (d), (f), (g), and (k) as defined as per paragraph 31. A reference to the sanction or measure will be added to the master attributes of the IF or branch.
53. Publish the list of EMIR sanctions or measures imposed by Competent Authorities in case they are disclosed to the public at National level and publish the list of sanctions imposed by ESMA. The detail of the sanction will be published and will be composed of the master attributes (a) to (j) as defined as per paragraph 31. In case, the sanction is imposed by a Competent Authority on an authorised/registered entity, a public reference to the sanction or measure will be added to the master attributes of the authorised/registered entity published on the ESMA website.
54. Publish the list of SFTR sanctions or measures imposed by ESMA. The detail of the sanction will be published and will be composed of the master attributes (a) to (j) as defined as per paragraph 31.
55. **Every other sanctions or measures will remain unpublished by ESMA.**
56. In case sanction or measure has an expiration date, it will be removed from publication the day after the expiration date.
57. In case a sanction refers to an entity which authorisation is withdrawn, the sanction will remain published 5 years after the withdrawal date of the entity.
58. Tool: A dedicated public webpage directly accessible from the ESMA website for the publication of sanctions. The webpage will be designed with the following sections:
59. General comments/legal disclaimer.
60. Search functions.
61. Results list - composed of a subset of master attributes. The list of sanctions or measures will be dynamically built as a result of a query entered into the register. From that list, the detail composed of all public attributes is accessible.
62. Timeline: Attributes recorded in the “*Sanctions ESMA database*” will be available for publication the next day.
63. Confidentiality:
64. Attributes defined below will be readable without any restriction.
65. Attributes defined below will be exportable without any restriction.
66. Interface with other systems
67. Based on the received Securitisation sanction or measure, system shall provide the STS Notification register with the following information:
	1. Identification of the securitisations to which sanction or measure is related to (as filled-in in free text 2)
	2. Information whether or not the securitisations identified in point a) are losing the STS status (as per sanction nature)
68. Non-functional requirements
	1. Availability
69. The data collection module of the System will:
70. Provide at maximum 50 connections.
71. Be able to exchange 100 notification reports (including feedback) daily between NCAs and ESMA.
72. Be available minimum 95% in time over a monthly timeframe, excluding scheduled system maintenance.
	1. Security

|  |  |  |  |
| --- | --- | --- | --- |
| **Data item / Group or set of similar data** | **Classification Level*Confidentiality*** | **Classification Level*Integrity*** | **Classification Level*Availability*** |
| **Public Sanction/Measure – MiFID** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Non-Public Sanction/Measure – MiFID** | **RESTRICTED USE** | **CRITICAL** | **MODERATE** |
| **Sanction/Measure – UCITS** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Non-Public Sanction/Measure – UCITS** | **RESTRICTED USE** | **CRITICAL** | **MODERATE** |
| **Sanction/Measure – 2003 MAD** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Sanction/Measure – MAR** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Sanction/Measure – EMIR** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Public Sanction/Measure –SFTR** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Non-Public Sanction/Measure –SFTR** | **RESTRICTED USE** | **CRITICAL** | **MODERATE** |
| **Public Sanction/Measure – CSDR** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Non Public Sanction/Measure – CSDR** | **REGULAR USE** | **MODERATE** | **MODERATE** |
| **Non-Public Sanction/Measure –Securitisation** | **RESTRICTED USE** | **CRITICAL** | **MODERATE** |

Table 1 - Security classifications

* 1. Backup and Disaster recovery
1. The ESMA system shall use the standard ESMA IS policies and procedures used for data backup and redundancy.
2. The Recovery Time Objective (RTO) is 4 hours;
3. The Recovery Point Objective (RPO) is 1 day.
	1. Compliance with standard
4. The ESMA system shall comply with generally accepted standards and communication protocols.
5. The ESMA system shall be compatible with web browsers as follows:
6. Internet Explorer, Firefox ESR[[11]](#footnote-12): the system will initially support the last two major desktop versions available at the time of the start of the testing phase;
7. Firefox, Safari, Chrome, Edge: the system will initially support on a best effort basis the major desktop versions available 6 months before the start of the testing phase to the end of the testing phase;
8. Updates to the above baseline will be supported through maintenance during the life of the system.
9. The communication protocol must be standard.
	1. Ergonomic requirements
10. The ESMA system’s user interface and documentation shall be provided in English
11. Annex

|  |  |  |  |
| --- | --- | --- | --- |
| **Field group** | **Field name** | **Format** | **Possible values**  |
| Sanction identifier | Legal Framework | 3(a) | Table 3 - Sanction legal framework codes |
| Sanction identifier  | 30(z) |  |
| Member State | ISO country code – 2 letter |  Table 5 - CA Identifier code (Country code) |
| General information | Nature of sanction | 10(a) | Table 4 - Nature of sanctions codes |
| Sanctioning NCA | 2(x)\_7(x) | Table 54 - CA Identifier code(CA code) |
| Other Sanctioning institution | 1.000(z) |  |
| Free Text | 75.000(z) |  |
| Free Text | 75.000(z) | Securitisation Identifier for SECR |
| Date |  ISO 8601 Date YYYY-MM-DD |  |
| Expiration Date | ISO 8601 DateYYYY-MM-DD |  |
| Public | TRUEFALSE indicator | TRUE/FALSE |
| Entity identifier (in case the sanction is imposed on an entity registered in ESMA | Entity Identifier | 30(z) |  |
| Entity Authority Key | ISO country code2(x) | Table 3 (Country code) |
| Entity Legal framework | 3(a) |  |
| Entity LEI | LEI  |  |
| Entity identifier (in case the sanction is imposed on an entity not registered in ESMA | Entity Full name | 1.000(z) |  |
| Entity LEI | LEI |  |
| Identity of the persons (in case the sanction is imposed of him/her) | Person Full Name List | 1.000(z) \* n (unlimited) |  |

Table 2 - Notification attributes

|  |  |
| --- | --- |
| **In case the sanction or measure is imposed under** | **Use the following code** |
| **MiFID/MiFID2/MiFIR** | MIF |
| **UCITS IV/V** | UCI |
| **2003 MAD** | MAD |
| **MAR** | MAR |
| **EMIR** | EMI |
| **SFTR** | SFT |
| **CSDR** | CSD |
| **SECURITISATION** | SECR |

Table 3 - Sanction legal framework codes

|  |  |  |
| --- | --- | --- |
| **In case the sanction or measure is imposed under** | **In case the sanction or measure is of nature:** | **Use the following code** |
| **MiFID/MiFID2/MiFIR/2003 MAD/ MAR/SFTR/CSDR/SECR** | an administrative measure | ADMM |
| an administrative sanction | ADMS |
| a criminal sanction | CRIS |
| **EMIR** | EMIR Penalty | PENL |
| **SECR** | an administrative sanction without loss of STS compliance | ASSW |
| an administrative sanction with loss of STS compliance | ASSL |

 Table 4 - Nature of sanctions codes

|  |  |  |  |
| --- | --- | --- | --- |
| **Member State** | **ISO 3166 Country code** | **CA Full Name [[12]](#footnote-13)** | **Proposed CA identifier Code** |
| ESMA | EU | European Securities and Markets Authority | EU\_ESMA |
| Austria | AT  | Austrian Financial Market Authority  | AT\_FMA |
| Belgium | BE | Autorité des Services et Marchés Financiers | BE\_FSMA |
| Bulgaria | BG | Financial Supervision Commission | BG\_FSC |
| Czech republic | CZ | Czech National Bank | CZ\_CNB |
| Denmark | DK | Finanstilsynet | DK\_FTNET |
| Germany | DE | Federal Financial Supervisory Authority  | DE\_BAFIN |
| Estonia | EE | Estonian Financial Supervision Authority | EE\_EFSA |
| Greece | GR | Hellenic Capital Market Commission | GR\_HCMC |
| Spain | ES | Comisión Nacional del Mercado de Valores  | ES\_CNMV |
| France | FR | Autorite des Marches FinanciersAutorité de Contrôle de Prudentiel\* | FR\_AMFFR\_ACP |
| Ireland | IE | Central Bank of Ireland | IE\_CBI |
| Iceland | IS | Iceland Financial Supervisory Authority  | IS\_FME |
| Italy | IT | Commissione Nazionale per le Societa e la Borsa | IT\_CONSOB |
| Cyprus | CY | Cyprus Securities and Exchange Commission  | CY\_CYSEC |
| Latvia | LV | Financial & Capital Market Commission | LV\_FKTK |
| Liechtenstein | LI | Finanzmarktaufsicht | LI\_FMA |
| Lithuania | LT | Bank of Lithuania | LT\_BOL |
| Luxemburg | LU  | Commission de Surveillance du Secteur Financier  | LU\_CSSF |
| Hungary | HU  | Central Bank of Hungary (MNB)  | HU\_MNB |
| Malta | MT  | Malta Financial Services Authority  | MT\_MFSA |
| The Netherlands | NL  | Netherlands Authority for the Financial Markets Nederlandse Bank\* | NL\_AFMNL\_DNB |
| Norway | NO | Norwegian Financial Supervisory Authority | NO\_FINA |
| Poland | PL | Polish Financial Supervisory Commission | PL\_PFSA |
| Portugal | PT  | Comissão do Mercado de Valores Mobiliários  | PT\_CMVM |
| Romania | RO | Autoritatea de Supraveghere Financiară | RO\_ASF |
| Slovakia | SK | National Bank of Slovakia | SK\_NBS |
| Slovenia | SI | Securities Market Agency | SI\_ATVP |
| Finland | FI | Finanssivalvonta | FI\_FIN-FSA |
| Sweden | SE | Finansinspektionen | SE\_FINA |
| UK | GB | Financial Conduct AuthorityPrudential Regulation Authority\* | GB\_FCAGB\_PRA |
| EBA | EU | European Banking Authority | EU\_EBA |
| EIOPA | EU | European Insurance and occupational Pensions Authority  | EU\_EIOPA |

Table 5 - CA and ESA Identifier code

|  |  |
| --- | --- |
| **In case the entity is registered in ESMA as** | **Use the following code** |
| **IF** | MIF |
| **MC** | UCI |
| **AIFM** | AIF |
| **RM** | MIR |
| **MTF** | MIT |
| **SME** | MIE |
| **OTF** | MIO |
| **SI** | MIS |
| **APA** | MIP |
| **CTP** | MIC |
| **ARM**  | MIA |

Table 6 - ESMA registered Entity legal framework

1. Available at: https://www.esma.europa.eu/sites/default/files/library/2015-1858\_-\_final\_report\_-\_draft\_implementing\_technical\_standards\_under\_mifid\_ii.pdf [↑](#footnote-ref-2)
2. Available at: <https://www.esma.europa.eu/sites/default/files/library/2015/11/2015-esma-1409_its_penalties_and_measures_under_ucits_v.pdf>. [↑](#footnote-ref-3)
3. For MiFID, NCA are encouraged to provide the entire text of the published measure/sanction; or a meaningful summary; or a hyperlink to the NCA webpage where the sanction is published (note – the link should allow the viewer to access the sanction directly – if the link changes, NCAs should update the link originally notified) [↑](#footnote-ref-4)
4. Indeed MTF and OTF are IF. [↑](#footnote-ref-5)
5. NCA are required to provide the LEI of the entity when the entity is legally required to have an LEI. [↑](#footnote-ref-6)
6. Indeed MTF and OTF are IF. [↑](#footnote-ref-7)
7. NCA are required to provide the LEI of the entity when the entity is legally required to have an LEI. [↑](#footnote-ref-8)
8. NCA are required to provide the LEI of the entity when the entity is legally required to have an LEI. [↑](#footnote-ref-9)
9. NCA are required to provide the LEI of the entity when the entity is legally required to have an LEI. [↑](#footnote-ref-10)
10. NCA are required to provide the LEI of the entity when the entity is legally required to have an LEI. [↑](#footnote-ref-11)
11. Firefox Extended Support Release – see <https://www.mozilla.org/en-US/firefox/organizations/faq/> [↑](#footnote-ref-12)
12. Proposed label to be displayed at the ESMA Register*.* [↑](#footnote-ref-13)