

Market Watch 70

This edition in brief

Market Watch 70 details recent observations on the transaction reporting and instrument reference data regimes.

Transaction Reporting

Transaction reports play a key role in the FCA's ability to conduct effective market oversight. Since MIFID II's inception, the FCA has noted that more firms are demonstrating awareness regarding the importance of arrangements that identify and remediate reporting issues proactively and promptly.

The following illustrates the trend in the number of firms accessing the FCA's Market Data Processor (MDP) Entity Portal to make a transaction reporting data extract request alongside the number of firms that have submitted a transaction reporting breach notification to the FCA since 2018:

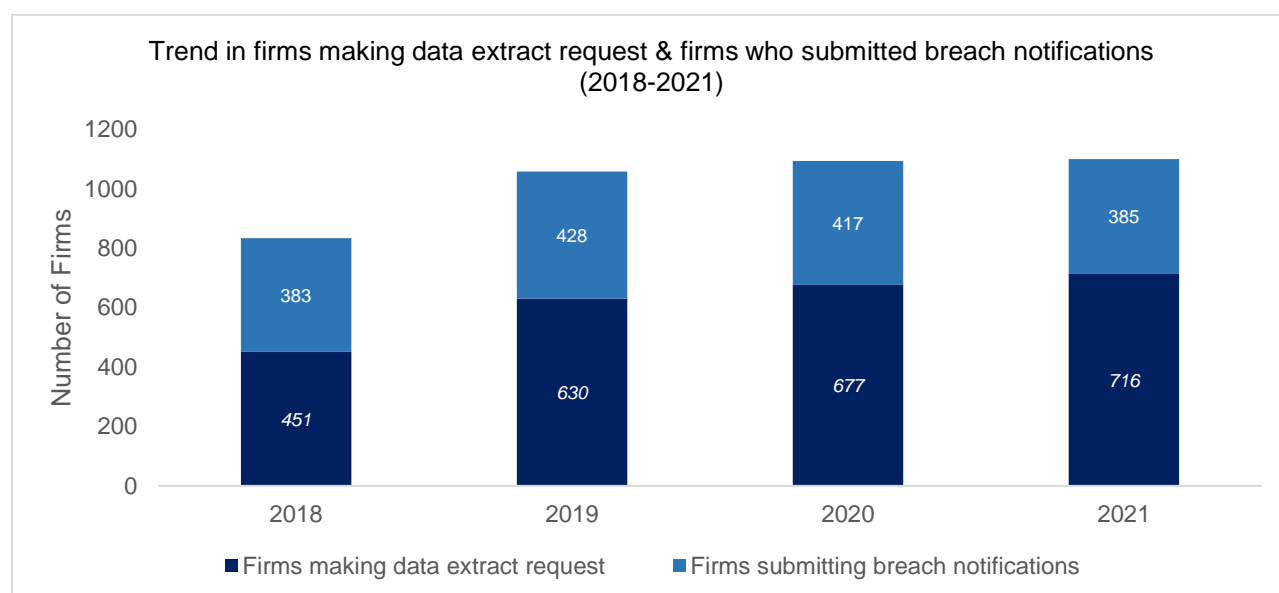


Figure 1: Firms making data requests & submitting breach notifications (2018-2021)

The FCA notes that despite the improvements observed, some firms are not conducting sufficient checks on their data. Reconciliations should not be limited to certain fields, or to data samples that do not adequately reflect the trading scenarios and asset classes traded by a firm.

The FCA also stressed on the improvements needed when submitting breach notifications. Notifications should be comprehensive, including adequate background to facilitate a full review of the incident. Best practices include the provision of examples to show how a field was misreported, and how this will be corrected going forward.

National Identifiers

Despite the warnings in former Market Watch releases, the FCA still continues to see firms failing to conduct sufficient due diligence when onboarding clients to obtain 1st priority national identifiers. This has been particularly common amongst firms offering services to retail clients electronically, such as via mobile-based applications.

The best practices regarding the above include: ensuring transactions are not executed for clients until an identifier has been subject to internal review and validation, reviewing identifiers received to ensure no

duplicates exist within a database of clients, and requiring explanations from clients that do not provide a 1st priority identifier.

Principal firms

For transaction reporting purposes, the FCA views an AR as its principal firm. This means that when a transaction is executed by an AR providing the investment service of reception and transmission for a principal firm that is subject to transaction reporting obligations, the principal firm should be identified in applicable fields of its transaction report, such as in the executing entity field. The AR should not be identified. Principal firms are responsible for ensuring that their transaction reports are complete and accurate, and for implementing an adequate systems and controls framework to identify potential data quality issues, including where caused by an AR.

Branch reporting

UK branches of third country investment firms appear to be taking a variety of approaches to determining when they are 'executing.' The FCA does not expect firms to determine their reporting obligations based on the geographic location of a trader alone. Other factors should be considered as well, such as the location(s) of the branch that received the order from the client, the branch that oversaw the individual responsible for making the investment and execution decisions, and the branch whose membership was used for executing transactions on a trading venue.

The FCA also expects UK branches of third country investment firms to report whether the investment firm is covered by directive 2014/65/EU (Field 5, RTS 22) with 'TRUE'. This allows the FCA to distinguish the reports they submit from those submitted by trading venues under Article 26(5) of UK MiFIR for transactions executed on their platforms by third country firms, which should contain 'FALSE' in this field.

Other transaction reporting issues

1. The FCA has identified more firms misusing the 'INTC' reporting convention
2. Trading venues are responsible for the quality of the transaction reports they submit, not their members.
3. Some firms continue to report a market identifier code (MIC) when they transmit an order to an executing broker, who in turn executes the transaction on a trading venue. The venue (Field 36, RTS 22) should be populated 'XOFF' by investment firms who are in a chain and who do not access the venue directly.
4. For transactions executed in financial instruments that are not admitted to trading/traded on a trading venue, the instrument full name reported should contain a clear description of the financial instrument traded.

Instrument reference data

Article 27 of UK MiFIR requires trading venues to submit instrument reference data to the FCA for financial instruments admitted to trading or traded on their trading venues. Systematic Internalisers (SIs), including UK branches of third country firms where the UK branch conducts SI activity, are required to submit instrument reference data for reportable instruments that are not admitted to trading or traded on a trading venue, in which they have opted to be an SI.

The FCA validates and publishes instrument reference data on FCA FIRDS. FCA FIRDS also includes instrument reference data reported to ESMA by EEA trading venues and SIs. Inaccurate or incomplete instrument reference data limits the FCA's ability to conduct effective market oversight.

Systems and controls

Trading venues and SIs should have arrangements in place to enable them to identify incomplete or inaccurate instrument reference data. They should ensure data is being submitted in line with Table 3 of RTS 23 and in accordance with ESMA guidelines and Q&As.

Trading venues and SIs should ensure they have procedures in place to review feedback files, including any warning messages received, which notify the submitting entity that its record differs from the master record used to validate transaction reports. These procedures should include investigating why records or files have been rejected. Submitting entities should not amend their reference data to match the master record without first confirming its accuracy.

Where a trading venue or SI identifies incomplete or inaccurate instrument reference data in its submissions, the FCA expects to be notified promptly via the submission of an instrument reference data errors and omission notification form. Corrected data should be submitted without delay.

Systematic Internalisers (SIs)

Under Article 27(1) of UK MiFIR, SIs should only report instrument reference data for instruments in which they are an SI and that are reportable under Article 26(2)(b) or (c) of UK MiFIR. The FCA has identified SIs submitting instrument reference data for instruments that are admitted to trading or traded on a trading venue and that are reportable under Article 26(2)(a) of UK MiFIR. The FCA has also identified SIs submitting instrument reference data for instruments that are not reportable under Article 26(2)(b) or (c) of UK MiFIR, either because there is no underlying (for example, equities) or because the underlying is not admitted to trading or traded on a trading venue. This can lead to confusion for investment firms as the scope of transaction reporting requirements is determined by whether an instrument is admitted to trading or traded on a trading venue, and not whether it is reported by an SI or is in FCA FIRDS.

Other instrument reference data issues and accepted behaviours

1. For reporting instrument reference data under UK MiFIR, ISO 10962 CFI codes issued by the relevant National Numbering Agency (NNA) should be used.
2. Trading venues and SIs should only populate the issuer or operator of the trading venue (Field 5, RTS 23) with their own LEI when they create or issue the financial instrument.
3. The termination date (Field 12, RTS 23) should be populated with the date and time the instrument is expected to cease trading. This date should be earlier than or equal to the maturity date (Field 15, RTS 23) or expiry date (Field 24, RTS 23), where applicable.
4. Some trading venues have submitted data for instruments that are not commodity derivatives with the commodities or emission allowance derivative indicator (Field 4, RTS 23) populated 'TRUE'. This can cause investment firms to receive a CweON-460 transaction reporting validation error for failing to populate the commodity derivative indicator. In these cases, The FCA has identified good practice from investment firms who contact the trading venue on which the transaction was executed to ensure the instrument reference data is accurate. However, responsibility remains with trading venues to submit accurate data and have procedures in place to identify potential shortcomings.