SFTR delay: market relieved but stands ready

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The Securities Financing Transactions Regulation (SFTR) has become the first of many regulatory delays resulting from the coronavirus crisis. Earlier this month, the European Securities and Markets Authority (Esma) announced a three-month reprieve for phase one go-live firms due to begin reporting next month.

Although this was a welcome relief in a world where finding new ways to maintain business-as-usual activities has become a priority, many market participants report that they have not made any changes to their ongoing compliance efforts and are still working towards the original April 11 deadline.

“July will be here before we know it, so although this gives firms time to work through any integration issues, they can’t take their foot off the pedal,” said Linda Coffman, executive vice-president at SmartStream Technologies. “Many firms have outsourced part of their SFTR reporting process, whether it be data management or reconciliation. Now more than ever, they should ensure that any third parties are operating under the current strains caused by the pandemic.”

See also: EXCLUSIVE: Coronavirus could cause SFTR delay

In its forbearance statement, Esma wrote: “[We] expect competent authorities not to prioritise their supervisory actions towards entities subject to SFTR reporting obligations as of April 13 2020 and until July 13 2020 … Further, [we] don’t consider it necessary to register trade repositories (TRs) ahead of April 13 2020 – this will give TRs more time to cope with the emergency and be ready to support the new reporting regime at a later point in time.”

TRs, however, are expected to be registered sufficiently ahead of the next phase of the reporting regime – July 13 2020 – so that credit institutions, investment firms, central counterparty clearinghouses (CCPs) and central securities depositories (CSDs) can start reporting as of that date.

“I get the sense that regulators may have missed the point a little,” said Emma Dwyer, partner at Allen & Overy in London. “Given how the situation is unfolding globally, it’s likely that the three-month forbearance won’t be enough. It gives market participants some precious extra time to refine their operational processes, but there’s still a lot of work to be done.”

Esma also clarified that any transaction concluded between April 11 and July 13 won’t need to be back-reported in the future.

"While the delay in reporting obligations to July 31 is very welcome, uncertainty around the evolution of the Covid-19 pandemic means that further adjustments may be needed," the International Capital Market Association (Icma) said in a statement.

Unlikely delay

Esma's decision came in response to a letter addressed to the regulator earlier this month, in which the industry requested a formal delay of the regime until October 11, which originally marked the SFTR go-live date for phase-three firms.

Co-authored by Icma and the International Securities Lending Association (Isla), the letter read: "The impact [of Covid-19] on personnel involved in SFTR implementation programmes ... has reached a point where firms believe that their capacity to ensure compliance with the requirements as of April 11 has been critically compromised ... In light of such exceptional circumstances, we would like to ask Esma to initiate the procedure for obtaining a formal delay of the SFTR reporting go-live date."

Conscious that a formal delay would be difficult to obtain before April 11, the trade bodies suggested a form of forbearance whereby firms wouldn't immediately be sanctioned for their failure to comply.

See also: SFTR: industry has made progress, but lacks clear guidelines

"This is something we [were] aware of, hence we left the request fairly open," recently said Alexander Westphal, director of market practice and regulatory policy at Icma. "That being said, we're in an extraordinary situation, which means there could be scope for extraordinary measures."

Given Esma's decision, hope for such extraordinary measures may now have fallen through.

"To remove the uncertainty, we would have preferred a delay until October, but we do understand Esma's desire to avoid this," said Westphal. "Under these circumstances, the chosen approach certainly makes sense as it allows the regulator to react and clarify its approach promptly. If the situation doesn't improve as quickly as we all hope, however, further action may be needed."

Standing ready

In the absence of a formal delay, many service providers have chosen to stick to their plans and continue to prepare in accordance with the regime's original schedule.

"Many firms will continue their work to meet the deadline as it stands but will be glad to know that there's some flexibility if everything doesn't work perfectly from day one," said Damon Batten, managing consultant at Bovill. "Everyone is presumably on track, but it doesn't mean firms can operate as normal – they have to prioritise certain activities over others."

See also: SFTR guidelines: too little, too late

Many see the three-month forbearance as an extra opportunity to get their house fully in order before the regime's go-live.

"Given the combined challenge of managing Covid-19 workplace arrangements and volatile global markets, this gives market participants more time to effectively test and prepare for their reporting," said Rajen Sheth, CEO at Pirum Systems and Pierre Khemdoudi, managing director at IHS Markit. "Nevertheless, we remain committed to delivering a production-ready SFTR reporting solution by the end of March 2020."

Although some are concerned that three months simply isn't enough given the current circumstances, others appeared more confident.

"An additional three months should be enough providing the current working from home mandate doesn't affect everyone's ability to continue," said Fraser Reid, senior solutions architect at AxiomSL. "Even in these uncertain times, we're ready for the original SFTR reporting deadline of April this year."

SFTR was created to enhance transparency in securities financing transactions – an area of the market that some have referred to as "the last bastion" in the context of the post-2008-crisis regulatory overhaul. In that sense, having it in place soon rather than later could prove useful to help manage the current crisis.

"The situation we're faced with is a typical example of what regulators want the data for," said Sunil Daswani, senior securities lending and repo consultant at MarketAxess. "They want to investigate market activity to allow for an orderly movement of financial transactions and to avoid dramatic fluctuations. I think people have taken this regulation seriously and no one, even in the shadow of the pandemic, has changed their plans to reach that target."

See also: Buyside needs to step up SFTR efforts