Seminar programme 2025

- Thank you for joining today's '**Ahead of the Curve: The new UK regime for transparency for non-equities and what's next for transaction reporting, and update on the new UK short selling regime**' seminar. We will begin shortly.
- On joining the session your microphone will be muted and your video turned off. You will not be able to activate these during the session.
- To submit a question please click on Q&A and type your question into the chat box that appears.
- The session is being recorded. The slides and recording will be made available online at seminars.aoshearman.com.
- If you experience any technical issues, please submit these to the host via the Q&A chat box or please call +44 203 088 3400.

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Markets regulation update: transparency, transaction reporting and short selling

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NOVEMBER 2025

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Agenda

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Transparency update: non equities

NEW UK TRANSPARENCY REGIME FOR BONDS AND DERIVATIVES

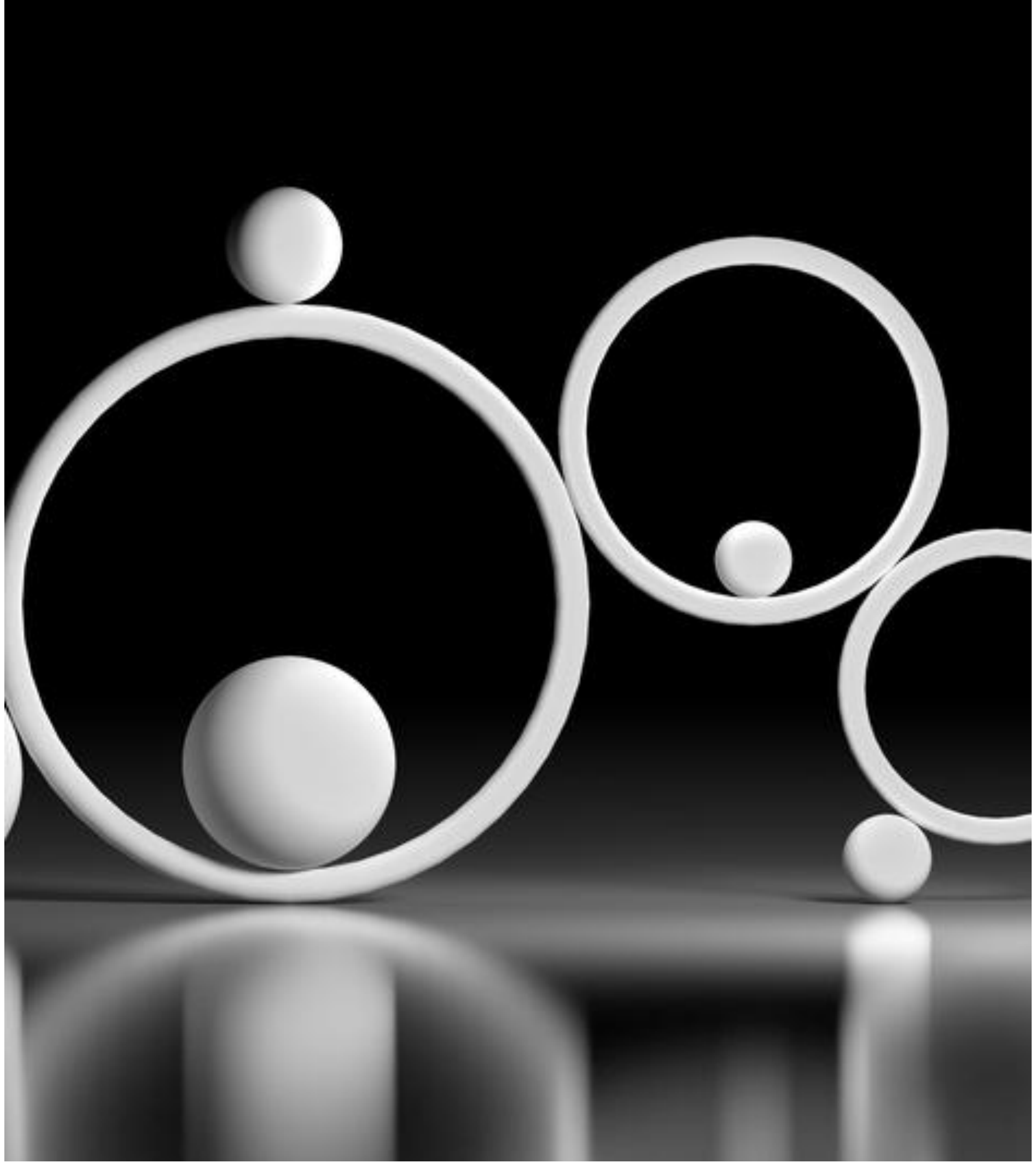
UK transparency for non-equities

TIMELINE OF REFORMS

The FCA's consultation paper CP23/32 (December 2023) on non-equity transparency and systematic internalisers proposed:

- changes to the **scope** and **calibration** of pre- and post-trade transparency requirements
- changes in relation to **waivers**, **deferrals** and **exemptions**
- updates to the content of post-trade information (fields and flags)
- changes to the systematic internaliser regime

The FCA's subsequent policy statement PS24/14 (November 2024) confirmed the changes, most of which are due to come into force next month on **1 December 2025**.



Overview of new regime for non-equities

Table 2: Summary of the transparency regime

	Trading venues	Investment firms
Pre-trade	**Category 1 and 2** Pre-trade transparency applies depending on the characteristics of the market model. Waivers available for LIS orders and Order Management Systems. **Category 1** Minimum size of LIS orders set in our Handbook.	**Category 1 and 2** No obligation.

	Trading venues	Investment firms
Post-trade	**Category 1** Real-time reporting unless the trade is above the relevant LIS threshold. The size of LIS thresholds and the maximum length of the deferral set in our Handbook.	
	Category 2 Post-trade transparency set by the trading venue in line with criteria set out in our rules.	**Category 2** No obligation to report.

Category 1 instruments: bonds traded on UK trading venues; certain derivatives subject to the clearing obligation.

Category 2 instruments: emission allowances, Structured Finance Products, other debt securities such as exchange traded commodities and exchange traded notes, and derivatives, and derivatives that are not in Category 1.

No distinction between SIs and other investment firms

No pre-trade obligations for investment firms

Voice trading and RFQ systems to be fully excluded, negotiated waivers no longer needed

For category 2, size thresholds for waivers set by trading venues

Simplification of deferral regime into new LIS deferral

No post-trade obligations for investment firms in relation to category 2 instruments

Trading venues responsible for setting requirements for category 2 instruments

New categorisation of instruments

Source: FCA policy statement PS24/14

Category 1 calibration – bonds

Pre-trade transparency size waiver: requirements do not apply to orders over threshold 2
(Incoming MAR 11.3.2 R)

Sovereign / municipal bonds	Issuer	Issue size	Maturity	Threshold 1	Threshold 2	Threshold 3	Deferral periods
Sovereign bonds (other than inflation linked or STRIPS)	UK, France, Germany, Italy, Spain or USA	£2bn or higher	5 years or less	£15m	£50m	£500m	Same for all bond types : Threshold 1: 1 day Threshold 2: 2 weeks Threshold 3: 3 months
			Over 5 years, up to 15 years	£10m	£25m	£250m	
			Over 15 years	£5m	£10m	£100m	
Sovereign and municipal bonds	All	£2bn or higher	All	£1m	£5m	£25m	
		Under £2bn	All	£1m	£2.5m	£10m	
Other bonds	**Currency**	**Issue size**	**Issuer rating**	**Threshold 1**	**Threshold 2**	**Threshold 3**	
Corporate, covered convertible and other bonds	GBP,EUR, USD	£500m or higher	IG	£1m	£5m	£25m	
			HY	£1m	£2.5m	£10m	
	All other instruments			£500k	£2.5m	£10m	

Source: MAR 11 Annex 1 R

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Short selling update: proposed UK regime

FCA CONSULTATION PAPER CP 25/29

UK short selling regime

A REFRESHER

Short selling falls into the UK's new "**designated activities**" regime.

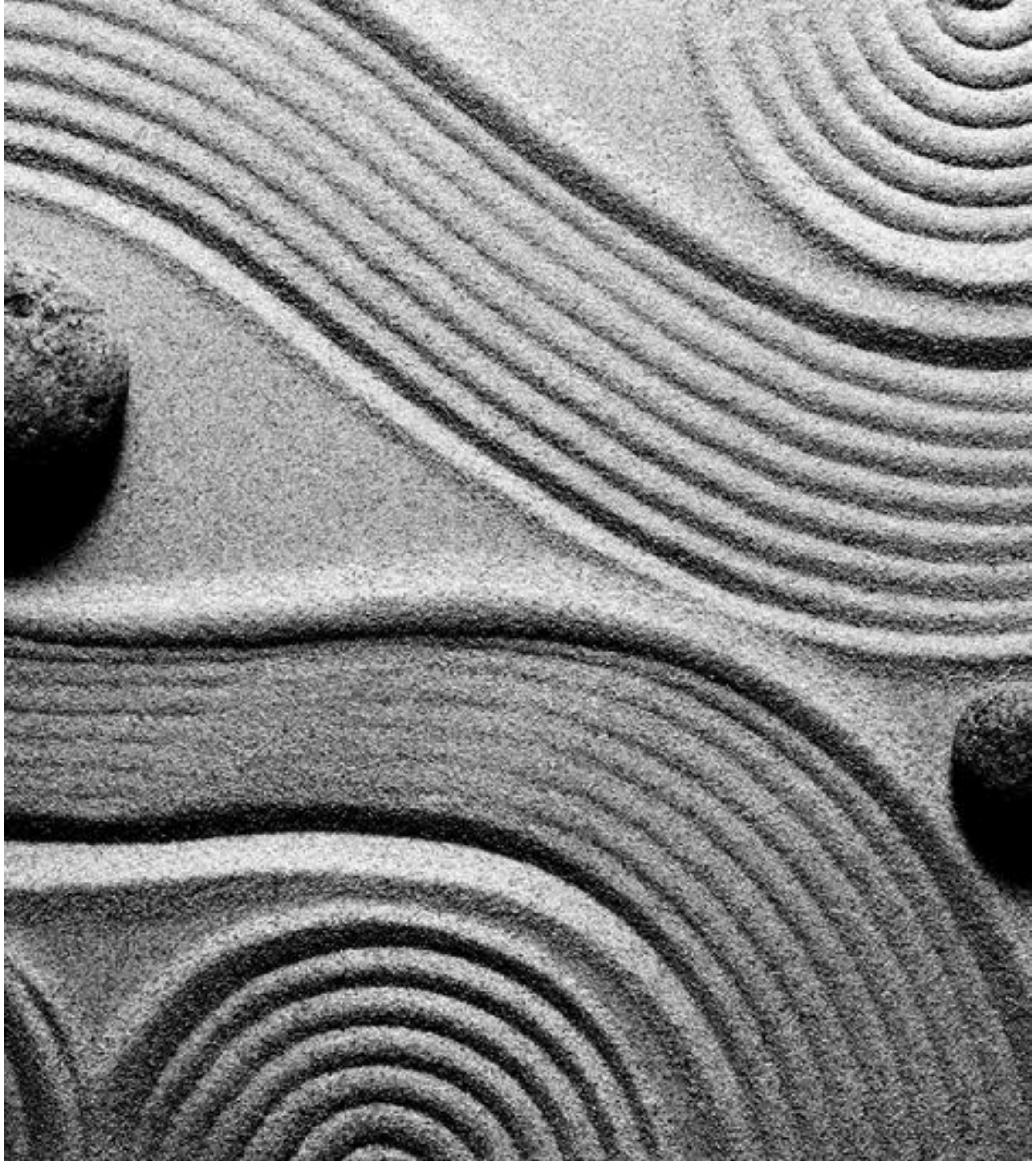
The **UK Short Selling Regulations 2025** have been made, establishing two designated activities:

- entering into a short sale of an admitted share
- entering into any transaction other than a short sale of an admitted share, where an effect of the transaction is to confer a financial advantage on the person entering into that transaction in the event of a decrease in the price or value of an admitted share

The regulations pave the way for the UK to repeal and replace the current regime under the UK Short Selling Regulation – the assimilated version of the EU Short Selling Regulation.

The FCA has issued its consultation paper CP 25/29. Going forward, there will be meaningful divergence between the UK and the EU regimes.

The "main commencement day" for the new UK regime will be in **June 2026.**



New UK regime

The “main commencement day”, when most of the changes come into force, will be in **June 2026**. The final rules and related materials will be published two months before then, in April 2026.

Plus: Statement of Policy

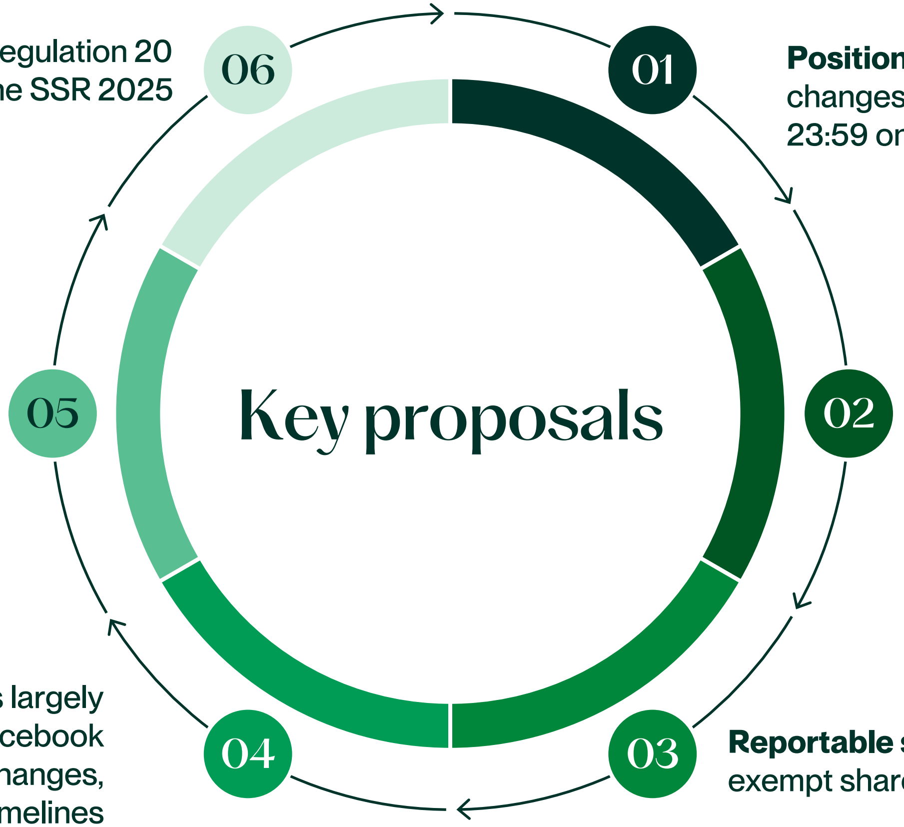
- Replicates current FCA approach to using emergency powers
- Still restricted to exceptional circumstances (or following a significant fall in price)
- Although UK sovereign debt and associated CDS out of scope of the regime, FCA still has emergency powers it may use in relation to those instruments

Headlines

Issue	Current UK position	Proposed UK position
Regulatory notice – shorts on shares	0.2% (and 0.1% increments)*	0.2% (and 0.1% increments)
Public reporting – shorts on shares	0.5%	None – but FCA publishes aggregated NSP data
Reporting names position holder	Yes	No – FCA disclosure at issuer level only
In-scope issuers	All unless exempted	All unless FCA has disapplied rules – but the FCA will publish a reportable shares list
Regulatory notice – shorts on governments/short CDS in scope?	Yes	No – but FCA still retains powers in relation to sovereign debt and associated CDS

** Note: EU short selling regime requires short position holders to report at 0.1% of the issued capital, and each 0.1% increment.*

Overview of CP 25/29



01 Position reporting, where the FCA proposes some significant changes including extending the position reporting deadline to 23:59 on T+1

02 Covering, where the FCA's proposed modifications are:
(i) making it a rule to retain records for 5 years;
(ii) adding a requirement for sellers to ensure that settlement can be effected when due;
(iii) replacing the criterion of "maximum amount of shares affected by the possible sale" with "amount of shares that is available" for easy-to-borrow or purchase confirmations

03 Reportable shares list to replace the UK list of exempt shares

04 Market maker exemption, which is largely replicated in the new Short Selling Sourcebook but with certain clarifications and changes, including in relation to timelines

05 Aggregate net short position disclosure, which includes proposals in relation to calculation, timing, content and format of disclosure for the new SSR 2025 requirement for the FCA to combine and publish individual net short positions above the base reporting threshold of 0.2% as a single ANSP in relation to each company

06 Statement of policy as required by Regulation 20 of the SSR 2025

Scope

The FCA proposes three criteria to determine whether requirements should apply to shares admitted to trading on UK trading venues should be on the new **Reportable Shares List** (RSL)

PRINCIPAL TRADING COUNTRY

If UK holds the largest share volume, share would be on RSL **unless** it is not significantly important, or there would be unnecessary duplication

SIGNIFICANT IMPORTANCE

Significant importance determined by looking at UK nexus, e.g. if the company has UK HQ or is included in UK main equity index

DUPLICATION

If UK principal trading country **but** share is not of significant importance, **and** if share is subject to similar, duplicative third-country rules, share should not be on the RSL

What needs to be reported

Key proposals

TIMING AND DEADLINES

Current T+1 15.30 deadline extended to T+1 23.59

Guidance that the calculation may be carried out at any time, not necessarily at midnight at the end of the trading day (although must still relate to the long/short position as held at midnight)

SCOPE OF INSTRUMENTS USED FOR CALCULATIONS

Confirming that the list of financial instruments is **exhaustive** for both long and short positions

Clarification for UCITS/ETF positions

SOURCES OF ISSUED SHARE CAPITAL

Guidance on sources of information which may be used

Guidance that persons are only required to "act reasonably" to identify issued share capital

Sources include Companies House filings, commercial data provider information, and DTR 5 disclosures

FCA not proposing to establish its own "golden source"

No set hierarchy of information to be used (this may be considered)

GROUPS

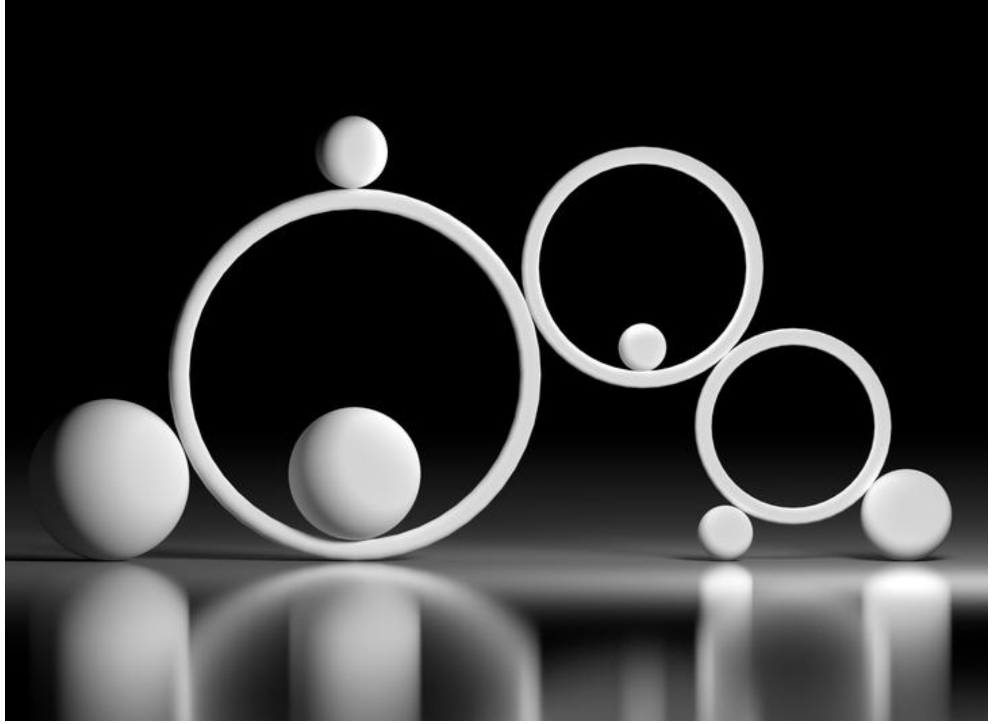
Key proposals relate to circumstances where the group goes above or below the base notification threshold

Proposal that individual entities report individual net short positions on the same day as a group's net short position falls below the base notification threshold (so no gap in reporting)

Proposal that individual entities renotify if the group reaches the base notification threshold (so no double counting)

\+

Plus proposals in relation to notifications



Stabilisation exemption

Proposed Short Selling Sourcebook Rule 5.3.1

Reporting and covering requirements do not apply to persons carrying out a stabilisation

Stabilisation is defined with reference to article 5(4)(a) of UK MAR and the RTS for conditions applicable to buy-back programmes and stabilisation measures.

In exceptional circumstances, firms above £40 billion but with specialist business models may be able to maintain a transfer strategy for longer

Market maker exemption

The Short Selling Regulations 2025 replicate the existing definition and scope of market making activities.

CP 25/29 proposes largely to replicate and consolidate existing requirements but with certain modifications to make it easier for firms to use the market maker exemption.

Current requirements and guidance

- Article 17 UK SSR
- Section 2.6 FINMAR
- ESMA Guidelines on the exemption for market making activities
- FCA revised note on UK notification process for market makers and authorised primary dealers under the UK SSR

Proposals

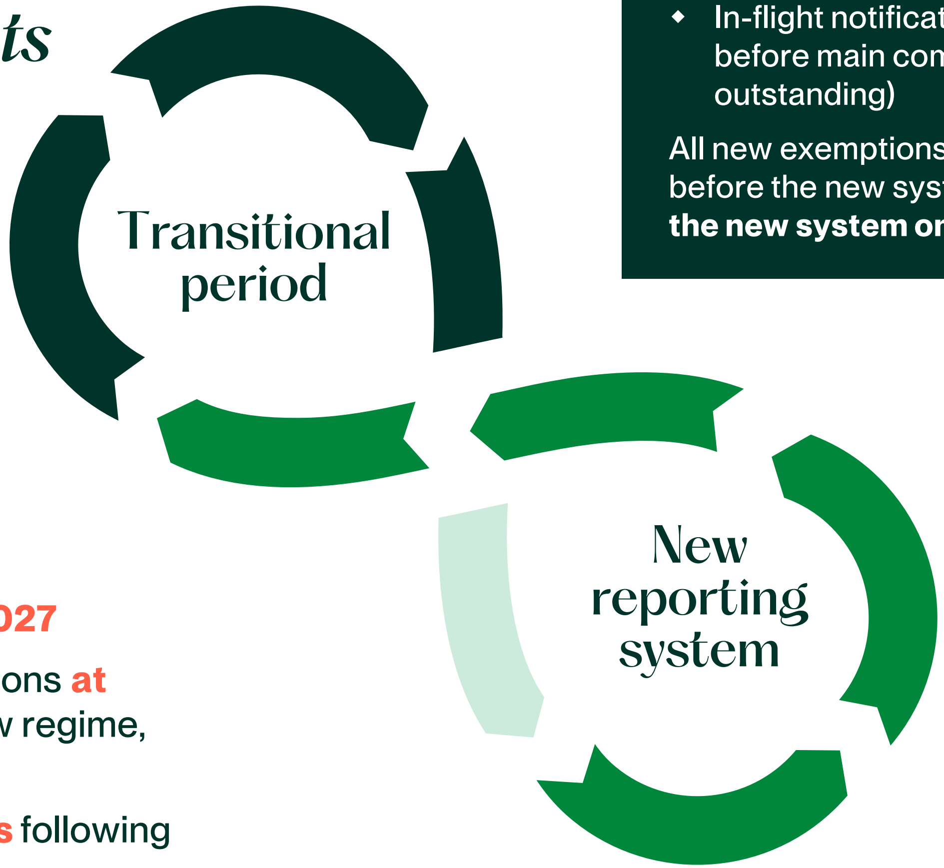
- 30 calendar day notification period for **new market makers** reduced to **15 calendar days**
- 30 calendar day notification period for existing market makers using **new financial instruments removed** – exemption will take effect **immediately upon receipt** of the notification
- Expansion of withdrawal and notification requirements where exemptions are no longer needed, and of procedures for prohibiting firms from using the market maker exemption
- Requirement for firms to provide volume estimates **removed** where relevant activity has been carried out for less than 6 months
- Clarification in guidance on **UK trading venue membership requirement**
- Clarification in guidance that exemption applies only to financial instruments **as specified in Part 1 of Schedule 2 of the RAO**

Market maker exemption: *transitional arrangements*

The FCA generally encourages firms **to wait** until the **new reporting system goes live** before submitting:

- Legacy notifications (exemptions in place before main commencement day)
- In-flight notifications (notifications for exemptions submitted before main commencement day but which remain outstanding)

All new exemptions granted via the manual email process before the new system is in place **will need to be submitted to the new system once live**



Key timeframes:

- Legacy exemptions usable until **1 June 2027**
- Firms encouraged to submit any notifications **at least 30 days prior** to the start of the new regime, where possible
- New reporting system available **6 months** following the main commencement day

FCA disclosure of the aggregated net short position

KEY ELEMENTS

- SSR 2025 replaces current 0.5% disclosure requirement (with incremental 0.1% requirement) with a new disclosure structure.
- The FCA will receive reports **privately** and **publish aggregated short positions** in **each company's** shares.
- The single aggregated net short position, which will be calculated by the FCA, is **the sum of the net short positions in the issued share capital of the company notified to the FCA** and held on the relevant working day, expressed as **a percentage of the company's issued share capital**.
- FCA will only include individual NSPs above the base notification threshold of 0.2%.
- FCA will publish ANSPs 2 working days after the working day to which the positions relate (because position reporting deadline has been extended to 23.59 on T+1).

Aggregated net short position disclosure

The FCA proposed guidance setting out how it will calculate and disclose aggregate net short positions on an issuer -by-issuer basis, with the proposed templates below.

The FCA report will be downloadable and machine readable, and will include filters so users can identify a particular issuer, certain sizes of aggregate net short positions, position dates of current/historic aggregate positions, and dates on which the historic aggreg ate net short position of a company was superseded.

Current aggregated net short position [dd/mm/yyyy]			
Name of share issuer	ISIN	Aggregated net short position (%)	Position date (of latest individual position received)

Historic aggregated net short position [dd/mm/yyyy/				
Name of share issuer	ISIN	Aggregated net short position (%)	Position date	Date the aggregated net short position became historic

Source: Proposed Short Selling Sourcebook 6 Annex 1 G Disclosure template of aggregated net short positions, Page 73 of 86 of Appendix to CP 25/19

FCA emergency powers: *background*

BACKGROUND

The SSR 2025 provides the FCA with a range of different emergency powers to be used in exceptional circumstances.

In recent years, there has been inconsistent application of emergency powers under the EU/UK short selling regimes.

This was especially true during the COVID-19 pandemic.

The FCA has now published a proposed Statement of Policy to give clarity when it will use its emergency powers.

The proposed Statement of Policy includes measures in relation to UK sovereign debt and associated credit default swaps (even though these were removed from the new regime).

FCA emergency powers: *overview*

FCA powers under the SSR 2025

NOTIFICATIONS AND RESTRICTIONS (REGULATIONS 13 TO 15)

- Power to require notifications (including in relation to lending fees)
- Power to prohibit or impose conditions

FCA may only use power where it considers:

- there is a serious threat to financial stability or maket confidence
- exercising the power is necessary to address that threat
- exercising the power will not have a disproportionately detrimental effect

RESTRICTION OF SHORT SELLING FOLLOWING SIGNIFICANT PRICE FALL (REGULATION 17)

- Power to prohibit or impose conditions

FCA may only use power where it considers:

- it is appropriate to exercise the power to prevent a disorderly decline in price
- exercising the power will not have a disproportionately detrimental effect

FCA emergency powers: *exercise of powers*

The FCA proposes to replicate existing requirements detailing how and when it will use its emergency powers. The proposed Statement of Policy also includes a non-exhaustive list of factors the FCA may consider prior to the use of its powers.

Proposed replication of existing requirements

- Article 24(1) CDR (EU) 918/2012 (non-exhaustive list of adverse events/developments)
- Article 23 UK SSR (significant price fall threshold for liquid shares)
- Article 23 CDR (EU) 918/2012 (significant price fall threshold for other financial instruments)
- Articles 2, 3 and 4 of CDR (EU) 919/2012 (how to calculate significant price fall)
- Section 2.5 FINMAR (assessing whether price fall is disorderly)

Factors to be considered when exercising emergency powers (high level overview only)

- Reports received including NSP reports, suspicious transaction and order reports, transaction reports and other market observations
- Significant movements in relation to price falls, yield increase, volatility, transaction volumes, bid-ask spreads, lending activity and settlement failure
- Information from supervisory engagement and from dialogue with issuers
- General or sector-specific market condition/sentiment
- Contagion risk
- Engagement with UK authorities (HMT, Bank of England and Debt Management Office) and activities of third country authorities

FCA emergency powers: *exceptions*

Exceptions the FCA may consider in relation to measures it may impose (non-exhaustive):

- market maker exemptions
- short selling activities for risk management activities such as primary and secondary market issuances
- creation of, or increase in, net short positions through index-related instruments or baskets of financial instruments where the financial instruments subject to the measure represent less than a given percentage of their composition
- the creation of, or increase in, net short positions when the investor who acquires a convertible bond has a delta-neutral position between the equity component of the convertible bond and the short position taken to cover that component
- exemptions for Gilt-Edged Market Makers (GEMMS) recognised by the DMO when exercising intervention powers over UK sovereign debt

Source: Proposed Statement of Policy at Appendix 1 of CP 25/29, section 1.26 (page 64 of the CP)

Recent enforcement – UK

Across Europe and the UK, regulators have imposed penalties for late or missed short-selling notifications with varying approaches.

Regulators tend to impose higher fines where there are aggravating factors, such as the number of breaches, delay before notification, conduct, and time taken to engage with the regulator.

UK ENFORCEMENT IN 2020

FCA fined a Hong Kong fund manager in 2020

FAILURE TO DISCLOSE

The fund manager had failed to make **155** notifications to the FCA and **153** public disclosures over a period of **2 years**

MITIGATING FACTORS

Self-identified failure and no previous disciplinary history

AGGRAVATING FACTORS

Size of the position (16.85%) with multiple failures over an extended period, and lack of prompt engagement with regulator

DISCOUNT

30% discount applied under FCA executive settlement procedure

Recent enforcement – EU

Different approaches by different EU regulators

RECENT EU ENFORCEMENT

Recent fines in the Netherlands, Finland and Sweden

FAILURE TO DISCLOSE

Different approaches when to impose a fine: failure to make up to **78** notifications or only a **few** notifications

MITIGATING FACTORS

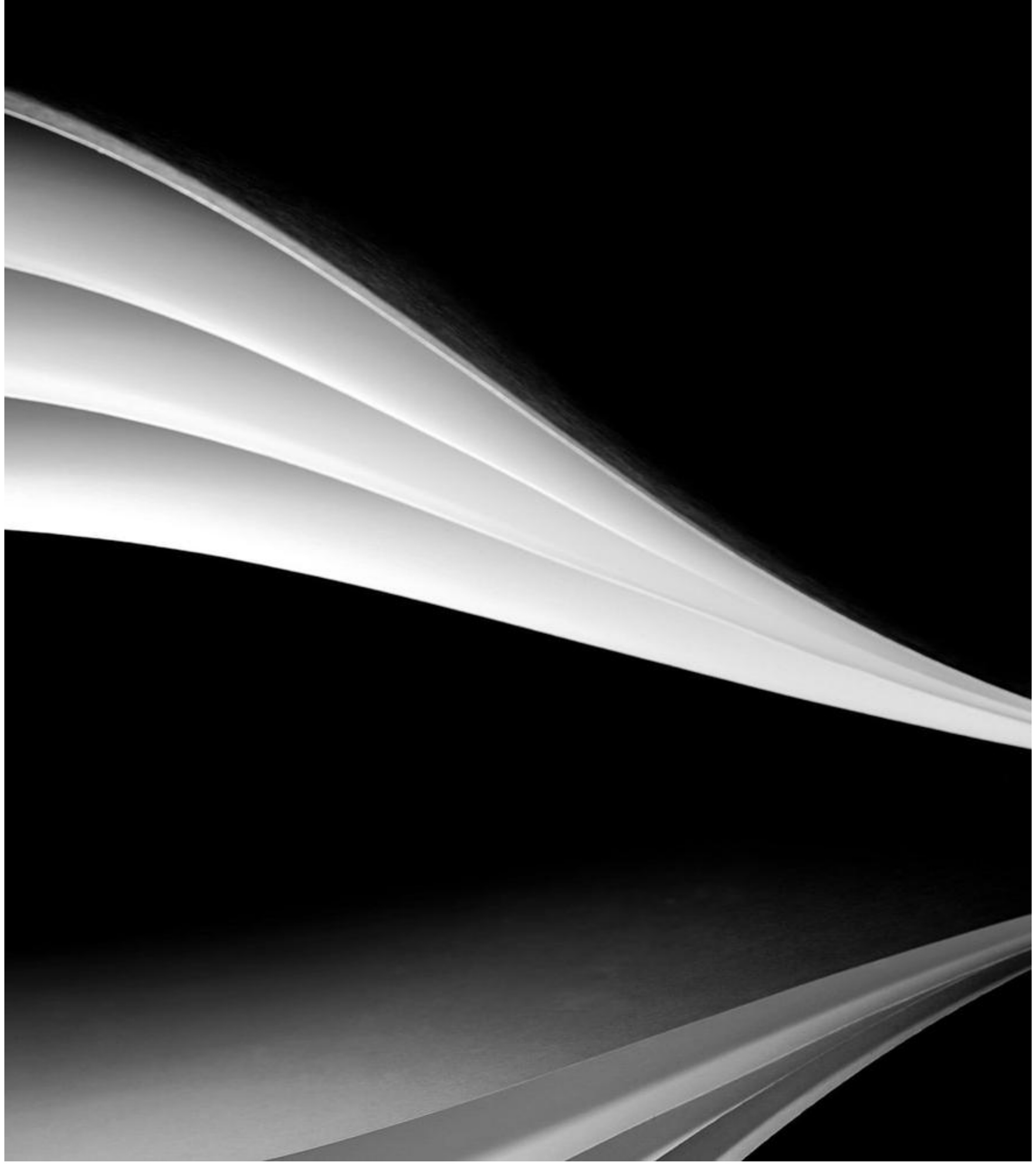
Self-identified failure, full cooperation, no warning by the regulator and no previous disciplinary history

AGGRAVATING FACTORS

Duration of the delay and amount of notifications missed

DISCOUNT

0-50% discount applied



Proposed implementation timeline

Janaury 2026

CP 25/29

FCA published consultation

April 2026

PS DUE

FCA to publish final rules including legal instrument and a live, draft copy of the reportable shares list

June 2026

MAIN COMMENCEMENT DAY

Phase 1 implementation

New RSL in effect

Transitional period for market makers

Q3 2026

December 2026

PHASE 2 IMPLEMENTATION

Systems update for position reports and market maker exemptions

Q1 2027

1 June 2027

END OF TRANSITIONAL PERIOD

For market maker exemptions

1 April 2028

RSL UPDATE

RSL will be updated in its entirety

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Transaction reporting update: what's next?

UK MIFIR TRANSACTION REPORTING AND THE BROADER CONTEXT

Overlapping regimes

EMIR
Derivative reporting to trade repositories

MIFIR
Transparency requirements

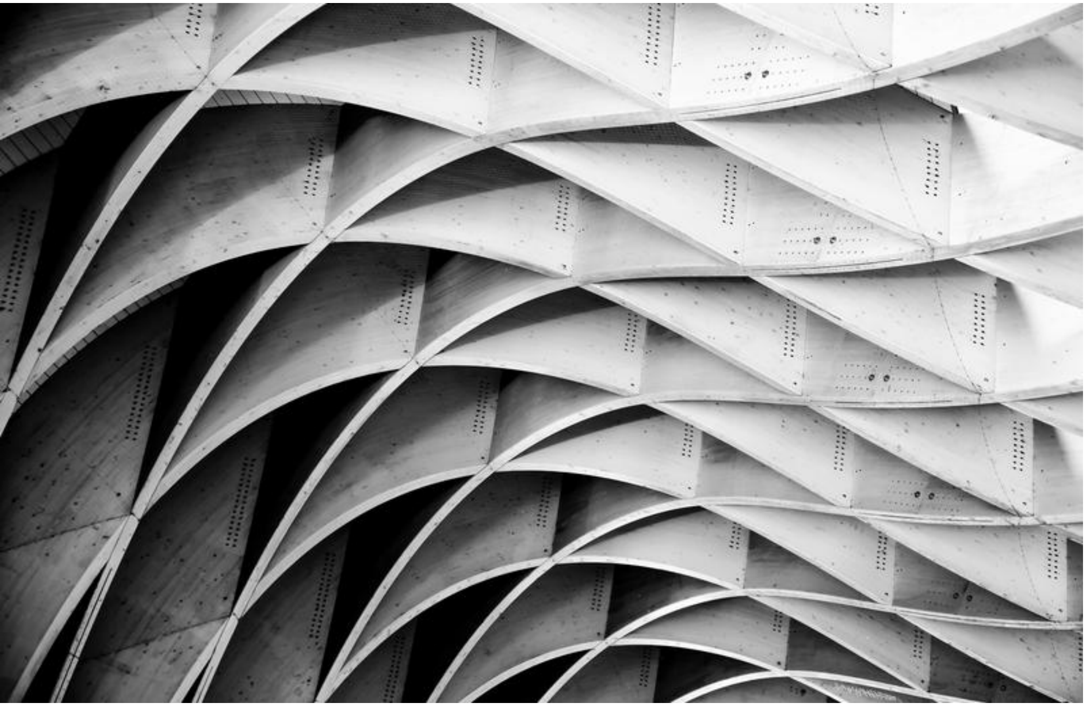
MIFIR
Transaction reporting

MAR
Suspicious transaction and order reports

SFTR
SFT reporting to trade repositories

SHORT SELLING
Notifications and public disclosure

REMIT
Transaction and inside information reporting



HMT WHOLESALE MARKETS REVIEW CONSULTATION RESPONSE 1 MARCH 2022

"Respondents were split...Some strongly opposed any action to mitigate these overlaps as implementing the reporting systems has represented a significant cost to industry. Others suggested targeted changes, such as requiring single-sided reporting for derivative transactions. Broader actions such as a more comprehensive review and global harmonisation of reporting standards were also raised."

Data quality

Figure 1. Number of transaction reports received since 2021 by trade date.

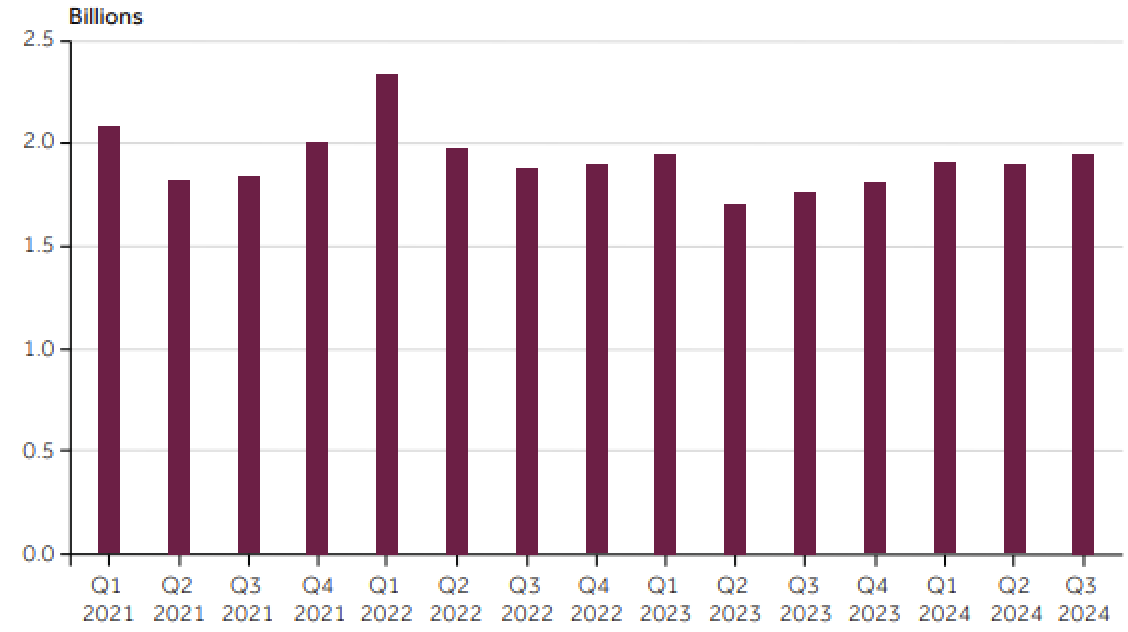
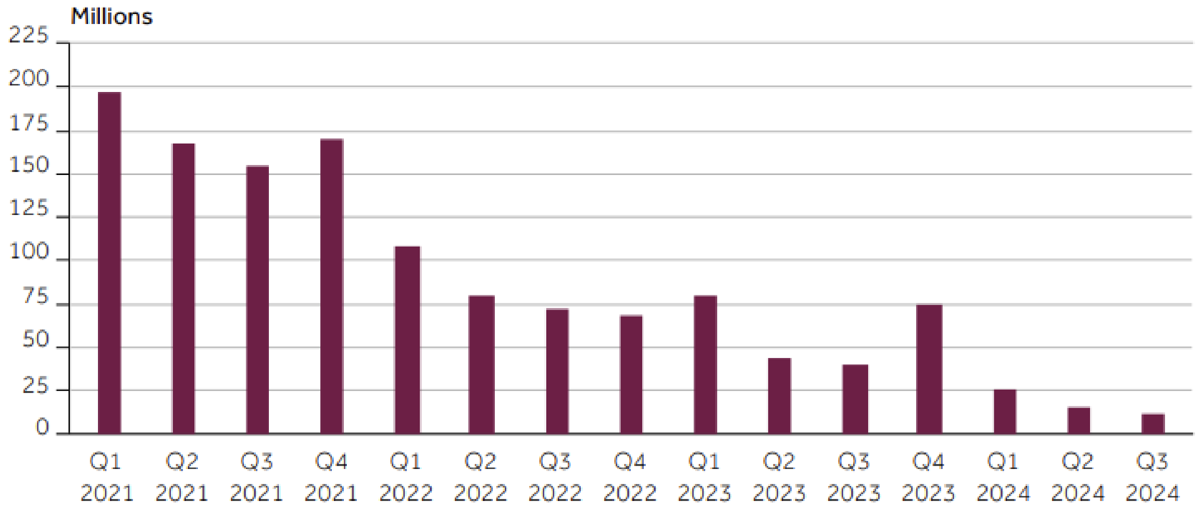


Figure 9. Number of transaction report cancellations submitted by trade date.



Source: the FCA Discussion Paper DP 24/2

FCA DP 24/2
Transaction reporting under UK MiFIR

SCOPE

Scope of firms – possible reinclusion of CPMI firms

Scope of instruments – considering aligning with UK EMIR

DERIVATIVES

Identifiers – ISIN vs UPI / UPI+

"Traded on a trading venue" concept

Alignment with EMIR

Practical difficulties with submission (e.g. FX derivatives)

TRANSMISSION AND CHAINS

Reporting when an intermediary broker is involved

Article 4 transmission and indicators

Availability of "receiving firms"

CONTENT AND TECHNOLOGY

Streamline duplicative/redundant fields

Possible new fields and flags (e.g. digital token identifiers)

Adoption of modern messaging standards

TRADING VENUES

Practicalities of submitting instrument reference data

Consistency in venue identifiers

HARMONISATION AND DIVERGENCE

Harmonisation opportunities across the wholesale markets regimes

Existing and possible future UK/EU divergence

Enforcement in 2025

01

Infinox (£99,200 fine)

FCA fines an investment firm for failing to submit transaction reports in January.

This is the first time the FCA took action against a firm for transaction reporting failures under MiFIR.

02

Sigma (£1,087,300 fine)

FCA fines a brokerage firm for submitting inaccurate transaction reporting data with 924,584 errors/omissions during the relevant period.

03

Market Watch 81

Market Watch 82

Harmonisation and divergence

WHAT'S NEXT?

The current Regulatory Initiatives Grid confirms expected formal engagement Q4 2025.

- Statutory instrument when parliamentary time allows, transferring detailed firm-facing requirements to the FCA
- Consultation paper on proposed new FCA rules
- European and global outlook

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