

ACER's Consultation on the draft list of Organised Market Places under REMIT

A EURELECTRIC response paper

December 2014

EURELECTRIC is the voice of the electricity industry in Europe.

We speak for more than 3,500 companies in power generation, distribution, and supply.

We Stand For:

Carbon-neutral electricity by 2050

We have committed to making Europe's electricity cleaner. To deliver, we need to make use of **all low-carbon technologies**: more renewables, but also clean coal and gas, and nuclear. Efficient electric technologies in **transport and buildings**, combined with the development of smart grids and a major push in **energy efficiency** play a key role in reducing fossil fuel consumption and making our electricity more sustainable.

Competitive electricity for our customers

We support well-functioning, distortion-free **energy and carbon markets** as the best way to produce electricity and reduce emissions cost-efficiently. Integrated EU-wide electricity and gas markets are also crucial to offer our customers the **full benefits of liberalisation**: they ensure the best use of generation resources, improve **security of supply**, allow full EU-wide competition, and increase **customer choice**.

Continent-wide electricity through a coherent European approach

Europe's energy and climate challenges can only be solved by **European – or even global – policies**, not incoherent national measures. Such policies should complement, not contradict each other: coherent and integrated approaches reduce costs. This will encourage **effective investment** to ensure a sustainable and reliable electricity supply for Europe's businesses and consumers.

EURELECTRIC. Electricity for Europe.

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KEY MESSAGES

- We welcome ACER's public call for Organised Market Places (OMP) registrations, as well as the current consultation initiative on the list of OMPs.
- Such list will not only clarify a market participant's (MP) own reporting obligation by identifying the OMPs which should offer a reporting service upon MP's request, but it will also be a very helpful tool to ACER in order to establish the list of standard contracts. Both lists, i.e. the list of standard contracts and the list of OMPs, are of paramount importance to MPs in order to properly implement any reporting solution.
- The list, once established and made public on ACERs' website should be kept up-to-date at regular intervals. Any update should not only depend from ACER being actively notified by a platform or MP on potential gaps, but also via active proper research. As the OMP list is at the basis of the list of standard contracts, and in order to ensure a harmonized and consistent reporting amongst market participants across Europe, any update should be made available as soon as possible, together with an update of the list of standard contracts. A formal process for updating the list of OMPs should be considered. In this respect an appropriate transition period needs to be granted for MPs when a new OMP and / or a new contract is added to the list of standard contracts is added to the list.
- We fully share ACER's views that transportation contracts reporting obligation should be on the respective primary auction platforms/TSOs. However, we do not fully share the view that primary auction platforms should not be listed as OMP. As the list is the key indicator for market participants – for the sake of completeness and transparency, it should be complete, covering all auction platforms that are obliged to offer reporting services.

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General Comments

We welcome ACER's public call for Organised Market Places (OMP) registrations, as well as the current consultation initiative on the list of OMPs. Such list will not only clarify a market participant's (MP) own reporting obligation by identifying the OMPs which should offer a reporting service upon MP request, but it will also be a very helpful tool to ACER in order to establish the list of standard contracts. Both lists, i.e. the list of standard contracts and the list of OMPs, are of paramount importance to MPs in order to properly implement any reporting solution. Hence, we regret that the list of standard contracts will not be made available simultaneously with the list of OMPs. The public call for OMPs or the current consultation paper might have been a good opportunity to ACER to also request OMPs to submit a list of contracts concerning a wholesale energy product which are admitted to trading at their respective platform.

The list, once established and made public on ACERs' website should be kept up-to-date at regular intervals. Any update should not only depend from ACER being actively notified by a platform or MP on potential gaps, but also via active proper research. As the OMP list is at the basis of the list of standard contracts, and in order to ensure a harmonized and consistent reporting amongst market participants across Europe, any update should be made available as soon as possible, together with an update of the list of standard contracts. A formal process for updating the list of OMPs should be considered. In this respect an appropriate transition period needs to be granted for MPs when a new OMP and / or a new contract is added to the list of standard contracts is added to the list.

Finally, regarding transportation contracts, we also do not entirely agree with ACER's general statement on p. 6 that the distinction between standard and non-standard contracts does not apply to transportation contracts. This might be correct for transportation capacity as a result of primary and secondary capacity allocation, but does not apply to virtual transportation contracts which are non-standard contracts. The specificity of these contracts should be considered whilst elaborating the TRUM sections on non-standard contracts.

- 1. Please provide us with your comments on the draft list of organised market places. Do you see any omissions or errors in the list? Do you think that any organized market place or any information on organised market places is missing, that should be published in order to facilitate transaction reporting under REMIT? Please comment especially the potential organised market place status of those entities marked with an asterisk that had not registered themselves as organised market places at the time when this public consultation was launched. Please justify your reply.**

First of all, we would like to emphasize that the ACER list of organized market places (OMP) shall give market participants a binding, prescriptive and exhaustive list of who is considered as OMP according to REMIT. Only this approach will safeguard market participants during their process of proper REMIT reporting implementation. Thus ACER needs to ensure a fully complete list which needs to be kept up-to-date, as otherwise the list would lose its added value for market participants. OMP should be fully aware of their responsibility within the REMIT reporting implementation process and follow their obligations coming from the REMIT Implementing Acts (e.g. obligation to offer reporting service of standard contracts incl. orders to trade).

Additionally, it would be beneficial to add a new column “contact details” for the respective OMPs so market participants can find necessary contact details to discuss REMIT reporting issues directly with the relevant contact from the respective OMP.

In our view, the proposed list contains most of the currently relevant OMPs. We also confirm that those OMPs marked with an asterisk should be included on the final list of REMIT OMPs. This is considered particularly important for the capture and reporting of “Orders to Trade” information, much of which is done on these OMPs the reporting of which would be very problematic to implement and manage in-house.

One may add OTCEX SA and IDEX (Italian Derivatives Energy Exchange) to the list. Also, we believe that primary auction platforms such as CASC.EU and PRISMA should also be included in the OMP list. EURELECTRIC would also welcome clarity on the status of Trayport as an OMP or not – is it intended to include Trayport on this list or are the obligations that might reasonably be seen as falling on Trayport deemed to fall on the underlying brokers instead?

- 2. Virtual trading points (VTPs) are currently not included in the draft list of organized market places, unless they provide brokering services or are considered as an energy exchange. Do you agree with this approach? If not, please justify your reply.**

Yes, we agree that VTPs should not be included in the list of OMPs if not providing brokering services or being an exchange.

3. For the reasons stated above (see point 1. in paragraph 4 of this consultation paper), the Agency currently believes that primary auction platforms for transportation contracts do not have to be listed as organised market places. Do you agree with this approach? Please justify your reply.

We fully share ACER's views that transportation contracts reporting obligation should be on the respective primary auction platforms/TSOs and that no market participant should be obliged to directly report these. However, we do not fully share the view that primary auction platforms should not be listed as OMP. As the list is the key indicator for market participants – for the sake of completeness and transparency, it should be complete, covering all auction platforms that are obliged to offer reporting services including these primary auction platforms.

Firstly, this will ensure market participants that all these auction platforms have been well identified and that the respective auction platforms are aware of their obligations. If they are not on the list we strongly fear that there will be continuous discussion whether the platforms will have to offer the service or not. Market participants need as much certainty as possible.

Secondly, considering recent evolutions whereby the secondary transportation capacity markets are moving more and more towards organized auction platforms as well; this evolution should be reflected in both the TRUM and the list of OMPs. Thus where secondary transmission rights transactions occur through TSO systems, these systems should also be considered OMPs and the secondary transactions should be considered "standard" contracts.

We invite ACER to provide guidelines as to which market participant should report transportation contracts as a result of secondary capacity allocation if these are taking place on a platform (e.g. PRISMA offers primary and secondary transportation capacities). According to the REMIT Implementing Acts, the reporting obligation still lies with the counterparties to the transportation contracts but when these are traded via a secondary capacity allocation platform, there should be no reason in not obliging the respective OMP to also report secondary transportation contracts (if they already do so for the primary transportation capacity contracts).

4. The final list of organised market places is supposed to include organised market place IDs for the purpose of facilitating transaction reporting under REMIT. Do you agree that the list of organised market places should make this information publicly available? If not, please justify your reply.

Yes, we agree that the list of organized market places should be publicly available. And yes, the publication of IDs of the relevant OMP would be very beneficial to know. These IDs should be generic to all users of that OMP and should not vary from customer to customer. Furthermore, as already proposed before, we believe that it would also very important to know the exact "contact details" of the OMP in order to share and discuss any REMIT related issues in an efficient way.

5. The list of organised market places is supposed to be updated in a timely manner. The Agency is currently intending to update the list on a regular basis as and when required, in particular as and when the Agency is given further information on gaps. Do you agree with this approach? If not, please justify your reply.

To ensure proper and timely implementation of REMIT reporting, market participants need as much certainty as possible. This includes an exhaustive list of OMPs obliged under REMIT which is kept up-to date; otherwise it could bring legal uncertainty into the REMIT reporting process. Thus ACER should implement a process on how potential new OMPs are to be included in the list. A formal process should be included in the TRUM or other implementing document.

We also think that an active communication by ACER should also be implemented if updates have been made or are planned. ACER should not wait to be informed of gaps, it should also actively monitor the market and impose an obligation on OMPs to inform them of their status or changes in status; and the list of contracts that are admitted to be traded on their respective platform. Certainly the list should also be easily accessible at ACER's website.

Also, we underline that once the list of OMPs has been updated, ACER should grant market participants and the new OMP a reasonable phase-in time period for implementing REMIT reporting processes to ensure proper and smooth reporting obligation fulfillment; this is especially relevant given that the list of OMPs is the basis for the list of standard contracts. The list of OMPs will indeed be used to determine which contracts are considered standard or non-standard. The reporting for both types of contracts is entirely different in terms of template, timing, etc. It is therefore paramount that the list of OMPs and the related list of standard contracts is updated on a regular basis and that this transition period or 'phase in' period is adopted to ensure that market participants can be confident that OMPs are in a position to manage the reporting of contracts that become 'standard' contracts at the appropriate time. Otherwise there may be a reporting failure if OMPs are not yet ready to report. Simultaneously, there needs to be an agreed procedure and timescale for the removal of an OMP from the list, and the date of effect of that removal, so that the market participant can cease using them in a timely manner and put in place the necessary arrangements with another OMP. We would also strongly recommend that ACER provides guidelines in view of potential reporting issues arising due to this transition time.

Finally, we would like to re-emphasize that the proper and smooth implementation of REMIT reporting obligation depends very much on a pro-active participation and willingness of OMPs to be a part of the REMIT reporting implementation process and of their full awareness and acceptance of responsibilities they have to comply with.

EURELECTRIC pursues in all its activities the application of the following sustainable development values:

Economic Development

▶ Growth, added-value, efficiency

Environmental Leadership

▶ Commitment, innovation, pro-activeness

Social Responsibility

▶ Transparency, ethics, accountability



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