

**Europex response to the Public consultation on the provisional
REMIT list of organised market places**

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EUROPEX is a not-for-profit association of European energy exchanges that represents the interests of the exchange based wholesale markets for electrical energy, gas and environmental markets with regard to developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at the European level. Europex has already replied to a series of ACER Public consultations on REMIT, all responses being available [here](#), [here](#) and [here](#).

The Agency for the Cooperation of Energy Regulations (ACER) invites responses to the questions listed in the Public Consultation Paper on the provisional REMIT list of organized market places. Please see our response below:

Consultation question

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 organised 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.

Europex considers that the list of Organised Market Places (OMP) under REMIT must be coherent and established according to the definition included in REMIT and in the Implementing Acts, in particular taking into account Article 2(4) of the Draft Implementing Acts defining organised market places.

All persons that fall under the referred definitions and that arrange transactions involving the defined wholesale energy products should be included in the list. This applies namely to the entities marked with an asterisk.

Europex recognises that the list of organised market places is drawn up in relation to the transaction reporting obligations in Article 6(1) of the REMIT Implementing, however we do recommend that ACER maintains and publishes a list which includes all persons which meet the definition of Organised Market Place under Article 2(4) of the REMIT Implementing Act, i.e. including organised market places which do not necessarily need to report transaction under Article 6. In this regard, Europex considers that primary auction platforms for transportation contracts do have to be listed as organised market places, as they meet the definition as such in REMIT and the REMIT IA. In this light, e.g. CASC, which organises the PTR UIOSI primary auctions across many borders in EC today, should be considered and included in the list of Organised Market Places.

In addition, TSOs organising the balancing market may in many cases be organised markets. When TSOs actively buy or sell volumes in the balancing market, they are not doing this to cover their own production or consumption. They ensure supply/demand balance of the power system on an instant basis and as such act as counterparty to all imbalances. In this respect they act as a single buyer/seller towards third parties offering to buy or sell volumes to offset overall imbalances in the power system. They meet the definition of Organised Market Place provided under Article 2(4) of the REMIT IA, and should therefore be listed as such.

2. Virtual trading points (VTPs) are currently not included in the draft list of organised 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.

To the extent that they fall under the definitions of REMIT, trade and order reporting should be mandatory for all market places and not include exceptions for any market places or virtual trading points.

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 are concerned if Primary Auction Platforms for transportation contracts are not listed as Organised Market Places and this omission means that they are given any reporting exceptions, as it seems to be proposed by ACER.

If Primary Auction Platforms are not listed, this will imply that secondary trading in the same products OTC may be classified as non-standard products, and thus reported 30 days after the conclusion of the contract instead of one. By listing the Primary Auction Platforms, it will be ensured that these products are classified as standardised products.

Further, it would be against the EU competition law to establish a monopoly for auctioning PTRs and/or FTRs. Products auctioned on the Primary Allocation Platform like PTRs and FTRs (financial instrument) must come under the same reporting obligation as similar products traded on other exchanges like EPADs on Nasdaq and FTRs in OMIP.

Whether or not the TSOs are obliged to report the transactions is not relevant in this instance. As such, Europex takes the view that this criterion should not be used to assess whether an entity should be considered an organised market or not. In this light, TSOs

or other platforms organising reselling of PTRs or FTRs should in any case be considered as organised markets.

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 with making this information publicly available and would suggest that it is made clear what an acceptable Market place ID actually is (LEI, MIC, EIC). We welcome to add EIC code as an official identifier for OMPs as some EUROPEX members standardly use this code on the EU energy market for long time. Moreover the list of OMPs would be downloadable in a standardised electronic format (i.e. xml) to ensure smooth and effective processing of data.

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.

As stated in the consultation paper, one of the purposes of publishing the list is to enable market participants to identify the organised market place as a reporting channel for transaction reporting according to Article 6(1) of the REMIT Implementing Act. In order for counterparties to properly report, Registered Reporting Mechanisms (RRMs) would need to maintain the data contained on ACER's list which counterparties could access.

Europex is concerned that ACER currently doesn't have a standard protocol for amending its list and properly notifying RRM or Trade Repositories (TRs) of updates to this list in the standardised electronic formats, allowing RRM/TRs to update their databases as needed. We believe a clear protocol (including set time limits) for updating the list of organised market places needs to be developed by ACER. All changes made must be reported as soon as possible and not later than 14 days after the receipt of information. If this information is not updated timely there furthermore could be a risk for transactions being executed on a market place without the market participants knowing that the market place no longer facilitates reporting.