



ENEL Group response to ACER consultation on the European Register of Market Participants

We welcome ACER initiative aimed at strengthening and making more efficient the functioning of the European Register of Market Participants. In general terms, we believe that all the future adjustments to the European Register should be oriented to simplify the process and make the technical procedures of data uploading/updating smarter and faster. This will be fundamental to increase the usefulness of the Register without adding administrative burdens on market participants.

1. Regarding fields 112 and 316 ('VAT number' of the market participant and ultimate controller), taking into consideration that some market participants and ultimate controllers do not have a VAT number, ACER proposes to add an additional checkbox labelled: 'I do not have a VAT number.' Moreover, taking into account that different formats for VAT identification apply outside the European Union, ACER proposes to adopt a more flexible format for fields 112 and 316 for non-EU market participants. Do you agree with this change? If not, please justify your reply.

Yes, we agree.

2. Regarding the reformulation of field 113 (Energy Identification Code ('EIC') of the market participant):

A. EIC codes are widely used for reporting transaction and fundamental data. The current registration format allows only one EIC code to be provided by a market participant, although there may be several different types of EIC codes related to the same market participant and used for reporting. Moreover, although the EIC codes are publicly available, other pieces of information, such as the location of the facility identified by the EIC code, are not public. Taking into consideration the need to identify for monitoring purposes to which market participants different EIC codes belong to, the current registration format can be developed to allow the introduction as mandatory fields of all EIC codes (i.e.: EIC X, EIC Y, EIC Z, EIC T, EIC W and EIC A) related to the same market participant. What are the pros and cons of such an approach? Please explain.

We do not believe that making these fields mandatory is the best solution, considering the possible difficulties that can arise in case TSOs do not provide all the EIC codes to market participants.

B. In case the introduction of all EIC codes used for reporting by a market participants (see previous question) is allowed by the European register, the Registration Format could be expanded to:

- identify the name of the object to which the EIC code relates (e.g.: name of the power plant),
- identify the address of the object to which the EIC code relates (e.g. location of a power plant identified by X EIC code)



- identify the country where the market participant or the object is physically registered (e.g. in case of Y, T EIC codes, all countries which lie in the area of the Y, T EIC code,
 - identify the market participant's role/relationship with the submitted EIC codes in order to differentiate situations where one code is used by more than one market participant.
- The Agency has identified the following relevant roles:
- Proprietor/owner of the object to which the entered EIC code relates
 - Operator of the object to which the EIC code relates
 - Other role which has information about the object to which EIC code relates
- i. Do you agree with the possibility to add these mandatory fields in order to identify each EIC code? If not, please justify your reply.
 - ii. Would you like to add/reformulate any other potential role/relationship of a market participant with the submitted EIC codes to the ones mentioned in the list above?

In our opinion, prior to think of the creation of new fields it would be important to understand the usefulness of these data and assess the associated benefits. These benefits are unclear in our view while it is sure that operational efforts will follow to the implementation of such a proposal. For this reason, we ask not to add these new mandatory fields.

On the other side, as a general rule to improve the efficiency of the process and minimize possible manual mistakes, we believe that in similar situations a functionality of "bulk loading" from a template should be enabled.

3. Field 116 (Global Location Number of the market participant - 'GS1' in the coding scheme) is rarely used by market participants. Do you agree that this field is removed from the European Register? Please explain your reply.

We agree to remove it considering that this field is rarely used.

4. Field 118 ('Trade Register') was requested by some NRAs. Would it be adequate to allow for special characters in this field? If not, please justify your reply.

We believe that allowing for special characters is reasonable in order to address all the possible national peculiarities.

5. The Implementing Regulation lays down the provision to include Trader IDs in transaction reports (field 3 of Table 1 in the Annex to the Implementing Regulation). The Trader ID is the login username or trading account of the trader and/or the market participant or counterparty as specified by the technical system of the organised market place. The field 'Trader IDs' may be added to the European Register as part of the market participant's registration information to make it easier to link different trader IDs to one specific market participant for market monitoring purposes. Do you agree with this proposal and what are the pros and cons of this? Please explain your reply.

We do not agree with this proposal because it will produce a double reporting and high operational costs. In relation to the first aspect, the information of the "Trader ID" is already present in the transaction report



and its introduction in to the European Register is unlikely to bring further added value. From an operational point of view, this upload would be onerous for market participants: indeed, companies may reasonably have a lot of different Traders ID, while the registration system proved to be slow and not flexible to the introduction of changes (that should always be approved by National Regulatory Authorities). Another reason for avoiding the introduction of this field in registration is that ID Trader is not a static data and may be subject to frequent changes (for big companies, this happens frequently): keeping this field continuously updated would create high operational costs.

6. Field 120 ('Publication Inside Information') is currently filled by many market participants with a general link (for example, a link to the company's main webpage) and not with the exact location where the inside information publications are published. Do you agree to refine its definition so that it is clearly stated that the URL(s) should indicate the exact address where the inside information is disclosed publicly and, to create a new field indicating the location of the web-feed used for reporting the publications of inside information to ACER?

The fact that operators should provide web-feed is already foreseen in the Implementing Regulation n. 1348/2014. We agree that field 120 (publication inside information) should be redefined so that it is clear that the URL of the exact address of inside information platform should be mentioned. We are, also, in favor of creating an additional new field indicating the URL of web-feeds.

We would like to take this opportunity to point ACER attention to the fact that a certain number of registered market participants will hardly ever have any inside information to publish (for instance, pure traders or distribution companies simply registered for the purchase of grid losses, or market participants having small power plants): in these cases, the creation of a dedicated section on a website (if no other platform is available in the country) could represent an operational burden not followed by any expected concrete use of the publication page.

7. Regarding field 121 ('ACER code'), taking into consideration the need to ensure the traceability of relevant changes in the registration records two new fields could be added to the Registration Format: one indicating previously used ACER codes; another identifying the relationship with the previous codes. The identification of the relationship between ACER codes could be provided by selecting the following types:

- same person previously registered in another Member State;
- incorporation of a registered market participant;
- spin-off from a registered market participant;
- other.

i. Do you agree with the above proposal? Please give reasons for your answer.

ii. Do you see a more efficient way to ensure traceability of relevant changes in the registration records?

We agree, but we think that the category "spin off from a registered market participant" could be excluded considering that we are talking of a new separated legal entity.

8. Section 4 ('Corporate Structure' of the market participant) does not currently provide full transparency on the corporate structure of the market participant. It has been proposed that every



market participant registered indicates the VAT number, name, and percentage of ownership of all companies belonging to the same group of the market participant (including company(ies) that are not market participants) as this would increase transparency from a market surveillance perspective.

i. What are the pros and cons of such an approach? Please explain your reply.

ii. Are there any improvements more generally to the corporate relationship section you would suggest?

In general terms, we call for a revision of Section 4 in order to address the high operational difficulties (mainly related to scarce clarity and slowness of the system) experienced by market operators in both uploading and updating data. In large business groups the corporate relationship allocation process is very difficult. The relationships are discharged one by one, that means the business group should wait for the NRA's verification of each discharged relationship before proceeding with the following relationship. As a result of this, the user mode is blocked for quite a long time in which just a read-only-mode is permitted, being unable to complete the registration of agents.

In our experience, it also occurred that changing a VAT number or a shareholding has caused the temporary (but very long) failure of some existing links among companies of the Group; this has been probably due to the fact National Registers are updated only once the European Register has taken over the management of the operation.

In order to increase the efficiency and the clarity of this Section, we believe that a system of "alerts" should be introduced in order to communicate in a timely manner to market participants every change brought to their corporate structure: in this way, also if the info is not already present in the National Register, every market participant has a clear view on its Group records (and does not need to regularly check the European Register to ascertain possible relevant changes).

For the sake of simplicity, we also propose that, when a legal entity exits a Group, the change should be uploaded by the interested company and, through the central register, should be automatically made applicable to the other related parties.

Concerning the proposal to indicate the number, name, and percentage of ownership of all companies belonging to the same group of the market participant (including company(ies) that are not market participants), we do not agree. A similar proposal would increase the complexity of the system, adding substantial administrative burdens without bringing a real added-value to the transparency of the REMIT trades. For big groups with hundreds of relations, uploading all these information would be very complex, burdensome and operationally not manageable. Moreover, we believe that requiring full transparency on the corporate structure of a group (including information on group entities that are not market participants) goes beyond the intention of REMIT.

Finally, we would like to suggest a considerable simplification of the process: we think that only the ultimate controller - or the ultimate parent company, if different¹ - and not all the relationships between all the Companies should be indicated in the Register. In our opinion, with this information ACER will be able to understand independently and easily all the companies belonging to the same Group, which is sufficient information for the purposes of market monitoring.

¹ This is necessary namely when the ultimate controller is a public entity, which may be indicated as ultimate controller also by other market participants not belonging to the same Group.



If the current process is confirmed, we at least suggest that a delegation of this process is allowed in the Groups (so that only one company in the Group will be in charge of ensuring the upload of section 4 information in the system, while all the others would simply have to validate the uploaded information).

9. In Section 3 to 5, we understand that some fields may not be self-explanatory. In order to avoid the misinterpretation of the information inserted by a market participant, do you think that some additional free text fields should be included to allow a better description of the particular situation of the market participant? Namely regarding:

- the main activity of the market participant;
- how the ultimate controller performs such control;
- information about the existing/envisaged data reporting agreements

It is reasonable to add non mandatory free text fields aiming at describing particular situation of market participants.

10. Do you have any other comment on the current fields provided in Annex 1 to ACER Decision 01/2012 on the Registration Format that can further improve the functioning and usefulness of the European register of market participants?

We don't have additional comments.

Questions on the functioning and usefulness of the European Register

11. In 2011, the Council of European Energy Regulators (CEER) issued a report⁴ recommending factors that are important in meeting the above aims. The current Registration regime was introduced, as it was considered that it provides the right regulatory balance to identify who is in the market and to enable monitoring markets to detect abuse. The Agency is keen to understand stakeholders' views on this balance, in particular in relation to the previously-raised concerns that different national administrative requirements, which trading companies need to meet in order to operate in the national wholesale energy markets, could represent potential barriers to the creation of a Union-wide level playing field for market participants.

i. Do you consider these national administrative requirements a relevant barrier to entry and an obstacle towards a true pan-European energy market? Please provide examples of administrative requirements that you believe constitute an unjustified barrier to entry that could distort the level playing field at European level.

ii. If you do believe there are barriers to entry, how could these be mitigated?

iii. Do you consider other possible regimes, compared to the existing registration regime, more useful to enhance the overall transparency and integrity of the wholesale energy markets and ensure a Union-wide level playing field for market participants? (e.g. EU trading license regime)

Requirements and criteria should be as uniform as possible among Member States as many national requirements can create obstacles.

12. Some counterparties and organised market places (OMPs) voluntarily require market participants to be registered in the European register of market participants before they can trade



with them/in their platforms. Do you consider that the introduction of this as a legal requirement would benefit the integrity and transparency of the wholesale energy markets? What would be the pros and cons of introducing this legal obligation?

In our view, this requirement is implicitly already introduced by REMIT.

13. Do you find the publicly available extracts of the European register of market participants useful for your business and/or for the transparency of the wholesale energy market? If not, which additional information should be published?

Yes, it is useful and easily-readable.

14. Do you have any other comments on the functioning and usefulness of the European Register?

As a general comment, we welcome ACER initiative aiming at strengthening and making more efficient the functioning of the European Register of Market Participants. To reach this goal we believe that future changes to the format as well as to the regulatory framework should be oriented to increase the simplicity of the process and the usefulness of the Register.

This is particularly true also to meet the specific needs of some Member States, where the National Register does not still provide for automatic systems/uploading, making any change extremely complex.

As explained (and for the reasons already highlighted), in order to make the Register more user-friendly we believe that:

- a modification of Section 4 is more than welcome;
- the introduction of non-static information (as the Trader IDs) should be limited
- a “bulk loading” from a template should be always enabled.

15. Following consideration of responses to the public consultation, the Agency aims for any resulting modification to the European register of market participants and to the Registration Format to be adopted by 30 June 2016 and to apply as of 1 January 2017. Do you agree with this proposed timeline? If not, please justify your reply and propose an alternative timeline.

We believe that the proposed timeline is reasonable.