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E.ON Position on

ACER Guidelines for the registration of Registered Reporting Mechanisms and for the registration of Regulated Information Services for ensuring operational reliability

according to Article 12 of Regulation

(EU) No 1227/2011,

PC_2013_R_01, 22 March 2013

Düsseldorf, 7 May 2013



E.ONs welcomes ACER's public consultation on Guidelines for the Registration of RRM and RIS which will have a crucial role to play for both operational and practical arrangements in reporting transactions and publishing inside information thus ensuring the effectiveness of REMIT.

Consultation questions

I. General questions

Question 1

The registration process for both Registered Reporting Mechanisms and Regulated Information Services comprises two stages: Firstly, the Agency will review a written application, and if appropriate make a provisional registration (pre-registration of the applicant); secondly, the Agency will make a final registration subject to successful integration with the Agency's technology as described in the Agency's „*Technical Specifications for Registered Reporting Mechanisms and Regulated Information Services*“ document. For reasons of operational reliability, the technical specifications document will be kept confidential and applicants will have to sign a non-disclosure agreement before receiving a copy of the technical specifications document. This is a best practice applied by national financial regulators under EU financial market rules which the Agency also intends to apply for REMIT purposes. Please indicate your views on the proposed approach for the registration process.

In the interest of efficiency – and with the aim of limiting the burden placed on market participants who will be registering themselves as Registered Reporting Mechanisms (“RRMs”) for the purpose of reporting only their own transactions and orders to trade – the registration procedure should be as straight forward and as simplified as possible, and should avoid adding administrative burdens and potential costs to market participants.

Furthermore, while the process of having to request a copy and sign a non-disclosure agreement in order to receive the technical specifications document appears to be a cumbersome step, it is nonetheless suitable since it forms part of accepted best practices applied by national financial regulators.

Question 2

According to the REMIT Technical Advice for setting up a data reporting framework from June 2012 from DG ENER's consultants, it is currently considered that only Registered Reporting Mechanisms and Regulated Information Services with legal status in an EU Member State or an EEA country should be eligible to become a Registered Reporting Mechanism or Regulated Information Service. Please indicate your views on this suggestion.

At first reading the concept of "legal status" appears to be very vague. After consulting the mentioned report "REMIT Technical Advice for setting up a data reporting framework" we were unable to locate where this recommendation is taken from. It would accordingly appear necessary for this concept to be further defined and clarified. For instance, what are the implications for "a legally established" EU-branch or EU-subsiary of a non-EU company that legally transacts on European wholesale electricity and gas market?

Question 3

Do you have any general remarks on the draft RRM and or draft RIS Guidelines?

In general we do not have any remarks.

One specific remark for the RRM Guidelines: The aim of having RRM undergo the so-called "renewal procedure" (see point 5.5) on a biannual basis is in our opinion far too extreme and places an undesirable administrative burden on RRM, especially those RRM that only report transaction data on behalf of themselves. It should be sufficient to renew the registration on a biennial basis, and in the 'worst case', on an annual basis.

II. Questions concerning the draft RRM Guidelines**Question 1**

The aim of the Guidelines is to ensure operational reliability of the information received pursuant to Article 4(2) and Articles 8 and 10 of REMIT. Should Registered Reporting Mechanisms be required to have an ISO certification 2701 or similar to become a Registered Reporting Mechanisms as proposed in the REMIT Technical Advice for setting up a data reporting framework from June 2012 from DG ENER's consultants?

First an editorial note: we believe the correct ISO certification is the "ISO/IEC 27001:2005 - Information technology - Security techniques - Information security management systems - Requirements".

Second, since a certification such as this one "or similar" would act to ensure that all RRM have explicit management control over their information security, this would indeed be a preferable requirement to ensure the operational reliability of the reported information.

**Question 2**

The draft RRM Guidelines currently foresee a simplified registration procedure for trade repositories registered according to EMIR. Do you agree with this approach?

Simplified registration procedures would always be welcomed (see answer to question I.1). However, again we fail to find the location where this is supposedly foreseen. Currently the actual RRM Guidelines does not mention this simplification.

Question 3

Please express your views on the RRM criteria proposed.

In our opinion, these criteria are valid and possible to comply with.

Question 4

Should Registered Reporting Mechanisms, for reasons of operational reliability, be required to support their annual reports, upon request and with at least 12 months' notice, by a recognised external auditor's report which confirms that the Registered Reporting Mechanism met all the criteria in the preceding 12 months?

In theory this is a valid and acceptable point. However, further clarity needs to be brought as to what exactly this new annual report would entail for the individual market participants who are registered as RRM's to report only on behalf of themselves. In our view, the obligations for these "direct RRM's" in regards to their annual reports should be kept at a minimum, especially in comparison to for instance the Trade Repository RRM's.

Furthermore, it would be helpful if ACER could please clarify the repercussions that a "direct RRM" could face in case external auditors were to find that not all criteria were met for all 12 preceding months. At the moment there is no mention of any possible sanctions or penalties for non-compliance with all criteria (except for in the immediate short run, which would entail immediate notification and report to ACER in accordance with point 5.3. "Notifications").



III. Questions concerning the draft RIS Guidelines

Question 1

Do you agree with the three different types of Regulated Information Services proposed and the distinction made concerning their reporting of information?

For us it is unclear in which category the platforms where individual market participants publish their own inside information regarding their own assets – e.g. their own websites, as recognised by the ACER 2nd Guidelines p.16 and p.35 – would fit. Furthermore, what about the other, increasingly established transparency platforms such as EEX or the RTE-UFE initiative?

Question 2

Do you agree that ENTSO-E and -G transparency platforms should play a crucial role in the reporting of transparency information according to Regulations (EC) No 714/2009 and (EC) No 715/2009, including network codes and guidelines, and be treated differently than other information sources?

In short, yes, they should play an important role. However, they should not completely “overshadow” alternative transparency platforms (see question III.1 above).

Question 3

Do you agree that it should be sufficient that inside information platforms make their information available to the Agency through web-feeds?

Yes, we agree.

Question 4

Do you agree that the technical specifications document should be the same for Regulated Information Services reporting individual and non-aggregated information than for Registered Reporting Mechanisms reporting confidential trade data due to the same sensitivity of the information?

In general we agree.