

ACER public consultation on Technical Standards for Trade reporting

A EURELECTRIC response paper



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▶ Transparency, ethics, accountability

EURELECTRIC response to ACER public consultation on Technical Standards for Trade reporting

SG Financial Regulation & Market Integrity

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Call for comments

The Agency therefore arranges a public consultation on the use of standard codes and technical

standard formats. Comments are welcome on all aspects of the issue. However, the Agency has included a number of questions to draw respondents attention to those areas where it would be particularly helpful to receive feedback.

Consultation questions

As a general premise to the whole consultation, and given the fact that is still somehow unclear for market participants and stakeholders how the reporting mechanism will function, we would like to reaffirm some general considerations and necessities.

- 1. Firstly, the leading principle when outlining REMIT reporting framework should be the minimization of efforts and additional resources required for market participants: centralization and delegation of reporting (via system and market operators) and the avoidance of any possible duplication are the main instruments in this sense. A fundamental role in the intermediation and delegation of reporting will be played by those entities which, in their role of market operator, system operator or regulatory authority, already enter into possession of reportable trades/information.*

Indeed, as already mentioned on several occasions, many electricity companies will most probably be subject to both EMIR (European Market Infrastructure Regulation) and REMIT as regards reporting. Given the subject complexity of the forthcoming obligations and in order to avoid any sort of duplication of reporting, the relevant regulatory authorities must define reporting requirements in the most coordinated way and allow an appropriate and aligned implementation period for non-financial companies. Market participants expect the European Commission, in cooperation with ACER and ESMA (European Securities and Markets Authority) to define rules guaranteeing that derivatives contracts reported under EMIR do not need to be reported again, are easily accessible to ACER and already comply with REMIT reporting requirements (for issues like content, standard codes and formats, timings and ID of market participants, etc.).

In the Article 8.3 of REMIT, legislators clearly committed themselves to establish such rules: “Persons referred to in points (a) to (d) of paragraph 4 who have reported transactions in accordance with Directive 2004/39/EC or applicable Union legislation on derivative transactions, central counterparties and trade repositories shall not be subject to double reporting obligations relating to those transactions. Without prejudice to the first subparagraph of this paragraph, the implementing acts referred to in paragraph 2 may allow organised markets and trade matching or trade reporting systems to provide the Agency with records of wholesale energy transactions.

This was a clear commitment from the legislators but one cannot but notice that notwithstanding our repeated calls, we did not get yet any more clarity on this key issue. Once again, we call for a close cooperation between the European Commission, ACER and ESMA to provide a high level of clarity for the market participants required to report.

In this context, we would like to reiterate to ACER our strong concern about double reporting between REMIT and other relevant financial legislation (particularly EMIR). Trade repositories, once registered as RRM, should be able to send to ACER all the necessary reportable information, including data and fields that are not required by EMIR, but should be reported under REMIT. Otherwise, double reporting would not be avoided, as, given a certain transaction, market participants would be required to twice provide information on it: first, to the TR, under EMIR, and then to ACER, integrating the information already provided with additional fields.

- 2. Secondly, we believe the Commission and ACER should further define responsibilities, particularly relevant in case of possible failure in delivering the data to ACER and/or the relevant NRA, where applicable, if the market participant opts to report through a RRM or a RIS. It should be for example expressly provided for that the compliance of a market participant with reporting obligations is considered fulfilled when a contract exists between the market participant and the third party stating that the third party is in charge of reporting on behalf of the market participant. Once the market participant has provided timely all necessary data to the RRM or the RIS reporting on its behalf, it should be explicitly released from any liability with respect to its reporting or publication obligations under REMIT. In any case, it should also be made clear that market participants on whose behalf data is reported remain owners of the data and must have access to the data, in order to be in a position to answer adequately any potential upcoming questions.*

EURELECTRIC believes that it should be however possible for market participants to report directly all reportable contracts in case this is determined as preferable or, for instance, in case IT investments are anyway necessary and the market participant consequently opt for direct reporting. In such a case, we believe that the requirements must be non-discriminatory in order to make effectively available the option for market participants to report themselves. Such requirements should be subject to consultation as soon as possible, in order to allow market participants to evaluate carefully all the options available to comply with their respective reporting obligation.

Moreover, we expect that a market participant willing (or having) to directly report its own transactions to ACER should not register as a RRM, though, of course, being asked to comply with some transmission requirements and security standards. Again, these IT standards should be defined as soon as possible, with some form of involvement/consultation of stakeholders.

- 3. Last but not least, EURELECTRIC believes that the requirements for transaction reporting should be implemented gradually and would thus recommend a phased approach (i.e. with a sufficient interval between the various periods) which allows for a sufficient testing period. This would be consistent with the proposal made by the consultants in the REMIT Technical Advice report. To enable appropriate and time and cost effective testing, market participants need at least six months to test the interaction of their systems with those expected to be used by ACER and RRMS. In this respect, the alignment with EMIR reporting requirements is essential for the effectiveness of a gradual implementation.*

On the Standards and formats for reporting

- I.** Do you agree that for the reporting of energy derivatives, the same standards applicable to the values taken by each field of information should apply under REMIT as under MiFID and EMIR? (For example ISO Currency standard identifiers for Currency information, ISO Country Codes for Country information, etc.).

Yes, it is desired to apply the same standards under REMIT and EMIR. This reduces the additional efforts to be taken in master data management.

Indeed it is absolutely necessary that, whenever possible, standards and formats required by REMIT reporting match with those used in EMIR reporting and, later, in MiFID/R reporting. This is the only way forward to guarantee that market participants do not need to duplicate investments required under different reporting regimes.

ACER should take into account that reporting of derivative contracts under EMIR is about to start (based on the criteria set in the implementing and regulatory technical standards approved by the European Commission): in such a context, reporting under REMIT must necessarily be coordinated to the EMIR regime in order to reduce the costs and burden created to market participants.

Additionally it would be necessary also to avoid duplication and unnecessary costs to use the same technical standards regarding codes and formats at least for data transmission.

II. What single standard and single format do you think the Agency should recognise:

We agree with the necessity to define single standards and formats for all identified categories and routes for reporting. However it should be explored whether systems can recognise more than one standard. This should be allowed for insofar as possible and while systems might still only recognise a small number of standards, allowing market participants the choice of using more than one standard would greatly facilitate implementation while minimising costs. Market participants should be able, in each of the identified cases, to use existing formats and platforms for reporting. We are not always sure, if comprehensive and appropriate standards and formats currently exist. However, in any case, it would be preferred that ACER work in close cooperation with the standard code and format development of EMIR on content and technical implementation. We would indeed strongly encourage ACER to coordinate its standards and formats with the ones currently being developed by the trade repositories currently applying for registrations to ESMA. We also believe that these standards and formats currently being developed by trade repositories should be subject of a public consultation where, as market participants that will be heavily impacted by the resulting regime, we believe we should be involved.

In general, we would recommend using formats that are XML-based.

- a. For reporting of transactions from organised market places that are exchanges
The Agency should recognize standards that are presently being used
- b. For reporting of transactions from organised market places that are not exchanges
- c. For reporting of transactions through confirmation services
Market participants should be allowed to use existing instruments for confirmation. In this context the confirmation document should not be required by ACER in PDF or any other format.
- d. For reporting of electricity nominations / scheduling
- e. For reporting of gas nominations / scheduling
Regarding II. d) and e), the Agency should liaise with TSOs in order to recognize their standards or, alternatively, to agree a common standard that TSOs should adopt to communicate with the Agency.

- III. The Agency has identified a set of common standard codes which it proposes being used in the new reporting framework (see Annex I). Do you think these standards are the relevant ones?

While reaffirming that for derivative transactions full use of EMIR standards is necessary and expected, for the rest of contracts we suggest ACER to use standards and formats widespread and used in trading practices, using in particular those standards and formats which require the least operative burden for systems adaptation.

Yes, the ISO standard codes described there are in general suitable. We believe it is key that those standards are in line with the standards used for the reporting under EMIR.

In addition to the proposed codes, the LEI code should be considered for identification of market participants.

- IV. If a format is recognised by the Agency, what governance provisions should the Agency require to ensure the quality persists?

Any format selected for trade reporting should be governed by the following principles:

- Any format changes required due to market developments or decided by data owners should be first coordinated with ACER and ESMA to avoid any double reporting/burden for market participants*
- Sufficient lead times for setting changes live (at minimum 6 months after publication of change). Also we believe that test platforms are extremely important and require some window of testing for market participants to assess their suitability.*
- Market consultation phase to discuss proposed changes in advance of decisions*
- E-Mail notification on proposed changes should be provided to market participants and other institutions(registration for mail notification)*
- Standards to be used for reporting should be published including dates when they come into force and proposed changes via internet for download*

- V. Do you have comments on these standards?

As already mentioned in previous questions, we believe it is key that standards and formats used for REMIT reporting are fully in line with EMIR requirements. We urge ESMA and ACER to closely cooperate on this issue in order to avoid any double reporting or additional burden for market participants.

- VI. What are the practical implications of the use of these standards and formats for the energy industry?

As already mentioned in previous questions, we believe ACER should recognize standards and formats that are presently being used. It is also absolutely necessary that, whenever possible, standards and formats required by REMIT reporting match with those used in EMIR reporting and, later, in MiFID/R reporting.

If it is not the case, any standard which has to be implemented for the whole or parts of the transaction portfolio requires lead time for implementation and will incur costs. Furthermore a suitable window for testing platforms for reporting is necessary.

- VII. Are there other formats and standards the Agency should consider for recognition?

ACER should use as much as possible existing platforms as data providers and for the definition of reporting standards. This would guarantee large savings of time and money and enhance the accuracy of the reported information.

On the taxonomy

- VIII. Do you think that the taxonomy proposed in Annex II is the relevant one?

As a general comment, we presume that the information contained in the proposed taxonomy could be composed by ACER directly from the original raw data of the reported transactions (see Annexes II in ACER final recommendations to the European Commission on record of transactions). We therefore believe that the elaboration of this taxonomy should be an ACER internal process, while we appreciate ACER request of comments from market participants and we hope to have further opportunities in the next months to interact with ACER in order to adapt and clarify the taxonomy at several points if needed.

According to EURELECTRIC, ACER should keep in mind that the maximum simplification and automation of the reporting process must be the purpose of identifying standardised contracts and introducing a taxonomy and product IDs.

- IX. Do you think the first criteria on the delivery market (as country) should rather be the delivery zone or bidding zone?

In general, we believe that it should follow the market. Having said that, it seems, that “delivery zone” is the more general attribute and should be selected. We believe ACER should stick to the denominations used in its final recommendations on record of transactions to the European Commission (i.e. “delivery point or zone” in Annex II.1, field 34, page 48) or follow the TSOs denominations.

- X. Does the taxonomy represent your view of the structure of the wholesale energy markets -relevant to REMIT? For each dimension, are the categories given exhaustive? If not, please offer suggestions.

In general and in addition to what was mentioned above, a clear description of the categories should be provided to avoid any misinterpretation.

- XI. Should Regulated Information (Transparency/Inside Information) be categorised using at least the first two criteria of the taxonomy?

We believe there should be no confusion between the reporting and the publication. According to REMIT, inside information should be disclosed and not reported. It is not the same purpose. For transparency information, ACER should use what is reported under the regulation on fundamental electricity data transparency.

- XII. Would you suggest any simplifications or additions to the taxonomy?

With the intent of favouring the definition of a taxonomy as consistent as possible with present standards, we suggest ACER to make the largest use of standards and formats for standardised contract used in the main exchange and brokerage platforms.

Additional comment in relation to Recommendations on REMIT Records of transactions

In relation to the “Recommendations on REMIT Records of transactions” (published on 23 of October 2012), we would like to raise a concern. In the section “lifecycle information” (page 53) there is a proposal to inform the “splits” in the action type field, when the report contains “...a contract which contains either quantity or price changes for different “blocks” of energy according to a given load profile over time, the transaction must be split in several records, each of them reporting a single value for quantity and price, and referring to each time period in which both price and quantity are fix, it will be identified as “split”.

We think that this representation is not clear because the action type field should be used to inform an action over the trade (that means new, modify, cancel...) and not to inform a feature/typology of the trades. This behaviour force to manage a fictitious trade representation and to manage a several transactions id for the same Transaction Reference Number.



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