Response by EnBW Trading GmbH to ACER public consultation 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

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I. General questions

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 general, the proposed two-stage approach seems appropriate. At the same time we like to emphasize that the registration process should take into account that there may be a differentiation necessary in case market participants would like to register directly with ACER as a RRM in order to report directly their own transactions on group level. Thus for this registration there should be a simple and straight forward process in order to avoid additional burden and increased costs. As in a larger energy company there may be several entities within the group (e.g. sales entities) which have REMIT-relevant energy wholesale transactions, it should be possible to report them directly to ACER using a centralised IT system without too high additional organisational and IT burden.

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.

We do not have a strong view on the suggested approach. Generally, we think that it is a valuable request to keep the data within the EU. Also, we think there must be clear rules on how to proceed if data security provisions are breached; this seems to be missing in the draft guidelines.

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

As mentioned above, we would like to see a clear and transparent procedure if RRMs / RIS which report transactions for external third parties do not comply with the necessary requirements especially data security provisions. Also, we wonder if it is really necessary to renew the status every two years in cases where market participants have registered as RRMs in order to only report directly their own transactions on group level.

II. Questions concerning the draft RRM Guidelines

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?

In our view this approach seems to be sensible, i.e. to require an ISO certification 27001 or similar. At the same time we wonder if the same standard is necessary if a market participant likes to register as a RRM in order to only report directly their own transactions on group level (no reporting on behalf involving commercial relevant data of third parties). Thus it should be considered to provide for simplified requirements if data is reported only on behalf of group-internal counterparties and not of other external counterparties.

2. The draft RRM Guidelines currently foresee a simplified registration procedure for

trade repositories registered according to EMIR. Do you agree with this

approach?

As mentioned before we support a simplified registration process. However, it is not clear that such a process should only be possible for trade repositories registered according to EMIR (especially considering that these TRs would deal with highly commercial sensible data of third parties).

3. Please express your views on the RRM criteria proposed.

Generally, we think that the proposed RRM criteria are suitable.

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?

Generally, this proposal seems to be a sensible approach. However, as stated before, we wonder if this requirement would be necessary for those cases where a market participant likes to register as a RRM in order to only report directly their own transactions on group level (no reporting on behalf involving commercial relevant data of third parties). Possibly there could be a "short version" of this procedure for these RRMs.

III. Questions concerning the draft RIS Guidelines

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

We think it should be made clear to which type of RIS already existing platforms will belong to; e.g. what about company websites where respective fundamental data and inside information is being published.

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?

Yes.

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 generally agree; while these web feeds should also use a structured format.

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?

Yes.

Additional Comments on the Consultation Document

- *Nr. 3 (1) b: We are not sure if this means that market participants that report only for themselves would also need to establish parallel systems. A moore detailed description is needed taking into account that any unnecessary costs need to be avoided.*

- *Nr.3 (1) d: We assume that this will be a 24/7 availability as short-term (intra-day trading) continues to become more and more relevant.*

- *Nr. 3 (4): We propose to have a more specific description of what kind of information this may include; the current wording is far to open and could cause significant additional burden.*

- *Generally, we are not sure if it is appropriate that the Agency is explicitly excluding any legal responsibility for the reporting procedure.*

- *Nr. 4.2 (1) a-c: We do not fully understand what kind of information would be required here.*

- *Nr. 4.5: In our view this means that the RRM/the directly reporting market participant will actually get an acknowledgement of receipt from the Agency.*

- *Nr. 4.6 (4): We are not convinced that this is an appropriate requirement. First of all we are not sure which cases would actually be covered by this provision.*

- *Nr. 4.8: With increasing intra-day trading activities, does this mean a 24/7 requirement?*