

**A2A Trading's Responses to the Public Consultation Document PC_2012_R_10
"Recommendations to the Commission as regards the records of wholesale transactions,
including orders to trade, and as regards the implementing acts according to Article 8 of
Regulation EU n. 1227/2011".**

Question 1

Do you agree with the proposed definitions? If not, please indicate alternative proposals.

Answer 1

We agree with the definitions proposed but we think some more should be added: "Initiator trader" means the trader who places the offer (bid or ask) before the deal closing; "aggressor trader" means the trader who closes the deal; "order to trade" means a bid or ask on a trading platform (price must be visible from third parties) while from what stated in page 9 "*valid orders to trade are captured and stored in the market participant's energy trading and risk management software, where they are typically organised into trading books*" it seems that "valid" orders to trade are the closed deals and not just the bid/ask offers. It is useful to define also which are the regulated information.

Finally, we think that the deals between two companies of the same group should be exempted from the report obligations: indeed, these deals have no effect on the market.

Question 2

What are your views regarding the details to be included in the records of transactions as foreseen in Annex II? Do you agree that a distinction should be made between standardised and non-standardised contracts? Do you agree with the proposal on the unique identifier for market participants?

Answer 2

Regarding the details that ACER included, we would underline that many of them are not currently used or monitored; it will be an increased burden for trading Companies. It seems the Annex II has been built mainly for electricity. Field 39 (Interconnection point) is clear for crossborder but it is not clear if for gas, which affect the price of the product, should be specified the entry-exit points.

We agree with the distinction between standardised and non-standardised contracts. Regarding this last category we think that it is very complicated to report how the contracts are done (they are usually very long, very complex and subject to frequent changes) and the report should be sent manually and individually with a written description. Moreover, these contracts are often concluded in terms of pricing but have long timing for agreement on flexibility etc. Finally, non standard contracts have a very limited (if any) possibility to manipulate the market.

Therefore, we suggest to exempt these contracts from the report obligation: companies should just keep a record of these deals in their databases.

We agree with the proposal on the unique identifier for market participants. Nevertheless we can't forget that currently there are different ID which are used by markets, TSO etc which can't be simply deleted. We invite Acer to coordinate such a change.

Question 3

Do you agree with the proposed way forward to collect orders to trade from organised market places, i.e. energy exchanges and broker platforms? Do you think that the proposed fields in Annex II.1 will be sufficient to capture the specificities of orders, in particular as regards orders for auctions?

Answer 3

We think the easy way to collect orders to trade is through energy exchanges and broker platforms, considering the huge amount of data under examination.

Nevertheless we are worried that such "service" will cost a lot to the companies which are already facing a very difficult period with shrink margins (when not negative). For this reason in case one company would report the order to trade by itself we think Annex II.1 is not suited as the majority parts of fields should be

empty, referring to closure of deal. In consideration of the massive data and the continuous changes in pricing we think wise to keep a very simple and straightforward record for order to trade (fields: 1,2,3,13,14,15,16,19,25,26,27,28,29,30,33,34).

Question 4

Do you agree with the proposed way forward concerning the collection of transactions in non-standardised contracts? Please indicate your view on the proposed records of transactions as foreseen in Annex II.2, in particular on the fields considered mandatory.

Answer 4

We have already answered to this question at point 2. In case it results impossible to avoid non-standardised contracts reports it could be easier to use the same ANNEX as for standard contract and fill in all the field suitable for the description of non-standardised contract.

About non-standard contracts, it is not clear if the contracts that a trading company stipulates with its reseller, on a bilateral basis and dedicated only to hedge the energy (electricity and gas) sold to end-clients, should be included in REMIT or not. They usually refer to a master agreement which states the general conditions and to many small single non-standard deals. Please, consider that usually these deals are between companies of the same group or also intercompany and do not affect market prices.

Question 5

Please indicate your views on the proposed collection of scheduling/nomination information. Should there be a separate Annex II.3 for the collection of scheduling/nomination data through TSOs or third parties delegated by TSOs?

Answer 5

Yes, we think it is more manageable an “ad hoc” Annex related just to scheduling and nomination. TSOs already manage all the data from the different operators, so they should also act as intermediaries to provide such information to any Authority requiring them. Considering that scheduling and nomination will not affect market manipulation it could be kept as simple as possible.

Question 6

What are your views on the above-mentioned list of contracts according to Article 8(2)(a) of the Regulation (Annex III)? Which further wholesale energy products should be covered? Do you agree that the list of contracts in Annex III should be kept rather general? Do you agree that the Agency should establish and maintain an updated list of wholesale energy contracts admitted to trading on organised market places similar to ESMA’s MiFID database? What are your views on the idea of developing a product taxonomy and make the reporting obligation of standardised contracts dependent from the recording in the Agency’s list of specified wholesale energy contracts?

Answer 6

In our opinion the list is generic enough, also if it contains some inaccuracies. The product Two-days-ahead is not commonly used. Normally the working-days and the Week-end are traded. Also the Week product should be included as it is a very liquid and traded product. Regarding the Long-Term contract it should be better to define the timing to whom the different products refer, for example from the front month until the fifth calendar year. We understand that long-term products will be monitored also under other regulations (EMIR, MiFID). For this reason it is desirable to have a strong coordination among the different subjects who have to decide in order to avoid mismatching and different products which can only complicate an already complicated matter.

It is not clear the reference to “any other commodity” which is not electricity or gas.

Regarding capacity contracts all these can be reported by the TSOs or capacity auction providers.

We support the idea of a product taxonomy which ACER should keep updated and available on its web-site.

Due to specific characteristic of gas products (delivery starting at 6.00; Season products, Gas Year and Gas Calendar products, etc) it could be preferable to have two different taxonomies, one for electricity and one for gas.

In case a traded product is not yet included into the taxonomy, there should be the possibility to register it in a “non-yet-defined-product” area and send an alert to ACER in order to up-date the list.

Question 7

Which of the three options listed above would you consider being the most appropriate concerning the *de minimis* threshold for the reporting of wholesale energy transactions? In case you consider a *de minimis* threshold necessary, do you consider that a threshold of 2 MW as foreseen in Option B is an appropriate threshold for small producers? Please specify your reasons.

Answer 7

We consider A option as the simplest and more manageable. For all the small producers selling their entire production on a bilateral basis to a wholesaler which in turn is selling energy on the market, the reporting obligation should be put on the sole wholesaler.

Question 8

Are there alternative options that could complement or replace the three listed above?

Answer 8

NO

Question 9

Do you agree with the proposed approach of a mandatory reporting of transactions in standardised contracts through RRM's?

Answer 9

Yes, we agree that there must be the possibility for each market participant to send to ACER its own data. The obligation to be recognized as RRM's is fine. We would prefer that ACER fixes the minimum requirements to be RRM's in a different way in case one subject wants to be RRM's just for himself (and the companies of the Group) or in case this subject wants to offer a service to third parties. In this last case requirements should be more stringent and it should be clear who is the responsible in case of missing information or non respect of timing.

Question 10

Do you believe the Commission through the implementing acts or the Agency when registering RRM's should adopt one single standardised trade and process data format for different classes of data (pre-trade/execution/post-trade data) to facilitate reporting and to increase standardisation in the market? Should this issue be left to the Commission or to the Agency to define?

Answer 10

Yes, we agree on standardization. Please take into consideration that in case of new standard the effort requested to market participants, and the related costs, could increase a lot. A specific consultation and a state-of-the-art analysis should be done before defining the standard.
We think the issue should be left to ACER (not to the Commission) in order to have more flexibility in case of future adjustments.

Question 11

Do you agree that market participants should be eligible to become RRM's themselves if they fulfil the relevant organisational requirements?

Answer 11

YES, see answer 9.

Question 12

In your view, should a distinction be made between transactions in standardised and non-standardised contracts and reporting of the latter ones be done directly to the Agency on a monthly basis?

Answer 12

We think that reporting of non-standardised contracts could be problematic for the peculiarity of each contract that should be reported “manually” into the description required by ACER. In case the non-standard contracts should be reported, a report on a yearly basis is desirable (in any case no more than once per quarter).

Question 13

In view of developments in EU financial market legislation, would you agree with the proposed approach for the avoidance of double reporting?

Answer 13

Yes. We hope to have a clear picture of the reporting flux. For this reason we think it is essential a coordination among the different Authorities involved in reporting, data monitoring e data repository on physical and financial products.

Question 14

Do you agree with the proposed approach concerning reporting channels?

Answer 14

Yes. As stated before we think it is very important that the requirements to be recognized as RRM should be affordable for a normal operator and not so stringent to allow only to few subjects to be qualified. To do so we suggest the requirements for RRM working as service providers for third parties should be different from the ones for RRM working just for themselves.

Question 15

In your view, how much time would it take to implement the above-mentioned organizational requirements for reporting channels?

Answer 15

One year at least.

Question 16

Do you agree with this approach of reporting inside and transparency information?

Answer 16

We think that it is acceptable only if ACER is ready to receive the same information the company is publishing on its site for transparency obligation, in the same format without extra-work and modification. In case there is an institutional entity (i.e TSO or NRA) which already collects these data, ACER will take them directly from this source.

Question 17

Please indicate your views on the proposed way forward on the collection of regulated information.

Answer 17

Regulated information are already made available to institutional entities. ACER can take them directly without further involvement by the company.

Question 18

Do you agree with the proposed approach for the reporting of regulated information? Please indicate your view on the proposed mandatory reporting of regulated information through RIS and transparency platforms. Should there remain at least one reporting channel for market participants to report directly to the Agency?

Answer 18

We think that reporting information through third parties must not be mandatory, unless the same principle of RRM is applied also for RIS. We mean that each market participant should have the possibility to be registered as RIS (likewise as RRM) without very stringent requirements (except for pure services). Please take into consideration that information disclosure are the first activities utilities have put in place after REMIT approval and that a lot of companies already spent money and resources to be compliant, each in its own way, as there was lack of indication by the regulator.

Question 19

The recommendation does not foresee any threshold for the reporting of regulated information. Please indicate whether, and if so why, you consider a reporting threshold for regulated information necessary.

Answer 19

We think information related to plants under 100 MW could be considered neglectable.

Question 20

What is your view on the proposed timing and form of reporting?

Answer 20

We think it should be better to define first the timing for disclosure to the public. Then we agree that the two timing (publication and communication to ACER) should be the same, unless for technical arrangements (i.e in case the information are sent to a NRA who in turn has to sent them to ACER).