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REMIT

Publication of extracts of the European register of market participants

(pursuant to Article 9(3) of Regulation (EU) No 1227/2011
of the European Parliament and of the Council of 25 October 2011
on wholesale energy market integrity and transparency – REMIT)

Public Consultation Paper

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According to Article 9(3) of Regulation (EU) No 1227/2011 on wholesale Energy Market Integrity and Transparency (“REMIT”), the Agency for the cooperation of energy regulators (the “Agency”) may decide to make the European register, or extracts thereof, publicly available, provided that commercially sensitive information on individual market participants is not disclosed.

This public consultation paper is intended to collect views from all parties interested in the implementation of REMIT (market participants, organised markets and other persons professionally arranging transactions, financial regulatory authorities, etc.) on the Agency’s proposal for the Publication of extracts of the European register of market participants.

The Agency invites all interested parties to provide comments to the consultation paper on the Publication of extracts of the European register of market participants, and especially answers to the consultation issues listed in the Annex, by 5 December 2013, 12.00 noon, Central European Time, to consultation2013ER06@acer.europa.eu.

The public consultation paper was presented during the Agency’s public workshop in Ljubljana on 7 November 2013. Please consult the ACER website to get the latest updates.

Related Documents

ACER documents

- [1] ACER Decision No 01/12 determining the registration format to be used for the establishment of the European Register of market participants, http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Directors%20decision/ACER%20Decision%2001-2012.pdf
- [2] ACER Guidance on REMIT application (3d edition), http://www.acer.europa.eu/remit/Documents/REMIT%20ACER%20Guidance%203rd%20Edition_FINAL.pdf

External Documents

- [3] Regulation (EC) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:326:0001:0016:en:PDF>

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1. Scope of this consultation paper

According to Article 9(3) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale Energy Market Integrity and Transparency¹ ('REMIT'), the Agency shall establish a European register of market participants ('European Register'). The European Register is based on the information provided by the national regulatory authorities ('NRAs'), which in turn is provided by market participants registering in each Member State.

In line with Article 9(3) of REMIT, the Agency may decide to make the European Register, or extracts thereof, publicly available. Furthermore, according to Article 12(2) of REMIT, the information the Agency possesses may be published or made available in the interest of improving transparency of wholesale energy markets and provided it is not likely to create any distortion in competition on those energy markets. The requirements of Article 12(2) of REMIT also apply to the publication of extracts of the European Register under Article 9(3) of REMIT.²

Article 9(3) of REMIT also required the Agency, in cooperation with NRAs, to determine and publish, by 29 June 2012, the format in which NRAs should transmit registration information on market participants to the Agency.

On 26 June 2012, ACER Decision No 01/12 determining the registration format to be used for the establishment of the European Register of market participants was adopted³ ('Agency Decision No 01/12'). The registration format determined by this Decision No 01/12 consists of 5 sections:

- Section 1: Data related to the market participant;
- Section 2: Data related to the natural persons linked to the market participant;
- Section 3: Data related to the ultimate controller or beneficiary of the market participant;
- Section 4: Data related to the corporate structure of the market participant;
- Section 5: Data related to the delegated parties for reporting on behalf of the market participant.

¹ OJ L 326, 8.12.2011, p. 1.

² Please note that the publication of trade data according to Article 12(2) of REMIT is not subject to this public consultation.

³ ACER Decision no 01/2012 relating to the registration format pursuant to Article 9(3) of Regulation (EU) No 1227/2011.

All market participants entering into transactions which shall be reported to the Agency in accordance with Article 8(1) of REMIT are required to register and therefore provide this information.

The aim of this public consultation paper is to collect the views from all parties interested in the implementation of REMIT on what data from the European Register should be made public.

2. Legal Framework

The most relevant provisions as regards the publication of data from the European Register are laid down in Article 9(3) and 12 of REMIT and Agency Decision No 01/12.

Firstly, as laid down in Article 9(3) of REMIT, NRAs and other relevant authorities will have access to the European Register.

Article 9(3) of REMIT also specifies that the Agency may decide to make the European Register, or extracts thereof, publicly available, provided that commercially sensitive information on individual market participants is not disclosed.

In line with Article 12(2) of REMIT, the Agency is entitled to decide to make publicly available parts of the information in its possession, provided that commercially sensitive information on individual market participants or individual transactions or individual market places are not disclosed and cannot be inferred. In this case, the information shall be published or made available in the interest of improving transparency of the wholesale energy markets and provided it is not likely to create any distortion in competition on those energy markets.

3. Purpose and Scope of the publication of European Register

The Agency believes that the purpose of publication of extracts of the European Register should be twofold. Firstly, it should allow for the publication of information necessary for market participants to complete their registration and thereby comply with the obligations according to Article 9(1) of REMIT. Secondly, the publicly available extracts of European Register should improve the transparency of wholesale energy markets.

The scope of information to be published by the Agency shall be laid down with regard to these two purposes.

Furthermore, when determining the scope of publicly available extracts of the European Register, the following considerations should be taken into account:

- a) commercially sensitive information on individual market participants or individual transactions or individual market places shall not be disclosed and the publication of extracts of the European Register should be such that this commercially sensitive information cannot be inferred (Article 9(3) and 12(2) of REMIT);
- b) publication of extracts of the European Register is not likely to create any distortion to competition on the energy markets (Article 12(2) of REMIT);
- c) information processed in European Register can be subject to the data protection requirements which further restrict the possibility to publish such information.

3.1. Information necessary for market participants to complete their registration obligations according to Article 9(1) of REMIT

3.1.1. Purpose

In accordance with Agency Decision No 01/12, the registration process will be split into two phases for market participants registering before the Agency has published for the first time the European Register.

- a) In the first phase, such market participants shall provide information relating to Sections 1 (data related to the market participant), 2 (data related to the natural persons linked to the market participant), 3 (data related to the ultimate controller or beneficiary of the market participant) and 5 (data related to the delegated parties for reporting on behalf of the market participant) of the registration format.
- b) In the second phase, such market participants shall provide the information relating to Section 4 (data related to the corporate structure of the market participant) of the

registration format. This information has to be completed within 3 months from the first publication of the European Register.⁴

Any market participant registering after the Agency for the first time publishes the European Register will be required to submit the information related to all the sections of the registration format before the registration form can be considered to be correctly submitted.

In this context, it should be highlighted that in Section 4 (data related to the corporate structure of the market participant) of the registration format, market participants shall provide information related to other market participants already registered under REMIT. Therefore, public availability of information already included in the European Register is necessary for market participants to complete their registration and thus fulfill their obligation under Article 9(1) of REMIT. The scope of such information is discussed in the next section.

3.1.2. Scope

The Agency is of the view that in order to provide the complete information specified in the registration format (Section 4), the publicly available extracts of the European Register should include following data:

- Market Participant: Full name of the market participant (either company name if legal person or full name if natural person) (Field 101, Section 1);
- ACER CODE⁵: unique identifier for registration purposes (Field 121, Section 1).

It is important to note that without a publicly available list of fields 101 and 121 ('Market Participant' and 'ACER CODE'), a market participant intending to register will not be able to provide the information in Section 4 of the registration format (data related to the corporate structure of the market participants; i.e. Fields 401 and 402).⁶

⁴ For more information on registration process, please see Chapter 4 of the Guidance on the application of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency - 3d edition).

⁵ As required by Article 9(2) of REMIT, each market participant registered under REMIT will be issued with a unique identifier (the "**ACER code**").

⁶ A clear legal basis for publication of the list of market participants can be found in Recital 7 of Agency Decision No 01/12: "In order to enable the Agency to carry out its task under Regulation (EU) No 1227/2011, the European register should contain information on the corporate structure of market participants, in particular concerning their relation with other registered market participants. The publication by the Agency of the list of the market participants recorded in the European register will allow the public identification of registered related undertakings."

3.1.3. Consultation issues

1. Is the scope of data foreseen to be published sufficient for market participants to complete their registration, especially with regard to the information required in Section 4 of the registration format, and thus fulfill their obligation under Article 9(1) of REMIT?
2. In order to identify or verify the identity of a related undertaking, is the publication of information in fields 108 to 110 (address, city, postal code) necessary and appropriate?
3. Is the publication of other company's identifier such as VAT Number in field 112 or the codes in fields 113 to 116 (EIC, BIC, LEI, GS1) or 118 (trade register) necessary and appropriate (please take into consideration that they might not be available for all market participants)?
4. Do you believe that the scope of data to be published from the European Register should be increased or decreased?

3.2. Information to improve the transparency of wholesale energy markets

3.2.1. Purpose

In the interest of improving the transparency of the wholesale energy markets, the Agency may decide to make publicly available parts of the information in its possession.

3.2.2. Scope

The Agency believes that the scope of the information published as an extracts of the European Register to improve the transparency of wholesale energy markets should include the following additional data:

- State: Member State or Country where the market participant is resident (Field 107, Section 1);
- NRA: NRA which processes the registration (Field 111, Section 1);
- Website: URL of the home page of the website of the market participant (Field 119, Section 1);
- Publication Inside Information: Place of publication of insider information, if different from the website of the market participant (Field 120, Section 1);
- Date of validity: Date of validity of the information collected in Section 1 (Field 123, Section 1).

Publication of the information such as the country where market participant is resident or the NRA that the market participant has registered with, would allow the public to know which NRA is responsible for the registration of the market participant.

Availability of information on market participant's website or place of publication of inside information (if different from the website homepage of the market participant) is crucial for transparency and effective public disclosure of inside information in accordance with Article 4(1) of REMIT. This information will also facilitate a wider dissemination of inside information through news service providers.

Finally, it is suggested that the public disclosure of the validity date of information in the European Register would provide market participants with confidence that the list of websites used for the public disclosure of inside information is up to date.

3.2.3. Consultation issues

- | |
|---|
| <ol style="list-style-type: none">1. Is the scope of data foreseen to be published for transparency purpose appropriate?2. Do you believe that the scope of data to be published from the European Register for transparency purpose should be increased or decreased? |
|---|

Annex – List of consultation issues

1) Information necessary for market participants to complete their registration obligations according to Article 9(1) of REMIT

- a) Is the scope of data foreseen to be published sufficient for market participants to complete their registration, especially with regard to the information required in Section 4 of the registration format, and thus fulfill their obligation under Article 9(1) of REMIT?
- b) In order to identify or verify the identity of a related undertaking, is the publication of information in fields 108 to 110 (address, city, postal code) necessary and appropriate?
- c) Is the publication of other company's identifier such as VAT Number in field 112 or the codes in fields 113 to 116 (EIC, BIC, LEI, GS1) or 118 (trade register) necessary and appropriate (please take into consideration that they might not be available for all market participants)?
- d) Do you believe that the scope of data to be published from the European Register should be increased or decreased?

2) Information to improve the transparency of wholesale energy markets

- a) Is the scope of data foreseen to be published for transparency purpose appropriate?
- b) Do you believe that the scope of data to be published from the European Register for transparency purpose should be increased or decreased?



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