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Response of EnBW to ACER Public Consultation Paper (PC_2014_R-02)

We welcome the possibility to comment on the draft ACER Trade Reporting User Manual (TRUM). In our view this is an important part of the process of implementing the transaction reporting requirements under REMIT. It is of utmost importance to provide as much guidance to market participants as possible in order to achieve a smooth implementation process. As mentioned before, the reporting of all REMIT-relevant transactions to the ACER database constitutes a major project, especially as internal systems and processes need to be adjusted accordingly. Therefore, it is highly appreciated that the TRUM is aimed to be published together with the final Implementing Acts. At the same time we would like to stress that the still outstanding drafts of the additional technical documents ("ACER Requirements for Registered Reporting Mechanisms (RRM)" and "ACER Technical Specifications for Registered Reporting Mechanism (RRM)") are also published for public consultation as soon as possible. Only then market participants can fully evaluate the (technical) requirements needed to submit transaction reports to ACER.

As general points we would like to stress the following points that are of key importance for us:

- Transaction reporting should always be complying with the cost-benefit principle. Thus the transaction data files should be retained to the minimum to fulfill the REMIT requirements; any additional reporting field does produce additional costs.

- A sufficient degree of clarity needs to be given for market participants on how to populate the fields; ideally supported by relevant examples.

- We fully support the general approach to avoid double-reporting obligations; especially with EMIR (and MiFID) reporting. Thus a strict alignment with the standards and formats of these requirements is necessary. In this context, we would also like to emphasize that a parallel reporting obligations to NRAs should be avoided. Rather, NRAs should only access relevant data from the ARIS system of the Agency; otherwise we see a significant danger that market participants are asked to set up additional reporting channels also towards NRAs.

- Clear assignment of responsibilities in the entire reporting process. We support the approach that organized markets should be the first addressee to submit relevant transactions concluded via their platform; this is particularly relevant for orders to trade which are currently not captured by market participants in their systems. We thus urge the Agency to ensure that it is made clear to market participants as early as possible whether the relevant platforms are in fact "offering" this. Where applicable, this obligation should also be extended to TSOs (e.g. regarding transactions in the balancing market).

- Regarding relevant non-standard transactions and pure bilateral transactions it is inevitable that market participants have to report themselves. In this context it is important to actually "allow" market participants to also report directly to the ACER database. Thus, we think that if market participants choose to become a RRM themselves rather than use a third party RRM to submit transaction reports, a different degree of RRM requirements should be considered. This is particular relevant, if deals are submitted for the affected group companies through a "consolidated" central hub (e.g. trading unit) on group level. We agree that if a third party RRM provides the reporting as a service for clients, these clients and their data deserve highest degree of protection. In any case, we would like to stress that "only" the entity connecting to ACER's ARIS system should be required to register as RRM.

- When outsourcing transaction reporting, the draft TRUM outlines the responsibilities for market participants. We are concerned about the proposed level of requirements for market participants which will put a massive burden on market participants to monitor the correctness of the data submitted to the Agency by the third party RRM. When outsourcing the reporting, a key aspect for market participants will be the minimization of resources that need to be made available. However, the proposed procedures will in no way reduce the resources as in fact a quasi-parallel system would need to be put in place in order fulfill the proposed obligations ("In case a market participant uses a third party RRM, the market participant must take reasonable steps to verify that the RRM/RIS is successfully submitting the reports to ACER"). We are of the opinion that any RRM that has been successfully registered as a qualified "REMIT RRM" by the Agency will have to comply with all respective requirements set by ACER. Thus, we do not see the need why market participants should have to have a parallel monitoring system in place.

In the following we provide some further specific comments to the consultation questions. In this context we would like to emphasize that we strongly support the input provided by the European trade associations Eurelectric and EFET as regards comments to the specific data fields.

Please provide us with your general comments on the purpose and structure of the draft TRUM, annexed to the consultation paper

We generally believe that it is essential to provide as much supporting information to market participants as possible in order allow for a smooth implementation of the REMIT transaction reporting requirements. Key is to have detailed information regarding:

- who is obliged/allowed to report to ACER relevant transactions under REMIT and to whom can the transaction reporting be delegated
- clarification on the responsibilities for the content of the reports
- clear specifications of the data formats and explanations regarding the field content; ideally supported by examples
- integrity checks and the underlying logic which will be performed by the ACER database

In this context, we generally support the draft TRUM as it provides relevant specifics for market participants. We also appreciate that it is aimed to publish the TRUM together with the Implementing Acts which is important for a timely implementation.

At the same time we would like to emphasize that it is of particular importance that there are still key elements in the transaction reporting process that are not or not precisely described yet. Especially, it is crucial that the requirements for RRMs are also published together with the IAs (and the TRUM). This is absolutely essential in order to provide market participants sufficient time both to decide on their design of the transaction reporting process as well as to apply/register as a RRM themselves, if required.

Furthermore, market participants require detailed information on how the reporting process will be in case an organized marked does not provide the reporting service. In this context it is very important that market participants have full clarity as early as possible whether organized markets are in fact obliged to report or have an option to report those REMIT-relevant transaction concluded on their platforms. Especially in the latter case, there must be an early deadline set for them in order to avoid that market participants would also have to set up relevant processes in order to be ready to report (while not knowing whether the trading platform will finally do it on their behalf or not). If market participants have to report contracts concluded via organized marketplaces by themselves or via RRMs other than the respective organized marketplace it might be very costly to provide the data related to orders.

The Agency has currently identified a set of standard formats to be used in the reporting framework (see Chapter 5 of the draft TRUM). Do you consider these standard formats relevant? Are there any other standards that the Agency should consider?

We generally support that RRMs need to meet specified standards in terms of data integrity and data confidentiality. At the same time, we would like to point out that there should be a differentiation made between RRMs that provide reporting services for third parties and those market participants that only report transactions on behalf of group members. We believe that the requirements for the latter should be less comprehensive than for RRMs whose business model is providing reporting services for third parties.

Regarding the formats, we believe that the data transfer to the ACER database should be aligned with the formats already being used by EMIR trade repositories. Thus, we strongly recommend that a connection via SFTP is provided and the well-established XML format can be used.

In section 10 of the FAQs (synchronise clocks for time stamps) it is stated that "*reporting any OTC or non-standard contracts should be done at an accurate a measure as possible. For this reason, all clocks should be synchronised with a trusted time source or NTP service and drift and tolerance from the NTP service should be set to a maximum of 5 milliseconds*". As pure bilateral contracts need to be inserted into the front office system manually, we would like to point out that there will naturally be a time offset between the two counterparties. Traders are obliged to insert the trades as soon as possible, however, depending on the trade and the system this requires a certain time. ACER should recognize this issue when reconciling the data.

Referring to the answer of the question regarding close of working day in section 10 of the FAQs: "*Transactions submitted after 1 day shall still be processed automatically by the system, up until the maximum 60 day period. As per all data submission, a receipt of transactions will be provided 1 day following the receipt of the data. After this 60 day period, any further modifications or updates to data will require manual intervention by us and a request will need to be made through the data management team.*"

If modifications/updates are required after 60 days it is a huge additional manual effort if they can only be realized via manual requests. It is normal that in certain cases contracts are modified/updated later than 60 days after conclusion. EMIR reporting also showed that when starting with the reporting obligation there were different views amongst market participants and also amongst different reporting service providers how certain fields must be populated for the respective contracts. Hence, it is inevitable that data adjustments have to be made after the submission of the original trade. These adjustments generally apply to numerous contracts of the same contract type. Market participants have established systems which in case of updates automatically send modifications to the EMIR trade repositories. Hence it is important to align the process with EMIR reporting, which means that ACER database also accepts automated modifications during and after the maturity of a contract.

Please provide us with your views on the field guidelines for the reporting of transactions in standardised supply contracts (see Chapter 6 of the draft TRUM)

Field No. 1: ID of the market participant or counterparty and Field No. 4: ID of the other market participant or counterparty:

These two fields shall identify the two counterparties of the contract by using one of the following codes: LEI, BIC, EIC, GS1/GLN or ACER-code. In order to align the REMIT transaction reporting with respective EMIR reporting, we strongly recommend the LEI as the preferred code. Certainly, we see that not all market participants having to report under REMIT may also have to report under EMIR and thus would not have the need to use the LEI. Thus, ACER may provide the possibility to choose between the different identifiers. In this case, it is essential that ACER ensures that all trades are matched without error notification if counterparty A uses the LEI to identify itself while the other counterparty B uses e.g. the ACER-code to identify counterparty A. This is essential as for market participants it is not possible to adjust their own identification code depending on the counterparty (and the fact that certain counterparties may use a different code).

Data fields related to Orders to trade (No 13 – 22 and No 30 Linked order ID):

We understand that it is important to receive full transparency of the energy market to receive information regarding orders. However if the reporting would not be realized by the organized market place it is a high effort to transfer these order information to another third party system. Market participant generally do not store the required order information in such a way that it can be reported. Hence we support that the order information need to be reported by the organized market place.

22. Order Duration:

For an order which is still valid at the end of day it is not possible to report the duration (the time for which the order exists within the system until it is removed/cancelled unless it is executed) at T+1. This information would need to be provided as a modification at time when the order will be removed, cancelled or executed. This procedure is very complex and thus expensive to implement. Therefore we suggest deleting this field.

Field 23 contract types

As the information regarding index settlement is already provided via field 35, we propose that it should not be required to provide the selection values SPI, FWI, FUI and OPI in this field.

Field No 36 index value

We would like to emphasize that according to EMIR so-called NFC- companies are not required to provide any valuation information. Hence we support that no valuation information is required under REMIT.

Field No 51 duration:

As start and end of the delivery period needs to be reported the field "duration" provides no additional information. Hence we propose to delete this field to reduce the operational effort for market participants to a minimum.

Field No 56 load delivery intervals:

We propose to add in the description of this field that this only needs to be filled in case of shaped contracts (i.e. if field No 54 is filled with "S"). For all other contracts the field No 54 Load types already contains all necessary information.

Do you agree that for the reporting of energy derivatives, the same standards that apply under EMIR and MiFID should apply under REMIT (see Chapter 7 of the draft TRUM)?

Yes, we strongly support that for the reporting of energy derivatives, the same standards should be used under REMIT as already apply under EMIR and MiFID.

Generally, it is important that the transaction reporting REMIT is aligned with the a.m. already existing regulatory frameworks EMIR and MiFID as much as possible. Any deviation will cause additional IT-costs to implement and to monitor at the market participant's side. Thus, the fields should be aligned as much as possible with those under EMIR. In this context we fully support that transactions already reported under EMIR do not have to be reported by the market participant again under REMIT.

The Agency intends to include in the TRUM guidance on how trade reports shall be reported for different trading scenarios (see Chapter 8 of the draft TRUM). Please provide us with your views on which trading scenarios you would consider useful to cover in the TRUM

Rather than trading scenarios it would be useful to provide information how the fields should be filled for a few explicit example contracts (e.g. typical gas and power forwards).

Please provide us with your views on the section in the draft TRUM related to data integrity (see Chapter 9 of the draft TRUM).

We would like to refer to the statement that if a market participant uses the reporting service of an RRM "*the market participant has the ultimate obligation of ensuring the accuracy and completeness of the transaction reports the Agency receives. To meet this obligation, the Agency expects the market participant to ensure that it has effective procedures for checking the accuracy and completeness of the reports sent on its behalf; this extends to checking the service provided by the RRM*".

In this context, we would like to stress that in order to reduce the efforts for market participants which use third party RRMs (and probably have to pay for this service) they should not be obliged to check the reports provided by the RRM to the Agency. We are of the opinion that as RRMs will need to be admitted by ACER and hence have to fulfil the required standards in terms of data integrity there should be no obligation to additionally double-check these reports.

Referring to 9.2: "*The Agency encourages market participants to confirm with the reporting mechanism that the transactions submitted on their behalf have been validated as part of their review process where they compare the reports received by the Agency with the reports they send from their systems. This kind of exercise should also involve checking the accuracy of the individual data fields and their compliance with the guidance provided in this user manual.*" We like to point out that it would be extremely costly for market participants to implement an additional (automated) process which reconciles the contracts as they are in the market participant's IT systems with the data sent via RRM obtained by ACER reports. This could lead to

significant additional costs as the RRMs probably charge for their reporting services and the market participants would have to set up a process in additional which is comparable to the process of reporting by themselves. Hence we support that no additional comparison/reconciliation checks are required by the market participants if reported via RRM.

Referring to 9.4: "*If the market participant finds errors in transaction reports or fails to submit some or all of its transaction reports, the Agency expect the market participant to notify the Agency as soon as possible.*" we think that some differentiation should be made. We are not convinced that this notification needs to be done in all cases but rather should depend on the degree of "reporting failure". We fully agree that a notification is appropriate in case of e.g. a systematic error where (correct) reporting will not be possible for a certain time period. However, we do not think that the same should be required in case where a reporting delay of e.g. 1 day for certain trades occurs or in case a Unique ID was wrong and needs to be adjusted. For such cases, we think that it would be too burdensome for market participants to inform the Agency (including detailed information).

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