Dear Madam,

Dear Sir,

Energie Steiermark AG welcomes the opportunity to comment the Trade Reporting User Manual (TRUM) with respect to the public consultation paper from 27th March 2014.

Energie Steiermark is an Austrian Utility, whose main business is the distribution and supply of electricity and natural gas to its end customers by its affiliates Steweag-Steg GmbH (electricity) and Steirische Gas-Wärme GmbH (natural gas) along with the supply of related energy services. In order to provide a full range of services to our customers, we maintain a trading-floor, which is performing energy trading at a professional level.

Please find our comments on the Trade Reporting User Manual in the following:

(1) General Comments:

1. We appreciate the overall approach of the Agency that reporting of standardized transactions should be done through the trading venues involved whenever feasible (especially organized markets or other parties professionally arranging transactions), ensuring the “one-report-only” approach from the Agency.

2. Therefore standardized markets or other parties professionally arranging transactions should have a clear obligation to offer data reporting on behalf of market participants in standardized transactions.

3. As all information, which is already available to organized market places or other parties professionally arranging transactions, completely enables the Agency to detect market manipulation or insider-trading, information to be reported should solely be based on information already available to trading venues at the current stage.

4. To ensure industry-wide, equal implementation of reporting obligations TRUM has to clarify specific data fields in more detail, if not distinctly defined in the Commission’s implementing acts. Data fields used under EMIR and REMIT have to be defined in a uniform way.

5. The Agency requires reporting to be done through an RRM. Therefore it has to be the Agency’s responsibility to ensure that RRMs fulfill the prerequisites as demanded by the Agency. Any failures of RRMs to report on behalf of market participants may not result in any demand to use alternate RRMs as this creates the necessity to implement a redundant connection to a second RRM at the reporting start.

6. In order to fulfill its compliance obligations market participants should be able to retrieve reported transactions from ARIS directly, not only from third parties reporting on their behalf.
Consultation questions:

- The Agency currently understands that the attached data fields (see Annex I of the draft TRUM) for the reporting of transactions in standardised and non-standardised contracts will be included in the Commission’s implementing acts. Please provide us with your views on the attached data fields.

  The vast majority of electricity and gas trading takes place on trading venues, especially organized market places. Typically all information, which is of the nature to influence wholesale prices (including orders to trade, executed orders, counterparties to a specific transaction), is already available to trading venues at a current stage. Therefore reporting of trades, concluded on organized markets or by using parties professionally arranging transactions (i.e. brokered transactions), should be reported by these trading venues affected, whereby only information, which is already available to these trading venues at a current stage, should be mandatory.

  Data fields, mandatory for reporting under EMIR but not of the nature to enable the Agency to detect market manipulation or insider-trading and not even available to trading venues at the current stage (e.g. field 44, 60, 61) should not be mandatory for transactions which are to be reported under REMIT only.

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

  Although not intended by TRUM we would appreciate a much more detailed description of data fields. Given the experience from the implementation of EMIR-reporting-obligations, lack of detailed specifications is of the nature to deploy successful implementation of reporting-obligations severely, since IT systems have to be implemented and specified in a very detailed manner in advance.

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

  Comments on specific data fields:

- Field 12 (Initiator/Aggressor): As already described in TRUM this field is only available in case of trades executed through brokers or organized market places, therefore not mandatory in case of pure OTC-transaction (like Field 29, 30, 31). In general it has to be clarified which fields are mandatory for each transaction-type (OTC, trading-venues), as specific data is currently not available within IT-systems involved (either from market-participants or trading venues - see comments on fields 44, 60, 61). Collecting this data would cause substantial IT-investments and even require changes to well-established business processes.

- Field 26 (Transaction time stamp): In case of transactions executed through brokers or on organized markets this is well defined. In case of pure OTC-trading it is impossible to define a transaction time stamp within milliseconds

- Field 23, 28 (Transaction-identifiers): It is not quite clear if this field contains different information in case of OTC-transactions not concluded by using third parties professionally arranging transactions. Does field 23 represent the UTI as defined in EMIR?

- Field 33 (Voice-brokered): “Voice brokered” is not defined, therefore there is no common market-definition which transactions are to be considered as voice brokered.

- Field 44 (Maturity date): It is not clear what this data field represents, as the end of delivery is already represented by Field 52. If it means the last payment day within a product, as defined in the Commission’s draft delegated acts -“Original date of expiry of the reported contract”, this information is usually only available to the parties of some contract and not to third parties arranging trades or trade matching system. Therefore this data-field cannot be reported by trading venues.
It is contradicting the general approach that all standardized transactions should be reported by trading venues. Moreover this is no information which helps the Agency to detect market manipulation or insider trading in any way, as it only affects the parties involved and not the wholesale market itself!

- **Field 60, 61 (Confirmation):** This information is only available to the parties to a transaction and not for trading venues, therefore mandatory reporting of this information contradicts the general approach that all standardized transactions should be reported by trading venues and mandatory reporting of this information causes substantial IT-investments within market participants and alterations to well established business processes!

Moreover, this information is of no relevance for the Agency in order to detect potential market manipulation or insider trading at all!

- **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)?**

Currently market participants are confronted with a variety of different regulatory requirements (EMIR, MiFID), whereas each of them is designed to meet specific regulatory requirements. We generally appreciate the concept of avoiding double reporting as implemented in the Commission’s draft implementing acts (Art. 5(4)).

Moreover, most transactions within electricity and gas wholesale-markets are pure physical transaction and not under the scope of EMIR. Therefore, for transactions not covered by EMIR and only reported under REMIT, not all data fields, as appropriate under EMIR, have to be reported to the Agency in order to enable the Agency to fulfill its obligations. **Only those data fields necessary for the Agency to detect market manipulation or market abuse should be mandatory within reporting under REMIT.** Data fields, reported under EMIR but which are not of the nature to give the Agency further insight into energy markets should not be mandatory under REMIT!

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

According to the Agency’s overall approach most transactions should not be reported by market participants itself but by using a small number of third parties (RRMs). Therefore the Agency has to ensure that market participants can rely on RRMs when these are licensed by the Agency. **Failures of RRMs to comply with the Agency’s rules may not result in a failure of the market participant or any obligation of notification from the market participant itself.** This obligation of notification should be with respect to the RRM affected. Failures of approved third parties used for reporting may not result in a request to report through another RRM as the connection to some specific RRM is timely and cost-intensive.

Thank you for taking our comments into consideration. If you have any further questions, please do not hesitate to contact us.

Yours faithfully,
Energie Steiermark AG
Board of Directors