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Draft

REMIT

**Requirements
for the registration of
Registered Reporting Mechanisms (RRM)**

Public consultation document

PC_2014_R_06

22 July 2014

Article 7 of Regulation (EU) No 1227/2011 (REMIT) stipulates that the Agency shall collect the data for assessing and monitoring wholesale energy markets as provided for in Article 8 of REMIT. The Agency shall ensure operational reliability of the information received pursuant to Article 8 of REMIT and that it shall take all necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in its systems as provided for in Article 12(1) of REMIT.

Pursuant to Article 8 of REMIT, the European Commission shall, by means of implementing acts, adopt uniform rules on the reporting of trade and fundamental data to the Agency.

According to the draft implementing acts published by the Commission on 8 July 2014 ('draft Implementing Acts'), the Agency shall, after consulting reporting parties, develop technical and organisational requirements for the submission of trade and fundamental data (hereafter referred to as 'RRM requirements'), to assess compliance with those requirements, and to register reporting parties that comply with the requirements.

This consultation paper describes the requirements to be met by persons reporting trade and fundamental data, the registration process of reporting parties and how the Agency will assess that the aforementioned requirements are fulfilled. The paper also provides an overview of the relevant legal framework.

The aim of this public consultation paper is to collect the views from interested parties, and in particular persons required to report data under the draft Implementing Acts, on the requirements and the registration process for reporting entities and on how to assess compliance with those requirements.

The Agency invites interested parties to provide comments to this consultation paper on the Requirements for the registration of Registered Reporting Mechanisms (RRM), and especially answers to the consultation issues listed in this consultation paper, by 2 September 2014 12.00 noon, Central European Time, to Remit.PublicConsultations@acer.europa.eu.

Related Documents

- Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency,
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:326:0001:0016:en:PDF>
- Draft Commission Implementing Regulation on data reporting implementing Article 8(2) and (6) of Regulation (EU) No 1227/2011,
<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.documentdetail&F+lk9Sf5x6/wlUuSyngZumOBWhdbDkl2Fc+pLBG2z/MxdbQ+AI/X9VTTMRqv00VG>
- ACER Work Programme 2014, 1 October 2013,
http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/acer%20work%20programme%202014.pdf
- 3rd edition of ACER 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, 29 October 2013,
http://www.acer.europa.eu/remit/Documents/REMIT%20ACER%20Guidance%203rd%20Edition_FINAL.pdf
- ACER Recommendations to the Commission as regards the records of wholesale energy market transactions, including orders to trade, according to Article 8 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, 23 October 2012 and 26 March 2013,
<http://www.acer.europa.eu/remit/Documents/Recommendations%20on%20REMIT%20Records%20of%20transactions.pdf>
- ACER's public consultation on technical requirements on data reporting under REMIT, 22 March 2013,
http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2013_R_01-on-technical-requirements-for-data-reporting-under-REMIT--.aspx
- ACER's first public consultation on the TRUM, 31 March 2014,
http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2014_R_02.aspx
- ACER's second public consultation on the Transaction Reporting User Manual (TRUM), 22 July 2014,
http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2014_R_05.aspx

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1 Scope and objectives of the consultation document

Article 12(1) of Regulation (EU) No 1227/2011 (REMIT) stipulates that the Agency shall ensure operational reliability of the information received pursuant to Article 8 of REMIT and that it shall take all necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in its systems.

Pursuant to Article 8 of REMIT, the European Commission shall, by means of implementing acts, adopt uniform rules on the reporting of records of transactions, including orders to trade ('trade data') as well as on the reporting of information related to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities ('fundamental data').

According to the draft implementing acts published by the Commission on 8 July 2014 (the 'draft Implementing Acts'), the Agency shall develop requirements to ensure the uniform reporting of both trade and fundamental data¹. In particular, the Agency shall:

- develop, after consulting reporting parties, technical and organisational requirements for the submission of trade and fundamental data (hereafter referred to as 'RRM requirements');
- assess compliance with those requirements; and
- register reporting parties that comply with the requirements.

The present consultation paper describes the requirements the Agency intends to establish for the reporting of trade and fundamental data, the registration process of reporting parties and how the Agency will assess that the aforementioned requirements are fulfilled. The paper also provides an overview of the relevant legal framework.

The aim of this public consultation paper is to collect the views from interested parties, and in particular persons required to report data under the draft Implementing Acts, on the requirements and the registration process for reporting entities and on how to assess compliance with those requirements. Because of its confidential nature, the technical specification document for reporting entities is not covered by the present consultation document.

The present paper neither describes in detail which trade and fundamental data have to be reported nor how such data shall be reported. A detailed description of the fundamental data to be reported can be found in the Transaction Reporting User Manual (TRUM) and the Manual of Procedures on Fundamental Data Reporting².

¹ Draft Implementing Acts, as published by the European Commission on 8 July 2014, <http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.documentdetail&F+lk9Sf5x6/wlUuSyngZumOBWhdbDkl2Fc+pLBG2z/MxdbQ+Al/X9VTTMRqv00VG>.

² For information concerning the Agency's public consultation on the TRUM, please see http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2014_R_05.aspx. For information concerning the Agency's public consultation on the Manual of Procedures for Fundamental Data Reporting, see http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2014_R_04.aspx.

The Agency launched a first public consultation on RRM and RIS requirements on 22 March 2013³. That document as well as the responses to the public consultation served as a basis for the current draft RRM requirements. An overview of the responses to the 2013 public consultation can be found in ANNEX I – Evaluation of Responses of the Public Consultation on the Registration of RRM and RIS. It is also important to note that for the purpose of reporting fundamental data the Agency does no longer intend to adopt RIS requirements. This is because the draft Implementing Acts do not provide for different sets of requirements for the reporting of trade and fundamental data respectively. The requirements for the reporting of fundamental data have, therefore, been incorporated into the RRM requirements.⁴

The Agency currently aims at issuing the first edition of the TRUM and the RRM Requirements with the entry into force of the Implementing Acts.

³ http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2013_R_01-on-technical-requirements-for-data-reporting-under-REMIT--.aspx.

⁴ The concept of Regulated Information Services (RIS) may, however, be revisited for the enhancement of transparency for the disclosure of inside information through service providers on behalf of market participants, which is, however, not addressed in this public consultation document.

2 Legal framework

According to Article 12 of REMIT, the Agency shall ensure the confidentiality of the information received pursuant to Article 4(2) and Articles 8 and 10 of REMIT. The Agency shall take all necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in its systems and shall identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures.

Furthermore, pursuant to Article 8 of REMIT, the European Commission shall by means of implementing acts adopt uniform rules on the reporting trade and fundamental data.

This Chapter provides an overview of the provisions of the draft Implementing Acts concerning the channels for the reporting trade and fundamental data, the kind of RRM requirements the Agency should develop, and the responsibility for data reporting.

Please note that a detailed description of which trade and fundamental data have to be reported or how such data shall be reported can be found in the Transaction Reporting User Manual and the Manual of Procedures for Fundamental Data Reporting.

2.1 Rules on the reporting of trade data

2.1.1 Wholesale energy products executed at organised market places

Pursuant to Article 6(1) of the draft Implementing Acts, market participants shall report details of wholesale energy products executed at organised market places including matched and unmatched orders to the Agency through the organised market place concerned, or through trade matching or trade reporting systems. The organised market place where the wholesale energy product was executed or the order was placed shall at the request of the market participant offer a data reporting agreement.

This provision covers the reporting of transactions, including orders to trade, executed at organised market places related to the following wholesale energy products:

- supply contracts;
- transportation contracts; and
- derivatives contracts.

Therefore, market participants shall rely on organised market places or trade matching and trade reporting systems and will be relieved from reporting such data to the Agency themselves.

The Agency furthermore understands that in cases where post-trade events are not available to organised market places, information on such events shall be reported through trade matching or trade reporting systems.

Consultation issues

- | |
|--|
| <ol style="list-style-type: none">1. Do you agree with the Agency's view that post-trade events related to wholesale energy products shall be reported by trade matching or trade reporting systems? |
|--|

2.1.2 Wholesale energy products in relation to the transportation of electricity and natural gas – Primary allocation results

TSOs or third parties on their behalf shall report details of contracts relating to the transportation of electricity or natural gas concluded as a result of a primary explicit capacity allocation by or on behalf of the TSO (physical or financial capacity rights or obligations), including matched and unmatched orders.

Therefore also for this kind of contracts, market participants will be relieved from reporting directly to the Agency. The reporting shall be performed either by TSOs or third parties acting on behalf of TSOs.

2.1.3 Wholesale energy products reported in accordance with Regulation (EU) No 648/2012 (EMIR) or other EU financial markets legislation

Pursuant to Article 6(4) of the draft Implementing Acts, information in relation to wholesale energy products which have been reported in accordance with Article 9 of EMIR or other relevant EU legislation on financial markets, shall be provided to the Agency by:

- trade repositories referred to in Article 2 of EMIR,
- approved reporting mechanisms;
- competent financial markets authorities; or
- the European Securities and Markets Authority.

Furthermore, according to Article 6(5) of the draft Implementing Acts, where persons have reported details of transactions in accordance with Article 9 of EMIR or other relevant EU financial markets rules, their obligations in relation to reporting under REMIT shall be considered as fulfilled.

It is important to note that EMIR does not prescribe the reporting of orders to trade. Hence, the latter are not covered by Article 6(5) and 6(6) of the draft Implementing Acts and shall, in principle, be reported in accordance to Article 6(1) of the draft Implementing Acts (see above).

Furthermore, according to the draft implementing acts, organised markets, trade matching or reporting systems, who have reported details of derivatives under financial rules, subject to their agreement, should be able to report the same information also to the Agency.

2.1.4 Wholesale energy products concluded outside an organised market place

Under Article 6(3) of the draft Implementing Acts, market participants or third parties on their behalf shall report details of supply contracts (whether standard or non-standard), derivatives contracts, and transportation contracts concluded outside an organised market.

This is, therefore, the only instance where trade data may have to be reported by market participants themselves. However, the reporting may also be delegated to third parties.

2.2 Rules on the reporting of fundamental data

A detailed description of the fundamental data to be reported and on how to report those data can be found in the Manual of Procedures for Fundamental Data Reporting. The chapters below are only intended to provide an overview of the persons entrusted with the reporting of fundamental data.

2.2.1 Information available on the ENTSO-E transparency platform

Pursuant to Article 8(1) and (2) of the draft Implementing Acts, ENTSO-E shall, on behalf of market participants, report to the Agency the information referred to in Articles 6 to 17 of Regulation (EU) No 543/2013. The information shall be reported through the central information transparency platform. Furthermore, ENTSO-E shall make available to the Agency in disaggregated form information referred to in Article 7(1) of Regulation (EU) No 543/2013.

2.2.2 Information on nominations for electricity

Pursuant to Article 8(3), final nominations between bidding zones shall be reported by electricity TSOs or third parties on their behalf.

Therefore, no fundamental data on electricity is to be reported directly by market participants.

2.2.3 Information available on the ENTSOG central platform

Under Article 9(1) of the draft Implementing Acts, ENTSOG shall, on behalf of market participants, report the information as referred to in Points 3.3(1) and 3.3(5) of Annex I to Regulation (EC) No 715/2009. The information shall be made available through the Union-wide central platform.

2.2.4 Information on nominations for gas

Pursuant to Article 9(2) of the draft Implementing Acts, day-ahead nominations and final renominations of booked capacities shall be reported by gas TSOs or third parties on their behalf.

2.2.5 Information on LNG facilities

Information on the availability of LNG facilities shall be reported by LNG system operators (LSOs), while information concerning unloading and reloading may be reported either by market participants or by LSOs on their behalf (Article 9(3) to (6) of the draft Implementing Acts).

2.2.6 Information on gas storage facilities

Information on the availability of gas storage facilities shall be reported by Storage system operators (SSOs), while information concerning the amount of gas stored by each market participant at the end of the gas day may be reported either by market participants or by SSOs on their behalf (Article 9(7) to (9) of the draft Implementing Acts).

In sum, the gas fundamental data that may have to be reported directly by market participants are those related to unloading and reloading at LNG facilities and to the amount of gas stored by each market participant at the end of the gas day at gas storage facilities. Market participants may, however, delegate the reporting to LSOs and SSOs, respectively, or to other third-party reporting entities.

2.3 Technical and organisational requirements

The drafts Implementing Acts foresee that the Agency shall develop technical and organisational requirements for submitting data (Article 11). The requirements shall aim at ensuring efficient, effective and safe exchange and handling of information. The requirements shall:

- ensure the security, confidentiality and completeness of information,
- enable the identification and correction of errors in data reports,
- enable the authentication of the source of information,
- ensure business continuity.

The Agency shall assess whether reporting parties comply with the requirements. Reporting parties who comply with the requirements shall be registered by the Agency.

Furthermore, pursuant to Article 10(3) of the draft Implementing Acts, the Agency shall after consulting reporting parties establish procedures, standards and electronic formats based on established industry standards for reporting trade and fundamental data.

The requirements will apply to any person reporting trade and / or fundamental data. For trade repositories, approved reporting mechanisms ('ARMs'), financial markets authorities and ESMA, they will, however, be considered as fulfilled.

Trade repositories and approved reporting mechanisms shall not be subject to the requirements insofar as they only report the same information that they are already reporting under EMIR or other relevant EU financial markets legislation.

Chapter 6 below provides an overview of the requirements the Agency intends to adopt, of the registration process for reporting entities, and of how the Agency intends to assess whether the requirements are met.

Consultation issues

- | |
|---|
| <p>2. Do you agree that the standards and electronic formats to be established by the Agency according to Article 10(3) of the draft Implementing Acts shall apply to trade repositories and ARMs for the reporting of data covered by EMIR and / or other relevant financial market legislation? If not, please justify your position.</p> |
|---|

2.4 Responsibility for reporting data

Pursuant to Article 11(3) of the draft Implementing Acts, persons required to report trade and or fundamental data shall have responsibility for the completeness, accuracy and timely submission of data.

By way of derogation from that responsibility, where a person required to report such data through a third party, the person shall not be responsible for failures in the completeness, accuracy or timely submission of the data which are attributable to the third party. In those cases the third party shall be responsible for those failures.

However, persons required to report data shall take reasonable steps to verify the completeness, accuracy and timeliness of the data which they submit through third parties.

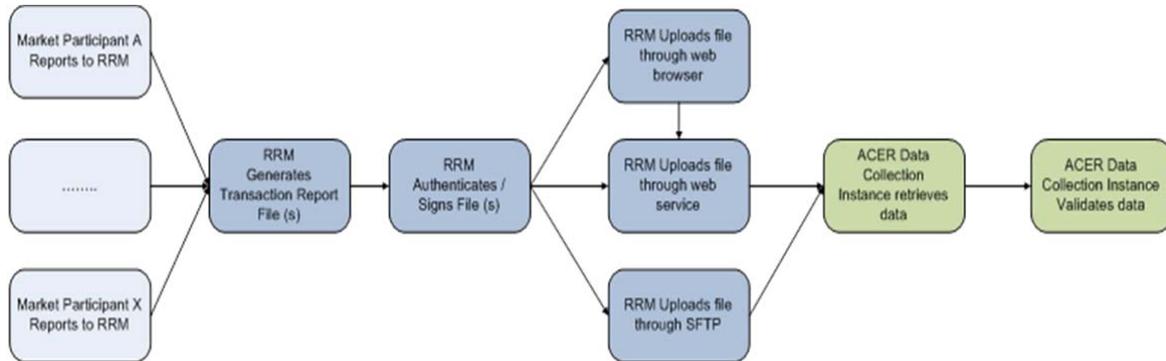
3 What is a RRM?

RRM stands for 'Registered Reporting Mechanism', meaning a person that complies with the technical and organisational requirements for the reporting of data and that is, thus, registered by the Agency to provide the service of reporting trade and / or fundamental data. Chapters 2.1 and 2.2 above describe the channels for the reporting of trade and fundamental data, providing an overview of potential RRM's.

Chapter 5 below lists the RRM requirements, whilst Chapter 6 describes the registration process.

4 How will data reporting work in practice?

The Agency will provide an information system (ARIS – ACER’s REMIT Information System) that will be used to collect, process and analyse the data submitted by RRM. The key steps of the data reporting process are schematically presented in the below figure:



The data reporting process will be described in more detail in the RRM Technical Specifications document. For reasons of operational reliability, the RRM Technical Specifications document will be kept confidential and applicants will have to sign a non-disclosure agreement before receiving a copy of the 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.

5 Technical and organisational requirements for the submission of data

As regards technical and organisational requirements for the submission of data, the draft Implementing Acts do not distinguish whether records of transactions are reported by market participants or by third parties acting on their behalf.

Furthermore, when developing the RRM requirements the Agency aims to strike a balance between the objective of ensuring the efficient, effective and safe exchange and handling of information and the need not to impose unnecessary burdens on reporting entities.

Based on its analysis, the Agency has come to the preliminary conclusion that the same requirements should apply to all reporting entities, regardless of whether they report their own data or third-party data.

5.1 Requirements on the secure transmission of data

RRMs shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of information to the Agency. They shall include mechanisms to:

- a. ensure non-repudiation;
- b. minimise the risk of data corruption;
- c. minimise the risk of unauthorised access; and
- d. prevent information leakages while reporting.

The security policy of the RRM shall be documented. Such documents may be requested by the Agency at the stage of the registration of potential RRMs or at a later stage.

5.2 Requirements on the timely transmission of data

RRMs shall have mechanisms in place designed to ensure the transmission of trade and fundamental data within the deadlines established in the REMIT Implementing Acts. In particular, they shall:

- a. have adequate contingency plans in place to assure the timely reporting of data. Third-party RRMs shall ensure that the availability of their services enables their associated market participants to report information within the deadline;
- b. have business continuity mechanisms in place, including adequate resources and back-up facilities, to guarantee timely reporting in case of incidents.

The RRM shall document the procedures aimed at ensuring the timely transmission of data and its business continuity plan. Such documentation may be requested by the Agency at the stage of the registration of potential RRMs or at a later stage.

5.3 Requirements on the validation of input

RRMs must have adequate systems and controls in place to ensure that:

- a. there is certainty about the source of the information created or collected by the RRM. In case of RRM reporting other information than their own data, this means that the RRM shall be able to guarantee (i) the identity of the market participant(s) or (ii) the identity of any other person submitting information on behalf of the market participant;
- b. persons submitting information on behalf of a market participant are properly authorised to do so. This requirement applies only to RRM reporting information other than their own data;
- c. transaction reports are complete and accurate. While persons required to report data shall take reasonable steps to verify the completeness, accuracy and timeliness of the data which they submit through third parties, the latter are expected to identify omissions and obvious errors and to request and / or initiate the re-transmission of erroneous or missing reports;
- d. there is no significant risk of data corruption in the input process.

The RRM shall document the procedures aimed at ensuring input validation. Such documentation may be requested by the Agency at the stage of the registration of potential RRM or at a later stage.

The RRM shall document how it has implemented the technical solution aimed at ensuring compliance with this requirement. Such documentation may be requested by the Agency at the stage of the registration of potential RRM or at a later stage.

5.4 Requirements on output format

RRM must report information to the Agency in a standard format defined by the Agency. As regards the electronic format for the submission of data, please refer to the Transaction Reporting User Manual and the Manual of Procedures for Fundamental Data Reporting.

5.5 Requirements on output content

The reported information must contain the information indicated in the REMIT Implementing Acts. For an overview of the information to be reported under the draft Implementing Acts, please consult the Transaction Reporting User Manual and the Manual of Procedures for Fundamental Data Reporting.

The RRM must document how it has implemented the technical solution aimed at ensuring compliance with this requirement. Such documentation may be requested by the Agency at the stage of the registration of potential RRM or at a later stage.

5.6 Requirements on the validation of output

RRM reporting data other than their own data must have a mechanism in place to ensure that the person on behalf on whom they report can receive information on what data was reported and on the outcome of the reporting.

The RRM must document the procedures aimed at ensuring compliance with this requirement. Such documentation may be requested by the Agency at the stage of the registration of potential RRM or at a later stage.

5.7 Requirements on governance

RRMs must have proper governance agreements in place to ensure that they have internal control mechanisms, transparent and consistent lines of responsibility and sound administrative and accounting procedures. In addition, RRM must follow a robust compliance programme with sufficient controls over regulatory requirements and conflict of interest.

Should the RRM outsource any of its activities, it must document the outsourcing arrangement(s) and ensure that such arrangement(s) guarantee(s) compliance with the requirements.

5.8 Requirements on operational reliability

RRMs must employ robust operational risk controls and procedures. Such controls and procedures shall be documented in an operational risk policy or framework, which:

- a. inventories the potential operational and regulatory risk the RRM may encounter;
- b. describes the policies for mitigating any operational risk in an efficient and effective manner

5.9 Requirements concerning the disruption of services

RRMs must inform the Agency without delay if its operations are disrupted. No later than 5 working days following the disruptions, it should provide the Agency with a report about the reasons of the disruptions and the actions taken to prevent any repeated event.

Furthermore, a RRM must be able to demonstrate every time there is a failure that no information has been unreported as a result of the disruption.

5.10 Requirements concerning security breaches

RRMs that learn of a breach of any of its security measures must:

- a. immediately notify the Agency of the breach; and
- b. as soon as possible provide the Agency with a detailed report describing the breach and any steps taken to correct that breach.

5.11 Requirements on communication with the Agency

RRMs must provide the Agency with the names and contact details of its competent staff to assist the Agency with its regulatory responsibilities and timely update such information when changes occur.

The RRM must timely reply to requests for clarifications put forward by the Agency and provide any information and evidence the Agency may reasonably require for the performance of its functions.

5.12 Fulfilment of the criteria at all times

RRMs must, at all times, meet the RRM requirements.

5.13 Compliance report

RRMs shall produce on a yearly basis a compliance report describing how the RRM met the technical and organisational requirements in the preceding 12 months. Such annual report must be provided to the Agency on request.

Furthermore, if the Agency so requests, the annual report must be certified by an external information systems auditor on the basis of an audit plan produced by the Agency.

Consultation issues

3. Do you agree that the requirements set out above adequately ensure the efficient, effective and safe exchange and handling of information without imposing unnecessary burdens on reporting entities?
4. Do you agree with the Agency's view that the same requirements shall apply to all RRM's?
5. If your reply to question 4 above is negative, please explain which requirements should apply differently to different RRM's and why.
6. Notwithstanding the requirements on the validation of output (see Chapter 5.6 above), should the Agency offer to entities with reporting responsibilities the possibility to request access to the data submitted on their behalf by third-party RRM's?
7. If the reply to question 6 above is positive, please explain how such access should be granted, taking into consideration the need to ensure operational reliability and data integrity.
8. Do you agree that the compliance report must be produced by the RRM on a yearly basis or shall such report be compiled only at the request of the Agency?

6 Registration

6.1 Who needs to register as a reporting mechanism?

Chapters 2.1 and 2.2 above describe the channels for the reporting of trade and fundamental data. The entities identified therein may, therefore, apply to register as reporting mechanism and become RRM. However, they shall do so, only if they do not wish to delegate the reporting of trade and / or fundamental data to a third party.

In sum, any person wishing to report records of transactions needs to register as a reporting mechanism. This may include:

- a. market participants, regardless of whether they report only their own data or also counterparty data;
- b. organised market places, trade matching systems, trade reporting systems;
- c. the ENTSOs;
- d. TSOs;
- e. LSOs;
- f. SSOs;
- g. trade repositories;
- h. approved reporting mechanisms;
- i. Third parties reporting on behalf of entities listed in points a. to h. above.

6.2 Registration process

The aim of the registration process is twofold:

- a. Verifying whether the applicant meets the RRM requirements; and
- b. Enabling the RRM and the Agency to establish an interface for information exchange.

For this reason, all reporting entities shall undergo the registration process. This means that also trade repositories and ARMs shall be registered with the Agency even if they only report data reportable under EMIR and / or other relevant financial market rules. However, in line with Article 11(1), second subparagraph, of the draft Implementing Acts, the process for the registration of trade repositories and ARMs could be simplified and limited to the identification phase (see Chapter 6.2.1 below).

The registration process will be entirely electronic and carried out online. The various phases of the registration process are described below.

Consultation issues

9. Do you agree that trade repositories and ARMs shall be registered with the Agency, even if they only report data reportable under EMIR and / or other relevant financial market legislation?

10. Do you agree that the Agency should foresee a simplified registration process for trade repositories and ARMs that only report data reportable under EMIR and / or other relevant financial market legislation?

6.2.1 Identification

This phase aims at verifying the identity of the applicant. Two different IT applications will be used for market participants and other applicants.

Identification of market participants

Pursuant to Article 9 of REMIT, all market participants shall register with their respective NRAs. The latter shall, in turn, provide the registration data to the Agency in order for it to establish a European register of market participants. Information on whether a market participant has the intention to register also as a RRM will be provided as part of the registration of market participants.

Identification of applicants other than market participants

Applicants other than market participants must identify themselves using the Reporting Entity Registration Tool. They will be asked to provide the following information:

- Name of the RRM,
- Address of the RRM,
- VAT Number of the RRM,
- Website address,
- EIC, BIC, LEI, GS1 codes if the RRM has any assigned to it,
- Contact persons.

The same applies to trade repositories and ARMs. If applicable, the Agency may also request some accreditations certificates issued by relevant regulators.

6.2.2 Technical Specifications

Once the Agency has verified the identity of the applicant, the latter will be asked to electronically sign a non-disclosure agreement ('NDA'). This will allow the applicant to receive a copy of the "Technical Specifications for Registered Reporting Mechanisms". This document describes the technical specification of data exchange interfaces as well as the relevant processes for data submission into detail.

Applicants should carefully review the technical specifications document before considering whether to proceed further with the registration process.

6.2.3 Attestation

Applicants must attest that they have mechanisms in place to fulfil the following requirements:

- a. Requirements on the secure transmission of data (see Chapter 5.1 above);
- b. Requirements on the timely transmission of data (see Chapter 5.2 above);

- c. Requirements on the validation of input (see Chapter 5.3 above);
- d. Requirements on output format (see Chapter 5.4 above);
- e. Requirements on output content (see Chapter 5.5 above);
- f. Requirements on the validation of output (see Chapter 5.6 above);
- g. Requirements on governance (see Chapter 5.7 above)
- h. Requirements on operational reliability (see Chapter 5.8 above)

Furthermore, applicants must undertake that they will meet the following requirements:

- a. Requirements concerning the disruption of services (see Chapter 5.9 above);
- b. Requirements concerning security breaches (see Chapter 5.10 above);
- c. Requirements on communication with the Agency (see Chapter 5.11 above);
- d. Requirement to produce an Compliance report (see Chapter 5.13 above);
- e. Fulfilment of the criteria at all times (see Chapter 5.12 above).

At the registration stage, the Agency may request applicants to provide the documentation proving that the requirements are fulfilled.

6.2.4 Testing

Following the attestation phase, the applicant will be given permission to access the ARIS testing environment within the testing system. The applicant will be required to report in the ARIS testing environment the same kind of data it wishes to report as a RRM.

The Agency will allocate time-slots for testing to different applicants. Priority will be given to those applicants that have to report data six months after the entry into force of the REMIT Implementing Acts.

The Agency will set a threshold of complete and accurate reports to be met during the testing phase. Only those applicants that meet the threshold will be admitted to the following phase and enabled to complete the registration process.

6.2.5 Registration

The Agency will send to the applicant an email notifying that the registration of the applicant is accepted. The last remaining step is the creation of RRM credentials to access the ARIS production environment. Accounts for particular interfaces will be created and production certificates and keys will be provided. At this point, the registration process will be considered complete.

The list of RRMs will be published on the Agency's website.

The RRM applicant is responsible for the establishment, production and delivery of an RRM. The Agency does not accept legal responsibility for any losses or damages arising from the failure of these systems and any related process and procedure. In particular, the Agency's high-level review of the business continuity and security policies of each applicant does not imply any endorsement, guarantee of quality or acceptance of responsibility for the adequacy of any applicant's business continuity or security systems.

6.2.6 Timing

The registration process will take about three months. It is therefore essential for those entities that wish to become RRM to start the registration process at least three months before the date on which they wish to start reporting data.

Consultation issues

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| <ol style="list-style-type: none">11. Do you agree that CEREMP should be used for the identification of market participants that apply to become a RRM?12. What is your opinion on the timeframe needed to complete the registration process?13. Do you have any comments on the registration process in general? |
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7 Assessment of compliance with the requirements

The Agency may, at any stage of the registration process and during the lifetime of the RRM, request from applicants and existing RRMs any information it deems necessary to assess compliance with the requirements. This information may include, in particular, the internal policy and documentation referred to in Chapter 6 above. Furthermore, the Agency may consult NRAs or other competent authorities that may be able to provide any information the Agency may need for the performance of its functions. The Agency may also take into account any information it considers appropriate to assess compliance with the requirements.

The Agency may also request a RRM to provide the compliance report mentioned in Chapter 5.13 above. In addition, the Agency may require that such report is to be certified by an external information systems auditor on the basis of an audit plan produced by the Agency.

The Agency believes that certified annual reports are an effective way to assess whether a RRM complies with the requirements. The Agency intends to request such certified reports to a sample of RRMs every year. Priority will be given to those RRMs that raise the biggest concerns as regards compliance with the requirements.

As an alternative to the certified report, the Agency may envisage a periodic renewal of the registration. In order for the registration to be renewed, the RRM would have to provide an audit report produced by an external information systems auditor. The report should certify that the RRM complies with the requirements and must be carried out on the basis of an audit plan issued by the Agency.

Furthermore, should the quality of data reported by a RRM significantly decrease after the registration, the Agency will give a warning to the RRM concerned. If adequate data quality standards are still not met after the warning, the Agency may, after a certain period of time, which shall not be shorter than two months, discontinue access to the ARIS system for the RRM concerned.

In case of third-party RRMs, the Agency will inform the market participant associated to the RRM before discontinuing access. This information will be provided at least 2 months in advance, in order to allow market participants to make reporting arrangements with another RRM.

Consultation issues

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| <p>14. Would the periodic renewal of registration be a valid alternative to the certified annual report?</p> <p>15. Do you have any other comments on the Chapter concerning the Agency's assessment of compliance with the RRM requirements?</p> |
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8 Public consultation

8.1 Call for comments

The Agency hereby consults stakeholders on this Public Consultation on the Requirements for the registration of Registered Reporting Mechanisms (RRMs). Comments are welcome on all aspects of the document. However, the Agency has identified a number of questions to draw the respondents' attention to those areas where it would be particularly helpful to receive feedback.

8.2 Consultation questions

1. Do you agree with the Agency's view that post-trade events related to wholesale energy products shall be reported by trade matching or trade reporting systems?
2. Do you agree that the standards and electronic formats to be established by the Agency according to Article 10(3) of the draft Implementing Acts shall apply to trade repositories and ARMs for the reporting of data covered by EMIR and / or other relevant financial market legislation? If not, please justify your position.
3. Do you agree that the requirements set out above adequately ensure the efficient, effective and safe exchange and handling of information without imposing unnecessary burdens on reporting entities?
4. Do you agree with the Agency's view that the same requirements shall apply to all RRM's?
5. If your reply to question 4 above is negative, please explain which requirements should apply differently to different RRM's and why.
6. Notwithstanding the requirements on the validation of output (see Chapter 5.6), should the Agency offer to entities with reporting responsibilities the possibility to request access to the data submitted on their behalf by third-party RRM's?
7. If the reply to question 6 above is positive, please explain how such access should be granted, taking into consideration the need to ensure operational reliability and data integrity.
8. Do you agree that the compliance report must be produced by the RRM on a yearly basis or shall such report be compiled only at the request of the Agency?
9. Do you agree that trade repositories and ARMs shall be registered with the Agency, even if they only report data reportable under EMIR and / or other relevant financial market legislation?
10. Do you agree that the Agency should foresee a simplified registration process for trade repositories and ARMs that only report data reportable under EMIR and / or other relevant financial market legislation?

11. Do you agree that CEREMP should be used for the identification of market participants that apply to become a RRM?
12. What is your opinion on the timeframe needed to complete the registration process?
13. Do you have any comments on the registration process in general?
14. Would the periodic renewal of registration be a valid alternative to the certified annual report?
15. Do you have any other comments on the Chapter concerning the Agency's assessment of compliance with the RRM requirements?

8.3 Consultation period

The Agency invites all interested parties to provide comments to the consultation paper on the RRM Requirements, and especially answers to the consultation issues listed in this consultation paper, by 2 September 2014 12.00 noon, Central European Time, to Remit.PublicConsultations@acer.europa.eu.

ANNEX I – Evaluation of Responses of the Public Consultation on the Registration of RRM and RIS

Introduction

On 22 March 2013, the Agency launched a public consultation on the registration of Registered Reporting Mechanisms (RRMs) and Regulated Information Services (RISs) for ensuring operational reliability according to Article 12 of REMIT. The public consultation document consisted of 11 questions, and the consultation lasted until 13 May 2013. A public workshop was held on 25 April 2013 to discuss with stakeholders about the public consultation document.

Respondents

The public consultation launched solicited feedback from various stakeholders. The consultation resulted in a total of 28 responses, 7 of which by European associations. The below table lists the names of all respondents to the consultation.

N.	Respondent	Type	Country
1	A2A Trading	Market participant	UK
2	ASSOELETTRICA	Market participant	Italy
3	BDEW	Industry association	Germany
4	BP	Market participant	UK
5	EDF GROUP	Market participant	France
6	EFET	Industry association	EU
7	ELENGY	Market participant	France
8	ELEXON	Service provider	UK
9	EnBW Trading GmbH	Market participant	Germany
10	ENTSO-E	Industry association	EU
11	ENTSO-G	Industry association	EU
12	E-ON	Market participant	Germany
13	EURELECTRIC	Industry association	EU
14	EUROGAS	Industry association	EU
15	EUROPEX	Industry association	EU
16	EUSTREAM	Market participant	Slovakia
17	FOSMAX LNG	Market participant	France
18	Gas Infrastructure Europe	Industry association	EU
19	Holding Slovenske Elektrarne	Market participant	Slovenia
20	ISDA (International Swaps and Derivatives Association, Inc.)	Industry association	UK
21	National Grid	Market participant	UK
22	OESTERREICH'S ENERGIE	Industry association	Austria
23	PGNiG	Market participant	Poland
24	RVS (Rate Validation Services Pty. Ltd)	Service Provider	UK

25	Stadtwerke München GmbH, Mainova AG, Syneco Trading GmbH, Bayerngas GmbH, EWE AG	Group of market participants	Germany
26	swisselectric	Market participant	Switzerland
27	Trayport	Service provider	UK
28	VKU	Industry association	Germany

Responses received and ACER's view

Section 1, Question 1

The registration process for both RRM and RISs comprises two stages: First, the Agency will review a written application, and if appropriate make a provisional registration (pre-registration of the applicant); second, 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 RRM and RIS" 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.

Respondents' feedback

The majority of respondents agreed with the proposed two-stage registration process. Nevertheless, some respondents stressed that there is a need to clarify the registration criteria and to set a time frame for the registration process (length of application assessment). Many respondents stated that there are no reasons for confidentiality of the technical specifications documents. Some respondents proposed to include the possibility of direct registration and reporting to the Agency. One respondent stated that reporting requirements for RRM and RIS should be aligned with the requirements of ENTSO-E. Respondents were of the opinion that the registration process must be implemented, but it must minimise the number of new processes and the cost must be kept at minimum. A wish for a process as simple as possible was expressed.

Section 1, Question 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 RRM and RISs with legal status in an EU Member State or an EEA country should be eligible to become a RRM or RIS. Please indicate your views on this suggestion.

Respondents' feedback

The view on this question was not unanimous from the respondents. Some respondents agreed with the suggestion that RRM and RISs must have legal status in an EU Member State or an EEA country in order to avoid difficulties of supervision of such entities and ensuring data security requirements. Other respondents disagreed with this suggestion arguing that there is no reason for such restriction if RRM and RISs from non-EU and non-EEA countries conform to the data protection, operational requirements set by EU legislation. One respondent proposed that an RRM must be regulated and authorised by national regulators while another respondent suggested that NRAs could become RRM themselves to avoid double reporting.

Section 1, Question 3

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

Respondents' feedback

The respondents had a wide range of proposals and suggestions concerning financing, procedure and reporting issues. Some respondents expressed a need for more detailed guidelines as some aspects are not covered sufficiently at the moment as there are doubts about the necessity of renewing the status on biannual basis. A few respondents proposed that RRMs must be financed not from fees charged on market participants, but from some other sources. Respondents also expressed a need for a detailed procedure in case third party RRM or RIS do not comply with data security or other operational requirements. Some respondents proposed to distinguish between third party RRMs and market participants reporting on behalf of themselves and affiliate companies. Respondents also requested clarification on possible cooperation between RRMs, possibilities to choose more than one RRM for reporting and the possibility for an RRM to limit its services to certain exchanges or geographical zones. One respondent opposed the suggestion of an annual report while another proposed audit and publicity of the annual report. Some respondents proposed to unify requirements for RRMs and RISs.

Section 2, Question 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 RRMs be required to have an ISO certification 27001 or similar to become a RRM as proposed in the REMIT Technical Advice for setting up a data reporting framework from June 2012 from DG ENER's consultants?

Respondents' feedback

Some participants believed that requiring ISO 27001 will not add any additional value to the regulatory reporting regime because they believe that best practices already exist. One trade body was concerned that the Agency has yet to identify the security protocols that may go into such a standard, and calls for wider engagement with the industry to develop those protocols, particularly regarding how individual NRAs and other regulatory authorities will gain access to the reported data. A trade body for exchanges suggested that a certification scheme should be put in place, but opposes nominating a specific scheme, such as ISO 27001. Some participants argued that because third parties will deal with other parties' data, only those parties should have to be certified under ISO 27001, whereas self-reporting parties should have no such obligation.

Section 2, Question 2

The draft RRM Guidelines currently foresees a simplified registration procedure for trade repositories registered according to EMIR. Do you agree with this approach?

Respondents' feedback

Comments were very mixed as to whether there should be a simplified registration process for trade repositories under EMIR or not. However, it was generally recognised that thorough tests would be needed on the trade repository to ensure they are capable of receiving and processing data for the wholesale energy market as this would prevent double reporting. Some respondents argued that ESMA's registration process and criteria seem adequate, but that the Agency would still need to ensure that the criteria meet its own needs. A trade body representing exchanges argued there should be no simplification because consistent high quality data needs to be reported.

Section 2, Question 3

Please express your views on the RRM criteria proposed.

Respondents' feedback

Many respondents called for two approaches to be used for the RRM guidelines so that a lighter set of guidelines apply to market participants reporting their own transactions directly and those that are reporting on behalf of other market participants. One respondent called for the creation of a new category called "Certified Self Reporting Party". Some respondents suggested allowing direct reporting by market participants in case there is a failure of a RRM or RIS to report in a timely manner. Several respondents think that the renewal procedure for RRM needs clarification. Some respondents suggested that more specific details are needed on back up criteria and that RRM must provide certainty to market participants as to when information was submitted to the Agency.

Several respondents raised the question of liability, suggesting that liability should be transferred to the third party RRM if a market participant delegates responsibility to report trades. Others argued the Agency should specify clear legal and contractual guarantees for market participants. It is argued by several respondents that market participants have met their reporting obligations once the information is successfully received by the RRM and RISs. Some respondents stressed that market participants should rely on a clear commercial, contractual framework for reporting which should include liability provisions.

Providing fee details to ACER and the rules associated with services was not seen as necessary by some parties because this falls into the realm of a commercial discussion between a third party and its clients. Some respondents called for more clarity on RRM being committed to improve quality and reliability of data. Concerns were raised over additional costs this might place on the industry. As regards validation of input, some respondents require more operational processes and technical details to be specified. One trade body requested that delivery receipts are issued. Several respondents suggested that the Agency should maintain publically available a list of third party RRM. Some potential RRM suggest that also KPIs (key performance indicators) be published by the Agency.

Section 2, Question 4

Should RRM, for reasons of operational reliability, be required to supply their annual reports, upon request and with at least 12 months' notice, by a recognised external auditor's report which confirms that the RRM met all the criteria in the preceding 12 months?

Respondents' feedback

Some respondents raised concerns that such audit requirement may place an unnecessarily high burden on direct reporting market participants as opposed to third party RRM providing a service. Some respondents however said that for third party RRM, such audited report seems fully justified. One RRM candidate suggested that the findings of the audit shall be made public. One a trade body for power exchanges however strongly opposed the idea, arguing that audit reports would not increase the operational reliability of an RRM.

Section 3, Question 1

Do you agree with the three different types of RISs proposed and the distinction made concerning their reporting of information?

Respondents' Feedback

The majority of respondents agreed with three different types of RISs proposed and the distinction made between the reported information. Also, several respondents noted that they see no need to report directly fundamental data or inside information additionally to the Agency, when such information is already published on publicly available websites. Some respondents stressed that three types of platforms could coexist in order to report regulated information, however, one platform should not be limited to respond to only one type as enumerated in the guidance. It was noted that in relation with the third type of RIS, TSOs and other infrastructure operators could provide this to the Agency.

Section 3, Question 2

Do you agree that ENTSO-E and ENTSG 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?

Respondents' Feedback

Most respondents agreed with the crucial role of ENTSO-E and ENTSG. Some respondents however did not fully understand what is meant by “treated differently” in the question. This led to the fear that they will not be allowed to use their existing and well established reporting mechanisms in the future. Therefore, some respondents mentioned that in addition to the use of ENTSO-E and ENTSG, they should be allowed to use already existing platforms which should not be treated differently than ENTSO-E and ENTSG. Some respondents argued that the Agency should ensure there is the option to allow market participants' own transparency websites to provide the necessary data.

Section 3, Question 3

Do you agree that it should be sufficient that inside information platforms make their information available to the Agency through web-feeds?

Respondents' Feedback

Many respondents agreed with the use of web feeds, although some of them mentioned that it has to be further defined what is meant by the term “web-feed” and what the format will look like. Additional comments by single respondents included that it should be possible for inside information platforms (or company's own websites) to provide a data feed on information that is published, and that market participants should be allowed to select the mechanism through which they report inside information, including publication on own websites.

Section 3, Question 4

Do you agree that the technical specifications document should be the same for RISs reporting individual and non-aggregated information and for RRM reporting confidential trade data due to the same sensitivity of the information?

Respondents' Feedback

Most respondents agreed with this statement. One respondent however argued that the technical specifications for RRM should apply stricter data security requirements than the technical specifications for RISs, as the level of confidentiality was argued to be higher for trade data.

ANNEX II – Abbreviations

ACER/ the Agency	Agency for the Cooperation of Energy Regulators
ARIS	Agency's REMIT Information System
CEREMP	Centralised European Registry of wholesale Energy Market Participants
EMIR	European Market Infrastructure Regulation
ENTSO-E	European Network of Transmission System Operators for Electricity
ENTSOG	European Network of Transmission System Operators for Gas
ESMA	European Securities and Markets Authority
LNG	Liquefied Natural Gas
LSO	LNG System Operator
MAD	Market Abuse Directive
MAR	Market Abuse Regulation
MiFID	Markets in Financial Instruments Directive
MiFIR	Markets in Financial Instruments Regulation
MoU	Memorandum of Understanding
MP	Market Participant
MS	Member State
NRA	National Regulatory Authorities
OTC	Over the Counter
OTF	Organised Trading Facility
REMIT	Regulation on wholesale Energy Market Integrity and Transparency
RRM	Registered Reporting Mechanisms
SSO	Storage System Operator
TSO	Transmission System Operator
UMMs	Urgent Market Messages
VTP	Virtual trading point
VWAP	Volume-weighted Average Price



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