

**EFET response to ACER public consultation on
RRM requirements for transaction reporting under REMIT**

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?

EFET¹ supports the view that in case post-trade event information is not available to OMPs, this info needs to be reported by trade matching or trade reporting systems.

For the term „post-trade events“ a proper definition is needed, as it is unclear what is meant concretely with “post-trade events”. In this context, we want to point out, that a consistent use of the wording between ACER and ESMA is of utmost importance. A clear alignment between the definitions of “post-trade events” and “lifecycle events” is absolutely required. Our understanding of the term “post trade event” is that a deal is adjusted afterwards. There exist three categories:

- 1. Close out (mutual cancellation of a contract)*
- 2. Flex – contract (routine adjustment of a contract, i.e. power plant gas contract with daily notification)*
- 3. Tranche contract with price adjustment afterwards (via Tranche or formula)*

Only the first category (aforementioned under point 1) is possible in standard contracts and only in this case the reporting platforms don't know that a close-out took place. Therefore in this case the OTC-Partner needs to report the post-trade event.

However the close-out takes place so seldom that a manual reporting is applicable.

The other two categories (aforementioned under point 2 and 3) are in our point of view modifications of Non-Standards that have to be reported anyway.

EFET Members are, as Market participants, extremely concerned about the practical implementation of reporting post-trade and lifecycle events of trades which are originally reported by the OMPs, which cannot easily be done by a party other than the market participant, or by delegation to a trade matching system or trade reporting system. If the latter should report, it will be very cumbersome, complex and cost consuming to implement a reporting solution taking into account that the original trade is reported by the OMP (and these data are not duplicated in the market participant' systems). Therefore, we once more stress the importance of market participants having the choice to report both the trade concluded over the OMP and the lifecycle events thereof directly to the ACER, without mandatory obligation to OMPs whilst complicating if not rendering impossible lifecycle event reporting.

Further clarification is needed on how transaction reporting and post-trade event reporting needs to be linked, given the lack of common UTIs and the fact that this entire information set is not available in one single system nor to one single party

¹ EFET promotes and facilitates European energy trading in open, transparent, sustainable and liquid wholesale markets, unhindered by national borders or other undue obstacles. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information, visit our website at www.efet.org.

Finally some clarification is needed on the application of RRM requirements for the entire set of potential communication and reporting links: if you are a market participant, who sends directly to ACER, or via a trade matching system, or via a trade repository, or if a market participant send the transaction data on behalf of a 3rd party directly to ACER. It needs to be documented and defined how many links in the chain must fulfill the RRM requirements.

- 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.**

Within the limitations set by avoiding double reporting, it is crucial however to strive at a harmonized data format for ARIS. This will increase the quality of the reporting, allow reporting parties to adopt one standardised format and process and facilitate matching processes within ARIS. Adopting the IA requirements to TRs is, according to EFET, a positive idea, contributing to the advantages as listed above.

This application of standards and electronic formats must not influence existing EMIR reporting (data, format nor processes).

- 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?**

EFET supports ACER's effort to set up robust and prudential rules for RRM, however we do not agree that all requirements should be applied for all reporting entities, regardless of whether they report their own data or third-party data. There should be a distinction between RRM and self-reporting market participants.

A specific point should be made on the quality of the proposed reference data, which is in our opinion not always sufficient to determine off-OMP trades as being standard trades.

For further details, please see our answers to question 4.

- 4. Do you agree with the Agency's view that the same requirements shall apply to all RRM?**

EFET does not agree that the same requirements shall apply to all RRM. A light version should be set up for RRM reporting on their own behalf only and on behalf of their group members. This light version does not require an annual audit.

- 5. If your reply to question 4 above is negative, please explain which requirements should apply differently to different RRM and why.**

See our answers to question 3 & 4.

- 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?**

The RRM mechanism and process should guarantee completeness, accuracy and timeliness of the data sent.

ARIS must foresee reporting read receipts and acknowledgements supported by a documented process to enable RRMS to use this information towards the market participants for compliance proof.

Granting access to reported data might be an interesting additional service, to be offered by RRMs or by Acer but needs to be carefully considered given confidential nature of the information.

- 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.**

Access should be defined applying the same IT and data security measures as used for transaction reporting. EFET recommends standardising the way this reporting is done (process but also content and data formats).

- 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?**

EFET agrees with ACER that the obligation to produce a compliance report should be on a yearly-basis for RRMs, organised market places and for trade matching / reporting system.

EFET recommends ACER to publish main findings from RRM's compliance reports, which will increase transparency on the process and the quality of RRMs.

This annual compliance report should not be required for self-reporting market participants as it creates a high burden without proven risk mitigation of quality increase given the risk level embedded in such a setup.

- 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?**

EFET agrees to this registration duty for ARMs in order to facilitate the reporting process by harmonized representation and identification of RRMs and party reporting on behalf of Market Participants.

- 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?**

Yes we agree. This simplified process should build on the fact that ARMs and TRs are already authorised by ESMA under MiFID or EMIR respectively

- 11. Do you agree that CEREMP should be used for the identification of market participants that apply to become a RRM?**

Yes, we agree. The registration process must however facilitate changes that can and will occur during the preparation fro go-live where market participants need to be able to smoothly change their status.

12. What is your opinion on the timeframe needed to complete the registration process?

As RRM requirements for registration are very extensive, we recommend expanding this to 6 months, also taking into account potential bottlenecks that will follow in the testing process. A precondition to this registration process being efficient is the timely availability of technical RRM specifications.

Given our remarks on the RRM requirements for self-reporting market participants, it is obvious that this needs to be reflected as well in the registration process for these parties.

13. Do you have any comments on the registration process in general?

The process, including changes to it, should be as straightforward as possible not to put additional administrative burdens for market participants.

The approach applied by ESMA on TRs should apply as well for RRM where by transaction reporting go-live is conditioned by the successful registration of RRM.

14. Would the periodic renewal of registration be a valid alternative to the certified annual report?

Periodic registration renewal should only be required when issues have been reported at the annual compliance report or during operational reporting services.

15. Do you have any other comments on the Chapter concerning the Agency's assessment of compliance with the RRM requirements?

This "RRM requirements document" gathers for the first time trade data and fundamental data. As these are 2 totally different datasets and processes, requirements and registration need to be split.

Trade event reporting and expectations on how these are to be linked to transactions needs to be described in the RRM requirements.

Any RRM that want to be registered has to register prior to knowing what technical requirement it will have to meet. This restriction based on a confidentiality statement has no impact on operational reliability and jeopardises readiness of RRM.

The RRM requirements specify in detail the technical specification to operate a reporting process. As this reporting process is linking RRM to ACER, the same level of technical requirements needs to be guaranteed by ACER for ARIS.

The entire testing process needs to be detailed in order to bring the necessary comfort to market participants on how their compliance duties can taken over by registered and authorized RRM.

Delegated reporting services offered by OMPs must be governed by ACER to strike a balance between quality and content of service and the cost associated with or charged for it.