

REMIT
List of organised market places

Public Consultation Paper

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On 3 October 2014 the REMIT comitology committee voted on the implementing acts (the 'Implementing Acts') to be adopted pursuant to Article 8 of Regulation (EU) No 1227/2011 on wholesale Energy Market Integrity and Transparency ('REMIT'). The Implementing Acts provide that the Agency for the Cooperation of Energy Regulators (the 'Agency'), in order to facilitate reporting, shall draw up and publish a list of organised market places *upon entry into force* of the Implementing Acts. The Agency shall update this list in a timely manner. This provision was introduced at the third comitology meeting where the implementing acts were voted upon. Consequently, the time frame for the Agency to comply with this provision is limited.

This public consultation paper is intended to collect views on the list of organised market places from all parties interested in the implementation of REMIT (market participants, organised markets and other persons professionally arranging transactions, financial regulatory authorities, etc.). The provisional list of organised market places is attached as an annex to this consultation paper.

The Agency invites all interested parties to provide comments to the consultation paper on the provisional list of organised market places, and especially answers to the consultation issues listed in this consultation paper, by 11 December 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>
- Commissions implementing regulation (EU) No .../..of XXX on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency,
<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.documentdetail&cv9jjZLVE/cCaSie5I31IDXG6Zna/CcHNizKZi5OoEnVqHZGdlwy2rS97ztb5t8b>
- 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'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 of this consultation paper

On 3 October 2014 the REMIT comitology committee voted on the implementing acts (the 'Implementing Acts') to be adopted pursuant to Article 8 of Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency ('REMIT')¹.

The Implementing Acts provide that the Agency for the Cooperation of Energy Regulators (the 'Agency'), in order to facilitate reporting, shall draw up and publish a list of organised market places upon entry into force of the Implementing Acts. The Agency shall update this list in a timely manner. This provision was to the Agency introduced at the third comitology meeting where the implementing acts were voted upon. Consequently, the time frame for the Agency to comply with this provision is limited.

The list of organised market places will be published on the Agency's REMIT Portal website for the purpose of identification of the organised market places with regard to transaction reporting according to Article 6(1) of the REMIT implementing acts. The purpose of the list is twofold: It will enable market participants to identify the organised market place as reporting channel for transaction reporting according to Article 6(1) of the REMIT implementing acts. Furthermore, it will facilitate organised market places submission of identifying reference data for each wholesale energy product the organised market places admit to trading to the Agency in order to assist the Agency to comply with its obligation under Article 3(2), first subparagraph, of the REMIT implementing acts: To draw up and maintain a public list of standard contracts in order to facilitate reporting.

The publication of the list of organised market places ensures the Agency's compliance with Article 3(2), first subparagraph, of the REMIT implementing acts. The list will be updated in a timely manner as and when the Agency is given further information on gaps. It covers organised market places for wholesale energy products in relation to supply of electricity or natural gas with delivery in the Union and derivatives of contracts relating to electricity or natural gas produced, traded or delivered in the Union, wholesale energy products in relation to transportation of electricity or natural gas in the Union on secondary markets and derivatives of contracts relating to the transportation of electricity or natural gas in the Union. Organised market places for contracts relating to the transportation of electricity or natural gas in the Union as a result of a primary explicit capacity allocation by or on behalf of the TSO, specifying physical or financial capacity rights or obligations, are not listed as the transaction reporting will be done by TSOs ~~and~~

¹<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.documentdetail&cv9jjZLVE/cCaSie5I31IDXG6Zna/CcHNlzKZi5OoEnVqHZGdIwy2rS97ztb5t8b>

~~as the distinction between standard and non-standard contracts does not apply to transportation contracts.~~

The list of organised market places can also be used to identify trading venues among Member States of the EU and EEA for transaction reporting purposes. Transaction reporting is undertaken through the organised market places which act as a reporting channel for their market participants. 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. Trade matching or trade reporting systems may be third parties for the data reporting, in particular for reportable lifecycle events unknown to the organised market place.

In order to ensure transparency and full involvement of stakeholders, the Agency launched an open call for organised market places to register with the Agency during November 2014. The registrations received through this open call formed the basis of the provisional list of organised market places here consulted upon.

2. Legal Framework and Implementing Acts

REMIT sets the legal framework at EU level to tackle abusive practices affecting wholesale energy markets. It provides for the monitoring of wholesale energy markets by the Agency in close cooperation with national regulatory authorities ('NRAs'), ESMA, financial authorities and other relevant authorities. For this purpose, Article 8(1) of REMIT imposes an obligation on market participants, or third parties or authorities acting on their behalf, to provide the Agency with a record of wholesale energy market transactions, including orders to trade ('trade data'). Furthermore, Article 8(5) of REMIT provides that market participants shall report to the Agency and NRAs information related to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas and use of LNG facilities, including planned or unplanned unavailability of these facilities ('fundamental data').

Article 8 is to be complemented by implementing acts to be adopted by the Commission. The implementing acts shall define the contracts and derivatives, including orders to trade, to be reported ~~and may define a de minimis threshold, if appropriate~~. In addition, the implementing acts shall lay down uniform rules, as well as the timing and form for the reporting of both trade and fundamental data.

The Implementing Acts provide that the Agency, in order to facilitate reporting, shall draw up and publish a list of organised market places upon entry into force of the Implementing Acts. The Agency shall update this list in a timely manner.

The list of organised market places will be published on the Agency's REMIT Portal for the purpose of identification of the organised market places with regard to transaction reporting according to Article 6(1) of the Implementing Acts. The publication of the list of organised market places ensures the Agency's compliance with Article 3(2), first subparagraph, of the REMIT implementing acts.

Organised market places are defined in the Implementing Acts as a multilateral system, which brings together or facilitates the bringing together of multiple third party buying and selling interests in wholesale energy products in a way that results in a contract, any other system or facility in which multiple third-party buying and selling interest in wholesale energy products are able to interact in a way that results in a contract. These include electricity and gas exchanges, broker and other persons professionally arranging transactions, and trading venues defined in Article 4 of Directive 2014/65/EU².

² Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

3. Public consultation

Establishment of the list

On the basis of the definition of organised market places, the provisional list distinguishes between energy exchanges, energy broker platforms and other persons professionally arranging transactions considered as organised market places (“other organised market places”).

The provision in Article 3(2) of the Implementing Acts, requiring the Agency to draw up and publish a list of organised market places upon entry into force of the implementing acts, was included as late as 3 October 2014. Hence the Agency has only limited amount of time to comply with this provision. The Agency published on 16 October 2014 an open call to register for the establishment of the list of organised market places. The registration was open throughout November. On the basis of the responses from this open call registration, the Agency assembled a provisional list of organised market places. In addition to this, the Agency conducted its own research and added to the list, apart from the open call registrations, also members of LEBA and Eurelectric and organised market places recognised-listed by NRAs. These items are in the list marked with a star.

Call for comments

The Agency hereby consults stakeholders on this Public Consultation Paper, including the annexed provisional list of organised market places. This is a provisional list based on the responses to the open call to register with the Agency for the establishment of the list of organised market places and the Agency’s own research. Comments are welcome on all aspects of the list. However, the Agency has identified a couple of questions to draw respondents’ attention to those areas where it would be particularly helpful to receive feedback. The list is in alphabetical order and the numbering is only for facilitating identification of the item subject to comments.

Consultation questions

1. Please provide us with your comments on the draft list of organised market places. Are there any omissions ~~to the list or are there any~~ errors in the list?
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Please ~~specify~~ justify your reply.

~~2. Virtual trading points (VTPs) are currently not included in the list of organised market places. Do you consider this correct or not? Please justify your reply.~~

~~3.2.~~ For the reasons stated above, the Agency believes that primary auction platforms for transportation contracts ~~do not have to be~~ should not be listed as organised market places. Do you agree with this reasoning? Please justify your reply.

Comment [CRR1]: This question should be deleted. Indeed, VTPs are not trading platforms but virtual hubs for trading. As this is an important point, please let us know if you would like to discuss on the phone.

Public Workshop

A public workshop will be held at the Agency's premises in Ljubljana on 10 December 2014. Those who intend to participate in the public workshop should register online via the Agency's website under the heading "Events".

Consultation period

The Agency invites all interested parties to provide comments to the consultation paper on the provisional list of organised market places, and especially answers to the consultation issues listed in this consultation paper, by **11 December 2014** 12.00 noon, Central European Time, to Remit.PublicConsultations@acer.europa.eu.