



## ACER Consultation on a Common Schema for the Disclosure of Inside Information

EDF Group Response

June 26<sup>th</sup>, 2015

### General comments

EDF Group welcomes ACER's public consultation on a Common schema for the disclosure of inside information. As a preliminary comment, EDF Group understands the aims and the objectives of the current consultation whereby ACER highlights the issues related to divergent working practices in terms of information disclosure. In that respect, the gap analysis presented page 8 is valuable to have an overview of issues faced by ACER. We would like to emphasise the importance of the efficient collection of data.

However, EDF Group would also recall that REMIT provides *"Reporting obligations should be kept to a minimum and not create unnecessary costs or administrative burdens for market participants"* (whereas 19). This goal is reinforced in the REMIT Implementing rules stating that *"In order to reduce the burden of reporting on market participants and to make best use of existing data sources"* notably involving where possible TSOs, ENTSOE, ENTSOG, LSOs and SSOs. In that respect, EDF Group emphasises the importance to ensure the avoidance of disclosure duplication.

EDF Group would like to draw ACER's attention on the risks of creating a double publication system through the introduction of a common schema for the disclosure of inside information. Although we agree with ACER's view in relation to inside information: *"on the one hand inside information includes transparency information (...), on the other hand goes further and also includes other information that a reasonable market participant would be likely to use as part of the basis of its decision to enter into a transaction"*, we would like to emphasise that the transparency information for electricity is already disclosed through ENTSOE's EMFIP platform following specific requirements detailed in ENTSOE's Manual of Procedures and its referenced documents. Other transparency information (including unavailabilities) that are considered as inside information by market participants are reported in the same way – and with the same features – by market participants on a national REMIT platform or their own website. We are concerned that ACER's proposal for a common schema for disclosing inside information may have inadvertent consequences, such as: (i) potentially lead market participants to make very costly and burdensome IT changes, (ii) ultimately create a double disclosure system and (iii) potentially lead to excessive and very frequent publications. While the first two are not aligned with REMIT's objectives, the third one undermines the value of information are likely to be considered as inside information.

EDF Group understands the need to rationalise and harmonise the procedures for disclosure of inside information. Therefore, considering also the above, our view is that a common schema of disclosure, should only apply to inside information that is not reported on the European transparency platform (i.e. should only apply to inside information under article 2(1)(c) and (d) of REMIT). In any case, EDF Group considers that the definition of the field of publication must be harmonised with the definitions, formats and



standards established by ENTSOE. Thus ACER's common schema data format and data lists available shall be compatible with rules defined by ENTSOE. Furthermore, the fields to be populated shall be limited to information relevant for the assessment of the impact of this information on wholesale products energy markets and shall not result in the market participants disclosing plans and strategies for trading.

Besides, we would make a distinction between disclosing factual information and information that requires some form of interpretation. It is our preference to limit the interpretative information required in order to focus on the facts.

Finally, from a legal point of view, EDF Group understands that the creation of "procedures, standards and electronic formats" referred to in article 10(3) of the REMIT Implementing rules (IR) do not apply to the disclosure of inside information since this article only refers to article 6, 8 and 9 of the IR which do not include strictly all kind of inside information. We thus invite ACER to check the legal grounds to justify a binding common schema for the disclosure of inside information.

**1) Would you add any other field not included in the current proposal? If so, please explain your reasoning**

As a principle, EDF would like to minimize the burden for publication avoiding disclosure of fields which are with no value or already publicly available. Thus, EDF Group does not see any other field to be added.

It is worth noticing that in January 2013 ACER requested ENTSOE<sup>1</sup> to implement and publish UMM in the EMFIP platform, for a second release of the EMFIP platform. As stated in mid 2013, EDF considers that the platform should allow UMM and free texts for any reason and not only for events that are necessarily linked to an outage. Indeed we believe that such an improvement would enhance transparency to the market and provide additional value for the ENTSOE platform.

The fields seem to be generally 'generator-oriented'. We would expect that TSOs would use the same format and in this respect another field **"Impact on NTCs and Flow-based parameters should be added"**.

**2) Would you remove any field represented in the current proposal? If so, please explain your reasoning.**

As stated in our preliminary comment, EDF Group believes that the fields included in this common schema should only apply to inside information that is not already disclosed as transparency information. We would like to make the following comments on specific fields:

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<sup>1</sup> "ACER would welcome a development where both inside and transparency information is published at the same platform(s)"

<https://www.entsoe.eu/news-events/events/Pages/Events/public-transparency-stakeholder-workshop.aspx?EventWorkshopId=99>



#### Unavailability capacity (field # 10a)

ACER asks for both the available capacity (11a) and the unavailable capacity (10a) fields to be provided. Since the market is able to deduce one from the other, EDF believes that these two pieces of information are redundant thus inducing unnecessary burden. Since article 2(1)(b) of REMIT refers to the *"capacity and use of facilities"*, we would like to keep the field referring to the available capacity (11a) and **remove the field related to unavailable capacity (10a)**. This is also in line with Transparency Regulation which refers to *"available capacity during the event"* (art 15.1.a).

#### Nominal Capacity (field # 12a)

We believe that the Nominal Capacity (12a) field should be replaced by « installed generation capacity » which is the term used by the Transparency Regulation. Definition of such capacity shall also be aligned. We deem that using different terms would mislead the market and create unnecessary complexities both to allow understanding to the public and to provide further explanations by the owners of the data.

#### Decision Time (field # 14)

Article 4 of REMIT explicitly requires the effective and timely public disclosure of inside information. Current guidance from ACER is clear that REMIT market participants should be aiming for real time or close to real time disclosure of inside information, but at the latest within one hour. However EDF Group outlines that compliance regarding the timely manner of the publication should not be made by means of automatic comparisons but in a case by case analysis.

Furthermore, EDF Group considers that the notion of "decision time" cannot be standardised since the event triggering the decision depends on procedures that are defined in each entities and business units. Disclosing such an information will induce burden to market participants (contrary to electronic flows, this field must be populated by an operator from a "date" which corresponds rather than a timeframe when "the management board decides"). The "Published" field #13 already allows the public and ACER to know when the message has been publicly disclosed. Thus, a careful analysis should be carried out as to the impacts for the energy market of introducing such a field.

Other than providing comfort of the timeliness of publications, this data field does not provide any real or meaningful value to REMIT market participants. Moreover, given the uncertainty and urgency nature surrounding the UMMs, we deem that such information could rather mislead the public and induce burden to market participants. Therefore we are **deeply convinced that the "Decision Time"(14) field must be removed**.

#### "Impact on carbon permit prices" (field # 20)

First of all we would like to highlight that REMIT does not refer to such requirement. Besides, stakeholders have already outlined that the relevant information related to carbon permits taken on a portfolio basis and not on a unit-by-unit basis. This is consistent with the thresholds assessed by ESMA which are on a company basis.

Then, the publication by physical REMIT market participants of information relating to the availability and use of physical assets is based on the likely impact of this information on the price of wholesale energy products. Retaining an asset approach would be difficult as the estimation on impacts on carbon is almost



impossible to assess in an urgent timeframe (as it should take into account the specifics of the asset, the duration of the event and any assumption about the likelihood of production if the event had not taken place). Asset owners and operators are not in position to make an assessment of the impact of information about their assets on emission allowance prices. This field should be removed.

3) Would you change any of the descriptions, accepted values or applicability? If so, please explain your reasoning. Are the schemas or values that you are suggesting based on any industry standard? Which one(s)?

A key feature of the reporting must be the ability to follow events as they develop. EDF Group would therefore like to see full functionality of the update ID to accommodate a change from planned to unplanned. We assume this is the case but we would like confirmation of this.

Field 2 Update ID / Field 5 Type of event/ Field 4.b Message type

EDF Group can agree that an event could be either planned or unplanned but there may be situations where during a planned outage something occurs moving the status of the event to unplanned e.g. discovery of tube leak after a routine inspection outage. We agree it is important to be able to follow the event via the Update ID but would note that the binary nature of the event message (planned or unplanned) means that the update ID must have the facility to be link planned and unplanned outages. We would like confirmation this is the case.

Field 4. /b Message Type (gas capacity)

It should be clear that the accepted value "Import contract curtailment" refers only to unplanned curtailments and not to those included in flexibility clauses of import contracts.

Field 9. /a Bidding Zone (electricity capacity)

We notice that in some countries the EIC codes for internal bidding zones are not available. For example in Italy these market areas are identified by a code of the Italian system operator (Terna).

"Remarks"(field # 17)

The "remarks" field should remain a free text, allowing the market participants to analyse and publish any important information that is deemed to be useful. Thus, no specification should be imposed, in particular any "justification in case of update" nor a "level of certainty of the event". As regards this latter, EDF Group would like to recall that the concept of probability is meaningless as regards any REMIT decision process. Indeed all information published particularly on unplanned unavailability is the result of an iterative process and is published as soon as there is a validation of the power plant technical status. Therefore, generators are publishing the best vision that, in good faith, a well-experienced operator may have in a given point of time on the availability of the assets. We recall that public disclosure is made accordingly to REMIT Regulation and ACER Guidance.

As outlined before, market participants have the responsibility to assess whether to provide any further justification in this field and considering that subjective information could ultimately mislead the public.



4) Do you agree with the use of RSS or ATOM feeds to fulfil the requirement under Article 10(1) of the REMIT Implementing Regulation?

Yes, EDF Group agrees. In any case if a technology has to be mentioned, different options should be proposed both machine-oriented and human-oriented.

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