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REMIT

**Functioning and Usefulness of the European Register of
Market Participants**

Public Consultation Paper

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Background

According to Article 9 of Regulation (EU) No 1227/2011 on wholesale Energy Market Integrity and Transparency (“REMIT”), the Agency for the Cooperation of Energy Regulators (the “Agency”), in cooperation with National Regulatory Authorities (NRAs), shall determine the format through which NRAs transmit the information on market participants to the Agency (the “REMIT Registration Format”).

The Agency published the REMIT Registration Format in ACER Decision n° 01/2012 of 26 June 2012. Recital 8 of that Decision provides for the possibility of reviewing, in due course, the Registration Format and if necessary adopting changes pursuant to Article 9(3) of Regulation (EU) No 1227/2011.

On 17 March 2015, the Agency published for the first time the European register of market participants on its REMIT portal and updates it on a regular basis.

According to Recital 21 of REMIT, one year after the establishment of the European register of market participants, the Commission should assess in cooperation with the Agency, in line with the reports submitted by the Agency to the Commission, and with NRAs, the functioning and usefulness of this register.

This public consultation paper is intended to collect views from all interested parties involved in the implementation of REMIT (market participants, organised markets and other persons professionally arranging transactions, financial regulatory authorities, etc.) on the functioning and usefulness of the European register of market participants and its possible improvements.

In case the evaluation of the contributions to this public consultation leads the Agency to update the Registration Format adopted in ACER Decision n°01/2012, NRAs would then have to update their national registers accordingly. As a consequence, already registered market participants would be asked to update the concerned fields of the registration form they filled with the relevant NRA at national level in due time.

The Agency invites all interested parties to provide comments on the issues listed in this consultation paper by 22 April 2016, 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>
- Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 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&cv9ijZLVE/cCaSie5I31IDXG6Zna/CcHNlzKZi5OoEnVqHZGdlwy2rS97zfb5t8b>
- ACER Decision n° 01/2012 relating to the registration format pursuant to Article 9(3) of Regulation (EU) No 1227/2011, http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Directors%20decision/ACER%20Decision%2001-2012.pdf
- The Agency's Public Consultation Paper on the REMIT Registration Format (PC_2012_R_08) of 18 April 2012 and the Evaluation of Responses, http://www.acer.europa.eu/Official_documents/Public_consultations/PC_%202012_R_08_on_REMIT_Registration_Format/default.aspx
- The Agency's Public Consultation Paper on the Publication of extracts of the European register of market participants (PC_2013_R_06) of 7 November 2013 and the Evaluation of Responses, http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2013_R_06.aspx
- CEER Final Advice on the Introduction of a Europe-wide Energy Wholesale Trading Passport (C11-WMS-15-04b) - CEER Conclusions Paper of 8 November 2011, http://www.ceer.eu/portal/page/portal/EER_HOME/EER_PUBLICATIONS/CEER_PAPER_S/Cross-Sectoral/2011/C11-WMS-15-04b_TradingPassport_Conclusion_08112011.pdf

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1. Legal background

According to Article 9(1) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency¹ (hereinafter: REMIT), all REMIT market participants are required, before entering into reportable transactions, to register in the Member State where they are established or resident, or if they are not established or resident in the European Union, in a Member State where they are active.

National Regulatory Authorities (NRAs) are responsible for setting up national registers of market participants, which they shall keep up to date (Article 9(2) of REMIT). On its side, the Agency for the Cooperation of Energy Regulators (the “Agency”) shall set up and keep up to date the European register of market participants (EREMP) which is based on the national registers maintained by NRAs (Article 9(3) of REMIT). For this purpose, the Agency has set up the Centralised European Register of Energy Market Participants (CEREMP) as an IT platform to host the European register of market participants. CEREMP may also be used by NRAs as an IT platform to host their national registers of energy market participants.

According to Article 9(3) of REMIT, the Agency, in cooperation with NRAs, shall determine the format through which NRAs transmit the information on market participants to the Agency (the “REMIT Registration Format”).

The Agency published the REMIT Registration Format in ACER Decision n° 01/2012 of 26 June 2012. Recital 8 of ACER Decision n° 01/2012 provides for the possibility, in due course, of reviewing and if necessary adopting changes to this Registration Format.

On 17 March 2015, the Agency published the European register of market participants for the first time and has kept it up to date ever since.

Recital 21 of REMIT provides that one year after the establishment of the European register of market participants, the Commission should assess in cooperation with the Agency, in line with the reports submitted by the Agency to the Commission, and with NRAs, the functioning and usefulness of this register. This assessment aims at identifying any changes needed to further enhance the overall transparency and integrity of wholesale energy markets and to ensure a Union-wide level playing field for market participants.

2. Scope of the consultation

The European register of market participants was first published on 17 March 2015 (available on the REMIT Portal) and has since been regularly updated. As of 17 March 2016, 7 384 market participants were registered in the European register of market participants.

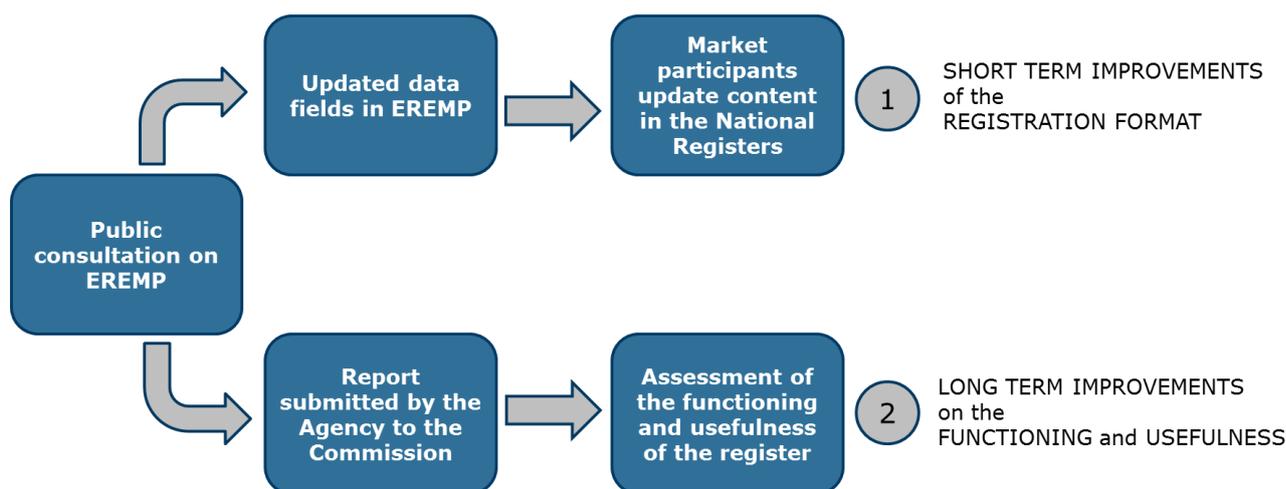
¹ OJ L 326, 8.12.2011, p. 1.

The CEREMP platform became operational on 16 June 2014 and can be used by NRAs for the establishment of national registers of market participants. The CEREMP platform has been available more than 99% of the time since it became operational. Currently, 25 out of 29 NRAs use the platform to host their national registers of energy market participants.

The purpose of this public consultation is twofold:

1. Collect input from stakeholders regarding the European register of market participants with the perspective to improve the current **Registration Format** in light of the experience gained so far.
2. Collect input from stakeholders regarding the **functioning and usefulness of the European register** of market participants with the long-term perspective of enhancing the overall transparency and integrity of wholesale energy markets and to ensure a Union-wide level playing field for market participants.

Figure 1 - Aim of the public consultation



Based on the input received from the public consultation and on its own assessment, the Agency may:

1. update the Registration Format adopted in ACER Decision n°01/2012. NRAs would then have to update their national registers accordingly. As a consequence, market participants already registered would be asked to update the concerned fields of the registration form, which they filled already with the relevant NRA at national level, in due time.
2. submit to the European Commission a report evaluating the functioning and usefulness of the European Register and, if required, propose solutions that can enhance the overall transparency and integrity of the wholesale energy markets while ensuring a Union-wide level playing field for market participants (as per Recital 21 of REMIT).

3. Public consultation

For the purpose of this public consultation, the Agency has identified specific questions to which it would like to draw the respondents' attention, and on which it would be particularly helpful to receive feedback.

3.1. Consultation questions

Questions on improvements of the Registration Format of the European Register

When transmitting the information from the national registers to the European register of market participants, NRAs use the format provided in Annex 1 to ACER Decision 01/2012. In this section, the Agency is consulting stakeholders on possible changes and additions to that format, in order to consider the need for changes to the Registration Format used at national level.

1. Regarding fields 112 and 316 ('**VAT number**' of the market participant and ultimate controller), taking into consideration that some market participants and ultimate controllers do not have a VAT number, ACER proposes to add an additional checkbox labelled: 'I do not have a VAT number.' Moreover, taking into account that different formats for VAT identification apply outside the European Union, ACER proposes to adopt a more flexible format for fields 112 and 316 for non-EU market participants. Do you agree with this change? If not, please justify your reply.
2. Regarding the reformulation of field 113 (Energy Identification Code ('**EIC**')) of the market participant):
 - a. EIC codes are widely used for reporting transaction and fundamental data. The current registration format allows only one EIC code to be provided by a market participant, although there may be several different types of EIC codes related to the same market participant and used for reporting. Moreover, although the EIC codes are publicly available, other pieces of information, such as the location of the facility identified by the EIC code, are not public. Taking into consideration the need to identify for monitoring purposes to which market participants different EIC codes belong to, the current registration format can be developed to allow the introduction as mandatory fields of all EIC codes (i.e.: EIC X, EIC Y, EIC Z, EIC T, EIC W and EIC A) related to the same market participant. What are the pros and cons of such an approach? Please explain.
 - b. In case the introduction of all EIC codes used for reporting by a market participants (see previous question) is allowed by the European register, the Registration Format could be expanded to:
 - identify the name of the object to which the EIC code relates (e.g.: name of the power plant),
 - identify the address of the object to which the EIC code relates (e.g. location of a power plant identified by X EIC code),

- identify the country where the market participant or the object is physically registered (e.g. in case of Y, T EIC codes, all countries which lie in the area of the Y, T EIC code,
 - identify the market participant's role/relationship with the submitted EIC codes in order to differentiate situations where one code is used by more than one market participant. The Agency has identified the following relevant roles:
 - Proprietor/owner of the object to which the entered EIC code relates
 - Operator of the object to which the EIC code relates
 - Other role which has information about the object to which EIC code relates
 - i. Do you agree with the possibility to add these mandatory fields in order to identify each EIC code? If not, please justify your reply.
 - ii. Would you like to add/reformulate any other potential role/relationship of a market participant with the submitted EIC codes to the ones mentioned in the list above?
3. Field 116 (Global Location Number of the market participant - '**GS1**' in the coding scheme) is rarely used by market participants. Do you agree that this field is removed from the European Register? Please explain your reply.
4. Field 118 ('**Trade Register**') was requested by some NRAs. Would it be adequate to allow for special characters in this field? If not, please justify your reply.
5. The Implementing Regulation lays down the provision to include Trader IDs in transaction reports (field 3 of Table 1 in the Annex to the Implementing Regulation). The Trader ID is the login username or trading account of the trader and/or the market participant or counterparty as specified by the technical system of the organised market place. The field '**Trader IDs**' may be added to the European Register as part of the market participant's registration information to make it easier to link different trader IDs to one specific market participant for market monitoring purposes. Do you agree with this proposal and what are the pros and cons of this? Please explain your reply.
6. Field 120 ('**Publication Inside Information**') is currently filled by many market participants with a general link (for example, a link to the company's main webpage) and not with the exact location where the inside information publications are published. Do you agree to refine its definition so that it is clearly stated that the URL(s) should indicate the exact address where the inside information is disclosed publicly and, to create a new field indicating the location of the web-feed used for reporting the publications of inside information to ACER?

7. Regarding field 121 (**‘ACER code’**), taking into consideration the need to ensure the traceability of relevant changes in the registration records² two new fields could be added to the Registration Format: one indicating previously used ACER codes; another identifying the relationship with the previous codes. The identification of the relationship between ACER codes could be provided by selecting the following types:
- same person previously registered in another Member State;
 - incorporation of a registered market participant;
 - spin-off from a registered market participant;
 - other.
- i. Do you agree with the above proposal? Please give reasons for your answer.
- ii. Do you see a more efficient way to ensure traceability of relevant changes in the registration records?
8. Section 4 (**‘Corporate Structure’** of the market participant) does not currently provide full transparency on the corporate structure of the market participant. It has been proposed that every market participant registered indicates the VAT number, name, and percentage of ownership of all companies belonging to the same group³ of the market participant (including company(ies) that are not market participants) as this would increase transparency from a market surveillance perspective.
- i. What are the pros and cons of such an approach? Please explain your reply.
- ii. Are there any improvements more generally to the corporate relationship section you would suggest?
9. In Section 3 to 5, we understand that some fields may not be self-explanatory. In order to avoid the misinterpretation of the information inserted by a market participant, do you think that some additional free text fields should be included to allow a better description of the particular situation of the market participant? Namely regarding:
- the main activity of the market participant;
 - how the ultimate controller performs such control;
 - information about the existing/envisaged data reporting agreements.

² e.g. de-registration of a market participant in one Member State and registration of the same market participant in another Member State, incorporation of an existing market participant by a new market participant, spin-off from a registered market participant resulting in new market participant(s).

³ In order to limit the administrative burden on market participants the same corporate structure does not have to be re-entered by every market participant belonging to the same group.

10. Do you have any other comment on the current fields provided in Annex 1 to ACER Decision 01/2012 on the Registration Format that can further improve the functioning and usefulness of the European register of market participants?

Questions on the functioning and usefulness of the European Register

Recital 21 of REMIT provides that in line with the reports submitted by the Agency to the European Commission, the Commission should assess in cooperation with the Agency and with the NRAs, the functioning and usefulness of the European register of market participants, including whether any regulatory changes related to this are needed. In this section the Agency is keen to understand if stakeholders have views on any changes needed in the context of the Register that in the long term can enhance the overall transparency and integrity of wholesale energy markets and ensure a Union-wide level playing field for market participants.

11. In 2011, the Council of European Energy Regulators (CEER) issued a report⁴ recommending factors that are important in meeting the above aims. The current Registration regime was introduced, as it was considered that it provides the right regulatory balance to identify who is in the market and to enable monitoring markets to detect abuse. The Agency is keen to understand stakeholders' views on this balance, in particular in relation to the previously-raised concerns that different national administrative requirements, which trading companies need to meet in order to operate in the national wholesale energy markets, could represent potential barriers to the creation of a Union-wide level playing field for market participants.
- i. Do you consider these national administrative requirements a relevant barrier to entry and an obstacle towards a true pan-European energy market? Please provide examples of administrative requirements that you believe constitute an unjustified barrier to entry that could distort the level playing field at European level.
 - ii. If you do believe there are barriers to entry, how could these be mitigated?
 - iii. Do you consider other possible regimes, compared to the existing registration regime, more useful to enhance the overall transparency and integrity of the wholesale energy markets and ensure a Union-wide level playing field for market participants? (e.g. EU trading license regime)
12. Some counterparties and organised market places (OMPs) voluntarily require market participants to be registered in the European register of market participants before they can trade with them/in their platforms. Do you consider that the introduction of this as a legal requirement would benefit the integrity and transparency of the wholesale energy markets? What would be the pros and cons of introducing this legal obligation?

⁴ See CEER Conclusions Paper (C11-WMS-15-04b) of 8 November 2011 - CEER Final Advice on the Introduction of a Europe-wide Energy Wholesale Trading Passport.

13. Do you find the publicly available extracts of the European register of market participants useful for your business and/or for the transparency of the wholesale energy market? If not, which additional information should be published?
14. Do you have any other comments on the functioning and usefulness of the European Register?

Question on the implementation timeline of changes in the European Register

15. Following consideration of responses to the public consultation, the Agency aims for any resulting modification to the European register of market participants and to the Registration Format to be adopted by 30 June 2016 and to apply as of 1 January 2017. Do you agree with this proposed timeline? If not, please justify your reply and propose an alternative timeline.

3.2. Consultation period

The Agency invites all interested parties (market participants, organised markets and other persons professionally arranging transactions, financial regulatory authorities, etc.) to provide comments to this consultation paper in the form of replies to the suggested questions, by 22 April 2016, 12.00 noon, Central European Time, to Remit.PublicConsultations@acer.europa.eu.

3.3. Confidentiality

The Agency will make public the number of responses received to this public consultation, the names of the respondents (except those with a valid reason for not having their identity disclosed), and all non-confidential responses. Please clearly and prominently indicate in your response to this public consultation any part you consider as confidential and do not wish to be publically disclosed. A standard confidentiality statement in an email message will not be treated as a confidentiality statement applicable for the relevant response.



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