

Stellungnahme

REMIT

Functioning and Usefulness of the European Register of Market Participants

PC_2016_R_01

Berlin, 22. April 2016

Interest Representative Register ID: 20457441380-38

General Remarks:

BDEW welcomes the opportunity to comment on the European Register of Market Participants.

BDEW appreciates the steps taken by ACER to implement the register and to improve the functionality and usefulness of it.

However, regarding the query of additional information it has to be considered whether this information creates additional burden for the market participants, which should be avoided and whether the additional information is actually needed in terms of the scope for the registration procedure.

1.1. 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.

Answer: BDEW supports this proposal.

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) re-

lated to the same market participant. What are the pros and cons of such an approach? Please explain.

Answer: In view of the fact that CEREMP is designed as a register for legal entities, there seems to be no need to record other information non-related to the legal entity. The other EIC codes mentioned relate to facilities maintained by the same legal entity. Therefore BDEW sees no need for additional EIC codes. However, if the usage of additional codes is allowed the field should remain optional.

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.

Answer: BDEW does not agree with the possibility to add these mandatory fields in order to identify each EIC code. This type of information is not within the scope of information required in order to record legal entities for registration purposes as they are currently defined in the European law.

- 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?

Answer: No, as mentioned before, BDEW is generally not convinced of the proposed approach.

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.

Answer: The possibility to use the 'GS1' can be a faster option for identification for individual market participants if the other codes must be applied first. Due to the reason that this code is not widely used, BDEW would agree to remove it.

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.

Answer: If it is considered to be added, BDEW recommends that it should not be a mandatory field.

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.

Answer: BDEW does not support this proposal because firstly, it means that every trader ID must be linked with every OMP. Secondly, BDEW is concerned that storing this kind of data (data retention; "Vorratsdatenspeicherung") would not be in line with REMIT provisions due to the fact that it could be eventually used to analyze all kind of activities of individual traders on a permanent basis without any beginning suspicion.

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?

Answer: BDEW agrees that URL(s) should indicate the exact address where the inside information is disclosed. However, BDEW does not support 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.

Answer: For reasons of transparency it might be necessary to indicate the previous ACER ID. However, it is not necessary to provide reasons for a change of ACER ID.

ii. Do you see a more efficient way to ensure traceability of relevant changes in the registration records?

Answer: BDEW does not 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 group 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.

Answer: It is questionable whether this approach would add any benefit in regard to the objective of REMIT. It could create substantial additional administrative burden for market participants. Thus, BDEW believes that the currently implemented approach is sufficient.

i. Are there any improvements more generally to the corporate relationship section you would suggest?

Answer: Some grid operators are ultimately owned by the State. Therefore, it might be useful to also allow other entries in addition to naming companies.

Additionally, BDEW would like to propose the following modification: in the current process it is not possible to reject a registration which is marked as ORU by another market participant. This could ultimately lead to a wrong picture of the corporate structure, if this relationship is not correct. Thus, also for ORU-Registration such a rejection should be possible.

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.

Answer: Adding free text fields may rather create more uncertainty and additional burden which needs to be restricted to a minimum. As shown in the mentioned examples; these seem to be new information to be reported rather than being of explanatory nature.

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

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.
- 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.
 - If you do believe there are barriers to entry, how could these be mitigated?
 - 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)

Answer: NRAs have developed different rules regarding their national market participant registers which increase the burden to make and maintain the market participant registrations; this should be harmonized.

However, BDEW does not support the approach to implement an 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?

Answer: This proposal, introducing a legal requirement, would function as obstacle for market participants because of additional formalism and bureaucracy. A benefit proposal would be that a registration in any EU member country is sufficient for a registration to trade with all OMPs within the EU because of jointly defined minimum requirements.

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?

Answer: Yes, the publicly available extracts of the European Register of Market Participants are useful.

14. Do you have any other comments on the functioning and usefulness of the European Register?

Answer: A printable complete overview of all information provided in the registration would be a useful option. Currently, only a printout option is possible per section.

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.

Answer: This very much depends on the final amendments proposed by ACER. Experience shows, that the minimum implementation time should be at least 6-9 months.

Ansprechpartner:

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