
ENTSO-E Answer to the ACER Public Consultation on the European Register of Market Participants

- Final Version

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1. Introduction

ENTSO-E notes the provisions of Recital 21 of REMIT that the Commission should assess in cooperation with the Agency and NRAs the function and usefulness of the European Register of Market Participants (“CEREMP”). ENTSO-E welcomes the effort of ACER in holding a stakeholder consultation on the issue of the functioning and usefulness of the CEREMP. The scope of the public consultation is very relevant and important for both ENTSO-E and its TSO members due to their role in REMIT.

We would like to highlight our answer to Consultation Questions 2 and 5 in particular; it does seem to us that the potential consequences of these particular parts of the consultation might be challenging.

Should clarification or further information be required in relation to our responses to the consultation questions, we are happy to liaise further with the Agency.

2. Consultation Questions

Questions on improvements of the Registration Format of the European Register

Question 1

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.

ENTSO-E supports the principle of the proposal.

ENTSO-E suggests that one potential alternative could be that instead of having two fields for dealing with VAT (ie ‘VAT code’ and ‘I do not have VAT code’ checkbox) plus more flexibility in the company code, perhaps, it makes sense to have only one “flexible” text field for “Company Identification”.

Question 2

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.

It is mentioned that it might be the case to introduce mandatory fields for all EIC code types (X, A, W, Z, T) related to a market participant, if the market participant itself is identified by an EIC code. This approach

may have some difficulties from both technical and legal point of view and ENTSO-E does not support the proposal due to:

- Firstly, ENTSO-E does not fully see how the CEREMP registry should require the EIC codes of type W (resource objects), A (substations), Z (metering points) and T (lines) as mandatory. We presume that not all of the 5000+ Market Participants that are already registered in REMIT reporting own or operate such objects/assets. Therefore, if introduced, completion of the relevant EIC fields should be optional.
- From a legal perspective, according to Art. 9 of REMIT, the purpose of the CEREMP aims at identifying market participants and not necessarily the objects as requested in the consultation (e.g. name of the power plant). As such, it may be questionable if the Y, A, W, Z & T EIC codes can be required.
- In light of recital 19 of REMIT which states that “reporting obligations should be kept to a minimum and not create unnecessary costs or administrative burdens for market participants” and of recital 21 of REMIT which confirms that the CEREMP should be based on national registers, the aim should always be to minimize as much as possible the impact of the reporting obligations on wholesale energy market participants.
- This would introduce data duplicity. CEREMP registry would end with a “copy” of the data that is already in the party’s CIO (Central Issuing Office). The party will be forced to update data in both systems: the CIO and the CEREMP. This can lead to data inconsistencies and problems to the market participant.

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), 8/11
- 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:
 - o Proprietor/owner of the object to which the entered EIC code relates
 - o Operator of the object to which the EIC code relates
 - o 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?

It is important to notice that while the name of a resource object (e.g. power plant) is explicitly linked to an EIC code, this is not the case with other information such as its location, country, the capacity of the asset or

operating status. ACER suggests that information on owners and operators of an asset may also be collected in the future by CEREMP.

Currently, EIC codes of resource objects include the field of the “EIC Responsible Party” and indirectly its role, but this field is an optional field only.

We understand ACER’s desire to focus on collecting a wider range of information concerning market participants. However, it needs to be foreseen that this can lead to additional administrative burden (e.g. for information that the market participants have already provided in other registers) and in some cases, inconsistencies with regards to information that are currently collected in other registers. ENTSO-E is keen to avoid data duplicity where a market participant is forced to update data in two systems

Considering that some of the additional information ACER wants to collect or publish might be considered as confidential for some member states and the fact that the CEREMP register will not be exhaustive - since only market participants registered to report in the framework of REMIT will be identified - the usefulness of the expansion of CEREMP to include all EIC codes may be questionable and ENTSO-E does not support the proposal.

ENTSO-E is, however, willing to discuss sharing of information relating to EIC codes with ACER. Any arrangements for such sharing of EIC code data would have to ensure compliance with the required confidentiality of certain data, which would need to be assessed.

Question 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.

ENTSO-E notes that GS1 is being used intensively in the Netherlands at the moment. The impact of removing this code should be analysed by ACER in advance of taking any action.

Question 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.

ENTSO-E supports to allow special characters in the Field 118 (Trade Register)

Question 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.

ENTSO-E does not support the presented proposal to add the Trader ID as a new field within the European Register. The main reason is that the vast majority of data exchange when concluding transactions related to transportation to be reported to ACER is executed through so called web-services channel which is a machine to machine communication. The same sort of communication is used when reporting transactions under REMIT to ARIS. Therefore, we are confident that the essence of web-services communication is known to ACER and this sort of communication disables identification of Trader ID. Thus, except for very rare cases when the transaction is concluded through a graphical user interface (GUI), RRM (Registered Reporting Mechanism) is not able to identify Trader or its ID. In addition, it is helpful to note that according to the market rules, market participant IDs are always reported to RRM with nominated transactions.

Question 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?

Regarding the first part of the question, TSOs who publish inside information do not support to indicate the exact location where the inside information is disclosed publicly. The exact location/URL of inside information might change or new URLs might be added on a company's website. It would not be possible to have an up to date and correct overview in the register. As far as the second part is concerned, reporting of inside information through web-feed to ACER is currently under discussion between ENTSO-E and ACER.

Question 7

Regarding field 121 ('ACER code'), taking into consideration the need to ensure the traceability of relevant changes in the registration records 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?

ENTSO-E does not see any benefits to this proposal. It appears to add complexity to the situation.

Question 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?

ENTSO-E does not have comments related to this question however ENTSO-E notes that, according to Question 1 above, VAT number should be optional

Question 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.

ENTSO-E supports the proposal as long as it is optional. It is believed that in certain cases, it could provide additional information to the market.

Question 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?

ENTSO-E would like to highlight that the following approaches should be seen with high priority for the registration:

- any additional administrative burden on already registered Market Participants should be kept minimum. The current procedure is already lengthy, and quite administrative, which requires reasonable resources.

- impact on recently implemented data-flows both for phase 1 and phase 2 of REMIT reporting should be avoided.

Questions on the functioning and usefulness of the European Register

Question 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)

ENTSO-E does not have a comment related to this question.

Question 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?

ENTSO-E notes that the European registry currently applies only to market participants who have to report under REMIT – and in REMIT thresholds exist for reporting. Making registration in the European registry an obligation implies that the existing thresholds are no longer valid and therefore the legislation would need to be changed.

Additionally, the fact of introducing mandatory registration in the European Register of Market Participants, will introduce delays in the process of a company to become a entitled “Market Participant”. The Market Participant will have to be registered at least twice, in the CEREMP and in the local market. Note that transparency and data integrity have to be guaranteed also by the “local market” so this registration does not introduce additional benefits but more administrative work.

Question 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?

ENTSO-E does not have a comment related to this question.

Question 14

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

ENTSO-E does not have comment related this question.

Question on the implementation timeline of changes in the European Register

Question 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.

ENTSO-E would like to emphasize that the related costs and the implementation timeline will mainly depend on the numbers and on the scope of modifications required as result of this public consultation. Solid implementation processes will be required in order to minimise the burden of duties both to ACER and to reporting entities.

It is not entirely clear whether Market Participants need to go through the registration process again and we would like to avoid it and generally minimize all additional unnecessary administrative burden. Having the experience from first registration process, timelines seem feasible as long as they have a minimised impact on the IT solutions previously developed by RRM's to report data to the Agency.

