ENTSOG RESPONSE TO ACER PUBLIC CONSULTATION ON FUNCTIONING AND USEFULNESS OF THE EUROPEAN REGISTER OF MARKET PARTICIPANTS

Introduction

ENTSOG welcomes the opportunity to respond to ACER's public consultation on Functioning and Usefulness of the European Register of Market Participants.

ENTSOG's response consists of the following sections:

> Section I: Questions on improvements of the Registration Format of the European Register
> Section II: Questions on the functioning and usefulness of the European Register
> Section III: Question on the implementation timeline of changes in the European Register
> Section IV: Confidentiality

ENTSOG's aspiration with this response is to support Agency's efforts in evaluating the adequacy of the current Registration Format, as well as assessing 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.

Contact persons for questions in ENTSOG:

Name:
Email:
Tel.:

Section I: 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.

Response:

R1: We have no objection to this suggestion.

efo   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.

Response:

We disagree with the proposal to simply introduce mandatory fields for all type of EICs, except for the X-type party EIC codes, because:

- MPs which do not operate energy infrastructure or information systems – do not possess the full scope of EICs;
- If the fields for all type of EICs are mandatory and an MP does not possess all type of EICs, the MP will not be able to complete its MP registration.

In general, we propose that only the field for X-type party EIC code should be mandatory and the fields for the other EIC Code types should be left out of the EREMP tools as they are available publicly via the LIOs or CIO databases, hence easily obtainable by ACER. Furthermore, as the EIC codes are dynamic pieces of information that changes over time, the administration of updating the codes would be significant. ACER should collect the EIC codes information solely for the objects and entities falling into the scope of ARIS reporting.

R2.1: Regarding the EIC information in EREMP we would like to propose the following approach:

R2.1.1: Only the field for X-type EIC to be mandatory

The rational for our proposal is the following:

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████████MIT ██████████market participant identification to be
████████n EIC████████████

- There is an existing ARIS validation rule requiring matching between the EIC provided during the MP/RRM registration and the identification of the data submitting entity (RRM).

R2.1.2:
In case that the Agency nonetheless decides to expand the Registration Format, requiring the information about the other types of EIC codes, we would like to propose the following EREMP functionality to be introduced:

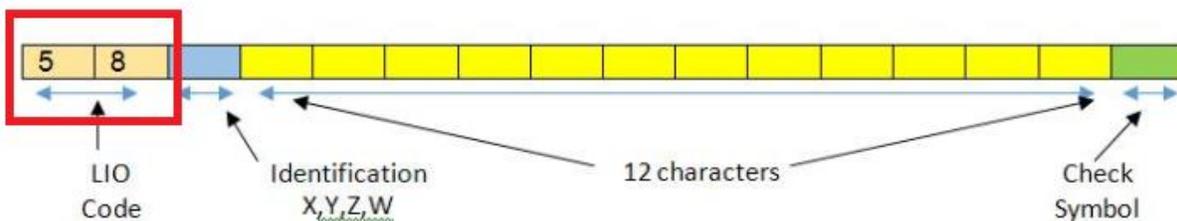To add an additional checkbox labelled: 'I do have additional types of EIC codes.'
If a MP selects this checkbox, additional fields to appear for the different type of EIC codes, where:
The fields for the rest types of EIC codes, i.e.: Y-type, Z-type, T-type, W-type, A-type, to be optional because of the following reasons:
- MPs are not always owners of balancing zones, virtual points and so, a MP does not have always Y-type EICs;
- MPs are not always owners of production or storage facility and so, a MP does not have always W-type EICs;

- *MPs do not have always their own measurement points and so, a MP does not have always Z-type EICs;*
- *MPs are not always platform operators (with only several exceptional cases) and so, a MP does not have always V-type EICs;*
- *T-type codes are used only for electricity infrastructure objects (interconnection lines, lines, busbar-couples, transformers) and so, a MP does not have always T-type EICs;*
- *A-type coding exists as possibility for 'substations' identification but we are not aware about issued A-type EICs. That is why a MP does not have always A-type EICs.*

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),

Response:

██████████████████████ this ██████████████████████ eful if the Agency made use of the existing ████████████ded ████████████████████es, as the first two characters describe the issuing office.

The LIOs' databases contain all the relevant information for the identified entity/object/system.

In case that the Agency nonetheless decides to expand the Registration Format, requiring the names of the objects/entities identified through EICs, we would like to propose the following EREMP functionality to be introduced, with regards to the import of EIC related data:

- *The fields requiring import of EIC related data to allow upload through Excel (XLS) file. On this way, the MPs could prepare in advance the required information and easily load it to EREMP.*

This will be very helpful for TSO MPs which could operate a big amount (hundreds) of points that should be identified with EICs.

- identify the address of the object to which the EIC code relates (e.g. location of a power plant identified by X EIC code),
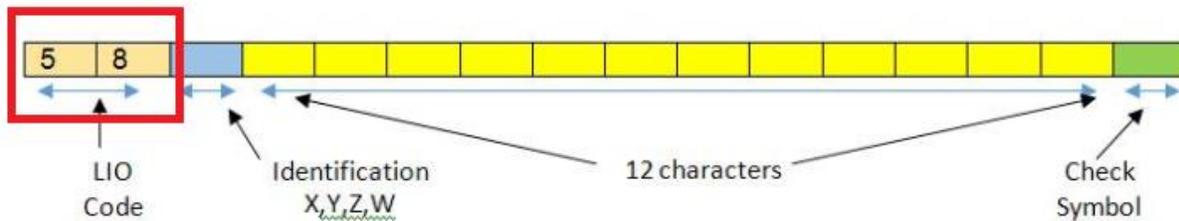
Response:

R2.3*: We would like to clarify that the X-type EIC codes are dedicated to party/entity identification. This information is made available to the NRA and the Agency through EREMP fields: 107 'State/Country', 108 'Address', 109 'City', 110 'Postal code' in the section 'Data related to the Market Participant'.*
That is the reason why we disagree to the proposal for introduction of additional fields for duplication of already provided by the MP information.

- identify the country where the market participant or the object is physically registered ████████████████ of Y ████████████████████ ch lie in the area of the Y, T EIC code),

████████████████████   ██████████████████████

R2.4*: We object to this proposal. It would be more useful if the Agency made use of the existing information embedded in the structure of the EIC codes, as the first two characters describe the issuing office.*

The LIOs' databases contain all the relevant information for the identified entity/object/system.

Information about the country of MP registration is provided to the NRA and the Agency through EREMP fields: 107 'State/Country', 108 'Address', 109 'City', 110 'Postal code' in the section 'Data related to the Market Participant', and we object to the proposal for introduction of additional fields for duplication of already provided by the MP information.

In case that the Agency nonetheless decides to expand the Registration Format, requiring the addresses, physical location or country of registration of the objects/entities identified through EICs, we would like to propose the following EREMP functionality to be introduced, with regards to the import of EIC related data:

- *The fields requiring import of EIC related data to allow upload through Excel (XLS) file. On this way, the MPs could prepare in advance the required information and easily load it to EREMP. This will be very helpful for TSO MPs which could operate a big amount (hundreds) of points that should be identified with EICs.*

  - • 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

  ███████ gree ████████████ e mandatory fields in order to identify each
  ████ If ███

Response:

R2.5*: We do not agree with making these roles mandatory, as we don't believe it's feasible to add the additional register information in the first place. It would be better to link the EREMP tool with existing systematic processes of public registers and the database of the EIC LIOs.*

Rather than through changing the general approach, principle and purpose of the EIC coding system, the Agency can obtain the needed information regarding the roles of the parties via the submitted data of those parties. Here the roles are indicated through the reporting schema format/XSD and the before mentioned reported data.

We object to introducing the relationship fields as mandatory because the specified roles are not applicable for every type of EIC/object/entity, and as such the required relationship could not always be defined. For example:

- *In case X-type code, which is identifying a legal entity. In case the legal entity is a publicly listed*

(joined stock company), it will be impossible to point the 'proprietor/owner' of the related object. The 'operator of the object' is not applicable for the X-type codes.

- *In case of V-type codes, identifying information systems, the 'proprietor/owner' could not be pointed since the system/platform could be operated on service/joint-venture bases where each entity using the platform shares the ownership. This process is dynamic and maintaining up-to-date information in EREMP will introduce serious overburden for the MPs.*

- *In case of Y-type codes, identifying balancing zones, the ownership - 'proprietor/owner' cannot be defined.*

      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?

Response:

R2.6: *We object to the proposal for introduction of additional fields requiring definition of roles/relationships between the EICs and the identified entities/objects/systems.*

████████████████ *agen*██████████████ *xpand the Registration Format, requiring* ████████*elat*████████████ *the identified entities/objects/systems, we would like to propose the introduction of a free text field, allowing MPs to specify undefined roles/relationships in the Registration Form/EREMP.*

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.

Response:

R3.1: *This is not acceptable, since some of the XSD for REMIT reporting allow MPs' identification through GS1 codes. As long as GS1 is valid code for data submission through the existing schemas for REMIT reporting, and the relevant reporting schemas are not updated to allow other codes than EIC codes and GS1 codes for the identification of market participants, we believe that the GS1 Coding scheme should remain in the EREMP tool.*

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.

Response:

R4.1: We have no objection to this suggestion.

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.

Response:

████████████████ *iect* █████████████████ *field is not mandatory, since not every MP*
████████████ *ever* ████████████████████

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?

Response:

R6.1: We agree with the proposal for a field definition refinement to indicate that the link must be an exact address of the location where the UMMs are published.
We do not object to the proposal for the introduction of a new field for web-feeds location, but please bear in mind that both fields could contain one and the same addresses.

The deadline 1 January 2017 for web-feeds set-up needs to be coordinated with the proposed timeline for EREMP changes.

In addition, we would like to propose to implement EREMP functionality related to these fields that allows:

- *EREMP to correctly differentiate cases if a MP provided two or more links to two or more web-sites where it will publish UMMs: one for regular UMM publications and one for backup UMM publications;*
- *EREMP to correctly interpret the information if an MP provided in the field more than one links to more than one web sites where it publishes UMMs, and respectively is able to collect through web-feeds Inside information from all pointed locations.*

7. Regarding field 121 ('**ACER code**'), taking into consideration the need to ensure the traceability of relevant changes in the registration records (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).) 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 ████████████████ wee██████████████████ed by selecting the following types:
   ██████ pre████████████Member State;
   ██████ of███████████████nt;
   - spin-off from a registered market participant;
   - other.

   i. Do you agree with the above proposal? Please give reasons for your answer.

Response:

R7.1: *We agree with the proposal, as long as the new fields are not mandatory, since during the process of initial MP registration, an MP could not have ACER code; as well as a registration change not necessarily happen.*

If the Agency decides to introduce the new fields as mandatory, they should be preceded by checkbox labeled: 'Do you have previous MP registration and valid ACER code?'. In case of positive answer (checkbox – ticked), the new fields to be unfolded.

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

Response:

R7.2: *If the Agency decides to introduce the new fields, we would propose that they should be preceded by checkbox labeled: 'Do you have previous MP registration and valid ACER code?'.*
In case of positive answer (checkbox – ticked), the new fields about the previously used ACER codes and the relationship with the previous codes to be unfolded.

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 (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.) of the market participant (including company(ies) that are not market participants) as this would increase transparency from a market surveillance perspective.

e pr   ch? Please explain your reply.

Response:

R8.1: *We would agree with the proposal up to the extent of requiring name, VAT number and the country of registration of the parent and daughter companies only, in case that these companies are market participants.*

We disagree to proposal requiring information about sister companies shall be provided, since it could be derived automatically from EREMP database.
We disagree to proposal requiring information about the percentage of ownership of all companies belonging to the same group, since this is dynamic information and will introduce huge overburden for the MP. This information could be obtained and up-to-date from commercial registers, in case of suspicion of market manipulation or abuse.

If this should nevertheless be introduced, a pragmatic approach would be for the market participant to refer to public information about its corporate structure (e.g. a website explaining the structure).

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

Response:

R8.2*: We would appreciate a better explanation of what the Agency means by "Corporate structure" and what information is required – data about the daughter companies of the particular MP or all related undertakings mother, sister companies from one and the same group.*

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;

R9.1*: In order to avoid additional overburden for the MPs, we would suggest in case that such field will be introduced in the Registration Format and EREMP, a wide list of possible MP roles to be provided for selection (TSO, SSO, LSO, trader, shipper, power generation plant, etc.), including "Other" filed allowing free text input for the non-defined roles. Selection of multiple roles shall be possible (i.e.: a MP could be TSO and SSO at the same time).*

    • how the ultimate controller performs such control;

Response:

R9.2*: We object the introduction of an additional field on 'How the ultimate controller performs such control' because normally these activities of ultimate controller are widely explained in hundreds of pages of statutes documents of the companies and it won't be possible to include such information with a few characters in one additional EREMP field. In addition, this requirement could create additional administrative burden for the MPs. The information about*

the actual performance of such control could be asked for by the NRAs case by case when there is a suspicious transaction detected.

Furthermore, due to the unbundling rules stipulated in the Third Energy Package the <u>entire</u> section for Ultimate Controller should be optional for the TSOs.

- information about the existing/envisaged data reporting agreements.

Response:

R9.3*: It is unclear what information should be delivered here and it should be considered that not always reporting agreements are necessary between the reporting party and a MP. This is the reason why, our position is that such field should not be mandatory and we would support more flexibility in the EREMP tool.*

10. Do you have any other comment on the current fields provided in Annex 1 to ACER Decision ██████████████████Reg████████████████████er improve the functioning and usefulness ██████████████████reg█████████████

Response:

R10.1*: We have no suggestions to this question.*

Section II: 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 report (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.) 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.

Response:

R11.1: We have no suggestions to the question.

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Response:

R11.2: We have no suggestions to the question.

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)

Response:

R11.3: We have no suggestions on the 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?

Response:

R12.1: *We cannot support this as the introduction of such requirement would introduce some identification issues for the market participants using in parallel identifiers issued by various registration offices (LIO, CIO, ACER), and this would not improve the transparency and integrity of the wholesale energy markets.*

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?

Response:

████████████████ the ████ of ██ ███ ██ ██████ ████ by the Registration Format and respectively ███ ███ ER█████████████████ publicly available extracts of the European ██████████ arti████████████████ would be published.

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

Response:

R14.1: *We would suggest improvement in the communication and the speed of data exchange process between the Agency and the NRAs, using alternatives of EREMP, in order to avoid, also in the future, possible cases when an MP is register by particular NRA but ACER is not informed on time and this introduces delay in the RRM registration process for the particular MP.*

R14.2: *Regarding the potential changes to the Registration format, please take into consideration our proposals for EREMP functionalities, developed in responses:*
R2.1, R2.2, R2.4, R2.5, R2.6, R6.1, R7.1, R7.2, R9.1, R9.2, R9.3

Section III: 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.

Response:

R15.1: We agree with the proposed timeline.

Section IV: Confidentiality

Response:

Any part of our response to this public consultation should not be considered as confidential.