

Eurogas Response to ACER's Public Consultation on the Functioning and Usefulness of the European Register of Market Participants

General comments

Eurogas welcomes ACER's public consultation on the functioning and usefulness of the European Register of Market Participants (EREMP) and the opportunity to provide suggestions.

EREMP should identify and request solely information needed for market monitoring purposes. Simplicity remains a key pre-requisite to reduce bureaucracy and mitigate existing regulatory barriers to enter the pan-European energy market.

Eurogas notes that six months only after the start of phase 1 data collection and with phase 2 starting on April 7, it is very difficult for market participants to provide views based on a consolidated and comprehensive experience.

For this reason, Eurogas wishes to express some concerns about the legal ground for justifying some additional requirements envisaged in the current consultation, as they will add more complexity for market participants especially where prompt updates of information are requested, but we flag also some simple practical points that could usefully be addressed.

1. ACER's proposals regarding fields 112 and 316 ('VAT number' of the market participant and ultimate controller) – question 1

Eurogas supports the proposal to add the additional checkbox "I do not have a VAT number".

2. ACER's proposals regarding the reformulation of field 113 "EIC" of the market participant - Questions 2.a, 2.b.i and 2.b.ii

Eurogas does not agree with ACER's proposal regarding both the reformulation of field 113 "EIC" and the request for additional information.

While we understand the need to identify properly each market participant, we do not see additional benefit in asking market participants to provide all EIC codes used for reporting for identification and monitoring purposes; Eurogas notes that the large majority of market participants use one EIC code (X-EIC Code).

Also, Eurogas recalls that the EU register is already supposed to provide a unique identifier *via* the ACER code (field 121 – Annex 1 to ACER Decision 01/2012), thus enabling a proper identification of each market participant.

We are concerned that the proposal would introduce a burdensome process for market participants without adding any useful additional information for identification and market monitoring purposes. Furthermore, the update of such information would significantly increase the risk of mistakes and/or outdated material, therefore downgrading the overall data quality.

3. Do you agree that field 116 (Global Location Number of the market participant - 'GS1' in the coding scheme) is removed from the European Register?

Eurogas agrees with the removal of field 116 (Global Location Number of the market participant - 'GS1' in the coding scheme), as it is hardly used.

4. Would it be adequate to allow for special characters in field 118 ('Trade Register')?

No specific comment.

5. Do you agree with the introduction the 'Trader IDs' as part of the market participant's registration information to the European Register?

Eurogas disagrees with this proposal. The information in the EU register should be limited to company-related data, which is subject to few changes over time. The introduction of the "trader ID" as part of market participants' registration would add a field that will need to be regularly updated, thus leading to unnecessary burden for market participants, without any clear benefit for market monitoring purposes.

On a more general level, Eurogas notes that the current system does not allow an easy update of information since changes need to be made on an individual basis and in some Member States each update requires the regulator's approval. Allowing bulk loading of information in order to facilitate the updating procedure would avoid mistakes.

6. Do you agree to refine the definition of field 120 ('Publication Inside Information') 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?

Eurogas shares the view that publicly disclosed information needs to be easy to find but believes that providing an exact URL address per registered market participant would raise technical issues add no benefit for transparency purposes. We stress on the other hand that information could be published by one market participant in different files (e.g. one for power plants, one for gas-related information, one for generic information, etc.) depending on the kind of inside information the market participant holds, thus making the one "exact address" proposal irrelevant.

Eurogas suggests keeping the generic definition of the website, envisaging the possibility for EREMP to list more than one URL location (in this case providing the exact URL makes sense), especially for web-feeds used by the market participant.

7. Do you agree with the addition of two new fields regarding field 121 ('ACER code') to ensure the traceability of relevant changes in the registration records: one indicating previously used ACER codes; another identifying the relationship with the previous codes. Do you see a more efficient way to ensure traceability of relevant changes in the registration records?

Eurogas thinks that this proposal may be relevant only when a market participant is moving to another Member State. Indeed a spin-off from a registered market participant leading to a new

entity with its own legal responsibilities would require the establishment of a new market participant with the obligation to register. As a general comment it would be helpful if Market Participants could be identified also by name and not just with the ACER code.

8. Do you agree ACER's proposals regarding section 4 ("Corporate Structure" of the market participant)? Are there any improvements more generally to the corporate relationship section you would suggest?

Eurogas does not support the proposed changes to Section 4, and question the legal grounds for extending the requirements far beyond the scope of REMIT.

Any new requirement should prove its benefits as regards transparency and monitoring purposes, while minimizing the administrative burden on market participant. The register should only require essential data enabling regulators to identify properly market participants. Dynamic data that require frequent updates and lead to a burdensome and costly process would not fall into this exercise. It also seems that it is not possible to reject a registration from another Market Participant (e.g. an external investor) as an ORU (Other Related Undertaking), meaning that a Market Participant cannot reject the relationship even though the registered information may be wrong.

Eurogas strongly questions the requirement extending the scope to corporate structure including companies other than market participants; requiring information about non-market participants within EREMP is not acceptable since only market participants are required to register (article 9 of REMIT). Which surveillance aspects would be improved.

9. In section 3 to 5, 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.**

Eurogas thinks that free text is not necessarily useful for automatic matching procedures. Before requiring additional information ACER should assess the benefit of such a request and anyway they should not become mandatory.

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?

Eurogas considers the required information and data are sufficient for transparency and monitoring purposes defined in REMIT.

11. 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.

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

It seems that the rules around national market participant registers are causing problems. Members within Eurogas are noting national differences in requirements that are arguably obstacles to an EU-wide system of registration, such as too strict rules on register access or power of attorney, or language. It would be easier, therefore if all NRAs had the same requirements (subject to national legal frameworks) and national guidelines/requirements should be available in English.

12. Do you consider that the introduction of a compulsory registration in the European register of market participants before they can trade with some counterparties and/or OMPs 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?

In general we find that the envisaged procedure is consistent with the current legal framework. We wish, however, to note that compulsory requirements that may be difficult to implement should be avoided.

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?

Eurogas sees a limited benefit from publicly available extracts of the EU register of market participants.

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

Market participants should be notified when receiving a relationship request and the corporate link in EREMP needs to be validated in order to avoid mistakes and simplify the process in case a correction is needed.

The register could be more flexible, for example, allow running several actions in parallel. Furthermore an approach that, requires NRA validation before moving to the next action, is still burdensome for market participants. A bulk loading of information should be envisaged and put in place.

Companies are experiencing difficulties in updating registered data in line with requirements, because they can be “locked out” of the system, for as long as 9-10 months. Depending on the national systems, some updates, especially if they have each time and in each details by the NRA, can be very time-consuming.

15. Do you agree with this proposed timeline (i.e. adoption of changes by 30 June 2016 and application as of 1 January 2017)? If not, please justify your reply and propose an alternative timeline.

Eurogas has concerns about the proposed timeline, since the period given to market participants (and other stakeholders) to comply with potential new requirements is short, while they are currently dealing with the set up and tuning of proper reporting of contracts and transactions pursuant to article 8 of REMIT.

At least one year would be needed before a full assessment of the experience can be done. Since the back-loading of non-standard contracts and transactions concluded before 7 April 2016 is applicable within 90 days (i.e. 7 July 2016), Eurogas suggest the application date of changes in EREMP should not be applicable before 7 July 2017.