

- Consultation response -

Europex responds to ACER public consultation on “REMIT – Functioning and Usefulness of the European Register of Market Participants”

Brussels, 22 April 2016 | Europex welcomes the opportunity to respond to ACER’s public consultation on the “Functioning and Usefulness of the European Register of Market Participants” under REMIT. While we generally support the proposal put forward by ACER to improve the quality and utility of the CEREMP data, we would like to highlight a number of concerns in reaction to Question 5 and Question 12 of the present consultation.

As a follow-up, we would be delighted to be given the opportunity to discuss our response with you in person. Should you have any questions and/or comments and/or require further information, please do not hesitate to contact us.

Public Consultation ACER PC 2016 R 01 - REMIT – Functioning and Usefulness of the European Register of Market Participants

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.

Europex does not agree with the proposal to include Trader IDs in the market participants’ registration information.

In our opinion, the European Register already includes “sufficient information about persons responsible for the market participants’ operational and trading decisions”, pursuant to REMIT Article 9(1). Furthermore, transaction reports are submitted to ARIS on a daily basis, in line with REMIT Article 8, and already include the Trader ID of the person who executed the trade. The added value of collecting Trader IDs at European level would be marginal.

Trader IDs are neither unique nor entirely static identifiers. Moreover, the significant number of these identifications would be irrelevant for ACER’s market supervision. Indeed, an

additional list of Trader IDs would likely add confusion to the surveillance process. Thus, there is no extra-added value from a market surveillance point of view.

Trader IDs are assigned by organised market places according to their in-house practices and can be changed at any time at their own discretion. A trader will usually be assigned one ID by each trading venue on which he or she is active. However, in certain cases a trader can be assigned more than one ID, e.g. when the same person enters orders through several front-end systems.

The Trader ID is normally unique within a particular trading venue - yet, for some trading venues only in combination with the Member ID. There is no universal system in place to ensure that the same Trader ID is not assigned to different traders at the same time. Indeed, the same identifier may be used across multiple trading platforms or even within one trading platform to identify different persons.

According to ACER's proposal, firms who are given access to REMIT-reportable markets would have to register all of their Trader IDs in CEREMP, even though the majority of those traders may never actually trade on those markets. This would mean that a significant amount of redundant information would need to be registered in the CEREMP database.

Also, market participants would need to update this data on a frequent basis, as traders change their work places or trading desks. This would be an additional, potentially significant, compliance burden.

Importantly, Trader IDs are normally considered sensitive data. They are often construed with the name and/or surname of the trader and are considered as intellectual property of the trading venue that assigned it. Most trading venues sanction sharing traders' login details, including the Trader ID, in their rules.

Last but not least, Europex would not recommend introducing validation schemes for transaction reports submitted to ARIS (according to REMIT Article 8) which check whether these correspond to the Trader IDs. Given the features of Trader IDs, as described above, this would cause serious operational difficulties for organised market places as well as RRM and limit the usefulness of data collected for market surveillance purposes. For instance, in case where a Market Participant has not updated its Trader IDs in CEREMP, trade reports containing new Trader IDs would be rejected by ARIS because of a mismatch in Field 3 of the report.

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 market? What would be the pros and cons of introducing this legal obligation?

EuropeX members operate regulated financial and spot markets under strict national and European regulatory requirements and according to commonly accepted compliance standards. We take our responsibilities under REMIT very seriously and we are eager to ensure that the Regulation's provisions are comprehensively met.

However, we do not agree with ACER's proposal to impose a requirement on trading venues to verify whether their clients are registered in the European Register of Market Participants. Pursuant to Article 9 of REMIT, the obligation to register clearly lies with the Market Participants. Trading venues are not required to verify the compliance with this provision.

With such requirement in place, the trading venues would be obliged to make arbitrary decisions on whether their clients fall under the definition of a 'Market Participant' under REMIT and would have to check for the registration, report back to clients in the event that the registration is missing and eventually advise them on further steps. Trading venues are neither in the position to make an assessment on their clients' legal status nor to act as intermediaries between their clients and ACER. Firms are expected to seek their own legal advice regarding their legal obligations and act accordingly, as it is explicitly postulated in Article 9 of REMIT.

Besides these general reservations, we would like to point out a specifically problematic case: the definition of a 'Market Participant' under REMIT and its implementing documentation puts emphasis on whether a person entering into transactions in the derivatives market is also active in the physical market outside the exchange.

Pursuant to the TRUM Annex III Version 2, "(...) only the person entering into the transactions in the EU gas or electricity derivatives traded on venues, via its own trading membership, is the REMIT market participant for the purpose of reporting. For example, a client of an exchange member that places orders to trade on the order book of the venue (...) should not be considered a market participant unless the client of the exchange member is itself a member of the exchange for the purpose of this trade.

However, if that person also enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets, e.g. enters on a physical trade (or its derivative) for the delivery (or transportation) of gas or electricity in the EU, that person is a market participant and has to report all the transactions on wholesale energy products including those trades that are only for financial settlement."

Organised market places do not have access to information on whether their clients are active on physical or any other markets. Thus, organised market places will not be able to verify, if a trading firm should be classified as a market participant and, as a result, if it has an obligation to register.

About:

Europex is a not-for-profit association of European energy exchanges with currently 26 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

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