

**Response to ACER Public Consultation on  
Functioning and Usefulness of the  
Market Participants  
(PC\_2016\_R\_01)**

**REMIT  
European Register of**

**Questions on improvements of the Registration Format of the European Register**

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:** We agree to this additional field, or making both codes non-mandatory.

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.

**Answer:** We consider this level of detail to be too cumbersome for Market Participants in the registration and do not support the inclusion of these extra EIC codes here. We consider the level of detail already included in the registration to be adequate and consider that any extension to these requirements should only be implemented if there is significant value in doing so.

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:
  - 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?

**Answer:** We consider this level of detail to be too cumbersome for Market Participants and do not support the inclusion of these extra codes. We consider the level of detail already registered to be adequate and consider that any extension to these requirements should only be implemented if there is significant value in doing so.

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:** We agree to the removal of the GS1 code; we do not see the need to include information that is not widely used in the industry.

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:** We do not consider that this information is required for the purposes of REMIT.

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:** We are not supportive of the inclusion of this data. We consider the nature of this data too dynamic making the Market Participant's obligations under Article 9(5) more difficult to manage. This data can be sourced via transaction reports.

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:** We are supportive of including the exact address of where inside information is published but consider this sufficient for the purpose intended and therefore do not support the creation of an additional field here. The web-feeds can be obtained via this URL.

7. Regarding field 121 ('ACER code'), taking into consideration the need to ensure the traceability of relevant changes in the registration records<sup>1</sup> 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?

**Answer:** We consider the creation of a new field that would indicate previous ACER codes to be sufficient and therefore support this additional field only. We consider this adequate for the purpose of traceability.

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<sup>2</sup> 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?

**Answer:** We consider that the suggested proposal would result in a significantly increased administrative burden which could be difficult to manage for global organisations. Furthermore, the nature of this information is dynamic and potentially very extensive (including companies that are non market participants) meaning the Market Participants ability to keep information up-to-date and adhere to Article (9(5)) would be hindered. We consider that the current information is adequate for the purposes of transparency.

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.

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<sup>1</sup> 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).

<sup>2</sup> In order to limit the administrative burden on market participants the same corporate structure does not have to be entered by every market participant belonging to the same group.

**Answer:** Generally, we consider the data included in the registration to be adequate as is. If these are included, these should be non-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?**

**Answer:** - We would request the information on Related People (Section 2) be reduced; we consider this information too dynamic in nature. If this does need to be included in some form, we consider that one individual (Contact for REMIT) would be adequate.

### **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<sup>3</sup> 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)**

**Answer:** Where possible, we support the harmonization of the registration process, differences should be minimal and only required for material reasons.

**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?**

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<sup>3</sup> 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.

**Answer:** We are not supportive of this approach, we consider the current REMIT regime in place (which already requires MP's to be registered before entering into reportable transactions) to be adequate and therefore do not see the requirement for this additional obligation to be imposed by the market.

**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.

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

**Answer:** Yes, we have the following suggestions/ requests:

- a) **Section 4** We consider that all corporate relationships should have to be accepted, a notification email should be sent clearly highlighting the required action. Furthermore, it would be useful, particularly for large organisations with many corporate links, if a reminder email could be sent 30 days following an initial notification email where the required action (accept/ reject a corporate relationship) has not been taken.
- b) **BIC Code** Some guidance refers to this as being *Bank Identifier Code*, to avoid ambiguity this may be better updated to *Business Identifier Code*.
- c) **System Limitations** It should be noted that system limitations in making changes to existing registration data of Market Participants have been experienced, resulting in severe delays in completing the registration process. The system limitations experienced mainly result from the inability of a user to make more than one update at a time, after which this needs to be validated by the regulator. We have also experienced extended periods of time where a Market Participant has been locked as "read-only" as a result of Section 4 updates. Specifically, if one individual user updates Section 4 for multiple Market Participants, the Market Participants have then become "locked" for several months. We consider that the system should allow Market Participants to complete the registration in a swift and efficient manner; we would therefore kindly ask that attention is paid to rectify these limitations.
- d) **System Functionality Improvements-** The user experience of the system could be improved by several updates to the system capability including:
  - **Notification Email/ System Formatting** The format of the notification emails of ACER could be improved by including the Market Participant name alongside the ACER code and adding further details such as the "type of relationship" for updates to corporate structure. Across the system, Market Participants are only defined by their ACER code, it would be helpful to include the Market Participant name alongside each reference to the ACER code. In Section 5 it would be helpful if, together with the ACER Code, the name of the RRM is also included.

- **Export Facility**- We consider that the existing export facility of the system (showing historical changes) could be improved across several areas, this would enhance Market Participant’s ability to review the registered data on an ongoing basis and adhere to the obligation to keep this up-to-date (in accordance with Article 9(5)):
  - Each section of the registration for an individual Market Participant could be exported to excel as a single section showing the current data only. In addition, all 5 sections could be exported collectively to give a view of all of the data currently registered for each Market Participant.
  - All sections of the registration for all Market Participant that a user has access to could be collectively exported to one excel to show current data across all Market Participants.
- **Search Facility** In the “Search” box in Section 4 it would be useful to be able to include the name of a Market Participant and see if they are linked e.g. go into MP X in section 4 and type “MP Y” and see if they are linked already. This would be particularly useful for global organisation that will have a significant amount of corporate relationships

#### **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 will be entirely dependent on the level of changes that will be implemented and we would recommend this is addressed once the changes have been identified.