

EUROGAS COMMENTS – ACER CONSULTATION ON RECOMMENDATION TO THE EU COMMISSION ON IMPLEMENTING ACTS ACCORDING TO ART.8 OF REMIT

GENERAL REMARKS

Question 1

Do you agree with the proposed definitions? If not, please indicate alternative proposals.

- A. In the consultation document a reference is made (par. 2.1, pag. 8) to the fact that “definitions common in EU financial market legislation should be applied and notions newly introduced for the purpose of the implementing acts should be defined”. Still, many definitions given in section 2.1 do not correspond to generally accepted definitions (i.e. “transportation”, “transaction”, “agreement”, “contract”), and definitions as provided in section 2.1 are not sufficiently clear and therefore their applicability is not straightforward. REMIT should use the same definitions as already set in relevant EU financial legislation. The definition of “non-standardized contract”, for example, remains unclear in the recommendations, in particular with regard to OTC derivatives. This definition should be set in close cooperation with ESMA. In particular, it is not clear what the second part of the definition (“subject to a standard agreement”) encompasses. Since a tendency towards standardization can be envisaged, ACER should keep market participants updated in order to avoid erroneous reporting based upon a non-updated categorization of contracts. Furthermore, the definition of transaction is unclear when considering gas non-standardized contracts, notably long term contracts. It is not clear to which step of the “contract lifecycle” the transaction is referred: signature of the contracts, nomination, physical delivery, periodic statements and payments).
- B. The definition of “wholesale energy products” (and thus “wholesale energy market”) could be of much use in order to identify transactions, contracts and market participants subject to REMIT obligations on transaction reporting, , and it’s thus crucial for defining the scope of REMIT. Once a clear and straightforward definition of wholesale energy product is provided, Eurogas believes the definition of “market participant” should encompass any natural or legal person, active on wholesale and derivatives energy market (DS), “who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets” (Article 2 point (7) REMIT).
- C. Regarding the definition of Market participant (i) it seems inappropriate to impose reporting obligations on storage system operators. In other words if a storage system operator is not engaging in transactions in the wholesale energy market but only operating a facility then it should not be considered a market participant;(ii) otherwise in the context of wholesale energy market abuse, intragroup transactions are irrelevant as they are substantially not conducted on the wholesale energy market; producers supplying their production to their in-house trading unit or energy trading company” should not be regarded as market participants subject to reporting obligations, (DS).
- D. The definition of “Derivative” or “derivative contract” makes explicit reference to financial instruments as defined under MiFID Directive 2004/39/EC. As a MiFID review is ongoing, it is possible that the future definition of financial instrument undergoes changes and these changes could be substantial. A reference to possible

adjustments in the definition of financial instrument, as a result of the outcome of MiFIR/D, should be included with a view to avoid future inconsistency. Physical forward transactions should be considered as a commodity and should not be considered financial instrument.

- E. The definition of "spot market" should be consistent with the definition of "spot commodity contract" in MAR and also with the final MiFID provisions.
- F. REMIT should refer to the MIFID relevant definition of "organized market place" in order to avoid confusion, also with regard to the concept of MTF.
- G. The proposed definition of "transportation" in Section 2.1 explicitly includes LNG, both in the context of transportation in the strict sense, and as LNG storage and facility services, whereas in Annex II and III no further reference is made to LNG with regard to the transaction records and the list of contracts to be reported. Also in the definition of "market participant subject to reporting obligations", reference is made to LNG in the context of LNG facility operators, which is not consistent with the market participant definition of REMIT, article 2(3) providing that a market participant means any person entering into transactions in one or more wholesale energy markets, the latter not including LNG contracts. (DS) This may lead to confusion (see also answers to Question 4 and 5). In general, REMIT could segregate transportation, storage, the provision of (LNG) terminal/storage services into separate definitions. In this case the definitions of the Third Package should apply. Such disentanglement may impact upon the sections and section headers in Annex III. Furthermore, REMIT could clarify what specifically must be reported for LNG transactions, either by explicitly listing it or by making explicit reference to LNG when referring to natural gas ("natural gas, including LNG"), where appropriate. It is also not clear how these recommendations relate to storage.

Question 2

What are your views regarding the details to be included in the records of transactions as foreseen in Annex II? Do you agree that a distinction should be made between standardised and non-standardized contracts? Do you agree with the proposal on the unique identifier for market participants?

- A. It might be appropriate to distinguish between standardized and non-standardized contracts to the extent that specific contract information is needed for each category. However, the distinction between the two is not clear yet. Please, see our answer to Question 1 under A.
- B. In general, and irrespective of the standardized/non-standardized classification, all data transaction reporting under REMIT should be proportional with, and restricted to the stated objective of REMIT i.e. allow monitoring of potential market abuse. Eurogas doubts the relevance of non-standardized contracts to the purpose of REMIT, namely detecting market misbehaviour. An obligation to maintain records of non-standardized contracts to be made available on request might be a more appropriate measure. Regarding the requested information in particular, we question the need for including a number of items such as - for example - those related to 'contract type' (e.g. items 15 through 19 in Annex II.1, and items 11 through 14 in Annex II.2).
- C. With regard to the content of Annex II.1, the fact that transaction information items are mixed with orders information items may lead to confusion. In case of orders to trade, items 23 and 25 (type/time stamp) are clearly needed, but at the same time they make it impossible to identify an "other market participant" (item 4); in case

the record template does not contain 'logical checks' on information needed for transactions and on information needed for orders to trade, this will result in errors/omissions/contradictions. REMIT could therefore segregate (standardized) transactions from orders to trade, and create another Annex II.1.a.

- D. In Annex II.1., item 34 refers to 'swap', whereby the swap concept is nowhere clearly defined in the document e.g. in the Definitions section 2.1.
- E. In Annex II, 1, items 3, 5, 8 contain an element of conditionality in the wording ("If ..."), therefore the field cannot be set to 'mandatory'.
- F. Item 15 of Annex II.1. refers to delivery profile of the supplied product. In case item 17 (start) and item 18 (stop) are indeed present, there seems to be no need for item 15. In fact it is questionable if item 15 serves any purpose at all under REMIT. An analogous logic holds in Annex II.2 for items 13 and 14, relative to item 11.
- G. Item 35 of Annex II.1. refers to 'derivative'. As defined in Section 2.1 of the document, derivatives are financial instruments as defined under Regulation 2004/39/EC (MiFID). It would be more appropriate, and certainly less prone to duplication and overlap, if such financial instruments were excluded from the scope of REMIT reporting obligations, to the extent that they are also reported under MiFID/EMIR).
- H. While information on transactions in standardized contracts are usually registered by trading venues, the reporting of transactions in non-standardized contracts requires the development of a common record able to break them down into standard information items. If transactions in non-standardized contracts have to be communicated, existing reporting arrangements and central repositories established at national level should be taken into consideration in order to avoid double reporting.
- I. We agree with the opportunity to use a unique identification code assigned by ACER at the time of registration of market participants, provided that the interoperability of this identification code with the existing codes used for trading is ensured. The lists of codes used by each market participant should be publicly available. Should the 'ACER code' be used (as opposed to the use of an existing code such as BIC, EIC, ...), such code could reflect a Group structure, if any, to which the market participant belongs (e.g. reserving a number of digits for Group identification).

Question 3

Do you agree with the proposed way forward to collect orders to trade from organised market places, i.e. energy exchanges and broker platforms? Do you think that the proposed fields in Annex II.1 will be sufficient to capture the specificities of orders, in particular as regards orders for auctions?

- A. If orders to trade have to be reported, we agree with ACER on the opportunity to collect them only via ESMA from organised market places which already store all these data.
- B. Nevertheless, reporting all the steps of a transaction life cycle risks increasing exponentially the amount of data ACER has to deal with, given the high frequency of changes occurring before the transaction is finally executed. This life-cycle actually starts from the first order to trade to the final confirmation from the relevant counterparty. This means that, if the reporting frequency is too high, data collected may refer to transactions which are not yet settled. Moreover, it may be difficult for

monitoring responsible entities to identify the rationale for the variations in prices of all the orders to trade placed before the final transaction is executed.

- C. As a matter of principle there are no a priori reasons to treat auction orders differently from regular orders to trade.

Question 4

Do you agree with the proposed way forward concerning the collection of transactions in non-standardised contracts? Please indicate your view on the proposed records of transactions as foreseen in Annex II.2, in particular on the fields considered mandatory.

- A. If non-standardized contracts have to be reported under REMIT, existing reporting arrangements and central repositories at national level should be used by ACER in order to avoid double reporting.
- B. It is not clear how nomination and re-nomination should be reported within a transaction life-cycle.
- C. When all the relevant information has already been covered under items 1 through 28, the need to upload the pdf file of the contract as indicated in item 29 is questionable. Implementing such an obligation not only would flood ACER with contracts, the usefulness of which is doubtful, but would also disproportionately increase the risks related to their confidentiality. Moreover, as changes to initial prices and quantities give rise to the reporting of a new transaction – as indicated in section 2.3 of the document, the need to upload repetitively the (initial) contract creates an unnecessary burden upon operational processes and systems capacity.
- D. Item 21 of Annex II.2 refers to cleared/un-cleared as a transaction characteristic. REMIT should fully take into account EMIR obligations on clearing, by keeping in mind that EMIR clearing obligations, as clearly stated in the Regulation and in the G20 commitment, would only concern standardized contracts. What is meant by cleared in regard to a non-standardized transaction remains unclear.
- E. Item 23 refers to 'swap', whereby the swap concept is not clearly defined in the document e.g. in the Definitions section 2.1.
- F. Item 24 of Annex II.2 refers to 'derivative'. As defined in Section 2.1 of the document, derivatives are financial instruments as defined under Regulation 2004/39/EC (MiFID). It would be more appropriate, and certainly less prone to duplication and overlap, if such financial instruments were excluded from the scope of REMIT reporting obligations, to the extent that they are also reported under MiFID/EMIR.
- G. For non-standardized transactions, it is unusual that no field is foreseen for 'price notation', as is the case with standardized contracts/order (item 28).
- H. For non-standardized transactions (and potentially also for standardized transactions !), the header of the column 'Electricity or Gas' should be modified to read 'Electricity or Gas/LNG', in case LNG transactions fall within the scope of reporting obligations (see comments to Question 1).
- I. It is unclear if items 25 and 26 in annex II.2 should apply only to 'transportation' or if they apply also to LNG (see the previous comment and comment to Question 1).

Question 5

Please indicate your views on the proposed collection of scheduling/nomination information. Should there be a separate Annex II.3 for the collection of scheduling/nomination data through TSOs or third parties delegated by TSOs?

- A. TSOs (or third parties delegated by TSOs) can indeed provide efficient data collection related to scheduling/nomination. It should however be made clear that in case TSOs or their delegated parties are effectively used as a collection channel, this absolves the other market participants from their own responsibility vis-à-vis ACER regarding this matter, on condition that market participants provide the TSOs with all necessary information that is in line with the rules governing such information feeding to fulfill scheduling/nomination activities. Market participants cannot be held responsible for reporting delays or errors of any kind that result from TSO's actions. In fact the same principle should hold for any third party, incl. Exchanges, MTFs etc. that report 'on behalf of' other market participants. Eurogas concurs with the suggestion to include the needed information in a separate Annex II.3 to achieve a minimum level of harmonization.
- B. Additionally, Eurogas is wondering to what extent special provisions must be made in the context of LNG, whereby terminal operators and vessel operators 'schedule' arrivals of vessels and 'schedule' the 'discharging' or 'loading' of vessels. Is ACER confident that its current section captures such activities in a complete and unambiguous way, in case there is a need to capture and report such information?

Question 6

What are your views on the above-mentioned list of contracts according to Article 8(2)(a) of the Regulation (Annex III)? Which further wholesale energy products should be covered? Do you agree that the list of contracts in Annex III should be kept rather general? Do you agree that the Agency should establish and maintain an updated list of wholesale energy contracts admitted to trading on organised market places similar to ESMA's MiFID database? What are your views on the idea of developing a product taxonomy and make the reporting obligation of standardised contracts dependent from the recording in the Agency's list of specified wholesale energy contracts?

- A. For markets with mandatory balancing the collection of information by ACER should be carried out using existing channels, such as market monitoring systems/transparency arrangements where available.
- B. Eurogas welcomes a fairly general, descriptive-by-characteristics list of contracts to be reported, as set out in Annex III, as well as the establishment and updating of a list of wholesale energy contracts that are admitted to trading on an organized market place, and the development of a product taxonomy and linking the reporting obligation to such list. The reference to this list for the definition of the scope of reporting obligations would require a continuous update by ACER upon consultation with stakeholders in order to capture possible evolution of contracts for wholesale energy products. ACER should periodically publish the resultant list of reportable contracts and allow market participants a reasonable amount of time (e.g. 3 months) to make the necessary systems/process adjustments.
- C. The reference to several specific time windows in Annex III, Section A (i.e. references to intraday, within-day, day-ahead, two-days-ahead, week-end and long-term) seems unduly complicated. This could be replaced by a single descriptive timeframe, e.g. "Contracts for the supply ... that relates to any tradable time-

window, ranging from intraday (electricity) and within-day (natural gas) through longer timeframes.”

- D. Further with regard to the content of Annex III, and particularly (but not necessarily restricted to) Sections A(7) and B(2), Eurogas asks more clarity about whether LNG is covered under the reportable contracts. See also comments to Question 1. We do not consider this sentence necessary while Annex 3, A(7) refers to Energy Commodity Contracts, said contracts not including LNG contracts (see definition in article 2.1); thus LNG contracts are not reportable (DS)
- E. Transport contracts should be fully reported by TSOs.

Question 7

Which of the three options listed above would you consider being the most appropriate concerning the *de minimis* threshold for the reporting of wholesale energy transactions? In case you consider a *de minimis* threshold necessary, do you consider that a threshold of 2 MW as foreseen in Option B is an appropriate threshold for small producers? Please specify your reasons.

- A. Eurogas notes that ACER’s consultation text contains no *de minimis* thresholds for gas (and LNG), and would advise to include also such (volumetric) thresholds, provided that they are sufficiently high, so as to be appropriate and serving the final purpose of REMIT.
- B. ON OPTION A: refraining from defining any *de minimis* threshold appears to pose a disproportional burden upon small market participants. We note also that the possibility, as suggested in the text, to have small participants’ reporting done by third parties such as exchanges, is not consistent with the last sentence of the section 3.1.2 stating that: “In any case, any *de minimis* threshold should only apply if the market participant does not trade at organized market places.” On a side note to option A, Eurogas recalls Article 9.1. of REMIT that specifies the need to register as a market participant only if they enter into reportable transactions. Article 9 of REMIT makes clear that the obligation to register is triggered by entering into a reportable transaction. In this Question 7, the possibility is introduced to exempt certain parties from reporting obligations, and therefore implicitly from registration obligations, due to a threshold application. Lacking registration for exempted actors in the market, how can a registered market participant establish that his counterparty is exempted in bona fide? This can be an argument in favour of option A (i.e. no thresholds).
- C. ON OPTION B: Option ‘B’, whereby a specific threshold is set, appears to be the most clear and simple solution, even though the level of 2 MW is really very low. 20 or 25 MW seems more appropriate (note that in several EU countries biomass power plants with a capacity < 20 MW are also exempt from reporting and controls with regard to other laws). We would like to remark that whatever the final nominal number will be, in the context of transactions reporting, volumes are the relevant dimension so that MWh is a better yardstick than MW, which typically refers to the capacity dimension (and is used for publication of available capacity).
- D. ON OPTION C: Eurogas does not believe option ‘C’, as phrased, is appropriate, because feed-in tariffs are not necessarily restricted (or may not be restricted in the future) to renewable energy sources only, and therefore the specificity of energy coming from renewable energy sources could give rise to discussion and even legal dispute based on discriminatory grounds. Moreover, as is also pointed out in the text, feed-in tariff regimes are quite different across the EU and loopholes may exist,

or come into existence, that would undermine the transparency purpose of reporting obligations, EU-wide.

- E. As a general remark, should option A be investigated, Eurogas believes a better understanding of the definition of "wholesale energy product", would help identify the market participants who are subject to reporting obligation in a clear and straightforward way, (see answer to Question 1). This would also clarify the treatment of producers from RES. Other operators active in both electricity and gas markets (e.g. storage operators) may take advantage of such exemption, given the limited impact their transactions have on prices and other conditions in wholesale energy markets.

Question 8

Are there alternative options that could complement or replace the three listed above?

- A. For gas/LNG no alternative can be formulated as the current ACER text contains no proposal.
- B. The definition of thresholds in terms of traded volumes for reporting of transactions in electricity and gas markets should be investigated by ACER. The definition of these thresholds should be based on the number and the economic value of contracts dealt by each market participant rather than on the underlying commodity volumes.

Question 9

Do you agree with the proposed approach of a mandatory reporting of transactions in standardised contracts through RRM's?

- A. In our opinion market participants should be given the opportunity to report transactions in standardized contracts directly to ACER, if they wish to do so. Eurogas thus agrees that every market participant shall be able to become an RRM. A multi-channel approach should therefore be envisaged. Should market participants use third parties as RRM's, their reporting obligation should be considered fulfilled once the information is correctly transmitted to the RRM and market participant shall not be held responsible for the (in)correct processing of information by the RRM to ACER.

Question 10

Do you believe the Commission through the implementing acts or the Agency when registering RRM's should adopt one single standardised trade and process data format for different classes of data (pre-trade/execution/post-trade data) to facilitate reporting and to increase standardisation in the market? Should this issue be left to the Commission or to the Agency to define?

- A. The identification of a single trade and process data format may be an opportunity since the submission of standard compliant data from different sources will ensure the compatibility and the suitability of all the information collected with the ACER trade repository. Nevertheless, in order to avoid excessive adaptation costs and efforts to be borne by market participants, the adoption of an existing standard already in use within the industry should be investigated; otherwise it would be difficult to ensure a quick standardization process. Standards should be adopted in close consultation with market participants.

Question 11

Do you agree that market participants should be eligible to become RRM themselves if they fulfill the relevant organisational requirements?

- A. Market participants should indeed be eligible to become registered RRMs. As this is a possibility, not an obligation, there is no a priori reason to exclude them. The precise conditions for licensing and operating will define the 'appetite' for market participants to embark on becoming an RRM. It might be sensible to foresee an easier regime for the market participants who become RRMs in order to report their own data, as compared to the regime applicable to RRMs dealing with third parties 'data.

Question 12

In your view, should a distinction be made between transactions in standardised and non-standardised contracts and reporting of the latter ones be done directly to the Agency on a monthly basis?

- A. Given the considerable amount of data ACER will be required to manage in carrying out its monitoring tasks, we think that the daily reporting of records of transaction in standardized contracts is unlikely to be of much use. Weekly and monthly reporting seems to be better suited to ACER ex-post market monitoring tasks.
- B. We agree on the distinction made between standardized and non-standardized contracts, especially as regards the timing for the submission of data. Nevertheless, we believe that direct reporting to ACER should not be mandatory in systems where a reporting regime for non-standardized bilateral contracts is already in force. In these cases, existing reporting channels shall be used also for non-standardized contracts.
- C. Reporting of non-standardised transactions through RRMs (to which the information first has to be submitted) appears to be overly complex and burdensome, and Eurogas believes the responsibility for reporting such non-standardised transactions to ACER lies with each market participant. Reporting of non-standardized transactions within one month is not always feasible in view of the often complex internal set-up of large energy companies, and we would propose a three-month or longer window. Also, with regard to non-standardized transactions, clarification would be appreciated about precisely what determines 'execution', whether it should be intended as the 'signature date', the 'first transaction date' (in case of a repetitive series), the 'effective start date' of the contract', or ... ?

Question 13

In view of developments in EU financial market legislation, would you agree with the proposed approach for the avoidance of double reporting?

- A. The opportunity to harmonize the information required on derivatives to be reported under REMIT and EMIR should be investigated, in particular with regard to OTC derivatives. The avoidance of double reporting, especially for elements already reported under EMIR, must be a key driver in the design and implementation of the overall regulatory framework into which energy firms are scoped (see also comments to Question 17). ESMA should provide ACER with all the relevant information available to it, including information received via trade repositories.

Question 14

Do you agree with the proposed approach concerning reporting channels?

- A. Eurogas agrees with the proposed approach concerning reporting channels, including the broadly defined organizational requirements for RRM, but recalls comments to Question 10 whereby market participants should retain a fundamental choice to report directly to ACER or via another RRM.
- B. Eurogas believes that RRM should be obliged to register; a voluntary registration offers no safeguards to market participants and implies a risk of two 'classes' of RRM, adding to confusion.
- C. A distinction may be envisaged in the definition of organizational requirements when a market participant registers as RRM with the sole purpose of reporting data on its own transactions (lighter obligations).

Question 15

In your view, how much time would it take to implement the above-mentioned organizational requirements for reporting channels?

- A. Eurogas believes the adequate set-up of robust RRM will take approximately one year.

Question 16

Do you agree with this approach of reporting inside and transparency information?

- A. A distinction should be made between fundamental data collection for market monitoring purposes and the publication of inside information in real time. In fact, if national/European platforms, acting as RIS, are not in place, it would be extremely burdensome to impose an additional obligation on the market participants to also report inside information to ACER, which they publish in/close to real time on the company website. Market participants shall thus not be required to set up any reporting channels for information that is being publicly disclosed on the basis of Article 4 REMIT. Relevant platforms and infrastructure for disclosing inside information (either at national or European level) would be very useful and should be set up without delay in order to make the access to the disclosed information easier. As a second step and if this is not too burdensome these platforms might be required to report the information to ACER. Here we would also like to recall Article 8 para. 5 REMIT which stipulates that the reporting obligations on market participants shall be minimized by collecting the required information or parts thereof from existing sources where possible.
- B. We point out that the vast majority of the published information goes either via corporate websites or via TSO/SSO/LNG Terminal Operators (under 714/2009 or 715/2009), so ACER's approach implies dual information streams to ACER and NRAs (who have the capacity to consult corporate websites as well as those of TSOs/SSOs/LNG Terminal Operators). It is feared that reporting of inside information, on top of publication, will imply additional costs for market participants to develop an information stream that already exists, albeit in a dispersed way (from ACER viewpoint). Eurogas notes that RIS, as referred to in section 4.2.1 are not yet operational on the energy scene, and their role at this time is purely hypothetical. It should therefore be investigated whether the information stream relating to the publication of inside information cannot be automatically captured/converted by

ACER/NRAs as reporting of inside information, in order to avoid the need for monitoring (and 'searching') of each company and TSO website

- C. With regard to the 'Transparency Information' as reported via 714/2009 and 715/2009, we would like to point out that there are very good reasons why this information is published on an aggregate basis, and such reasons do not only relate to confidentiality but also to market relevancy, especially in the case of gas. While we are aware that the purpose of ACER's monitoring of possible market abuse by individual persons is different from the publication purpose by TSOs/SSOs under the 714/2009 and 715/2009 regulations, the ACER obligations, as written, will in fact duplicate the existing information streams of operators under these two regulation, unless ACER collects the 'raw data', as provided by the asset operators, directly from these SOs. Article 8 para. 5 REMIT shall also here be taken into account.

Question 17

Please indicate your views on the proposed way forward on the collection of regulated information.

- A. Regulated information is already published via TSO/SSO/LNG terminal forums (in aggregated form or not) and therefore is made available by market participants to TSOs/SSO/LNG Terminals in the context of 714/2009 and 715/2009. Moreover, much regulated information is also made available to NRAs. The resulting overall operational burden, and the associated costs are heavy, and every reporting initiative adds one more layer to this. As already mentioned Article 8 para5 REMIT stipulates this information should preferably be collected from existing sources where possible. In that regard Eurogas believes that ACER should maximize its efforts to avoid asking market participants to initiate an additional information stream. The fact that TSOs/SSOs can aggregate data (and publish on an aggregated basis) implies they have non-aggregated data available. Likewise, NRAs have substantially most information available. Eurogas suggests that ACER initiates and coordinates an integration and simplification project across all current channels, so that every single piece of reportable data gets only reported once by the market participant to a single data receptor, and that ACER, as the ultimate data collector, sets up a reporting mechanism from any intermediate receptor to ACER itself. In conclusion, Eurogas believes that market participants themselves should only be the providers 'of the last resort' with regard to regulated data collection as envisaged by Article 8 para5 REMIT, and that all reasonable efforts must be made to avoid duplications and overlap in data-streams.

Question 18

Do you agree with the proposed approach for the reporting of regulated information? Please indicate your view on the proposed mandatory reporting of regulated information through RIS and transparency platforms. Should there remain at least one reporting channel for market participants to report directly to the Agency?

- A. As already highlighted, the identification of Regulated Information Services and transparency platforms, which could also serve as providers of fundamental data to ACER is a positive step. We also wish to stress that the final objective would be to have a common European platform (at least one for electricity and one for gas) where all fundamental data communicated by TSOs and inside information is published.

- B. Once the information has been reported to this platform/RIS, the obligation of market participants should be considered fulfilled and market participants shall not be held responsible for the (in)correct transmitting of this information by the platform operator/RIS., Regarding the reporting of fundamental information, one reporting channel for market participants to report directly to the Agency should nevertheless be maintained.

Question 19

The recommendation does not foresee any threshold for the reporting of regulated information. Please indicate whether, and if so why, you consider a reporting threshold for regulated information necessary.

- A. The obligation to report fundamental data and publish fundamental data, which qualifies as inside information shall only exist when this information is relevant for the market monitoring purposes of ACER, respectively able to affect significantly the prices of the wholesale energy products. Thus it might be sensible to determine a volume benchmark, above which impact on the prices could reasonably be expected. Such a benchmark already exists in the UK (10 000 000 m³) and is in any case appropriate for the rest of the North-West European gas market.

Question 20

What is your view on the proposed timing and form of reporting?

- regarding form of reporting, Eurogas agrees that electronic reporting is the appropriate method except under 'exceptional circumstances'.
- On the timing, it appears that a multitude of delays is unavoidable in case multiple channels are used: if inside information is published by the market participant and it must also be reported (nearly) simultaneously, then this type of information will reach ACER without delay when reported directly by the publishing market participant. Information (**inside or 'regulated'**), that is not reported directly to ACER is likely to go through a lengthier chain of intermediate steps (RRMs or RISs) and will reach ACER later, almost regardless of the efficiency of such chain. The question is then what constitutes the limit of an acceptable delay for reporting. If one accepts that published (inside) information is the most relevant in the context of price impact and that this information reaches the public and ACER in very little time (one hour at most, then at least technically, reporting such information should be feasible within (nearly) the same time-limit. At the same time, given the lesser relevancy of non-published ('regulated') information with regard to price impact, Eurogas proposes to be rather lenient on this information reporting and accept e.g. 2 working days. Real time reporting will be feasible only if RIS and trading platforms will be fully operational, whereas it could be excessively burdensome for market operators publishing inside information on their own websites.
- Eurogas thinks that, real time reporting will be feasible only if RIS and trading platforms will be fully operational, whereas it could be excessively burdensome for market operators already publishing inside information on their own websites the simultaneous reporting of fundamental data to ACER.