

Date: April 23rd 2014

Subject: RESPONSE OF HOLDING SLOVENSKE ELEKTRARNE - Consultation on ACER's Trade Reporting User Manual (TRUM) for trade reporting under REMIT

Responsible person: [REDACTED]

Holding Slovenske elektrarne (HSE) welcomes the transparency of the process of preparing the relevant ACER documents to be adopted on the basis of the Commission implementing acts, although so far the Commission presented only a draft of the implementing acts. However, this process, consequently, also entails a certain level of uncertainty, since the final wording of the implementing acts is not adopted yet, making the scope of the draft ACER documents, provided for in the implementing acts and presented to the public prior to the adoption of the implementing acts, subject to possible change.

We would like to take this opportunity to comment on certain aspects of REMIT that were discussed at the workshop on April 3rd 2014. First of all, we would like to emphasize, that technical and organisational requirements for Registered Reporting Mechanisms (RRMs) reporting on their own behalf should be less strict than the requirements for RRM's reporting on behalf of third parties. The aim of REMIT is to increase transparency on the wholesale energy market through enabling effective monitoring of trading activity and detecting/preventing market abuse. Thus, the purpose of REMIT should not be to impose disproportionate technical requirements for the submission of data for market participants, who are obliged by REMIT to submit data on their own behalf. On the other hand, third party RRM's have a completely different role in this process, reporting on behalf of market participants being a service they provide, charging a fee.

Secondly, we believe, that reporting contracts and derivatives, including orders of trade, traded on organized market places, should be the responsibility and obligation of organized market places, since they already manage and process this data. Market participants usually do not collect all the above mentioned data (like orders of trade, etc.). If reporting obligation for such contracts is to be on the market participant, organized market places can push market participants into subordinate role, for example by introducing new fees for REMIT trade reporting.

To conclude with our general comments on REMIT, we believe several issues need to be defined more clearly, especially the following: Does REMIT differentiate between standard contract and standard product (standard product is a certain load profile at certain market)? Are bilateral contracts with standard product (same load profile as it is traded on organized market places and recognized as standard contract by ACER) recognized as non-standard contract, since those bilateral contracts usually have different payment obligations, different risk parameters and therefore may have a price, which differs from standard contract for same standard product on organized market places?

Regarding draft TRUM and the consultation questions raised in the consultation paper HSE has the following comments.

Q: The Agency currently understands that the attached data fields (see Annex I of the draft TRUM) for the reporting of transactions in standardised and non-standardised contracts will be included in the Commission's implementing acts. Please provide us with your views on the attached data fields.

TRUM should, for each data field, define:

- if it is a mandatory field,
- precision of the field (decimal places for floating values, if hours/minutes/seconds are relevant for date data fields, ...).

Q: Please provide us with your views on the field guidelines for the reporting of transactions in standardised supply contracts (see Chapter 6 of the draft TRUM).

Data fields comments:

- Market participant ID (Standard contract, Field No. 1, No. 5)

What would happen, if some market participants, who trade derivatives and report them with LEI under EMIR, do not register their LEI with ACER during the market participant registration process, but with some other code type, e.g. EIC?

- Trader ID (Standard contract, Field No. 4)

Are traders required to be registered at ACER similarly like market participants, to get their Trade ID. Is this field in accordance with protection of personal data?

- Initiator/Aggressor (Standard contract, Field No. 12)

If reporting obligation for these contracts is not on brokers, back-loading might be problematic, since market participants usually have not collected this information in the past.

- Contract type (Standard contract, Field No. 24)

Distinction between different contract types should be more detailed, e.g. where is distinction between spot and forward, etc. Otherwise, two market participants can report the same contract differently. It is also not clear why this data field is needed after all and how it would prevent market manipulation and abuse (which is the main purpose of REMIT). If this data field is not relevant, it should be omitted from reporting, to prevent mismatching errors.

- Transaction time stamp (Standard contract, Field No. 26; Non-standard contract, Field No. 10)

FAQ states that for this data field, market participant should have time synchronized up to 5 milliseconds limit. This is totally unrealistic. Also, for non-standard contract, it is impossible to determine, when a contract has been executed with such accuracy.

- Transaction reference number (Standard contract, Field No. 31)

What is the difference between Transaction reference number (Standard contract, Field No. 31) and Contract ID (Standard contract, Field No. 23)?

- Voice-brokered (Standard contract, Field No. 33)

If reporting obligation for these contract is not on brokers, back-loading might be problematic, since market participants usually have not collected this information in the past.

- Price (Standard contract, Field No. 34)

Should this be omitted for index priced deals?

Q: Do you agree that for the reporting of energy derivatives, the same standards that apply under EMIR and MiFID should apply under REMIT (see Chapter 7 of the draft TRUM)?

Energy derivatives are already reported under EMIR, therefore REMIT implementing acts/TRUM should not deal with their reporting at all, except mentioning, that market participants do not have to report them once again under REMIT and that ACER should obtain those contract details for REMIT purposes directly from ESMA or trade repositories, if needed. According to our understanding, draft implementing acts provide for such a solution, nevertheless, we feel it is important to emphasize the relevance of this issue, since the implementing acts are not adopted yet and are therefore subject to possible amendments.

Q: Please provide us with your views on the section in the draft TRUM related to data integrity (see Chapter 9 of the draft TRUM).

If market participant uses third party RRM and has proof that reports have been successfully submitted to RRM, it should not be the responsibility of market participant to verify that the RRM has submitted those reports to ACER. It should be considered, that market participant has fulfilled its reporting obligation, if the report has been successfully submitted to the registered third party RRM. In our opinion, it is ACER's responsibility that only credible RRMs are registered for third party reporting. Market participants' only responsibility and reasonable precaution in the case of choosing to report through third party RRM should be to verify, if the relevant RRM has a valid registration at ACER.

We hope our comments are taken into consideration by ACER in preparing the final TRUM and other 3rd level documents set out in the draft Commission implementing acts.