



ACER Consultation on the functioning and usefulness of the European Register of Market Participants

EDF Group Response

April 21, 2016

General comments

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

As a preliminary comment, EDF Group understands that this assessment is a requirement of recital 21 of REMIT but wonders whether such evaluation is relevant while phase 1 of data collection only started 6 months ago and phase 2 started on April 7th. EDF Group has doubts about the usefulness of such assessment while market participants cannot provide their views based on a comprehensive experience.

Furthermore, EDF Group recalls that the registration regime applied to market participants needs to provide well-balanced requirements to identify who is in the market for monitoring purposes without, however, introducing unnecessary burden on market participants.

In that respect, EDF Group has many concerns about the additional requirements foreseen in the current consultation. First, EDF Group believes that these requirements will add more complexity for market participants especially where prompt updates of information are needed. Besides, EDF Group has doubts about the rationale and sometimes about the legal ground that may justify these new requirements.

EDF Group considers that the EREMP requirements needs to find a right balance and that major efforts should be made in order to identify and request solely information needed for market monitoring purposes. EDF Group deeply believes that more simplicity is needed for market participants to alleviate the high level of bureaucracy and to mitigate existing regulatory barriers to enter the pan-European energy market.

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

EDF Group welcomes ACER's proposal to add an additional checkbox labelled "I do not have a VAT number" since some market participants and/or ultimate controllers do not have a VAT number (e.g. a state that owns public companies). However, it is important that already registered market participants do not have to make changes due to the addition of this new checkbox.



Besides, EDF Group does not have a strong view on ACER proposal to adopt a more flexible format for fields 112 and 316 for non-EU market participants.

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

EDF Group strongly disagrees with ACER's proposal regarding both the reformulation of field 113 "EIC" and the request for additional information that is not justified by any legal ground.

While EDF Group understands the need to identify properly each market participant, EDF Group sees no benefit in asking market participants to provide all EIC codes used for reporting for identification and monitoring purposes. In particular, EDF Group notes that the large majority of market participants only uses one EIC code (X-EIC Code). Moreover, EDF Group recalls that the European register is already supposed to provide a unique identifier *via* the ACER code (field 121 – Annex 1 to ACER Decision 01/2012), enabling a proper identification of each market participant.

EDF Group considers that ACER's current proposal will introduce an overly burdensome process for market participants while the benefit of the additional information is unproven regarding identification and market monitoring purposes. Besides, EDF Group believes that updating this kind of information will significantly increase the risk of mistakes and/or outdated material, therefore downgrading the quality of provided data.

EDF Group believes that the overall registration process should be very straightforward and limited to essential information. For all the reasons mentioned above, EDF Group requests ACER neither to implement the proposed changes and nor to add other EIC codes as mandatory fields.

In addition, providing an EIC code should not be mandatory since some market participants do not have an EIC at all. This happens for example when a market participant is the counterparty of a physically delivered contract but where the delivery is done *via* another counterparty as a scheduling agent.

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?

EDF Group agrees with the removal of field 116 (Global Location Number of the market participant - 'GS1' in the coding scheme) that is indeed very rarely used.

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

EDF Group does not have any specific comment on this question.



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

EDF Group strongly disagrees with this proposal since information populated in the European register should be limited to company-related data that is, by nature, rather "static" information i.e. subject to little changes over time. Thus, introducing the "trader ID" information as part of market participants' registration will add a "dynamic" information (i.e. that needs to be updated regularly) that will constitute an unnecessary burden for market participants without bringing any benefit for market monitoring purposes. Indeed the person that is in charge for commercial decisions (usually from the high level management) within the company is already part of the registration requirements.

Should the "trader ID" information be requested, energy trading companies that use several IDs (a single trader could have several IDs, e.g. one for each organized market place on which it operates) will have to frequently update the registration form. EDF believes this situation would generate a risk of imprecise information. Eventually, EDF Group notes that "trader ID" – which is a transaction information – is a reportable data field for standard contracts, which should be sufficient to link a trader ID to a specific market participant and a specific trade.

On a more general level, EDF Group considers that the current system does not allow an easy update of information since changes need to be made one by one and require regulators' approval. Therefore, EDF Group suggests allowing bulk loading of information in order to facilitate the updating procedure and thus 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?

EDF Group agrees that inside information disclosed publicly needs to be easily findable but believes that providing an exact URL address per registered market participant will raise technical issues and will add no benefit for transparency purposes.

Indeed, EDF Group highlights 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.

However, for more transparency, EDF Group suggests (i) to leave the generic definition of the website as it is now and (ii) to envisage 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?

EDF Group believes that creating a new field indicating previously used ACER code and that indicating the relationship between these different ACER codes may only be relevant when a market participant is moving to another Member State.

Indeed, EDF Group considers that a spin-off from a registered market participant will actually give birth to a new entity with its own legal responsibilities requiring the establishment of a new market participant with the obligation to register. As regards the case of an incorporation of a registered market participant, EDF Group considers that this will in any case require the modification of all existing contracts.

Eventually, EDF Group has no further suggestion to ensure traceability of relevant changes in the registration records.

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?

EDF Group strongly opposes ACER's proposal regarding the corporate structure of the market participant. EDF believes that the foreseen requirements go far beyond the scope of REMIT and are not based on any legal ground.

As stated earlier, EDF Group understands the need for transparency but recalls that any new requirement should prove its benefits as regards transparency and monitoring purposes while it should minimize the administrative burden on market participant. Once again, EDF Group underlines that the register should be a straightforward process, requiring only essential data, which enables regulators to properly identify the market participant without including dynamic data that requires frequent updates and leads to a burdensome and costly process. That being said, EDF Group would like to raise the following points:

- EDF Group has great concerns about ACER's proposal aiming at imposing market participant to provide a comprehensive picture of their corporate structure including companies that are not market participants. EDF Group underlines that the current procedure for linking all corporate relationships is already a very complex task. Indeed a corporate structure of a group :
 - a. could have several layers and count hundreds of companies on which market participants do not necessarily have a good visibility ;
 - b. is by nature a changing (dynamic) information that needs to be kept up to date to be relevant. Including names, VAT numbers and percentage of ownership as proposed



by ACER adds unnecessary burden and does not seem manageable unless significant and costly resources are dedicated to fulfill this requirement.

- Second, EDF Group considers that providing transparency needs to be done within a clear legal framework. Therefore, requiring information about non-market participants within EREMP is not acceptable since only market participants are required to register (article 9 of REMIT).
- To sum up, EDF Group underlines that the current process is already complex and burdensome. EDF Group believes that ACER's proposals will add substantially to the administrative burden but will bring no benefit for transparency. Therefore EDF Group suggests a status quo for section 4 "Corporate structure".

On the other hand, EDF group welcomes the opportunity given by ACER to provide suggestion to improve more generally the corporate relationship section. In particular, EDF Group highlights the fact that relationships between entities can only be discharged once at a time and require NRA's approval, which raises the following issues:

- a. The linking of companies is a time-consuming process for market participants ;
- b. Due to a misinterpretation of what is actually a link with a company under REMIT a market participant (MP1) may erroneously indicate a relationship with another market participant (MP2) with an "other" type, for instance where there is only a commercial contract between two companies. When this happens, for "other" type relationships, only MP1 that has created the link can remove it. MP2 does not indeed have the possibility to remove or even validate the link. MP2 needs to make a request to MP1 to remove the relationship and/or submit a similar request to its NRA. EDF Group thus suggests putting in place a notification and validation process for all involved market participants in "other" type relationships.

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.**

EDF Group notes that free text is not necessarily useful for automatic matching procedures. Therefore, before requiring additional information, EDF Group believes that ACER needs to assess the benefit of such request. However, if any of these requirements are included, EDF Group considers it 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?

As stated in question 8, EDF Group recommends a notification and validation process to be put in place as regards all the relationship between market participants, including “other” type relationships, in order to prevent from any erroneous relationship being created, and enable corrections in a timely manner.

On a more general level, EDF Group considers the required information and data as 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)

EDF Group considers that CEREMP did not help market participants in getting more transparency nor did it lower barriers to entry across countries for market participants operating in different European countries.

However, EDF Group believes that the following improvements may help mitigating these barriers:

- a. EDF Group experiences a very burdensome licensing process since all Central and Southeast European countries require a specific national license to operate in the country. Therefore, EDF Group suggests the implementation of a “one-size-fits-all” license based on EREMP registration. For example, NRAs could be asked to automatically give a national license to a market participant already registered as such in another Member State and registered in EREMP.
- b. EDF Group deeply believes that the burden on market participants could be alleviated through a higher coordination between NRAs and ACER - especially in terms of data collection - that may lead to removing some national specific reporting requirements.
- c. More generally with regard to alleviating distortions between EU Member States, level playing field should be reinforced concerning regulatory/supervisory fees as this makes trading more costly in some countries.

Eventually, EDF Group is of the opinion that the overall transparency could be enhanced *via* the European Passport or the EU trading license regime.

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?

EDF Group understands from article 3 of the REMIT Implementing regulation EU n° 1348/2014 that contracts of wholesale energy products with delivery in the Union are reportable thus requiring the registration of involved market participants. Therefore, EDF Group believes that the envisaged procedure is consistent with the current legal framework.

However, EDF Group warns about compulsory requirements that may be difficult to implement. In particular, EDF Group wonders how a non-EU counterparty could be actually compelled to register. Therefore, EDF Group considers that in case of a formal obligation, NRAs should be given the possibility to validate and issue an ACER code for a new market participant in a very short period of time in order not to hinder the functioning of 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?

As regards business activities, EDF Group sees a limited benefit of the publicly available extracts of the European register of market participants. Actually, EDF Group used it in setting up REMIT reporting in order to recover ACER codes that were not communicated in due time.

As regards the transparency of the wholesale energy market, EDF Group believes that knowing the location of webfeeds disclosing inside information would be helpful.

In order to improve transparency for both business activities and the wholesale energy market, EDF Group considers that the following items are valuable:

- Make publicly available a REMIT point of contact per market participant (e.g. email address)
- Make publicly available the VAT number in order to better identify the market participant.

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

As mentioned in question 8, EDF Group considers that market participants should be (i) notified when it gets a relationship request and (ii) be able to validate all the corporate link in EREMP in order to avoid mistakes and simplify the process in case a correction is needed.

Besides, EDF Group highlights the fact that the register is not flexible enough and does not allow running several actions in parallel (see question 5). EDF Group asks for a less "sequenced" approach often requiring NRA validation before moving to the next action since this situation is burdensome for market participants. For instance, a bulk loading of information should be foreseen and put in place.



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.

EDF disagrees with the proposed timeline since it leaves a too short period of time for market participants (and other stakeholders) to comply with potential new requirements while they are currently dealing with the setting up and tuning of a proper reporting of contracts and transactions pursuant to article 8 of REMIT.

EDF considers that at least one year of experience is necessary before making a full assessment and changes. 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), EDF Group suggest that the application date of changes in EREMP should not be applicable before 7 July 2017.

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