

## **Public Consultation on ACER's Transaction Reporting User Manual (TRUM)**

### **Evaluation of Responses**

**PC\_2014\_R\_05**

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## 1 Introduction

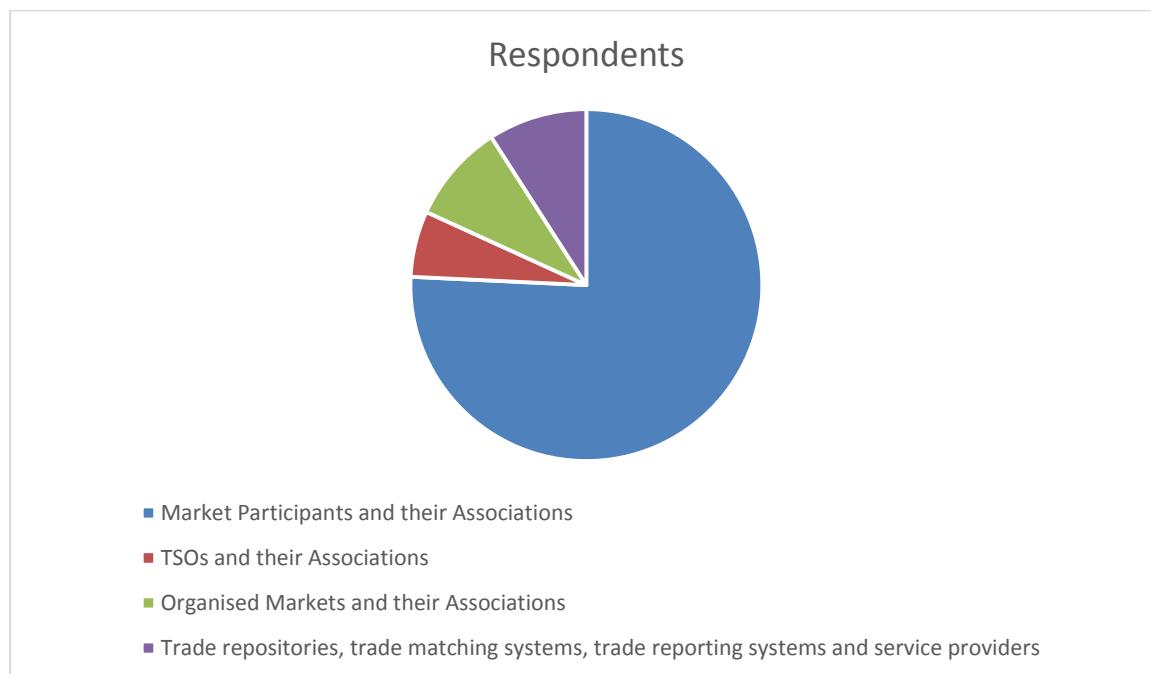
On 22 July 2014, ACER launched a second public consultation on the REMIT Trade Reporting User Manual (TRUM) which was open until 2 September, based on the draft Implementing Acts published by the Commission in July and taking into account the input received during the first consultation in spring 2014. The public consultation document consisted of 15 questions, and the consultation lasted until 2 September 2014. A public workshop was held on 16 July 2014 to discuss with stakeholders about the public consultation document.

On 27 March 2014, the Agency launched a public consultation on the draft REMIT Trade Reporting User Manual (TRUM), based on the draft implementing acts presented by the Commission in October 2013.

The public consultation paper was intended to collect views on the TRUM from all parties interested in the implementation of REMIT. The proposed first release of the TRUM was attached as an annex to the consultation paper. The field guidelines in the annexed draft TRUM were based on the data fields which the Agency at the time expected for the Commission's draft implementing acts.

## 2 Respondents

The public consultation launched solicited feedback from various stakeholders. In total, the Agency received 33 responses to the second consultation, 6 of which by European or international organisations. The following diagram shows the distribution of stakeholders responding to the public consultation:



The table in Annex 2 lists the names of all respondents to the consultation, including their country/area of representation.

### **3 Responses received**

In general, the respondents welcomed the timely consultation on the draft TRUM and stressed the importance of the document for market participants and reporting entities. The respondents highlighted that the quality of the document has improved significantly over the last months and noticed that much of the feedback provided in the first consultation were taken into account. The addition of examples of how to report various trading scenarios was considered particularly useful.

#### **Question 1**

*Please provide us with your views on the scope and the objectives of this document. In particular, please provide your opinion on whether the kind of information included and the structure of the TRUM are suitable to facilitate transaction reporting. If not, please explain which additional information the TRUM should cover and/or how it should be structured.*

#### **Question 2**

*Please provide us with your general comments on the purpose and structure of the draft TRUM. In particular, please provide your opinion on whether the information ACER intends to include in the first edition of the TRUM is sufficient for the first phase of the transaction reporting (contracts executed at organised market places). If not, please explain which additional information should be covered.*

#### Respondents' feedback to question 1 and 2

In general, the respondents considered the information provided in the draft TRUM sufficient to facilitate the first phase of the reporting, however, requesting additional clarification on the reporting of lifecycle events and on the back-loading requirement. It was also suggested that the XML schemas to be used for reporting should be added to the TRUM.

Several respondents highlighted that significant effort also remains to clarify the reporting requirements for non-standard contracts and transportation contracts. Although the reporting of non-standard supply contracts and transportation contracts will only commence at a later stage, the respondents urged the Agency to provide guidance on how to report such transactions as soon as possible to allow for IT implementation. Some respondents also highlighted that clarification is needed on how the Agency considers to act with respect to contracts that are reported on request (format to be used, timeframe, etc.).

Some respondents suggested that the TRUM should include definitions of key terms (organised market place, standard contract, etc.) as well as the reporting channels and reporting timeline for all contract types to avoid misunderstanding. It was also suggested that a FAQs section should be considered to provide additional practical guidance.

The structure of the draft TRUM, which was slightly changed from the previous consultation, was considered user friendly and an improvement from the previous version.

### ACER's view

The Agency appreciates the general feedback received on the draft TRUM and the acknowledgment of the effort made to align reporting under REMIT as much as possible with reporting under EMIR. The data fields were not subject of the public consultation as they are defined by the Commission in the Implementing Acts. The Agency continued to improve the Guidance on the data fields as a result of the public consultation and afterwards and will continue to do so also in future together with stakeholders particularly through roundtable meetings. The TRUM will be updated as required. The requested XML schemas will be provided through the Manual of Procedures for Transaction and Fundamental Data Reporting. The Agency will consolidate information on any updates in the REMIT Quarterly.

### **Question 3**

*Please provide us with your views on ACER's proposed approach for the list of standard contracts. In particular, please provide your views on whether:*

- *the list of standard contract types enables reporting parties to establish whether to use Table 1 or 2 of Annex I of the draft IAs when reporting information under REMIT; and*
- *the identifying reference data listed in ANNEX II would be sufficient and suitable to establish the list of standard contracts.*

*Do you agree that the list of standard contracts should also be considered sufficient to list the organised market places or would you prefer to have a separate list of organised market places?*

### Respondents' feedback

In general, the respondents said that the list of standard contracts seems to sufficiently enable reporting parties to establish whether to use Table 1 or Table 2 of Annex I. In this context, respondents also requested that a clear process be defined for the treatment of any product which is not listed (e.g. are they automatically assumed to be "non-standard"?). The respondents also asked the Agency to explain the process to be followed to maintain the list (update, publish, etc.).

As regards the identifying reference data to be submitted by the organised market places, one respondent suggested to add the type of OMP (exchange, broker) and another requested a clarification of the meaning of "subject of the contract". One respondent thought that it would be useful if the TRUM could be more specific about how the list of standard contracts applies to financial contracts and transportation contracts.

It was argued by several stakeholders that the required effort to distinguish between standard and non-standard contracts using the list will be significant. Therefore, the definition of standard contract was suggested to be changed and limited only to contracts traded on OMPs. If the definition in the draft IAs remains unchanged, market participants will always need to check, using the list of standard contracts established by the Agency, whether their bilaterally concluded contracts could be traded as well somewhere on an organised market place. This is argued to be neither practical nor a helpful distinction for an automated system as needed for REMIT reporting. To give real benefit to the market, stakeholders therefore suggested that the definition of standard contracts should be limited to contracts traded on organised market places – everything else should be non-standard and thus be reported on a monthly basis using Table 2.

Mixed views were provided on whether the Agency should publish two separate lists (one list of OMPs and another list of the standard contracts each OMP offers) or only one list with all information. Several respondents however stressed that the list(s) should be available in a standardised format and supported by an extraction and download process so that MPs reporting systems can easily access them.

#### ACER's view

In the light of the feedback received and on the basis of the final version of the Implementing Acts, the Agency has separated the list of organised market places and the list of standard contracts.

#### **Question 4**

*Please provide us with your views on the explanation of product, contract and transaction provided in this Chapter, in particular on whether the information is needed to facilitate transaction reporting.*

#### Respondents' feedback

In general, the explanations were considered useful to better understand the various concepts used in the TRUM and the draft IAs (although several respondents stressed that it would have been more straightforward if not all these concepts were introduced and used in the REMIT IAs and TRUM as they potentially are still source of confusion).

A few respondents believed that the explanations add confusion and argued that a contract by definition is a transaction. These respondents doubt that these explanations would be fully understood by compliance teams with reporting responsibilities. In this context, one respondent argued that Table 1 should be called “Reportable details of transactions in standard contracts” and not “Reportable details of standard contracts”.

It was also noted that the explanations were provided only under Chapter 4 of the TRUM (standard supply contracts) and not under Chapter 5 (non-standard supply contracts). In addition, similar explanations were also requested for gas.

#### ACER's view

In the light of the feedback received, the explanation was further clarified in the TRUM.

## Question 5

*Please provide us with your views on the field guidelines for the reporting of transactions in standard supply contracts.*

### Respondents' feedback

In general, the respondents supported the field guidelines provided for standard supply contracts. A number of minor suggestions were provided to improve the guidelines.

As regards orders, several of the respondents requested the Agency to clarify that an order is only reportable when it has been made visible to the marketplace. The Agency was also asked to confirm whether voice brokered orders are in scope of the order reporting.

Also related to orders, several stakeholders raised concerns regarding the obligation to report orders to trade on EMIR derivatives. As such orders are not reported under financial legislation, they would have to be reported separately to the Agency under REMIT. The respondents argued that this would water down the benefits of using EMIR reports for REMIT purposes and lead to expensive double reporting.

### ACER's view

The Agency reviewed the field guidelines in the light of the responses received and took the feedback into account as much as possible. The Agency continued its work on the field guidelines for non-standard contracts and they are now included in the TRUM. In order to do so, the Agency involved stakeholders on the development of these field guidelines, in particular through its roundtable meetings and an ad-hoc meeting to discuss the content of the TRUM with the public consultation respondents.

## Question 6

*Please provide us with your views on the examples of transaction reporting listed in ANNEX III of the draft TRUM. Do you consider the listed examples useful to facilitate transaction reporting?*

## Question 7

*In your view, are there any additional examples to be added in ANNEX III of the draft TRUM? Please provide a description of example(s) that in your opinion should be covered.*

## Question 8

*Please provide us with your views on the field guidelines for the reporting of transactions in non-standard supply contracts.*

## Question 9

*Please provide us with your views on whether examples of transaction reporting should be added as regards transactions in non-standard supply contracts. If yes, please explain which scenarios these examples should cover.*

## Question 10

*Please provide us with your views on the field guidelines for the reporting of transactions in electricity transportation contracts.*

### Question 11

*Please provide us with your views on whether examples of transaction reporting should be added as regards transactions in electricity transportation contracts. If yes, please explain which scenarios these examples should cover.*

### Question 12

*Please provide us with your views on the field guidelines for the reporting of transactions in gas transportation contracts.*

### Question 13

*Please provide us with your views on whether examples of transaction reporting should be added as regards transactions in gas transportation contracts. If yes, please explain which scenarios these examples should cover.*

#### Respondents' feedback

Responses provided to question 6 considered the examples provided in the draft TRUM very useful as they clarify which fields are mandatory for each type of transaction or order submitted. It should however be made clear whether the examples provided ANNEX III are for illustrative purposes only (guidance on common traded products) or whether it is meant as a comprehensive catalogue of reportable traded products. In general, the respondents suggested covering as many examples as possible.

Several respondents noted that the examples were not always been populated consistently with the field guidelines and should be carefully reviewed prior to releasing the final TRUM. It was also mentioned that the maintenance of these examples need to be addressed, including information on how to submit new trade reporting examples.

Concerning question 7, in general, the proposed list of examples for standard contracts seemed a good basis. However, several respondents requested the Agency to add examples for back loading and for reporting of lifecycle events. As regards the latter, the Agency was also asked to clarify that clearing, netting and compression do not constitute reportable lifecycle events for cleared transactions.

In the longer run, examples can be extended further by adding examples of commonly traded products, such as standard contracts traded off organised market places, proprietary trading for third parties, various option contracts, balance of week/month, sleeve deals, and calendar spread, such as a spread between a June and a July electricity forward.

In their responses to question 8, the respondents generally found it difficult to provide constructive feedback on the field guidelines for non-standard contracts as the current field guidelines mostly reflected the field guidelines for the standard supply contracts. For this purpose, several respondents indicated that they will provide comments to these fields when the guidelines are updated in later TRUM editions.

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Furthermore, the respondents requested clarification on which non-standard contracts need to be reported via the standard form. It was also argued that there is currently no way to report complex pricing formulas, including more than one index from different markets (power, gas, oil, etc.), price caps and other nonlinear mathematical function in their definition.

In their responses to question 9, the respondents highlighted that the TRUM should cover examples of non-standard contracts in a similar fashion as for standard contracts. Some examples of transactions that could be added included e.g. custom load shapes, index trades with additional spread premium, beach exchanges, long term supply contracts, in-store purchase, sale to aggregators and physically settled swaps (represented by two linked physical products), supply contracts to final customers, long term gas supply contracts with minimum monthly volume with option for additional volumes, multiple delivery points and a price formula based on public indexes, and contracts with flexible or formula prices.

Given the fact that all scenarios cannot be covered ex-ante and that the market is a living space with new type of contracts regularly emerging, one respondent suggested that the Agency should foresee one specific scenario enabling the reporting of “non -identified” contract with no mandatory fields.

One respondent requested that an extensive list of reporting examples is expected at least 10 months before the non-standard reporting is due to commence.

In their response to question 10, in general, very limited feedback was received on the field guidelines for the reporting of electricity transportation contracts. The field guidelines were not considered detailed enough, arguing that same level of details shall apply as for standard contracts. For this purpose, some of the respondents indicated that they will provide comments to these fields when the guidelines are updated in later TRUM editions.

The responses on question 11 considered that it would be useful to add examples of transaction reporting also for transportation contracts. It was considered particularly useful to add examples based on relevant CASC-CAO scenarios. Some respondents indicated that they will provide comments to this section of the TRUM at a later stage.

In general, very limited feedback was received on question 12 on the field guidelines for the reporting of gas transportation contracts. The field guidelines were not considered detailed enough, arguing that same level of details shall apply as for standard contracts. For this purpose, some of the respondents indicated that they will provide comments to these fields when the guidelines are updated in later TRUM editions.

The responses on question 13 considered that it would be useful to add examples of transaction reporting also for transportation contracts. It was considered particularly useful to add examples for secondary capacity contracts (such as used by PRISMA). Some respondents indicated that they will provide comments to this section of the TRUM at a later stage.

#### ACER's view

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The Agency welcomes the feedback received on the field guidelines and on the trading scenarios. It has further reviewed the field guidelines and created a significant number of trading examples for standard contracts, for both orders to trade and trades, given the earlier start date for data collection. The Agency is currently working on trading examples for non-standard and transportation contracts, together with stakeholders, and will publish them as soon as available.

#### **Question 14**

*Do you agree that, if organised market places, trade matching or reporting systems agree to report trade data in derivatives contracts directly to the Agency they must do so in accordance with Table 1 of Annex I of the draft IAs as regards contracts referred to in Article 3(1)(a)(9) and Table 3 or 4 as regards contracts referred to in Article 3(1)(b)(3)?*

#### **Question 15**

*In your view, are Tables 1, 3 and 4 of Annex I of the draft IAs suited for the reporting of contracts referred to in Article 3(1)(a)(9) and Article 3(1)(b)(3) respectively?*

#### Respondents' feedback on questions 14 and 15

In their replies to question 14, the respondents highlighted that the same principle as for physical trades should apply, meaning that any trade concluded on an organised market place is reportable by the organised market place (primary obligation), including derivatives not yet reported under EMIR, whilst using the same formats. Given the no double reporting principle, organised market places should however not need to report derivatives already reported under EMIR.

The requirement to report derivative contracts in the "REMIT" format will according to the respondents only add a level of complexity to the regulatory reporting environment. To have derivatives reported directly to ACER would require the data to be manipulated to fit the data fields established under REMIT, which unlikely would be a straight-forward process.

In their replies to question 15, in general, the respondents supported this, but also stressed that it may happen that counterparties involved in a particular deal will capture this deal differently in their IT system (due to different IT systems and their constraints) and therefore cannot report them in same way. Also here, it was stressed by many respondents that it must be clear that data already reported under EMIR does not have to be reported again to ACER, i.e. if a derivative is reported under EMIR, there is no obligation to report this derivative again under the REMIT regime.

#### ACER's view

The Agency appreciates the feedback received. The relationship between the reporting under REMIT and under EMIR was further clarified in the final version of the TRUM.

## Annex 1 – ACER

The Agency for the Cooperation of Energy Regulators (ACER) is a European Union body established in 2010. ACER's mission is to assist National Regulatory Authorities in exercising, at Community level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action.

Regulation (EU) No 1227/2011<sup>2</sup> on Wholesale Energy Market Integrity and Transparency (REMIT) has introduced new rules prohibiting abusive practices affecting wholesale energy markets. According to REMIT, ACER has to collect both transactional and fundamental data necessary to monitoring of wholesale energy markets, in close collaboration with national regulatory authorities (NRAs), in order to detect and deter market abuse.

This report was prepared by ACER's Market Monitoring Department competent for REMIT implementation and operation.

## Annex 2 – List of Respondents

No.	Respondent	Type	Country
1	A2A Trading	Market participant	UK
2	Stadtwerke Munchen (SWM), Bayerngas GmbH, EWEW Aktiengesellschaft, Verbundnetz Gas Aktiengesellschaft	Association of market participants	Germany
3	Bundesverband der Energie- und Wasserwirtschaft (BDEW)	Association of market participants	Germany
4	Chicago Mercantile Exchange Group	Market participant	US
5	Energy Commodity Traders Group (ECT-Group)	Group of market participants	Germany
6	EDF Group	Market participant	France
7	EDF Trading	Market participant	France
8	European Federation of Energy Traders (EFET)	Association of traders	Europe
9	EnBW	Market participant	Germany
10	Enegas	Market Participant	Spain
11	ENTSO-E	European association of electricity TSOs	Europe
12	ENTSOG	European association of gas TSOs	Europe
13	ETR Advisory	Service provider	UK
14	E.ON	Market participant	Germany
15	Eurelectric	Association of market participants	Europe
16	Eurogas	Association of market participants	Europe
17	Europex	Association of energy exchanges	Europe
18	Exxon Mobile	Market participant	US
19	Finnish Energy Industries	Association of market participants	Finland
20	Futures Industry Association Europe (FIA) /Global Financial Markets Association (GFMA)	Association of market participants	International
21	GET Baltic	Gas exchange	Lithuania
22	Holding Slovenske elektrarne (HSE)	Market participant	Slovenia
23	ICE Tradevault Europe	Trade repository	UK
24	London Energy Brokers' Association (LEBA)	Association of energy brokers	UK
25	Oesterreichs Energie	Association of market participants	Austria
26	International Association of Oil and Gas Producers (OGP)	Association of market participants	International
27	OMV	Market participant	Austria

28	SSE	Market participant	UK
29	Statoil	Market participant	Norway
30	Trayport	Service provider	UK
31	Vattenfall	Market participant	Sweden
32	Verband kommunaler Unternehmen (VKU)	Association of local utilities	Germany