

**Response to the PwC/Ponton question list on:**  
***REMIT - Technical Advice for setting up a data reporting framework***

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**EUROPEX**

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## I. Introduction

PwC in cooperation with Ponton Consulting has been awarded a consulting contract to support the European Commission (DG Energy) with drafting technical advice for the set-up a data reporting framework for REMIT.

Given that both DG Energy and ACER will conduct separate official public consultations on the implementation of REMIT in 2012, EUROPEX welcomes the opportunity to respond to the provided question list as a follow-up to our common workshop with ACER, PwC and Ponton in Ljubljana on 19-20 March 2012.

We see our involvement against the backdrop that REMIT constitutes an important milestone on the way to the further integration of the European energy markets as it sets for the first time unified definitions of inside information and market abuse in energy trading.

REMIT will thus help overcome the current situation of multiple jurisdictions, and will contribute to closing existing regulatory gaps. In addition, it pays tribute to the increasingly cross-border-like nature of transactions. In this context, it is important to note that different categories of market venues and ways of trading exist (exchange trading, OTC trading). Moreover, Energy exchanges differ by their status as profit or non-profit organisations, their mandatory or non-mandatory legal framework, the national legal regime in place as well as by the given economic conditions. Also, it is important to note that "market surveillance" operations in the context of our answer do not necessarily mean the existence of a special market surveillance office at each Exchange. These duties can also be merged with other tasks within the respective companies. In spite of this relatively diversified structure, which does not per se constitute an unsatisfying situation, Energy Exchanges operate efficient, well-functioning and compatible markets.

Close cooperation between DG Energy, ACER and the different market venues is essential in order to create and develop common knowledge and expertise on the European level. We therefore welcome that ACER foresees both the establishment of an *ad hoc expert group on REMIT implementation measures* as well as a *wholesale energy market surveillance ad hoc expert group*.

For the effective application of REMIT a resilient data structure setting is key. Therefore, Energy Exchanges, which are playing a pivotal role in providing data for wholesale energy markets, will have to be central. For efficiency reasons it is therefore necessary to build upon existing energy trade data reporting schemes.

EUROPEX explicitly welcomes that REMIT recognises that the respective data owners are responsible for data reporting (e.g. traders, power plant operators, TSOs), while allowing for the possibility that third parties can act on their behalf (e.g. brokers, Energy Exchanges, etc.). This helps end legal uncertainty that currently exists, e.g., in the Congestion Management Guidelines where TSOs are responsible for the reporting of fundamental data of power plants while they initially do not possess the information themselves.

Energy exchanges are both well suited and highly committed to help market participants to fulfil their reporting requirements. While from a legal point of view it is necessary to establish a clear legal framework for third party reporting, Energy Exchanges will also have to develop a

comprehensive business model that ensures the refunding of both the initial investment and the running costs.

Given that the technical implementation process for REMIT is just about to start, we look forward to participating in further consultations, and remain open for any questions and follow-up discussions.

## II. Answers to the questions

### Reporting Service for Clients

*Market participants, or a person or authority listed in article 8, points (b) to (f) of paragraph 4 on their behalf, shall provide ACER with a record of wholesale energy market transactions, including orders to trade (article 8 paragraph 1 REMIT). Trade data shall be provided by the market participant, [...] an organised market, a trade-matching system or other person professionally arranging transactions (article 8 paragraph 4 REMIT).*

#### **1. In what way do you consider assisting your clients in providing ACER with a record of wholesale energy market transactions? (Would you suggest subsuming energy exchanges under article 8 (4) point (d) REMIT?)**

EUROPEX members believe that they could fall under art. 8 (4) point d considering the following comments.

Therefore, we would like to share the following consideration with PwC/Ponton regarding the reporting service.

The responsibility of reporting transactions shall remain at all times with the market participants according to article 8 (1) REMIT. Exchanges may decide to act as third party reporting channels on behalf, and may provide such services to their members in relation to transactions concluded in wholesale energy products or also fundamental data if available (see question 2) .

At our meeting in Ljubljana it was mentioned that in the UK the Financial Services Authority (FSA) introduced so called ARMs (Approved Reporting Mechanisms) to manage transaction reporting for third parties under MiFID. These operate **beside** Regulated Markets and MTFs which can also provide this service with the difference though that they do not have to apply for that at the FSA (cf. 100.000 GBP application fee).

Against this backdrop it is again important to note the basic principles that a) third parties are not be obliged to fulfil data reporting duties for third parties and b) that there is no obligation on market participants to report via a specific channel.

While the definition of general reporting requirements is necessary it should be left to the relevant stakeholders in the market how they comply with them. This flexibility will help to develop the most efficient and market friendly solutions.

One key element of transaction reporting is that a certain validation scheme is defined which the applying company has to pass in order to be eligible to report, containing e.g. security standards, IT requirements, etc.

Costs that come with the reporting of data on behalf of third parties should be allowed to be commercially recovered.

Generally a more in-depth analysis is needed and public consultation on this issue should be committed.

Further we recommend that PwC/Ponton closely follow the discussion on transaction reporting that takes currently place at ESMA with regard to EMIR. Since the transaction reporting under REMIT will include derivatives as well, it is also a prerequisite that reporting obligations under MiFID II / MiFIR are taken into account. Please note though that not all Energy Exchanges fall under MiFID/EMIR reporting obligations.

**1.1. What main criteria and process elements would need to be specified in the further implementation process of REMIT to establish the role of a "reporting mechanism", i.e. an organization that is authorized to fulfil reporting obligations under REMIT on behalf of a market participant?**

**Reporting Service for Clients**

*Market participants, or a person or authority listed in article 8, points (b) to (f) of paragraph 4 on their behalf, shall provide ACER with a record of wholesale energy market transactions, including orders to trade (article 8 paragraph 1 REMIT). Trade data shall be provided by the market participant, [...] an organised market, a trade-matching system or other person professionally arranging transactions (article 8 paragraph 4 REMIT).*

**1. In what way do you consider assisting your clients in providing ACER with a record of wholesale energy market transactions? (Would you suggest subsuming energy exchanges under article 8 (4) point (d) REMIT?)**

EUROPEX members believe that they fall under art. 8 (4) point d.

Concerning this service, we would like to share the following consideration with PwC/Ponton:

The responsibility of reporting transactions should remain at all times with the market participants, according to article 8 (1) REMIT. Energy Exchanges may decide to act as third party reporting channels on behalf, and provide such a service to its members in relation to the transactions concluded in wholesale energy products as stipulated under Article 8(1) (b) of REMIT.

Therefore, no obligation to report via pre-defined channels should be introduced via the Implementing Acts as it would significantly extend the scope of Art 8 of REMIT. Transaction reporting should be based on a voluntary arrangement between the market participant and the third party. In line with such a voluntary arrangement, a dedicated fee schedule can be applied and legal risks can be taken into account accordingly. The ultimate responsibility for reporting rests always with the market participant, not with the third party.

**1.2. What main criteria and process elements would need to be specified in the further implementation process of REMIT to establish the role of a "reporting mechanism", i.e. an organization that is authorized to fulfil reporting obligations under REMIT on behalf of a market participant?**

The answer to this question which has been also already tackled before is divided into two sections: The first focuses on the **organisation** that establishes a reporting mechanism, the second one on the **content** of the transaction reporting. The latter part constitutes a very key issue, and should have a central place in the overall consultation process. Considering that providing such a service will be a commercial activity of a third party service provider, we assume that setting a fee scheme must remain within the responsibility of the individual third party service provider.

**a) Organisational requirements:**

- Nature of eligible organisations
- Technical / organisational capability
- IT standards used
- IT security
- Validation of reporting mechanism

**b) Content of transaction reporting:**

DG Energy/ACER should put in place a reporting mechanism that is large enough to cover the scope of reporting of article 8 of REMIT, in particular Article 8(3).<sup>1</sup> In doing so, DG Energy should take into account the specificities of the reporting of spot products (i.e. the difference between auction and continuous trading) and the developments that currently take place under Dodd-Frank, EMIR and ESMA in relation to transaction reporting should be considered.

From its "Better Regulation" policy, the European Commission is held to cut red tape, or avoid the introduction of it, where possible. Transaction and data reporting is very vulnerable to a high administrative burden if the alignment is not taken into account appropriately. We therefore urge DG Energy / ACER / DG Market and ESMA to cooperate closely and to jointly introduce the respective reporting obligations<sup>2</sup>.

The following information might be considered to be reported to ACER:

**l) Member / Market Participants Referentials:**

- Company name
- Code
- Domicile

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<sup>1</sup> Persons referred to in points (a) to (d) of paragraph 4 who have reported transactions in accordance with Directive 2004/39/EC or applicable Union legislation on derivative transactions, central counterparties and trade repositories shall not be subject to double reporting obligations relating to those transactions.

<sup>2</sup> In general it can be said that the following elements need to be part of the reporting, which is based on Discussion Paper Draft Technical Standards for the Regulation of OTC Derivatives, CCPs and Trade Repositories. However, DG Energy should thoroughly consult on this, as is done by ESMA as well.

- Address of company
- Contact person
- Whether it is a non EEA counter party (e.g. a company without residence in the EU, but which trades wholesale energy products that fall under the scope of REMIT)

These details need to be defined in the registration of market participants which should receive a Unique Identification Code that can be used generally in the market.

## **II) Contract information (not closing):**

- Product taxonomy
- Product ID (unique product identification)
- Transaction ID
- Execution stamp: execution time (date, hour, minute, second)
- ID Purchase
- ID Sale
- Contract Price (Please note the difference between gas and electricity)
- Contract Quantity (Please note the difference between gas and electricity)
- Product ID:
- Hourly, block, quarterly, (intraday)
- Delivery Zone (country, national zone)
- Commodity (power or gas)
- Transport, storage
- Delivery period:
- Start and end date, hours
- Market ID:
- Day ahead, intraday auctions (if applicable)
- Continuous: intraday, day ahead, futures, forwards
- Name of trading venue
- Venue type (exchange/broker)
- Bilateral name of contracting party
- Underlying product (if applicable)
- Currency
- Delivery type (physical / financial) (if applicable)
- Beneficiary (if beneficiary is not counterparty) (if applicable)
- Trading capacity (agent or proprietary trading)
- Time zone (GMT, CET, etc.)

Please note that auction transactions in the Spot Market are not matched. Therefore, buyers are not matched to sellers either. In auction trading, the results are published with executed buy and sell volumes by each market participant.

EUROPEX would like to emphasise that the REMIT transaction reporting regime should take into account the specific products that are offered by Energy Exchanges, and which differ because of national market structures and possible state legislation.

Generally, we would like to refer to the Discussion Paper on Draft Technical Standards for the Regulation on OTC Derivatives, CCPs and Trade Repositories by ESMA for further suggestions in order to ensure an alignment with the reporting details that the market participants will have to

meet. A non-alignment will cause an extra burden on the market participants, and could eventually fragment trading.

A coding scheme for registration also needs to be introduced. This should allow for open access and general usability by all market participants which are involved in trading in wholesale energy products (producers, trading companies, financial institutions, agency traders, large end users). It should not create an extra burden that would go beyond the actual intention of REMIT.

The coding scheme for registration should be used for compliance under the different sets of regulation that will enter into force in the coming years.

Furthermore, certain **IT aspects** need to be considered:

- Security
- Push or Pull (it seems to be reasonable to conduct a survey considering both set-ups, and explain the cost-benefit for ACER and the respective markets.)
- Encrypted data submission
- Time stamps to track data updates
- Ensure a reliable 24/7 365/a availability
- Resilience of the data base and back-up to deal with huge amounts of bulk data at similar moments

#### **Other relevant requirements:**

- Frequency of reporting
- Legal issues / liability issues
- Reporting compliance: Do you receive a confirmation? What is the status of that confirmation?

Please note that some Energy Exchanges operate under national regulation, and recover costs via regulated tariffs. Since they constitute regulated monopolies, they should be allowed to recover those additional costs.

## **2. What fundamental data - and in what format - is in your organization as per today available for collecting provided that adequate confidentiality measures are taken?**

The situation in the EU differs from country to country and from market to market. In some regions transparency platforms are run by Energy Exchanges. In others TSOs are generally responsible for collecting and publishing fundamental data (Example: *Nord Pool Spot* for the Nordic region and *EEX* for Germany / Austria have established central and neutral platforms for collecting and publishing market-relevant generation and consumption data. This covers both statutory publication requirements and voluntary commitments by the industry. As for the Italian market, *GME* collects day ahead information).

We welcome that the REMIT Guidelines by ACER recognise that market participants can use existing infrastructure to meet their legal obligations.

Empirically, the development of unified definitions on a national/regional basis poses a particular challenge. At a European level, however, it seems to constitute an even more difficult task, and may eventually lead to a high adaptation costs.

We therefore suggest that under the general requirements set out by REMIT, already existing regional definitions shall be largely accepted and further used. The fact that the data may not be 100% comparable between different zones can be technically adjusted, and should be taken into consideration when being evaluated by market surveillance authorities. Additionally, the creation of a *wholesale energy market surveillance ad hoc expert group* seems to be essential during the implementation phase and thereafter in order to develop a common understanding of the energy markets.

The existing ERGEG Guidelines may serve as a good reference during the technical implementation phase of REMIT as they are indeed adjusted to different regional peculiarities. Also Energy Exchanges and other data possessing groups may contribute to this effort.

For the up-coming implementation process we suggest *conducting a survey among all concerned parties*. Such a questionnaire should analyse what data are published, in what way they differ from each other and identify existing overlaps.

## **Gas**

The fundamental data discussion is currently more mature in the electricity market than in the gas market. Regarding the latter, the discussions have only started, and no common position has been defined yet. ACER and the NRAs, however, should prioritise this as part of the implementation process since it constitutes a key factor for the overall success of REMIT.

In terms of the *IT format*, CSV as well as XML files should be considered.

### **2.1. What trade data - and in what format - is in your organization as per today available for collecting provided that adequate confidentiality measures are taken?**

Generally, all data which is derived from trading at Energy Exchanges is available (e.g. orders & trades with their corresponding information like time, volume, price etc.). [Please also see the relevant transaction information provided in our answer to Question 1.] Differences in terms of format and terminology certainly exist, and may eventually cause some confusion.

As for the data processing, we would like to point out that the evaluation of an extensive data collection should not be underestimated, and that it can pose a serious challenge to the overall process (Example: In Germany there are 20-50 more orders to trade than actual trades in the segment of Phelix Futures Derivatives for the front year. Comparable figures exist for other markets as well).

Moreover, the existence of different data definitions and several data types which are currently not harmonised as well as the dependance on the different IT systems (cf. Question 6) render any harmonisation efforts extremely complex and difficult..

For that reason EUROPEX strongly suggests that the possibility is taken into consideration that not all data are collected by ACER but that, e.g., orders to trade are only requested on a case-by-case basis from data providers such as Energy Exchanges or the OTC sector (cf. brokers).



It is important to also create a regime that allows for the reporting of data derived from OTC trading - carried out bilaterally or through broker platforms, executed electronically or manually.

We suggest that *PwC/Ponton conducts a survey on this matter* in a way that it is asked whether specific information is available/ whether reporting overlaps exist. The data we think are important for monitoring are also provided under Question 1.1.

*In terms of the IT format, CSV as well as XML files should be considered.*

### **3. Which of your existing or envisaged reporting obligations to regulatory authorities overlap (in parts) with reporting obligations under REMIT?**

There are various overlapping reporting obligations with REMIT in the different EU Member States.

We suggest that *ACER conducts a dedicated survey on this matter* (maybe case by case interviews) in order to ask what specific information is available and which reporting overlaps exist. [The data we believe are important for monitoring are also provided in our answer to Question 1.]

#### **Market surveillance**

The CEER Report and the first ACER Guidance on REMIT provide examples of the various types of practices that can constitute market manipulation (3.4 ACER Guidance):

- False/misleading transactions (wash trades; improper matched orders; placing orders with no intention of executing them);
- Price positioning (market the close; abusive squeeze/"market cornering"; cross-market-manipulation; "physical withholding")
- Transactions involving fictitious devices/deception ("scalping", pump and dump, circular trading, pre-arranged trading)
- Disseminating of false and misleading information (spreading false/misleading information through the media/through means other than the media)

### **4. What are the general requirements as to the data reporting process and format which would be in further support of your existing market surveillance system?**

Against the backdrop that energy markets are both increasingly integrated and progressively interdependent, we welcome the establishment of a central reporting and data collection mechanism by ACER. However "new" insight will not be gained on account of fragmented data which is simply collected in a 'one-pot dish'.

The real added value of such a central database can only be used to its full extent if Energy Exchanges and their respective responsible departments (e.g. market surveillance offices) are provided access to these data *to fulfil the relevant tasks and provide support to ACER in cooperation within the given legal framework* in analysing cross border market behaviour.

Therefore, EUROPEX welcomes that REMIT foresees the establishment of strong links between ACER and the relevant market venues.

Generally, it is important to note that there are different requirements for market surveillance in the financial markets according to MiFID, and in the spot markets according to REMIT (Art. 15 REMIT).

**5. Do you have a suspected market abuse reporting to NRAs in place or are you considering such a system?**

In the context of art 15 REMIT all Energy Exchanges must have established market abuse monitoring mechanisms, and report findings of abusive action to competent authorities while respecting national legislation. One should keep in mind, however, that Energy Exchanges operate under different legal and regulatory frameworks in the EU Member States. Depending on the respective legal and regulatory situation, Energy Exchanges have to report suspicion behaviour to NRAs or other competent authorities such as exchange supervisory authorities.

Nevertheless, we would like to share the following consideration with PwC/Ponton with regard to market surveillance:

All Energy Exchanges have established market surveillance mechanisms either on a voluntary or a mandatory basis (checked – and in some Member States also approved – by NRAs or other competent authorities). "Market surveillance" though does not necessarily mean the existence of a special market surveillance office. Energy Exchanges should in so far remain free to organise their market surveillance in a way that fits best the market needs (taking into account its size, nature, maturity, nature of the publicly available information, etc.).

**6. What types of market manipulation do you see in addition to the cases listed above? What type of market manipulation would you consider as most important?**

The list provided in the questionnaire includes market manipulation practises that we consider relevant for the energy market. We though do not think that it is appropriate to rank the different behaviours. For specific monitoring enquiries, we believe it to be beneficial if national or regional market surveillance offices have access to these data either directly or via the respective NRA.

Also, the catalogue should include types of manipulation that are specific to auctions: specifically price manipulation, capacity hoarding and issues of market power. In addition, money laundering and other fraudulent activities (e.g. VAT fraud) are considered forms of market manipulation too as they occur without economic justification but can result in a price that does not reflect the underlying market fundamentals.

**7. With regards to effective market surveillance - what is the need in reporting on top of confirmed trades other steps of the transaction life cycle (such as orders to trade)?**

The whole transaction lifecycle is relevant. This includes orders to trade, unmatched orders, changed and deleted order. However, all types of orders within the transaction lifecycle should be considered on a case by case basis. Basically, the same rules should apply to OTC as well as to Energy Exchanges in order to **guarantee a level playing field and to** avoid regulatory arbitrage. **Therefore, the information obtained by ACER for both OTC and Energy Exchanges should be harmonised.**

### **7.1. What are in your view key differences between balancing markets and futures markets and how should those be reflected in the reporting obligations?**

All markets are relevant from a market manipulation perspective as there could be price relevant interdependencies. In order to obtain all relevant information, ACER should have data that mirrors the full curve. This includes:

- Futures contracts: financial instruments traded OTC on a Regulated Market or MTF (data to be received via the competent financial authority)
- Spot contracts: standardised contracts traded OTC or via spot markets (data to be received via the reporting mechanism as defined in the implementing act)
- Intraday contracts: standardised contracts traded OTC or via intraday markets
- Balancing contracts: standardised contracts traded in balancing markets run by an EE or TSO platform

### **8. Is there a need to distinguish exchange-based trades from cleared OTC-trades?**

The majority of trading in the energy markets (gas and electricity) is still done OTC. ACER should therefore particularly focus on the reporting and monitoring of OTC transactions. Basically, if there is an obligation for Energy Exchanges to report trading data, the same rules should apply to OTC, in order to avoid regulatory arbitrage and not to move liquidity from exchanges to OTC.

However, exchange trading is already subject to market surveillance based on existing regulation (e.g. financial services acts, national energy legislation) and the obligation that exchanges have to operate fair and orderly markets (local regulation). Hence, the distinction of trading on regulated and non-regulated markets is essential for the surveillance conducted by ACER. It is also relevant to distinguish between trades executed via an electronic trading system and trades carried out “manually”, e.g. via voice brokerage. [Please also refer to our answer to Question 5.]

### **9. How should in your view be dealt with non-standardized contracts?**

Price relevant information of non-standardised contracts should be defined and be subject to market monitoring by and be reported to ACER. Not including these contracts might result in a situation where market parties ‘tailor’ standardised contracts in such a manner that they fall

under the non-standardised category. This would create regulatory arbitrage and the risk of shifting liquidity from exchanges to OTC and must be prevented.

**10. What “other relevant information” as to trade reporting could enhance market surveillance? Could you think of potential drawbacks requiring additional information?**

“Other relevant information” usually enhances data about the background of a trade in order to be able to identify the level of abusive action (e.g. whether the trade is cancelled, part of a combination trade, correction/reversal of a previous trade, transfer of a previously reported trade, etc.). Other relevant information should include the name of the aggressor / initiator of an order, the name of the account, the name of the client in case of third party trading, the time during which the order has been in the order book, the nomination data by the TSO, etc..

In order to establish an efficient reporting infrastructure one should make a clear distinction between data which have to be reported regularly and data which are provided only in the case of an in-depth investigation.

### **Thresholds**

*The European Commission shall draw up a list of the contracts and derivatives to be reported [...] and appropriate de minimis thresholds for the reporting of transactions where appropriate (article 8 paragraph 2 point (a) REMIT).*

**11. Would you consider it appropriate that de minimis thresholds for the reporting of transactions are introduced?**

In general, no de minimis threshold should apply – neither to exchange traded transactions nor to OTC transactions. An exclusion based on a de minimis could result in a situation where certain behaviour remains undetected by ACER’s monitoring system. If a de minimis is considered anyway, it should at least be volume based and not trade-based. (Also a single trade with a small volume can still result in market abuse.) Especially with regard to renewable energy, more and more trading takes place by small decentralised producers. Combined they can have an important impact on the market, and should definitively be taken into account. In addition, they are often very active on balancing markets as well.

Please note that some Energy Exchanges would like to set up a minimal threshold under which no reporting should be required because the added value of such data would be only marginal. The same approach regarding the minimal threshold of reported fundamental data (100 MW) should be applied to transaction reporting. In case of suspicious behaviour, the respective authority should then specifically ask for more detailed information (including traded data under this threshold).

*The European Commission shall adopt uniform rules on the reporting of fundamental data and on appropriate thresholds for such reporting where appropriate (article 8 paragraph 6 point (a) REMIT). At the moment REMIT merely provides for a threshold exempting certain final customers from its scope: contracts for the supply and distribution of electricity or natural gas to final customers with a consumption capacity of individual plants under the control of a single economic entity of less than 600 GWh per year in so far as those plants do not exert a joint influence on wholesale energy market prices due to their being located in different relevant geographic markets are not defined as wholesale energy products (article 2 paragraph 4 and 5 REMIT).*

**12. How is ACER's ability to detect market abuse impacted by allowing thresholds (e.g. by requiring reporting of installed production capacity exceeding 100 MW)? Would you suggest more flexible reporting thresholds on a member state-by-member state/market-by-market basis?**

Market abuse monitoring should be done on a market-by-market basis since too many differences exist between individual markets in terms of market structure, production sources, the number of participants, etc.

Setting the reporting threshold for installed production capacity at 100 MW can still create significant black spots in the market monitoring of ACER. As described above, a steadily increasing number of independent local producers become active in the market in order to arbitrage price differences. This applies in particular to decentralised Combined Heat and Power plants. Although if looked at separately their production capacity is small, combined they play an important role in the market. The Guidelines on Fundamental Electricity Data Transparency which are currently undergoing the comitology procedure should be used as a starting point for this issue. In relation to gas, ACER and the NRAs should prioritise the work on fundamental data as we also suggested in our answer to Question 2.

### **Frequency of reporting**

*The European Commission shall lay down the timing and form in which both trade data and fundamental data are reported (Art. 8 paragraph 2 point (c) and paragraph 5 point (b) REMIT).*

**13. What frequency of reporting transactions and orders to trade should ACER require in your view (real-time, nightly, hourly, end of the business day...)? What do you see as pros/cons if reporting frequency is lower or higher?**

Considering the comparatively low liquidity of our markets, it is sufficient to conduct analyses on a daily basis. Ideally, the reporting should be done after session closings. Therefore, we believe it is best that transaction reporting is done nightly (on a daily basis). Moreover, the frequency of reporting should take into account the different 'business hours' in the European gas markets as long as these days are not yet harmonised under the Gas Framework Guidelines and Network Codes.

The data format and coding must be co-ordinated with ESMA. [Please also refer to our answer to Question 1.1.] Due to the fact that energy trading is covered by REMIT as well as EMIR, and

will be also partly subject to MiFID II / MiFIR and MAD II / MAR, a global coordination effort is crucial.

In this context, it is important to note that certain Energy Exchanges are only active in spot markets and others are active in both spot and derivative markets, and are operating under different regulatory regimes.

ACER and ESMA should come up with a coordinated comprehensive plan on how to deal with double regulation, the review processes of MiFID and MAD, the fact that competences may shift from ACER to ESMA/competent authority and other aspects of that kind. As for the operational readiness of the exchanges, clarity on these questions is urgently needed, and should be part of the consultation.

**14. What frequency of reporting fundamental data do you consider appropriate (yearly; semi-annually, monthly...)?**

For market surveillance purposes, this information should be available at least in the same timeframe in order to ensure appropriate monitoring. As for the market surveillance to operate efficiently, yearly reporting is insufficient.

Not all members of EUROPEX are involved in the collection of fundamental data. Hence, this question does not apply to all Energy Exchanges. [Please also consider our answer on fundamental data reporting.]

**Use of an existing Data Format**

*The European Commission shall lay down the timing and form in which both trade data and fundamental data are reported (Article 8 paragraph 2 point (c) and paragraph 5 point (b) REMIT).*

**15. Is there an existing data format suitable or adaptable for reporting fundamental data? Which data format do you consider appropriate? How to structure reporting of ad-hoc-news? What would in your view be an appropriate way to deal with sporadic reporting of corrections to fundamental data?**

We are not aware of a specific existing data format. However, any future format should be flexible and easily accessible. In this context, it is important to note that differences exist between publicly available data and data provided for reporting (and monitoring) purposes. The latter one is provided on an individual basis, and may even be broken down into single power plants, LNG terminals, storage facilities, etc..

Furthermore, we believe that there should be a clear definition of fundamental data for the gas market.

**16. Would you suggest an existing data format for reporting trade confirmations/orders to trade? Which data format do you consider appropriate? (e.g. with respect to product code vs generic code)**

The data format and coding must be closely coordinated with ESMA. [Please also consider our answer to Question 1.]

Due to the fact that energy trading is covered by REMIT as well as EMIR, and is partly subject to MiFID and MAD, a global and overarching coordination effort is crucial. This is especially important for the interim period where the current MiFID and MAD still applies to a narrower scope than what is expected after the entry into force of MiFID II / MiFIR & MAD II / MAR. One essential question in this context is how transactions on regulated markets by non-MiFID companies that are currently not reporting under MiFID and to which REMIT currently seems to apply will be dealt with under the future regime.

Moreover, under MiFID only transactions and not orders to trade are required to be reported. Hence, the question arises if REMIT will request the orders to trade from these transactions whereas the transactions themselves are reported to the competent financial authority?

ACER and ESMA should provide a coordinated comprehensive plan on how to deal with double regulation, the review processes of MiFID and MAD, the fact that competences may shift from ACER to ESMA/competent authority and other aspects of that kind. As for the operational readiness of the exchanges, clarity on these questions is urgently needed, and should be part of a stakeholder consultation.

**17. In what way should reported data be encrypted and electronically signed?**

For the reporting of economically sensitive data secure data connections and adequate encryption standards must be in place.

In this context, detailed arrangements should be co-ordinated with ESMA as it will have to deal with the same issue. [Please also refer to our answers to Questions 15 and 16.]