

**Response to
Public consultation on requirements for the registration of
Registered Reporting Mechanisms (RRM)**

Public consultation document

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1. Introduction

We welcome the opportunity to take part in the consultation on the *Requirements for the registration of Registered Reporting mechanisms (RRM)*.

EUROPEX - representing the interests of exchange-based wholesale electricity, gas and environmental markets - is adamant about being proactive and cooperative throughout the REMIT implementation process. This also involves the provision of both transaction and fundamental data on behalf of third parties, meaning market participants.

2. Response to the questions

2.1 Legal Framework

Question 1:

Do you agree with the Agency's view that post-trade events related to wholesale energy products shall be reported by trade matching or trade reporting systems?

We would like to point out that REMIT explicitly allows Market Participants (MPs) to report trade data to the Agency in art. 8 (1). It does not prohibit or close-out the possibility for MPs to report trade data in relation to transactions executed on organised market places directly to ACER. MPs should be provided with the possibility to select the most effective way to report post-trade events, be it through organised market places, trade repositories, trade matching systems or directly.

Some of MPs already have adequate systems in place for EMIR reporting purposes. Therefore, it would not be justified to prevent them from reporting under REMIT themselves.

Question 2:

Do you agree that the standards and electronic formats to be established by the Agency according to Article 10(3) of the draft Implementing Acts shall apply to trade repositories and ARMs for the reporting of data covered by EMIR and / or other relevant financial market legislation? If not, please justify your position.

Yes, we agree.

2.2 Technical and organisational requirements for the submission of data

Question 3:

Do you agree that the requirements set out above adequately ensure the efficient, effective and safe exchange and handling of information without imposing unnecessary burdens on reporting entities?

Europex generally agrees with the technical and organisational requirements RRM needs to fulfil. However, we do have doubts about the effectiveness to produce an annual report concerning compliance with the requirements. We would propose that a compliance (or incident) report only needs to be drafted on request of ACER if the Agency should have concerns in relation to the performance of an RRM. Moreover, all RRMs have to follow valid legislation and have approval after registration to be RRMs. NRAs, as independent regulators, are authorized to verify whether all market participants and RRMs comply with REMIT legislation (including reporting).

Requirements on the timely transmission of data

The business continuity mechanisms are mentioned in the requirements to guarantee timely reporting in case of incidents. In case of an incident, the reporting may not be ensured in time, however RRMs should be able to re-send the data after the incident is solved during the working hours.

Requirements concerning the disruption of services

ACER requires RRMs must be able to demonstrate every time that no information has been unreported. It is practically impossible to guarantee 100 % reliability of any IT system. All RRMs have to follow valid legislation, including national legislation which stipulates penalties for breaches under REMIT which is a motivation to comply with REMIT reporting obligations.

Requirements on communication with the Agency

Not only RRMs should provide names and contact details, but also ACER should provide information of its competent staff to assist the RRMs with its reporting responsibilities. Moreover, in the ACER requirement that RRM must timely reply for clarification to ACER, the definition of "timely reply" is quite vague. It should be specified "timely" = working hours or time agreed between an RRM and the Agency.

Question 4:

Do you agree with the Agency's view that the same requirements shall apply to all RRMs?

Europex supports the view of ACER that the same requirements should apply to all RRMs. To deliver quality consistently, all RRMs should be obliged to follow the same registration procedure.

Question 5:

If your reply to question 4 above is negative, please explain which requirements should apply differently to different RRMs and why.

N/A

Question 6:

Notwithstanding the requirements on the validation of output (see Chapter 5.6 above), should the Agency offer to entities with reporting responsibilities the possibility to request access to the data submitted on their behalf by third-party RRM's?

Question 7:

If the reply to question 6 above is positive, please explain how such access should be granted, taking into consideration the need to ensure operational reliability and data integrity.

There are several different solutions which can be offered by the Agency. Each solution will have a different cost level and risk profile. In an ideal world the market participant would have access to all the data submitted to ACER by different RRM's reporting on its behalf (e.g. based on LEI/ACER code) and RRM's ACER code would be useful. Another option could be that market participants request a sample of the data that has been reported.

Question 8:

Do you agree that the compliance report must be produced by the RRM on a yearly basis or shall such report be compiled only at the request of the Agency?

Europex proposes that an annual compliance report is produced by RRM's only on the request of ACER if circumstances would require it, e.g. in case of a significant incident such as a disruption of services. RRM's are already required to meet the RRM rules at all time.

Moreover, it must be noted that organised market places are already subject to several compliance procedures and external audits. Therefore, we do not think that another external audit obligation has any extra value. In turn, it would impose another costs and burdens.

2.3 Registration

Question 9:

Do you agree that trade repositories and ARM's shall be registered with the Agency, even if they only report data reportable under EMIR and / or other relevant financial market legislation?

Yes, all RRM's should be registered with the Agency, all be it only for transparency purposes.

Question 10:

Do you agree that the Agency should foresee a simplified registration process for trade repositories and ARM's that only report data reportable under EMIR and / or other relevant financial market legislation?

Europex would expect that ARM's need to fulfil the same organisational and technical requirements as any other RRM, i.e. ARM's need to proof their ability to provide trade data to the Agency in the format provided by ACER and apply the same security measures. Market Participants need to be sure that

whichever type of RRM they use, the same level of security, organisational and data quality standards are applied.

Question 11:

Do you agree that CEREMP should be used for the identification of market participants that apply to become a RRM?

CEREMP could be an effective tool to register as an RRM. We would however recommend that the system assists ACER in giving the right priority to certain applicants, e.g. in case that an organised market place submits an application, it should be dealt with as soon as possible.

Question 12:

What is your opinion on the timeframe needed to complete the registration process?

The timelines for the registration process are extremely challenging, taking into consideration that the reporting obligation for standard contracts starts 6 months after the publication of Implementing Acts and the registration process takes up to 3 months. Even if a potential RRM applies one day after the publication of IA, the timelines are strict, taking into consideration that changes need to be made in trading systems and solutions for extracting the data from IT-systems and providing it in the format requested by ACER need to be constructed.

Furthermore, the threshold and approval criteria for a successful registration should be defined in more details, in order for RRM to successfully prepare for the testing phase. As the registration of market participants is closely connected with the preparation and testing of RRM, the timing of registration process should be described in a more detailed way (e.g. deadlines for identification, testing).

The timeframe should take into account that, in line with the registration process and after, an agreement on data reporting between an RRM and MPs would have to be formulated and concluded, compliant to the IAs.

Moreover, we would like to point out that it is difficult to evaluate complexity of the process without access to "Technical Specifications for Registered Reporting Mechanisms". It should be annexed to the RRM Requirements document.

Question 13:

Do you have any comments on the registration process in general?

In general, Europex supports the proposed registration process, but we do have concerns about the very ambitious timelines.

2.4 Assessment of compliance with the requirements

Question 14:

Would the periodic renewal of registration be a valid alternative to the certified annual report?

Opinion of Europex, RRM's should be required to prepare an annual compliance report or go through a renewal process only in specific circumstances such as ongoing delays in submission of data, complaints made by market participants in relation to the performance of an RRM. Suitable criteria for the identification of such specific circumstances could be defined and shared/consulted with all potential RRM's.

Recertification or preparation of an annual report would absorb significant resources of both ACER and the RRM, with potentially limited added value.

In order to be able to report data continuously, exchanges should have the possibility to declare or regularly retest the submission of data for new markets/products. Such a possibility should be described in the document.

Question 15:

Do you have any other comments on the Chapter concerning the Agency's assessment of compliance with the RRM requirements?

As for the responsibility to disclose inside information, the third party providing data on behalf of MPs (data owners) to the transparency platform is only responsible for technical processing and sending the data. Publishing the data is an obligation of MPs. The similar approach should be followed in case of trade data reporting obligation.

"The Market Participants shall ensure that the data they provide to the reporting party are complete, of the required quality and provided in a manner that allows the reporting party to process and submit the data to Agency in sufficient time to meet the obligations of the Market Participants under the REMIT regulation. "