

Response to:

Public Consultation
PC_2014_R_05

September 2nd, 2014

EUROPEX

Rue Montoyer 31 Bte 9

BE-1000 Brussels

T. : +32 2 512 34 10

E.: secretariat@europex.org

I. Introduction

Europex welcomes the opportunity to take part in the second public consultation on ACER's Trade Reporting User Manual (TRUM).

According to draft REMIT Implementing Acts ("IA"), reporting obligation for transactions in standard contracts, including orders to trade, will begin six months after the adoption of the IA by the European Commission. In the opinion of Europex, precise and exhaustive guidance on the requirements for reporting entities is indispensable for prompt and efficient launch of the reporting obligation in the wholesale energy market. Therefore, all necessary information, including technical specification mentioned in the draft of TRUM, should be provided as soon as possible.

Furthermore, Europex is concerned about the limitation preventing market participants from reporting trade data directly to the Agency that emerges from the TRUM. ACER maintains that the only case in which trade data may be reported by market participants themselves is when a contract is concluded outside an organised market place. Europex would like to emphasize that such restriction is contrary to art. 8 of REMIT which directly allows market participants to report. Therefore, it is crucial to retract such "indirect obligation" of third parties, such as organised market places, to report the data.

Europex has already commented on TRUM in the first public consultation ended on May 5th, 2014 and fully upholds its views expressed in the position paper.

Related Europex response: Public Consultation PC_2014_R_02 on Trade Reporting User Manual. The response can be found on the Europex website under the Working Group on Financial, Integrity & Transparency (WG FIT) section: http://www.europex.org/index/pages/id_page-43/lang-en/

II. Europex comments:

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.

Europex is pleased that its comments on the first version of TRUM have been taken into account. Particularly, that the structure of the current version is complemented with

explanations on all the data fields included in the IA, examples of transaction reporting and that a section on XML schemas has been envisaged. Nevertheless, the XML schemas for reporting should be provided as soon as possible in order to allow a prompt and efficient launch of the reporting obligation in the wholesale energy market.

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 the Agency 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.

Europex considers the current version of TRUM a sufficient guidance on transaction reporting, provided that all sections will be completed with information as soon as possible. Europex appreciates ACER's commitment to update the TRUM periodically to reflect the market situation at the time of publication.

According to the draft IA, the reporting of contracts concluded in organised market places commences six months following the entry into force of IA. The proposed timeline is very strict and does not leave organised market places enough time to organize accurate, secure and timely reporting. In the opinion of Europex, at least some sections of TRUM should be published before the IA enter into force. Among those: Section 3.3. - How to send a transaction report, Annex II - List of standardised contracts, Annex IV - XML schemas. These can only be used together with relevant sections of ACER's RRM Requirements.

The apt provision of XML schemas is crucial for market participants and third reporting parties to prepare for fulfilling their reporting obligations. We would expect ACER to provide the detailed XML schemas for each data field.

Although it is the first edition of TRUM, Europex would appreciate guidelines on the process of registering new contracts introduced in the market at ACER. Continuous and undisturbed reporting of trade data requires a clear path of registering new contracts and if possible, testing the reporting procedures.

Moreover, Europex would propose laying down a longer period between the publication of Implementing Acts in the Official Journal and their effective date. According to the Article 297 of the Treaty on European Union, EU Commission may establish the specified date as an effective date instead of the twentieth day following the publication of EU legislative acts. Technically demanding projects for implementation could be considered as justified cases for prolongation.

With regard to the large scope and complexity of REMIT reporting Europex recommends 90 days between the publication of IAs and their entrance into force.

Question 3

Please provide us with your views on the Agency's proposed approach as regards 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 Table 2 of Annex I of the draft Implementing Acts when reporting information under REMIT; and*
- *the identifying reference data listed in ANNEX II to be collected by the Agency would be sufficient and suitable to establish the list of standard contracts.*

Do you agree that the list of standard contracts in Annex II should also be considered sufficient to list the organised market places or would you prefer to have a separate list of organised market places? Please justify your views.

In the opinion of Europex, the list of standard contract types should enable reporting parties to determine whether a contract is a standard or a non-standard type. The reference data to be collected by the Agency should be sufficient to establish a list of standard contracts. As the column with organised market places' full names is included, we consider a separate list of organised market places redundant.

Europex would like to ask ACER for clarification on how and when the reference data for the list of contracts referred to in Annex II of the TRUM should be submitted.

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.

Europex supports ACER's views on the definition of product, contract, order and transaction.

Question 5

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

General comment

The introduction to Section 4 of the TRUM states that fields' names and classifications may differ across RRM. Heretofore, it has been maintained that all RRMs should use the same Tables provided in the Implementing Acts. Therefore, we ask for clarification

on what does ACER mean. Moreover, we would like ACER to include a detailed explanation on which fields are mandatory for exchange-traded contracts.

Data Field Number 6 – Reporting entity ID

The guidance on Reporting entity ID advises that market participants may only become RRM in some cases. It must be emphasized that art. 8 of REMIT itself allows market participants to report trade data to ACER by themselves. Therefore, the limitation on entities who can become RRM imposed by ACER is contrary to the Regulation and should not be maintained.

Data Field Number 16 – Order Status

It is not clear how the orders should be reported during their lifecycle as one order status may overlap with another order status, e.g. the order which immediately enters into the transaction may be firstly reported as Active order or may be reported directly as Matched/Partial Matched orders. In continuous markets with the noticeboard, market participants directly react on the particular order of the other market participant and therefore their orders are either Matched/Partial Matched or Rejected by the system. Moreover the Rejected status order is missing in the list of the order status in the draft of TRUM.

Data Field Number 22 – Contract type

In the list of contract types, the intraday contracts are not mentioned and they should not be marked as forward contracts. From technical point of view, one forward contract can be re-traded (buying or selling during time) so the market participants can balance their positions. On the other hand, the intraday contract can be traded only one time and in case the market participants need to balance their trading positions they have to trade a new contract in the intraday market.

According to MIFID definition, forward contracts are a type of derivatives traded in regulated markets.

Data Field Number 24 – Transaction Timestamp

For orders in auction markets, the time in which they are placed in the market and considered for an auction should be reported. Please clarify what does “considered for an auction” mean. In the system, the placement of an order and, afterwards, its eventual modification/cancellation or transaction execution is registered.

Data Field Number 28 – Linked Transaction ID

It is not clear in which situation a transaction is executed within the framework of non-standard contract, so that the details of the transaction will be reported and linked to the non-standard contract ID.

Data Field Number 48 – Delivery point or zone

Please provide clarification on Market Coupling trade reporting.

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?

Europex considers examples included in Annex III an essential part of the TRUM. In general, as many scenarios as possible should be covered.

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.

We would appreciate adding examples of reporting orders to trade in the TRUM for a better understanding on how should they be reported. It is particularly looked-for for orders in continuous market, i.e. whether they should be reported together with transactions or separately, when should they be reported and which fields are mandatory for orders and transactions and which are mandatory for orders only.

Question 8

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

No answer.

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.

No answer.

Question 10

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

No answer.

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.

No answer.

Question 12

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

No answer.

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.

No answer.

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 Implementing Acts 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)?

Yes, we agree.

Question 15

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

Europex considers Table 1 of Annex I of IA suitable for reporting standardised contracts. However, it must be emphasized that in case of contracts concluded in organised market places, reported by that organised market places, not all data fields can be completed.