

Public Consultation
on "REMIT – Transaction Reporting User Manual (TRUM)"
(Public Consultation Document PC_2014_R_05)

– Response of the ECT-Group –

I. Introductory Comments

We are representing the Energy Commodity Traders Group ("ECT-Group"), a group of mostly German energy trading firms which established a joint working and discussion group for the exchange of experiences in financial and physical energy trading and for the co-ordination of the communication with German and European authorities. We would like to respond to the Public Consultation on "REMIT – Transaction Reporting User Manual (TRUM)".

The ECT-Group consists of entities active in the energy trading sector; several of them pursue also banking activities or render financial services related to energy derivative products. Entities which pursue banking activities or render financial services related to commodity derivatives are according to the German Banking Act investment firms which have to apply for a license in order to carry out the banking activities or financial services related to commodity derivatives and which are supervised by the German Financial Supervisory Authority *Bundesanstalt für Finanzdienstleistungsaufsicht* ("BaFin"). The ECT-Group serves as a platform for such firms in order to develop common positions with respect to the financial supervision and to communicate them to BaFin and other legislative and administrative bodies. There has been a steady and successful cooperation between BaFin and the ECT-Group in order to develop an adequate supervisory regime for investment firms rendering financial services related to energy derivative products.

II. Statement

The ECT-Group supports the intention to increase and safeguard transparency in the energy wholesale market by means of an obligation to report transaction data, among other measures. In order to provide the market participants with adequate support regarding the data reporting and to enable the market participants to prepare themselves in time (IT structure, personnel) it is crucial to ensure that a user manual is

available that outlines the scope and content of the data to be reported as clearly as necessary.

III. Detailed answers to the questions

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.

In the ECT-Group's view, the TRUM principally is an appropriate instrument to at least facilitate the reporting of data for the market participants. However, further clarifications, e. g. by means of additional examples, with particular regard to the contracts to be reported would be convenient.

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.

In the ECT-Group's opinion, the present first edition of the TRUM appears to be sufficient. Furthermore, the ECT-Group is in favour of ACER's approach to continuously develop and update the TRUM in the future. This is particularly due to the fact that errors / uncertainties cannot always be avoided in the early days – despite any lessons learnt from EMIR reporting. A regular update or adjustment is thus necessary to eliminate any errors or uncertainties and also to make improvements and reflect the actual state of play. This should be done at regular intervals.

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.

It is principally useful to include a list of contracts / standard contracts in order to facilitate the data reporting for the market participants as much as possible. In this regard, the list also appears to enable 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. The same should be true for ANNEX II.

As regards a list of organised market places, it would be beneficial to maintain a separate list that is be updated on a regular basis and could be accessed at / downloaded from the ACER website, for example.

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.

In the ECT-Group's view, the explanation of product, contract and transaction seems to be appropriate in order for the reporting entity to submit the corresponding report.

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

To Field No 8:

Further explanations in the case of two beneficiaries, for example, would be convenient. With respect to the example given on page 26: Is party B required to submit two

reports (B sells to C and B sells to D)? This is likely to apply, respectively, if C itself is not the beneficiary, but trading on behalf of party D?

To Field No. 10:

The explanations on who is to report as principal/agent are still unclear. Thus, it is not clear whether a company which executes a transaction on its own account but on behalf of a client is to be defined as principal or as agent. The wording at the beginning would suggest that it is to be defined as principal, however, according to the table the company would have to be classified as agent.

To Field No 13:

It is insufficiently clear whether a "modify" report states only the actual modification including the information necessary in this regard, or whether the original report is to be included again.

To Field No 22:

It is insufficiently clear how forward style contracts and future style contracts (FW and FU) differ from each other. Does future style exclusively relate to exchange-traded products?

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?

In the ECT-Group's view, the listed examples appear to be useful to facilitate transaction reporting. It would be convenient if the list was reviewed and, where necessary, updated on a regular basis.

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.

In the ECT-Group's view, the scenario of proprietary trading for third parties (trading on account on behalf of others) would be an example that should be added.

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

To Field No 29 to 34:

It remains unclear at which point in time the fixing of a price must be reported, i. e. whether each individual price that is fixed must be reported or whether a consolidated report is sufficient.

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.

In the ECT-Group's view, examples as regards transactions in non-standard supply contracts are also necessary to facilitate the reporting for market participants and, as the case may be, to prevent or at least minimise errors from the start. Examples in the cases of full supply contracts and contracts referring to partial deliveries would be convenient.

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)?

In the ECT-Group's view, no additional effort should be demanded, it rather seems to be sufficient – also in terms of standardising the reporting under MiFIR and EMIR – to make information on derivatives reportable under EMIR and MiFIR available to the Agency in the EMIR / MiFIR format. This should be sufficient in order to meet the objective of full transparency and to ensure the cooperation of the individual authorities, including the exchange of data.

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?

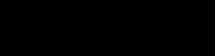
Yes.



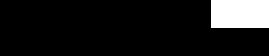
Stand: 2. September 2014



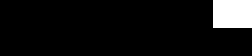


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