

Response of EnBW Energie Baden-Württemberg AG to ACER Public Consultation
Paper on draft REMIT TRUM (PC_2014_R_05)

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.

We welcome the possibility to comment on the draft ACER Trade Reporting User Manual (TRUM). As laid out in our response to the first consultation on the draft TRUM (PC_2014_R_02) we believe that it is of utmost importance to provide as much guidance to market participants as possible in order to achieve a smooth implementation process. As mentioned before, the reporting of all REMIT-relevant transactions to the ACER database constitutes a major project, especially as internal systems and processes need to be adjusted accordingly. In this respect we very much welcome the efforts made by ACER to further improve the TRUM taking the feedbacks from the first round of consultation into account. We recognise that the current version does not clarify many issues we have had in respect to overall scope, specific fields etc. Particularly, adding examples of specific trade scenarios does provide significant help. At the same time we think that there is still room for further improvements to serve the need of market participants to have a maximum degree of clarity. Besides clarifications on specific data fields, general issues that are in our view still to be clarified include:

- Clear assignment of responsibilities in the entire reporting process. Thus, we support the approach that organized markets should be the first addressee to submit relevant transactions concluded via their platform (which should also be the case for TSOs e.g. regarding transactions in the balancing market). We thus urge the Agency to ensure that it is made clear to market participants as early as possible whether the relevant platforms are in fact "offering" this service. It is explicitly stated that the only scenario where trade data may be reported by market participants themselves is with respect to wholesale energy products concluded outside an organised market place. Market participants should be able to fully rely on this statement, whilst being relieved of any liability if organised market places remain in default of their delegated reporting obligations. However, a key issue to be clarified in this context is on how lifecycle events (e.g. modifications, cancellations) are to be handled in this case. No parallel reporting system for these events must be needed to be implemented for market participants that. We believe that if no data in respect to confirmation (data fields 58 & 59) needs to be reported in the first place, this would reduce the issue significantly.
- One key issue that needs to be precisely described is the distinction between standard contracts and non-standard contracts as different reporting routines are connected to them. In order to be able to properly set up IT systems it is of utmost importance that a clear definition is provided.

- In respect to contracts that are to be reported on request, there also needs a clear description of this process (timeframe, formats, etc). We believe that there needs sufficient time for market participants as the data will not be readably available to be reported. Ideally, we would like to see a flexible approach on how to submit these data to the Agency.
 - The Agency should publish clear rules for generating the unique transaction identification (UTI, field 27). For contracts concluded via organised market places the market place shall generate the UTIs as it is common market practise in EMIR. The UTIs are automatically transferred to the market participants together with all other contract relevant data as it is done under EMIR. Hence there is a link for communication of post-trade events. For all contracts not traded via organised market places, we urge the Agency to define a clear logic so that both market participants can independently generate the UTIs without further interaction. This would reduce the effort for post trade processing.
 - We recognise that the current focus lies on the phase 1 reporting (standard contracts). We believe that all relevant issues regarding non-standard contracts reporting should also be tackled as soon as possible. This is necessary as the reporting of these contracts may be even more challenging given the complexity and the diversity of such contracts.
 - We believe that the TRUM should also cover more specific details on how the backloading requirements should be fulfilled. For example, we would strongly recommend that for the respective transactions, field 27 (Unique Transaction Identification) should not be needed to be populated.
 - Generally, transaction reporting should always be complying with the cost-benefit principle. Thus the transaction data files should be retained to the minimum to fulfil the REMIT requirements; any additional reporting field does produce additional costs. In this context we support the general approach to avoid double-reporting obligations; especially with EMIR (and MiFIR) reporting. Thus a strict alignment with the standards and formats of these requirements is necessary. In this context, we would also like to emphasize that a parallel reporting obligations to NRAs should be avoided. Rather, NRAs should only access relevant data from the ARIS system of the Agency; otherwise we see a significant danger that market participants are asked to set up additional reporting channels also towards NRAs.
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 our view, the provided information provided on the purpose and structure of the draft TRUM seems sufficient for phase 1 (standard reporting) taking into account the proposed detail clarifications.

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.

Generally, the approach seems ok for us. In our view it is essential that market participants have very clear and precise information on which table to be used. "Switching" from one reporting table to another reporting table must be absolutely avoided. In this context, we would like to refer to the statement in respect to information to be reported (p. 14): "Details of transactions executed within the framework of non-standard contracts specifying at least an outright volume and price shall be reported using Table 1 of Annex I." In this context we think that further clear criteria are required (e.g. what about contracts specifying a "target outright volume" plus certain price definitions depending on the real consumption?).

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.

Generally, yes. From a market participant's point of view it is essential to have a full set of information which reflects the current status (e.g. these lists need to be kept updated whenever any changes occur). The list(s) should be available in an easily exportable format which would allow market participants to automate the update of these lists in their data bases. The list of standard contracts needs to be sufficiently detailed so that market participants can easily identify within their portfolio which transactions conclude outside an organised market need to be reported according to which format and /or timeline. Indeed, this must be very clear to market participants as every change in IT system and processes is very costly for them.

Also, we would like to comment on the statement (p. 14/15): "In order to assist the Agency in carrying out this task, organised market places shall submit identifying reference data for each wholesale energy product they admit to trading to the Agency. This information shall be submitted before trading commences in that particular contract in a format defined by the Agency. Organised market places shall submit updates of the information as changes occur." It is essential that market participants are also informed and sufficient lead time is provided. Ideally, ACER should grant enough time for reporting entities to adjust to this new situation and grant them a so-called "phase-in" period for adjustment. In terms of the go-live of reporting standard contracts, it is considered necessary for the list of standard contracts to be made available at the time of publication in the Official Journal of the implementing acts, to allow market participants sufficient time to fully configure their reporting systems.

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.**

Generally, we find the provided information useful, although we are not convinced that these definitions would also suite the reporting of non-standard contracts; e.g. a transaction is defined as a specific tradable instrument: this certainly cannot be applied to non-standard contracts.

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

Generally, we fully support the general approach to avoid double-reporting obligations; especially with EMIR (and MiFIR) reporting. Thus a strict alignment with the standards and formats of these requirements is necessary. In this context, we would also like to emphasize that a parallel reporting obligations to NRAs should be avoided. Rather, NRAs should only access relevant data from the ARIS system of the Agency; otherwise we see a significant danger that market participants are asked to set up additional reporting channels also towards NRAs.

In respect to the specific field guideline we would like to refer to the detailed comments prepared by the European trade association Eurelectric.

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?**

Generally, we find the examples of transaction reporting listed in ANNEX III of the draft TRUM useful. In our view, this is an important piece of work to facilitate the implementation of transaction reporting. Thus it should be updated whenever necessary (e.g. adding a new type of transaction). However, there are still contracts missing. For a proper IT implementation an à priori possibility for differentiation of the transactions is required (i.e. clear criteria which can be automatically filtered according to which the respective transaction is the reported under the different requirements (i.e. table 1 or table 2).

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.**

Generally, the proposed list of standard contracts seems a good basis. However, we think that it should be extended by further products which are commonly traded. These include: balance of week/month; electricity base-load/peak-load/off-peak weekly, quarterly and yearly forward contract; gas quarterly and yearly forward contract. Also, we are not sure if it is necessary to list any spread products (e.g. dirty dark spread) as these are "simply" a combination of various products. Certainly, we consider this as a living document that should be updated whenever necessary.

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

Generally, we think that it is equally important to have also field guidelines for the reporting of transactions in non-standard supply contracts. As the focus of this draft consultation paper is on guidelines mostly reflecting the standard supply contracts, we propose to have a more thorough analysis of what is actually required for the reporting of non-standard contracts.

We would like to highlight a key point in respect to field 27 (Unique Transaction Identification). We strongly propose to establish and publish a common logic on how this UTI should be formed. If this is not the case, this would create an enormous additional burden for market participants as this would have to be “negotiated” with each counterparty individually; this is in the given reporting timespan not feasible. By providing a specific logic to creating the UTI each counterparty can implement this individually in the own system allowing for an automatic process.

In respect to the specific field guideline we would like to refer to the detailed comments prepared by the European trade association Eurelectric.

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.

As mentioned before, it is equally important to have a TRUM for non-standard contracts to be reported under REMIT. This needs an equally detailed description of the reporting requirements including as many pragmatic examples / trading scenarios as possible. Also, we suggest having a sufficient lead time for implementation (e.g. the non-standard TRUM should be available in its final state no later than 2 months after the official publication of the Implementing Acts). Especially regarding supply contracts to (final) customers, which may be concluded in large numbers, the processes and IT systems for providing the respective data to the RRM need to be set up properly and automated. As these kind of contracts are commonly concluded by separate sales entities which a group which do not have the same IT processes as e.g. a trading unit this will require implementation time which may not be underestimated.

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

We think that for this category the same detailed data field descriptions is needed as for standard contracts; thus additional details are therefore required together with relevant example values.

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.

Yes, examples would be welcomed.

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

We believe that additional examples are required (e.g. in respect to contracts relating to the transportation of electricity or natural gas concluded between market participants on secondary markets (physical or financial capacity rights or obligations) including relate and transfer of such contracts).

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.

Yes, examples would be welcomed.

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, the same principle as for physical trades should apply; thus any trade concluded on an organised market place is reportable by the organised market places (primary obligation), including derivatives not yet reported under EMIR (using the same formats). The question that arises would be if this means that if organised market places, trade matching or reporting systems do not agree to report trade data in derivatives contracts directly to the Agency that they will report these derivative contracts in "EMIR format"?

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?

Generally, these tables are suited whilst some specifics would still need to be clarified. It is not unusual that counterparties do capture a common deal differently in their systems (due to different IT systems); this would mean that they may report them also in a different way. For example, counterparty A captures a specific transaction as one 3-year deal while counterparty B captures the same transaction as three individual yearly deals. The same issue may occur in respect to capturing a deal as a standard load profile without delivery on some holidays versus capturing the same deal as a shaped product in his system. In order to avoid significant additional coordination burden we propose to implement a general approach for standard contracts where fields Duration (51), Load Type (52) and Days of the week (53) where not to be reported (certainly: fields Load Delivery Intervals (54), Delivery capacity (55) and Price/time interval quantity (57) for all contracts are continued to be reported). In our view this would overcome some of the a.m. issues while still providing the relevant information to ACER.

Contact:

