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BP response to:

REMIT Guidelines for the registration of Registered Reporting Mechanisms and for the registration of Regulated Information Services for ensuring operational reliability according to Article 12 of Regulation (EU) No 1227/2011 (PC_2013_2013_R_01) and Technical Standards for Trade Reporting

Introduction:

Ensuring open and fair competition in European energy markets is important to give participants confidence in the integrity of these markets. Effective market monitoring forms an important part of ensuring price formation is free from abuse. BP therefore welcomes the opportunity to respond to ACER's latest consultation on the implementation of data reporting under REMIT. We would like to make the following comments outlining our high level views on the consultation questions.

- Market participants should be able to choose the mechanism by which they would prefer to report records of transactions, to meet transparency requirements and to publish inside information. Such mechanisms should include direct reporting to regulators, using third party data reporters and publication on own website.
- The registration and reporting requirements for market participants reporting information directly should be less onerous than for third parties reporting data on behalf of market participants.
- ACER should have in place systems to accept data directly from market participants even where market participants largely use RRM/RISs, e.g. in the event of a failure in a common system.
- The reporting requirements under REMIT and other financial regulations such as EMIR should be closely aligned to minimise the reporting burden on market participants, avoid double reporting and enhance ACER's ability to undertake effective market monitoring.

Our response to the specific consultation questions can be found in the annexes. This response is not confidential and may be published and we are happy to discuss any points.

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Annex one – REMIT Guidelines for the registration of Registered Reporting Mechanisms and for the registration of Regulated Information Services

General questions

1. The proposed approach seems reasonable. However, it is important that ACER does not restrict the ability of market participants to report data directly to ACER should they wish to. Participants may choose to do so for a number of reasons:
 - a. The obligation to report remains on market participants under Article 8 (1) or REMIT.
 - b. Reporting directly provides greater confidence over the accuracy of data reporting.
 - c. Because market participants remain responsible for data reporting, they may choose to put in place backup systems in the event of a failure of a third party data provider and to validate data submitted to regulators by third parties. It may then be easy to report data directly rather than use a third party.
 - d. If such systems are put in place market participants may find it more cost effective to report data directly to regulators than use third parties.
 - e. Parties may have concerns over security standards of third party systems or feel that liability provisions do not adequately compensate them for the risk of leakage of high value commercial information

Clearly market participants seeking to report data directly to ACER will have to meet the relevant technical and security requirements required by ACER. However, such requirements should be kept to an absolute minimum and avoid any undue burden. These requirements should be published by ACER as soon as possible, as this will help market participants to assess whether they would prefer reporting directly or use third parties.

2. BP does have strong views on this question.
3. Please see below.

Questions concerning the draft RRM Guidelines

1. We believe that strong governance arrangements should be established to ensure that third party RRM's have the capacity to manage the reporting on behalf of users with respect to systems, security, finances, control and oversight. This should include ACER, NRAs and any other third parties who has access to the data. Robust data security measures and processes governing who is able to access the data should be adopted. However, we do not believe a requirement to hold an ISO 27001 certification will add significant value in ensuring operational reliability of information received given it is generic in nature and does not reflect the specificities of the energy sector.

As we have flagged in previous responses on REMIT, some of the data to be reported is highly confidential and could cause significant financial harm to market participants if it is made public. Providing this data to ACER increases the risk of this occurring as the data can be accessed by numerous ACER and NRA staff. As a result we would like to reiterate our view that ACER should only require the reporting of data it needs to undertake effective market monitoring in the first instance. The adequacy of the data in meeting the objectives of REMIT can be assessed after a period of time and additional data can be requested if required in light of experience. This approach ensures the identification of new data items on an objective and evidenced basis. Similarly, data that is not found to be useful could

be discontinued and not collected. This will also be important in protecting ACER from legal action by market participants in the event of inadvertent disclosure of commercially confidential information.

2. It is not clear why ACER is proposing to introduce a simplified registration procedure for trade repositories registered according to EMIR.
3. The criteria should make a distinction between market participants reporting directly and using third party RRM's. It is not appropriate to apply some criteria to participants reporting directly such as publication of fees and charges offering service support etc. Further clarity on this would be useful.

Further areas of the criteria where it would be useful to obtain clarification include section 4.1. Does the wording in section 4.1 mean that market participants will have to confirm to RRM's that they intend to use their services every year? In addition, it would be useful to obtain clarification on the use of the term 'significant' in section 4.2.

It would also be useful if ACER published further details on the RRM certification requirements and the criteria to be used to assess applications to become RRM's. This will provide market participants with greater assurance with respect to the robustness of the process and in particular security of their data.

4. If a requirement is imposed on third party RRM's to provide an external audit report to demonstrate that they have met the relevant criteria on an annual basis, this requirement should not apply to market participants choosing to reporting REMIT information directly. Such a requirement on RRM's could provide comfort to market participants that their data is secure and is being reported in line with the criteria set out by ACER.

ACER should publish a list of approved third party RRM's that have successfully met the required certification requirements to assist and provide assurance to market participants.

Questions concerning the draft RIS Guidelines

1. We agree with the three different types of RISs proposed and the distinction made on the information they will report. In relation to the third type of RIS, presumably TSOs and other infrastructure operators fall under this category as they are likely to hold the relevant information required under REMIT and therefore are best placed to provide this to ACER.
2. We agree that the ENTSO –E/G platforms should play an important role in the reporting of transparency information, as our view is that information should be collected from existing sources where possible. However, we do not understand the observation that these platforms should 'be treated differently than other information sources'. It would be good to understand in what way they would be treated differently and why?
3. We agree that it is sufficient for inside information platforms to make their information available to ACER through web feeds. However, we would reiterate that market participants should be allowed to select the mechanism by which they report inside information, including publication on own websites. This is particularly important for pan-European market participants.
4. Yes we agree.

Annex two – Technical Standards for Trade Reporting

Questions on standards and formats for reporting

1. We agree that for the reporting of energy derivatives the same standards applicable to the values taken by each field of information should apply under REMIT as under MiFID and EMIR. Duplicative reporting structures should be avoided as far as possible by using consistent and, where possible, existing standard data formats/protocols for each class of data to be reported.

Full alignment of standards, definitions and reporting between REMIT and EMIR will allow Market Participants to submit all the required information only once. This will reduce the administrative burden on market participants. As noted above market participants should be allowed to report data either directly to ACER or via a third party.