

Public Consultation
on "REMIT Trade Reporting User Manual (TRUM)"
(Public Consultation Document PC_2014_R_02)

– 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 Trade 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 efforts made to increase transparency in the energy wholesale market and thus to strengthen the market participants' trust in the integrity of the electricity and gas markets and to guarantee competitive wholesale prices.

In this respect, the ECT-Group also principally welcomes the obligation to report comprehensive details on all relevant data related to the trade with electricity and gas on- and off-exchange. Since this reporting obligation necessitates the market participants to adapt their IT structures to the requirements or to establish an altogether new structure, the market participants need security and clarity on the scope and the content of the data to be reported.

III. Detailed answers to the questions

Therefore, in consideration of the foregoing, please find in the following our detailed comments on the points that are most important to us:

Please provide us with your general comments on the purpose and structure of the draft TRUM, annexed to the consultation paper.

Chapter 4.2:

According to the draft, the market participants are to state already upon registration whether or not a RRM is to report on their behalf and they must also identify the relevant RRM. This seems problematic, since at the time of registration, the market participants will not be in a position to know exactly with whom they will engage in trade relations – and will therefore also not know to whom they will delegate reporting obligations. Particularly smaller companies which do not want to set up their own comprehensive reporting system will rely on their market partners (suppliers) to act as their RRM and to carry out the reporting duties on their behalf. However, this cannot be foreseen at that point in time. Having to correct one's own registration details for each new supply relationship in which the other market partner acts as RRM must be considered impractical and disproportionate.

Please provide us with your views on the field guidelines for the reporting of transactions in standardised supply contracts (see Chapter 6 of the draft TRUM).

To Field No. 7:

The draft states that the ACER code assigned to the RRM upon registration is to be used for filling in Field No. 7. However, in the sample field, the LEI has been stated as an alternative. Does this mean that it will be acceptable to use the LEI instead of the

ACER Codes? Is the ACER Code assigned to an RRM upon registration identical to the ACER Code for a market participant?

To Field No. 10:

The explanations on who is to report as principal/agent differ. 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. 23:

As regards standardised contracts, Field No. 23 assumes that the organised market assigns the relevant contract identifier. However, there may also be purely bilaterally-traded contracts that fully meet the criteria of a standardised product. How will it be possible to obtain the contract identifier in such case? Likewise, it is not clear whose unique identifier is to be considered decisive in the event that several markets that are not uniformly organised offer the product.

To Field No. 24

It is insufficiently clear how forward style contracts and future style contracts (FW and FU) differ from each other. Do future style contracts only include exchange-traded products?

To Field No. 27: see Comment on Field No. 23.

To Field No. 29:

Here, the question arises whether exclusively products that are traded via a trading venue are to be considered linked – or is it conceivable that linked transactions that have to be reported as such also exist in proprietary trading (trading on the institution's own account on behalf of clients)?

To Field No. 49:

The reference to Field No. 25 is most likely to refer to Field No. 34.

To Field No 53:

The list lacks the possibility of entering a quarter of an hour as duration.

To Field No. 55:

Here, one wonders about the possibility of exclusively entering "Weekdays", "Weekends" or "All days". What about a product such as "remainder of week" that might not encompass all the days of a unit time but may well contain weekdays as well as days of the weekend?

To Field No. 62:

The explanations indicate that in the event of a wrongly submitted message an "error" message has to be sent whereupon all transaction reports will be deleted causing a complete reset, a situation in which a new report has to be filed. Does this mean that only the final state will be reported or is it necessary to enter new basic information that is then going to be adjusted in line with the respective lifecycle events that occurred? This refers to a case in which a "modify" message was wrongly submitted.

The Agency intends to include in the TRUM guidance on how trade reports shall be reported for different trading scenarios (see Chapter 8 of the draft TRUM). Please provide us with your views on which trading scenarios you would consider useful to cover in the TRUM.

From the ECT-Group's perspective, trading on own account ("Eigenhandel") for third parties (trading on the institution's own account on behalf of others) would be a very useful scenario to be covered.

Chapter 10 (FAQs): "How can double reporting be avoided?"

It is not completely clear whether ACER also expects OTC contracts that have been agreed on without making use of a trading infrastructure of any kind or without using a trade venue of any kind should be exclusively reported by one of the parties to the contract or through a joint RRM. We assume that the general procedure will remain in place according to which both parties submit an independent report from their point of view so that this action cannot be considered double reporting but parallel reporting and where the reports may then be linked to each other, e.g. through the trader IDs used etc.

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