



Dear Madam, Sir

Gazprom Marketing & Trading Limited (GM&T) Response to REMIT Trade Reporting User Manual (TRUM) - Public Consultation Paper

GM&T is the UK registered subsidiary of the Gazprom group responsible for the optimisation of Gazprom's energy commodity assets through GM&T's marketing and trading network. GM&T is active as a shipper and marketer of gas at various interconnection points especially in North West Europe. Therefore, it has a keen interest in ensuring a workable mechanism for the reporting of transactions in wholesale energy markets to ACER.

General Comments

a. Definition of standardised/non-standardised contracts

The definition of standardised contracts is crucial to ensure that the reporting obligation can be fulfilled in a structured manner. GM&T understands that such definition will be outlined in the final version of the Implementing Acts (IAs), however ACER should provide additional certainty through the TRUM and delineate a clear distinction between standardised and non-standardised contracts.

In this sense GM&T observes that in the draft TRUM there is lack of clarity about the lists of contracts, products, contract types that will be made available. ACER will publish and maintain a public list of standardised *contract types* to facilitate reporting, however it is unclear what is meant by *contract types* and what is the level of granularity of the information published. Most importantly the *relevant elements* of the contract types that will be published are missing. Such elements e.g. organised market place, delivery area, delivery profile, tenor, etc. are crucial to ensure that trading systems can capture the necessary information and that transaction reports are channelled in the correct way. These elements should be published with the first release of the TRUM.

b. Registered products

We understand that ACER will also publish a list of registered products that, according to the FAQ, market participants will need to check *before* trading can be carried out. Whilst the draft IAs require organised market places that *admit products to trading* to submit a unique identification to ACER before trading can commence, we do not believe that this could be enlarged to *all* wholesale energy products, especially contracts traded OTC. Such a requirement would be impractical and very burdensome. Therefore GM&T believes that the FAQ in the TRUM should be rephrased and the registration requirements for new products should expressly limited to contracts traded on OMPs that *admit wholesale energy products to trading* i.e. exchanges. This should ensure that excessive burden is avoided to ACER in compiling and updating the list and to market participants when entering into new transactions.

c. Registered Reporting Mechanisms (RRMs) and Organised Market Places (OMPs)

In the draft TRUM it is stated that standard transactions concluded on OMPs will be reported through OMPs. Market participants however remain fully responsible for validating accuracy of the reports submitted.

Firstly it is unclear whether market participants may opt *not* to use OMPs to report standardised transactions executed on OMPs. GM&T believes that market participants should be allowed to decide to become RRM and report *all* transactions directly, including those executed on OMPs. Also, in case of delegation of a third party RRM for standardised transactions executed on OMPs, it is unclear whether this would need to be explicit i.e. market participants entering into agreements with OMPs, or implicit (OMP will be mandated to provide reports). This should be clarified.

In light of the experience of the transaction reporting obligation started last February under EMIR, GM&T recommends to ACER to evaluate the possibility to use the Trade Repositories recognised by ESMA as *trade repositories* also under REMIT rather than only as RRM. This would facilitate the reporting obligation for market participants and also for ACER, which will not have the need to build a brand new repository (costs saving) and will have a limited number of sources where to retrieve data. Indeed TRs have been able to provide a customer service on continuous basis and this ensures that any issue, especially at the beginning of the reporting obligation, can be solved in a timely manner. We urge ACER to consider the practicality of the reporting obligation and to make use to the extent possible of the existing market infrastructures.

The draft TRUM specifies that market participants must inform ACER in the registration form whether or not they wish to rely on third party RRM reporting on their behalf and identify the relevant RRM, including the OMPs, including for orders to trade. The points raised in the previous paragraph must be clarified to enable market participants to identify RRM. It should also be considered that the registration of market participants will start after 3 months after the entry into force of the IAs, therefore it should be possible providing information about the RRM selected until immediately before the starting of the reporting obligation and it should not be mandatory when registering. Also it should be possible to indicate a change in the RRM at a later stage with short notice.

The technical and organisational requirements for RRM and RIS are crucial to allow market participants to evaluate whether performing the reporting obligations via a third party or, if possible and viable, directly. Therefore we urge ACER to publish the draft requirements for RRM as soon as possible and well in advance of the publication of the IAs and the first release of the TRUM. In addition it is essential to ensure that the requirements for self-reporting entities, on their behalf and on behalf of affiliates, are kept at the minimum level necessary to minimise the burden on market participants.

d. Reporting responsibilities

The draft TRUM reaffirms throughout the text that market participants must ensure that the transaction reports are complete and accurate and have the ultimate obligation of ensuring the accuracy and completeness of the transaction reports. GM&T generally agrees with the expectations of ACER in terms of controls and processes for reviewing or confirming compliance with reporting of transactions and appreciates also that a principle based approach is proposed rather than a prescriptive list of activities to be performed.

Nevertheless clarity is needed on responsibilities of both RRM and OMP and the post reporting steps needed to ensure full compliance with the reporting obligation. For instance it should be clarified the content of any data provision agreement needed between OMPs, RRM and market participants, to facilitate checks and controls over the reports submitted (e.g. RRM/OMP to provide the reports eventually submitted to ACER to market participants) . From the draft FAQ it is unclear whether a requirement to reconcile data for the *bilateral* standardised transactions submitted applies or not.

e. Confidentiality

GM&T believes that the indications on the measures that are proposed to be adopted to ensure confidentiality of the information received by ACER are insufficient to prevent any misuse. The

measures proposed are uniquely referred to operational reliability of information through requirements for RRM, but do not provide clarity on measures to be adopted by ACER and the competent authorities to ensure that the information will be not misused or leaked.

f. Orders to trade

It is unfortunate that the draft TRUM does not include the explanatory notes on data fields related to orders to trade that will be required to be reported. GM&T would like to emphasize the need to clarify on the definition of *orders to trade* and believes that the definition of orders to trade should be limited to binding *orders* submitted to exchanges. This definition should not include indications or instructions submitted to brokers to facilitate the arrangements of OTC transactions.

g. Trading scenarios

Finally it is unclear what ACER means by 'reporting certain trading scenarios'. The specific section of the draft TRUM (section 8) does not provide explanation in this respect. Also, based on the text of REMIT and the draft IAs, GM&T believes that the collection of data is limited only to the reporting of transactional and fundamental data and therefore it is unclear the legal ground to require reporting certain trading scenarios' on ongoing basis.

As a general comment, GM&T would like to note that despite the consultation states that the TRUM addresses a glossary of terms, this is totally missing in the draft TRUM. Here below some additional comments to the specific questions of the consultation paper and to the sections of the draft TRUM.

Answers to consultation questions

1. *The Agency currently understands that the attached data fields (see Annex I of the draft TRUM) for the reporting of transactions in standardised and non-standardised contracts will be included in the Commission's implementing acts. Please provide us with your views on the attached data fields.*

We urge ACER to adopt the same standard formats currently in use for the EMIR reporting where the data fields required are the same. This should facilitate to focus the industry debate on such data fields where standard formats do not exist yet and are necessary.

GM&T believes that a clear indication of the mandatory fields should be provided and an alignment with EMIR data fields required should be sought to the largest extent possible.

Comments to specific fields:

Field No 3: Trader ID as identified by the organised market place

It should not be considered as a mandatory field considering that standardised bilateral transactions are not executed via an OMP.

Field No 4: Trader ID for the market participant or counterparty

This is not usually stored by a market participant.

Field No 5: ID of the other market participant or counterparty

It is not always the case that transactions executed on exchanges the counterparty is the clearing house or the CCP (see Poland, Italy). Therefore it should be possible to indicate the unique code of the energy exchange.

Field No 12: Initiator/Aggressor

This data field is not always stored in source (trading) systems. We suggest to define it as optional.

Field No 23: Contract ID

A standard format does not exist currently for this data-field. It is of utmost importance that either ACER or the OMPs define a standard format. Failing to do so would increase the risk of mismatches.

Field No 27: Contract name

There is no format suggested neither an example in the draft TRUM. We do not believe that such additional information can be valuable considering that it will most likely be a generic alphanumeric digit without a specific format

Field No 28: Transaction ID

The unique identifier for each transaction has been very problematic with the EMIR reporting and it is advisable that ACER defines the structure and the hierarchy for the assignment of the unique transaction ID. Failing to do so may mean very poor results of transactions matching, or a longer time necessary to the industry before a common approach can be found.

Field No 29: Linked transaction ID

This is understood as applicable only in case of transactions concluded on trading venues. It should be clearly specified in the TRUM.

Field No 30: Linked order ID

This field seems very problematic firstly for similar reasons of the unique transaction ID, but also because it is unclear what is the definition of order. As suggested in the introduction to this document, we believe that the definition of orders to trade should be limited to binding orders submitted to exchanges and it should not include indications or instructions submitted to brokers to facilitate the arrangements of OTC transactions.

Field No 31: Transaction reference number

The description of this field is unclear and it is difficult to understand the difference with the unique transaction ID. The purpose of the field may suggest also a different structure/format. Also it should be stated whether it is applicable also for self-reporting entities.

Field No 35: Fixing index

The format is basically undefined, therefore in the absence of a structure or taxonomy, the risk of mismatches between different counterparties is generally very high.

Field No 38: Notional amount

It should be clarified that this field is not required on contracts in which either the price or the quantity are not fixed but can vary during the contract lifetime.

Field No 50: Delivery zone, Field No 51: Delivery start date and time, Field No 52: Delivery end date and time

It should be clarified that fields 50, 51 and 52 are applicable only for contracts with physical settlement.

Field No 58: Quantity unit used in field no 57

It should be specified the taxonomy allowed e.g. whether only energy units are allowed or also volumetric can be used (e.g. cubic meters)

Field No 62: Lifecycle information

The format seems counterintuitive in regard to terminated contracts, we propose to use 'T=Terminate' rather than 'C=Cancel'.

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

In general the structure of the TRUM seems complete. However it would make sense to have all the information, including the requirements for RRM, in single document to facilitate market participants to identify in a single document all the relevant references for the reporting obligation.

Furthermore on the section on FAQ, we suggest to adopt a similar structure adopted by ESMA whereby the changes to the previous version are highlighted with this text (***new** or **modified***) every new release and a summary table with the topic and latest update date in available at the beginning of the FAQ section. We suggest however regular release of the FAQ (e.g. every 6months) with at least informal consultation with market participants or their associations.

3. *The Agency has currently identified a set of standard formats to be used in the reporting framework (see Chapter 5 of the draft TRUM). Do you consider these standard formats relevant? Are there any other standards that the Agency should consider?*

Please see the comments to the specific data fields in response to question 1

In general the formats do not seem sufficiently defined (alphanumeric digits are applicable nearly 10times over 62data fields) and this increases the probability of mismatches. ACER should provide at least interim standards for those data-fields where the uniqueness of the code is required (e.g. field No. 23, 27, 28, 30, 31). This would allow market participants to focus on other operational aspects.

4. *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).*

Please see answer to question 1.

5. *Do you agree that for the reporting of energy derivatives, the same standards that apply under EMIR and MiFID should apply under REMIT (see Chapter 7 of the draft TRUM)?*

In general we agree that the same standards should apply and this, if possible, should also include also the generation of the unique transaction ID.

We understand that the transactions in derivatives reported under EMIR will not have to be reported to ACER. Therefore we do not expect ACER requiring information on the additional fields (not required by the EMIR reporting) to be reported separately. This would make the reporting much more complex.

6. *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.*

As mentioned in the introduction to this paper we do not understand what ACER means by 'reporting certain trading scenarios'. The specific section does not provide explanation in this respect. Also, based on the text of REMIT and the draft IAs, GM&T believes that the collection of data is limited only to the reporting of *transactional* and *fundamental* data and therefore there is no legal ground to enlarge the reporting obligation to 'trading scenarios' on ongoing basis.

7. Please provide us with your views on the section in the draft TRUM related to data integrity (see Chapter 9 of the draft TRUM).

The information provided to ensure data integrity seems complete. GM&T would like to highlight some aspects:

- The **requirements** for self-reporting market participants should be **minimal**, also in case they perform reporting for their affiliates. This is essential to minimise the burden on market participants and allow economies of scale. This is already the case under the EMIR reporting and it should be allowed in a similar way.
- In order to minimise failures and errors ACER need to provide a '**customer service**' on continuous basis to reporting entities (being third entities of market participants). This should ensure that any issue, especially at the beginning of the reporting obligation, can be solved in a timely manner.
- GM&T generally agree with the expectations of ACER in terms of **controls and processes** that market participants should introduced for reviewing or confirming compliance with reporting of transactions. GM&T appreciates also that a principle based approach is proposed rather than a prescriptive list of activities to be performed.
- It should be clarified the minimum level of rights and obligations of market participants towards OMPs reporting on their behalf. GM&T believes that the TRUM should affirm that OMPs are required to provide the reports eventually submitted to ACER also to market participants in order to **allow validation and accuracy checks** of the reports submitted. At the very least the draft TRUM should specify whether such activity should be mandatory or subject to the agreement between market participants and OMPs. From the draft FAQ it is unclear if a requirement to reconcile data for the *bilateral* standardised transactions submitted applies.

For any additional details on the above elements, please contact [REDACTED]