

Public Consultation
on "REMIT – Requirements for the registration of Registered Report
Mechanisms (RRM)"
(Public Consultation Document PC_2014_R_06)

– 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 – Requirements for the registration of Registered Report Mechanisms (RRM)".

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 transparency in the wholesale energy market by means of an obligation to report transaction data. In this regard, the ECT-Group principally also supports the obligation to report transactions only via Registered Report Mechanisms (RRMs) that are subject to a registration process including a verification of identity. The costs for fulfilling the RRM require-

ments, however, should be appropriate and proportionate to their benefits in order to avoid a trade impediment resulting from excessive trade monitoring costs.

III. Detailed answers to the questions

Therefore, in consideration of the foregoing, please find in the following our detailed answers to your questions that are most important to us:

1. Do you agree with the Agency's view that post-trade events related to wholesale energy products shall be reported by trade matching or trade reporting systems?

The ECT-Group supports ACER's view that post-trade events should not be reported by the organised market itself since it regularly lacks information on post-trade events. In this respect, however, it is crucial that the reporting of post-trade events does not result in unnecessary additional costs or a higher effort. Hence it appears to be at least adequate to have the reporting carried out through trade matching or trade reporting systems – at least to the extent that the market participants make use of these anyway. Otherwise, there must at least be an option for market participants to report post-trade events themselves.

2. Do you agree that the standards and electronic formats to be established by the Agency according to Article 10(3) of the draft Implementing Acts shall apply to trade repositories and ARMs for the reporting of data covered by EMIR and / or other relevant financial market legislation? If not, please justify your position.

The ECT-Group holds the opinion that the double reporting obligation as stipulated in article 8 (3) REMIT must be categorically avoided. Here, too, it is important that the effort and costs of the market participants are reduced to a minimum. Hence it appears to be reasonable and in general more appropriate that trade repositories and ARMs are not obliged to make use of the formats developed by ACER, but rather use the established formats. In order for ACER to use the data, a corresponding converter should be employed by the Agency. In the ECT-Group's view this is likely to reduce the susceptibility of error and help keeping the total costs down.

3. Do you agree that the requirements set out above adequately ensure the efficient, effective and safe exchange and handling of information without imposing unnecessary burdens on reporting entities?

In the ECT-Group's view, the RRM requirements seem principally apt to ensure data security – notwithstanding full transparency. Nevertheless, it is important not to stipulate immoderate requirements due to the fact that the requirements set out by ACER mean that both the necessary personnel and adequate IT resources must be available.

In this context, clarifications regarding the satisfactory implementation of the requirements would be desirable, with particular regard to the operational implementation that ACER expects from the RRM.

4. Do you agree with the Agency's view that the same requirements shall apply to all RRM?

The ECT-Group cannot agree with ACER on this aspect. With regard to the total requirements it seems appropriate to introduce a grading; this is particularly important where both smaller energy supply companies reporting only their own data as well as companies reporting for their group are to be covered without facing immoderate requirements.

Hence, from the ECT-Group's point of view, a system with three levels seems to be appropriate:

- Level 1: This level would encompass companies reporting only their own data or their group's data.
- Level 2: This level comprises companies that also report counterparty data. Since it is envisaged that, ultimately, only one party is to carry out the reporting.
- Level 3: Level 3 would encompass pure service providers, i. e. companies reporting on behalf of others.

5. If your reply to question 4 above is negative, please explain which requirements should apply differently to different RRM's and why.

So far, the requirements are too abstract to make a final statement in this regard. In general, however, lower requirements in accordance with the levels outlined under 4. should be applicable.

6. Notwithstanding the requirements on the validation of output (see Chapter 5.6 above), should the Agency offer to entities with reporting responsibilities the possibility to request access to the data submitted on their behalf by third-party RRM's?

From the ECT-Group's point of view, the market participants should be able to (at least) view the data submitted by a third party, since – ultimately – they are the ones obliged to report the data. Hence, the market participants should be able to guarantee that third-party reports are correct; at the same time, they would thus be able to make sure that incorrect data will be corrected.

7. If the reply to question 6 above is positive, please explain how such access should be granted, taking into consideration the need to ensure operational reliability and data integrity.

The market participants should only be granted the right to view the data. Data security can, for example, be guaranteed through the use of a separate access to the data repository ARIS, ensuring that only the data reported for the respective market participant can be viewed, as it is done in the case of trade repositories.

8. Do you agree that the compliance report must be produced by the RRM on a yearly basis or shall such report be compiled only at the request of the Agency?

In the view of the ECT-Group it seems appropriate to differentiate between RRM's reporting only their own data and RRM's also reporting on behalf of third parties. To the extent that an RRM only reports its own data, it seems to be sufficient that such report is compiled only at the request of ACER. This helps to avoid unnecessary costs.

To the extent that an RRM also reports on behalf of third parties, the approach proposed by ACER – that an annual compliance report should be compiled – is to

be welcomed. This ensures on the one hand that a market participant making use of an RRM to fulfil its reporting obligation can at least make sure that the RRM fulfils the technical and organisational requirements. On the other hand, a yearly report provides ACER with the possibility to monitor the RRM.

9. Do you agree that trade repositories and ARMs shall be registered with the Agency, even if they only report data reportable under EMIR and / or other relevant financial market legislation?

Yes.

10. Do you agree that the Agency should foresee a simplified registration process for trade repositories and ARMs that only report data reportable under EMIR and / or other relevant financial market legislation?

Yes.

11. Do you agree that CEREMP should be used for the identification of market participants that apply to become a RRM?

In the view of the ECT-Group, there are no reasons why CEREMP should not be used for the identification, since these are already in use and thus seem appropriate.

12. What is your opinion on the timeframe needed to complete the registration process?

In the ECT-Group's point of view, the registration procedure seems to be very extensive and time-consuming. Moreover, it is necessary to give the registered participants the possibility of testing the system. Furthermore, test runs have to be carried out in order to fine-tune the system, where necessary, and to fix errors that might occur. In view of the complexity of the registration procedure, an estimated timeframe of three months appears to be very tight.

13. Do you have any comments on the registration process in general?

See answer 12.

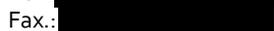
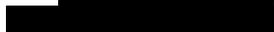
14. Would the periodic renewal of registration be a valid alternative to the certified annual report?

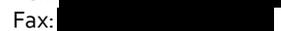
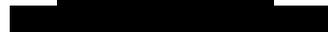
From the ECT-Group's point of view, a periodic renewal of registration is unnecessary. The certified annual report seems to be the better option in terms of feasibility since, here, a differentiation should already be made as to whether an RRM reports only its own data or also counterparty data/on behalf of other market participants (see answer 8).

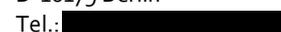
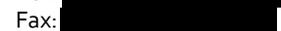
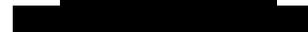
15. Do you have any other comments on the Chapter concerning the Agency's assessment of compliance with the RRM requirements?

Requirements that are as clear and precise as possible with regards to the manner of implementing data security and the simultaneous as well as correct data transfer by RRMs would be desirable. Only then can the compliance assessment be carried out appropriately by ACER and the compliance with the requirements be monitored.

Contacts:


Becker Büttner Held
Magazinstraße 15-16
D-10179 Berlin
Tel.: 
Fax.: 

www.ect-g.de


Becker Büttner Held
Magazinstraße 15- 16
D-10179 Berlin
Tel.: 
Fax: 

www.ect-g.de


Becker Büttner Held
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