



ETR ADVISORY

Tel: +44 20 3271 0091
Email: info@etr-advisory.com

www.energytradingregulation.com

**Response to the second REMIT consultation on Registered Reporting
Mechanism (RRM) Requirements**

PC_2014_R_6

Date : 1st September 2014

Version: 1.0

Contents

INTRODUCTION	3
1. SHOULD POST TRADE EVENTS BE REPORTED BY MARKET PLACES, TRADE MATCHING AND REPORTING SYSTEMS?	3
2. SHOULD THE FORMATS IN THE DRAFT IMPLEMENTING ACTS APPLY TO TRADE REPOSITORIES UNDER EMIR, AND ARMS UNDER MIFID?	3
3. DO THE REQUIREMENTS IN CHAPTER 5 ADEQUATELY ENSURE THE EFFICIENT AND SAFE EXCHANGE OF INFORMATION WITHOUT IMPOSING UNNECESSARY BURDENS ON REPORTING ENTITIES?	4
4. SHOULD THE SAME REQUIREMENTS APPLY TO ALL RRMS?	4
5. WHICH REQUIREMENTS SHOULD APPLY DIFFERENTLY (REF QUESTION 4)?	4
6. SHOULD THE AGENCY OFFER PARTICIPANTS THAT REPORT VIA A THIRD PARTY RRM ACCESS TO THE DATA SUBMITTED ON THEIR BEHALF?	4
7. NOT APPLICABLE	4
8. SHOULD A COMPLIANCE REPORT BE PRODUCED ON AN ANNUAL BASIS OR ONLY ON REQUEST?	4
9. SHOULD EMIR TRS AND MIFID ARMS BE REGISTERED WITH THE AGENCY, EVEN IF THEY ONLY REPORT DATA UNDER FINANCIAL LEGISLATION?	4
10. SHOULD THE ENTITIES MENTIONED IN QUESTION FOLLOW A SIMPLIFIED REGISTRATION PROCESS?	4
11. SHOULD CEREMP BE USED FOR THE IDENTIFICATION OF MARKET PARTICIPANTS THAT APPLY TO BE AN RRM?	5
12. WHAT IS YOUR OPINION ON THE TIMEFRAME NEEDED TO COMPLETE THE REGISTRATION PROCESS?	5
13. COMMENTS ON THE REGISTRATION PROCESS IN GENERAL	5
14. WOULD PERIODIC RENEWAL OF REGISTRATION BE A VALID ALTERNATIVE TO THE CERTIFIED ANNUAL REPORT?	5
15. DO YOU HAVE ANY OTHER COMMENTS?	5
CONCLUDING THOUGHTS	6
ABOUT ETR ADVISORY	6
TERMS AND CONDITIONS	6

Introduction

This document provides the thoughts and recommendations of ETR Advisory as part of the process of the second consultation on the requirements for Registered Reporting Mechanisms. The comments are non-exhaustive and reflect our key thoughts having read the provided documentation.

Where an answer to a question is given, it is contained in a paragraph which has the same number as the question in the consultation.

1. Should post trade events be reported by market places, trade matching and reporting systems?

Reporting of post trade events by market places and trade matching systems is sometimes a useful way for market participants to have their data reported. However, in many cases such compulsory delegated reporting is in fact less useful than it appears, and for this reason it is our view that for the most part market participants will be better off reporting the information themselves, or via a reporting service.

The reason for this twofold:

- 1) In many cases, only part of the trade lifecycle is executed on the platform. For example with broker platforms, modifications and early terminations are not always carried out over the platform. It would therefore be up to the market participants to report these events. In the event that the platform reports an execution, but the participant reports a modification, the participant would need to check whether the market place had reported the execution before sending further data. It would in fact be easier for the participant to simply report the entire trade lifecycle.
- 2) There are several data fields that the market place is unlikely to have, for example the Beneficiary ID or the Link ID. If the market place was obligated to report, the participant would need to supply this data, making the whole process less efficient.

Therefore we support the stance of the current draft if the Implementing Act, which states that OMPs are “obliged to offer a service”. With such a setup the participant can elect which model to use.

We would expect more requirements on the OMP in two respects:

- 1) There should be guidance on the level of charges that is appropriate for such a service.
- 2) OMPs should be obligated to provide data in a timely and cost effective manner to the market participant so that they may report themselves.

2. Should the formats in the draft Implementing Acts apply to Trade Repositories under EMIR, and ARMs under MiFID?

A similar question was also asked in the parallel TRUM consultation and our answer from there is reproduced here:

There are certain fields missing from the tables if they are to be used as a substitute for reporting under EMIR. These fields include:

- Clearing Information
- Information regarding whether a trade is a hedge
- Action types such as “compression”

In general, it is only reasonable for such reporting to be a substitute for EMIR reporting if all of the appropriate EMIR fields are included.

3. Do the requirements in chapter 5 adequately ensure the efficient and safe exchange of information without imposing unnecessary burdens on reporting entities?

In our opinion the requirements are sufficient. In general we feel that the requirements are appropriate for a third party RRM, although the governance requirements would appear to be strict and difficult to solidify.

4. Should the same requirements apply to all RRMs?

No. In our opinion “lighter” requirements should apply to those who are reporting on behalf of themselves and for others in their group.

5. Which requirements should apply differently (ref question 4)?

Those who report on behalf of themselves should have lighter requirements, which at a high level could include:

- Contingency plans – the requirement as a market participant to report within a time period is sufficient as it is.
- Validation of output – requiring documentation on how this works is burdensome for a self-reporting entity. Whilst there will be internal specifications in any case, an extra documentation requirement is superfluous since the output itself would be a sign of success.
- Governance – not necessary for a self-reporting entity.
- Operation reliability – again the requirement on the entity in their capacity as a participant should be sufficient.
- Disruption of services – the requirement to demonstrate that no information is unreported on any failure is superfluous for a self-reporting entity.

6. Should the Agency offer participants that report via a third party RRM access to the data submitted on their behalf?

No. Third party RRMs should be obligated to provide this to their customers. Requiring this from ACER just adds to the burden on the Agency.

7. Not applicable

8. Should a compliance report be produced on an annual basis or only on request?

It would be useful for the industry in general if these reports were to be produced on an annual basis, since participants would be able to compare such reports when selecting a third party RRM.

9. Should EMIR TRs and MiFID ARMS be registered with the Agency, even if they only report data under financial legislation?

Yes, but only if the data falls under REMIT (i.e. financial derivatives in Gas and Power). Clearly that is necessary for ACER to have a full picture of market activity unless participants are required to double report, which they currently are not.

10. Should the entities mentioned in question follow a simplified registration process?

Yes, since they will already be complying with similar requirements under the legislation that applies to EMIR and MiFID.

11. Should CEREMP be used for the identification of market participants that apply to be an RRM?

This would appear to be a sensible efficiency.

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

Given that reporting is to commence six months after Implementing Act adoption, given that fact that the technical specification is only made available after application, and that the finalised requirements will only be available upon adoption, RRM applicants will be under a great deal of time pressure.

Having a turnaround of three months given this compressed timeline would therefore appear to be too long. It is however understood that such a turnaround will depend on the number of RRM applicants.

13. Comments on the registration process in general

In general the process would appear to be sound, although the technical specifications should be made available before registration starts (after signing an appropriate NDA).

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

It would, although an annual report would be more useful to the industry at large for similar reasons to those cited in the answer to question 8.

15. Do you have any other comments?

More information is required as to the nature of an audit which could be requested by ACER as outlined in section 7 of the consultation document. Since the RRM would need to pay for such an audit, they would need to set aside budget for it, should it occur. This would have an impact on their pricing.

Since the cost of an audit varies greatly, depending on both what is required and also the type of company that must conduct it, such information should be available in advance.

Concluding thoughts

The majority of the requirements here are reasonable for anyone wishing to set up a third party RRM. However, we do feel that a less onerous category of “self-reporting RRM” should be permitted.

We also feel that more transparency is required on the technical requirements, and that the potential audit costs need to be made clearer in advance.

It is recognised that many of the requirements for an RRM are in fact driven by the contents of the Implementing Act. This will place a constraint on ACERs ability to respond to any responses to this consultation.

Readers wishing to discuss the above issues further are welcome to contact the author of this document, [REDACTED]

About ETR Advisory

ETR (Energy Trading Regulation) Advisory Ltd is a specialised, expert resource which explains and helps implement the complex labyrinth of European Energy and Commodity Market Regulations. ETR run the web site www.energytradingregulation.com which provides updates on the state of energy regulation in Europe.

Since our founding in April 2013 we have helped several Market Participants to comply with various regulations that apply to the energy and commodities markets. We have also helped several technology companies and platforms to comply and provided training to the market.

Terms and Conditions

The contents of this document are solely the opinion of ETR Advisory Ltd (ETR). ETR accepts no liability for any errors, omissions or misunderstandings that arise from it. The document is distributed on this condition. Copyright of the document remains with ETR Advisory Ltd and it may not be quoted from or reproduced without express permission.