

Reply from ENERGYA VM to the suggested questions formulated by ACER within the framework of the public consultation opened on the “*Functioning and Usefulness of the European Register of Market Participants*”

Consultation questions

Questions on improvements of the Registration Format of the European Register

When transmitting the information from the national registers to the European register of market participants, NRAs use the format provided in Annex 1 to ACER Decision 01/2012. In this section, the Agency is consulting stakeholders on possible changes and additions to that format, in order to consider the need for changes to the Registration Format used at national level.

1. Regarding fields 112 and 316 (**‘VAT number’** of the market participant and ultimate controller), taking into consideration that some market participants and ultimate controllers do not have a VAT number, ACER proposes to add an additional checkbox labelled: ‘I do not have a VAT number.’ Moreover, taking into account that different formats for VAT identification apply outside the European Union, ACER proposes to adopt a more flexible format for fields 112 and 316 for non-EU market participants. Do you agree with this change? If not, please justify your reply.

Yes, we do agree with any proposal which implies more flexibility in order to accommodate the registration form to the diversity of legal structures existing across the EU as well as in any other third countries.

2. Regarding the reformulation of field 113 (Energy Identification Code (**‘EIC’**) of the market participant):

a. EIC codes are widely used for reporting transaction and fundamental data. The current registration format allows only one EIC code to be provided by a market participant, although there may be several different types of EIC codes related to the same market participant and used for reporting. Moreover, although the EIC codes are publicly available, other pieces of information, such as the location of the facility identified by the EIC code, are not public. Taking into consideration the need to identify for monitoring purposes to which market participants different EIC codes belong to, the current registration format can be developed to allow the introduction as mandatory fields of all EIC codes (i.e.: EIC X, EIC Y, EIC Z, EIC T, EIC W and EIC A) related to the same market participant. What are the pros and cons of such an approach? Please explain.

According to our understanding, and based on our experience and idiosyncrasy, the current situation where only one EIC code is to be provided by a market participant should suffice for monitoring purposes. Further obligations would only lead to greater complexity of the registration process and validity process (which in many cases has already proved to lack celerity and clarity).

b. In case the introduction of all EIC codes used for reporting by a market participants (see previous question) is allowed by the European register, the Registration Format could be expanded to:

identify the name of the object to which the EIC code relates (e.g.: name of the power plant),

identify the address of the object to which the EIC code relates (e.g. location of a power plant identified by X EIC code),

☑ identify the country where the market participant or the object is physically registered (e.g. in case of Y, T EIC codes, all countries which lie in the area of the Y, T EIC code,

☑ identify the market participant's role/relationship with the submitted EIC codes in order to differentiate situations where one code is used by more than one market participant. The Agency has identified the following relevant roles:

- o Proprietor/owner of the object to which the entered EIC code relates
- o Operator of the object to which the EIC code relates
- o Other role which has information about the object to which EIC code relates

i. Do you agree with the possibility to add these mandatory fields in order to identify each EIC code? If not, please justify your reply.

We do not agree with this proposal. The introduction of a multiplicity of EIC codes belonging to the same market participant would only entail further complexity to the reporting logistics of a MP (such complexity not being justified based on a cost benefit analysis)

ii. Would you like to add/reformulate any other potential role/relationship of a market participant with the submitted EIC codes to the ones mentioned in the list above?

See previous answer.

3. Field 116 (Global Location Number of the market participant - 'GS1' in the coding scheme) is rarely used by market participants. Do you agree that this field is removed from the European Register? Please explain your reply.

While Enérgya VM is not only using the Global Location Number for identifying purposes, we do tend to consider that the more alternatives the MPs have the better. Accordingly, we do not support the proposal of removing this field from the European Register.

4. Field 118 ('Trade Register') was requested by some NRAs. Would it be adequate to allow for special characters in this field? If not, please justify your reply.

N/A

5. The Implementing Regulation lays down the provision to include Trader IDs in transaction reports (field 3 of Table 1 in the Annex to the Implementing Regulation). The Trader ID is the login username or trading account of the trader and/or the market participant or counterparty as specified by the technical system of the organised market place. The field 'Trader IDs' may be added to the European Register as part of the market participant's registration information to make it easier to link different trader IDs to one specific market participant for market monitoring purposes. Do you agree with this proposal and what are the pros and cons of this? Please explain your reply.

Once again, we do consider that including further obligations in terms of additional information provided by MPs during the registration process would not be justified based on monitoring purposes. While we do firmly believe in market transparency as a driver for fostering competition, we consider that the introduction of further requirements to MPs should also take

into consideration the implications for MPs in terms of compliance procedures (human and economic resources to be deployed, etc) and carrying out a cost-benefit analysis.

6. Field 120 (**'Publication Inside Information'**) is currently filled by many market participants with a general link (for example, a link to the company's main webpage) and not with the exact location where the inside information publications are published. Do you agree to refine its definition so that it is clearly stated that the URL(s) should indicate the exact address where the inside information is disclosed publicly and, to create a new field indicating the location of the web-feed used for reporting the publications of inside information to ACER?

Yes, we do agree with the proposal as it would facilitate other MPs search of such information at a minor/non-existing cost for the MP holding inside information.

7. Regarding field 121 (**'ACER code'**), taking into consideration the need to ensure the traceability of relevant changes in the registration records, two new fields could be added to the Registration Format: one indicating previously used ACER codes; another identifying the relationship with the previous codes. The identification of the relationship between ACER codes could be provided by selecting the following types:

same person previously registered in another Member State;

incorporation of a registered market participant;

spin-off from a registered market participant;

other.

i. Do you agree with the above proposal? Please give reasons for your answer.

While in general terms we do not have a particular preference on this front, we consider that the introduction of those two new fields would imply some difficulties in terms of clarification of the type of relationship with the previous codes to be provided (definition of spin-off for the purpose of this field).

ii. Do you see a more efficient way to ensure traceability of relevant changes in the registration records?

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8. Section 4 (**'Corporate Structure'** of the market participant) does not currently provide full transparency on the corporate structure of the market participant. It has been proposed that every market participant registered indicates the VAT number, name, and percentage of ownership of all companies belonging to the same group³ of the market participant (including company(ies) that are not market participants) as this would increase transparency from a market surveillance perspective.

i. What are the pros and cons of such an approach? Please explain your reply.

Enérgya VM firmly considers that such a proposal is largely disproportionate compared to the goals pursued. The definition of a percentage of ownership of all companies belonging to the

same group, apart from cumbersome the first time a MP has to accomplish it, could become an endless task, as such a ratio may change very often under certain circumstances.

ii. Are there any improvements more generally to the corporate relationship section you would suggest?

We have faced serious difficulties in order to fill out this section as the CEREMP system did not take several corporate relationship requests launched at the same time by different entities belonging to one and the same business group.

9. In Section 3 to 5, we understand that some fields may not be self-explanatory. In order to avoid the misinterpretation of the information inserted by a market participant, do you think that some additional free text fields should be included to allow a better description of the particular situation of the market participant? Namely regarding:

- the main activity of the market participant;
- how the ultimate controller performs such control;
- information about the existing/envisaged data reporting agreements.

Further information provided in order to fill out those sections would be certainly helpful and would probably speed up the registration process (avoiding unnecessary exchange of questions and answers between the MP and the NRA).

10. Do you have any other comment on the current fields provided in Annex 1 to ACER Decision 01/2012 on the Registration Format that can further improve the functioning and usefulness of the European register of market participants?

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Questions on the functioning and usefulness of the European Register

Recital 21 of REMIT provides that in line with the reports submitted by the Agency to the European Commission, the Commission should assess in cooperation with the Agency and with the NRAs, the functioning and usefulness of the European register of market participants, including whether any regulatory changes related to this are needed. In this section the Agency is keen to understand if stakeholders have views on any changes needed in the context of the Register that in the long term can enhance the overall transparency and integrity of wholesale energy markets and ensure a Union-wide level playing field for market participants.

11. In 2011, the Council of European Energy Regulators (CEER) issued a report⁴ recommending factors that are important in meeting the above aims. The current Registration regime was introduced, as it was considered that it provides the right regulatory balance to identify who is in the market and to enable monitoring markets to detect abuse. The Agency is keen to understand stakeholders' views on this balance, in particular in relation to the previously-raised concerns that different national administrative requirements, which trading companies need to meet in order to operate in the national wholesale energy markets, could represent potential barriers to the creation of a Union-wide level playing field for market participants.

i. Do you consider these national administrative requirements a relevant barrier to entry and an obstacle towards a true pan-European energy market? Please provide examples of administrative requirements that you believe constitute an unjustified barrier to entry that could distort the level playing field at European level.

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ii. If you do believe there are barriers to entry, how could these be mitigated?

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iii. Do you consider other possible regimes, compared to the existing registration regime, more useful to enhance the overall transparency and integrity of the wholesale energy markets and ensure a Union-wide level playing field for market participants? (e.g. EU trading license regime) While we do consider that the registration regime may work for the purpose pursued, we have encountered difficulties in different fronts: technologically speaking, we have faced troubles in order to go through the different sections and get validations from the NRA (the system is not particularly user-friendly, for instance when entering powers of attorney to different registered MPs, etc); moreover, we have noticed some different standards and approaches implemented by various NRAs when referring to the registration obligation of some players (i.e. registration obligation of single production unit with a capacity above 10 MW). This diversity of views on a given topic by different NRAs have implied uncertainty for those MPs which are active in various jurisdictions through different subsidiaries.

12. Some counterparties and organised market places (OMPs) voluntarily require market participants to be registered in the European register of market participants before they can trade with them/in their platforms. Do you consider that the introduction of this as a legal

requirement would benefit the integrity and transparency of the wholesale energy markets?
What would be the pros and cons of introducing this legal obligation?

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13. Do you find the publicly available extracts of the European register of market participants useful for your business and/or for the transparency of the wholesale energy market? If not, which additional information should be published?

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14. Do you have any other comments on the functioning and usefulness of the European Register?

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Question on the implementation timeline of changes in the European Register

15. Following consideration of responses to the public consultation, the Agency aims for any resulting modification to the European register of market participants and to the Registration Format to be adopted by 30 June 2016 and to apply as of 1 January 2017. Do you agree with this proposed timeline? If not, please justify your reply and propose an alternative timeline.

[The proposed timeline should be accommodated to the extent of changes to be introduced to the registration form.](#)