

## **Consultation: REMIT Functioning and Usefulness of the European Register of Market Participants**

### **Reference: PC\_2016\_R\_01**

To: REMIT Public Consultations

The International Association of Oil and Gas Producers (IOGP) welcomes the opportunity to provide feedback regarding the functioning and usefulness of the European Register of Market Participants.

We understand the timing of this consultation was dictated by recital 21 of REMIT but we would like to note that the timing is not ideal, considering that industry resources are focused on phase 2 reporting go-live and some market participants have just registered.

We would like also to express our concerns around the fact that a lot of the additional data proposed to be reported via this consultation exist already on other public database or is already reported via other REMIT processes (eg Q3-5-8-9). We therefore would like to point out that it contradicts recital 19 of REMIT which is calling for efficient reporting and avoidance of double reporting. We also have the impression that the proposals laid out in this consultation are moving away from the primary objective of the register which is, per article 9.2, to identify the market participants in a unique way and moving towards creating a new database for monitoring/reporting purposes which is not the initial intend.

Please find below IOGP responses to the questions.

- 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.**

We agree with the proposed change.

- 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.

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.

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?

We think the above information may be subject to regular change. As such it would be onerous to maintain and does not enhance the unique identification of a Market Participant. Furthermore, information on the EIC codes and their requestor can be obtained from a number of existing sources:

- the ENTSOE/G databases
- Local Issuing Office database
- Via the information transferred to ACER by transaction and fundamental data reporting.

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.

We agree.

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.
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.**

We do not agree with the proposal. It goes beyond identifying uniquely the market participant. This information is both cumbersome to maintain using the registrations system and already available to ACER through interrogating reported transaction data.

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?

We agree that the exact address of the page where inside information is published should be registered. However we do not believe there is a requirement for a separate field for the RSS feed. ACER indicated in their FAQ on Fundamental Data Reporting (Q 6.1.3) that "The web field should be located in the exact same web page used for the disclosure of 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.

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

We agree with the proposal which will allow traceability of the changes around the ACER code, key parameter for the unique identification of the Market Participant in the reporting process.

**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 group<sup>3</sup> 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.**

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

The corporate structures are already available from public sources/databases (eg Companies House in the UK <https://beta.companieshouse.gov.uk/>). Furthermore, in the case of large international companies active in European gas and power markets this could number in the 100s and is subject to constant flux as companies regularly reevaluate their asset portfolios. As such asking for additional data on this respect would create inefficiency and double reporting.

**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.**

We do not think this additional information is relevant to the objective of the EREMP. Company websites provide information about the activities of the Market Participant. A Responsible and a communication contact are already identified in the register. Regarding the last topic, section 5 already addresses the question of current delegation of reporting and a look forward is irrelevant for transparency and monitoring purposes.

**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?**

We have no comment.

**11. In 2011, the Council of European Energy Regulators (CEER) issued a report<sup>4</sup> 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.

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

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)

We urge ACER to ensure NRAs have consistent guidance on how to fill in the register. We have already noticed some misalignment on the "Corporate Structure" section: some NRAs are asking to list under "other related undertaking" any MPs having a relationships between each other and some only if an intra-group agreement is in place between the two companies.

We are not aware about any barrier to new entrants created by the current format of the register. However, if ACER were to implement some of the above proposals, the risk of inefficient reporting or double reporting and unjustified burden on current and new market participants may act as a barrier in future.

We think the current regime is appropriate, current licensing regimes managed by NRAs serve their purpose.

- 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?**

The ACER code is required for reporting purposes by the OMP, therefore we expect that OMPs will already indicate to the MP the requirement to register. As such there is no need to mandate such a condition to access platforms. Nowhere the REMIT regulation mentions that access to platforms should be subject to EREMP registration. The responsibility to register is with the Market Participant and cannot be delegated to the platforms operators.

- 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?**

IOGP members only use the register to find relevant ACER codes to facilitate reporting.

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

We would propose a couple of items to improve the user-friendliness of the interface:

\* It should be available in English as well as the local language of the NRA.

\* The login token should be valid for a longer period

\* On the “corporate structure” page, it would be helpful if the name of the company is displayed in addition to the ACER code

**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.**

We find the timing quite challenging as all Market Participants will still be dealing with the implementation of the new reporting content of the Inside Information UMMs and RSS feeds and troubleshooting of phase 2. We do not associate the same priority/sense of urgency to modify the register than to report Inside Information or transactions so we would recommend to extend the timing with 6 months.