



EAI Response to the ACER Consultation on Draft Trade Reporting User Manual (TRUM)

Electricity Association of Ireland

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Contents

Introduction.....	4
Question 1	6
Question 2	9
Question 3	10
Question 4	11
Question 5	11
Question 6	12
Question 7	12

The Electricity Association of Ireland (EAI) is the trade association for the electricity industry on the island of Ireland, including generation, supply and distribution system operators. It is the local member of Eurelectric, the sector association representing the electricity industry at European level.

EAI aims to contribute to the development of a sustainable and competitive electricity market on the island of Ireland. We believe this will be achieved through cost-reflective pricing and a stable investment environment within a framework of best-practice regulatory governance.



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Introduction

In light of the imminent publication of the EU Commission's Implementing Acts (IAs), the Electricity Association of Ireland (EAI) welcomes this timely Consultation and the opportunity to comment thereon.

Acknowledging that this Consultation is primarily focusing on the data fields that are to be reported for standard contracts, EAI takes this opportunity to reiterate its key concerns with the EU Commission's draft Implementing Acts.

- With regard to reporting contracts relating to consumers with a “technical capability” to consume 600GWh/year or more, EAI would welcome whether it is actual technical capacity to consume or forecasted/ historical consumption that is taken into account on assessment; it is also critical that a supplier can rely on a consumer's position on whether they have the “technical capability” for such consumption rather than requiring suppliers to carry out a consumer by consumer assessment; EAI would also welcome clarification as to whether the consumption assessment will be carried out on a per site basis or for multiple sites for one large consumer?
- The public list of standard contracts and organised market places should be updated on a regular basis and market participants should be informed of such updates, e.g. through an email or use of RSS feeds;
- Transactions executed at organised market places should not only be reported through such places but such market places should in the first instance, be obliged to report, subject to the option of a market participant to opt for self-reporting (which is usually for cost reasons);
- Modifications and terminations of non-standard contracts should be at least one month in line with the timeline for reporting the conclusion of such contracts;
- With regard to the backloading of contracts, some flexibility is required in this regard. A limit on how old or how large contracts which should be back-loaded are, would be welcomed;
- The phased approach to the commencement date of reporting for standard contracts and non-standard contracts is welcomed. The latter are anticipated to be more voluminous and complex and despite June 2015 being the expected commencement date for reporting, as much detail as possible with regard to what falls for consideration as a non-standard contract and what are the IT requirements for reporting a non-standard contract, would be welcomed as soon as possible;
- When laying down the rules on the timing and format for the reporting of trade and fundamental data, regard should be required to be had to existing reporting measures in place for energy utilities under EMIR in particular, to curtail the level of IT expenditure to be incurred above and beyond that for EMIR. Many utilities have only recently invested significant expenditure in IT systems to comply with the EMIR reporting obligation. Any deviation in IT requirements will impose additional and potentially significant cost on market participants which EAI urges the Commission to consider avoiding;
- For TSOs that must report fundamental and/ or market data, EAI requests that the IAs explicitly provide that TSOs who are themselves using the interconnector(s) , must treat their own data and the data of third parties/ market participants on an equal basis in terms of details and timing of publishable information.

The remainder of this response focuses on the consultation questions. EAI is also supportive of Eurelectric's response to this Consultation and urges ACER to consider also the points raised in that submission.

Question 1

Q1. 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.

EAI's key views on the data fields discussed in pages 14-32 of the draft TRUM include:

Field 3, page 16:

Is the username expected to be anonymised at all times or will the name of the trader be an option to use in this field. We would propose that a participant's unique ACER name be used in this field.

Field 4, page 16:

Are username/ name or registration number of the trader going to be optional or will one specific option, e.g. only the trader name or only the trader number, be specified for use in this field? Requiring the use of a Trader ID may require participants to hold a database of all counterparty traders and their IDs to ensure the correct number is used. Further information on this would be welcomed. As all traders should have a unique user name this duplicates the information in Field 3.

Fields 5 & 6, page 16

Where reporting orders it will not be possible to identify a party.

Field 8, page 17:

Examples of contracts and who the beneficiaries under those contracts would be is requested to ensure that the correct approach to determining the beneficiary is applied. Is the same approach as is used under EMIR useable for REMIT?

Field 23, page 20:

Is this the same approach as to for example determining a 'Product ID' under EMIR? If this is meant to be a unique reference per contract this would duplicate fields 28 and 31.

Field 24, page 20:

We would suggest that there be a controlled list of contract types.

Field 26, page 21:

While it is understood that reporting timestamps that must include milliseconds will be limited purely to exchanges, it is our belief that requiring milliseconds in timestamps may lead to significant numbers of mismatched contracts..

Field 27, page 21:

There is no format here so the content is unknown.

Field 28, page 22:

EAI requests confirmation that this requires a UTI to be used in this field. We query whether this is equivalent to the Trade ID under EMIR. This field appears to duplicate the information requested in Field 23 and 31.

Field 29, page 22:

We suggest that further clarification is needed on what is meant by a 'linked' transaction. More detail on who and how, and an example of how this "Linked Transaction ID" is to be determined, would be welcomed.

Field 30, page 22:

We highlight that the counterparty who didn't put up the order would not know the order ID.

Field 31, page 22:

This field appears to duplicate the information requested in Fields 23 and 28.

Field 33, page 23:

More detail over what voice-brokered transactions fall for reporting and how one might identify/ capture the details of transactions and identify those that are voice-brokered would be very welcome.

Field 37, page 24:

The example appears to quote the quantity unit in the text, is this also required or is the currency code itself the only data entry required?

Field 42, page 25:

We query whether this identifies the measurement for field 40 or field 41.

Field 44, page 25:

We query whether this relates to the settlement date, in which case there could be multiple entries.

Field 49, page 27:

It seems that this will duplicate the data in field 34, unless there is another intention which we are unaware of.

Field 52, page 28:

We suggest that examples would be beneficial, i.e. 23:59:59 or 00:00:00.

Fields 51-59:

We consider that clarification is needed on what is meant by the delivery of a trade, as there are potential levels of complexity in this area.

Other

We note that there are obvious similarities to the fields used to report transactions under EMIR, but REMIT will capture a greater number of market participants that may not be subject to EMIR and hence this resemblance will be meaningless in practice. For data fields that are common to both regulations, the population of the data has differences, thus eliminating any benefits that would have been attained, i.e. Beneficiary Identification, which has to be populated under EMIR but is optional under REMIT depending on the beneficiary of the transaction. These discrepancies should be amended to align the population of the data as between EMIR and REMIT.

With respect to the data fields that have yet to be defined for trader orders, there needs to be consideration given to what fields currently listed would and would not be applicable and how reporting will be completed if a transaction is initiated from an order.

Question 2

Q2. Please provide us with your general comments on the purpose and structure of the draft TRUM, annexed to the consultation paper.

EAI is a strong advocate of increasing integrity and transparency in wholesale energy markets to deter market abuse and market manipulation. We believe that the dual purpose of the TRUM, to facilitate reporting under REMIT and to ensure REMIT's proper implementation will assist in the monitoring of integrity and transparency as early as possible. The premise behind the TRUM is to be applauded and goes some way to help market participants with understanding and fulfilling their reporting requirements. It will also assist market participants in scoping their IT compliance requirements which should help minimise delays and errors with initial reporting. Unfortunately the required level of detail is lacking, therefore leaving areas where ambiguity remains.

In this respect EAI welcomes the flexibility that the TRUM will deliver in being able to be adjusted and updated in line with developments and experience of market participants in the market. We would hope that the required level of detail will be provided in forthcoming versions of the TRUM and we argue that this should be provided as soon as possible. ACER is encouraged to update TRUM regularly and advise the market of same, in line with developments in understanding of how RRMs report and the issues they might encounter. It is anticipated a number of versions of TRUM will be published between now and June 2015. EAI requests that ACER is also in a position to answer queries relating to REMIT compliance on an ad-hoc basis also, rather than waiting for a new release of the TRUM.

EAI requests clarity on the binding nature of the TRUM and its interpretive weight. This is in light of the reference in the Consultation that the TRUM is not designed to be a comprehensive list of how market participants and third parties reporting on their behalf should report in every situation. Does this mean that there is scope for flexibility in how one chooses to report data fields? How might discrepancies in information reported be amended to allow matching of information? It would be helpful for market participants to know whether they can categorically rely on the TRUM (including Chapter 10 –the FAQs) as a guide to the correct compliance approach to REMIT.

In relation to Chapter 3 of the draft TRUM the reference to the Commission's list of non-reportable contracts is welcomed. EAI would welcome confirmation however that ACER's public list of standardised contract types and organised market places, is an exhaustive list which, until such time as it is updated, can be used by market participants as a categorical guide as to whether their specific contracts are standard contracts, orders to trade or non-standard and fall for reporting under REMIT or not.

In relation to Chapter 4 of the draft TRUM, EAI would welcome clarification that when registering with ACER and noting whether they will use a third party RRM or not, market participants will have the option of updating this information on an ad-hoc basis, for e.g. when a market participants commences trading with a new organised market place.

Question 3

Q3. 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?

EAI believes that the listed standard formats are acceptable; we consider that there is a lot of merit in using recognised standards for reporting to ensure a level of consistency and in the main those listed will help to achieve this.

In reviewing the guidance provided for the data fields it appears that not all of the standards listed are actually used as they are not referenced, ie ISO 3166-1 Country Codes. We submit that the list established should be meaningful to the reporting requirements.

We suggest that the use of a standard to identify the market participant seems unnecessary if ACER is going to create a unique code for each market participant. It should be stipulated that the ACER code should be used for identification of market participants, this would help to reduce the number of fields that would require population, eg fields 2,6 and 9.

For some data fields it would be preferable if ACER were to publish and control lists that could be used for specific data fields, eg Field 24 – Contract Type. This would ensure consistency in reporting.

Any proposed additional standards should bear in mind the standards that already exist for energy utilities that are required to report under the EMIR regulation.

EAI is of the view that if a market participant chooses to become an RRM itself (which will most likely be for cost reasons), the data formats, channels and times should be guided by the formats, channels and times which market participants are already complying with for certain transactions, under EMIR which for many market participants is the first time they have been subjected to legislative reporting compliance obligations. This is crucial in order to minimise the IT set up, implementation and maintenance costs of compliance with REMIT for market participants many of whom only recently undertook considerable IT costs in order to comply with EMIR reporting requirements.

We agree with the necessity of ensuring the operational reliability of information received for REMIT reporting purposes but urge ACER to consider less burdensome requirements to apply for market participants that decide to register themselves as RRM, while attaining a level of security and information needed to adequately carry out the monitoring of potential market abuse and market manipulation cases. Confirmation that ACER's Requirements for Registered Reporting Mechanisms will be open to full consultation would also be welcome.

Question 4

Q4. 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 the EAI comments on the data fields (these comments include consideration of the field guidelines provided in Chapter 6 of the draft TRUM).

We point out that there is not enough detail to eliminate the misinterpretation of some of the fields; for example Field 42 Quantity Unit – does this refer to Field 40 Quantity or Field 41 Total Notional Contract Quantity. We would welcome further guidance and examples of how fields should be populated. We would also welcome clarification on whether inapplicable fields should be left blank or annotated with 'NA' or something similar.

EAI however believes that the orders-to-trade and non-standard contract reporting under REMIT will prove burdensome given the various types and complexity of such contracts for market participants, and requests that ACER endeavours to populate the TRUM with details required for the reporting of these trades at its earliest convenience. Given the volume and complexity of such contracts, and the turnaround required in establishing and implementing IT projects within companies to deal with the extensive reporting requirements, 8-10 months notice of technical requirements with which companies must comply is preferable. We also consider that there is limited advice for how the fields would be populated should a bilateral transaction take place, where some of the fields would no longer be relevant.

Question 5

Q5. 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)?

It is unclear as to what standards ACER are referring to under EMIR and MiFID with regard to reporting energy derivatives. For energy derivatives that fall under REMIT but that do not fall under EMIR or MiFID, EAI would welcome clarification as to which Annex (data fields) applies to such derivatives for REMIT reporting purposes. In general EAI would welcome the use of common standards between EMIR and MiFID.

The IT formats in which REMIT information will be accepted should however be aligned with those that apply to EMIR, particularly for energy utilities that are non-financial counterparties (and unlikely to be subject to MiFID). This will minimise costs of compliance in light of recent expenditure on IT projects for EMIR reporting compliance purposes.

Confirmation in TRUM, that duplicity in reporting is to be avoided by acknowledging explicitly that once an RRM has reported a contract under EMIR it is considered reported for REMIT purposes, is requested.

Question 6

Q6. 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.

It is understood that trading scenarios means a wholesale energy contract that may be required to, at first glance, be re-reported a number of times depending on how many different trades are covered in that contract's duration (e.g. delivery of certain quantities on a daily basis over one year).

It would be helpful if ACER could provide some guidance on how one might be expected to report a single contract that may contain a number of different quantities and/or volumes at different times as outlined above.

EAI is also considerably concerned about what orders-to-trade should be reported and an exhaustive comprehensive list in this regard is deemed necessary. Clarification on how orders-to-trade, particularly voice brokered orders to trade or orders to trade informally placed by telephone or email (whether matched or unmatched), would be expected to be reported is another necessary piece of information, particularly for small market participants. Considerable thought as to how to practically require reporting by participants without demanding overhaul of their trading and IT systems for orders to trade reporting is crucial.

Question 7

Q7. Please provide us with your views on the section in the draft TRUM related to data integrity (see Chapter 9 of the draft TRUM).

With respect to data integrity, it appears that both parties to a transaction will be required to report, but there does not appear to be any reference to any matching that ACER will carry out. The guidance actually puts the onus on the market participant to validate the information being submitted; we would highlight that a market participant could consider information to be correct but without removing ambiguity from the definition of the data fields the other market participant may report differing information.

We note that reference is made to the ACER Technical Specifications for Registered Reporting Mechanisms, but as these are not known it is difficult to assess the impact of these on the ability of a market participant to meet the standards and hence comply with the integrity requirements. It appears that RRM's will receive some confirmation of acceptance of the trades, but it is not clear how ACER will communicate these and how frequently and in what manner errors will be identified.

EAI welcomes the provision for market participants to either register themselves as RRM's or assign that task to a third party. It is envisaged that, as organised market places should in the first instance be responsible for

reporting transactions, many market participants will have a number of third parties/ organised market places acting as RRM for their transactions.

ACER states that the market participant's process of confirming/ reviewing REMIT compliance by third party RRM should be tailored to the market participant's activity. EAI believes it would be useful to understand whether ACER will view such tailoring on the basis of the volumes of transactions being reported or the value of such, or if ACER has some other measure in mind. The proposed governance, control and validation processes noted on page 36 of the consultation (e.g. checking the accuracy of the individual data fields; checking that the report was "properly" submitted to the agency) are considered overly stringent and potentially very costly.

It is suggested under Chapter 9.3 that market participants should verify that the outsourcing service has robust governance and control processes and mechanisms to ensure accuracy and completeness of reporting. EAI would welcome clarification as to what ACER considers to be "reasonable steps" when it comes to market participants' obligations to verify that the RRM/ RIS is successfully submitting details to ACER. EAI however believes that once an RRM is passed as meeting all the technical requirements for reporting and is accepted and registered as an RRM by ACER under REMIT, this should suffice as adequate evidence that an RRM has robust governance and control processes and mechanisms. Once an RRM is registered by ACER, market participants' obligations in this context should only extend to the need to perform their own checks with their RRM and with ACER to ensure ongoing compliance from time to time or as queries arise. To require otherwise, particularly in light of the number of third party RRM a market participant may have, depending for example on their use of organised market places, would be unduly onerous and costly. Unduly burdensome and costly obligations for market participants to monitor compliance of third party RRM by discouraged.

Ultimately, compliance by a market participant with REMIT reporting obligations should be considered fulfilled once the third party RRM, where applicable, has submitted the report on behalf of the market participant. ACER should have full rights to request of the RRM at reasonable time intervals as to whether it continues to comply with REMIT requirements. This would ease the burden and costs for market participants though the market participant should however at all times remain owner of the reported data and have full access to same in order to carry out any ad hoc checks or to answer intermittent queries. ACER should be in a position to facilitate free and simple access by market participants to their own data reports.



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