

## **Eurogas Response to the Public Consultation on ACER's Trade Reporting User Manual (TRUM) for trade reporting under REMIT**

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### **PRELIMINARY REMARKS**

Eurogas welcomes ACER's public consultation on the draft Trade reporting User Manual (TRUM). In the context of this consultation we would like to answer the consultation questions and re-state some key messages that we have previously brought to ACER's attention and that we believe are worth keeping in mind also for the purposes of this consultation.

Concerning the timing of this consultation, as it is carried out before the finalization of REMIT Implementing Acts, it is crucial that a robust and unequivocal understanding is reached on the main principles and requirements for reporting before stakeholders are asked to express any final position on the TRUM. For example, the most essential concepts for the application of the reporting obligations "standard contract" and "non-standard contract" are still unclear and therefore it is hard to assess the draft TRUM when there is still uncertainty about which contracts qualify as standard contracts and which ones do not. The provision of a list giving all standard contracts by ACER would be highly appreciated.

Clarity is also needed on the use of the terms "contracts" and "transactions". There is a definition for a "contract" in REMIT, but no such definition for "transaction". This should be clarified in the Implementing Acts with other issues, ACER should also consider this point.

As this first draft TRUM focuses on standardized reporting, Eurogas calls for any development of these guidelines relevant for the non-standardized reporting field to be carefully assessed and consulted upon with markets participants.

We also consider some elements should be addressed in the TRUM and should be taken into account for a workable and reliable framework for transaction reporting under REMIT, namely:

- provisions on the transactions reporting validation providing market participants with acceptance receipt, this would guarantee both the information flow and the data fields validation;
- provisions clarifying the fact that NRAs cannot request to market participants information already reported in the ARIS system;
- detailed rules on the setting up and the updating process of the public list of standard contracts, should this not be addressed in the Implementing Acts;
- guidance on the generation of the "transaction ID", passed on to market participants and updated;
- guidance relating to the contractual and legal framework (including responsibilities and liabilities in case of failure of the service provider) as these elements will be crucial for market participant to decide whether to become a self-reporting entity or not.

## CONSULTATION QUESTIONS

- 1. 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.**

As stated already in previous consultations, we believe that the tables specifying the fields for standard and non-standard transaction reporting should specify the mandatory or optional nature of the fields.

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

We believe it would be useful for the draft TRUM to include examples and provide more specific guidance on how to report individual standard transactions and orders to trade.

For non-standard reporting, given its variety and the complexity, we believe that a reflection on section 6.2 ("reporting details of non-standardised contracts") should be launched anyway as soon as possible for market participants to set in due time the necessary organisational measures and IT investments.

We also wish to stress here that organized market places should have a clear obligation to report all trades executed over their platforms (including orders to trade), whilst leaving the right to opt-out and report these deals directly to an authorized RRM only to market participants. This should be clearly expressed in Art. 5(6) of the draft REMIT Implementing Acts.

Controls and recommendations should also be addressed on the fees that may be charged by organised market places (also to ensure consistency across Europe) including public consultations.

Concerning reporting on balancing services, as TSOs are central counterparties for them, they should have the same obligation as organized market places to report.

An alignment of the content of the data fields between REMIT and EMIR is crucial to avoid double reporting. Indeed, ACER has sought to align a number of the REMIT reportable fields with EMIR; however it appears that some (30 out of 62) standard reportable fields are brand new (10 of which relate to orders to trade).

The introduction of a new field should be accompanied by a clear justification of how and why it would help to minimise the risk of insider dealing and market manipulation.

- The TRUM should specify if trades are to be reported as one line per trade or multiple lines per trade on a delivery/settlement basis and how to report trades which are either compressed or result from a compression exercise.
- Unlike EMIR, the draft TRUM does not seem to make a distinction between counterparty data and common data. Therefore it is not clear whether every field is expected to match when both sides of the trade report separately. Fields such as Buy/Sell indicator (11), Initiator/Aggressor (12), Beneficiary ID (8), for instance will be different for each

counterparty. It would also be helpful to know which fields are not expected to be reconciled/matched. Furthermore, it is currently not clear how a party shall report on behalf of its counterparty as well. It reads as if the reporting party will have to fill in two forms (the differences being limited to a couple of fields), which does not seem very efficient.

- As far as timing is concerned, we believe that a longer deadline than D+1 should be given for reporting of standard transactions executed on a pure bilateral basis. Reporting this kind of transactions may be not easy for market participants and cannot be done in the same time span as transactions reported through organized market places. In consideration of these complexities, we suggest that longer timings for reporting (e.g. at least one week) are expected for this kind of contracts.
- Data protection, record keeping and confidentiality provisions need to be addressed in the Implementing Acts and should be reflected in the TRUM guidance.
- It is important to recall when referring to the main provisions of Article 8 of REMIT, that double reporting is to be avoided.

**3. 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?**

The set of standard formats identified by ACER and to be used in the reporting framework should take into account different options (i.e. market participants reporting directly via an RRM or via an organised market place).

We wish to re-state here that the status of RMM will apply to all market participants reporting standard and non-standard information on transactions/contracts through ARIS.

Therefore, it seems that also self-reporting market participants will have to register a RRM and will have to comply with extensive and burdensome requirements. Given that “overall responsibility lies with market participants” according to article 8 (1) REMIT, we believe that self-reporting entities need to have lighter requirements than other RRM in order to avoid unnecessary burden and IT development costs.

The TRUM could elaborate on the way market participants send their reports to the Agency, especially as the role of RRM and ARIS has to be clarified.

**4. 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).**

It is unclear when and how market participants have reason to believe that the transaction reported on their behalf by an organized market is incorrect. In addition, those cases might subsequently lead to a double reporting of the same transaction.

It is not always easy to distinguish between fields, e.g. 40 and 41, and 44 and 45.

The fields related to the reporting of orders to trade should be consulted on further, with regard to detailed explanations. It could be extremely burdensome for market participants to have to

generate the information. Ideally, orders to trade should be reported directly by the organised market places.

**5. 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)?**

Energy derivatives are already reported under EMIR, therefore REMIT IA/TRUM should not deal with their reporting at all, except mentioning, that market participants do not have to report them once again under REMIT and that ACER should obtain those contract details for REMIT purposes directly from ESMA/EMIR if needed.

Furthermore, as already mentioned above, duplicity of reporting should be avoided. However, the reporting data fields under REMIT and EMIR are not consistent.

**6. 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.**

Clarification is needed as to what ACER mean by trading scenarios – this appears at first glance to go above and beyond the REMIT legislation. Additionally, it would be helpful if the draft TRUM were to include some example trades as an appendix with each field populated for them, therefore clarifying the relationship between numerous date and quantity/capacity fields.

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

The relevant documents quoted in Article 4.2, i.e. ACER Requirements for Registered Reporting Mechanism & Technical Specifications for Registered Reporting Mechanisms, are not available to date, so it is difficult to provide any qualified comments. Still some comments are still worth re-stating, for instance the need for the TRUM to fully acknowledge that once the market participant has provided timely all necessary data to the RRM or the RIS reporting on its behalf, it should be explicitly released from any liability with respect to its reporting or publication obligations under REMIT.

It should also be made clear that market participants on whose behalf data is reported remain owners of the data and must have access to the data, in order to be in a position to answer adequately any potential upcoming questions.

It is, however, a matter of concern that there is no information on how the website host would manage data integrity and data security. The TRUM suggests that market participants would provide several unique identifier numbers, and we think it is necessary to keep these identifier numbers secure to prevent risk of erroneous reports.

In the current draft TRUM, the obligation of the market participant to ensure permanently accuracy and completeness of the data that ACER receives results in extremely burdensome conditions for market participants reporting via a third party / RRM.

Lighter and non-discriminatory requirements need to be envisaged for market participants reporting directly, for this option to be effectively available.

Organised market places governance and control processes need to be streamlined and harmonised, to avoid market participant trading over several organised market places (i.e. RRM) to incur in different processes leading to administrative burdens and costs.

Other specific comments concerning chapter 9:

### **9.1 Transaction Reporting Arrangements with Reporting Mechanisms**

Wording (p.36) entails too heavy obligations for market participants concerning the transaction reporting.

### **9.3 Responsibilities when Outsourcing Transaction Reporting**

The difference between this case and third party RRM does not appear clearly. To be reviewed.