

IFIEC / CEFIC RESPONSE ON THE ACER CONSULTATION ON THE FIRST RELEASE OF THE TRUM (TRADE REPORTING USER MANUAL) UNDER REMIT

General remarks

IFIEC Europe and CEFIC welcome the opportunity given by ACER to give feedback on the consultation draft TRUM-document under REMIT in order to reach an efficient outcome of the process.

IFIEC Europe and CEFIC represent large electricity and gas End Users in the European Union. End Users are very dependent on well functioning electricity and gas markets that deliver efficient and reliable market prices reflecting supply and demand. Integrity and transparency on wholesale energy markets are key for the confidence in these markets and fair competition.

We support free and transparent markets and also welcome the principle behind many disclosure elements of REMIT. Moreover we notice that the regulation is primarily focused on producers and traders instead of the often complex situations of consumers. Therefore we plead to take at least the following conditions into account:

- i) Apply some sense of proportion around End Users, most of whom are explicitly forbidden to speculate, and
- ii) Retain obligations that may infringe with commercial confidentiality e.g. where outages for End Users could have a disproportionate impact on their core business market situation, not being energy. IFIEC Europe has significant concerns about the confidentiality of information. In the worst case, industrial companies could end up publishing commercially sensitive information into their own raw material and product markets.

Consultation questions

1. Data fields

Only very few End Users are active themselves on energy wholesale markets. The actual purchase of energy is most often outsourced. Execution of the contract including its transactions and -order to-trades, are in general part of the portfolio of our suppliers. Although End Users follow the complex market closely, they lack the daily experience in trading energy products.

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We notice that there is still a lot of misunderstanding and confusion among our members about the obligations of REMIT. Therefore, IFIEC Europe is not in the position to provide ACER with comprehensive opinions regarding the data fields as presented in Annex I of the draft TRUM.

2. Purpose and structure of TRUM

IFIEC Europe underlines the purpose of TRUM. As stated before, integrity and transparency are important in getting efficient and reliable market outcomes. Understanding and deductibility it is key to have a structure in place that is able to generate knowledge from the data to be able to identify suspicious transactions and the establishment of facts once suspected market abuse has been identified. However we propose to limit the requested data as much as possible because more information does not necessarily means more knowledge.

It must be clear that all market participants should have a level playing field with regard to the accessibility of information and the possibility to reach the same level of knowledge. The structure of TRUM should deliver both the accessibility and the possibility.

3. Standard formats

As stated under 1., IFIEC Europe and Cefic are not in the position to provide ACER with comprehensive opinions. For us it is important that standard formats and data collection fields of REMIT should be easily incorporated in our current reporting systems and will be also in line with other financial transaction regulations such as EMIR.

Again understanding and deductibility are key in this, but also the IT costs of double reporting.

It is therefore essential to have full consistency with the Financial Regulations:

- the same fields,
- with the same names,
- with the same definitions,
- in the same units of measure,
- submitted on the same report to one information depository
- within the same timeframe
- for the same reporting period.

4. Field Guidelines for reporting of transactions standardized contracts

See our statement under 3.

5. Energy derivatives

In principle, all financial derivatives should have the same standards in the different European Directives and Regulations that apply to those financial instruments. Moreover we support that more clarity will be provided which transaction are treated as financial products (e.g. is a forward contract with physical delivery instead of financial settlement – like a yearly contract with a fixed price - treated as an embedded derivative or not?)

6. Trading scenarios

We do not have knowledge about trading scenario's that should be concluded in the TRUM guidance

7. Data Integrity

In general, the integrity of data has to be safeguarded. However, we are concerned that all the obligations that are mentioned in chapter 9 are very costly and difficult to comply for End Users. We are also concerned that outsourcing of the submission of its transactions to a third party is an infringement with the contractual limitations of energy purchasing contracts to provide commercial sensitive information to other parties

Safeguarding all the information that ACER is collecting in ARIS is a general concern of IFIEC, not only because ARIS provides access to a lot of different employees, but also because of the many recent incidents of hacking websites and putting confidential information illegally on the internet.