



REMIT

Requirements for the registration of Registered Reporting Mechanism (RRM)

Public Consultation Document PC_2014_R_06

RESPONSE

On behalf of the Depository Trust & Clearing Corporation (DTCC), we would like to welcome the opportunity to comment on this consultation on the registration of Registered Reporting Mechanism (RRM). The DTCC has been heavily involved in the implementation of the European Markets Infrastructure Regulation (EMIR) reporting for financial derivatives, including commodities, in both the European Over-the-Counter (OTC) and Exchange Traded markets. The DTCC is also engaged in the Markets in Financial Instruments Directive/Regulation (MiFID/R) technical standards discussion, in which the transaction reporting regime under Article 26 MiFIR will be harmonized, where possible and through the Approved Reporting Mechanisms (ARMs), with other European reporting regimes.

DTCC's European Trade Repository Limited (DDRL), is a registered Trade Repository under the European Securities Markets Authority (ESMA) since November 2013 that provides regulatory reporting on behalf of an estimated 75% of the European financial derivatives market and is operating within a larger group of global repositories in the United States, Japan, Hong Kong, Singapore and Australia. As such, we intend to provide REMIT reporting as an RRM allowing the considerable number of financial and non-financial EMIR reporting entities that also have REMIT obligations to reuse their existing EMIR reporting mechanism as a cost-effective, timely, accurate and harmonised solution to REMIT reporting.

Yours sincerely,

,

1. Do you agree with the Agency's view that post-trade events related to wholesale energy products shall be reported by trade matching or trade reporting systems?

Answer: We do not agree that trade matching or trade reporting systems should be required to report post trade events. Reporting takes capital and resources and if an entity has not determined that a business case exists, it will be expensive to develop a reporting service.

2. Do you agree that the standards and electronic formats to be established by the Agency according to Article 10(3) of the draft Implementing Acts shall apply to trade repositories and ARMs for the reporting of data covered by EMIR and / or other relevant financial market legislation? If not, please justify your position.

Answer: We do not agree that standards and electronic formats established by the Agency should apply the reporting of data covered by EMIR. Where data has been provided to the trade repositories for EMIR, that data is sufficient for identifying the transaction and is already available to ACER.

3. Do you agree that the requirements set out above adequately ensure the efficient, effective and safe exchange and handling of information without imposing unnecessary burdens on reporting entities?

Answer:

We believe that the requirement that third parties are expected to identify omissions and obvious errors under 5.3(c) should be defined more fully and the requirement shifted to the market participant, which supports the most accurate and efficient reporting schema. Third party providers are not counterparties to the trade and are not in the best position to identify issues. Market Participants that report need to be held accountable for information provided on each transaction that is erroneous or omitted. Having said that, however, provided that each submission format is fully prescribed and the values for each field within the format are fully prescribed, validations will work to prevent obvious errors.

Omissions, however, are more difficult to validate for third party providers. If the prescribed format does not allow optionality as to fields that can be provided, then validations will be successful in requiring information to be populated in every field. If the prescribed format does allow optionality around fields to be provided, then validation is impossible from an omission perspective. This leads back to the point that market participants required to report should be held accountable for the information they provide, which will lead to developing responsible reporting behavior rather than counting on third parties to catch the errors and omissions.

4. Do you agree with the Agency's view that the same requirements shall apply to all RRM's?

Answer: -

5. If your reply to question 4 above is negative, please explain which requirements should apply differently to different RRM's and why.

Answer: -

6. Notwithstanding the requirements on the validation of output (see Chapter 5.6 above), should the Agency offer to entities with reporting responsibilities the possibility to request access to the data submitted on their behalf by third-party RRM's?

Answer: Yes, entities with reporting responsibilities, market participants, should have the ability to access their data and reconcile their systems. Allowing this access will be positive for the accuracy of the information and encourages responsible reporting behavior.

7. If the reply to question 6 above is positive, please explain how such access should be granted, taking into consideration the need to ensure operational reliability and data integrity.

Answer: A view/reconcile only registration process should be created so the integrity and privacy of the information is protected. Further, the entities with reporting responsibilities should be able to view reports of trades in which they are a counterparty and should also be able to download the reports for reconciliation purposes.

8. Do you agree that the compliance report must be produced by the RRM on a yearly basis or shall such report be compiled only at the request of the Agency?

Answer: We support the production of the compliance report at the request of the Agency, if not requested more frequently than annually.

9. Do you agree that trade repositories and ARMs shall be registered with the Agency, even if they only report data reportable under EMIR and / or other relevant financial market legislation?

Answer: We believe that reporting regimes across Europe should aim towards harmonization and avoid duplication. We are therefore of the opinion that requirements to RRM's, which have already been approved by European authorities and are operational for other types of contracts, should be removed or at least diminished.

For trade repositories reporting EMIR data only, we feel that the ESMA authorization should be carried over or should at least substantially satisfy the registration process. The same should apply in the coming future to TRs that are authorized as ARMs by the National Competent Authorities (NCA) under MiFID/R.

10. Do you agree that the Agency should foresee a simplified registration process for trade repositories and ARMs that only report data reportable under EMIR and / or other relevant financial market legislation?

Answer: As per our previous response, we do believe that maximum transparency will come through harmonization and avoidance of onerous requirements. If it would not be possible to remove the registration requirement for the TRs, which are authorized by ESMA and are only providing EMIR data, then the process should be simplified to accommodate the carry over of the ESMA authorization to the Agency. Furthermore, we do believe that the same should apply to ARMs under MiFID/R.

11. Do you agree that CEREMP should be used for the identification of market participants that apply to become a RRM?

Answer: We believe that the LEI ID is the correct identification for entities themselves. We do not object to using the CEREMP to identify market participants that apply to become an RRM as long as the use of CEREMP is not unduly expensive or onerous in its requirements as these entities are most likely already using the LEI registry and incurring costs associated with that use.

12. What is your opinion on the timeframe needed to complete the registration process?

Answer: -

13. Do you have any comments on the registration process in general?

Answer:

Our experience with EMIR has provided a number of learning experiences, which we believe should also be applied to REMIT to make it a truly successful and world class implementation:

1. The importance of Certainty and Clarity: It is important to the success of any regulatory reporting initiative that before reporting starts, all participants are clear as to what needs to be reported, when it needs to be reported and by whom it needs to be reported. At present, we believe there is still a lack of clarity around much crucial detail including, but not limited to, who is responsible for reporting orders and where overlaps with EMIR resolve a participant's REMIT obligation. This lack of clarity will introduce significant risk to the quality of the reporting on implementation.
2. The importance of Market Participant Preparedness: Assuming the current legislative calendar is followed, it seems likely that the Implementing Acts will be live no later than Quarter 4 of 2014

meaning the reporting of Standard Contracts will go live in Q2/3 2015. We believe that the 6 month implementation window, including the 3 months period of RRM's authorization, will be difficult to be met. Experience with EMIR has shown that participants will not select a service provider until, understandably, all providers have been authorized. When authorization begins, commercial negotiations between reporting entities and approved RRMs cannot begin until the completion of the authorization process (For EMIR all Trade Repository authorisations were announced simultaneously and we assume this will also be the case for REMIT). Such negotiations will take at least a month meaning that RRM's and reporting entities will be ready to begin building their solution links no earlier than 2 months before the compliance dates. Participants and RRMs will therefore have approximately 2 months to build, implement and test their reporting solutions end-to-end before being ready to go live in Quarter 2/3. We believe the amount of time available is simply not practicable and the consequent lack of participant preparedness introduces significant risk to the success of the REMIT reporting implementation.

With the aim of transparency and accuracy of reporting in mind, we believe that more flexibility and perhaps minimal delays/transition period should be granted for it will make a considerable positive difference to the success of the REMIT implementation by significantly facilitating its compliance.

14. Would the periodic renewal of registration be a valid alternative to the certified annual report?

Answer: We do not agree that the periodic renewal of registration is a valid alternative to the certified report. Most regulators require a certified report and registered firms are already producing these reports as needed and carrying over that process will be more efficient for RRMs.

15. Do you have any other comments on the Chapter concerning the Agency's assessment of compliance with the RRM requirements?

Answer: For Chapter 7, we disagree that the Agency should produce the audit plan. Audit plans are detailed items that rely on many factors not known and that do not need to be known by the Agency. We do, however, support the detailing of compliance points by the Agency. Compliance points would be used to design an audit plan and to ensure expectations of the Agency are met.