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REMIT

Draft

List of organised market places

Public Consultation Paper

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14 November 2014

On 3 October 2014 the REMIT Comitology Committee voted on the Draft REMIT Implementing Acts (the 'Draft Implementing Acts') to be adopted by the European Commission pursuant to Article 8 of Regulation (EU) No 1227/2011 on wholesale Energy Market Integrity and Transparency ('REMIT'). The Draft Implementing Acts provide that the Agency for the Cooperation of Energy Regulators (the 'Agency'), in order to facilitate reporting, shall draw up and publish a list of organised market places upon entry into force of the REMIT Implementing Acts. The Agency shall update this list in a timely manner. This provision was introduced in the Comitology Committee meeting on 3 October 2014 where the Draft Implementing Acts were voted upon. Consequently, the time frame for the Agency to comply with this provision is limited.

This public consultation paper is intended to collect views on the draft list of organised market places from all parties interested in the implementation of REMIT (market participants, energy exchanges, energy broker platforms and other persons professionally arranging transactions, etc.). The draft list of organised market places is attached as an annex to this consultation paper.

The Agency invites all interested parties to provide comments to the consultation paper on the provisional list of organised market places, and particularly to reply to the consultation questions listed in this consultation paper, by 11 December 2014, 12.00 noon, Central European Time, to Remit.PublicConsultations@acer.europa.eu.

Related Documents

- Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency,
<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:326:0001:0016:en:PDF>
- Draft Commission implementing regulation (EU) No .../..of XXX on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency,
<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.documentdetail&cv9ijZLVE/cCaSie5I31IDXG6Zna/CcHNizKZi5OoEnVqHZGdlwy2rS97ztb5t8b>
- ACER Work Programme 2014, 1 October 2013,
http://www.acer.europa.eu/official_documents/acts_of_the_agency/publication/acer%20work%20programme%202014.pdf
- 3rd edition of ACER Guidance on the application of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, 29 October 2013,
http://www.acer.europa.eu/remit/Documents/REMIT%20ACER%20Guidance%203rd%20Edition_FINAL.pdf
- ACER's first public consultation on the Transaction Reporting User Manual (TRUM), 31 March 2014,
http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2014_R_02.aspx
- ACER's second public consultation on the Transaction Reporting User Manual (TRUM), 22 July 2014,
http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2014_R_05.aspx

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1. Scope of this consultation paper

On 3 October 2014 the REMIT Comitology Committee voted on the Draft REMIT implementing Acts (the 'Draft Implementing Acts')¹ to be adopted pursuant to Article 8 of Regulation (EU) No 1227/2011 on wholesale Energy Market Integrity and Transparency ('REMIT')².

The Draft Implementing Acts provide that the Agency for the Cooperation of Energy Regulators (the 'Agency'), in order to facilitate reporting, shall draw up and publish a list of organised market places upon entry into force of the REMIT Implementing Acts. The Agency shall update this list in a timely manner. This provision was only introduced at the Comitology Committee meeting on 3 October 2014 where the Draft Implementing Acts were voted upon. Consequently, the time frame for the Agency to comply with this provision is limited.

The list of organised market places will be published on the Agency's REMIT Portal website for the purpose of identification of the organised market places with regard to transaction reporting according to Article 6(1) of the REMIT Implementing Acts. The purpose of the list is twofold:

- It will enable market participants to identify the organised market place as reporting channel for transaction reporting according to Article 6(1) of the REMIT Implementing Acts.
- Furthermore, it will assist the Agency to comply with its obligation to draw up and maintain a public list of standard contracts in order to facilitate reporting and help organised market places' submission of identifying reference data to the Agency for each wholesale energy product the organised market places admit to trading.

The publication of the list of organised market places will ensure the Agency's compliance with Article 3(2), first subparagraph, of the REMIT implementing acts. The list will be updated in a timely manner. It covers organised market places

- for wholesale energy products in relation to supply of electricity or natural gas with delivery in the Union;
- for derivatives of contracts relating to electricity or natural gas produced, traded or

¹<http://ec.europa.eu/transparency/regcomitology/index.cfm?do=search.documentdetail&cv9jjZLVE/cCaSie5I31IDXG6Zna/CcHNlzKZi5OoEnVqHZGdIwy2rS97ztb5t8b>

² OJ L326, 8.12.2011, p. 1.

delivered in the Union;

- wholesale energy products in relation to transportation of electricity or natural gas in the Union on secondary markets; and
- derivatives of contracts relating to the transportation of electricity or natural gas in the Union.

Organised market places for contracts relating to the transportation of electricity or natural gas in the Union as a result of a primary explicit capacity allocation by or on behalf of the TSO, specifying physical or financial capacity rights or obligations, are not listed as the transaction reporting will anyway be done by TSOs and as the distinction between standard and non-standard contracts does not apply to transportation contracts.

The list of organised market places can also be used to identify trading venues among Member States of the EU and EEA for transaction reporting purposes. Transaction reporting is undertaken through the organised market places which act as a reporting channel for their market participants. The organised market place where the wholesale energy product was executed or the order was placed shall offer a data reporting agreement at the request of the market participant. Trade matching or trade reporting systems may be third parties for the data reporting, in particular for reportable lifecycle events unknown to the organised market place.

In order to ensure transparency and full involvement of stakeholders, the Agency launched an open call for organised market places to register with the Agency during October 2014. The registrations received through this open call formed the basis of the provisional list of organised market places consulted upon.

2. Legal Framework

REMIT sets the legal framework at EU level to tackle abusive practices affecting wholesale energy markets. It provides for the monitoring of wholesale energy markets by the Agency in close cooperation with national regulatory authorities ('NRAs'), ESMA, financial authorities and other relevant authorities. For this purpose, Article 8(1) of REMIT imposes an obligation on market participants, or third parties or authorities acting on their behalf, to provide the Agency with a record of wholesale energy market transactions, including orders to trade ('trade data'). Furthermore, Article 8(5) of REMIT provides that market participants shall report to the Agency and NRAs information related to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas and use of LNG facilities, including planned or unplanned unavailability of these facilities ('fundamental data').

REMIT Implementing Acts that will be adopted by the European Commission will complement the Article 8 of REMIT. The implementing acts shall define the contracts and derivatives, including orders to trade, to be reported and may define a *de minimis* threshold, if appropriate. In addition, the implementing acts shall lay down uniform rules, as well as the timing and form for the reporting of both trade and fundamental data.

On 3 October 2014, the REMIT Comitology Meeting voted on the Commission's Draft Implementing Acts. At the time of the launch of this public consultation document, they are still pending adoption by the European Commission, their publication in the Official Journal of the European Union and the entry into force which will take place 20 days following their publication in the Official Journal.

The Draft Implementing Acts provide that the Agency, in order to facilitate reporting, shall draw up and publish a list of organised market places upon entry into force of the Implementing Acts. The Agency shall update this list in a timely manner.

The list of organised market places will be published on the Agency's REMIT Portal website for the purpose of identification of the organised market places with regard to transaction reporting according to Article 6(1) of the Implementing Acts. The publication of the list of organised market places will ensure the Agency's compliance with Article 3(2), first subparagraph, of the REMIT Implementing Acts.

According to Article 2(4) of the Draft Implementing Acts defines organised market places as follows:

“Organised market place’ or ‘organised market’ means:

- (a) a multilateral system, which brings together or facilitates the bringing together of multiple third party buying and selling interests in wholesale energy products in a way that results in a contract,
- (b) any other system or facility in which multiple third-party buying and selling interests in wholesale energy products are able to interact in a way that results in a contract.

These include electricity and gas exchanges, broker platforms and other persons professionally arranging transactions, and trading venues defined in Article 4 of Directive 2014/65/EU³.”

³ Article 4(24) of Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349) defines ‘trading venue’ means a regulated market, an MTF or an OTF. The notions of a regulated market, an MTF or an OTF are defined in Article 4(21) to (23) of Directive 2014/65/EU.

3. Public consultation

Establishment of the list

On the basis of the definition of organised market places, the draft list of organised market places distinguishes between energy exchanges, energy broker platform and other organised market places.

The Agency published on 16 October 2014 an open call to register to the list of organised market places. The registration was open throughout October. On the basis of the responses to this open call for registration, the Agency assembled a provisional draft list of organised market places. In addition, the Agency conducted its own research and added to the list, , also members of European Associations of organised market places and entities otherwise recognised as potential organised market places. These entities are in the list marked with an asterisk. The Agency would therefore particularly welcome comments on the potential organised market places which are marked with an asterisk.

Call for comments

The Agency hereby consults stakeholders on this Public Consultation Paper, including the annexed draft list of organised market places. Comments are welcome on all aspects of the list. The list is in alphabetical order and the numbering is only for facilitating of identification of the item subject to comments. However, the Agency has identified a couple of questions that it would like to draw the respondents' attention to and where it would be particularly helpful to receive some feedback.

Consultation questions

1. Please provide us with your comments on the draft list of organised market places. Do you see any omissions or errors in the list? Do you think that any organised market place or any information on organised market places is missing, that should be published in order to facilitate transaction reporting under REMIT? Please comment especially the potential organised market place status of those entities marked with an asterisk that had not registered themselves as organised market places at the time when this public consultation was launched. Please justify your reply.
2. Virtual trading points (VTPs) are currently not included in the draft list of organised market places, unless they provide brokering services or are considered as an energy exchange. Do you agree with this approach? If not, please justify your reply.

3. For the reasons stated above (see point 1. in paragraph 4 of this consultation paper), the Agency currently believes that primary auction platforms for transportation contracts do not have to be listed as organised market places. Do you agree with this approach? Please justify your reply.
4. The final list of organised market places is supposed to include organised market place IDs for the purpose of facilitating transaction reporting under REMIT. Do you agree that the list of organised market places should make this information publicly available? If not, please justify your reply.
5. The list of organised market places is supposed to be updated in a timely manner. The Agency is currently intending to update the list on a regular basis as and when required, in particular as and when the Agency is given further information on gaps. Do you agree with this approach? If not, please justify your reply.

Public Workshop

A public workshop will be held at the Agency's premises in Ljubljana on 10 December 2014. Stakeholders who intend to participate in the public workshop should register online via the Agency's website under the heading "Events".

Consultation period

The Agency invites all interested parties to provide comments to the consultation paper on the provisional list of organised market places, and particularly to reply to the consultation questions listed in this consultation paper, **by 11 December 2014 12.00 noon, Central European Time**, to Remit.PublicConsultations@acer.europa.eu.



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