

EFET response to ACER public consultation on the provisional REMIT list of organised market places

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The European Federation of Energy Traders (EFET) welcomes the consultation of the Agency for the Cooperation of Energy Regulators (ACER) on the list of Organised Market Places (OMPs) under the Regulation on wholesale Energy Market Integrity and Transparency (REMIT). Such a list will not only clarify market participants' (MPs) own reporting obligations by identifying the OMPs which should offer a reporting service upon MPs' request, but it will also be a useful tool for ACER, as it would help to establish the list of standard contracts. The list of standard contracts and the list of OMPs are of paramount importance for the proper implementation of any reporting solution by MPs.

Our main concern is the readiness of OMPs to offer a robust reporting service with sufficient lead-time ahead of the start of the reporting obligations for MPs. ACER has a key role to play in working with OMPs and MPs to ensure that **all** listed OMPs are ready to offer reporting services for orders and/or transactions before the commencement of the reporting obligations. A first step in this process is establishing a definitive list of OMPs applicable to the start of the reporting obligations. We also expect that upon registration and listing by ACER, OMPs are assuming the responsibility and commitment to be ready to provide reporting services on behalf of market participants.

Furthermore, we would like to stress the necessity to have a change control process in place, ensuring that any changes to this published list are made according to a process allowing market participants and reporting parties to implement those changes. The extension of the list of OMPs might also lead to the extension of the list of standard contracts, which will need, in its own right, a specific change control process to allow for an efficient and effective update.

Finally, regarding transportation contracts, EFET does not agree with the general statement of ACER on p. 6 that the distinction between standard and non-standard contracts does not apply

to transportation contracts. This may be correct for transportation capacity as a result of primary and secondary capacity allocation, but it does not apply to virtual transportation contracts which are non-standard contracts (effectively they are not even transportation contracts). The specificity of these contracts should be considered whilst elaborating the Trade Reporting User Manual (TRUM) sections on non-standard contracts.

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.

We are concerned that some of the OMPs have not been registered as such and therefore, have not been included in the list. It is likely that once market participants use an OMP for the reporting of orders/transactions made via an OMP platform, they will use other OMPs as well. The reporting services stipulated in Article 6(2) of the draft Implementing Acts become unusable if not all OMPs are ready to offer those services, and market participants will have to find alternative ways of reporting.

Where OMPs operate in different countries via sister companies, or branches or subsidiaries with slightly different names from their mother or sister company, there is confusion as to which entity is registered as an OMP. To avoid this, it is important that ACER's list includes all branches and/or subsidiaries of each OMP. In addition, information such as the legal name, address and contact details/person for reporting services should be available for each entity, together with the date the entity was listed as an OMP.

With regard to the initial list of OMPs published by ACER for consultation, in our view:

- The list should include all the mother companies, sister companies, subsidiaries and branches of OMPs. For example, Tradition Financial Service Ltd is on ACER's list (No 50). However, there are other entities that we think are part of the same company/group, but they have a slightly different legal name.
- The following OMPs should be added (here we didn't include OMPs which are subsidiaries, sister companies or mother companies of entities in ACER's list):
 - Global Commodities S.A.S. (FR)
 - Intermoney Energia S.A. (ES)
 - Lowlands Energy Brokers B.V. (NL)
 - OTCEX Group (CH)
 - Italian Derivatives Energy Exchange – IDEX (IT)
 - Broker Affairs GmbH Energy Services (GE)
 - CommErg B.V. (NL)

- Enterprise Commodity Services Limited (UK)
 - SHARD Capital Partners LLP (UK)
 - OTCex SA (FR)
 - Lowlands Energy Brokers BV (NL)
 - Global Commodities SAS (GE)
 - Wallich and Matthes B.V. (NL)
 - Enterprise Commodity Service – Le (UK)
- The list must be provided in a standardised format and using standardised codes (e.g. MIC codes) and descriptions (e.g. as registered within CEREMP/ARIS) where available and applicable.
 - In line with ACER’s view expressed in the consultation paper, entities such as NG Gemini and PRISMA (no. 54 and 55) should not be in the OMPs list. They are both capacity allocation platforms and therefore, they should not be considered as OMPs. See also our response to question 3.

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.

Yes, we agree that VTPs should not be included in the list of OMPs, since they are notional points of delivery. Only in case the operator of the VTP offers also brokering/exchange services, the entity should be classified as an OMP, although the two functions remain conceptually separated.

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.

ACER’s position outlined in point 1 regarding primary capacity allocation is somewhat conditional on the treatment of auction offices and TSOs that allocate primary capacity in relation to the OMP status. The legislation (REMIT and the draft Implementing Act) does not specify whether capacity contracts are classified as standard or non-standard. In fact, this classification is linked to the definition and classification of OMPs. In our view, by leaving such entities outside the list, the capacity contracts are by definition classified as non-standard.

In any case, we agree with ACER that since the reporting obligation sits with the TSO (or a third party on behalf of the TSO, i.e. a capacity auction office), the OMP status is less relevant for primary market capacity contracts. However it becomes relevant with regards to secondary market capacity contracts. It would help to bring more clarity to the process if auction offices and TSOs, which will report primary capacity transactions, are listed separately to assure market participants that auction offices and TSOs are aware of their reporting obligations. Considering recent developments whereby secondary transportation capacity markets are also increasingly moving towards organised auction platforms, these developments should be reflected both in the TRUM and in the list of OMPs.

The fact that in Annex I of the Consultation paper there are at least two entities that allocate transmission capacity (National Grid Gemini System and PRISMA) is slightly confusing. The listing of these entities, by definition, would classify contracts traded via them as standard contracts, which is in contradiction with ACER's statement in point 1 of the consultation paper. The inclusion or non-inclusion of the TSOs and capacity auction offices in the list of OMPs determines the timing for reporting of capacity contract executed on secondary market, i.e. if they fall under Article 7(4) or Article 7(1) of the draft Implementing Act.

Having considered the above, we recommend non-classification of the TSOs and capacity auction offices as OMPs and therefore, delisting the existing ones from ACER's list of OMP, but also including them in a separate list.

We invite ACER to provide guidelines as to which market participant should report transportation contracts as a result of secondary capacity allocation if these are taking place on a platform (e.g. PRISMA offers primary and secondary transportation capacities). Reading the REMIT Implementing Acts, the reporting obligation still lies with the counterparties to the transportation contracts, but when these are traded via a secondary capacity allocation platform, there should be no reason not to oblige the respective OMP to also report secondary transportation contracts (if they already do so for the primary transportation capacity contracts).

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.

EFET recommends to make this information publicly available.

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.

It is crucial to have a change control process guiding the changes brought to the list of OMPs, once it is published for the first time. This change control process must foresee sufficient lead time, so that market participants and reporting parties can implement these changes. ACER should monitor actively the market and should impose an obligation on OMPs to inform them of their status or changes to their status, and changes to the list of contracts that are admitted to be traded on their respective platforms.

Moreover, changes to the OMP list will lead to changes to the list of standard products, also to be published by ACER. These additional standard products will have a significant impact on the overall REMIT reporting and will have to be guided by a change control process, applicable to the standard product list. We agree that the list of OMPs should be updated on a regular basis - as and when required - which means as soon as a new OMP has been validated, when an existing one is no longer providing in scope services, or when an existing one changes its legal name.



There should be a process in place for the review of the list every 6 months. The review should include at least a confirmation of the listed information for each OMPs to ensure that the information is up-to-date..

A formal process should be included in the TRUM or in another implementing document.