



Publishing date: 20/03/2015

Document title: ACER\_REMIT Public register\_Evaluation of Responses

We appreciate your feedback



Please click on the icon to take a 5' online survey  
and provide your feedback about this document

# **ACER Public Consultation on Publication of extracts from the European register of market participants**

(pursuant to Article 9(3) 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 – REMIT)

## **Evaluation of Responses**

**PC\_2013\_R\_06**

**20 March 2015**

## Table of Contents

<b>1</b>	<b>Introduction.....</b>	<b>3</b>
<b>2</b>	<b>Respondents.....</b>	<b>3</b>
<b>3</b>	<b>Responses received and ACER’s view.....</b>	<b>4</b>
	3.1 Information necessary for market participants to complete their registration obligations according to Article 9(1) of REMIT .....	4
	3.1.1 Is the scope of data foreseen to be published sufficient for market participants to complete their registration in Section 4 and thus fulfill their obligation under Article 9(1) of REMIT? 5	
	3.1.2 In order to identify or verify the identity of a related undertaking, is the publication of information in fields 108 to 110 (address, city, postal code) necessary and appropriate?6	
	3.1.3 Is the publication of other company's identifier such as VAT Number in field 112 or the codes in fields 113 to 116 (EIC, BIC, LEI, GS1) or 118 (trade register) necessary and appropriate (please take into consideration that they might not be available for all market participants)? 7	
	3.1.4 Do you believe that the scope of data to be published from the European Register should be increased or decreased? 8	
	3.2 Information to improve the transparency of wholesale energy markets..... 8	
	3.2.1 Is the scope of data foreseen to be published for transparency purpose appropriate? 9	
	3.2.2 Do you believe that the scope of data to be published from the European Register for transparency purpose should be increased or decreased? 9	
	3.3 Other issues raised by the respondents..... 10	
	<b>Annex 1 – ACER .....</b>	<b>12</b>
	<b>Annex 2 – List of respondents .....</b>	<b>13</b>

## 1 Introduction

Under Article 9(3) of Regulation (EU) No 1227/2011 on wholesale Energy Market Integrity and Transparency (“**REMIT**”)<sup>1</sup>, the Agency for the Cooperation of Energy Regulators (the “**Agency**”) shall establish a European register of market participants based on the information in national registers (see Article 9(1) of REMIT) and transmitted by national regulatory authorities (“**NRAs**”). The Agency may decide to make the European register, or extract thereof, publicly available provided that commercially sensitive information on individual market participants is not disclosed.

On 7 November 2013, the Agency launched a public consultation on the publication of extracts from the European register of market participants (the “**European Register**”)<sup>2</sup>. The public consultation document aimed to collect the respondents’ views on two main consultation issues: (i) information necessary for market participants to fulfil their registration obligations according to Article 9(1) of REMIT and (ii) information to improve transparency of wholesale energy markets.

The public consultation launched by the Agency solicited feedback from various respondents on the publication of extracts from the European Register. The foreseen end of public consultation was planned on 5 December 2013, 12.00 noon, Central European Time (“**CET**”). However, due to several requests from respondents, the public consultation was extended until 13 December 2013, 12.00 noon, CET.

This document provides a summary of the comments received from respondents that will be relevant for the Agency’s decision on the publication of extracts from the European Register. It also provides for an indication of how the Agency will take into consideration these responses in drafting such Agency’s decision.

## 2 Respondents

The respondents to this public consultation represented the interests of individual market participants, as well as of European and worldwide associations. The Agency received also one contribution from an individual citizen. Annex [2] lists all respondents by their activity. Respondents belong to different EU Member States and to Europe and worldwide organisations or institutions. The following table shows the country/region of respondents participating in the public consultation.

---

<sup>1</sup> OJ L 326, 8.12.2011, p. 1–16

<sup>2</sup> Please see a link to the public consultation document:  
[http://www.acer.europa.eu/Official\\_documents/Public\\_consultations/PC\\_2013\\_R\\_06/PC\\_2013\\_R\\_06%20-%20Consultation%20paper.pdf](http://www.acer.europa.eu/Official_documents/Public_consultations/PC_2013_R_06/PC_2013_R_06%20-%20Consultation%20paper.pdf)

Country/Region	Number of responses
Czech Republic	1
EU-wide	3
Finland	1
France	1
Germany	1
Slovakia	1
World-wide	1

### **3 Responses received and ACER's view**

As already explained in Section 1 above, the Agency's raised two main issues in the public consultation: namely what information should be make public (i) for market participants to complete their registration obligations according to Article 9(1) of REMIT and (ii)to improve transparency of wholesale energy markets. In relation to the above consultation issues, the Agency asked six questions i.e. four questions in connection with the first issue and two questions with the second issue.

The following section provides an overview and an analysis of the responses received in the public consultation on the publication of extracts from the European Register, focusing on key issues raised by the respondents.

#### **3.1 Information necessary for market participants to complete their registration obligations according to Article 9(1) of REMIT**

As part of the registration process, market participants are requested to provide information related to other parent and related undertakings already registered under REMIT (see Section 4

of Agency Decision No 01/12)<sup>3</sup>. This information has to be provided within 3 months from the first publication of the European Register.<sup>4</sup>

Therefore, public availability of information already included in the European Register is necessary for market participants to complete their registration and thus fulfill their obligation under Article 9(1) of REMIT.

Taking into account the above requirement of the registration process, in the public consultation document, the Agency expressed the view that the publicly available extracts from the European Register should include following data:

- **Market Participant**: Full name of the market participant (either company name if legal person or full name if natural person) (Field 101, Section 1)<sup>5</sup>;
- **ACER CODE**<sup>6</sup>: unique identifier for registration purposes (Field 121, Section 1). The scope of such information was discussed by the Agency in the following four consultation questions.

### **3.1.1 Is the scope of data foreseen to be published sufficient for market participants to complete their registration in Section 4 and thus fulfill their obligation under Article 9(1) of REMIT?**

#### *Respondents' feedback*

In general, the respondents found that the publication of the full name of market participant and the ACER Code is sufficient and appropriate in order to enable market participants to complete the registration process. However, some respondents outlined that two or more market

---

<sup>3</sup> ACER Decision No 01/12 determining the registration format to be used for the establishment of the European Register of market participants;  
[http://www.acer.europa.eu/Official\\_documents/Acts\\_of\\_the\\_Agency/Directors%20decision/ACER%20Decision%2001-2012.pdf](http://www.acer.europa.eu/Official_documents/Acts_of_the_Agency/Directors%20decision/ACER%20Decision%2001-2012.pdf)

<sup>4</sup> For more information on registration process, please see Chapter 4 of the 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 - 3d edition);  
[http://www.acer.europa.eu/remi/Document/REMIT%20ACER%20Guidance%203rd%20Edition\\_FINAL.pdf](http://www.acer.europa.eu/remi/Document/REMIT%20ACER%20Guidance%203rd%20Edition_FINAL.pdf)

<sup>5</sup> See Annex 1 to the ACER Decision No. 01/2012.

<sup>6</sup> As required by Article 9(2) of REMIT, each market participant registered under REMIT will be issued with a unique identifier (the "ACER code").

participants could have similar names and therefore the registration process could be streamlined by extending the scope of data to be published. A potential extension of data published for registration purpose is analysed in the Sections below.

Finally, one respondent asked to provide an exact definition of terms such as: beneficiary, ultimate controller, undertaking or controlling party.

#### *The Agency's view*

The Agency is of the view that the proposed scope of data to be published (full name of market participant and ACER code) may need to be extended in order to facilitate the completion of market participants' registration. In particular, the publication of the information listed in Section 3.1.2 may be appropriate to facilitate the completion of the registration process.

As regards the definition of terms (such as beneficiary/ultimate controller etc.) used in the registration format, the Agency is considering to provide more guidance to NRAs and/or market participants in the form of a registration user manual.

### **3.1.2 In order to identify or verify the identity of a related undertaking, is the publication of information in fields 108 to 110 (address, city, postal code) necessary and appropriate?**

#### *Respondents' feedback*

Although a majority of respondents considered the publication of the full name and ACER Code sufficient to complete the registration of market participants (see Section 3.1.1 above), some of those respondents indicated that also information in fields 108 to 110 (full address of market participant) is necessary and appropriate in order to identify/verify the identity of a related undertaking. Other respondents, while not considering the disclosure of such information strictly necessary, expressed the opinion that the disclosure of the full address of already registered market participants could facilitate the completion of the registration process.

On the contrary, one of the respondents opposed the publication the postal address pointing out that such publication could cause a risk for market participants of having requests/communications related to REMIT unduly sent to such postal address. In that respect, it was also advised to include a special disclaimer ("*not for contact purposes*") for the publicly available extracts from the European Register.

#### *The Agency's view*

The Agency believes that the publication of postal address (information in fields 108 to 110) can facilitate the identification of parents / related undertakings in the course of the registration process.

Further, even if the Agency admits that risk of unduly sent REMIT related requests/communications exists, as a matter of fact; postal address of market participants are typically already accessible via their website and/or other public sources.

**3.1.3 Is the publication of other company's identifier such as VAT Number in field 112 or the codes in fields 113 to 116 (EIC, BIC, LEI, GS1) or 118 (trade register) necessary and appropriate (please take into consideration that they might not be available for all market participants)?**

*Respondents' feedback*

Some respondents welcomed the option to publish VAT number (field 112) as appropriate. However, it was also stressed that in some cases related undertakings have the same VAT number which could make its publication not appropriate for filling the Section 4 of the registration format.

Several respondents considered the publication of one or more of other identifiers (fields 113 to 116 and 118) useful to complete the registration process. Nevertheless, some respondents pointed out that identifiers such as EIC, BIC, LEI, GS1 may not be available to all market participants whereas some other may have more than one (e.g. EIC or BIC).

One of the respondents considered the publication of these identifiers (fields 112 to 116 and 118) as not necessary and appropriate. Finally, it was stressed that the ACER Code should be used as a main identifier for the purpose of the registration process.

*The Agency's view*

The Agency supports the view that the ACER Code should play a key role in the registration process. While it is true that other identifiers such as EIC, BIC, LEI, GS1 may not be available to all market participants, in case they are available, the Agency believes that their publication would support the market participant while filling Section 4 of the registration format and thus facilitate the whole registration process. Furthermore, since for the reporting of transactions market participants may choose to identify themselves either by the ACER code or by one of the additional identifiers (fields 113 to 116), their publication would also facilitate the reporting of transactions by third parties on behalf of the market participants.



As regards the VAT number, such information is not always publicly available for all market participants. Also, several related undertakings could have the same VAT number which would make its publication not appropriate for registration purpose. Moreover, the VAT number is not included in the form to be used for transactions reporting. Therefore, publication of VAT numbers is not considered as necessary and appropriate, either for the purpose of filling the Section 4 of the registration format or to facilitate a third party reporting.

### **3.1.4 Do you believe that the scope of data to be published from the European Register should be increased or decreased?**

#### *Respondents' feedback*

In general, the respondents considered the scope of data to be published for the registration purpose as appropriate/sufficient and several replies stressed no need to publish any additional data.

However, one respondent questioned the reason to publish the proposed scope of data as currently defined by the Agency (full name and ACER Code). In its opinion, all details of Section 4 of the registration format could be easily ascertainable bilaterally between the related parties. On the other hand, the opposite view was expressed by another respondent, who recommended that the scope of published data is increased in order to limit the potential confusion between market participants.

#### *The Agency's view*

The Agency believes that the publication of the full name of the market participant (Field 101) and ACER CODE (Field 121) is appropriate in order to enable market participants to complete the registration process. However, the publication of the full address of parents / related undertakings (fields 108 to 110) and of additional identifiers (fields 113 to 116) could facilitate their identification and allow for a swifter registration process. Furthermore, the publication of additional identifiers would also facilitate a third party reporting. For this reason, this information should also be made publicly available.

## **3.2 Information to improve the transparency of wholesale energy markets**

As highlighted in the public consultation document, the Agency proposed that the scope of the information published as an extracts from the European Register to improve the transparency of wholesale energy markets should include the following additional data:

- State: Member State or Country where the market participant is resident (Field 107, Section 1);
- NRA: NRA which processes the registration (Field 111, Section 1);
- Website: URL of the home page of the website of the market participant (Field 119, Section 1);
- Publication Inside Information: Place of publication of insider information, if different from the website of the market participant (Field 120, Section 1);
- Date of validity: Date of validity of the information collected in Section 1 (Field 123, Section 1).

### **3.2.1 Is the scope of data foreseen to be published for transparency purpose appropriate?**

#### *Respondents' feedback*

In general, the respondents agreed with the proposed scope of information to be published and they welcomed such scope as appropriate for transparency purposes. In addition, one respondent recommended creating a single transparency platform.

Another issue raised by the respondent was the market participant's possibility to identify more than one place of inside information's publication e.g. when two different publication platforms are available for electricity and gas.

#### *The Agency's view*

Taking into account the Agency's position outlined in the public consultation document and the responses received, the Agency is of the view that the amount of data to be published is appropriate in order to improve the transparency on the wholesale energy markets.

### **3.2.2 Do you believe that the scope of data to be published from the European Register for transparency purpose should be increased or decreased?**

#### *Respondents' feedback*

A majority of respondents agreed that the data proposed to be disclosed in the public consultation document is sufficient and appropriate for transparency purposes. Several respondents also stressed that there is no need to publish less or additional data from the European Register.

In addition, one respondent asked to broaden the scope of data published for transparency reasons as to include the information on fields 102 and 103 (person type and legal form). However, it is not clear from the response how the publication of these fields would contribute to increased market transparency.

#### *The Agency's view*

The Agency agrees with the respondents' views that the currently proposed scope of data is sufficient and appropriate for transparency purposes. It also recognises the importance of safeguarding the commercial sensitive data and complying with data protection/professional secrecy rules in respect of extracts published from the European Register.

### **3.3 Other issues raised by the respondents**

Several respondents pointed out that the amount of data to be made publicly available should be considered carefully. In particular, they stressed the Agency's duty to guarantee that: (i) data protection and professional secrecy rules are respected in the process of publishing the extracts from European Register's and (ii) commercial sensitive data are not published. Respondents did not express the opinion that the information proposed to be published in the consultation paper raises concerns in terms of compliance with the Agency's obligations on professional secrecy and the protection of commercially sensitive data. They pointed out, however, that such concerns may arise if the Agency were to publish additional information, in particular that contained in Section 2 and 3 of registration form.

#### *The Agency's view*

Professional secrecy and the protection of personal data and of commercial sensitive data are always taken into careful consideration by the Agency when defining its policies and making decisions.

As regards the protection of personal data, a draft of the Agency's decision on the publication of extracts from the European Register will be submitted to the Agency's Data Protection Officer,

who is responsible for ensuring compliance with the Data Protection rules applicable to the Agency<sup>7</sup>.

As regards professional secrecy and protection of commercial sensitive data, the Agency is fully aware of the fact that inappropriate publication of such data could cause harm to market participants. However, taking into account the proposed scope of data to be published from the European Register, the Agency believes that there is no risk that professional secrecy and/or protection of commercial sensitive data of market participants could be endangered.

---

<sup>7</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data; *OJ L 8, 12.1.2001, p. 1–22*.

## **Annex 1 – ACER**

The Agency for the Cooperation of the Energy Regulators (ACER) is a European Union body established in 2010. ACER's mission is to assist National Regulatory Authorities in exercising, at Community level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action.

The work of ACER is structured according to a number of working groups, composed of ACER staff members and staff members of the National Regulatory Authorities. These working groups deal with different topics, according to their member's fields of expertise.

## Annex 2 – List of respondents

No.	Respondent	Type	Country
1.	CEZ Group	Market participant	Czech Republic
2.	EDF Group	Market participant	France
3.	EFET	Industry association	EU
4.	ENTSO-G	Industry association	EU
5.	Eurelectric	Industry association	EU
6.	GFMA	Industry association	Global
7.	Jukka S. Rannila	Natural person	Finland
8.	SPP	Market participant	Slovakia
9.	Verbundnetz Gas AG	[Market participant]	Germany
	Stadtwerke Munchen	[Market participant]	Germany
	Bayerngas	[Market participant]	Germany



Publishing date: 20/03/2015

Document title: ACER\_REMIT Public register\_Evaluation of Responses

We appreciate your feedback



Please click on the icon to take a 5' online survey  
and provide your feedback about this document