LEBA Answers to the Questions

I.1 In your opinion, what measures could be implemented to ensure that the REMIT data reporting remains aligned with the evolution of the wholesale energy markets? You are invited to suggest any changes that may impact the structure of the current Tables in the Annex to the REMIT IR.

The current approach under REMIT I is workable whereas the proposed changes suggested in the consultation do not pass the cost-benefit threshold since they pose significant implementation work for little or no discernible benefit. Where any data quality issues have been identified, so we propose that the correct solution would be to fix the data quality issues rather than to layer more ill-defined data on top of that currently posing the issues, since that is only going to increase data quality issues.

We welcome the discreet Table 1 for the scope of standard contracts on OMP only, because of the high volume and necessary automation of this field; moreover and for the same reasons we would suggest a separate schema version for Exchange OMP/RRMs than that for broker OMPs who use a discreet but common RRM.

This could be by use of a Table 1a and a parallel Table 1b, or using a further device trigger [a Boolean Switch as suggested by DG FISMA in their recent consultation of MiFIR Data Reporting Identifiers] which consequently could turn on or off the set of relevant fields for exchange designated contracts as opposed to those for broker-OMP reporting where the Order protocols and Lifecycle information is not relevant.

In addition, ACER could have included a draft Table 1 as proposed in the annex of this consultation document but do not appear to have done so.

To contextualise these comments, almost every active Market Participant will access the broker OMP wholesale energy market through an aggregated screen provided by a 3rd party such as Trayport Joule Direct, TT, or Exxeta E*star. These amalgamate trading interests and orders from multiple OMPs and display them, according to credit availability, into an aggregated single price stack.

Clearly, such an amalgamated market representation is not available back to any OMP, but solely to the Market Participants themselves as the best bid and offer interests, together with any available volume. It presents any System Generated Orders ["SGOs"] by looking at interests and orders available across that entire universe of OMPs who offer fungible products. As such, looking at data from an OMP centric point of view is misleading at best because it does not represent in any realistic or representative way how the Market Participants view the market.

It follows that any attempt to get OMPs to provide calculated or synthetic data such as SGOs or order book statistics would, by definition, instigate each of, "Big Data," "Data Sufficiency, " and "Data Completeness" costs and hurdles in order for OMPs or third parties to prepare, to codify and handle and to calculate the data outputs. We believe any such would create an order of magnitude of greater derived data whose characteristics would largely reflect how the inputs or outputs, such as an SGO, is defined.

Indeed, any single order change could potentially generate hundreds of changes in SGO prices. For example, a January TTF bid could affect the Jan/Feb spread, Jan/Mar spread , Jan/Apr spread etc out as far as there are month prices available on the market. It will also affect every location spread for example TTF/PEG Jan spread, TTF/NCG Jan, TTF/CEGH spread Jan spread etc and of course the change to any one of these affected contracts then ripples out to any other related contract – meaning that a single order change potentially affects a large part of the order book.

Were this to be further coupled with the idea reporting of any "order book details" as per section I.15 on any volume or price change, then the effect of data being passed to ACER could potentially be orders of magnitude greater than currently the case.

There is also a very strong danger of double and triple counting when using this method as we will be providing information for "orders" that are not real and are merely a synthetic basket of other orders. In addition, because almost every Market Participant has their own system calculating their proprietary, and more accurate and representative, SGOs and top of order book, which usually engages non-fungible pricing as well, they will view the market as a super-set of whatever any OMP, whether exchange or broker has access to.

The only way for ACER to get a coherent view of SGOs and a "top of book" order book details view is for ACER to calculate the desired metrics itself from the complete data set provided by all OMPs. This way they will get a true and consistent view of what the Market Participants are seeing and reacting too. In this way, we reiterate that the OMP data is not representative of what the Market Participants actually act upon, rather it would be misleading to drive any market abuse monitoring from SGOs because of the potential for false positive triggering of numerous monitoring system warnings.

In sum, we note that under MiFID/R and EMIR revisions the supervisors are actively moving away from the ingestion of calculated data in favour of undertaking any processing of raw data themselves. Similarly therefore, we are against the proposed approach to the definition and the reporting of iterative changes to order book details, as well as the related approach to SGOs. Commending instead that if ACER does not have the data sufficiency or the data quality to build a market monitoring view within its own systems which is fir for purpose, than the industry is ready and available to address this as the problem which needs fixing.

I.2 To ensure that the REMIT data reporting can dynamically adapt to market changes, would you support the inclusion of 'extra fields' in the different Tables?

Yes

Responses need to answer "No" to QI.2 because any other answer closes out the opportunity for comment.

We clearly support revisions to data fields which enable fields relevant to Exchange OMPs to be segregated from those relevant to Broker OMPs as set out elsewhere. By extension, we also consider that such extra fields need to be consequent to a thought process consistent with the objective requirements, but to also fulfil a use case appropriate to the market structure rather than a scattergun approach.

Therefore whilst a Table 1.b should be necessary to segregate types of OMP, Table 2 has currently all the necessary information. In considering the future evolution of wholesale energy market data, iterative and consensus driven simple reporting structures should be a key objective and requested data under the transaction reporting obligation must be proportionate to the needs of ACER and the scope of the Regulation.

I.3 Do you agree with the current structure of the REMIT data reporting?

No

I.3b If 'No', please explain why.

Noting again that responses need to answer "No" to QI.3 because any other answer closes out the opportunity for comment.

Overall we reiterate that unless there is a defined problem or a required correction onto accepted global standards, then we would not support any changes here, preferring any such to be incorporated into TRUM revisions where any designated problem has been defined, discussed, and a remedy consulted upon. This is because changing the reporting structure would cause significant work and needs to be sure of a concomitant benefit.

More specifically and further to our answer to I.1 above, we suggest that depending on whether OMP is a vertically integrated Regulated Market ["Exchange"] with designated contracts, an integrated RRM and EMIR obligations; or whether it is a broker OMP principally offering physical forwards which are fungible, with a separate but common RRM but for contracts which are not CCP-Cleared; should trigger a different and bespoke set of fields such as a routing for Table 1a or Table 1b rather than broker OMPs addressing a number of fields that are not relevant in the broker work flows.

In respect of the identification and the treatment of "Orders to Trade," we would advocate for a approach more akin to that in MiFIR. Therefore the identification of unmatched and yet to be executed orders should be separated from completed trades, to enable consideration of scenarios where the execution occurs in a separate trading venue and subsequent to the multilateral facility arrangement of blocks.

We would also urge the Implementing Regulation to take steps to identify "Orders to Trade" more narrowly and also in line with MiFID2 such that only firm and actionable interests are considered under the scope. For the avoidance of doubt, MiFID categorises these as, "Orders and Actionable Indications of Interest." This would mean that more general enquiries or "IOIs" which do not have specific parameters and associated contractual terms in the instruction could still be communicated between Market Participants and brokers to instigate market liquidity without triggering a formal reporting requirement.

I.4 Would you support moving from the current XML format to a different electronic format (e.g. json)?

No

I.4b If 'No', please explain why.

1800 character(s) maximum

We would consider this to constitute a significant piece of work across technical project planning and implementation that would fail a cost-benefit analysis because JSON does not support the "Simple Binary Encoding" ['SBE'] transport mechanism which is deployed by the XML Digital Protocol as the top layer to the messaging protocol. Concisely put, JSON does not work with bigger datapoint volumes because it has no binary encoding on account of delivering a human readable digital interface. The consequent question arises as to whether a human readable digital interface is relevant to the trade transport protocol.

For deeper context, we note that this same question is currently posed by ESMA regarding their technical standards for industry reporting data into new EU Consolidated Tapes. In common with revised MiFIR, the underlying level 1 requirement of having a 'harmonised format' while recognising that this doesn't define whether this applies to the business content (the application layer), the on-the-wire representation of that business content (the presentation layer) or both. JSON is an encoding (presentation layer). Herewith, JSON is as unsuitable for the data messaging requirements of CTPs as it likely is for ACER reporting; the primary concerns being market standards, common usage and latency; with JSON being a relatively verbose protocol **.

***Footnote/annex: To add further context since FAST and SBE are different encodings, though they have similar characteristics:*

i. *JSON, to our knowledge, has not been adopted for any high volume real time messaging applications in the financial industry. Such messaging applications are dominated by proprietary standards (generally from exchanges) and FIX standards. Indeed, industry has always used lightweight messaging protocols for pre- and post-trade data and is increasingly using binary protocols. Encodings such as FAST and SBE are compatible with FIX and non-FIX application protocols so can be used to encode ISO 20022 messages, for example.*
ii. *FAST and SBE are not proprietary standards; they are FIX standards and as such have a legal guarantee of being free to use and 'open' (in the sense that anybody can contribute design suggestions). SBE is in the process of being reviewed as a potential Publicly Available Standard under JTC 1, which would make it an ISO standard.*
iii. *The "FIX TagValue Encoding" is not included in the table and, though not as efficient as FAST or SBE, is more efficient than JSON and has a substantial implementation footprint.*
iv. *Regarding the application layer component of the messaging needed for CTPs, we note that the consultation defines a data dictionary (including field names, formats and sequence) but falls short of defining a full messaging application. For example, message identifiers and workflows (e.g., acknowledgement messaging, message status information) are not defined. We do not suggest that ACER, nor indeed any EU legislative*

text defines at this level of detail, simply providing the data requirements for CTP output and allowing the industry to design the lower-level detail.

Section II: Existing Tables of the Annex of the REMIT Implementing Regulation

Table 1 - Reportable details of standard contracts for the supply of electricity and natural gas

Reporting format

Background: *As described in Chapter 3.1.5 of the Transaction Reporting User Manual (TRUM), Table 1 is currently used for the reporting of standard contracts concluded on organised market places (OMPs) or bilaterally, as well as for the reporting of non-standard contracts with defined price and quantity and of Executions of non-standard contracts. Based on the experience on data collection matured so far, and in particular on the feedback provided by data users, ACER would like to explore the possibility to revise the relation between the information to be reported and the relevant Tables defined in the Annex to the REMIT IR. The goal is to optimise and facilitate the reporting and the subsequent data analysis.*

II.1 Would you agree to use Table 1 only for the reporting of transactions, including orders to trade, related to standard contracts (i.e. contracts admitted to trading at OMPs for the supply of electricity and gas traded on an OMP or bilaterally)? This would imply that the reporting of Executions (related to non-standard contracts reported in Table 2) and trades concluded bilaterally (non-standard contracts with fixed price and quantity) would be reported via a different Table (e.g. Table 2b).

Yes

We have no comment here regarding Table 2 which is not relevant to reporting by OMPS, but would note that reference to Table 1 which itself should only concern REMIT Standard Contracts in order to keep it simple for OMP reporting and consequent validations and MP availability by the RRM.

II.2 Would you be in favour of reporting orders to trade and the concluded trades separately (i.e. vie different xmls)? This would imply the potential use of two different Tables (e.g. Table 1a for the reporting of order details and the relevant lifecycle events, and Table 1b for the reporting of trade details).

No

Whilst we are sympathetic to the intent to separate orders from concluded trades, as proposed this would constitute a significant price of work which on its own would confer almost no benefits to market participants.

We would prefer that ACER consider these aspects under the scope of their ongoing TRUM revisions and dialogues with industry such that consequential changes only occur in the context of significant benefits which can be integrated across the ecosystem, or are otherwise restricted to being within the existing reporting structures and protocols. In this case, no dialogue has been held with industry expert groups to make either such case.

Parties to the contract

II.3 Would you agree to optimise the reporting of the 'Reporting entity ID,' by allowing only the ACER code in *Data Field (6) Reporting entity ID* and, thus, removing *Data Field (7) Type of code used in field 6*?

No

II.3b If 'No', please explain why.

Whilst it would be ideal for all client entities to hold a valid ACER ID, we do not view this as currently practical because it is not the case given the extraterritorial scope activities and the global location of client MPs. Therefore we see an ongoing need to enable reporting capacity where a client is yet to obtain ACER code.

Contract details

II.4 Would you agree to indicate in the description of *Data Field (22) Contract Name* the obligation to adopt a naming convention to be specified by the Agency in the technical documentation?

No

II.4b If 'No', please explain why.

We strongly disagree with this suggestion because in order for the reporting to be coherent, you need to encompass every contract attribute since they vary across for different products. If a contract name were to be defined with less than the complete set of the attributes, it could only denote a class or category of contracts. As such it would be without a role in the REMIT data processing and likely cause name collisions, duplication or problematic misalignments.

Moreover, OMPs are already supplying every relevant contract attribute which would result in this suggestion merely triggering data duplication and consequent complexities or mismatches.

II.5 Would you agree to include a new Data Field 'Type of trading' in order to identify whether the contract has been traded on an auction market, continuous market, or bilaterally?

No

II.5b If 'No', please explain why.

Should ACER considers that this is important information and cannot be derived from the existing reports then we have no objection in principle, but we note that for the case of Broker OMPs, it's almost always likely to be populated the same when all such OMPs are multilateral and continuous. Therefore the field would be redundant for this use-case and could likely be better turned off under a Boolean response structure.

II.6 Would you agree to indicate in the description of *Data Field (25) Fixing index or reference price* the obligation to adopt the naming convention specified by the Agency in the relevant technical documentation?

No

II.6b If 'No', please explain why.

We note that the Fixing index or reference price is currently used for all physical floating price trades, including ICIS Heren deals and Trade and Settlement instructions. Working from a standardised list would be a preferred way to cater for many of the trading protocols, but in practice it also requires adequate scope to indicate where trades are executed in other ad-hoc protocols without causing disruption to reporting flows. For example, any approach needs to cater for what happens when something new or not on the list is transacted; or when the reporting obligation is T+1 and the required static data is not available.

In addition, we note concerns from Market Participants where trades may reference private and proprietary indices which they would consider sensitive, and whose publication could potentially put the MP at a competitive disadvantage even where categorised as a non-standard trade.

Option details

Background: With the below proposal ACER aims to improve the reporting of transactions related to options. Based on past experience on the data collection and analysis, it is considered necessary to align the information collected on options between Table 1 and Table 2, as in certain cases option contracts advertised on organised market places may entail features which cannot be correctly reported in the current Table 1 reporting framework.

II.7 Would you agree with the proposal to allow under *Data field (46) Option exercise date* to report also a period when the option can be exercised (if applicable, e.g. for Bermudian option

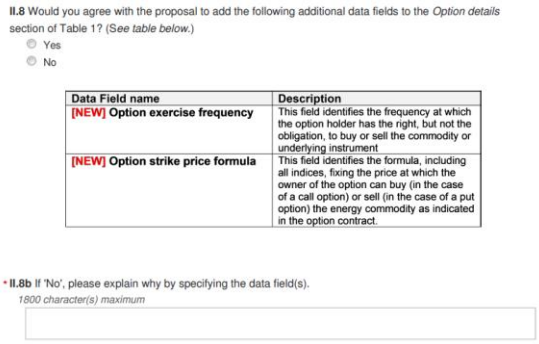
style)? This would imply that the name of the data field would change to *Option exercise date or period*.

Yes

II.8 Would you agree with the proposal to add the following additional data fields to the *Option details* section of Table 1? (*See table below.*)

Yes

 # 44 – 47 - But again needs a simple routing to non-standard to keep the process simple



II.8 Would you agree with the proposal to add the following additional data fields to the *Option details* section of Table 1? (*See table below.*)

- Yes
- No

Data Field name	Description
[NEW] **Option exercise frequency**	This field identifies the frequency at which the option holder has the right, but not the obligation, to buy or sell the commodity or underlying instrument
[NEW] **Option strike price formula**	This field identifies the formula, including all indices, fixing the price at which the owner of the option can buy (in the case of a call option) or sell (in the case of a put option) the energy commodity as indicated in the option contract.

* **II.8b** If 'No', please explain why by specifying the data field(s).

1800 character(s) maximum

Delivery profile

Background: The following question is based on the proposal to align the reporting of the delivery profile of standard and non-standard supply contracts reportable in Table 1 with the reporting of interval for primary allocation and secondary processes of electricity transportation contracts reportable in Table 3. Such modification would allow to align the reporting of the delivery profiles with the established industry standards1 in line with Article 10(3) of the current REMIT Implementing Regulation. The Introduction of Different Time Series Possibilities (Curvetype) Within ENTSO-E Electronic Documents (link here) .↩

II.9 Would you agree to carry out the following modifications in the subsection 'Delivery profile' of Table 1? Please note: deletions are indicated with strikethrough, news data fields or texts are indicated in red.

No

Delivery profile

Background: The following question is based on the proposal to align the reporting of the delivery profile of standard and non-standard supply contracts reportable in Table 1 with the reporting of interval for primary allocation and secondary processes of electricity transportation contracts reportable in Table 3. Such modification would allow to align the reporting of the delivery profiles with the established industry standards[1] in line with Article 10(3) of the current REMIT Implementing Regulation.

1. The Introduction of Different Time Series Possibilities (Curvetype) Within ENTSO-E Electronic Documents (link here).

51	**Duration**	The duration of the delivery period expressed in number of periods.
[NEW]	**Resolution**	Length of the time period for the contract
52	**Load type**	Identification of the delivery profile ~~(base load, peak load, off-peak, block of hours or other)~~
~~53~~	~~**Days of the week**~~	~~The days of the week of the delivery~~
~~54~~	~~**Load delivery intervals**~~	~~Time interval for each block or shape.~~
[NEW]	**Curve type**	Defines type of delivery curve
[NEW]	**Position**	Describes the points or changes in the curve
~~55~~	~~**Delivery capacity**~~	~~The number of units included in the transaction, per delivery time interval.~~
[NEW]	**Curve Quantity**	Quantity at each point or change in the curve
~~56~~	~~**Quantity unit used in field 55**~~	~~The unit of measurement used.~~
~~57~~	~~**Price/time interval quantity**~~	~~If applicable price per quantity per delivery time interval.~~
[NEW]	**Curve Price**	Price at each point or change in the curve

II.9b If 'No', please explain why (by also specifying the data field(s). Alternative proposals on how to improve the reporting of delivery profile in Table 1 are also welcome.

Table 1 (or Table *1a* for Exchange OMPs and Table *1b* for Broker OMPs) should solely consider standard contracts.

We do not consider that using the ENTSO curve type methodology would solve the problem of different venues describing the same trade in different ways, in fact it would very possibly make any current problem set that is attempting to be solved, turn out worse.

Rather, where ACER had identified specific problem issues with data sufficiency or quality, it should confer to expert groups and industry roundtables as it has done hitherto. Where necessary, provision exists to constitute a workshop or a working group in order to better understand the causes of the issues identified and mitigations.

That is to say, where a simply and widely advocated solution is not immediately apparent, then the REMIT Implementing Regulation is unlikely to be the appropriate remedy. We consider that that simply changing the format of data reporting at this juncture is only likely to confer another period of instability and by the same token, create its own data sufficiency and quality issues.

System generated orders (SGOs)

Background: As set out in Article 2(21), "order book" means all the details of wholesale energy products executed at an organised marketplace, including matched and unmatched orders as well as system-generated orders and life cycle events.

It is ACER's current understanding that system-generated orders are generated by the trading system as a derivation from one or more orders to trade placed by a market participant. Such system-generated orders have a (derived) price and volume, an order identifier, and can be executed.

II.10 Do your systems flag system-generated orders in a way that would allow to flag them in the REMIT reporting as well (i.e. to differentiate between the underlying original order and the SGOs carrying over the underlying order)?

No

Broker OMPs have only a very few orders that would count as "*system-generated*." More importantly, we underscore that absolutely no system-generated orders ["SGOs"] would map to a Market Participant counterparty. This is because very few broker-OMP trades are CCP-cleared and they generated from a basket of otherwise unrelated orders.

Whilst the nature of any orders that are "system generated" is that they are at best 'maybe tradeable…,' they may result in the OMP seeking to execute a residual leg outside of that generated package, and therefore one which may fail to match which impacts the contingency of all related limbs. In this way, and contrary to the ACER proposals in the consultation, SGO's never result in a single trade, but merely act as a framework or means to attempt to simultaneously execute a basket of interests and orders to seek to achieve an outcome as close to as possible to any broadcast SGO. There is no guarantee of success when trading an SGO.

Moreover and adding further complexity is that every MP contains within their own trading platform a set of SGOs which mirror, replicate and aggregate across their market view of each OMP generated orders. To these, the MP internal orders will also be layered and interpolated. Such "superset SGOs" across each MP will not be visible back to any OMP, who therefore could neither have knowledge as to when, or if any of the MP generated SGOs are attempted to be executed.

It should also be born in mind that there are an almost infinite number of possible SGOs because a SGO can be calculated between almost every price and every other price and a single change in any existing order will affect potentially significant numbers of SGOs , increasing the order of magnitude of data being reported exponentially. Not only this, any reporting of OMP generated SGOs is not going to be providing any meaningful information, because the OMPs SGOs are in effect superseded by MP generated SGOs. So will cause a significant amount of work and potential confusion in order to provide data that is almost by its nature meaningless because MPs have their own set of SGOs.

Coupled with this, SGOs without an MP as the direct owner of the order, provide no opportunity for a third party to cross check and validate the data set. In fact, MPs are generally unaware that one of their orders is used as a component in an SGO. Therefore, we would underscore that until and unless any broker-OMP qualifies interpolated indications with a dealable interest as presented under the associated credit matrix, they could not qualify as SGOs under the definitions legislated for.

II.11 Do you have any proposal on how to link system-generated orders triggered by the same underlying order but visible across different trading venues? Could you explain the cases when such link cannot be established?

No. This is not technically possible for an OMP to do.

OMPs are not aware of any SGOs generated across multiple trading venues, because these SGOs can only be generated by an MP or its outsourced trading system such as Trayport, TT, Exxeta etc. Therefore any and all information about these SGOs or any trades that happen as a result of them is entirely held in the MP systems and not available to a broker-OMP.

II.12 Would you agree with the proposal that the system-generated orders which were matched, and thus, resulted in a trade should be reportable under REMIT (as also the underlying original order)?

No

If 'No', please specify.

No. SGOs on Broker-OMPs are hardly, if ever, matched. This is because such SGO's can only take into account the orders specific to that particular OMP; whereas SGOs are routinely generated by each MP taking into account orders available across the entire OMP spectrum as well as internal interests or models.

In the rare event that an SGO is matched on a Broker OMP, the consequential result is never a singular trade, but rather a set of transactions equal to the number of risk components that need to be executed in order to satisfy the SGO. The reporting of the individual orders and the individual matched trades that made up the constituents of the SGO would be reported as normal.

Unless the approach to SGOs can be simplified, they would appear to require a look-back from the point of matching stage to the indications that may have led to that point of "trade allege." Clearly any inferential reporting requirements make for poor law. In any multicomponent and contingent market, those prior indications would have a different context, including prices, credit and other core economic terms making up the negotiated relationship characteristics to match or alleged any transaction.

II.12b Would you be able to flag in the REMIT report that these orders were system generated orders?

No

If 'No', please explain why.

In practice these rarely if ever happen. We note that to implement in line with the ACER proposals, significant system building and testing work would be required, but for practically zero use case deployment. We do not consider that OMP derived SGOs would be relevant because MPs generate their own super-set as described in the prior answer to II.12

With reference to answers to QII.10, 11, 12 above, the requisite flagging of SGOs could only be carried out if appropriately narrow and workable definitions were put into place such as any SGO would be firm and actionable in the first instance.

II.13 It is ACER's understanding that system-generated orders might be generated by the trading system with a cascading mechanism. For example, an order to trade referred to a yearly contract might trigger the generation of four orders on quarterly contracts, that will subsequently trigger the generation of twelve orders on monthly contracts. Please share your view on whether such cascading mechanism reflects the actual process for the generation of system generated orders.

We disagree with any decomposition of SGOs until and unless the scope of SGO's is made appropriately narrow and definitive.

For Broker-OMP markets, we have never seem the kind of cascading as described by ACER, it is simply not possible nor logical to cascade a single longer contract into multiple shorter contracts. Whilst at one level this question demonstrates why the approach to OMPs across the implementing regulation needs to be revised and tailored to the model, it also demonstrated that algorithmic cascading mechanisms could not be based on trading interests that are commonly IOIs, but would been to be firm and actionable trading interests solely under the CCP-cleared exchange model.

For a contextual and longer answer please see II.14 below.

II.14 If you agree with the above understanding on the cascading mechanism, would you agree with the proposal to report the first layer of SGOs? In the example described above, this would imply to report the order on the yearly contract (as the underlying order placed by the market participant) and the four orders on the quarterly contracts (first layer of SGOs).

No

II.14b If 'No', please explain why.

No, the ACER Consultation description of a cascading mechanism is incorrect. SGOs are generated by combining multiple orders into a single virtual order, not by decomposing a single order into multiple orders. As such, SGOs almost never have an MP that can be attributed as to 'owning' an order.

SGOs on an OMP are almost never executed because of the complexity and risk of executing multiple unrelated simultaneous orders to achieve the SGO, and because each MP has their proprietary instance as a consolidated 'super-set' of SGOs. For the avoidance of doubt, the odds of an OMP SGO being made up of the best constituent orders to become the best order when looking across the entire market are exceptionally small; and even should one OMP hold all the best orders, still the MP trading system will prioritise transacting its own SGO because credit

and spread-persistence are important, and it can determine the potential tradability of each leg in advance.

Hence reporting of SGOs at a broker-OMP level brings both existential and exceptional technical challenges. The orders have no MP 'owner' nor the possibility for assignment, and whilst adding no value, the rules as proposed would add significant cost, complexity and risk to the reporting system.

In the example and the context posed in II.14 ACER solely supposes an exchange-OMP mechanism, yet nowhere in the proposed drafting does ACER specify this limitation to a CCP-cleared Order-book market. It follows from our answers to II.10-13 that this is inappropriate to broker-OMPs, despite purporting to at least limit the scale of the requirement.

Should ACER consider that information concerning SGOs is valuable and worthwhile then we believe that it should consider creating its own proprietary super-set of SGOs from outright order data provided for under REMIT II. This method would better replicate and be more representative of what any MP may have viewed whilst leveraging on the core tools which pre-exist within the ARIS and the current instance of the TRUM.

Other comments on the above proposals on system-generated orders

It is important to distinguish between firm and actionable interests with commensurate order identifiers that may qualify as SGOs; as opposed to market colour from that analysis of "close touch" indications that may form the basis of trade negotiations, workup and 'sleeving.'

Within the implementing regulation, ACER should formally distinguish between 'Actionable IOIs' from other indicative IOIs in the manner that MiFID2/R has achieved since 2018 without excessive formal reliance on market typology.

We agree that a cascading mechanism is likely representative for exchange-OMP concatenation of months into quarters and seasons, largely predicated on CCP cleared interests being focused on the front or "prompt" contract day and month, together with those immediately succeeding.

For Broker-OMP markets the reverse tends to be true, where liquidity is focused on the spreads and component contracts of most hedging interest. It therefore does not follow that such term markets could be algorithmically decomposed into the component parts in a manner that is economically real.

Orderbook details

Background: As described in the previous section, pursuant to the revised REMIT, ACER has the mandate to collect data relating to the orderbook, including system-generated orders. With the below proposal the aim is to simplify the reporting of the information on system-generated orders by collecting aggregated information on the two sides of the orderbook.

II.15 Would you agree with the proposal to introduce a new section in Table 1 aiming to describe the status of each side of the orderbook via the below data fields (expected to be updated whenever the best bid /ask price, total volume and/or number or orders changes due to a new order or modification of an existing order)? The requested information represents a calculated figure by the OMP based only on the orders to trade visible in the orderbook (e.g. excluding hidden volumes or inactive orders).

See the tables below

No

II.15a Would you have any proposal or further consideration to be taken into account with regards to the above proposal?

II.15b If 'No', please specify.

We firmly disagree with proposal to introduce a new section in Table 1 aiming to describe the status of each side of the orderbook. To give effect to this requirement, OMPs and MPS alike would need to each undertake a monumental piece of work to develop, build and test systems as well as entering substantial outsourcing agreements. This data is currently neither computed nor stored, and to do so would provide little or no information of any utility whatsoever by dint of the outcome forming an OMP-centric view of the market, whereas participants have a market-wide view of the data, aggregated across all OMPs.

At a minimum, the proposals in Q II.15 should be limited to orders intended to be cleared, but in addition the criterion for entry onto the order book of a MiFIR RM should also be added, mindful that the EU is considering “Spot” instruments to become included under MiFID3 and MiFIR2.

Should ACER consider it sufficiently important to have access to a data set of the best bid/ ask/ available volume then they should aggregate this as a proprietary consolidated data-set from the REMIT II submitted data, which would then mirror the consolidated view which MPs generate across the market. In this scenario, the requirements for such order book details should be specified to address only those interests which would qualify as both an orderbook market model and with components that could qualify as order under MiFID2/R that requires both a firm price and size which are actionable in a discreet contract or instrument without recourse to credit availability and other contingent factors.

BID side	
Name of the data field	**Description**
Best bid	Best bid of the order book based on the visible orders, calculated figure by the OMP
Number of orders	Number of orders visible in the order book, calculated figure by the OMP
Total volume	Total volume represented in the orderbook, calculated figure

ASK side	
Name of the data field	**Description**
Best ask	Best ask of the order book based on the visible orders, calculated figure by the OMP
Number of orders	Number of orders visible in the order book, calculated figure by the OMP
Total volume	Total volume represented in the orderbook, calculated figure

Algorithmic trading

Background: With the below proposal ACER aims to adjust the data collection to the evolution of the trading activity in general, where algorithms have a more and more increasing role. A data collection framework that adequately captures the features and dynamics of trading activities involving algorithms is essential for the efficient and effective monitoring of the wholesale energy markets.

II.16 Would you agree with the proposal to flag transactions, including orders to trade, involving algorithmic trading when reporting under REMIT?

No

II.16b If 'No', please specify.

"Yes," with the relevant qualifications that the reporting was built only for MiFIR algos and would need to fully align in order to be workable without reconstituting new fields in Trayport. There are a reasonable number of orders on broker-OMPs that are broker generated. Trayport has the MiFID II fields which could be deployed here where the trades are not in financial instruments.

Whilst ostensibly an understandable objective, in matter of fact almost all orders generated by algorithms occur in financial instruments and are therefore adequately regulated under MIFIR RTS8. For the ACER proposal to comply with the overarching Capital Markets Union provisions for proportionality and non-duplicative obligations, the proposals under II.16 should be limited to those REMIT activities not also covered by MiFIR. Since the EU Commission intends to expand the energy related scope of MiFIR we understand that the relevant remaining scope would be very small indeed and disproportionate to the changes envisaged.

Therefore, in light of the above, together with our comments in answers to questions II.10-15 in regard to the scope and meaning of orders to trade, the proposals to flag algorithms should be reliant on MiFIR and removed from the implementing regulation.

II.17 In general, would you agree with the proposal to complement the data collection under REMIT on transactions involving algorithmic trading with the information currently required under the financial regulation? (More specific questions will follow below.)

No

II.17b If 'No', please explain why.

It follows from our answer to 11.16 that we would perceive the proposals under II.17 to be largely duplicative to the financial regulation and therefore in contravention of the overarching EU Commission intent to remove any and all duplicative requirements.

Clearly broker-OMPs do not operate algorithms, and the proposals constitute an ill focused burden on the role of the OMP. Therefore, any remaining scope outside the financial regulation should first be identified and quantified by ACER prior to any resubmission of these proposal. In the second instance, any proposals taken forward should be subject to a 'Boolean Switch' (*LINK: see DG FISMA recent response to reporting proposals for a Delegated Act*) that these aspects to the reporting schema are switched off for all and any Broker-OMPs.

II.18 Would you agree with the proposal to introduce a new data field to indicate whether an order was submitted to a trading venue as part of a market making strategy by the market participant acting as a liquidity provider?

No

II.18b If 'No', please explain why.

As with just about all of the consultation on this Implementing Regulation, the questions posed assume that every OMP is an exchange CLOB which is clearly not the case. Better to create a dual reporting schema for either Broker-OMPs in the first instance or exchange operated OMP-RRMs in the second. The Broker-OMPs do not have market making strategies nor liquidity providers and neither do they have 'members.' Therefore, this field is irrelevant for Broker-OMPs and would only be a matter for exchanges acting as MiFIR Regulated Markets, especially in light of proposed changes to the scope of MiFIR.

As per answers to II.10-17, the implementing regulation should embed a Boolean Switch for these two fundamentally different classes of OMP. Moreover, for the case of MiFIR Financial Instruments on RMs, to avoid duplication the REMIT provisions should be deferent to existing rules and take reliance on MIFIR RTS 8 provisions directly.

II.19 Would you agree with the proposal to introduce a new data field to identify the person and the algorithm (when applicable) within the member of the trading venue who is responsible for the investment decision? The field is proposed to be populated with the Trader ID and the Algorithm ID.

No

II.19b If 'No', please explain why.

We note that question II.19 is written in a MiFIR context of Trading Venues rather than OMPs and would suggest that it would be better written in a REMIT context. As referenced in our responses above to II.10-18, Broker-OMPs do not have market making strategies nor liquidity providers and neither do they have 'members'. We do not consider that members is a defined term under REMIT and the term Market Participant is better deployed consistently.

Other comments on the above proposals on algorithmic trading:

We have concerns when conferring with to the ACER Open Letter which defines Algorithmic trading, but may lead to duplicative reporting to Financial Instruments where reporting already made under MiFIR..

Since the topic of Algorithmic trading is exclusively case of MiFIR Financial Instruments on RMs, to avoid duplication the REMIT provisions should be deferent to existing rules and take reliance on MIFIR RTS 8 provisions directly. As per answers to II.10-18, the implementing regulation should embed a Boolean Switch for these two fundamentally different classes of OMP.

We also note that where Algorithmic trading tools are offered within the Trayport system architecture, these reside under the Market Participant controls within the "Joule" application and are used with reference to MiFIR financial instruments, rather than in the "BTS" application under Broker-OMP controls. Indeed, Broker-OMPs cannot access the data other than where and when supplied to it by the MP, making the application of any schema rules to Broker-OMPs more tenuous.

Direct Electronic Access (DEA)

Background: Article 2(19) of the revised REMIT provides the definition of 'direct electronic access'. In addition, Article 8(1) specifies the following: Market participants, or a person or authority listed in points (b) to (f) of paragraph 4 on their behalf, shall provide the Agency with a record of wholesale energy market transactions, including orders to trade. The information reported shall include the precise identification of the wholesale energy products bought and sold, the price and quantity agreed, the dates and times of execution, the parties to the transaction and the intermediate or final beneficiaries of the transaction and any other relevant information.

II.21 Regarding transactions related to DEA, would you agree to identify the following market participants in the REMIT reporting:

- *DEA Provider: being a member, participant or client of an organised marketplace offering the DEA service to its client on an OMP;*
- *DEA Client ('Client 1'): a Client using the trading code of the DEA Provider in order to electronically transmit orders to trade relating to a wholesale energy product directly to the OMP;*
- *Sub-delegated DEA Client ('Client 2'): a Client delegated by Client 1;*
- *Final beneficiary to the transaction (if different than the DEA Client of the sub-delegated client).*

No

II.21b If 'No', please specify in detail.

Whilst we understand and have engaged with ACER regarding the principle behind both more disclosure and more accountability of the DEA client chain; as it stands and in practice, there is no scope or provision in widely used middleware systems such as Trayport to accommodate any DMA ID let alone a three-level chain. Broker-OMPs cannot envisage that data regarding the DEA client chain could not be provided in the timeliness and data quality expected.

Therefore, whilst the Implementing Regulation may set out an optimal target model, it should be proportional in the application detail mindful that neither capacity nor identifier architecture currently exists, and moreover that the experience within MiFID2/R reporting only goes to initial client in the case of executed transactions.

We would also like to again that duplication matters, and where the scope of the DEA is covered by financial regulation, then it should not be required to be reported under REMIT.

Is this reporting meant to be via ACER code or LEI or other or both?

Is DEA client reporting actually an EMIR report and therefore exempt from REMIT? Clearly terms of trade evolve as you go down the DMA chain.

II.22 Would you agree with the proposal to complement each of the proposed identification listed in Q.II.21 with the relevant Trader ID and Algorithm ID information (when applicable)?

Yes

Where the relevant information is adequately provided by the MP then OMPs ought to be able to complement each of the proposed identification listed in Q.II.21.

This would be the case for "Trader IDs" as currently provided; however we underscore that Algo IDs are both novel and generally inapplicable to Broker-OMP reporting.

Other comments on the above proposals on reporting transactions related to DEA

Most DEA clients will be third country entities and therefore would not come under the REMIT regulation. Therefore, mindful that energy market participants do not come under global standards in the way that applies to financial entities, the approach taken under financial regulation of "No LEI – No trade" may need to be directly enforced by ACER. This would make OMPs either remove clients or migrate trading in Wholesale Energy Products outside the EU. In either case the application of rules along a client chain would be difficult to apply and unlikely to provide the data quality sought under the intent of the regulation unless the MPs are directly supervised in the EU.

Reporting orders on spread

Background: Regarding the reporting of orders on spreads ACER has experienced inconsistency in the reporting of the related legs of the spread, including the price and quantity information. With the below proposal ACER aims to simplify the reporting of orders on spreads, which simplification is expected to bring improvement in the quality of data related to spreads.

II.23 Are there any changes to the data fields currently defined in Table 1 that you believe are necessary to facilitate the reporting of spread contracts?

No

Noting that only "Yes" enables comments to be submitted. Therefore "No."

The existing structure is we believe adequate to represent spread orders although if there were fields made available explicitly for spread linking IDs then then this might allow a little more granular information to be provided - however it would also add additional complexity and may result in an overall decrease in data quality if not thoroughly explored and edge cases understood.

Simple reporting structures should be a key objective, we note that currently there is no reference at all in Table 1 to orders on spreads; rather there is solely fields #31, #32 for linked IDs.

II.24 When reporting orders on spread, would you agree with the proposal to report each leg of the spread in a separate order record with a unique Order ID?

No

II.24b If 'No', please explain why.

We firmly disagree. A spread order is a single order with a single price, it is not possible to deconstruct it into separate parts at individual prices. The individual leg prices are unknown at the point where the order begins to be worked.

To do so would be to literally make up data where none exists. Making up data should be avoided in every possible case.

II.25 This question aims to tackle how to perform the correct linking of the legs linked to the spread. Would you agree with the proposal to assign a unique Spread ID in order to link together all legs of the spread via this unique identification? This would imply that there would be no need to link the related orders via the linked order ID field.

Yes

II.25a If 'Yes', any other comment

As per II.24a, if a spread link ID is desired and implemented, we agree that any assignment of a unique Spread ID should apply solely to the completed trade and not to the component orders..

However, as per answers to II.20-25, we reiterate that the middleware order and trade capture fields (i.e. per Trayport) do not currently accommodate any of these proposals to identify orders at component level and therefore any Implementing Regulation should accommodate a technology transition towards to the required end-state.

Reporting strategies

Background: With the below proposal ACER aims to facilitate the reporting of transactions belonging to the same strategy, thus improving market monitoring.

II.28 Would you agree with the proposal to add a new data field to report the type of strategy applied (e.g. Butterfly, Condor)?

No

II.28b If 'No', please explain why.

We note that whilst the intent here is helpful, the proposal as it is beyond the scope of Level 1 text, and fails to be supported by adequate scope and definitions. As such, the deployment of common trading strategies as a form of short-coding for frequently used trades may be better situated in the TRUM where industry input and adaptability would be more appropriate to avoid unintended supervisory outcomes.

We would remind ACER that that the broker-OMP may often only work component legs, in which case the OMP would presumably only report those as a strategy if the market participant was so minded to notify the overall status. That is to say that in the absence of a designated contract market, there appears to be no control over the data sufficiency, nor resulting quality in order to comply with this proposal as tabled.

We also consider that the term “strategy” would need to be properly defined were it to be adopted into the Implementing Regulation, as it currently appears to encapsulate any spread with more than two legs, but it also appears to be focused on options instruments from the examples presented.

In the absence of any specifications in the REMIT Regulation itself, the Implementing Regulation should explicitly reference that ACER guidelines should be developed to set-out an extensive, but non-exhaustive list of commonly used strategies codifies and therefore deals with the great majority of use-cases, especially since nearly all EU energy related options are currently exchange traded.

However, in considering the characterisation and provision of this information, we underscore that there is no ISO Standardised encoding of trading strategies, so where the Market Participants, as clients to the OMP do not provide this information, so the broker staff would

need to know, to characterise and then record if the MP intends to be working a strategy (or a part thereof). Then to promptly and record in standard form and in line with the schema the order creation together with the ultimate trade capture at the point of matching.

Currently there are limited commonalties between exchange specific terminologies and financial market rules. In order to achieve this, both the middleware systems such as Trayport, together with the exchange specific terminologies need to be aligned with the ACER schema and ACER delineated strategy definitions. needs more information on the potential list of specified strategies – since too much read across from exchange specific financial market rules.

II.29 Would you agree with the proposal to flag all orders connected to the strategy when being reported under REMIT?

No.

II.29b If 'No', please explain why.

No because of answering no to II.28. As proposed there is no mandate and nor is there an adequate definition to separate Spreads from Strategies. Therefore any approach to connecting orders and strategies which the market deems helpful should be applied at the level of the TRUM

We would also reiterate the answers given in II.27 as this is also an issue for appropriate information capture in the middleware such as Trayport Joule Direct, TT, or Exxeta E*star where the provision of the flagging fields at appropriate trade leg granularity needs to be available. From experience, we understand that this would lead to tripartite discussions between MPs, OMPs and technology providers concerning standardisation, supply the relevant trade creation data parameters and software versioning; all of which could not be appropriate for a legislative application. Further, all orders related to the strategy would be to be submitted to the same OMP which is highly unlikely or impossible where certain legs are on exchanges or in third countries.

II.30 Would you agree to link all transactions, including orders to trade, connected to the particular strategy by linking them via a single identification code (e.g. Strategy link identification), in addition to the Order ID unique for each order? This would imply that no cross linking of the related Order IDs would be necessary.

No

II.30b If 'No', please explain why.

No, this proposal, as additive to the order linking and in its proposed application to both orders to trade and to trades is overly complex and prescriptive. It would be impossible to apply to dynamic and changing contingent transactions and could only apply where the order to trade terms are highly prescriptive which is rarely the case.

Considering possible complexities of multiple orders and multiple strategies, this requirement should only flag that the order is related to a strategy, and not to seek to uniquely identify any particular instance.

As above this all turns on the functionality from Trayport as the outsourced supplier, the uniformity of this condition may be additionally set out in a cover letter or introductory comments.

II.31 Please provide your view on whether the OMP is in the position to report above listed information or the OMP can carry out the reporting only if the MP provides this information.

Whilst we are not clear what exactly constitutes the "*above listed information*;" it anyway remains highly unlikely that a broker-OMP could ever be in the position to report above listed information in a timely and granular manner. If the question refers to "*strategies*" above then the OMP does not hold any information regarding strategies that the client may have on orders and trades.

To do so would involve a significant task of ACER adequately and formally describing what they mean by "strategy," defining a list of possible strategies, then the MP building technology and the OMPs building middleware to receive data from the MP and then incorporating it into the ACER reports. This is a significant, expensive and time consuming piece of work and then massively burdensome on the MPs in having to tag each order and trade where appropriate.

Moreover, where OMP is reliant on submission of data by the MP, so that MP may want a validation and checking process back from the OMP in close to real-time regarding the data quality which is a functionality not currently in existence.

We reiterate that current middleware's and trade entry/capture portals do not have any capacity for orders to match the consequent trade, let alone where further complications such as contingent strategies and separate execution venues and trade entry portals then apply. For instance, considering only the Trayport system, "BTS" only currently records under the labelling of "aggressor" rather than any idea of bid and offer, even which would be inapplicable to apply to complex or constantly changing strategies. We note that further issues around order type and auto-match should mean that the application of further details should need to be dependant upon the widespread adoption of the further relevant standards and technology.

Ends.