

Energy Security Board
Response to OTC Transparency in the NEM
Via: info@esb.org.au

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Introduction

The Energy Users Association of Australia (EUAA) is the peak body representing Australian energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing and materials processing industries. Combined they employ over 1 million Australians, pay billions in energy bills every year and are desperate to see all parts of the energy supply chain making their contribution to the National Electricity Objective.

Our members are highly exposed to movements in both gas and electricity prices and have been under increasing stress due to escalating energy costs. These increased costs are either absorbed by the business, making it more difficult to maintain existing levels of employment or passed through to consumers in the form of increases in the prices paid for many everyday items.

We welcome the opportunity to make a submission to the ESB on OTC Transparency in the NEM.

Responses to Specific Questions

Overall implementation should be focused on achieving the goals that the ACCC set out in its recommendation - improve transparency, aid price formation and reduce the disadvantage of smaller parties. To achieve these goals implementation should be similar to NZ repository.

Questions

What costs and/or other risks need to be considered in the establishment of a new, industry-specific trade repository? How would these compare with leveraging an existing, generic trade repository? How might costs best be managed?

Are there any timing issues with establishment of a new, industry-specific trade repository? If so, what transitional arrangements could be put in place to deliver targeted benefits in as timely a manner as possible?

- The cost involved in reporting trades should be considered a normal part of the cost of doing business and should not be considered a major inhibitor to the setup of the registry, clearly this is not an issue in NZ.

Questions

Is the AER the most appropriate body to perform the role of administrator of the Trade Repository?

- The AER is best suited as it is the key market regulator and market participants can be assured that it will not have an agenda in managing and publishing the information.

Questions

What level of disclosure of OTC-traded products is appropriate? What information would be most useful to market participants, regulators and policy makers?

To what extent will the level of disclosure impact on the choice of trade repository (i.e. new, industry-specific versus leveraging existing trade repositories, on a transitional basis or otherwise)?

How frequently should the information be updated and publicly reported?

Does AFMA restarting its voluntary survey of OTC electricity derivative trading have any implications for the need for a trade repository? If so what are the implications?

To what extent, if any, would trade-to-trade reporting and publication compromise confidentiality of OTC transactions? How could any risks be mitigated?

- Early focus should be on reporting trades for contracts that are most similar to ASX trades as these should require little more adjustment than to be anonymised. This should be implemented urgently. Key information is price, volume, region, type of product, general shape (flat, peak, offpeak), for a cap a strike price
- Reporting needs to occur ideally in real-time, preferably daily but at least weekly, otherwise the both expected improvement of transparency and the impact on price formation is quickly lost. Any delay means that the larger entities that are more frequently party to these trades retain their advantage, therefore stifling the intent of the measure
- Reporting should be based on the regional reference node (ie on state by state) basis. The State for which a contract is traded is vital information that must be reported. As Australia does not have a nodal system like NZ, trades on particular nodes is not an issue
- Ideally daily publication (in case of batch publication) would occur prior to the market close window of the ASX (4pm Sydney time) with sufficient time (at least 1 hour) left for trading to occur based on the published information
- On the use of private versus public repositories we are ambivalent, however:
 - Most important is that the cost of access to the information is minimised, which may only occur for a public registry
 - Secondly there must not be any restriction on the use of the information from the repository; ie there must not be any limits on re-publishing information; it is not uncommon for Platts or Argus to require recipients of information based on their trade data to also purchase a licence to the underlying data. This inhibits the use of the trade data and restrains transparency
 - The NZ registry is a good example of how the registry can be implemented
- Publication of anonymised trade information should not compromise anonymity of trades. Trades may only be identified where they are done at a particular point in the network or on a particular shape. This can be addressed by publishing only high level statistics around trade. Given this issue has already been considered in NZ, there should be no reason why Australia is any different.
- AFMA restarting its survey is completely irrelevant to the need for the registry as it does not report frequently enough, is voluntary and does not contain price information. The AFMA survey would be a distant second to reporting of real trade information.

Questions

If recommendation 6 were implemented should it occur through changes to the NEL?
If it was implemented using the NEL, how could it be designed to minimise the volume of non-reported trades?

Could obligations and reporting arrangements established for an industry-specific trade repository be streamlined with other regulatory processes?

Alternatively, are there specific approaches which could be adopted to minimise the compliance burden on market participants? For example, should trading intermediaries be allowed to report on behalf of liable entities?

- We are largely ambivalent. With regards to publication requirements and setups (for instance through intermediaries), the key is that trades are reported timely and publicly without requiring further payment for access. This seems to be what the NZ system achieves.



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