



Agency for the Cooperation
of Energy Regulators

Head of the Market Integrity and Transparency Department

Head of the Market Surveillance and Conduct Department

Ljubljana, 15 December 2016
ACER-VZ-MG-mm-up-2016-662

Subject: Extension of the Time-Limited No-action Relief with Respect to the List of Contracts Reportable at Request of the Agency

Dear Sir or Madam,

The purpose of this letter is to inform you that the Market Integrity and Transparency Department and Market Surveillance and Conduct Department ('the Departments') of the Agency for the Cooperation of Energy Regulators ('the Agency') are extending the expiration date of previously granted no-action relief from the requirement to report upon reasoned request of the Agency the contracts and details of transactions in relation to those contracts listed in Article 4(1)(a) to (d) of Commission Implementing Regulation (EU) No 1348/2014¹, unless concluded on organised market places. Commission Implementing Regulation implements Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 (REMIT)² as REMIT Implementing Acts.

I. Background

On 7 January 2015, the Market Monitoring Department's preceding both Departments granted the time-limited no-action relief ('the No-Action Relief') on contracts and details of transactions in relation to those contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014. In the Letter No. ACER-VZ-pp-2015-3 ('the Letter')³, the Market Monitoring Department stated that it will not recommend that the Agency requests information on contracts and details of transactions in relation to those contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014, i.e.:

¹ OJ L363, 18.12.2014, p.121.

² OJ L326, 8.12.2011, p.1.

³ See the Agency Letter No. ACER-VZ-pp-2015-3 (7 January 2015), available at: <https://www.acer-remit.eu/portal/document-download?documentId=2608>.

- a) Intragroup contracts,
- b) Contracts for the physical delivery of electricity produced by a single production unit with a capacity equal to or less than 10 MW or by production units with a combined capacity equal to or less than 10 MW,
- c) Contracts for the physical delivery of natural gas produced by a single natural gas production facility with a production capacity equal to or less than 20 MW,
- d) Contracts for balancing services in electricity or natural gas.

The initial No-Action Relief was scheduled to expire on 31 December 2016.

As stated in the Letter "On 23 October 2012 and 26 March 2013, the Agency issued its recommendations on the records of transactions for the REMIT Implementing Acts to the European Commission on the basis of Article 7(3), second subparagraph, of REMIT. Before making such recommendations, the Agency consulted with interested parties.⁴ In view of the list of energy commodity contracts to be reported pursuant to Article 8(2)(a) of REMIT, the Agency recommended, inter alia, that the REMIT Implementing Acts excluded contracts for balancing services in electricity and natural gas, OTC intragroup contracts and certain OTC contracts below a threshold defined by the REMIT Implementing Acts and the details of transactions in relation to these contracts from the list of reportable contracts."

However, Article 4(1) of Commission Implementing Regulation (EC) No 1348/2014 defines that, unless concluded at organised market places, the following contracts and details of transactions in relation to those contracts shall be reportable upon reasoned request of the Agency and on an ad-hoc basis:

- a) Intragroup contracts,
- b) Contracts for the physical delivery of electricity produced by a single production unit with a capacity equal to or less than 10 MW or by production units with a combined capacity equal to or less than 10 MW,
- c) Contracts for the physical delivery of natural gas produced by a single natural gas production facility with a production capacity equal to or less than 20 MW,
- d) Contracts for balancing services in electricity or natural gas.

II. Time-Limited Staff No-Action

Based on the foregoing, the Departments take the view that granting an extension of the time-limited No-Action Relief is appropriate and warranted, given that the Agency's aforementioned reasoning expressed in its recommendations still applies and also given the limited human and financial resources available to the Agency.

Accordingly, the Departments will continue not to recommend that the Agency requests information on contracts and details of transactions in relation to those contracts listed in

⁴ The recommendations are available on the Agency website: <http://www.acer.europa.eu/en/remi/About/Recommendations/Pages/Recommendations-on-REMIT-Records-of-transactions.aspx>

Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 at least until 31 December 2017.

This is without prejudice to the possibility of national regulatory authorities requesting such information under national law and to the possibility of the Agency to request additional information in relation to reported data according to Article 6(8) of Commission Regulation (EU) No 1348/2014.

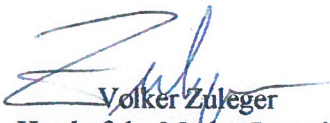
III. Conclusion


This letter, and the positions taken therein, represent the view of the Departments only, and do not necessarily represent the positions or views of the Agency or of any other office or department of the Agency. The extended No-Action Relief issued by this letter does not excuse persons relying on it from compliance with any other applicable requirements stipulated in REMIT or in Commission Implementing Regulation (EU) No 1348/2014.

Further, this letter, and the extended No-Action Relief contained therein, is based upon the information currently available to the Departments. Any different, changed or omitted material facts or circumstances might render this extended No-Action Relief void.

Should you have any questions, please do not hesitate to contact us under remit@acer.europa.eu.

Yours faithfully,


Volker Zuleger
Head of the Market Integrity
and Transparency Department


Martin Godfried
Head of the Market Surveillance
and Conduct Department