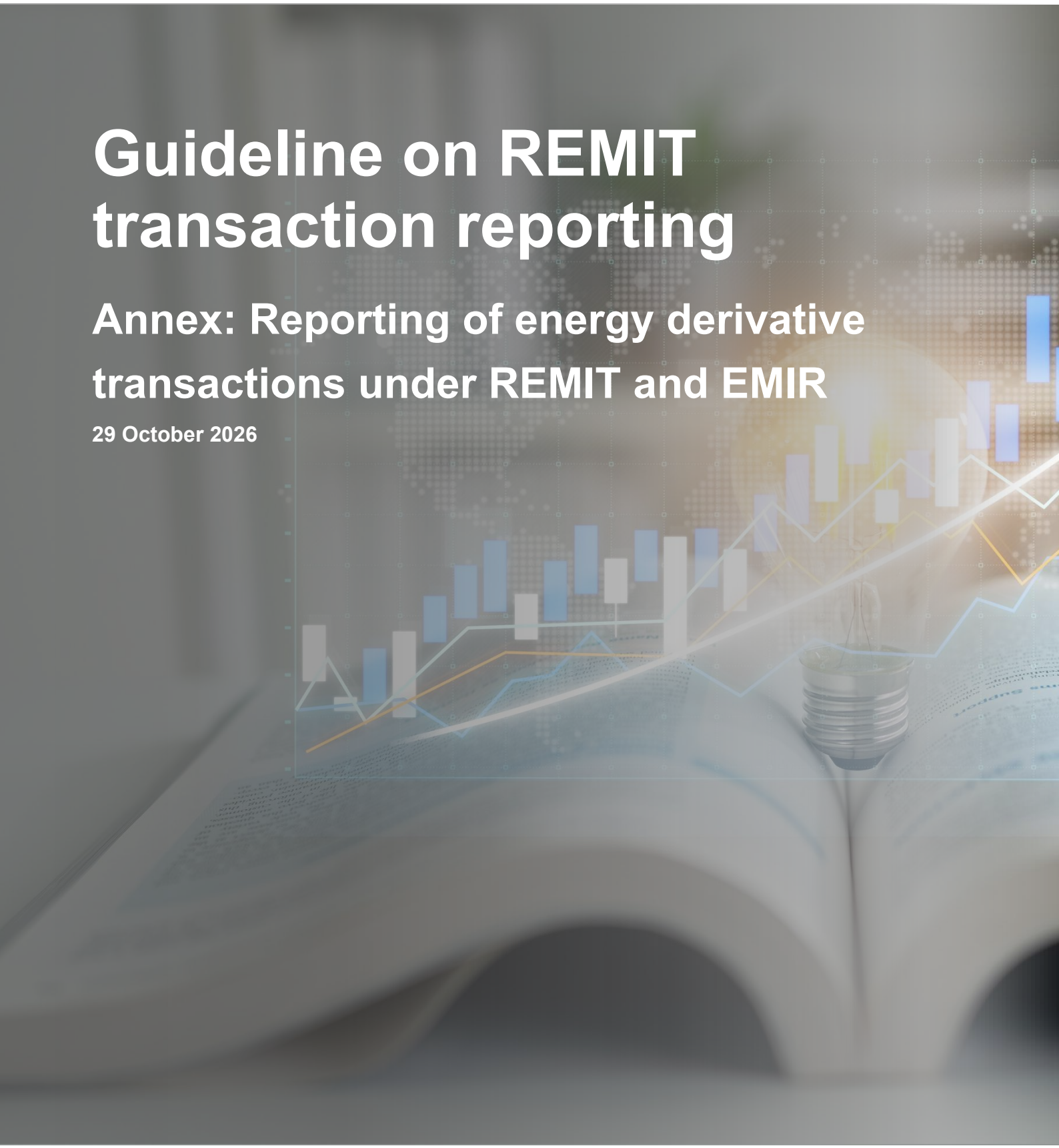
ACER

European Union Agency for the Cooperation of Energy Regulators

Guideline on REMIT transaction reporting

Annex: Reporting of energy derivative transactions under REMIT and EMIR

29 October 2026



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Please note that this document refers to Commission Implementing Regulation (EU) 2026/256. Certain provisions of the Regulation are subject to a deferred application date. Accordingly, this document may address provisions that are not yet applicable. Readers should always consult the applicable legal text to verify the provisions in force and their respective dates of application.

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1. Introduction and scope

1.1. Purpose of the Annex

1 The Annex aims to clarify the reporting obligations for energy derivative transactions reportable under both Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency ('REMIT') considering the reporting requirements for the same type of contract under Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories ('EMIR'). In particular, the annex clarifies the scope of reporting under REMIT and EMIR, the relevant definitions applicable under the two frameworks, and has the overarching objective of helping stakeholders navigate the reporting exemption in REMIT for derivative transactions already reported under EMIR.

2 Commodity derivatives trading is subject to three main pieces of financial legislation relating to transparency and reporting: Directive 2014/65/EU (MiFID II'), Regulation No 600/2014 ('MiFIR'), and EMIR. This Annex currently focuses solely on derivatives reported on the basis of Article 9 of EMIR, although references are made to MiFID II and MiFIR where necessary.[1]

3 ACER's understanding of the reporting of energy derivative transactions under REMIT and under Commission Implementing Regulation (EU) 2026/256 ('REMIT Implementing Regulation') is based on the principle that uniform rules should not create unnecessary costs or administrative burdens for market participants and should duly consider the reporting frameworks established under EU financial market legislation. Accordingly, the reporting of energy derivatives under REMIT should be aligned, to the extent possible, with the reporting under EMIR. It is also important to note that REMIT's application to wholesale energy products that are also financial instruments does not override Regulation (EU) 596/2014 on market abuse ('MAR'), MiFID II, MiFIR, EMIR or EU competition law, when those rules are applicable.

1.2. REMIT scope, definitions, terminology

4 There are several definitions in REMIT which are of importance when examining the scope of transaction reporting of energy derivatives.

5 Under REMIT, a **market participant** is any person, including transmission system operators, distribution system operators, storage system operators and LNG system operators, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets (Article 2(7) REMIT). The notion of market participant also encompasses non-EU market participants, insofar as they enter into transactions on wholesale energy markets (Article 9 REMIT).

6 The term **transaction** includes any trade and order to trade, matched or unmatched, or bilateral contract and its execution related to wholesale energy products, including any lifecycle event of such trade, order to trade or bilateral contract (Article 2(14) REMIT Implementing Regulation)

7 **Wholesale energy markets** are defined as any market within the Union on which wholesale energy products are traded (Article 2(6) REMIT). Wholesale energy markets thus encompass both commodity markets and derivative markets. Further considerations on the definition of wholesale energy markets can be found in ACER's Guidance on the application of REMIT.

8 **Wholesale energy products** include transactions related to the supply, transportation or storage of electricity, hydrogen or natural gas, and **derivatives thereof** (Article 2(4) REMIT). In particular, pursuant to Article 2(4)(b) of REMIT, the definition of wholesale energy product includes "***derivatives*** *relating to electricity, hydrogen or natural gas* ***produced, traded or delivered*** *in the Union, or derivatives relating to electricity* ***which may result in delivery*** *in the Union as a result of single day-ahead and intraday coupling*".

[1] ACER intends to compliment this annex with information regarding the reporting under Article 26 of MiFIR at a later stage.

9 Hence, when referring to derivatives, the definition of wholesale energy product applies irrespective of whether the related electricity, hydrogen or natural gas is delivered in the Union, as the condition for such commodities to be either produced or traded in the Union is sufficient to qualify as a wholesale energy product. However, point (a) of Article 3 of the REMIT Implementing Regulation **limits the scope of reporting** only to the transactions where the commodity is "with delivery in the Union" or "which may result in delivery in the Union" in the case of electricity single day-ahead and intraday coupling.[2]

10 Therefore, from the group of derivatives related to electricity, hydrogen, or natural gas (a) produced, (b) traded or (c) delivered in the Union, only those that also relate to the supply of electricity or natural gas **with delivery** in the Union, or which **may be delivered** in the Union in the case of electricity single day-ahead and intraday coupling, are reportable pursuant to Article 3(a)(ii) of the REMIT Implementing Regulation.

Example: A derivative contract traded on an energy exchange in the EU, relating to natural gas delivered outside the EU

If a derivative contract (i.e. a wholesale energy product) is traded on an energy exchange in the Union but it relates to the supply of natural gas with delivery outside the Union, the condition "with delivery in the Union" is not fulfilled. For this reason, the market participant has no obligation to report this derivative contract to ACER pursuant to Article 3(a)(ii) of the REMIT Implementing Regulation. However, ACER highlights that such contracts still fall under the general scope of REMIT and therefore other REMIT obligations (e.g. the publication of inside information) remain applicable.

Please see ACER's Guidance on REMIT for further information on the obligation to publish inside information and the prohibitions on market manipulation and insider trading.

11 Article 3 of the REMIT Implementing Regulation further specify that any transactions related to options, futures, forwards, swaps and any other derivatives relating to electricity or natural gas including contracts-for-difference, irrespective of where and how they are traded are reportable under REMIT (provided that the delivery is in the EU, as explained above). This includes both physically and financially settled derivatives.[3]

12 Also financially settled derivatives are considered as having a delivery location as they have a reference price or other attributes which relate to the delivery of the commodity. For example, for a financially settled derivative referencing the price index of an EU market, the EU location indicated in the price index (the underlying of the index) is the delivery point.

13 With regard to reportable transactions, ACER clarifies that adjustments to an aggregated open position in a derivative qualifying as a financial instrument are not reportable under REMIT, provided they do not modify the terms of the underlying wholesale energy product transaction.

14 Furthermore, Article 2(4)(d) and 2(4)(f) of REMIT specifies that derivatives relating to the transportation of electricity, hydrogen or natural gas in the Union and derivatives relating to the storage of electricity[4], hydrogen or natural gas in the Union are also wholesale energy products. For these types of transactions, the wholesale energy product definition is also in line with the reporting obligations specified in the REMIT Implementing Regulation:

[2] Concerning derivatives related to the supply of electricity that may result in delivery in the Union as a result of single day-ahead or intraday coupling under Article 2(4)(a) and Article 2(4)(b) of REMIT, the relevant geographical scope is determined by the coupled markets concerned which must include at least one Member State in which potential delivery may occur.
[3] The settlement method should be indicated in 'Data field 32 settlement method' in Table 1 in the case of standard contracts. For further information on what constitutes a standard or non-standard contract please see the Guideline on transaction reporting and for further information on how to populate the data fields of Table 1 please see the Transaction Reporting User Manual.
[4] Recital 8 of the REMIT Implementing Regulation clarifies that storage of electricity should be treated in the same way as wholesale energy products relating to the supply of electricity. All provisions for electricity supply transactions should therefore also apply to electricity storage.

- point (b) of Article 3 of the REMIT Implementing Regulation specifies that the **transportation should take place in the Union** for the derivative transactions to be reportable pursuant to Article 3(b)(iii);
- Article 4(7) of the REMIT Implementing Regulation specifies that the **storage of natural gas should take place in the Union** for the derivative transactions to be reportable pursuant to the same Article;
- Article 4(8) of the REMIT Implementing Regulation specifies that the **supply, transportation and storage of hydrogen should take place in the Union** for the derivative transactions to be reportable pursuant to Article 4(8)(d). Regarding hydrogen derivatives related to supply, the same requirement of 'with delivery in the Union' as explained above is applicable.

1.3. Additional definitions and terminology

15 In addition to the definitions covered in section 1.2, the following terms and entities are also of importance, both from financial and REMIT perspective, when determining the reporting obligation(s) under EMIR and REMIT:

- **Trading venue** is an umbrella term defined in Article 4(24) of MIFID II. The definition of trading venue encompasses the concept of regulated markets, multilateral trading facilities ('MTFs') and organised trading facilities ('OTFs'). The concept of trading venues largely overlaps with the concept of **organised marketplaces** ('OMPs') under REMIT (insofar as they offer wholesale energy products), however the perimeter of OMP may be broader since it encompasses energy exchanges, energy broker platforms, energy capacity platforms and any other system or facility in which multiple third-party buying or selling interests in wholesale energy products interact in a manner that may result in a transaction (Article 2(20) REMIT).
- **Over-the-counter** (OTC) **derivative** is defined in Article 2(7) of EMIR as contracts ***not*** executed on regulated markets. (or on a third-country market considered to be equivalent to a regulated market in accordance with Article 2a of EMIR). Derivative contracts traded on MTFs or OTFs are thus considered as OTC derivatives in the context of EMIR[5]. REMIT, on the other hand, only differentiate between transactions entered into, concluded or executed on an OMP (standard contract) or outside an OMP (non-standard contract). Consequently, this means that an EMIR OTC derivative traded on an MTF or OTF by a venue which falls under the OMP definition is considered an OMP transaction under REMIT.
- **Exchange-traded derivative** (ETD) is a derivative that is traded on a regulated market (or on a third-country market considered to be equivalent to a regulated market in accordance with Article 28 of MiFIR). As explained above, energy exchanges are considered as OMPs under REMIT, and consequently an ETD would be considered as a transaction concluded on an OMP (standard contract), insofar as it falls under the definition of a wholesale energy product. It is however important to note that not all OMPs are exchanges, hence not all contracts traded on OMPs are considered as ETDs.
- **Counterparties and CCPs involved** in the transaction, this includes:
  - **Financial counterparties,** e.g. investment firms, credit institutions, insurance undertakings and other entities as listed in Article 2(8) EMIR
  - **Non-financial counterparties ('NFCs')** are undertakings established in the Union that are not financial counterparties within the meaning of Article 2(8) EMIR
  - **Central counterparties ('CCPs')** are legal persons that interpose themselves between the counterparties to contracts traded on one or more financial markets, becoming the buyer to every seller and the seller to every buyer (Article 2(1) EMIR)

[5] ESMA Q&A on EMIR implementation "OTC Question 1".

- **Clearing members** means an undertaking which participates in a CCP and which is responsible for discharging the financial obligations arising from that participation (Article 2(14) EMIR)
- **Exchange members** are direct members of the exchange, inter alia:
  - **Executing brokers**, which are placing orders or executing trades on the exchange on their clients' behalf
  - Firms providing Direct Electronic Access ("DEA") to their clients (**'DEA providers'**)

  All exchange members are considered market participants under REMIT.
- **Clients of the executing broker** who are trading on behalf of themselves or on behalf of their clients by providing indications to an exchange member (i.e. the executing broker).
- **DEA clients** (i.e. clients of the DEA provider) who trade on their own behalf or on behalf of their clients via the account of a third entity (i.e. the DEA provider) that is the member of the exchange.
- **Investment firms**, defined in Article 4(1) of MIFID II. They can be exchange members themselves or use the services of an executing broker or DEA provider, may trade on behalf of themselves or on behalf of their clients.
- **Clients of the investment firm** who are trading on behalf of themselves or on behalf of their clients via the investment firm.

1.4. Counterparties vs market participants

16 The notion of counterparty under EMIR determines who has reporting obligations for a specific transaction (Article 9 EMIR). Under REMIT, the reporting obligation lays with the market participants "entering into the transaction" or with the OMP where the transaction is entered into, concluded or executed.

17 Whether a specific entity involved in a derivative transaction is considered a REMIT market participant, thus depends on whether they are ***entering into*** the transaction or not.

18 The meaning of entering into transactions under REMIT differs from the concept of being a counterparty to a derivative contract under EMIR. Under REMIT, the term 'market participant' refers to 'entering into transactions in wholesale energy markets' and not to 'being a counterparty to a contract', as e.g. CCPs or clearing members can be under EMIR (see section 1.4.1). For further information on ACER's understanding of the definition of market participant and what it means to *enter into a transaction*, please consult the ACER Guidance on the application of REMIT.

19 Further considerations on specific parties involved in derivative transactions and their status as counterparty under EMIR and/or market participants under REMIT are provided below.

1.4.1. CCPs and clearing brokers

20 Events such as clearing and option exercise are only considered as reportable events under REMIT if the activity results in a new transaction. The fact that a transaction resulting from clearing may be reportable under REMIT does not imply that the CCP performing the clearing is the REMIT reporting entity.

21 Under REMIT, if a wholesale energy product transaction is **concluded on the energy exchange** itself, the transaction is reportable and should be reported by the exchange (in its role as an organised marketplace) but the **subsequent clearing is not a reportable** event and thus the CCP or clearing broker are not market participants in such a scenario. Hence, the CCP's EMIR reporting obligation does not result in a corresponding REMIT reporting obligation for the CCP merely because the CCP becomes a counterparty to the cleared transaction under EMIR. If the transaction was **concluded outside the energy exchange** but is subsequently registered for clearing on the exchange, the transaction **should be reported by the exchange** and the exchange member registering the clearing should be reported as market participant. Further

actions related to clearing, such as CCP novation, give-up arrangements, and clearing account transfers are not reportable events under REMIT. Please see chapter 2.1.2.4 "Clearing/Trade registration" in ACER's Transaction Reporting User Manual for further information on the reporting of clearing.[6]

22 ACER believes that this interpretation is also consistent with the MiFIR transaction reporting framework, in particular Article 2(5) of Commission Delegated Regulation (EU) 2017/590 with regard to **regulatory technical standards** for the reporting of transactions to competent authorities (RTS 22)[7].

23 CCPs and clearing brokers can be REMIT market participants if they enter into transactions in wholesale energy products for reasons unrelated to their clearing activities.[8]

1.4.2. DEA providers and their clients

24 A DEA provider allows another person (DEA client) to use its trading code/account so that the person can electronically transmit orders and conclude trades on the exchange where the DEA provider is a member. As per paragraph (15), **DEA providers are always considered as REMIT market participants as they are exchange members**, and the trading is done "on their account" on the exchange. Also, Article 5a of REMIT details several obligations for "market participants who provide DEA" – further strengthening the notion of the DEA provider being a market participant.

25 DEA clients or sub-delegated DEA clients that enters into transactions by acting on the account of the DEA provider are also considered to be a market participants given the fact that they are entering into transactions on a wholesale energy market. The fact that a DEA client/sub-delegated client may be considered a REMIT market participant does not alter its status or role under EMIR or MiFID II.

26 These considerations are strictly referring to the treatment of DEA under REMIT and are without prejudice to Commission Delegated Regulation (EU) 2017/589 with regard to **regulatory technical standards** specifying the organisational requirements of investment firms engaged in algorithmic trading **(**RTS 6).

1.4.3. Executing brokers and their clients

27 Under REMIT, an executing broker that has placed orders to trade and/or executed a trade has entered into transactions and therefore, **qualifies as a market participant under REMIT,** provided that the transaction itself relates to a wholesale energy product in scope of REMIT. It is important to note that the executing broker qualifies as a market participant when it is the direct exchange member (and the trading is thus done on the broker's account) but also in situations where the broker is trading on another entity's account.

28 Under REMIT, there are scenarios where a broker also facilitates the matching of trading interests (not only executes a trade). For example, where orders are submitted on a broker screen and subsequently matched. In this scenario the broker provides two different services: one as OMP and one as executing broker. As an OMP the broker is expected to report the respective orders and the concluded trade, for further information please see ACER's Guideline on transaction reporting and ACER's Transaction Reporting User Manual.

29 With regard to the reporting obligations of the underlying client of an executing broker, in case the client does not qualify as a market participant under REMIT, that client does not bear the obligation to report wholesale energy market transactions. Nevertheless, the underlying client - on whose behalf the trade is executed - must be identified by the executing broker as the

[6] Please note that the described scenarios only illustrate the REMIT scope and do not consider whether the transaction has been reported under EMIR and thus may be exempted from REMIT reporting, see section 2.2 for additional information.
[7] Article 2(5) specifies events that shall not constitute a transaction, including the exercise of rights embedded in a financial instrument, as well as contracts arising exclusively for clearing or settlement purposes.
[8] Whether a particular CCP is permitted to undertake such activities depends on its regulatory status and applicable rules.

'**beneficiary',** even when that entity is *not* considered a market participant under REMIT. For further information please refer to ACER's Transaction Reporting User Manual.

1.4.4. Investment firms and their clients

30 Investment firms can provide investment services (such as execution of orders or receipt and transmission of orders) without acting as principal.

31 As mentioned above, an investment firm can be an exchange member itself or use the services of an executing broker or DEA provider and may trade on behalf of themselves or on behalf of their clients.

32 Accordingly, **the status of the investment firm as a REMIT market participant depends on the specific trading arrangement,** notably on whether the investment firm, in its specific role, *enters into* the transaction in REMIT sense. If the investment firm is a direct exchange member, it will be considered as a market participant. If the investment firm is not a direct exchange member (i.e. using the services of a broker or DEA provider, or acting on the account of a client) but is the entity entering into the transaction it will be considered a market participant.

2. Reporting obligations under REMIT and EMIR

2.1. Energy derivatives reportable under EMIR

33 A "derivative contract" or "derivative" is defined in Article 2(5) of EMIR as a financial instrument as set out in points (4) to (10) of Section C of Annex I to MiFID II. In regard to energy commodity derivatives, points (6) and (7) are the relevant points.[9]

34 Article 9(1) of EMIR states that "counterparties and CCPs shall ensure that the details of any derivative contract they have concluded and of any modification or termination of the contract are reported to a trade repository […]". In general, EMIR reporting obligations apply to counterparties and CCPs entering into derivative contracts, subject to the reporting responsibility allocation mechanisms laid down in Article 9 of EMIR[10].

35 For additional information and guidance on the reporting of derivatives under EMIR, please consult ESMAs Guidelines on reporting under EMIR and Q&A on EMIR implementation.

2.2. Energy derivatives reportable under EMIR and REMIT

36 ACER understands that certain derivatives in scope of EMIR may also fall under the scope of REMIT, insofar as they are also considered wholesale energy products. Transactions relating to such derivatives may therefore be *reportable* under both legislative frameworks, this does however not mean that they de facto will be reported under both frameworks.

37 As set out in Article 8(3) of REMIT and Article 8(7) of the REMIT Implementing Regulation, where persons have already reported transaction details under Article 9 of EMIR (or under Article 26 of MiFIR), **their obligations in relation to reporting those details under REMIT are deemed fulfilled.** This mechanism ensures the avoidance of double reporting. In this regard, ACER considers that as soon as the **transaction details** have been reported under EMIR (or MiFIR), this exemption applies, regardless of *who* reported the transaction. I.e. it is irrelevant if the reporting obligation lay with different entities under EMIR (or MiFIR) and under REMIT.

38 The exemption also includes *lifecycle events*, including modifications, compressions, terminations, novations and other post-trade events, insofar as they have been reported under Article 9 of EMIR.

39 Instead of market participants or OMPs having to report those transaction details again under REMIT, information about those transactions should be provided to ACER by:

- trade repositories referred to in Article 2 of EMIR,
- approved reporting mechanisms referred to in Article 2 of MiFIR;
- competent authorities referred to in Article 26 of MiFIR; or
- the European Securities and Markets Authority (ESMA)

40 However, REMIT requires systematic reporting of the underlying orders to a trade, which is not covered by EMIR[11]. Consequently, the **reporting obligation of orders to trade under REMIT**

[9] For additional guidance on the application of these provisions, please refer to ESMAs Guidelines on the application of C6 and C7 of Annex 1 of MiFID II.

[10] Article 9(1a) of EMIR specify that financial counterparties shall be solely responsible, and legally liable, for reporting on behalf of both counterparties, the details of *OTC* derivative contracts concluded with a non-financial counterparty that does not meet the conditions referred to in the second subparagraph of Article 10(1) of EMIR.

[11] Whilst orders are not reportable under EMIR, MiFID II contain obligations on investment firms to store order data and make it available to NCAs if requested and MiFIR contain obligations on pre- and post-trade transparency where venues publish aggregated order book data (including orders).

remains in scope and must be fulfilled by the OMP where the trading occurs (on behalf of all market participants active on their platform), in accordance with Article 8(1a) of REMIT.[12]

41 It is **possible** for the OMP to also submit the trade details under REMIT, if they agree to do so, as per Article 8(3) of REMIT and further detailed in recital 15 of the REMIT Implementing Regulation. However, if they do so **the relevant counterparties reporting obligations under EMIR remain.** This is primarily introduced as a relief measure for those OMPs that due to the technical set-up of their systems might prefer to include information on all transactions when reporting under REMIT, or where the OMP cannot know if the reporting obligations under EMIR (or MiFIR) have or will be fulfilled by the relevant counterparties.

Example: An NFC- retailer enters into an energy derivative transaction on a regulated market (ETD future) with an executing broker acting as principal. There is no delegation agreement in place — who reports under EMIR, and what follows under REMIT.

This transaction would be reportable under EMIR. The NFC- enters into a derivative contract with the executing broker acting as principal. As the underlying instrument is an energy future admitted to trading on a regulated market, it falls within the scope of EMIR. In the absence of a delegated reporting arrangement, both the NFC- and the executing broker remain responsible for reporting their respective sides of the transaction.

As the trade part of the transaction is being reported under EMIR, only the orders need to be reported under REMIT. Since the transaction takes place on a regulated market, which is considered an organised marketplace under REMIT (see section 1.3), the orders should be reported by the organised marketplace.

2.3. Energy derivatives reportable only under REMIT

42 A derivative which is ***not*** considered as a financial instrument as set out in points (4) to (10) of Section C of Annex I to MiFID II (i.e. not in scope of EMIR), but that is considered a wholesale energy product under REMIT, should be reported under REMIT. Examples of such transactions would be a physically settled electricity forward contract traded on an OTF or a bilateral physical baseload/peak load swap.

43 Article 9(1) of EMIR also provides an exemption under which certain intragroup transactions may be excluded from EMIR reporting, insofar as the competent authority has been notified and agrees to the exemption. Intragroup transactions relating to wholesale energy products are reportable under REMIT only upon ACER's reasoned request and on an ad-hoc basis, unless they are concluded on an OMP, in line with Article 5(1) of the REMIT Implementing Regulation. Accordingly, if such a transaction is in scope of REMIT but has been exempted from EMIR reporting on the basis that it qualifies as an intragroup transaction, it is subject to REMIT reporting on an ad-hoc basis upon ACERs request for bilateral non-standard transactions, or, if it was concluded on an OMP and thus qualifies as a standard contract, it should be continuously reported in line with Article 3 of the REMIT Implementing Regulation by the OMP where the transaction takes place as per Article 8(1a) of REMIT.

44 Kindly note that the scope of what is considered an 'intragroup transaction' might differ between REMIT and EMIR. The definitions of 'group' and 'intragroup transaction' are set out in Articles 2(4) and 2(5) of the REMIT Implementing Regulation.

45 In addition, a non-EU counterparty may fall outside the EMIR reporting obligations, depending on the application of EMIR's territorial-scope provisions. For example, ETDs traded on EU venues by **non-EU counterparties** may not be reportable by the non-EU counterparty under

[12] The order reporting should be fulfilled by the OMP because orders to trade are only reportable when they refer to standard contracts (i.e. contracts traded on OMPs). For further information please refer to ACER's Guideline on transaction reporting.

EMIR (e.g. U.S. counterparties reporting under the Dodd Frank Act).[13] These transactions may still be in scope of REMIT, insofar as the derivative itself is considered a wholesale energy product. ACER understands that if these transactions are not reported under EMIR, they should be reported under REMIT by the OMP where the trading occurs, since **under REMIT also non-EU market participants are in scope.** This is also valid in case of bilateral transactions taking place outside OMPs, in which case the transaction should be reported by the market participants involved in the transaction. For further information on non-EU market participants reporting and registration obligations under REMIT, please see ACER's Guideline on transaction reporting and ACER's Guidance on REMIT.

46 As mentioned above, when persons have already reported transaction details (in this case information about **the trade** of a derivative) under Article 9 of EMIR, **the orders** to trade related to that derivative are still reportable under REMIT. Order reporting should be fulfilled by the OMP because orders to trade are only reportable when they refer to standard contracts (i.e. contracts traded on OMPs). Hence no order reporting is required for transactions traded outside OMPs. For further information please refer to ACER's Guideline on transaction reporting.

2.4. Examples of transactions and their regulatory classification

47 The overview table below provides illustrative examples of (i) whether a transaction qualifies as a wholesale energy product under Article 2(4) of REMIT and/or (ii) whether it is considered a derivative or derivative contract under Article 2(5) of EMIR. The examples are for illustrative purposes only; the applicable regulatory classification and reporting obligations should be assessed on the basis of the specific characteristics of each transaction and the relevant provisions of REMIT, MiFID II and EMIR.

[13] Please note that even when the non-EU market participant does not have a direct EMIR reporting obligation, the transaction itself may nevertheless be reported under EMIR by an EU CCP if the non-EU market participants e.g. buys a TTF future on the exchange where the transaction is subsequently centrally cleared.

48 Where the classification indicates that both REMIT and EMIR are applicable, please consult Section 2.2 for further information on how such transactions should be reported.

#	Example transaction	REMIT	EMIR	Classification
1	**Quarterly baseload electricity future on an OTF**, linked to the day-ahead electricity price, with mandatory physical delivery	✓	✗	**REMIT only**
2	**Monthly TTF gas future on an OTF**, mandatory physical delivery of gas, no cash-settlement option	✓	✗	**REMIT only**
3	**Bilateral 2027 gas forward** between a gas producer and supplier, physically settled, with both parties having arrangements to take/make delivery, and entered into for commercial purposes	✓	✗	**REMIT only**
4	**Bilateral 2027 electricity forward** between two energy companies, physically settled and for commercial purposes, but structured so that it does not have the characteristics of another derivative financial instrument	✓	✗	**REMIT only**
5	**Cash-settled TTF gas swap**: Party A pays Party B the difference between a fixed €60/MWh and the monthly TTF index	✓	✓	**REMIT + EMIR**
6	**Physically settled German power future** traded on an MTF	✓	✓	**REMIT + EMIR**
7	**Physically settled electricity derivative traded on an OTF**, but structured so that it does **not** meet the conditions of the OTF physical-settlement carve-out	✓	✓	**REMIT + EMIR**
8	**Bilateral physically settled TTF gas forward,** entered into by a financial trader purely for investment/trading purposes (rather than commercial purposes), with standardised terms equivalent to contracts traded on an OTF	✓	✓	**REMIT + EMIR**
9	**Cash-settled Brent crude oil future** traded on an RM	✗	✓	**EMIR only**
10	**Physically settled Brent crude oil future** traded on an OTF	✗	✓	**EMIR only**
11	**EUA emission allowance future,** cash-settled and traded on an RM	✗	✓	**EMIR only**
12	**Bilateral household electricity supply contract** with a final consumer with a yearly consumption capacity below 600GWh	✗	✗	**Neither**

3. Reporting derivative transactions under EMIR / REMIT

49 This chapter illustrates ACER's understanding of the REMIT reporting obligations in an ETD trading scenario, taking into account the relevant EMIR obligations. For more information on the reporting of derivatives under EMIR, please refer to ESMAs Guidelines on reporting under EMIR and Q&A on EMIR implementation.

50 The underlying scenario concerns the conclusion of a derivative contract executed via an investment firm and cleared through a separate clearing member of the CCP. In this scenario, **Investment Firm A** acts as executing broker on behalf of its **Client B** and gives up the trade for clearing to **Firm C** as clearing broker.

51 Depending on the specific legal arrangements, namely whether Investment Firm A bears the risk vis-à-vis the clearing member or not, the trade will be reported differently under EMIR, as explained and illustrated in "ETDs Reporting Question 2" in ESMA's Q&A on EMIR implementation. Irrespective of the specific EMIR reporting scenario described in ESMA's Q&A on EMIR implementation, where the transaction details have been reported under EMIR, only the corresponding order details remain reportable under REMIT (see section 2.3.).

52 Since the transaction is concluded on an **OMP** (regulated market, as the scenario cover ETDs), the OMP is responsible for reporting all activity occurring on its platform under the OMP reporting obligation set out in Article 8(1a) of REMIT, thereby fulfilling the market participants' reporting obligations. Provided that transaction details (the trade) have already been reported as explained above under EMIR, the OMP must submit the **order details**, in accordance with Article 8(1) of REMIT Implementing Regulation. Orders to trade for derivatives should be reported in accordance with Table 1 of the Annex to the REMIT Implementing Regulation.

53 For REMIT purposes, Investment Firm A's role towards Firm C (the clearing member) is not relevant, as the trade itself will be reported under EMIR. However, the role of **Investment Firm A** in the transaction between **Client B** and the **other counterparty to the contract** impacts how the OMP should report the orders under REMIT – more specifically whether Investment Firm A is using its own trading account or the account of Client B (or an account of another entity, e.g. a DEA provider).

54 The following two reporting scenarios are thus possible:

Order report details – investment firm uses its own trading account		
Field	**Description**	**Examples**
1	ID of the market participant or counterparty	Investment firm A
2	Type of code used in field 1	"ACE" (or other type)[14]
4	ID of the trader	InvAtraderID (ID of the trader of the investment firm as assigned by the OMP)
10	Beneficiary ID	Client B (or another final beneficiary if Client B is trading for someone else)
11	Type of code used in field 9 and field 10	"ACE" (or other type)
12	Trading capacity of the market participant or counterparty in field 1	"A"

"ACE" = ACER code

"A" = Agent

Order report details – investment firm uses the trading account of Client B		
Field	**Description**	**Examples**
1	ID of the market participant or counterparty	Client B
2	Type of code used in field 1	"ACE" (or other type)
4	ID of the trader	InvAtraderID (ID of the trader of the investment firm as assigned by the OMP)
9	ID of the market participants acting on a third-party account	Investment Firm A
10	Beneficiary ID	*Blank* if Client B is the beneficiary ID of the final beneficiary if the trading on Client B's account is for someone else
11	Type of code used in field 9 and field 10	"ACE" (or other type)

[14] The market participant can be identified by using any of the allowed values indicated in ACER's Transaction Reporting User Manual, as long as those identification codes were provided to the NRA during the registration as market participant and thus are made available in the Central European Register of Energy Market Participants (CEREMP). Hence a market participant already using the LEI code for EMIR reporting, may use the LEI code also for REMIT reporting, as long as the LEI code has been provided to the relevant NRA in the registration process. Please see ACER's Transaction Reporting User Manua for additional information.

12	Trading capacity of the market participant or counterparty in field 1	"P" if Client B is the beneficiary "A" if the final beneficiary is not Client B

"ACE" = ACER code

"A" = Agent

"P" = Principal

55 For further illustrations of the reporting of derivative transactions under REMIT, please refer to example 2.14 from **Annex II** to ACER's Transaction Reporting User Manual.

56 For additional guidance on how to populate the fields of Table 1, please refer to ACER's Transaction Reporting User Manual. ACER also reminds that all reporting under REMIT must be done via a Registered Reporting Mechanism (RRM) in accordance with Article 9a of REMIT.