

REMIT Quarterly

ACER's quarterly report on its activities under Regulation (EU) No 1227/2011 (REMIT)

Issue No. 32/Q1 2023

| | | |
|--|--|--|
| The European Commission's proposal on REMIT amendments p. 1 | REMIT data raises concern over cross- border wash trades in SIDC p. 6 | Recommendations to the Commission p. 13 |
| ACER Guidance in the field of REMIT p. 3 | ACER's Market Information and Transparency activities under REMIT p. 9 | Annex I – Background p.13 |
| ACER's Market Surveillance and Conduct activities under REMIT p. 4 | Assessment of the operation and transparency of different categories of market places and ways of trading p. 12 | Annex II - Abbreviations p. 14 |

About this edition

In this edition, our opening article outlines the recent development on the ongoing revision of the Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency ('REMIT'). In addition to the regular report on ACER's activities under Regulation (EU) No 1227/2011 (REMIT), we would like to highlight the following:

- ACER and the European Securities and Markets Authority ('ESMA') submitted their Market Correction Mechanism ('MCM') effect assessment reports to the European Commission on 1 March 2023, as per Council Regulation (EU) 2022/2578 of 22 December 2022. [Read more.](#)
- ACER launched the daily Liquefied Natural Gas ('LNG') price assessments on 13 January 2023 and the daily LNG benchmarks on 31 March 2023, as per Council Regulation (EU) 2022/2576 of 19 December 2022. ACER also published LNG reporting guidance and methodology documents. [Read more.](#)
- The Expert Group on LNG Price Assessment/Benchmarks ('LNG Expert Group') was established in December 2022 to offer advice and contribute to ACER's tasks under Council Regulation (EU) 2022/2576. The LNG Expert Group had two meetings in Q1 2023. [Read more.](#)
- The 2023 REMIT Forum is set for Q4 of 2023. More information will be shared with REMIT stakeholders soon.

The European Commission's proposal on REMIT amendments

This article presents the European Commission's proposal¹ to amend the current framework of the Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency ('REMIT'), which was established 12 years ago. The Commission's amendments aim to enhance the integrity and transparency of the EU wholesale energy markets by improving the REMIT data collection process and strengthening the monitoring and enforcement regime against possible abuses in the trading of wholesale energy products.

The proposed amendments align the REMIT legal framework with other EU legislation in the financial, competition, and taxation domains. The proposal also expands the scope of REMIT to cover all markets and products referred to in the EU electricity and gas legal frameworks, such as the reporting of the full order book of organised market places ('OMPs') and new balancing markets. Furthermore, it introduces amendments to enhance the quality, reporting, transparency, and monitoring of REMIT data, such as mandatory disclosure of inside information via inside information platforms ('IIPs'). The proposal also strengthens the energy consumer protection against market abuse and aims to address the

¹ [Electricity Market Reform for consumers and annex](#) (europa.eu).

difficulty of investigating and enforcing pan-European cases involving multiple or complex cross-border elements and non-EU based market participants. Finally, the Commission proposes harmonising the level of fines for REMIT breaches across EU Member States.

Alignment of the REMIT legal framework with the EU financial market legal framework

Several Commission amendments aim at clarifying the interaction of REMIT with other EU legislative texts in the financial, competition, and taxation domains, particularly due to the increasingly close interrelation of these fields. The alignments of the definitions of market manipulation and inside information with EU financial regulation will provide additional clarity to the market.

The strengthening of the cooperation and of the exchange of information between national regulatory authorities ('NRAs') and the national financial, competition, and tax authorities, as well as between the European Union Agency for the Cooperation of Energy Regulators ('ACER') and the Commission, the European Securities and Markets Authority ('ESMA') and EUROFISC, will be beneficial for the overall monitoring of the EU wholesale energy markets.

Adaptation of the scope of REMIT to current and evolving market circumstances

The REMIT framework needs updating to reflect the developments and the evolution in the EU energy wholesale markets and to cover all the markets and products referred to in the EU electricity and gas legal frameworks (current and upcoming). In this context, the Commission's proposal includes under REMIT scope: (i) the reporting of the full order book of OMPs; (ii) the data collection of coupled markets, such as single day-ahead and single intraday coupling; and (iii) new balancing markets. The proposal also introduces new dedicated provisions providing clarifications on the concepts of OMPs, algorithmic trading, and direct electronic access.

Improvements to REMIT data quality, reporting, transparency and monitoring

The Commission proposal introduces powers for ACER to authorise, supervise, and withdraw authorisation from registered reporting mechanisms ('RRMs') and IIPs, which will enhance the collection of high-quality data for market surveillance activities by both ACER and NRAs. Furthermore, the mandatory disclosure of inside information via IIPs will sensibly increase transparency in the market.

However, possible fines by ACER for infringements of the REMIT requirements for IIPs, RRM and OMPs are not included in the proposals of the Commission. In this context, it is worth mentioning that ESMA can adopt a fining decision if it finds that a trade repository has, intentionally or negligently, committed infringements against EMIR² provisions. Withdrawal of

the authorisation should be the ultima ratio.

A possibility for ACER to enforce guidelines for market participants under the proposed Article 16(b) on the application of Articles 4(a), 8, 9 and 9(a) for an effective data reporting and monitoring framework is not part of the Commission's proposal.

A stronger energy consumer protection against market abuse: Strengthening the enforcement regime of cases with EU dimension

According to REMIT, ACER is responsible for the monitoring of wholesale energy markets in order to detect market abuse, while NRAs are responsible for the investigation and enforcement of potential REMIT breaches. For the latter, ACER must ensure that the NRAs carry out their tasks under REMIT in a coordinated and consistent way, without having investigatory or enforcement powers itself.

Under REMIT, NRAs have been efficient in investigating and enforcing cases that are national in scope and with limited complex cross-border elements. See the overview of publicly available sanction Decisions, which is available [here](#).

The Commission assesses that the investigatory process has nevertheless proven to be difficult in certain pan-European cases involving multiple or complex cross-border elements and non-EU-based market participants, despite all endeavours of NRAs. For example, the last 12 years showed that it is twice as likely to have a purely national case (only one NRA involved) investigated than a cross-border one (involving multiple NRAs), and almost three times as likely to have an enforcement decision with a sanction in a national case than in a cross-border one.

The Commission establishes the core problem as: 'Market abuse cases involving multiple cross-border elements and market participants established outside the Union are particularly challenging from an enforcement perspective. The current supervisory set-up is not appropriate for the desired level of market integration'; and 'The absence of a mechanism to ensure the best possible supervisory decisions for cross-border cases, where joint action by national regulatory authorities and the Agency currently requires complicated arrangements and where there is a patchwork of supervisory regimes must be addressed.'

Meanwhile, the EU dependence on gas suppliers outside the EU is growing. This highlights the importance of ensuring adequate levels of investigation and enforcement to address instances of market abuse under REMIT that have an EU dimension.

In this context, the Commission is proposing to give ACER limited investigatory powers (compared to those provided to ESMA under Article 23(e) of CRAR³, Articles 25(i) and 64

² Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02012R0648-20220812>.

³ Regulation (EC) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02009R1060-20190101>.

of EMIR, Article 38(k) of MiFIR⁴, and Article (3) of Regulation (EU) No 667/2014⁵. It is interesting to note that, for example, in order to conduct investigations for these cases, ACER will have to rely on national enforcement powers, including when requesting information from entities who do not cooperate to the necessary level during the investigation.

The Commission is providing ACER with investigatory powers for a specific set of cases of potential market abuse that involve a complex cross-border dimension in Europe or instances where it involves a non-EU-based supplier. These cases make up less than 5% of the total number of ongoing REMIT breach cases. According to the Commission's proposal, once ACER completes its investigation report and identifies a breach of the REMIT market abuse prohibition provisions, it will be up to the relevant NRA(s) to decide whether to take enforcement

action. This enforcement model falls short compared to the one conceived for ESMA under Article 36(a) CRAR, Articles 25(j) and 65 of EMIR and Article 38(h) of MiFIR.

Harmonising the level of the fines imposed under REMIT at national level

Having converging levels of fines throughout the European Union is an important element of deterrence and contributes to a harmonised and efficient implementation of the REMIT framework. To this end, the Commission's proposal for REMIT to provide a minimum threshold (i.e. a percentage of the total annual turnover) for the level of the maximum administrative fines imposed at national level by NRAs, per type of REMIT breach (drawing on what exists under MAR and competition law), can be an important step forward.

ACER Guidance in the field of REMIT

ACER regularly publishes documents on [the ACER website](#) and organises meetings with REMIT stakeholders in order to provide guidance on REMIT-related matters.

ACER produces and updates [non-binding Guidance](#) for National Regulatory Authorities (NRAs) to ensure effective coordination and consistency in their monitoring activities under REMIT. Additionally, ACER regularly updates and publishes documents on [general REMIT policy](#) and [REMIT reporting](#).

ACER frequently and regularly conducts [meetings with stakeholders](#) to discuss relevant REMIT topics and address any questions and concerns from REMIT stakeholders. The current REMIT committees and task forces that meet several times per year are the ACER REMIT Committee (ARC), the REMIT Policy Task Force (RP TF), the Market Data Standing Committee (MD SC), the Market Monitoring Standing Committee (MM SC) and the RISIG. Once per year ACER organises its Roundtable meetings to discuss REMIT data collection and reporting, as well as its flagship REMIT event – the REMIT forum – which features both plenary and special interest group sessions and is attended by policy experts, energy traders and consumers, transmission system organisations and NRAs from all over Europe.

ACER also establishes expert groups that provide ACER with ad hoc support and advice on REMIT topics. The two current expert groups are [the REMIT Expert Group](#) and [the Expert Group on LNG Price Assessment/Benchmarks](#).

Updates of the ACER guidance on the application of REMIT

There were no updates of the ACER guidance on the application of REMIT due to the prioritisation of ACER's LNG tasks.

Updates of the REMIT reporting guidance

There were no updates of the REMIT reporting guidance due to the prioritisation of ACER's LNG tasks.

Stakeholder engagement

Several REMIT stakeholder meetings took place in Q1 of 2023.

The Expert Group on LNG Price Assessment/Benchmarks ('LNG Expert Group') was set up in December 2022 to advise ACER on the establishment and the integrity of LNG price assessments and benchmarks, according to [Council Regulation \(EU\) 2022/2576 of 19 December 2022 'Enhancing solidarity through better coordination of gas purchases, reliable price benchmarks and exchanges of gas across borders'](#) ('Regulation (EU) 2022/2576'). Its first meeting took place on 11 January 2023, during which the group looked into the data collection and reporting obligations for the LNG price assessment, as well as the first version of the methodology for LNG price assessments. The experts discussed the aim of the LNG price assessment and provided advice on the basic elements of the process, including the type of market data to be collected and processed, the scope and method of the data analysis for LNG price assessments, as well as the data normalisation.

The second meeting of the LNG Expert Group followed on 2 February 2023, where the group discussed the start of LNG market data submission to ACER in accordance with the specifications set out in Regulation (EU) 2022/2576 and analysed the outcome of the first phase of the application of the methodology for LNG price assessments. The discussion also focused on the input that the experts had provided on the methodology and how it was incorporated in the second version of the methodology document.

4 Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012, <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A02014R0600-20220101>.

5 Commission Delegated Regulation (EU) No 667/2014 with regard to rules of procedure for penalties imposed on trade repositories by the European Securities and Markets Authority including rules on the right of defence and temporal provision, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32014R0667>

Access the LNG Expert Group meeting minutes [here](#).

On 23 March 2023, the **7th Meeting of the REMIT Expert Group on wholesale energy market trading** took place. The meeting focused on the revision of the REMIT Regulation and

other specific topics of interest, including the introduction of the Market Correction Mechanism, LNG data reporting requirements, and the LNG benchmark methodology.

Access the REMIT Expert Group meeting minutes [here](#).

ACER's Market Surveillance and Conduct activities under REMIT

REMIT introduces a sector-specific legal framework for identifying and penalising insider trading and market manipulation in wholesale energy markets across Europe.

At ACER, the Market Surveillance and Conduct ('MSC') department performs hands-on market surveillance to deter market abuse and foster confidence in the well-functioning of energy markets. The MSC department works in close cooperation with the Market Information and Transparency ('MIT') department and with the responsible national authorities in energy, competition, and financial markets.

The MSC department is responsible for the market surveillance and market conduct tasks under REMIT. This includes:

- Monitoring and assessing market data in anomalous instances;
- Notifying suspected market abuse instances to national regulatory authorities (NRAs);
- Coordinating with NRAs during investigations;
- Providing guidance to NRAs on market abuse definitions;
- Ensuring consistency in the application of market abuse provisions.

Want to know more about ACER's market surveillance and conduct activities under REMIT?

- Check out ACER's [overview of enforcement decisions](#)
- Notify ACER of a suspected breach of REMIT through the [Notification Platform](#)

Overview of REMIT cases

ACER had 364 REMIT cases under review at the end of Q1 2023. REMIT cases are potential breaches of REMIT that are either notified to ACER by external entities or identified by ACER through its surveillance activities.

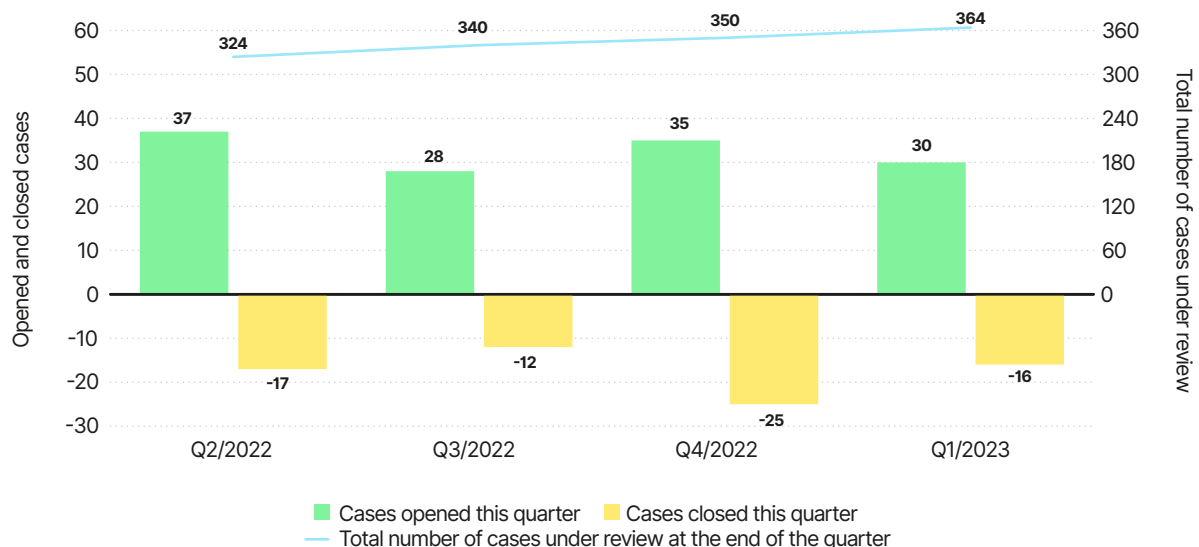
A case could, after a thorough investigation by the relevant national authority, lead to sanctions. A case could also be closed without sanctions, for instance if the suspicions were unfounded.

Figure 1 shows the number of cases that were under review by ACER at the end of Q1 2023.

Table 1 lists the cases where a Decision imposing a sanction was published by the relevant national authority in the last four quarters. Some of these Decisions are currently under appeal. An overview of all market abuse Decisions (breaches of Articles 3 and 5) imposing sanctions made publicly available can be found [here](#).

ACER is responsible for the monitoring of wholesale energy markets and aims to ensure that national regulatory authorities carry out their tasks in a coordinated and consistent way, but it is not, however, responsible for the investigation of potential breaches of REMIT.

Figure 1: Potential REMIT Breach Cases – Quarterly Statistics



Source: ACER (Case Management Tool).

Table 1: Overview of market abuse Decisions (breaches of REMIT Articles 3, 4, 5, 8, 9) imposing sanctions (last 4 quarters)

| Decision date | NRA, Member State | Market Participant | Type of REMIT breach | Fine | Status | Source |
|---------------|-------------------|----------------------------------|-------------------------|-------------------------------------|-----------------|----------------------|
| 23/03/2023 | DKER (BG) | Energy Supply Eood | Article 5 | BGN 165,238 (approx. EUR 84,486) | Appeal Possible | Link |
| 12/07/2022 | ARERA (IT) | Enegan Gas Trading S.r.l. | Article 5 | EUR 27,000 | Final | Link |
| 12/07/2022 | ARERA (IT) | Joytrade S.r.l. | Article 5 | EUR 20,000 | Final | Link |
| 23/06/2022 | CNMC (ES) | GASELA GMBH, SOLSTAR Limited | Article 5 | EUR 12,000,000 | Appeal Possible | Link |
| 14/06/2022 | ACM (NL) | Pzem Energy B.V. | Article 4 | EUR 150,000 | Appeal Possible | Link |
| 2022 | ANRE (RO) | PREMIER ENERGY SRL | Article 5 | 500,000 RON (approx. 101,073 EUR)** | Under appeal | Link |
| 2022 | ANRE (RO) | TINMAR ENERGY S.A. | Article 5 | 500,000 RON (approx. 101,073 EUR)** | Under appeal | Link |
| 19/05/2022 | CRE (FR) | Engie SA | Article 3 | EUR 80,000 | Final | Link |
| 25/04/2022 | CRE (FR) | Electricité de France SA | Article 3 and Article 4 | EUR 500,000 | Appeal Possible | Link |
| 25/04/2022 | CRE (FR) | EDF Trading Limited | Article 5 | EUR 50,000 | Appeal Possible | Link |
| 2022 | ANRE (RO) | EFT FURNIZARE S.R.L. | Article 5 | 400,000 RON (approx. 80,954 EUR)** | Final | Link |
| 2022 | ANRE (RO) | WE POWER TEAM S.R.L. | Article 5 | 451,022 RON (approx. 91,272 EUR)** | Under appeal | Link |
| 2022 | ANRE (RO) | NOVA POWER & GAS S.R.L. | Article 5 | 400,000 RON (approx. 80,977 EUR)** | Final | Link |
| 2022 | ANRE (RO) | QMB ENERG S.R.L. | Article 5 | 400,000 RON (approx. 80,977 EUR)** | Final | Link |
| 2022 | ANRE (RO) | TRANSFORMER ENERGY SUPPLY S.R.L. | Article 5 | 400,000 RON (approx. 80,977 EUR)** | Final | Link |
| 2022 | ANRE (RO) | A ENERGY IND S.R.L. | Article 5 | 340,294 RON (approx. 68,893 EUR)** | Under appeal | Link |

Note: Article 18 of REMIT establishes that the rules on penalties for breaches of Article 3 and 5 of REMIT are established by the Member States. The implementation regime is therefore different across Member States and some breaches of REMIT may be sanctioned under national provisions. Please consult the sources for the status of the proceedings and more information on the Decisions. Only the Decisions publicly announced by the NRAs are included. Due to this fact, there are several sanction Decisions taken in 2020 that are not part of this table.

* This amount includes both the (i) fine and (ii) confiscated profit.

**The fines expressed in other currency than EURO are converted in EURO using the ECB exchange rate on the day of the Decision.

Updates on surveillance activities

REMIT data raises concern over cross-border wash trades in SIDC

ACER monitors cross-border wash trades ('CBWTs') to detect potential capacity hoarding in the Single Intraday Coupling ('SIDC'). In this article, ACER shows how the use of CBWTs may be distortive to the market.

Introduction

REMIT introduced several 'lines of defence' against market abuse, namely the traders' internal compliance and market surveillance performed by brokers, organised market places ('OMPs')⁶, ACER, and in some cases the national regulatory authorities ('NRAs'). Among these, ACER is in a unique position with its holistic EU-wide overview of cross-zonal⁷ and cross-venue⁸ trading to detect potentially abusive behaviours and, in particular, transmission capacity hoarding through cross-zonal wash trades.

Market design

The SIDC has been designed as a continuous implicit capacity allocation market that matches orders based on their time stamps, prices and available transmission capacity ('ATC'). The prices of these orders reflect the electricity supply and demand needs of market participants in their local markets, while the intraday matching reflects the needs by prioritising the 'best' orders, i.e. by eventually matching the highest buy order with the lowest sell order. The SIDC's matching principle supports marginal bidding to ensure efficient market outcomes.

However, as a side effect, it also enables market participants to move electricity across bidding zones (therefore implicitly acquiring the needed ATC) through the use of CBWTs. In other words, using CBWTs makes it possible for market participants to exploit the matching prioritisation principles of SIDC, allowing the price levels to be set by them rather than the interplay between supply and demand based on genuine orders.

While this behaviour can be useful for balancing purposes during unexpected market situations, it also opens the door to a potential distortion to the market. In fact, compared to placing 'genuine'⁹ market orders, such use of CBWTs allows market participants to circumvent the market rules (i.e. the core principles of the SIDC's continuous trading matching algorithm) by self-allocating the ATC at will¹⁰.

Assumptions and scope

ACER published a Guidance Note on Transmission Capacity Hoarding¹¹ ('Guidance') in 2018, which included several indicators of this behaviour that can help detect it. Moreover, the All NEMOs Committee published on its web page a description of the SIDC continuous matching algorithm¹². This article builds on both the Guidance and the algorithm description.

This article focuses on the following specific situation:

Market Participant 'A' ('MP A'), frequently uses CBWTs at the moment of (or soon after) the release of a new intraday ATC in the X>Y direction and contributes to a price split between the two bidding zones by acquiring the remaining share of it. As a consequence, the ATC after the CBWTs is equal to zero and MP A has a long position in Y and a short position in X; and

- After acquiring the ATC through the use of CBWTs, MP A uses inconsistent orders¹³ that fully or partially restore its balanced position in both bidding zones, i.e. MP A starts selling in the expensive Y zone and buying in the cheap X zone.

The scope of this article does not cover the following situations and/or topics:

- MP A used a CBWT in response to unexpected changes in the market (e.g. an outage or a change in forecasts) in a legitimate need for supply/demand in the respective bidding zones.¹⁴
- MP A uses a CBWT to set a price level that gives false or misleading signals (similarly as an A-to-A wash trade).

An example of a CBWT

In the following example, ACER shows the consequences of using a CBWT in SIDC where the motivation of the market participant is to make a profit by acquiring the ATC without the intention of using it effectively.

Figure 2 depicts a possible market situation on the X-Y border, where the two bidding zones experience a price divergence caused by the use of a CBWT by MP A. For simplicity's sake, ACER uses an example of only two bidding zones that do not have any other interconnections.

⁶ For the purposes of this article, which covers only the scope of SIDC, the term 'OMP' should have the same meaning as the Nominated Electricity Market Operator (NEMO).

⁷ For the purposes of this article, the terms 'cross-border' and 'cross-zonal' are interchangeable.

⁸ Trades in which buy and sell orders are placed on different OMPs.

⁹ The concept of 'non-genuine order' can be found in Section 6.2.1 of ACER Guidance on REMIT, 6th Edition. Available [here](#).

¹⁰ ACER is aware of several ways of submitting orders for the successful execution of CBWTs.

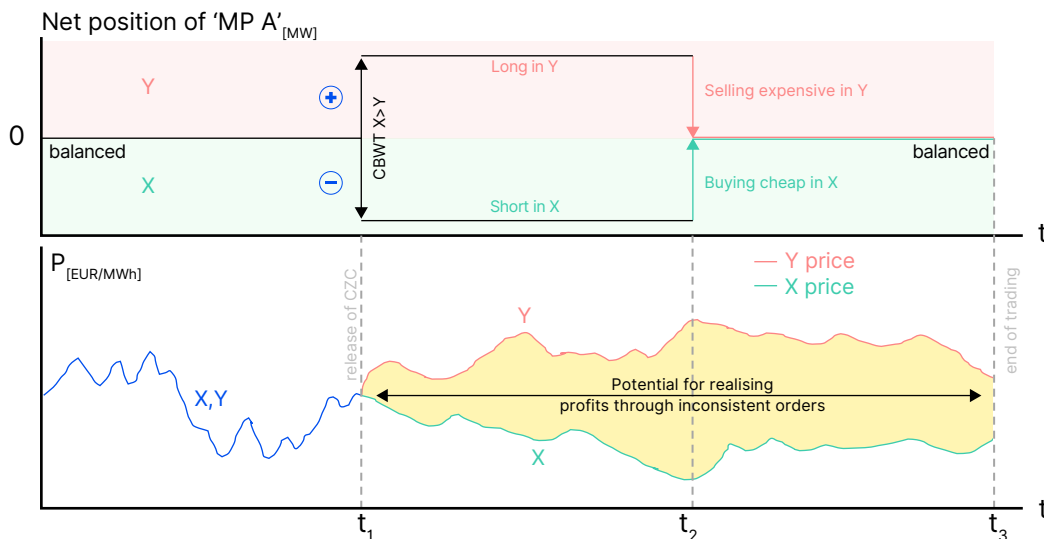
¹¹ Guidance Note 1/2018 on the application of Article 5 of REMIT on the prohibition of market manipulation. Transmission Capacity Hoarding. 1st Edition. Available [here](#).

¹² Available here: [2022-11-11 Public Description of the Continuous Trading Matching Algorithm-86573a776dd9dfcf5a0eb977543d7951.pdf](#) (Chapters 4 and 5).

¹³ See Paragraph (62) of the Guidance for details.

¹⁴ See Paragraph (17) of the Guidance for details.

Figure 2: Illustrative presentation of the use of CBWTs



In this example, MP A expects a future market price split where the Y prices would increase and the X prices would decrease.

At t_1 , new ATC is released from X to Y. MP A has already placed orders in both bidding zones in a way that they get executed at the ATC release and result in one or more CBWTs. MP A 'acquires' the remaining part of the $X > Y$ ATC by using the CBWT and contributes to a market price split.

At t_2 , MP A places inconsistent orders in both bidding zones (a sell order in Y and a buy order in X), utilising the long position in Y and the short position in X that were created by the CBWT. After these inconsistent orders get matched in local markets, MP A has sold (expensive) electricity in Y and bought (cheap) electricity in X. By doing this, MP A manages to offset the CBWT, realises a profit, and finishes with a balanced position in both bidding zones.

MP A can realise a profit during the window of time between the market split (t_1) and the end of the trading session (t_3).

Such behaviour not only gives the opportunity to MP A to gain profits, but it also hurts other market participants in both bidding zones. MP A is able to obtain a profit that is calculated as the price difference at t_2 , multiplied by the volume of the CBWT. In the absence of the CBWT, this amount would be spread among the market participants that need the energy and the ATC the most, i.e. those that put to their order books the most competitive genuine buy and sell orders.

MP A creates a situation in which the genuine orders of other market participants do not win the ATC despite being the most competitive. The genuine orders are bypassed¹⁵ by the CBWT and the ATC is allocated only to MP A. As there is no more ATC, the other market participants are prevented from using it and are forced to trade in local markets. Due to the CBWT, the genuine orders of other market participants that would have won the ATC become obsolete in local markets,

forcing the buyers in Y to buy expensive and the sellers in X to sell cheap.

Acquiring the remaining ATC through CBWTs therefore creates a distortion in welfare distribution that favours MP A and is detrimental to other market participants, who have no alternative but to buy and sell at the price levels set by the inconsistent orders introduced fully or partially by MP A. Although the energy flows from X to Y, such instrumental use of CBWTs goes against the aim of the SIDC market design and introduces the risk of the ATC not being allocated in a fair interplay of supply and demand. Such use of CBWTs could qualify as the manipulative use of implicitly allocated cross-border capacity.

Moreover, MP A has the option to fully or partially reverse the CBWT before the end of the trading session in case the price split does not materialise as expected, which would render the allocated ATC 'non-used'. Such behaviour would meet the criteria for manipulative capacity hoarding.

It is further worth mentioning that the CBWTs cannot be easily prevented at the level of OMPs, given that the NEMOs are not in a position to detect cross-venue CBWTs. In addition, the NEMOs send the orders to SIDC in an anonymised form.

REMIT data statistics on the use of CBWTs

ACER monitors and records all instances of CBWTs within the EU wholesale electricity market. All the statistics presented in this section take into account only the CBWT alerts and events that were triggered on hourly products and contain inconsistent orders. Thus, this section depicts the magnitude of potentially manipulative behaviour¹⁶ in SIDC through the use of CBWTs.

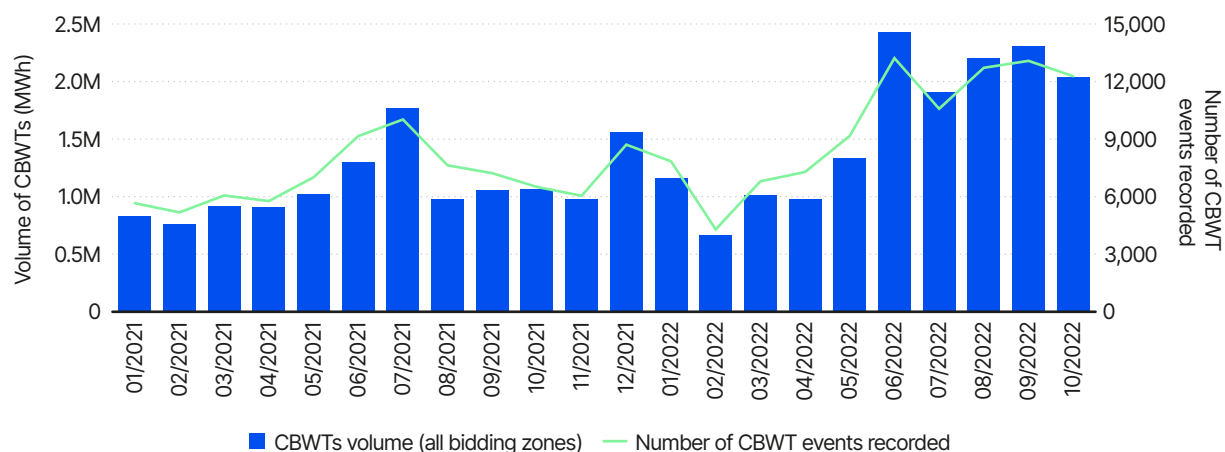
Figure 3 shows the evolution of the number of all CBWTs recorded over the past two years and the volume that market participants traded with themselves using CBWTs. Both

¹⁵ MP A has two options to bypass the genuine orders. The first is at the time when new ATC is released and the batch matching takes place: MP A uses user-defined blocks or large specific (possibly layered) volumes with enabled partial execution very close to the local prices to gain matching priority. The second is during continuous matching, when MP A has visibility on both sides of the order book and places a specific order (e.g. with a particular volume or one that is out-of-money) in one bidding zone and aggresses (executes) it from the second bidding zone.

¹⁶ Which still needs to be additionally assessed on a case-by-case basis.

trends are increasing, as the behaviour is low risk but likely profitable.

Figure 3: Evolution of the number of potentially manipulative CBWTs recorded across all EU bidding zones (SIDC hourly products) and corresponding volume that market participants traded with themselves using CBWTs.

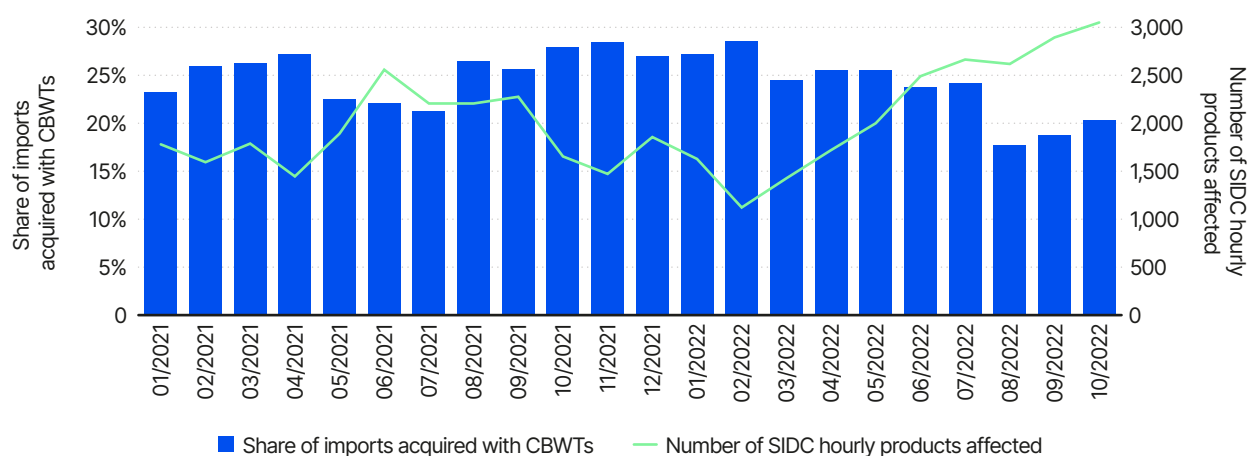


Source: ACER data (2022).

The analysed REMIT data shows (Figure 4) that CBWTs affected 10%¹⁷ of all hourly products traded in SIDC (i.e. 2,334 out of 22,873 on average, the right axis on the chart) between

January 2021 and October 2022. During the trading sessions affected by CBWTs, on average 23%¹⁸ of the electricity imported was allocated with the use of CBWTs.

Figure 4: Evolution of the number of SIDC hourly products affected by potentially manipulative CBWTs across all EU bidding zones (SIDC hourly products) and corresponding volume that market participants traded with themselves using CBWTs



Source: ACER data (2022).

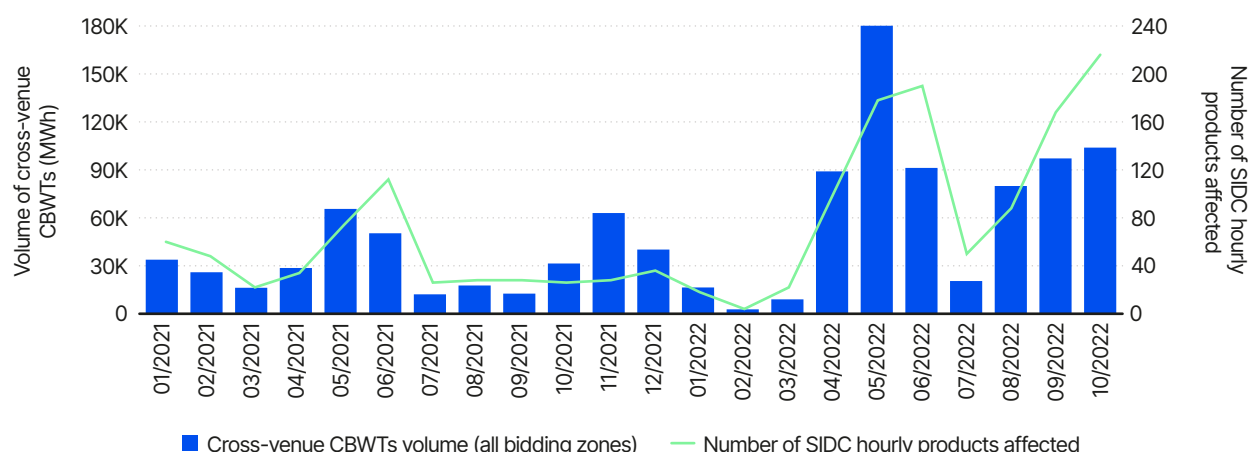
In order to identify CBWTs, some OMPs have systems in place that allow wash trades and CBWTs to be flagged to market participants in order not to provide misleading signals. However, flagging does not change the potentially distortive nature of CBWTs. Moreover, if the CBWTs are cross-venue,

they cannot be identified by a single OMP. ACER has a unique overview of the whole market, including the cross-venue trading. Figure 5 shows the evolution of the number of products affected by cross-venue CBWTs and the corresponding traded volume.

¹⁷ If all CBWTs were taken into account (not only those followed by inconsistent orders), 18% of products would be affected.

¹⁸ If all CBWTs were taken into account (not only those followed by inconsistent orders), 24% of the imported electricity would be allocated with the use of CBWTs.

Figure 5: Evolution of the number of SIDC products affected by potentially manipulative cross-venue CBWTs across all EU bidding zones (SIDC hourly products) and corresponding volume that market participants traded with themselves using cross-venue CBWTs. Source: ACER data (2022).



Source: ACER data (2022).

In order to ensure an effective detection and prevention of market abuse in SIDC, ACER Decision 01/2022 requested OMPs to report additional information, including the ATC for each border included in SIDC¹⁹. ACER started collecting this information from the All NEMO Committee on 1 November 2022, as it is a crucial element that allows a full overview of SIDC activity.

Since the beginning of surveillance in 2017²⁰, ACER has observed a rising trend in the use of CBWTs. Over the past six years, ACER received several Suspicious Transaction Reports (STRs) from OMPs and screened over 100,000 CBWT alerts, over a thousand of which were shared with the relevant NRAs. This activity resulted in ACER drafting 12 initial assessments on potentially manipulative behaviour. ACER cooperates closely with the NRAs in order to facilitate investigation on those cases. To date, two CBWT cases²¹ have been enforced.

Conclusions

The number of CBWTs has been significantly increasing over the years. ACER's REMIT data shows that nowadays CBWTs affect about one fifth of hourly products in SIDC, half of which

(i.e. one tenth in total) contains inconsistent orders.

ACER is in a unique position to scrutinise these transactions, given that OMPs only have a partial view of these types of transactions.

In certain cases, CBWTs can be a distortive element in the current design of SIDC. Not only can they bypass the SIDC algorithm's principles, which are based on genuine orders with the best prices and earliest time stamps, but they may also hamper the fair and efficient distribution of welfare among market participants if the CBWT contributes to the decoupling between bidding zones.

Since the start of market surveillance, ACER has shared with the NRAs over a thousand alerts and 12 initial assessments related to potentially manipulative CBWTs. Two cases have progressed to the enforcement phase.

Lastly, in order to mitigate such potentially harmful behaviour in the future, ACER may, in cooperation with the NRAs, look into strengthening the enforcement under REMIT or into changing the current market design.

ACER's Market Information and Transparency activities under REMIT

ACER's market information and transparency activities under REMIT are performed by the Market Information and Transparency (MIT) department and include data collection, data analysis (including data quality analysis) and data sharing.

REMIT data collection activities at ACER are based on ACER's REMIT mandate to collect records of wholesale energy

market transactions, including orders to trade from EU market participants at pan-European level. ACER currently collects, via its REMIT Information System (ARIS), more than 7.2 million records of transactions on a daily basis.

ACER's REMIT data analysis helps to promote wholesale energy market integrity and transparency by supporting

¹⁹ ACER Decision No 01/2022. Available [here](#).

²⁰ See acer.europa.eu/remi/market-surveillance/notify for historical statistics on all (aggregated) ACER market surveillance alert types.

²¹ Both cases enforced by DUR, the Danish NRA.

ACER's and NRAs' market monitoring activities and case-work according to Article 7(1) and (2) of REMIT. They provide the infrastructure necessary for the collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT.

In accordance with Articles 7(1) and 8 of REMIT, ACER also establishes mechanisms that enable data sharing with NRAs competent financial market authorities of the Member States, national competition authorities, ESMA and other relevant authorities. For the purpose of carrying out their market monitoring of wholesale energy markets at national level according to Article 7(2) of REMIT, NRAs have access to relevant information held by ACER which it has collected in accordance with Article 7(1) of REMIT, subject to Article 10(2) of REMIT. ACER is currently sharing relevant REMIT information with NRAs on an ongoing basis and with other authorities at Union level on an ad hoc basis.

Want to know more about ACER's market information and transparency activities under REMIT?

- Check out ACER's three reference lists:
 - [The List of Organised Market Places](#)
 - [The List of Standard Contracts](#)
 - [The List of approved Registered Reporting Mechanisms \(RRMs\)](#)
- Check out [ARIS downtime announcements](#)

Data collection and data sharing

Data validation rules

What are data validation rules and what purpose do they serve?

Read in conjunction with Article of 8 REMIT, Article 11(1) of the Commission Implementing Regulation (EU) No 1348/2014 ('the REMIT Implementing Regulation') empowers ACER to set technical and organisational standards for the collection of data from registered reporting mechanisms ('RRMs'). These standards ensure that the collected data is of high quality and plays a crucial role within the market monitoring process by facilitating the screening, analysis and sharing of the data with external stakeholders, for instance NRAs.

To this end, the data submitted by RRM is tested against certain data validation rules, namely technical and functional data validation checks. The technical data validation checks are initial checks of the uploaded files, for instance the file naming convention validation or schema compliance validation. The functional data validation checks consist of an in-depth analysis of the integrity of the collected data in order to verify that the respective requirements are met. For both technical and functional data validation, the schema followed and the validation rules applied depend on the data type. The analysis below aims to provide an insight into the data validation rules triggered in Q1 2023 for the reported Table 1 and Table 2 data.

Statistical Analysis

In Q1 2023, the ARIS system received approximately 2.89 million files, correlating to about 1.75 billion received records.

In terms of the REMIT Table 1 data type, out of the over 2.18 million received files, 87,837 (4%) files were not (completely) processed and triggered at least one of the validation rules. Out of the total of submitted files, 2,300 (0.1%) were fully rejected due to a technical validation rule. The analysed data shows that the large majority of files was rejected due to an invalid schema validation failure, which affected 2,224 of files. The majority of files that raised an error, specifically 85,507 (3.9%), triggered at least one functional validation rule. In most cases, this resulted from the fact that while the files passed technical validation rules, certain records raised errors due to functional validation rules. In total, around 13.8 million (0.8%) records out of the approximately 1.7 billion records received for Table 1 data were rejected.

With regard to the REMIT Table 2 data type, 1,118 (10.9%) files out of the 10,412 received files triggered one or more of the validation rule checks. These (partially) rejected files correlate to 3,194 (9.6%) rejected records out of the 33,276 total records received for Table 2 data. In total, 1,102 files triggered a functional data validation rule, while 16 files did not pass the technical validation check, primarily due to an invalid schema validation failure.

The analysis shows that for both REMIT Table 1 and 2 data, functional validation rules were triggered more frequently than technical validation rules. This affected Table 2 data in particular, as about 10.9% of received files raised errors, as opposed to approximately 4.1% of files for Table 1 data.

In accordance with Article 11(2) of the REMIT Implementing Regulation, the primary obligation to ensure the quality of the reported data, including the timeliness, completeness and accuracy of the data, lies with market participants and other persons referred to in Article 6, 8 and 9 of the REMIT Implementing Regulation. However, RRM and other third parties are responsible for any data rejections attributable to them. This is highlighted by the validation of input requirement for RRM, which requires RRM to ensure that transaction reports are complete and accurate. In particular, RRM are expected to identify omissions (missing mandatory fields) and obvious errors and to request and/or initiate the retransmission of erroneous or missing reports. Furthermore, the validation of output requirement states that RRM must have a mechanism in place to ensure that ACER's receipts are properly processed, and that in case of invalid reports, RRM are required to implement procedures in order to correct and resubmit the respective files.

Relevant updates of REMIT documents

Updated List of LNG facilities

On 14 February 2023, ACER published an updated Annex IX to the Manual of Procedures on data reporting, namely the List of LNG facilities subject to reporting according to Article 9(3) and (5) of the REMIT Implementing Regulation. The new version of the list includes four newly added LNG facilities and updated operability information.

Access the updated List of LNG facilities [here](#).

Updated ARIS Data Validation document

On 27 March 2023, ACER published a new version of ACER's REMIT Information System

(ARIS) Data Validation document. The new version of the document contains the descriptions of three new data validation rules (AT1F25R1, AT1F25R2 and AT1F25R1) that check the reported values in Data Field (25) Fixing index or reference price submitted using Version 3 of the electronic format for the reporting of REMIT Table 1 transactions. ACER updates the data validation rules performed by ARIS on a continuous basis in order to ensure the quality of data reported by RRM.

For more details on data validation rules performed by ARIS, access the ARIS Data Validation Document and the ARIS Data Validation Rules Configuration Document available [here](#).

Updated List of accepted EICs (Delivery Points or Zones)

The first quarterly update of 2023 of the List of Accepted EICs was published on the REMIT section of the ACER website on 14 April. The List of accepted EICs was updated with nine new codes: three LNG Terminals (Wilhelmshaven LNG FRSU 1, Lubmin LNG Terminal and Brunsbuettel LNG Terminal), four connection points (Brunsbuettel Haffen (FSRU), Baltic Energy Gate, Eemshaven and Zeebrugge Trading point H zone), one virtual trading point (VTP Bulgaria) and one electricity zone (NPTF-DK).

Access the latest List of Accepted EICs [here](#).

Registered reporting mechanisms

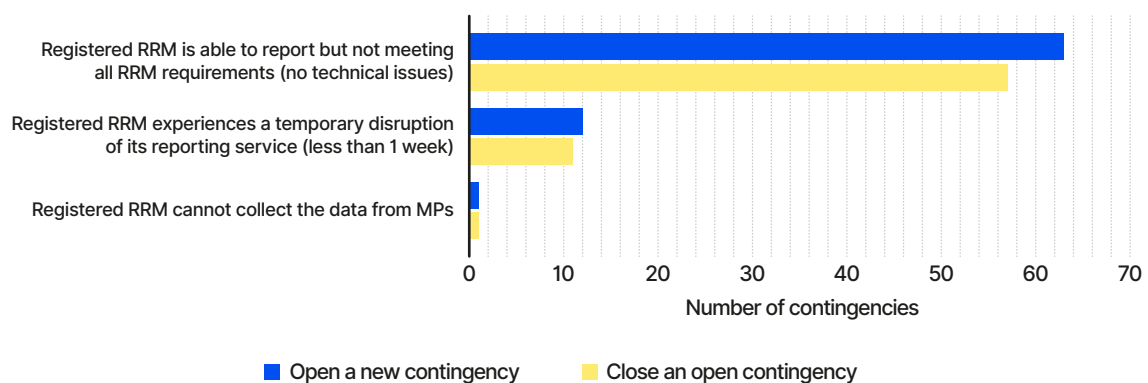
Overview of contingency reports opened by registered reporting mechanisms ('RRMs')

Every quarter, ACER communicates the number and status of contingency reports opened by registered reporting mechanisms (RRMs), as well as the most common reasons for which RRM resort to contingency in the first place. A contingency report is a notification by an RRM to ACER on issues related to data reporting (e.g. delayed reporting or temporary suspension in reporting, data quality issues, etc.).

The statistics for Q1 2023 show that 15 different RRM opened 76 contingency reports between January and March 2023. The most common contingency scenario indicated by RRM in this period is that an RRM is able to report but is not meeting all of the RRM requirements (such as completeness of data, timeliness of submission, accuracy of data, and validity). In particular, most of the incidents affect the reporting of the standard supply contract data type, as defined by REMIT and the REMIT Implementing Regulation.

Out of the 76 contingency reports opened during the quarter, 69 have already been closed (RRMs needed two working days on average to close them). The other seven reports remain open.

Figure 6: Number of contingencies opened and closed in Q1 divided by scenario



Source: ACER (2023).

Disclosure of inside information

There were no updates related to the disclosure of inside information in Q1 2023.

Assessment of the operation and transparency of different categories of market places and ways of trading

Overview of trading on organised market places

In the first quarter of 2023, market participants reported trading 38,208 terawatt-hours ('TWh') on 29 energy exchanges and 18 broker exchanges, which represents a 17.5% drop compared to the first quarter of 2022. As usual, the majority of trading volumes were done in natural gas forward

markets (83%) and on energy exchanges (75%). The number of market participants entering energy markets through both main types of organised market places ('OMPs') is similar to previous years, amounting to 1,840 in the first quarter of 2023. A total of 83% of these market participants were active on electricity markets and 41% were active on natural gas markets.

Table 2: Traded volumes and active market participants (MPs) per market segment (time frame) and OMP type

| | Total contract quantity (TWh) | | | | | Active MPs | | | | |
|------------------------|-------------------------------|----------------|---------------|---------------|---------------|--------------|--------------|--------------|--------------|--------------|
| | 2021 | 2022 | YTD 2023 | Q1 2022 | Q1 2023 | 2021 | 2022 | YTD 2023 | Q1 2022 | Q1 2023 |
| EL | 27,071 | 17,321 | 4,685 | 5,847 | 4,685 | 1,748 | 1,757 | 1,527 | 1,577 | 1,527 |
| Forward | 24,084 | 14,392 | 3,897 | 5,083 | 3,897 | 602 | 555 | 416 | 451 | 416 |
| Day-ahead | 2,595 | 2,515 | 657 | 669 | 657 | 1,525 | 1,530 | 1,350 | 1,385 | 1,350 |
| Intraday | 391 | 414 | 131 | 95 | 131 | 1,171 | 1,171 | 949 | 1,014 | 949 |
| NG | 147,799 | 118,136 | 33,523 | 40,483 | 33,523 | 797 | 822 | 747 | 710 | 747 |
| Forward | 143,795 | 111,068 | 31,687 | 38,951 | 31,687 | 567 | 553 | 375 | 412 | 375 |
| Intraday | 4,004 | 7,068 | 1,837 | 1,531 | 1,837 | 632 | 665 | 619 | 558 | 619 |
| EL | 27,071 | 17,321 | 4,685 | 5,847 | 4,685 | 1,748 | 1,757 | 1,527 | 1,577 | 1,527 |
| Energy Broker Platform | 9,511 | 4,664 | 1,094 | 1,631 | 1,094 | 314 | 271 | 211 | 247 | 211 |
| Energy Exchange | 17,559 | 12,657 | 3,591 | 4,216 | 3,591 | 1,703 | 1,726 | 1,507 | 1,550 | 1,507 |
| NG | 147,799 | 118,136 | 33,523 | 40,483 | 33,523 | 797 | 822 | 747 | 710 | 747 |
| Energy Broker Platform | 72,170 | 39,842 | 8,600 | 14,526 | 8,600 | 262 | 227 | 177 | 194 | 177 |
| Energy Exchange | 75,630 | 78,294 | 24,924 | 25,957 | 24,924 | 748 | 784 | 725 | 673 | 725 |
| Total | 174,870 | 135,457 | 38,208 | 46,329 | 38,208 | 2,072 | 2,093 | 1,840 | 1,869 | 1,840 |

Source: ACER based on REMIT data (2023).

Disclaimer: The analysis uses the data reported by reporting parties under REMIT. The REMIT data may not be complete, fully accurate and/or reported in a timely manner. ACER thus reserves the right to update the figures and outcomes of the analysis in the event of newly identified data quality issues. Traded volumes are calculated as a sum of total contract quantity bought and total contract quantity sold in the given time period. Market segments/time frames are assigned based on the contract type, estimated time to delivery and duration of the contract traded. Besides energy exchanges and brokers, trading also took place on two OMPs of the 'Other OMP' type, however the amount of this trading was negligible and is not captured in the table for readability purposes.

The following key updates to the List of Organised Market Places, the List of Standard Contracts and the List of accepted Delivery Point or Zone (EIC Codes) took place in Q1 2023:

- At the end of Q1 2023, the List of Organised Market Places contained 67 OMPs. One OMP was added (FGSZ RBP Platform) and two were delisted (SCB & Associates Limited and PVM Oil Futures Ltd). In addition, Towarowa Gielda Energii S.A. changed their MIC code.

- The List of Standard Contracts, which previously contained 18,329 contracts, has now expanded to include 18,504 standard contracts. Most contracts were added by FGSZ RBP Platform, a newly added OMP.

Access the List of Organised Market places [here](#).

Access the List of Standard Contracts [here](#).

Recommendations to the Commission

On 14 February 2023, ACER, jointly with CEER, [responded to the European Commission's public consultation on the EU's electricity market design revision and the revision of REMIT](#).²²

In light of REMIT not being changed since its adoption in 2011, ACER and CEER jointly recommended to harmonise the REMIT legal framework with the EU financial market legal framework, whilst taking due account of the specificities of wholesale energy markets; to adapt the scope of REMIT to current and evolving market circumstances; to harmonise the levels of fines imposed under REMIT at national level; to strengthen the enforcement regime under REMIT; and to

enhance REMIT reporting and data quality, transparency and monitoring under the REMIT legal framework. In the meantime, the Commission has adopted its proposal to amend REMIT²³. ACER welcomes this proposal by the Commission and looks forward to a timely adoption, which will take into account the recommendations expressed in the public consultation, to bring REMIT up to date – 12 years following its adoption. ACER is available to assist and consult the Commission and the legislative bodies during the legislative procedure of the REMIT revision as required.

Annex I – Background

The REMIT Quarterly provides updates on REMIT-related activities, guidance on the application of the REMIT framework, and assessments of the operation and transparency of different categories of organised market places and ways of trading. It is produced by **the Market Information and Transparency ('MIT')** and the **Market Surveillance and Conduct ('MSC')** departments of [the European Union Agency for the Cooperation of Energy Regulators \('ACER'\)](#).

The two departments work closely together and share joint responsibility for tasks under [Regulation \(EU\) No 1227/2011 on Wholesale Energy Market Integrity and Transparency \('REMIT'\)](#).

REMIT came into force in 2011 to support open and fair competition in the European wholesale energy markets. By prohibiting any trading based on inside information and deterring market manipulation, REMIT sets the ground for increased market transparency and integrity, and ultimately protects the interests of companies and consumers. REMIT is

supplemented by the [Commission Implementing Regulation \(EU\) No 1348/2014](#) ('the REMIT Implementing Regulation'), which was adopted on 17 December 2014 and entered into force on 7 January 2015. The Implementing Regulation defines both the scope and timeline for REMIT implementation. ACER is legally mandated to collect all relevant trading data in wholesale energy markets, to surveil the European wholesale energy markets, and to coordinate the follow-up of any possible REMIT breach to ensure consistency at European level.

The MIT department is responsible for general REMIT policy matters, market data reporting, data quality, data sharing, BI tools and market data management tasks under REMIT. The MSC department performs market surveillance to deter market abuse and foster confidence in the well-functioning of energy markets.

If you have any queries about this quarterly report, please contact remit@acer.europa.eu.

Want to know more about ACER and REMIT? Check out:

The ACER website: <https://www.acer.europa.eu>

'About REMIT' section of the ACER website: <https://www.acer.europa.eu/remit/about-remit>

The REMIT Portal: <https://www.acer-remit.eu/portal/home>

REMIT Documents: <https://www.acer.europa.eu/remit-documents>

Previous REMIT Quarterly issues: <https://www.acer.europa.eu/remit-documents/remit-reports-and-recommendations>

REMIT Knowledge Base: <https://www.acer.europa.eu/remit-knowledge-base>

Subscribe to ACER's latest news: <https://mailservice.acer.europa.eu/lists/?p=subscribe&id=1>

²² [ACER-CEER_Response_EC_PC_EMD.pdf](#) (europa.eu).

²³ [Electricity Market Reform for consumers and annex](#) (europa.eu). For details, please refer to the article on "The European Commission's proposal on REMIT amendments" above.

Annex II – Abbreviations

| | |
|--------------------------------------|---|
| ACER/Agency | European Union Agency for the Cooperation of Energy Regulators |
| AEMP | Association of energy market participants |
| ANUG | ARIS NRA User Group |
| ARC | ACER REMIT Committee |
| ARIS | ACER's REMIT Information System |
| BoR | Board of Regulators |
| CBWT | Cross-border wash trade |
| CEREMP | Centralised European Registry of Wholesale Energy Market Participants |
| CMT | Case Management Tool |
| DSO | Distribution System Operator |
| DQ | Data quality |
| EC | European Commission |
| EG | Expert Group |
| EMIR | European Market Infrastructure Regulation (Regulation (EU) No 648/2012 on OTC derivatives, central counterparties and trade repositories) |
| ENTSO-E | European Network of Transmission System Operators for Electricity |
| ENTSO-G | European Network of Transmission System Operators for Gas |
| ESMA | European Securities and Markets Authority |
| IIP | Inside Information Platform |
| LNG | Liquefied natural gas |
| MCM | Market correction mechanism |
| MD SC | Market Data Standing Committee |
| MiFID | Directive 2004/39/EC on Markets in Financial Instruments |
| MiFID II | Directive 2014/65/EC on Markets in Financial Instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) |
| MiFIR | Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (Text with EEA relevance) |
| MM SC | Market Monitoring Standing Committee |
| MoU | Memorandum of Understanding |
| MP | Market Participant |
| NP | Notification Platform |
| NRA | National Regulatory Authority |
| OMP | Organised Market Place |
| OTC | Over The Counter |
| PPAT | Person Professionally Arranging Transactions |
| REMIT | Regulation (EU) No 1227/2011 on Wholesale Energy Market Integrity and Transparency |
| REMIT Implementing Regulation | Commission Implementing Regulation (EU) No 1348/2014 |
| RP TF | REMIT Policy Task Force |
| RRM | Registered Reporting Mechanism |
| SIDC | Single Intraday Coupling |
| STR | Suspicious Transaction Report |
| TP | Transparency Platform |
| TRUM | Transaction Reporting User Manual |
| TSO | Transmission System Operator |
| UMM | Urgent Market Message |

DISCLAIMER

This publication of the European Union Agency for the Cooperation of Energy Regulators is protected by copyright. The European Union Agency for the Cooperation of Energy Regulators accepts no responsibility or liability for any consequences arising from the use of the data contained in this document.