Energy Traders Europe Response to the ACER public consultation on Guideline on REMIT transaction reporting

Section I: Introduction and scope

Energy Traders Europe Response: *We welcome the opportunity to provide feedback on the proposed amendments and clarifications to the REMIT reporting framework. Overall, we support the objective of enhancing transparency and consistency in transaction reporting. At the same time, we consider it essential that the framework remains aligned with the core REMIT principles of proportionality, legal certainty, and role-based reporting obligations. In several areas, the current drafting may lead to ambiguity, inconsistent interpretation, or unintended expansion of reporting obligations, particularly for final consumers and non-trading activities. We therefore suggest improving clarity and consistency, ensuring alignment with established REMIT principles, and avoiding disproportionate administrative burden where no corresponding market integrity benefit arises.*

Section II: Reporting obligations

1. What to report?

Energy Traders Europe full feedback: *We would like to raise comments on the following points:*

Transactions to be reported on a continuous basis:

- *On **supply transactions** (2.1.1.1), we note a potential ambiguity in the wording regarding supply transactions, particularly in relation to contracts with final consumers exceeding 600 GWh/year. As these contracts are subject to periodic rather than continuous reporting, we recommend explicitly clarifying that supply contracts with final customers exceeding 600 GWh/year fall under the periodic reporting regime and are not subject to continuous reporting obligations. Without such clarification, there is a risk of inconsistent interpretation and potential double reporting.*
- *On **electricity storage transactions** (2.1.1.3), where production and consumption are covered under a single contract and considering that a battery cannot qualify as a final customer, clarification is required as to whether such single contracts covering production and consumption of battery also fall within the limited reporting scope upon reasoned request by ACER only as the battery capacity is ≤ 10 MW. Without clarification, different interpretations may emerge, leading to inconsistent reporting outcomes. Additionally, our current understanding is that the injection of power into, or withdrawal of power from, a battery should generally be reportable as a transaction using Table 1 and/or Table 2. However, uncertainty remains in scenarios where a party enters into a long-term tolling agreement with a battery operator (e.g. for several years of operational control over the storage unit). In such cases, it is unclear whether the arrangement itself falls within the scope of transaction reporting obligations. We understand that in cases where tolling agreements involve not only the provision of services but also the delivery of energy, the parts of the transaction relevant to energy delivery are subject to REMIT reporting requirements. As these arrangements do not map easily to transaction-level reporting concepts, further clarification of the appropriate reporting methodology would be desirable, including:*
    - *Whether reporting should be performed under Table 1 or Table 2; and*
    - *What specific fields, in particular price-related fields, should be completed.*

- *On **transactions to be reported on a periodic basis (2.1.2),** We recommend explicitly recalling that the definition of "transaction" includes both executions and orders. Similarly*

important, we believe that the current draft Guidance risks undermining the intended simplification introduced by periodic reporting for contracts with final consumers above 600 GWh/year. While these contracts are reported periodically, execution reporting obligations remain unchanged. As a result, the overall reporting burden is only limited reduced. Given that such contracts are typically bilateral, flexible, and do not pose a high risk of market manipulation, the current approach appears disproportionate. We therefore suggest reconsidering the execution reporting requirement, for example by limiting reporting to cases upon ACER request. Alternatively, we suggest allowing market participants flexibility to report execution data either on a monthly invoice basis or through a single aggregated execution report covering a rolling six-month period.

- *On **transactions with energy intensive final consumers** (2.1.2.1):*
  - *Under point (43), we would strongly recommend that ACER provide a standardised declaration template to be used by final customers for confirming the technical capability of the relevant consumption unit to consume 600 GWh/year or more. A harmonised approach is essential to ensure consistency across the market. In addition, the guidance should explicitly state that final customers are required to inform market participants in a timely manner of their status and any changes thereto, to ensure correct application of the reporting regime.*
  - *On point (53), our understanding, consistent with previous Q&As, is that where a final customer, irrespective of the 600 GWh/year threshold, engages in wholesale energy trading or resale activities, such activities are REMIT-relevant and subject to continuous reporting obligations, as the entity is not acting in its capacity as a final consumer in that context. However, a different assessment should apply where a final customer below the 600 GWh/year threshold holds transportation or storage capacity linked to a physical consumption unit, in particular in markets where national regulatory frameworks allow final consumers to access such capacity. In these cases, the final customer continues to act in its capacity as a consumer, and the related transportation or storage arrangements are intrinsically linked to consumption. Accordingly, such transactions should remain outside the scope of REMIT reporting obligations, in line with the general principle exempting sub-threshold final consumers. Extending reporting obligations to such arrangements would blur the distinction between market-facing trading activity and consumption-related activity and would result in an inconsistent outcome whereby the main supply contract remains exempt while ancillary contracts become reportable. We therefore consider that the extension introduced in paragraph (53) should be reconsidered, and that transportation and storage transactions linked to sub-threshold consumption units should remain excluded from reporting obligations.*
- ***Transactions relating to capacity mechanisms (2.1.2.2):** Clarification is requested on which party is responsible for reporting transactions related to capacity mechanisms in the case of auctions conducted on central platforms. In our understanding it should be either OMPs as platform provider or TSOs directly since they are specialised and the golden source of data rather than hundreds of market participants potentially interpretating things differently. We explicitly recommend ACER clarifies in the REMIT guidance documents that whenever transactions are concluded with TSOs or SSOs, the involved MPs can rely on the fact that these transactions must be reported directly by the TSOs and SSOs. This can be done either through reporting by the TSOs and SSOs themselves, or if the TSOs or SSOs use an OMP platform for execution, also through order book reporting from this OMP platform. Because of the initial question, it would also be helpful to clarify whether such transactions are subject*

to continuous or periodic reporting obligations. Regarding the footnote stating that "the reporting of this transaction type is not yet in force": since capacity mechanism contracts implying a duty to sell physical energy are already reported on a continuous basis under the current framework, this appears inconsistent. We invite ACER to clarify whether this is a drafting error and to amend the text accordingly.

- ***Transactions related to balancing services (2.1.2.3):*** *It should be explicitly specified that contracts related to balancing services, being concluded between a party and a TSO, are reportable by the TSO, or the OMP, where auctions are hosted on external platforms. Such transactions should not be reportable by any other contracting party.*
- ***Transactions relating to the storage of natural gas (2.1.2.4):*** *For primary storage allocations conducted by or on behalf of the SSO, clarification is needed that reporting responsibility lies with the SSO. If auctions are hosted externally, then the responsibility should lie with the OMP. Primary storage allocations resulting from such auctions should not be reported by market participants.*
- ***Intragroup transactions (2.1.3.1):*** *Clarification is requested as to whether intragroup transactions under exposure reporting follow the same "full consolidation" criteria for classification as intercompany transactions.*
- ***Transactions relating to market-based redispatching measures (2.1.3.5):*** *We understand that ancillary services fall within the scope of primary capacity allocations, and that the same reporting principles should apply. We therefore recommend clarifying this with the Guidance.*
- ***Transactions for gas balancing services (2.1.3.7):*** *The clarification provided for gas balancing services is helpful. Similar clarification should be explicitly extended to electricity balancing services. Consistent with the above, balancing contracts should be reportable only by the TSO or the OMP facilitating the auction.*
- ***Definition of standard and non-standard contracts (2.1.5):***
  - ***Point (87):*** *Currently, market participants lack clarity on whether brokers are classified as PPATs or OMPs. This uncertainty creates confusion regarding reporting responsibilities (order book reporting vs bilateral reporting). We strongly recommend enhancing the published list of OMPs to include the classification status of brokers. Additionally, we recommend that where platforms offer multiple services (e.g. storage, transportation, balancing), classification should be specified at platform level. If OMPs provide multiple platform types within their systems, platform categorization information should be specified separately for storage, transportation, and balancing energy.*
  - ***Point (88):*** *We request ACER to confirm that for voice-brokered shaped/profiled non-standard trades, the reporting obligation lies with the broker where it qualifies as an OMP. If the obligation were to fall on market participants, implementation would be highly complex and would create significant uncertainty regarding responsibility allocation.*
- ***Features of standard vs non-standard contracts (2.1.5.1 -Figure 2: Clarification of reporting of standard vs non-standard contracts referring to the supply or storage of electricity or for the supply of natural gas):*** *We propose that ACER adds the relevant wording from the TRUM document, explaining:*
  - *standard contracts; and*
  - *non-standard contract under Table 1.*

  Without these additions, the figure is not self-explanatory in our opinion.

- ***Product (2.1.6.1):*** *Greater emphasis should be placed on the distinction between:*
  - *"Product" for reporting purposes; and*

- *"Wholesale energy product" under REMIT.*

Clarifying that these are separate concepts would improve consistency and avoid misinterpretation.

In this context, reference should be made to former Q&A 3.3.24, as now reflected in the guidance. The Q&A clarifies that where a derivative contract (i.e. a wholesale energy product) is traded on a platform in the Union but relates to the supply of electricity or gas with delivery outside the Union, the condition "with delivery in the Union" is not fulfilled. Consequently, such contracts do not trigger a reporting obligation to the Agency under Article 3(1)(a)(viii) of Commission Implementing Regulation (EU) No 1348/2014.
At the same time, the Agency explicitly notes that these contracts remain within the scope of REMIT, meaning that other REMIT obligations continue to apply.

2. **Who shall report?**

Energy Traders Europe full feedback: *We would like to make the following comments:*

Reporting Parties (2.2.1), *on Points (123), (127) and (128)**,** we note that the text states that order book data is reported by OMPs "on behalf of market participants", while the legal responsibility under Article 8 REMIT ultimately remains with the market participants entering into the transaction. At the same time, reporting parties are not held responsible for failures in completeness, accuracy, or timeliness where such failures are attributable to another party in the reporting chain.*

In practice, this creates a structural inconsistency. Since the implementation of REMIT II order book reporting, access to OMP data by market participants and their RRMs has become increasingly constrained, as data sharing obligations of OMPs towards market participants are not clearly defined. At the same time, market participants remain subject to important obligations, including STOR obligations and feasibility checks on reported data, which require sufficient access to the underlying order book information. This results in a situation where market participants retain regulatory responsibility but lack effective access to the data necessary to fulfil that responsibility. We therefore recommend that ACER explicitly clarify that:

- *OMPs are required to provide market participants, and their RRMs where applicable, with access to relevant order book data upon request; and*
- *Such data provision should be ensured without introducing additional administrative burden and free of charge for market participants.*

In addition, we note that the discontinuation of certain data deliveries following ACER's open letter in Spring 2024 has further limited the ability of market participants to effectively monitor their own activities. We recommend that such data access be reinstated to enable market participants to meet their market surveillance and compliance obligations. More broadly, consideration should be given to requiring OMPs to provide access to sufficiently complete anonymised datasets. Without such access, the expectation that market participants conduct effective self-surveillance is difficult to operationalise in practice.

- ***Organised Market Places (2.2.1.2):*** *As stated above, the current OMP criteria create uncertainty for market participants in determining whether a platform, or broker qualifies as an OMP. As a result, market participants are required to perform case-by-case assessments*

to determine reporting responsibilities. In practice, this is likely to result in inconsistent reporting and reduced data quality. To address this, we recommend that ACER establish a clear general principle: transactions related to primary capacity allocations and balancing energy should be reported by TSOs and SSOs directly, or by OMPs (including capacity platforms) acting on their behalf. This would eliminate the need for case-by-case assessments while improving consistency and data quality. Ultimately, TSOs and SSOs are the primary holders ("golden source") of the relevant data and therefore this principle perfectly reflects their role. Where exceptions apply, these should be clearly and proactively communicated by TSOs, SSOs, or the relevant platforms to all counterparties.

- *(162) We welcome the clarification provided in paragraph (162). Building on this, we reiterate the importance of formalising the above principle, namely that:*
  - *auction and transaction data related to primary capacity mechanisms (TSOs/SSOs) or the relevant OMP platform on their behalf, and*
  - *balancing energy transactions concluded with TSOs are expected to be reported directly by TSOs, or the relevant OMP platform on their behalf.*

Any deviation from this approach should be explicitly notified to all affected market participants.

- ***Who shall report transportation transactions (2.2.4.):***
  - *(186): Clarification is required on the reporting obligation in cases where primary capacity allocations take place outside an OMP, for example due to a lack of registration of a platform that would otherwise qualify as an OMP. In our view, this situation should not result in a transfer of reporting obligations to market participants. We therefore propose to explicitly clarify that: in cases where primary capacity allocations are not executed via a registered OMP, the reporting obligation remains with the TSO as the entity responsible for the allocation. In addition, where market participants become aware that a TSO is not registered as an OMP, or that reporting is not performed via a platform on their behalf, they should be able to notify ACER accordingly. Such situations should not require market participants to assume reporting responsibilities but rather trigger clarification or corrective action at the level of the TSO/OMP registration.*
  - *(187): We propose to clarify that, where single-sided reporting is accepted, the reporting obligation for both market participants involved in the transaction is deemed to be fulfilled. To support this simplification, additional wording should be included to provide legal certainty that:*
    - *primary capacity allocations are reportable by TSOs only; and*
    - *the same principle applies to secondary capacity allocations where these are executed via a platform with OMP status. Reporting of secondary capacity allocations is effective from 29 April 2026, in line with Question 9 of ACER's Open Letter on the implications of Regulation (EU) 2026/256, which clarifies that the obligation for OMPs to report the relevant transactions under Article 8(1) applies from that date. Accordingly, OMPs are expected to ensure that the necessary reporting arrangements are in place starting from 29 April 2026 to enable compliance with these obligations.*

Without such clarification, there remains a risk of duplication or uncertainty regarding residual obligations for counterparties.

- *(188) For completeness, we suggest explicitly aligning the treatment of secondary capacity allocations executed via OMP platforms with the above principle, ensuring consistency in reporting responsibility allocation.*
- *(191) We welcome the consideration to accept single-sided transaction reporting for secondary capacity allocations between market participants. More generally, although both the buyer side and the seller side of a transaction must formally be reported to ACER, in practice even today REMIT reports are often submitted by only one contracting party, since agreements on the reporting delegation have been made between market participants. We consider that further extending single-sided reporting to a broader set of transactions under REMIT, where appropriate, would reduce duplication and improve data consistency. Single-sided reporting would also be beneficial from completeness, accuracy and timeliness monitoring of data. However, further clarification is required on the practical implementation of this approach. In particular:*
  - *how single-sided reporting should operate where transactions are not executed via an OMP or capacity platform; and*
  - *which party (buyer or seller) would bear the reporting obligation in such cases.*

Providing clear allocation rules is essential to avoid uncertainty and ensure consistent application.

Section III: Start of reporting and reporting frequency

Energy Traders Europe Response: *With regard to paragraph (211), we reiterate our view that execution reporting for contracts with final customers exceeding 600 GWh/year should, as a general rule, only be required upon request by ACER. Such an approach would better reflect the lower market manipulation risk associated with these contracts and ensure that the periodic reporting regime achieves its intended simplification objective. As an alternative, should execution reporting remain mandatory, we propose allowing market participants to report execution data in an aggregated format aligned with the periodic reporting cycle. In particular, executions occurring after submission of the periodic (Table 2) report could be reported as a single aggregated execution file covering the relevant six-month period. Market participants should retain the flexibility to submit execution data on a monthly basis where this better aligns with their existing IT systems. This approach would reduce duplication and operational complexity while maintaining the availability of relevant execution data.*

The introduction of additional periodic reporting categories further increases the complexity of REMIT reporting, with market participants now required to manage multiple parallel timelines. To reduce unnecessary operational burden, we would like to request clarification on whether ACER will allow continuous reporting for transactions that now fall under periodic reporting obligations.

Other comments and file upload

Energy Traders Europe Response: *As stated above, we would like to reiterate a broader structural concern regarding the interaction between the OMP definition and the allocation of reporting responsibilities, in particular in the context of balancing data and periodic reporting. We consider that transactions related to balancing services and similar centrally organised mechanisms should, as a general principle, be reported by TSOs directly, or by platforms acting on their behalf. TSOs are best placed to fulfil this role, as they act as the central counterparties and hold the most complete and accurate dataset ("golden source"). Requiring a large number of*

market participants to individually report such transactions would introduce unnecessary duplication, increase the risk of inconsistencies, and negatively impact data quality. We therefore recommend clarifying that reporting obligations for balancing-related transactions are assigned to TSOs (or relevant central platforms) independently of the OMP qualification, reflecting their role as central data providers. This approach would also be consistent with the evolution observed under REMIT, where system operators (e.g. SSOs and LSOs) increasingly act as primary reporting entities for centrally managed processes.