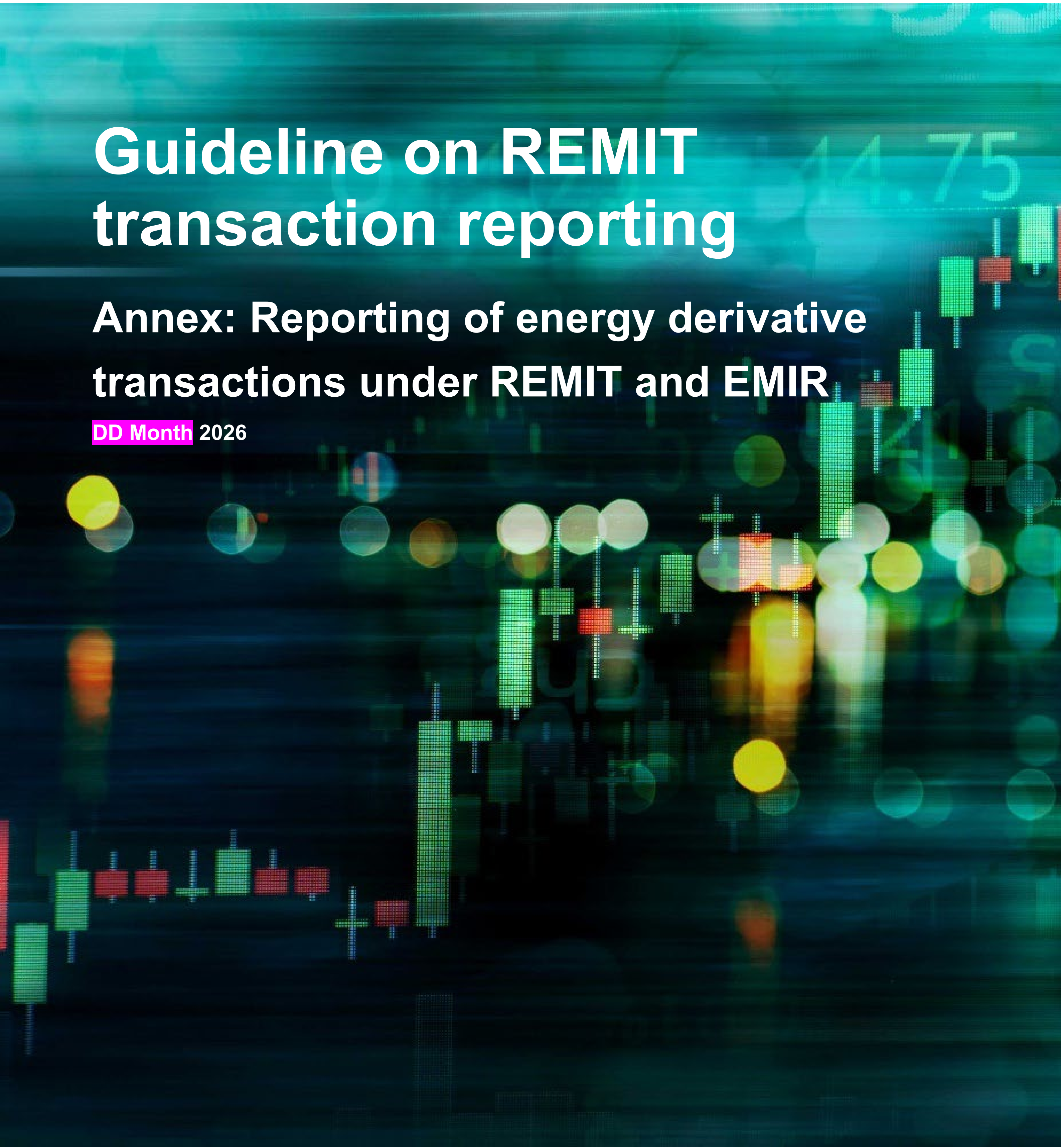
European Union Agency for the Cooperation of Energy Regulators

Guideline on REMIT transaction reporting

Annex: Reporting of energy derivative transactions under REMIT and EMIR

DD Month 2026



Guideline on REMIT transaction reporting

Annex: Reporting of energy derivative transactions under REMIT and EMIR

DD Month 2026

Find us at:

ACER

E press@acer.europa.eu
Trg republike 3
1000 Ljubljana
Slovenia

www.acer.europa.eu

Table of contents

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') and 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 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.

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). 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*".

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.

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 a platform in the EU, relating to natural gas delivered outside the EU

If a derivative contract (i.e. a wholesale energy product) is traded on a platform in the Union but it relates to the supply of natural gas with delivery outside the Union, the above 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.

11 With reference to the perimeter of reportable transactions, ACER also notes that modifications of a financial open position do not need to be included in REMIT data reporting, as such adjustments do not represent the modification of a wholesale energy transaction.

12 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[1], 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:

- 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 or storage of hydrogen should take place in the Union** for the derivative transactions to be reportable pursuant to Article 4(8)(d).

[1] 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.

2. Reporting obligations under REMIT and EMIR

2.1. Counterparties vs market participants

13 The notion of counterparty under EMIR (financial counterparty, non-financial counterparty or central counterparty) determines who has reporting obligations for a specific transaction (Article 9 EMIR). Under REMIT, the reporting obligation lays with the market participants "placing or concluding the transaction" or with the organised marketplace ('OMP') where the transaction is entered into, concluded or executed.

14 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 coincides with the concept of **organised marketplaces** ('OMPs') under REMIT (insofar as they offer wholesale energy products), however the perimeter of OMP may be broader. Energy exchanges, energy broker platforms, energy capacity platforms and any other system or facility where the commodity or derivative (the "wholesale energy product") is traded are OMPs under REMIT (Article 2(20) 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). Under REMIT, an ETD would simply be considered as a derivative traded on an OMP.
- **Over-the-counter** (OTC) **derivative** is a derivative where the execution of which does not take place on a regulated market (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[2]. Under REMIT, OTC refers instead to a purely bilateral transaction that is carried out outside an OMP Consequently, this means that an OTC derivative traded on an MTF or OTF run by a venue which falls under the OMP definition is an OMP transaction, not OTC transaction, from the REMIT perspective.
- **Counterparties** to the transaction, this includes:
    i. **Financial counterparties,** e.g. investment firms, credit institutions, insurance undertakings and other entities as listed in Article 2(8) EMIR
    ii. **Non-financial counterparties** are any other undertakings established in the Union other than financial counterparties
    iii. **Central counterparties (CCPs)** or **clearing houses** are financial market infrastructures that interpose themselves between the buyer and seller of the derivative transaction and assumes the counterparty credit risk, becoming the buyer to every seller and the seller to every buyer
- **Exchange members** are direct members of the exchange, inter alia:
    i. **Executing brokers**, which are placing orders or executing trades on the exchange on their clients' behalf
    ii. Firms providing Direct Electronic Access ("DEA") to their clients (**'DEA providers'**)

[2] ESMA Q&A on EMIR implementation.

All exchange members are considered market participants under REMIT.

- **DEA clients** (i.e. clients of the DEA provider) who are trading 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 an exchange.
- **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).
- **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.
- **Clearing members** are direct members of the clearing house that clear trades on their own behalf or on behalf of their clients, including;
  - iii. **Clearing broker of the executing broker** is a clearing member of the clearing house who is temporary clearing trades that an executing broker executes on the exchange
  - iv. **Clearing broker of a client** is a clearing member of the clearing house providing clearing services to end-clients (e.g. clearing broker to an investment firm that is a direct exchange member)

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

16 The meaning of ***entering into transactions*** under REMIT is different than 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. The notion of *entering into* transactions under REMIT does not cover actions related to option exercise, settlement, or clearing[3].

17 Under REMIT, market participants may enter into transactions by:

- **placing an order to trade on an OMP,** either on their own behalf, by or on behalf of a third entity (e.g. a client or another beneficiary)
- **concluding a trade on an OMP,** either on their own behalf, by or on behalf of a third entity (e.g. a client or another beneficiary)
- **concluding a bilateral contract,** either on their own behalf or on behalf of a third entity (e.g. a client or another beneficiary)

18 To enter into a transaction under REMIT thus indicates the *engaging* into an order to trade, a trade or a bilateral contract relating to a wholesale energy product. This means that when considering the condition of "placing/concluding a trade on an OMP" an entity shall be considered a market participant if it is the member of the trading venue or, where trading is conducted through another entity, it is the entity responsible for making the trading decision. Depending on the specific trading arrangement, it is thus possible for several entities to be considered market participants in the same transaction**.**

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.

2.1.1. CCPs and clearing brokers

20 As mentioned, the notion of *entering into* transactions under REMIT does not cover actions related to option exercise, settlement, **or clearing**. Therefore, ACER understands that **CCPs and clearing brokers are not considered market participants under REMIT**, as they do not

[3] Clearing a trade on an exchange and the trades resulting from an option exercise are considered reportable transactions under REMIT, please see Section X on clearing and trade registration in ACER's Transaction Reporting User Manual (TRUM).

enter into transactions in the meaning of REMIT. ACER believes that this interpretation is also consistent with the reporting obligations and parties in scope of Article 26 MiFIR, which does not include actions that do not constitute a new investment decision, such as the exercise of an option, settlement or clearing, provided these do not give rise to a new reportable transaction.

2.1.2. DEA providers and their clients

21 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 (17), **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.

22 If the DEA client does not have clients of its own (sub-delegated DEA clients), the DEA client is also considered to be a market participant, insofar as it is the one taking the trading decisions.

23 If there are multiple sub-clients in the DEA chain, the entity taking the trading decision is considered to be a market participant. The ‘pass-through’ clients (not taking any trading decisions) will not be considered as market participants and will not need to register as such. However, when this transaction is reported, the reporting entity will have to ‘flag’ in the report to indicate that sub-delegated clients exist.[4]

2.1.3. Executing brokers and their clients

24 As far as ACER understands, executing brokers may act as ‘principal’[5] before giving up the transaction for clearing, thus acting as a counterparty to the transaction under EMIR. This appears to be the case for most transactions executed at regulated markets.

25 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 may qualify as a market participant when the broker is the direct exchange member (and the trading is thus done on the brokers account) but also in situations where the broker is taking the trading decision but is acting on another entity’s account.

26 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 ‘**beneficiary’,** by populating Data Field (10) Beneficiary ID, even when that entity is *not* considered a market participant under REMIT.

2.1.4. Investment firms and their clients

27 Investment firms can provide investment services (such as execution of orders or receipt and transmission of orders) without acting as principal. However, in case the investment firm acts as an **investment fund manager** as described in Article 9, paragraphs 1b, 1c or 1d of EMIR, then the investment firm becomes responsible and legally liable to report the transaction under EMIR.

---

[4] For further information on how to report DEA transactions, please refer to ACER’s Transaction Reporting User Manual (TRUM).
[5] Acting as "principal" means you are legally a direct counterparty to the derivative contract.

28 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.

29 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 broker or DEA provider, or acting on the account of a client) but is the entity taking the trading decision (e.g. it has investment discretion) it will be considered a market participant.

2.2. Energy derivatives reportable under EMIR

30 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 […]”. The reporting obligations apply to all counterparties and CCPs **established in the Union** as soon as they enter into a derivative contract, unless an exemption applies or unless a different party is responsible and legally liable for reporting pursuant to Article 9(1a) of EMIR[6]. When a non-EU entity enters into a derivatives contract with an EU financial counterparty or EU non-financial counterparty, only the EU counterparty needs to report the transaction.

31 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. In regard to energy derivatives, points (6) and (7) includes:

(6) Options, futures, swaps, and any other derivative contract relating to ***commodities that can be physically settled*** *provided that they are traded on a regulated market, a MTF, or an OTF, except for wholesale energy products traded on an OTF that must be physically settled;*

(7) Options, futures, swaps, forwards and any other derivative contracts relating to ***commodities, that can be physically settled not otherwise mentioned in point 6*** *of this Section and not being for commercial purposes, which have the characteristics of other derivative financial instruments;*

32 This means that wholesale energy products that are (i) mandatorily physically settled and (ii) traded on an OTF are subject to a carve-out from MiFID and are not considered financial instruments (and consequently also not considered reportable derivatives under EMIR). They are commonly referred to as ‘C6 carve-out instruments’. All other physically settled commodity derivatives traded on venues (point 6) or off-venues (point 7) are in scope of EMIR. 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.

33 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.

2.3. Energy derivatives reportable under EMIR and REMIT

34 As far as ACER is aware, there are two categories of derivatives that are reported under EMIR that may also fall under the scope of REMIT reporting:

- **Exchange traded derivatives (ETDs)** traded at regulated markets

[6] 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.

- Derivatives traded **outside regulated markets**, e.g. traded on an MTF, OTF[7] or bilaterally (OTC).

35 As set out in Article 8(7) of the REMIT Implementing Regulation, where persons have already reported transaction details 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.

36 Instead of market participants 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)

37 However, REMIT requires systematic reporting of the underlying orders to a trade, which is not covered by EMIR[8]. Consequently, the **reporting obligation of orders to trade under REMIT** 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(1) of REMIT Implementing Regulation.

38 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 **their reporting obligation under EMIR remains.** This is primarily introduced as a relief measure for OMPs that, due to the technical se-up of their systems, prefer to include information on the entire transaction when reporting under REMIT.

2.4. Energy derivatives reportable only under REMIT

39 As mentioned above, wholesale energy products traded on an OTF that must be physically settled are not considered as financial instruments and thus are not in scope of EMIR. Transactions relating to such wholesale energy products shall thus solely be reported under REMIT. Examples of such transactions would be a physically settled electricity forward contract or physical baseload/peak load swap. Since OTFs are trading venues and thus considered as OMPs under REMIT, it is expected that the OMP where the trading occurs reports such transactions in accordance with Table 1 of the Annex to the REMIT Implementing Regulation.

40 In addition, ETDs traded on EU venues by **non-EU counterparties** may not be reported by the non-EU counterparty under EMIR (e.g. U.S. counterparties reporting under the Dodd Frank Act). 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.

41 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. Orders to trade for derivatives should be reported in accordance with Table 1 of the Annex to the REMIT Implementing Regulation.

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

[7] With the exception of derivatives traded on an OTF that must be physically settled which are not in scope of EMIR, as mentioned in section 1.3

[8] 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).

3. Reporting derivative transactions under EMIR / REMIT

43 This chapter illustrates ACER's understanding of EMIR and REMIT reporting obligations in an ETD trading scenario.

44 ESMA's guidance clarifies that other trading and reporting scenarios are possible under EMIR, depending on specific contractual arrangements between the parties. 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.

45 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.

46 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. However, in both scenarios described in ESMA's Q&A, the trade part of the derivative transaction has been reported under EMIR. Nevertheless, the market participants are still required to report the underlying ***orders to trade,*** since orders are not reported under EMIR (see section 2.4.)

47 Since the trade 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 only,** in accordance with Article 8(1) of REMIT Implementing Regulation.

48 For REMIT purposes, Investment Firm A's role towards Firm C (the clearing member) is not relevant, as actions related to clearing are not covered under REMIT. 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 acting on its own account or on the account of Client B (or an account of another entity, e.g. a DEA provider).

49 The following two reporting scenarios are thus possible:

Order report details – investment firm acts on its own account		
Field	**Description**	**Examples**
1	ID of the market participant or counterparty	Investment firm A
2	Type of code used in field 1	"ACE"
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 acts on the 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)
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

50 For further illustration of the reporting of energy derivatives under REMIT, please refer to example 2.14 from **Annex II** to ACER's Transaction Reporting User Manual (TRUM).