Contribution ID: 5983bfdf-8a25-4957-92bf-bf7b9cac5e15
Date: 08/09/2026 08:55:38

ACER public consultation: Annex to the Guideline on REMIT transaction reporting (energy derivative transactions)

Fields marked with * are mandatory.

Introduction

Scope of the Annex on the reporting of energy derivative transaction

To complement the new Guideline on REMIT transaction reporting, ACER has developed a dedicated Annex on the reporting of energy derivative transactions.

The Annex:

- Clarifies the scope of reporting under REMIT and Regulation (EU) 648/2012 on over-the-counter (OTC) derivatives, central counterparties and trade repositories ('EMIR').
- Explains how REMIT reporting exemptions apply for derivatives that are already reported under EMIR.

You can download the draft Annex on reporting of energy derivative transactions under REMIT and EMIR here:

DRAFT_Guideline_Annex_I_V3_for_consultation.docx

Objective of the consultation

ACER is seeking stakeholder input to ensure the Annex is clear, practical and supports consistent data reporting across the EU.
In this process, ACER will also cooperate and consult with the European Securities and Markets Authority (ESMA).

The survey is structured in dedicated sections following the chapters of the proposed annex. Respondents are invited to submit their feedback on each section via the open questions below and/or by uploading documents with revision proposals in the dedicated section at the end of the survey.

Contact and deadline

The contact point for this consultation is: REMIT.Consultations@acer.europa.eu

All respondents are invited to submit their comments by 11 September 2026, 17:00 (CET)

Respondent's data

*** Name and surname**

This information will not be published

[redacted]

*** Email address**

This information will not be published

[redacted]

Name of organisation (if applicable)

ACENEL — Asociación de Comercializadores de Energía Eléctrica

Type of organisation (if applicable)

Multiple values are accepted

- [x] Market participant (including association)
- [ ] Organised marketplace (including association)
- [ ] Inside information platform (including association)
- [ ] Transmission system operator (including association)
- [ ] National regulatory authority
- [ ] Academia/research institution
- [ ] Other (please specify)

*** Country**

- (•) EU-27 (please specify)
- ( ) Other (please specify)

*** Please specify**

- ( ) Austria
- ( ) Belgium
- ( ) Bulgaria
- ( ) Croatia
- ( ) Cyprus
- ( ) Czechia
- ( ) Denmark

- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden

Data protection, confidentiality and publication of results

Data protection

ACER will process personal data of the respondents in accordance with Regulation (EU) 2018/1725, taking into account that this processing is necessary for performing ACER's consultation tasks.

More information on data protection is available in ACER's data protection notice and on ACER's website.

ACER will not publish personal data.

* I have read and understood the Data Protection Notice on External Webinars / Online Events and Data Protection Notice on Interactions with Stakeholders.

I confirm

Confidentiality and publication

Following this consultation, ACER will make public:

- the number of responses received
- company names, unless they should be considered as confidential

- all non-confidential responses
- ACER's evaluation of responses.In the evaluation, ACER may link responses to specific respondents or group of respondents.

You may request that the name of your company or any information provided in your response is treated as confidential. To this aim, you need to explicitly indicate below whether your response contains confidential information.

* Do you consent to the publication of the name of the organisation?
  - (●) Yes
  - ( ) No

* Do you consent to the publication of the provided answers?

  Please, note that your answer, without your name and organization, may be shared with the EU institutions and national authorities.
  - (●) Yes
  - ( ) No

* Does your submission contain confidential information?

  Please note that submissions containing confidential information will not be published.
  - ( ) Yes
  - (●) No

Section I: Introduction and scope

This section covers the following topics:

- Purpose of the Annex
- REMIT scope, definitions, terminology

Do you have any comments on the guidance provided in this chapter?

ACENEL, the Spanish association of independent electricity retailers, welcomes the clarification in paragraph 11 on modifications of financial open positions. We raise two points on this chapter: (i) paragraph 2 limits the Annex to Article 9 EMIR, while paragraphs 35-36 rely on Article 26 MiFIR as a basis for the exemption, leaving the MiFIR route undeveloped; and (ii) the "delivery in the Union" condition in paragraph 10 should be illustrated for cash-settled derivatives referencing a Union price index — the dominant instrument in the Iberian market — where no physical delivery occurs at all. Full reasoning in our uploaded response (Comments 1 and 2).

Section II: Reporting obligations under REMIT and EMIR

This section covers the following topics:

- Counterparties vs market participants
- Energy derivatives reportable under EMIR
- Energy derivatives reportable under EMIR and REMIT
- Energy derivatives reportable only under REMIT

Do you have any comments on the guidance provided in this chapter?

We strongly support paragraphs 37 and 47 attributing order reporting to the OMP on behalf of all market participants, consistent with Article 8(1a) REMIT, and ask that the discharging effect be stated as a standalone rule. Our main concerns are: (a) paragraph 18's "entity responsible for making the trading decision" is undefined and carries registration consequences for the great majority of retail suppliers hedging through brokers; (b) the Annex does not state that Article 9(1a) EMIR mandatory delegation applies to OTC derivatives only — for exchange-traded futures the NFC- retains its own EMIR obligation, and where no voluntary delegation exists the REMIT exemption of paragraph 35 silently fails; (c) an apparent contradiction between paragraph 16 and footnote 3, with an unresolved "Section X" reference; (d) no guidance on how a participant evidences the exemption. We also ask for proportionality for hedging portfolios and for guidance on the boundary with non-standard supply contracts (PPAs, CfDs). Full reasoning in Comments 3 to 12.

Section III: Reporting derivative transactions under EMIR / REMIT

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

Do you have any comments on the guidance provided in this chapter?

The single scenario developed concerns an investment firm and its client. The most common configuration in energy markets — a non-financial retailer that is neither an exchange member nor an investment firm, makes its own trading decisions and hedges through an executing broker — is not illustrated, even though paragraph 18 brings it squarely within the market participant definition. We propose a third scenario with its own field table, showing how the answer changes depending on whether a voluntary EMIR delegation agreement is in place. We also note two inconsistencies in the tables under paragraph 49. Full reasoning in Comments 13 and 14.

Other comments and file upload

Are there any other proposals you would like to share with ACER? (e.g. topics that should be covered, amendments etc.)

We ask for a consolidated timeline of reporting obligations by data type and regime, a minimum six-month period between final publication and applicability, and express confirmation of non-retroactivity, particularly for entities newly captured as market participants by paragraph 18. We note that the main Guideline (PC_2026_R_07) was consulted and closed before this Annex was published, so stakeholders could not comment on the interplay between the two; we ask that both be published together with general concepts placed in the Guideline. The cover date and the "Section X" reference remain to be completed. Full response attached.

You can upload your proposals in Word or PDF here.

Please ensure that all your proposed amendments are in one document, clearly identifying each section affected. Track changed versions of the document are also welcome.

Maximum file size is 1 MB. If your file is larger, please use the functional mailbox: REMIT. Consultations@acer.europa.eu

c4f75a53-7406-449d-b120-f6a987d5dda8/ACENEL_Response_ACER_PC_2026_R_09_EN.docx

Thank you for your contribution.

Contact

Contact Form