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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This information will not be published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This information will not be published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)

EDF Group

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?

EDF Group welcomes this consultation on the Annex dedicated to the reporting of energy derivatives transactions which complement the new Guideline on REMIT transaction reporting.

On section I, our comments are twofold:

1. Clarifying the distinction between REMIT scope and reporting scope

The draft correctly states that some derivatives may fall within the general scope of REMIT while not being reportable under the REMIT Implementing Regulation because delivery occurs outside the Union. In this regard, the “natural gas” example is helpful.

In the same way, we recommend ACER to provide additional examples covering notably:

- Electricity derivatives
- Hydrogen derivatives
- Storage derivatives
- Cross-border products involving EU and non-EU delivery points

This would reduce interpretative differences among market participants.

2. Clarifying the treatment of financially settled energy derivatives

The Annex focuses primarily on physically deliverable products. ACER should expressly confirm whether financially settled energy derivatives remain reportable under REMIT when they qualify as wholesale energy products and satisfy the relevant conditions under REMIT and the Implementing Regulation. Additional examples would be beneficial to improve consistency.

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?

General comments:

A glossary at the beginning of the Annex is missing.

From a general standpoint, it would be useful to have a table comparing the notion of “counterparties” in EMIR and the notion of “market participants” in REMIT. Some examples would also be insightful too. Schemas would be very helpful for explaining: (i) section 2.2 Energy derivatives reportable under REMIR, sections 2.3. and (ii) energy derivatives reportable under EMIR and REMIT and section 2.4 Energy derivatives reportable only under REMIT.

EDF group has concerns about the use of a wording such as “As far as ACER is aware…”at the beginning of 2.3: such statement raises question of “certainty of statement” in a document which aims at providing guidance to NRAs and market participants for transactions reporting. It is precisely the role of ACER, based on its well-established cooperation framework with ESMA, to provide clear implementation guidance that does not introduce any legal and operational uncertainty.

Specific comments:

1. Chapter 2.1.1 CCPs and clearing brokers

In the introductory section ACER TRUM Annex III (Version 2.1, effective 16 November 2022) ACER states:
“The Agency's understanding of the reporting of energy derivatives contracts under REMIT is guided by the principle that uniform rules on the reporting of energy derivatives should not create unnecessary costs or administrative burdens for market participants and take account of reporting frameworks developed under EU financial market legislation. The scope of the reporting of energy derivatives under REMIT should therefore be aligned as much as possible with the scope of the reporting under EMIR and MiFID. The only exception to this is the reporting of matched and unmatched orders under REMIT to enable the Agency to fulfil its market monitoring task under REMIT.”

In ESMA EMIR Article 9 Reporting obligation (https://www.esma.europa.eu/publications-and-data/interactive-single-rulebook/emir/article-9-reporting-obligation-0) we can read:
“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 in accordance with paragraphs 1a to 1f of this Article to a trade repository registered in accordance with Article 55 or recognised in accordance with Article 77. The details shall be reported no later than the working day following the conclusion, modification or termination of the contract”.

ACER has consistently stated that the reporting of energy derivatives under REMIT should be aligned as much as possible with EMIR and MiFID and should not create unnecessary administrative burden. In this context, additional clarification on the treatment of CCP novation, clearing account transfers and other clearing-related lifecycle events would be welcome to ensure such events do not inadvertently result in duplicate reporting obligations where the relevant information is already available through EMIR reporting channels.

Chapter 2.1.2 DEA providers and their clients
EDF Group considers that the proposed structure which makes possible sub-delegation is quite risky and could potentially lead to major issues. The main challenge for the “DEA provider” is that DEA clients are fully aware of their obligations when using the DEA Provider’s trading account.
When considering point 23, one could understand that a pass-through DEA client in the middle of a chain of delegation has no responsibility at all. EDF Group urges ACER to re-interrogate the possibility to sub-delegate DEA and the relevant responsibility framework.

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?

EDF Group has specific comments regarding the following points in Section III:

1) Paragraphs 45-46: reference to "ETDs Reporting Question 2" in ESMA's Q&A on EMIR implementation.

One should not need to navigate multiple EMIR reporting scenarios to understand the practical reporting outcome.
The Annex could be simplified by explicitly stating that irrespective of the specific EMIR reporting scenario described in ESMA's ETD guidance, where the derivative trade has been reported under EMIR, only the corresponding order remains reportable under REMIT.

2) Paragraphs 46 and 47:

a) the trade has been reported under EMIR
b) the market participant still has to report the order because orders are not reported under EMIR
c) the OMP should therefore report only the order details under REMIT.

The text refers to the "trade" but does not explicitly define whether this includes, for example, clearing events.

Article 9 EMIR requires reporting of: "any derivative contract ... and any modification or termination of the contract".
Clarification that derivative trades already reported under EMIR benefit from the reporting exemption under REMIT is positive.
However, additional clarity would be welcome regarding whether the exemption extends to all lifecycle events reported under Article 9 EMIR, including clearing-related events.

3) Paragraph 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."
Additional examples covering for instance CCP novation, give-up arrangements, and clearing account transfers would be beneficial to ensure consistent application across market participants and RRMs.

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.)

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

Thank you for your contribution.

Contact

Contact Form