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This information will not be published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This information will not be published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

European Energy Exchange AG (EEX)

Type of organisation (if applicable)

Multiple values are accepted

- [ ] Market participant (including association)
- [x] Organised marketplace (including association)
- [x] 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?

EEX welcomes the opportunity to provide feedback to the draft Annex to the Guideline on REMIT reporting for energy derivative transactions under REMIT and EMIR. We have no comments on Section I of the guidance and welcome the intended simplification through the renewed purpose of the Annex.

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?

Regarding section 2.1 on legal definitions across the different financial services legislations and REMIT, we believe this is a useful exercise in providing legal clarity across overlapping pieces of legislation. In this regard, we make the following comments:
1. We particularly welcome the added confirmation (paragraph 20) and thereby legal certainty on the fact that CCPs cannot be considered as market participants under REMIT.
2. Regarding Direct Electronic Access (DEA) and treatment of sub-clients and 'pass-through' clients, this is a useful addition to the Annex I reporting template. In this regard, we would like to highlight a legal contradiction that appears present in Annex I: as per well-established rules including MiFID (Article 17(4) and Article 4(1)) and EEX' Rules and Regulations, a DEA client cannot be a liquidity provider as the latter is an exchange participant who, per definition, acts upon its own account. In MiFID, the difference between direct member /participant and DEA client is clear. Specifically, DEA means that a direct member/participant permits a person to use its trading code to transmit orders to the trading venue. The direct member/participant is the only one to have a trading code or infrastructure, which they can provide access to. Deviating from this legal constellation would create unnecessary complexity and implementation burden, and create additional divergences between MiFID and REMIT. ACER might consider adding this clarification across documentation covering the same topic.
3. Whereas we follow the interpretation of exchange-traded derivative (ETD) under MiFID/R, referring to ETD under REMIT as "simply a derivative traded on an OMP" threatens to create confusion. As rightly noted in the explanation on trading venues (paragraph 4), the perimeter of OMPs may be significantly broader than the definition of trading venue, and even more so than the definition of regulated market, under MiFID. It would be mindful to not create the perception that contracts traded on energy broker platforms, energy capacity platforms, or other facilities that may be seen as an OMP under REMIT (including OTF/MTFs), receive the same regulatory treatment as actual ETDs.
4. In addition, highlighting the different meanings currently attached to the term "OTC" under EMIR and REMIT (as outlined in paragraph 14) is particularly important when analysing different sources of market data, as the different use of the same terminology can lead to misinterpretations. For REMIT purposes, however, it might be mindful to use a clearer distinction between transactions that are "OMP-traded" and transactions that are "bilaterally concluded", rather than "OTC".

Regarding section 2.3 on the overlap of transactions reportable under EMIR and REMIT, these provisions are clear. EEX fully supports the sharing of data across regulatory authorities and the extension of this beyond current arrangements. In reality however, ETD transactions traded at regulated markets such as EEX, are generally reported under both pieces of legislation and double reporting is thus not avoided. Because of the difference in scope, legal definitions and exact requirements, it would be impossible or excessively burdensome to assess for each transaction whether reporting requirements under EMIR and thereby REMIT are fulfilled.

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?

EEX welcomes the illustration of reporting obligations on energy derivative contracts. We take the opportunity to provide our detailed feedback on the Fields within the order reports within the consultation on Annex I.

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.)

As a general comment, we welcome ACER's clear understanding that 'uniform rules should not create unnecessary costs or administrative burdens'. Whilst outside the direct scope of this Annex, we would support further consideration by ACER and the European co-legislators to strive to align definitions across energy and financial services legislation whenever suitable for the purposes and implementation of the respective pieces of legislation. This would support truly avoiding double reporting as aimed for between EMIR and REMIT. For example, a harmonized approach to "beneficial or underlying owner", "end client" or "end position holder" across REMIT, MiFID/R and EMIR would benefit regulatory interpretation, legal certainty and implementation burden.

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