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This information will not be published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This information will not be published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

Energy Traders Europe

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?

We have the following comments and concerns regarding the Guidance provided in this chapter:

- Paragraph 7 – Wholesale energy markets: Regarding paragraph 7 on wholesale energy markets, we suggest incorporating the additional explanation provided in Recital 5 of REMIT, which usefully clarifies the relationship between commodity and derivative markets and the types of markets and transactions falling within the wholesale energy market framework: “According to Recital 5 of REMIT, wholesale energy markets encompass both commodity markets and derivative markets, which are of vital importance to the energy and financial markets, as price formation in both is interlinked. They include, inter alia, regulated markets, multilateral trading facilities, organised trading facilities, OTC transactions and bilateral contracts, whether traded directly or through brokers”.
- Paragraphs 9 and 10 – Geographical scope and potential delivery in the Union: While paragraph 9 appears sufficiently clear, paragraph 10 could give rise to uncertainty regarding the meaning and geographical scope of products that “may result in delivery in the Union”. In our understanding, for derivatives related to the supply of electricity under Article 2(4)(a) and Article 2(4)(b) of REMIT, the concept of potential delivery in the Union should be linked to the geographical scope of single day-ahead and intraday coupling, namely SDAC and SIDC. In particular, the relevant coupled market must include at least one Member State in which potential physical delivery may occur. We therefore suggest adding the following clarification: “Concerning derivatives related to the supply of electricity that may result in delivery in the Union as a result of single day-ahead or intraday coupling under Article 2(4)(a) and Article 2(4)(b) of REMIT, the relevant geographical scope is determined by the coupled markets concerned. Such coupled markets must include at least one Member State in which potential delivery may occur”.

Accordingly, it should be made clear that the concept of electricity products that “may result in delivery in the Union” applies where both the relevant SDAC or SIDC coupling arrangements and the geographical nexus with at least one Member State are present. In this respect, we also suggest adding a footnote referring to Recital 19 of Regulation (EU) 2024/1106, which clarifies that this extension is intended to capture orders placed in a third country participating in the Union single day-ahead and intraday coupling where such orders may result in a contract for the supply of electricity with delivery in the Union.

Regarding the example illustrating the general scope of REMIT, we are concerned that the current wording could be interpreted as suggesting that information relating to physical delivery outside the Union may qualify as inside information merely because the underlying product is traded on an EU OMP. We suggest clarifying this point. The obligation to publish inside information should be linked to information capable of significantly affecting wholesale energy product prices within the scope of REMIT. In the case of information concerning physical assets, flows or deliveries outside the Union, the relevant consideration should therefore be whether that information may affect the EU wholesale energy market, rather than the physical energy balance of a third-country market as such. This distinction would help avoid an interpretation whereby the mere trading of a product on an EU OMP automatically brings information concerning an otherwise non-EU physical market within the REMIT inside-information framework.

- Paragraph 11 – Financial open positions: The concept of a “financial open position” used in paragraph 11 would benefit from further clarification, as this is not a defined term under REMIT. Without additional context, the expression could be understood as referring either to a generic commercial trading position or, potentially, to the separate exposure-reporting requirements introduced under the revised REMIT framework. We understand the intended reference to be to the net outstanding position or exposure arising from financial derivative transactions. To avoid ambiguity, we suggest the following wording: “With reference to the perimeter of reportable transactions, ACER also notes that adjustments to an aggregated open position in a derivative that is a financial instrument do not need to be reported under REMIT, insofar as such position-level adjustments do not amend the terms of the underlying wholesale energy product transaction”.

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 have the following comments and concerns regarding the Guidance provided in this chapter:
• Chapter 2.1, paragraph 14 – Use of the term OTC: Paragraph 14 is helpful in explaining the different meanings currently attached to the term “OTC” under EMIR and REMIT. This distinction is particularly important when analysing financial and physical market data, as the different use of the same terminology can lead to REMIT data being misinterpreted, particularly by users more familiar with financial-market reporting. At the same time, we consider that the continued use of “OTC” with a different meaning under REMIT risks creating unnecessary confusion. For REMIT purposes, we would therefore suggest using the clearer distinction between transactions that are “OMP-traded” and transactions that are “bilaterally concluded”. Where the term OTC is used in relation to derivatives within the meaning of EMIR, we suggest referring explicitly to “EMIR OTC derivatives”. This would help maintain a clear distinction between the REMIT and EMIR concepts and avoid the need for additional explanations throughout the guidance.
• Chapter 2.1, paragraph 16 – Exercise of an option: The final sentence of paragraph 16 could benefit from further clarification regarding the exercise of an option. We agree that the exercise of an existing option does not in itself constitute entering into a new transaction and is therefore not, as such, a reportable action. However, this should be clearly distinguished from any transaction resulting from the exercise of that option, which may itself constitute a reportable transaction. We therefore suggest clarifying that the non-reportable nature of the exercise of an option is without prejudice to the reporting of any resulting transaction, for example a forward arising from the exercise, where that transaction falls within the REMIT reporting perimeter.
• Chapter 2.1.3 – Executing brokers and exchange transactions: We believe that Section 2.1.3 would benefit from further clarification of the different arrangements through which broker-facilitated cleared transactions may be concluded. In particular, the current wording appears to focus on scenarios in which an executing broker acts as principal, whereas other models exist where the broker facilitates the matching of trading interests but the transaction itself is legally concluded only on the exchange, subject to acceptance by the exchange. For example, where orders in cleared products are submitted through an OMP broker screen and subsequently matched, the broker may facilitate the matching process, while the resulting transaction is concluded directly on the exchange. In such cases, the reporting obligations relating to the orders and to the resulting transaction should be clearly distinguished: the broker should report the relevant orders where required under REMIT, while the resulting exchange transaction should be reported by the entity responsible under the applicable REMIT and /or EMIR framework only resp. if there was first a transaction outside of the exchange this one must be cancelled to avoid a double reporting causing data quality issues. We therefore suggest expanding Section 2.1.3 to reflect these alternative execution models and to clarify the respective reporting responsibilities of brokers and exchanges. Please find more information on ICE block trading rules (https://www.ice.com /publicdocs/endex/ICE_Endex_Block_Trades_Policy.pdf) and on EEX rules for trade registration https://www.eex.com/fileadmin/EEX/Downloads/Rules/Trading_Conditions /20260602_EEX_Trading_Conditions_0074a_E_FINAL.pdf - chapter 2.3)
• Chapter 2.4 – Bilateral transactions involving non-EU counterparties: Section 2.4 currently addresses ETDs traded on EU venues by non-EU counterparties that are not reported under EMIR, but does not address the corresponding case of bilaterally concluded derivative transactions relating to wholesale energy products with delivery in the Union where the relevant non-EU counterparty or counterparties do not have an EMIR reporting obligation. We consider this omission material, as the REMIT reporting logic differs between the two situations. For transactions concluded on an OMP, the relevant reporting obligation lies with the OMP, whereas for bilaterally concluded transactions that are reportable under REMIT but have not been reported under EMIR, the reporting obligation remains with the relevant market participant(s). We therefore suggest adding a specific example covering bilateral derivatives involving non-EU market participants. More generally, the document appears to focus predominantly on venue-based trading arrangements. We would encourage ACER to provide proportionate coverage of bilaterally concluded transactions and the associated reporting responsibilities of market participants, as these scenarios remain an important part of the REMIT reporting 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?

We welcome that Section III focuses on the relevant aspects of derivative transactions for REMIT reporting and distinguishes the content from the ESMA Q&As.
Paragraph 35 – We welcome the clarification that, where transaction details have already been reported under Article 9 of EMIR or Article 26 of MiFIR, the corresponding REMIT reporting obligation is deemed fulfilled. For the avoidance of doubt, we suggest clarifying that this also applies where the relevant transaction details have been reported to a trade repository under EMIR on behalf of the person concerned, including through delegated reporting arrangements. This would ensure that the avoidance of double reporting applies irrespective of whether the person submitted the report directly or the report was submitted on its behalf in accordance with EMIR.
Paragraph 48 – We welcome the clarification that, for REMIT purposes in relation to derivative transactions, the role of investment firms vis-à-vis clearing members is not relevant, since actions related to clearing do not fall under REMIT and the trading portion of derivative transactions has already been reported under EMIR.

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.)

Energy Traders Europe already submitted this comment as part of its response to the Targeted Consultation on Table 2 consultation. However, we do believe that it well applies to this reporting guidance as well. ACER should provide substantially more detailed technical guidance and complete worked examples on the reporting of bilaterally concluded energy derivatives that are reportable under REMIT but have not been reported under EMIR. In particular, further guidance is required for financial options and swaps, as the current TRUM guidance remains fragmented and does not provide a sufficiently clear end-to-end reporting methodology. ACER should include examples covering fixed-to-floating and floating-to-floating swaps and different types of financial options, showing the population of all relevant fields, including the buy/sell indicator, option premium and strike price, underlying or reference indices, notional amount and quantity, settlement method, delivery point or zone, option exercise and any resulting transaction. The guidance should also clearly explain when Table 1 or Table 2 must be used, how the original contract and any subsequent executions or resulting transactions should be linked, and how the relevant lifecycle events should be reported. Complete field-by-field examples, preferably accompanied by corresponding XML records, are necessary to support accurate and consistent reporting by market participants and RRMs.

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