Contribution ID: 9ac8f606-ccab-44e1-aa3f-6bd4f3f503ca
Date: 11/09/2026 14:45:42

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This information will not be published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This information will not be published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

Europex – Association of European Energy Exchanges

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?

In general, we do welcome and support ACER´s intended simplification efforts.

On Point 8, 9 and 10: Can we have a clarification on the concept of ‘contract’ and then whether they should be included or not?

In point 10, the wording could be revised to clearly state that the ‘may be delivered’ refers exclusively to electricity.

Point 11 is a conclusion, but this is not explicitly stated in the REMIT or Commission implementing regulation 2026/256.

In point 12, the third bullet, it writes: ‘...supply, transportation or storage...’. In the text of the article it is used AND instead of OR.

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 believe that section 2.1 that considers legal definitions across REMIT and financial services legislation is a useful exercise. We welcome the efforts to provide legal clarity and strive for alignment across overlapping pieces of legislation.
We, however, make the following comments:
- We would welcome a clarification from ACER regarding Direct Electronic Access (DEA), since Annex I seems to be in contradiction with well-established rules whereby only direct trading participants are interpreted to perform market making activity which is thus reported under a liquidity provision flag. We do not see a particular added value of an interpretation that runs counter to MiFID (Article 17(4) and Article 4(1)) - where the difference between direct member/participant and DEA client is clear - which may add unnecessary complexities and implementation burden.
- We express concerns on the reference to ETD under REMIT as 'simply a derivative traded on an OMP', which threatens to create confusion. As rightly noted in 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 should therefore be clear that contracts traded on energy broker platforms, energy capacity platforms, or other facilities that may be seen as an OMP under REMIT, do not receive the same regulatory treatment as actual ETDs.

Regarding section 2.3 on the overlap of transactions reportable under EMIR and REMIT, we welcome efforts aimed at fostering cross-legislation alignment and avoiding double-reporting provided this is practically applicable and viable.

On terminology, we prefer the notion of "entering into transactions" as set out in paragraphs 16 and 20 of the draft Annex to the wording proposed in the TRUM. Paragraph 16 correctly establishes that the meaning of "entering into transactions" under REMIT is distinct from the notion of being a "counterparty" under EMIR, and paragraph 20 confirms that this notion does not extend to actions related to option exercise, settlement, or clearing. By contrast, the TRUM's description of Data Field (1) blurs this distinction by describing the REMIT market participant and the EMIR counterparty in materially similar terms, both framed as "the party that enters into a transaction", which risks creating ambiguity that the Annex seeks to remove.

For the same reason, we also prefer the trader ID definition referenced in paragraph 49 of the Annex ("ID of the trader of the investment firm as assigned by the OMP") over the TRUM's proposed description of Data Field (4), which allows the identifier to be "specified by the technical system of the OMP or identified by the market participant". The Annex wording is clearer in assigning responsibility for the trader ID to the OMP and avoids the ambiguity introduced by the TRUM drafting.

Separately, we would like to highlight an internal inconsistency between paragraph 20 and footnote 3 of the draft Annex. Paragraph 20 states that the notion of "entering into transactions" under REMIT does not cover actions related to option exercise, settlement, or clearing, and that CCPs and clearing brokers are therefore not considered market participants on that basis. We would ask ACER either to remove footnote 3 or to align it with paragraph 20, and to confirm expressly that the clearing of a trade following an option exercise does not, in itself, constitute a new reportable transaction under REMIT.

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?

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 support the simplification efforts undertaken by ACER and we would support even further considerations by ACER and the European co-legislators around aligning definitions across energy and financial services legislation where appropriate in the spirit of truly supporting the avoidance of double reporting as aimed for among EMIR and REMIT.

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