WORKSHOP
REMIT II implementation

Tuesday, 11.06.2024
09:00 - 15:30 CET
Online

www.acer.europa.eu
ACER and European Commission workshop: REMIT II Implementation
Tuesday, 11 June 2024 | 09:00 - 15:30 CET
Online, M3 Teams platform

AGENDA

08:56 - 09:00 | Workshop open for log-in
08:56 - 09:00 | Starts promptly at 09:00

Chair: Bart VEREECKE, ACER

09:00 - 09:20 | Welcome address and introductory remarks
  - Welcome address by Christian ZINGLERSEN, Director, ACER
  - The revised REMIT as part of an integrated legislative approach by Christof LESSNICH, European Commission

09:20 - 10:00 | Revised REMIT: overview of the main challenges and timelines
  - Lukasz LISICKI, DG ENER, European Commission

10:00 - 10:15 | Q&A
10:15 - 10:30 | Break

10:30 - 11:45 | Panel discussion: REMIT implementing regulation, delegated acts and REMIT fees
  - Moderator: Annamaria MARCHI, DG ENER, European Commission
  - Karl-Peter HORSTMANN, ENERGY TRADERS EUROPE
  - Peter ANTING, ENTSOG
  - Heedrik POLLEX, ENTSOG
  - Ramhard WALTER, EURELECTRIC
  - Maximilian RINCK, EUROGAS
  - Christian BAERI, EUROPET
  - Peter CLAES, IFIEC

11:45 - 13:00 | Q&A
13:00 - 14:00 | Lunch break
Please pose your questions using the Slido tool within Microsoft Teams or through this direct link: https://app.sli.do/event/wBPgvbyx8zkUT8QhzxBM. Questions will be addressed during the relevant Q&A session. For time reasons, highly technical questions or those pertaining to specific cases for time reasons may not be addressed during the session.

Keep your microphone muted unless the chair gives you the floor.

Slides from this webinar will be uploaded to ACER website.
Welcome address

Christian ZINGLERSEN
ACER Director
A revised REMIT for evolving energy markets

• The regulatory landscape for energy is changing

• The Agency acknowledges its new responsibilities

• Good implementation requires good cooperation

• We are at the start of the implementation journey
The revised REMIT as part of an integrated legislative approach

Christof LESSENICH
European Commission
Q&A session

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Revised REMIT: overview of the main challenges and timelines

Lukasz LISICKI
European Commission
✓ Improved process for the collection and disclosure of inside information and market transparency:
  • IIPs, market manipulation notion, alignment with financial regulations, new tasks for ACER
✓ Enhanced supervision of reporting parties and data sharing between relevant authorities
  • RRMIs, PPA(E)Ts, improved data exchange between authorities
✓ Enhanced LNG market transparency
  • LNG price assessment and benchmark as a permanent tool
✓ Adaptation of the scope of REMIT to current and evolving market circumstances
  • Algorithmic trading, energy derivatives (cooperation mechanism), new data reporting obligations (e.g. order books, exposures, hydrogen)
REMIT 2.0 – key aspects of the reform (2)

New enforcement system for cross-border cases

✓ New powers for ACER (EU dimension):

- to conduct investigations on cross-border REMIT cases – based on clearly defined criteria, including:
  - on-site inspections;
  - to issue requests for information as well as the;
  - power to take statements;
  - powers to impose sanctions (periodic penalty payments) in order to ensure compliance with on-site inspection decisions and requests for information.

✓ Result of the investigation: ACER’s investigatory report → national regulators act accordingly.
Delimitation of cases with cross-border impact:

- ACER has the right to investigate cases where the conduct affects at least two Member States (various REMIT breaches)

“Objection” by NRA to the exercise of ACER’s cross-border investigation powers – clear criteria.

Enhanced enforcement – new aspects:

- Harmonisation of fines set at national level.
- More effective enforcement towards third country companies.
Next steps

### Q4 2024
- Revision of Fee Decision

### 12 months after entry into force ~ Q2 2025
- Revision of REMIT Implementing Act (IA)
- New Delegated Act (DA) on RRMs and IIPs

### June 2025
- Commission Report on criminal sanctions

### Q1 2026
- New Delegated Act (DA) on threshold to disclose inside information

Implementation and Delivery
Possible areas of work

**Fee Decision**
- Based on the current model with some adjustments

**IA**
- New elements: order books, exposures, hydrogen…
- Revision of Annex reporting tables
- Roles and responsibilities (e.g. OMP reporting)
- Contracts reporting on continuous basis and on request by the Agency

**DA on RRM and IIPs**
- Existing IIPs and RRM
- Data validation
- Orderly substitution and data retention
- Availability of the platform
- IIP content and format

**DA on threshold**
- Type of the threshold (EU wide/ regional/ Member State level/ gas and vs electricity)
Thank you

Lukasz Lisicki, Team Leader
ENER.C3/Internal Energy Market Unit
Lukasz.lisicki@ec.europa.eu
Q&A session

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BREAK

PANEL DISCUSSION TO COME
Panel discussion: REMIT implementing regulation, delegated acts and REMIT fees
Q&A session

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LUNCH BREAK
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<td>Revised REMIT: ACER’s new REMIT investigations tasks</td>
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<td>Elissavet KAZILI, DG ENER, European Commission</td>
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<td>14:10-14:20</td>
<td>ACER investigatory powers, update on implementation</td>
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<td>Antonio SANTOS, ACER</td>
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<td>14:20-15:00</td>
<td>Panel discussion: ACER-National Regulatory Authority (NRA)</td>
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<td>cooperation (surveillance, cross-border investigations, fines,</td>
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<td>and court decisions)</td>
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<td>Moderator: Annekat GROEBEL, BNETZA</td>
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<td>• Kseniya KHROMOVA, CRE</td>
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<td>• Leo LEHR, E-CONTROL</td>
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<td>• Bogdan CHIRITOIU, CONSILIUL CONCUTENDEI</td>
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<td>• Martin GODFRIED, ACER</td>
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<td>15:00-15:15</td>
<td>Q&amp;A</td>
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<td>Closing remarks</td>
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<td>Bart VEREECKE and Martin GODFRIED, ACER</td>
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Revised REMIT: ACER’s new REMIT investigations tasks

Elissavet KAZILI
European Commission
REMIT FORUM

REMIT II: ACER Investigatory powers

11 June 2024
ACER Investigatory Powers

- Discretionary power to investigate breaches of the prohibitions/obligations on:
  - Insider trading (Article 3)
  - Disclosure of inside information (Article 4)
  - Market manipulation (Article 5)
  - Data reporting & collection (Article 8)
  - Persons professionally arranging and executing transactions (PPAETs*) (Article 15)
ACER Jurisdiction

Jurisdictional Criteria

- Acts on wholesale energy products for delivery in at least 2 MS ('may' provision)
- Certain cross-border cases where competent NRAs have not taken measures or competent NRAs have asked ACER to act

NRAs are consulted and can ‘object’ to ACER investigatory powers, in case they:

- are investigating same facts
- have already conducted investigation on same facts & concluded on breach

“Objection” to be expressed within 3 months
“Objecting NRA” has an obligation to cooperate
ACER Investigatory Powers

- ACER is empowered to:
  - perform on-site inspections (Article 13a)
    - In close cooperation / coordination with national authorities
    - Scope: examination of books/records, affixation of seals, taking copies / extracts, explanations of facts / documents
    - Of business premises (private premises subject to conditions)
    - Upon written authorisation
  - request information (Article 13b)
    - Simple request or by decision
    - Obligation to respond
    - Response: complete, correct and non-misleading info
  - take statements (Article 13c)

Refusal to submit to inspection
Penalties
NRA assistance (incl. police)
Refusal to provide response
ACER may draw conclusions on available info
Penalties
ACER Investigatory Powers

- At the end of an investigation, ACER issues investigation report with findings and all relevant evidence

- Investigation report will contain:
  - Requests to NRAs to take necessary measures (incl. Article 18)
  - ACER recommendations on follow up measures

- NRAs have 3 months to communicate measures they deem necessary to take
ACER Enforcement Powers

- ACER is empowered to issue Decisions on:
  - authorisation or withdrawals of IIPs* and RRMss**
  - on-site inspections.
  - requests for information

- ACER is empowered to impose **periodic penalty payments** to ensure compliance with two types of decisions:
  - on-site inspection
  - requests for information

- Periodic penalty payments:
  - Imposed on a **daily** basis
  - 3% of turnover (legal persons); 2% of average income (natural persons)
  - Imposed for no more than 6 months
Thank you
ACER investigatory powers: Update on implementation

Antonio SANTOS
ACER
Agenda

- ACER’s new powers
- Implementation status
- What’s next?
ACER’s new powers
ACER and NRAs play a key role in detecting and preventing market abuse in Europe’s wholesale energy market and how the REMIT revision strengthen the framework.

ACER’s new powers to carry out cross-border investigations complement and do not replace the very important work of NRAs who alongside ACER protect consumers and business from wholesale energy market abuse.

ACER will avoid double-work and will not investigate a cross-border case that is already being investigated by NRAs.
Implementation status
A cross-departmental effort
A 3-stage process
The first stage will be covered in 2024

Early implementation Programme
• From 1st February until Sept 2024
• Before the allocation of staff to the new department
• High level implementation

Implementation stage
• From September 2024 until 2026
• Implementation details
• Recruitment of critical mass

Operation stage
• From 2026 (after the implementation stage)
• First cases under investigation

• Early implementation phase has begun
• ACER is adopting best practices, and benefiting from the vast experience of NRAs
• Recruitment will start in Q4 with the aim of filling the positions in 2025, and eventually 2026
Key areas and projects included in the early implementation programme

**Governance**
- MOU with NRAs
- Benchmark on best practices for investigations
- Setting the strategic vision and mission
- Administrative setup and processes

**HR**
- Recruitment strategy

**IT**
- Identification of relevant IT tools
- IT business requirements
- Compatibility with existing tools and necessary upgrades

**Budget**
- Planning for the single Programming Document 2025-2027 and 2026-2028

**Stakeholders' management**
- Communication plan for 2024

**Transition**
- Anticipating and planning impact on other departments
What’s next?
ACER is hiring (on REMIT, from Q4 2024)

Join us in powering Europe’s energy future.

ACER is a unique place to work on investigations with an impact on consumers and business across the EU.

An immersion in how energy markets work - can be interesting for lawyers or others experienced in investigations.

ACER as a data-driven organisation (central data collection, data analytics and surveillance) – can be interesting for economists, econometricians, data analysts …

Check out our job vacancies (in many areas).
Thank you. Any questions?

The contents of this document do not necessarily reflect the position or opinion of the Agency.

ACER
European Union Agency for the Cooperation of Energy Regulators

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Panel discussion:
ACER-National Regulatory Authority cooperation
1. How would you see the size of this change?

2. With respect to new market abuse investigations in energy wholesale markets for ACER, would you have any recommendations to ACER?

3. How will ACER and NRAs coordinate on cross-border investigation cases?

4. What can we expect in terms of the timing and number of cross-border investigation cases that ACER will likely have?

5. What is ACER doing right now to implement these new tasks?

6. What is new regarding NRAs’ tasks and enforcement powers?
Questions to the panel – 2/2

7. Do you expect an increase in the number of resources allocated to REMIT teams within the NRA following the amendment of the Regulation?

8. With the expanded scope of the revised REMIT, will there be double oversight by energy and financial regulators?

9. Regarding storage, to which extent has it been an important blind spot for monitoring purposes?

10. What added value do you think the new algo provisions will bring regarding monitoring and supervision of the wholesale energy markets? And is further cooperation amongst NRAs / ACER required?
Q&A session

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Closing remarks

Bart VEREECKE & Martin GODFRIED
ACER
Thank you.

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