

Questions & Answers on REMIT 21st Edition

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The 21st edition of the Q&As on REMIT provides new Q&As inside information under Q III.7.10, Q III.7.11 and Q III.7.12.

I. Introduction

This Q&A document contains a summary of frequently asked questions (FAQ) about Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT) and the Agency for the Cooperation of Energy Regulators' (The Agency's) answers to those questions. Many of the questions were asked during the past years by market participants and other stakeholder. The Q&A document is directed to the public but in no way provides a legal interpretation of REMIT.

As of the entry into force of Commission Implementing Regulation (EU) No 1348/2014 (EU), 7 January 2015, the Agency will update this Q&A on a monthly basis. The monthly update will cover all questions of general nature sent to the Agency via remit@acer.europa.eu. The Agency will therefore, only answer to the queries individually in exceptional cases.

The Agency also publishes Guidance to assist National Regulatory Authorities (NRAs) in carrying out their tasks under REMIT in a coordinated and consistent way. The Guidance is updated from time to time to reflect changing market conditions and the experience gained by the Agency and NRAs in the implementation of REMIT, including through the feedback of market participants and other stakeholders. Market participants have to bear in mind that they have to comply with the obligations and the prohibitions established in REMIT. The Agency recommends that in complying with REMIT, market participants should make their own research and set up a compliance system.

All REMIT related documents are published at REMIT Portal
<https://www.acer-remit.eu/portal/public-documentation>

II. Question and Answers (Q&A) on REMIT

II.1. Background Information

II.1.1. [last update 08 January 2016] What is REMIT?

Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT), was published in the Official Journal of the European Union on 8 December 2011 and entered into force 20 days following its publication, i.e. on 28 December 2011. REMIT introduced, for the first time, a consistent EU-wide framework:

- defining market abuse, in the form of market manipulation, attempted market manipulation and insider trading, in wholesale energy markets;
- introducing the explicit prohibition of market manipulation, attempted market manipulation and insider trading in wholesale energy markets;
- establishing a new framework for the monitoring of wholesale energy markets to detect and deter market manipulation and insider trading; and
- providing the enforcement of the above prohibitions and the sanctioning of breaches of market abuse rules at national level.

REMIT prohibits market manipulation and trading on inside information in wholesale energy markets. The definitions of market manipulation and insider trading in REMIT are in line with those applying under Directive 2003/6/EC (Market Abuse Directive or MAD), though adapted for wholesale energy markets. The prohibitions of market manipulation and insider trading in REMIT does not apply to wholesale energy products which are financial instruments and to which Article 9 of MAD applies.

REMIT regulation is available here: https://www.acer-remit.eu/portal/custom-category/remit_doc.

II.1.2. Who is affected?

REMIT affects everyone who participates in, or whose conduct affects, wholesale energy markets within the Union. It makes no difference whether or not the person is resident within the EU or whether or not they are professional investors. Also non-EU and non-EEA market participants are covered by REMIT if entering into transactions, including the placing of orders to trade, in one or more wholesale energy markets in the Union. Accordingly, the obligations to register under REMIT with the competent NRA and to report data to the Agency according to Article 8(1) and (5) of REMIT also applies to such non-EU and non-EEA market participants. The same holds for the prohibitions of market abuse pursuant to Articles 3 and 5 of REMIT.

II.1.3. What are the benefits of greater transparency in wholesale energy trading?

Wholesale energy markets provide key price signals which affect the choices of producers and consumers, as well as investment decisions in production facilities and transmission and distribution infrastructure. It is therefore essential that these signals reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.

Greater transparency in wholesale energy markets reduces the risk that markets are manipulated and the price signals distorted. Transparency in wholesale energy markets is thus crucial in ensuring that consumers pay the fair price for their gas and electricity. It also helps creating a level-playing field for all market participants.

II.1.4. Why do we need an EU framework for wholesale energy transparency and integrity?

Wholesale energy markets in Europe are increasingly interlinked across the Union. Market abuse in one Member State will likely also affect the price of energy in other Member States.

Only a few Member States have so far succeeded in organising the monitoring of the wholesale energy markets within their own borders. Trading venues often have no clear prohibition of market abuse. Most of the transactions are not reported and fundamental data is not accessible to NRAs. On this basis, the European Union judged it essential to set up a dedicated market integrity and transparency framework at Union level for the gas and electricity wholesale markets.

II.2. The role of the Agency

II.2.1. What is the role of the Agency under REMIT?

The Agency for the Cooperation of Energy Regulators plays a central role in the new monitoring framework under REMIT.

As recognised in REMIT, the Agency is best placed to carry out efficient market monitoring at Union level as it has both a Union-wide view of electricity and gas markets, and the necessary expertise in the operation of electricity and gas markets and systems in the Union. Therefore the Agency has been tasked with collecting and screening wholesale market transaction data across the EU and performing an initial assessment of anomalous events, before notifying suspicious cases to NRAs for investigation.

II.2.2. Why centralise the monitoring at the Agency?

Wholesale energy markets are becoming increasingly interlinked across the Union. NRAs typically see only a part of these markets. A centralised approach to market monitoring with a holistic view of the markets is therefore essential to ensure effective detection and deterrence of abusive market practices. In addition, a centralised data collection will help to avoid double reporting of market participants active in several Member States will instead provide the Agency with a complete set of data on the EU wholesale energy market.

II.2.3. Will the Agency prosecute cases of market abuse?

No. Investigation of market abuse cases and prosecution of market participants are left to NRAs. Member States had until 29 June 2013 (eighteen months from the date on which REMIT entered into force) to adapt their legislation in order to give their national authorities the necessary powers to enforce REMIT.

II.2.4. What about the Agency's guidance on REMIT?

Under REMIT, the Agency is responsible to ensure that NRAs carry out their monitoring and enforcement tasks in a coordinated and consistent way. In this context, the Agency is publishing non-binding Guidance, directed to NRAs, which aims at providing a common understanding on how the definitions and provisions in REMIT are applied. The Guidance is published at the Agency's website for the sake of transparency.

The Agency's Guidance does not constitute a legal interpretation of REMIT as this would go beyond the Agency's competence. The Guidance is updated from time to time to reflect changing market conditions and the experience gained by the Agency and NRAs in the implementation of REMIT, including through the feedback of market participants and other stakeholders.

II.3. REMIT definitions

II.3.1. What is market abuse?

The definitions in REMIT are based on the definitions in MAD¹, but tailored to the gas and electricity markets. Market abuse means insider dealing and market manipulation, which have become explicitly prohibited with the entry into force of REMIT.

The following seven types of behaviour may amount to market abuse, the first three of which relate to insider trading, the last four to market manipulation, including attempted market manipulation:

1. Insider trading – when an insider trades, or tries to trade, on the basis of inside information;
2. Improper disclosure of inside information – where an insider improperly discloses inside information to another person, unless such disclosure is made in the normal course of the exercise of their employment, profession or duties;
3. Recommending on the basis of inside information – where an insider is recommending or inducing another person, on the basis of inside information, to acquire or dispose of wholesale energy products to which that information relates;
4. False/misleading transactions – trading, or placing orders to trade, which gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale energy products;
5. Price positioning – trading, or placing orders to trade, which secures or attempts to secure, by a person, or persons acting in collaboration, the price of one or several wholesale energy products at an artificial level, unless the person who entered into the transaction or issued the order to trade establishes that his reasons for doing so are legitimate and that that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned;

¹Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive, MAD).

6. Transactions involving fictitious devices/deception – trading, or placing orders to trade, which employs fictitious devices or any other form of deception or contrivance; and
7. Dissemination of false and misleading information – giving out information that conveys a false or misleading impression about a wholesale energy product where the person doing this knows the information to be false or misleading.

II.3.2. What is inside information?

Article 2 of REMIT defines “inside information” by means of the following four criteria information of a (1) precise nature, (2) which has not been made public, (3) which relates, directly or indirectly, to one or more wholesale energy products (4) and which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products.

In its non-binding Guidance on the application of the definition of inside information, the Agency considers that, in view of the current limited experiences with the application of the definition of inside information in the wholesale energy market, the notion of “inside information” should currently be primarily understood in relation to:

- Information which is required to be made public in accordance with Regulations (EC) No 714/2009² and (EC) No 715/2009³, including guidelines and network codes adopted pursuant to those Regulations. This includes information referred to in Commission Regulation (EU) No 543/2013⁴, which amends the guidelines annexed to Regulation (EC) No 714/2009;
- Information relating to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities, and;
- Information which is required to be disclosed in accordance with other legal or regulatory provisions at Union or national level, insofar as this information is likely to have a significant effect on the prices of wholesale energy products.

Experience will show which kind of other information is likely to have a significant effect on the prices of one or more wholesale electricity products if made public.

These considerations apply until more experience is gained about the notion of inside information in wholesale energy markets. The Agency believes that respect of the aforementioned transparency requirements is currently essential to avoid breaches of inside information rules.

Further guidance on this subject will be provided by the Agency as soon as more experience on the application of REMIT is gained, as the definition of inside information will evolve over time.

²Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity.

³ Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

⁴ Commission Regulation (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council.

II.3.3. Who is considered an insider?

According to Article 3(2) of REMIT, the prohibition of insider trading applies to the following persons who possess inside information in relation to a wholesale energy products (insider):

- members of the administrative, management or supervisory bodies of an undertaking;
- persons with holdings in the capital of an undertaking;
- persons with access to the information through the exercise of their employment, profession or duties;
- persons who have acquired such information through criminal activity; and
- persons who know, or ought to know, that it is inside information.

II.3.4. What are possible examples of market manipulation?

The Agency's non-binding guidance provides examples of the various types of practices which could constitute market manipulation and which are inspired by European energy regulators' own experiences and the experiences in financial markets. These can therefore be taken as indicating possible signals of market manipulation in wholesale energy markets according to REMIT. These considerations apply until more experience is gained about market manipulation in wholesale energy markets.

More generally, the Agency considers that market participants' behaviour must be coherent with their technical and economic constraints in a way to comply with competition law, especially concerning market power exercise. The cooperation of the Agency and NRAs with the competition authorities, as foreseen by REMIT, must be understood in this respect. The Agency will review its Guidance on market manipulation and publish a revised Guidance if considered appropriate.

II.3.5. Who is considered a market participant?

Article 2(7) of REMIT states that a *"market participant"* means any person, including transmission system operators, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets.'

In its Guidance to NRAs, the Agency considers at least the following persons to be market participants under REMIT if entering into transactions, including orders to trade, in one or more wholesale energy markets:

- Energy trading companies in the meaning of 'electricity undertaking' pursuant to Article 2(35) of Directive 2009/72/EC⁵ carrying out at least one of the following functions: transportation, supply, or purchase of electricity, and in the meaning of 'natural gas undertaking' pursuant to Article 2(1) of Directive 2009/73/EC⁶ carrying

⁵Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC.

⁶Directive 2009/73/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in natural gas and repealing Directive 2003/55/EC.

out at least one of the following functions: transportation, supply or purchase of natural gas, including LNG;

- Producers of electricity or natural gas in the meaning of Article 2(2) of Directive 2009/72/EC and Article 2(1) of Directive 2009/73/EC, including producers supplying their production to their in-house trading unit or energy trading company;
- Shippers of natural gas;
- Balance responsible entities;
- Wholesale customers in the meaning of Article 2(8) of Directive 2009/72/EC and Article 2(29) of Directive 2009/73/EC;
- Final customers in the meaning of Article 2(9) of Directive 2009/72/EC and Article 2(27) of Directive 2009/73/EC, acting as a single economic entity, that have a consumption capacity of 600 GWh or more per year for gas or electricity. If the consumption of a final customer takes place in markets with interrelated prices, his total consumption capacity is the sum of his consumption capacity in all those markets;
- Transmission system operators (TSOs) in the meaning of Article 2(4) of Directive 2009/72/EC and Directive 2009/73/EC;
- Storage system operators (SSOs) in the meaning of Article 2(10) of Directive 2009/73/EC;
- LNG system operators (LSOs) in the meaning of Article 2(12) of Directive 2009/73/EC, and
- Investment firms in the meaning of Article 4(1) No 1 of Directive 2004/39/EC⁷.

The crucial criterion for the assessment of whether a company is a market participant is the entering into transactions, including the placing of orders to trade, in wholesale energy markets.

II.3.6. What wholesale energy markets and products are covered by REMIT?

Wholesale energy markets include both commodity markets and derivative markets. The wholesale energy markets include, inter alia, regulated markets, multilateral trading facilities and over-the-counter (OTC) transactions and bilateral contracts, direct or through brokers.

REMIT applies to wholesale energy markets, which means any market within the Union on which wholesale energy products are traded.

According to Article 2(4) of REMIT, wholesale energy products means the following contracts and derivatives, irrespective of where and how they are traded:

- a) contracts for the supply of electricity or natural gas where delivery is in the Union;

⁷Directive 2004/39/EC of the European Parliament and of the Council of 21 April 2004 on markets in financial instruments amending Council Directives 85/611/EEC and 93/6/EEC and Directive 2000/12/EC of the European Parliament and of the Council and repealing Council Directive 93/22/EEC.

- b) derivatives relating to electricity or natural gas produced, traded or delivered in the Union;
- c) contracts relating to the transportation of electricity or natural gas in the Union; and
- d) derivatives relating to the transportation of electricity or natural gas in the Union.

Contracts for the supply and distribution of electricity or natural gas for the use of final customers are not wholesale energy products. However, contracts for the supply and distribution of electricity or natural gas to final customers with a consumption capacity greater than 600 GWh per year shall be treated as wholesale energy products. Further guidance on the application of the definition of wholesale energy products is provided in the Agency's Guidance to NRAs.

The prohibitions of insider trading and market manipulation under REMIT do not apply to wholesale energy products which are financial instruments and to which Article 9 of MAD⁸ applies, i.e. wholesale energy products which are financial instruments admitted to trading on a regulated market in at least one Member State, or for which a request for admission to trading on such a market has been made, irrespective of whether or not the transaction itself actually takes place on that market. This exemption only applies to the prohibitions of insider trading and market manipulation. The REMIT obligations, data collection and monitoring apply to all kinds of wholesale energy products.

II.3.7. Do you consider person professionally arranging transaction in wholesale energy product as an organised market place?

Under Article 8(4)(d) of REMIT: "for the purposes of paragraph 1, information shall be provided by: [...] (d) an organised market, a trade-matching system or other person professionally arranging transactions;."

In line with the above provision of REMIT, organised market places fall under the definition of persons professionally arranging transactions.

Having said that, and under Article 15 of REMIT, organised market places are required to:

- (i) notify transactions that might breach Articles 3 and 5 of REMIT; and
- (ii) establish and maintain effective arrangements and procedures to identify breaches of Articles 3 and 5 of REMIT.

⁸Directive 2014/57/EU of the European Parliament and of the Council of 16 April 2014 on criminal sanctions for market abuse (market abuse directive, MAD).

II.4. Obligations and prohibitions for market participants

General

II.4.1. I am a market participant. What obligations do I need to fulfil as of 28 December 2011?

As of 28 December 2011, with the entry into force of REMIT, market participants are subject to the obligation to (1) publish inside information in an effective and timely manner; (2) notify ACER and competent NRAs in case of delayed publication of inside information. The prohibition of market manipulation, attempted market manipulation and the prohibition of insider trading also came into effect as of 28 December 2011.

II.4.2. I am a market participant. What obligation do I need to fulfil after Commission Implementing Regulation (EU) No 1348/2014 entered into force on 7 January 2015?

After 7 January 2015, when Commission Implementing Regulation (EU) No 1348/2014 entered into force, market participants and third parties reporting on their behalf will have to:

- a) within nine months, i.e. by 7 October 2015, report transactions in wholesale energy contracts admitted to trading at Organised Market Places and fundamental data from the ENTSOs central information transparency platforms, and,
- b) within fifteen months, i.e. by 7 April 2016, report transactions in the remaining wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from TSOs, LSOs and SSOs.

Also, please note that market participants entering into transaction which are required to be reported to the Agency in accordance with Article 8(1) of REMIT and Commission Implementing Regulation (EU) No 1348/2014 are obliged to register with the NRA in the Member State in which they are established or resident or, if they are not established or resident in the EU, in a Member State in which they are active. A market participant shall register only with one NRA. A list of all NRAs can be found here: <https://www.acer-remit.eu/portal/ceremp>.

Obligation to disclose inside information and market abuse prohibitions

II.4.3. Obligation to disclose inside information?

According to the general rule of Article 4(1) of REMIT, market participants shall publicly disclose in an effective and timely manner inside information which they possess in respect of business or facilities which the market participant concerned, or its parent undertaking or related undertaking, owns or controls or for whose operational matters that market participant or undertaking is responsible, either in whole or in part.

Such disclosure shall include information relevant to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of

these facilities. In its guidance to NRAs, the Agency provides its understanding of the notions of effective and timely public disclosure of inside information.

II.4.4. Notification to the Agency of delayed disclosure of inside information?

In order to assist those market participants who are subject to the obligation to report delayed publication of inside information, the Agency has developed a standard notification template, based on the experiences in financial markets, and recommends its adoption by all NRAs.

The Agency foresees to collect the notification of such delayed publication of inside information mainly electronically, especially when there are data standards relating to this information (e.g. for information to be published in accordance with Regulations (EC) No 714/2009⁹ and (EC) 715/2009¹⁰). The relevant electronic application is available on via the Agency's **Notification Platform**:

<https://www.acer-remit.eu/portal/notification-platform>.

II.4.5. I am a person professionally arranging transactions. What obligations do I need to fulfil as of 28 December 2011 and how?

As of 28 December 2011, with the entry into force of REMIT, persons professionally arranging transactions (e.g. energy exchanges and brokers) are obliged to (1) establish effective arrangements to identify breaches; (2) notify NRAs in case of reasonable suspicion of market abuse.

The Agency considers that it would assist those subject to the obligation to report suspicious transactions if there were a standard reporting format for doing so and therefore has developed an electronic template to report suspicious transactions to NRAs. The relevant electronic template is available via the Agency's **Notification Platform**:
<https://www.acer-remit.eu/portal/notification-platform>.

II.4.6. What should I do if I become aware of potential market abuse?

If you become aware of potential market abuse, we would like to hear about it. Please contact us via the Agency's **Notification Platform**:

<https://www.acer-remit.eu/portal/notification-platform>.

⁹Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity.

¹⁰Regulation (EC) No 715/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the natural gas transmission networks and repealing Regulation (EC) No 1775/2005.

Registration and reporting obligations

II.4.7. Is there a risk of creating double reporting obligations?

REMIT has been designed to ensure that there are no double reporting obligations. Where data is reported under the EU market legislation, the Agency will use existing reporting channels as much as possible for collecting the information required to effectively monitor the wholesale energy markets.

The Agency closely cooperates with EU financial regulators, both at EU level (with ESMA, the European Securities and Markets Authority) and at national level (with national financial regulators as appropriate).

II.4.8. [last update 29 May 2015] In the CEREMP system, the EIC code is no mandatory information (field). If the company has an EIC code but does not fill it in, would the registration be returned to the market participant to complete the missing information? What about the BIC, LEI and GS1 codes?

According to Article 10(2) of Commission Implementing Regulation (EU) No 1348/2014, when reporting information referred to in Articles 6, 8 and 9 of the same Implementing Regulation, including inside information, the market participant shall identify itself, or shall be identified by the third party reporting on its behalf, using the ACER registration code which the market participant received or the unique market participant code which the market participant provided while registering in accordance with Article 9 of REMIT.

This means that any EIC, BIC, GS1 or LEI code used for reporting purposes must be provided with the registration as market participant.

According to the Agency Decision No 01/2012 on the registration format, the EIC code is mandatory only if it is available. The content of the field cannot be technically verified as there is no database of the issued EIC codes available that could be used for the validation against the data provided in CEREMP. Thus the field has to stay optional for technical reasons.

It is a market participant's responsibility to provide the correct data and update them if necessary.

II.4.9. [last update 29 May 2015] If a company has more than one EIC code, which one must be used? Does it depend on the market participant?

A market participant can use any of the EIC codes that it possesses, but it should be the one used for reporting purposes. According to Article 10(2) of Commission Implementing Regulation (EU) No 1348/2014, when reporting information referred to in Articles 6, 8 and 9 of the same Implementing Regulation, including inside information, the market participant shall identify itself or shall be identified by the third party reporting on its behalf using the ACER registration code which the market participant received or the unique market participant code which the market participant provided while registering in accordance with Article 9 of REMIT.

II.4.10. [last update 29 May 2015] When a market participant registers with CEREMP they have to indicate related undertakings in Section 4 of the registration form (“Data related to corporate structure of the market participant”). Does this only refer to those related undertakings that are market participants themselves?

Yes. This is in line with Section 4 of the Agency Decision No 01/2012 which states: ‘*The following information is requested for each market participant and for each related undertaking under the Seventh Council Directive 83/349/EEC¹¹ of 13 June 1983 that is a registered market participant.*’

II.4.11. [last update 29 May 2015] Shall TSOs register as market participants, reporting parties or both?

Any entity that identifies itself as a market participant, under Article 2(7) of REMIT, should register as such with the relevant NRA, in line with the provisions of Article 9(1) of REMIT. Please note that Article 2(7) of REMIT defines that “market participant” means any person, including transmission system operators, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets.’

If the market participant intends to report directly its own data, in total or in part (self-reporting), it should indicate this via CEREMP (Section 5 of the registration form). The RRM registration process will then commence directly from CEREMP.

If the market participant decides to use one or more RRM(s) to report the market participant’s data on its behalf, it has to indicate which RRM service(s) it intends to use (CEREMP - Section 5).

II.4.12. [last update 29 May 2015] Does a market participant that only reports contracts in accordance with EMIR¹²/MIFIR¹³ need to register?

Yes, any market participant according to Article 2(7) of REMIT has an obligation to register with the relevant NRA in line with Article 9(1) of REMIT.

¹¹Seventh Council Directive [83/349/EEC](#) of 13 June 1983 based on Article 54(3)(g) of the Treaty on consolidated accounts.

¹² Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR).

¹³ Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (MIFIR).

II.4.13. [last update 29 May 2015] In the RRM Requirements document (Chapter 6.2.1) it is stated that ‘those market participants that do not wish to become RRM, shall indicate in Section 5 of the registration form to whom they permanently delegate the reporting of data’. Could you please clarify if the decision on which RRM to use is “permanent”?

Market participants are not required to permanently delegate reporting of data to a particular RRM. If a market participant decides to change its RRM that market participant is required to update Section 5 of the registration form accordingly, in line with Article 9(5) of REMIT.

The term “permanently” only aims to distinguish between the delegation to third party RRM and to the situations where one counterparty reports the details of a contract also on behalf of the other counterparty according to Article 6(7) of Commission Implementing Regulation (EU) No 1348/2014. In the latter case, the other market participant does not have to be identified as an RRM in Section 5 of the registration form.

II.4.14. [last update 29 May 2015] Can the market participants change the RRM they have selected in Section 5 of the registration form if they decide to use a different RRM to report?

Yes, market participants are free to change the RRM through which they report. However, if a market participant decides to change its selected RRM, Section 5 of the registration form should be updated to reflect this change.

II.4.15. [last update 29 May 2015] Does a market participant have to register twice within CEREMP if it has to report both electricity and gas data?

If it is the same market participant, then the market participant has to register within CEREMP only once as defined in Article 9(1) of REMIT.

II.4.16. [last update 29 May 2015] Does a market participant with multiple sites in Europe have to register within CEREMP in every country it trades/is active?

Please see Article 9(1) of REMIT and Chapter 4.5 of the 3rd edition of ACER Guidance on the application of REMIT. The market participant entering into transactions which are required to be reported to the Agency has the obligation to register only in one Member State.

II.4.17. [last update 29 May 2015] Do different economic entities belonging to the same group/corporation (i.e. intra-groups entities) have to register within CEREMP themselves? Even if they are not obliged to report?

The obligation to register within CEREMP under Article 9(1) of REMIT applies to market participants (natural or legal persons) entering into transactions which are required to be reported. Within a group of companies, all legal entities who enter into transactions that are required to be reported must register in CEREMP.

Market participants that only enter into intragroup contracts are still required to register, although such contracts are only reportable upon reasoned request of the Agency and on an ad-hoc basis, in line with Article 4 of Commission Implementing Regulation (EU) No 1348/2014.

In addition, please note that the Market Monitoring Department of the Agency adopted a 'No-action letter' to provide time-limited no-action relief from the requirement to report contracts and details of transactions in relation to those contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 upon reasoned request of the Agency. The No-action letter is available here: <https://www.acer-remit.eu/portal/acer-staff-letters-doc>.

However, this no-action relief is without prejudice to the obligation to register with the competent NRA as a market participant according to Article 9(1) of REMIT.

II.4.18. [last update 29 May 2015] Does the ACER code need to be changed if a market participant decides to change its address from one Member State to another Member State (e.g. headquarter for legal entity)?

Yes. In line with Article 9(5) of REMIT, the market participant has an obligation to communicate promptly to the NRA any changes which have taken place regarding the information provided in the registration form. In case the market participant changes its address from one Member State to another Member State (e.g. headquarter for legal entity), the ACER code changes. The old ACER code will be deleted and the market participant is required to submit a new registration with the new relevant NRA.

II.4.19. [last update 29 May 2015] During the registration process within CEREMP, the market participant has to indicate a link to the website where it is publishing the inside information. Can the market participant indicate a link not belonging to its organisation (e.g. TSO website)?

Yes, as long as the URL provided allows direct access to the inside information published by the market participant.

Provided that the place of publication of inside information is different than the home page of the market participant's website (defined in Field 119 of the Agency Decision No 1/2012), the market participant is obliged to indicate an URL where it is publishing inside information (Field 120 of the Agency Decision No 1/2012).

In general, if a market participant's own home page is not used for publication of inside information, a market participant is obliged to indicate a:

- (i) URL to a specific page on its own website, other than the homepage, where the inside information is published; or
- (ii) URL to a third party website; as far as it is a link that allows direct access to the inside information published by the market participant.

II.4.20. [last update 29 May 2015] Shall market participants select all RRM they are using for data reporting in CEREMP Section 5 (in case there is more than one)?

Yes. The market participant is obliged to choose all RRM reporting its data, with exception to RRM listed in Section 6.2.1 of the RRM Requirements.

II.4.21. [last update 29 May 2015] Section 2 of CEREMP requires the identification of related persons responsible for trading decisions. If a market participant has several employees working at the trading division, shall it include all traders in Section 2 of CEREMP?

No. Only the person responsible for trading decisions of the particular division for trading should be mentioned in Section 2 of CEREMP.

II.4.22. [last update 29 May 2015] Can market participants have more than one ultimate controller?

Yes. In line with Section 3 of the Agency Decision No 01/2012, market participants can have one or more ultimate controllers.

The Agency regards a legal or natural person as an ultimate controller of a market participant if:

- It holds 10 % or more of the shares in the market participant or its parent OR
- It is able to exercise significant influence over the management of the market participant through a controlling interest in the market participant or its parent OR
- It is entitled to control or exercise control of 10 % or more of the voting power in the market participant or its parent OR
- It is able to exercise significant influence over the management of the market participant through their voting power in the market participant or its parent.

II.4.23. [last update 29 May 2015] Why do we need to register a contact person in CEREMP instead of solely the company? What are responsibilities of such contact person? Is this contact person potentially subject to questioning/interrogation? What should we do if the contact person decides to leave the company?

Under Article 9(2) of REMIT and Section 2 of the Agency Decision No 1/2012, the market participant has an obligation to indicate data related to natural persons linked to the market participant (Fields No 202 to 214).

The potential responsibility of the natural person related to a market participant has to be considered in line with the applicable national law.

It is the market participant's obligation to update this information in the national register of market participants (please see Article 9(5) of REMIT).

II.4.24. [last update 30 June 2015] If a supplier does not purchase electricity/gas directly in wholesale energy markets (for example at an organised market place) but its energy needs are purchased from a larger supplier through a bilateral contract, shall the smaller supplier be considered as market participant and be obliged to register with an NRA under Article 9(1) of REMIT?

In line with Article 2(4)(a) of REMIT, contracts for supply of electricity/gas, where delivery is in the EU, are considered as wholesale energy products. Furthermore, in line with Recital (5) of REMIT, wholesale energy markets encompass, among others, bilateral contracts. Therefore, the smaller supplier trading contracts under Article 2(4)(a) of REMIT will be considered as a market participant under REMIT.

In line with Article 9(1) of REMIT, market participants entering into transactions, which are required to be reported to the Agency, shall register with the relevant NRA. If the bilateral contract is reportable to the Agency then the supplier will be obliged to register with the relevant NRA.

II.4.25. [last update 30 June 2015] Shall a final customer party to a contract as referred to in Article 3(1)(a)(vii) of Commission Implementing Regulation No 1348/2014 (i.e. supply to single consumption unit ≥ 600 GWh) be obliged to register?

If a supply contract fulfils the criteria under Article 3(1)(a)(vii) of Commission Implementing Regulation No 1348/2014, such contract should be reported to the Agency. Consequently, a final customer being counterparty will be obliged to register as a market participant in line with Article 9(1) of REMIT.

II.4.26. [last update 30 June 2015] What should the market participant insert in the market participant registration form field of the ultimate controller's VAT (No 316 of Agency Decision No 1/2012) if its ultimate controller has no VAT number or is a state/public authority?

In case of a market participant whose ultimate controller does not obtain a VAT number, "XXXXXXXXXX" (10 times X) should be put in the aforementioned field of the market participant registration form where the VAT number is required.

The state, municipality or other public entity should be registered as an ultimate controller by providing the name and the VAT number of the state or municipality or other public entity.

II.4.27. [last update 30 June 2015] Concerning Section 5 of the market participant registration form, should market participants select themselves as potential RRM in case they intend to report directly only part of the trade data (OTC contracts) and through third party RRM the remaining data (standard contracts on organised market places)?

Yes, the market participants who intend to report part of the trade data themselves should indicate in Section 5 of the market participant registration form that they intend to report their own data.

II.4.28. [last update 30 June 2015] Concerning Section 5 of the market participant registration form, at what stage should the agreement between a market participant and an RRM be sent to ACER?

There is no a requirement to send the contracts between a market participant and an RRM to the Agency.

II.4.29. [last update 30 June 2015] How to identify market participants that play several roles (e.g. a TSO that has also a capacity trading platform)? Does the Agency allow one organisation to have several ACER codes?

The ACER code does not distinguish by roles, but aims at uniquely identifying market participants. A market participant with several roles will therefore still be identified by one unique ACER code.

II.4.30. [last update 30 June 2015] Should the BIC code be entered in the market participant registration form only if it belongs to the market participant i.e. the market participant is a Bank? Hence, it is not the BIC code where the market participant has a bank account?

According to Agency Decision No 01/2012, the definition of field 114 foresees that the BIC code should contain the Bank Identifier Code of the Market Participant (only if available). Please note that the BIC code can be attributed to financial and non-financial institutions. The list of BIC codes can be accessed via <http://www.swift.com/bsl/> . The BIC code of the bank where the market participant has its bank account is not a unique code issued for a market participant as it belongs to the bank (not to the market participant) and thus it should not be provided.

II.4.31. [last update 31 July 2015] The owners of underground storage participate as counterparties in the auctions related to the purchase of the needed cushion gas. Shall the owners of underground storage companies register as market participants?

Yes, the owners of underground storage are counterparties of transactions related to wholesale energy products under REMIT that shall be reported to the Agency. Therefore, they will be required to register as market participants under REMIT.

Please note that Article 3(1)(vi) of Commission Implementing Regulation (EU) No 1348/2014, refers to other contracts for the supply of natural gas with a delivery period longer than two days where delivery is in the European Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded.

II.4.32. [last update 31 July 2015] Could you please clarify the registration/reporting obligation under Article 4(1) and (2) of Commission Implementing Regulation (EU) No 1348/2014 in relation to contracts for the physical delivery of electricity produced by wind turbines? Which contracts for the physical delivery of electricity remain below the threshold of 10MW?

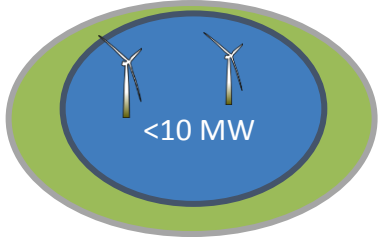
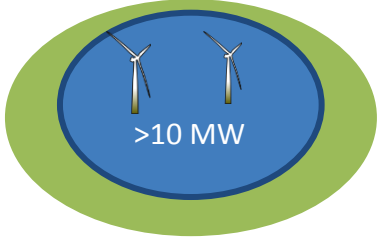
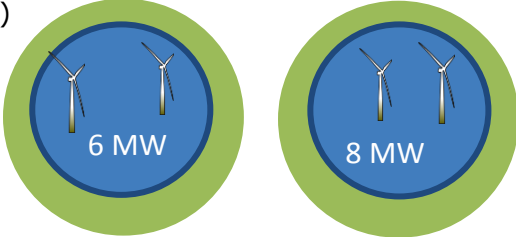
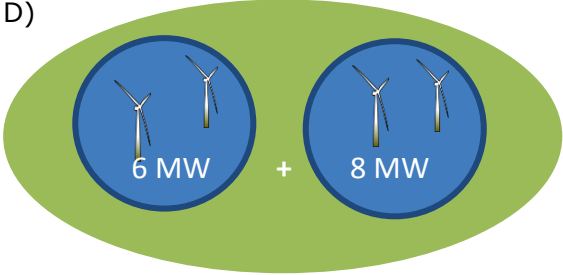


In line with Article 4(1)(b) of Commission Implementing Regulation (EU) No 1348/2014, contracts for the physical delivery of electricity produced by a single production unit with a capacity equal to or less than 10MW or by production units with a combined capacity equal to or less than 10MW shall be reportable only upon reasoned request of the Agency, unless concluded on organised market places. Thus, market participants who only complete such transactions do not have to register at the relevant NRA.

According to Article 2(13) of Commission Implementing Regulation (EU) No 1348/2014, production unit means a facility for generation of electricity made up of a single generation unit or of an aggregation of generation units. Thus, a production unit is not always a single production unit (e.g. one wind turbine) but it can also be a combination of units (e.g. several wind turbines). In defining a production unit the spatial proximity and the ownership structure are relevant. Thus, a production unit might be a part of a wind farm (e.g. 5 wind turbines) owned by one market participant.

That leads to the following specific examples for wind power plants (accordingly for other types of production):

- A) Contracts for the physical delivery of electricity of a wind farm (or parts of the wind farm) with a total production capacity of less than 10MW are not reportable (diagram at the top left).
- B) Contracts for the physical delivery of electricity of a wind farm (or parts of the wind farm) larger than 10MW are reportable (diagram at the top right).
- C) If a market participant has more than one wind farm (or parts of a wind farm) at his disposal which are spatially separated and each of it has a production capacity of less than 10MW and which are marketed in different contracts, these contracts are not reportable (diagram at the bottom left).
- D) If a market participant has more than one wind farm (or parts of a wind farm) at his disposal which are spatially separated and each of it has a production capacity of less than 10MW and which are marketed in one common contract, this contract is reportable (diagram at the bottom right).

If the marketing of the production capacity is performed by a third-party – e.g. the operator of a wind farm – and the wind farm has got a total production capacity larger than 10MW, this third-party has to register as market participant and to report the corresponding contracts.

No registration No continuous transaction reporting	Registration and transaction reporting compulsory
<p>A)</p> 	<p>B)</p> 
<p>C)</p> 	<p>D)</p> 
<p>  Contract for the physical delivery of electricity  Production unit </p>	

II.4.33. [last update 31 July 2015] In a consortium for the purchase of electricity and gas in the energy wholesale market, each associate member owns a share of less or equal to 0,93%. None of these members is: i) able to exercise a significant influence over the management of the market participant through a controlling interest in the consortium or its parent undertaking; ii) entitled to control or exercise control of 10% or more of the voting power in the market participant or its parent undertaking; iii) able to exercise significant influence over the management of the market participant through their voting power in the market participant or its parent undertaking. Who is/are the beneficiary/ultimate controller(s)? How to fill in the corresponding fields (compulsory) in the market participant registration form?

Please note that, where ownership of shares in a market participant is beneficially held by individuals who do not meet ultimate controller's criteria, it is unlikely that the market participant will have an ultimate controller and therefore the company itself will be its own ultimate controller and shall be inserted as ultimate controller.

II.4.34. [last update 31 July 2015] Should final customers contracts traded at the organised market be reported? Should the final customer who is party to the contract traded at the organised market be required to register?

It is the Agency's understanding that all contracts traded at organised market places are reportable records of transactions of wholesale energy products and should be reported in line with Article 8 (1) of REMIT and with the rules defined in Commission Implementing Regulation (EU) No 1348/2014. Having said that, final customers' contracts traded at organised market places should be reported to the Agency and the final customer is required to register in line with Article 9(1) of REMIT.

II.4.35. [last update 31 August 2015] Where I can find if a company is registered as market participant under REMIT?

Market participants that enter into transactions which need to be reported to the Agency, shall register with the National Regulatory Authority in the Member State in which they are established or resident or, if they are not established or resident in the Union, in a Member State in which they are active. A market participant shall register only with one National Regulatory Authority.

National Regulatory Authorities shall transmit the information in their national registers to the Agency. Based on that information, the Agency establishes a European register of market participants which is made public partly under: <https://www.acer-remit.eu/portal/european-register>. Please note that information on market participants is not yet available from all Member States. Therefore, the information available in the European register of market participants is only an initial set of market participants and more information will be added to the database in future.

II.4.36. [last update 31 August 2015] In case of a market participant which is not established in Europe (for example in the USA), how should the market participant fill in the field "VAT number" of the registration form?

In case the market participant does not have the VAT number, it should insert in the data field "VAT number" its equivalent of the VAT number. If it does not have the VAT's equivalent number, 'XXXXXXXXXX' (10 times X) should be filled in the registration form.

II.4.37. [last update 31 August 2015] If a production site of electricity has an installed capacity of 12 MW, self-consumes most of this consumption, and sells the remaining electricity bilaterally through a contract, is this contract reportable under REMIT and should the contractual entity register and report the data?

If a contract for the physical delivery of electricity relates to the single production unit with a capacity above 10 MW (Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014), it should be reported to the Agency and the market participant entering into such contract should register with the relevant National Regulatory Authority in line with Article 9(1) of REMIT. Therefore, in this example, the bilateral contract should be reported and the contractual entity should register with the relevant National Regulatory Authority.

II.4.38. [last update 30 September 2015] During the market participant's registration process with the NRA, by mistake, a company has flagged the box in Section 5 of the registration form indicating that 'I intend to become a reporting entity'. However, the company does not want to register as an RMM. Could you please advise us how this mistake can be corrected?

If a market participant has mistakenly ticked the 'I intend to become a reporting entity' option in Section 5 of the CEREMP registration form, please send an email to the ARIS CSD (servicedesk@support.acer-remit.eu) requesting that the RRM Registration process is terminated for this market participant. The ACER Code and the name of the market participant should be clearly stated in that request.

ACER will process the request and untick the relevant option in the market participant's profile. Following that, the market participant will be able to select the RRM it wishes to delegate its reporting responsibility to.

II.4.39. [last update 30 September 2015] When does a company that only engages in intragroup trading need to register by?

Market participants who engage in intragroup trading via an organised market place shall register by 7 October 2015. Unless concluded on an organised market place, intragroup contracts shall be reportable only upon reasoned request of the Agency and on an ad-hoc basis.

While the Agency has provided time-limited no-action relief from the requirement to report upon reasoned request for such contracts until 31 December 2016, market participants are required to submit the registration form to the national regulatory authority prior to entering into a transaction that is required to be reported to the Agency in accordance with Article 8(1) of REMIT.

As such, market participants that only engage in intragroup trading outside of an organised market place should register by 7 April 2016, in line with the start of transaction reporting for any contracts which have been concluded outside an organised market place.

II.4.40. [last update 30 September 2015] If a party enters into a contract that falls under both Article 4(1)(a) [intragroup contract] and Article 4(1)(b) [contract for physical delivery of electricity produced by single production unit with a capacity equal to or less than 10MW etc.] of Commission Implementing Regulation (EU) No 1348/2014, would that party be required to register as a market participant under REMIT?

According to Article 4(2) of Commission Implementing Regulation (EU) No 1348/2014, market participants only engaging in transactions in relations to the contracts referred to in Article 4(1)(b) and (c) shall not be required to register with the NRA. The Agency considers that this applies irrespective of whether the contract is intragroup or not.

Therefore, the party only entering into intragroup transactions in relation to a contract under Article 4(1)(b) or (c) shall not be required to register.

II.4.41. [last update 30 October 2015] Our company entered into a Winter 2015-16 contract in June 2015 which we understand needs to be backloaded to the Agency. Do we need to register with our national regulatory authority?

Yes. While the contract was concluded before the start of transaction reporting and it remains outstanding at the start of transaction reporting, it has become a reportable contract. Pursuant to Article 7(6) of Commission Implementing Regulation (EU) No 1348/2014, the outstanding contract has to be reported within 90 days of the applicable reporting day.

The market participants shall register with the relevant national regulatory authority within 90 days after the go-live on 7 October 2015, i.e. by 5 January 2016 at the latest and in any case prior to the reporting of the backloaded contract to the Agency. In order to facilitate the registration and reporting processes, the Agency advises the market participants to register well in advance of reporting of their outstanding contracts.

II.4.42. [last update 8 January 2016] Is there any record keeping obligation on market participants beyond what is already required from RRM's? If so, please clarify the exact scope, e.g. period of record keeping?

As for the record keeping obligations by market participants, please note that the obligation on record keeping as laid down in the RRM Requirements document applies only to the RRM's. However, there can be other obligations arising from national or other applicable legislation that the market participants may want to consider for their overall compliance.

II.4.43. [last update 16 February 2016] I am no longer a REMIT market participant with a reporting obligation and will not enter into any further wholesale energy transactions pursuant to REMIT. Can I de-register from the National Register of market participants?

Should a market participant no longer enter into reportable transactions and should its reporting obligations pursuant to REMIT and Commission Implementing Regulation (EU) No 1348/2014 have been completely fulfilled (i.e. its contracts have been delivered and are no longer valid), the market participant can request the relevant NRA to delete its registration from the National Register of market participants

II.4.44. [last update 16 February 2016] What obligations does a market participant have under REMIT if the market participant owns or controls multiple sites as a single economic entity, each of which has a consumption capacity less than 600GWh, but which have a total technical capacity to consume more than 600GWh?

Pursuant to Article 2(4) of REMIT, any contract for the supply and distribution of electricity or natural gas to such a final customer is considered as a wholesale energy product, so the final customer entering into these contracts is a market participant.

In this example there is no obligation for the market participant to report contracts for the supply of energy to its consumption sites. The final customer contracts that are reportable to the Agency are those under Article 3(1) (a) (vii) of Commission Implementing Regulation (EU) No 1348/2014 where the contract is for the supply to a single consumption unit with a technical capability to consume more than 600GWh/year or more, unless the market participant trades these contracts on an organised market place or enters into sale contracts outside an organised market place.

In the case where the market participant only buys these contracts for consumption outside an organised market place, the market participant will not have to register with the relevant NRA as the market participant is not entering into transactions which are required to be reported to the Agency in accordance with Article 8(1) of REMIT. However, such a final customer as a market participant is still subject to REMIT, including the obligation to publish inside information according to Article 4 of REMIT and the prohibition of market manipulation, including attempted market manipulation, according to Article 5 of REMIT.

II.4.45. [last update 16 February 2016] In case a market participant, which is trading at several organised market places, wants to have a consolidated view of all records of transactions, including orders to trade, how can this be achieved other than reporting through one single RRM?

Rather than selecting one single third-party RRM for their reporting services to the Agency, market participants could benefit from the above-mentioned relief of taking reasonable steps if reporting through organised market places, as an RRM, or through a third-party RRM selected by the organised market place concerned. Since RRMs are obliged, under the Agency's RRM requirements, to share all data reported to the Agency with the market participant on their request, the market participant could choose one single third-party entity to collect any such already reported records of transactions, including orders to trade, from the various organised market places concerned in one consolidated way. This would also enable the market participant to report any life-cycle events through such single third-party entity and would enable them to build on the relevant reference IDs from the reports provided by the organised market place concerned to the Agency. Thus, with all necessary information from the organised market place concerned being provided through the single third-party entity, the reporting of lifecycle events can be linked to the originally reported information from the organised market place concerned. This can also include the information on the third party beneficiary.

Accordingly, for compliance purposes, the market participant may select a third party to collect all information reported by its different organised market places as RRMs in order

to monitor the reported data through one single tool. But such compliance monitoring tool should not be confused with changing the reporting channel to the Agency.

As described above, the Agency believes that the reporting of organised market place data through the organised market place concerned, or through a third-party RRM selected by the organised market place concerned, is the best way to ensure the necessary completeness, accuracy, timeliness and data quality for market monitoring purposes ('single order book') and the market participant is relieved from taking further steps necessary in order to verify completeness, accuracy and timeliness of the data submitted to the Agency to a minimum necessary.

II.4.46. [last update 24 March 2016] Is an operator of a refuelling station of natural gas for vehicles obliged to register in CEREMP?

ACER's view is that the provision of fuel to individual vehicles at a retail level is not a contract for the supply of energy in the scope of REMIT.

If an operator of a refuelling station of natural gas for vehicles enters only into a bilateral contract for the supply of natural gas for its refuelling station, it is obliged to register with its national regulatory authority only if this contract meets the criteria of Article 3(1)(a)(vii) of Commission Implementing Regulation (EU) No 1348/2014. However, if the operator of a refuelling station of natural gas for vehicles enters into other reportable contracts listed in Article 3(1) of Commission Implementing Regulation (EU) No 1348/2014 (e.g. including but not limited to contracts for the supply of energy traded on an organised market place or derivative contracts), then it is obliged to register with the relevant National Regulatory Authority.

II.4.47. [last update 8 June 2016] I am a market participant with reporting obligations pursuant to Article 8(1) of REMIT. However, I failed to register with the NRA of the Member State in which I am established before 7 April 2016 when the reporting obligations started. What should my actions be?

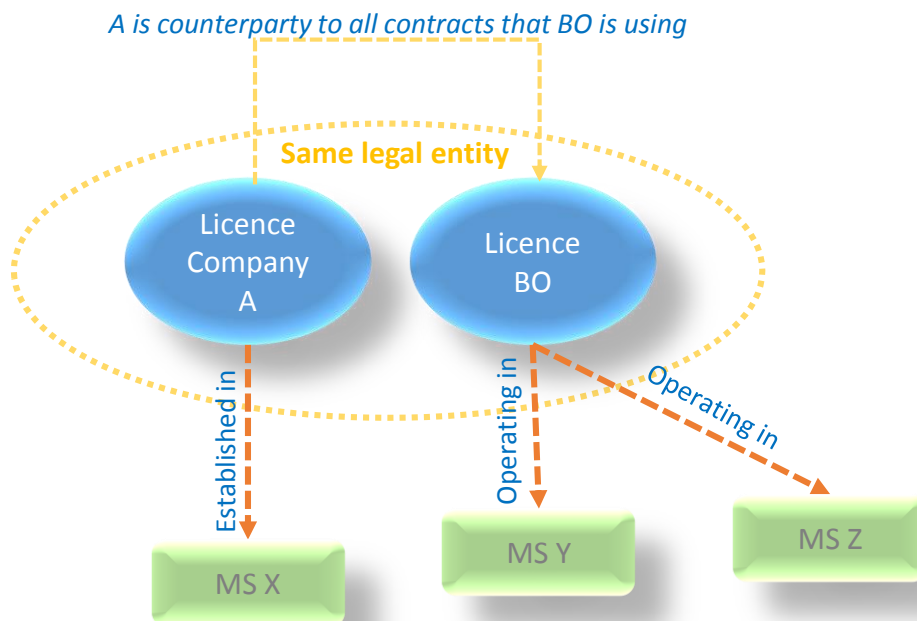
In accordance with Article 9(1) of REMIT, market participants entering into transactions which are required to be reported to the Agency in accordance with Article 8(1) of REMIT are obliged to register with the NRA in the Member State in which they are established or resident or, if they are not established or resident in the EU, in a Member State in which they are active.

For market participants entering into transactions on an organised market place, the registration obligation takes effect, at the latest, prior to entering into such transaction which is required to be reported to the Agency as of 7 October 2015. For all other market participants, the registration obligation takes effect, at the latest, prior to entering into transactions which are required to be reported to the Agency as of 7 April 2016. This means market participants shall submit their registration form to the relevant NRA prior to the first day on which they enter into transactions which are required to be reported to the Agency.

Consequently, the Agency considers that any person who enters into a transaction which is required to be reported to the Agency as of 7 October 2015 or as of 7 April 2016, and without having submitted the registration form to the relevant NRA, is in breach of Article

9 of REMIT. Sanctions for the breach of REMIT provisions are defined and enforced at national level, pursuant to Article 18 of REMIT.

II.4.48. [last update 31 August 2016] Company 'A' from Member State X creates a branch office ('BO') in Member State Y. The BO obtains a licence to operate in Member State Y and Member State Z (licence is in the name of BO, not A). The BO is still the same legal entity as the mother company A, however, BO and A hold two distinct energy licences granted by the NRA. The BO operates in Member State Y and Member State Z and is an interface towards the NRAs and TSOs in these Member States. However, at the same time, A is the counterparty to all BO's framework agreements. Which entity should register as a market participant under Article 9(1) of REMIT: (i) company A, (ii) BO or (iii) both companies A and BO?



The obligation to register with the relevant NRA under Article 9(1) of REMIT applies to market participants (natural or legal persons) entering into transactions which are required to be reported pursuant to Article 8(1) of REMIT. Within a group of companies, all legal entities who enter into transactions that are required to be reported must register with the relevant NRA(s). In the present case, provided that the company A is always party to the contract used by the BO, only the company A has an obligation to register with the relevant NRA pursuant to Article 9(1) of REMIT.

II.4.49. [last update 31 August 2016] I am a REMIT market participant and I have a question in relation to my registration in the national register of REMIT market participants. Who should I contact?

The registration of market participants is done on a national level. The Agency does not provide direct support to market participants for questions related to their registration in the national register of REMIT market participants. Market participants who have questions in relation to their registration, e.g. change/expiration of password, how to receive the ACER code, etc. should contact their relevant NRA. The contact details are available at: <https://www.acer-remit.eu/portal/ceremp>.

II.4.50. [last update 31 August 2016] I am a market participant and I am facing issues with my RRM in relation to reporting of my data to the Agency which can result in the potential breach of my reporting obligations under Article 8 of REMIT. Who should I contact?

In line with the Agency's internal procedures, all technical issues in relation to data reporting should be addressed to the Agency's Central Service Desk by the RRM reporting data on behalf of the market participant. The RRM should apply the ARIS Contingency Plan if necessary. Please note that the Agency does not have the powers to enforce REMIT. Sanctions for the breach of REMIT provisions are defined and enforced at national level by the relevant NRA, pursuant to Article 18 of REMIT.

II.4.51. [last update 31 August 2016] A company in the housing industry procures gas and transforms it into heat for the supply to end consumers. Are these contracts from the perspective of the utility subject to reporting obligations under Article 8 of REMIT? Is the company a REMIT market participant?

The Agency considers that transforming gas into heat does not qualify as a wholesale energy product under Article 2(4) of REMIT, thus, it is not reportable under REMIT. However, the Agency is of the view that this company in the housing industry is a final customer. If this company has a technical capability to consume 600 GWh/year or more, then the contract for the supply of natural gas is reportable pursuant to Article 3(1)(a)(vii) of Commission Implementing Regulation (EU) No 1348/2014. In that latter case, this company is a market participant entering into transactions which are required to be reported to the Agency under Article 8(1) of REMIT and shall register with the competent NRA pursuant to Article 9(1) of REMIT. Please note that final customers with a consumption capacity lower than 600 GWh/year should report all the contracts which are traded on an organised market place.

II.4.52. [last update 14 November 2016] Do the services provided by a Flexibility Service Provider (FSP) fall under the reporting obligation of Article 8 of REMIT? More specifically, if a customer has a contract with its electricity supplier to provide demand response services (e.g. an interruptible client) not related to balancing services (e.g. on day-ahead basis), does this contract have to be reported under

Article 8 of REMIT? If it is the case, could you provide the legal basis?

The Agency considers that the contract for the provision of demand response services qualifies as a wholesale energy product pursuant to Article (2)(4)(a) of REMIT and it has to be reported.

Pursuant to Article 3(1)(a)(ii) of Commission Implementing Regulation (EU) No 1348/2014, contracts involving a customer providing demand response services to a supplier and/or an aggregator should be reported on a continuous basis.

Pursuant to Article 4(1)(d) and Articles 2(9) and 2(11) of Commission Implementing Regulation (EU) No 1348/2014, contracts involving a customer providing demand response services to a TSO (i.e. balancing services) are reportable upon reasoned request of the Agency and on an ad-hoc basis. If a supplier or aggregator sells demand response volume they contracted from customers to the TSO, this contract between supplier or aggregator and TSO should be reported upon reasoned request of the Agency on an ad hoc basis.

In addition, please note that the Market Monitoring Department of the Agency adopted a 'No-action letter' to provide time-limited no-action relief from the requirement to report contracts and details of transactions in relation to those contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 upon reasoned request of the Agency. The No-action letter is available here: <https://www.acer-remit.eu/portal/acer-staff-letters-doc>.

II.4.53. [last update 14 November 2016] A gas production facility with a production capacity higher than 20 MW is owned by different shareholders. Each of the shareholders holds a net capacity of less than 20 MW, based on their individual share interests. Each partner in the facility has individual gas sale agreements with third parties. Are these contracts reportable at the request of the Agency pursuant to Article 4(1)(c) of Commission Implementing Regulation (EU) No 1348/2014?

Please note that Article 4(1)(c) of Commission Implementing Regulation (EU) No 1348/2014 applies to the contracts for the physical delivery of natural gas produced by a single natural gas production facility with a production capacity equal to or less than 20 MW, unless concluded on organised market places. Therefore, if the production capacity of the single natural gas production facility is above 20 MW, the contracts for the physical delivery of natural gas produced by this single production unit have to be reported on a continuous basis as specified in Article 3 of Commission Implementing Regulation (EU) No 1348/2014.

However, if the production capacity of a single natural gas production facility is equal to or below 20MW, unless concluded on organised market places, the contracts for the physical delivery of natural gas produced by this single production unit are reportable only upon reasoned request of the Agency and on an ad-hoc basis.

In addition, please be informed that the Market Monitoring Department of the Agency adopted a 'No-action letter' to provide time-limited no-action relief from the requirement to report contracts and details of transactions in relation to those contracts listed in Article

4(1) of Commission Implementing Regulation (EU) No 1348/2014 upon reasoned request of the Agency. The No-action letter is available at: <https://www.acer-remit.eu/portal/acerstaff-letters-doc>.

II.4.54. [last update 14 November 2016] An electricity production unit produces and consumes internally (within the same facility) a capacity above or below 20 MW. This is used to deliver power to the internal grid only and there is no export to an external public grid. In case of an outage of the internal electricity production, a back-up contract is in place to get power from the public grid. Is the internal production and consumption of electricity a wholesale energy product?

It is the Agency's understanding that the production of electricity by a production unit which is consumed within the same production facility does not constitute a wholesale energy product pursuant to Article (2)(4)(a) of REMIT. However, the back-up contract with the public grid in case of an outage of the internal electricity production is a contract for the supply of electricity and is reportable pursuant to Article 3(1) of Commission Implementing Regulation (EU) No 1348/2014. Finally, the Agency considers the electricity production unit as a market participant who has to fulfil their obligations in relation to the disclosure of inside information pursuant to Article 4(1) of REMIT.

II.4.55. [last update 14 December 2016] In line with Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014, market participants shall report details of wholesale energy products executed at an organised market place (the 'OMP') [...] to the Agency through the OMP concerned. I am a market participant and have a data reporting agreement with the OMP concerned. The OMP concerned has delegated data reporting to a third-party RRM. Is the data reporting agreement with the OMP sufficient in terms of my REMIT transaction reporting obligations?

Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014 states that it is the concerned OMP that shall offer a data reporting agreement to the market participant requesting this to the OMP. There is no mention of additional obligations to market participants in this respect.

Regarding the obligation to take reasonable steps to verify the completeness, accuracy and timeliness of the data under Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014, if the OMP concerned selects a third-party RRM and thereby outsources the service for market participants of data reporting according to Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014, it is the OMP concerned that will have to take reasonable steps to verify the completeness, accuracy and timeliness of the data which they submit through third party RRM. The market participant would be relieved from taking reasonable steps to verify the completeness, accuracy and timeliness of the data to the minimum necessary.

The Agency points out that rights and obligations of market participant and the OMP concerned related to data reporting should be defined in a data reporting agreement between them. In addition, it is the Agency's understanding that the OMP concerned and its third party RRM have a separate data reporting agreement specifying their responsibilities for the completeness, accuracy and timely submission of data to the Agency.

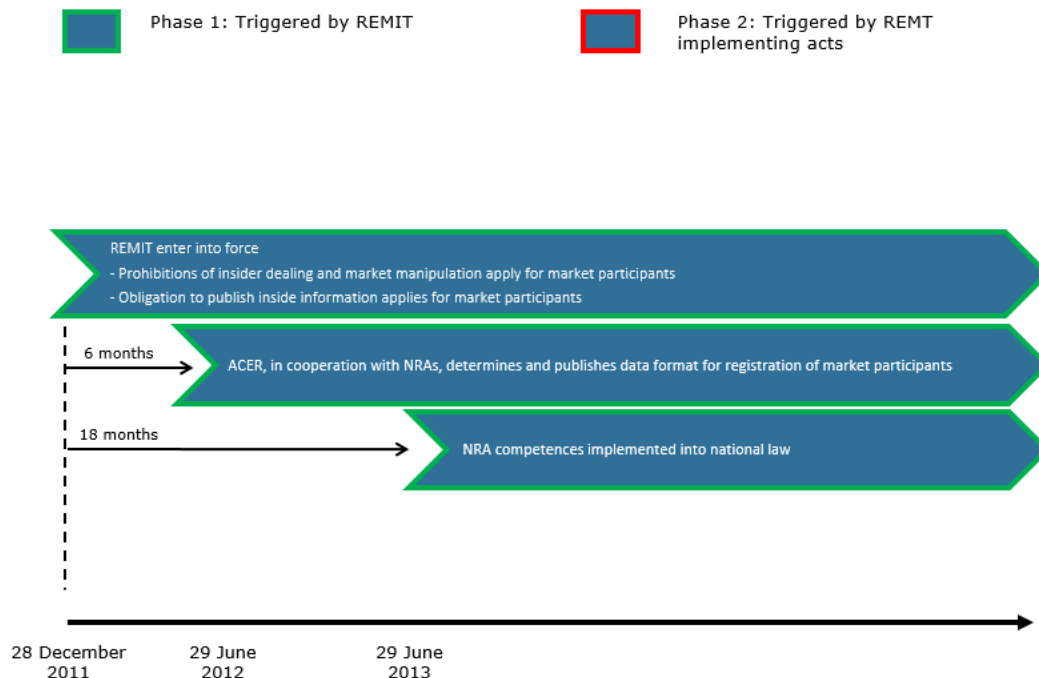
II.5. Timeline of the implementation

II.5.1. When does REMIT come into force and into application?

REMIT was published in the Official Journal of the EU on 8 December 2011. On 28 December, the prohibitions of insider trading and market manipulation, the obligation for market participants to publish inside information and the obligation for persons professionally arranging transactions to establish and maintain effective arrangements to detect market abuse and to notify reasonable suspicious cases to national regulatory authorities came into force.

Within 6 months of the entry into force of REMIT, i.e. by 28 June 2012, the Agency determined a format for the registration of market participants, and within 18 months, i.e. by 28 June 2013, Member States should have assigned investigatory and enforcement powers to NRAs and put in place rules on penalties applicable to infringements of REMIT.

II.5.2. Timeline of REMIT implementation under the REMIT regulation:



For more information about the implementation after of the adoption of the implementing acts, please see section III of this Q&A.

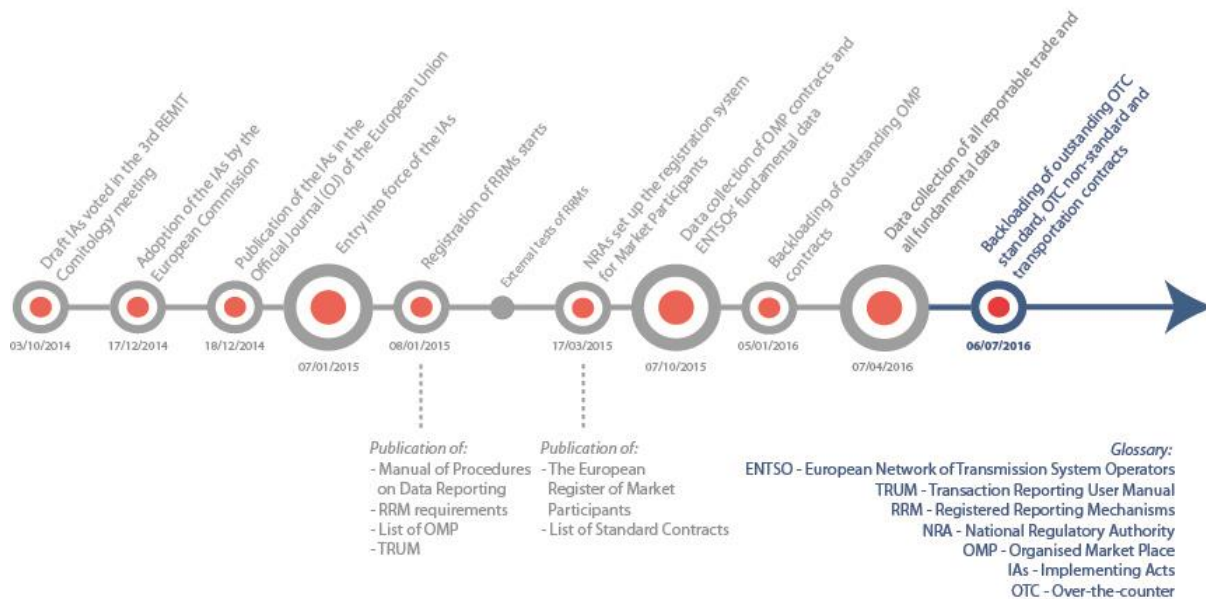
II.5.3. [last update 28 April 2016] When does the data reporting start?

The data reporting obligation of market participants is specified in more detail by the Commission Implementing Regulation (EU) No 1348/2014. Depending on the transactions that the market participant is entering into, the reporting is divided into two phases with two different timelines.

The first phase of data collection starts nine months following the entry into force of the Commission Implementing Regulation (EU) No 1348/2014 i.e. on 7 October 2015¹⁴. The first phase will concern the reporting of reportable wholesale energy contracts admitted to trading at Organised Market Places and of fundamental data from the ENTSOs central information transparency platforms.

The second phase of data collection starts 15 months following the entry into force of Commission Implementing Regulation (EU) No 1348/2014 i.e. on 7 April 2016¹⁵. The second phase will concern the reporting of the remaining reportable wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and of reportable fundamental data from TSOs, LSOs and SSOs.

REMIT IMPLEMENTATION TIMELINE



¹⁴ For more details please see Article 12(2) of Commission Implementing Regulation (EU) No 1348/2014.

¹⁵ For more details please see Article 12(2) of Commission Implementing Regulation (EU) No 1348/2014.

II.5.4. When and where do market participants have to register?

No later than three months after the date on which the Commission adopts the implementing acts, NRAs shall establish national registers of market participants which they shall keep up to date, so that at the latest by then, the registration of market participants starts.

According to Article 9(4) of REMIT, market participants shall submit the registration form to the national regulatory authority prior to entering into a transaction which is required to be reported to the Agency in accordance with Article 8(1).

II.5.5. What happened in the interim phase between REMIT's entry into force until the adoption of the REMIT implementing acts?

Since the monitoring activities under REMIT are based on the collection of trade and fundamental data in accordance with Article 8 of REMIT and the relevant implementing acts, the Agency's market monitoring activities in the interim phase – i.e. until the entry into application of the REMIT implementing acts – relied on notifications of suspected breaches of REMIT from NRAs and from persons professionally arranging transactions and on public sources.

NRAs were able to request wholesale energy data in ad-hoc cases on the basis of the record-keeping obligations for market participants. This was particularly the case if a potential infringement of the prohibitions of market abuse signalled by a person professionally arranging transactions according to Article 15 of REMIT or by a market participant. NRAs had to inform the Agency about any such cases signalled to them.

II.5.6. When will breaches of REMIT be sanctioned?

Rules on penalties applicable to infringements of REMIT have to be stipulated by Member States in national law. Within 18 months following the entry into force of REMIT, i.e. by June 2013 at the latest, Member States should have empowered their NRAs with the necessary means and powers to investigate suspicious cases under REMIT.

However, already with the entry into force of REMIT, trading venues may have foreseen the sanctioning of market participants in breach of market abuse rules under REMIT and market participants may seek the protection of their interest through the courts in case of breaches of market abuse rules under REMIT by other market players.

III. Questions and Answers (Q&A) on the Implementation of REMIT as well as Commission Implementing Regulation (EU) No 1348/2014

III.1. Background Information

III.1.1. [last update 08 January 2016] Where I can find the Implementing Acts?

The Implementing Acts, i.e. Commission Implementing Regulation (EU) No 1348/2014 on data collection and on data reporting implementing Article 8(2) and Article 8(6) of REMIT, entered into force on 7 January 2015 which was twenty days after their publication in the Official Journal of the European Union on 18 December 2014¹⁶.

The Implementing Regulation is available here: https://www.acer-remit.eu/portal/custom-category/remit_doc

III.2. Reporting through Registered Reporting Mechanisms (RRMs)

III.2.1. I have encountered a technical problem during the RRM registration process. What should I do?

In case of technical problems using ARIS applications the Central Service Desk should be contacted: servicedesk@support.acer-remit.eu

III.2.2. [last update 31 July 2015] How can I become a Registered Reporting Mechanism (RRM)?

To become a Registered Reporting Mechanism (RRM), the Agency has set up two distinct processes for potential applicants being either (i) market participant RRM or (ii) third-party RRM.

The major difference between market participant and third-party RRM registration lies in the fact that the first step of the Identification stage is handled via a separate path.

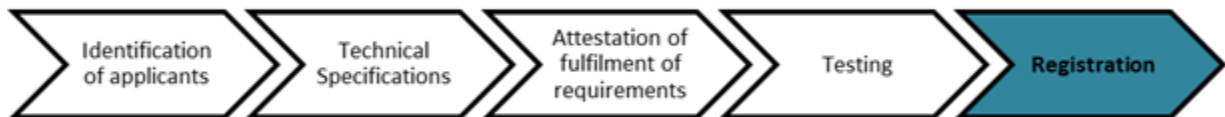
- A. If applicants who are not market participants wish to establish themselves as RRM, then they shall perform a third-party registration via the RRM Registration module that ACER has made available on the REMIT Portal. The registration is initiated through: <https://www.acer-remit.eu/ceredp/home> where the RRM Applicant will have to complete the first identification step and submits it for ACER's approval.
- B. Market participants shall first proceed with a market participant's registration through their respective NRA. In the majority of cases, this is done via CEREMP. In certain cases this is done via other systems the NRAs have established to manage their market participants registrations under Article 9 of REMIT. At the last step of the market participants registration, the market participants have

¹⁶ OJ L 363, 18.12.2014, p. 121–142

the option to either select to which RRM they delegate the responsibility of reporting on their behalf, or to indicate their 'Intention to become a Reporting Entity' (for self-reporting purposes and/or to offer reporting services to others), or both. In the case of CEREMP, this is done in Section 5 of the registration process.

As soon as the NRA approves this first Identification step in CEREMP, the market participants who have indicated their intention to become RRM will receive an invitation to proceed to the 2nd step of the Identification stage.

From that point onwards all steps for the registration process are similar for all RRM applicants (market participants and third-parties). Please see a below diagram:



The Agency will ensure a proportionate treatment of the different categories of reporting parties throughout the registration process. This is especially the case for the attestation stage during which all reporting entities wishing to become RRM shall submit documentation describing the procedures aimed at ensuring the timely transmission of data and their business continuity plan. When assessing compliance with these requirements, market participant RRM applicants are relieved from providing certain documents as specified in Section 5 of the RRM Requirements document. More information on the RRM registration process can be found here: <https://www.acer-remit.eu/portal/rrm-registration-doc>.

III.2.3. [last update 08 January 2016] When can RRM start testing the submission of data?

The Requirements for the registration of Registered Reporting Mechanisms (RRMs) - (RRM Requirements) contain a detailed description of the registration process. https://www.acer-remit.eu/portal/custom-category/acer_remit_reporting_user_package.

The first identification and attestation stages have to be passed by the RRM applicant before the testing can start.

III.2.4. Does the Non-Disclosure Agreement with ACER need to be signed before we start the RRM registration? Can you provide us also with this document by e-mail?

All the relevant documentation, including Technical Specifications for RRM document and the Non-Disclosure Declaration will be provided only during the registration phase via the RRM registration tool.

III.2.5. We would like to apply for the registration as RRM for standard contracts and maybe later for non-standard contracts as well. Can we start now the registration only as RRM for standard contracts and later extend the registration for non-standard contracts?

This is possible. If you decide to report other types of data in the future, you will be required to conduct tests relevant to the corresponding schemas. In addition, ACER may potentially request additional information. However, you will not be obliged to restart your registration process or re-apply for a new RRM status.

III.2.6. What kind of system should we have in order to do reporting on behalf of customers?

ACER has put in place a system that supports three interfaces (WebGUI, Web Services, and SFTP). RRM's have the option to establish connections with one or more of these interfaces. Within the RRM registration process and after signing a non-disclosure declaration, the candidate RRM can access a document that describes all the technical information necessary (namely "Technical Specifications for RRM's").

III.2.7. Do we need to have a valid ISO 27001 certificate if we want to register as a third party?

There is no requirement to acquire a valid ISO 27001 certificate. Nevertheless, nothing prevents RRM's from doing so. It can be proven useful when demonstrating compliance to the technical and organisational requirements.

III.2.8. Will both technical compliance checks and content/business compliance checks be done at the time of report submission and will both (technical and content/business) receipts will be available at that time? If not, how long after submission of the report should we expect the content/business receipts to be available?

Whenever a file is submitted, it will undergo several rounds of "validation".

A first batch of validation is under the name of "technical" validation, this includes:

- name compliance
- decryption & signature validation
- xml validation against xsd schema
- additional validation dependent on the source of submission

A second batch of validation is under the name of "business/content" validation, this includes:

- uniqueness of the data, if required based on the content
- compliance of data
- completeness of data
- application of business rules

The receipt availability instead follow a hierarchical structure, meaning only the highest level of "receipt" will be made available, so:

- if there is no error, the only available receipt for download will be a business/content validation receipt;
- if there is a business/content error, only the business/content validation receipt will be available for download;
- if there is a technical error, only the technical validation receipt will be available for download.

Typically you can expect the receipt to be available within maximum 30-35 minutes in case of large files, although you can expect the process to take less depending on your time of submission (if your system submits data in a peak "time slot", there might be a queue before handling your data, but this will be a transparent process for the end-user) or your submission size (if for example you submit a small file containing just corrections to a previously submitted file, the elaboration time will be much smaller than a fully-fledged max size submission file).

III.2.9. [last update 08 January 2016] Where can I access the Non-Disclosure Declaration (NDD) needed in the process of RRM registration?

In order to access and to sign the NDD, you need to go through the RRM registration process available on the REMIT Portal under: <https://www.acer-remit.eu/portal/rrm-registration-doc>.

Before submitting an application to become an RRM, we would kindly encourage you to read the documentation available here: https://www.acer-remit.eu/portal/custom-category/acer_remit_reporting_user_package. The NDD is also provided under the same link.

III.2.10. What is the role of the RRM Administrator as regards the carrying out of all activities related to the functions of an RRM Administrator? I.e. what should we write in the power of attorney template, thus limiting the power given to the RRM Administrator?

At first instance, the RRM Administrator oversees the registration process and ensures the completion of all necessary steps. In operations, this person administers the RRM's users. This also includes the creation of other RRM Administrators, if the need arises. In such a case, any new RRM Administrators are always subject to ACER approval.

III.2.11. We would like to register as an RRM. Could you give us an information if the registration process is connected with any kind of fees? Also, if a company would like to report as a third party under the REMIT regulation, are there any fees concerning the RRM registration process?

The Agency currently does not have powers to raise any fees for the registration of RRM. No fees are therefore required to be paid by RRM applicants for any stage of the RRM registration process.

III.2.12. How can I access the technical documentation as regards RRM registration?

In order to access the Technical Specifications for RRM, you need to initiate an RRM registration via the REMIT Portal and pass a number of steps in the registration process during the identification phase, and electronically sign a Non-Disclosure-Declaration. The RRM registration tool is available here: <https://www.acer-remit.eu/portal/rrm-registration-doc>.

You can also get access to the Technical Specifications for RRM via a client or a customer when applicable under the conditions stipulated in the Non-Disclosure-Declaration.

III.2.13. [last update 29 May 2015] We are an ETRM provider and need to support our clients with their reporting obligations by developing a direct interface to connect with the ARIS system. We would therefore need the technical documentation although we are not an RRM. How can we receive the relevant documentation?

There are two possible ways to receive the RRM technical specification documentation as an ETRM provider:

Firstly, service providers have the possibility to receive relevant documentation from their clients/customers within the limitations of the Non-Disclosure Declaration. In order to get access to the relevant documentation, a client/customer has to register to become an RRM.

Secondly, the ETRM provider could initiate its own RRM registration until the stage of the RRM technical specification documentation is reached, following the signature of a Non-Disclosure Declaration, and then inform the Agency about the cancellation of the registration.

From the Agency's point of view, the first alternative seems to be the more advisable one.

III.2.14. [last update 29 May 2015] What will happen if at the time of registration a market participant has not yet decided on the delegated party for reporting on behalf of the market participant (concrete RRM)? Is there any chance not to fill Section 5 of the registration form at the first time of registration but only at a later stage?

Yes. It is not necessary to provide information in Section 5 of the registration form if it is not available yet. It can be updated at a later stage.

III.2.15. [last update 29 May 2015] If a TSO plans to report transactions as well as fundamental data on its own, does it still need to be registered as an RRM? If yes, by when would the TSO need to be registered as RRM (is there any deadline)?

Any reporting entity that submits data to the Agency has to be registered as an RRM. Registration should be completed before the reporting obligation applies at the latest.

III.2.16. [last update 29 May 2015] How long does the Agency expect that the registration of a reporting entity (e.g. a market participant or a TSO) as an RRM will take?

Provided that all required actions are performed by the RRM applicant in a prompt way and without significant delay, and subject to available resources at the Agency, the Agency currently assumes that the registration process may take approximately three months.

III.2.17. [last update 08 January 2016] During the RRM Registration process, which form should be filled out and uploaded when requesting a digital certificate from the Agency?

In case where the certificate is requested for a physical person (e.g. for registering the RRM Admin account), the ACER-PO.pdf form must be used.

When a certificate is requested for the purposes of authenticating a machine communication (e.g. when establishing a WebService or SFTP interface with ARIS), the ACER-PSN.pdf form should be used.

Both forms are available on REMIT Portal: https://www.acer-remit.eu/portal/custom-category/acer_remit_reporting_user_package

III.2.18. [last update 24 March 2016] It is possible to cancel an already started RRM registration if the requirements described in the Technical Specifications for RRM cannot be met? Is there a formal format for how to request for cancelation and where is it available?

If the RRM applicant would like to cancel/stop its registration process before it is completed, an RRM Administrator has to notify the Agency by sending an email to servicedesk@support.acer-remit.eu. The Agency will then terminate the registration

process for the RRM applicant. However, all requirements laid down in the Non-Disclosure Declaration (NDD) will still apply.

III.2.19. [last update 29 May 2015] Regarding the documentation expected from the RRM applicants to attest that they have mechanisms in place to fulfil the technical and organisational requirements for the submission of data: In what format should documents be submitted to the Agency (e.g. scanned copies of originals signed by the official executive representative of the RRM applicant)?

The Agency assumes that documents submitted during the RRM registration process by the RRM applicant are valid. Documents can be submitted as electronic copies of the relevant documents.

III.2.20. [last update 29 May 2015] Are the requirements to become a Registered Reporting Mechanism the 13 specified requirements in the official document "RRM Requirements" (Section 5), or are there some other requirements (e.g. cost related)?

The RRM requirements are defined in Section 5 of the RRM Requirements document. The RRM technical specification documentation provides additional information on how to meet these requirements which is available to the RRM applicant after the signing of the Non-Disclosure Declaration. These additional information are relevant to security and data validation.

III.2.21. [last update 29 May 2015] Regarding the testing phase, could you detail this part of the registration process? What kind of data is supposed to be sent to the Agency?

This information is available on the REMIT Portal in the RRM Requirements document and also in the RRM Technical Specifications documentation which is available to RRM after online acceptance of the Non-Disclosure Declaration. Please refer to the aforementioned documents.

III.2.22. [last update 29 May 2015] In the RRM requirements document, the Agency states that it may give a precise time slot for the testing of an RRM applicant. Will the date for the IT testing be proposed by the market participant or does the Agency plan to give an exact time slot for testing (e.g. some concrete period)?

The testing is part of the RRM registration process and will be mainly automated. Therefore, no additional communication with ACER will be necessary. Only in exceptional circumstances, the Agency may allocate specific time slots to a particular RRM. In such a case, the Agency will communicate this to the relevant RRM applicant in advance.

III.2.23. [last update 29 May 2015] During the RRM registration we have to specify whether we will be reporting trade data, fundamental data, or both. In case we indicate both, but in the end our customers do

not request fundamental data reporting, could we revoke this decision to avoid the testing of this kind of reports?

The selected interfaces and schemas during the registration process will be those which will have to be tested in the testing phase during the RRM registration process (Testing Framework). Upon successful results, and all other required steps being successfully fulfilled, the applicant may be approved as an RRM. If in the future, the RRM wishes to modify previous choices or add additional interfaces and/or schemas to its profile then this will be accommodated by the system via a profile update. However, before being able to use the additional interfaces/schemas, it is mandatory that testing via the Testing Framework is run successfully. Access to the Testing Framework remains permanently available to the RRM.

III.2.24. [last update 30 June 2015] Which RRMs need to be identified in Section 5 of the market participant registration form?

A: For the first phase of reporting (deadline - 7 October 2015), the market participant is obliged to identify RRM(s) in Section 5 of the market participant registration form only if:

- (i) the data is reported through an organised market place (OMP), trade matching or trade reporting systems that is different from the OMP where the transactions were executed.

The indication of the RRM in Section 5 of the registration form will not be required if the data is reported by:

- (i) the OMP on which the transactions were executed;
- (ii) ENTSO-E as regards the data referred to in paragraphs (1) and (2) of Article 8 of Commission Implementing Regulation (EU) No 1348/2014;
- (iii) ENTSO-G as regards the data referred to in Article 9(1) of Commission Implementing Regulation (EU) No 1348/2014.

B: For the second phase of reporting (deadline - 7 April 2016), additionally, the market participant is required to identify RRMs that will report second phase data on its behalf.

However, such identification of the RRM will not be required for the reporting of data in case:

- (i) the reporting delegation applies only to a particular transaction and the counterparty to the transaction reports on behalf of the market participant;
- (ii) a TSO is in charge of reporting transportation data pursuant to Article 6(2) of Commission Implementing Regulation (EU) No 1348/2014;
- (iii) of a TSO is in charge of reporting data referred to in Article 8(3) and 9(2) of Commission Implementing Regulation (EU) No 1348/2014;
- (iv) of an LNG system operator as regards the data referred to in Article 9(5) of Commission Implementing Regulation (EU) No 1348/2014;
- (v) of a storage system operator as regards the data referred to in Article 9(9) of Commission Implementing Regulation (EU) No 1348/2014.

III.2.25. [last update 31 August 2015] Are market participants allowed to register as RRM (e.g. via subsidiary companies) and report their own standardised contracts executed at organised market places?

Market participants cannot report details of wholesale energy products executed at organised market places by themselves, regardless of whether they register as an RRM or not. Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014 defines the reporting channels for the reporting of details of wholesale energy products executed at organised market places, including matched and unmatched orders, to the Agency. Therefore, it is the Agency's understanding that reporting channels for the details of wholesale energy products executed at organised market places are: organised market places, trade matching systems or trade reporting systems. The organised market place where the wholesale energy product was executed or the order was placed shall, at the request of the market participant, offer a data reporting agreement.

III.2.26. [last update 31 July 2015] Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014 defines that organised market places shall, at the request of the market participant, offer a data reporting agreement. If market participants wish to report data through the organised market places, do organised market places necessarily have to become a RRM or would they be allowed to delegate the actual data reporting to a third-party?

In line with Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014, the reporting of details of wholesale energy products executed at an organised market place should be carried out by the organised market place concerned, or through trade matching or trade reporting systems. The organised market place concerned has to offer a data reporting agreement if requested by market participants.

Nevertheless, there is no obligation for the organised market place itself to become an RRM. The organised market place can delegate the actual reporting of the data to a third-party (which has to be an RRM). In this case Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014 applies. Finally, in line with Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014, the organised market place is allowed to delegate data reporting only to another organised market, a trade matching or a trade reporting mechanism.

III.2.27. [last update 31 August 2015] Would it be permitted for an RRM to offer "holiday fees" on the REMIT service to its customers (market participants) during an initial period, having those costs subsidized by other incomes of the RRM?

Please note that the Agency has no power to review or approve the fees that RRM will apply for reporting of data to the market participants. However, the Agency would like to stress that RRM's pricing policy applied should comply with the requirements of competition law.

III.2.28. [last update 24 March 2016] Could you please explain how to fill in the information under Section 5 of the registration form (public list of RRM)s? E.g.: If a market participant 'A' wants to report data on behalf of other market participants belonging to the same group, would this market participant 'A' appear in the public list of RRM)s (Section 5 of the registration form) for selection to all market participant?

As a general rule, a market participant should have a contractual agreement in place with an RRM for delegation of data reporting before it selects this RRM in Section 5 of the registration form (public list of RRM)s. Moreover, market participant should be aware that selecting an RRM in Section 5 of the registration form does not confer any legal obligation on that RRM to report on its behalf.

The Agency wants to bring the market participants' attention to the fact that not all reporting parties will be made available for selection to all market participants in Section 5 of the registration form (e.g.: ENTSO-E, ENSOG). However, in case where an RRM is considered as an intra-group RRM, i.e. reporting data only on behalf of a market participants in the same group (definition of group to be found in the Directive 2013/34/EU), this intra-group RRM will all the same appear for selection to all market participants in Section 5 of the registration form (public list of RRM)s. Indeed no difference will be made in the public list between third-party RRM)s and intra-group market participant RRM)s.

III.2.29. [last update 30 September 2015] What if the power of attorney submitted to the Agency during the RRM registration process will be revoked at a later stage?

RRM applicants or registered RRM)s are obliged to inform the Agency on any revocation of their power of attorneys and to submit the valid power of attorneys together with the updated application forms without any delay.

III.2.30. [last update 30 October 2015] The RRM Application Form requests the details of a person responsible for compliance of the RRM. What are the responsibilities of this person and is he/she personally liable e.g. for any RRM failures to comply with REMIT?

With regard to the person responsible for the RRM compliance, such person shall be responsible for the process of RRM registration and reporting. A potential personal liability of this person is governed by the relevant national law applicable for the RRM.

III.2.31. [last update 30 November 2015] The RRM Requirements document indicates the concept of reporting delegated chain as follows: "in case of a reporting delegation chain (e.g. counterparty A delegates the reporting to counterparty B, which, in turn, delegates the reporting to C), only the entities submitting data directly to the Agency (C, in the example above) shall register as a RRM". There is a supplier X holding bilateral contracts with diverse suppliers (e.g.

Y and Z, and these 2 suppliers only trade with supplier X bilaterally). The supplier X signs a data reporting agreement with RRM1 to report all those bilateral contracts by means of that RRM1. Therefore, the supplier X selects RRM1 in Section 5 of the registration form. However, the suppliers Y and Z do not sign any data reporting agreements with any RRM, because they delegate the reporting obligation to the supplier X. Therefore, the data reporting will fulfil the requirements with the data reporting agreement between X and RRM1. Do suppliers Y and Z have to select the RRM1 in their respective Section 5 of the registration form, even though they did not sign any agreement with the RRM1?

Yes, if suppliers Y and Z trade with X on a regular basis, they shall indicate the RRM1 in Section 5 of the registration form. Section 5 of the registration form should indicate the RRM that will ultimately report the market participant's data to the Agency. If, however, suppliers Y and Z trade with X only occasionally and without any "permanent" arrangement then this could be seen as reporting on behalf of the counterparty under Article 6(7) of Commission Implementing Regulation (EU) No 1348/2014 and would not require suppliers Y and Z to declare the RRM1 in the registration form as a reporting entity for their trades. For more information, please see also Section 6.2.1 of the RRM Requirements.

III.2.32. [last update 30 November 2015] In cases where data reporting under Article 6, 8 and 9 of Commission Implementing Regulation (EU) No 1348/2014 is delegated to a third party, who is responsible for the completeness, accuracy or timely submission of data: the person required to report the data or the third party reporting on the person's behalf?

In accordance with Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014, if a person required to report data, reports those data through a third party, the person shall not be responsible for failures in the completeness, accuracy or timely submission of the data that are attributable to the third party. If the failure in data reporting is attributable to a third party e.g. if the third party reports corrupted/incorrect data or data are reported with a delay, the third party will be responsible for that failure. If the failure is attributable to a person required to report the data e.g. the person provides incorrect data, or data with a delay to a third party, then the person required to report the data will be responsible for that failure. Responsibility for the failure in data reporting cannot be transferred by the data reporting agreement between persons required to report data and the third parties reporting data on their behalf.

From the Agency's point of view, in cases where an organised market place (OMP) has outsourced reporting to another RRM, the notion of 'person required to report data' in Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014 includes the OMP itself. Otherwise there would be a missing link in the reporting chain and it would not be possible to ensure data quality.

III.2.33. [last update 30 November 2015] What are the reasonable steps that the persons required to report data should take in order to verify

the completeness, accuracy and timeliness of the data which they submit through third parties under Article 11(2) third subparagraph of Commission Implementing Regulation 1348/2014?

The Agency understands that in order to define the reasonable steps to verify the completeness, accuracy and timeliness of the data, as laid down in Article 11(2) third subparagraph of Commission Implementing Regulation 1348/2014, a different level of control/verification should be performed by the big, medium and small size market participants. In order to allow market participants to verify the completeness, accuracy and timeliness of the data, the Agency understands that the RRM should grant the market participant with access to the data in the format defined by the Agency.

Please note that the Agency already addressed the above issue in the RRM Requirements document (p.19): "RRMs reporting data other than their own data must have a mechanism in place to ensure that the person on behalf of whom they report can be granted access to the data submitted to the Agency by the RRM as well as to Agency's receipts detailing out what data was reported and on the outcome of the reporting".

The Agency considers that RRM should grant access to the market participant's data reported by the RRM in the format defined by the Agency to: (i) the market participant or (ii) the third party chosen by the market participant. This access should be granted with consideration to the principle of transparency, fairness, non-discrimination and in line with competition law.

The Agency suggests as guidance regarding the reasonable steps, market participants should undertake verification of data samples in the predefined time period at least on a quarterly basis, but at a higher frequency depending on the market participant's size and/or volume of transactions in the relevant period may be considered reasonable.

III.2.34. [last update 8 January 2016] As an approved RRM, are we obliged to offer reporting services for the submission of "Non-Standard" Contracts pursuant to Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014?

According to the Agency's understanding, the obligation for organised market places to offer a data reporting agreement to the market participants pursuant to Article 6(1) of REMIT does not relate to the reporting of non-standard contracts/contracts executed outside the organised market place. Since there is no obligation to report non-standard contracts/contracts executed outside the organised market place, the obligation for organised market places to offer a data reporting agreement on the request of the market participants does not apply in this case. However, organised market places may nevertheless be willing to assist the market participants with reporting of non-standard contracts/contracts executed outside the organised market place.

III.2.35. [last update 8 January 2016] I am an already registered RRM and I would like to extend the scope of reporting in order to be able to report data for the second phase of reporting as of 7 April 2016. Would it be possible to do so, and if yes, what shall I do?

Yes, it is possible for an approved RRM to extend the scope of reporting. The detailed process is explained in Annex X to the document 'Technical Specifications for RRM's'. Please

note that the document 'Technical Specifications for RRM's' becomes available to all RRM applicants after the online signature of the Non-Disclosure Declaration. If you encounter any issues during the process, please contact the Central Service Desk: servicedesk@support.acer-remit.eu.

III.2.36. [last update 8 January 2016] What information is the RRM exactly required to keep; only the records transmitted to the ARIS system or also acknowledgement receipts or other communication received from the ARIS system?

Please note that the requirements regarding record keeping apply to the data submitted to the Agency. In order to assure the RRM compliance with other RRM requirements (e.g. information security, operational reliability.), the Agency strongly recommends that all receipts and other communications with the Agency are also kept by the RRM.

III.2.37. [last update 16 February 2016] A registered market participant would like to report its non-standard contracts. Does this entity need to register as an RRM and fulfil all criteria concerned in order to be able to report its contracts: (a) for itself and (b) eventually on behalf of its counterparties?

If a market participant intends to report directly its non-standard contracts (for self-reporting purposes and/or to offer reporting services to others), it should indicate this in the electronic registration form when registering as a market participant with the competent NRA (Section 5 of the registration form 'Intention to become a Reporting Entity'). The RRM registration process will then begin directly from there. The market participant is required to fulfil all criteria for the RRM as specified in the RRM Requirements document.

III.2.38. [last update 16 February 2016] I am a market participant currently in the process of registering as an RRM in order to be able to report data in the second phase of reporting as of 7 April 2016. Which reporting interface do I have to choose for testing?

With regard to the reporting of data as of 7 April 2016, the Agency requests self-reporting market participants that are already in the RRM registration process to limit themselves to the ARIS WEBGUI interface for their registration. This will significantly simplify their testing phase during the RRM registration and therefore accelerate their approval as an RRM in due time before 7 April 2016. Once approved as an RRM and if they decide later, the RRM may choose more interfaces for reporting (Web Services or and SFTP) through the change request functionality in ARIS.

III.2.39. [last update 16 February 2016] With regard to the reporting of data as of 7 April 2016, would the Agency recommend market participants to start the RRM registration process in order to report their own data or to use reporting services of already registered RRM's?

Please note that all entities reporting data to the Agency should be registered as RRM. In order to decide whether to become an RRM and report its own data or use an already registered RRM the market participant should take into account the complex and detailed process of RRM registration. Please note that the registration as an RRM is not a unique exercise, but being an RRM will require the market participant to comply with the Agency's RRM requirements on an ongoing basis and to adapt to future upgrades of the Agency's REMIT Information System and changes of the transaction reporting regime. Therefore, the Agency strongly recommends market participants to report their data through already registered RRM. The list of already registered RRM is accessible at <https://www.acer-remit.eu/portal/list-of-rrm>.

III.2.40. [last update 16 February 2016] What happens if an RRM cannot send transaction reports on time?

The Agency has established the ARIS Contingency Plan which is available to RRM in the documentation section of the RRM Admin Profile. The Contingency Plan provides all instructions on what RRM and market participants have to do in case of different scenarios that may impact the reporting.

As for the other obligations between the market participant and its RRM, the Agency points out that their data reporting agreement should take into account the ARIS Contingency Plan. Please note that if an RRM is not able to report its data according to the requirements set out by the Agency, the ARIS Contingency Plan is to be followed.

Potential sanctions for the breach of reporting obligations as laid down in Article 8 of REMIT are defined at national level.

III.2.41. [last update 16 February 2016] What happens if the reporting data are different between buyer and seller?

The data should be reported to the Agency following the normal procedure as defined by the respective documentation available on the REMIT Portal. However, ACER may request from RRM to investigate and correct such submissions, if necessary.

III.2.42. [last update 16 February 2016] What is the reporting procedure during force majeure, either declared by the RRM or by the market participant?

The Agency has established the ARIS Contingency Plan which is available to RRM in the documentation section of the RRM Admin Profile. The Contingency Plan provides all instructions on what RRM and market participants have to do in case of different scenarios that may impact the reporting.

As for the other obligations between the market participant and its RRM, the Agency points out that their data reporting agreement should take into account the ARIS Contingency Plan.

III.2.43. [last update 16 February 2016] If a market participant delegates reporting of transactions executed at an Organised Market Place to a third party RRM, is the Organised Market Place obliged to send

data to this third party RRM in the ACER xml schema as defined by the Agency?

In case the market participant delegates reporting of transactions executed at an Organised Market Place to a third party RRM, the Organised Market Place is not legally required to send the data to this third party RRM in the ACER xml schema as defined by the Agency.

The details of reporting between the Organised Market Place concerned and the third party RRM reporting to the Agency on behalf of the market participant should be determined in a data reporting agreement between the relevant parties.

However, the Agency points out that the third party RRM has the obligation to report the market participant's data executed at an Organised Market Place in the relevant ACER xml schema as defined by the Agency.

Finally, please note that pursuant to Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014, persons required to report data shall have the responsibility for the completeness, accuracy and timely submission of data to the Agency. If the persons required to report data reports those data through a third party, the third party is responsible for the failures in the completeness, accuracy or timely submission of the data attributable to a third party.

Persons required to report data shall nevertheless take reasonable steps to verify the completeness, accuracy and timeliness of the data which they submit through the third party.

III.2.44. [last update 16 February 2016] Reasonable steps that a market participant has to undertake are stipulated in Article 11(2), third subparagraph, of Commission Implementing Regulation (EU) No 1348/2014 in order to verify the completeness, accuracy and timeliness of data which they submit through third parties to the Agency. Do these reasonable steps differ depending on the reporting channel that the market participant selects?

The Agency's understanding is that the only reporting channels for transactions executed at organised market places, including matched and unmatched orders under Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014, are the organised market places concerned, trade matching and trade reporting systems.

The aim of the limitation to the above-mentioned three reporting channels for reporting under Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014 is to ease the reporting for the market participants as specified in Recital 5 of Commission Implementing Regulation (EU) No 1348/2014: *"Since market participants cannot be expected to record such data with ease, matched and unmatched orders should be reported through the organised market place where they were placed or through third parties who are able to provide such information"*.

Taking into consideration Recital 5, it seems that the organised market place concerned and/or market participants can choose another organised market place, a trade matching and/or a trade reporting system, i.e. a third-party Registered Reporting Mechanism (RRM),

to report data under Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014.

In the registration of market participants through NRAs, the reporting through the organised market place concerned is considered as the default solution for reporting of records of transactions, including orders to trade, to the Agency, according to Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014. This is based on the underlying principle of the REMIT reporting regime set in Article 8 of REMIT that the reporting obligations on market participants shall be minimised by collecting the required information or parts thereof from existing sources where possible.

As a consequence of data collection according to Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014 from organised market places as existing sources, the Agency believes that this will ensure a high degree of data quality.

Against this background, the reasonable steps a market participant shall take to verify the completeness, accuracy and timeliness of the data, which they submit through third parties, have to be distinguished depending on the reporting channel selected:

- a) Reporting of wholesale energy products through the organised market place where the transactions were executed or the orders to trade were placed ('organised market place concerned'):

The organised market place concerned, as an RRM, will have responsibility for the completeness, accuracy and timely submission of the data to the Agency according to Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014 itself. Since the organised market place concerned is the existing source, it is difficult to imagine any additional steps market participants could take to verify the completeness, accuracy and timeliness of the data which they submit through the organised market place concerned. Accordingly, the market participant selecting the organised market place concerned for data reporting according to Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014 will be relieved from taking reasonable steps to verify the completeness, accuracy and timeliness of the data which organised market places concerned submit as RRMs on their behalf to the Agency to the minimum necessary.

- b) Reporting of wholesale energy products through a third-party RRM selected by the organised market place concerned:

The same as above applies if the organised market place concerned selects a third party RRM and thereby outsources the service for market participants of data reporting according to Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014 to the Agency. Since the organised market place concerned is the existing source, it is the organised market place concerned that will have to take reasonable steps to verify the completeness, accuracy and timeliness of the data which they submit through third party RRMs. The market participant would again be relieved from taking reasonable steps to verify the completeness, accuracy and timeliness of the data which organised market places concerned submit as RRMs on their behalf to the Agency to the minimum necessary.

- c) Reporting of wholesale energy products through a third-party RRM other than the organised market place concerned selected by the market participant (i.e. another organised market place, trade matching or trade reporting system):

Firstly, it is important to note that such third-party RRM must be able to provide the complete data set to the Agency i.e. to report all data fields, e.g. Contract IDs, as defined by Commission Implementing Regulation (EU) No 1348/2014, and as explained in detail in the Agency's REMIT Reporting User Package. If this is not the case, the Agency will give a warning to the RRM reporting incomplete data in line with the rules laid down in the RRM Requirements document. Furthermore, if adequate data quality standards and/or compliance with RRM requirements are still not met within the time-frame indicated in the warning, the Agency may, after a certain period of time, which shall not be shorter than six months, discontinue access to the ARIS system for the RRM concerned and inform the market participants affected by the RRM's non-compliance.

In addition, if the market participant chooses to report its transactions executed at organised market place not through the organised market place concerned, but through a third-party RRM selected by the market participant (i.e. another organised market place, trade matching or trade reporting system), the Agency points out that the market participant will have to ensure the following in order to comply with its obligation to take reasonable steps in order to verify the completeness, accuracy and timeliness of the data which it submits through the third-party RRM to the Agency:

Whilst the organised market place concerned will still be responsible for the completeness and accuracy of the relevant source data, the market participant will be responsible for accuracy, completeness and timeliness of the data concerning (1) the transfer of the data from the organised market place concerned to the third-party RRM selected by the market participant, (2) the handling of the data by the third-party RRM and (3) the transfer of the data from the third-party RRM to the Agency. Both transfers entail a significant risk to undermine the completeness, accuracy and/or timely submission of data to the Agency. Regarding the transfer of the data from the third-party RRM to the Agency, the market participant will not be responsible for failures in the completeness, accuracy or timely submission of the data in cases where these failures are clearly attributable to the respective third party. Nevertheless, the market participants will have to prove to National Regulatory Authorities, on their request, that they have undertaken reasonable steps to verify the completeness, accuracy and timeliness of the data submitted to the Agency.

III.2.45. [last update 16 February 2016] Can organised market places limit their responsibilities according to Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014 and contractually delegate their responsibilities to the market participants concerning the completeness, accuracy, and timeliness of data to be submitted to the Agency according to Article 6(1) of the said regulation?

Article 11(2) of Commission Implementing Regulation (EU) No 1348/2014 stipulates that persons required to report data referred to in Articles 6, 8 and 9 shall have the

responsibility for the completeness, accuracy and timely submission of data to the Agency and, where required, to national regulatory authorities. Where a person required to report data reports data through a third party, then the person shall not be responsible for failures in the completeness, accuracy or timely submission of data which are attributable to the third party. In those cases, the third party shall be responsible for failures, without prejudice to Articles 4 and 18 of Regulation (EC) No 543/2013 on submission of data in electricity markets.

Accordingly, should an organised market place offer a data reporting agreement according to Article 6(1), second subparagraph, of Commission Implementing Regulation (EU) No 1348/2014, to a market participant, it will not be possible to limit the responsibility, with such a data reporting agreement, of the organised market place concerned being a third party for the reporting of data in the meaning of Article 11(2), second subparagraph, of Commission Implementing Regulation (EU) No 1348/2014. Any such contractual delegation of responsibilities from an organised market place to a market participant would be in breach of a directly applicable EU regulation and therefore illegal.

III.2.46. [last update 24 March 2016] Will TSOs be visible in Section 5 of the registration form in order for market participants to be able to select them?

Only TSOs selecting the below RRM types will be visible in Section 5 of the registration form:

- (i) 'RRM type: MP reporting for the group' under the stage: Additional Information Submission; or
- (ii) 'RRM type: RRM services available to any market participant' under the stage: Additional Information Submission.

III.2.47. [last update 29 April 2016] A holding, which is not itself a market participant, owns several entities that are renewable energy producers and thus are registered as market participants under REMIT. These renewable producers are only legal entities and do not have any employees. One of them will register as RRM and report data on behalf of the other market participants within the holding (intra group RRM). How should the intra group RRM fill in the documents required during the RRM registration process and who bears the legal responsibility for the data reporting?

As a general principle, the legal responsibility for data reporting is with the market participant. Therefore, if a market participant decides to delegate the data reporting to an RRM, Article 11(2) of Commission Implementing Regulations applies. It specifies how the responsibility for the reporting is divided between a market participant and an RRM.

If an intra group RRM applicant does not have any employees, it should clearly indicate who has the RRM Administrator and RRM Compliance roles in all documents which are submitted during the RRM registration process (e.g. RRM Application Form, Power of Attorney or Non-Disclosure Declaration).

III.2.48. [last update 29 April 2016] If I am an already approved RRM or an RRM applicant in the registration process and would like to ask a question about the application of the Contingency Plan, who should I contact?

All questions about the application of the Contingency Plan should be addressed to the Agency's Central Service Desk: servicedesk@support.acer-remit.eu.

III.3. Transaction Reporting

III.3.1. Where can I find more information on data reporting under REMIT?

In order to centralise the information on data reporting, the Agency has prepared a new REMIT Portal: <https://www.acer-remit.eu/portal/home>. The REMIT Portal was launched on 8 January 2015 as the central point of entry to the Agency's REMIT Information System (ARIS) which consists of a number of applications for the use of Market Participants as well as National Regulatory Authorities.

The REMIT Portal allows, for instance, reporting parties to register themselves as Registered Reporting Mechanisms (RRMs). Further, the Agency has made its supporting documentation available on the REMIT Portal, namely the Transaction Reporting User Manual (TRUM), the Manual of Procedures on transaction and fundamental data reporting (MOP), the Requirements for Registered Reporting Mechanisms (RRMs) and a List of Organised Market Places.

III.3.2. [last update 08 January 2016] What are the rules on the transaction reporting?

The Agency has developed the Transaction Reporting User Manual (TRUM) in order to facilitate transaction reporting to the Agency and to ensure operational reliability according to Article 12(1) of REMIT.

The TRUM is intended to provide market participants with guidance to make informed decisions about their transaction reporting obligations. The TRUM explains the details of the reportable trade data by providing guidance on how to populate the data fields included in the Commission Implementing Regulation (EU) No 1348/2014, including the formats and standards that apply to reporting. The TRUM is not intended to be a replacement of the Commission Implementing Regulation (EU) No 1348/2014.

The first edition of the TRUM focuses on explaining the details of the reportable information related to transactions, including orders to trade, in relation to wholesale energy products executed at organised market places. The TRUM also covers the records of transactions in transportation contracts and non-standard supply contracts.

TRUM is available on the REMIT Portal https://www.acer-remit.eu/portal/custom-category/acer_remit_reporting_user_package.

In addition, please note that further details on the transaction reporting such as details on the reporting channels and reporting schemas are included in the Manual of Procedures on transaction and fundamental data reporting (the 'MoP'). The MoP is available here: https://www.acer-remit.eu/portal/custom-category/acer_remit_reporting_user_package.

III.3.3. What is the scope of contracts reportable at request of the Agency?

In line with Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014, the Agency can, upon a reasoned request and on an ad hoc basis, ask the market participants to report the following contracts and details of transactions, unless concluded on organised market places:

- (i) Intragroup contracts.
- (ii) Contracts for the physical delivery of electricity produced by a single production unit with a capacity equal to or less than 10 MW or by production units with a combined capacity equal to or less than 10 MW.
- (iii) Contracts for the physical delivery of natural gas produced by a single natural gas production facility with a production capacity equal to or less than 20 MW.
- (iv) Contracts for balancing services in electricity and natural gas.

It is important to note that market participants only engaging in transactions in relation to the contracts referred to in points (ii) and (iii) above (contracts for the physical delivery equal to or less than 10MW for electricity and 20 MW for gas) shall not be required to register with the NRA pursuant to Article 9(1) of REMIT.

In relation to all four groups of contracts mentioned above in (i) to (iv), an ACER staff letter issued by the Agency's Market Monitoring Department provides time-limited no-action relief that it will not request such data until at least 31 December 2016. More details on the relief from reporting is presented in the No-action Relief letter published and accessible here: <https://www.acer-remit.eu/portal/acer-staff-letters-doc>. However, please note that NRAs may still require this data under their relevant national legislation and, that this is without prejudice to any obligation to register as a market participant and to the Agency's possibility to request additional information and clarifications from market participants and reporting parties in relation to their reported data pursuant to Article 6(8) of the Commission Implementing Regulation (EU) No 1348/2014.

III.3.4. What EIC code should we use for reference data reporting?

What EIC code should we use for reference data reporting in the following cases:

- Products traded on non-coupled markets, with delivery only in one country = EIC code for MARKET BALANCE AREA?
- Products traded on coupled markets, with delivery in the market coupling area = EIC code for MARKET COUPLING AREA?

In the above cases the EIC Y code should be used.

III.3.5. Will ACER also collect disaggregated capacity allocations to be reported?

ACER expects to collect capacity allocation data per market participant.

III.3.6. How should I report standard contracts on a spreadsheet?

You should produce one line item in the spreadsheet for every term. For instance:
German physical Base, bilateral Day
German physical Base, bilateral Weekend
German physical Base, bilateral Month

III.3.7. What level of detail will the receipts include other than a success or failure message. Will it contain the details of the trade?

The receipt schema is currently being finalised. It will not include details of the trade (e.g. price, etc.) but still enough information to identify the transaction reports to which it applies. About the "split" receipt per each market participant, this is still to be defined in detail.

III.3.8. Is bundling of all transactions for all units into one file or one single transaction allowed or are we obliged to send an individual transaction/file for each unit?

Yes, batches are not only allowed but also preferred by us. The maximum size of a file is 500 MB.

III.3.9. The Table 1 schema for standard contracts contains placeholders for the order and the trade. Will the order section allow 480 rows as well as 1 match on each interval within the trade section (potentially 48)?

The schema allows almost unlimited rows. The only limitation is the 500 MB maximum file size.

III.3.10. Is there a special data format or protocol for the web feed (Art 10 of Commission Implementing Regulation (EU) No 1348/2014) how the data shall be provided to the agency (e.g. email, .csv-file, etc.)?

The Agency intends to publish guidelines on technical issues concerning inside information disclosure under Article 10(1) and 10(2) of Commission Implementing Regulation (EU) No. 1348/2014 in the course of summer 2015.

The guidelines will include details of the standard web feed formats (RSS and ATOM) and the schema (.xsd) to be used. The guidelines will be published on the REMIT Portal: <https://www.acer-remit.eu>.

III.3.11. [last update 24 March 2016] As for the framework agreements or OTC physical purchase orders, could you please clarify the scope of reporting? Do we need to report framework contracts as well as all OTC physical purchase orders?

Yes. The framework agreements are considered non-standard contracts and all contracts to OTC physical purchase orders have to be reported to the Agency in line with Article 3(1)(a) of Commission Implementing Regulation (EU) No 1348/2014.

III.3.12. [last update 29 May 2015] Should wholesale energy contracts concerning very small amounts of energy be reported to the Agency?

Wholesale energy contracts are to be reported to the Agency in line with Article 3(1) of Commission Implementing Regulation (EU) No 1348/2014. However, small contracts for the physical delivery of

- (i) electricity produced by production units with capacity of equal or less than 10 MW, or
- (ii) gas produced by production units with capacity of equal or less than equal or less than 20 MW,

shall be reportable only upon reasoned request of the Agency and on an ad-hoc basis, unless concluded on OMP. The Commission Implementing Regulation (EU) No 1348/2014 defines the reporting of small contracts in its Article 4(1)(b) and (c).

Please note that the Market Monitoring Department of the Agency adopted a 'No-action letter' to provide time-limited no-action relief from the requirement to report contracts and details of transactions in relation to those contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 upon reasoned request of the Agency.

The No-action letter is available here: <https://www.acer-remit.eu/portal/acer-staff-letters-doc>.

III.3.13. [last update 29 May 2015] Could reportable wholesale energy contracts from market participants registered in one Member State be reported by an RRM in another Member State?

Yes. The market participant can choose RRM(s) from different Member States.

III.3.14. [last update 29 May 2015] What is the definition of 'trade reporting system' under REMIT?

A "trade reporting system" according to Article 6(1) of Commission Implementing Regulation (EU) No. 1348/2014 is to be understood as a person who centrally collects and maintains the records of transaction, including orders to trade, of wholesale energy products in order to provide the service of reporting records of transactions to the Agency, including orders to trade, of wholesale energy products on behalf of market participants.

According to the Agency's understanding this requires the trade reporting system to provide the third-party data reporting service as a regular occupation or business that shall treat all information collected in a non-discriminatory fashion and operate and maintain appropriate arrangements to separate different business functions from ancillary third-party services such as trade confirmation, trade matching, bringing together of multiple third party buying and selling interests or clearing services.

For REMIT purposes, it is important to ensure that a level playing field in the post-trade sector is not compromised by a possible natural monopoly in the provision of trade reporting services. Therefore, trade reporting systems are required to provide their

reporting services on fair, reasonable and non-discriminatory terms, subject to necessary precautions on data protection.

III.3.15. [last update 29 May 2015] What is the definition of 'trade matching system' under REMIT?

It is the Agency's understanding that a 'trade matching system' according to Article 6(1) of Commission Implementing Regulation (EU) No. 1348/2014 means a third party electronic matching system to match wholesale energy contract transactions, including the matching system for buy and sell orders to match transactions in a wholesale energy product. This includes e.g. third party trade confirmation systems.

III.3.16. [last update 12 June 2015] Could you please define the 'single consumption unit' under Article 3(1)(a)(vii) of the Implementing Regulation in more details?

The single consumption unit is a single demand facility which consumes electricity or gas and is connected at one or more connection points to the network.

The Agency also understands electricity and gas distribution networks to be consumption units with regard to electricity or gas that is consumed in order to cover grid losses. Therefore, the Agency understands a DSO as a final customer and a market participant if the aforementioned grid losses are above the threshold of 600GWh per year.

The Agency will aim at providing further guidance on the above definition as required.

III.3.17. [last update 30 June 2015] If a market participant owns a 5MW production unit and sells this output to a second market participant is that contract reportable (by either counterparty)? Furthermore, if the second market participant sells this output on to a third market participant under another contract, is that contract reportable?

Article 4 of Commission Implementing Regulation (EU) No 1348/2014 stipulates a list of contracts reportable at request of the Agency. Article 4(1)(b) and (c) of Commission Implementing Regulation (EU) No 1348/2014 define certain thresholds for contracts reportable at request.

For electricity, only contracts where a counterparty can show that the electricity was produced by a single production unit with a capacity equal to or less than 10MW or by production units with a combined capacity equal to or less than 10MW would meet the definition set out in Article 4(1)(b) of REMIT, unless concluded on organised market place.

For example, if market participant A owns a 5MW production unit and sells this output to market participant B, this contract would fall under Article 4(1)(b) of REMIT and only be reportable upon the reasoned request of the Agency and on an ad-hoc basis.

If market participant B sold this output to market participant C under another contract then this contract would not fall under Article 4(1)(b) of REMIT and therefore would be reportable.

The same principle applies to gas contracts under Article 4(1)(c) of REMIT.

Please note that the Agency's Market Monitoring Department adopted a 'No-action letter' to provide time-limited no-action relief from the requirement to report contracts and details of transactions in relation to those contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 upon a reasoned request of the Agency. The No-action letter is available on the REMIT Portal: <https://www.acer-remit.eu/portal/acer-staff-letters-doc>.

III.3.18. [last update 30 June 2015] Should contracts for delivery to multiple sites, one or more of which is over 600GWh capacity, be reported under Article 3(1)(a)(vii) of Commission Implementing Regulation No 1348/2014?

It is the understanding of the Agency that if a final customer has a contract for the supply of electricity or gas to multiple consumption units and one of those consumption units has a technical capability to consume 600GWh/year, that multi-site contract would be reportable under Article 3(1)(a)(vii) of the Implementing Regulation No 1348/2014.

It is also the Agency's understanding that if a final customer has separate contracts for each consumption unit and only one of their units has a technical capability to consume 600GWh/year, only the contracts relating to that unit would need to be reported under Article 3(1)(a)(vii) of Commission Implementing Regulation No 1348/2014.

III.3.19. [last update 31 July 2015] The scope of trading activity that is being monitored according to REMIT and according to Commission Implementing Regulation (EU) No 1348/2014 includes transactions as well as orders to trade. Concerning the reporting obligation of trade data, is it correct that orders to trade have to be reported only (i) when the order was placed on an organised market place or (ii) in connection with proceedings on primary explicit capacity allocation?

Yes, Article 6 of Commission Implementing Regulation (EU) No 1348/2014 defines the reporting of orders to trade explicitly in paragraph 1 (for wholesale energy products placed at organised market places) and paragraph 2 (for primary explicit capacity allocations placed at allocation platforms). Beyond that, there is no obligation to report orders to trade (see e.g. Article 6(3) of Commission Implementing Regulation (EU) No 1348/2014 for activities outside an organised market place). This is also in compliance with Recital 5 of Commission Implementing Regulation (EU) No 1348/2014 which clarifies the importance of monitoring orders to trade for an effective market monitoring, but refers exclusively to those orders placed at organised markets.

III.3.20. [last update 31 August 2016] Commission Implementing Regulation (EU) No 1348/2014 requires contracts for the supply of electricity or natural gas to a single consumption unit with a technical capability to consume 600GWh/year or more to be reported to the Agency (Article 3(1)(a)(vii)). How can final customers assess "technical capability to consume"?

The Agency understands “technical capability to consume” to mean the maximum amount of energy that a final customer could consume in a year, i.e. if the customer were to run its facility fully at all times throughout the year.

The consumption relates to gas or electricity. The consumption of gas and electricity should be assessed separately to estimate whether it reaches the 600GWh/year when the facility is running fully at all times. This is because Article 2(5) of REMIT itself refers to the consumption of a final customer of ‘either electricity or natural gas’, meaning one or the other.

In assessing ‘technical capability to consume’, the Agency is of the view that final customers should take into account the amount of energy that the single consumption unit consumes or has capacity to consume.

If a single consumption unit consumes 600GWh/year or more of either gas or electricity, then it is clear that their “technical capability to consume” is also greater than 600GWh/year and therefore all contracts for the supply of either gas or electricity (the commodity which is $\geq 600\text{GWh/year}$) to this single consumption unit are reportable. If a single consumption unit typically has an annual consumption of below 600GWh/year, final customers should make an assessment of the unit’s technical capacity to consume. To do this, consideration should be given to the consumption capability of the unit in the first instance i.e. the amount of energy that would be consumed if the single consumption unit was to run at its maximum output over a year.

If on this basis the single consumption unit has a consumption capability of over 600GWh/year, final customers may also consider the import capacity of the unit i.e. the maximum amount of energy (either electricity or gas) that can flow from the network into the unit. If this import capacity constrains the unit’s technical capacity to a level below 600GWh/year, it is the Agency’s view that the unit would not meet the 600GWh threshold.

Final customers should also be aware that if there is any change to the technical capability to consume of a single consumption unit, they should re-evaluate whether this unit meets the 600GWh threshold.

The Agency suggests caution around the use of historical consumption to estimate technical capability to consume as this does not relate to the actual capability of the unit and circumstances can change which might result in additional consumption. However, the Agency understands that there may be limited circumstances where this could be a reasonable approach.

III.3.21. [last update 30 September 2015] What if the organised market place (OMP) does not offer a data reporting agreement at the request of the market participant as defined in Commission Implementing Regulation 1348/2014 [or is not a registered as an RRM by 7 October 2015]?

In line with Article 6(1) second subparagraph of Commission Implementing Regulation (EU) No 1348/2014, the OMP, where the wholesale energy product was executed or the order was placed, has an obligation, at the request of the market participant, to offer a data reporting agreement.

If the OMP does not offer a data reporting agreement or is not registered as an RRM, and therefore cannot offer a data reporting agreement, the OMP will have to nominate a third party RRM and will have to fulfil its obligation to offer a data reporting agreement through

the nominated third party RRM. The nominated third party RRM would offer a data reporting agreement to market participants on behalf of the OMP.

III.3.22. [last update 30 September 2015] Could you please explain how the final customer should notify its technical capability of the consumption unit to consume 600 GWh/year or more under Article 3(2), third subparagraph, of Commission Implementing Regulation (EU) No 1348/2014?

According to Article 3(2), third subparagraph, of Commission Implementing Regulation (EU) No 1348/2014, final customers who are parties to a contract for the supply of electricity or natural gas to a single consumption unit with a technical capability to consume 600 GWh/year or more (as referred in Article 3(1)(a)(vii)) of Commission Implementing Regulation (EU) No 1348/2014 are obliged to notify their counterparties if the consumption unit in question is technically capable to consume 600 GWh/year or more.

The Agency is of the view that the notification obligation can be included as a part of the contract for supply of electricity or natural gas to final customer. As for the outstanding contracts for supply of electricity or natural gas to final customers, the Agency anticipates that the final customers will notify their counterparties in a standard way as defined by the outstanding contracts. In order to raise awareness on the final customer's notification obligation, the Agency recommends the counterparties to the contracts for supply of electricity or natural gas to remind the final customers on their notification obligation under Article 3(2), third subparagraph, of Commission Implementing Regulation (EU) No 1348/2014.

III.3.23. [last update 30 September 2015] Are contracts for the supply or transportation of biogas covered by the scope of REMIT?

In line with Article 1(2) of Directive 2009/73/EC, the rules established (...) for natural gas, including LNG, shall also apply in a non-discriminatory way to biogas and gas from biomass or other types of gas in so far as such gases can technically and safely be injected into, and transported through, the natural gas system. Therefore, if biogas can technically and safely be injected into, and transported through, the natural gas system, it will: (i) meet all criteria to be treated as natural gas and (ii) REMIT will apply for the biogas supply/transportation contracts.

III.3.24. [last update 30 October 2015] Are derivative contracts traded on platforms in the EU relating to electricity or natural gas delivered outside the EU within the scope of REMIT?

Pursuant to Article 2(4)(b) of REMIT, the definition of wholesale energy product includes 'derivatives relating to electricity or natural gas produced, traded or delivered in the Union'. Therefore, a derivative contract relating to electricity or natural gas delivered in the Union is not the only criterion. The scope of REMIT also includes derivatives relating to electricity or natural gas produced or traded in the Union. Such contracts are wholesale energy products irrespective of whether the related electricity or natural gas is delivered in the Union. However, the scope of REMIT and its prohibitions (e.g. prohibition of insider trading or market manipulation) and obligations (e.g. obligation to publish inside

information) is wider than the scope of the reporting obligation under 8(1) of REMIT in connection with Commission Implementing Regulation (EU) No 1348/2014.

Article 3(1)(a)(viii) of Commission Implementing Regulation (EU) No 1348/2014 specifies that 'options, futures, swaps and any other derivatives of contracts relating to electricity or natural gas produced, traded or delivered in the Union' are reportable.

Furthermore, the first sentence of Article 3(1)(a) of Commission Implementing Regulation (EU) No 1348/2014 limits the scope of reporting to the contracts that are wholesale energy products in relation to the supply of electricity or natural gas 'with delivery in the Union'.

Therefore, from the group of derivatives of contracts related to electricity/natural gas (a) produced, (b) traded or (c) delivered in the Union, only those that also relate to the supply of electricity/natural gas with delivery in the Union shall be reported to the Agency pursuant to Article 3(1)(a)(viii) of Commission Implementing Regulation (EU) No 1348/2014.

In conclusion, if a derivative contract (i.e. wholesale energy product) is traded on a platform in the Union, but it relates to the supply of electricity or gas with delivery outside the Union, the above condition 'with delivery in the Union' is not fulfilled. For this reason, the market participant has no obligation to report this derivative contract to the Agency pursuant to Article 3(1)(a)(viii) of the Commission Implementing Regulation (EU) No 1348/2014. However, the Agency highlights that such contracts fall under the scope of REMIT and therefore other REMIT prohibitions and obligations remain applicable.

III.3.25. [last update 30 October 2015] Who is responsible for the backloading of trades executed at the organised market places? Is there an obligation for organised market places to offer a data reporting agreement to the market participants?

The ultimate responsibility for reporting of wholesale energy contracts under REMIT is always with the market participant. This is also the case for the backloading of outstanding contracts. The reporting of details of contracts in wholesale energy products which were concluded before the date on which the reporting obligation becomes applicable and remain outstanding on that date shall be reported to the Agency by market participants through the third-party RRM(s) of their choice. According to the Agency's understanding, the obligation for organised market places to offer a data reporting agreement to the market participants does not relate to the backloading of outstanding contracts executed at organised market places.

In line with Recital 5 of Commission Implementing Regulation (EU) No 1348/2014, since market participants cannot be expected to record such data with ease, organised market places are considered best placed to report order book data to the Agency in order to enable the Agency to effectively uncover market abuses. Since there is no obligation to backload orders to trade, the obligation for organised market places to offer a data reporting agreement on the request of the market participants does not apply to the backloading of outstanding contracts executed at organised market places. However, organised market places may nevertheless be willing to assist the market participants with the backloading reporting.

III.3.26. [last update 30 October 2015] Could you please explain the concepts of 'intragroup contracts' and 'consolidation on a full basis'?

mentioned in Article 2(6) of Commission Implementing Regulation (EU) No 1348/2014?

Pursuant to Article 2(6) of Commission Implementing Regulation (EU) No 1348/2014, an 'intragroup contract' is a contract on wholesale energy products entered into with a counterparty which is part of the same group provided that both counterparties are included in the same consolidation perimeter on a full basis.

Article 2(5) of Commission Implementing Regulation (EU) No 1348/2014 defines that the concept of group to be taken into consideration is the one included in Article 2 of Directive 2013/34/EU on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings.

Article 2(6) of Commission Implementing Regulation (EU) No 1348/2014 details that 'consolidation on full basis' is the relevant criterion to assess if the contracts are intragroup. If a company 'consolidates on a full basis', its assets, liabilities, income and expenses are all shown in full in the consolidated financial statements of the parent company, with the exclusion of the ones related to intercompany transactions that are eliminated in the consolidation process.

Further details on the rules and interpretations can be found in Directive 2013/34/EU and its implementing laws in the relevant Member State(s).

III.3.27. [last update 29 April 2016] Could you explain what country's calendar i.e. "working day" shall be used for the reporting purposes under Article 7 of Commission Implementing Regulation (EU) No 1348/2014?

According to Article 6(1) of Commission Implementing Regulation (EU) No 1348/2014, the market participant has an obligation to report its data. The timing for reporting under Article 7(1) in Commission Implementing Regulation (EU) No 1348/2014 refers to the 'working day following the conclusion of the contract or placement of the order'. Therefore, it is not the calendar in use in the country of the RRM that should be used but the calendar of the relevant market participant's country. Please note that the public holidays of the EU Member States are published in the Official Journal of the European Union.

A list of public holidays for 2016 is available here: http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_.2016.019.01.0009.01.ENG&toc=OJ:C:2016:019:TOC.

In addition, the Agency points out that the market participant's data reporting agreement should contain a provision governing the obligation to report the contract on the 'working day following the conclusion of the contract or placement of the order'. The Agency would also welcome the reporting of data by the market participant before the actual date of fulfilling this obligation.

The Agency will not consider as public holidays the ones at federal state/regional level that are not listed to the above mentioned list.

III.3.28. [last update 30 November 2015] Concerning the threshold of 600GWh/year under Article 3(1)(a)(vii) of Commission Implementing Regulation (EU) No 1348/2014: is only burning of gas considered an end-use, or should purchases for other industrial processes also be included in the calculation of this threshold (e.g. natural gas used as feedstock, etc.)?

The 600GWh/year threshold in Article 3(1)(a)(vii) of Commission Implementing Regulation (EU) No 1348/2014 relates to the consumption of gas or electricity, irrespective of the purpose of this consumption. If a single consumption unit has a technical consumption capability greater than 600GWh/year, then contracts for the supply of electricity or gas to that unit are reportable, irrespective of whether the purpose is burning gas or using it for other purposes.

III.3.29. [last update 30 November 2015] How to report when a continuous explicit intraday cross border capacity allocation method is in place?

In case the relevant allocation rules define that the allocated intraday cross border capacity is automatically nominated with no possibility of intervention from the market participant and that the amounts of allocated and nominated intraday cross border capacity are equal, then there is no need for the relevant TSOs or third party acting on their behalf to submit both allocated and nominated information. Only the nominated cross border capacity will be reported to the Agency by the reporting party.

In case the relevant allocation rules allow the market participant to nominate a different amount of cross border capacity to the allocated amount, then both the allocated and the nominated reports will have to be submitted to the Agency.

III.3.30. [last update 16 February 2016] Should gas storage nominations be reported as trades?

No, storage contracts are not considered wholesale energy products under REMIT (please see the definition of wholesale energy products under Article 2(4) of REMIT). Storage system operators are required to report nomination data as defined in Article 9(7) of Commission Implementing Regulation (EU) No 1348/2014 as fundamental data. In addition, the market participants or storage system operators (on their behalf) are required to report gas storage data as specified in Article 9(9) of Commission Implementing Regulation (EU) No 1348/2014.

III.3.31. [last update 16 February 2016] If a market participant is short or long relative to their notified position to the TSO, they will be exposed to the cash out price. For example, if they 'spill' additional electricity onto the network, the market participant receives the cash out price for this electricity. Is this a reportable contract under REMIT?

Yes, but it is the Agency's current view that such payments are part of the process for balancing and would fall under Article 4(1)(d) of Commission Implementing Regulation (EU) No 1348/2014 and are only reportable upon reasoned request of the Agency on an

ad-hoc basis. In addition, please note that the Market Monitoring Department of the Agency adopted a 'No-action letter' to provide time-limited no-action relief from the requirement to report contracts and details of transactions in relation to those contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 upon reasoned request of the Agency. The No-action letter is available here: <https://www.acer-remit.eu/portal/acerstaff-letters-doc>.

III.3.32. [last update 16 February 2016] What contracts are final customers required to report?

Final customers with a single consumption unit with a consumption capacity of 600 GWh/year or more should report all their contracts for the supply of energy, derivatives and transportation which fall under Article 3(1) of Commission Implementing Regulation (EU) No 1348/2014.

The Agency currently considers that final customers with a single consumption unit with a consumption capacity lower than 600 GWh/year should report all the contracts for the supply of energy they traded on an organised market place and, if traded outside an organised market place, they should report only contracts for the sale of energy (considering that this energy is therefore not for consumption use). In addition, final customers with a single consumption unit with a consumption capacity lower than 600 GWh/year should report all their contracts for transportation and derivatives as such contracts are not considered as contracts for the supply and distribution of electricity or natural gas for the use of final customers.

III.3.33. [last update 31 August 2016] Are transfers of transport capacity between a market participant and an end user with a site which does not have the capacity to consume more than 600 GWh/year to be reported, although the gas delivery contracts themselves are not to be reported?

The Agency believes that usually for a consumption unit with a maximum technical capacity of less than 600 GWh/year a supply contract will normally be a contract with a single delivery point to the customer and without any transfer of transport capacity. Please note that the threshold of 600 GWh/year refers to the supply contracts pursuant to Article 3(1)(a)(vii) of Commission Implementing Regulation (EU) No 1348/2014 and not to the transportation contracts.

If market participant and end user, in addition to the supply contract, agree on the transfer of transport capacity, this contract has to be reported as a wholesale energy product pursuant to Article 3(1)(b)(i) or (ii) of Commission Implementing Regulation (EU) No 1348/2014 .

III.3.34. [last update 16 February 2016] Are contracts for the supply of liquefied natural gas (LNG) with delivery in the Union covered by the scope of REMIT?

The Agency has already specified in its 1st, 2nd and 3rd editions of ACER guidance on the application of REMIT that 'for further guidance on general definitions stipulated in Article 2 of REMIT (e.g. final customer, consumption etc.) reference is made to the relevant

definitions in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 and Regulation (EC) No 715/2009'. Pursuant to Article 2(7) of Directive 2009/73/EC, 'supply' means the sale, including resale, of natural gas, including LNG, to customers. Accordingly, it is therefore without doubt that contracts for the supply of LNG, where delivery is in the Union, are wholesale energy contracts pursuant to Article 2(4)(a) of REMIT.

III.3.35. [last update 24 March 2016] A final customer has a single consumption unit with: (i) a technical capability to consume 600GWh/year of gas, but (ii) a technical capability to consume less than 600GWh/year of electricity; is it necessary to report contracts concluded outside an organised market place for the supply of electricity to that unit? And vice-versa?

If final customers have a single consumption unit with a technical capability to consume 600GWh/year or more of gas, but a technical capability to consume less than 600GWh/year of electricity, they are required to report: (i) all transactions concluded on an organised market place (both gas and electricity), and (ii) if trading outside an organised market place, all their contracts for gas and all their contracts for the sale of electricity.

Similarly, if final customers have a single consumption unit with a technical capability to consume 600GWh/year of electricity, but a technical capability to consume less than 600GWh/year of gas, they are required to report (i) all transactions concluded on an organised market place (both gas and electricity), and (ii) if trading outside an organised market place, all their contracts for electricity and all their contracts for the sale of gas.

III.3.36. [last update 24 March 2016] What constitutes delivery of LNG into the European Union?

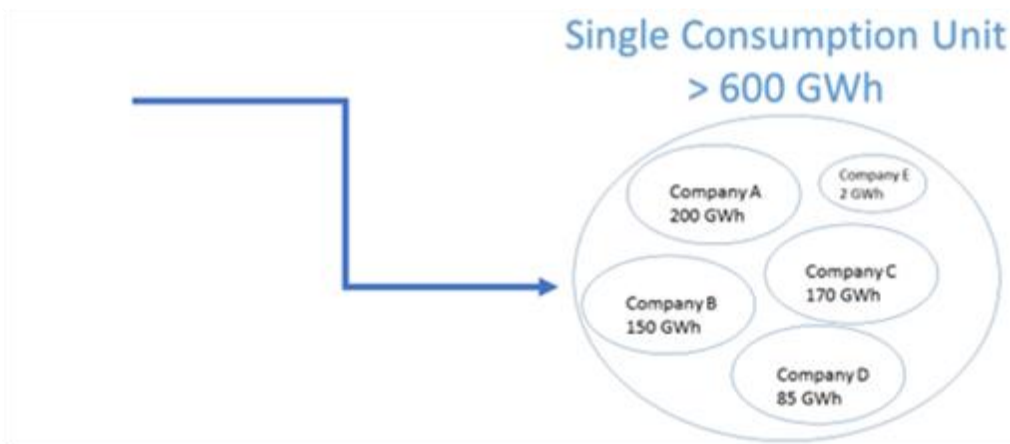
Article 3(1) of the Commission Implementing Regulation (EU) No 1348/2014 provides a list of reportable contracts, according to which contracts in relation to the supply of electricity or natural gas with delivery in the European Union shall be reported to the Agency.

As far as liquefied natural gas (LNG) contracts are concerned, the Agency considers any importation or offloading of liquefied natural gas in any LNG facility (including flanges that connect the LNG vessel to the LNG terminal) as 'delivery in the Union' as far as the delivery of the product takes place in the European Union.

In the situation described above, assuming the delivery of the liquefied natural gas is in the European Union, both parties to the contract will need to register with the relevant National Regulatory Authority/ies as the contract is reportable to the Agency.

Reload-contracts at a regasification terminal or at a vessel where the delivery of the product is not the European Union are not reportable.

III.3.37. [last update 24 March 2016] Article 3(1)(a)(vii) of Commission Implementing Regulation (EU) No 1348/2014 identifies contracts for the supply of single consumption units with a technical capability to consume 600 GWh/year or more as reportable under REMIT. How are these terms to be understood in a context where a number of different legal entities share one connection to the grid, if they once were one “single consumption unit”, but each individual legal entity (company A, B etc.) has now individual contracts for the purchase of electricity? For example, a formerly integrated industrial site now is separated into different companies and legal entities. All entities still share a common grid connection and the site as a whole exceeds the 600 GWh-threshold, however no single entity is close to the threshold. How should this situation be treated in terms of transaction reporting and registration of market participants under REMIT?

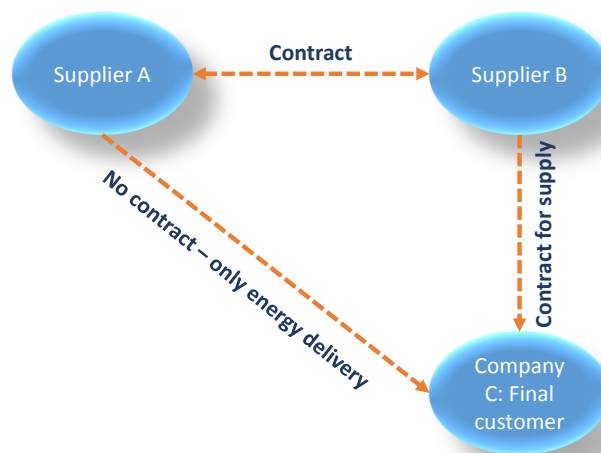


As each company holds individual contracts for the purchase of electricity, the yearly capability of each individual company to consume at this site should be taken into consideration by the companies. Reporting and registration obligations under REMIT would only apply to those companies which have a single consumption unit with a technical capability to consume above the 600 GWh-threshold, provided that they are not trading other wholesale energy products (e.g. including but not limited to contracts for the supply of energy traded on an organised market place or derivative contracts).

III.3.38. [last update 24 March 2016] I am uncertain whether I am a market participant and whether I am obliged to report transactions or not. What shall I do?

In case of doubt, you should register as a market participant with the competent NRA and report your records of transactions to the Agency through a Registered Reporting Mechanism.

III.3.39. [last update 29 April 2016] Company A and company B are market participants. Company B has a contract for supply of electricity with a final customer C. In order to provide electricity to the final customer C, company B has a contract with A, according to which A supplies electricity to B at the delivery point of the final customer C (metering point of the final customer’s premises). There is no contractual relationship between the company A and the final customer C. Is the contract between A and B subject to the reporting obligation pursuant to 3(1)(a) of Commission Implementing Regulation (EU) No 1348/2014?



It is the Agency’s understanding that the contract between the companies A and B is the supply contract that is reportable to the Agency pursuant to Article 3(1)(a) of Commission Implementing Regulation (EU) No 1348/2014.

III.3.40. [last update 8 June 2016] Is the upstream transport capacity for gas covered by the reporting obligation under Article 3(1)(b) of Commission Implementing Regulation (EU) No 1346/2014?

Article 3 of Commission Implementing Regulation (EU) No 1346/2014 defines a list of contracts reportable to the Agency.

As for the wholesale energy products in relation to the transportation of electricity or natural gas in the Union (Article 3(1)(b) of Commission Implementing Regulation (EU) No 1346/2014), the following contracts are reportable to the Agency:

- (i) Contracts relating to the transportation of electricity or natural gas in the Union between two or more locations or bidding zones concluded as a result of a primary explicit capacity allocation by or on behalf of the TSO, specifying physical or financial capacity rights or obligations,
- (ii) Contracts relating to the transportation of electricity or natural gas in the Union between two or more locations or bidding zones concluded between market participants on secondary markets, specifying physical or financial capacity rights or obligations, including resale and transfer of such contracts,
- (iii) Options, futures, swaps and any other derivatives of contracts relating to the transportation of electricity or natural gas in the Union.

The question whether upstream transport capacity contracts for gas are covered by the reporting obligation under Article 3(1)(b) of Commission Implementing Regulation (EU) No 1346/2014 refers to the capacity of gas upstream pipeline networks specified under Article 2(2) of Directive 2009/73 as 'any pipeline or network of pipelines operated and/or constructed as part of an oil or gas production project, or used to convey natural gas from one or more such projects to a processing plant or terminal or final coastal landing terminal'.

It is the Agency's current understanding that the list of reportable contracts in relation to the transportation of gas as laid down in Article 3(1)(b) of Commission Implementing Regulation (EU) No 1346/2014 does not include gas transport capacity contracts related to upstream pipeline networks. This means that although such contracts are covered by the scope of Article 2(4) of REMIT, they are currently not reportable to the Agency according to Article 8(1) of REMIT in connection with Commission Implementing Regulation (EU) No 1348/2014.

III.3.41. [last update 31 August 2016] Is a market participant obliged to report transactions for the supply of natural gas with delivery point at offshore platforms, located on a continental shelf in the EU, to the Agency? The transactions in question are between gas producers (sellers) and shippers (buyers) who resell the gas in the wholesale market or to final customers.

Pursuant to Article 2(4)(a) of REMIT, 'wholesale energy products' means the following contracts and derivatives, irrespective of where and how they are traded: (a) contracts for the supply of electricity or natural gas where delivery is in the Union [...].

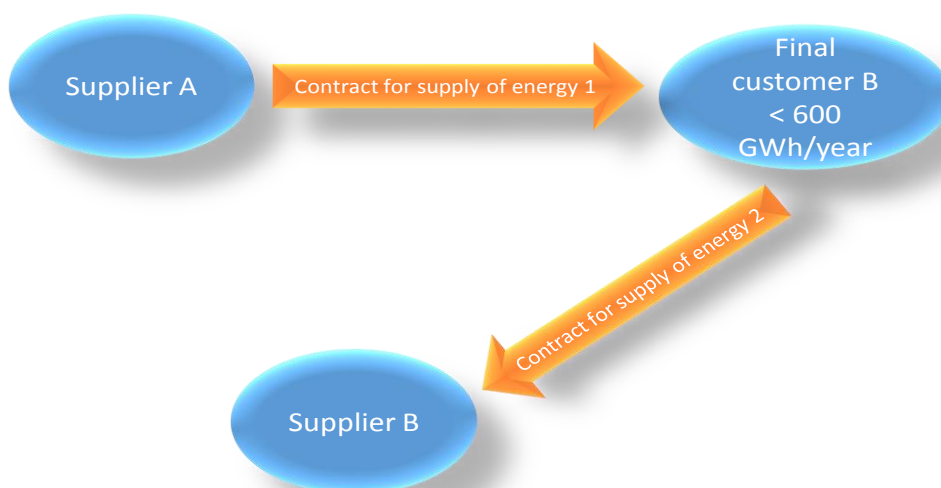
Therefore, contracts for the supply of natural gas where delivery is at the offshore platforms situated on a continental shelf in the EU are contracts reportable under Article 3(1)(a) of Commission Implementing Regulation (EU) No 1348/2014.

III.3.42. [last update 31 August 2016] What are the reporting obligations of a final customer with a single consumption unit with a technical capability to consume less than 600 GWh/year if the energy bought by the final customer is not for its consumption use?

In order to reply to the above question, the Agency analysed and designed the three following examples. Please note that the examples present the Agency's current understanding and form a non-exhaustive list.

Furthermore, it is to be noted that final customers with a single consumption unit with a consumption capacity of less than 600 GWh/year should report all the contracts they trade on an organised market place.

SCENARIO I



Scenario I: Energy was purchased by the final customer but not consumed. The final customer sells the energy under a different contract to a different Supplier B (i.e. the final

customer becomes a supplier). In this case, the final customer is a market participant entering into transactions which are required to be reported to the Agency under REMIT. Therefore, the final customer is required to report both contracts for supply of energy 1 and 2.

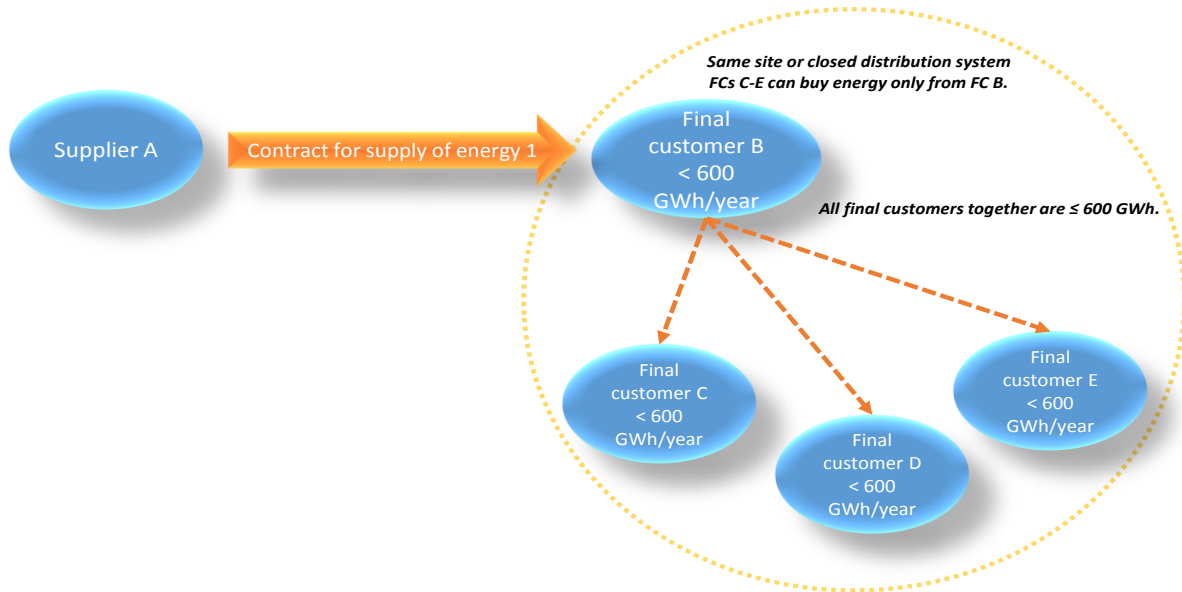
SCENARIO II



Scenario II: Energy was purchased by the final customer from the Supplier A, but not consumed because there is a volume optionality for the execution of their non-standard supply contract. The energy has not been physically delivered yet. In this case, the contract for supply of energy is not reportable and the final customer is not a market participant entering into transactions which are required to be reported to the Agency under REMIT regarding such contracts. However, it can still be subject to REMIT with regard to the prohibition of market manipulation, including attempted market manipulation, according to Article 5 of REMIT, with regard to insider trading, according to Article 3 of REMIT and with regard to the obligation to publish inside information according to Article 4 of REMIT.

Finally, please note that this scenario does not apply if Supplier A resells the energy in the wholesale energy market on behalf on the final customer. In such case, the final customer is a market participant entering into transactions which are required to be reported to the Agency under REMIT.

SCENARIO III



Scenario III: Energy was purchased by the final customer B. However, the final customer B consumes only a part of the energy and the rest of it is provided to other final customers (C, D, E) that are all within the same closed distribution system or on the same site (e.g. shopping mall, airport). In addition, it is important to note that (i) the final customers C to E can buy the energy only from the final customer B (for example, energy is bought as a part of the tenancy agreement) and (ii) overall technical capability to consume of final customer B to E is below 600 GWh/year.

In this case, the contracts between (i) supplier A and the final customer B and (ii) final customer B and final customers C to E are not reportable. In addition, final customer B is not considered a market participant entering into transactions which are required to be reported to the Agency under REMIT regarding such contracts. However, if the overall technical consumption capability of final customers B to E is 600 GWh/year or more, then the contract for supply of energy between supplier A and final customer B will be reportable.

III.3.43. [last update 31 August 2016] What does the notion of production capacity under Article 4(1)(b) and (c) of Commission Implementing Regulation (EU) No 1346/2014 mean?

In line with the understanding provided in the Manual of Procedures (MoP) on data reporting, the production capacity pursuant to Article 4(1)(b) and (c) of Commission Implementing Regulation (EU) No 1348/2014 means:

- a) For electricity production units: Installed capacity means the maximum electrical power the production unit can produce continuously under normal conditions and relevant security standards. If the production capacity is equal to 10 MW, the production unit would be able to produce a maximum daily amount of 240MWh per day (24h*10MW).

- b) For gas production units: Technical capacity means the maximum net sustained (flow) capacity that the production unit can produce continuously under normal conditions, and relevant security standards. If the production capacity is equal to 20 MW, the production unit would be able to produce a maximum daily amount of 480MWh per day (24h*20MW).

III.3.44. [last update 14 November 2016] Are Virtual Trading Points (VTPs) considered as organised market places (OMPs) under Article 2(4) of Commission Implementing Regulation (EU) No 1348/2014? If not, is the contract for the supply of natural gas to a single consumption unit with a technical capability to consume below 600 GWh/year concluded on the VTP reportable to the Agency?

As result of the public consultation on the List of Organised Market Places (PC_2014_R_07), the Agency is of the view that VTPs are currently not to be considered organised market places unless they fall under the definition of organised market place as defined by Article 2(4) of Commission Implementing Regulation (EU) No 1348/2014. In the latter case, VTPs should be included in the List of Organised Market Places. Please see question No 3.2 in the Evaluation of responses available at: http://www.acer.europa.eu/Official_documents/Public_consultations/PC_2014_R_07/ACER_REMIT_PC%20on%20OMPs_Evaluation%20of%20Responses.pdf.

Therefore, if the VTP does not qualify as organised market place, market participants are required to analyse if their contracts for supply of natural gas fall under Article 3(1)(a)(vii) of Commission Implementing Regulation (EU) No 1348/2014, i.e. contracts for the supply of electricity or natural gas to a single consumption unit with a technical capability to consume 600 GWh/year or more. If the technical capability to consume is below 600 GWh/year the contract for the supply of natural gas to such single consumption unit will not be reportable.

III.4. Fundamental Data reporting

III.4.1. [last update 08 January 2016] How can I report fundamental data?

The legal basis for the fundamental data reporting is laid down in Article 8 and 9 of the Commission Implementing Regulation (EU) No 1348/2014. While Article 8 defines the rules for reporting of fundamental data on electricity, Article 9 specifies the rules for reporting of fundamental data on gas including also data on LNG and gas storage.

In order to explain the details of reporting, the Agency has prepared the Manual of Procedures on transaction and fundamental data reporting (MoP). The MoP is available here: https://www.acer-remit.eu/portal/custom-category/acer_remit_reporting_user_package.

The Agency's intention with the MoP is to provide advice for reporting entities concerning the reporting of fundamental and transaction data. The MoP explains the details of procedures, standards and electronic formats for reporting of fundamental data. In particular, the document includes information on the data submission channels, the data validation rules and the XML-schemas to be used for the reporting.

The focus of the first edition of the MoP is to explain the details of the data fields and reportable schemas related to the electricity and gas fundamental data. Examples of data fields and schemas for the LNG and gas storage data will be included in the MoP in the coming months.

III.4.2. [last update 29 May 2015] Are RRM's allowed to report fundamental data directly to ACER on behalf of market participants for "Unloading and Reloading of LNG" and for "Amount of gas stored" or, on the contrary, are the TSOs and SSOs the only entities that can delegate their reporting of this kind of data to another RRM?

In line with Article 9(5) and 9(10) of Commission Implementing Regulation (EU) No 1348/2014, the market participants can delegate the reporting obligation to LSO/SSOs respectively or to any other registered RRM.

III.4.3. [last update 29 May 2015] Could you please specify who should report different types of fundamental data defined in Articles 8 and 9 of Commission Implementing Regulation (EU) No 1348/2014, and when?

The following tables illustrate the reporting of different types of fundamental data and relevant reporting timelines:

Reporting of electricity fundamental data					
	ENTSO-E on behalf of MPs	TSOs	Third-party RRM's	MPs	When?
Transparency platform data	√				9 months following the Implementing Regulation's entry into force (7 October 2015), but not before the platform is operational
Electricity nominations		√	√		15 months following the Implementing Regulation's entry into force (7 April 2016)

Reporting of gas fundamental data							
	ENTSOG on behalf of MPs	TSOs	LSOs	SSOs	Third-party RRM	MPs	When?
Central platform data	√						9 months following the Implementing Regulation's entry into force (7 October 2015)
Gas nominations		√			√		15 months following the Implementing Regulation's entry into force (7 April 2016)
Availability of LNG facilities			√		√		
Unloading and reloading of LNG			√		√	√	
Availability of storage facilities				√	√		
Amount of gas stored				√	√	√	

III.4.4. [last update 29 May 2015] Should the TSOs report fundamental data to the Agency directly, or through the ENTSOs' platforms? Is there an overlap between data sent by TSOs directly to the Agency and through ENTSOs?

Article 8(5) of REMIT indicates that the reporting obligations on market participants shall be minimised by collecting the required information or parts thereof from existing sources where possible. For this reason, fundamental data is reported to the Agency through:

- (i) ENTSO-E in line with Article 8(1) and (2) of Commission Implementing Regulation (EU) No 1348/2014; and
- (ii) ENTSOG in line with Article 9(1) of Commission Implementing Regulation (EU) No 1348/2014.

TSOs are required to report the fundamental data defined in Articles 8(3) and 9(2) of the same Implementing Regulation.

Taking into consideration the above division of reporting, there should be no overlap between data sent by TSOs directly to the Agency and through ENTSOs.

III.4.5. [last update 30 November 2015] Who reports the nomination data in case a single point nomination mechanism exists between two bidding zones under the jurisdiction of two TSOs?

In order to avoid double reporting ACER will accept one report for the nomination data from one of the TSOs reporting on behalf of both, or by a third party RRM reporting on their behalf. ACER must be informed of the preferred reporting method already during the RRM registration process.

III.4.6. [last update 24 March 2016] Article 9(9) of Commission Implementing Regulation (EU) No 1348/2014 mentions that: "Market participants or Storage System Operators on their behalf shall report to the Agency and, at their request, to national regulatory authorities the amount of gas the market participant has stored at the end of the gas day. This information shall be made available no later than the following working day." How shall the market participants (e.g. a TSO) using gas storage facilities report the information about the gas quantities stored in the facility/ies?

The amount of gas that the market participant has stored at the end of the gas day, as defined in Article 9(9) of Commission Implementing Regulation (EU) No 1348/2014, could be reported to ACER by the following means:

- (i) through the SSO (if mutually agreed between the parties: SSO and market participant being a storage user);
- (ii) by the market participant itself, if registered as RRM; or
- (iii) by a third party RRM, authorised by the market participant being a storage user.

III.5. List of Organised Market Places

III.5.1. Where can I find a list of organised market places?

In order to facilitate reporting, the Agency has drawn up a list of organised market places which the Agency will keep up to date.

The list will enable market participants to identify relevant organised market places as reporting channels for transaction reporting. It will also facilitate organised market places' submission of identifying reference data for each wholesale energy product, which the organised market places admit to trading, in order to assist the Agency to comply with its obligation to draw up and maintain a public List of Standard Contracts: <https://www.acer-remit.eu/portal/standardised-contract>.

For detailed information, please see Article 3(2) of the Commission Implementing Regulation (EU) No 1348/2014.

Please note that the list will be made available in exportable format as soon as possible. Meanwhile, please refer to the document available here: <https://www.acer-remit.eu/portal/organised-marketplaces>.

III.5.2. [last update 30 September 2015] How can a new organised market place (OMP) be listed in the Agency's list of OMPs in line with Article 3(2) first and second subparagraph of Commission Implementing Regulation (EU) No 1348/2014?

The new OMP should get in touch with the Agency well in advance before taking up business. Please see below the steps to be taken by the new OMP in order to be listed in the Agency's list of OMPs:

- Contact OMPlists@acer.europa.eu well in advance of the intended start date of the OMP operation;
- Read through the concise information on ACER's [REMIT portal](#);
- Fill out the Agency's OMP registration form and provide at least one of the following codes which are relevant for transaction reporting: Legal Entity Identifier (LEI) code, Market Identifier Code (MIC);
- Provide a list of standard contracts admitted to be traded on your market place. More information: [REMIT portal Standard contracts](#);
- Provide a third party Registered Reporting Mechanism (RRM), which reports transactions on your behalf or apply to become an RRM yourself (note: the procedure to become an RRM will take at least three months, but can take up to six months). [List of RRM's](#).

III.6. List of Standard Contracts

III.6.1. [last update 08 January 2016] Where can I find a list of mandatory reportable contracts?

The scope of the mandatory reportable contracts is laid down in the Article 3(1) of the Commission Implementing Regulation (EU) No 1348/2014. Mandatory reportable contracts form two groups:

- (i) contracts on the wholesale energy products in relation to the supply of electricity or natural gas with delivery in the Union, including derivatives relating to electricity or natural gas produced, traded or delivered in the Union; and
- (ii) contracts on the wholesale energy products in relation to the transportation of electricity and natural gas in the Union, including derivatives relating to the transportation of electricity or natural gas in the Union.

Under the Commission Implementing Regulation (EU) No 1348/2014, the Agency is required to draw up and maintain a public list of standard contracts and update that list in a timely manner. The purpose of the list of standard contracts is to specify the supply contract types for which the standard reporting form is applicable. The creation of the list of standard contracts does not mean that there would be an intention to assign unique identifiers to the contracts listed, nor will the information collected be used for matching against the transaction reports. The only purpose of the public list of standard contracts is to display the characteristics of each contract type for which the standard reporting form is applicable.

For detailed information please see Article 3(1) and (2) of the Implementing Regulation here: https://www.acer-remit.eu/portal/custom-category/remit_doc.

The list will be published for the first time 17 March 2015 here <https://www.acer-remit.eu/portal/standardised-contract>.

III.6.2. Is balancing contract reference data also to be reported to ACER?

ACER will currently not be collecting reference data for balancing contracts as Article 3(2) of Commission Implementing Regulation (EU) No 1348/2014 only applies to the standard contracts according to Article 3(1) of the same Implementing Regulation.

III.7. Inside Information

III.7.1. Will access to the REMIT Portal be made available to parties which are not market participants? If so, how can we obtain access?

The REMIT Portal is publicly available/accessible.

Access to specific ARIS applications is subject to the appropriate registration according to the requirements and rules defined by the Agency respectively for each application.

Information on the registration requirements for RRM (Registered Reporting Mechanisms) are provided here: <https://www.acer-remit.eu/portal/rrm-registration-doc>

III.7.2. [last update 16 February 2016] Taking into consideration that the reporting obligations referred to in Commission Implementing Regulation (EU) No 1348/2014 will enter into force only on 7 October 2015 or on 7 April 2016 respectively, as the case may be, please indicate when are the market participants/service providers expected to start providing the web feeds?

In line with Article 10(1) of Commission Implementing Regulation (EU) No 1348/2014, (i) market participants disclosing inside information on their website or (ii) service providers disclosing such information on market participants' behalf, shall provide web feeds to enable the Agency to collect these data efficiently. In principle, this obligation applies as of 7 January 2015 when Commission Implementing Regulation (EU) No 1348/2014 entered into force. However, the Agency will only start collecting such data as of 1 January 2017. On 30 September 2015 the Agency published guidelines for the technical implementation of web feeds updating the Manual of Procedures on data reporting following a public consultation.

Furthermore, in line with the same Article 10(1), a market participant shall identify itself, or shall be identified by the third party reporting on its behalf, using (i) the ACER registration code or (ii) the unique market participant code which the market participant provided while registering with the competent NRA under Article 9 of REMIT.

III.7.3. [last update 29 May 2015] By when shall a market participant inform the Agency on their web feeds where the market participant will be disclosing inside information (Art. 10 (1) of the Commission Implementing Regulation (EU) No 1348/2014)?

In line with Article 10(1) of the Commission Implementing Regulation (EU) No 1348/2014, (i) market participants disclosing inside information on their website or, (ii) service providers disclosing such information on market participants' behalf, shall provide web feeds to enable the Agency to collect these data efficiently. Market participants have to provide the website of the publication of inside information with their registration as market participant with the competent NRA according to Article 9(1) of REMIT and the Agency Decision No 1/2012 (see field 120 of the registration format in Annex I of the Agency Decision No 1/2012).

The information is mandatory and has to be provided within the deadline for the registration as market participant according to Article 9(4) of REMIT, i.e. prior to entering into a transaction which is required to be reported to the Agency in accordance with Article 8(1) of REMIT.

III.7.4. [last update 31 August 2015] We would like to raise your attention to the use of disclaimers on transparency platforms and company websites, which are used to disclose inside information in accordance with Article 4(1) of REMIT. Could transparency platforms/company websites disclaim their liability for any damage of third parties which is caused by incorrect or incomplete information published by the transparency platforms/company websites?

Market participants are liable for the completeness and correctness of the content of the urgent market messages published on their own company website and/or on platforms for the disclosure of inside information.

Platforms for the disclosure of inside information are normally not liable for the completeness and correctness of the content of the urgent market message that they receive and disclose on behalf of the market participant.

However, platforms for the disclosure of inside information should accept responsibility for any data error that has taken place after the market participant submitted the urgent market message to the platforms.

III.7.5. [last update 16 February 2016] What is the timeframe envisaged for market participants in order to comply with Article 10(1) of Commission Implementing Regulation (EU) No 1348/2014: "Market participants disclosing inside information on their website or service providers disclosing such information on market participants' behalf shall provide web feeds to enable the Agency to collect these data efficiently"?

Please note that the timeframe for disclosure of inside information through web feeds is laid down in Section 7.3.1 of the Manual of Procedures on transaction data, fundamental data and inside information reporting:

"The obligation to provide web feeds to enable the Agency to collect inside information efficiently, as defined in Article 10(1) of the REMIT Implementing Regulation, applies from 7 January 2015 when the REMIT Implementing Regulation entered into force. The Agency will start systematically collecting inside information through web feeds on the basis of the standards and electronic formats described in this Manual as of 1 January 2017 and would expect market participants disclosing inside information and service providers disclosing such information on market participants' behalf to report the information through web feeds in the standards and electronic formats described in the Manual of Procedures on data reporting by 1 January 2017."

The initially indicated deadline 7 July 2016 was extended until 1 January 2017.

III.7.6. [last update 16 February 2016] If a third party is delegated, through a data reporting agreement, to disclose inside information on behalf of another market participant, who is responsible for breaches of this obligation to disclose inside information?

Pursuant to Article 4(1) of REMIT, market participants are responsible for the disclosure of inside information which they possess in respect of business or facilities which the market participant concerned, or its parent undertaking or related undertaking, owns or controls or for whose operational matters that market participant or undertaking is responsible, either in whole or in part.

A market participant shall not be responsible for failures in the effective and timely disclosure of inside information that are attributable to the third party service provider acting on behalf of the market participant if the market participant has taken reasonable steps to verify that the third party service provider is capable of disclosing inside information on the market participant's behalf in an effective and timely manner.

III.7.7. [last update 16 February 2016] Pursuant to Article 4(4) of REMIT, the publication of inside information on the ENTSO-E transparency platform may be fully in line with REMIT (if the timeliness of the publication is respected). However, Article 10(2) of Commission Implementing Regulation (EU) No 1348/2014 stipulates that the ACER code of the market participant is mandatory. As for now, the ENTSO-E transparency platform does not have a visible field related to the identity of the market participant. Is publication of inside information on the ENTSO-E transparency platform in line with the requirements of REMIT and Commission Implementing Regulation (EU) No 1348/2014?

The application of Article 4(1) of Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency ("REMIT") is specified in more detail in Commission

Implementing Regulation (EU) No 1348/2014 and in the ACER Guidance on the application of REMIT ("ACER Guidance") (please see:

http://www.acer.europa.eu/remit/About/Guidance/Pages/ACER_guidance.aspx).

Concerning the publication of inside information, Chapter 7.2.2 of the ACER Guidance defines a minimum set of information required for publication, regardless of whether the information is published on a transparency platform or on the market participant's website.

Under Article 10(1) of Commission Implementing Regulation (EU) No 1348/2014, market participants disclosing inside information on their websites, or service providers disclosing such information on market participants' behalf, shall provide web feeds to enable the Agency to collect these data efficiently.

Moreover, in line with Article 10(2) of Commission Implementing Regulation (EU) No 1348/2014, when reporting inside information, the market participant shall identify itself or shall be identified by the third party reporting on its behalf using the ACER registration code, which the market participant received, or the unique market participant code that the market participant provided while registering in accordance with Article 9 of REMIT.

Finally, please note that the Agency organised a public consultation procedure on the 'Common Schema for the Disclosure of Inside Information'. The consultation procedure is now closed and the results have been published on the ACER website: http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2015_R_03.aspx

The Agency will start systematically collecting inside information through web feeds on the basis of the standards and electronic formats described in this Manual as of 1 January 2017 and would expect market participants disclosing inside information and service providers disclosing such information on market participants' behalf to report the information through web feeds in the standards and electronic formats described in the Manual of Procedures on data reporting by 1 January 2017.

III.7.8. [last update 16 February 2016] Certain transparency platforms which are used to disclose inside information pursuant to Article 4(1) of REMIT use disclaimers which exclude any liability of the transparency platform for incorrect or incomplete information. Is the use of such disclaimers in line with obligations deriving from REMIT?

Market participants are liable for the completeness and correctness of the content of the urgent market messages published on their own company website and/or on platforms for the disclosure of inside information. Platforms for the disclosure of inside information are normally not liable for the completeness and correctness of the content of the urgent market message that they receive and disclose on behalf of the market participant.

However, platforms for the disclosure of inside information should accept responsibility for any data error that has taken place after the market participant submitted the urgent market message to the platform. Market participants should nevertheless take reasonable steps to verify the completeness, accuracy and timeliness of the disclosure of inside information on platforms on their behalf.

III.7.9. [last update 14 December 2016] I am a REMIT market participant with information relevant to emission allowances which [I believe] qualifies as inside information only under REMIT. How should I fulfil my disclosure obligations under REMIT?

The Agency notes that Article 4(1) of REMIT obliges market participants to disclose inside information in a timely and effective manner. In the Agency's Guidance on the Application of REMIT, Section 7.2.1 details the disclosure mechanisms the Agency views as meeting these requirements. The Agency actively encourages market participants to use the inside information platforms which are identified on the REMIT Portal and meet the minimum quality requirements outlined in Section 7.2.2. Where adequate platforms do not exist, for an interim period market participants may publish such information on their own website which is required to meet the same minimum requirements outlined in Section 7.2.2 in order for the disclosure to be considered effective.

III.7.10. [New **][last update 16 June 2017] There's an outage of a gas-fired power plant. What is the market participant's obligation?**

According to Article 4 of REMIT it is the market participant's obligation to publish inside information. The market participant should make an assessment on price sensitivity for either market (electricity and gas). If the outage of the gas-fired power plant is considered inside information relevant for the electricity market and the gas market, the information should be published in both markets, i.e. as an outage of an electricity production unit and as an outage of a gas consumption unit. ACER's Guidance (Chapter 7.2.2) and MoP on data reporting (ANNEX VII) include data fields for inside information reporting which may help the market participants decide which information should be published as part of an Urgent Market Message.

III.7.11. [New **][last update 16 June 2017] Do final customers need to include the name and location of an asset when publishing inside information notifications?**

As the disclosure obligation according to Article 4(1) of REMIT falls on market participants, final customers should first assess if they qualify as market participants according to REMIT considering the threshold set in Article 2(5) of REMIT.

The market participants shall publish inside information pursuant to Article 4(1) of REMIT. Chapter 7.2.2 of the ACER Guidance on the application of REMIT (4th edition) describes the minimum quality requirements for effective disclosure of inside information that includes the disclosure of the name and location of the asset concerned.

However, Article 4(4) of REMIT stipulates that the publication of inside information, including in aggregated form, in accordance with Regulation (EC) No 714/2009 or (EC) No 715/2009, or guidelines and network codes adopted pursuant to those Regulations constitutes simultaneous, complete and effective public disclosure.

The Agency points out that although it acknowledges application of Article 4(4) of REMIT, i.e. publication of inside information in aggregated form, the final customer, as any other market participant in question, needs to ensure that it publishes inside information in line with the requirements specified in Regulation (EC) No 714/2009 or (EC) No 715/2009, in

an effective and timely manner. Further detail on the concept of timely disclosure may be found in Section 7.3 of the ACER Guidance.

III.7.12. **[New **]**[last update 16 June 2017] How can a market participant (Company A) fulfil its obligations under Article 4 of REMIT and comply with the prohibition under Article 3 of REMIT when:**

- (i) Company A holds an inside information relating to Company B's facility (Company B is NOT a market participant);**
- (ii) Company A holds an inside information on the asset of another market participant (Company C). Company C does not consider the information to be inside information. However, Company A considers that this information meets the definition of inside information pursuant to Article 2(1) of REMIT, wherein the companies are not parent/related undertakings.**

According to the 4th updated edition of the ACER Guidance on the application of REMIT ("ACER Guidance", p. 41): "the obligation to disclose inside information does not apply to a person or a market participant who possesses inside information in respect of another market participant's [or other entity's] business or facilities, in so far as that owner of this inside information is not a parent or related undertaking. Notwithstanding this, persons holding information in such circumstances will need to consider their compliance with Article 3 and in particular whether they hold such information as one of the persons listed in Article 3(2)."

Therefore, if the information qualifies as inside information, Company A will need to consider its compliance with Article 3 of REMIT (prohibition of insider trading). In particular, Company A could hold such inside information as one of the persons listed in Article 3(2) of REMIT (e.g. persons with access to the information through the exercise of their employment, profession or duties under Article 3(2)(c) of REMIT).

Regarding case i), provided that the inside information is not published by Company B (it is not a REMIT market participant with obligations under Article 4(1) of REMIT), Company A will not be allowed to trade using such inside information as this would cause a potential breach of Article 3 of REMIT (insider trading).

The Agency considers that Company A should also assess if it holds any other information concerning their own business or facilities that could qualify as inside information that should be published pursuant to Article 4(1) of REMIT. In addition, the Agency would consider as best practice that Company B provides Company A with all necessary information about its activities which affect or may affect Company A, through contractual arrangements between the two, e.g. via a specific agreement or clause in the contract existing between both companies. This should aim at facilitating Company A to publish inside information which is precise, in case Company B holds information that affects Company A's activities.

Regarding case ii), the Agency considers that Company A should fulfil its obligations of publishing the part of the inside information which concerns its own business or facilities pursuant to Article 4(1) of REMIT. In addition, the Agency would consider as best practice if Companies A and C exchange between themselves all necessary information about their activities which affect or may affect the other company, through contractual arrangements between the two, e.g. via a specific agreement or clause in the contract existing between both companies. This should aim at facilitating both companies to publish inside information in case one company holds information that affects the other company's activities.

Finally, please note that the Agency reserves the right to review the guidance on the disclosure of inside information in respect of another entity's business or facility in the future.

III.8. Other Questions

III.8.1. Is it possible to take part in a meeting using videoconferencing or other tools for electronic communication?

Videoconferencing or teleconferencing is normally not possible in case of ACER's public meetings. However, ACER public workshops are normally web-streamed.

III.8.2. Is it possible to receive documents in advance before a meeting?

Documents are normally published on the ACER website before or shortly after meetings.

III.8.3. Where can I find information on how to register as a Market Participant?

Registration of market participants is done by the National Regulatory Authorities through CEREMP or their national registration system and, therefore, market participants should contact their competent National Regulatory Authority on market participant registration related questions.

The list of all NRAs including their websites is available at the REMIT Portal (<https://www.acer-remit.eu/portal/ceremp>).

III.8.4. [last update 29 May 2015] In which language have the documents to be submitted in the RRM application process, in the official language of the issuer of the document or in English?

According to Article 33(1) of Regulation (EU) No 713/2009 establishing an Agency for the Cooperation of Energy Regulators, and Regulation 1/1958 determining the languages to be used in the EU, documents can be submitted in any official language of the EU.

However, Article 33(2) of Regulation (EU) No 713/2009 also provides that the Agency's Administrative Board shall decide on the internal language arrangements for the Agency and the Administrative Board decided that the internal working language of the Agency is English. Therefore, the working language for the examination of RRM applications by the Agency will be English. In this respect, the Agency strongly prefers to receive documentation in English, and the RRM applicant is thus invited to send its application in

English as translating documents submitted in other EU languages may require additional time to process the application.

IV. REMIT query form

If you have any question on a REMIT related issue e.g. rights and obligations under REMIT and/or Commission Implementing Regulation (EU) No 1348/2014, RRM registration process, reporting of transaction and/or fundamental data, inside information and other, and if you do not find the answer in this Q&A and in the documentation available on REMIT Portal (<https://www.acer-remit.eu/portal/public-documentation>), then please send us an email on remit@acer.europa.eu. In order to be able to reply to complex questions in an efficient manner, the Agency encourages the use of the following REMIT query form. Please note that the Agency will process your request only if it is submitted in the REMIT query form:

Question applicable to*:	Yes/No
Technical domain	
Business/Policy domain	
Question related to*:	Yes/No
RRM registration	
Transaction reporting	
Fundamental data reporting	
List of organised market places	
List of standard contracts	
Inside information platforms	
Policy general	
Other (please specify):	
Question submitted by:	Yes/No
Market participant	
Potential RRM	
Registered RRM (already registered with ACER)	
General public	
Other (please specify):	

Your Request: //Please provide as attachment to the Request any relevant supporting documentation (e.g. screenshots, other documentation) to fully describe the issue and allow us to provide the best possible answer.//	
REMIT/REMIT Implementing Regulation Article	[please type here the article the issue is related to]
Other REMIT related documentation	[please type here the article/document the issue is related to]
The issue/question*	[please type here a detailed description of the issue]
Practical example*	[please type here a detailed description of a practical example you are referring to]
Your interpretation* (if you are asking ACER's view)	[please type here your interpretation and whether is possible the interpretation of your legal adviser]

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