



10 September 2015

REMIT

Summary Overview

From 7th October 2015, a new transaction reporting regime comes into force under the EU Regulation on Wholesale Energy Market Integrity and Transparency¹ ('REMIT'). This regime will affect all traders of wholesale electricity and natural gas contracts and any related transportation contracts and derivatives in the EU.

It is important that all affected entities register with the relevant regulator ahead of this date as certain obligations will start to flow from this. This note includes a summary on the REMIT registration regime together with some further information on key dates and a timeline. It has been put together for our clients but please note that it should not be seen as definitive legal advice nor is it a substitute for clients to obtain their own advice.

What is REMIT?

REMIT establishes an insider trading, market manipulation, disclosure, registration and transaction reporting regime for trading in wholesale gas and power and related transportation contracts and derivatives.

REMIT's objective is to prevent market abuse and the use of insider information in the wholesale electricity and gas markets, and also in related transportation contracts and derivatives. REMIT introduces an EU-wide regime for gas and power trading in the EU that includes the following:-

- **Prohibitions on insider trading and market abuse/manipulation of 'wholesale energy products'**, (as defined by Market Abuse Directive) though adapted for wholesale energy markets, includes insider trading, misleading transactions, price positioning, transactions involving deception/fictitious devices, and dissemination of false information.
- **A disclosure regime for 'market participants' ('MP')** including information relating to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or to the capacity and use of LNG facilities. Incidents of potential market abuse will be investigated and action taken.

¹ Regulation (EU) No 1227/2011

This note is for information and guidance only. It does not constitute legal advice and should not be relied on as legal advice in relation to a particular transaction or situation.

The note reflects information available as at August 2015.



- **A transaction reporting regime for transactions in ‘wholesale energy products’**, including orders to trade; however there is no requirement for double reporting if this information has already been reported in line with EMIR.

Who monitors the trading?

The Agency for the Co-operative of Energy Regulations (‘ACER’) is the governing body responsible for monitoring trading activity to detect and prevent trading based on inside information and market manipulation. ACER will collaborate with the national regulatory authority in each EU Member State.

The registration requirement

Entities which trade on an Organised Market Place (as defined in REMIT) in the relevant contracts should register now, in advance of the start of the transaction reporting obligation. These ‘market participants’ entering into reportable transactions under REMIT must register with their relevant national regulatory authority (‘NRA’). Ofgem acts as the designated NRA in the United Kingdom.

What is a market participant?

An MP² is an entity which enters into transactions (or places orders to trade) on ‘wholesale energy markets’ that are required to be reported to ACER.

Which financial instruments are caught?

All transactions in ‘wholesale energy products’ (‘WEPs’) are required to be reported to ACER. WEPs³ are:

‘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;*
- (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;*
- (d) Derivatives relating to the transportation of electricity or natural gas in the Union.*

² Article 2(7) of REMIT

³ Article 2(4) of REMIT

This note is for information and guidance only. It does not constitute legal advice and should not be relied on as legal advice in relation to a particular transaction or situation.

The note reflects information available as at August 2015.



Do you need to register?

Whether you are an MP will depend upon the types of transactions you enter into. Key market participants are traders who are active on gas and power markets.

An entity may need to register even if its parent company or subsidiary company is registered.

Investment firms, who were previously exempt from MiFID reporting under the utilities and commodity exemptions, will be required to report under REMIT, although end users or final customers are generally outside the scope of REMIT as long as the final supply does not exceed a certain amount (currently set at 600 GWh per annum).

Note that as both EU and non-EU entities may be classified as MPs, entities will therefore need to examine the activities of both their EU and non-EU entities to determine if they will be considered MPs under ACER's guidance.

The Registration Process

Registration can be done through a web-based platform developed by ACER and the NRAs called the 'Centralised European Registry for Energy Market Participants' ('**CEREMP**').

To register, an MP must complete the relevant registration form.

MPs may also be requested to provide their ACER code and/or Legal Entity Identifier ('LEI') to some exchanges (market participants can obtain an ACER code to identify themselves for reporting purposes by registering with the relevant national regulatory authority).

The Acer REMIT Portal includes information and applications that ACER has made available relating to REMIT, which may be helpful for clients, as it includes links to:

- The European register of market participants.
- A list of organised market places.
- A list of standard contracts.
- A list of registered reporting mechanisms (RRMs).
- Documentation relating to REMIT, including ACER guidance documents.

This note is for information and guidance only. It does not constitute legal advice and should not be relied on as legal advice in relation to a particular transaction or situation.

The note reflects information available as at August 2015.

Investments in futures, options and foreign exchange can fluctuate in value, investors should therefore be aware that they may not realise the initial amount invested, and indeed may incur additional liabilities. Investments in futures, options and foreign exchange entail above average risk, investors should therefore carefully consider whether their financial circumstances permit them to invest and, if necessary, seek the advice of an Independent Financial Advisor. Some services described are not available to all investors. Services may also not be available to certain customers due to legal and/or regulatory constraints either in the United Kingdom or elsewhere. The contents of this electronic mail may have been changed without the knowledge of the sender. ADM Investor Services International Limited ('ADMISI') does not, and will not, consider itself legally bound by the contents of any electronic mail which appears to have originated from within the Company. If you believe you have been sent an e-mail from ADMISI which is inappropriate, please contact the Compliance Department on 44 (0) 20 7716 8000. ADMISI is Authorised and Regulated by the Financial Conduct Authority on any electronic site / platform / website and is a member of The London Stock Exchange. In the event that this electronic mail has been sent from Reef Capital LLP, please note the Officers and Representatives of Reef Capital LLP are authorised and regulated under the auspices of ADM Investor Services International Limited.



REMIT's Implementing Acts⁴ also require market participants to report details of wholesale energy products executed at organised market places ('OMP'), including matched and unmatched orders to ACER through the OMP concerned, via trade matching or trade reporting systems.

What needs to be reported?

Whilst the precise details of what information needs to be reported are not finalised, they are likely to include:

- Trade Data: including orders to trade to be collected by RRM, lifecycle information (pre and post trade stage of a transaction), details on physical settlement and whether a transaction was cleared or uncleared.
- Fundamental Data: information on capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas.

Further clarification and guidance have been solicited by various trade and industry associations on reporting arrangements and the scope of the reporting regime under REMIT, including: (i) a requirement to offer a data reporting agreement "at the request of the market participant"; (ii) the territorial scope of the reporting regime; (iii) whether certain contracts or events are within the scope of the reporting regime e.g. LNG transactions, or physical trades booked as result of an option or swaption; and (iv) the format of reports, notably the notional calculation, contract exchange codes and a unique trade identifier (UTI) algorithm.

Therefore, there may be further information from ACER in the near future.

Some useful links:

Registration in the EU (not UK): <https://acer-remit.eu/portal/home>

Registration in the UK: <https://www.ofgem.gov.uk/gas/wholesale-market/european-market/remit/registering-market-participant-under-remit>

ACER's list of OMPs: <https://www.acer-remit.eu/portal/organised-marketplaces>.

Note also that ACER maintains a list of Q&As on REMIT on its website which it updates each month.

⁴ Commission Implementing Regulation (EU) No 1348/2014 of 17th December 2014, on data reporting implementing Article 8(2) of Regulation (EU) No 1227/2011 of the European Parliament and of the council on wholesale energy market integrity and transparency (the 'Implementing Acts') – Article 6(1)

This note is for information and guidance only. It does not constitute legal advice and should not be relied on as legal advice in relation to a particular transaction or situation.

The note reflects information available as at August 2015.

Investments in futures, options and foreign exchange can fluctuate in value, investors should therefore be aware that they may not realise the initial amount invested, and indeed may incur additional liabilities. Investments in futures, options and foreign exchange entail above average risk, investors should therefore carefully consider whether their financial circumstances permit them to invest and, if necessary, seek the advice of an Independent Financial Advisor. Some services described are not available to all investors. Services may also not be available to certain customers due to legal and/or regulatory constraints either in the United Kingdom or elsewhere. The contents of this electronic mail may have been changed without the knowledge of the sender. ADM Investor Services International Limited ('ADMISI') does not, and will not, consider itself legally bound by the contents of any electronic mail which appears to have originated from within the Company. If you believe you have been sent an e-mail from ADMISI which is inappropriate, please contact the Compliance Department on 44 (0) 20 7716 8000. ADMISI is Authorised and Regulated by the Financial Conduct Authority on any electronic site / platform / website and is a member of The London Stock Exchange. In the event that this electronic mail has been sent from Reef Capital LLP, please note the Officers and Representatives of Reef Capital LLP are authorised and regulated under the auspices of ADM Investor Services International Limited.



Transaction Reporting Timeline

- 7th October 2015: Start date for reporting of Standard Contracts admitted to trading on OMPs
- 7th January 2016: Deadline for backloading of Standard Contracts admitted to trading on OMPs
- 7th April 2016: Start of reporting for OTC Standard Contracts, non-standard supply contracts and transportation contracts
- 7th July 2016: Backloading of outstanding OTC Standard Contracts, non-standard supply contracts and transportation contracts

This note is for information and guidance only. It does not constitute legal advice and should not be relied on as legal advice in relation to a particular transaction or situation.

The note reflects information available as at August 2015.

Investments in futures, options and foreign exchange can fluctuate in value, investors should therefore be aware that they may not realise the initial amount invested, and indeed may incur additional liabilities. Investments in futures, options and foreign exchange entail above average risk, investors should therefore carefully consider whether their financial circumstances permit them to invest and, if necessary, seek the advice of an Independent Financial Advisor. Some services described are not available to all investors. Services may also not be available to certain customers due to legal and/or regulatory constraints either in the United Kingdom or elsewhere. The contents of this electronic mail may have been changed without the knowledge of the sender. ADM Investor Services International Limited ('ADMISI') does not, and will not, consider itself legally bound by the contents of any electronic mail which appears to have originated from within the Company. If you believe you have been sent an e-mail from ADMISI which is inappropriate, please contact the Compliance Department on 44 (0) 20 7716 8000. ADMISI is Authorised and Regulated by the Financial Conduct Authority on any electronic site / platform / website and is a member of The London Stock Exchange. In the event that this electronic mail has been sent from Reef Capital LLP, please note the Officers and Representatives of Reef Capital LLP are authorised and regulated under the auspices of ADM Investor Services International Limited.