

## **Summary for the response**

ENTSOG was founded in line with Regulation (EC) 715/2009 and has played a key role in facilitating integration of the European gas markets, ensuring technical interoperability, and providing security of supply by gas infrastructure planning. Looking forward, ENTSOG is contributing to the net-zero decarbonisation by 2050 by the integration of renewable and low carbon gases via future-proof gas transmission pipelines, in line with the EU energy and climate goals.

Since 2015, ENTSOG has been an RRM, reporting fundamental data to ACER on behalf of the gas TSOs. Additionally, ENTSOG supports the REMIT implementation by its participation in Forums, Roundtables, User Group meetings, Expert Groups and more. ENTSOG has evaluated the proposed amendments of REMIT and enclose detailed feedback on the text. In summary, it is our view that the proposed REMIT updates are predominantly not directly related to the Electricity Market Design reform and thus not urgent. ENTSOG is therefore of the opinion that they should not be linked with the legislative proposals for Electricity Market Design. This de-linking would have the advantage to give sufficient time for a much-needed thorough discussion of the proposal with all affected stakeholders.

Such further discussion is in our view essential for the following reasons:

- The proposed changes in the draft document seems to cover only ACER-CEER proposals made during the PCs in February 2023 on the EMD reform. The feedback provided by the other stakeholders is not reflected;
- Many of the new clauses are directly copied from MAR and the competition law without proper analysis on their applicability and potential negative effects on the energy market;
- ENTSOG finds it problematic that several of the suggested changes result in conflicts in the reporting regime and add disproportional burdens on Market Participants, RRM, OMP and IIPs.

As a preliminary input to such discussions, several improvement proposals are attached hereto, most importantly:

- Keep inside information disclosure out of the REMIT fees regime;
- Keep current PPAT notion, and avoid adding the element of “execution” that makes all Market Participants PPAETs;
- If obligations to report the full order book, aiming to align obligations and data availability, are placed on OMPs instead of market participants, OMPs must be empowered to do so;

- Keep obligations for data completeness and data quality on Market Participants;
- Empowerment of ACER in relation to investigations should be strictly limited to cross-border cases. The proposed new ACER powers jeopardize the balance set by the Third energy package between the competences of the national and European regulatory authorities;
- Application (technical entry into force) should be extended by at least 6 months due to technical reasons – most importantly the implementation of new communication channels between ACER and IIPs, and registration of the IIPs.

## Proposed amendments to the regulation amending the REMIT REGULATION

### Whereas

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p>Whereas (10)</p> <p>To improve Agency’s market monitoring and make data collection more complete the current reporting regime needs improvement. The data collected should be expanded to overcome gaps in the data collection and include coupled markets, new balancing markets, contracts for balancing markets and products that have potential delivery in the Union. Organised Market Places should be required to provide the full order book data set to Agency. Order book providers should also be designated as persons professionally arranging transactions subject to the obligation to monitor and report suspected breaches.</p>	<p>Whereas (10) To improve <del>Agency’s</del> market monitoring and make data collection more complete the current reporting regime needs <del>improvement expansion</del> <del>The data collected should be expanded</del> To overcome gaps in the data collection and include coupled markets, new balancing markets <del>and</del>, contracts for balancing markets <del>and products that have potential delivery in the Union</del>. Organised Market Places should be required to provide the <del>full</del> order book data set <del>to which OMP has access to</del>, to the Agency. <del>Order book providers should also be designated as persons professionally arranging transactions subject to the obligation to monitor and report suspected breaches</del>.</p>	<p>Please see the comment to Article 8.</p>
<p>Whereas (11)</p> <p>Inside Information Platforms (IIPs) should play an important role for the effective and timely publication of inside information. It should be mandatory to disclose inside information on dedicated IIPs to make the information easily accessible and enhance transparency. To ensure trust in the IIPs they should be authorised and registered.</p>	<p>Whereas (11) Inside Information Platforms (IIPs) play an important role for the effective <del>and timely</del> publication of inside information <del>without undue delay</del>. It should be mandatory to disclose inside information on dedicated IIPs to make the information easily accessible and enhance transparency. To ensure trust in the IIPs they should be authorised and registered. <del>For Transparency Platforms acting as IIPs fulfilling its obligations as IIPs</del></p>	<p>Timeliness is the responsibility of the Market Participants.</p> <p>The Transparency Platforms have other objectives to satisfy than solely publishing inside information, and this should be acknowledged.</p>

	<p>should not be detrimental to fulfilling their transparency obligations.</p>	<p>Such Transparency Platforms must have the assurance that they will not be subject to contradicting obligations. For that reason, we would propose to add the clarification.</p>
<p>(12) To streamline and make the reporting of data to the Agency more effective, the information should be provided through Registered Reporting Mechanisms (RRMs) and the operation of RRMs should be authorised by the Agency. The RRMs should at all times comply with the conditions for authorisation. The Agency should also establish a register of all RRMs in the Union.</p>	<p>(12) To streamline and make the reporting of data <del>to the Agency</del> more effective, the information should be provided through Registered Reporting Mechanisms (RRMs) and the operation of RRMs should be authorised by the Agency. The RRMs should <del>at all times</del> comply with the conditions for authorisation. The Agency should also establish a register of all RRMs in the Union.</p>	<p>Technical issues or external factors may obstruct the RRM, even temporarily, to fully comply, “at all times”, with the conditions for authorisation. Considering this, at present, ACER asks the RRMs to issue a contingency report and inform the Agency on the reason and measures taken by the RRM to resolve the problem causing the incompliance.</p>
<p>(13) In order to facilitate monitoring to detect potential trading based on inside information and data quality of collected information, the collection of inside information needs to be aligned with the current processes for trade data reporting.</p>	<p>(13) In order to facilitate monitoring to detect potential trading based on inside information and data quality of collected information, the <del>channels for</del> collection of inside information needs to be <del>technically</del> aligned with the current processes for trade data <del>monitoring reporting</del>.</p>	<p>The main goal of this activity should be to provide proper tools for data collection and monitoring.</p>
<p>(14) Persons professionally arranging and executing transactions have the obligation to report suspicious transactions in breach of the provisions on insider trading and market manipulation. To enhance the possibility of enforcement of such breaches, the persons professionally arranging transactions should also have the obligation to report suspicious orders and potential breaches of the</p>	<p>(14) Persons professionally arranging <del>and executing</del> transactions have the obligation to report suspicious transactions in breach of the provisions on insider trading and market manipulation. To enhance the possibility of enforcement of such breaches, the persons professionally arranging transactions should also have the obligation to report suspicious orders <del>and potential breaches of the</del></p>	<p>In our view, the relevant term for the wholesale energy market must remain: <b>“Persons professionally arranging transactions.”</b>  PPATs should not be made responsible for MPs not fulfilling their obligation to disclose</p>

<p>obligation to publish inside information. Direct electronic access providers and shared order-book providers should be considered as persons professionally arranging transactions.</p>	<p><del>obligation to publish inside information.</del> Direct electronic access providers and shared order-book providers should be considered as persons professionally arranging transactions.</p>	<p>their inside information =&gt; including article 4 is not feasible. Especially when bearing in mind where the inside information usually resides and that the PPAT has very limited means to access such information, such obligation is excessive and too burdensome.</p> <p>Additionally, definitions for <b>“direct electronic access provider”, “order book”, “order-book provider”, “shared order-book provider”</b> would be needed.</p>
<p>(16) In order to obtain an accurate, objective and reliable assessment of the price for LNG deliveries to the Union, the Agency should collect all the LNG market data that are necessary to establish a daily LNG price assessment. The price assessment should be undertaken based on all transactions pertaining to LNG deliveries to the Union. ACER should be empowered to collect this market data from all participants active in LNG deliveries to the Union. All such participants should be obliged to report all of their LNG market data to ACER as close to real time as technologically possible either after the conclusion of a transaction or the posting of a bid or offer to enter into a transaction. The ACER price assessment should comprise the most complete dataset including transaction prices and, as of 31 March 2023, bids and offer prices for LNG deliveries to the Union. The daily publication of this objective price assessment, and</p>	<p><del>(16) In order to obtain an accurate, objective and reliable assessment of the price for LNG deliveries to the Union, the Agency should collect all the LNG market data that are necessary to establish a daily LNG price assessment. The price assessment should be undertaken based on all transactions pertaining to LNG deliveries to the Union. ACER should be empowered to collect this market data from all participants active in LNG deliveries to the Union. All such participants should be obliged to report all of their LNG market data to ACER as close to real time as technologically possible either after the conclusion of a transaction or the posting of a bid or offer to enter into a transaction. The ACER price assessment should comprise the most complete dataset including transaction prices and, as of 31 March 2023, bids and offer prices for LNG deliveries to the Union. The daily publication of this</del></p>	<p>Additional LNG data collection should remain in the existing Regulation (EU) 2022/2576 which duration can be extended if needed.</p> <p>Please see our comments to Art 7a of the REMIT regulation.</p>

<p>of the spread established in comparison to other reference prices on the market in the form of an LNG benchmark, paves the way for its voluntary uptake by market participants as the reference price in their contracts and transactions. Once established, the LNG price assessment and the LNG benchmark could also become a reference rate for derivatives contracts used for hedging the price of LNG or the difference in price between the LNG price and other gas prices.</p>	<p><del>objective price assessment, and of the spread established in comparison to other reference prices on the market in the form of an LNG benchmark, paves the way for its voluntary uptake by market participants as the reference price in their contracts and transactions. Once established, the LNG price assessment and the LNG benchmark could also become a reference rate for derivatives contracts used for hedging the price of LNG or the difference in price between the LNG price and other gas prices.</del></p>	
<p>(22) The Agency should be empowered to carry out investigations by conducting on-site inspections and by issuing requests for information to the persons under investigations, in particular where the suspected breaches of Regulation (EU) No 1227/2011 have a clear cross-border dimension. In undertaking the on-site inspections and in issuing requests for information to the persons under investigations, the Agency should closely and actively cooperate with the relevant national regulatory authorities, which in turn should provide the Agency with full assistance, including where a person refuses to be subject to the inspection or to provide the requested information. It is important that the procedural guarantees and fundamental rights of the persons concerned of the persons subject to the Agency’s investigations are fully respected.</p>	<p>(22) The Agency should be empowered to carry out investigations by conducting on-site inspections and by issuing requests for information to the persons under investigations, <del>in particular</del> where the suspected breaches of Regulation (EU) No 1227/2011 have a clear cross-border dimension. In undertaking the on-site inspections and in issuing requests for information to the persons under investigations, the Agency should closely and actively cooperate with the relevant national regulatory authorities, which in turn should provide the Agency with full assistance, including where a person refuses to be subject to the inspection or to provide the requested information. It is important that the procedural guarantees and fundamental rights of the persons concerned of the persons subject to the Agency’s investigations are fully respected.</p>	<p>Suggestion to delete “in particular” to make it clear that is only for cross-border cases.</p>

<p>The confidentiality of the information submitted by the persons subject to the investigation should be safeguarded exchanged in accordance with applicable Union data protection rules.</p>	<p>The confidentiality of the information submitted by the persons subject to the investigation should be safeguarded exchanged in accordance with applicable Union data protection rules.</p>	
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## Article 2 Definitions

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p>Parapgraph (1) Inside information [...] “(e) information conveyed by a client or by other persons acting on the client’s behalf and relating to the client’s pending orders in wholesale energy products, which is of a precise nature, relating directly or indirectly, to one or more wholesale energy products”;</p>	<p>Parapgraph (1) Inside information [...] “(e) information conveyed by a <del>client</del> <b>market participant</b> or by other persons acting on the <del>client’s</del> <b>market participant</b> behalf and relating to the <del>client’s</del> <b>market participant</b> pending orders in wholesale energy products, which is of a precise nature, relating directly or indirectly, to one or more wholesale energy products”;</p>	<p>The term “client” is not used in REMIT.</p>
<p>“Information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence, or an event which has occurred or may reasonably be expected to do so, and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of wholesale energy products. Information may be deemed to be of precise nature if it relates to a</p>	<p>“Information shall be deemed to be of a precise nature if it indicates a set of circumstances which exists or may reasonably be expected to come into existence, or an event which has occurred or may reasonably be expected to do so, and if it is specific enough to enable a conclusion to be drawn as to the possible effect of that set of circumstances or event on the prices of wholesale energy products. <del>Information may be deemed to be of precise nature if it relates to a</del></p>	<p>Reasonable Investor and Investment Decisions are concepts from the Market Abuse Regulation, and not defined in REMIT. Should be aligned with the energy market definitions. The concept for the “protracted process” will have negative implications on completeness and the timeliness of the inside information disclosure because it will make the evaluation and the decision for disclosure a very complex.</p>

<p>protracted process that is intended to bring about, or that results in, particular circumstances or a particular event, including future circumstances or future events, and also if it relates to the intermediate steps of that process which are connected with bringing about or resulting in those future circumstances or that future event.</p> <p>For the purposes of paragraph 1, information which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products shall mean information a reasonable investor would be likely to use as part of the basis of his or her investment decision(s);</p> <p>An intermediate step in a protracted process shall be deemed to be inside information if, by itself, it satisfies the criteria of inside information as referred to in this Article.</p>	<p><del>protracted process that is intended to bring about, or that results in, particular circumstances or a particular event, including future circumstances or future events, and also if it relates to the intermediate steps of that process which are connected with bringing about or resulting in those future circumstances or that future event.</del></p> <p>For the purposes of paragraph 1, information which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products shall mean information a <del>reasonable investor</del> <b>Market Participant</b> would be likely to use as part of the basis of his or her <del>investment decision(s)</del> <b>trading with Wholesale Energy Products</b>;</p> <p><del>An intermediate step in a protracted process shall be deemed to be inside information if, by itself, it satisfies the criteria of inside information as referred to in this Article.</del></p>	<p>The idea for the “protracted process” and the disclosure of inside information for each step of a process occurring in stages was introduced by ACER several years ago in the non-binding ACER Guidance for REMIT implementation. The energy market had and still has serious concerns regarding its application in practice as it turns the process of inside information disclosure even more difficult, requiring more complex analysis before the disclosure.</p> <p>Instead of introducing such concept, the process of inside information disclosure should be simplified, streamlined, and based on clear and precise pillars which will ensure the quality of the published data and the timeliness of the disclosure.</p>
<p>Paragraph (2) 'market manipulation' means (a) entering into any transaction, issuing any order to trade or engaging in any other behaviour relating to wholesale energy products which: (i) gives, or is likely to give, false or misleading signals as to the supply of, demand for, or price of wholesale</p>	<p>Paragraph (2) 'market manipulation' means (a) entering into any transaction, issuing any order to trade <del>or engaging in any other behaviour relating to issuing any order to trade in</del> wholesale energy products which: (i) gives, or is likely to give, false or misleading signals as</p>	<p>Proposal on paragraph (a): Proposal for change to be consistent with the current provision of the definition. Proposal on new paragraph (c): Please see comment to Art 7a of REMIT Regulation</p>



<p>energy products; (ii) secures, or is likely 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; or (iii) employs a fictitious device or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products; or [...] (c) transmitting false or misleading information or providing false or misleading inputs in relation to a benchmark where the person who made the transmission or provided the input knew or ought to have known that it was false or misleading, or engaging in any other behaviour which leads to the manipulation of the calculation of a benchmark.;</p>	<p>to the supply of, demand for, or price of wholesale energy products; (ii) secures, or is likely 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; or (iii) employs a fictitious device or any other form of deception or contrivance which gives, or is likely to give, false or misleading signals regarding the supply of, demand for, or price of wholesale energy products; or [...] <del>(c) transmitting false or misleading information or providing false or misleading inputs in relation to a benchmark where the person who made the transmission or provided the input knew or ought to have known that it was false or misleading, or engaging in any other behaviour which leads to the manipulation of the calculation of a benchmark.;</del></p>	
<p>Paragraph (4) <i>‘wholesale energy products’ means the following contracts and derivatives, irrespective of where and how they are traded:</i></p>	<p>Paragraph (4) <i>‘wholesale energy products’ means the following contracts and derivatives, irrespective of where and how they are traded:</i> <i>(a) contracts for the supply of electricity or natural gas</i></p>	<p>It is not clear how the <b>potential for a delivery</b> in the Union could be evaluated, if not fixed in the contract. This requirement will affect the variety and flexibility of instruments of the market</p>

<p>(a) contracts for the supply of electricity or natural gas where delivery is in the Union or contracts for the supply of electricity or natural gas which may result in delivery in the Union;”</p>	<p>where delivery is in the Union <del>or contracts for the supply of electricity or natural gas which may result in delivery in the Union;</del>”</p>	<p>participants when entering into agreements, and thus may have negative effect on the competitiveness of the EU market participants and the liquidity of the EU energy market.</p>
<p>Paragraph (7) ‘market participant’ means any person, including transmission system operators and persons professionally arranging or executing transactions when trading on their own account, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets;”</p>	<p>Paragraph (7) ‘market participant’ means any person, including transmission system operators and persons professionally arranging <del>or executing</del> transactions when trading on their own account, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets;”</p>	<p>“Executing” is a term from the financial regulation which in the case of REMIT would make all MPs PPAETs, which in turn would be inappropriate, practically impossible to apply and therefore not effective for REMIT.</p>
<p>Paragraph (8a) ‘person professionally arranging or executing transactions’ means a person professionally engaged in the reception and transmission of orders for, or in the execution of transactions in, wholesale energy products;”</p>	<p>Paragraph (8a) ‘person professionally arranging <del>or executing</del> transactions’ means a person professionally engaged in the reception and transmission of orders for, <del>or in the execution of transactions in,</del> wholesale energy products;”</p>	<p>Please see reasoning to Art. 2 paragraph 7 above</p>
<p>Paragraph (16) ‘registered reporting mechanism’ or ‘RRM’ means a person registered under this Regulation to provide the service of reporting details of transactions, including orders to trade, and/or fundamental data to the Agency on behalf of market participants;</p>	<p>(16) ‘registered reporting mechanism’ or ‘RRM’ means a person registered under this Regulation to <del>provide the service of</del> reporting details of transactions, including orders to trade, and/or fundamental data to the Agency <del>on its own behalf and/or on behalf of third-party</del> market participants;</p>	<p>The new definition of RRM is not aligned with the definition in EC’s decision on REMIT fees from 2020/2152. Currently, there are many instances of MPs registered as RRM that are reporting directly to ACER their own data. In such cases the RRM does not provide a “service” to an external party. If the expression “to provide the service of reporting” is</p>

		<p>preserved that would mean that the MPs should always use the reporting services of third parties.</p> <p>The RRM should not be obliged to have capacity to report to ACER the full scope of reportable data, i.e. some RRM could report only transaction records, other only fundamental data (ENTSO-s), third – both types of data. That’s why we are suggesting to allow the RRM to report “details of transactions, including orders to trade, and <b>/or</b> fundamental data”</p> <p>Commission decision (EU) 2020/2152 on the REMIT fees due to ACER, Article 2(1) contains definition for the term “RRM”. Both definitions of the term “RRM” should be aligned.</p>
<p>Paragraph (17) ‘inside information platform’ or ‘IIP’ means a person registered under this Regulation to provide the service of operating a platform for the disclosure of inside information and for the reporting of disclosed inside information to the Agency on behalf of market participants.</p>	<p>Paragraph (17) ‘inside information platform’ or ‘IIP’ means a person registered under this Regulation to <del>provide the service of operating</del> a platform for the disclosure of inside information and for the <del>reporting submission</del> of disclosed <del>inside</del> information to the Agency on behalf of market participants.</p>	<p>The IIPs should be allowed to submit data to ACER directly.</p>
<p>(20) ‘organised market place’ (‘OMP’) means an energy exchange, an energy broker, an energy capacity platform or any other person professionally arranging or executing transactions, including shared order book</p>	<p>(20) ‘organised market place’ (‘OMP’) or ‘organised market’ means: (a) a multilateral system, which brings together or facilitates the bringing together of multiple third party</p>	<p>It is not clear why a new definition for OMP is needed, since there is such in Article 2(4) of Regulation (EU) 1348/2014.</p>

<p>providers but excluding purely bilateral trading where two natural persons enter into each trade on their own account.</p>	<p>buying and selling interests in wholesale energy products in a way that results in a contract, (b) any other system or facility in which multiple third-party buying and selling interests in wholesale energy products are able to interact in a way that results in a contract. These include electricity and gas exchanges, brokers and other persons professionally arranging transactions, and trading venues as defined in Article 4 of Directive 2014/65/EU of the European Parliament and of the Council (1).</p>	<p>The proposed new definition does not clearly state that the OMP facilitate the process of <b>bringing together of multiple third party buying and selling interests</b>. Additionally, definitions for <b>“energy exchange”</b>, <b>“energy capacity platform”</b>, <b>“energy broker”</b>, <b>“shared order book providers”</b> would be needed. ENTSOG proposal is to keep the definition from Article 2(4) of Regulation (EU) 1348/2014.</p>
<p>Paragraphs (21) ‘LNG trading’ means bids, offers or transactions for the purchase or sale of LNG: (a) that specify delivery in the Union; (b) that result in delivery in the Union; or (c) in which one counterparty re-gasifies the LNG at a terminal in the Union. (22) ‘LNG market data’ means records of bids, offers or transactions for LNG trading with corresponding information as specified in the Commission Implementing Regulation (EU) No 1348/2014. (23) ‘LNG market participant’ means any natural or legal person, irrespective of that person’s place of incorporation or domicile, who engages in LNG trading. (24) ‘LNG price assessment’ means the determination of a daily reference price for LNG trading in accordance with a methodology to be established by ACER.</p>	<p>Paragraphs <del>(21) ‘LNG trading’ means bids, offers or transactions for the purchase or sale of LNG: (a) that specify delivery in the Union; (b) that result in delivery in the Union; or (c) in which one counterparty re-gasifies the LNG at a terminal in the Union.</del> <del>(22) ‘LNG market data’ means records of bids, offers or transactions for LNG trading with corresponding information as specified in the Commission Implementing Regulation (EU) No 1348/2014.</del> <del>(23) ‘LNG market participant’ means any natural or legal person, irrespective of that person’s place of incorporation or domicile, who engages in LNG trading.</del> <del>(24) ‘LNG price assessment’ means the determination of a daily reference price for LNG trading in accordance with a methodology to be established by ACER.</del> <del>(25) ‘LNG benchmark’ means the determination of a</del></p>	<p>See the comment in Art 7a of REMIT Regulation.</p>

<p>(25) ‘LNG benchmark’ means the determination of a spread between the daily LNG price assessment and the settlement price for the TTF Gas Futures front-month contract established by ICE Endex Markets B.V. on a daily basis.”;</p>	<p><del>spread between the daily LNG price assessment and the settlement price for the TTF Gas Futures front-month contract established by ICE Endex Markets B.V. on a daily basis.”;</del></p>	
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### Article 4 Inside information and 4a IIPs

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p>Paragraph 1 [...] “Market participants shall disclose the inside information through IIPs. The IIPs shall ensure that the inside information is made public in a manner which enables fast access, including access through a clear application programming interface. and complete, correct and timely assessment of the information by the public.”;</p>	<p>Paragraph 1 [...] “Market participants shall disclose the inside information through IIPs. The IIPs shall ensure that the inside information is made public <del>in a manner which enables fast access, including access through a clear resilient application programming interface. and complete, correct and timely assessment of the information by the public.”;</del></p>	<p>The manner in which inside information is collected is a technical matter which should be defined in the Implementing Acts (EC) 1348/2014, e.g., via revision of Article 10.1.</p> <p>The IIPs cannot assess information that they never received, and they also don’t have access to information from other companies that enables them to assess whether an inside information was correct, complete or published in a timely manner.</p>
<p>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 , complete and effective public disclosure but not necessarily disclosure in a timely manner in the meaning of paragraph 1 of this Article.</p>	<p>The publication of inside information, including in aggregated form, in accordance with <del>Regulation (EC) No 714/2009</del> Regulation (EU) No 543/2013 or (EC) No 715/2009, or guidelines and network codes adopted pursuant to those Regulations constitutes <del>simultaneous,</del> complete and effective public disclosure but not <del>necessarily in all cases</del> disclosure in a timely manner in the meaning of paragraph 1 of this Article.</p>	

<p><i>Article 4a</i> <i>Authorisation and supervision of IIPs</i></p>	<p><i>Article 4a</i> <i>Authorisation and supervision of IIPs</i></p>	
<p>1. IIPs shall register with the Agency. An IIP shall only operate after the Agency has assessed whether that IIP complies with the requirements of this Article and has authorised the operation. The register of IPPs shall be publicly available and shall contain information on the services for which the IIP is registered. The Agency shall regularly review the compliance of IIPs with this Regulation. Where the Agency has withdrawn a registration in accordance with paragraph 5, that withdrawal shall be published in the register for a period of five years from the date of withdrawal.</p>	<p>1. IIPs shall register with the Agency. An IIP shall only operate after the Agency has assessed whether that IIP complies with the requirements of this Article and has authorised the operation. The register of <del>IPP</del> <b>IIPs</b> shall be publicly available and shall contain information on the services for which the IIP is registered. The Agency shall regularly review the compliance of IIPs with this Regulation. Where the Agency has withdrawn a registration in accordance with paragraph 5, that withdrawal shall be published in the register for <b>the period until the date of the IIP re-registration or maximum for</b> a period of five years from the date of withdrawal. <b>IIPs that have been authorised as Registered Information Services in accordance with Article 11 of the REMIT Implementing Acts and included in ACER list of IIPs at the date of entry into force of this Regulation shall be treated as compliant and registered as IIPs.</b></p>	<p>The IIPs with withdrawn registration should not be prevented to pass new assessment process and re-register in ACER List of IIPs after rectifying the problems that led to ceased authorization.</p> <p>For the avoidance of doubt a transition provision for already authorised IIPs should be added.</p>
<p>2. An IIP shall have adequate policies and arrangements in place to make public the inside information required under Article 4(1) as close to real time as is technically possible, on a reasonable commercial basis. The information shall be made available for all purposes free of charge. The IIP shall efficiently and consistently disseminate such information in a way that ensures fast</p>	<p>2. An IIP shall have adequate policies and arrangements in place to make public the inside information required under Article 4(1) as close to real time as is technically possible, on a reasonable commercial basis. The information shall be made available for all purposes free of charge. The IIP shall efficiently and consistently disseminate such information in a way that ensures fast</p>	<p>Paragraph 2: Text aligned to the fact that once disclosed, inside information ceases to be inside information, it is merely information, and aligned to the fact that IIPs are the only official sources for inside information disclosure.</p>

<p>access to the inside information, on a non-discriminatory basis and in a format that facilitates the consolidation of the inside information with similar data from other sources</p>	<p>access to the <b>inside</b> information, on a non-discriminatory basis and in a format <b>defined by ACER</b> that facilitates the consolidation of the inside information with similar data from other <b>sources-Inside Information Platforms</b></p>	
<p>3. The information made public by an IIP in accordance with paragraph 2 shall include, at least, the following details depending on the type of inside information:</p> <ul style="list-style-type: none"> <li>(a) the message ID and event status;</li> <li>(b) the publication date and time and the event start and stop;</li> <li>(c) the market participant and the market participant identification;</li> <li>(d) the bidding or balancing zone concerned;</li> <li>(e) and, where applicable:</li> <li>(f) the type of unavailability and the type of event;</li> <li>(g) the unit of measurement;</li> <li>(h) the unavailable, the available and the installed or technical capacity;</li> <li>(i) the reason for the unavailability;</li> <li>(j) the fuel type,</li> <li>(k) the affected asset or unit and its identification code</li> </ul>	<p><b>3.</b> The information made public by an IIP in accordance with paragraph 2 shall include, at least, the following details depending on the type of inside information:</p> <ul style="list-style-type: none"> <li>(a) the message ID and event status;</li> <li>(b) the publication date and time and the event start, and <b>if applicable: the event</b> stop;</li> <li>(c) the market participant and the market participant identification;</li> <li><b>(d) and, where applicable:</b></li> <li><b>(e) if applicable the bidding or balancing zone concerned;</b></li> <li><del>(e) and, where applicable:</del></li> <li>(f) the type of unavailability and the type of event;</li> <li>(g) the unit of measurement;</li> <li>(h) the unavailable, the available and the installed or technical capacity;</li> <li>(i) the reason for the unavailability;</li> <li>(j) the fuel type,</li> <li>(k) the affected asset or unit and its identification code</li> </ul>	<p>Paragraph 3: Mandatory data for inside information disclosure: The current proposal is not aligned with the reality for publishing data. Event stop must be left optional for Other Market Information to properly reflect the nature of this type of information.</p>
<p><u>4.</u> An IIP shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an IIP</p>	<p><u>4.</u> An IIP shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an IIP</p>	<p><i>Paragraph 4:</i> The Regulation should not set unrealistic requirements for availability “at all times” that cannot be technically fulfilled, (there is</p>

<p>who is also a market operator or market participant shall treat all inside information collected in a non-discriminatory way and shall operate and maintain appropriate arrangements to separate different business functions.</p> <p>An IIP shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of inside information, minimise the risk of data corruption and unauthorised access and to prevent inside information leakage before publication. The IIP shall maintain adequate resources and have back-up facilities in place in order to offer and maintain its services at all times.</p> <p>The IIP shall have systems in place that can quickly and effectively check inside information reports for completeness, identify omissions and obvious errors, and request re-transmission of any such erroneous reports.</p>	<p><del>who is also an market operator or market participant</del> shall treat all <del>inside</del> information collected in a non-discriminatory way and shall operate and maintain appropriate arrangements to separate different business functions, <del>if any</del>.</p> <p>An IIP shall have sound security mechanisms in place designed to guarantee the security of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage before publication. The IIP shall maintain adequate resources and have back-up <del>facilities</del> <del>solutions</del> in place <del>in order</del> to offer and <del>maintain with minimum occasions and durations of unavailability</del> its services' <del>at all times on a reasonable commercial basis</del>.</p> <p>The IIP shall have systems in place that can effectively check inside information reports for completeness <del>as applicable</del>, identify omissions and obvious errors, and request re-transmission of any such erroneous reports.</p>	<p>no system with 100% uptime), especially considering the provision of Article 4a(2) that the IIP services shall be offered <b>at “reasonable commercial basis”</b>. It is MPs’ responsibility to publish inside information in accordance with the regulation. The operator of the suspended IIP might have obligations to complete all pending (at the moment of withdrawal of authorization) data submissions to ACER and to provide to the MPs with possibility to obtain in format allowing quantitative analysis the complete set of published data for the last 5 years (currently, in accordance with ACER Guidance for REMIT implementation, the IIPs are obliged to keep the published inside information for a period of 5 years).</p> <p>The responsibility for good data quality must be with the owner of the data, i.e., the Market Participants. The IIPs cannot be liable for their MPs data. The IIPs are providing a service for Market Participants to fulfil their REMIT obligations. This is a crucial rule that must be maintained in all aspects of reporting, including in case an IIP’s authorisation is withdrawn.</p>
<p>5. The Agency may withdraw the registration of an IIP where the latter:</p>	<p><u>5</u>. The Agency may withdraw the registration of an IIP where the latter:</p>	<p>Paragraph 5: The operator of a suspended IIP is not in a position and could not arrange the relations (technical, contractual) between its MP-clients and</p>



<p>(a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has provided no services for the preceding six months; (b) obtained the registration by making false statements or by any other irregular means; (c) no longer meets the conditions under which it was registered; (d) has seriously and systematically infringed this Regulation.</p> <p>When the registration has been withdrawn, the IIP concerned shall ensure orderly substitution including the transfer of data to other IIPs and the redirection of reporting flows to other IIPs.</p> <p>The Agency shall, without undue delay, notify the national competent authority in the Member State where the IIP is established of a decision to withdraw the registration of an IIP.</p>	<p>(a) does not make use of the authorisation within 12 months, expressly renounces the authorisation or has provided no services for the preceding <del>six</del> <b>twelve</b> months; (b) obtained the registration by making false statements or by any other irregular means; (c) no longer meets the conditions under which it was registered; (d) has seriously and systematically infringed this Regulation.</p> <p><b>If the Agency concludes that any of the conditions referred to above, occurred, it shall have the power to issue decisions requiring the IIP to implement appropriate remedies within a specified time limit, of at least 6 months. If the IIP does not comply with the decision by the end of the set time limit, the registration is withdrawn.</b></p> <p><b>In case of such decision the Agency shall also indicate the right to appeal the decision before the Agency's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 28 and 29 of Regulation (EU) 2019/942. The Agency may also lay down obligations to enable compliance with the decision to be monitored.</b></p> <p><b>The IIP must immediately inform all Market Participants associated to it about decision issued by</b></p>	<p>the other IIPs, and to transfer MPs' data to another IIP that is not chosen by the affected MPs. The data is already publicly available and shared with the Agency, so there no need to burden new IIPs with data from suspended IIPs.</p> <p>New text paragraph 5: The technical and organizational requirements towards the IIPs shall be properly consulted with the market (potential IIP operators, market participants – publishers, traders and network users – potential users of the disclosed inside information).</p> <p>The IIP operator must be informed by ACER about a potential procedure for “withdrawal” of the IIP registration. ACER should give possibility to the IIP to explain the reason(s) for the eventual incompliance and time to resolve the noted problems.</p> <p>Firstly, it should be noted that withdrawal of the IIP's registration must be considered as an act of direct and individual concern to the IIP concerned and as a challengeable act pursuant to Article 263 TFEU. Therefore, it should take a form of an individual Agency decision, referred to in Article a point d Regulation 2019/942.</p>
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	<p>the Agency, in order to allow the concerned Market Participants to make the needed arrangements with other IIP(s).</p> <p>When the registration has been withdrawn, the IIP concerned shall ensure <del>orderly substitution including, the transfer of data to other IIPs and the redirection of reporting flows to other IIPs</del> completion of the initiated reportings to ACER and provision to each market participant client of its own full set of published data during the previous 5 years from the date of withdrawal, in an electronic format allowing quantitative analysis.</p> <p>The Agency shall, without undue delay, notify the national competent authority in the Member State where the IIP is established of a decision to withdraw the registration of an IIP.</p>	<p>In light of the limited scrutiny of the Court of Justice in relation to the complex economic and technical issues, such decision should also be subject to an appeal to Agency’s Board of the Appeal.</p> <p>The obligation to ensure substitution in the case of the registration withdrawal by the IIP is not proportional and does not sufficiently protect the interest of the Market Participants associated to the IIP concerned.</p> <p>Therefore, in order to ensure the protection of IIP rights (such as right to be informed about a potential registration withdrawal and right to comment on facts of the case) and also interest of other Market Participants it is proposed to that the Agency shall issue a conditional withdrawal decision. In such decision the Agency will be able to define specific remedies that should be taken by the concerned IIP. If the IIP does not comply with the decision by the end of the set time limit, the registration is automatically withdrawn.</p>
	<p><b>[...]</b> <b>New paragraph 7</b> This article shall be applicable 12 months after entry into force of this regulation.</p>	<p>Market Participants, OMPs, RRM and IIPs will need more time to prepare for the technical implementation of the new requirements.</p>

## Article 7a Tasks and powers of ACER to carry out price assessments and benchmarks

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p style="text-align: center;"><b>Article 7a</b></p> <p>Paragraph 1. As a matter of urgency, ACER shall produce and publish a daily LNG price assessment starting no later than 13 January 2023. For the purpose of the LNG price assessment, ACER shall systematically collect and process LNG market data on transactions. The price assessment shall where appropriate take into account regional differences and market conditions.</p> <p><b>Paragraph 2. No later than 31 March 2023, ACER shall produce and publish a daily LNG benchmark determined by the spread between the daily LNG price assessment and the settlement price for the TTF Gas Futures front-month contract established by ICE Endex Markets B.V. on a daily basis. For the purposes of the LNG benchmark, ACER shall systematically collect and process all LNG market data.</b></p> <p>Paragraph 3. By way of derogation from Article 3(4), point (b), of this Regulation, the market participant obligations and prohibitions of this Regulation shall apply to LNG market participants. The powers conferred on ACER under this Regulation and Implementing Regulation (EU) No 1348/2014 shall also apply in relation to LNG market participants including the provisions on confidentiality.</p>	<p style="color: red;"><b>Article 7a</b></p> <p style="color: red;"><del>Paragraph 1. As a matter of urgency, ACER shall produce and publish a daily LNG price assessment starting no later than 13 January 2023. For the purpose of the LNG price assessment, ACER shall systematically collect and process LNG market data on transactions. The price assessment shall where appropriate take into account regional differences and market conditions.</del></p> <p style="color: red;"><del>2. No later than 31 March 2023, ACER shall produce and publish a daily LNG benchmark determined by the spread between the daily LNG price assessment and the settlement price for the TTF Gas Futures front-month contract established by ICE Endex Markets B.V. on a daily basis. For the purposes of the LNG benchmark, ACER shall systematically collect and process all LNG market data.</del></p> <p style="color: red;"><del>Paragraph 3. By way of derogation from Article 3(4), point (b), of this Regulation, the market participant obligations and prohibitions of this Regulation shall apply to LNG market participants. The powers conferred on ACER under this Regulation and Implementing Regulation (EU) No 1348/2014 shall also apply in relation to LNG market participants including the provisions on confidentiality.</del></p>	<p>The additional LNG data collection should remain only in the emergency legislation - COUNCIL REGULATION (EU) 2022/2578 and Regulation (EU) 2022/2576, and if prolonged be conducted following the rules set up therein and <b>not be</b> transferred in Regulation (EU) No 1227/2011 and Regulation (EU) No 1348/2014.</p> <p>Transfer of the provision for LNG market data reporting from Regulation (EU) 2022/2576 to REMIT and Implementing Regulation 1348/2014 in the proposed way could easily cause confusion for market participants. It is not clear whether this transfer results in exclusion of standard reporting obligation for LNG market data if the same data are to be reported under new Article 7c (REMIT) or that set of data should be reported to ACER twice totally independently. It should be noted that Article 7c (1) refers to “the specifications set out in the Commission Implementing Regulation (EU) No 1348/2014” and not only</p>

		to new Article 7a of that Implementing Regulation. Therefore, relation between article 7a and rest part of Implementing Regulation, especially Annex I is not defined in any way.
<p style="text-align: center;"><b>Article 7b</b></p> <p>1. The LNG price assessment shall be published daily, and by no later than 18.00 CET for the outright transaction price assessment. By 31 March 2023, in addition to the publication of the LNG price assessment, ACER shall also, on a daily basis, publish the LNG benchmark by no later than 19:00 CET or as soon as technically possible.</p> <p>2. For the purposes of this Article, ACER may make use of the services of a third party</p>	<p style="text-align: center;"><b>Article 7b</b></p> <p><del>1. The LNG price assessment shall be published daily, and by no later than 18.00 CET for the outright transaction price assessment. By 31 March 2023, in addition to the publication of the LNG price assessment, ACER shall also, on a daily basis, publish the LNG benchmark by no later than 19:00 CET or as soon as technically possible.</del></p> <p><del>2. For the purposes of this Article, ACER may make use of the services of a third party</del></p>	Please see the comment to Art 7a above
<p style="text-align: center;"><b>Article 7c</b></p> <p>1. LNG market participants shall submit daily to ACER the LNG market data in accordance with the specifications set out in the Commission Implementing Regulation (EU) No 1348/2014, in a standardised format, through a high-quality transmission protocol, and as close to real-time as technologically possible before the publication of the daily LNG price assessment (18:00 CET).</p> <p>2. The Commission may adopt implementing acts specifying the point in time by which LNG market data is to be submitted before the daily publication of the LNG price assessment as referred to in paragraph 1. Those</p>	<p style="text-align: center;"><b>Paragraph 7c</b></p> <p><del>1. LNG market participants shall submit daily to ACER the LNG market data in accordance with the specifications set out in the Commission Implementing Regulation (EU) No 1348/2014, in a standardised format, through a high-quality transmission protocol, and as close to real-time as technologically possible before the publication of the daily LNG price assessment (18:00 CET).</del></p> <p><del>2. The Commission may adopt implementing acts specifying the point in time by which LNG market data is to be submitted before the daily publication of the LNG price assessment as referred to in paragraph 1. Those</del></p>	Please see the comment to Art 7a above

<p>implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29.</p> <p>3. Where appropriate, ACER shall, after consulting the Commission, issue guidance on:</p> <p>(a) the details of the information to be reported, in addition to the current details of reportable transactions and fundamental data under Implementing Regulation (EU) No 1348/2014, including bids and offers; and</p> <p>(b) the procedure, standard and electronic format and the technical and organisational requirements for submitting data to be used for the provision of the required LNG market data.</p> <p>4. LNG market participants shall submit the required LNG market data to ACER free of charge and through the reporting channels established by ACER, where possible using already existing and available procedures.</p>	<p><del>implementing acts shall be adopted in accordance with the examination procedure referred to in Article 29.</del></p> <p><del>3. Where appropriate, ACER shall, after consulting the Commission and public, issue guidance on:</del></p> <p><del>(a) the details of the information to be reported, in addition to the current details of reportable transactions and fundamental data under Implementing Regulation (EU) No 1348/2014, including bids and offers; and</del></p> <p><del>(b) the procedure, standard and electronic format and the technical and organisational requirements for submitting data to be used for the provision of the required LNG market data.</del></p> <p><del>4. LNG market participants shall submit the required LNG market data to ACER free of charge on the same terms as other REMIT Market Participants and through the reporting channels established by ACER, where possible using already existing and available procedures.</del></p>	
<p><b>Article 7d</b></p> <p>ACER shall regularly review, update and publish its LNG reference price assessment and LNG benchmark methodology as well as the methodology used for LNG market data reporting and the publication of its LNG price assessments and LNG benchmarks, taking into account the views of LNG market data contributors.”;</p>	<p><del>Article 7d</del></p> <p><del>ACER shall regularly review, update and publish its LNG reference price assessment and LNG benchmark methodology as well as the methodology used for LNG market data reporting and the publication of its LNG price assessments and LNG benchmarks, taking into account the views of LNG market data contributors.”;</del></p>	<p>Please see the comment to Art 7a above</p>

## **Art. 8 Data collection obligations**

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p><b>Paragraph 1</b></p> <p>1. Market participants, or a person or authority listed in points (b) to (f) of paragraph 4 on their behalf, shall provide the Agency with a record of wholesale energy market transactions, including orders to trade. The information reported shall include the precise identification of the wholesale energy products bought and sold, the price and quantity agreed, the dates and times of execution, the parties to the transaction and the beneficiaries of the transaction and any other relevant information. While overall responsibility lies with market participants, once the required information is received from a person or authority listed in points (b) to (f) of paragraph 4, the reporting obligation on the market participant in question shall be considered to be fulfilled.</p> <p>a) For the purpose of reporting records of transactions, including orders to trade, entered, concluded or executed at organised market places, organised market places shall make available to Agency data relating to the order book or, upon Agency’s request, give Agency access to the order book so that it is able to monitor trading.</p>	<p><b>Paragraph 1</b></p> <p>1. Market participants, or a person or authority listed in points (b) to (f) of paragraph 4 on their behalf, shall provide the Agency with a record of wholesale energy market transactions, including orders to trade. The information reported shall include the precise identification of the wholesale energy products bought and sold, the price and quantity agreed, the dates and times of execution, the parties to the transaction and the beneficiaries of the transaction and any other relevant information. While overall responsibility lies with market participants, once the required information is received from a person or authority listed in points (b) to (f) of paragraph 4, the reporting obligation on the market participant in question shall be considered to be fulfilled.</p> <p>a) For the purpose of reporting records of transactions, including orders to trade, entered, concluded or executed at organised market places, organised market places shall make available to Agency data <b>to which OMP has access to</b>, relating to the order book, or, upon Agency’s request, give Agency access to the order book so that it is able to monitor trading.</p>	<p>If obligations to report the full order book, aiming to align obligations and data availability, are placed on OMPs instead of market participants, OMPs must be empowered to do so; Currently, reporting is done based on the bilateral contract between market participants and OMP – is there a will to keep the current set up? If not, it will have to be specified in the Implementing Act, that while choosing OMP – market participants oblige itself to report data as required in the Implementing Act without a need for any additional contract.</p> <p>Additionally, based on the current scope of the Implementing Act – OMPs will not be able to report all the data/details to ACER – hence, proposal for clarifying the scope of OMP obligation.</p> <p>For RRM OMP- Other (e.g. BPs): reported data referring to price the transferee pays to the transferor (per Implementing Regulation (EU) No 1348/2014, Art 3 (1) (b) (ii) are obtained from MPs.</p>
<p><b>Paragraph 4</b> [...]</p>	<p><b>Paragraph 4</b> [...]</p>	<p>Please see reasoning to Art. 2 paragraph 7.</p>

<p>(d) an organised market place, a trade-matching system or other person professionally arranging or executing transactions;</p> <p>“The information shall be provided through registered reporting mechanisms.”;</p>	<p>(d) an organised market place, a trade-matching system or other person professionally arranging <del>or executing</del> transactions;</p> <p><del>“The information shall be provided through registered reporting mechanisms.”;</del></p>	<p>As information can only be provided through RRM, this information is superfluous.</p>
<p><b>Paragraph 5</b></p> <p>Market participants shall provide ACER and national regulatory authorities with information related 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 with inside information publicly disclosed in accordance with Article 4, for the purpose of monitoring trading in wholesale energy markets. The reporting obligations on market participants shall be minimised by collecting the required information or parts thereof from existing sources where possible.”;</p>	<p><b>Paragraph 5</b></p> <p>Market participants shall provide ACER and national regulatory authorities with information related 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. <del>and with inside information publicly disclosed in accordance with Article 4,</del> for the purpose of monitoring trading in wholesale energy markets. The reporting obligations on market participants shall be minimised by collecting the required information or parts thereof from existing sources where possible.”;</p>	<p>The disclosure by publication of inside information is made and meant for the use of the market. The disclosed inside information is publicly available and its monitoring could be done without special data collection.</p>
	<p><del>[...]</del></p> <p><b>New paragraph 7</b></p> <p><del>This article shall be applicable 12 months after entry into force of this regulation.</del></p>	<p>Market Participants, OMPs, RRM and IIPs will need more time to prepare for the technical implementation of the new requirements.</p>

## Art. 9 Registration of Market Participants and Art. 9a for RRM

<p><b>Paragraph 3</b></p> <p>“National regulatory authorities shall transmit the information in their national registers to the Agency in a format determined by the Agency. The Agency shall, in cooperation with those authorities, determine that format and shall publish it by 29 June 2012. Based on the information provided by national regulatory authorities, the Agency shall establish a European register of market participants. National regulatory authorities and other relevant authorities shall have access to the European register. Subject to Article 17, the Agency may decide to make the European register, or extracts thereof, publicly available provided that commercially sensitive information on individual market participants is not disclosed.”</p>	<p><b>Paragraph 3</b></p> <p>National regulatory authorities shall transmit the information in their national registers to the Agency in a format determined by the Agency. The Agency shall, in cooperation with those authorities, determine that format and shall publish it by 29 June 2012. Based on the information provided by national regulatory authorities, the Agency shall establish a European register of market participants. National regulatory authorities and other relevant authorities shall have access to the European register. Subject to Article 17, the Agency <del>may decide to</del> <b>shall</b> make the European register, <del>or extracts thereof,</del> publicly available provided that <b>personal data and</b> commercially sensitive information on individual market participants is not disclosed.</p>	<p>Making the suggested data fields public would increase visibility of non-commercial data as well as transparency and hence facilitate market.</p>
<p><b><u>Article 9a Authorisation and supervision of Registered Reporting Mechanisms</u></b></p> <p>1. The operation of an RRM shall be subject to prior authorisation by the Agency in accordance with this Article.</p> <p>The Agency shall authorise parties as RRM where:</p> <p>(a) the RRM is a legal person established in the Union; and</p> <p>(b) the RRM meets the requirements laid down in this Article.</p>	<p><b><u>Article 9a Authorisation and supervision of Registered Reporting Mechanisms</u></b></p> <p>1. The operation of an RRM shall be subject to prior authorisation by the Agency in accordance with this Article.</p> <p>The Agency shall authorise parties as RRM where:</p> <p>(a) the RRM is a legal person established in the Union; and</p> <p>(b) the RRM meets the requirements laid down in this Article.</p>	<p>As with IIPs (see Article 4a above) for the avoidance of doubt a transition provision for already authorised RRM's should be added.</p>



<p>The authorisation to operate as RRM shall be effective and valid for the entire territory of the Union, and shall allow the RRM provider to provide the services for which it has been authorised throughout the Union</p> <p>An authorised RRM shall comply at all times with the conditions for authorisation referred to in this Article. An authorised RRM shall, without undue delay, notify ACER of any material changes to the conditions for authorisation.</p> <p>The Agency shall establish a register of all RRM in the Union. The register shall be publicly available and shall contain information on the services for which the RRM is authorised and it shall be updated on a regular basis. Where the Agency has withdrawn an authorisation of an RRM in accordance with paragraph 4, that withdrawal shall be published in the register for a period of five years from the date of withdrawal.</p>	<p>RRMs that have been authorised in accordance with the existing rules laid down in Art. 11 of REMIT Implementing Acts 1348/2014 shall be considered as compliant and authorised in accordance with this article.</p> <p>The authorisation to operate as RRM shall be effective and valid for the entire territory of the Union, and shall allow the RRM provider to provide the services for which it has been authorised throughout the Union.</p> <p>An authorised RRM shall <b>endeavour to</b> comply at all times with the conditions for authorisation referred to in this Article. An authorised RRM shall, without undue delay, notify ACER of any material changes to the conditions for authorisation.</p> <p>The Agency shall establish a register of all RRM in the Union. The register shall be publicly available and shall contain information on the services for which the RRM is authorised and it shall be updated on a regular basis. Where Agency has withdrawn an authorisation in accordance with paragraph 4, that withdrawal shall be published in the register for <b>the period until the date of the RRM re-registration or maximum for</b> a period of five years from the date of withdrawal.</p>	
<p>2. The Agency shall regularly review the compliance of RRM with this Article. For this purpose, RRM shall</p>	<p>2. The Agency shall <b>regularly not be prevented from</b> reviewing the compliance of RRM with this Article. For</p>	<p>To make the amendment more precise.</p>

<p>report on an annual basis about their activities to the Agency.</p>	<p>this purpose, <b>upon written request issued by ACER, specifying the scope and the format of the requested information</b>, RRTMs shall report on an annual basis about their activities to the Agency.</p>	
<p>3. RRTMs shall have adequate policies and arrangements in place to report the information required under Article 8 as quickly as possible, and no later than the timing laid down in the implementing acts pursuant to paragraph 5.</p> <p>RRTMs shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an RRTM that is also an OMP or market participant shall treat all information collected in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions.</p> <p>RRTMs shall have sound security mechanisms in place designed to guarantee the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage, maintaining the confidentiality of the data at all times. The RRTM shall maintain adequate resources and have back-up facilities in place in order to offer and maintain its</p>	<p>3. RRTMs shall have adequate policies and arrangements in place to report the information required under Article 8 <b>as quickly as possible, and</b> no later than the timing laid down in the implementing acts pursuant to paragraph 5.</p> <p>RRTMs shall operate and maintain effective administrative arrangements designed to prevent conflicts of interest with its clients. In particular, an RRTM <del>that is also an OMP or market participant</del> shall treat all information collected <b>for REMIT reporting</b> in a non-discriminatory fashion and shall operate and maintain appropriate arrangements to separate different business functions, <b>if any</b>.</p> <p>RRTMs shall have sound security mechanisms in place designed to guarantee <b>to the extent possible</b> the security and authentication of the means of transfer of information, minimise the risk of data corruption and unauthorised access and to prevent information leakage, maintaining the confidentiality of the data at all times. The RRTM shall maintain adequate resources <b>and have back-up facilities in place in order to offer and maintain to ensure the continuity and the provision of its services</b> <del>at</del> according to the timing laid down in the implementing acts according to Article</p>	<p>The RRTMs cannot be held responsible for MP's data, that responsibility must remain with the owner of the data.</p> <p>Adequate resources are already adequate, it is not necessary to add more specification to it.</p> <p>To maintain effective arrangements for avoiding conflict of interest and separate the different business functions could be relevant for the RRTMs that offer reporting services to third parties. If an RRTM is MP that is reporting only its own data, the RRTM activities cannot be separated and isolated from the MP business processes because the reporting system will be feeded with data from the information systems of the MP.</p> <p>The RRTMs could validate the data provided for reporting by the MP's and inform them by alarm, return receipt, etc. about potential issues with the data completeness and/or format.</p> <p>The MP's are the obliged parties with obligations to provide data to ACER and it is their</p>

<p>services at according to the timing laid down in the implementing acts according to Article 8(2) and (6).</p> <p>RRMs shall have systems in place that can effectively check transaction reports for completeness, identify omissions and obvious errors caused by the market participant, and where such error or omission occurs, to communicate details of the error or omission to the market participant and request re-transmission of any such erroneous reports.</p> <p>RRMs shall have systems in place to enable the RRM to detect errors or omissions caused by the RRM itself and to enable the RRM to correct and transmit, or re-transmit as the case may be, correct and complete transaction reports to the Agency.</p>	<p>8(2) and (6).</p> <p>RRMs shall have systems in place that can effectively check transaction reports for completeness, identify omissions and obvious errors caused by the market participant, and where such error or omission occurs, to communicate details of the error or omission to the market participant <del>and request re-transmission of any such erroneous reports.</del></p> <p>RRMs shall have systems in place to enable the RRM to detect errors or omissions caused by the RRM itself and to enable the RRM to correct and transmit, or re-transmit as the case may be, correct and complete transaction reports to the Agency.</p>	<p>responsibility to initiate the eventual resubmission of data to the RRM, after being alerted by the RRM about a data quality problem at the MP side. The RRM cannot be liable or responsible for MP’s omissions or disregard of the RRM indication of a data quality issue.</p>
	<p><b>3.a [new paragraph]</b> The Agency shall set up sound mechanisms that</p> <ul style="list-style-type: none"> <li>a) enable easy corrections following issues with the Agency’s systems for collection of information required under Article 8;</li> <li>b) enable easy tracking of messages and receipts, associated with collection of information required under Article 8, per Market Participant.</li> </ul>	<p>It’s important that RRM’s have clear view of what data is reported for each market participants in ACER systems and how it links to the fees charged to them.</p> <p>We would also welcome this solution to be put in other paragraph, however it should be related solely to data collection from RRM’s.</p>
<p>4. The Agency may withdraw the authorisation of an RRM in case the RRM:</p> <p>(a) does not make use of the authorisation within 18</p>	<p>4. The Agency may withdraw the authorisation of an RRM, in case the RRM:</p> <p>(a) <del>does not make use of the authorisation within 18</del></p>	<p>The Market Participants should decide what new RRM’s they chose for reporting their data if their</p>

<p>months, expressly renounces the authorisation or has provided no services for the preceding 18 months; (b) obtained the authorisation by making false statements or by any other irregular means; (c) no longer meets the conditions under which it was authorised; (d) has seriously and systematically infringed this Regulation.</p> <p>An RRM from which authorisation has been withdrawn shall ensure orderly substitution including the transfer of data to other RRM and the redirection of reporting flows to other RRM.</p> <p>The Agency shall, where relevant, without undue delay, notify the national competent authority in the Member State where the RRM is established of a decision to withdraw the authorisation of an RRM.</p>	<p><del>months</del>, expressly renounces the authorisation or has <del>provided offered</del> no services for the preceding 18 months <b>if authorized for reporting of third parties' data</b>; (b) obtained the authorisation by making false statements or by any other irregular means; (c) no longer meets the conditions under which it was authorised; (d) has seriously and systematically infringed this Regulation.</p> <p><b>If the Agency concludes that any of the condition, referred to above, occurred, it shall have the power to issue decisions requiring the RRM to implement appropriate remedies within a specified time limit, of at least 6 months. If the RRM does not comply with the decision by the end of the set time limit, the authorisation is withdrawn. In such a decision the Agency shall also indicate the right to appeal the decision before the Agency's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 28 and 29 of Regulation (EU) 2019/942. The Agency may also lay down obligations to enable compliance with the decision to be monitored.</b></p> <p><b>The RRM must immediately inform the Market Participants associated to about the decision issued by the Agency, in order to allow the concerned Market</b></p>	<p>RRM ceases to be authorized, this cannot be a decision by the RRM.</p> <p><i>“Do not make use of the authorization”</i> is not a clear expression. Occasions when the service was offered but not used by the MPs, should not be a reason for withdrawal of authorization.</p> <p>It is MPs' responsibility to report data to ACER in accordance with the regulation, respectively to arrange their contractual relations and technical measures for exchange with a new RRM. The RRM have obligations to complete all pending (at the moment of withdrawal of authorization) data submissions to ACER and to provide to the MPs the historically reported data and the ACER ARIS return receipts (that the RRM is obliged to store for a period of at least the previous 12 months – according to “ACER RRM Requirements”), in decrypted form and in the respective electronic format, in accordance with Article 10(3) of Regulation (EU) No 1348/2014 (REMIT Implementing Regulation).</p> <p>Firstly, it should be noted that withdrawal of the RRM's authorisation must be considered as an act of direct and individual concern to the IIP</p>
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Participants to make the needed arrangements with other RRM(s).

An RRM from which authorisation has been withdrawn shall ensure orderly ~~substitution including communication about ceasing the service to the impacted Market Participants, the transfer of data to other RRMs,~~ and offer historical data files and receipts sent on behalf of ~~reporting flows to other RRMs chosen by the impacted Market~~ Participants, for at least 12 months and in a decrypted format.

The RRM whose authorization was withdrawn cannot be prevented to re-initiate RRM registration with ACER after rectification of the reason for the ceased authorization.

The Agency shall, where relevant, without undue delay, notify the national competent authority in the Member State where the RRM is established of a decision to withdraw the authorisation of an RRM.

concerned and as a challengeable act pursuant to Article 263 TFEU. Therefore, it should take a form of an individual Agency decision, referred to in Article a point d Regulation 2019/942. In light of the limited scrutiny of the Court of Justice in relation to the complex economic and technical issues, such decision should also be subject to an appeal to Agency's Board of the Appeal.

The obligation to ensure substitution in the case of the authorisation withdrawal by the RRM is not proportional and does not sufficiently protect the interest of the Market Participants associated to the RRM concerned.

Therefore, to ensure the protection of RRM rights (such as right to be informed about a potential registration withdrawal and right to comment on facts of the case) and also interest of other Market Participants it is proposed to that the Agency shall issue a conditional withdrawal decision. In such decision the Agency will be able to define specific remedies that should be taken by the concerned RRM. If the IIP does not comply with the decision by the end of

		the set time limit, the authorisation is automatically withdrawn.
	<p>[...] New paragraph 6 This article shall be applicable 12 months after entry into force of this regulation.</p>	Market Participants, OMPs, RRM and IIPs will need more time to prepare for the technical implementation of the new requirements.

### Art. 12 Operational reliability

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p><b>Paragraph 2</b> Subject to Article 17, ACER may decide to make publicly available parts of the information which it possesses, provided that commercially sensitive information on individual market participants or individual transactions or individual market places are not disclosed and cannot be inferred. ACER shall not be prevented from publishing information on organised market places, IIPs, RRM according to applicable data protection laws.”;</p>	<p><b>Paragraph 2</b> Subject to Article 17, ACER may decide to make publicly available parts of the information which it possesses, provided that commercially sensitive information on individual market participants or individual transactions or individual market places are not disclosed and cannot be inferred. <del>ACER shall not be prevented from publishing information on organised market places, IIPs, RRM according to applicable data protection laws.”;</del></p>	<p>It is not clear what details ACER shall publish “on OMPs, IIPs, RRM”. ENTSOG suggests deleting the last paragraph as it is superfluous and not adding anything compared to art. 17.</p>

### Art. 13 ACER Powers

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p><b>Paragraph 1</b> National regulatory authorities shall ensure that the prohibitions set out in Articles 3 and 5 and the obligations set out in Articles 4, 8, 9 and 15 are applied.</p>	<p><b>Paragraph 1</b> National regulatory authorities shall ensure that the prohibitions set out in Articles 3 and 5 and the obligations set out in Articles 4, 8, 9 and 15 are applied.</p>	<p>Amendment is explained in the comments to the amended definition of PPAT, please see reasoning to Art. 2 paragraph 7.</p>

<p>National regulatory authorities shall be competent to investigate all the acts carried out on their national wholesale energy markets and enforce this Regulation thereto, irrespective of where the market participant registered pursuant to Article 9(1) carrying out those acts is resident or established.</p> <p>Each Member State shall ensure that its national regulatory authorities have the investigatory and enforcement powers necessary for the exercise of that function. Those powers shall be exercised in a proportionate manner.</p> <p>Those powers may be exercised:</p> <table border="1" data-bbox="107 933 846 1061"> <tr> <td>(a)</td> <td>directly;</td> </tr> <tr> <td>(b)</td> <td>in collaboration with other authorities; or</td> </tr> <tr> <td>(c)</td> <td>by application to the competent judicial authorities.</td> </tr> </table> <p>Where appropriate, the national regulatory authorities may exercise their investigatory powers in collaboration with organised markets, trade-matching systems or other persons professionally arranging or executing transactions as referred to in point (d) of Article 8(4).”;</p>	(a)	directly;	(b)	in collaboration with other authorities; or	(c)	by application to the competent judicial authorities.	<p>National regulatory authorities shall be competent to investigate all the acts carried out on their national wholesale energy markets and enforce this Regulation thereto, irrespective of where the market participant registered pursuant to Article 9(1) carrying out those acts is resident or established.</p> <p>Each Member State shall ensure that its national regulatory authorities have the investigatory and enforcement powers necessary for the exercise of that function. Those powers shall be exercised in a proportionate manner.</p> <p>Those powers may be exercised:</p> <table border="1" data-bbox="878 933 1585 1061"> <tr> <td>(a)</td> <td>directly;</td> </tr> <tr> <td>(b)</td> <td>in collaboration with other authorities; or</td> </tr> <tr> <td>(c)</td> <td>by application to the competent judicial authorities.</td> </tr> </table> <p>Where appropriate, the national regulatory authorities may exercise their investigatory powers in collaboration with organised markets, trade-matching systems or other persons professionally arranging <del>or executing</del> transactions as referred to in point (d) of Article 8(4).”;</p>	(a)	directly;	(b)	in collaboration with other authorities; or	(c)	by application to the competent judicial authorities.	
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(b)	in collaboration with other authorities; or													
(c)	by application to the competent judicial authorities.													
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(b)	in collaboration with other authorities; or													
(c)	by application to the competent judicial authorities.													
<p>[...] Paragraph (4)</p>	<p>[...] Paragraph (4)</p>	<p>Paragraph (4): ENTSOG does not see the need for ACER to step in about lack of fulfilling obligations; this is</p>												

The Agency may exercise its powers to ensure that the prohibitions set out in Article 3 and Article 5 and the obligations set out in Article 4 are applied where:

**(a) acts are being or have been carried out on wholesale energy products for delivery in at least three Member States; or**

**(b) acts are being or have been carried on wholesale energy products for delivery in at least two Member States and at least one of the natural or legal persons who is carrying or carried out these acts is resident or established in a third country but registered pursuant to Article 9(1); or**

(c) the competent national regulatory authority, without prejudice to the derogations referred to in Article 16(5), does not immediately take the necessary measures in order to comply with the request from the Agency referred to in Article 16(4)(b); or

(d) the relevant information as defined in Article 2(1) of this Regulation is likely to significantly affect the prices of wholesale energy products for delivery in at least three Member States.

#### Paragraph 5

The Agency may exercise its powers to ensure that the obligations set out in Article 15 are met where the persons are professionally arranging or executing transactions on

The Agency may exercise its powers to ensure that the prohibitions set out in Article 3 and Article 5 ~~and the obligations set out in Article 4~~ are applied where:

(a) acts are being or have been carried out on wholesale energy products for delivery in at least three Member States; or

(b) acts are being or have been carried on wholesale energy products for delivery in at least two Member States and at least one of the natural or legal persons who is carrying or carried out these acts is resident or established in a third country but registered pursuant to Article 9(1); or

(c) the competent national regulatory authority, without prejudice to the derogations referred to in Article 16(5), does not ~~immediately~~ take the necessary measures ~~within the reasonable timeframe given by~~ the Agency in order to comply with the request from the Agency referred to in Article 16(4)(b); or

~~(d) the relevant information as defined in Article 2(1) of this Regulation is likely to significantly affect the prices of wholesale energy products for delivery in at least three Member States.~~

#### Paragraph 5

The Agency may exercise its powers to ensure that the obligations set out in Article 15 are met where the persons are professionally arranging ~~or executing~~ transactions on

something NRAs are well trained in and they are in a good position to deal with lack of inside information disclosure. Such proposal can be detrimental for the already well developed and functioning balance of power between ACER and NRAs.

Paragraph 4(d): Information defined in art 2(1) often refers to all Member States and thus, it is not clear why there are three Member States proposed under point d).

Paragraph 5: Please see reasoning to Art. 2 paragraph 7.

Paragraph 7: Article 18 only sets minimum standards for the rules on penalties applicable to infringements of the Regulation that should be lay down by Member States. However, because of the fact that ACER's conclusion on a breach of the Regulation will not take the form of formal decision, that could be reviewed by the Court of Justice,



<p>wholesale energy products for delivery in at least three Member States.</p> <p>6. In exercising its powers, the Agency shall take into account the investigations in progress or already carried out in respect of the same cases by a national regulatory authority pursuant to this Regulation as well as the cross-border impact of the investigation.</p> <p>7. Upon completion of its actions taken to exercise its powers pursuant to paragraph 4, the Agency shall draw up a report. The report shall be made public taking into account confidentiality requirements. If the Agency concludes that a breach of this Regulation took place, it shall inform the national regulatory authorities of the Member State or Member States concerned accordingly and require that the breach be dealt with in accordance with Articles 18. The Agency may recommend certain follow-up to the relevant national regulatory authorities, and, where necessary, inform the Commission.”;</p>	<p>wholesale energy products for delivery in at least three Member States.</p> <p>[...]</p> <p>7. Upon completion of its actions taken to exercise its powers pursuant to paragraph 4, the Agency shall draw up a report. The report shall be made public taking into account confidentiality requirements. If the Agency concludes that a breach of this Regulation took place, it shall inform the national regulatory authorities of the Member State or Member States concerned accordingly and require that the breach be dealt with in accordance with Articles 18. <b>The national regulatory authority is not obliged to accept conclusion of the legal assessment carried out by the Agency. The procedural guarantees and fundamental rights of the persons concerned shall be fully respected by the national regulatory authority according to applicable national law.</b> The Agency may recommend certain follow-up to the relevant national regulatory authorities, and, where necessary, inform the Commission.”;</p>	<p>there is a need to ensure protection of procedural guarantees and fundamental rights of the persons concerned. They should be able to comment on the fact, provide evidence or argumentation in their favour towards the national regulatory authority and national regulatory authority should be empowered to decide on the case based on all evidence and information (both gathered directly or received from ACER). Such decision should include assessment in relation to occurrence the breach and, if the regulatory authority is convinced that the breach took place, also measures and/or sanction referred to in Article 18 (2).</p>
<p style="text-align: center;"><b>Article 13b</b></p> <p>Paragraph 1 At the Agency’s request any person shall provide to it the information necessary for the purpose of fulfilling the</p>	<p style="text-align: center;"><b>Article 13b</b></p> <p>Paragraph 1 At the Agency’s request any person <b>that according to the Agency findings might be in possession of information relevant to an investigation</b> shall provide to it the</p>	<p>“Any person” could set too wide scope of ACER powers in the light of the Agency obligations under REMIT. In the context of this article, ACER</p>

<p>Agency's obligations under this Regulation. In its request the Agency shall</p> <table border="1" data-bbox="107 438 846 853"> <tr> <td></td> <td>refer to this Article as the legal basis for the request; state the purpose of the request; specify what information is required, and following</td> </tr> <tr> <td>(a)</td> <td>which data format;</td> </tr> <tr> <td>(b)</td> <td>set a time-limit, proportionate to the request, within</td> </tr> <tr> <td>(c)</td> <td>which the information is to</td> </tr> <tr> <td>(d)</td> <td>be provided;</td> </tr> <tr> <td>(e)</td> <td>inform the person that the reply to the request for information shall not be incorrect or misleading.</td> </tr> </table>		refer to this Article as the legal basis for the request; state the purpose of the request; specify what information is required, and following	(a)	which data format;	(b)	set a time-limit, proportionate to the request, within	(c)	which the information is to	(d)	be provided;	(e)	inform the person that the reply to the request for information shall not be incorrect or misleading.	<p>information necessary for the purpose of fulfilling the Agency's obligations under <b>Article 13</b> of this Regulation. In its request the Agency shall</p> <table border="1" data-bbox="878 478 1585 933"> <tr> <td></td> <td>refer to this Article as the legal basis for the request; state the purpose of the request;</td> </tr> <tr> <td>(a)</td> <td>specify what information is required, and following</td> </tr> <tr> <td>(b)</td> <td>which data format;</td> </tr> <tr> <td>(c)</td> <td>set a time-limit, proportionate to the request,</td> </tr> <tr> <td>(d)</td> <td>within which the information is to</td> </tr> <tr> <td>(e)</td> <td>be provided; inform the person that the reply to the request for information shall not be incorrect or misleading.</td> </tr> </table>		refer to this Article as the legal basis for the request; state the purpose of the request;	(a)	specify what information is required, and following	(b)	which data format;	(c)	set a time-limit, proportionate to the request,	(d)	within which the information is to	(e)	be provided; inform the person that the reply to the request for information shall not be incorrect or misleading.	<p>should have right to request information related to only to the performance of the eventual duties under Article 13.</p>
	refer to this Article as the legal basis for the request; state the purpose of the request; specify what information is required, and following																									
(a)	which data format;																									
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<p>Paragraph 2 For the purpose of information requests as referred to in paragraph 1, the Agency shall have the power to issue decisions. In such a decision the Agency shall, in addition to the requirements in paragraph 1 indicate the right to appeal the decision before the Agency's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 28 and 29 of Regulation (EU) 2019/942. [...] Paragraph 6.</p>	<p>Paragraph 2 For the purpose of information requests as referred to in paragraph 1, the Agency shall <del>have the power to</del> issue a decisions. In such a decision the Agency shall, in addition to the requirements in paragraph 1 indicate the right to appeal the decision before the Agency's Board of Appeal and to have the decision reviewed by the Court of Justice in accordance with Articles 28 and 29 of Regulation (EU) 2019/942. [...] Paragraph 6.</p>	<p>With this proposal ENTSOG aims for legal clarity for market participants.</p>																								

<p>The Agency shall, without delay, send a copy of the request pursuant to paragraph 1 or the decision pursuant to paragraph 2 to the national regulatory authorities of the concerned Member States.</p>	<p>The Agency shall, without delay, send a copy of the <del>request pursuant to paragraph 1 or the</del> decision pursuant to paragraph 2 to the national regulatory authorities of the concerned Member States.</p>	
<p style="text-align: center;"><b>Article 13c</b></p> <p>1. The Agency shall carry out on-site inspections and request information in full respect of the procedural guarantees of market participants, including:</p> <ul style="list-style-type: none"> <li>(a) the right not to make self-incriminating statements;</li> <li>(b) the right to be assisted by a person of choice;</li> <li>(c) the right to use any of the official languages of the Member State where the onsite inspection takes place;</li> <li>(d) the right to comment on facts concerning them;</li> <li>(e) the right to receive a copy of the record of interview and either approve it or add observations.</li> </ul> <p>2. The Agency shall seek evidence for and against the market participant, and carry out on-site inspections and request information objectively and impartially and in accordance with the principle of the presumption of innocence.</p> <p>3. The Agency shall carry out on-site inspections and request information in full respect of applicable confidentiality and Union data protection rules.</p> <p>[...]</p> <p>7. Officials of, as well as those authorised or appointed by, the national regulatory authority of the Member State where the inspection is to be conducted shall, at the request of the</p>	<p style="text-align: center;"><b>Article 13c</b></p> <p>1. The Agency shall carry out on-site inspections and request information in full respect of the procedural guarantees of market participants, including:</p> <ul style="list-style-type: none"> <li>(a) the right not to make self-incriminating statements;</li> <li>(b) the right to be assisted by a person of choice;</li> <li>(c) the right to use any of the official languages of the Member State where the onsite inspection takes place;</li> <li>(d) the right to comment on facts concerning them;</li> <li>(e) the right to receive a copy of the record of interview and either approve it or add observations.</li> </ul> <p>2. The Agency shall seek evidence for and against the market participant, and carry out on-site inspections and request information objectively and impartially and in accordance with the principle of the presumption of innocence.</p> <p>3. The Agency shall carry out on-site inspections and request information in full respect of applicable confidentiality and Union data protection rules.</p> <p><b>4. The Commission shall assess the Agency's inspections annually to evaluate the impact and effectiveness of such inspections.</b></p>	<p>Inspections are a drastic measure for all parties, and such inspections can have a big impact on the Market Participants, no matter if any wrongdoing has occurred or not. Such activities should be effective for the market in general to have a value, and the Commission should be the right institution to assess this.</p>

<p>Agency, actively assist the officials of and other persons authorised by the Agency. To that end they shall enjoy the powers set out in this Article. Officials of the national regulatory authority may also attend the on-site inspection upon request.</p>	<p>[...]        8. Officials of, as well as those authorised or appointed by, the national regulatory authority of the Member State where the inspection is to be conducted shall, at the request of the Agency, actively assist the officials of and other persons authorised by the Agency. To that end they shall <b>enjoy use</b> the powers set out in this Article . Officials of the national regulatory authority may also attend the on-site inspection upon request.</p>	
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### Art. 15 PPAT obligations

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p style="text-align: center;"><b>Article 15</b></p> <p>Obligations of persons professionally arranging or executing transactions</p> <p>Any person professionally arranging or executing transactions in wholesale energy products who reasonably suspects that an order or a transaction, including any cancellation or modification thereof, might breach Article 3, 4 or 5 shall notify Agency and the national regulatory authority without further delay.</p> <p>Persons professionally arranging or executing transactions in wholesale energy products shall establish and maintain effective arrangements and procedures to:</p>	<p style="text-align: center;"><b>Article 15</b></p> <p>Obligations of persons professionally arranging <del>or</del> <b>executing</b> transactions</p> <p>Any person professionally arranging <del>or</del> <b>executing</b> transactions in wholesale energy products who reasonably suspects that an order or a transaction, including any cancellation or modification thereof, might breach Article 3, <del>4</del> or 5 shall notify Agency and the national regulatory authority without further delay.</p> <p>Persons professionally arranging <del>or</del> <b>executing</b> transactions in wholesale energy products shall</p>	<p>Including Art. 4 as part of PPATs monitoring tasks is an impossible obligation to follow. How can the PPATs (e.g. an OMP) possess knowledge about inside information of the traders? PPATs do not have access to such information, as it by nature is confidential and residing inside a company. The identification of the possible breaches of art. 4 lies on the whole wholesale energy market and not only on PPATs. Additionally, it is not in the decision power of the PPATs to decide whether a breach of REMIT has occurred. Such decision can only be taken by the national regulatory authorities.</p>

<p>(i) identify breaches of Article 3, 4 or 5;          (ii) guarantee that their employees carrying out surveillance activities for the purpose of this Article are preserved from any conflict of interest and act in an independent manner.</p>	<p>establish and maintain effective arrangements and procedures to:          (i) identify <b>possible</b> breaches of Article 3, <b>4</b> or 5;          (ii) guarantee that their employees carrying out surveillance activities for the purpose of this Article are preserved from any conflict of interest and act in an independent manner.</p>	<p><i>In summary</i>, the PPATs are not able to carry out surveillance and to be aware about all details related with their client MPs’ publication behaviour. The PPATs do not have mechanisms to monitor the disclosure of inside information and the fulfilment of requirements of Article 4 of REMIT by their clients/MPs because the MPs are free to publish inside information on whatever IIP and do not have obligation to inform their OMPs/brokers/PPAT where and whether they have disclosed inside information. Please also see reasoning to Art. 2 paragraph 7.</p>
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### Art. 16 Guidelines and Recommendations

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p><b>Article 16</b></p> <p>[...]            No later than 30 days before adopting a final decision on a breach of this Regulation, national regulatory authorities shall inform the Agency and provide it with a summary of the case and the envisaged decision. The Agency shall maintain a public list of such decisions under this Regulation, including the date of the decision, the name of the persons sanctioned, the Article of this Regulation that has been breached and the sanction applied. For the purpose of that publication, national regulatory authorities shall</p>	<p><b>Article 16</b></p> <p>[...]            No later than 30 days before adopting a final decision on a breach of this Regulation, national regulatory authorities <b>or the authority to whom the NRA delegated investigatory responsibilities in line with Article 16a(1)</b> shall inform the Agency and provide it with a summary of the case and the envisaged decision. The Agency shall maintain a public list of such decisions under this Regulation, including the date of the decision, the name of the persons sanctioned, the Article of this Regulation that has been breached and the sanction applied. For the purpose of that publication, national regulatory authorities <b>or the</b></p>	<p>This article does not envisage the possibility for ACER to be informed about a decisions on a breach of REMIT by an authority that is different from the NRA, to whom the NRA delegated the investigation functions – as per Article 16a(1) below.</p>

<p>provide this information to the Agency within seven days of the issuance of the decision.</p>	<p><b>relevant delegated authority</b> shall provide this information to the Agency within seven days of the issuance of the decision.</p> <p><b>For the closed cases with proven breach of this Regulation, after an appeal process - if applicable, the relevant national regulatory authority or the authority to whom the NRA delegated investigatory responsibilities, shall publish detailed information on the matter and technology of the breach, both in the language of the relevant Member State and in English language. ACER shall include link to this description in English language in the public list of enforcement decisions that it maintains.</b></p>	
<p><b>Article 16b ... recommendations</b></p> <p>1. The Agency shall, with a view to establish consistent, efficient and effective supervisory practices within the Union, and to ensure the common, uniform and consistent application of Union law, issue guidelines and recommendations addressed to all national regulatory authorities or all market participants and issue recommendations to one or more national regulatory authorities or to one or more market participants on the application of Articles 4a, 8 and 9a.</p> <p>2. The Agency shall, where appropriate, conduct public consultations regarding the guidelines and recommendations which it issues and analyse the related potential costs and benefits of issuing such guidelines and recommendations. Those consultations</p>	<p><b>Article 16b ... recommendations</b></p> <p>1. The Agency shall, with a view to establish consistent, efficient and effective supervisory practices within the Union, and to ensure the common, uniform and consistent application of Union law, issue <b>non-binding</b> guidelines and recommendations addressed to all national regulatory authorities or all market participants and issue recommendations to one or more national regulatory authorities or to one or more market participants on the application of Articles 4a, 8 and 9a.</p> <p>2. The Agency shall, <del>where appropriate</del>, conduct public consultations regarding the guidelines and recommendations which it issues <b>and/or their updates</b> and analyse the related potential costs and benefits of issuing such guidelines and recommendations. Those consultations and analyses shall be proportionate to the scope, nature and impact of the guidelines or recommendations. <b>As a minimum, such consultations shall</b></p>	<p>Paragraph 2: ENTSOG and the gas TSOs believe that involving the market participants in new measures that will significantly impact their business should <b>always</b> be part of the Agency's work. Therefore, proper public consultation should ALWAYS be included when recommendations and guidelines are issued, and the Agency has always received valuable contributions from the Market when they issue public consultations. We appreciate that it is a lengthy process, but we believe this is part of the reason</p>

and analyses shall be proportionate to the scope, nature and impact of the guidelines or recommendations.

3. The national regulatory authorities and market participants shall make every effort to comply with those guidelines and recommendations.

4. Within two months of the issuance of a guideline or recommendation, each national regulatory authority shall confirm whether it complies or intends to comply with that guideline or recommendation. If a national regulatory authority does not comply or does not intend to comply, it shall inform the Agency, stating its reasons.

5. The Agency shall publish the information that a national regulatory authority does not comply or does not intend to comply with that guideline or recommendation. The Agency may also decide to publish the reasons provided by the national regulatory authority for not complying with that guideline or recommendation. The national regulatory authority shall receive advanced notice of such publication.

6. If required by that guideline or recommendation, market participants shall report, in a clear and detailed way, whether they comply with that guideline or recommendation.

7. The Agency shall include the guidelines and recommendations that it has issued in the report

**give responders the opportunity to provide an estimation of the impact of new measures, for the Agency to properly conduct their cost analysis.**

3. The national regulatory authorities and market participants shall ~~make every effort~~ **endeavour** to comply with those guidelines and recommendations.

4. Within two months of the issuance of a guideline or recommendation, each national regulatory authority shall confirm whether it complies or intends to comply with that guideline or recommendation. If a national regulatory authority does not comply or does not intend to comply, it shall inform the Agency, stating its reasons.

5. The Agency shall publish the information that a national regulatory authority does not comply or does not intend to comply with that guideline or recommendation. The Agency may also decide to publish the reasons provided by the national regulatory authority for not complying with that guideline or recommendation. The national regulatory authority shall receive advanced notice of such publication.

6. If required by that guideline or recommendation, market participants shall report, in a clear and detailed way, ~~whether~~ **how** they comply ~~or intend to comply~~ with that guideline or recommendation ~~or explain why the respective provision is not applicable for them.~~

7. The Agency shall include the guidelines and recommendations that it has issued in the report referred to in Article 19(1)(k) of Regulation (EU) 2019/942.”;

that REMIT so far has been quite successful.

The ACER Guidelines to the NRAs and MPs and their revisions should be always subject with proper public consultation process, especially considering that paragraph (1) above envisages that the ACER Guidance will **no longer be non-binding for the NRAs and MPs**

Paragraph 6: It is not clear to whom this report shall be addressed. The market participants should not be put in a position to make self-discrediting statements.

referred to in Article 19(1)(k) of Regulation (EU) 2019/942.”;

### Article 18 on Sanctions

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p><b>Paragraph 2</b> [...] (e) adopt a decision imposing administrative pecuniary sanctions; in respect of legal persons, maximum administrative pecuniary sanctions of at least:</p>	<p><b>Paragraph 2</b> [...] (e) adopt a decision imposing administrative pecuniary sanctions; in respect of legal persons, maximum administrative pecuniary sanctions <del>of at least:</del></p>	<p>The “maximum” and “at least” notions are contradicting to each other.</p> <p>The level of the sanctions could discourage the MPs from acting on the wholesale energy market in the Union and may have negative effect on the competition and the market liquidity.</p>

### Proposed amendments to the regulation amending ACER REGULATION

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
<p><b>Article 12</b> [...] (c) Pursue and coordinate investigations pursuant to Articles 13, 13a, 13b and Article 16 of Regulation (EU) No 1227/2011</p>	<p><b>Article 12</b> [...] (c) Pursue and coordinate investigations pursuant to Articles 13, 13a, 13b and Article 16 of Regulation (EU) No 1227/2011 <b>(d) issue individual decisions pursuant to Articles 4a (5) and 9a (4)</b></p>	<p>New paragraph (d) should be added to give Market Participants, IIPs and RRMIs legal clarity.</p>
<p><b>Article 32, paragraph 1:</b> 1. Fees shall be due to ACER for collecting, handling, processing and analysing of information reported by market participants</p>	<p>Article 32, paragraph 1: 1. Fees shall be due to ACER for collecting, handling, processing and analysing of information reported by market participants or by entities</p>	<p>The information disclosed in the UMMs is already reported via other means, and as such, to respect the principle of reducing costs for Market Participants and avoid double payments, the information disclosed as UMMs should not be subject to fees.</p>



<p>or by entities reporting on their behalf pursuant to Article 8 of Regulation (EU) No 1227/2011 and for disclosing inside information pursuant to Articles 4 and 4a of Regulation (EU) No 1227/2011. The fees shall be paid by registered reporting mechanisms and inside information platforms. Revenues from those fees may also cover the costs of ACER for exercising the supervision and investigation powers pursuant to Articles 13, 13a, 13b and Article 16 Regulation (EU) No 1227/2011.</p>	<p>reporting on their behalf pursuant to Article 8 of Regulation (EU) No 1227/2011 <del>and for disclosing inside information pursuant to Articles 4 and 4a of Regulation (EU) No 1227/2011.</del> The fees shall be paid by registered reporting mechanisms <del>and inside information platforms.</del> <del>Revenues from those fees shall not cover the costs of ACER for exercising the supervision and investigation powers pursuant to Articles 13, 13a, 13b and Article 16 Regulation (EU) No 1227/2011.</del> The Agency activities costs pursuant to Articles 13, 13a, 13b and Article 16 Regulation (EU) No 1227/2011 shall be covered by the general ACER budget.</p>	<p>The eventual inclusion of the inside information disclosure under REMIT fees regime may have detrimental effect on the market transparency. Due to the lack of clear thresholds for defining which information is really significant for the market, to be “on the safe side”, the market participants currently publish more details about more occasions of capacity limitations. It is a matter of decision and organization at the stakeholders’ side how to use and filter the published data that they deem valuable. If the inside information data collection is included in the REMIT fee regime, this may limit the scope of the published data which may have negative effect for the market. Additionally, it is not appropriate that the IIPs should be burdened with the costs of inspections, guidelines as recommendations following the executing of the REMIT reporting scheme as envisaged in REMIT Article 8.</p> <p>ACER investigations and on-site inspections contributes to the general integrity of the market and should therefore be funded by the market, i.e. the general ACER budget.</p>
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### **Proposed amendments to the REMIT Implementing Acts 1348/2014**

Reference to Legal Text	ENTSOG suggestion	Rational/Argumentation
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<p><b>Article 3 List of reportable contracts</b></p> <p>1.The following contracts shall be reported to the Agency:</p> <p>(b) Wholesale energy products in relation to the transportation of electricity or natural gas in the Union:</p> <p>(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,</p> <p>(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,</p>	<p><b>Article 3 List of reportable contracts</b></p> <p>1.The following contracts shall be reported to the Agency:</p> <p>(b) Wholesale energy products in relation to the transportation of electricity or natural gas in the Union:</p> <p>(i) Contracts relating to the transportation of electricity or natural gas in the Union between two or more <del>locations</del> <b>balancing zones</b> 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,</p> <p>(ii) Contracts relating to the transportation of electricity or natural gas in the Union between two or more <del>locations</del> <b>balancing zones</b> 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,</p>	<p>There is no definition of the word “location” in the existing legislation or network codes. The use of the notion “location” invokes unclarities and inconsistencies in the scope of the reportable contracts. We propose to replace it with “balancing zone” (as per the definition from the Balancing Network Code EU 312/2014). The use of the term “balancing zone” will clearly set the scope of reportable gas transportation transactions and will align the orbits of reportable data for gas and electricity transportation contracts.</p>
<p><b>Art 4 IR: List of contracts reportable at request of the Agency</b></p> <p>1. Unless concluded on organised market places, the following contracts and details of transactions in relation to those contracts shall be reportable</p>	<p><b>Art 4 IR: List of contracts reportable at request of the Agency</b></p> <p>1. Unless concluded on organised market places, the following contracts and details of transactions in relation to those contracts shall be reportable only upon</p>	<p>As per Art. 2 (4) of REMIT (1227/2011): “Contracts for the supply and distribution of electricity or natural gas for the use of final customers are not wholesale energy products. <b>However, contracts for the supply and distribution of electricity or natural gas to final customers with a consumption capacity greater than the</b></p>

<p>only upon reasoned request of the Agency and on an ad-hoc basis:</p>	<p>reasoned request of the Agency and on an ad-hoc basis:</p> <p>[...]</p> <p>e) bilateral contracts for the supply of electricity or natural gas to transmission operators, storage system operators and LNG system operators for the own use of these operators</p>	<p><b>threshold set out in the second paragraph of point (5) shall be treated as wholesale energy products”.</b></p> <p>As per Art 3 (1) (a) (vii) of IR (1348/2014): “The following contracts shall be reported to the Agency: (a) As regards wholesale energy products in relation to the supply of electricity or natural gas with delivery in the Union: (vii) <b>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,”.</b></p> <p>Having regard to the above, TSO (with a technical capacity to consume 600 GWh/year or more) has an obligation to report contracts for the supply of electricity or natural gas purchased for own use. In addition, the reporting obligation of the above deliveries is on both parties of the transaction.</p> <p>As TSO, SSO and LSO we propose to change from <u>obligatory</u> to <u>“upon on Agency’s request”</u> reporting of bilateral contracts for the supply electricity or natural gas for TSO’s/SSO’s/LSO’s own use. An existing reporting obligation leads to increased administrative costs and burdens, especially for small companies who offer us this supply (next to maintenance, repair, investment, operation works), while the volume of these supplies is small, and price is not significant for the wholesale energy market.</p>
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<b>Article 7a</b>		<b>Article 7a</b>		Please comments on Art. 7a of the REMIT Regulation.
<b>LNG market data quality</b>		<del>LNG market data quality</del>		
1.	LNG market data shall include:  the parties to the contract, including buy/sell indicator;  (a) the reporting party; (b) the transaction price; (c) the contract quantities; (d) the value of the contract; (e) the arrival window for the LNG cargo; (f) the terms of delivery; (g) the delivery points; (i) the timestamp information on all of the following:  (i) the date and time of placing the bid or offer;	<del>1.</del>	<del>LNG market data shall include:  the parties to the contract, including buy/sell indicator;  (a) the reporting party; (b) the transaction price; (c) the contract quantities; (d) the value of the contract; (e) the arrival window for the LNG cargo; (f) the terms of delivery; (g) the delivery points; (i) the timestamp information on all of the following:  (i) the date and time of placing the bid or offer;</del>	
(ii) the transaction date and time; (iii) the date and time of reporting of the bid, offer or transaction; (iv) the receipt of LNG market data by ACER.		<del>(ii) the transaction date and time; (iii) the date and time of reporting of the bid, offer or transaction; (iv) the receipt of LNG market data by ACER.</del>		
2. LNG market participants shall provide		<del>2. LNG market participants shall provide ACER with LNG market data in the following units and currencies:</del>		

ACER with LNG market data in the following units and currencies:			
(a)	transaction, bid and offer unit prices shall be reported in the currency specified in the contract and in EUR/MWh and shall include applied conversion and exchange rates if applicable;	<del>(a)</del>	<del>transaction, bid and offer unit prices shall be reported in the currency specified in the contract and in EUR/MWh and shall include applied conversion and exchange rates if applicable;</del>
(b)	contract quantities shall be reported in the units specified in the contracts and in MWh;	<del>(b)</del>	<del>contract quantities shall be reported in the units specified in the contracts and in MWh;</del>
(c)	arrival windows shall be reported in terms of delivery dates expressed in UTC format;	<del>(c)</del>	<del>arrival windows shall be reported in terms of delivery dates expressed in UTC format;</del>
(d)	delivery point shall indicate a valid identifier listed by ACER such as referred to in the list of LNG facilities subject to reporting pursuant to Regulation (EU) No 1227/2011 and Implementing Regulation (EU) No 1348/2014; the timestamp information shall be reported in UTC format; (to be	<del>(d)</del>	<del>delivery point shall indicate a valid identifier listed by ACER such as referred to in the list of LNG facilities subject to reporting pursuant to Regulation (EU) No 1227/2011 and Implementing Regulation (EU) No 1348/2014; the timestamp information shall be reported in UTC format; (to be replaced with cross-references as appropriate)</del>
		<del>(e)</del>	<del>if relevant, the price formula in the long-term contract from which the</del>

	replaced with cross-references as appropriate)	<del>price is derived shall be reported in its integrity.</del>	
(e)	if relevant, the price formula in the long-term contract from which the price is derived shall be reported in its integrity.	<del>3. ACER shall issue guidance regarding the criteria under which a single submitter accounts for a significant portion of LNG market data submitted within a certain reference period and how this situation shall be addressed in its daily LNG price assessment and LNG benchmarks.</del>	
	3. ACER shall issue guidance regarding the criteria under which a single submitter accounts for a significant portion of LNG market data submitted within a certain reference period and how this situation shall be addressed in its daily LNG price assessment and LNG benchmarks.		