

REMIT REGULATION AND MARKET OPERATOR

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EU legislation and market regulation

In recent years, the European Union demonstrates the effort to regulate the energy market in order to increase its transparency and ensuring an open and competitive market environment. Outside defined tools in the third liberalization package, the Regulation of the European Parliament and of the Council (EU) No 1227/2011 on wholesale energy market integrity and transparency ('REMIT Regulation') was approved on 25th October 2011. This Regulation entered into force on 28th December 2011 with the following objectives:

- to prevent market manipulation through dissemination of inaccurate information that gives false or misleading signals with the impact on the price of wholesale energy products,
- to prevent insider trading based on inside information,
- to increase the transparency of the energy market by introducing an obligation to disclose inside information that could affect the price of energy products in a timely manner,
- to set up an EU-wide data monitoring on wholesale energy products.

REMIT Regulation is directly applicable legislation which is valid and effective in all EU countries. Obligations of market participants resulting from the REMIT Regulation applies to any person including all the transmission system operators which performs transactions in one or more wholesale energy markets including the placing of bids. Among market participants, within the meaning of REMIT Regulation, are not classified only traders and suppliers, but also producers and large consumers. The term 'wholesale energy products' means products not only in relation to the supply of electricity or natural gas with delivery in the Union, but also in relation to the transmission of electricity or transport of natural gas in the Union.

On 17th December 2014 in accordance with REMIT Regulation the European Commission adopted Commission Implementing Regulation (EU) No 1348/2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency ('REMIT Implementing Regulation'). REMIT Implementing Regulation specifies not only rules and obligations but also introduces the relevant deadline for fulfilling the obligations of market participants under REMIT Regulation. These include:

- to timely disclose of inside information,
- to register in the register of market participants administered by the national regulatory authority,
- to notify the trade and the fundamental data into a EU-wide database administered by the Agency for the Cooperation of Energy Regulators ('ACER Agency')¹.

¹ <http://www.acer.europa.eu/Pages/ACER.aspx>

REMIT Regulation Implementation

ACER Agency based in Ljubljana, Slovenia was set as a responsible institution for setting up conditions for the implementation and enforcement of REMIT Regulation at European level. This European agency coordinates not only the cooperation of national regulatory authorities, but newly it is also authorized to perform collection and monitoring of data on wholesale energy products. At national level the Energy Regulatory Office ('ERO') is the authorized institution to ensure the implementation of REMIT Regulation. The fundamental role of ERO in REMIT Regulation is the cooperation with ACER Agency and other national regulatory authorities in monitoring wholesale energy markets, the application of investigative enforcement, and sanctioning powers for non-compliance with obligations under the REMIT Regulation. Individual stages of REMIT Regulation implementation are shown in FIG. 1.

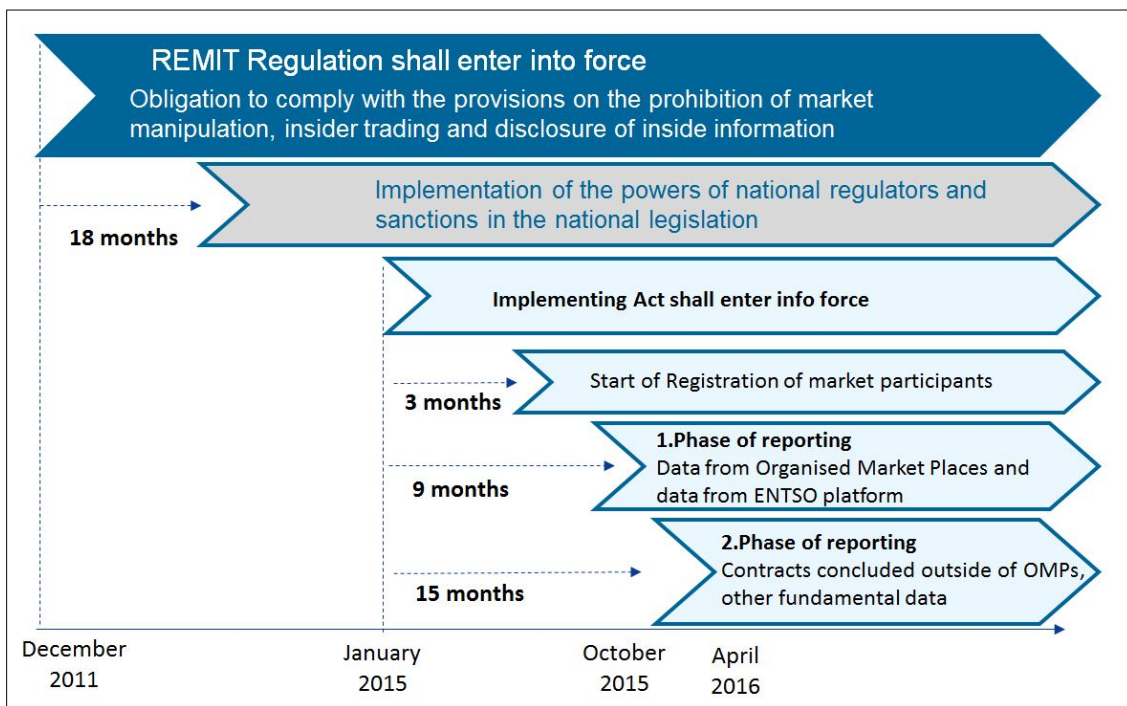


Figure 1: Stages of implementation of the REMIT Regulation; Source: OTE, a.s.

A necessary condition to ensure market monitoring and reporting obligation is the compulsory registration of market participant at the national regulatory authority in the Member State in which it is situated. A National Register of Market Participants, which is administered by the Energy Regulatory Office, was introduced in the Czech Republic. The registration obligation applies to all market participants who trade wholesale energy products under the reporting obligation. The REMIT Implementing Regulation contains a list of reportable contracts, in particular the contracts for the supply of electricity and natural gas, the contracts relating to the transportation of electricity or natural gas and contracts with derivative. The deadline for registration in the National Register of Market Participants is not set. Every market participant is obliged to register before entering into a transaction which must be reported to the ACER Agency. The first phase of the reporting obligation under REMIT Implementing Regulation is effective from 7th October 2015 for orders and trades placed at organized market places (including broker platforms). On this date an obligation to report

the fundamental data on capacity and use of facilities for production and transmission of electricity, information on capacity and utilization of facilities for the transmission of natural gas, including planned and unplanned unavailability of these facilities enters into force.

The data on market participants are transferred from the national registers to the database of ACER Agency that created a Central European Register of Market Participants ('CEREMP') for this purpose. CEREMP collects information on all market participants in the European wholesale energy market and is part of the information system of ACER Agency ('ARIS').

For purposes of identification of market participants on the European wholesale energy market, ACER Agency is issuing to all registered entities a unique identifier - **ACER registration code**, which will be used for reporting of trade and fundamental data. Organized market places have to register at ACER Agency in a similar way as market participants. According to information published on the REMIT web platform, following entities and contracts were registered for the purposes of implementation of REMIT Regulation:

- 60 organized market places,
- 7,465 standard contracts which can be traded on organized market places (these contracts are subjects to reporting from 7th October 2015),
- 898 market participants, including 42 market participants from the Czech Republic (data on 14th May 2015),
- 9 inside information platforms for disclosure of inside information for the electricity,
- 7 inside information platforms for disclosure of inside information for the gas,
- entities which have been certified as a Registered Reporting Mechanism through which it will be possible to send data to the ARIS database (the list is not available yet).

As already mentioned, the fundamental objective of the REMIT Regulation is to set an EU-wide data monitoring on wholesale energy products. This monitoring is secured not only by the registration of market participants in CEREMP, but also by the obligation to notify the market participant's trade and fundamental data. Reporting obligations is divided into two phases - see Figure 1.

The first phase of the reporting will become effective from **7th October 2015** and requires reporting of orders and trades that were placed at organized market places. The list of standard contracts traded on these markets is published on the REMIT web platform maintained by ACER Agency. The second phase of the reporting obligation shall apply from **7th April 2016**, and requires reporting of bilateral contracts concluded outside the organized market places, contracts for balancing services, nominations between bidding zones, 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, and other wholesale energy products in accordance with the REMIT Implementing Regulation.

In order to detect market manipulation, data reported in accordance with the REMIT Regulation, including published inside information, shall be further analysed and evaluated by ACER Agency which developed a complex monitoring system for this purpose. Reported data from the Czech Republic to this database will be made available by ACER Agency to national regulatory authorities (ERO in the Czech Rep.) for controlling and monitoring purposes at the national level. At

this point it should be noted that the Market Operator currently has no information on procedures or rules under which these analyses and evaluations will be carried out.

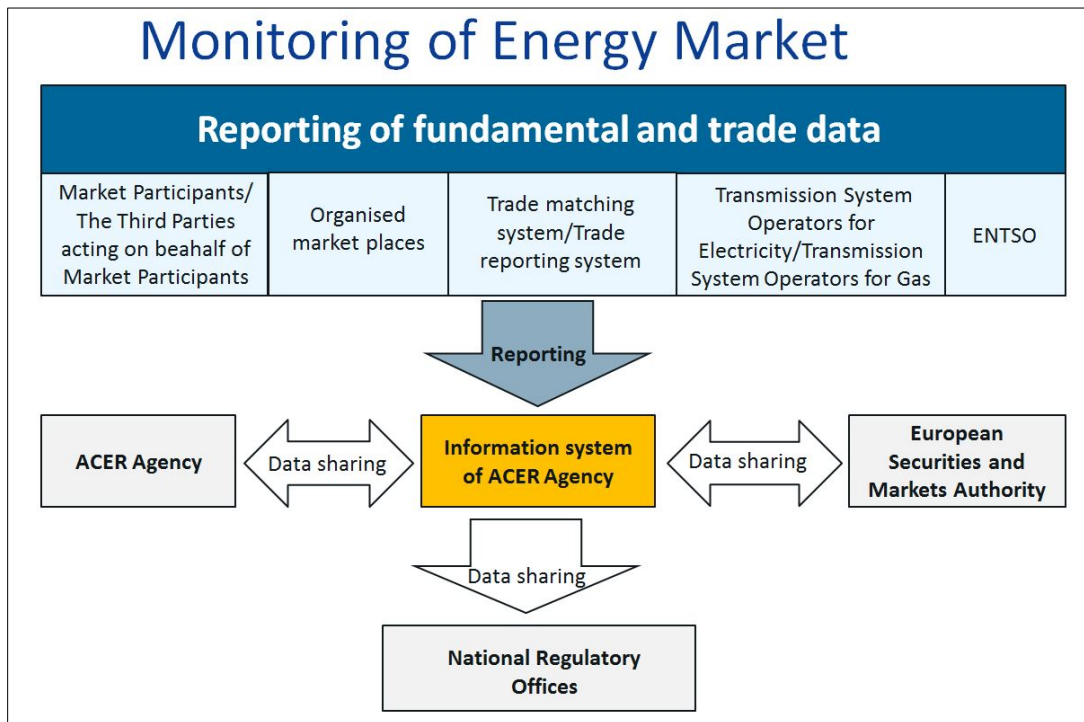


Figure 2: Expected scheme of the energy market monitoring; Source: ACER Agency

Reporting trades from organised market places

Information on transactions on wholesale energy markets, including orders to trade are to be reported to ACER Agency through organized market places (e.g. OTE Business Platforms), on which the wholesale energy products were executed, or through trade matching or trade reporting systems. From the above follows that despite the primary responsibility of the market participants for reporting data, the fulfilment of this obligation has to be transferred to another entity. The market participant himself cannot report this data and an organized market place is required to provide market participants with an agreement on data reporting. If the market participant does not agree with the contractual terms, he has the right to find another entity that will report his transactions on his behalf.

According to the REMIT Implementing Regulation reporting of data on wholesale energy products includes complete information about concluded transactions and orders, including order lifecycles, which means any modifications, replacements or annulments. The market participant is obliged to report trade data no later than the next business day after the transaction is concluded or order is placed and by the next working day after changing or annulling the order.

Reporting of orders and trades is to communicate only through Registered Reporting Mechanism ('RRM'). An entity which will be directly connected via communication interface to the information system of ACER Agency and will perform reporting, must obtain the 'RRM' certification for these purposes. A condition for granting this certification is to meet the technical and organizational requirements laid down by ACER Agency, which includes the following measures:

- ensuring the security and timely data transfer,
- establishment of appropriate controls of data validation and quality,
- authentication of the source of information,
- providing an alternative solution for data reporting,
- the use of standardized formats for data reporting defined by ACER Agency,
- establishment of appropriate mechanisms for market participants to check the data notified on their behalf.

After obtaining the ‘RRM’ permission these entities can directly send data on behalf of market participants to the information system of ACER Agency (‘ARIS’). ACER Agency is entrusted by the European Commission to issue user manuals for the implementation of REMIT regulation and is also authorized to determine the safety and technical criteria for sending requested data.

Preparations of Market Operator for reporting

OTE under the market operator’s license is the organizer of short-term market for power and gas in the Czech Republic under Article 20a (4) a) Act No. 458/2000 Coll. (‘Energy Act’). Figure 3 summarizes the trading platforms constituting the organized short-term market for power and gas and basic parameters of these markets.



Figure 3: Business Platform organized by the Market Operator; Source: OTE, a.s.

Short-term market is a place where you can in a matter of days or even hours buy and sell electricity or gas in a very short time before the delivery date. Trading on these markets is provided 7 days a week, 365 days a year. Individual markets are designed so that trading and balancing of positions through these markets are interconnected at each time and mutually complement each other. More on these platforms and their benefits on www.ote-cr.cz. The constantly increasing

number of market participants with access to short-term market as well as increasing volume of traded energy shows the increasing market liquidity. Not only large energy companies and traders trade on the market but also industrial companies which have decided to meet their energy needs on their own. Figure 4 shows the evolution of the number of participants in OTE short-term markets.

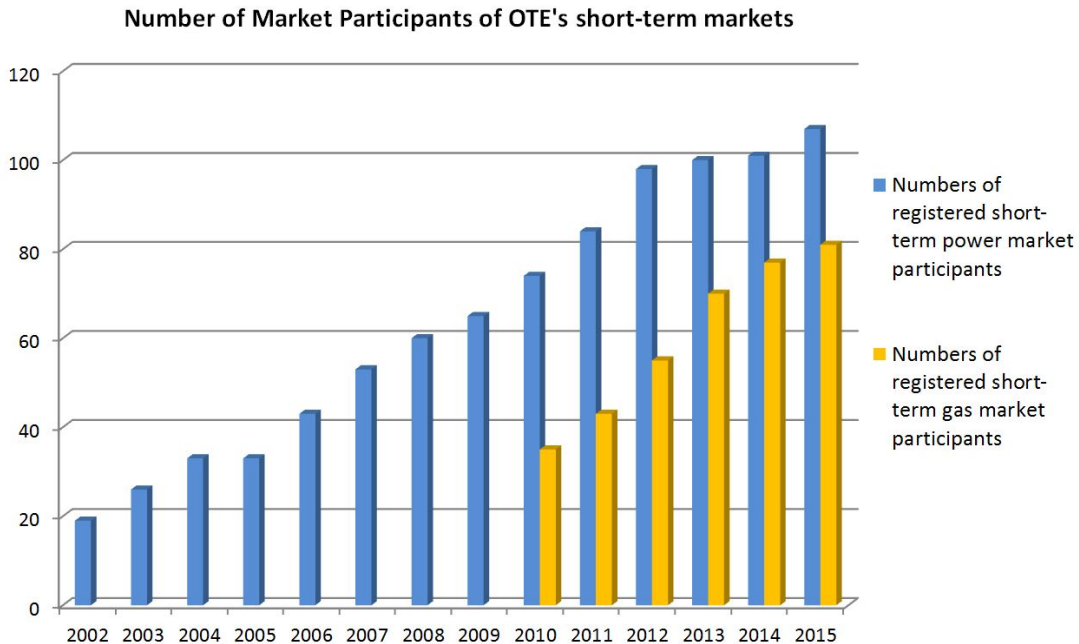


Figure 4: Evolution of the number of market participants in short-term markets OTE; Source: OTE, a.s.

Who is affected in this case of the reporting obligation? The reporting obligation under the REMIT Regulation, effective as of 7th October 2015, relates to the market participants who trade wholesale energy products on the short-term market for power and gas organized by the Market Operator, except for balancing market and the unused tolerance market. According to this, the preparation of OTE to report data on behalf of market participants has been adapted.

Despite some reservations about the reporting obligations, caused by unclear law and lack of technical details, the Market Operator already started in the autumn of 2014 steps (technical and organizational) to offer a reporting service of wholesale energy products for market participants to the information system of ACER Agency ('ARIS'). One of these steps was an application for registration as a Registered Reporting Mechanism submitted to ACER Agency in January 2015 by the Market Operator, which is a prerequisite for reporting trade data on behalf of market participants. Representatives of the Market Operator have been and are participating on discussions with experts of ACER Agency, either directly or through the association of energy exchanges Europex, but also in the expert groups convened under the auspices of the Energy Regulatory Office, where the views and comments of representatives of the Market Operator are positively received.

We can say that in spite of these obstacles the implementation of necessary technical and procedural measures to ensure timely and appropriate solutions to the extent required for market participants is in progress. Its implementation, however, hinder not only the changes in the

underlying documentation published by ACER Agency but also vague assignment. Reservations to the unpreparedness of ACER Agency and the unavailability of the necessary documents have repeatedly been the subject of comments by the Market Operator as to ACER Agency, as well as towards the Energy Regulatory Office. Despite the effort of ACER Agency to assist with implementation through HelpDesk, the capacity of this support is completely inadequate, and questions of market participants, organized market places, and other entities often remain unanswered.

Market Operator's Solutions

The range of OTE services will initially include trade data from OTE short-term markets for electricity and gas, namely:

- Block Electricity Market,
- Day-Ahead Market for Electricity and Gas,
- Intraday Market for Electricity and Gas.

Implementation of Market Operator's solution to ensure the reporting of trade data does not only cover creation of a new communication interface for data reporting to the information system of ACER Agency (ARIS) but also to ensure the transformation of the data to the extent prescribed by legislation, which is essential for market participants either on whose behalf the Market Operator or other subjects will report.

OTE's complete solution for reporting of trade data will be based on contractual relations with market participants and will include the following functionality:

- introduction of new types of data in the system of the Market Operator,
- preparation and completion of data according to standardized ACER formats,
- making the data available to market participants,
- automatic transmission of trade data into information system of ACER Agency,
- ensuring an alternative data transmission from OTE system,
- notification of market participants about the state of transmitted data and reporting results.

In the event that the market participant decides not to report through the Market Operator, the Market Operator's solution allows access the following functionalities under agreement:

- introduction of new types of data in the system of the Market Operator,
- making the data available to the market participants in order to download and report with the assistance of different reporting entity.

Terms and Conditions including the fees will be published in July / August 2015 following the publication the draft of Business Terms of OTE. Registration of market participants for both services is planned for July / August 2015. The market participant will be invited to submit a registration code issued by ACER Agency under which the data will be reported. During the summer of 2015 the data transmission between the central system of Market Operator and ACER Agency will be tested.

Expansion of the services for reporting trades which took place outside the OTE central system, a second phase of the reporting obligations of market participants, will be addressed in the coming

months. At the moment the capacity of OTE is fully focused on ensuring the secure data reporting with the effect from 7th October 2015.

We believe that the implemented solution will meet the idea of market participants about securing the obligation to report the wholesale energy products on the short-term market for electricity and gas as well as related activities associated with archiving and monitoring of the data.