

NATURAL GAS & ELECTRICITY TRANSACTIONS REPORTING REQUIREMENTS UNDER REMIT - WHEN AND HOW (BULGARIA)

The scope of the new requirements

On 7th of January 2015 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)¹.

The regulation defines the details of the reportable wholesale energy products (including commodities) registering process and the data to be reported by the energy market participants² (MPs) before the Agency for cooperation of the energy regulators (ACER). It also establishes the reporting channels and timing and regularity of data reporting.

On 8th of January 2015 ACER also launched an online reporting portal. The portal contains the supportive manuals related to REMIT data reporting process: (i) Trade Reporting User Manual (TRUM) and Manual of Procedures (MoP)³ and (ii) the Requirements (non-technical) for the Registered Reporting Mechanisms (RRMs)⁴.

To facilitate further the reporting process, ACER also has published a list of organised market places which will enable market participants to identify relevant organised market places as reporting channels for data reporting and will publish on 17th March 2015 public list of standard contracts to be reported to make the process of reporting easier for the market participants.

MPs are advised to start preparations soon to ensure that their appropriate systems and controls are in place and to register with the national

¹ REMIT outlined in 2011 the new EU specific regulation, aimed at prohibiting insider trading and market manipulation in wholesale energy products markets. The new requirements establish a framework for the monitoring of wholesale energy markets to detect and deter market manipulation and insider trading and provide enforcement mechanisms for sanctioning breaches of market abuse rules at national level.

² Market participant is "any person, including transmission system operators, who enters into transactions, including the placing of orders to trade in one or more wholesale energy markets" (Article 2(7) of REMIT).

³ Both manuals give detailed description of which trade and fundamental data have to be reported or how such data will be reported.

⁴ "RRM" stands for a person that reports data directly to ACER under REMIT. The ACER portal currently allows reporting parties to register themselves as RRM and the manual on RRM provides for the technical and organizational requirements to be fulfilled by reporting entities to comply with the REMIT reporting requirements.

regulatory authority having competence to enforce REMIT requirements before the first reporting date - 7th October 2015⁵.

Affected parties in Bulgaria

According to REMIT, the MPs registration process is required prior to their entering into a transaction, subject to reporting. Applied to Bulgaria, the electricity generators⁶ (conventional and RES), traders and power exchange operators, the public providers (NEK EAD and Bulgargaz EAD) and end suppliers⁷, the TSOs (ESO EAD and Bulgartransgaz EAD, the latter also being a storage system operator) and intermediaries and/or brokers⁸ dealing with wholesale energy products are required to register and report.⁹

Affected transactions

Under REMIT all MPs, trading wholesale energy products are required to comply with the transaction reporting obligations. The following transactions are covered by the reporting obligation:

- Contracts relating to the supply¹⁰ of electricity and natural gas with delivery in the EU irrespective of where and how are traded, in particular irrespective whether sold under a tender or traded constantly;
- 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;
- Contracts relating to the transportation of electricity or natural gas between two or more locations or bidding zones, concluded as result of primary explicit capacity allocation by or on behalf of the TSO, specifying physical or financial capacity rights or obligations or secondary markets with delivery in the EU;
- Derivatives (physical and financial) generated, traded or supplied (unless they were already reported under the applicable legislation on derivative transactions).

⁵ The data collection starting on this date concerns the reporting of reportable wholesale energy contracts admitted to trading at organised market places and of data from ENTOSs central information transparency platform. The second date 7th April 2016, though, will concern the reporting of all remaining reportable wholesale energy contracts (supply and transportation) and reportable data from transmission and storage operator.

⁶ Except for those below the thresholds – see footnote 12 below

⁷ In case of supply to end customers above 600 MWh/p.a.

⁸ I.e. the investment firms within the meaning of Article 5 (1) of the Markets of Financial Instruments Act and Article 4(1), item 1 under Directive 2004/39/EC

⁹ MPs engaging only in transactions in relation to contracts for the physical delivery equal to or less than 10MW for electricity and 20MW for gas will not be required to register.

¹⁰ The contracts include intraday or within-day, day-ahead, two-days-ahead, week-end, after-day, other contracts with delivery period longer than two days;

Certain products are subject to reporting only when requested by ACER¹¹ and unless traded on an organized market place: (i) intra-group contracts; (ii) contracts for physical delivery of electricity or natural gas in case the generation capacity does not exceed certain thresholds¹² and (iii) contracts for balancing services in electricity and natural gas.

The way ahead

Although the main REMIT provisions are known for three years, Bulgaria has not explicitly passed implementing provisions defining the competence of the REMIT enforcement national authority yet¹³.

It is expected that the main powers for market monitoring, registering and investigation under REMIT will be given to the State Energy and Water Regulatory Commission (SEWRC), similar to other countries, e.g. Hungary (MEKH) and Czech Republic (ERU).

However, as the REMIT provisions are directly applicable, the affected MPs at the Bulgarian energy market should develop and implement their REMIT transaction reporting strategy as the various types of data sources and differing timeframes are complex and need sufficient time to prepare staff. Therefore, the market participants should be proactive in consulting the potential impact of the practical REMIT interpretations and implementation well before the transaction reporting start date in October 2015.

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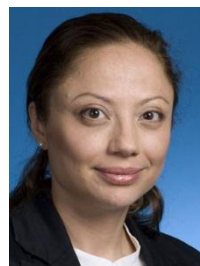
¹¹ ACER published a no-action relied letter informing that it will not request such data until 31 Dec. 2016. However, the letter is non-binding document and still, according to the Regulation No 1348/2014 any exempted data may be requested on by ACER on an ad hoc basis. Hence, the MPs should be able to store it and ensure easy access to such data upon request.

¹² Equal to or less than 10 MW or by production units with a combined capacity equal to or less than 10 MW for electricity and a production capacity equal to or less than 20 MW for natural gas

¹³ It is expected that the main powers for market registering under REMIT will be given to the State Energy and Regulatory Commission (SEWRC), similar to other EU countries, e.g. Hungary (MEKH) and Czech Republic (ERU), although some additional coordinative competences could be granted to other authorities too (e.g. Commission for Protection of Competition or the Financial Supervision Commission)



Radoslav Mikov
Contract Partner
radoslav.mikov@wolftheiss.com
T: +359 2 86 13 700



Katerina Novakova
Senior Associate
katerina.novakova@wolftheiss.com
T: +359 2 86 13 700

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Wolf Theiss
Rainbow Centre,
29 Atanas Dukov Street
BG - Sofia 1407

www.wolftheiss.com