 Agency for the Cooperation
of Energy Regulators

*Head of the Market Integrity and Transparency Department
Head of the Market Surveillance and Conduct Department*

Ljubljana, 14/12/2017
ACER-VZ-MG-tl-653

**Subject: Extension of the Time-Limited No-action Relief with Respect to the List of
Contracts Reportable at Request of the Agency**

Dear Sir or Madam,

The purpose of this Letter is to inform you that the Market Integrity and Transparency Department and Market Surveillance and Conduct Department ('the Departments') of the Agency for the Cooperation of Energy Regulators ('the Agency') are extending the expiration date of the previously granted No-action Relief from the requirement to report, upon the Agency's reasoned request, the contracts and details of transactions in relation to the contracts listed in Article 4(1)(a) to (d) of Commission Implementing Regulation (EU) No 1348/2014¹, excluding the contracts concluded at organised market places. Commission Implementing Regulation implements Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 (REMIT)² as REMIT Implementing Acts.

I. Background

On 7 January 2015, the now-defunct Market Monitoring Department, which previously combined the two Departments, granted the time-limited No-action Relief ('the No-Action Relief') for contracts and details of transactions in relation to the contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014. In Letter No. ACER-VZ-pp-2015-3 ('the Letter')³, the Market Monitoring Department stated that it will not recommend that the Agency requests information on contracts and details of transactions in relation to the contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014.

The initial No-Action Relief was scheduled to expire on 31 December 2016.

¹ OJ L363. 18.12.2014, p.121.

² OJ L326, 8.12.2011, p.1.

³ See the Agency Letter No. ACER-VZ-pp-2015-3 (7 January 2015), available at: <https://www.acer-remit.eu/portal/document-download?documentId=2608>.

On 15 December 2016, the Departments issued Letter No. ACER-VZ-MG-mm-up-2016-662, which further extended the expiration date of the previously granted No-action Relief.⁴

The subsequent No-Action Relief was scheduled to expire on 31 December 2017.

As stated in the Letter “On 23 October 2012 and 26 March 2013, the Agency issued its recommendations on the records of transactions for the REMIT Implementing Acts to the European Commission on the basis of Article 7(3), second subparagraph, of REMIT. Before making such recommendations, the Agency consulted with interested parties.⁵ In view of the list of energy commodity contracts to be reported pursuant to Article 8(2)(a) of REMIT, the Agency recommended, inter alia, that the REMIT Implementing Acts excluded contracts for balancing services in electricity and natural gas, OTC intragroup contracts and certain OTC contracts below a threshold defined by the REMIT Implementing Acts and the details of transactions in relation to these contracts from the list of reportable contracts.”

However, Article 4(1) of Commission Implementing Regulation (EC) No 1348/2014 stipulates that unless they are concluded at organised market places, the following contracts and details of transactions in relation to the contracts shall be reportable upon the Agency’s reasoned request, even on an ad-hoc basis:

- a) Intragroup contracts;
- b) Contracts for the physical delivery of electricity produced by a single production unit with a capacity equal to or less than 10 MW or by production units with a combined capacity equal to or less than 10 MW;
- c) Contracts for the physical delivery of natural gas produced by a single natural gas production facility with a production capacity equal to or less than 20 MW;
- d) Contracts for balancing services in electricity or natural gas.

II. Time-Limited Staff No-Action

Based on the foregoing, the Departments believe that granting a further extension of the time-limited No-Action Relief is appropriate and warranted, considering that the Agency’s reasoning expressed in its aforementioned recommendations continues to apply and that the human and financial resources available to the Agency are limited.

Accordingly, the Departments will continue not to recommend that the Agency requests information on contracts and details of transactions in relation to the contracts listed in Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 at least until **31 December 2018**.

⁴ See the Agency’s Letter No. ACER-VZ-MG-mm-up-2016-662 (15 December 2016), available at: <https://documents.acer-remit.eu/wp-content/uploads/No-action-relief-letter.pdf>

⁵ The recommendations are available on the Agency’s website: <http://www.acer.europa.eu/en/remit/About/Recommendations/Pages/Recommendations-on-REMIT-Records-of-transactions.aspx>

This is without prejudice to the possibility of national regulatory authorities requesting such information under national law and to the possibility of the Agency requesting additional information in relation to the reported data according to Article 6(8) of Commission Regulation (EU) No 1348/2014.

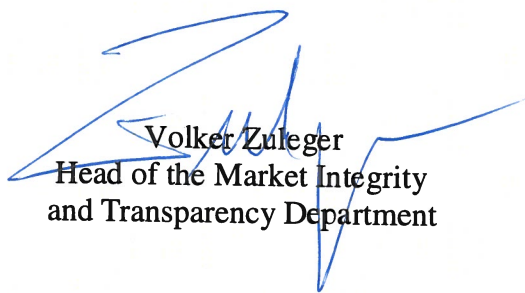
III. Conclusion

This Letter, and the positions expressed herein, represent the view of the Departments only, and do not necessarily represent the positions or views of the Agency or of any other office or Department of the Agency. The extended No-Action Relief issued by this Letter does not excuse persons relying on it from complying with any other applicable requirements stipulated in REMIT or in Commission Implementing Regulation (EU) No 1348/2014.

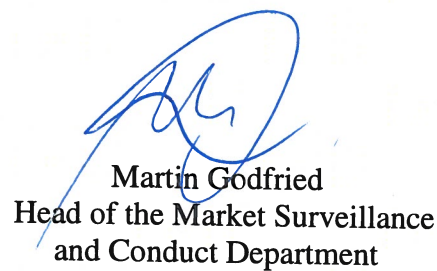
Furthermore, this Letter and the extended No-Action Relief contained herein are based upon the information currently available to the Departments. Any different, changed or omitted material facts or circumstances might render this extended No-Action Relief void.

Should you have any questions, please do not hesitate to contact us at remit@acer.europa.eu.

Yours faithfully,



Volker Zuleger
Head of the Market Integrity
and Transparency Department



Martin Godfried
Head of the Market Surveillance
and Conduct Department