

Ljubljana, 20 November 2020

To whom it may concern***Subject: Impact of Covid-19 on certain compliance deadlines under REMIT***

Dear Sir or Madam,

This open letter sets out how ACER plans to provide clarity to market participants to help them prioritise work sensibly in order to comply with certain compliance deadlines under Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT) in the light of the Covid-19 pandemic.

1. Disclosure of inside information through Inside Information Platforms and corporate websites as a backup solution in case of platform unavailability

On 17 July 2019, ACER published an update of the ACER Guidance on the application of REMIT in order to clarify the guidance on the disclosure of inside information and to increase transparency in the wholesale energy market. The updates concerned the *use of platforms for effective disclosure of inside information and the development of minimum quality requirements by Inside Information Platforms (IIPs)*. In its REMIT Quarterly newsletter Q1 2020, ACER informed that in the light of the Covid-19 outbreak, the deadline by which market participants must become fully compliant with the guidance (i.e. by publishing inside information on an IIP listed by ACER) would be extended to 1 January 2021. ACER believes that an implementation time from 17 July 2019 until 1 January 2021 should be sufficient to comply with the ACER Guidance and there should be **no need to extend this deadline** another time despite the Covid-19 pandemic. ACER therefore assumes compliance with the disclosure of inside information through IIPs as of **1 January 2021**.

Please find a list of relevant IIPs and transparency platforms for the effective disclosure of inside information on ACER's REMIT Portal at <https://www.acer-remit.eu/portal/list-inside-platforms>. Please note that for the purpose of effective disclosure of inside information, market participants can already register with IIPs which have passed the 1st phase of ACER's IIP assessment. During the 2nd phase, ACER assesses the collection of inside information via web feeds, i.e. the compliance of IIPs with the reporting procedures according to Article 10(1) of Commission Implementing Regulation (EU) No 1348/2014, which is a continuous obligation for IIPs.

The ACER Guidance also stipulates that in case an IIP is temporarily unavailable, a market participant shall refer to the *backup solution* provided by the IIP. However, in the light of the exceptional circumstances triggered by the Covid-19 pandemic, ACER intends to provide market participants with the possibility to temporarily publish inside information on their own corporate website as a **backup solution until 31 December 2021**.

In this case, the full list of the minimum quality requirements for effective disclosure of inside information indicated in Chapter 7.2.2 shall exceptionally not apply, since such requirements refer only to Inside Information Platforms, as long as the market participants provide relevant information on the use of the IIP and the corporate company website as a backup solution in the market participant's registration in CEREMP and as long as the inside information is disclosed to as wide a public as possible on a non-discriminatory basis and is made accessible free of charge. The possibility to use corporate company websites as backup solutions shall apply until **31 December 2021**.

2. New validation rules for transportation contracts and registration of market participants reporting transportation contracts for the export from and import to the EU

In its REMIT Quarterly newsletter Q1 2020, ACER also decided to extend the deadline for market participants' compliance with the *new validation rules for EIC X codes in transportation contracts*, which were – as communicated on 10 January 2020 – foreseen to be activated in the second half of 2020. The deadline, which was previously set for 30 June 2020, was extended to 1 January 2021 as well. In the light of the Covid-19 pandemic, but also in the light of Brexit, ACER currently aims at activating the new validation rules as of **1 March 2021**.

In the context of the new validation rules for transportation contracts, ACER would like to highlight the following for the *export from the EU and import to the EU* as reportable wholesale energy products under REMIT concerning the registration of market participants with national regulatory authorities (NRAs):

Article 2(4)(c) of REMIT defines wholesale energy products as contracts relating to the transportation of electricity or natural gas in the Union, irrespective of where and how they are traded. In ACER's understanding, as long as the contract for transportation of electricity or natural gas entails transportation in the Union (i.e. transportation between EU and EU, transportation between EU and non-EU, transportation between non-EU and EU), the concerned transportation contract is a REMIT-reportable wholesale energy product. According to Article 2(7) of REMIT, a market participant is any person who enters into transactions in one or more wholesale energy markets (i.e. any market within the EU where wholesale energy products are traded). This applies irrespective of the location of the person. Accordingly, persons from non-EU and non-EEA countries are also covered by REMIT, provided that they enter into transactions in wholesale energy markets. Hence, parties to the above-mentioned transportation contracts (either concluded in primary explicit capacity allocation or on secondary markets) are REMIT market participants regardless of whether or not they are located outside the Union. Accordingly, the obligations to register with the competent NRA pursuant to Article 9(1) of REMIT and to report data to ACER according to Article 8(1) and (5) of REMIT also applies to such non-EU and non-EEA market participants.

Yours faithfully,

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