



## REMIT Quarterly

ACER guidance on the application of REMIT and transaction reporting

Issue No. 5 / Q1 2016

### Contents

1. ACER completes REMIT implementation p.1-2
2. Public consultation p.3
3. Update of the REMIT Reporting User Package p. 4
4. The Agency's query management policy p. 5
5. Statistics p. 6

### ACER completes its core REMIT implementation – Market participants to comply with REMIT obligations

The second phase of data collection by the Agency for the Cooperation of Energy Regulators (ACER) under the EU Regulation on wholesale energy market integrity and transparency (REMIT) started as planned. Thus, the Agency has completed its core REMIT implementation. The Agency has made available more than 600 pages of guidance on data reporting to market participants and continues to provide additional guidance through

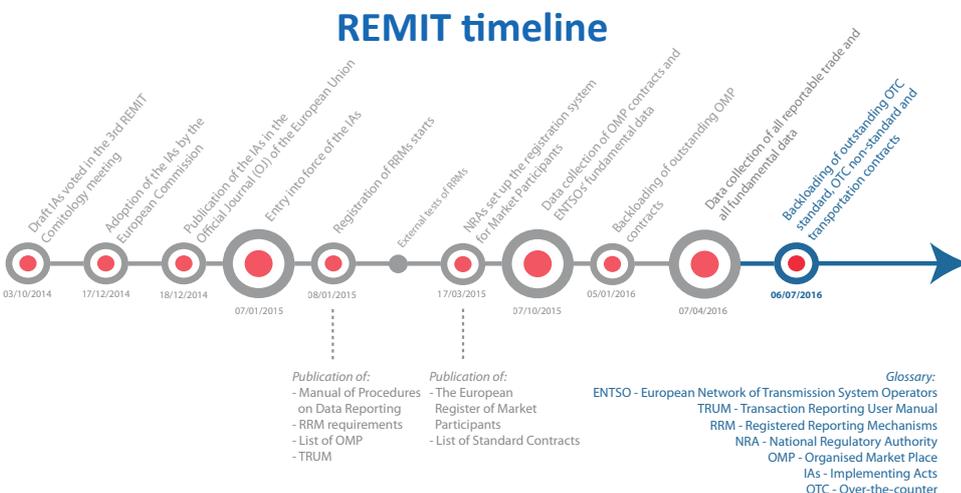
frequent updates of its REMIT Reporting User Package, including through Q&As on REMIT policy issues and FAQs on transaction reporting issues. It is now up to the market participants to develop a clear compliance regime towards the REMIT requirements, including their reporting obligation. The Agency, together with NRAs, is currently focusing on data quality.

### Second phase data collection started successfully

The second phase of data collection comprises Over-The-Counter, standard and non-standard supply contracts and transportation contracts from market participants, as well as reportable fundamental data from Transmission System Operators, LNG System Operators and Storage System Operators. It complements the first phase of data collection which started on 7 October 2015 with records of transactions in wholesale energy contracts, including orders to trade, admitted to trading at organised market places and fundamental data from the ENTSOs' central information transparency platforms. The Agency currently continues to receive around one million records per day so far also during the second phase data collection. This is likely to further increase given that many reporting parties are currently still using contingency measures for technical reasons and will only start reporting in due course.

### REMIT implementation completed

Prior to the second phase data collection, the Agency has finalised its core develop-



ment of the Agency's REMIT Information System (ARIS). This includes already the backloading of outstanding OTC standard, OTC non-standard and transportation contracts which have to be provided by 6 July 2016. The Agency will now focus on maintenance and further enhancements of its ARIS system, including the collection of inside information through webfeeds as of 1 January 2017.

For a large pan-European IT project of this scale, and taking into account the circum-

stances and resource constraints under which the Agency had to launch it, against all odds, there were surprisingly only little hiccups that some reporting parties had to deal with. The transaction reporting from RRRs seems to work well, some RRRs are currently only facing some issues in providing their data to the Agency in a timely manner mainly for technical reasons. Such technical glitches are possible in the normal course of business and were anticipated by the Agency in its contingency

plan. They are more likely to happen at the early stage of a new reporting regime like the REMIT transaction reporting, and therefore should not be worrisome. Any such possible technical issue when reporting data to the Agency should not be confused with possible breaches of the reporting obligations under REMIT.

The Agency very much appreciates the very constructive and close cooperation with reporting parties and looks forward to a successful continuation of the REMIT transaction reporting.

#### Guidance for reporting parties

The REMIT Reporting User Package is a compilation of core documents, which define the procedures and requirements for REMIT reporting, and guidance to market participants and reporting parties. The Agency has put together these more than 600 pages following several years of consultations with the industry. Stakeholders had numerous possibilities over several years to provide their input inter alia through public consultations, workshops and roundtable meetings. In addition, the Agency provides monthly updates through REMIT Q&As and FAQs on transaction reporting, as well as REMIT Quarterly, regular webinars, public workshops and roundtables for reporting parties. Videos on

some practical aspects of reporting were also published in Youtube. Even though the Agency's ability to provide such guidance is constrained by the limited resources made available to the Agency, the Agency will continue to respond to questions, keep communicating with the industry and providing guidance, especially now with the initial lessons learned from data collection.

A review of the REMIT Reporting Package is anticipated once additional experience is gained, probably in the course of 2017. The Agency will continue to consult stakeholders in any such review process. This will provide an opportunity for the industry to feed in its significant experience with transaction reporting. This will result in a regular review of the REMIT transaction reporting regime, to ensure that it is always fit for purpose.

#### Market participants to ensure compliance

The Agency has done its utmost to provide the necessary guidance to stakeholders, compatibly with its very limited resources. It will continue to provide further guidance as required.

The guidance available is probably one-of-a-kind compared to other transaction reporting regimes. It is now up to market participants to develop a clear compliance

regime with REMIT requirements, including their reporting obligation. Market participants should establish, implement and maintain adequate policies and procedures designed to detect any risk of failure by the market participants to comply with their obligations under REMIT.

The National Regulatory Authorities from the 28 Member States and the Agency will also observe the progress on reporting to ensure that all entities with reporting obligations take adequate steps to fulfil their obligations. The Agency will also cooperate with the enforcement authorities in Member States as regards cases. The judicial activities under REMIT are completely under the responsibility of the Member States.

#### Outlook

The Agency is collecting the data for assessing and monitoring wholesale energy markets in order to detect and prevent trading based on inside information and market manipulation.

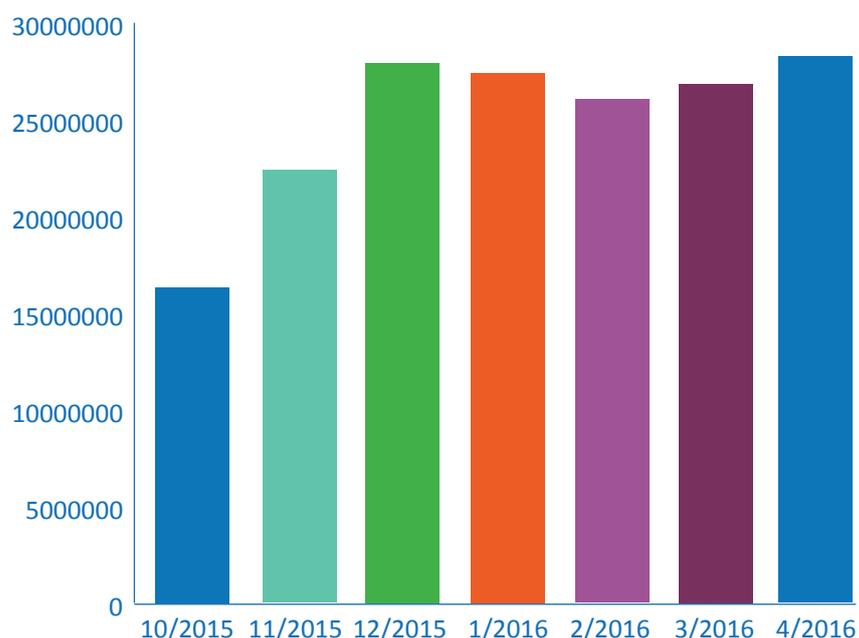
The Agency already identified some data quality issues in form of errors concerning transaction reporting, such as duplication of records, misinterpretation of lifecycle events and inaccuracy of information. These errors were reported accordingly and the Agency is working on them. The Agency prefers to work directly with reporting parties to resolve issues. However, if necessary, the Agency will ask NRAs to take enforcement action.

In the next few months the Agency expects an increasing number of reporting parties and a constant improvement of data quality. The reporting will stabilise and become a normal, business-as-usual activity, technical issues will be resolved, data quality issues will be addressed by the Agency and NRAs, potential delays in reporting or non-reporting will be identified, monitoring and analysis of incoming data will further develop and the Agency and NRAs will monitor EU wholesale energy markets to detect market abuse.

ACER REMIT Reporting User Package is available here:

[https://www.acer-remit.eu/portal/custom-category/acer\\_remit\\_reporting\\_user\\_package](https://www.acer-remit.eu/portal/custom-category/acer_remit_reporting_user_package)

Total number of data records submitted to ACER in the 1st and 2nd phase reporting as of 7 October 2015



## Public consultation on the European Register of Market Participants

The Agency collected feed-back on the European Register of Market Participants through a public consultation. The public consultation began on 18 March 2016 and was open until 22 April 2016.

Market participants and other interested stakeholders were invited to provide their feed-back on the current REMIT registration format through which National Regulatory Authorities (NRAs) transmit information on market participants to the Agency ("Registration Format"). The Agency has also invited feed-back in general about the functioning and usefulness of the European register of energy market participants.

The purpose of this public consultation was twofold:

1. Collect input from stakeholders regarding the European register of market participants with the perspective to improve the current Registration Format in light of the experience gained so far.

2. Collect input from stakeholders regarding the functioning and usefulness of the European register of market participants with the long term perspective of enhancing the overall transparency and integrity of wholesale energy markets and to ensure a Union-wide level playing field for market participants.

The results from this public consultation may lead the Agency to update the Registration Format adopted in ACER Decision 01/2012. NRAs would then have to update their national registers and, as a consequence, already registered market participants would be asked to update relevant fields of the registration form which they filled earlier with the relevant NRA at the national level.

Based on the input received from stakeholders via this public consultation and on the Agency's assessment of these results, the Agency will also submit a report to the European Commission. In this report,

the Agency will evaluate the functioning and usefulness of the European Register and propose solutions to enhance the overall transparency and integrity of the wholesale energy markets while ensuring a Union-wide level playing field for market participants, as envisaged in recital 21 of REMIT.

More:

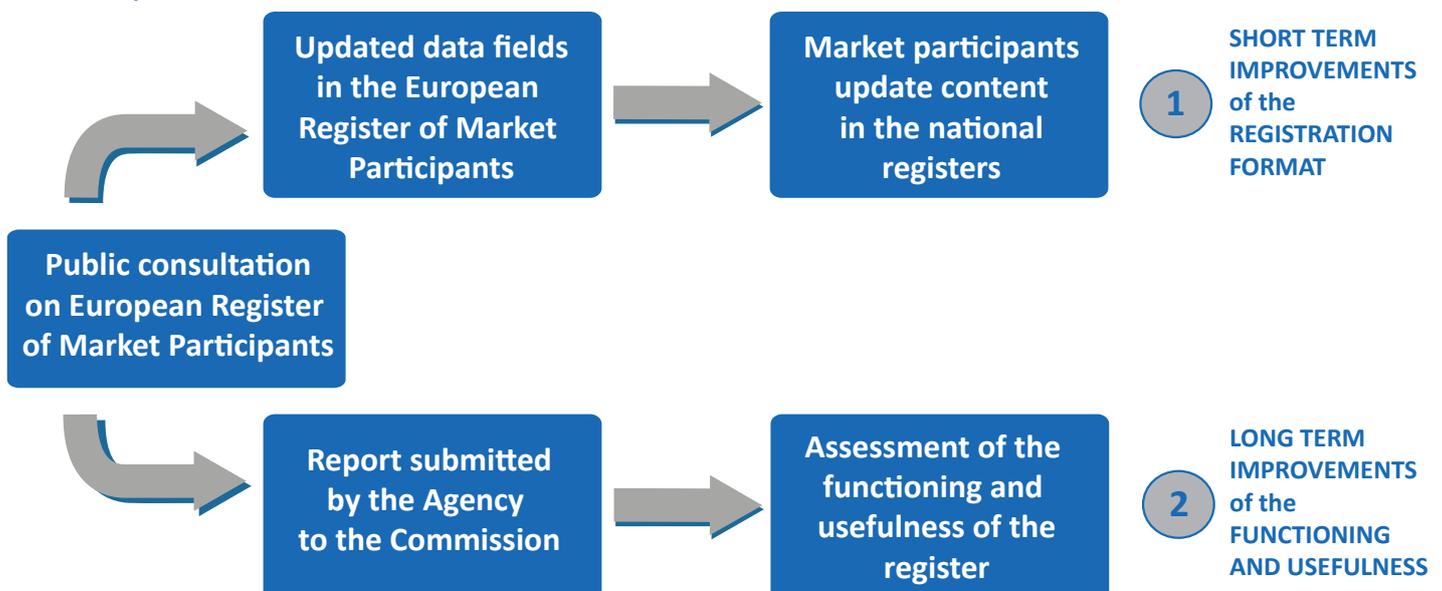
[http://www.acer.europa.eu/Official\\_documents/Public\\_consultations/Pages/PC\\_2016\\_R\\_01.aspx](http://www.acer.europa.eu/Official_documents/Public_consultations/Pages/PC_2016_R_01.aspx)

### The European Registry of Market Participants

The European register of market participants was published on 17 March 2015 on <https://www.acer-remit.eu/portal/european-register>

The register has been regularly updated ever since. On 4 April 2016, 8 620 market participants were registered in the European register of market participants.

#### AIM of the public consultation



## Update of the REMIT Reporting User Package

The REMIT Reporting User Package consists of the List of Organised Market Places, the List of Standard Contracts, the Transaction Reporting User Manual (TRUM), Manual of Procedures on transaction data, fundamental data and inside information collection and the Requirements document for the Registration of Registered Reporting Mechanisms (RRM Requirements document), including the RRM technical specification document and the data validation rules available to identified RRM applicants through the RRM registration system against signing of a Non-Disclosure-Declaration. The Agency published this documentation on 8 January 2015 and on 17 March 2015 respectively as supporting documents to Commission Implementing Regulation (EU) No 1348/2014. The most recent updates of the REMIT Reporting User Package are the following:

### List of Organised Market Places and List of Standard Contracts

Article 3(2) of Commission Implementing Regulation (EU) No 1348/2014 requires the Agency to draw up and maintain a public List of Standard Contracts and a List of Organised Market Places in order to facilitate reporting. The List of Organised Market Places was published for the first time on 8 January 2015 upon entry into force of Commission Implementing Regulation (EU) No 1348/2014. The List of Standard Contracts was published for the first time on 17 January 2015. Both lists were frequently updated ever since.

In Q1/2016, the lists were updated on 16 January 2016, on 10 February 2016, on 8 March 2016 and on 19 April 2016 in order to update the codes of the listed Organised Market Places and to reflect market developments (e.g. establishment of new organised market places and listing of new standard contracts).

### RRM Requirements documentation

The RRM Requirements document specifies the technical and organisational requirements for submitting data to the Agency pursuant to Article 11(1) of Commission Implementing Regulation (EU) No 1348/2014. It was published for the first time on 8 January 2015 upon entry into force of Commission Implementing Regulation (EU) No 1348/2014.

Whilst the RRM Requirements document

itself remained unchanged since its publication, the accompanying RRM documentation was frequently updated ever since.

The Agency made available ARIS Tutorial videos for the RRM registration of reporting parties on 16 February 2016. In addition, in preparation for the second phase of data collection starting on 7 April 2016, the Agency provided the following updates of the RRM Requirements' accompanying RRM documentation:

- ARIS Data Reporting – Contingency Plan (V2.0)
- ARIS Data Reporting – Contingency Plan (V2.0 – V1.0 differences)
- ARIS Data Reporting – Annex I (V1.0)
- ARIS List of Issues 20160407 (V2.0)

The Agency provides daily updates to registered RRM with relevant ARIS system information. The updates of the non-public accompanying RRM documentation is made available to RRM through the RRM registration tool, RRM administrator profile.

### Transaction Reporting User Manual

The TRUM explains the content of the reportable information. It was published for the first time on 8 January 2015 upon entry into force of Commission Implementing Regulation (EU) No 1348/2014, and will be updated whenever necessary. An updated version two of the TRUM was published on 30 September 2015.

In the meantime, the Agency published two updates of version two of the TRUM on 31 March 2016 and on 9 May 2016. Whilst version 2.1 of the TRUM provides further clarification on the distinction between standard and non-standard contracts on page 19, and some minor corrections on pages 19, 138 and 140, version 2.2 of the TRUM provides further clarification on the reporting of transportation contracts on pages 109 and 137-138.

### Manual of Procedures on data collection

The manual establishes procedures, standards and electronic formats based on established industry standards for reporting of transaction and fundamental data information to the Agency according to Article 10(3) of Commission Implementing Regulation (EU) No 1348/2014. It was published for the first time on 8 January 2015 upon entry into force of Commission Imple-

menting Regulation (EU) No 1348/2014. On 18 June and 30 September 2015, the Agency published two updated versions of the Manual of Procedures. It now also includes guidance on the collection of inside information.

In Q1/2016, the Manual was updated on 7 March 2016 with regard to the timeline for the collection of inside information publications through webfeeds which was postponed to 1 January 2017. In addition, the links to the electronic formats for transportation contracts and fundamental data were updated and the Agency's EIC code for the reporting of transportation contracts was provided in the relevant data fields.

More: <https://www.acer-remit.eu/portal>

## Obsolete RRM applications will be terminated

Some RRM applicants may have begun the registration process by mistake, and therefore did not pursue the further steps. For instance, a market participant can tick a relevant box in the CEREMP registration system in order to indicate that they wish to become an RRM and not to report via a third party. This actually triggers the start of the RRM application process in the system.

RRM applications that have not progressed due to inactivity will be terminated by the Agency if they have been inactive for more than three months. The Agency suggests that those not wishing to complete their RRM registration report this to the Agency by using a form (link below), and that inactive RRM applicants planning to continue their application process do so as soon as possible. YouTube videos are available with help and instructions on particular steps of the RRM registration process.

The Agency will send a prior notice to RRM applications that the Agency is about to terminate, and the applicants will have ten days to react. This process will start in May 2016.

Form for the termination of an RRM application: <https://www.acer-remit.eu/portal/document-download?documentId=k774ab273ox>

## REMIT Documentation

The Agency's REMIT Portal is the single access point to all REMIT related documentation: <https://www.acer-remit.eu/portal/public-documentation>

### Transaction reporting of REMIT supply and derivative contracts and Fundamental Data Reporting:

<https://www.acer-remit.eu/portal/data-submission>

### Requirements for the registration of Registered Reporting Mechanisms (RRMs) - (RRM Requirements):

<https://www.acer-remit.eu/portal/document-download?documentId=2616>

### Inside information and the list of inside information platforms:

<https://www.acer-remit.eu/portal/list-inside-platforms>

### List of Standard Contracts: <https://www.acer-remit.eu/portal/standardised-contract>

### List of Organised Market Places:

<https://www.acer-remit.eu/portal/organised-marketplaces>

Registration forms of Organised Market Places and/or change requests are sent to: [OMPlists@acer.europa.eu](mailto:OMPlists@acer.europa.eu).

### Guidance on the application of REMIT (updated 3rd Edition, 3 June 2015): [http://www.acer.europa.eu/remit/About/Guidance/Pages/ACER\\_guidance.aspx](http://www.acer.europa.eu/remit/About/Guidance/Pages/ACER_guidance.aspx)

### Questions & Answers on REMIT:

<https://www.acer-remit.eu/portal/public-documentation>

Market Participants should contact their relevant National Regulatory Authority (NRA) if they have questions on registration for data reporting under Article 9 (1) of REMIT. A list of all NRAs is available on REMIT Portal.

## The Agency's query management policy ensures equal treatment, impartiality and proportionality

**The Agency deals promptly with all questions it receives to the [remit@acer.europa.eu](mailto:remit@acer.europa.eu) and [transaction.reporting@acer.europa.eu](mailto:transaction.reporting@acer.europa.eu) mailboxes. The policy for the management of questions is based on the European Commission's Code of Good Administrative Behaviour. The code contains provisions for e.g. equal treatment, objectivity, impartiality and consistency. In order to abide by the code, the Agency has set up procedures, tools and published information. The stakeholders have equal access to advice and information, and they are hence treated in a consistent way.**

The Code of Good Administrative Behaviour provides that an answer to a question should be provided within 15 working days. However, if the question is complex and requires for instance further examination or a consultation with other parties, then a holding reply should be sent. The code provides, in particular, that in case of requests for already published documents, the person making the enquiry should be directed to the place where the document is freely accessible. The code also draws attention to correspondence which can reasonably be regarded as improper, for example, because it is repetitive, abusive and/or pointless. Furthermore, the code stipulates that measures taken should be proportional to the aim pursued. The application of the code should never lead to imposition of administrative or budgetary burden out of proportion to the benefit.

The Agency has very limited resources but it receives an extremely high number of questions every month. Therefore, it has set up a policy, in line with the Code of the Good Administrative Behaviour, to deal with the questions in a consistent and impartial way.

Normally, the Agency aims to reply within 15 working days from the date of the receipt of the question. An automatic reply which constitutes the holding reply as mentioned in the code is, however, sent to all questions that the Agency receives. This is because many questions that the Agency receives are of complex nature.

Also, the Agency aims at ensuring a harmonised application of the regulation in all Member States. Hence, the Agency normally initiates a discussion with all NRAs in order to find a common understanding in order to reply to the question. The discussion may take some time, but the consultation process guarantees that all NRAs in all 28 Member States will have the same understanding and interpretation of the same matter. This, on the other hand, will ensure a harmonised enforcement of REMIT and the implementing regulation throughout the Union.

Many questions that the Agency receives concern documentation which is already published. Often questions are also repetitive and an answer has already been provided for instance in the Agency's Q&A or FAQ documents. The Agency estimates that more than half of the incoming queries received on a weekly basis are already addressed by the existing documentation and are, thus, repetitive. As of 1 May 2016, the Agency will no longer follow up these questions individually, and the Agency considers the automatic reply, which is referring to the relevant documentation, as an answer to the question. The stakeholder can then find all relevant information by reading the already sent holding reply which contains a comprehensive list of all publicly available documentation on REMIT implementation.

In case a query is not addressed by the existing documentation, the Agency will reply to it on a one to one basis depending on the urgency and the scope of the queries received.

Despite the Agency's effort to manage stakeholder queries, it should be stressed that the Agency cannot replace the stakeholders' own compliance efforts.

Code of Good Administrative Behaviour: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32000D0633&from=EN>

## 57 REMIT cases under review

At the end of the first quarter of 2016, the Agency had in total 57 REMIT cases under review, including several new potential REMIT breaches.

REMIT cases are potential breaches of REMIT that are either notified to the Agency by external entities or discovered by the Agency through its surveillance activities which could, after a thorough investigation by the relevant national authority, lead to sanctions or be closed without sanctions, for instance if the suspicions were unfounded.

The next table shows the number of cases that were under review by the Agency in the last four quarters.

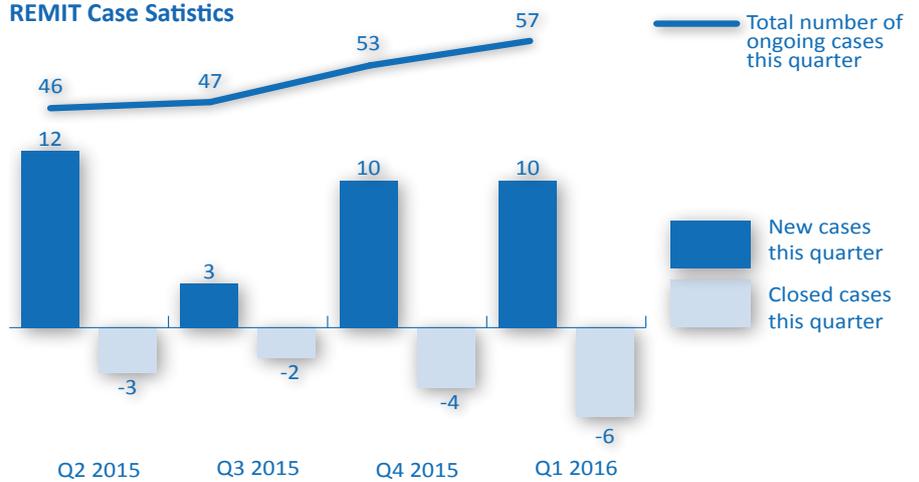
The Agency is responsible for monitoring the wholesale energy markets and aims at ensuring that NRAs carry out their tasks in a coordinated and consistent way, but it is not responsible for the investigation of potential breaches of REMIT.

In the previous REMIT Quarterly (Q4 2015), the Agency informed that the first two

economic REMIT sanctions had been applied by the Spanish and Estonian NRAs. In the meantime, in both cases, the decisions were appealed to Courts. Iberdrola argued in its appeal innocence, and that the imposed sanctions were based exclusively on a breach of Article 60(a)(15) of the Spanish Act 54/1997 on the Electricity Industry and not on a breach of REMIT. Elering also appealed the decision to the Administrative County Court. On 4 April 2016, the Court

decided that Elering Board meeting decision was not based on precise enough information requiring the publication of an urgent market message. On 8 April 2016 the Estonian Competition Authority appealed this Decision to the Supreme Court which on 3 May 2016 rejected the appeal. The Agency will provide more information on the results of these appeals through the REMIT Quarterly if it receives further updates.

REMIT Case Statistics

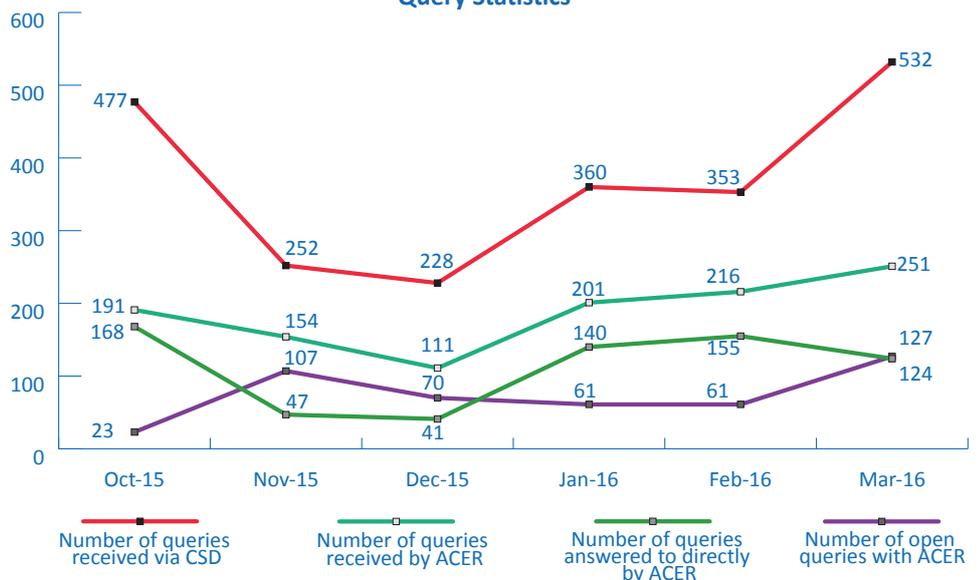


## Increase of number of REMIT queries to ACER

Over the first trimester of 2016 (January to March), a remarkable inflow of questions reached the Agency through various communication channels. The chart illustrates the total number of queries received and answered by the Agency. This number is three times higher than the number of questions received during the same period last year.

In order to address the ever increasing number of queries, the Agency published updated versions of the Questions & Answers on REMIT and Frequently Asked Questions (FAQ) on transaction data reporting in April and, in addition, a new FAQ on REMIT fundamental data and inside information collection.

Query Statistics



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