

REMIT Quarterly

ACER guidance on the application of REMIT and transaction reporting

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Third Ofgem REMIT decision sanctioning market manipulation involving the provision of misleading information to the System Operator in the balancing market

On 24 August 2021, the Great Britain's national regulatory authority ("NRA") Ofgem published a new Decision sanctioning ESB Independent Generation Trading Limited ("IGT") and Carrington Power Limited ("Carrington") for the breach of market manipulation under Article 5 of REMIT by providing false or misleading signals as to the supply of wholesale energy products in the balancing market.

False or misleading signals were given by the submission of inaccurate data to National Grid Electricity Transmission System Operator ("TSO") on Carrington power plant's 'dynamic parameters'. The TSO crucially relies on information submitted by electricity producers, including dynamic parameters, to select which balancing actions to take in a given period and to ensure the balancing system can be achieved in an efficient and economic manner.

The behaviour

IGT controls the generation output of Carrington's power plant. From March 2019 to September 2020, Ofgem found that Carrington, instructed by IGT:

- i. Regularly submitted data to the TSO which inflated Carrington's Stable Export Limit ("SEL") above the minimum level at which the plant could, under stable conditions, produce power. It routinely did so on the request of IGT traders in periods when IGT and Carrington were seeking to produce in the Balancing Mechanism; and



SAVE THE DATE

2021 Roundtable meetings with stakeholders on data reporting

On 16 and 18 November 2021, ACER will host the 2021 virtual roundtable meetings with the associations of market participants, organised market places, registered reporting mechanisms and inside information platforms. The Roundtables are intended to promote an open debate with stakeholders and to facilitate the sharing of the latest updates on data reporting.

This year the focus will be on the consultation of the new edition of the Transaction Reporting User Manual, the latest data quality analysis on transportation capacity of natural gas, the upcoming updates of the electronic schema for transaction reporting, REMIT fees, RRM compliance monitoring, and inside information collection topics.

Invitations have been sent to the contact lists of relevant stakeholders.

ii. On some of these occasions, Carrington also submitted data to the TSO upon request of IGT traders which inflated the plant's Minimum Non-Zero Time ("MNZT"). This relates to the minimum time that a Balancing Mechanism unit must run for in response to an instruction to produce electricity from the TSO.

These practices meant that the TSO at times was required to purchase a greater volume of power from IGT than needed when the Carrington was called on to generate in the Balancing Mechanism.

Regulatory background

In line with the UK Grid Code, the dynamic parameters (which include both information on SEL and MNZT) are required to reasonably reflect the expected true operating characteristics of the Balancing Mechanism Unit.

The Grid Code also requires Balancing Mechanism participants to use reasonable endeavours to ensure data held by TSO (including data in relation to their power plants' dynamic parameters) is accurate at all times.

By submitting dynamic parameters which did not reflect the true operating characteristics of the plant, Carrington has admitted that it inadvertently failed to meet its Grid Code obligations and its licence obligation to comply with the Grid Code.

The REMIT breach

All REMIT prohibitions and obligations continue to apply in Great Britain from 1 January 2021 and Ofgem continues to have the powers to monitor and enforce them¹.

Ofgem considered that by submitting inaccurate dynamic parameters, IGT and Carrington, provided false and misleading signals to the supply to the system operator. According to Ofgem, the companies had insufficient procedures and internal controls in place to prevent REMIT and Grid Code

non-compliance.

IGT and Carrington admitted that they inadvertently breached Article 5 of REMIT owing to Carrington's submission of inaccurate dynamic parameters to the TSO on request of IGT which gave false or misleading signals as to the supply of wholesale energy in the circumstances described above.

The two companies have since confirmed that they have improved their REMIT and Grid Code compliance processes and training, and contributed constructively during Ofgem's compliance engagement.

IGT and Carrington have agreed to make a collective payment of GBP 6 million (approx. EUR 7 million) to Ofgem's voluntary redress fund. Ofgem has decided to close this compliance engagement without taking further enforcement action, taking into account the companies' admission of the breaches, the steps taken to avoid any future reoccurrence and the redress they have agreed to pay. If the companies had not taken these actions, Ofgem would have opened a formal enforcement investigation into their conduct.

The present case follows two previous Ofgem decisions on InterGen from 15 April 2020² and on EDF Energy from 16 December 2020³. This third decision sanctioning the submission of misleading signals to the TSO clearly signals the importance of fair and transparent balancing markets and increases the electricity producers' engagement in the REMIT compliance.

The new 6th edition of ACER's Guidance provides an updated assessment of trading practices which could constitute market manipulation through providing false or misleading signals as to the supply of wholesale energy products under REMIT. It also includes the new examples of signals and types of practices of market manipulation through giving false or misleading signals. More information on market manipulation can be found in the [ACER Guidance](#).

Inside Information Platforms: market coverage in the EU-27

In 2020, ACER commenced the process of registering Inside Information Platforms (IIPs) based on their compliance with the minimum quality requirements for effective disclosure of inside information, as defined in Section 7.2.2 of the [ACER Guidance on the application of REMIT](#). The list of IIPs available on the [REMIT Portal](#) contains both the IIPs that comply with the requirements and can therefore already be used

for the effective disclosure of inside information, as well as the ones that are still under evaluation and in the process of becoming fully registered IIPs.

The maps below show the EU-27 market coverage⁴ by Inside Information Platforms, both registered and those in the process of registration. The different colours of the IIPs

¹ For more information on the REMIT application after Brexit please see: <https://www.ofgem.gov.uk/publications/eu-exit-remit-contingency-arrangements-october-2020-update>.

² See: <https://www.ofgem.gov.uk/publications-and-updates/finding-intergen-has-breached-article-5-prohibition-market-manipulation-regulation-eu-no-12272011-european-parliament-and-council-25-october-2011-wholesale-energy-market-integrity-and-transparency-remit>.

³ See: <https://www.ofgem.gov.uk/publications/edf-energy-thermal-generation-limited-agrees-pay-ps6-million-breaching-wholesale-energy-market-regulations>.

⁴ The coverage is provided by an IIP in their application and the condition to be listed under the EU Member State is that at least one market participant is registered with the IIP as a user for that specific market. The application and therefore the coverage can be amended by the platform after registration.

correspond to the status of their evaluation (assessment completed, under evaluation for phase 1, or in the second and

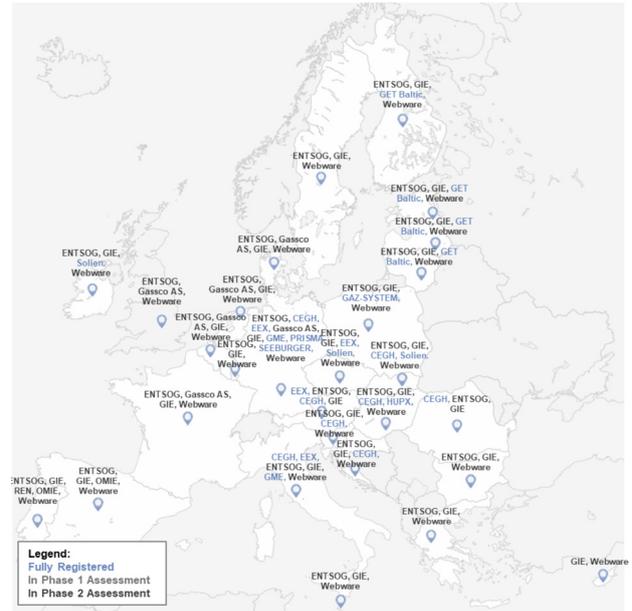
last phase of the assessment process).

Figure 1: Electricity Market – coverage by IIPs



Source: ACER (2021).

Figure 2: Gas Market – coverage by IIPs



Source: ACER (2021).

Overview of contingency reports opened by RRM

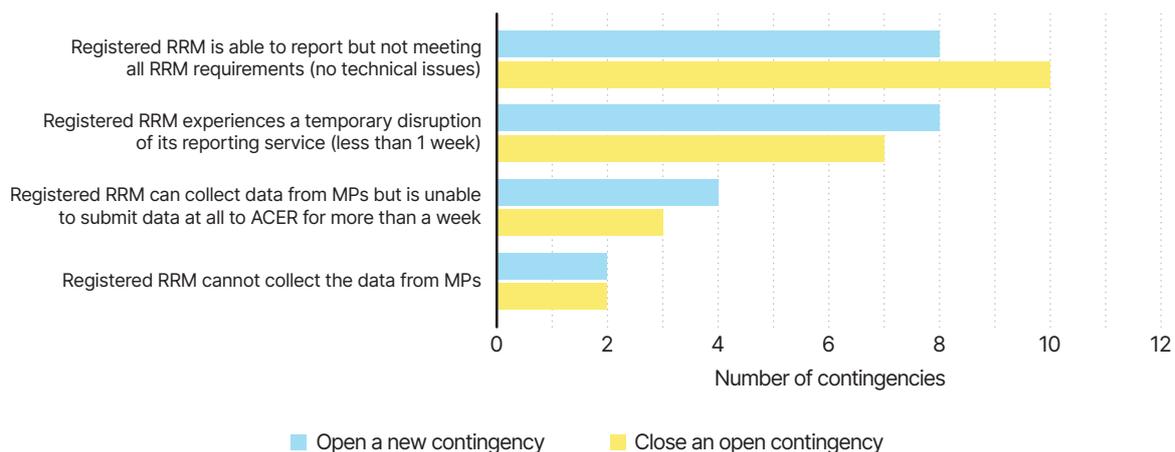
Every quarter, ACER communicates the number and status of contingency reports opened by registered reporting mechanisms (RRMs), as well as the most common reasons for which RRM resort to contingency in the first place.

The statistics for Q3 of 2021 show that eleven different RRM opened 22 contingency reports between July 2021 and September 2021. The two most common contingency scenarios indicated by RRM in this period refers to two reporting cases. The first case refers to occurrences when an RRM experiences a temporary disruption of its reporting service for less than one week, and in the second case an RRM is able to report but is not meeting all of the RRM requirements, such

as completeness of data, timeliness of submission, accuracy of data, and validity. In particular, most of the incidents affect the reporting of the standard supply contract data type, as defined by REMIT and its Implementing Acts.

Out of the 22 contingency reports opened during the quarter, 15 have already been closed (RRM needed five days on average to close them). A total of seven reports remain open.

Figure 3: Number of contingencies opened and closed in Q3 divided by scenario



Source: ACER (2021).

Recent updates of REMIT documentation

New edition of ACER Q&As on REMIT policy matters

On 29 July, the 25th edition of the Q&As on REMIT policy matters was published on the REMIT Portal. In this edition, two existing Q&As have been updated and clarified (referring to, respectively, RRM registration and the application of thresholds for the data reporting obligation), and two new Q&As have been included (on Citizens Energy Communities and natural gas storage contracts, respectively). The Q&As on REMIT policy matters are developed in cooperation with the national regulatory authorities and contain the most up-to-date information concerning REMIT policy issues.

Updated List of accepted EIC codes

The third 2021 quarterly update of the List of accepted EIC codes was published on the REMIT Portal on 1 October, after an additional update exceptionally occurred in August. Two new EIC codes were included in the list in order to take into account the merging of two German bidding zone in the new one "THE" as of 1 October 2021.

Access the latest List of accepted EIC codes [here](#).

The next update of the List of accepted EIC codes will occur in Q4 2021. The involved parties are invited to check Annex VI of the TRUM before submitting their requests, and to make sure to submit their requests for the inclusion of new codes in the List of accepted EIC codes no later than two weeks before the end of a quarter. Late requests will be considered for the next planned quarterly publication.

302 REMIT breach cases under review at the end of the third quarter

ACER had 302 REMIT cases under review at the end of Q3 2021. REMIT cases are potential breaches of REMIT that are either notified to ACER by external entities or identified by ACER through its surveillance activities.

A case could, after a thorough investigation by the relevant national authority, lead to sanctions. A case could also be closed without sanctions, for instance if the suspicions were unfounded.

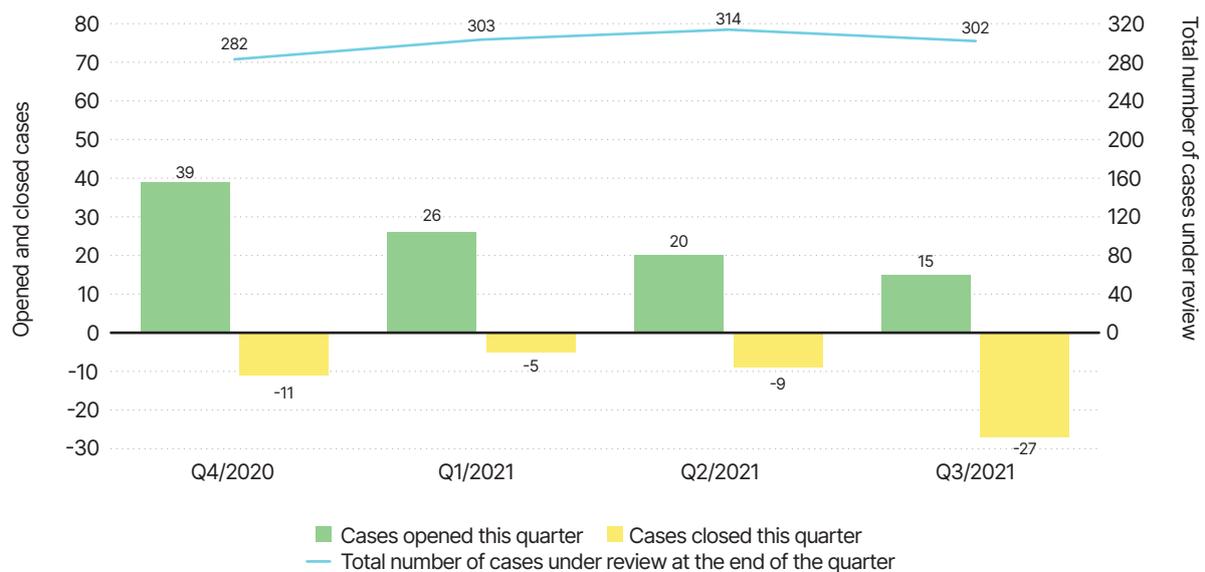
Figure 4 shows the number of cases that were under review by ACER at the end of Q3 2021.

Table 1 lists the cases where a Decision imposing a sanction was published by the relevant national authority in the last

four quarters. Some of these Decisions are currently under appeal. An overview of all market abuse Decisions (breaches of Articles 3 and 5) imposing sanctions made publicly available can be found [here](#).

ACER is responsible for the monitoring of wholesale energy markets and aims to ensure that national regulatory authorities carry out their tasks in a coordinated and consistent way, but it is not, however, responsible for the investigation of potential breaches of REMIT.

Figure 4: Potential REMIT Breach Cases - Quarterly Statistics



Source: ACER (Case Management Tool).

Table 1 - Overview of market abuse Decisions (breaches of Articles 3 and 5) imposing sanctions (last 4 quarters)

Decision date	NRA, Member State	Market Participant	Type of REMIT breach	Fine	Status	Source
24 August 2021	OFGEM (UK)	ESB Independent Generation Trading Limited and Carrington Power Limited	Article 5	£ 6,000,000 (approx. EUR 7 million**)*	Final	Link
25 February 2021	CNMC (ES)	Rock Trading World S.A.	Article 5	EUR 60,000	Appeal possible	Link
16 December 2020	OFGEM (UK)	EDF Energy (Thermal Generation) Limited	Article 5	£ 6,000,000 (approx. EUR 6.7 million**)*	Final	Link

Note: Article 18 of REMIT establishes that the rules on penalties for breaches of Article 3 and 5 of REMIT are established by the Member States. The implementation regime is therefore different across Member States and some breaches of REMIT may be sanctioned under national provisions. Please consult the sources for the status of the proceedings and more information on the Decisions. Only the Decisions publicly announced by the NRAs are included. Due to this fact, there are several sanction Decisions taken in 2020 that are not part of this table.

* This amount includes both the (i) fine and (ii) confiscated profit.

**The fines expressed in other currency than EURO are converted in EURO using the ECB exchange rate on the day of the Decision.

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