



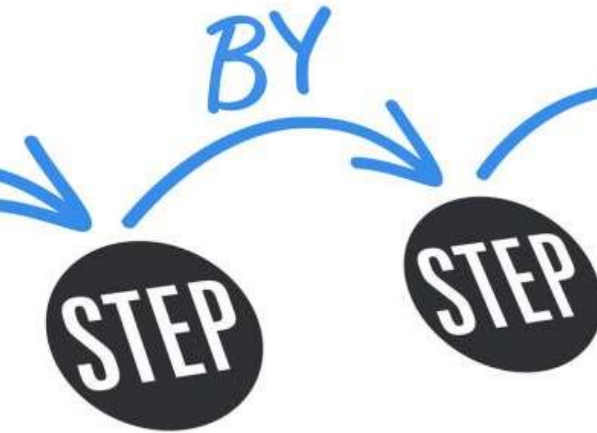
# REMIT

Concept for Implementation in the CPs

- **Concept for implementation in the CPs**
- **Background: introduction of REMIT**

- **Concept for implementation in the CPs**
  - **Key pillars**
  - **Timeline**
- Background: introduction of REMIT

# Concept for implementation in the CPs



## Step 1

- market transparency and integrity measures
  - Prohibitions of insider trading
  - Publishing inside information
  - Prohibitions of market manipulation
- enforcement powers of regulators (penalties, investigations)

## Intermediate Step

- Registration of market participants

## Step 2

trade data and fundamental reporting and market monitoring

- Requires involvement of ACER

# Proposed implementation dates

By 1 July 2018	By 1 March 2019	By 20 June 2019
Art 1: Subject and scope	Art 9: Registration of market participants (+3 months for registration)	Art 7: Market monitoring
Art 2: Definitions		Art 8: Data collection / reporting obligation
Art 3: Prohibitions of insider trading		Art 10: Sharing infor between ACER and NRAs
Art 4: Publishing inside information		Art 11: Data protection
Art 5: Prohibitions of market manipulation		Art 12: Operational reliability
Art 13: Investigatory & enforcement powers for NRAs		Art 16: Cooperation
Art 14: Right to appeal		Art 17: Professional secrecy
Art 15: Obligations for PPAT		
Art 18: Penalties		

- **Standard adaptations**
  - EC → ECS | MS → CP
  - But: ACER's role on data collection and monitoring remains central
    - *Arg.*: efficiency of geographic monitoring scope | cost efficiency (ref. database)
    - Data sharing with ECS
  - ENTSO-E to report the fundamental data – informally confirmed
  - ENTSO-G to report the fundamental data – to be checked
- **Exclusion of derivative contracts** that are considered financial instruments

# Way forward

- Adapted version to be discussed with
  - EFET, ACER, ENTSO-E, ENTSO-G
  - CP regulators
  - EC
  - PHLG 06/2017
- Agreement with ACER on
  - Sharing of registration software with CP NRAs
  - Expansion of its monitoring role (ref database)
- Impact assessment
  - Target – what is the policy objective? (why) is REMIT needed?
  - What are policy options / alternatives? – effectiveness, efficiency and coherence with the objectives of the EnC<sub>ref role of ACER</sub>
  - Legal impact and procedures: (a) on EnC level | (b) on CP level
  - Budgetary impact including human resources: (a) for NRAs<sub>registration software, monitoring</sub> | (b) for ACER | (c) for market participants

- Concept for implementation in the CPs
- **Background: introduction of REMIT**



- **What is REMIT about?**
- **Why is REMIT needed?**
- **Content**
  - Relevant definitions
  - Transparency requirements for inside information
  - Are there links between REMIT and Transparency Regulation 543/2013?
  - What classifies as inside information?
  - How is prohibition of market abuse ensured?
  - Monitoring tools and duties
  - Registration requirements
  - Enforcement powers of regulators
  - REMIT Implementing Regulation

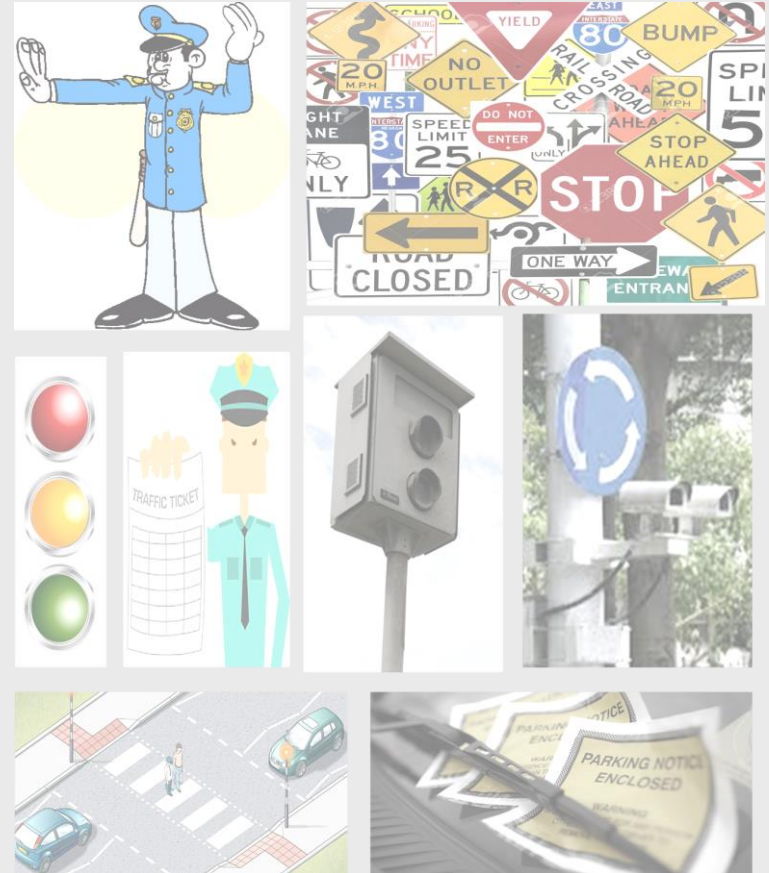
# [1] What is REMIT about? REGULATION (EU) No 1227/2011

## Objectives / benefits

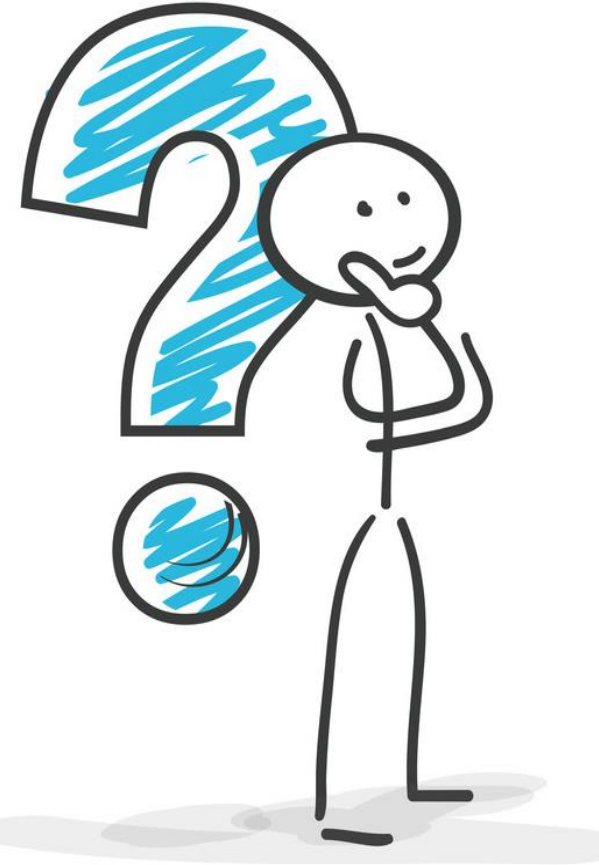
- Boosting confidence in the market/prices
- Transparency supporting the market
- Higher degree of certainty in price formation
- Punishing market abuse behaviour

## Means

- Rules for wholesale energy trading targeting integrity and transparency
  - Disclosure of inside information
  - Prohibition of market abuse
  - Market monitoring



## [2] Why REMIT?



- Wholesale market sends important signals for investments and use of resources
- Transparency and confidence in the market integrity is needed for these signals to be truthful and not distortive
- Prices set on wholesale energy markets should reflect a fair and competitive interplay between supply and demand
- Behaviour which undermines the integrity of the energy market to be prohibited and penalised
- Additional means for regulators to supervise

# [3] Framework around REMIT

## REMIT - Level I

- Obligation to publish inside information
- Prohibition of market abuse (insider trading and market manipulation)
- Market Monitoring (registration of market participants / RRMs<sub>Registered Reporting Mechanism</sub>, data collection, PPAT<sub>persons professionally arranging transactions</sub>)
- Investigatory and enforcement powers to NRAs (penalties)
- Other articles about data protection & reliability

## REMIT Implementing Regulation - Level II

- List of contracts and data to be reported
- Responsible parties and deadlines
- RRM requirements

## REMIT guidance - Level III

- Guidance, recommendations, Q&A, RRM requirements, TRUM<sub>Transaction Reporting User Manual</sub> etc.



## [4] relevant definitions

### Inside Information

- Precise nature
- Not made public
- Relates to wholesale energy products
- Likely to significantly affect the prices
- Required to be disclosed (3rd package, etc.)
- Capacity and use of facilities for production, storage, transmission of electricity and gas

### Market participants

- Any person, including TSOs, entering into transactions (incl. placing orders) in 'wholesale energy markets':
- Trading companies, producers, shippers, wholesale consumers, final customers, TSOs, storage operators, LNG operators and investment firms
- REMIT registration

### Wholesale energy products

- Contracts for supply of electricity or gas with delivery in EU
- Contracts relating to transport of electricity or gas in EU
- Derivatives relating to electricity or gas produced, traded or delivered
- Derivatives relating to transport of electricity or gas

### Wholesale energy market

- Markets within EU where energy products are traded:
- Balancing market, intra-day and day-ahead market
- Forward markets (contracts)
- Derivatives markets
- Markets for transportation capacities and related derivative markets

## [5] transparency on inside information<sub>1</sub>



- Market participants to publish inside information *in an effective and timely manner* Art 4 REMIT
- Scope
  - own business, parent/related undertaking
  - information market participant is in control of or responsible
- Content
  - Information relevant to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas, including planned/unplanned unavailability of such facilities

## [5] transparency on inside information<sub>2</sub>



- “Effective” disclosure
  - Capable of being disseminated to as wide public as possible
  - Use of centralised platforms (if such platform exist obligation to use them)
  - RRS feeds should be used
  - Available for public for at least 2 years
  - Short, clear without advertisements and disclaimers
- “Timely” disclosure
  - Real time or close to real time disclosure /within one hour
  - ... but in any case before the information is used for trading
  - Delayed publication should be reported to ACER and relevant NRA

## [6] transparency information vs. inside information

### Transparency information

- Data that should be published under 3<sup>rd</sup> package and Transparency Regulation 543/2013
- 📢 Such information may constitute inside information
  - 📢 Lack of publication makes related data REMIT relevant → insider information to be made public
- Periodic and structured data

### Inside information

- Goes beyond what is required 3<sup>rd</sup> package and Transparency Regulation
- Information a reasonable market participant would be likely to use as part of the basis of its decision to 'trade' (if likely to have price significance), but not trading strategies; e.g.:
  - Outage of capacity <100MW but with price significance (important for small markets of CPs)
  - Closure of certain nuclear/coal/gas plant, commissioning of a plant, etc.
  - Decisions related to climate policies, etc.
- Ad-hoc



## [7] inside information

### Inside Information

- **Precise nature**
- Not made public
- Relates to wholesale energy products
- **Likely to significantly affect the prices**
- Required to be disclosed (3rd package, etc.)
- Capacity and use of facilities for production, storage, transmission of electricity and gas

- To be classified as inside information, all criteria have to be met
- Grey areas on defining inside information

- **Precise nature**

*If indicates as set of circumstances which exist or may be reasonably expected to come into existence or an event which has occurred*

- **Likelihood** of having **significant** price effect

*If the circumstances on which the info is based would likely have significant impact on prices if it became publicly known*

→ Likelihood is sufficient, no actual price effect is required

## [8] prohibition of market abuse



- prohibition of **insider trading** Art 3
  1. trading on the basis of such information
  2. disclosing such information to other persons
  3. recommending or inducing others to trade on the basis of such information
- prohibition of **market manipulation** Art 5
  1. false or misleading trade or order to trade
  2. trades attempting to secure certain price level (artificial)
  3. trades based on fictitious devices or deception
  4. disseminating of false and misleading information
- investigatory and enforcement powers for NRAs



- Data collected by ACER – shared with NRAs and other competent national authorities
- To be reported
  - All trades and orders to trade to be reported (**trade data**)
  - Information relating to capacity and use of facility for production, storage, consumption or transmission (**fundamental data**)
  - Data reported under MiFID<sub>Markets in Financial Instruments Directive 2004/39/EC</sub> and EMIR<sub>European Market Infrastructure Regulation</sub> is not reportable (no double reporting)
- ACER responsible for market monitoring, but not only:
  - NRAs, organised market places (PPATs) and even market participants
- PPAT to put in place surveillance systems
- Registration of market participants and “registration” of organised market places and RRMs<sub>Registered Reporting Mechanism</sub>
- Responsibility rests with market participants

# [10] registration requirements

- Required for *all market participants prior to entering* into reportable transactions
- Registration with NRA in the country of establishment
- NRAs to issue manual on registration and access on CEREMP

## Market participants need to:

- Create a CEREMP account
- Provide info about company
  - address, tax no, EIC<sup>Energy Identification Code</sup>, LEI<sup>Legal Entity Identifier</sup>, authorised legal representatives, contact persons, etc.
  - Ultimate controller & relationship information
  - Delegated parties for reporting – RRM<sup>Registered Reporting Mechanism</sup>



## [11] enforcement powers to NRAs

- REMIT goes beyond 3rd package
  - at least is more concrete on powers NRAs should have in ensuring market integrity
- **investigatory and enforcement powers** for NRAs - to be exercised in proportionate manner:
  - directly or in collaboration with other authorities; or
  - by application to the competent judicial authorities
  - Allowing access to relevant information/documentation
  - Carry out on-site inspections
  - Demand information and data traffic records (telephone; email)
  - Request court to freeze/sequester assets, etc.
- **Penalties** should be effective, dissuasive and proportionate reflecting the damage and potential gains

-3rd package-

### **Electricity Directive**

*Powers to NRAs in ensuring proper functioning of the market*

- Investigate and impose measures
- Require information from undertakings
- Impose penalties

## Reportable contracts and orders to trade

What?	When?	By who?
Electricity and gas standard contracts executed via OMP and orders (from forward to intraday and day-after)	T+1	Market participants or relevant OMP (if requested by market participant)
Electricity and gas non-standard contracts executed via OMP and orders (from forward to intraday and day-after)	T+30	Market participants
Transportation contracts and order (primary market)	T+1	TSO / Auction Office
Transportation contracts and orders (secondary market)	T+30	Market participants or relevant OMP
Intragroup contracts (power and gas) Contracts for electricity produced by unit $\leq 10$ MW Contracts for gas produced by unit $\leq 20$ MW Balancing contract (power and gas)	At the request of ACER	Market participants Market participants Market participants TSPs

## Reportable fundamental data

What?	When?	By who?
Electricity: capacity and use of facility for production, consumption and transmission, incl. lanned and unplanned availabilty (Reg. 543/2013, Art. 6-17)	As soon as published on central	ENTSO-E (Art. 7,1 dissagregated) (Art. 16,1,a by T+1)
Gas: capacity and use of facility for transmission, incl. lanned and unplanned availabilty (Reg. 715/2009, Art. 3.3(1) and 3.3(5))	As soon as published on central	ENTSO-G
Gas: day-ahead nominations and re-nominations of capacity on interconnection, entry from production/storage, exit to a single consumer/storage, LNG facilities and hubs (disagregated)	T+1	TSOs
LNG: technical, contracted and available capacity; send-out and inventory; planned and unplanned unavailability of the LNG facility	T+1 (asap)	LNG SOs
LNG: date and volume of unloading and reloading; name and size of the ship and name of the terminal; Planned unloading and reloading	T+1 Month ahead	Market participant (LNG SOs on its behalf)
Gas: technical, contracted and available capacity; gas in stock, injections and woithdrawals; planned and unplanned unavailability of the storage facility	T+1 (asap)	SSO
Gas: amount of gas stored at the end of gas day	T+1	Market participant (SSOs on its behalf)