

Implementation of REMIT (and other requirements for energy trading)

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Which parts of REMIT are entering into force immediately?

- > REMIT entered into force end of December '12 and as of the date of entering into force the following obligations are to be complied with:
 - **Insider dealing and market manipulation prohibition**, Art. 3 and 5
 - Obligation to **publish inside information** (fundamental data), Art. 4
 - Obligation to **notify ACER and NRAs under Article 3(4)(b) and Article 4(2)**, if they take advantage of these exemptions
 - Persons professionally arranging transactions (exchanges, brokers) are obliged to **notify to National Regulatory Authorities (NRAs) signals of suspected insider dealing and market abuse**, Art. 15
 - These obligation apply 100%: EC, NRAs, ACER do not foresee phase-in/step-wise approach
 - **ACER provided non-binding guidance** directed to NRAs on these matters
 - EC may update definition of inside information and market manipulation, Art. 6
- > **REMIT market monitoring by ACER and NRAs**: However, market surveillance units etc., transaction reporting and sanctions are to be established

Which parts of REMIT are entering into force at a later stage?

- > **REMIT transaction reporting and provision of fundamental data by market participants to ACER** (Art. 8): 6 months after adoption of implementing acts by EC (“TR implementing acts” through comitology proceedings); to be expected for mid 2013
- > **REMIT registration of market participants** (Art. 9): 3 months after adoption of TR implementing acts (NRAs shall establish national registers of market participants); to be expected for mid 2013 (maybe pre-population of register at an earlier stage)
- > **REMIT Sanctions by NRAs** (Art. 18): 18 months after entry into force of REMIT (MS shall define sanction regime); to be expected for mid 2013 at the latest

Future Requirements for Energy Traders (1)

Requirements	REMIT/MAR	MiFID II / CRD IV	EMIR
Transaction reporting to NRAs	+ (REMIT)	+ (MiFID II, if Bank)	+
Licence requirements	-	+ (MiFID II, if Bank)	
Register requirements	+ (REMIT)	-	-
Disclosure of inside information to public	+	-	-
Reporting of fundamental data to ACER	+ (REMIT)	-	-
Prohibition of Insider Dealing and Market Manipulation	+		
Notification to ACER / NRAs (Art. 3(4)(b) and Art. 4(2))	+ (REMIT)	-	-
Notification of persons professionally arranging transactions (exchanges, brokers) to NRAs	+ (REMIT)	-	-
Prudential capital requirements	-	+ (CRD IV, if Bank)	+ (only for Banks) (add. CRD IV capital: only for Banks for non-cleared OTC derivatives?)
Collateralisation for OTC Derivatives and/or Margin Requirements (IM/VM) for CCP Clearing	-	-	+ (generally for Banks; non-financial firms breaching the clearing threshold for cleared and for non-cleared OTC derivatives)

Future Requirements for Energy Traders (2)

Requirements	REMIT/MAR	MiFID II / CRD IV	EMIR
Bilateral risk management techniques	-	-	+ (e.g. trade confirmation, monitor the value of outstanding contracts, portfolio compression/ reconciliation, dispute resolution) Daily mark-to-market (if Bank or non-financial firm breaching the clearing threshold)
Record keeping	+ (3. Energy Package)	+	+
Platform trading obligation	-	+ (MiFID II, if Bank; non-financial firms breaching the clearing threshold)	
Rules for CCPs u. Trade Repositories	-	-	+
Position management / limits	-	+	-
Mandatory CCP clearing	-	-	+ (generally for Banks; non-financial firms breaching the clearing threshold)
Pre-/Post trade transparency	+ (REMIT: Post-trade transparency through ACER)	+ (for banks and trading platforms, systemic internaliser)	+ (Trade repository)

Example for compliance system to implement REMIT

Culture	Creation of a corporate culture to comply with REMIT regulation
Objectives	Compliance with REMIT requirements: Disclosure and reporting duties / prohibitions / registration
Organisation	Definition of roles / responsibilities: creation of a unit responsible for the REMIT requirements (centralised vs. decentralised); internal / external reporting lines; internal / external interfaces; provision of resources: human / technical (IT Systems)
Risks	Identification / assessment of concrete compliance risks, e.g. phase 1: use of insider information in trading / infringement upon prohibitions, non- / wrong fulfilment of disclosure obligations; phase 2: non- / wrong fulfilment of reporting obligations / registration
Programme	Definition of concrete actions to define admissibilities and inadmissibilities / implementation of processes to comply with regulations (top-down): e.g. directives, technical processes on data disclosure and reporting / registration, ensuring the non-use of insider information, process for the investigation / handling of infringements, etc.
Communication	Communication of the rules and regulations to be observed: internal communication and training concept (raising the awareness of employees); external communication and reporting to ACER/NRBs; reporting processes: internal reports on compliance, reporting of infringements, status of current processes, etc.
Monitoring Improvement	Monitoring tools: internal controls, audits, etc.; reporting lines for monitoring results; documentation of processes and actions

Thank you for your attention

