



REMIT Consultation publication inside information



1 Introduction

REMIT¹ is a new European Union (EU) Regulation aimed at preventing wholesale market abuse and market manipulation. This regulation came into effect in December 2011 and establishes a new framework for the monitoring of the wholesale energy market. It places an obligation on market participants to publicly disclose, in an effective and timely manner, inside information. Inside information is information of a precise nature which has not been made public, which relates, directly or indirectly, to one or more wholesale energy products and which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products. Such disclosure shall include information relevant to the capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities.

In the Netherlands, the market participants required to publish inside information under the regulation are currently fulfilling this requirement by publishing on their own websites. However, users may potentially be better helped by a central service that collates and publishes all information required under REMIT on behalf of market participants

The ACM wishes to consult market participants in order to discover whether there is a general desire for a central platform where inside information for gas and/or electricity is published. In addition, the ACM wishes, via this questionnaire to invite market participants to provide their thoughts on the need to establish a threshold for the publication of inside information relevant to the gas market.

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2 Publication of inside information - Background

2.1 Publication initiatives in other EU countries

The TSOs in the United Kingdom and Denmark host a central platform for 'REMIT insider trading notifications for gas'. On this platform inside information of all market participants, and not only TSOs, is published.

UK: <http://www.nationalgrid.com/uk/Gas/OperationalInfo/remit/>

Denmark: <https://gasmarketmessage.dk/Pages/default.aspx>

In Germany the exchange EEX hosts a central platform for insider trading notifications for electricity on <http://www.transparency.eex.com>.

¹ Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale market integrity and transparency



2.2 Publication in the Netherlands

In the Netherlands, inside information is currently published via market participants' own websites or services. The ACM considers that publication of inside information on a central platform is preferable, because it will increase transparency in the energy market. A single central platform could also save costs. Indeed a single platform for the publication of inside information concerning both gas and electricity may provide even more efficiencies for market participants.

- Q1: Would you prefer inside information for gas and electricity to be published on one joint central platform or on two separate central platforms, one for gas and one for electricity?
- Q2: Assuming a central platform would be established, would you **voluntarily** cooperate with a central platform for the publication of inside information?
- Q3: What kind of efficiencies would publication on a central platform provide to you?

The ACM would also like to discover whether publication of inside information via market participants' own websites or services will **still be needed** once information has been provided and published on a central platform. To answer this question article 4 of REMIT is of importance:

Article 4

Obligation to publish inside information

Market participants shall publicly disclose in an effective and timely manner inside information which they possess in respect of business or facilities which the market participant concerned, or its parent undertaking or related undertaking, owns or controls or for whose operational matters that market participant or undertaking is responsible, either in whole or in part.

ACER has made the following explanatory remarks about this article in the second guidance² on the application of REMIT.

- A simultaneous publication on the market participant's website is not necessary if a transparency platform is used which discloses inside information in a timely manner.
- While market participants are responsible for the disclosure of inside information, the Agency understands that they do not have influence on the operation of transparency platforms. Therefore, the Agency believes that market participants are not responsible for temporary technical problems of such platforms fulfilling the above-mentioned RIS requirements. If the information was transmitted to the transparency platform in time, the market participant should therefore not be charged for having breached the obligation to disclose inside information. If technical problems persist, however, market participants have to use other platforms or their own website instead. Although delayed disclosure of inside information due to technical problems of transparency platforms does not imply a breach of the disclosure obligation, the market participant is not allowed to trade based on that information as long as it is not available to the market.

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² Guidance on the application of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, second edition 22 April 2013.



Q4: Given the above statements of ACER, would you consider it necessary to publish inside information on your website in addition to publication via a central platform? And if so, why?

As mentioned above, in the UK and Denmark the TSO hosts a central platform for publication of inside information for gas. In Germany the European Energy Exchange (EEX) provides a platform for the central publishing of inside information for electricity.

Q5: Would you prefer the central publication website to be hosted by a regulated party, for example the TSO or by another (commercial) party, for example an exchange?

Gas and electricity companies frequently operate on a European basis, so it would be convenient if they have access to inside information on a European platform. This could be facilitated by publishing inside information on the transparency platforms of ENTSO-G³ and ENTSO-E⁴. Although ACM considers the establishment of European platforms preferable, such measures remain uncertain and potentially distant. An intermediate step would be to setup a regional platform with one or more neighboring countries.

Q6: Given the uncertain prospect of European platforms, would you prefer to wait for the establishment of such platforms for the publication of inside information?

Q7: What do you think of a regional platform with inside information from one or more neighboring countries?

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3 Threshold for the publication of inside information for gas

The second guidance discusses thresholds for gas and electricity above which publication of inside information is obligatory. These thresholds are discussed further below.

Regulation (EC) No 714/2009 requires TSOs to provide information on i) transmission infrastructure and its use and ii) on generation load, balancing and also certain wholesale market aspects. As part of the information required is sourced outside the TSOs (i.e. generators and users of electricity), concerned market participants are also obliged to provide the TSOs with the relevant data for publication. The classes of information to be published include data related to planned outages and unplanned outages of generation units larger than 100 MW. In practice this means that any outage above 100 MW has to be considered as inside information. The regulations do not provide for an equivalent threshold for the gas sector. However, the second edition of the ACER guidance on the application of REMIT recommends NRAs to introduce a national threshold for the publication of inside information for gas. Above this threshold market parties must consider the outage as inside information. They must therefore

³ ENTSO-G (the European Network of Transmission System Operators for Gas) publishes relevant information on European gas networks on <http://www.gas-roads.eu/>

⁴ ENTSO-E (European Network of Transmission System Operators for Electricity) publishes relevant information on European electricity networks on <http://www.entsoe.net>



publish this information according to article 4 of REMIT. For the avoidance of doubt: below this threshold, market participants must assess for themselves whether this information is inside information.

A threshold could take away some of the administrative burdens of market participants. On the other hand if the threshold is too low, this will lead to an overload of inside information.

Determining the right threshold might be difficult. Currently, the following (known) national thresholds are in place.

Denmark: 14.000 MWh/day

UK: 10 mcm/day

Q8: Would a threshold for gas – above which inside information must be published – be of added value to you?

Q9: In your opinion, what considerations should play a role in determining whether to use a threshold for publication of inside information for gas?

Q10: In your opinion should this threshold be in line with neighboring countries, if so which countries?

Q11: In your opinion what would be the right level for a threshold?