

16 September 2024

## **JEAG response to the ACER's Public consultation on the revision of the Annex of the REMIT Implementing Regulation**

Brussels, 16 September 2024 – The Joint Energy Association Group (JEAG) appreciates the opportunity to provide feedback on data collection through its public consultation which aims to assist the European Commission in revising the REMIT Implementing Regulation.

### **Key messages:**

1. **Simple reporting structures** should be one of the key objectives and requested data under the transaction reporting obligation must be proportionate to the needs of ACER and the scope of REMIT II<sup>1</sup>.
2. **Reporting of trading strategies** must be avoided in any event as it lacks the legal basis, and it is operationally impractical due to missing definitions and manual intervention for each transaction by the trader.
3. **Algorithmic trading and DEA requirements** must align with the legal provisions of the revised REMIT (2024) while ensuring no additional burdens are imposed on market participants.

### **Detailed comments:**

#### **1. Prioritizing simple reporting structures and proportionality for requested data in line with legal provisions of REMIT II**

In general, we support necessary improvements to existing tables, such as the addition of a new reporting table for storage products. However, these changes should be well-calibrated and aligned with the Regulation. In addition, sufficient adaptation time must be granted to ensure a smooth transition and effective implementation.

Overall, the revision of transaction reporting under REMIT must prioritize simplicity and proportionality. This approach ensures alignment with ACER's needs, the Regulation's objectives, and legal provisions of the revised REMIT II. The current REMIT reporting system functions effectively and, thus, we should not compromise its effectiveness. Most of the proposed changes introduce significant burdens for market participants (MPs) and Registered Reporting Mechanisms (RRMs), exceeding the scope of REMIT II, and threatening data quality.

Adding extra reporting tables and fields will increase complexity, require extensive modifications to processes and IT systems, and lead to higher costs for all parties involved, potentially implying errors or inconsistencies during the adjustment period. Similarly, ACER and National regulatory

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<sup>1</sup> Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, p. 1), amended by Regulation (EU) 2024/1106 of the European Parliament and of the Council of 11 April 2024 (OJ L 1106, 17.4.2024, p. 1)

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authorities (NRAs) will be greatly affected by the expected implementation and adaptation processes.

For transactions on OMPs, MPs are technically capable of enriching an OMP's reports with additional static or beneficiary information. However, we oppose the requirement for MPs to enrich reporting with additional data for every transaction and/or order, beyond the existing transaction reporting concepts. Regarding the new reporting exposure requirement (Art. 8) it is crucial to leverage existing data and current one-time reporting using existing formats (table 1 and 2) and reporting channels (OMPs/RRMs). The comparability of data must be ensured and the additional reporting burden for MPs should ideally be avoided, or at the very least, minimized. This is very important because REMIT reporting obligations apply to all, regardless of the size and risks of their respective businesses.

When publishing inside information, we have concerns about the proposed field 23 "Market participants directly affected by the event". Contractual relationships are confidential and not inside information, which are already being disclosed to ACER under the REMIT transaction reporting obligation (Non-Standard Contracts under Table 2 and Table 1 for executions). Requiring it, therefore, may lead to a duplication of information and contradict the concept UMMs as a market message; the entire energy market can, in fact, but does not necessarily have to be, affected.

**We ask ACER to adhere to simple reporting structures and that the data required for transaction reporting are proportional to the needs of the Agency itself and the objectives of REMIT II.**

## **2. Reporting trading strategy information must be avoided as it lacks legal basis and is operationally impractical**

We oppose the proposal to report trading strategies, as it extends beyond the intended scope of the revised REMIT II and, therefore, lacks a legal basis under Article 8 which does not explicitly include trading strategies as reportable information.

Furthermore, the term "trading strategy" neither is defined under REMIT II nor has a clear, univocal interpretation. Defining what constitutes a "strategy" is, in fact, challenging because strategies can be unique and less widely recognized given that companies often have in-house naming conventions not widely used by the whole market. Within their approved trading mandate, for example on proprietary trading, traders may follow their own expected market developments and build trading strategies accordingly. Therefore, reporting these strategies to regulators is unnecessary as there is no single strategy applicable to all market participants. In addition, a trade can also be an aggregation of different strategies, for example when entering the market with a well tradeable standard size but behind there might be a distribution of MWs to different strategies.

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Requiring reporting trading strategies would, in addition, introduce significant operational challenges and additionally competition risks due to the sensitivity of information. From an operational perspective, reporting a trading strategy would require manual intervention for each transaction by the trader before execution, making it operationally unfeasible. This is applicable especially for OMP executed orders and transactions where strategy information would need to be flagged at the point of execution (i.e., upon order placement). Reporting everything on order level requires Front-Office execution systems to handle this information and put it through to OMPs. Overall, it would set Front-Office back by years, slowing down execution and therefore significantly hampering the liquidity in the market.

**All things considered, we strongly oppose this proposal considering the missing legal basis to impose such data requirements. In addition, we call on ACER to acknowledge that safeguarding a company's own strategy is crucial to maintain fair competition and trade in line with existing ACER Guidance.**

### **3. Algorithmic trading and DEA requirements must align with the legal provisions of the revised REMIT (2024)**

The revised Implementing Regulation must ensure that algorithmic trading and Direct Electronic Access (DEA) requirements align with legal provisions of REMIT (2024) without imposing additional burdens on MPs. The proposals made by the consultation lack a legal basis under REMIT II Article 8 which does not mention algorithmic trading/DEA flagging. In addition, the notification requirements under Article 5a (para 2 – first sentence) are fulfilled when MPs notify their algo engagement via CEREMP.

We do not support any proposal for additional reporting beyond what stated in the legal text. The Level 1 text lays down the option for NRAs to request information to ensure compliance with Article 5(a) (paragraph 1 – *Effective systems and risk controls*), but it does not support any of the proposed additional requirements. ACER or NRAs already have the instruments to directly contact individual OMPs to request specific details on MPs involved in areas that require further investigation.

Extending reporting capabilities across various REMIT OMPs would require extensive technical development at the OMP level, including operational complexity (system-related impacts) in deal capture up until downstream processes.

**We urge ACER to consider these significant impacts for existing reporting systems, from trade capture to downstream processes, and ensure that algorithmic trading and DEA requirements remain within the bounds of REMIT II.**