

<b>TO</b>	<b>SEM COMMITTEE</b>
<b>FROM</b>	<b>ANDREW EBRILL</b>
<b>CC</b>	<b>TANYA WISHART, EUGENE COUGHLAN</b>
<b>DATE</b>	<b>26<sup>TH</sup> MARCH 2012</b>
<b>SUBJECT</b>	<b>RA WORKSHOP ON REMIT</b>

## 1. PURPOSE OF THIS MEMO

This memo discusses REMIT, the new EU “**Regulation on Energy Market Integrity and Transparency**”, and in particular updates the SEM Committee of the outcome of a public workshop on REMIT held by the RAs (CER and Utility Regulator) in Dundalk on Friday 23<sup>rd</sup> March 2012.

This memo is based on the RAs’ current understanding of REMIT and its implications which, as discussed below, is evolving.

## 2. BACKGROUND TO REMIT

REMIT entered EU law on 28<sup>th</sup> December 2011, introducing new EU-wide market rules and market monitoring in energy. REMIT’s scope includes wholesale electricity and natural gas contracts for production, trade, transportation, and supply/distribution to customers with consumption > 600 GWh per annum. REMIT is considered likely to cover SEM spot and CfD trades, with REMIT’s following provisions of particular relevance.

- Market abuse prohibition: all market participants are prohibited from “market manipulation” and “insider trading”, and must publish “inside information” or inform ACER and the RAs if they wish to delay its publication.
- Energy participants, including at least brokers and exchanges, should establish arrangements to detect market abuse and notify the relevant NRA if they suspect any.
- The RAs shall ensure that there is no market manipulation and insider trading, and that appropriate insider information is published. However, REMIT also states the investigatory and enforcement powers do not need to be given to the NRAs until 29<sup>th</sup> June 2013.
- New market reporting and monitoring:
  - (a) REMIT establishes a new market monitorer, with energy transaction data across the EU to be sent to ACER in Ljubljana. ACER will assess the data for market abuse and is expected to notify suspected cases to the NRAs for investigation. This market reporting aspect of REMIT is subject to a “comitology process” to be driven by the European Commission, which will determine the level/type of reporting, and so is not expected to “go-live” until late next year at the earliest; and,
  - (b) All market participants will be required to register with their NRA, using a “national register” in a format to be decided by ACER this year, and the NRAs are to send the database to ACER after the reporting process has been determined, i.e. probably late next year.

### 3. KEY MESSAGES AT WORKSHOP

The RAs and the European Commission presented at the workshop, followed by a presentation by the NEAI and then a discussion with market participants. The following were the key messages:

#### Regulatory Authorities

The RAs communicated the following in relation to REMIT.

- Market participants should be aware that the prohibitions on market abuse and the requirement to publish inside information are now law, applying to both market participants and the RAs. It was pointed out that ACER has a facility on its website established to allow the reporting by market participants of suspected market abuse or the delay of publication of inside information.
- Attention was drawn to the scope of these requirements, with some information on this available in REMIT itself and in ACER's guidance documents published last December. However, the detailed application is somewhat uncertain as it is still being worked through at EU level, by NRAs across the EU as well as by ACER. It is hoped that a second version of the guidance documents will be published by ACER this Summer, which may help. The RAs will continue to engage with CEER/ACER on this issue and to encourage ACER to provide clarity on REMIT's practical applications where feasible.
- Via CEER/ACER meetings, the RAs will be expressing their views on the European Commission's proposed energy transaction reporting requirements to ACER. This is to press for a reporting system which captures suspected cases of market abuse but which is also not administratively burdensome or costly for SEM market participants - for example, it could allow for SEMO systems to be used for reporting where possible. Similarly, the RAs will feed into ACER proposals on the proposed format of a national register, so that it is practical.

#### Market Participants

Market participants communicated the following in relation to REMIT.

- They welcome the prohibition on market abuse and increased transparency that it can provide.
- There was some criticism of REMIT's lack of clarity in application. It was questioned if a generator is responsible to publish plant outages as "inside information", who should publish it and how often. In response, the view was expressed by the RAs and the European Commission that the generator would be responsible to publish any material changes to its outage plans - it could organise this via the TSO if possible. As referred to above, the RAs are engaging on these application issues with CEER/ACER, and attendees were informed that they could submit such queries to the RAs, which in turn would follow-up with them at EU level to seek clarity.
- Market participants strongly requested that the transaction reporting requirement costs/burden is minimised, and that existing systems be used where possible. They welcomed the RAs' stated position of seeking a cost-effective implementation at EU level.

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