EACH Response –
Annex to Guideline on REMIT transaction reporting: Reporting of energy derivative transactions under REMIT and EMIR

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1. Introduction

The European Association of CCP Clearing Houses (EACH) represents the interests of Central Counterparties (CCPs) in Europe since 1992. CCPs are financial market infrastructures that significantly contribute to safer, more efficient and transparent global financial markets. EACH currently has 19 members from 14 different European countries. EACH is registered in the European Union Transparency Register with number 36897011311-96.

EACH appreciates the opportunity to respond to the consultation on the ACER consultation on the Annex to Guideline on REMIT transaction reporting "Reporting of energy derivative transactions under REMIT and EMIR"[1].

EACH broadly supports ACER's objective of providing a clear and coherent framework for the interaction between REMIT and EMIR reporting requirements. In particular, EACH welcomes the stated **objective of avoiding unnecessary costs and administrative burdens** and of aligning REMIT reporting, to the extent possible, with the reporting frameworks established under EU financial market legislation. EACH also acknowledges that the proposal has **no direct new reporting impact on CCPs**, nevertheless we would like to point out that EMIR data and related data-quality indicators could have indirect relevance for regulators.

EACH however considers that a number of points would benefit from **further clarification** to ensure that the final guidance does not inadvertently create duplicative reporting obligations for CCPs or uncertainty as to the respective responsibilities of CCPs, OMPs, market participants and trade repositories.

2. Questions and answers

Section I: Introduction and scope

This section covers the following topics:

- **Purpose of the Annex**
- **REMIT scope, definitions, terminology**

Do you have any comments on the guidance provided in this chapter?

EACH supports the approach set out in Section I, particularly the objective of ensuring that REMIT reporting is aligned with EMIR reporting and that duplicate reporting is avoided where the relevant transaction information has already been reported under EMIR.

However, EACH recommends that ACER makes explicit that the fact that a CCP becomes a counterparty to a cleared derivative for EMIR purposes **does not**, in itself, **make the CCP a**

[1]https://www.acer.europa.eu/sites/default/files/documents/Official_documents/Public_consultations/PC-2026-R-09/ACER-Guideline-REMIT-transaction-reporting-2026-Annex.pdf

REMIT market participant or create a separate REMIT reporting obligation for the CCP in respect of the clearing activity.

This is particularly important because the draft Annex notes that the term "transaction" under REMIT includes lifecycle events, while subsequently explaining that modifications of a financial open position do not need to be included in REMIT data reporting where they do not represent a modification of a wholesale energy transaction. The final guidance should ensure that **this distinction cannot be interpreted** as bringing routine CCP clearing lifecycle events within the CCP's REMIT reporting obligations.

Section II: Reporting obligations under REMIT and EMIR

This section covers the following topics:

- **Counterparties vs market participants**
- **Energy derivatives reportable under EMIR**
- **Energy derivatives reportable under EMIR and REMIT**
- **Energy derivatives reportable only under REMIT**

Do you have any comments on the guidance provided in this chapter?

EACH particularly welcomes paragraph 20 of the draft Annex, which states that **CCPs and clearing brokers are not considered REMIT market participants** because clearing activities do not constitute entering into transactions under REMIT. EACH also supports the mechanism described in paragraphs 34–38 whereby transaction details already reported under EMIR or MiFIR are made available to ACER through the relevant reporting infrastructure, thereby avoiding the need for market participants to report the same transaction details again under REMIT.

However, EACH considers that the wording should be strengthened to avoid any possible ambiguity between the reporting of the original transaction and/or order under REMIT;

- the reporting of the derivative contract under EMIR; and
- the clearing and novation activities performed by a CCP.

Furthermore, EACH Members would like to express concerns on the reference to ETD under REMIT as 'simply a derivative traded on an OMP', which threatens to create confusion. As rightly noted in paragraph 4, the perimeter of OMPs may be significantly broader than the definition of trading venue, and even more so than the definition of regulated market, under MiFID. It should therefore be clear that contracts traded on energy broker platforms, energy capacity platforms, or other facilities that may be seen as an OMP under REMIT, do not receive the same regulatory treatment as actual ETDs.

EACH therefore recommends:

- that ACER explicitly state that a **CCP's EMIR reporting obligation does not result in a corresponding REMIT reporting obligation** for the CCP merely because the CCP becomes a counterparty to the cleared transaction; and

- that ACER clarify that the fact that a transaction resulting from clearing or an option exercise may be reportable under REMIT does **not imply that the CCP performing the clearing is the REMIT reporting entity**. The guidance should identify the entity responsible for reporting such transactions and distinguish that responsibility from the CCP's role in processing, clearing or registering the transaction;
- that ACER clarifies that the same regulatory treatment as actual ETDs does not apply to contracts traded on energy broker platforms, energy capacity platforms, or other facilities that **may be seen as an OMP under REMIT**.

Section III: Reporting derivative transactions under EMIR / REMIT

This chapter illustrates ACER's understanding of EMIR and REMIT reporting obligations in an ETD trading scenario.

Do you have any comments on the guidance provided in this chapter?

EACH welcomes the worked example in Section III as it reinforces an important point for CCPs: the CCP's involvement in the clearing of the derivative does not alter the allocation of the REMIT reporting obligation arising from the original order or trade.

EACH recommends that the final example make the CCP's role explicit. In particular, the example should state that:

- the CCP's interposition and assumption of counterparty risk for EMIR purposes do **not make the CCP a REMIT market participant**;
- the CCP's clearing and settlement activities do **not constitute placing or concluding the underlying REMIT transaction**;
- where the trade details have already been reported under EMIR, those trade details should **not be separately reported under REMIT** merely as a consequence of central clearing; and
- any reporting of a transaction resulting from an option exercise, clearing or other lifecycle event should clearly identify the entity responsible for that REMIT report and should **not be construed as imposing a reporting obligation on the CCP** unless expressly required by REMIT.

Other comments

Are there any other proposals you would like to share with ACER? (e.g. topics that should be covered, amendments etc.)

EACH does not have further comments.