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Ms Maria da Graça Carvalho
Member of the European Parliament
European Parliament
Rue Wiertz 60
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Ms Ditte Juul Jørgensen
Director-General
Directorate-General for Energy
European Commission
Rue de Mot 24
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Subject: Joint industry call for adequate implementation periods for REMIT II

Dear Ms Jiménez, dear Ms Carvalho, dear Ms Jørgensen,

We AFME, CMC Europe, EFET, Eurelectric, Eurogas, Europex, FESE, FIA, FIA EPTA, IOGP and ISDA as representatives of a wide range of market stakeholders, including market participants, organised marketplaces, inside information platforms, persons professionally arranging transactions and registered reporting mechanisms, are contacting you with regard to the timing of the implementation of the revised Regulation on Wholesale Energy Market Integrity and Transparency (REMIT II).

As REMIT II introduces substantial changes to numerous REMIT provisions, adequate transitional periods should be foreseen to ensure proper implementation as this will require significant changes to IT systems, reporting streams, organisational setups, legal arrangements, etc. Given that the entire REMIT ecosystem will have to adapt, we also expect certain bottlenecks with highly specialised service providers, notably in terms of IT system providers.

Therefore, we generally welcome the suggested amendment of Article 3 (“Entry into Force”) and the common understanding to provide for sufficiently long and realistic implementation periods for ACER, the NRAs and the industry to make the necessary changes, to test and to operationalise them.

Based on over ten years of experience in implementing and working with REMIT on a daily basis, we firmly believe that the currently proposed generalised six-month implementation period is inadequate and insufficient for the large majority of changes. Hence, **we suggest leaving at least a 12-month general implementation period with a few notable exceptions for more complex modifications. In addition, in case a delegated or an implementing act is required to specify the requirements that the concerned stakeholders must follow, sufficient time after the adoption and entry into force of such act should be provided to allow for proper implementation**.

After close consultation with our memberships which represent almost all non-public stakeholders in REMIT, we would like to suggest the following implementation timeframes for Arts. 2(4), 4a, 5a, 6, 7c, 8 (1a), 9 (1), 9a, 15 and 15(b).

Article	Required implementation time	Explanatory comments
Art. 2 (4) Definitions	**6 months** after DA/IA enters into force	We support the Council proposal in Article 3 (“Entry into Force”) of the REMIT II proposal that certain provisions subject to the adoption of EC implementing acts shall apply with effect from six months after their adoption. However, this provision should be extended to Art. 2(4).
Art. 4a IIP provisions	**12 months** after related delegated act enters into force plus 12 months after ACER has issued a new UMM XSD specification	IIPs need sufficient time to develop and implement Application Programming Interfaces (APIs) for providing access to inside information data. This depends on i) the exact specifications of the future implementing/delegated regulation and on ii) ACER specifying all technical details to allow for technical implementation. We suggest a 12-month implementation period after both preconditions have been met. At the same time, many technical details need to be clarified (e.g., ACER definition of an API, orderly data transfer to other IIPs, reporting format, etc.). In addition, it is not clear whether the list of parameters in para. 3 for the type of inside information to make public should be applied one-to-one in the UMM structure and format. In that case, ACER should issue a new UMM XSD specification and new UMM electronic formats. IIPs will need at least six months to implement the updated format. Finally, there should be sufficient time for IIPs to consider whether to continue or to de-register their services if adequate cost-recovery is not possible on a reasonable commercial basis.

Art. 5a Algorithmic trading	**18 months**	Market participants that engage in algorithmic trading need sufficient time to put in place the required effective systems and risk controls (systems' resilience and sufficient capacity, installation of trading thresholds and limits, fully tested and properly monitored, business continuity arrangements, etc.) to ensure that their trading systems comply with Article 5a REMIT II. These requirements apply for the first time to physical energy markets (i.e., spot and bilateral physical OTC markets), so the firms need more time to put those systems and risk controls in place.
Art. 6 Definitions of inside information and market manipulation	**6 months** after publication of ACER guidance	The revised definitions of inside information and market manipulation introduce new concepts in the REMIT II framework that remain untested for energy market participants. Their implications for companies' disclosure and reporting practices need clarification. To ensure legal certainty, these provisions should therefore only apply 6 months after ACER guidance on the definitions has been published.
Art. 7c LNG market data	**6 months** after DA/IA enters into force	Firms need sufficient time to implement changes to their reporting systems, which will require changes to complex IT systems and will bind substantial human and financial resources.
Art. 8 (1a) OMP order book data	**18 months** after entry into force of the related implementing act	Making OMP order book data available to ACER is a major change which needs sufficient implementation time, not least because of IT security and other reasons. As the relevant details of the implementing act will remain unknown until its adoption, the OMPs will need sufficient extra time to make the relevant arrangements. Hence, the suggested 6-month transition period after entry into force of the implementing act would be too short to ensure full compliance with the new provision. Given the complexity of the implementation challenge, we consider 18 months post-entry into force to be a minimum implementation period for the OMPs.
Art. 9 (1) Requirements for third country firms	**18 months**	The designation of a representative within the EU by third country firms is a complex legal and operational undertaking which requires an adequate implementation period of at least 18 months. Such representatives will have to be delegated with necessary legal powers and defined responsibilities to guarantee proper access to relevant information for the NRAs and ACER.

Art. 9a Authorisation and supervision of RRMs	**12 months** after related delegated act enters into force	To effectively implement the new provisions concerning the authorisation and supervision of RRMs, a minimum of 12 months after the delegated act enters into force is required.
Art. 15 PPAT obligations	**12 months** after related delegated act enters into force	Given that it remains entirely unclear how PPATs should monitor the proper disclosure of inside information as they do not deal with physical assets themselves, it is impossible to judge how much time will be needed to implement this provision. Following the general recommendation, a 12-month implementation period may provide for a reasonable margin.
Art. 15 (b) Obligation of suspicious order and transactions reporting	**18 months**	The introduction of Suspicious Transaction and Order Reporting (STOR) in Art.15 for all market participants also trading in financial instruments will affect numerous market participants, large and small. Any energy company hedging its currency or interest rate risk with derivatives will be caught by this new provision, as they are subject to the MAR STOR regime. However, the STOR Regime under REMIT will cover not only all physical OTC wholesale markets, but also spot markets, where market participants make high numbers of daily, even hourly and quarter-hourly transactions. Also, bespoke bilateral physical OTC markets (transactions under the EFET General Framework Contract or bespoke OTC contracts) represent numerous and a high volume of transactions. If market participants are required to monitor all those activities effectively, it requires setting up complex IT solutions and bind substantial human and financial resources. The set-up of an IT solution would already take more than a year. Furthermore, analysts for the daily monitoring work and follow-up investigations must be hired and educated. Firms may also decide to put in place systems from third-party vendors – which will take time to assess – and then implement. Market participants therefore need an implementation period of 18 months to prepare for this new obligation.

We thank you for considering our suggested implementation timelines and would be pleased to be given the opportunity to present our reasoning and additional details of our membership surveys in person.

We remain at your disposal for any questions you may have.

Yours sincerely,
On behalf of AFME, CMCE, EFET, Eurelectric, Eurogas, Europex, FESE, FIA, FIA EPTA, IOGP & ISDA

ABOUT THE CO-SIGNING ASSOCIATIONS

AFME

The Association for Financial Markets in Europe (AFME) is the voice of all Europe's wholesale financial markets, providing expertise across a broad range of regulatory and capital markets issues. We represent the leading global and European banks and other significant capital market players. We advocate for deep and integrated European capital markets which serve the needs of companies and investors, supporting economic growth and benefiting society. We aim to act as a bridge between market participants and policy makers across Europe, drawing on our strong and long-standing relationships, our technical knowledge and fact-based work.

For more information: http://www.afme.eu/

CMCE

CMCE is the only association in Europe representing the range of commodity market participants - agriculture, energy, metals and other commodity market participants, benchmark providers, price reporting agencies, and trading venues operating in the EU, EEA, Switzerland and neighbouring countries. The majority of CMCE members use commodity derivative markets to hedge the risks related to their physical activities and assets. CMCE's key purpose is to engage with policymakers and regulators to promote liquid and well-functioning commodity derivative markets in Europe.

For more information: https://www.commoditymkts.org/cmc-europe/

EFET

The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. We build trust in power and gas markets across Europe, so that they underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. EFET currently represents more than 130 energy trading companies, active in over 27 European countries.

For more information: http://www.efet.org/

Eurelectric

Eurelectric is the federation of European electric industry. We speak for more than 3,500 European utilities covering the entire industry from electricity generation and markets to distribution networks and customer issues.

For more information: https://www.eurelectric.org/

Eurogas

Eurogas is the association representing the European gas sector. Our 78 members and associate members are active throughout the energy gas value chain, covering production, trading, distributor, and supply of natural gas, biomethane and hydrogen.

For more information: http://www.eurogas.org/

Europex

Europex, the Association of European Energy Exchanges, is a not-for-profit association of European energy exchanges with 34 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

For more information: http://www.europex.org/

FESE

The Federation of European Securities Exchanges (FESE) represents 35 exchanges in equities, bonds, derivatives and commodities through 16 Full Members and 1 Affiliate Member from 30 countries.

At the end of October 2023, FESE members had 6,587 companies listed on their markets, of which 19% are foreign companies contributing towards European integration and providing broad and liquid access to Europe's capital markets. Many of our members also organise specialised markets that allow small and medium sized companies across Europe to access capital markets; 1,484 companies were listed in these specialised markets/segments in equity, increasing choice for investors and issuers. Through their RM and MTF operations, FESE members are keen to support the European Commission's objective of creating a Capital Markets Union.

FESE is registered in the European Union Transparency Register: 71488206456-23.

For more information: https://www.fese.eu/

FIA

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. FIA's mission is to support open, transparent and competitive markets, protect and enhance the integrity of the financial system, and promote high standards of professional conduct. As the principal members of derivatives clearinghouses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets.

For more information about FIA and its activities: http://www.fia.org/

FIA EPTA

The European Principal Traders Association (FIA EPTA) represents Europe's leading Principal Trading Firms. Our members are independent market makers and providers of liquidity and risk transfer for markets and end-investors across Europe, providing liquidity in all centrally cleared asset classes including shares, bonds, listed derivatives and ETFs. FIA EPTA works constructively with policymakers, regulators and other market stakeholders to ensure efficient, resilient and trusted financial markets in Europe.

For more information: http://www.fia.org/epta/

IOGP Europe

The International Association of Oil & Gas Producers Europe (IOGP Europe) is the European voice of our industry, an enabling partner for a low-carbon future. We pioneer excellence in safe, efficient, and sustainable energy supply, and work with policymakers to deliver a policy framework enabling our members to scale up investments in the EU's transition towards climate neutrality by 2050.

For more information: https://iogpeurope.org/

ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 79 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers.

For more information: http://www.isda.org/