Europex Response to MEP Christian Ehler's Request for Input

Brussels, 19 September 2025

Europex welcomes the Energy Omnibus initiative and greatly values the opportunity to contribute. At present, the EU regulatory framework subjects MiFID financial instruments - particularly commodity derivatives such as gas and power contracts - to overlapping requirements. These arise both from energy policy, notably the Regulation on Energy Market Integrity and Transparency (REMIT), and from financial regulation, including the Markets in Financial Instruments Directive (MiFID), the Market Abuse Directive and the Market Abuse Regulation (MAD/MAR). Such overlaps create inefficiencies, administrative burdens and legal uncertainties that undermine the competitiveness of Europe's energy and financial markets. Any legislative changes should be firmly evidence-based and grounded in thorough analysis and objective data.

In line with the European Commission's efforts to reduce administrative burdens, Europex recommends a clearer distinction between EU financial regulation and energy policy. This can be achieved by refining the scope of REMIT so that it applies exclusively to wholesale energy products not classified as financial instruments under MiFID. A thorough review and subsequent simplification of the current regulatory overlap affecting energy derivatives markets is both timely and necessary to streamline supervision, avoid duplication and support a more efficient and competitive European energy market.

1. Overlap in Regulatory Reporting Requirements

- Wholesale energy markets are subject to regulatory requirements from both the energy and financial services spheres, including MiFID/MiFIR, MAD/MAR, EMIR and REMIT. While each framework has a distinct scope and purpose - such as promoting transparency, strengthening market oversight or ensuring financial stability - overlapping reporting obligations for similar data have progressively increased. This has resulted in inefficiencies and unnecessary administrative burdens.

- **Duplicative Reporting and Registration Burdens:**

    - **Transaction reporting:** Firms must report data involving commodity derivatives under REMIT and multiple times under financial regulations, including EMIR, MiFID and MAR, to data repositories, which causes operational inefficiencies. In total, data derived from the same energy derivatives transactions is typically reported five times under these different European reporting frameworks.

- **Position reporting:** The latest revision of REMIT - REMIT 2 - introduced a general requirement for market participants to report position data, known as 'exposure reporting'. The related and recently published draft REMIT Implementing Regulation further specifies this obligation and extends it to commodity derivatives - despite these instruments already being subject to more comprehensive position reporting requirements under MiFID.

- **Algorithmic trading registration:** Both REMIT and MiFID require the registration and oversight of trading algorithms. This creates redundant administrative demands for firms that use automated trading systems.

- These duplicative obligations place a significant reporting burden on the industry. They run counter to the European Commission's objectives of simplification and competitiveness and risk driving up energy trading costs, which may ultimately be passed on to consumers. Instead of introducing yet another reporting framework, the priority should be to strengthen data-sharing arrangements between financial and energy regulators, ensuring that the position data already collected is shared effectively and securely with ACER.

- Europex supports improving the information available for policy debates on the state of European energy markets by strengthening collaboration and coordination between European financial and energy supervisors, with the aim of addressing existing data gaps.

2. Overlap in Supervisory Arrangements

- REMIT enforcement is the responsibility of ACER and national energy regulators – also known as National Regulatory Authorities (NRAs), who focus on wholesale energy markets and financial instruments.
- MiFID and MAD/R supervision is conducted by the National Competent Authorities (NCAs) for financial markets as well as ESMA, focusing on financial instruments and related derivatives.
- This dual or triple supervision may create jurisdictional uncertainties, inconsistent enforcement and increased compliance costs for market participants active in energy commodity derivatives.
- Reporting obligations should be reduced through enhanced cooperation between supervisory authorities, rather than reporting obligations being duplicated in different regulations (MiFID/MiFIR, REMIT and EMIR), in order to avoid increasing compliance costs.

3. Negative Consequences for Europe's Competitiveness

- **Increased compliance costs:** The maintenance of multiple reporting channels, registration requirements and compliance systems place a disproportionate burden on market participants, particularly SMEs.
- **Reduced market attractiveness:** Compared to their global counterparts, Europe's energy markets risk losing competitiveness and liquidity due to such overlaps.
- **Inefficient use of regulatory resources:** Supervisory bodies devote significant effort to duplicated oversight instead of focusing on substantive risks to market integrity.

Conclusion

Europex recommends refining the scope of REMIT so that it applies solely to wholesale energy products not classified as financial instruments under MiFID. This would establish a clear and necessary distinction between EU financial regulation and energy policy.

At present, substantial overlap exists between EU financial regulations - such as MiFID, MAR and EMIR - and energy policy, in particular REMIT. This overlap places an unnecessary regulatory burden on firms active in European energy markets.

Eliminating duplicative obligations in areas such as transaction reporting, position reporting and algorithm registration would reduce legal uncertainty, lower compliance costs and strengthen the competitiveness and efficiency of Europe's energy and commodity derivatives markets. Streamlining these frameworks is therefore essential to safeguarding Europe's role as a global leader in energy.

About

Europex is a not-for-profit association of European energy exchanges with 37 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.

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