

REMIT Review: Market access barriers for third country firms

AFME, CMCE, Europex, FESE, FIA and ISDA ('The Associations'), representing a wide range of market participants (e.g. energy firms, trading venues, banks and other market participants) in wholesale energy markets, are writing to you ahead of the upcoming trilogue meetings on the review of the Regulation of Wholesale Energy Market Integrity and Transparency (REMIT) and the supervision of third country firms.

We stand ready to help ACER and National Regulatory Authorities (NRAs) to ensure that they are able obtain the necessary information from third country firms to effectively supervise European energy markets. **We are strongly convinced that it is disproportionate to require third country firms to declare an office in the EU from which they carry out their principal activities, as proposed by the European Parliament in their agreement on Article 9.**

We are concerned that introducing barriers for third country natural gas and LNG providers to trade on European energy markets will make it more difficult to attract the necessary gas supply and may ultimately undermine the EU's effort to strengthen its security of supply. This cannot be a desired outcome from a policy perspective given the experiences from the recent energy crisis.

Moreover, the necessity and impact of this requirement has not been properly assessed, whilst feedback from third country firms is clear that the requirement would act as a considerable market access barrier prompting many non-EU firms to refrain from trading European wholesale energy products. Considering many of these third country firms act as important liquidity providers, this means it will be more difficult for EU firms to find a counterparty to manage their price risks with, which in turn is expected to lead to higher energy costs for industry and households.

Instead, we believe that the Council General Approach, proposing the designation of a representative authorised to act on its behalf, is a less disruptive approach to ensure the proper investigation of third country firms. Process agents are a standard practice in other sectors, and if introduced in European energy markets, they would be able to accept service of legal documents on behalf of a third country firm and enhance information access by ACER and NRAs.

In addition, it is noteworthy that European energy exchanges typically have far-reaching powers under their market rules to request information from market participants in order to conduct proper market surveillance. We stand ready to help ACER and NRAs to obtain information relevant for market surveillance purposes as we strongly share the objectives of the REMIT review.

In light of the above, we strongly encourage the co-legislators to adopt the Council position with respect to Article 9.

About AFME

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors, and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society. www.afme.eu

About 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.

About 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: www.europex.org.

About 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 January 2023, FESE members had 8,432 companies listed on their markets, of which 21% 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; 1,502 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.

About 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. Information about FIA and its activities is available on www.fia.org.

About 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. More information about FIA EPTA and independent market makers is available on: www.fia.org/epta and www.wearemarketmakers.com

About 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. Information about ISDA and its activities is available on www.isda.org.