



Making a positive difference
for energy consumers

To wholesale energy market participants in Great Britain, Northern Ireland and the European Union, and to any other interested parties

Date: 13 October 2020

Dear Colleague,

EU exit REMIT contingency arrangements – October 2020 update

On 31 January 2020 the United Kingdom (UK) left the European Union (EU) and, following ratification of the Withdrawal Agreement, a transition period came into force. During the transition period the current GB wholesale energy market rules and REMIT¹ arrangements remain in force. The transition period will run until the end of 2020.

This letter is intended to provide Market Participants (MPs) with an update on the REMIT arrangements that will apply in GB from 1 January 2021, after the transition period comes to an end.

The key message of this letter is to confirm to MPs that, regardless of whether a future partnership agreement is reached between the UK and the EU before the end of the transition period, we expect the REMIT arrangements that will apply in GB from 1 January 2021 will be consistent with the arrangements set out in our 'No-deal EU exit REMIT contingency arrangements – September update'² letter published on 27 September 2019. These arrangements are in line with the 'Electricity and Gas (Market Integrity and Transparency) (Amendment) (EU Exit) Regulations 2019'³.

For clarity, we provide an updated summary of the arrangements in the paragraphs below. Should any unforeseen circumstances⁴ arise that cause these arrangements to change we will notify the market as soon as possible.

GB REMIT arrangements – 1 January 2021

¹ REMIT is the EU Regulation on Wholesale Energy Market Integrity and Transparency. REMIT obliges EU Market Participants (MPs) to publicly disclose inside information and prohibits insider trading and market manipulation. To allow National Regulatory Authorities (NRAs) to carry out effective market monitoring, REMIT imposes a registration obligation on MPs, and obliges MPs to report (via Registered Reporting Mechanisms – RRM) certain trade and fundamental data to the Agency for Cooperation of Energy Regulators (ACER).

² https://www.ofgem.gov.uk/system/files/docs/2019/09/no-deal_eu_exit_remit_comms_-_sept_19_update_0.pdf

³ <https://www.legislation.gov.uk/ukxi/2019/534/schedule/1/made>

⁴ Reaching a future partnership agreement remains the UK Government's stated intention. Unless an agreement is reached which preserves current REMIT data reporting arrangements, or provides for an extension of the transition period, the future partnership agreement is unlikely to affect GB REMIT arrangements from 1 January 2021.

(i) monitoring and enforcement

- Following the UK's departure from the EU and the end of the transition period, REMIT will be retained in UK law by application of the European Union (Withdrawal) Act 2018 and amended by a subsequent statutory instrument to ensure its operability. The REMIT enforcement regulations⁵, which give us the power to investigate and enforce REMIT breaches, including requesting information and summoning people to interview, will continue to apply. Consequently, all of the REMIT prohibitions and obligations currently in force will continue to apply in GB from 1 January 2021 and Ofgem will continue to have the powers to monitor and enforce them.
- Since the key REMIT Article 2 definitions, including the definition of 'Inside Information', 'Market Manipulation', and 'Attempt to Manipulate the Market', shall remain the same in GB from 1 January 2021, in carrying out its monitoring and enforcement responsibilities, Ofgem intends to continue to interpret REMIT with regard to the EU Agency for the Cooperation of Energy Regulators' (ACER) non-binding 'Guidance on the application of REMIT'⁶. Ofgem will review any particular need for a GB specific REMIT guidance in due course.

(ii) registration

- MPs currently registered with a National Regulatory Authority (NRA) of an EU Member State will not need to re-register with Ofgem in order to enter into transactions for wholesale energy products deliverable in GB after EU exit. Following the end of the transition period we will publish a Direction stating that 'the obligation to register with Ofgem does not apply to MPs who are already registered with the Utility Regulator for Northern Ireland (UREGNI), or with a national regulatory authority of a Member State under this Regulation (REMIT) as it applies in EU law'. This Direction will apply to existing and future MPs, until further notice.
- MPs trading wholesale energy products for delivery in GB, who are not registered with UREGNI or with a NRA of an EU Member State, will require to be registered with Ofgem. MPs currently registered with Ofgem will remain so (unless they elect to re-register with another EU Member State – see below). After the end of the transition period we will no longer use ACER's Central European Register of Market Participants (CEREMP) to administer registration requests. Instead, we will implement our own registration system where MPs will be able to send us registration information via secure-link. From 1 January 2021, MPs who need to register with Ofgem for the first time, and MPs currently registered with us who need to amend registration details, should visit the REMIT registration section of Ofgem's website⁷ in order to do this.
- MPs currently registered with Ofgem who wish to enter into transactions or place orders to trade in wholesale energy products where delivery is in the EU, will be required to re-register with an NRA of an EU Member State. Consistent with ACER's Open Letter⁸ published on 8 January 2019, affected MPs are advised to initiate this

⁵ The Electricity and Gas (Market Integrity and Transparency) (Enforcement etc) Regulations 2013

⁶ Under Article 16(1) of the EU REMIT Regulation, ACER publishes non-binding guidance on the application of the definitions set out in Article 2 REMIT. The guidance is primarily intended to help national regulatory authorities (NRAs) carry out their REMIT responsibilities in a coordinated and consistent way. It is made public to provide Market Participants with transparency over the application of these definitions.

https://www.acer.europa.eu/en/remit/Documents/5th-Edition-ACER-Guidance_08042020.pdf

⁷<https://www.ofgem.gov.uk/gas/wholesale-market/european-market/remit/registering-market-participant-under-remit> <https://www.ofgem.gov.uk/gas/wholesale-market/european-market/remit/registering-market-participant-under-remit>

⁸https://documents.acer-remit.eu/wp-content/uploads/Open-Letter_Communication-on-REMIT-and-Brexit_190108.pdf

process now, if they have not already done so. Re-registration requests will be executed following the end of the transition period (affected MPs will remain registered with Ofgem until the end of 2020). Following re-registration, MPs can use their new registration code for the purposes of compliance with Article 9 REMIT, both in GB and in the EU. For the avoidance of doubt, MPs will not be obliged to use two codes.

(iii) data reporting

- Trade and fundamental data relating to GB wholesale energy markets and products, will no longer be collected by ACER. After the transition period, Ofgem will, until further notice, monitor the market for possible breaches of market integrity using existing data sources. These include trade and order data currently collected directly from GB brokers and exchanges. This means that GB MPs will not be required to report to Ofgem the data currently reported to ACER. Ofgem will keep the effectiveness of these arrangements under review, and will consult with industry stakeholders where appropriate before introducing any significant changes.
- GB MPs re-registering with an EU NRA, in order to be eligible to enter into transactions for wholesale energy products deliverable in the EU, will be required to report trade and order data in relation to those transactions to ACER using their new registration code. We understand that ACER, as expressed in its Open Letter, is engaging on a continuous basis with Registered Reporting Mechanisms (RRMs) to ensure a smooth ongoing REMIT reporting following EU exit. The re-registration process should not present a REMIT compliance risk to MPs.
- In respect of GB fundamental data, this will continue to be made publicly available by the parties obligated under the Transparency Regulation SI and Gas Regulation SI.

Next Steps

We expect the REMIT arrangements outlined in this letter to apply in GB from 1 January 2021 regardless of whether a future partnership agreement is reached between the UK and the EU before the end of the transition period.

We currently have no further communications planned in advance of 1 January 2021. Should any unforeseen circumstances arise that cause these arrangements to change we will notify the market without delay.

In the meantime, we will continue to ensure we have all necessary contingency measures in place, and that in all eventualities GB wholesale gas and electricity markets function with transparency and integrity.

We are happy to discuss any of the above with stakeholders, including any concerns that they may have. Please feel free to contact us through the following e-mail address: REMIT.Registration@ofgem.gov.uk.

Yours sincerely,

Nathan Macwhinnie



Head of Market Intelligence and Oversight