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APE
APPUNTI DI ENERGIA

"REMIT" REGULATION

June 2024

Regulation EU n. 1227/2011 (REMIT)

At a glance

Internal Energy Market

Since the 1990s the European Union has undertaken a process of liberalization of the energy markets, with the aim of breaking down national borders towards the definition of a single internal market, based on the principles of competition, transparency, integrity and non-discrimination.
Regulation EU n.2019/943 and Directive EU n.2019/944 lay down the key principles and rules that govern the internal market for electricity.

The **European Regulation n.1227/2011 on the wholesale energy market integrity and transparency** (in short **REMIT**[1]) constitutes a common regulatory framework aimed to ensure a fair interplay between demand and supply and to prevent and combat abusive behaviors in wholesale energy markets. The primary objective of this Regulation is to strengthen the trust that final consumers have for the well-functioning of the European **Internal Energy Market**.

REMIT key features

Pan-European	It applies uniformly throughout the European Union
Energy sector specific	It is designed to protect the specificities of the wholesale gas and electricity markets
Directly applicable	This legislation is directly applicable and does not require transposition

Products subject to REMIT

The scope of REMIT applies to **wholesale energy products**, such as:

- Contracts for the supply of electricity or natural gas (including LNG[2]) with delivery in the EU, or contracts for the supply of electricity with delivery in the EU resulting from the day-ahead and intraday coupling markets;
- Derivatives of electricity or natural gas, produced, traded or delivered in the EU, or electricity derivatives with delivery in the EU resulting from day-ahead and intraday coupling markets;
- Contracts and derivatives for the transportation of electricity or natural gas in the EU;
- Contracts and derivatives for the storage of electricity or natural gas in the EU.

Therefore, the energy markets covered by this Regulation are those of raw materials and their derivatives, including regulated markets, bilateral contracts, over-the-counter transactions and multilateral trading platforms.

Key objectives

REMIT objectives

- Improving competition and transparency in wholesale markets
- Promoting the formation of prices that reflect a fair and competitive interaction among operators
- Explicit prohibition of abusive behaviors that may affect the markets

[1] *In March 2023 the REMIT Regulation (n. 1227/2011) went through a substantial review process, with the aim of strengthening the protection against market abuse in the European energy sector. This revision was concluded in April 2024 by the adoption of EU Regulation n. 2024/1106, which amended and supplemented the original REMIT Regulation. The updated version of REMIT officially entered into force on May 7th, 2024.*
These notes, updated to the latest version of the Regulation, are intended to provide a general, although not exhaustive, overview of the main obligations, prohibitions and implications arising from the aforementioned Regulation.
[2] *Liquified Natural Gas*

Definitions of market abuse

REMIT defines two different categories of market abuse, which are expressly prohibited: **market manipulation** and **insider trading**.

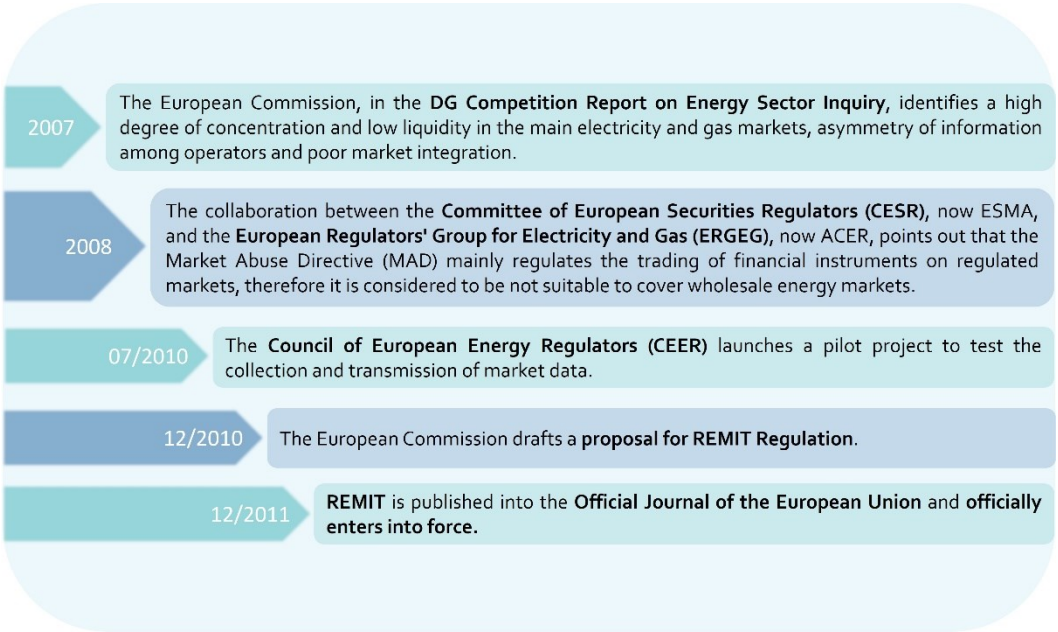
Market manipulation practices can be manifested in many different forms, such as the conclusion of transactions, or the submission, modification or withdrawal of orders to trade capable (or potentially capable) to fix the price of one or more wholesale energy products at a fictitious level (that is, the result of an unfair interaction between supply and demand), or the dissemination of false or misleading information concerning the characteristics of one or more wholesale energy products, irrespective of the means of communication used. Market manipulation and attempted market manipulation are both practices explicitly prohibited by this Regulation.

On the other hand, **insider trading** is a market abuse practice that consists in the submission, modification or withdrawal of orders to trade based on **inside information**, that is an information not yet made public, of a precise nature, directly or indirectly related to one or more wholesale energy products and which, if published, would potentially affect the prices of wholesale energy products. REMIT explicitly prohibits the use (and attempted use) of inside information to buy/sell wholesale energy products, the disclosure of inside information to third parties (except during the normal exercise of their profession) and the recommendation to third parties for the acquisition/sale of certain products on the basis of such inside information.

Some **examples of inside information**:

- Information on the capacity and use of production, storage, consumption and transportation facilities of electricity or natural gas;
- Information on the capacity and use of LNG facilities;
- Information regarding the unavailability of the aforementioned facilities.

Genesis of REMIT



Entities involved and respective roles

The achievement of transparency and integrity in wholesale energy markets requires the establishment of an effective cooperation among the different entities operating in this context. REMIT identifies **three main subjects** and, for each of them, imposes obligations and prohibitions. Here are some examples:

Market Participants

- **They register** with the National Regulatory Authority (NRA) in the Member State in which they are resident or in which they are active;
- **They publish inside information** in their possession in an effective and timely manner on ***Inside Information Platforms (IIP)***;
- **They transmit** to ACER the register containing **transactions** in wholesale energy products (including orders to trade and over-the-counter transactions) through ***Registered Reporting Mechanisms (RRMs)***.

Examples:

Market participants that are subject to REMIT, provided that they enter into transactions (including the placing of orders to trade) in wholesale energy markets:

- Energy producers
- Energy traders
- Transmission and distribution system operators
- Storage system operators
- LNG system operators
- Final customers with a consumption capacity greater than 600 GWh per year

National Regulatory Authority

- It ensures that the obligations and prohibitions prescribed by the Regulation are respected at national level;
- It has **investigative and enforcement powers**, aimed solely at conducting investigations;
- **It cooperates** with other NRAs, ACER and other competent authorities;
- **It informs** national competition authorities and the competent financial authorities;
- It holds and keeps updated the **national register of market participants** and transmits the information to ACER;
- **It monitors national markets** and it reports any violations and suspected violations to ACER;
- Member States may empower NRAs to adopt **administrative fines** and other administrative measures to punish non-compliance with the Regulation.

The Italian Regulatory Authority for Energy, Networks and Environment (**ARERA**) was established in 1995 by Law n. 481.
It operates in the following sectors:

- Electricity
- Natural gas
- Water services
- District heating
- Waste cycle

ACER

- It has a **central role in the monitoring** of wholesale energy markets;
- It acts as a "**central hub**" for the collection of data under this Regulation, coming from the different market participants;
- It owns and publishes the ***Centralised European Register of Energy Market Participants (CEREMP)***;
- **It authorizes IIPs** for the publication of inside information and keeps an up-to-date public register, with details on the services authorised for each of them;
- **It authorizes RRMs** for the publication of information related to transactions and orders to trade and holds an up-to-date public register;
- **It cooperates**, where necessary, with national regulatory authorities, ESMA[3], national competition authorities and the competent financial authorities, in order to ensure a coordinated approach in the fullfilment of the tasks prescribed by the Regulation;
- It has the **power to request information and conduct investigations**, possibly in collaboration with the competent national regulatory authorities, in the event of any suspected infringements to the Regulation;
- It publishes, at least once a year, a comprehensive **Report to the European Commission** on the activities carried out pursuant to REMIT.

List of Inside Information Platforms (IIP)

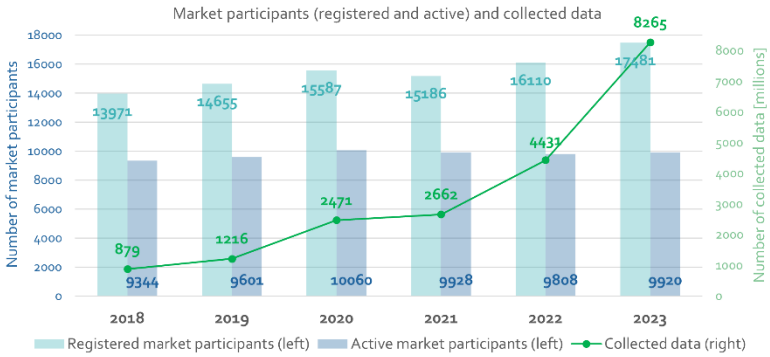
List of Registered Reporting Mechanisms (RRM)

[3] *European Securities and Markets Authority*

It is important to highlight that REMIT sets the obligation on any **Person Professionally Arranging or Executing Transactions (PPAET)** in wholesale energy products to promptly notify ACER and the competent national regulatory authority of any suspicious activity that might constitute a breach of the Regulation, following a standardized procedure: the ***Suspicious Transaction and Order Report (STOR)***.

Note that **non-EU operators** which are active in the European energy markets are also subject to REMIT. They are required to designate a representative in one of the Member States in which they operate and to register with the national regulatory authority of the latter.

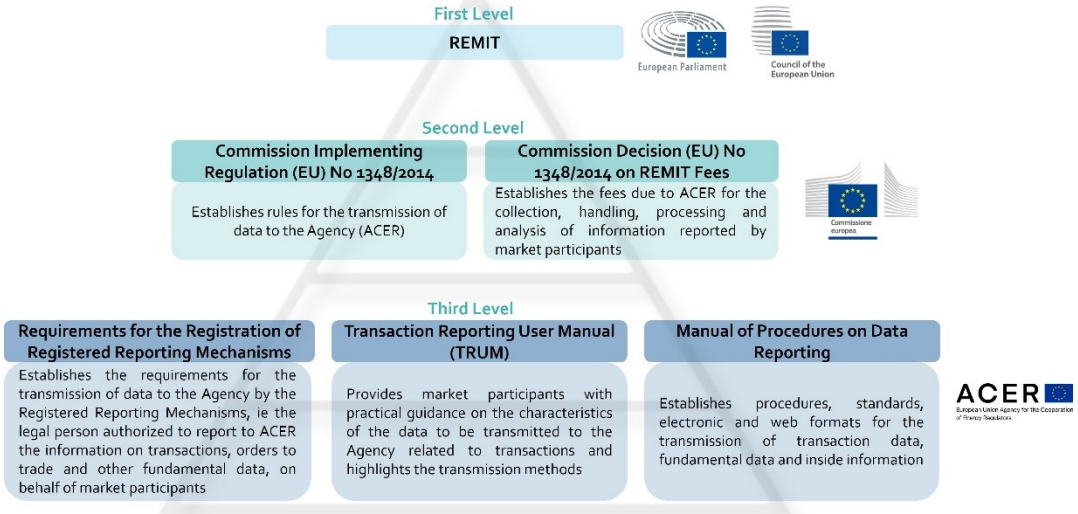
Centralised European Register of Energy Market Participants (CEREMP)



- Notice the rising trend in the number of collected data (transactions and orders to trade).
- The discrepancy between registered and active market participants is due to either inactive or non-compliant operators, operators that only engage in intragroup transactions or operators who sign contracts for balancing services in electricity and natural gas for which there is no reporting obligation[4].

Figure 1 – Registered and active market participants and collected data under REMIT. Source: ACER

Normative hierarchy



ACER Guidance on REMIT

The document entitled "**ACER Guidance on the Application of Regulation (EU) no. 1227/2011**" constitutes a useful guide to the correct application of REMIT. This document offers practical examples to help identify the products that qualify as wholesale energy products and the different markets that are subject to REMIT.

[4] *Unless explicitly demanded by ACER, in accordance with Article 4(1) of "REMIT Implementing Regulation".*

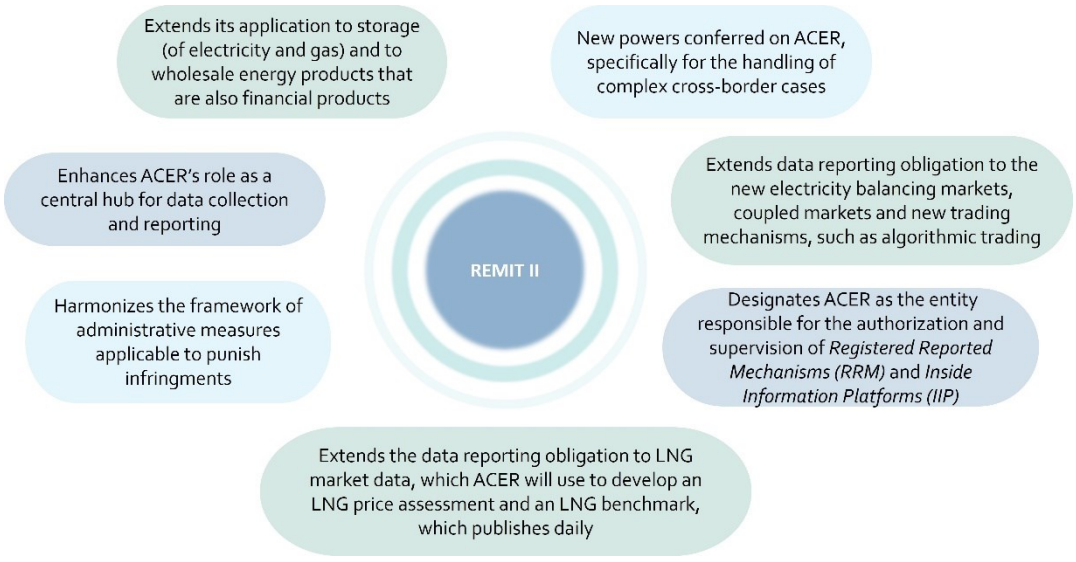
Examples of market manipulation

Wash Trades	Entering into arrangements for the sale or purchase of a wholesale energy product where there is no change in beneficial interests or market risk, or where beneficial interest or market risk is transferred between parties who are acting in concert or collusion.
Layering	Issuing multiple non-genuine orders to trade at different price levels (layers) on one side of the order book, in order to enter into one or multiple transactions on the other side of the order book.
Spoofing	Issuing a single large or multiple non-genuine orders at the same price level on one side of the order book, in order to enter into one or multiple transactions on the other side of the order book.
Transmission Capacity Hoarding	Acquisition of all or part of the available transmission capacity without using it or without using it effectively.
Capacity Withholding	Behavior of a market participant with the relative ability to influence the price or the interplay of supply and demand of a wholesale energy product, that decides, without justification, not to offer or to economically withhold the available production, storage or transportation capacity on the market.

REMIT II

REMIT II (Regulation EU n. 2024/1106)

As part of the reform of the European market design, in March 2023 the European Commission issued a proposal to amend REMIT, to adapt it to the current scenario of energy markets, characterized by new trading mechanisms and, consequently, an increased need for transparency. The **updated Regulation (No. 2024/1106)** was published in the Official Journal of the European Union in April 2024 and entered into force on May 7th, 2024. The key points of the reform are as follows:



A few numbers

REMIT Quarterly Reports

The "REMIT" section of ACER website constitutes a valuable source of information where it is possible to find updates on the number of potential cases of infringement under evaluation, as well as the enforcement decisions issued by national regulatory authorities to sanction breaches.

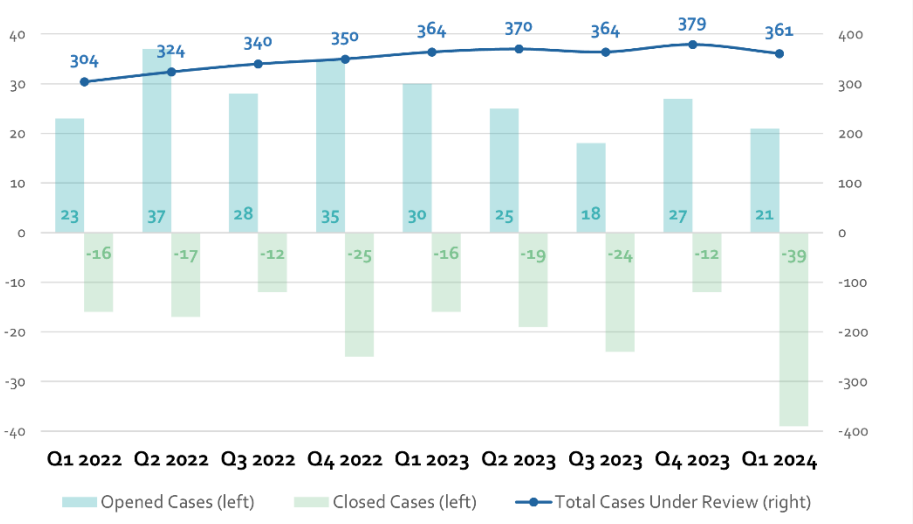


Figure 2 – Potential cases of REMIT infringement. Source: ACER - REMIT Quarterly Reports

REMIT Enforcement Decisions

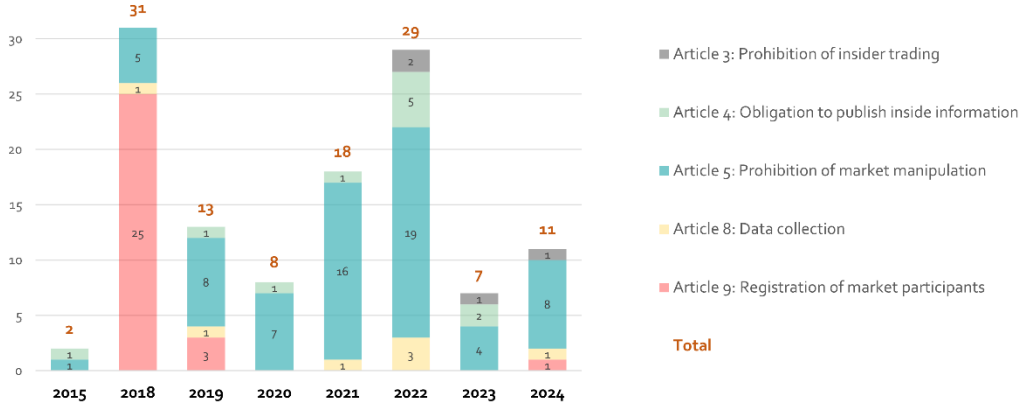


Figure 3 – Enforcement decisions[5] applied to REMIT breaches. Source: ACER

[5] *This graph may not contain the entirety of decisions made, as some of them may not be publicly disclosed. Please note that not all decisions are to be considered final, as some of them may be under appeal.*

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For any information, doubts or clarifications please contact us!

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