

client alert

ENERGY | FRANCE |

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REMIT: WHAT OBLIGATIONS FOR RENEWABLE ENERGY PRODUCERS?

Although regulation no. 1227/2011 of 25 October 2011 on *wholesale energy market integrity and transparency* (“REMIT”) entered into force on 28 December 2011, it had not had any immediate consequences on the energy sector’s operators. The provisions of the European text only truly began to be applied at the end of 2015.

The regulation was adopted to monitor the wholesale energy markets and support the banning of abusive practices that impact them. Directly applicable in the EU’s Member States, REMIT thus prohibits market abuse resulting from insider information or market manipulation. It also forces those operators who are active on the gas and electricity wholesale markets to register and publish data on the operations they conduct.

REMIT is implemented by the Commission Implementing Regulation no. 1348/2014 of 17 December 2014, which focuses specifically on operators’ data reporting, a significant part of the mechanism.

In France, the “*Brottes*” law no. 2013-312 of 15 April 2013 gave power to the French Energy Regulatory Commission (Commission de régulation de l’énergie, “CRE”) to implement REMIT nationally, and to punish any infringing behaviour.

APPLICATION TO RENEWABLE ELECTRICITY PRODUCERS

REMIT applies to all “*market participants*”, a concept that is defined by the Regulation as designating “*any person, including transmission system operators, who enters into transactions, including the placing of orders to trade, in one or more wholesale energy markets*” (art. 2 (7)).

Amongst the number of operations targeted by this article, REMIT covers in particular the “*contracts for the supply of electricity or natural gas where delivery is in the Union*” (art. 2 (4)). The regulation excludes however those contracts entered into with final customers whose consumption does not exceed 600 GWh per year.

Renewable energy producers are thus doubly concerned by REMIT:

- **as regards the purchase obligation:** for the electricity they sell to EDF; and
- **beyond the purchase obligation:** for the electricity that they sell either to a supplier or to a final customer whose annual consumption exceeds 600 GWh.

In other words, those that are not concerned by REMIT are those producers that, on the one hand, consume the very electricity they produce or, on the other hand, sell it to a final customer whose annual consumption is below 600 GWh.

REMIT thus concerns a vast majority of renewable energy producers.

DATA REGISTRATION AND COLLECTION OBLIGATION

From 7 April 2016, energy producers concerned by REMIT will be subject to an obligation to declare their transactions.

To this end, they must:

- **register with the CRE before 7 April 2016**

Unless specifically requested by the Agency for the Cooperation of Energy Regulators (“ACER”), the Implementing Regulation of 17 December 2014 specifies that contracts for the physical delivery of electricity **are exempt from** this obligation, provided that they deal with:

- a single production unit with a **capacity of less than or equal to 10 MW**, or
- several production units whose combined capacity is less than or equal to 10 MW.

For other plants, producers must register with the CRE before being able to carry out transactions. The registration process gives producers a single code that enables them to identify the transactions they conduct.

- **from 7 April 2016, send to ACER the data concerning their transactions**

The nature of data to be reported is appended to the Implementing Regulation of 17 December 2014. For production units operating under the power purchase obligation, EDF shall suggest a template to fill in the data collection fields once the registration complete.

Maximum deadlines are indicated in article 7 of the Implementing Regulation for the communication of data. Such reporting deadlines are summarised in the following table:

		Start of reporting	Reporting frequency
Transaction data	Standard OMP supply contracts + orders to trade	07/10/2015	D+1
	Standard supply contracts exc. OMP	07/04/2016	D+1
	Non-standard supply contracts	07/04/2016	M+1
	Standard primary transmission contracts + orders to trade	07/04/2016	D+1
	Non-standard primary transmission contracts	07/04/2016	M+1
	Standard secondary transmission contracts + orders to trade	07/04/2016	D+1
	Non-standard secondary transmission contracts	07/04/2016	M+1
Fundamental data	Transparency data for electricity and gas (capacity, use of production facilities, consumption and transmission, unavailability of facilities etc.)	07/10/2015	As soon as possible
	Nominations	07/04/2016	D+1
	Other data	07/04/2016	Mainly D+1
Data requested by ACER	Intragroup contracts	31/12/2016	Ad hoc
	Electricity contracts concerning a production unit with capacity lower than or equal to 10MW	31/12/2016	Ad hoc
	Gas contracts concerning a production unit with capacity lower than or equal to 20MW	31/12/2016	Ad hoc
	Electricity and gas balancing and adjustment contracts	31/12/2016	Ad hoc

Source: CRE

The CRE's standing committee for disputes and sanctions is competent to pronounce sanctions if REMIT provisions are not abided by.

PRACTICAL ADVICE

- Registration of operators is carried out on CEREMP, a dedicated online platform, accessible on https://www.acer-remit.eu/ceremp/home?nraShortName=9&lang=en_FR.
- Various companies of a same group must register separately if they each meet the REMIT application criteria.
- **Registration must be carried out as quickly as possible**, considering the lead-times to process registration requests. The process can take several weeks or months. It is mandatory that the registration be completed at the latest by 7 April 2016, since data collection will begin at this time.
- It is possible to partially complete the forms first (filling in only sections 1 to 3, for instance) and to continue at a later date.
- The CRE temporarily recommends that, due to a technical issue, section 5 should not be filled in.

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