



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: 4 December 2018

Dear Colleague,

No-deal EU exit REMIT contingency arrangements

As you know, the United Kingdom is scheduled to leave the European Union on 29 March 2019. This letter sets out Ofgem's contingency plans for how the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT)¹ will apply in Great Britain in the unlikely event of no deal being agreed.

As part of the UK Government's preparations for departure, the European Union (Withdrawal) Act 2018 was granted Royal Assent on 26 June 2018. The Act will serve to convert EU law that the UK is subject to at the moment of exit into UK law.

The UK Government has agreed the full legal text of the Withdrawal Agreement with the EU and remains confident that this will provide the basis for a smooth and orderly exit. However, as part of our contingency preparations, we think it is timely for us to convey to GB Market Participants (MPs), and relevant EU stakeholders, how wholesale energy market integrity and transparency will be maintained in Great Britain, in the unlikely event that this is not the case.

For the avoidance of doubt, this notice outlines no-deal contingency arrangements only and requires no further preparatory action at this stage. If, as planned, the Withdrawal Agreement is implemented, the EU exit implementation period will run until 31 December 2020, unless otherwise agreed by the UK Government and the EU. During this time our working assumption is that current REMIT registration and data reporting channels will remain unchanged.

This communication notice covers three main areas: REMIT enforcement; Registration; and Data Reporting. Ofgem will publish a follow up communication early in 2019 if necessary.

For the purposes of preparing for this no deal contingency Ofgem assumes:

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).

- Market Participants will face the same transparency obligations and the same market integrity prohibitions as before
- Ofgem will have the same enforcement powers and responsibilities as before
- Following a Direction from Ofgem after EU exit, Market Participants entering into transactions, or placing orders to trade, in wholesale energy products where delivery is in GB, will not need to register with Ofgem, if they are already registered with the Utility Regulator for Northern Ireland (UREGNI) or with a National Regulatory Authority (NRA) of an EU Member State.
- Market Participants 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 a NRA of an EU Member State.
- Trade and fundamental data relating to GB wholesale energy markets and products, will no longer be collected by ACER. Following a review period, if appropriate, this data will be collected by Ofgem.
- During the review period, Ofgem will continue to monitor the market for possible breaches of market integrity using existing data sources.

Market Integrity and Transparency monitoring and enforcement

In a no-deal EU exit, Ofgem will continue to monitor and enforce GB wholesale energy market integrity and transparency as it does currently. The obligation on MPs to publicly disclose inside information in an effective and timely manner, and the prohibitions on insider trading and market manipulation, will remain. Ofgem will continue to monitor, investigate and enforce breaches of integrity and transparency using its powers under Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) Regulations 2013.

From cooperation with the Financial Conduct Authority (FCA) and HM Treasury, Ofgem also understands that, in terms of the relationship between REMIT and financial services regulation, that the REMIT carve-out for wholesale energy products within MiFID II will be preserved domestically. This will mean that GB MPs will not face different regulatory requirements when trading domestically after EU exit.

GB Registration

In a no-deal EU exit, all MPs, entering into transactions, or placing orders to trade, in wholesale energy products where delivery is in GB, will be required to register with Ofgem within four weeks of exit.

However, to avoid unnecessary administrative burden, Ofgem intends to issue a direction before 27 April 2019, stating that, until further notice, this requirement will not apply to those MPs who are already registered with the Utility Regulator for Northern Ireland (UREGNI) or with a National Regulatory Authority (NRA) of an EU Member State.

This means in a no-deal EU exit, Ofgem will, until further notice, unilaterally recognise the existing registration of all currently registered MPs as valid for the purposes of compliance with Article 9 of REMIT in GB. Ofgem, UREGNI and other EU NRA registered MPs alike, will not need to take any action.

New MPs who wish to register with Ofgem for the first time, and existing Ofgem registered MPs, who wish to edit or amend their registrations, should contact Ofgem

directly. We will provide more information on the process for doing this early in the New Year.

MPs who are required to register with a NRA of an EU Member State (those entering into transactions, or placing orders to trade in the EU) for the first time, and MPs already registered with an EU Member State who wish to edit or amend their registrations should continue to do so as they do now. Ofgem will have access to the relevant parts of this data from the registration data made publicly available by ACER.

This approach is designed to minimise disruption to MPs by ensuring that the registration obligations set out in Article 9 of REMIT can be met in the least burdensome way.

Re-registering with an EU NRA

In a no-deal EU exit, MPs presently 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 a NRA of an EU Member State.

We understand that the process for re-registration with an EU NRA will be determined and communicated by ACER in due course.

In order to affect as smooth a re-registration process as possible, we would recommend that affected MPs initiate the re-registration process, consistent with ACER's guidance, as soon as possible *following* confirmation that no agreement on the UK's withdrawal from the EU has been reached.

We do not anticipate that the re-registration process will impact on affected MPs' ability to enter into wholesale energy transactions, or present REMIT compliance issues.

Data Reporting

In a no-deal EU exit, trade and fundamental data relating to GB wholesale energy markets and products, will no longer be collected by ACER, as this data will no longer relate to wholesale energy products for delivery in the EU. Instead, there will be an initial review period, after EU exit, during which those MPs who currently provide data to ACER will not need to send that data to Ofgem. Ofgem will consult with industry stakeholders as part of the review. Following the review, if appropriate, Ofgem will announce the start of GB data reporting by providing at least three months' notice to MPs.

During the review period, Ofgem will continue to monitor the market for possible breaches of market integrity using existing data sources. These include trade and order data currently collected from GB brokers and exchanges under Regulation 9 of the Electricity and Gas (Market Integrity and Transparency) (Enforcement etc.) as well as publicly available transparency data, and subscription data. This will capture the vast majority of trading activity in the market and therefore Ofgem does not consider this will have an adverse effect on its monitoring capability and will maintain the status quo in terms of appropriately enforcing market integrity and transparency. Those currently providing data to Ofgem – brokers and exchanges – should prepare for the frequency of data reporting to be increased. We will contact these parties directly.

Next Steps

No further action is required by MPs at this stage. Ofgem will publish a follow up communication to confirm the future GB REMIT arrangements in more detail in early 2019, should there be a need for more detail and should there be clarity on the outcome of the withdrawal agreement. In the mean time we will continue to prepare necessary

contingency measures in order to protect GB consumers, and to ensure that GB wholesale energy markets continue to function under all scenarios.

We are keen for stakeholders to discuss with us their understanding of our contingency plans, their own contingency plans and raise any concerns they have with us. Feedback to this letter should be sent by e-mail to Ofgem's REMIT registration inbox REMIT.Registration@ofgem.gov.uk.

Yours sincerely,

Tom Corcut, Head of Market Intelligence and Oversight, Ofgem