

# FESE response to the Commission consultation on the REMIT Implementing Regulation on data reporting rules

Brussels, 15<sup>th</sup> September 2025

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FESE supports the Commission's simplification and burden reduction agenda, as well as its commitment to streamlining regulatory obligations and reducing compliance costs for the industry.

In light of these objectives, the current language for the introduction of position reporting arrangements in REMIT for certain commodity derivatives, known as "exposure reporting", raises significant concerns. Critically, the current draft suggests mismatches between trading positions and physical generation or consumption data may be flagged as indicators of suspicious behaviour. This approach risks misinterpreting legitimate trading activity and is inconsistent with REMIT Level 1 definitions of market abuse. This could inadvertently disincentivise routine and necessary risk management practices, thereby reducing market liquidity.

FESE therefore recommends:

- Avoiding penalising or scrutinising legitimate hedging or trading activity on the basis that it deviates from projected consumption or generation, as it is inconsistent with REMIT level 1 definitions of market abuse.
- Excluding financial instruments that are already subject to comprehensive position reporting arrangements under MiFID II from all exposure reporting obligations under REMIT. As mentioned in the legislative proposal on page 12, point 2, on proportionality, this appears to be the intention of the Commission, yet it does not appear within the legal text.

For any instruments already covered by MiFID, we support data-sharing arrangements between financial and energy regulators to be strengthened to ensure the already available position data is shared efficiently and securely with ACER, rather than adding additional reporting burden.

## **1. Risks of misinterpreting legitimate trading activity**

FESE is concerned about the statements on the usage of the new exposure reporting arrangements to detect potential "suspicious behaviour" from a REMIT perspective. The draft Implementing Regulation states that a discrepancy between reported trading activity (such as open positions) and projected generation or consumption data may serve as an indicator of suspicious behaviour or assessment of (in)sufficient hedging. This approach is inconsistent with the existing definition of market abuse under REMIT.

Commodity derivatives markets are designed to allow participants, including producers, suppliers, traders, and consumers, to hedge risk and manage exposure in response to constantly evolving market conditions. In this context, open positions in derivatives are not static reflections of physical generation or consumption plans but dynamic instruments that market participants adjust frequently.

The draft legal text could discourage participants from using derivatives markets as intended. Moreover, such a rigid linkage overlooks the fact that participants may also trade

for purposes beyond immediate physical needs, including risk management over longer time horizons, portfolio balancing, proxy hedging or providing liquidity to the market.

## **2. Inconsistency with the Commission’s simplification objectives**

As part of the proportionality assessment, the draft implementing regulation determines that the exposure reporting obligations would apply *“only to those derivatives that are excluded from financial legislation, but falling under the scope of REMIT.”* However, Article 6 is inconsistent with this assessment as, instead, it imposes exposure reporting on all wholesale energy products. This includes commodity derivatives such as natural gas and power futures and options contracts, which are already subject to position reporting arrangements under MiFID II.

Under MiFID II, trading venues and investment firms submit granular position data on commodity derivatives to NCAs and ESMA. The introduction of a separate reporting regime under REMIT would therefore duplicate existing requirements.