EC public consultation regarding REMIT Fees

A Eurelectric response paper

November 2024

Eurelectric represents the interests of the electricity industry in Europe. Our work covers all major issues affecting our sector. Our members represent the electricity industry in over 30 European countries.

We cover the entire industry from electricity generation and markets to distribution networks and customer issues. We also have affiliates active on several other continents and business associates from a wide variety of sectors with a direct interest in the electricity industry.

We stand for

The vision of the European power sector is to enable and sustain:
- A vibrant competitive European economy, reliably powered by clean, carbon-neutral energy
- A smart, energy efficient and truly sustainable society for all citizens of Europe

We are committed to lead a cost-effective energy transition by:

investing in clean power generation and transition-enabling solutions, to reduce emissions and actively pursue efforts to become carbon-neutral well before mid-century, taking into account different starting points and commercial availability of key transition technologies;

transforming the energy system to make it more responsive, resilient and efficient. This includes increased use of renewable energy, digitalisation, demand side response and reinforcement of grids so they can function as platforms and enablers for customers, cities and communities;

accelerating the energy transition in other economic sectors by offering competitive electricity as a transformation tool for transport, heating and industry;

embedding sustainability in all parts of our value chain and take measures to support the transformation of existing assets towards a zero carbon society;

innovating to discover the cutting-edge business models and develop the breakthrough technologies that are indispensable to allow our industry to lead this transition.

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WG Financial Regulation & Market Integrity

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Eurelectric welcomes the public consultation on the revision of Commission Decision 2020/2152 on fees due to the European Union Agency for the Cooperation of Energy Regulators for its REMIT supervision tasks (REMIT Fee Decision). In general, we agree that ACER needs to be endowed with adequate resources to process, handle and analyse the information it collects for the proper enforcement of REMIT and to carry out its new tasks, including the authorisation of IIPs and RRMs, as well as supervision and investigation missions.

At the same time, we believe that the proportionality and necessity of fee increases needs to be carefully analysed and that fee increases should accurately reflect actual cost increases; as these additional costs increase the cost of trading and shall not act as a market entry barrier.

While we acknowledge that ACER's costs in relation to REMIT have significantly increased between 2021 and 2024, market participants lack information about:

- The allocation of costs between different expenditures (wages, consultancy services, committees, working groups, events, IT, etc.),
- Their past and expected evolution in the future,
- Forecasts of future expenditures per REMIT activities or cost item.

We also note that no distinction is made between recurrent activities (e.g. market monitoring, data collection, etc.) and non-recurrent activities (e.g. IIPs and RRMs authorizations, CEREMP upgrade, etc.).

It is therefore difficult to understand how certain costs in relation to new ACER activities have been assessed, since stakeholders have not yet been publicly consulted on REMIT II implementing rules defining the scope of reporting obligations in implementing legislation.

Limiting the administrative and financial burden for market participants to the extent necessary should be a core objective of REMIT fee rules. Proportionality and non-discrimination similarly need to be ensured. Therefore, we recommend that regulators design the methodology for calculating and collecting fees in a transparent way while ensuring simple and straightforward implementation.

1. **What is your experience with the Fee Decision and its implementation? Do you see a need to correct certain aspects? If yes, what should be changed? Please provide explanations.**

Market participants support the objectives of the REMIT Regulation and have contributed to shouldering the costs of energy market monitoring via fee collection from the start. At the same time, market participants have also observed that certain parts of the Fee Decision have sometimes been applied selectively throughout the reporting chain. These points should be considered together with any future amendments of the REMIT Fee Decision.

- **Transparency**: according to the ACER Q&A on REMIT Fees, market participants can reach out to their RRM to obtain information about the records-based fee component used to calculate their REMIT fee. This transparency is very important for market participants. Thusc considering that RRMs receive a detailed breakdown of the fee charged by ACER (Q&A Chapter 2.9.2), RRMs should improve transparency about the way final amounts billed are computed. We expect ACER (being put into a position) to support this request accordingly.
- **Correction amount**: the transaction records-based fee component is estimated on the number of transaction records submitted in year n-1. Once the actual number of transactions reported is known in n+1, the transaction-based fee component should be re-

calculated to find whether a correction amount has to be applied (see Q&A Chapter 4.3). Certain market participants have observed that not all RRMs perform this ex-post correction of fees billed to market participants, although being legally obliged to do so.

Under the current Fee Decision, ACER has no mandate to monitor how RRMs pass fees onto MPs, which constitutes a supervision gap. The European Commission should consider enforcement measures in cases where RRMs, and IIPs in the future, do not apply fees in a transparent manner to market participants.

2. Do you agree with the above proposals as regards the fees to be paid by IIPs? Please provide explanations.

Whatever the method used for fees charged on IIPs as part of the REMIT framework, the European Commission and ACER need to ensure transparency and accountability regarding the way such fees may be charged to market participants.

We understand the introduction of REMIT fees charged to IIPs in light of ACER's mission to authorise and supervise inside information disclosure platforms. These dedicated fees should be covered by a flat enrolment fee, at least for the supervisory tasks (recurrent activity), whereas we agree that there is no justification for a transaction records-based component (in fact, IIPs do already charge market participants for publishing UMMs on their behalf – double charges must be avoided).

In addition, we understand that ACER is in charge of regularly reviewing the compliance of IIPs with the Regulation. We therefore would consider it relevant to introduce a 'one-shot fixed REMIT fee' for IIP authorisation besides the 'flat enrolment fee' to ensure a periodic review of IIP functioning. For example, we can imagine stringent reliability conditions (strengthening of technical and availability requirements) for IIPs and periodic compliance assessments to be conducted by ACER. REMIT fees charged on IIPs should therefore help improving the reliability of IIPs for MPs.

3. Which level of flat enrolment fee do you consider as appropriate? Please provide explanations.

In general, RRMs are better placed to assess the level of enrolment fees justified by ACER's supervisory mission.

We note that the consultation paper does not appropriately justify the proposed increase of the flat enrolment fee. Indeed, we would have expected further details about the evolution of different cost items justifying such increase. We understand that ACER's tasks are expanding with the roll-out of high-frequency trading and with additional missions pursuant to REMIT II (collection of balancing orders and transactions, orders books, exposure, suspicious transactions or order reports from PPAETs, etc.). MPs need to be able to associate specific activities or additional IT costs to increases either of the flat enrolment fee or of the transaction records-based component.

4. If the current factor of two, according to which the levels of the fee subcomponents increase for each additional data cluster, were to be increased, which level of do you consider as appropriate (e.g., 2.1, 2.2, other)? If you disagree with the factor increase, please provide relevant explanations. Please also provide your views on all amendments / options considered in this section.

As expressed above, market participants need more information to form a relevant opinion about the evolution of different cost components.

For example, we need to understand how the increase of collected data influences surveillance activities, and how increasing transaction amounts affect IT costs. We would appreciate understanding how data clusters were obtained: for example, we fail to understand the methodology based on the ‘10-multiplification factor’ for transactions. How does this factor relate to e.g., hardware resources, data storage and other IT solution costs ? For example, we would have expected cluster fees to be calibrated e.g., on additional IT costs (volume of data per cost step of IT solutions), considering that an increase in transactions might not necessarily lead to a proportionate increase in costs.

The determination of clusters’ fees should be based on the real operational costs supported by ACER. These costs depend on the structuring of ACER’s IT OPEX, i.e. how data storage is organised, how storage is secured, etc.. For example, the change to a 15’ MTU for spot products may have led ACER to select a specific storage architecture to accommodate significantly increasing transaction reports.

5. **What do you think about such an additional fee component? Do you see other options to ensure that fee revenues are sufficient to cover eligible costs given ACER’s additional tasks? Please provide explanations.**

The revision of the REMIT fee decision should adequately recalibrate REMIT fees to ensure that revenues cover eligible costs related to ACER’s additional tasks. We are therefore surprised about the proposal for an additional minimum annual supervisory fee.

Indeed, we believe that supervisory tasks – recurrent activities by nature – should be covered by the ‘flat enrolment fee’. We therefore do not see a case for additional supervisory fees for RRMs or IIPs if those activities are well calibrated in the ‘flat enrolment fee” (see question 2).

Moreover, Article 32 of the ACER Regulation provides the possibility to adapt the level of the fees and the way in which they are raised, since the European Commission is required to regularly examine their level. In this respect, we observe that the amount of REMIT fines charged on market parties could increase ACER financial resources, which should enter into consideration of the ACER cost structure.

6. **What are your views on how the Fee Decision could provide for cost increases due to inflation? Please provide explanations.**

We cannot agree to the principle of “automatic adjustment to inflation” and believe that the situation of other agencies cannot be generalised without a more granular analysis of the costs under discussion.

Before proceeding to adjustments, regulators should diligently consider which expenditures may relevantly be adjusted and what should be the relevant inflation indices (consumer price inflation, producer price inflation, etc.) for each expenditure item. For example, we lack information about legal or contractual obligations regarding the indexation of wages, how such indexation is done, and whether ACER contracts with suppliers are adjusted to inflation.

7. **Do you have any other comments or recommendations?**

N.A.

Eurelectric pursues in all its activities the application of the following sustainable development values:

Economic Development

- Growth, added-value, efficiency

Environmental Leadership

- Commitment, innovation, pro-activeness

Social Responsibility

- Transparency, ethics, accountability

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