

IOGP contribution to the public consultation on Commission Decision setting the fees due to ACER for tasks under REMIT

The International Association of Oil & Gas Producers' (IOGP) member companies account for approximately 90% of oil and gas produced in Europe. Our members in Europe are actively involved in the correct implementation of REMIT. We would like to share our views on the proposed Decision to introduce fees to ACER for REMIT activities.

Do you agree with the methodology proposed for defining the overall amount to be covered by REMIT fees each year? If not, what alternative methodology would you propose? Please provide explanations.

Overall IOGP supports the principles set up in the consultation document but would like to point out some more elements to improve the proposal. First of all we believe that allowing the predictability by all **the affected parties is also a crucial element for the definition of fair REMIT fees**. In order to avoid running into potential liquidity issues, Registered Reporting Mechanisms (RRMs) and Market Participants (MPs) need to know several months in advance all the fee elements so that they can forecast the magnitude of the fees they will be called (directly or through their RRM) to pay the following year.

In order to ensure the fairness of REMIT reporting fees for RRM/MPs in designing the fees system, we would like to point out the importance of the adoption of **non-discriminatory principles** (see also the answer to next Question) **and cost controlling parameters**.

Each year, in order to grant that **the overall amount to be covered by REMIT fees is known ex-ante and stabilized at a fixed level by the European Commission**, ACER should **publish in a timely way all relevant overall statistical data** and **make transparent the cost for each component** of the relevant reporting services **in a disaggregated manner**.

Moreover, we believe that during the first year of application (2021) special attention should be given to Brexit impact on REMIT reporting performances. UK transaction should be no longer part of REMIT framework and should not be included neither in the estimation for REMIT fees nor into their calculation. This should be explicitly mentioned and clarified by ACER/the European Commission.

Do you agree that reporting parties registered with ACER should be charged with paying the fees? If not, from whom and how should the fees be collected?

IOGP supports **fees collection from RRM**s. However, we would like to stress the importance of considering that **MPs** (as those that at the end pay the cost of REMIT fees) **will experience both direct cost increases due to REMIT fees paid by RRM**s, and **indirect costs related to the administrative burden of the potential pass through**.

In this regard, we recommend that fees are designed in order to be **easily collected by RRM**s thereby **minimizing the administrative burden on them and indirect costs for MP**s.

With reference to reporting activities in general, it is important to bear in mind that, in addition to different kind of RRM (i.e. self-reporting RRM, TSO & OMP RRM or professional RRM), there are also different relationship with MP. It is quite common on the wholesale gas and power markets that REMIT reporting obligations are delegated from MP to their own counterparties which have in turn the agreement with RRM. For this reason, we **believe that RRM should be left free to decide how to pass through these costs to MP**. We therefore support **the adoption of a transparent fees scheme that would allow transparent invoicing of fees pass-through and are easily verified by all affected parties**.

In our opinion this principle could be implemented by **relating the fees strictly to the number of reports submitted**. This approach would also address the principle of non-discriminatory and maintaining proportionality for all involved parties.

It is a matter of fact that **a fee model totally or partially based on a fixed amount** (or on fixed amounts per baskets of records) **would be difficult to be collected from the RRM** and, at the end, **less transparent for MP**.

Do you agree that these are the key considerations for defining the methodology for calculating REMIT fees? Are there additional elements? How should the different cost drivers be weighted in the methodology? Do you have preferences or specific proposals as regards the methodology? Please provide explanations.

As already pointed out in the answer to the first question, IOGP deems important also the **predictability** for RRM and MP and **does not support the proposal that REMIT fees may fully and freely evolve in the same direction of ACER's relevant costs** (without any cost controlling parameter). Further to that, fairness of treatment with regards to MP and RRM requires to set the most relevance among the principles included in art. 32 of Regulation 2019/942 on **non-discrimination and lack of administrative burden**.

In coherence with those principles, we believe that **the number of records of transactions reported** to ACER should be **set - in a stable way** - as the **only cost driver** among those presented into the consultation. It is a matter of fact that a fee structure solely based on the number of records reported:

- is **easy to be implemented**,
- is in line with the principles of **proportionality and non-discrimination** set in the legislation, and
- ensures the **legitimate need of MP to manage and predict the amount of REMIT fees** they will be called indirectly to pay.

With reference to the definition of "records", we support that it includes all records reported using table 1 to 4 formats provided by ACER and every related lifecycle events.

With reference to the proposal presented the 15th of July 2020 within REMIT fees workshop (mixed RRM, OMP, MP hereafter "**Workshop Proposal**", see table here below), **IOGP doesn't support it as it would be difficult to implement at MP/RRM level** and is potentially discriminatory.

Entering into the details, the proposed "**enrolment fee**" could increase market concentration at RRM level, reducing the RRM competition on the services in a market where – for technical reasons – is already difficult for MP to switch from an RRM to another.

Further, we deem that to **take into account the number of market participants each RRM reports for or**, as well, **the number of records each RRM reports for MP on each different trading channel**, are **not in line with the key principles** stated into the Regulation.

The majority of relevant **MP** (per number of reported records) **have more than one RRM** and are active on several trading channels (OTC and OMP). In fact, on behalf of a single MP, records are reported by OMP / other MP / transportation capacity allocation platforms /..., without any declaration on the CEREMP system and with no official overall figures regularly published by ACER. The introduction in the REMIT fees structure with a driver that considers the number of MP each RRM reports for:

- would **lead to more market concentration** (as for "enrolment fees") on RRM market,
- would be **discriminatory** for those MP that, due the nature of their business, can't concentrate their reporting on a single RRM, and
- would create **issues** concerning the predictability of fees on RRM and MP, as no overall figures are regularly available and market trends are difficult to be predicted.

The same **concerns on market concentration and discrimination** could be shared also with reference to the proposal to **take into account the number of records each RRM reports for MPs on each different trading channel**. This is especially true if the amount of the fees on the number of records is set up per baskets as it is illustrated on the Workshop Proposal. Considering the legitimate behaviour of MPs to concentrate their trading activities on few markets, this would discriminate those MPs that, for the segmentation of their business activity, need to manage more complexity.

Further to the fact that fee per reported records could materially change from one MP to another creating a cross subsidy between MPs – e.g. MP1 that reports 50 records pays 5 € per record while MP2 that reports 50 million records pays 0.00016 € per each record – even MPs that report the same number of record would be (indirectly) required to contribute differently .

Mixed RRM-OMP-MP model

- The overall REMIT fee is a sum of **RRM enrolment fee and records-based fee.**
- **Each RRM pays a fixed annual RRM enrolment fee [15,000 EUR].**
 - » This fee is paid annually as well as at the initial registration.
 - » The fee covers costs of the regulatory effort (1) necessary for the assessment and examination of the application and (2) necessary to ensure compliance with the technical and organisational requirements.
- **Each RRM pays an annual records-based fee** which depends on the **number** of submitted records of transactions as well as their **diversity and complexity.**
 - » Complexity is driven by the number of different MPs using RRM services as well as the number of different trading channels used by these MPs.
 - » Records-based fee is charged only for Table 1 to Table 4 records.

	MP1	MP2
OMP X	50 million	
OMP Y	49 million	100 million
Bilateral trades	1,000,000	
Total number of records	100 million	100 million
Records based fee Workshop Proposal (EUR)	8,000 + 8,000 + 2,000	8,000

From the MPs perspective, a key point is that a fee model totally or partially based on a variable amount per baskets of records (at RRM or at trading channel level as the Workshop Proposal) would be difficult to be reconcile. As IOGP has already pointed to ACER in the past during the meetings with energy associations representing MPs, there are still some unresolved issues related to reporting practices of OMPs. In fact, for most MPs it is impossible to manage the reporting flow of OMPs related to their activities: in some cases OMPs report lifecycle events due only to reporting issues (and not to real MPs activities) or still continue directly reporting on behalf of MPs even if MPs requested to switch their reporting to another RRM.

We believe that there is a significant risk that all these issues together could made REMIT fees pass-through to MPs just a black-box that could not be verified.

Do you agree with the proposed way when and how REMIT fees should be charged? If not, what process would you propose? Please provide explanations.

IOGP understands that timely collection of REMIT fees is vital to ensure the necessary cash inflows to cover ACER expenditures but, further to the suggestion to stabilize **the overall amount to be covered**, in order to grant a well-functioning of REMIT reporting services market, we propose to define the **January billing document as a pre-payment to be balanced with the following billing documents on the real activity of the year** through a recalculation/adjustment activity like those made by the utilities for gas and power consumptions. This would avoid liquidity issues and free-riding movements from one RRM to another at the end of each year and would not require providing any guarantee in advance by MPs to their RRM.

We believe that ACER could manage it also from the perspective of its internal regulation managing REMIT fees as “exceptional circumstance” regulated ex ar. 71 of Decision 8/2019 of the Administrative Board of the Agency for the Cooperation of Energy Regulators (those it mean that “*a service may be provided without prior payment of the corresponding charge or fee*”).

Moreover, we suggest that a provision should be included for parties which would start their activity in the course of the year which would then pay their fee 3 months after their registration to ACER.

In the light of the above considerations, we disagree with the principle to pay the yearly expenses based upon the performance of the previous year (or even worst if it refers to two years before).