



Ms Maria da Graça Carvalho

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Ms Ditte Juul Jørgensen

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REMIT Review: market access barriers disrupt newly established LNG supply chains and endanger the liquidity of Europe's energy markets

Brussels, 24 October 2023

Dear Ms. Carvalho, Ms. Jørgensen and Ms. Jiménez,

We, AFME, CMCE, Europex, FESE, FIA, FIA EPTA and ISDA (hereafter: 'The Associations'), representing a wide range of market participants (e.g. energy firms, trading venues, banks, liquidity providers and other market participants) in wholesale energy markets, are writing to you ahead of the upcoming trilogue meeting on the 26th October 2023 on the review of the Regulation of Wholesale Energy Market Integrity and Transparency (REMIT) in relation to the supervision of third country firms.

We share the objectives of the REMIT review and are keen to assist ACER and the National Regulatory Authorities (NRAs) to ensure that they are able obtain the necessary information from

third country firms to effectively supervise European energy wholesale markets. However, we are firmly convinced that it is disproportionate to require third country firms to declare an office in the EU from which they carry out their principal activities, as proposed by the European Parliament in their agreed position on Article 9.

The clear feedback we received from third country firms is that the office requirement would constitute a considerable market access barrier prompting many non-EU firms to refrain from trading European wholesale energy products, whilst these markets rely on global participation for their liquidity. We strongly believe that the Council General Approach, proposing the designation of a representative authorised to act on its behalf, is a less disruptive approach to ensure the proper investigation of third country firms. The designation of a representative reflects established international practices for market access and thereby avoids disturbing newly established LNG supply chains with exporting countries like the US, on which Europe now greatly relies for its energy security.

Considering that the exports of US LNG to the EU more than doubled last year rising to 56 bcm in 2022, those US firms may not be able to, or not willing to comply with an EU office requirement. With the economic recovery of China, Europe is competing in a global market for LNG imports, whilst exporters of LNG are unlikely to choose the jurisdiction with the highest barriers.

Moreover, the necessity and impact of an office requirement has not been properly assessed. Before adopting such a far-reaching measure, policy makers should rather explore alternative measures, including the role that European energy exchanges could play in assisting NRAs in their supervisory functions. Exchanges typically have far-reaching powers under their market rules to request information from market participants, including third country firms, in order to conduct proper market surveillance. In particular, exchanges can make inquiries, initiate investigations and even suspend from trading market participants in third countries without imposing a location requirement on them. Furthermore, as these firms have designated teams in place to respond and comply to these regulatory requests from exchanges, it seems inappropriate to impose a location requirement on them.

In light of the above, we strongly encourage the co-legislators to adopt the Council position with respect to Article 9 and refrain from introducing any additional requirements that may undermine the progress we have made following last year's energy crisis.

Kind regards,

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About AFME

AFME represents a broad array of European and global participants in the wholesale financial markets. Its members comprise pan-EU and global banks as well as key regional banks, brokers, law firms, investors, and other financial market participants. We advocate stable, competitive, sustainable European financial markets that support economic growth and benefit society. www.afme.eu

About CMCE

CMCE is the only association in Europe representing the range of commodity market participants - agriculture, energy, metals and other commodity market participants, benchmark providers, price reporting agencies, and trading venues operating in the EU, EEA, Switzerland and neighbouring countries. The majority of CMCE members use commodity derivative markets to hedge the risks related to their physical activities and assets. CMCE's key purpose is to engage with policymakers and regulators to promote liquid and well-functioning commodity derivative markets in Europe.

About Europex

Europex, the Association of European Energy Exchanges, is a not-for-profit association of European energy exchanges with 34 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level. For more information: www.europex.org.

About FESE

The Federation of European Securities Exchanges (FESE) represents 35 exchanges in equities, bonds, derivatives and commodities through 16 Full Members and 1 Affiliate Member from 30 countries.

At the end of January 2023, FESE members had 8,432 companies listed on their markets, of which 21% are foreign companies contributing towards European integration and providing broad and liquid access to Europe's capital markets. Many of our members also organise specialised markets that allow small and medium sized companies across Europe to access capital markets; 1,502 companies were listed in these specialised markets/segments in equity, increasing choice for investors and issuers. Through their RM and MTF operations, FESE members are keen to support the European Commission's objective of creating a Capital Markets Union.

FESE is registered in the European Union Transparency Register: 71488206456-23.

About FIA

FIA is the leading global trade organization for the futures, options and centrally cleared derivatives markets, with offices in Brussels, London, Singapore and Washington, D.C. FIA's membership includes clearing firms, exchanges, clearinghouses, trading firms and commodities specialists from about 50 countries as well as technology vendors, law firms and other professional service providers. FIA's mission is to support open, transparent and competitive markets, protect and enhance the integrity of the financial system, and promote high standards of professional conduct. As the principal members of derivatives clearinghouses worldwide, FIA's clearing firm members play a critical role in the reduction of systemic risk in global financial markets. Information about FIA and its activities is available on www.fia.org.

About FIA EPTA: The European Principal Traders Association (FIA EPTA) represents Europe's leading Principal Trading Firms. Our members are independent market makers and providers of liquidity and risk transfer for markets and end-investors across Europe, providing liquidity in all centrally cleared asset classes including shares, bonds, listed derivatives and ETFs. FIA EPTA works constructively with policymakers, regulators and other market stakeholders to ensure efficient, resilient and trusted financial markets in Europe. More information about FIA EPTA and independent market makers is available on: www.fia.org/epta and www.wearemarketmakers.com.

About ISDA

Since 1985, ISDA has worked to make the global derivatives markets safer and more efficient. Today, ISDA has over 1,000 member institutions from 79 countries. These members comprise a broad range of derivatives market participants, including corporations, investment managers, government and supranational entities, insurance companies, energy and commodities firms, and international and regional banks. In addition to market participants, members also include key components of the derivatives market infrastructure, such as exchanges, intermediaries, clearing houses and repositories, as well as law firms, accounting firms and other service providers. Information about ISDA and its activities is available on www.isda.org.