

EFET

European Federation of Energy Traders

E-mail: LCsecretariat@energytraderseurope.org

Webpage: www.energytraderseurope.org

EMIR REFIT Regulatory Reporting Annex

to the
EMIR Risk Mitigation Techniques Agreement
Version 1.1/September 2013 and Version 1.2/September 26, 2024
(referred to as the “Agreement”)

WAIVER: THIS ANNEX WAS PREPARED BY MEMBERS OF EFET - EUROPEAN FEDERATION OF ENERGY TRADERS, OPERATING SINCE JANUARY 25, 2024, UNDER THE BRAND NAME ENERGY TRADERS EUROPE (“ENERGY TRADERS EUROPE”) EXERCISING ALL REASONABLE CARE. HOWEVER, ENERGY TRADERS EUROPE, THE ENERGY TRADERS EUROPE MEMBERS, REPRESENTATIVES AND COUNSEL INVOLVED IN ITS PREPARATION AND APPROVAL SHALL NOT BE LIABLE OR OTHERWISE RESPONSIBLE FOR ITS USE AND ANY DAMAGES OR LOSSES RESULTING FROM ITS USE IN ANY INDIVIDUAL CASE AND IN WHATEVER JURISDICTION. IT IS THEREFORE THE RESPONSIBILITY OF EACH PARTY WISHING TO USE THIS ANNEX TO ENSURE THAT ITS TERMS AND CONDITIONS ARE LEGALLY BINDING, VALID AND ENFORCEABLE AND BEST SERVE TO PROTECT THE USER’S LEGAL INTEREST. ENERGY TRADERS EUROPE IS PROVIDING THIS ANNEX AT THE REQUEST OF ITS MEMBERS AS A MEANS OF FACILITATING BILATERAL AGREEMENT BETWEEN PARTIES TO ADDRESS CERTAIN REPORTING OBLIGATIONS UNDER EMIR REFIT. ANY PARTIES CONTEMPLATING USING THIS ANNEX ARE URGED TO CONSULT THEIR OWN COUNSEL.

EMIR REFIT Regulatory Reporting Annex

between

..... (“Party A”)

and

..... (“Party B”)

This EMIR REFIT Regulatory Reporting Annex (the “**Annex**”) shall constitute an Annex to, and shall supplement, form part of and be subject to, the Agreement between the Parties to which it is annexed at the time of its execution. In this case, the Effective Date of such Agreement shall also be the effective date of this Annex (the “**Effective Date**”).

OR

Check the box and fill in date only if you are using this Annex to supplement a previously executed Agreement between the Parties:

Effective (the “**Effective Date**”), by executing this EMIR REFIT Regulatory Reporting Annex (the “**Annex**”), the Parties supplement, to the extent set forth herein, previously executed Agreement entered into and dated as of, to provide that the terms of this Annex shall be incorporated therein and shall be applicable to and thereafter govern all EMIR Relevant Transactions.

Part I: General Terms

§ 1

Definitions and Interpretation

1. **Definitions.** In addition to the other terms and phrases in the Agreement, the capitalised terms used in this Annex shall have the meanings set out in Appendix 1.
2. **Interpretation.** Headings and titles are for convenience only and do not affect the interpretation of this Annex. Unless otherwise described references in this Annex to paragraphs are to paragraphs of this Annex.

§ 2

UTI Generation and Communication

1. **Scope of UTI Generation and Communication.** The Parties acknowledge that timely generation and communication of the Unique Trade Identifier (“**UTI**”) for each EMIR Relevant Transaction is crucial for complying with their reporting obligations, as required under EMIR and Supporting Regulation. The Parties agree to reference Article 7 of ITS and adhere to the regulatory waterfall for determining the responsibility for UTI generation and communication. The contractual designation of the Party responsible for generating and communicating the UTI (“**UTI Generating and Communicating Party**”) under Part II of this Annex shall apply solely to those EMIR Relevant Transactions as explicitly foreseen and specified in Article 7 of ITS.
2. **Deadline for UTI Generation and Communication.** The UTI Generating and Communicating Party shall ensure that the UTI is generated and communicated to the other Party in a timely manner, no later than 10:00 a.m. UTC on the Local Business Day of the Party with the earlier reporting deadline, following the Trade Date (“**Local UTI Generation and Communication Deadline**”). If the reporting deadline for both Parties is the same, the UTI Generating and Communicating Party shall ensure that the UTI is generated and communicated to the other Party in a timely manner, no later than 10:00 a.m. UTC on the Joint Business Day following the Trade Date (“**Joint UTI Generation and Communication Deadline**”).
3. **Non-Compliance Procedure.** In the event that the UTI Generating and Communicating Party fails to generate and communicate the UTI by the designated Local UTI Generation and Communication Deadline or Joint UTI Generation and Communication Deadline, the other Party shall contact the UTI Generating and Communicating Party, to inquire about the process rather than reporting using a self-generated UTI. In case the UTI Generating and Communicating Party continues to fail and does not submit the UTI within two (2) hours from receipt of the communication about its failure, the other Party may proceed to generate its own UTI in order to meet the reporting deadline. The other Party shall in such case communicate the UTI to the UTI Generating and Communicating Party.
4. **Agents and Third Party Service Providers.** For the purposes of performing the obligations specified under § 2 (*UTI Generation and Communication*):
 - a) the UTI Generating and Communicating Party may appoint an Affiliate to act as its agent immediately on giving written notice to the other Party (including, without limitation, by specifying such Affiliate and the obligations with respect to which the appointment takes effect in Part II of this Annex); and
 - b) if the other Party agrees (such agreement not to be unreasonably withheld or delayed and which may include any such agreement existing prior to the Effective Date), the UTI Generating and Communicating Party may appoint: (i) an entity other than an Affiliate to act as its agent; or (ii) a qualified and duly mandated Third Party Service Provider.

§ 3
UPI Communication

1. **Application.** This § 3 (*UPI Communication*) will *not* apply unless otherwise specified by the Parties in Part II of this Annex.
2. **UPI Communication.** The Parties may designate under Part II of this Annex the Party responsible for sourcing a Unique Product Identifier (“UPI”) from ANNA DSB and communicating the UPI to the other Party (“UPI Communicating Party”) in a timely manner in order to meet the reporting deadline. Where such designation is made, both Parties represent and warrant that at the time of this agreement and of each EMIR Relevant Transaction, they are paying users of ANNA DSB that are authorised to receive a UPI on the Trade Date. In case the UPI Communicating Party does not provide the UPI to the other Party in time, the other Party may proceed to report the EMIR Relevant Transaction in order to meet the reporting deadline.

§ 4
Counterparty Static Data

1. **Exchange of Counterparty Static Data.** To meet the transaction reporting requirements under EMIR and Supporting Regulation, the Parties may elect in Part II of this Annex to exchange the necessary counterparty data (“Counterparty Static Data”) in the form provided for in Schedule 1.
2. **Change of Counterparty Static Data.** Where a Party has elected to provide its Counterparty Static Data under Part II of this Annex, such Party shall promptly notify the other Party, in case of a change in such Counterparty Static Data (“Change of Counterparty Static Data Notice”). Where such change affects the application and/or content of the obligations of one or both Parties under EMIR and Supporting Regulation, any affected Party shall promptly ensure compliance with such affected obligations.
3. **Effect of Non-Compliance.** If the Counterparty Static Data provided under Part II of this Annex is discovered to have been incorrect or misleading, or if a Party fails to send a Change of Counterparty Static Data Notice when obliged to do so under § 4.2 (*Change of Counterparty Static Data*), the defaulting Party shall promptly clarify the reporting consequences and assist the other Party in resolving any additional reporting obligations arising from the incorrect or misleading Counterparty Static Data.

[BALANCE OF PAGE INTENTIONALLY LEFT BLANK]

Part II: Elections

§ 2

UTI Generation and Communication

§ 2.1 Scope of UTI Generation and Communication:

The UTI Generating and Communicating Party shall be:

Party A

Party B

§ 2.4 Agents and Third Party Service Providers:

UTI Generating and Communicating Party appoints its Affiliate [●] to act as its agent for the purposes of performing the obligations specified under § 2 (*UTI Generation and Communication*).

§ 3

UPI Communication

§ 3.1 Application:

In deviation from § 3.1 (*Application*), the Parties agree to:

apply § 3 (*UPI Communication*) as written in the Annex, or

apply § 3 (*UPI Communication*) but it shall be amended or replaced in its entirety as follows:
_____;

otherwise § 3 (*UPI Communication*) shall not apply.

§ 3.2 UPI Communication:

If § 3 (*UPI Communication*) is elected to apply, the UPI Communicating Party shall be:

Party A

Party B

Other: _____

§ 4

Counterparty Static Data

§ 4 Exchange of Counterparty Static Data:

The Parties elect to exchange the Counterparty Static Data in the form provided for in Schedule 1

The Parties agree not to exchange the Counterparty Static Data in the form provided for in Schedule 1

To be executed only by Parties that checked and completed the box on page 2 of this Annex:

IN WITNESS whereof this Annex has been duly executed by the duly authorised representatives of each Party on the respective dates set out below with effect from the Effective Date.

[Name of Party]

[Name of Party]

[Name of Signatory/ies]

[Name of Signatory/ies]

[Title of Signatory/ies]

[Title of Signatory/ies]

APPENDIX 1
to the
EMIR REFIT Regulatory Reporting Annex

Defined Terms

Terms used in this Annex shall have the following meanings:

“**ANNA DSB**” means the Derivatives Service Bureau founded by the Association of National Numbering Agencies, that is responsible globally for the generation of UPIs.

“**ITS**” means the Commission Implementing Regulation (EU) No 2022/1860 of 10 June 2022 and published on 7 October 2022 in the Official Journal of the European Union, as amended from time to time.

“**Unique Product Identifier**” or “**UPI**” means a unique code identifying the product involved in an OTC Derivative Transaction that an authority requires, or may require in the future, to be reported to a TR.

“**Unique Trade Identifier**” or “**UTI**” means an identifier at the transaction level, using ISO 23897, which remains throughout the lifecycle of a trade, as set out in Article 7 of the ITS.

“**UTC**” stands for Coordinated Universal Time and means the time standard that is equivalent to Greenwich Mean Time (GMT) but does not change for daylight saving time. UTC is used worldwide as the standard time reference and remains consistent throughout the year.

SCHEDULE 1
to the
EMIR REFIT Regulatory Reporting Annex

Counterparty Static Data

Party A:

Corporate sector¹:

Legal entity identifier (LEI)²:

E-mail address for EMIR reporting purposes:

[Optional]: Are you an entity responsible for reporting under EMIR?³

Yes

No

¹ Taxonomy for both financial and non-financial counterparties for EMIR reporting purposes is provided in Table 1 of the Annex to the ITS. In the case of non-financial counterparties, the NACE section code shall be provided.

² ISO 17442 Legal Entity Identifier (LEI), 20 alphanumeric character code that is included in the LEI data as published by the Global LEI Foundation.

³ This question refers to the reporting field 1.3 (*Entity responsible for reporting (ERR)*). This field should be populated with the LEI of the relevant company that is solely responsible and legally liable for the EMIR reporting. This optional question can be helpful in specific cases, especially in the context of delegated reporting.

SCHEDULE 1
to the
EMIR REFIT Regulatory Reporting Annex

Counterparty Static Data

Party B:

Corporate sector⁴:

Legal entity identifier (LEI)⁵:

E-mail address for EMIR reporting purposes:

[Optional]: Are you an entity responsible for reporting under EMIR?⁶

Yes

No

⁴ Taxonomy for both financial and non-financial counterparties for EMIR reporting purposes is provided in Table 1 of the Annex to the ITS. In the case of non-financial counterparties, the NACE section code shall be provided.

⁵ ISO 17442 Legal Entity Identifier (LEI), 20 alphanumeric character code that is included in the LEI data as published by the Global LEI Foundation.

⁶ This question refers to the reporting field 1.3 (*Entity responsible for reporting (ERR)*). This field should be populated with the LEI of the relevant company that is solely responsible and legally liable for the EMIR reporting. This optional question can be helpful in specific cases, especially in the context of delegated reporting.