

## Energy Traders Europe response to the consultation on the regulation on supervision and transparency in the energy wholesale markets

Brussels, 4 May 2026 - Energy Traders Europe welcomes the opportunity to respond to the consultation on the Ordinance on Supervision and Transparency in Wholesale Energy Markets.

We support the objective of ensuring an effective and proportionate regulatory framework for Swiss wholesale energy markets and recognise the importance of maintaining consistency with established European regimes, in particular the EU REMIT II framework, where appropriate. The provisions set out in the Ordinance closely mirror the recently adopted Implementing Regulation on data reporting under REMIT II<sup>1</sup>. In this context, significant divergence from a newly introduced EU framework would risk creating unnecessary complexity and ambiguity, particularly for market participants active in both jurisdictions, who are already undertaking substantial system changes to comply with the new requirements. Such divergence would likely lead to duplication of efforts and increased operational burden. At the same time, it would not be helpful for the attractiveness of the Swiss market which is currently already rather illiquid and might in the medium-term further profit from the aimed integration into the EU. By contrast, alignment with REMIT II would reduce duplication, support data consistency, and enhance overall compliance efficiency across jurisdictions.

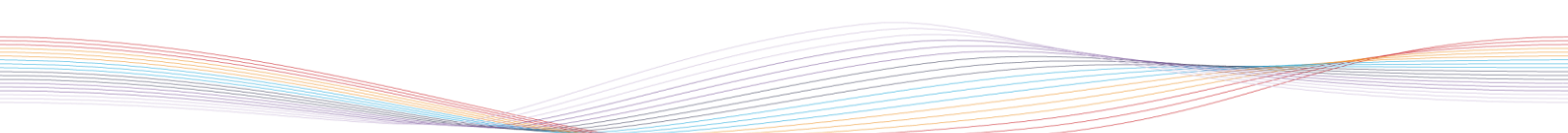
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<sup>1</sup> Commission Implementing Regulation on data reporting implementing: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L\\_202600256](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202600256)

## Recommendations

In this context, we believe that a number of provisions raise concerns regarding proportionality, legal clarity, and operational feasibility, particularly where they diverge from established REMIT II principles or introduce additional reporting complexity without clear added value.

1. **Reporting duplication:** Several provisions risk creating parallel reporting obligations or duplicative data flows between Swiss and EU reporting frameworks (including ACER-based systems), increasing operational burden without a corresponding improvement in regulatory oversight. While differences between the respective frameworks may lead to some degree of overlap in practice, it remains important to minimise unnecessary duplication. Efforts should therefore focus on ensuring that reporting frameworks are designed in a way that facilitates potential future data exchange between authorities, in order to streamline processes without compromising oversight.
2. **System access design:** Requirements implying potential direct regulatory access to reporting mechanisms (RRMs) raise questions regarding system purpose, technical feasibility, cybersecurity exposure, and the role of existing reporting channels as intermediaries.
3. **Exposure reporting scope:** Forward-looking exposure obligations, including production and consumption forecasts and extended reporting horizons, go beyond established REMIT II practice and may blur the distinction between regulatory market monitoring and commercial decision-making.
4. **Responsibility allocation:** Several provisions create ambiguity regarding the allocation of responsibility between organised marketplaces, reporting entities, and market participants, particularly with respect to data accuracy, completeness, and submission obligations.
5. **Implementation timelines:** An early Swiss go-live ahead of the EU REMIT timeline would increase implementation burden and risk reduced data quality during the initial reporting phase. Given ECom's alignment with the EU REMIT framework, effective harmonisation is only feasible once EU requirements and reporting formats are final and stable. We therefore recommend aligning the Swiss go-live with the EU



# CONSULTATION RESPONSE



implementation timeline, ideally with a short delay. At a minimum, reporting in Switzerland should not start earlier than under the EU Implementing Regulation (i.e. not before October 2027).

Overall, we recommend strict alignment with EU REMIT II principles, avoidance of Swiss-specific extensions unless strictly justified by regulatory necessity, and clearer separation between reporting obligations, system responsibilities, and data governance roles taking into account the published final version of the Implementing Regulation on data reporting under REMIT<sup>2</sup>.

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<sup>2</sup> Commission Implementing Regulation on data reporting implementing: [https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L\\_202600256](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=OJ:L_202600256)

# CONSULTATION RESPONSE

Article	Issue	Recommendation / Proposal	Rationale
<b>Art. 1 – Definitions</b>	The Draft Ordinance “Lifecycle events” definition does not specify that only reportable circumstances only refer to events already reported.	We suggest amending Art. 1. (e) as it follows: “ <i>Lifecycle event: the cancellation, correction, early termination of a transaction or an order to trade, or any other modification <b>affecting information already reported under this Ordinance</b></i> ”.	The amendment better reflects alignment of definitions with the EU REMIT standards.
<b>Art. 3 – Online documentation</b>	The Draft Ordinance requires ElCom to publish directives without necessarily consulting stakeholders.	We suggest introducing a new paragraph 2 stating that “ <i><b>Before publishing a directive in accordance with paragraph 1(a), ElCom shall conduct a public consultation on this directive</b></i> ”.	Experience in the EU (e.g., TRUM, FAQs) shows the usefulness of consultation to produce practical requirements.
<b>Art. 4 – Forms</b>	The Forms referred to in the Draft Ordinance are currently not aligned with European standards.	We recommend: <ul style="list-style-type: none"> <li>Structuring the forms similarly to CEREMP, with the same fields and definitions Align with CEREMP structure, fields, and definitions; and</li> <li>Clarifying how ElCom intends to publish and update such forms (e.g., a</li> </ul>	The alignment with EU fields and definitions would improve interoperability and reduce duplication. Similarly, the clarifications would grant Market Participants legal clarity.

# CONSULTATION RESPONSE

		<p>dedicated section on the ElCom portal; and</p> <ul style="list-style-type: none"> <li>Clarifying the publication of an operational document supporting the various activities. (registration procedures, communication of representatives' information, etc.).</li> </ul>	
<b>ART 5 - Registration</b>	The Draft Ordinance requires extensive data on participants, their parent companies, affiliates, and decision-makers as well as rigid representation rules.	Limit registration burdens for Swiss market operators by allowing to download data from ACER CEREMP and to upload it inside the ElCom registration platform.	Reduce administrative burden and ease data sharing between authorities.
<b>Art. 6 – Registration exemption</b>	Exemptions do not fully align with EU REMIT II.	We suggest exempting registration for market participants active only in specific contract types under Art. 2(1) and Art. 21(1), letter (d)(1) to (3) and letter (e), provided these are not standard contracts.	Exempting contracts that are not standard aligns with EU REMIT II and is a linguistic correction to respect the definitions set out in Art 1 of VATE.
<b>Art. 7 – Algorithmic Trading &amp; DEA</b>	The Draft Ordinance introduces reporting requirements that extend beyond the scope and structure of REMIT II.	<p>We suggest limiting reporting requirements to essential elements, namely:</p> <ul style="list-style-type: none"> <li>use of algorithmic trading (flag);</li> <li>provision of direct electronic access (DEA) at a general level (without detailed delegation breakdowns).</li> </ul>	Under REMIT II, delegation and sub-delegation structures are reflected as part of structured transaction and order reporting data, rather than as standalone disclosure obligations subject to ongoing update requirements.
<b>Art. 11 – Insider</b>	The Draft Ordinance does not define a threshold for facilities generating or storing electricity	We suggest amending Art 11 paragraph (a) as it follows: " <i>Facilities for the generation or storage of electricity or gas</i>	A clearly defined threshold provides legal certainty and transparency for market participants regarding which

# CONSULTATION RESPONSE

<p><b>Information Threshold</b></p>		<p><i>with an installed capacity of at least <b>100 MW</b>'.</i></p>	<p>facilities fall under the insider information regime. The 100 MW threshold has also been consistently referenced by ElCom in public discussions as appropriate for supervisory purposes, supporting its practical suitability.</p>
<p><b>Art. 12 – Publication Requirements</b></p>	<p>The draft provision lacks clarity regarding the extent to which EU REMIT publication standards may be used for compliance with Swiss publication obligations.</p>	<p>We suggest amending Art 12 paragraph 3 as it follows: "<i>Swiss market participants who publish inside information in accordance with EU rules may publish the information required under this article in the format and with the content required by EU rules through <b>EU-recognised platforms</b>.</i>"</p>	<p>Ensures consistent application of publication requirements, promotes alignment with established EU practices.</p>
<p><b>Art. 15 – RRM</b>s</p>	<ul style="list-style-type: none"> <li>The requirement under Art. 15(1)(a) appears to imply permanent direct connectivity between ElCom and reporting mechanism systems, which raises questions regarding technical feasibility, cybersecurity, and proportionality given that equivalent transaction data is already available through existing reporting flows.</li> </ul>	<p>We suggest:</p> <ul style="list-style-type: none"> <li>Remove or clarify the requirement for continuous direct access by ElCom to reporting mechanism systems under Art. 15(1)(a), ensuring that access, where necessary, is limited to proportionate, secure, and purpose-specific data retrieval arrangements.</li> <li>Clarify under Art. 15(2) that verification of compliance with the approval conditions may be carried out using test systems, particularly for reporting</li> </ul>	<p>Ensures a proportionate and technically feasible supervisory framework, avoids duplication of existing reporting infrastructures, and maintains high cybersecurity and data governance standards. It also ensures that the approval process remains workable for new reporting mechanisms entering the Swiss market.</p>

# CONSULTATION RESPONSE

	<ul style="list-style-type: none"> <li>The requirement, under Art. 15(2), for an operator already authorised by ACER to demonstrate compliance with the Swiss conditions may be difficult to implement in practice where a reporting mechanism is newly established and has not yet processed live market data.</li> </ul>	<p>mechanisms not yet active in the Swiss market.</p>	
<p><b>Art. 17 – Communication Channels</b></p>	<ul style="list-style-type: none"> <li>The draft Ordinance does not confirm the ability of market participants to delegate transaction reporting obligations between counterparties.</li> <li>The treatment of end consumers may create ambiguity regarding registration and reporting responsibilities, particularly in cases of delegated reporting.</li> <li>It creates ambiguity regarding the allocation of reporting responsibilities for specific types of data, such as transmission capacity and gas linepack.</li> </ul>	<p>We suggest amending Art. 17 as follows:</p> <ol style="list-style-type: none"> <li><i>"The transmission of information pursuant to Article 12(1)(a) BATE is the responsibility of:</i> <ol style="list-style-type: none"> <li><i>[...]</i></li> <li><i>in the case of a bilateral standard contract or a non-standard contract, to the participants in the Swiss market. <b>The participants may delegate the obligation to transmit the information pursuant to Article 12(1)(a) BATE to each other"</b></i></li> </ol> </li> <li><i>End consumers do not have to report to ElCom any actions relating to bilateral standard contracts and non-standard contracts that are subject to a</i></li> </ol>	<ul style="list-style-type: none"> <li>Ensures consistency with the REMIT framework by clearly allowing delegation of reporting between counterparties and aligning responsibility with data ownership and operational control.</li> <li>Assigning reporting obligations for transmission and linepack data to TSOs avoids fragmentation and improves data quality by centralising reporting at the source.</li> <li>Clarifying the allocation of responsibility between OMPs and market participants enhances legal certainty and reflects established EU practice, while preventing overlapping or conflicting obligations.</li> </ul>

# CONSULTATION RESPONSE

	<ul style="list-style-type: none"><li>• It does not clearly define the allocation of responsibility for the accuracy and completeness of data reported by OMPs.</li></ul>	<p><i>transmission obligation under Article 12(1)(a) BATE if:</i></p> <p><i>(a) [...]</i></p> <p><i>(b) <del>the other party submits this information to ElCom on behalf of the end consumers.</del></i></p> <p>Additionally, we suggest:</p> <ul style="list-style-type: none"><li>• Clarify that data relating to transmission and transit capacity of electricity, as well as gas linepack, should be reported directly by TSOs, who have direct access to this data and are best placed to centralise its collection and submission to ElCom.</li><li>• Align responsibility for OMP-reported data with the REMIT II framework by confirming that:<ul style="list-style-type: none"><li>○ organised marketplaces are responsible for the accuracy and completeness of the data they report; and</li><li>○ Market participants remain responsible for providing accurate and timely input data to OMPs.</li></ul></li></ul>	
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# CONSULTATION RESPONSE

<p><b>Art. 19 – Actions that must be reported to ElCom on an ongoing basis</b></p>	<p>The draft Ordinance introduces complex reporting timelines and maintains distinctions between contract categories that are not fully aligned with REMIT II, creating potential inconsistency and operational complexity.</p>	<p>We suggest amending Art. 19, paragraph 3 as follows:  <i>(a) in the case of a standard contract <del>or a bilateral standard contract</del>: within two working days</i>  <i>(b) in the case of <b>a bilateral standard contract</b> <del>a non-standard contract</del>: within 10 working days</i>  <i>(c) <b>in the case of a non-standard contract</b>: within 30 days.</i></p>	<p>Aligning point (a) and (b) reporting timelines with REMIT II simplifies implementation and keeping 30 days for non-standard contracts ensures timely reporting that is closer to market practices.</p>
<p><b>Art. 21 – Exposure Reporting</b></p>	<p>The draft should clearly exclude forward-looking horizon from the systematic reporting of production and consumption forecasts.</p>	<p>We suggest inserting a new paragraph after paragraph 2. The new article 21 should be read as follows:  1. [...]  2. [...]  <b>3. The reporting of risk positions pursuant to Article 22(1) BATE shall be limited to positions in wholesale energy products.</b>  1. <b>The reporting obligation shall not include a continuous requirement to provide forward-looking estimates of electricity or gas production or consumption.</b>  4. [...]</p>	<p>Aligns with the REMIT II Implementing Regulation, which limits systematic exposure reporting to positions and only requires production and consumption forecasts upon request. Ensures proportionality, reduces operational burden, and avoids premature divergence from an evolving EU framework.</p>

# CONSULTATION RESPONSE

<p><b>Art. 22 – Forward-Looking Exposure</b></p>	<p>The draft introduces an expanded exposure reporting framework, including a 24-month forward-looking horizon and the systematic reporting of production and consumption forecasts. This approach diverges from the REMIT II Implementing Regulation, where exposure reporting is primarily limited to positions and additional forward-looking data is only requested on a case-by-case basis.</p> <p>In addition, the proposed requirements are introduced ahead of the EU implementation timeline, creating a risk of misalignment and unnecessary operational burden for market participants active across jurisdictions.</p>	<p>We suggest amending Art 22 as follows:</p> <ol style="list-style-type: none"> <li>1. <i>Market participants in the Swiss market shall report to ElCom the following information under Article 12(1)(a) BATE”</i> <ol style="list-style-type: none"> <li>(a) <i>their positions in Swiss wholesale energy products with physical delivery or cash settlement for the <b>24 18</b> months following the relevant reference quarter.</i></li> <li>(b) <b>Deleted</b></li> <li>(c) <b>Deleted</b></li> </ol> </li> <li>2. [...]</li> <li>3. [...]</li> <li>(a) <i>aggregate the information on a monthly basis for each of the <b>24 18 months</b> following the relevant reference quarter;</i></li> <li>(b) [...]</li> <li>4. [...]</li> <li>5. [...]</li> <li>6. <b>Market participants that do not manage production or consumption assets located in Switzerland shall be exempt from the exposure reporting obligation</b></li> </ol>	<p>Aligns with the REMIT II Implementing Regulation, which limits systematic exposure reporting to positions and only requires production and consumption forecasts upon request. Ensures proportionality, reduces operational burden, and avoids premature divergence from an evolving EU framework.</p>
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# CONSULTATION RESPONSE

		<p><i>related to production and consumption data.</i></p> <p><b>7. ElCom may request, where necessary and justified, additional information including forward-looking estimates of production or consumption. Such requests shall be limited to market participants subject to the reporting obligation set out in paragraph ElCom shall publish guidance specifying the circumstances under which such information may be requested, ensuring consistent and proportionate application of this provision.</b></p>	
<p><b>Art. 34 – Designation of a representative in Switzerland</b></p>	<p>The draft provision on the designation of a Swiss representative should apply only to non-Swiss market participants. It also lacks clarity and proportionality in its implementation.</p>	<p>We suggest amending Art. 34 as follows: <i>Participants in the Swiss market <b>who are established outside Switzerland</b> must submit information about their representative in accordance with Article 6 BATE by 1 April 2027 at the latest.</i></p> <p>Additionally, we suggest:</p> <ul style="list-style-type: none"> <li>• To clarify that both natural and legal persons can act as representatives,</li> </ul>	<p>To establish analogy with the EU REMIT regime and require only foreign companies to designate a representative in Switzerland.</p>

# CONSULTATION RESPONSE

		<p>including service providers under contractual arrangements; and</p> <ul style="list-style-type: none"> <li>• That the obligation to appoint and notify a representative is operationally aligned with the registration process to avoid timing inconsistencies between entry into force dates; and</li> <li>• Allowing flexible and electronic submission of representative details.</li> </ul>	
<p><b>Article 35 – Publication of inside information and transmission of information to ElCom</b></p>	<p>The entry into force of the reporting obligations, in particular the transmission of information to ElCom pursuant to Article 12 BATE, should under no circumstances precede the entry into force of the EU REMIT II provisions. The obligations should enter into force at the earliest on the EU implementation date (29 October 2027). Ideally, a short transitional period of approximately three months should be provided following the start of the EU system implementation.</p>	<p>We propose amending Article 35 as follows:  <i>“Market participants in the Swiss market may defer the publication of inside information pursuant to Articles 7 and 8 BATE and the transmission of information to ElCom pursuant to Article 12 BATE until 31 March 2027 <b>1 February 2028.</b>”</i></p>	<p>The proposed transitional framework ensures a structured and proportionate implementation of the new reporting obligations, while at the same time ensuring alignment with the EU timetable for the implementation of REMIT II. It also ensures that market participants are given sufficient time to implement the requirements and to benefit from the finalisation of the ACER reporting schemas.</p>
<p><b>Art. 36 – Transmission</b></p>	<p>The entry into application of the reporting requirements under Article 22 should not precede the</p>	<p>We suggest redrafting Art 36 as follows:</p>	<p>The proposed transitional framework ensures a structured and proportionate implementation of the new reporting</p>

# CONSULTATION RESPONSE

<p><b>of exposure information</b></p>	<p>EU implementation timeline. At minimum, the requirements should become applicable no earlier than the EU start date.</p> <p>Ideally, a short transitional buffer of approximately three months after the EU go-live should be introduced.</p>	<p><i>1. The obligation to report exposures under Article 22 shall apply from <del>1 April 2027</del> <b>1 January 2028</b>.</i></p>	<p>obligations while maintaining alignment with the EU REMIT II implementation timeline. It also ensures sufficient implementation time for market participants and to benefit from the finalisation of ACER reporting schemas.</p>
<p><b>Art 37 - Technical or administrative provisions of the Federal Office of Energy</b></p>	<p>Art. 37 empowers the UFE to adopt technical and administrative provisions, including binding international standards, without explicitly requiring consultation of affected stakeholders. This creates a risk that rules may be adopted without sufficient input from market participants, potentially leading to impractical requirements, implementation challenges, or the need for subsequent revisions.</p>	<p>We suggest adding new paragraph 2 stating that "<b><i>Before issuing technical and administrative provisions pursuant to paragraph 1, the UFE shall, where appropriate, conduct a public consultation. Draft provisions shall be made available to stakeholders, who shall be given the opportunity to submit comments within a reasonable period. The UFE shall take due account of the comments received and provide a summary of the consultation results</i></b>".</p>	<p>Ensures that UFE provisions are transparent, practical, and aligned with market practices by incorporating stakeholder input, while maintaining flexibility for urgent or minor measures.</p>

# CONSULTATION RESPONSE



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