Changes to legislation: *Commission Implementing Regulation (EU) No 1348/2014 is up to date with all changes known to be in force on or before 28 December 2020. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (Text with EEA relevance)

COMMISSION IMPLEMENTING REGULATION (EU) No 1348/2014

of 17 December 2014

on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency

(Text with EEA relevance)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency[(1)], and in particular Article 8(2) and Article 8(6) thereof,

Whereas:

(1) Effective oversight of wholesale energy markets requires the regular monitoring of details of contracts including orders to trade as well as data on capacity and use of facilities for production, storage, consumption or transmission of electricity and natural gas.

(2) Regulation (EU) No 1227/2011 requires the Agency for the Cooperation of Energy Regulators ('the Agency') established by Regulation (EC) No 713/2009 of the European Parliament and of the Council[(2)] to monitor wholesale energy markets in the Union. In order to enable the Agency to fulfil its task it should be provided with complete sets of relevant information in a timely manner.

(3) Market participants should report to the Agency on a regular basis details of wholesale energy contracts both in relation to the supply of electricity and natural gas and for the transportation of those commodities. Contracts for balancing services, contracts between different members of the same group of companies and contracts for the sale of the output of small energy production facilities should be reported to the Agency only at its reasoned request on ad-hoc basis.

(4) In general, both parties to the contract should report the required details of the concluded contract. To facilitate reporting, parties should be able to report on each other's behalf or use the services of third parties for this purpose. Notwithstanding this and to facilitate data collection, the details of transportation contracts acquired through primary capacity allocation of a transmission system operator (TSO) should be reported by the respective TSO only. The reported data should also include filled and unfilled capacity requests.

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(5) In order to effectively uncover market abuses, it is important that next to the details of contracts the Agency can also monitor orders to trade placed on organised markets. Since market participants cannot be expected to record such data with ease, matched and unmatched orders should be reported through the organised market place where they were placed or through third parties who are able to provide such information.

(6) In order to avoid double reporting, the Agency should collect details of derivatives relating to contracts for the supply or transportation of electricity or natural gas which have been reported in accordance with applicable financial regulation to trade repositories or to financial regulators from those sources. Notwithstanding this, organised markets, trade matching or reporting systems, who have reported details of such derivatives under financial rules, subject to their agreement, should be able to report the same information also to the Agency.

(7) Efficient reporting and targeted monitoring requires standard and non-standard contracts to be distinguished. Since prices of standard contracts serve also as reference prices for non-standard contracts, the Agency should receive information regarding standard contracts on a daily basis. Details of non-standard contracts should be reportable up to one month from their conclusion.

(8) Market participants should also report to the Agency and, to national regulatory authorities, at their request, on a regular basis data in relation to the availability and use of energy production and transportation infrastructure including liquefied natural gas (‘LNG’) and storage facilities. In order to reduce the burden of reporting on market participants and to make best use of existing data sources, reporting should involve where possible TSOs, the European Network of Transmission System Operators for Electricity (the ‘ENTSO for Electricity’), the European Network of Transmission System Operators for Gas (the ‘ENTSO for Gas’), LNG system operators and natural gas storage system operators. Depending on the importance and availability of the data, the regularity of reporting may vary with most of the data reported on daily basis. The reporting requirements should respect the Agency's obligation not to make commercially sensitive information publicly available and only to publish or make available information that is not likely to create any distortion of competition on wholesale energy markets.

(9) It is important that reporting parties have a clear understanding about the details of the information they are required to report. To this end the Agency should explain the content of the reportable information in a user manual. The Agency should also make sure that information is reported in electronic formats, which are easily accessible to reporting parties.

(10) In order to ensure continuous and safe transfer of complete sets of data, the reporting parties should comply with basic requirements in relation to their ability to authenticate data sources, check data for correctness and completeness and to ensure business continuity. The Agency should assess reporting parties' compliance with those requirements. The assessment should ensure a proportionate treatment of professional third parties handling market participants' data and market participants reporting their own data.

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(11) The type and source of reportable data can influence the resources and time the reporting parties need to invest in preparing for data submission. For example completing procedures for reporting standard contracts executed at organised market places takes less time than setting up systems for reporting non-standard contracts or certain fundamental data. To this end the obligation for reporting should be phased in, starting with transmitting fundamental data available on the transparency platforms of ENTSO for Electricity and of ENTSO for Gas as well as standard contracts executed at organised market places. Reporting of non-standard contracts should follow reflecting the extra time needed for completing procedures for reporting. Staggered data reporting would also help the Agency to better allocate its resources to prepare for receiving the information.

(12) The measures provided for in this Regulation are in accordance with the opinion of the Committee established in accordance with Article 21 of Regulation (EU) No 1227/2011,

HAS ADOPTED THIS REGULATION:

CHAPTER I

GENERAL PROVISIONS

Article 1

Subject matter

This Regulation lays down rules for the provision of data to the Agency implementing Article 8(2) and (6) of Regulation (EU) No 1227/2011. It defines the details of reportable wholesale energy products and fundamental data. It also establishes appropriate channels for data reporting including defining timing and regularity of data reports.

Article 2

Definitions

For the purpose of this Regulation, the definitions in Article 2 of Regulation (EU) No 1227/2011 and in Article 3 of Commission Regulation (EU) No 984/2013[(3)] shall apply.

In addition, the following definitions shall apply:

(1) ‘fundamental data’ means information related to the capacity and use of facilities for production, storage, consumption or transmission of electricity and natural gas or related to the capacity and use of LNG facilities, including planned or unplanned unavailability of these facilities;

(2) ‘standard contract’ means a contract concerning a wholesale energy product admitted to trading at an organised market place, irrespective of whether or not the transaction actually takes place on that market place;

(3) ‘non-standard contract’ means a contract concerning any wholesale energy product that is not a standard contract;

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(4) 'organised market place' or 'organised market' means:

(a) a multilateral system, which brings together or facilitates the bringing together of multiple third party buying and selling interests in wholesale energy products in a way that results in a contract,

(b) any other system or facility in which multiple third-party buying and selling interests in wholesale energy products are able to interact in a way that results in a contract.

These include electricity and gas exchanges, brokers and other persons professionally arranging transactions, and trading venues as defined in Article 4 of Directive 2014/65/EU of the European Parliament and of the Council[(4)].

(5) 'group' shall have the same meaning as in Article 2 of Directive 2013/34/EU of the European Parliament and of the Council[(5)]

(6) 'intragroup contract' is a contract on wholesale energy products entered into with a counterparty which is part of the same group provided that both counterparties are included in the same consolidation on a full basis;

(7) 'over-the-counter' (OTC) means any transaction carried out outside an organised market;

(8) 'nomination' means,

— for electricity: the notification of the use of cross zonal capacity by a physical transmission rights holder and its counterparty to the respective transmission system operator(s)(TSOs),

— for natural gas: the prior reporting by the network user to the TSO of the actual flow that the network user wishes to inject into or withdraw from the system;

(9) 'balancing energy' means energy used by TSOs to perform balancing;

(10) 'balancing capacity (reserves)' means the contracted reserve capacity;

(11) 'balancing services' means,

— for electricity: either or both balancing capacity and balancing energy,

— for natural gas: a service provided to a TSO via a contract for gas required to meet short term fluctuations in gas demand or supply;

(12) 'consumption unit' means a resource which receives electricity or natural gas for its own use;

(13) 'production unit' means a facility for generation of electricity made up of a single generation unit or of an aggregation of generation units;

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CHAPTER II

REPORTING OBLIGATIONS ON TRANSACTIONS

Article 3

List of reportable contracts

1 The following contracts shall be reported to the Agency:

a As regards wholesale energy products in relation to the supply of electricity or natural gas with delivery in the Union:

(i) Intraday or within-day contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,

(ii) Day-ahead contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,

(iii) Two-days-ahead contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,

(iv) Week-end contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,

(v) After-day contracts for the supply of electricity or natural gas where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,

(vi) Other contracts for the supply of electricity or natural gas with a delivery period longer than two days where delivery is in the Union irrespective of where and how they are traded, in particular regardless of whether they are auctioned or continuously traded,

(vii) Contracts for the supply of electricity or natural gas to a single consumption unit with a technical capability to consume 600 GWh/year or more,

(viii) Options, futures, swaps and any other derivatives of contracts relating to electricity or natural gas produced, traded or delivered in the Union.

b Wholesale energy products in relation to the transportation of electricity or natural gas in the Union:

(i) Contracts relating to the transportation of electricity or natural gas in the Union between two or more locations or bidding zones concluded as a result of a primary explicit capacity allocation by or on behalf of the TSO, specifying physical or financial capacity rights or obligations,

(ii) Contracts relating to the transportation of electricity or natural gas in the Union between two or more locations or bidding zones concluded between market participants on secondary markets, specifying physical or financial capacity rights or obligations, including resale and transfer of such contracts,