

Our date  
15 June 2015

Our reference

Administrative officer  
Barbara Samuelsen, Market Conduct

Your date  
19 March 2015

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**14/376**

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Norwegian Ministry of Petroleum and Energy  
Attn.: Attn. Henriette Nesheim  
Postboks 8148 Dep  
0033 Oslo  
Norway

**Consultation on Commission Implementing Regulation Nr. 1348/2014 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 (REMIT) and Commission Regulation Nr. 543/2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009**

Dear Mrs. Nesheim,

We refer to the consultation paper on Commission Implementing Regulation Nr. 1348/2014 on data reporting implementing Article 8(2) and Article 8(6) of REMIT and Commission Implementing Regulation Nr. 543/2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009, issued by the Ministry as of 19 March 2015.

### Summary

Statoil supports the objectives behind REMIT and the other European regulations pertaining to the European energy market, and we continue to update our processes and controls to comply with the requirements of REMIT, as those requirements evolve. We have however observed that the implementation of REMIT within the EU has created some uncertainty specific to the Norwegian Continental Shelf (NCS) which we would recommend to be clarified within a Norwegian implementation. We would also like to point out that the implementation of REMIT in Norway needs to be seen in the context of other EU regulations affecting the energy market, in particular EMIR and MiFID II/MiFIR.

In particular we would like to highlight the following points:

- **Sequence of implementation**

For the purpose of establishing new reporting requirements for Norwegian energy market participants under the implementing regulations referred to in the consultation paper, it is important to ensure that the implementation sequence applied by the EU is also adopted in the Norwegian energy market. This applies in particular to transaction reporting obligations under REMIT and EMIR and the priority of EMIR (see Article 6(5) of the Implementing Regulation) transaction reporting over REMIT. Within the EU implementation the potential for double reporting, was resolved by implementing EMIR reporting first and then providing ACER with access to transactions reported under EMIR so that the subsequent REMIT reporting obligation was limited to orders and transactions outside the scope of EMIR.

The same sequence should be applied for Norwegian market participants, including the delay of REMIT reporting for an adequate period (approximately eighteen months after the EU started EMIR reporting) to allow energy market participants to absorb EMIR requirements before enforcing REMIT reporting.

For the sake of completeness we would also note that the same principles should be applied to the implementation of MiFID II/MiFIR in Norway. MiFID II/MiFIR refer, in certain aspects, to both REMIT (with regard to REMIT carve-out in C6

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of Annex I) as well as EMIR (with regard to the definition of hedging), and consequently they should be implemented with adequate preparation time (approximately eighteen months after the EU intends to start REMIT reporting), as granted to EU market participants to allow for establishment of the required systems and internal processes.

- **Differentiation between upstream and downstream systems**

As neither REMIT nor subsequent implementing acts clarify the standing of upstream pipeline networks, we would propose that the Norwegian implementation of REMIT should include this clarification and how it should be applied to the NCS.

Based on the definition provided under Article 1(11) of REMIT for “transmission system operators”, Statoil concludes that Gasled (and its connected terminals, such as Statoil’s LNG facility at Melkøya) and Gassco are considered “upstream pipeline networks” as referred to in Article 4(3) of Directive 2009/73/EC and consequently not “transmission system operators” in the meaning of Article 1(11) of REMIT.

As Article 1(11) of REMIT defines “transmission system operator” by reference to Article 4(4) of Directive 2009/73/EC this requires also the terms embedded in the referenced definition, such as “transmission” and “upstream pipeline network” to be applied accordingly. It is therefore reasonable to assume that “transmission” in Regulation (EU) No 1227/2011 (REMIT) also has the same meaning as defined in Directive 2009/73/EC. Regulation (EU) No 1227/2011 (REMIT) does not provide a definition for “transportation”, but the definition of “transmission” in Directive 2009/73/EC refers to “transport” under certain circumstances. It is therefore reasonable to assume that, as “transportation” is not defined in REMIT, then the use of “transportation” and “transportation capacity” is limited to the circumstances specified for transport in Directive 2009/73/EC definition of “transmission”.

Consequently, there is a difference between upstream and downstream systems, where only downstream systems are within the scope of REMIT. Therefore, implementation of REMIT in Norway should include clarifying definitions missing from the REMIT text that “transportation” and “transportation capacity” refer to the assets used for the purpose of “transmission” as defined in point 3 of Art 2 of Directive 2009/73/EC

- **Clarification of transparency role**

Although the above logic establishes that Gassco is not a TSO, Statoil believes that Gassco has an important role in supporting transparency on the NCS. We would support clarification in the Norwegian implementation of REMIT that established a transparency role taken (currently voluntarily) by Gassco, to publish planned and unplanned upstream unavailabilities (inside information), on behalf of all NCS shippers. Existing confidentiality clauses makes it unclear if Gassco can disclose inside information without the consent of NCS shippers unless Gassco has a legal obligation to publish such information. We therefore would suggest that the Norwegian implementation of these regulations establishes a legal obligation for Gassco to publish inside information to support transparency on the NCS.

We remain committed to the transparency principles reflected within this legislation and we are open for further dialogue that would be of assistance to you in formulating your implementation plan.

Kind regards

Vince McCallion  
Head of Market Conduct