



Frequently asked questions (FAQs) regarding Article 26a of the Federal Electricity Supply Ordinance

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Introduction

In order to increase transparency, regulations were introduced stipulating that data relating to wholesale electricity trading have to be reported to the Federal Electricity Commission (ECom). The data that have to be reported to ECom mainly concern those details that have to be reported in the European Union (EU) in accordance with Regulation (EU) No. 1227/2011 of 25 October 2011 on wholesale energy market integrity and transparency (EU-REMIT, published in the Official Journal of the European Union – <http://eur-lex.europa.eu>).

For this purpose, the Federal Electricity Supply Ordinance of 14 March 2008 (SR 734.71) was supplemented with section 4a (“Wholesale electricity market data”) which encompasses Articles 26a to 26c and regulates the provision of the corresponding data. These additional legal provisions entered into force on 1 July 2013. The reporting and data supply requirements were introduced in October 2015 at the same time as the corresponding EU requirements.

EU-REMIT stipulates that market participants must submit data relating to wholesale energy trading to the relevant authorities of the EU or member states. The objectives of EU-REMIT are to increase the transparency of the market and combat unlawful activities (e.g. market manipulation, insider trading) in order to support the smooth and efficient functioning of the wholesale energy market.

ECom collects wholesale electricity trading data with a view to improving its supervision of the functioning of the wholesale electricity market and Switzerland’s supply security. It evaluates the submitted data, contacts market participants if it detects any irregularities and informs them about these activities.

Frequently Asked Questions (FAQs)

General questions

1. *Who can market participants contact if they have any questions regarding Articles 26a to 26c of the Federal Electricity Supply Act?*

EICom's Market Supervision section (phone no. +41 58 461 89 26 / e-mail: market.surveillance@elcom.admin.ch).

2. *Who is required to report data?*

Participants in a wholesale electricity market in the EU, with domicile or residence in Switzerland, who are required to supply data in accordance with EU-REMIT (cf. Article 26a, paragraph 1, Federal Electricity Supply Act). In accordance with EU-REMIT, this concerns participants who conclude transactions or issue trading orders on wholesale electricity markets (cf. EU-REMIT, Article 2[7]).

3. *When was it declared mandatory to report data to EICom?*

For the involved Swiss market participants, EICom specified the period between 7 October and 2 December 2015 as the time frame for the introduction of the mandatory reporting of transaction data. The transmission of data relating to bilateral agreements commenced on 7 April 2016.

4. *What is a wholesale electricity market?*

A wholesale electricity market is any market on which wholesale electricity products are traded. A definition can be found in EU-REMIT, Article 2(4). The definition of the term "wholesale electricity market products" is based on EU-REMIT, Article 2(4). In addition to regulated markets, wholesale electricity markets include multilateral trading systems, over-the-counter transactions and bilateral contracts that are concluded directly or indirectly via brokers (cf. EU-REMIT, Article 2[6]).

5. *What are the advantages of greater transparency on wholesale electricity markets?*

A higher degree of transparency on wholesale electricity markets reduces the risk of market manipulation and distortion of price signals, and ensures that end consumers pay a fair price for their electricity. Wholesale markets generate significant price signals that influence not only the choices of suppliers and consumers, but also decisions concerning investments in production facilities and the transmission network infrastructure. It is therefore essential to ensure that these signals result from smoothly functioning market forces.

6. *Are a company's internal transactions also regarded as wholesale energy products that have to be reported?*

The definition of wholesale energy products encompasses contracts and derivatives regardless of where and how they are traded. This means that internal transactions, for example an over-the-counter contract that is concluded with an internal counterparty, are classified as wholesale energy products.

Market abuse, market manipulation and insider information

7. *What does the term "market abuse" refer to?*

In EU-REMIT, "market abuse" is the generic term for insider trading and market manipulation. All forms of market abuse are illegal under EU-REMIT.

8. *What does the term “market manipulation” refer to?*

Market manipulation refers to an action on the part of a market participant who, for example, carries out false transactions, provides misleading signals, distributes false information or makes attempts at deception in connection with supply, demand or prices on the wholesale market (cf. EU-REMIT, Article 2[2]).

9. *What should I do if I suspect that market manipulation has occurred?*

If you suspect that market manipulation has taken place, please contact the Market Supervision section of EICom (phone no. +41 58 461 89 26, e-mail market.surveillance@elcom.admin.ch).

10. *What is insider information (Article 26a, paragraph 3, Federal Electricity Supply Ordinance)?*

EU-REMIT defines “insider information” as precise information that is not public knowledge and directly or indirectly concerns one or more wholesale electricity products and which, if it were public knowledge, would probably have a significant influence on the prices of the wholesale electricity products in question (cf. EU-REMIT, Article 2[1]).

11. *Who could be considered to be potential insiders?*

In accordance with Article 26a of the Federal Electricity Supply Ordinance, insider information has to be submitted to EICom that has been published on the basis of EU-REMIT. In accordance with EU-REMIT, Article 3(2), the following people could have access to insider information relating to wholesale energy products:

- a) Members of a company’s board of directors, management board and supervisory bodies;
- b) People who hold a stake in a company’s capital;
- c) People who have access to information within the scope of the performance of their work or their profession, or the fulfilment of their duties;
- d) People who obtain such information in an unlawful manner;
- e) People who know, or should know, that the information concerned is insider information.

12. *Who is required to report insider information in Switzerland?*

The requirement to report insider information to EICom applies to those market participants who are obliged to submit such information in accordance with EU-REMIT (cf. Article 26a, paragraph 3, Federal Electricity Supply Ordinance). This includes the requirement to indicate where the data have been published in accordance with EU-REMIT.

13. *Does EICom still have to be notified if the market participant concerned postpones the publication of insider information?*

Yes, EICom must be notified simultaneously if use is made of the option of postponing the publication of insider information (cf. Article 4[2], EU-REMIT).

Data to be reported to EICom

14. Which data have to be reported to EICom?

The following data in particular have to be reported to EICom:

- Transactions concerning wholesale electricity products, especially electricity supply agreements (excluding agreements with end consumers) and derivatives relating to electricity (Article 26a, paragraph 2a and Article 26a, paragraph 6, Federal Electricity Supply Ordinance);
- Capacities in installations for the production and transmission of electricity, their availability and non-availability and the utilisation of these facilities (Article 26a, paragraph 2b, Federal Electricity Supply Ordinance);
- Insider information that has been published in accordance with EU-REMIT (Article 26a, paragraph 3, Federal Electricity Supply Ordinance), plus details of where the information has been published;
- Company name, legal form and domicile. Instead of the above data, the Centralised European Registry for Energy Market Participants (CEREMP) dataset may be uploaded in the EICom registration process (cf. Article 26a, paragraph 4, Federal Electricity Supply Ordinance).

15. Are Swiss market participants required to supply data to more than one authority (dual reporting)?

In accordance with the reporting obligations specified in Article 26a of the Federal Electricity Supply Ordinance, market participants are required to supply the same data to both the relevant EU authority and to EICom.

16. In which form do the data have to be supplied?

The data have to be supplied in the same form, i.e. in the same format, as specified in EU-REMIT. In accordance with the requirements of ACER, the data have to be supplied in electronic form (XML diagram). This does not apply to data intended specifically for the registration process.

17. Is the bundling of transactions permitted, or does a separate file have to be submitted for each transaction?

Bundling is not only permitted, it is in fact preferred. Please note that the maximum permissible file size is 800 MB.

18. Are derivative contracts involving the supply of electricity outside Switzerland subject to Article 26a of the Federal Electricity Supply Ordinance?

If the market participant is domiciled or resident in Switzerland, derivative contracts involving the supply of electricity within the EU also have to be reported.

19. Who is responsible for reporting backloading notifications on wholesale energy markets?

In accordance with Article 26a of the Federal Electricity Supply Ordinance, reporting is always the responsibility of the market participant, and this also applies to the backloading of outstanding contracts.

20. How do fundamental data have to be reported?

Market participants do not report fundamental data directly to EICom. They have to report news and insider information to existing platforms (e.g. EEX) or via RMMs (registered reporting mechanisms).

21. *How does insider information have to be reported?*

Article 26a of the Federal Electricity Supply Ordinance stipulates that market participants are required to publish insider information. EICom encourages market participants to use the existing EEX transparency platform (<https://www.eex-transparency.com/>). In exceptional cases, market participants may publish the information on their own website and submit it to EICom by e-mail. In any case, during the registration process market participants must indicate to EICom (in the registration system) where they will publish their insider information.

22. *What action should a market participant domiciled or resident in Switzerland take if a foreign regulatory authority officially requests information?*

EICom should be notified about the request. Depending on the content of the request, direct provision of information from within Swiss sovereign territory is prohibited. Responding to such a request for information could represent an infringement of Article 271 of the Swiss Penal Code (SR 311.0). However, it is possible to obtain authorisation to respond to a request for information. For this purpose, please contact the Market Supervision section of EICom (phone +41 58 461 89 26, e-mail market.surveillance@elcom.admin.ch).

Registration

23. *Is it necessary to notify or register with EICom?*

Yes, notification or registration with EICom is required (cf. Article 26a, paragraph 4, Federal Electricity Supply Ordinance). The company or participant's name, legal form and domicile or place of residence have to be registered with EICom, or the dataset that has been submitted in the EU for registration in accordance with EU-REMIT may be uploaded to the EICom registration system.

24. *How can a market participant's own data be downloaded from ACER?*

By clicking on the following link on the ACER website: <https://www.acer-remit.eu/portal/european-register>. Log in and select "Historical Report" from the "MP" tab. The data can then be downloaded by clicking on the "Export" button.

25. *By when does a market participant have to be registered with EICom?*

Registration must be made as soon as possible so that compliance with the reporting deadlines (for standard transactions, D+1, for non-standard transactions, D+30) can be assured.

26. *Does a fee apply for registration with EICom?*

No, registration is free of charge.

27. *How does the registration process function?*

A web-based registration system is available on the EICom website. The online explanatory notes regarding this system contain all the necessary information for step-by-step registration. If you have any questions or suggestions, the EICom Market Supervision section website (www.elcom.admin.ch > [Market Supervision](#)) lists the corresponding contact details. Before they can register with EICom, market participants must have completed their registration with ACER and obtained an ACER code.

28. *Do independent legal entities that belong to the same parent company or group also have to register separately with ECom?*

Within a given parent company or group, each legal entity that is domiciled in Switzerland and is active on the wholesale electricity market in the EU has to register with ECom. The corporate structure has to be indicated during the registration process.

29. *Is registration required if trading is only carried out via balance groups?*

Yes. Market participants who solely trade via balance groups also have to register with ECom.

RRM (registered reporting mechanism) and data quality

30. *Can Swiss market participants change their RRM?*

Yes, market participants are at liberty to choose the RRM via which they report transaction data. If a market participant changes the RRM, ECom must be notified about the change. Step 5 in the registration system has to be updated in order to reflect the change.

31. *If data reporting is delegated to a third party, who is responsible for the completeness, correctness and punctual delivery of the data – the market participant or the third party?*

Market participants are responsible for reporting to ECom, so they are also responsible for the completeness, correctness and punctual delivery of the data.

32. *Can market participants report directly to ECom?*

No, direct reporting to ECom is not possible. Market participants must report via an RRM.

33. *What happens if there is a discrepancy between the data supplied by the seller and the buyer?*

In this case, ECom may order the market participants, and if necessary their RRM, to check the correctness of the supplied data.

Gas trading

34. *Does information relating to gas trading also have to be reported to ECom?*

No, the existing electricity supply legislation and in particular Article 26a of the Federal Electricity Supply Ordinance only apply to electricity trading.