

## **ACER and the REMIT implementation in the EU**

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**REMIT Conference**  
**Vienna, 30 May 2012**

- ACER's role
- REMIT at a glance
- Market monitoring and cooperation
- Data reporting and sharing
- The way ahead

*“The purpose of the Agency shall be to **assist** the [NRAs] in exercising, at [Union] level, the regulatory tasks performed in the Member States and, where necessary, to **coordinate** their action”.*

Article 1(2)

## ACER

### **Third Energy Package**

**Directives 2009/72/EC and 2009/73/EC and  
Regulations (EC) Nos 713/2009, 714/2009 and 715/2009**

### **Regulation (EU) No 838/2010**

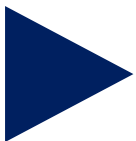
**(on the Inter-TSO Compensation Mechanism)**

### **Regulation on Wholesale Energy Market Integrity and Transparency (REMIT)**

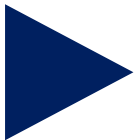
**(adopted by the European Council on 10 October 2011)**

### **Proposed Regulation on guidelines for trans-European energy infrastructure**

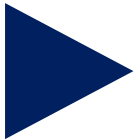
**(tabled by the European Commission on 19 October  
2011; expected to enter into force by end-2012)**



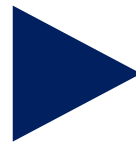
**Sector-specific, comprehensive monitoring framework for wholesale energy markets to detect and deter market abuse**



**To promote confidence of consumers and other market participants in the integrity of electricity and gas markets**



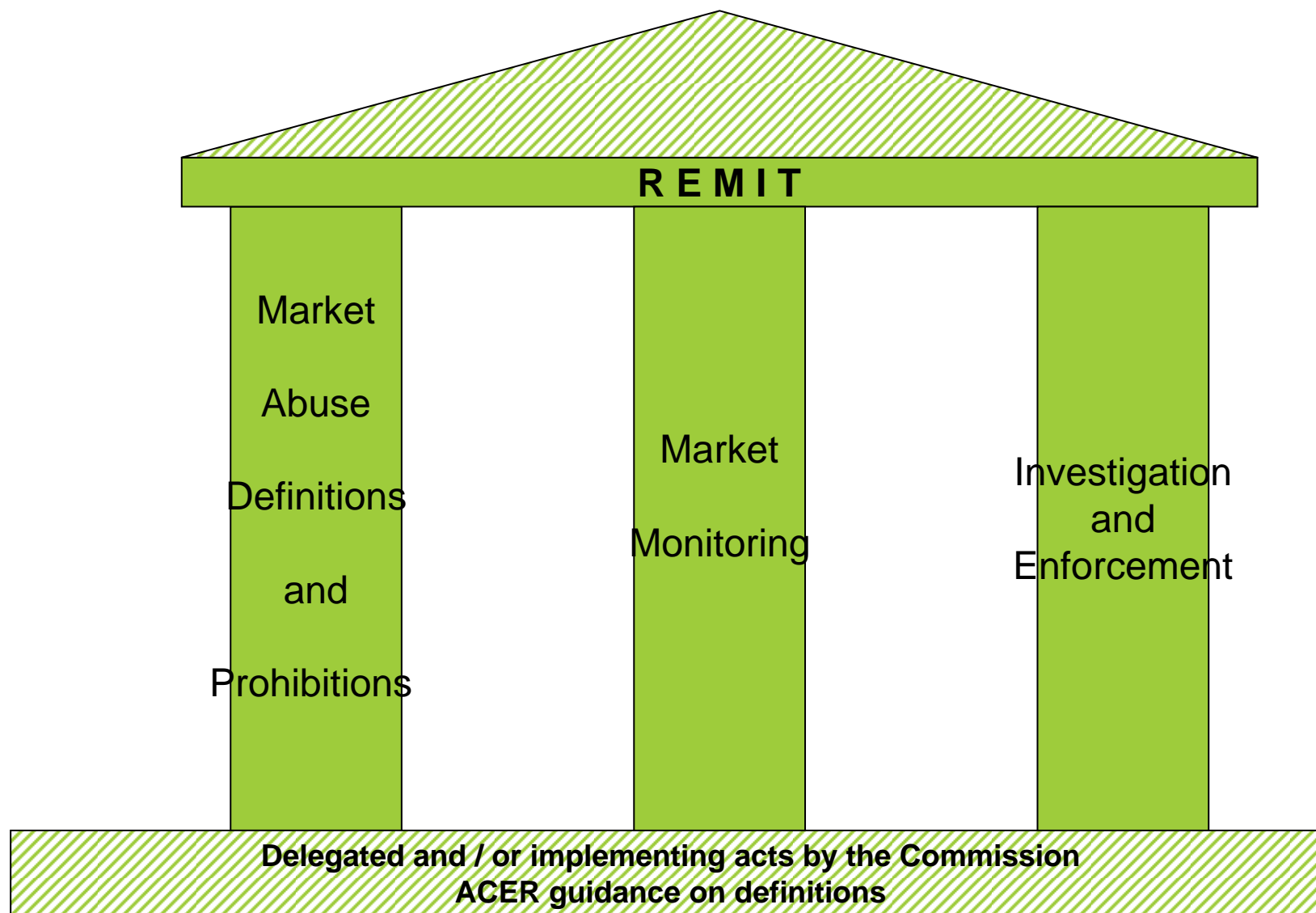
**ACER “is best placed to carry out such monitoring as it has both a Union-wide view of electricity and gas markets, and the necessary expertise in the operation of electricity and gas markets and systems in the Union” (recital 17)**



**Close cooperation and coordination between ACER and NRAs**

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# The new energy market supervisory architecture after REMIT



## Wholesale energy markets and products

- REMIT applies to trading in wholesale energy products
  - » Defined in Article 2(4) – contracts for gas and electricity - commodity and transportation - including derivatives
- The market abuse prohibitions of Article 3 and 5 of REMIT do not apply to financial instruments “to which Article 9 of Directive 2003/6/EC applies”
  - » Different definitions of financial instrument under MAD and MiFID, i.e. exclusion of financial instruments limited to those admitted to trading at regulated markets
  - » Exclusion limited to those instances to which the market abuse concept of MAD applies
  - ➔ Clarification with the review of MAD/MAR and the alignment of the definition of financial instrument and the clarification of the market abuse concept concerning commodities



- Definitions of inside information and market manipulation based on Market Abuse Directive
  - » Coherent with current financial regulation
  - » But tailored to gas and electricity markets
    - E.g. Inside information according to Article 2(1) REMIT is
      - information of a precise nature;
      - which has not been made public;
      - which relates, directly or indirectly, to one or more wholesale energy products;
      - and which, if it were made public, would be likely to significantly affect the prices of those wholesale energy products.
- ACER issued 1st edition of Guidance on the application of REMIT definitions on 20 Dec 2011

- Legal basis: Art. 16(1) of REMIT
- Describes ACER's understanding of the definitions of Art. 2 of REMIT, but does not provide legal interpretation
- Directed to NRAs and intended only to establish a common understanding between ACER and NRAs on REMIT definitions (Art. 2)
- Published for sake of transparency

- First Edition of ACER Guidance on market abuse definitions published on 20 December 2011
- Second Edition of ACER Guidance currently foreseen for mid-2012
  - Review interpretation of market abuse definitions on the basis of experiences gained since entry into force of REMIT
  - Increase the scope of ACER Guidance to definitions of “market participant” and “wholesale energy product” and beyond

## Timeline

**July – Sept 2012**

**Public Workshop**

**Sept 2012**

**Publication of the Second Edition of  
the Guidance**

- Prohibition on insider trading, Article 3 REMIT
  - » Prohibition on trading based on inside information
  - » Prohibition on recommending others to trade based on inside information
  - » Prohibition on disclosing inside information except
    - to persons who owe a duty of confidentiality
    - where it is part of complete and efficient public disclosure of the information.
- Prohibition on market manipulation *and attempted market manipulation*, Article 5 REMIT

- Obligation of **persons professionally arranging transactions** (e.g. energy exchanges, brokers)

- » to monitor and

- » to notify to the competent NRA

potential breaches of market abuse prohibitions,  
Article 15 of REMIT

## Obligation of market participants to disclose inside information

- Obligation of **market participants** to publish inside information „in an effective and timely manner“ according to Article 4(1) REMIT, with possible exemptions provided that either
  - » such omission is not likely to mislead the public, that the market participant is able to ensure the confidentiality of the information, does not make decisions relating to trading in wholesale energy products based on that decision, and notifies that information without delay, together with a justification, to the Agency and the relevant NRA;
  - » the market participant is a TSO fulfilling its tasks according to Regulations (EC) No 714/2009 or 715/2009 and benefits from an exemption under those Regulations or
  - » sensitive information relating to the protection of critical infrastructure is delayed, if classified in their country.

➡ Notification forms published on ACER website

## Obligation of market participants to register at NRA level prior to trading

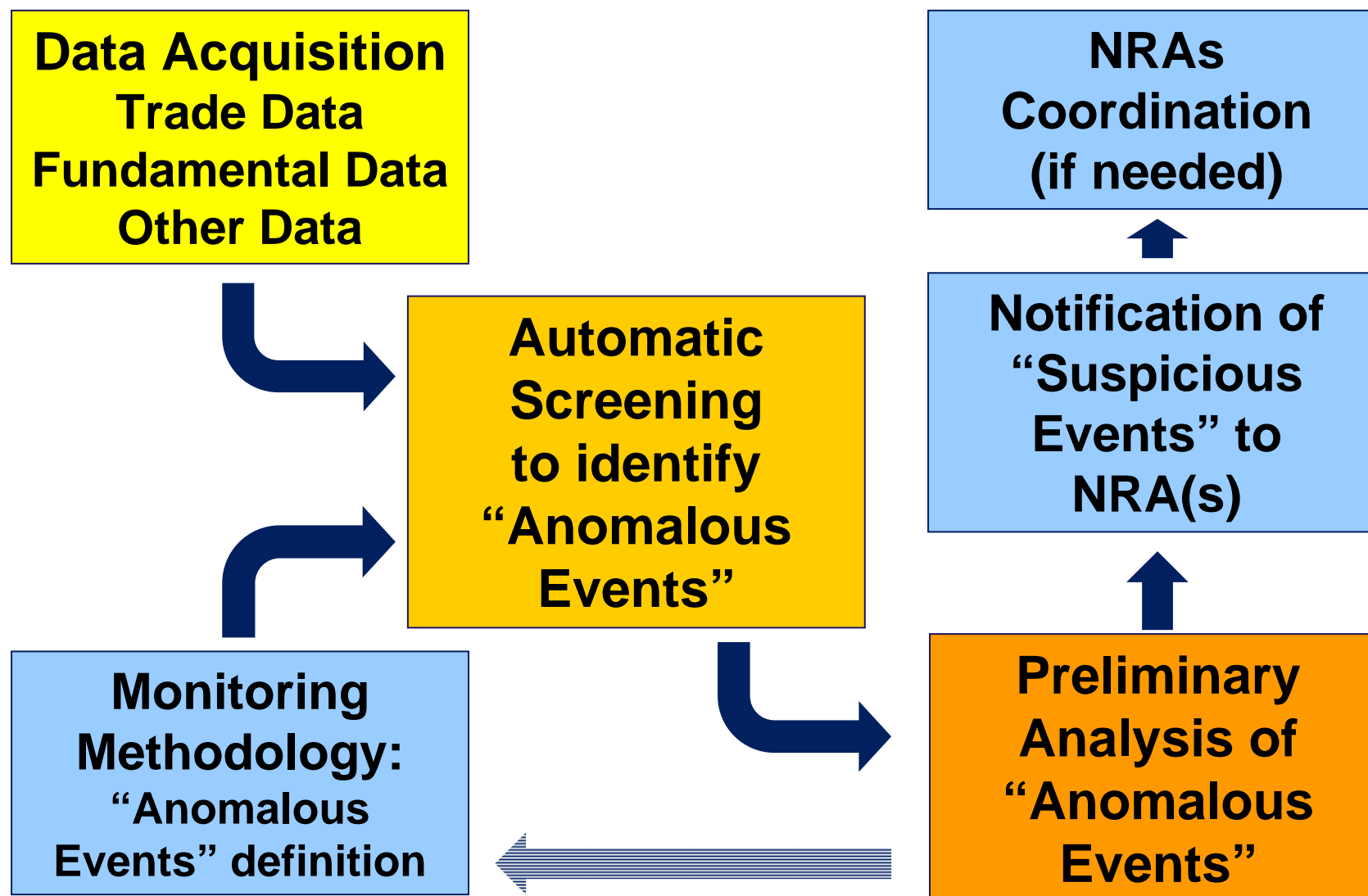
- Obligation for market participants to register at NRA level, Article 9(1) of REMIT;
- ACER's unique identifier for each market participant, Article 9(2) of REMIT;
- Establishment of European registry by ACER, Article 9(3) of REMIT;
- Access to and publication of the European registry (or part of it), Article 9(3) of REMIT
- Obligation for market participants to register prior to entering into transactions, Article 9(4) of REMIT
- Obligation to report any change which has taken place as regards the information provided in the registration form, Article 9(5) of REMIT

### ➔ **Definition and publication of Registration Format by 29 June 2012**

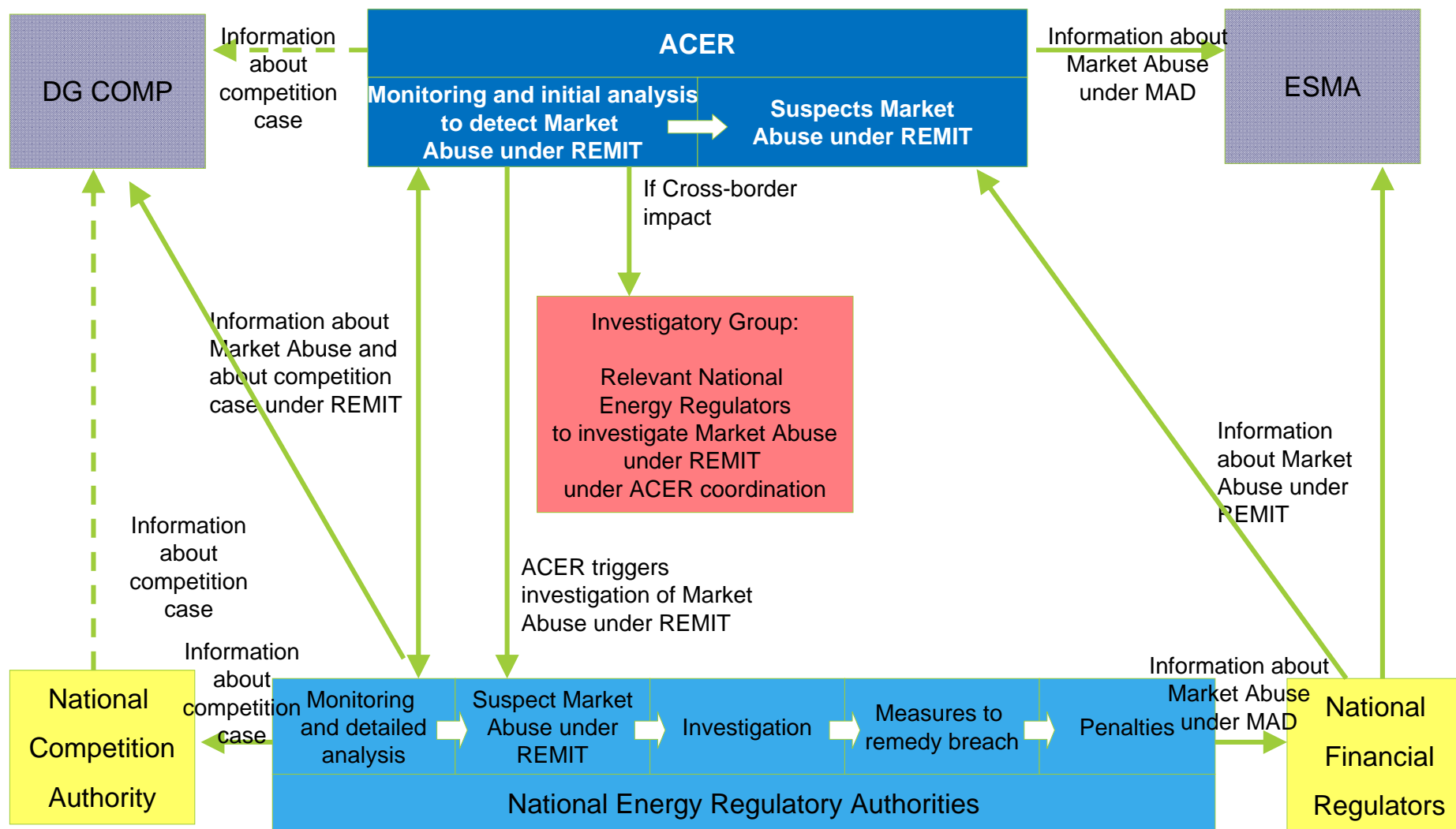


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## ACER's genuine market monitoring role

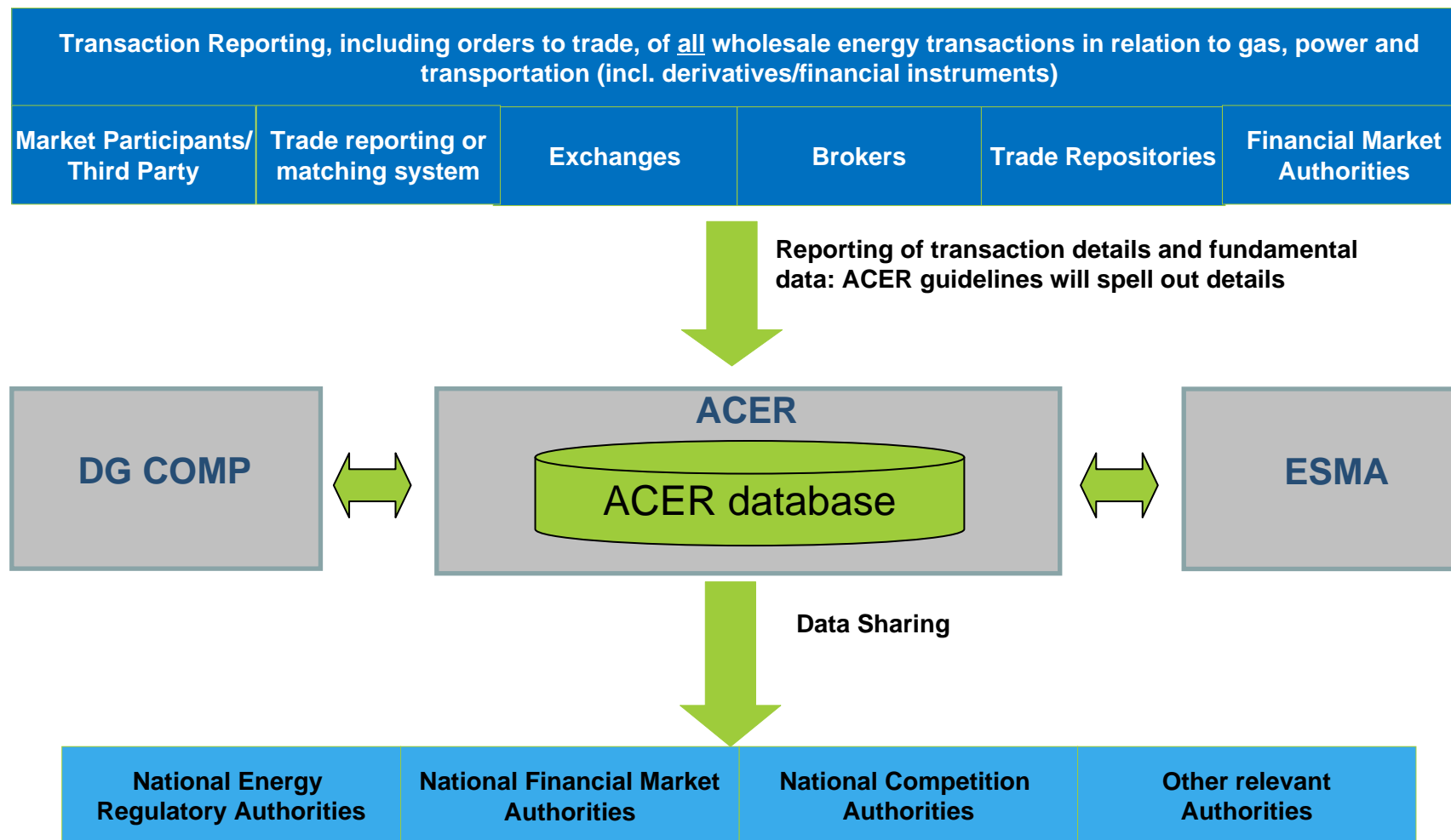


# Market Monitoring & Cooperation



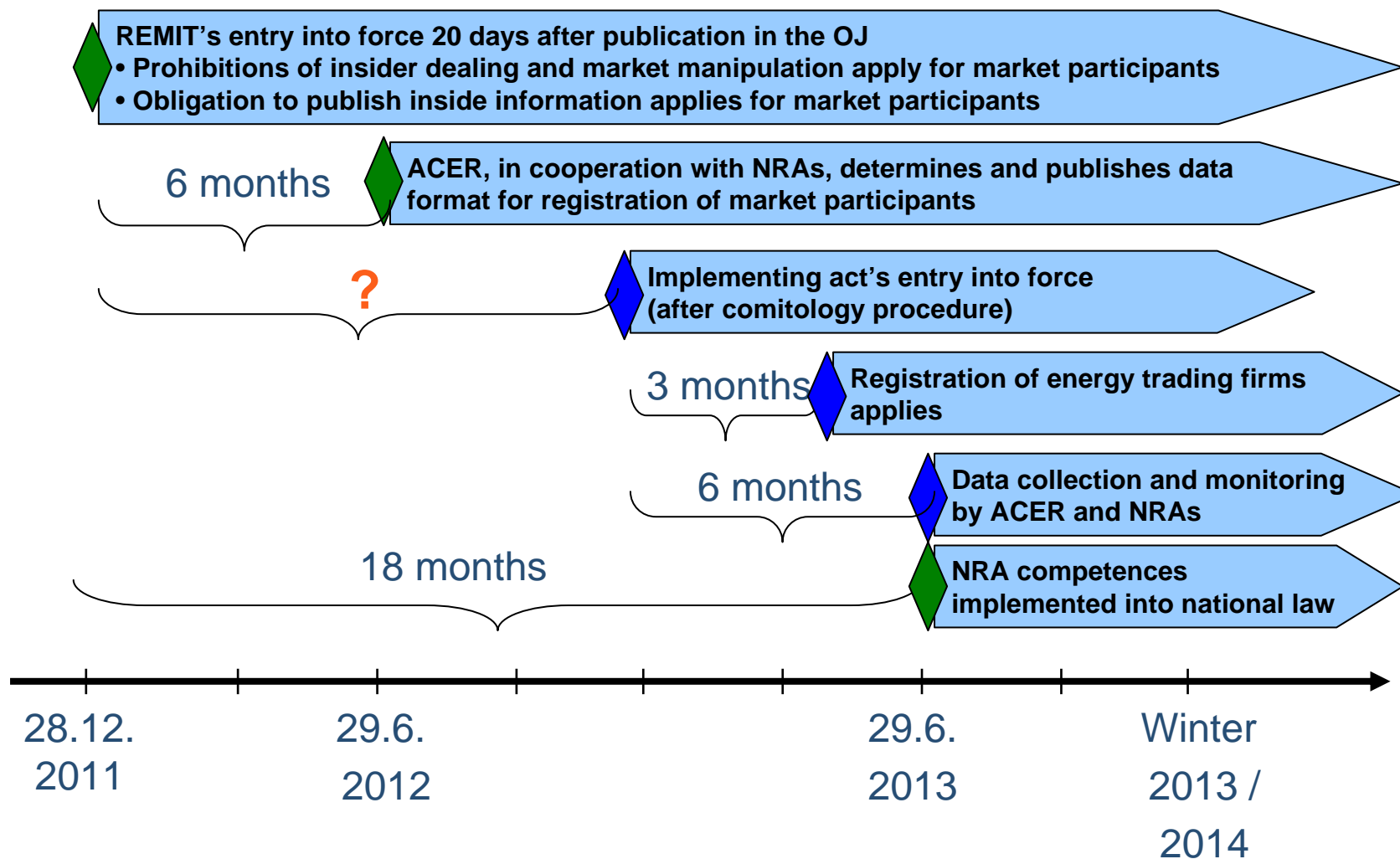
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# Data Reporting/Sharing according to REMIT

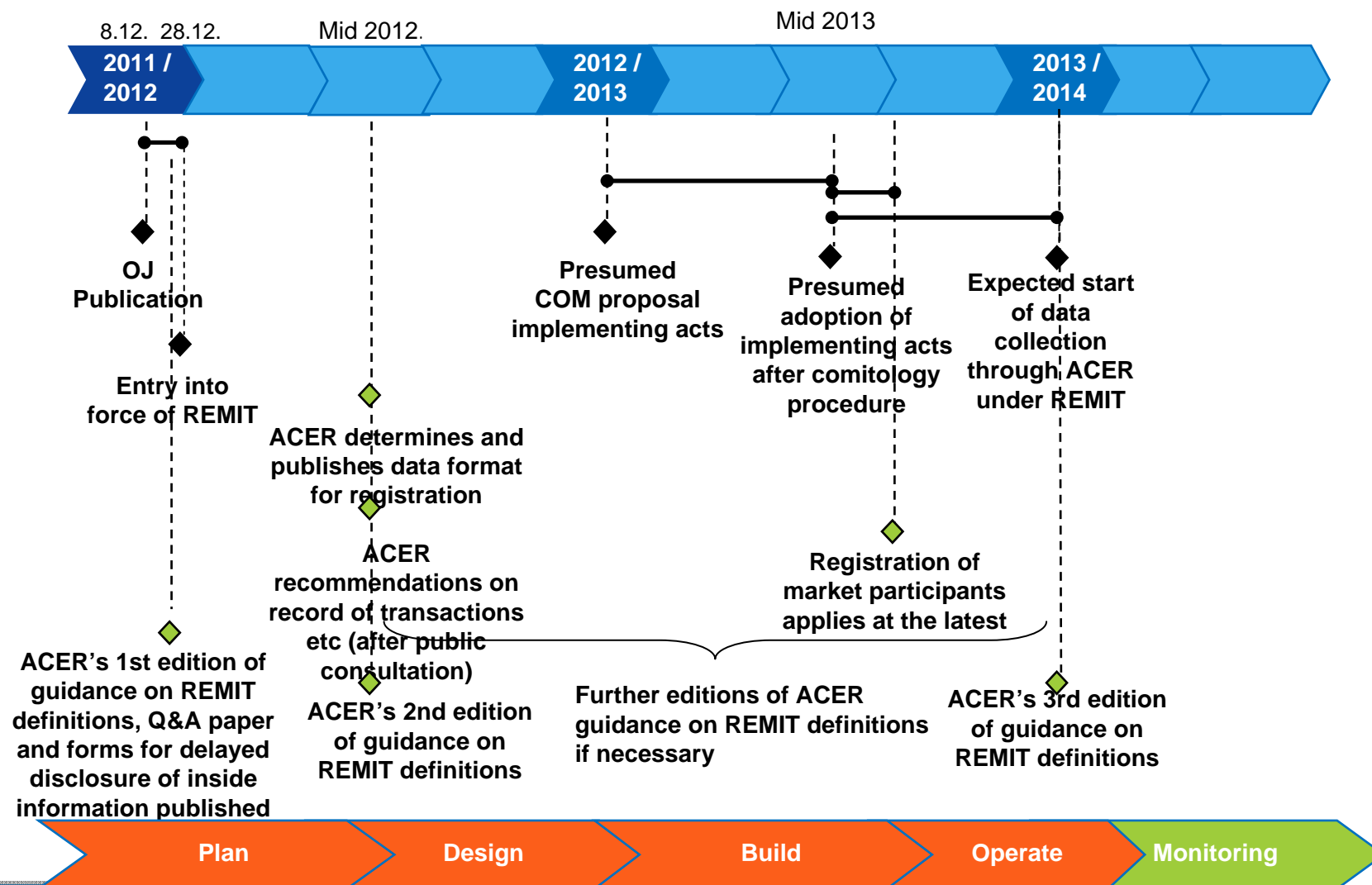


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# Time line of REMIT's entry into force



# REMIT milestones at EU level





## Current schedule for 2012

<b>Timetable of ACER tasks under REMIT</b>	
<b>REMIT Ad hoc Expert Groups</b>	
<b>27 April 2012</b>	<b>Deadline for applications for an Ad hoc REMIT implementation expert group and an Ad hoc REMIT market surveillance expert group</b>
<b>Registration of market participants</b>	
<b>18 April to 21 May 2012</b>	<b>Public consultation on Registration Format</b>
<b>3 May 2012</b>	<b>Public workshop on the Registration Format in Ljubljana</b>
<b>29 June 2012</b>	<b>ACER determines and publishes format for registration of market participants</b>
<b>Recommendations on record of transactions and implementing acts to the Commission</b>	
<b>June – July 2012</b>	<b>Public consultation on recommendations on records of transactions etc.</b> (Details to be published on ACER website and information through ACER newsletter)
<b>June-July 2012</b>	<b>Public workshop on Records of Transactions in Ljubljana</b> (Date: tbc)
<b>Sept 2012</b>	<b>Recommendations on Records of transactions to the European Commission</b>
<b>ACER guidance on the application of REMIT definitions</b>	
<b>Mid-2012</b>	<b>Second edition of ACER guidance on the application of REMIT definitions</b>

**Thank you for your attention!**



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