



Entering the Austrian market as an electricity trader

Information starter kit

February 2018

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To enter the Austrian electricity market as a trader, you must comply with two types of obligations: there are conditions that must be fulfilled before you can take up activities, and there are tasks you must continuously fulfil while carrying out your activities.

BEFORE TAKING UP ACTIVITIES

A) Join the balancing system

LEGAL BASIS

- > Sections 85, 86 and 87 [Elektrizitätswirtschafts- und -organisationsgesetz \(Electricity Act\) 2010](#)
- > [Provincial legislation](#) (in German)
- > [General terms and conditions of the imbalance settlement responsible](#) (in German)

DESCRIPTION

To trade in electricity in Austria, you must be part of a balance group. This membership guarantees your right to use the grid to physically transport your product to your wholesale and retail customers. Every balance group is represented by a balance responsible party (BRP) vis-à-vis the imbalance settlement responsible (ISR) and the control area operator (CAO).

You have two options:

- > **Option I:** get licensed as a balance responsible party yourself (i.e. form a new balance group) and register as an electricity trader and balance responsible party
- > **Option II:** get affiliated with an already existing balance group and then register as an electricity trader

Option I is more complicated, technically more difficult and more expensive than option II. On the other hand, you depend on a third-party BRP with option II and they gain some insight into your business activities (procurement channels, quantities, etc.). Please also note that existing balance responsible parties are not legally required to accept you into their balance group.

For option I, you have to register at least as a balance responsible party and possibly also as electricity supplier with the imbalance settlement responsible (ISR), and you must get a BRP licence from E-Control (cf. section 86(5) Electricity Act 2010 and the relevant provincial legislation).

STEPS TO TAKE FOR OPTION I: REGISTERING AS A BRP YOURSELF

You need to get a BRP licence from us. Licensing conditions depend on the applicable provincial legislation, so we recommend that you familiarise yourself not just with sections 86 et seq. Electricity Act 2010 but also with the relevant provincial rules. These may be different for each federal province. We also suggest that you contact us via [e-mail](#) or telephone (+43 1 24724 0) already when preparing your application.

To get a BRP licence from us, you must first register as a balance responsible party with the imbalance settlement responsible and with the control area operator. You should contact them as early as possible to prepare for registering.

Registering with the ISR

[APCS](#) is the imbalance settlement responsible for the Austrian electricity market (i.e. the APG control area). You will need to send them at least the following documents:

- > a recent extract from the *Firmenbuch* (commercial register)
- > a SEPA business-to-business direct debit mandate
- > annual reports for the past two business years
- > the balance group's forecast total annual energy transaction volume
- > the required collateral
- > the BRP contract, signed by a company representative, and several forms

The ISR will check whether your application is complete and formally correct and will enter you into the database. It will forward your annual reports and your extract from the commercial register to Oesterreichische Kontrollbank AG for a due diligence analysis which will then be used to calculate the required collateral. You also have to run data tests, proving that you fulfil the system requirements.

To download the forms and for further information about registration, please visit the [website](#) of the imbalance settlement responsible (in German). The general terms and conditions of the imbalance settlement responsible contain an annex about risk management and the necessary collateral, which also explains the process. You can also contact the imbalance settlement responsible via [e-mail](#). Staff members will be happy to assist you with your registration.

If all the conditions for your registration as a balance responsible party are fulfilled, the ISR will send you your "Green Card" and a copy of your countersigned BRP contract. The imbalance settlement responsible will forward your data to APG, the control area operator.

Registering with the CAO

Once the ISR has forwarded your data, you can arrange for testing with the CAO, [APG](#) (+43 50320 53220).

To register with the CAO, you must

- > run a test to prove that you can transmit external schedules
- > return your signed data transmission contract

For more information, please visit the [CAO's website](#). When registration is complete, the CAO will send you a countersigned copy of your data transmission contract.

Obtaining a license from E-Control

To give you a BRP license, we need the following documents from you:

- I. The BRP and data transmission contracts you have concluded with the ISR and with the CAO. These enable you to fulfil your tasks and duties as a BRP in Austria, in particular those of an administrative and commercial type.
- II. Your *Zulassungsantrag* (licensing application). You can download the form from [our website](#) (in German).
- III. If you are applying as a legal person, a recent extract from the *Firmenbuch* (commercial register); if you are applying as a natural person, a certificate of principal residence.
- IV. Proof that you fulfil the requirements and that none of the grounds for exclusion are present. If you are applying as a legal person, this must also be proven for all members of the company's representative body. For this purpose, you have to submit several [declarations](#) (in German) and extracts from the register of previous convictions.
- V. Proof that at least one member of the representative body, one general partner or a senior staff member is technically qualified to act as a BRP. We consider someone to be technically qualified if he or she has adequate theoretical knowledge and practical experience with electricity trading or with managing an electricity business, especially a trader, producer or system operator. Please submit extensive CVs and diplomas, etc.
- VI. Proof that you have a liable equity capital of at least 50,000 EUR for performing BRP activities. (Please note that the contracts under point I might require you to have more capital, but that these are two separate issues.) For this purpose, you need to submit your most recent, audited annual accounts and a copy of your bank guarantee to APCS.

If your company seat or residence is outside of Austria, you must appoint someone who resides in Austria and is authorised to accept service of documents. You have to name this person on the application form and must submit a [declaration of consent](#) signed by that person (in German).

Please send all documents and queries via [e-mail](#).

Once we have checked all documents, the E-Control Executive Board issues an official licensing decision and we inform the ISR and the CAO. For technical reasons in the APCS system, your market entry will become effective on the first day of a month.

CHECK LIST

Become a balance responsible party yourself	WD*
Registration with APCS (including transmission of documents) and entry into APCS database	1**
Due diligence analysis by Oesterreichische Kontrollbank AG	7-14
<ul style="list-style-type: none"> > Receipt of BRP contract and information about required security deposits > Return BRP contract to APCS > Transfer security deposits to Oesterreichische Kontrollbank AG > Arrange SEPA direct debit mandate 	14-21
Registration and data test with APCS	1-7
Coordination between APCS and Oesterreichische Kontrollbank AG, followed by receipt of Green Card and BRP contract***	at least 1
Registration (including data tests) with APG	1-7
Licensing decision by E-Control (after complete clearance by APCS and APG and receipt of all necessary documents)	14****
Average total time (may be shorter than sum of working days because some processes overlap)	45

*WD = average/observed number of working days for reference

** Provided that the documents sent to the ISR were complete and correctly filled out

*** Provided that all security deposits have been made

**** Please note that strictly speaking, the law allows for a two-month time frame for the regulatory authority to decide.

GOOD TO KNOW

We cannot tell you how long licensing will take in your case, as it heavily depends on how quickly you submit the necessary documents. The average durations in the table are meant as a general orientation. They do not include the time you need to correctly fill in all documents and send them to the ISR, the CAO and to us.

In strictly legal terms, E-Control has two months to take a licensing decision. This period starts once we have received all the necessary documents, and which documents exactly are needed is laid down in provincial legislation. Which set of provincial laws applies depends on your principal residence (for natural persons) or seat (for legal persons). If these are not in Austria, what counts is the principal residence or seat of the person authorised to receive documents on your behalf.

To speed up your licensing process, you should take several steps at the same time. It also pays to contact the ISR, the CAO and E-Control before you start the process.

STEPS TO TAKE FOR OPTION II: JOINING AN EXISTING BALANCE GROUP

Joining an existing balance group is relatively easy and quick. You do not need a BRP licence from E-Control for it. Instead, an existing balance responsible party manages your balance group for you. You will need to conclude a contract with the BRP to fix your membership; these contracts are based on the general terms and conditions for balance responsible parties. There is a list of companies that offer balance group management services on [our website](#) (in German). For technical reasons in the APCS system, your market entry will become effective on the first day of a month.

CHECK LIST

Join an existing balance group	WD*
Negotiate your contract with the BRP of your choice	10
Average total time	10

*WD = Average/observed number of working days for reference

GOOD TO KNOW

We cannot tell you how long it will take for you to join an existing balance group, since progress mainly depends on how quickly you agree with your BRP of choice.

B) Inform the provincial government

LEGAL BASIS

- > [Provincial legislation](#) (in German)

DESCRIPTION

Regardless of which BRP option you have chosen (s. above), you must notify the provincial governments of all Austrian provinces where you want to operate. Exceptions are the provinces of Lower Austria, Burgenland, Salzburg and Tyrol, where notification is not necessary at the moment.

CHECK LIST

Inform the provincial government	WD*
Check provincial legislation	0.2
Notify the provincial government(s) of your activities	0.1
Average total time	0.3

*WD = average/observed number of working days for reference

GOOD TO KNOW

First, you need to find out whether informing the provincial government is mandatory in the provinces where you plan to be active. If so, you must notify them. You should do this via registered letter.

C) Book cross-border capacity (import & export)

LEGAL BASIS

- > [Regulation \(EC\) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity](#)
- > [Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity](#)
- > [Commission Regulation \(EU\) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management](#)
- > [Commission Regulation \(EU\) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation](#)
- > [E-Control approvals](#) of terms and methodologies under Regulation (EU) 2015/1222 and Regulation (EU) 2016/1719 (in German)
- > [Chapter 3 of the electricity market code](#)

DESCRIPTION

To sell or buy electricity across borders, your BRP must submit so-called external schedules to the control area operator. The data formats to use, the procedures to follow and the deadlines to keep are laid down in chapter 3 of the electricity market code.

Cross-border interconnections in Europe are not designed to transport electricity across the Union to the extent requested by the market. When market players demand more interconnection capacity than there is, the borders become congested. Capacity at congested borders is auctioned to market players. Your BRP must participate in these auctions to get the capacity you need for your cross-border operations. The border between Austria and Germany was not congested previously, neither for annual or monthly nor for daily capacity. Since 1 October 2018, capacity is auctioned at this border also.

When capacity auctions are held, we speak of “explicit” capacity allocation. Regulation (EU) 2016/1719 prescribes this as the default procedure for long-term (i.e. monthly and annual) capacity. “Implicit allocation” (also called “market coupling”) means that trades at the power exchange are for both energy and capacity, i.e. it is not necessary to purchase capacity separately. Regulation (EU) 2015/1222 foresees that all day-ahead and intraday capacity in Europe should eventually be allocated through implicit procedures. In Austria, this is in place only for day-ahead capacity at the borders with

Italy and with Slovenia so far, and for day-ahead and intraday capacity at the border with Germany (since 1 October 2018).

At the moment, capacity auctions are organised by different transmission system operators, power exchanges or the Joint Allocation Office (JAO), depending on the border.

STEPS TO TAKE

To participate in an auction, you must register with the body that organises it. APG provides a [table of the borders and bodies](#).

The rules for external schedules also differ depending on the border and type of capacity (annual, daily, day-ahead, intraday). There are some useful tables with links to the relevant rules on the [APG website](#). For information on the ENTSO-E Scheduling System (ESS), please visit the [ENTSO-E website](#).

CHECK LIST

Book cross-border capacity

Get information about capacity auctions, rules and dates at relevant border(s)

Register with body in charge of auctions

GOOD TO KNOW

Registration procedures and the time required to complete them vary considerably depending on the border and body in charge.

D) Register as a REMIT market participant

LEGAL BASIS

- > Articles 8(1) and 9(1) [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency \(REMIT\)](#)
- > [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](#)
- > [Guidance on the application of REMIT by the Agency for the Cooperation of Energy Regulators](#)
- > The [Großhandelsdatenverordnung \(Ordinance on Wholesale Data Collection\)](#) (in German)

DESCRIPTION

REMIT is the EU regulation on wholesale energy market integrity and transparency. It was adopted in 2011 to promote transparent and well-functioning electricity and gas markets in the EU. REMIT does not regulate the supply or production of electricity, but instead complements the work of the Financial Market Authority: it focuses on trade in wholesale energy products, i.e. in contracts for supplying or transporting electricity or gas or their derivatives. To prevent market manipulation and insider trading, REMIT imposes extensive transparency obligations on market participants.

Under REMIT, you need to report certain data to the Agency for the Cooperation of Energy Regulators. The European Commission's Implementing Regulation 1348/2014 states what data exactly these are and how you must report them.

In addition, wholesale markets are monitored at national level. E-Control has certain powers for this purpose and can impose sanctions (s. the Austrian Electricity Act 2010 and the E-Control Act). We also collect data at national level, i.e. you as a market participant must report some data to the Agency and to E Control and keep others on record for five years (cf. the Ordinance on Wholesale Data Collection).

Before you can start reporting, you must register with the regulator of the member state where your seat or principal residence is (cf. Article 9(1) REMIT). If these are not inside the European Union, you have to register in the member state where you conclude contracts that have to be reported to the Agency according to Article 8(1) REMIT.

STEPS TO TAKE

To register as a REMIT market participant, please visit our [website](#).

If you have any questions or queries about REMIT registration, please contact us via [e-mail](#).

CHECK LIST

Register as a REMIT market participant	WD*
Register through the NRS	At least 5
Activate REMIT registration and submit registration data	
Complete the five-part REMIT registration form	At least 5
Accept Agency code	
Average total time (may be shorter than sum of working days because some processes overlap)	5

*WD = Average/observed number of working days for reference

E) Technical documentation and data exchange at www.ebutilities.at

LEGAL BASIS

- > [Chapter 5 of the electricity market code](#) and its explanatory notes

DESCRIPTION

The website [ebUtilities](http://www.ebutilities.at) (in German) is a joint endeavour by the Austrian electricity industry association, the natural gas and district heat association and the association of Austrian power plants. It provides information about the processes, data formats and modalities for standardised data exchange that are used in Austria. The website runs under chapter 5 of the electricity market code, which enables market player associations to jointly agree technical documentation. If all market partners were involved, all deadlines were kept and the proper consultations have taken place, the documents published on ebUtilities become binding.

STEPS TO TAKE

Seeing that you will need to comply with the documents published on [ebUtilities](http://www.ebutilities.at) (in German), we strongly recommend that you register with the website. This will enable you to stay up to date and participate in consultations.

The explanatory notes for chapter 5 of the electricity market code list three options for how you can exchange data with other market players:

- > Integration into your own IT systems;
- > Contracting an IT service provider; or
- > Using the ISR's self storage service.

The basic version of the data exchange software package is free of charge for you. For details about potential add-on costs, support packages and the contracts that you will need (licence, support, IT services), please consult the explanatory notes on chapter 5 of the electricity market code.

CHECK LIST

Register with ebUtilities

Read the information at [ebUtilities](http://www.ebutilities.at) (in German)

Register as a market partner at [ebUtilities](http://www.ebutilities.at) (in German)

Decide which data exchange option you want to use

Conclude the necessary contracts

Implement the business processes, data formats and data exchange

GOOD TO KNOW

How long it takes you to implement these data exchange processes strongly depends on how many processes you need, what your current IT infrastructure looks like and which data exchange option you choose. We suggest that you get involved when the technical documentation at ebUtilities is revised and make your voice heard in the consultations that are conducted.

F) Sign up for information e-mails by E-Control

LEGAL BASIS

- > [General Data Protection Regulation \(Regulation \(EU\) 2016/679\)](#)

DESCRIPTION

E-Control tailors its information services to the interests of subscribers; through our website, you can choose what kind of e-mails to receive.

STEPS TO TAKE

To keep on top of developments and to make sure that you are informed e.g. when E-Control consultations take place, we suggest that you sign up for the e-mail information service by E-control through our [website](#).

CHECK LIST

Sign up for information e-mails by E-Control	
Subscribe through our website and indicate what information you would like to receive	5 min

GOOD TO KNOW

You will only be informed about consultations if you subscribe to this service.

WHILE BEING ACTIVE

G) Continuous reporting

LEGAL BASIS

- > **Monitoring:** the [Elektrizitäts-Monitoring-Verordnung \(Electricity Monitoring Ordinance\)](#), FLG II no 403/2017, and its explanatory notes, issued pursuant to section 88(2) *Elektrizitätswirtschafts- und --organisationsgesetz* (Electricity Act) 2010 (in German)
- > **Statistics:** the [Elektrizitätsstatistikverordnung \(Electricity Statistics Ordinance\) 2016](#), FLG II no 17/2016, and its explanatory notes, both issued pursuant to section 92 Electricity Act 2010 (in German)
- > **Energy intervention measures:** the [Elektrizitäts-Energielenkungsdaten-Verordnung \(Electricity Intervention Data Ordinance\) 2017](#), FLG II no 415/2016, and its explanatory notes, both issued pursuant to section 15 *Energielenkungsgesetz* (Energy Intervention Powers Act) 2012 (in German)

DESCRIPTION

If you trade in electricity, supply consumers or are a balance responsible party, you must send certain data to us. However, please note that legally, reporting is your own responsibility and you have to send data without being prompted.

Normally, we ask all market participants (in particular electricity traders, suppliers and BRPs) to comply with reporting obligations when they become licensed. If you do not have to report at this time (for instance because you are not actually active at the time) but become active later, you must promptly start to report then.

STEPS TO TAKE

Once you have registered and are licensed in Austria, we will likely contact you and ask you to submit data. The survey forms you will need to fill in are available from [our website](#) (in German).

Please note that section 88(2) eliminates the need for you to send data to your provincial government(s), starting with data for 2017. Instead, you report to us and we forward the information as appropriate.

Also, we have designed our forms so that they serve electricity statistics, crisis preparedness and monitoring purposes; this way, you have to submit each data item once only instead of having to enter data for each purpose separately (and possibly several times).

CHECK LIST

Continuous reporting

Wait for us to prompt you

If you start up your business during the year: check what data you must report to us

GOOD TO KNOW

Reporting can be more or less of an effort depending on your business activities (i.e. how much data you need to report) and depending on whether or not you have automated data collection.

H) Ongoing REMIT duties

LEGAL BASIS

- > Articles 4, 8(1) and 9(1) [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency \(REMIT\)](#)
- > [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](#)
- > Section 10a [Elektrizitätswirtschafts- und -organisationsgesetz \(Electricity Act\) 2010](#)
- > Section 25a(2) [Energie-Control-Gesetz \(E-Control Act\)](#)
- > The [Großhandelsdatenverordnung \(Ordinance on Wholesale Data Collection\)](#) (in German)

DESCRIPTION

As a market participant according to REMIT, you have to comply with reporting and publishing obligations. Mainly

- > you must publish inside information (Article 4 REMIT);
- > you must report transaction data (Article 8 REMIT);
- > you must report inside information to E-Control (section 10a Electricity Act 2010); this is not necessary if you publish inside information on a [platform accepted by ACER](#)

STEPS TO TAKE

Fulfilling your reporting and publishing obligations is your own responsibility. Please consult our [website](#) for details about REMIT rules. In particular, these pages explain which energy wholesale products are subject to REMIT and/or the Ordinance on Wholesale Data Collection and which undertakings are market participants under REMIT.

For any questions or queries on REMIT, please contact us via [e-mail](#).

CHECK LIST

Ongoing REMIT duties

Publish inside information...

...and report that inside information to E-Control at the same time (unless you already published through an ACER-accredited platform)

Report transaction data under REMIT

Report transaction data under the Ordinance on Wholesale Data Collection

GOOD TO KNOW

REMIT can mean more or less of an effort depending on how extensive your business activities are and on whether or not you have automated data flows.

ANNEX: LEGAL BASIS

This document contains links to non-binding English versions of a variety of legal texts. The document and links are provided for the reader's convenience only and in no way constitute a legally binding document. E-Control assumes no liability or responsibility whatsoever for the accuracy, correctness or completeness of the text in this document or the linked ones or any parts thereof. For a legally binding version of the texts, please refer to the relevant issues of the *Bundesgesetzblatt* (Federal Law Gazette).

BASIC LEGAL FRAMEWORK

The *Elektrizitätswirtschafts- und -organisationsgesetz* (Electricity Act) 2010 and the *Energie-Control-Gesetz* (E-Control Act) form the main legal framework for activities in the Austrian electricity market.

- > Electricity Act 2010 (in [English](#) and in [German](#))
- > E-Control Act (in [English](#) and in [German](#))

LEGAL REFERENCES RELATING TO PARTICULAR TOPICS

Depending on the topics you are interested in, you might want to look at the following legislation:

- > [Regulation \(EC\) No 714/2009 on conditions for access to the network for cross-border exchanges in electricity](#)
- > [Commission Regulation \(EU\) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management](#)
- > [Commission Regulation \(EU\) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation](#)

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- > [Regulation \(EU\) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency \(REMIT\)](#)
 - > [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](#)
 - > [Guidance on the application of REMIT by the Agency for the Cooperation of Energy Regulators](#)
 - > [*Großhandelsdatenverordnung* \(Ordinance on Wholesale Data Collection\)](#) (and explanatory notes (in German))
 - > [Regulation \(EU\) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC \(General Data Protection Regulation\)](#)
 - > [*Elektrizitätsstatistikverordnung* \(Electricity Statistics Ordinance\) 2016](#) and its explanatory notes (in German)
 - > The [*Elektrizitäts-Energielenkungsdaten-Verordnung* \(Electricity Intervention Data Ordinance\) 2017](#) and its explanatory notes (in German)
 - > Chapters 3 and 5 of the electricity market code (in [English](#) and [German](#))
 - > The [general terms and conditions for imbalance settlement responsables](#) (in German)