



## *REMIT and improved financial market oversight*

Prohibitions, constraints and  
opportunities for market participants.  
What remains to be done?

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# Energy trading: regulatory framework

## *Financial Market regulation*

- **MiFID / MiFIR – Ground rules *COM proposal Oct 2011***
- **EMIR - OTC clearing and reporting *Political Agreement Mar 2012***
- **MAD / MAR – Prohibits market abuse *COM proposal Oct 2011***

## *REMIT – Regulation for Wholesale Energy Market Integrity & Transparency*

- **Market abuse rules for energy markets**
- **Transaction reporting obligation**
- **Registration of market participants**
- ***Entered into force 28 December 2011***



## ***Obligations of market participants***

### ***REMIT prohibits:***

- insider trading (Art 3 REMIT) and market manipulation (Art 5 REMIT) on wholesale energy markets
- This prohibition does not apply to wholesale energy products that are financial instruments and fall under MAD/MAR

***ACER has published non binding guidance on the application of definitions (Art 16 REMIT)***

***Special responsibility of "persons professionally organising transactions" to monitor for breaches***



## ***Obligation to publish inside information (Art 4 REMIT)***

- Information has to be published in a way that is easy to find!
- Transparency platform where available
- Using message services of market operators – e.g. Nordpool

## ***What information is to be published?***

- Draft Comitology Guidelines on fundamental Electricity Data Transparency a good indicator for information to be published in electricity
- No equivalent guideline in gas Important to make own assessment of likely price impacts

# MAD and MAR

## *Aim of the update*

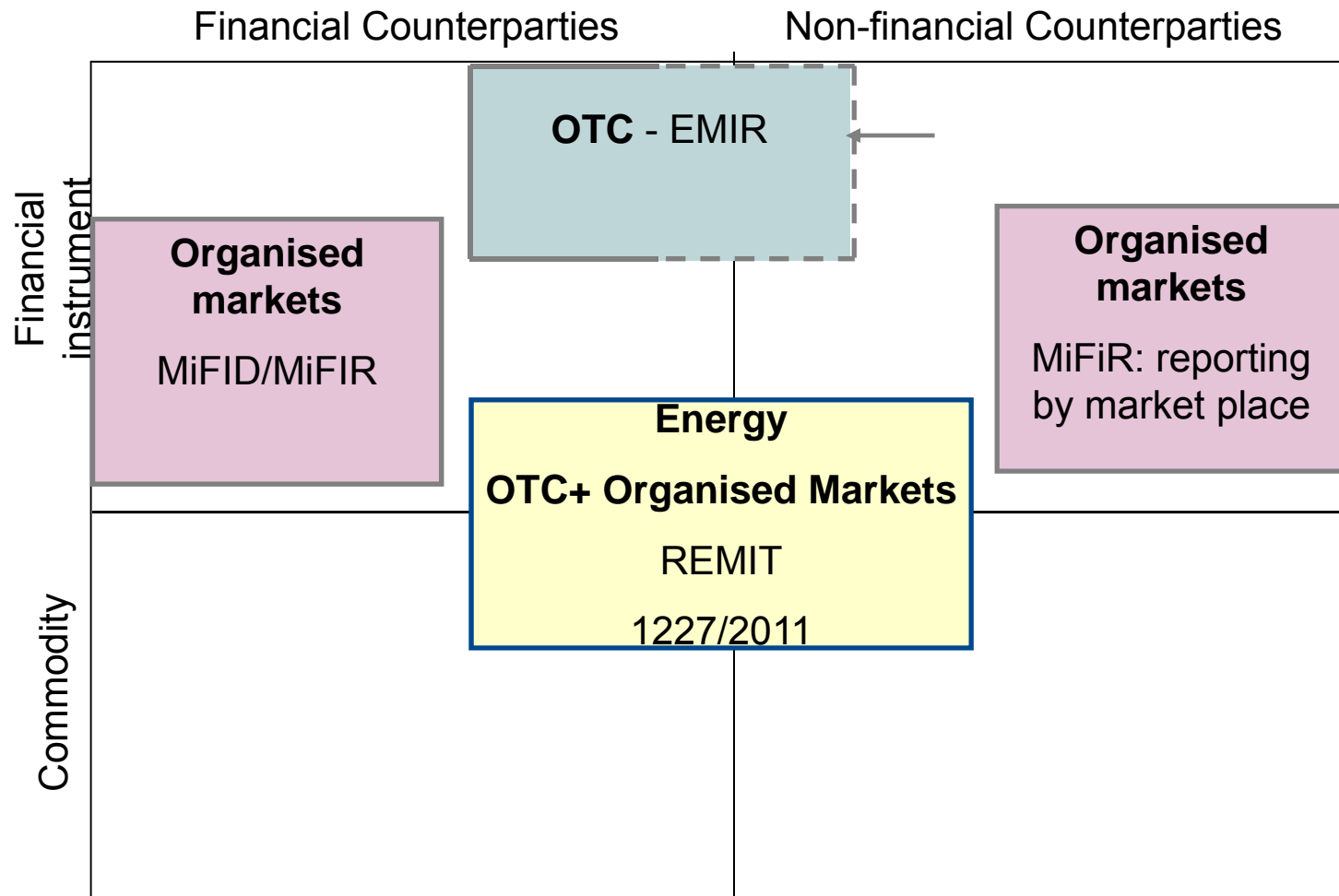
- **Ensure better coverage of products and markets**
- **Applies to all financial instruments**
- **Consistent and strong sanctioning regime**

## *Interaction with REMIT*

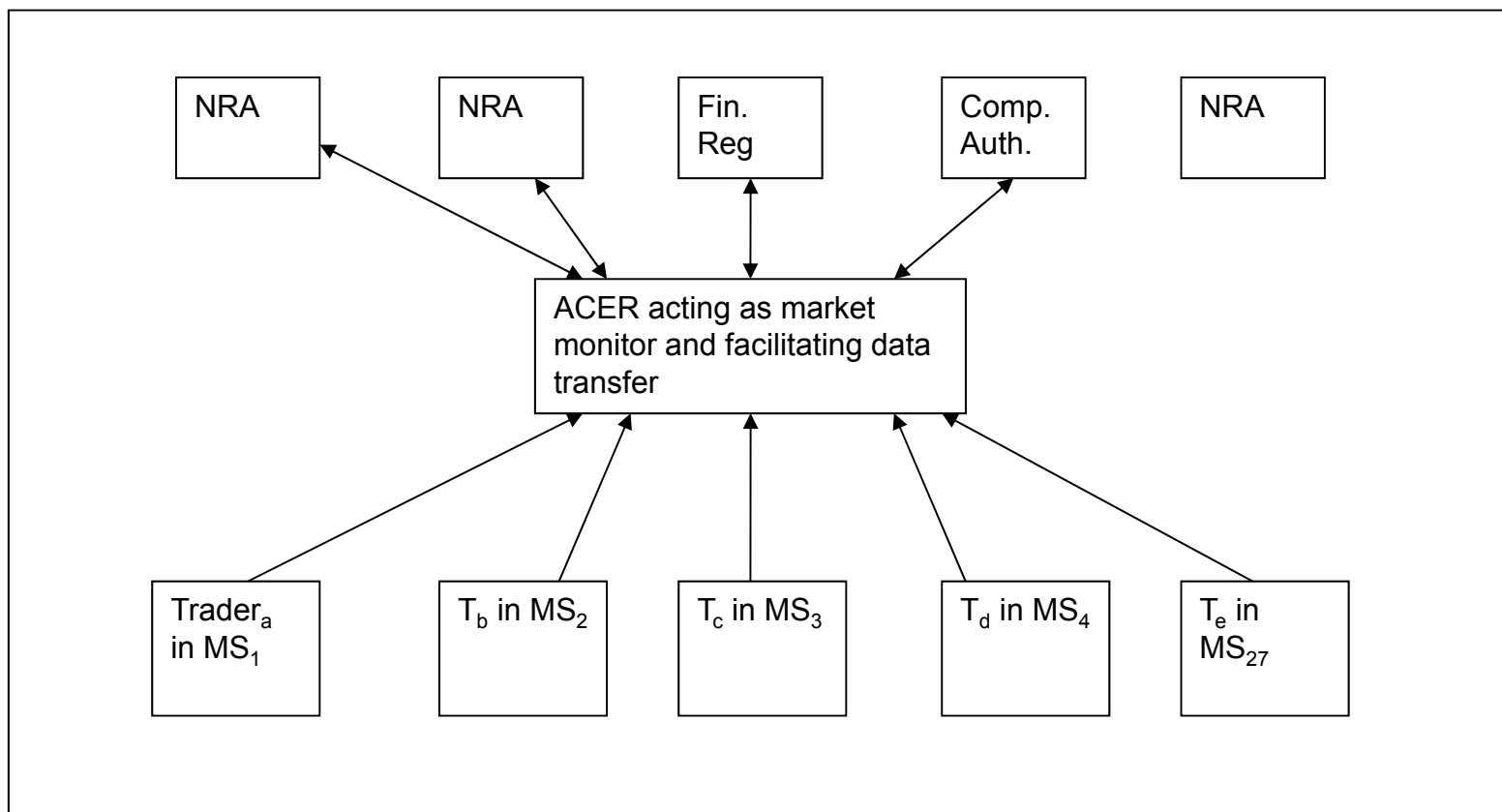
- **Obligation on Financial Regulators cooperate with ACER and energy regulators**
- **Financial Regulators to consider definitions in REMIT when applying MAR to energy derivatives**

## *On-going negotiations in EP and Council*

ACER	NRAs
<p>Shall monitor all trading activities in wholesale energy products to detect and prevent trading based on inside information and market manipulation.</p>	<p>Shall cooperate at regional level and with the Agency in carrying out the monitoring of wholesale energy markets.</p> <p>May also monitor trading activity in wholesale energy products <u>at national level</u>, cooperation with ACER and other NRAs at regional level→to detect trading based on inside information and market manipulation</p>
<p>Shall have the power, where, inter alia on the basis of initial assessments or analysis, it suspects that there has been a breach of REMIT</p> <ul style="list-style-type: none"> <li>a) to request information from NRAs</li> <li>b) to request to commence an investigation and to take appropriate action if applicable</li> <li>c) establish and coordinate an investigatory group with concerned NRAs in case of cross-border impacts</li> </ul>	<p>Shall without delay inform the Agency in as specific a manner as possible where they have reasonable grounds to suspect that acts in breach of REMIT are being, or have been, carried out either in that MS or in another MS.</p>



# Facilitating data flows

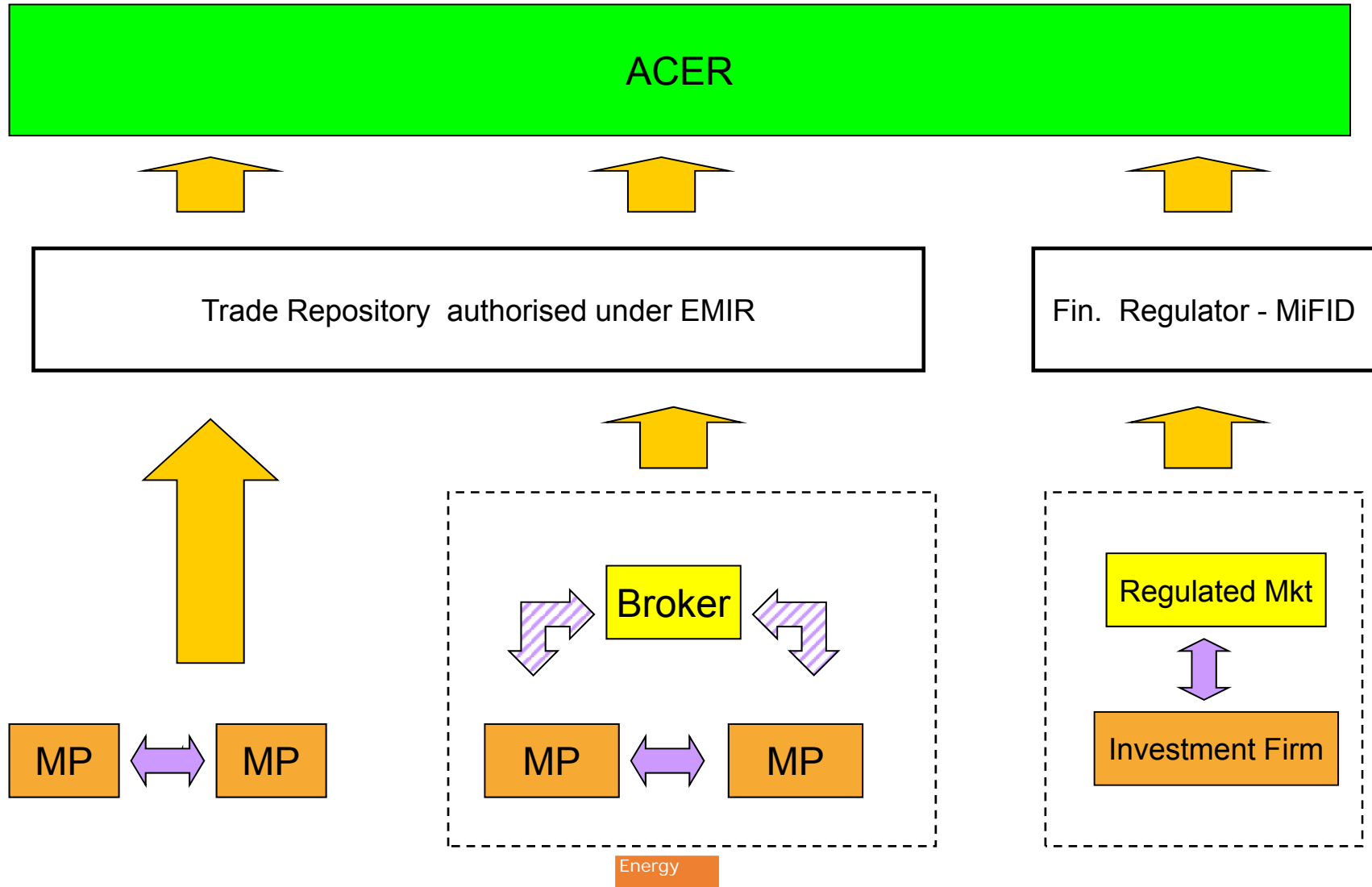




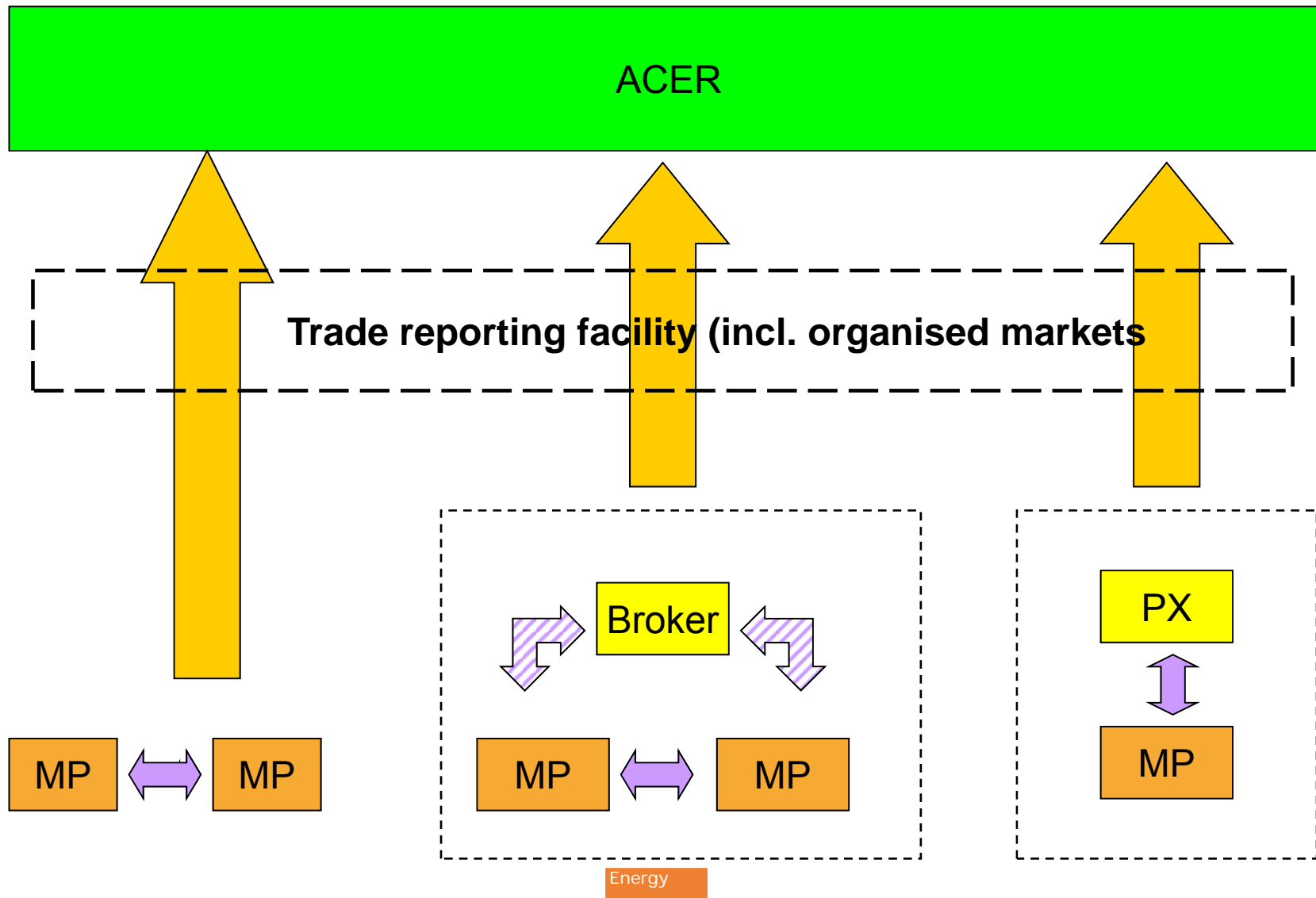
# Financial instruments



European Commission



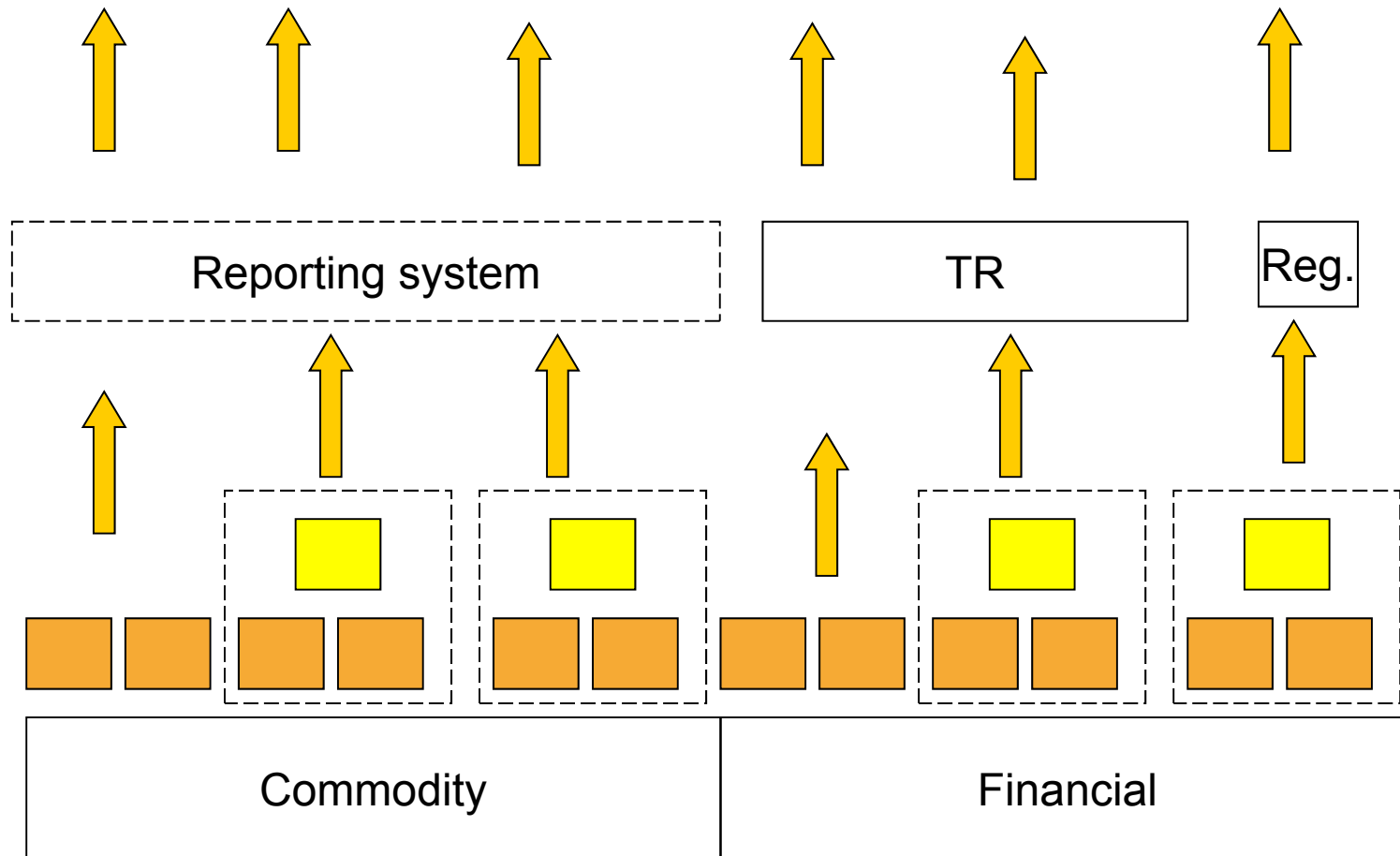
# Commodity trades





European Commission

# ACER



Energy



## *Commission implementing legislation to give effect to obligations*

- ACER consulting on advice on transaction reporting framework: closing date 31 July
- ESMA consulting on trade repositories - closing date 5 August
- Consultant's report delivered to Commission in June – likely to be part of future public consultation by Commission

## *ACER decision on registration format on 26 June 2012*

- Market participants only have to register once
- National regulators cannot require local registration



# MiFID / MiFIR – review and update

*Aims to improve efficiency and oversight of markets*

## *Directive (MiFID)*

- *Definitions and exemptions; obligations of investment firms; role of regulators; third country rules*

## *Regulation (MIFIR)*

- *Transparency rules; reporting obligations; requirements to trade on exchanges; position limits*

*Ongoing negotiations in Council and EP based on Commission's October 2011 proposals:*



# MiFID(R) and energy trading

*Expansion of definition of financial instrument*

- **ETS certificates (including spot trading)**
- **Commodity derivative traded over OTFs**

*Changes in exemptions Art 2(1)(i) where activity is ancillary to main business*

- **Trading on own account**
- **Providing investment services to clients main business**

*Commission to develop criteria for to define ancillary*

- **risk management and related to capital employed**



# EMIR and role of ESMA

*New clearing obligation applies to all financial firms plus other market participants who reach a clearing threshold*

- **Trading to reduce commercial risk does not count towards clearing threshold**
- **Threshold to be made binding in Commission delgated act based on advice of ESMA**

*ESMA has established commodity derivative task force*

- **To monitor and analyse all regulatory and industry developments relevant for commodity financial markets**





Thank you for your attention!



Energy