

9th Meeting of the REMIT Expert Group on wholesale energy market trading

Wednesday, 22 January 2020 from **10:30 to 16:00**

Premises of the premises of the ACER, Trg republike, 1000 Ljubljana, Slovenia

Minutes
(Chatham house rules)

ACER			
Volker	Zuleger	ACER	Chair
Martin	Godfried	ACER	
Aleksandra	Zgorzak	ACER	
Michal	Miko	ACER	
Antonio	Santos	ACER	
Marketa	Stuchlikova	ACER	
Patrick	Luickx	ACER	
Natalie	Krank	ACER	
Experts			
Volinka	Augustenborg	Ørsted	
Camilla	Berg	Nord Pool	
Christine	Hillion	EDF	
Martina	Isola	CRE	
Giulia	Miguelles-Pereyra	ENI	
Karl-Peter	Horstmann	RWE/EFET	
Maria	Gerova	ENTSOG	
Jethro	Van Hardeveld	ICE Endex	
Bernhard	Walter	EnBW	

1. Opening

The meeting was opened by the Chair, who welcomed the Experts. The minutes of the last meeting were approved without any changes. The draft agenda was approved as mirrored below.

2. Recent issues

The Chair provided an update on recent developments with regard to REMIT since the last Expert Group meeting.

The Agency updated the Experts on the appointment of Mr Christian Zinglensen as the new Director of the Agency. It provided information on the new validation rules for REMIT reporting and took questions on the use of IIC codes. The Agency also briefly followed-up on the evaluation of the public consultation on the definition of inside information which the Agency launched from 17 July to 16 September 2019.

The Agency provided a short presentation on the topic of Publication of inside information - completeness and data quality. The discussion included questions to Experts related II in the context of the use of: CEREMP, UMMs, thresholds for publication information published on the ENTSO-E platform, as well as data downloadability and back-up solutions.

3. Up-date on the Chapter 5 of ACER Guidance (definition of Inside Information)

Representatives of the Agency's Market Surveillance and Conduct Department of ACER presented the updated version of Chapter 5 of ACER Guidance. Five Experts had submitted their comments on the first draft prior to the meeting. Total number of comments received was 42, accepted comments 14, partially accepted comments 19 and not accepted comments 9.

ACER explained the main changes of the updated version compared to the first draft shared with the Experts. These changes include e.g. eleven new examples explaining several concepts used in the updated version.

The updated version specifies: (i) in more details differences between information under REMIT and inside information; (ii) wording explaining the inside information contains four distinct sub-chapters for every criteria of inside information; (iii) update of reference from MAD to MAR and deletion of two disclaimers.

The updated version includes a reference to the MP's internal compliance rules and clear distinction between *ex-ante* assessment and *ex-post* verification of significant price impact. More guidance on Recital 12 of REMIT was also inserted.

Experts expressed their concerns about e.g. (i) ACER's recommendation to have the internal compliance rules to assess the inside information and their content; (ii) wording of the examples describing the realistic prospect, intermediate steps and significant price impact; and (iii) use of the financial case law to the energy markets.

Experts were asked to provide their written comments **by 31 January (Friday)**.

4. Q&A session – publishing of Inside Information

The Q&A session was postponed to the next Expert Group meeting. The Experts agreed to also provide some comments to the questions in writing **before the 28 January (Tuesday)**.

5. Expert comments on the Guidance - update covering Capacity Withholding

Representatives of the Agency's Market Surveillance and Conduct Department of ACER presented the 4th Edition of the Guidance on REMIT, with the up-date concerning the Capacity Withholding (4th Edition (Published: 15/10/2019) for comments from Experts.

The Experts raised concerns on the recoverability of fixed cost under ACER's Guidance. Reference was made to the message at the EMIT Forum, where high prices reflecting scarcity are a good market outcome and that the ACER Guidance is meant to capture the situations where prices are not the result of scarcity but of market manipulation by means of withholding.

A discussion followed referring to the fact that the 4th paragraph of the ACER Guidance only applies once it has been established that capacity withholding took place. Several hypothetical examples were raised.

6. The use of algorithmic trading in energy markets – is there a need to tackle it under REMIT?

The agenda point was postponed to the next Expert Group meeting.

The Experts were asked to prepare the answers to the questions presented in a slide on the topic.

7. REMIT fees

ACER provided an oral up-date on the state of play with the introduction of fees in REMIT reporting as of 2021.

The Experts provided their inputs, both in a form of two concept papers on the principles and methodology of the fee collection, and orally.

The attention was given by Experts on the principles to govern the fee collection by ACER, with the emphasis on the non-discrimination, proportionality and simplicity. The basis for fee calculation was discussed, with suggestion that the method of calculation should be based on the amount of records (trades), i.e. based on the 'traffic' (and thus costs) that the reporting parties factually generate for ARIS. Experts pointed to a study, according to which 50% of MPs perform less than 30 transactions per year.

A fixed fee was not supported by the Expert, rather a mixed methodology between the number of transactions and the number of MPs should be considered.

Important points were made on the liability of actors for non-payment, as well as transparency of the method of fee calculation from the EC and ACER – what exactly the fee will offer. That way, unfair competition and cost reduction by the RRM to the detriment of the MPs can be prevented.

The Experts raised the issue of IT tool, allowing the MPs to follow how much fee would be charged, which are already incumbent with some of the Experts' companies.

Experts agree that simplicity and proportionality principles may sometimes be mutually exclusive; simplicity should then prevail.

The topic will be revisited at the next Expert Group meeting.

8. AOB

The Chair closed the meeting.

The next Expert group meeting was scheduled for 3 March 2020 (Tuesday), at the ACER premises in Ljubljana.