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Memorandum of Understanding

**between the Agency for the Cooperation of Energy
Regulators and [name of the organised market place]**

concerning

**cooperation on market monitoring under Regulation
(EU) No. 1227/2011 of the European Parliament and of
the Council on wholesale energy market integrity and
transparency (REMIT)**

THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS (THE AGENCY) AND [name of the organised market place],

Whereas

1. On 8 December 2011, the EU adopted new stringent rules on wholesale energy trading. Regulation (EU) No. 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (REMIT) introduces a sector-specific framework for the monitoring of wholesale energy markets, with the objective of detecting and deterring market manipulation and trading based on inside information.
2. According to Article 7(1) of REMIT, the Agency shall monitor trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation.
3. Recital 18 of REMIT provides that the Agency may for its part establish strong links with major organised market places.
4. Organised market places for electricity and natural gas across Europe have market monitoring experts to monitor trading activities and to ensure that trading is in conformity of laws, regulations and market conduct rules set up by the market place.
5. The most expedient way to define the scope and practical terms of implementing the cooperation foreseen in REMIT between the Agency and major organised market places is a Memorandum of Understanding (MoU),

HAVE REACHED THE FOLLOWING UNDERSTANDING:

Article 1

General principles and scope

1. Without prejudice to the provisions set forth by EU legislation, and where applicable the national legislation, the purpose of this MoU is to establish strong links between the Agency and [name of the organised market place] (hereinafter referred to as “organised market place”) in order to promote a general framework for cooperation between market monitoring experts from the organised market place and from the Agency in monitoring wholesale energy markets.
2. The purpose of this MoU is to set out the content and procedures for cooperation that the Agency and the organised market place intend to implement. This MoU is not intended to replace existing legislation. Nothing in this MoU is intended to restrict, extend or alter the powers, functions or duties of the Agency, the organised market place or other competent authorities.

Article 2

Cooperation on wholesale energy market monitoring principles and practices

1. The Agency and the organised market place consider that it is in their common interest to closely cooperate in exchanging views and experiences on wholesale energy market monitoring principles and practices, including new developments with relevance for the monitoring of wholesale energy markets.
2. In order to promote a consistent Europe-wide market monitoring approach, market monitoring experts from the Agency and the organised market place will share general principles and best practices regarding market monitoring.
3. Market monitoring experts from the Agency, from NRAs and from organised market places will meet at least twice a year with the aim of exchanging experiences and discussing current issues and new developments of mutual interest with respect to wholesale energy market monitoring. Topics of particular interest for such meetings may include matters such as developments in trading conduct and market practices, experiences from concluded disciplinary matters, developments in market rules.

Market monitoring experts from the Agency, NRAs and organised market places will mutually agree on the particulars regarding the frequency and the organisation of such meetings in order to set them up in the most efficient way. Where appropriate, officials from national financial authorities and other relevant authorities may be invited to participate in such meetings.

The meetings mentioned in this paragraph will take place under the Chatham House Rule. Information may not be revealed to the general public or non-attendees, except where it regards directly involved staff that operate under the applicable secrecy rules of the Agency, NRA, other competent authority or organised market.

4. The cooperation between the Agency and the organised market place is without prejudice to the obligations of organised market places vis-à-vis NRAs and other competent authorities under national or European law and vis-à-vis their clients under the applicable market rules. Furthermore, the cooperation will take into consideration the available resources within each organised market place.

Article 3

Ad hoc requests for information and clarification

1. The Agency, when assessing and monitoring wholesale energy markets in accordance with Article 7(1) of REMIT, may request information and clarification from market surveillance experts at the organised market place in relation to their market data.
2. Market surveillance experts at the organised market place, when monitoring wholesale energy markets under REMIT, may seek information and clarification from the Agency concerning the Agency's understanding of the application of REMIT.
3. To the extent permitted by Union and national law, the Agency and the organised market place shall take all reasonable steps to provide the information or clarification sought.

Article 4

General procedures for the cooperation

1. The Agency and the organised market place will each nominate a list of liaison officer(s) and/or set up an email address for the purposes of cooperation undertaken under this MoU.
2. Depending on the subject matter, the Agency and concerned liaison officer(s) will determine the most efficient way of contact.

Article 5

Professional secrecy

Non-public information exchanged between the Agency and the organised market place, within the scope of this MoU, is subject to professional secrecy and shall be used exclusively for the purposes of exercising the respective powers within the boundaries of REMIT. This exchange of information is without prejudice to the obligations of the organised market place under national law.

Article 6

Publication

The Agency and the organised market place agree to publish this MoU.

Article 7

Amendments to the MoU

The Agency and the the organised market place may by common consent make amendments they consider necessary.

Article 8

Entry into effect and termination

1. This MoU shall enter into effect on the date of its signing.
2. This MoU shall apply for an unlimited period of time and may be terminated by any of the signatories at any time by giving written notice with a notice period of 30 days.

Drawn up in duplicate in Ljubljana on [...] 2013

For the Agency

For [name of the organised market place]

Alberto Pototschnig
Director

[...]
[...]



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