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1st Ad hoc Expert Group Meeting on REMIT Implementation Measures

28 June 2012, 11:00 to 16:00

CEER Premises, Rue le Titien 28, Brussels 1000

DRAFT MINUTES (V1)

(Chatham house rules, no names basis in quotes)

Regulators			
Volker	Zuleger	ACER	Co-Chair ACER Ad hoc expert group
Luca	Lo Schiavo	ACER	
Wilhelm	Suessenbacher	E-Control (Austria)	
Ross	MacDonald	E-Control (Austria)	
Kate	Murphy	OFGEM (UK)	
Alasdair	Yuille	OFGEM (UK)	
Experts			
Amrik	Bal	Shell Energy Europe Ltd	
Camilla	Berg	Nord Pool Spot	
Mark	Dalton	BG Group	
Michel	Gadaleta	JP Morgan	
Karl-Peter	Horstmann	RWE Supply & Trading	
Daniela	Nigro	Endesa SA	
Fabrizio	Rinaldi	Edison Trading SpA	
Jean-Michel	Salagnac	EDF	
Barry	Shackleton	ExxonMobil Gas & Power Marketing	
Daniel	Wragge	European Energy Exchange (EEX)	

1 Opening

The Chair introduced the participants of the meeting and handed over to José Braz, the Chair of the ACER Market Integrity and Transparency Working Group, who welcomed the experts by phone by highlighting the importance and challenges of the REMIT implementation as well as the relevance of stakeholder input on the REMIT implementation. He thanked the experts for their willingness to participate in the Ad hoc expert group and looked forward to the discussions and the

advice from the Ad hoc expert group during the REMIT implementation process before handing back to the Chair.

2 Work of the Ad hoc Expert Group

The Chair explained the expectations from regulators and working procedures of the Ad hoc expert group. It was explained that minutes will be made to reflect the discussions of the meetings and published on the ACER website.

The Chair reminded that the goal of the expert group is for experts to advise ACER on REMIT implementation measures, currently in particular on the ACER Recommendations on the REMIT records of transactions and implementing acts and on the update of the ACER guidance on the application of REMIT definitions.

Participants welcomed the approach identified by the Chair.

3 Discussion of Draft ACER Recommendations on REMIT Records of Transactions and Implementing Acts

The Chair presented the Agency's public consultation document launched on 21 June 2012 summarising the content of the document and invited for some initial feed-back on the document.

Participants welcomed the approach to further define certain terms relevant for the application of REMIT, but would have welcomed further definitions, e.g. on the notion of relevant markets, final customer. The Chair referred to the discussion on the preparation of the 2nd edition of the ACER Guidance where the Agency's understanding on these definitions will be given.

Participants discussed into more detail the proposed concepts of Registered Reporting Mechanism for the reporting of transactions, including orders to trade, and of Regulated Information Services. It was clarified that in principle, Regulated Information Services should not only report inside information on behalf of the market participant to the Agency, but should also act as platforms for the disclosure of inside information. The experts considered a lack of platforms for the disclosure of inside information and invited the Agency to develop a discussion paper on this subject. The Chair announced to consider the preparation of such discussion paper already for the public workshop on 19 July 2012 in Ljubljana where both the public consultation document as well as the issues currently foreseen for the 2nd edition of the ACER guidance on REMIT definitions will be presented. The public consultation on the ACER Recommendations is running until 31 July 2012. The Agency is planning to provide its final ACER Recommendations to the Commission end-September 2012.

4 Discussion of preparation of 2nd edition of ACER Guidance on the Application of REMIT definitions

The Chair presented the issues currently foreseen for the 2nd edition of the ACER guidance, namely the review of the current understanding of market abuse definitions in the 1st edition of the ACER guidance, the increase of scope of the ACER guidance to definitions of "market participant" and "wholesale energy product" and the considerations to even further increase the scope of the ACER guidance beyond the application of REMIT definitions according to Article 2 of REMIT taking recourse to the possibility to issue ACER recommendations to NRAs according to Article 4(b) of Regulation (EC) No 713/2009. In view of the discussion on agenda item 3, the Chair announced to

add guidance on the applications of the definitions of “wholesale energy market” and the understanding on the application of final customer in the context of “wholesale energy product”.

Participants discussed into more detail some gas specific issues foreseen for the 2nd edition of the ACER Guidance, in particular the possibility to introduce an indicative threshold for the disclosure of inside information in the wholesale gas market and the qualification of LNG System Operators (LSOs) and Storage System Operators (SSOs) as market participants according to Article 2(7) of REMIT. On the former issue, participants doubted the possibility of a EU-wide threshold in view of existing market differences, but considered bottom-up approaches like from Gassco to consult market participants on thresholds applying to their infrastructure a sensible way forward to take into account. On the latter issue, it was elaborated whether LSOs and SSOs qualify as market participants. One expert stressed that SSOs may indeed be entering into transactions in wholesale energy products. In addition, participants considered particularly information on storage as information which would be likely to significantly affect the prices of wholesale energy products that should be made public in the same way than other inside information. It was briefly discussed whether it could also be the shippers using the storage system and clearly being market participants who should disclose inside information on the storage system instead of the SSOs, which would however mean that the information were available to the shippers. It was, however, highlighted by several experts that LSOs and SSOs are explicitly mentioned as market participants in Article 3(4)(b) of REMIT and may therefore benefit from an exemption from the prohibition of insider trading and they therefore would consider it surprising to not consider LSOs and SSOs as market participants. The Chair welcomed the input from the experts and indicated to take discussions into account in the context of the drafting of the ACER guidance.

The issues of the 2nd edition of the ACER Guidance will be presented on 19 July 2012 at a public workshop in Ljubljana. The 2nd edition of the ACER Guidance is currently foreseen to be issued at the latest in September 2012.

5 AOB, next meetings

The next meeting was scheduled for 30 August 2012 in Ljubljana. An agenda will be circulated three weeks in advance of the meeting.



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