

III Energy Market Integrity and Transparency Forum

5-6 September 2019

CONCLUSIONS

1 day

Applying REMIT in an evolving regulatory landscape

The Forum appreciated ACER's initiative to *enhance the disclosure of inside information under REMIT and improve overall transparency in wholesale energy markets*. It supports the approach of promoting the use of platforms for an effective disclosure of inside information. It welcomed ACER's ongoing public consultation on the definition of inside information and encouraged ACER to provide further guidance on the application of the definition of inside information as a remaining major topic of REMIT implementation. Further consultation is desired.

When discussing *REMIT in the light of EU financial market legislation developments*, the Forum noted that REMIT, as a sector-specific regime, suits the electricity and gas physical markets much better than EU financial market legislation, as electricity and gas markets are substantially different from financial markets because of their underlying physical assets.

The Forum regretted the persistent resource limitations under which ACER has been working and called on the European institutions to ensure that ACER is provided with the appropriate financial and human resources in order to adequately fulfil its REMIT mandate. *Stakeholder expectations in the light of the potential introduction of REMIT fees* included improved Registered Reporting Mechanism (RRM) services and the publication of aggregated REMIT information by ACER in the interest of improving transparency of EU wholesale energy markets. The Forum participants look forward to the European Commission's public consultation on REMIT fees in order to provide their input and potential concerns.

Enforcing REMIT: cases, ambition, strategy and coordination

The Forum acknowledged the contribution of REMIT to foster confidence in wholesale energy prices. National Regulatory Authorities (NRAs) are strongly committed to investigate and enforce REMIT.

The Forum acknowledged the efforts NRAs and ACER put in the coordination of investigations and enforcement activities related to REMIT. The Forum furthermore stressed the need for NRAs and ACER further to ensure coordinated investigations and an effective enforcement of REMIT across the EU jurisdictions so to provide a level playing field in the application of REMIT. The Forum discussed the benefits of sharing more detailed information about settled cases.

Market conduct: Price spikes in wholesale power markets

When discussing *Price spikes in wholesale power markets: the perspective from REMIT*, the Forum took note of the positions of several actors regarding price spikes in wholesale power markets and concluded that price spikes can be the result of actual scarcity or of possible manipulation. In the former case, price spikes are an important and desirable outcome of a fair and competitive interplay between supply and demand, and contribute to generation adequacy. In the latter case, price spikes

should be monitored and assessed under REMIT on a case-by-case basis. The Forum (would) welcome further guidance from ACER regarding this matter.

2 day

Market surveillance

The Forum took note that ACER is performing European-wide monitoring since the last quarter of 2017 and is uniquely placed to perform surveillance on cross-border and cross-venue trading. ACER regularly shares alerts with the NRAs for follow-up investigations. The development of additional alerts for detecting abusive behaviour, as well as adapting to design changes of the rapidly evolving markets, requires resources that are currently not available to the Agency.

The Forum acquainted itself with the market surveillance performed by the U.S. Federal Energy Regulatory Commission (FERC) and took note of the significant gap in human resources for market surveillance at ACER when compared to FERC.

The Forum took note of several market developments that impact market surveillance in the EU. These developments include an increasing number of orders and transactions, an increasing fragmentation of information at trading places due to European Cross-Border Intraday (XBID) and Nominated Electricity Market Operators (NEMO) competition. This increases the importance of ACER's surveillance role, even though market surveillance by Organised Market Places (OMPs) remains key.

Market and market design developments impacting data collection and data quality

The Forum took note of FERC's data collection experience in the U.S. as a different kind of transaction reporting regime in energy markets. It appreciated ACER's pan-European central data collection regime and noted the increasing data volume collected by ACER, currently more than 3 million records on average per day. It appreciated the continuous effort from ACER, NRAs and reporting parties to improve data quality. The Forum acknowledged that data quality is an ongoing challenge for all parties, in particular regarding ongoing market developments and market design changes.

REMIT beyond

The Forum took note of the geographical application of REMIT beyond the Union and the scope of application of REMIT vis-à-vis EU financial market legislation. It appreciated the close cooperation between ACER, NRAs and competent authorities, in particular with the European Securities and Markets Authority (ESMA), and encouraged them to continue to cooperate closely. The Forum supported a review of the REMIT legal framework in order to take due account of legislative developments, market developments, market design changes and new technological developments.