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**CONSOLIDATED ANNUAL ACTIVITY REPORT ('CAAR')**  
**OF**  
**THE AGENCY FOR THE COOPERATION OF ENERGY**  
**REGULATORS ('ACER')**

**2017**

**pursuant to FR No 966/2012, FFR No 1271/2013<sup>1</sup>**

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<sup>1</sup> Commission Delegated Regulation (EU) No 1271/2013 of 30 September 2013 on the framework financial regulation for the bodies referred to in Article 208 of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council.

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## ADMINISTRATIVE BOARD'S ANALYSIS AND ASSESSMENT

The Administrative Board examined the Agency's 2017 Annual Activity Report and considering that:

- policies and the operational achievements were strategically aligned;
- the report correctly identifies the challenges faced by the Agency in the completion of the internal energy market (IEM), including delivering the benefits to EU energy consumers;
- the Agency largely met its main objectives, despite the difficulties encountered due to resource constraints;
- the completion of the IEM and the monitoring of trading in EU wholesale energy markets remained at the heart of the Agency's objectives;
- in 2017 the Agency's key achievements were:
  - a) the publication of the Annual Market Monitoring Report on the remaining barriers to the Internal Energy Market;
  - b) the successful shift of the Agency's work to accompanying and monitoring the implementation of the already adopted network codes in electricity and gas.
  - c) the implementation of the regulation on wholesale energy market integrity and transparency (REMIT); 2017 being the first full year of implementation. As expected, the number of alerts triggered exceeded the capability of the Agency of assessing them due to the limited number of surveillance experts in the Agency; market monitoring thus remains an ongoing challenging area where the Agency is unable to deliver on its mandate due to its limited surveillance resources.
- the Agency made efficient use of resources in line with the activities developed in the 2017 work programme;
- key performance indicator targets were largely met, with the exception of a few communication indicators, and the commitment and payment appropriations indicators were implemented;
- the Director has provided a clear declaration of assurance;
- the risks threatening the achievement of key objectives were identified and mitigating measures taken, especially with respect to the resources necessary for the implementation of REMIT;
- The AB took note of the critical recommendation issued by the IAS in their audit on Human Resources Management and acknowledged that it had no financial impact. The Action Plan established by the Agency is adequate to mitigate the risks identified by the IAS. In order to mitigate the possible reputational exposure of the Agency, the AB will monitor the implementation of the measures foreseen in the Action Plan.

It concluded that:

The Agency successfully implemented the 2017 work programme and that the resources allocated to the activities described in the report were used for their intended purpose in accordance with sound financial management principles.

For the Administrative Board:

*(Signed)*

Dr Romana Jordan

*The Chair*

## INTRODUCTION - THE AGENCY IN BRIEF

The European Union Agency for the Cooperation of Energy Regulators (ACER) fosters a fully integrated and well-functioning Internal Energy Market, where electricity and gas are traded and supplied according to the highest integrity and transparency standards, and EU consumers benefit from a wider choice, fair prices and greater protection. For this purpose, the Agency works with European Institutions, National Regulatory Authorities of the Member States and stakeholders.

From an institutional point of view, the Agency is accountable to the discharge authority (the European Parliament) and works closely with the Directorate-General for Energy, its partner DG at the European Commission. The regularity of its accounts is subject to supervision by the European Court of Auditors.

The Agency was established as part of the new institutional framework defined by the Third Package to support the completion of the Internal Energy Market and to fill the regulatory gap emerging in this process due to the mainly national competences of NRAs. Therefore, in its initial period, the Agency focused its effort on tasks related to the development of common market and network operation rules - through the preparation of Framework Guidelines, the evaluation of the Network Codes drafted by the ENTSOs and, more recently, the promotion of their (early) implementation - and to the planning of the development of European energy networks - with its opinions on the TYNDPs. Since the Network Codes and Guidelines entered into force, the Agency has been monitoring their implementation and effects. This complements the more general monitoring of developments in the IEM, which the Agency has been performing since 2012, with the publication of annual Market Monitoring Reports.

New important responsibilities were assigned to the Agency at the end of 2011 by REMIT. REMIT aims at increasing transparency of wholesale energy markets and at promoting their integrity by introducing explicit prohibitions of market abusive behaviour and envisaging the establishment of a new, sector-specific, monitoring framework to detect and deter market manipulation and insider trading. In this respect, the Agency was tasked with collecting trade and fundamental data related to all wholesale energy market transactions, irrespective of where they are concluded (on organised markets, through other trading venues or over the counter) and of the type of product traded (for physical delivery or financial settlement), and to all orders to trade. It was also tasked with conducting an initial assessment and analysis of these transactions and orders to trade to identify suspicious events which are then notified to NRAs, responsible for investigations and enforcement.

The monitoring framework introduced by REMIT is unprecedented worldwide in terms of its geographical and product scope, and its implementation has posed a formidable challenge for the Agency, NRAs, market participants - which have to report trade data - and other stakeholders - responsible for reporting fundamental data.

Following the entry into force of the REMIT Implementing Acts on 7 January 2015, the new monitoring framework with its reporting obligations went live in October 2015.

With the information available, the Agency is set to detect instances of possible market manipulation, attempted market manipulation and trading based on inside information. However, the Agency's ability to do so depends on the availability of expert staff and financial resources, in an area - wholesale energy market monitoring - which is very different from the original focus of the Agency's activities (according to the Third Package).

In 2013, the TEN-E Regulation introduced a new framework for the development of critical energy infrastructure –PCIs –, foreseeing a role for the Agency in the process for identifying PCIs and in assisting NRAs in dealing with investment requests – including for cross-border cost allocation – submitted by PCI promoters. While the new tasks assigned to the Agency by the TEN-E Regulation are in an area – energy network development planning – on which the Agency had already been working on the basis of the provisions of the Third Package (e.g. the

opinions on the TYNDPs), these new tasks have added substantially to the workload of the Agency.

Finally, with the entry into force of the Network Codes and Guidelines envisaged, as secondary legislation, by the Third Package, the Agency was assigned additional important tasks and responsibilities in supporting the coordination of NRAs and the harmonisation of IEM rules, including by stepping in when NRAs are unable to reach an agreement on binding subsidiarity instruments.

This brief description of the developments in the legislative mandate of the Agency since its establishment – which has focused on the main pieces of relevant legislation – illustrates, on the one hand, the most important components of the current mission of the Agency and, on the other, how this mission has been significantly expanded over the last years, in some cases in new and “unexpected” areas, thus making the Agency still a “New Task” agency.

The Agency operates under a challenging and rapidly changing environment. Its mandate will again be modified once the legislative acts of the “Clean Energy for all Europeans” package will enter into force.

## FOREWORD BY THE DIRECTOR OF THE AGENCY

I am pleased to present the 2017 Annual Activity Report of the Agency for the Cooperation of Energy Regulators, which describes the activities performed by the Agency and the extent to which it met the objectives set out in its Work Programme. The regulatory part of the report is structured along the lines of the Agency's programming document in terms of activities and deliverables, while the administrative part and the related annexes contain the information the Agency is required to report in line with the template for the Consolidated Annual Activity Report for decentralised agencies.

The Agency's main regulatory achievements are listed in the statement by the Chair of the Board of Regulators (BoR) which follows this section. In order to avoid duplication, in this Foreword, I will focus on what I consider as the most noticeable accomplishments of the Agency in 2017, on the important challenges it faced and still faces, and on other important developments related to its activities during that year.

Let me start with the good news. The work of the Agency and of the other institutional and industry stakeholders over the past years is finally bringing tangible benefits to EU energy consumers! Electricity market coupling in the day-ahead timeframe is already delivering benefits in the order of € 1 billion per year, with more to be gained in the future – by the extension of market coupling to those borders where it is currently not yet applied and by making more cross-border capacity available for trading (see further down in this Foreword). The pilot projects for the cross-border integration of balancing markets are producing benefits close to € 700 million per year. It is expected that the full integration of the EU electricity balancing market along the lines set in the relevant Guideline might produce annual savings for EU energy consumers amounting to € 3 billion. In the gas sector, the full and efficient use of cross-border infrastructure can deliver gains of up to € 400 million per year. Finally, for the first time in many years, retail prices are falling for most residential and industry consumers across Europe.

Against this background of the Internal Energy Market delivering benefits, there are still important challenges facing the sector, many involving the Agency.

In the electricity sector, as part of the implementation of the Capacity Allocation and Congestion Management (CACM) Guideline, in 2017 the Agency was called to adopt five decisions on so-called "terms and conditions or methodologies", in those cases where National Regulatory Authorities (NRAs) fail to agree on them or upon their joint request. The decisions referred to the Agency are therefore the most critical or contentious ones, which require significant effort by the Agency in developing a solution which, while promoting the efficient and effective integration of the Internal Energy Market, can still be supported by the large majority of NRAs, as the Agency's proposals need to obtain the favourable opinion of the BoR. It is therefore clear that the adoption of all the electricity Network Codes and Guidelines and their entry into force does not imply that rule-making is complete. In fact, the four Guidelines adopted in the electricity sector – on CACM, on Forward Capacity Allocation, on System Operation and on Electricity Balancing – envisage close to 200 "terms and conditions or methodologies" to be approved at EU-wide or regional level, each of which could end up being referred to the Agency. These referrals represent a tremendous challenge for the Agency, not only for the complexity of the issues, but also because the Agency is not able to know in advance on which decisions it will be called to work and therefore has continuously to reprioritise its work in the electricity area and reallocate resources to meet the fierce (six-month) deadline for its decisions. Moreover, the responsibility for these decisions comes on top of the ongoing implementation and monitoring tasks, without the Agency being assigned any additional resource.

Also in 2017, the Agency continued to press for an increase in the amount of cross border capacity made available to trading, following its Recommendation in November 2016. The evidence provided in the 2017 Market Monitoring Report indicates that, the previous year, on average only half of the capacity which could safely have been made available for trading was



actually released to the market. The Agency follows closely the development of the proposal for capacity calculation methodologies to promote their adherence with the high-level principles contained in its Recommendation.

In the gas sector, while the Agency's monitoring shows that congestion at interconnection points is reducing, the Implementation Monitoring Report for the Gas Balancing Network Code highlighted that the wide optionality allowed by this Code is being used in a number of Member States to slow down the process of balancing market integration, by maintaining, as long as possible, the current balancing arrangements, which are often at odds with the intent of the Code.

In the infrastructure area, in 2017 the Agency delivered opinions on the drafts of the third regional lists of projects of common interest (PCIs). While the PCI selection process has significantly improved with respect to the previous rounds, the Agency found it challenging to assess the consistent application of the selection criteria and of the cost-benefit analysis across the region in the face of relevant information still missing or being of uncertain quality for many PCI candidates.

While the focus of the Agency has obviously remained on the EU Internal Energy Market, 2017 saw further steps being taken to promote the implementation of the EU's energy *acquis* beyond the EU borders. In 2017, the Energy Community Secretariat was granted access to the Agency's Electricity and Gas Working Groups. On 6 December 2017, an Administrative Arrangement was signed between the Agency and the Energy Regulatory Agency of Montenegro, allowing the latter to participate in the Agency's Electricity and Gas Working Groups as of January 2018. Finally, for the first time in 2017, the Agency's Market Monitoring Report also covered, in some areas, the Energy Community Contracting Parties, on the basis of data collected and analysed with the support of the Energy Community Secretariat.

The cooperation with the U.S. Federal Energy Regulatory Commission (FERC) continued in 2017; this is particularly valuable for the Agency, as many of the energy sector challenges are similar in Europe and the United States and there are therefore clear benefits in sharing practices with FERC.

As in previous years, REMIT implementation continued to represent a major challenge for the Agency. 2017 was the first full year of transaction data reporting. The Agency worked intensively on improving the quality of the reported data, with an open letter issued in February 2017. In the latter part of the year, the Agency started regularly to use its surveillance software automatically to screen the reported data. By the end of 2017, the Agency was able to employ six bespoke alerts, corresponding to as many types of market abuse, out of the 20 which the Agency believes would be required effectively to monitor energy trading in the EU. These alerts resulted in approximately 3000 anomalous instances per month being identified as potentially involving REMIT breaches. The Agency's monitoring approach envisages that, before such instances are notified to NRAs for investigation as suspected REMIT breaches, they are manually assessed by the Agency, to minimise the notification of "false positives". In fact, it is expected that most of the anomalous instances identified by the automatic screening involve legitimate, albeit unusual, behaviour. However, because of its very significant resource limitations, the Agency was only able to assess less than 1000 anomalous events per month, which were chosen using a set of prioritisation criteria. While, in setting the priorities for the manual assessment, the Agency aimed at maximising the effectiveness of its monitoring, there is no guarantee that some of the identified anomalous instances which do involve REMIT breaches are not further pursued. As a result of its manual assessment, in October 2017 the Agency started to notify suspected breaches of REMIT to NRAs, at a rate of 40-60 per month.

From this brief illustration of the Agency's monitoring of wholesale energy trading, it clearly emerges that more still needs to be done before such monitoring could be considered as adequately effective. In particular, more bespoke alerts would need to be used – which would likely result in the automatic screening identifying more anomalous instances. Then the Agency would have to be in a position to manually assess all identified anomalous events. However,

both the deployment of more alerts and the expansion of the assessment capability of the Agency require, as in other areas, a significant increase in resources, something that I have been requesting for many years.

As far as the administrative management of the Agency is concerned, the legality and consistency of the Agency's 2017 financial operations were confirmed by the European Court of Auditors that did not identify any critical issues in the way in which the Agency has been run. In 2017 the Agency also achieved all its budget implementation targets.

In 2017, the Internal Audit Service (IAS) performed an audit on the Human Resources Management (HRM) function of the Agency, in line with the Strategic Audit Plan for the period 2017-2019. The audit resulted in five recommendations, one of which was marked as critical. All recommendations were accepted by the Agency, which is working to implement them. However, while acknowledging that improvements could be introduced in HRM processes, the Agency disagrees with the IAS' interpretation of some of the findings which led to the critical recommendation and, in this respect, I am satisfied that no conflict of interest or suspicion of fraud emerged which would require me to express a reservation on the regularity and legality of the staff recruitment processes.

This is the last Annual Activity Report that I present as Director of the Agency since my term will expire on 15 September 2017, and this Foreword is somewhat longer than usual as I have taken the opportunity to highlight some of the unresolved challenges faced by the Agency in 2017. Addressing these challenges requires a step change in the resourcing of the Agency, possibly through the ability for it to charge fees for some of its activities – e.g. the reporting of trading information under REMIT or the regulatory oversight of EU-wide bodies, such as ENTSO-E, ENTSO-G and, in the future, the new EU DSO Entity.

I also take the opportunity of this Foreword to express my sincere gratitude to my colleagues in the Agency. Their effort, commitment and, in many cases, pure enthusiasm have allowed the Agency to deliver on an ambitious mandate despite the difficult conditions in which it is forced to operate. I am particularly grateful to the Heads of Department for their intellectual leadership of the teams and for increasingly contributing to the management of the Agency.

The significant amount of work which the Agency delivered in 2017, as in previous years, would have not been possible without the staunch support of the NRAs through their contributions to the Agency's Working Groups, and, at statutory level, in the Board of Regulators. The dynamics in the Board reflects the role of the Agency in supporting the cooperation of NRAs while introducing a clear European dimension. While characterised at times by franc and open exchanges, the constructive relation that the Board and I were able to develop and maintained was instrumental in the Agency successfully delivering on its mandate and I am concerned by some proposals for changing the relevant legal provision in the context of the recast of our founding Regulation: *if it ain't broke, don't fix it!*

In 2017 Lord Mogg concluded his term as Chair of the BoR. In leading the Board since the establishment of the Agency in 2010, he has played a key role in supporting the Agency development and positive performance. For me, he has also been a trusted partner in tackling the many challenges that the Agency has faced over these years and an invaluable advisor. I must therefore seize this opportunity sincerely to thank him for all that he has done for the Agency.

The Administrative Board, with members appointed by the Institutions, is in charge of ensuring that the Agency carries out its mission and performs the tasks assigned to it by legislation and I am grateful for their confidence in me and their support, especially at difficult times.

As in previous years, we involved stakeholders in much of what we do, through public consultations, workshops and other similar events and I would like to take this opportunity to commend them on their engagement, contribution and support.

I am also extremely grateful to the European Parliament, most notably its Committee on Industry, Research and Energy. They have been the Agency's closest ally over these years, and, in fact, already when the Third Energy Package was negotiated with the decision to establish the Agency. Their support, as representatives of the people of Europe, has been a great source of motivation and reward for me and, I guess, for many of my colleagues at the Agency.

I would also like to thank the Directorate-General for Energy of the European Commission for the very constructive cooperation at technical level, which has been instrumental in achieving many of the advances in the energy market integration process. It was also very rewarding to see the Commission proposing – in the “Clean Energy for all European “Package – an extension and reinforcement of the remit of the Agency, I believe a recognition of the good work done so far. In this respect, I am honoured by the continuous attention that the European Commission Vice President for the Energy Union, Maroš Šefčovič, and Commissioner for climate action and energy, Miguel Angel Arias Cañete, have afforded to the Agency and I trust we can count on their continued support as the Agency takes on new challenges within the framework of the Energy Union. It is only unfortunate that the Agency has not been able, over these years, to convince the Commission and the Budgetary Authority of the Agency's need for significant additional resources.

I sincerely hope that this problem will be addressed as soon as possible, also in view of the fact that the Agency is expected to take on new tasks and responsibilities in the framework of the legislation due to come into force on the basis of the “Clean Energy for all Europeans” Package, currently undergoing the adoption procedure.

It has been a great honour for me to have had the opportunity to serve as Director of the Agency since its establishment and during its first eight years of life, an opportunity for which I am extremely grateful. In many ways, the Agency is still a young organisation and I believe that some of the flexibility which we have been able to retain since the early days has allowed the Agency to deliver in a very challenging environment, while complying with all relevant legal provisions. There are many aspects of the way the Agency operates that could be more or better structured, and the next Director may attend to them, while safeguarding the intellectual rigour and honesty which, I believe, have characterised our work so far. In this respect, I wish the Agency, my colleagues and my successor all the best for a future in which they will likely be called to take on an even more challenging role.

Ljubljana, 15 June 2018

## PART I – REGULATORY ACHIEVEMENTS IN 2017<sup>2</sup>

### STATEMENT BY GARRETT BLANEY, CHAIR OF THE BOARD OF REGULATORS (BOR)

Effective functioning of the internal markets in electricity and natural gas across Europe, and its monitoring, remains at the heart of the Agency's objectives. Healthy markets are a core element of how we can deliver benefits to consumers, such as lower energy prices, more choice and innovation. The Agency continues to play a critical role in identifying the remaining barriers to competition at wholesale and retail level, and in actively monitoring the internal markets in electricity and natural gas. The contribution of the 28 national regulatory authorities (NRAs) in the Agency's Board of Regulators and Working Groups' structure is fundamental to the Agency's success and the achievement of our common objectives.

Adoption and implementation of Network Codes and Guidelines is vital in ensuring healthy markets across Europe. In 2017, we reached a critical milestone with the adoption of all Network Codes and Guidelines. This has resulted in the focus of the Agency to shift to accompanying and monitoring the implementation of the Network Codes and Guidelines. Network Code implementation requires active involvement of NRAs, the Agency, Transmission System Operators (TSOs), and the European Commission. In May 2017, the European Commission, the Agency, ENTSO-E and ENTSG organised a joint conference focussing on the main challenges in implementing Network Codes. In October 2017, the Network Code Implementation and Monitoring Group (NC IMG) was established, bringing the aforementioned parties together in a forum for high-level strategic coordination. The Agency facilitates stakeholder involvement in electricity Network Code and relevant Guideline implementation, through a stakeholder committee for each code family: connection, operations and market. The Gas Network Codes Functionality Platform (FUNC), co-established and co-managed by the Agency and ENTSG, provides stakeholders the possibility to raise and discuss issues concerning Gas Network Codes. The internal European market is becoming increasingly integrated and harmonised. Several third countries are also due to adopt and implement (some of) the Network Codes in their jurisdictions. The Agency therefore further strengthened cooperation between the Agency and the regulatory authorities in several third countries over the course of 2017.

The 6th joint ACER-CEER Market Monitoring Report (MMR), published in October 2017, analysed market performance in 2016. The MMR showed that electricity and gas retail prices generally fell in the EU for both household and industrial consumers. For electricity, this was the first registered decrease for households since 2008, thanks to the steady decline of electricity wholesale prices in recent years. However, there still are further opportunities to increase benefits for EU energy consumers, for example by making a larger share of the existing cross-border capacity available for trading. Market integration can be enhanced by continued and strengthened coordination between NRAs, TSOs, the Agency and the European Commission.

Another key objective of the Agency is increased integrity and transparency of wholesale energy markets: energy being traded according to the highest transparency and integrity standards, so that prices reflect the fundamentals of demand and supply. REMIT aims at establishing the conditions for this to happen. 2017 was the first full year of data collection following the core implementation of REMIT in 2016. Overall, REMIT has been successfully implemented and is operational.

Additionally, the Agency is assigned various tasks in the field of infrastructure development, which it continued to carry out over 2017. By way of example, the Agency published the annual consolidated report on the progress of projects of common interest, and adopted its Opinion

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<sup>2</sup> The independent section on regulatory activities as per Article 15(4) of Regulation (EC) No 713/2009.

on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions.

The Agency has overall delivered on its Work Programme, despite significant challenges on the resources available from the Budgetary Authority. Human resource and budget constraints at the Agency remained a major concern in 2017, posing risks of delays, a reprioritisation of objectives, and reducing the scope of some reports and opinions. The Agency has had a continued focus on cost efficiency, but has only mitigated some of the effects of the budget constraints. It is clear that any enhancement of the Agency's role will require a corresponding increase in its resources. It should be noted that the work the Agency has delivered, which is presented in this report, would not have been possible without the support from the NRAs through their contribution.

Indeed, looking ahead, European energy regulators and the Agency will face new challenges, not least given the new framework introduced by the Clean Energy Package (CEP) proposals. Regulators have been at the forefront of these discussions by contributing, as appropriate to the Institutional debate, as well as engaging in a dialogue with stakeholders on the key issues. To this end, the Agency and CEER together organised the joint conference 'Towards a Future-proofed EU Energy Market Design in January 2017'. The new framework, whilst not yet finalised, reflects an evolution of the electricity market design which, together with the implementation of the Network Codes and Guidelines, will provide for new responsibilities and challenges for the Agency in a number of areas. The transition to a low carbon and a digital society with increased RES and smart, flexible and responsive energy supply will pose numerous challenges for energy regulators. Significant challenges also revolve around finding the adequate bidding zone configuration, maximising available cross-border capacity, adequacy assessments and price signals, as well the governance and structure of ENTSOs and NEMOs. The stronger the integration of the markets, the greater the need for strengthening the cooperation of NRAs. The anticipation of the formalisation of the ACER Working Groups following the CEP adoption is a strong signal to this direction.

It is clear that much remains to be done in the coming years to achieve a well-functioning integrated energy market. I am confident that we will meet those challenges through enhanced collaboration. It is therefore an honour to have been elected as the new Chair of the Agency's Board of Regulators in September 2017, and to contribute to the ambitious goal of the Agency to deliver a truly integrated EU energy market that works for all European energy consumers.

Finally, I would like to use this opportunity to thank Lord Mogg for his leadership and outstanding efforts and achievements as the first Chair of the Board of Regulators since the establishment of the Agency in 2010. It is a pleasure and a privilege to be able to build on his accomplishments.

Ljubljana, 25 April 2018

## A. (POST-) COMPLETION OF THE INTERNAL ENERGY MARKET

### ELECTRICITY NETWORK CODES

The majority of the electricity network codes were already adopted and implemented or on their way to implementation in 2017. Therefore, the work of the Agency in that year shifted to accompanying and monitoring the implementation of these network codes. More specifically, during 2017, the Agency worked on the following deliverables:

<b>Task</b>	<b>Assistance to NRAs for the approval of the terms and conditions methodologies developed by TSOs, NEMOs or other entities pursuant the adopted Network Codes and relevant Guidelines</b>
Legal basis	To be established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222, this task is specified in Article 9(9) and (10).
Work Programme objective for 2017	The Agency aimed to provide a framework for the coordination of NRAs and to facilitate the reaching of an agreement among the involved NRAs on whether to approve, reject or require amendments to the proposed terms and conditions or methodologies.
Performance indicators and targets (deadlines)	Coordinated NRAs decisions on the proposed terms and conditions or methodologies within the deadlines specified by the relevant Network Codes and Guidelines. Timely delivery of any ACER's opinion/decision.
Achievement against target	All NRAs' decisions and, where relevant, Agency's decisions were delivered according to the legal timeline.

<b>Task</b>	<b>Coordination of implementation projects established pursuant to the Network Codes and relevant Guidelines and, where relevant, pursuant to the early implementation process</b>
Legal basis	Established pursuant to Network Codes and relevant Guidelines.
Work Programme objective for 2017	The Network Codes and Guidelines introduced numerous requirements and obligations for TSOs and other entities to fulfil requirements related to the integration of the electricity market. These requirements are to be fulfilled through concrete implementation projects which require coordination, monitoring and supervision from NRAs and the Agency.  Many terms and conditions or methodologies developed and approved by TSOs and NRAs are implemented through implementation projects. As many of these projects are essential for the completion of the Internal Energy Market, the Agency's involvement in these implementation projects is needed in order to ensure their timely completion.
Performance indicators and targets (deadlines)	Completion of specific implementation projects within the deadlines established by the adopted Network Codes and Guidelines.
Achievement against target	No delay so far in the implementation of the requirements pursuant to the adopted Network Codes and Guidelines.

<b>Task</b>	<b>Facilitation of stakeholder involvement pursuant to the adopted Network Codes and relevant Guidelines</b>
Legal basis	To be established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222 this task is specified in Article 11.
Work Programme objective for 2017	The Agency, in close cooperation with ENTSO-E, is obliged to organise stakeholder involvement with regard to the different aspects of the implementation and operation of the Network Codes and Guidelines. Involvement of stakeholders within the implementation process ensures wider acceptance of the changes introduced by the Network Codes and Guidelines, thus facilitating the completion of the Internal Energy Market.
Performance indicators and targets (deadlines)	The general level of stakeholder satisfaction and support to the implementation process of the Network Codes and Guidelines.
Achievement against target	<p>The Agency established dedicated stakeholder committees for several groups of Network Codes and Guidelines. The stakeholder committees were chaired by the Agency and involved EU stakeholder organisations with direct interest in these Network Codes and Guidelines.</p> <p>The Agency facilitated stakeholder involvement also through other means (consultations, responses to individual requests, dedicated meetings and workshops with stakeholders, etc.).</p>

<b>Task</b>	<b>Review of the requests for amendments to the adopted Network Codes and Guidelines from interested persons and, where appropriate, based on these requests or the Agency's own initiative, preparation of the amendment proposals for the European Commission</b>
Legal basis	Article 7 of Regulation (EC) No 714/2009.
Work Programme objective for 2017	By 2016 seven Network Codes and Guidelines were voted or adopted. Inevitably, some elements of these Network Codes and Guidelines might prove to be inadequate for the task at hand and need to be reviewed and amended. The Agency aimed to improve the requirements and procedures (both technical and governance) for faster implementation and better functioning of the Internal Energy Market.
Performance indicators and targets (deadlines)	General level of satisfaction and support of stakeholders and regulators to the proposed amendments of the Network Codes and Guidelines.
Achievement against target	In the framework of the Clean Energy for all Europeans Package, the Agency discussed with the European Commission some possible amendment proposals to the Network Codes and Guidelines in order to ensure more efficient implementation and functioning of the Internal Energy Market.

<b>Task</b>	<b>Performance of the specific obligations of the Agency pursuant the adopted Network Codes and Guidelines</b>
Legal basis	To be established pursuant to the Network Codes and relevant Guidelines.
Work Programme objective for 2017	<p>The Network Codes and Guidelines established numerous new obligations for the Agency. These obligations relate to transparency, reporting, facilitation of cooperation, monitoring, providing opinions and recommendations, etc.</p> <p>The Agency's specific obligations pursuant to Network Codes and Guidelines should be fulfilled in a timely manner, with the aim of improving transparency and reporting, facilitate cooperation, etc.</p>
Performance indicators and targets (deadlines)	Timely delivery of the obligations.
Achievement against target	<p>The Agency monitored the development of the Network Codes and Guidelines, as well as entities having obligations pursuant to the Network Codes and Guidelines (e.g. monitoring of NEMOs' progress in establishing and performing single day-ahead or intraday coupling and providing reports and recommendations to the European Commission pursuant to Article 7 of Regulation (EU) 2015/1222).</p> <p>The Agency invited ENTSO-E to draft the technical report on bidding zones.</p> <p>The European Commission was informed by the Agency when TSOs failed to submit terms and conditions or methodologies for approval by NRAs pursuant to the adopted Network Codes and relevant Guidelines.</p>

<b>Task</b>	<b>Preparation for and monitoring of the implementation of Network Codes and relevant Guidelines</b>
Legal basis	Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 7(2) of Regulation (EC) No 713/2009
Work Programme objective for 2017	<p>By the end of 2016, seven Network Codes and Guidelines in the areas of market, grid connection and system operation were voted or adopted. The Agency focused on the implementation and monitoring of the Network Codes and Guidelines, with the aim of identifying delays and barriers in the implementation and, if needed, propose mitigating measures in order to facilitate the well-functioning of the Internal Energy Market.</p> <p>Together with ENTSO-E, the Agency monitored the implementation of different requirements against the obligations specified in the Network Codes and Guidelines. To this end, the Agency:</p> <ol style="list-style-type: none"> <li>a. issues opinions on ENTSO-E's plans for the monitoring of the implementation of the adopted Network Codes and Guidelines;</li> <li>b. determines and potentially updates lists of relevant information to be communicated by ENTSO-E to the Agency for the purpose of its monitoring activities.</li> </ol>



Performance indicators and targets (deadlines)	<p>Delivery of the first implementation monitoring report for 2016 (Target date: Q4 2017) and timely delivery of any recommendations for sharing good practices.</p> <p>The timely delivery of the opinions on ENTSO-E's implementation monitoring plan, the lists of required information for monitoring of the implementation of the adopted Network Codes and Guidelines, and opinions and requirements on ENTSO-E's and other entities' reports related to implementation monitoring.</p>
Achievement against target	<p>The Agency published its <a href="#">first monitoring report of the Network Code on requirements for grid connection of generators</a> on 7 November 2017.</p> <p>On the same date, the Agency published its <a href="#">Opinion on ENTSO-E's monitoring plan for the Forward Capacity Allocation Guideline</a>.</p> <p>Finally, the Agency agreed with ENTSO-E a list of, and the process for the collection of the data required by the Agency to perform its monitoring activities.</p>

<b>Task</b>	<b>Monitoring of the effect of Network Codes and relevant Guidelines on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market</b>
Legal basis	Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 7(2) of Regulation (EC) No 713/2009.
Work Programme objective for 2017	<p>The Agency aimed to monitor the effect of different Network Codes and Guidelines on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market. The purpose of this monitoring was to identify which elements of the network codes serve the purpose and which elements would need to be improved in order better to facilitate the completion and efficient functioning of the Internal Energy Market.</p> <p>Specific objective: timely identification and reporting on barriers to market integration as well as on the effect of Network Codes and Guidelines on non-discrimination, effective competition and the efficient functioning of the market.</p>
Performance indicators and targets (deadlines)	Delivery of the first monitoring report for 2017 and timely delivery of any recommendations for sharing good practices.
Achievement against target	The Agency published its Annual Market Monitoring Report, which contains (in the Wholesale electricity chapter) an in-depth monitoring of the effect of the Network Codes implementation process.

## GAS NETWORK CODES

The gas Network Codes have gone through the full cycle of development and adoption, and are now in the process of implementation at national level and monitoring at European level. The focus in 2017 was on the Balancing Network Code, which is a complex code with various implementation options and which has an important impact on the functioning of the market.

<b>Task</b>	<b>Review of the requests for amendments to the adopted Network Codes from interested persons and, where appropriate, based on these requests or the Agency's own initiative, preparation of the amendment proposals for the European Commission; if appropriate amendment of the Transparency Annex</b>
Legal basis	Article 7 of Regulation (EC) No 715/2009
Work Programme objective for 2017	Collect/propose amendments to the legal text, where necessary. Create a framework to enable the Agency to collect sensible requests and ensure stakeholder involvement to the process.
Performance indicators and targets (deadlines)	Amendments, public consultations preceding amendments. As established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.
Achievement against target	No amendment requests received, no amendments proposed on own initiative.

<b>Task</b>	<b>(Early) implementation of the Network Code on Harmonised Transmission Tariff Structures and the amendment of the Network Code on Capacity Allocation Mechanisms regarding Incremental Capacity</b>
Legal basis	Tariff Network Code (Commission Regulation (EU) 2017/460) Capacity Allocation Mechanisms Network Code (Commission Regulation (EU) 2017/459)
Work Programme objective for 2017	Implement the first legal requirements, provide the groundwork for further implementation and support the endeavour for successful implementation. Ensure NRA involvement in the process and report on the progress made towards the full application of the provisions of these codes.
Performance indicators and targets (deadlines)	Early implementation reports. Q4/2016-Q1/2017 Guidelines, recommendations, opinions As established in the relevant regulations, yet to be adopted. Monitor publication requirements (Chapter VIII applies from 1 October 2017) Following up the Demand Assessment phase for the Incremental process, as amended by the Capacity Allocation Mechanisms Network Code.

	Revising the ENTSOG proposal on the new conversion mechanism, as proposed by the Capacity Allocation Mechanisms Network Code (June 2017).
Achievement against target	<p>Both the Capacity Allocation Mechanisms Network Code (<a href="#">CAM NC</a>) and the Harmonised Transmission Tariff Structures Network Code (<a href="#">TAR NC</a>) were published on 16 March 2017. In the case of CAM NC, the published code contained the amendments resulting from the Incremental Capacity process.</p> <p>Reporting on the preparations for and the status of implementation for the TAR NC.</p> <p>Creating Guidelines.</p> <p>The Agency prepared a <a href="#">Template for the periodic consultation on the reference price methodology</a> on 13 June.</p>

<b>Task</b>	<b>Implementation Monitoring Report for the Network Code on Capacity Allocation Mechanisms, Balancing, Interoperability and Data Exchange (with a focus on the elements that were not covered in the previous edition)</b>
Legal basis	Article 9 of (EC) Regulation (EC) No 715/2009
Work Programme objective for 2017	<p>Report on issues that were not implemented in a timely manner and addressed appropriately in the previous editions.</p> <p>Involve TSOs and NRAs in this process, in particular asking them to contribute to data collection. Provide practical recommendations in the implementation report.</p>
Performance indicators and targets (deadlines)	<p>Implementation monitoring report: Q3 or Q4/2017.</p> <p>Publishing two reports:</p> <p>Second ACER Report on the implementation of the Balancing Network Code with two volumes.</p> <p>First ACER Implementation Monitoring Report of the Network Code on Interoperability and Data Exchange.</p>
Achievement against target	<p>The Report on the implementation of the Balancing Network Code was published on 16 November 2017:</p> <p><a href="#">Volume I</a></p> <p><a href="#">Volume II</a></p> <p><a href="#">The Report on Interoperability and data exchange</a> was published on 4 December 2017.</p> <p>No implementation report on capacity issues was provided in 2017, given that overall good implementation of the Capacity Allocation Mechanisms Network Code emerged from the previous Implementation Monitoring Report. The Agency followed up informally the Booking Platform selection processes for the borders where no agreement was reached.</p>

<b>Task</b>	<b>Opinion(s), if sought by NRAs, on within-day obligations and continuous revision of the annual reports on interim measures according to the Network Code on Balancing</b>
Legal basis	Article 7 of Regulation (EC) No 713/2009 and Article 27(2) or Article 45(3) of Commission Regulation (EU) No 312/2004
Work Programme objective for 2017	Reporting on the status of implementation for the Network Code on Balancing. Step in at the request of an NRA. Provide practical recommendations to ensure conformity with the provisions of Regulation (EU) No 312/2004.
Performance indicators and targets (deadlines)	Triggered by NRA requests. Opinions provided within 3 months after receiving complete documentation.
Achievement against target	No opinions requested. The annual reports on interim measures were received and followed up informally on a needs basis.

<b>Task</b>	<b>4<sup>th</sup> ACER report on monitoring of Congestion at interconnection points</b>
Legal basis	Point 2.2.2.1.2 of the Commission's Decision of 24 August 2012 Annex I Point 2.2 on Congestion management procedures in the event of contractual congestion (CMP Guidelines).
Work Programme objective for 2017	The Fourth Report on Congestion at interconnection points was to be prepared with a view to the recommendations of the third Agency report and new recommendations were potentially to be developed in the light of the changes observed in the report. CMP Scope list. Data consistency and quality, to be addressed with ENTSOG where relevant.
Performance indicators and targets (deadlines)	The timely delivery of the report and the collection of data for the report possibly along the amended deadlines proposed in the first Agency report. Target date: Q2 2017
Achievement against target	The <a href="#">Fourth Report on Congestion at interconnection points</a> was published on 31 May 2017.

<b>Task</b>	<b>Work on data collection, including work on data quality, testing of indicators designed to assess Network Codes and designing the tariff indicators</b>
Legal basis	Article 9 of (EC) Regulation (EC) No 715/2009
Work Programme	Improve the tools to enhance data collection and access to comparable data efficiently and in a timely manner. Involve ENTSOG and to the extent possible find joint solutions.

objective for 2017	
Performance indicators and targets (deadlines)	Improved reports supported by effective data collection tools.
Achievement against target	Meetings with ENTSOG to discuss ways to improve data collection tools and how to improve data sourcing.

<b>Task</b>	<b>Opinion on ENTSOG's common network operation tools (CNOTs) including a common incidents classification scale</b>
Legal basis	Interoperability Network Code
Work Programme objective for 2017	This was the first time the Agency was to provide an Opinion on the CNOTs. The aim was to involve stakeholders to ensure the Agency properly understood the sensitivities and different views.
Performance indicators and targets (deadlines)	The extent to which the Agency's recommendations are followed up.
Achievement against target	<a href="#">Opinion</a> provided on 9 February 2017, indicating that ENTSOG had complied with its obligations. The periodical review by ENTSOG is pending.

## GAS REGIONAL INITIATIVE

Since its formal establishment in March 2011, the Agency has been coordinating the Gas Regional Initiative (GRI) and monitoring the implementation of regional and cross-regional projects developed in the GRI framework. In 2017, the GRI South-South East region became the first Agency structure with a Co-Chair from the Energy Community, the Serbian NRA AERS. In the meeting and documents, the links with the Network Codes and Market Monitoring were strengthened.

<b>Task</b>	<b>Coordination and monitoring of activities for the early voluntary implementation of network codes before rules become legally binding</b>
Legal basis	Several articles on regional cooperation in Regulations (EC) Nos 713/2009 and 715/2009 Article 6 of Regulation (EC) No 715/2009
Work Programme objective for 2017	The Agency aimed to coordinate, through the GRI Coordination Group, and support the active GRI regions. The expectation was that the South South East (SSE) and South regions would remain active, with the North West region remaining inactive. The aim was to foster the early implementation of Network Codes and to promote regional market integration.

Performance indicators and targets (deadlines)	Provided in the regional Work Plans and the Gas Target Model.
Achievement against target	Since the monitoring part was not to be executed in 2017, there was no concrete output from the Agency; rather, the coordination fed into the progress of the NRAs' projects under the Gas Regional Initiative.

Task	Greater involvement in the SSE region
Legal basis	Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009
Work Programme objective for 2017	The Agency aimed specifically to support the GRI SSE region in order to improve the catching up with the rest of the EU in terms of network codes implementation.  The objective was to improve compliance with the network codes and capability to integrate their national markets into the internal market.
Performance indicators and targets (deadlines)	Improved scores of the GRI SSE Member States in the NC implementation monitoring reports.
Achievement against target	Workshop(s) and other forms of hands-on knowledge transfer and support, both from more experienced NRAs and from the Agency, to NRAs in the GRI SSE region.

## CROSS-SECTOR ISSUES (ELECTRICITY AND GAS)

### MONITORING OF THE INTERNAL MARKETS IN ELECTRICITY AND NATURAL GAS

Article 11 of the Agency Regulation specifies that the Agency shall monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity was carried out in close cooperation with the European Commission, NRAs and other relevant organisations, such as the Energy Community.

Task	6 <sup>th</sup> Market Monitoring Report
Legal basis	Articles 11 (1) and (2) of Regulation (EC) No 713/2009  Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines  Article 7(3) of Reg. (EU) No 1227/2011
Work Programme objective for 2017	The Market Monitoring Report provides an in-depth analysis of barriers to integration and gives recommendations to the European Parliament and Commission on how to remove them.  In 2017 the Report was expected to cover the basic aspects of retail prices in electricity and natural gas, barriers to market entry, wholesale market

	<p>integration (for gas also including the Gas Target Model Metrics), consumer welfare benefits or losses as a result of market integration (or lack thereof), access to networks (including electricity produced or gas sourced from renewable energy sources) and market effects of those Network Codes and relevant Guidelines that are in force and for which a sufficiently long data time series is available, and compliance with consumer rights (including protection and enforcement of consumer rights). Lastly, the Report assessed the effect the (implemented) network codes have on the market integration process and the functioning of the Internal Energy Market. For this purpose the specific data collecting provisions in the relevant Network Codes and Guidelines were considered.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely completion of the Annual Market Monitoring Report.</p> <p>Completion date: November 2017 (with wholesale delivered early October).</p> <p>Positive feedback by the European Parliament, the European Commission and stakeholders on the market monitoring report, including the possibility of a survey following the publication and presentation of the report.</p>
<p>Achievement against target</p>	<p>The <a href="#">Annual Market Monitoring Report</a> was published on 6 October.</p> <p>Due to the reprioritisation of available resources, the scope of the Retail Market part of the Market Monitoring Report was significantly reduced and focused only on the monitoring of the price offers in line with Article 11 of the Regulation 713.</p> <p>Approximately 80 stakeholders attended the presentation of the Market Monitoring report in person and many other stakeholders followed the event via YouTube. Most key points were also distributed via the Agency twitter account. The number of downloads within the first month of publication more than tripled when compared to the previous year. The downloads per volume were the following:</p> <p>Consumer protection and empowerment: 64</p> <p>Electricity and gas retail markets: 109</p> <p>Wholesale electricity market: 242</p> <p>Wholesale gas market: 147</p> <p>Key insights and recommendations: 21</p> <p>Altogether, there were 583 website downloads within one month of publication.</p>

## TSO COOPERATION

Pursuant to Article 6 of Regulation (EC) No 713/2009, the tasks related to TSO cooperation consist in formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other relevant ENTSOs' documents (e.g. annual Summer and Winter supply outlooks); monitoring ENTSOs' task execution; monitoring progress in new interconnector projects, implementation of TYNDPs and regional cooperation of TSOs. The Agency also monitors the implementation of the inter-TSO compensation mechanism pursuant to Article 1(4) of part A of the Annex to Commission Regulation (EU) No 838/2010.

## ELECTRICITY

<b>Tasks</b>	<b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund</b>
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	<p><b>Opinions on ENTSO-E’s annual work programme 2018 and ENTSO-E’s annual report 2016</b></p> <p><b>Opinions on ENTSO-E’s annual Summer and Winter supply outlooks</b></p> <p><b>Opinion on ENTSO-E’s common network operation tools including a common incidents classification scale</b></p> <p><b>Opinion on ENTSO-E’s research and development plan</b></p> <p><b>Opinion on the electricity national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan</b></p> <p><b>Opinion on ENTSO-E’s recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators</b></p>
<p>Legal basis</p>	<p>Article 1(4) of Annex Part A, Commission Regulation (EU) No 838/2010</p> <p>Articles 6(3)(b) and 6(4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(d) and 8(3)(e) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(f) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 8(11) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(c) of Regulation (EC) No 714/2009</p> <p>Articles 6(7) and 6(8) of Regulation (EC) No 713/2009</p> <p>Articles 6(3)(b) and 6(4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(b) and 8(10) of Regulation (EC) No 714/2009</p>
<p>Work Programme objective for 2017</p>	<p>Annual monitoring report on ITC, opinions on ENTSO-E’s annual work programme and ENTSO-E’s annual report, on ENTSO-E’s annual Summer and Winter supply outlooks, on ENTSO-E’s research and development plan, on the electricity national ten-year network development plans, on monitoring the implementation of the electricity Community-wide TYNDP were already prepared in the last years.</p> <p>Activities about opinions on ENTSO-E’s documents were to be carried out upon submission of the relevant documents by ENTSO-E.</p> <p>The specific objective was to monitor ITC and issue opinions.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely delivery and quality of the documents.</p> <p>Monitoring report on 2016 ITC implementation: October 2017.</p> <p>Opinion on ENTSO-E’s Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant.</p> <p>Opinion on ENTSO-E’s other documents: after receipt of the document by ENTSO-E.</p>
<p>Achievement against target</p>	<p>The Agency published the following deliverables envisaged in its 2017 annual Work Programme:</p>



	<ol style="list-style-type: none"> <li>1- <a href="#">Opinion on the ENTSO-E draft TYNDP 2016</a> on 7 February 2017.</li> <li>2- <a href="#">Opinion on the ENTSO-E Winter Outlook Report 2016/2017 and Summer Review 2016</a> on 13 February 2017.</li> <li>3- <a href="#">Opinion on ENTSO-E's recommendations on technical cooperation for third-country TSOs</a> on 7 April 2017.</li> <li>4- <a href="#">Opinion on Electricity Projects in NDPs and EU TYNDP 2016</a> on 7 April 2017.</li> <li>5- <a href="#">Opinion on the ENTSO-E Annual Report 2016</a> on 2 August 2017.</li> <li>6- <a href="#">Opinion on ENTSO-E Research and Innovation Implementation Plan 2017-2019</a> on 10 November 2017.</li> <li>7- <a href="#">Opinion on ENTSO-E's TYNDP Guidelines 2018</a> on 12 December 2017.</li> <li>8- <a href="#">Opinion on the draft ENTSO-E Annual Work Programme 2018</a> on 19 December 2017.</li> </ol> <p>Due to the prioritisation of available resources, the Opinion on ENTSO-Es' work programme, the Opinion on ENTSO-E's annual report and the monitoring report on the ITC mechanism were significantly trimmed down.</p>
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## GAS

<b>Tasks</b>	<p><b>Opinions on ENTSOG's annual work programme 2018 and ENTSOG's annual report 2016;</b></p> <p><b>Opinion on ENTSOG's research and development plan;</b></p> <p><b>Opinions on ENTSOG's annual Summer and Winter supply outlooks;</b></p> <p><b>Opinion on ENTSOG's draft Ten Year Network Development Plan 2017;</b></p> <p><b>Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators.</b></p>
Legal basis	<p>For all deliverables: Article 6(3)(b) Regulation (EC) 713/2009.</p> <p>For the work programme and TYNDP: Article 6(4) Regulation (EC) 713/2009 and Article 9(2) Regulation (EC) 715/2009.</p> <p>For Opinions on ENTSOG's common network operation tools including a common incidents classification scale and research plans: Article 8(3)a of Regulation 715.</p>
Work Programme objective for 2017	<p>Opinions on submitted documents were regularly delivered during the previous years, except for opinions on network operation tools including a common incidents classification scale and research plans and recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators, which were not submitted (or not as a separate document) to the Agency by ENTSOG.</p> <p>Specific objective: upon receipt of ENTSOG's 2018 work programme, the Agency was to deliver its opinion within two months from the day of receipt.</p> <p>Other opinions were to be provided upon receipt from ENTSOG of the relevant documents, within a reasonable time (usually two to three months), if they were not already covered by the opinion(s) on ENTSOG's work programme and annual report.</p>

Performance indicators and targets (deadlines)	Timely delivery of the reports and opinions. Opinion on ENTSOG's work programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.
Achievement against target	The Agency adopted and published the following deliverables envisaged in its 2017 annual work programme: <ol style="list-style-type: none"> <li>1. <a href="#">Opinion on ENTSOG's draft 10-Year Network Development Plan</a> 2017 on 15 March 2017.</li> <li>2. <a href="#">Opinion on ENTSOG's 2017 summer supply outlook</a> on 28 July 2017.</li> <li>3. <a href="#">Opinion on ENTSOG's 2016 annual report</a> on 7 November 2017.</li> <li>4. <a href="#">Opinion on ENTSOG's 2018 draft annual work programme</a> on 7 December 2017.</li> <li>5. <a href="#">Opinion on ENTSOG's 2017-2018 winter supply outlook</a> on 15 December 2017.</li> </ol> <p>No R&amp;D plan was submitted by ENTSOG to the Agency for its opinion. No recommendations relating to the coordination of technical cooperation between the Union and third-country TSOs was submitted by ENTSOG.</p>

## B. GUIDELINES FOR TRANS-EUROPEAN ENERGY INFRASTRUCTURE

The TEN-E Regulation assigned various tasks to the Agency in the field of infrastructure development.

### ELECTRICITY AND GAS

<b>Task</b>	<b>Annual consolidated report on the progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation</b>
Legal basis	Article 5(5) of Regulation (EU) No 347/2013
Work Programme objective for 2017	The consolidated reports follow the submission by project promoters of annual reports for each project of common interest to the competent authority, and either to the Agency or, for projects falling under the categories set out in Annex II.3 and 4 of Regulation (EU) No 347/2013, to the respective Group.  Specific objective: provide feedback on the progress of projects of common interest and, if appropriate, provide recommendations to facilitate their implementation and overcome difficulties.
Performance indicators and targets (deadlines)	Timely delivery of the report.  Upon the receipt of the submissions from project promoters, the Agency was to deliver its consolidated report within three months from the day of receipt. The work was to be performed in cooperation with INEA with respect to its financial monitoring duties.
Achievement against target	The Agency adopted its <a href="#">annual consolidated report</a> on 30 June 2017.

<b>Task</b>	<b>Opinion on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions</b>
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Legal basis	Annex III 2(12) of Regulation (EC) No 347/2013
Work Programme objective for 2017	An Opinion on the draft regional lists of proposed projects of common interest was delivered for the first time by the Agency in 2013. In 2017 the Agency was to deliver its opinion within three months from the receipt of the draft regional lists and the accompanying opinions of Groups, under the procedure of Article 15(1) of Regulation (EC) No 713/2009.  Specific objective: the Agency was to deliver its opinion focusing in particular on the consistent application of the criteria and the cost-benefit analysis across regions.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Achievement against target	The Agency published its Opinion on the draft regional lists of <a href="#">Electricity</a> and <a href="#">Gas</a> projects of common interest on 19 October 2017.

<b>Task</b>	<b>Opinion to Member States and the Commission on ENTSOs consistent and interlinked electricity and gas market and network model including both electricity and gas transmission infrastructure as well as storage and LNG facilities, submitted to the Commission and the Agency by 31 December 2016</b>
Legal basis	Article 11(8) of Regulation (EU) No 347/2013
Work Programme objective for 2017	On 21 December 2016, ENTSO-E and ENTSG jointly submitted to the Commission and the Agency a consistent and interlinked electricity and gas market and network model including both electricity and gas transmission infrastructure as well as storage and LNG facilities, covering the energy infrastructure priority corridors and areas and drawn up in line with the principles laid down in Annex V.  Specific objective: delivery of an opinion on ENTSOs' consistent and interlinked electricity and gas market and network model to Member States and the Commission, and its publication.
Performance indicators and targets (deadlines)	Timely delivery of an opinion within the 3 month of the date of receipt of the consistent and interlinked electricity and gas market and network model.
Achievement against target	The Agency adopted its <a href="#">Opinion on the ENTSO for Electricity and ENTSO for Gas draft consistent and interlinked electricity and gas market and network model</a> on 20 March 2017.

### C. ACTIVITIES SUBJECT TO SPECIFIC CONDITIONS

The tasks listed in this Section were performed upon request from certain parties, as specified in the Third Package or in the TEN-E Regulation, or triggered by certain external events. When necessary, additional resources were re-allocated during the year from other activities. The referral of tasks to the Agency at unpredictable moments of time, along with the ensuing obligation to produce pre-specified deliverables within tight schedules, posed a considerable challenge to the Agency, a small organisation having to deal with highly demanding workload peaks at irregular intervals.

<b>Task</b>	<b>Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions</b>
Legal basis	Article 8 Regulation (EC) No 713/2009; Article 17 of Regulation (EC) No 714/2009; Article 36(4) of Directive 2009/73/EC for decisions on exemptions.
Work Programme objective for 2017	<p>For cross-border infrastructure, the Agency decides upon those regulatory issues which fall within the competence of NRAs, including terms and conditions for access and operational security: (a) in cases in which the competent national regulatory authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those regulatory authorities; or (b) upon a joint request from the competent national regulatory authorities. The competent national regulatory authorities may jointly request that the period be extended by a period of up to six months. When preparing its decision, the Agency consults the national regulatory authorities and the transmission system operators concerned and is informed of the proposals and observations of all the transmission system operators concerned.</p> <p>Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.</p>
Performance indicators and targets (deadlines)	Delivery of a decision within six months from the date of referral to the Agency (subject to a possible extension).
Achievement against target	No cases or requests were referred to the Agency.

<b>Task</b>	<b>Adoption of the opinions and recommendations at the request of one or more NRAs, or the European Commission, pursuant to Regulation (EC) No 713/2009 as well as the adopted Network Codes and relevant Guidelines</b>
Legal basis	The Network Codes and relevant Guidelines provide specific roles for the Agency in the NRAs' decision-making processes established pursuant to these Network Codes and Guidelines. The roles include facilitating coordination between parties seeking agreement, providing opinion and recommendations on issues that need coordinated decisions and, in specific cases, issuing a decision when the parties seeking agreements were not able to find it. In addition, pursuant to Article 7(2) of Regulation (EC) No 713/2009 the Agency may make recommendations to assist NRAs and market players in sharing good practices.

Work Programme objective for 2017	<p>Once the Network Codes and Guidelines enter into force, the Agency is given a central role in facilitating the decision making process established within these Network Codes and Guidelines.</p> <p>Specific objective: an efficient decision-making process for the adoption of different terms and conditions or methodologies developed pursuant to Network Codes and Guidelines.</p>
Performance indicators and	Timely delivery of opinions and recommendations.

targets (deadlines)	
Achievement against target	See Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 7(6) of Regulation (EC) No 713/2009 - <a href="#">Opinion on the application of point 2.2.4 of annex I to Regulation (EC) No 715/2009</a> .

<b>Task</b>	<b>Decision on terms and conditions or methodologies to be approved pursuant to the adopted electricity Network Codes and Guidelines</b>
Legal basis	Article 8 of Regulation (EC) No 713/2009; Network Codes and relevant Guidelines, e.g. Article 9(11) of Commission Regulation (EU) 2015/1222
Work Programme objective for 2017	The Network Codes and Guidelines established numerous obligations for TSOs and NEMOs or other third entities to develop proposals for terms and conditions or methodologies, which need to be approved either by all NRAs or a group of NRAs. If NRAs fail to reach an agreement within 6 months, or upon their joint request, the Agency takes a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months.  Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision if necessary.
Performance indicators and targets (deadlines)	Delivery of the decision within six months from the date of referral to the Agency.
Achievement against target	The Agency published its decisions on: <ul style="list-style-type: none"> <li>1- <a href="#">The Harmonised Allocation Rules for long-term transmission rights</a> on 11 October 2017;</li> <li>2- <a href="#">The Nominated Electricity Market Operators (NEMOs) Harmonised Min-Max clearing prices for single day-ahead coupling</a> on 20 November 2017;</li> <li>3- <a href="#">The NEMOs Harmonised Min-Max clearing prices for single intraday coupling</a> on 20 November 2017;</li> <li>4- <a href="#">The South East Europe Harmonised Allocation Rules annex proposal</a> on 18 December 2017;</li> <li>5- <a href="#">The All TSOs' Congestion Income Distribution Methodology</a> on 18 December 2017.</li> </ul>

<b>Task</b>	<b>Decisions on investment requests including on cross-border cost allocation</b>
Legal basis	Article 12(6) of Regulation (EU) No 347/2013
Work Programme objective for 2017	Promoters of projects of common interest may submit an investment request including a request for cross-border cost allocation (CBCA). Where the national regulatory authorities concerned have not reached an agreement on the investment request within six months, or upon their joint request, the Agency takes the decision on the investment request including on CBCA, as well as on the way the cost of the investments are reflected in the tariffs, within

	<p>three months (with a possible two months extension in case additional information is needed).</p> <p>Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision if necessary.</p>
Performance indicators and targets (deadlines)	Delivery of a decision within three months from the date of referral to the Agency (subject to a possible extension).
Achievement against target	<p>No investment requests were referred to the Agency in 2017.</p> <p>On 23 March 2017 the Agency published <a href="#">an overview of cross-border cost allocation decisions taken by NRAs as of January 2017</a>.</p>

<b>Task</b>	<b>Decision on the choice of a Booking Platform for IPs where the involved TSOs/NRAs fail to reach an agreement, based on the amended CAM NC</b>
Legal basis	Commission Regulation (EU) No 984/2013 as replaced by Commission Regulation (EU) 2017/459 (network code on capacity allocation mechanisms in gas transmission systems)
Work Programme objective for 2017	<p>Ensure a common Booking Platform is selected for IPs where TSOs/NRAs fail to agree.</p> <p>Specific objective: reach a decision which can be upheld in court.</p>
Performance indicators and targets (deadlines)	Speed of implementation, number of appeals.
Achievement against target	No case for decision came to the Agency.

<b>Task</b>	<b>Peer reviews upon request by an NRA or the Commission pursuant to Article 7(4) of Regulation (EC) No 713/2009</b>
Legal basis	Article 7(4) and (5) of Regulation (EC) No 713/2009
Work Programme objective for 2017	<p>At the request of a regulatory authority or of the Commission, the Agency shall provide a fact-based opinion on whether a decision taken by a regulatory authority complies with the Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations. Where a national regulatory authority does not comply with the opinion of the Agency within four months from the day of receipt, the Agency informs the Commission and the Member State concerned accordingly.</p> <p>Specific objective: provision of a fact-based opinion and, in cases of lack of compliance with the Opinion, within four month from the date of its adoption, of an information report regarding lack of compliance to the Commission and the Member State concerned.</p>

Performance indicators and targets (deadlines)	Delivery of the Opinion within four months from the request and the information report regarding lack of compliance to the Commission and the Member State Concerned (if applicable) within a reasonable time.
Achievement against target	No requests were filed with the Agency.

<b>Task</b>	<b>Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 7(6) of Regulation (EC) No 713/2009</b>
Legal basis	Article 7(6) of Regulation (EC) No 713/2009
Work Programme objective for 2017	When a national regulatory authority encounters, in a specific case, difficulties with the application of Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, it may request the Agency for an opinion.  Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Achievement against target	The Agency issued an <a href="#">Opinion on the application of Article 30(2) (i.e. on when the 6-month period to adopt a decision runs) of Commission Regulation (EU) 2016-1719</a> on 7 April 2017.  The Agency issued an <a href="#">Opinion on the application of point 2.2.4 of annex I to Regulation (EC) No 715/2009</a> on 14 November 2017.

<b>Task</b>	<b>Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission</b>
Legal basis	Article 9(2) of Regulation (EC) No 713/2009  Article 3(1) of Regulations (EC) No 714/2009 and (EC) No 715/2009
Work Programme objective for 2017	Regular consultation and information exchange takes place between the Commission and the Agency.  Specific objective: provide support to the TSO certification process.
Performance indicators and targets (deadlines)	Timely delivery of the opinion to the Commission.
Achievement against target	No requests were received by the Agency.

<b>Task</b>	<b>Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission</b>
Legal basis	Article 5 of Regulation (EC) No 713/2009
Work Programme objective for 2017	To provide upon request support and advice to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations.
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Achievement against target	No requests were received by the Agency.

<b>Task</b>	<b>Provide input to the TEN-E mid-term evaluation</b>
Legal basis	Article 5 of Regulation (EC) No 713/2009
Work Programme objective for 2017	Support the mid-term review of Regulation (EU) No 347/2013.
Performance indicators and targets (deadlines)	Ad hoc, depending on the process of the mid-term review of Regulation (EU) No 347/2013.
Achievement against target	The Agency published a <a href="#">Position Paper on Potential Improvements to the Energy Infrastructure Package</a> on 31 May 2017.

#### **D. OPINIONS AND RECOMMENDATIONS – AGENCY’S OWN INITIATIVE**

<b>Task</b>	<b>Opinion on ENTSO-E’s and/or ENTSO-G’s methodologies for cost-benefit analysis, if updated</b>
Legal basis	Article 11(2) of Regulation (EU) No 347/2013
Work Programme objective for 2017	The CBA methodologies were approved in February 2015 by the Commission and published by ENTSO-E and ENTSOG on their websites. The methodologies are to be updated and improved regularly. Specific objective: updated and improved CBA methodology/ies.
Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.
Achievement against target	The Agency adopted the required <a href="#">opinion on ENTSOG’s draft CBA update</a> on 24 October 2017.



	The Agency published its <a href="#">Opinion on the draft ENTSO-E Guideline for CBA of Grid Development Projects</a> on 6 March 2017.
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<b>Task</b>	<b>Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the European Commission</b>
Legal basis	Article 5 of Regulation (EC) No 713/2009
Work Programme objective for 2017	Further to enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Achievement against target	No other opinions and recommendations at its own initiative were initiated by the Agency.

## **E. WHOLESALE MARKET MONITORING – REMIT**

2017 was the first full year of data collection following the core implementation of REMIT in 2016. Overall, REMIT has been successfully implemented and is operational.

The entry into force in early January 2015 of the REMIT Implementing Regulation triggered important deadlines for data reporting. Market participants and third parties reporting on their behalf were obliged to:

- within nine months, i.e. by 7 October 2015, report transactions in wholesale energy contracts admitted to trading at Organised Market Places and fundamental data from the ENTSOs central information transparency platforms, and
- within fifteen months, i.e. by 7 April 2016, report transactions in the remaining wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from TSOs, LSOs and SSOs.

The full implementation of the REMIT operational activities depend on the Agency being assigned the required additional staff.

To monitor wholesale energy markets in the most efficient and effective manner, the Agency analyses the trading and fundamental data in three steps:

- first, an automatic screening of the REMIT data performed by a dedicated IT tool (i.e., SMARTS) on the basis of predefined “alerts” to detect anomalous instances;
- second, the manual assessment of the automatically identified anomalous instances by a surveillance expert to validate the alert including the checking of the correctness of the data and possible false positives;
- subsequently, on the basis of a market surveillance strategy agreed between the Agency and NRAs, a preliminary initial assessment of anomalous instances to identify suspicious practices that may amount to market abuse.

This analysis inevitably has to be performed by highly qualified surveillance experts, who have to cover trading in all 28 Member States, in energy commodity markets and in energy

derivatives, on organised markets and over-the-counter. Therefore, a wide range of expertise is required.

The following tasks originally foreseen in the 2017 Work Programme were deprioritised (cancelled, postponed or in part combined with other tasks listed below) in line with the available human resources:

- Review of the electronic formats for data collection (XML schemas) originally foreseen for 2017 was postponed to be implemented in 2018;
- Processing of sample transaction data requests for market participants from the Agency's REMIT Information System in order to verify completeness, accuracy and timeliness of data submission to the Agency, to facilitate market participants' compliance with Article 11(2) of the Implementing Regulation was postponed to 2018 or even beyond;
- Publication of aggregated REMIT information for transparency reasons according to Article 12(2) of REMIT, including making available the commercially non-sensitive trade database for scientific purposes, was postponed to 2018 or even beyond;
- Improvement of the market participant registration format pursuant to Article 9(3) of REMIT and improvements of the Agency's IT solution CEREMP was postponed to 2018 or even beyond.

In 2017 the Agency thus implemented the following REMIT-related activities and deliverables:

Task	Review of the REMIT operations and rulebook
Legal basis	Articles 1(3), 7,8 and 16 of Reg. 1227/2011 and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014
Work Programme objective for 2017	<p>The Agency planned to undertake a review of the REMIT operations and rulebook in the light of the experience with data collection during 2016.</p> <p>A possible result of the review was the formulation of proposals to the European Commission for technical updates of REMIT, according to Article 6 of REMIT, or of the REMIT Implementing Regulation, the drafting of recommendations and guidance.</p>
Performance indicators and targets (deadlines)	Deliverable of the outputs by end 2017.
Achievement against target	<p>Due to a lack of resources, in 2017, the Agency was only able to perform a very limited review of the REMIT operations and rulebook, focusing mainly on improving data quality, by providing updates of guidance documents on data reporting. Therefore expected outputs were limited to additional FAQs on transaction reporting and fundamental data and inside information collection, as well as limited updates of the REMIT Reporting User Manual.</p> <p>More specifically:</p> <ul style="list-style-type: none"> <li>- No update of the 4<sup>th</sup> edition of ACER Guidance was provided in 2017.</li> <li>- The Transaction Reporting User Manual was updated in 2017.</li> <li>- The Manual of Procedures on transaction and fundamental data reporting was updated in 2017.</li> <li>- The Requirements for the Registered Reporting Mechanisms was not updated in 2017, but its technical documentation was.</li> </ul>

	- FAQs on transaction reporting and fundamental data and inside information collection were updated in 2017 as required.
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<b>Task</b>	<b>REMIT Information Management and operation of the Agency's REMIT Information Systems</b>
Legal basis	Articles 7-10 and 12 of Reg. 1227/2011
Work Programme objective for 2017	Provision of high-quality wholesale energy market data for market monitoring purposes. Operation and further development and, if necessary, enhancements of the Agency's REMIT Information System (ARIS) for collection of trade, fundamental and other data and for the data sharing with NRAs, in connection with the REMIT implementing acts.
Performance indicators and targets (deadlines)	99% of planned system availability. and 0 breaches of the security system with a data leakage involved.
Achievement against target	There was neither an unplanned system unavailability nor a breach of the security system occurring in 2017. However, the risks to operational reliability significantly increased during 2017 for reasons of budgetary constraints.  REMIT data provision for market monitoring purposes and continuous operations of ARIS.  Data quality of reported data significantly improved following the publication of an Open letter on REMIT transaction reporting data quality on 16 February 2017, but further improvement of data quality remains an ongoing task with scarce resources.

<b>Task</b>	<b>Market monitoring of trading activity in wholesale energy markets</b>
Legal basis	Article 7 and 8 of Reg. (EU) 1227/2011
Work Programme objective for 2017	Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation according to Article 7 of REMIT, in cooperation with NRAs, on the basis of data collected in accordance with the REMIT implementing acts, and establishment, further development and operation of the Agency's market surveillance solution to perform its market monitoring activity.  A revised market monitoring strategy is being developed in line with the limited resources available to the Agency.  Specific objectives:  Market Monitoring of the data collected according to Article 8 of Reg. (EU) 1227/2011.  Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.
Performance indicators and targets (deadlines)	100% of sound alerts assessed in a preliminary initial assessment (PIA) and 80% of alerts not being qualified as falsely rejected. A sound alert refers to a triggered alert not due to data quality issues.

	This specific indicator was envisaged to be used from the third quarter of 2017 when the quality of wholesale energy market data was expected to reach a level that is adequate to support systematic market monitoring (screening).
Achievement against target	Market monitoring started in the last two quarters of 2017, and the first Preliminary Initial Assessments of potential market abuse cases have been delivered. However, due to lack of resources the target was not achieved.

<b>Task</b>	<b>Market conduct coordination of NRAs and other relevant authorities</b>
Legal basis	Article 16(1) of Reg. (EU) 1227/2011
Work Programme objective for 2017	To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT. To aim at ensuring that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency's guidance on the application of REMIT definitions and coordination of NRAs' investigation activities on cross-border market abuse instances.
Performance indicators and targets (deadlines)	95% of all NRA decisions are consistent with the ACER guidance. 0% chance of not notifying the relevant authorities.
Achievement against target	Publication of Agency Guidance on the application of REMIT as required. Coordination of investigation of alleged cross-border market abuse instances as required.

<b>Task</b>	<b>Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries</b>
Legal basis	Articles 1(3), 10, 16 of Reg. (EU) 1227/2011
Work Programme objective for 2017	Development of a common understanding on REMIT policy matters with NRAs and promotion of best practices for the application of REMIT. Cooperation with other relevant authorities on REMIT-related matters.
Performance indicators and targets (deadlines)	Publication of REMIT Q&As as required. Promotion of best practices for the implementation of REMIT. Conclusion of MoUs with additional relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.
Achievement against target	Publication of REMIT Q&As as required; No additional Memoranda of Understanding (MoUs) for REMIT purposes were entered into in 2017.

<b>Task</b>	<b>Annual Report on the Agency activities under REMIT</b>
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Legal basis	Article 7(3) of Reg. (EU) 1227/2011
Work Programme objective for 2017	<p>The Agency submits at least on an annual basis a Report to the Commission on its activities under REMIT.</p> <p>In order to streamline the use of human resources, the REMIT Annual Report was to be replaced by the reports of the “REMIT Quarterly”. In addition, a consistent part of the issues to be dealt with in the report were to be included in the Agency’s Market Monitoring Report.</p> <p>Specific objectives:</p> <p>To assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market.</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>Provide recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts.</p>
Performance indicators and targets (deadlines)	Publications of the REMIT newsletter.
Achievement against target	Publication of the REMIT Quarterly newsletter on a quarterly basis.

## PART II (a) – MANAGEMENT

### 2.1 ADMINISTRATIVE BOARD (AB)

The composition of the AB from January 2017 onwards was as follows:

<b>Members appointed by the Council</b>	
<b>Member</b>	<b>Alternate</b>
Edmund HOSKER	Carlos AGUIRRE CALZADA*
Guy LENTZ*	Martin HANSEN <sup>3</sup>
Jochen PENKER* ( <i>Vice-Chair</i> )	Pal KOVACS*
Georgios SHAMMAS <sup>4</sup>	Jurijs SPIRIDONOVŠ
Piotr Grzegorz WOŹNIAK <sup>5</sup>	Romas ŠVEDAS*
<b>Members appointed by the European Parliament</b>	
Romana JORDAN ( <i>Chair</i> )	Uwe LEPRICH
Rene TAMMIST**	Antonio Jorge VIEGAS de VASCONCELOS**
<b>Members appointed by the European Commission</b>	
Dominique RISTORI	Florian ERMACORA
Agnieszka KAŹMIERCZAK	Anne MONTAGNON

\*The mandate expired on 28 January 2018.

\*\*The mandate expired on 21 January 2018.

The AB met 4 times in 2017, respectively on 16 March, 28 June, 21-22 September and 14 December.

It adopted the following 26 decisions:

<b>No</b>	<b>Decision</b>		<b>Adoption</b>
1	AB Decision on the appointment of a new BoR member and alternate member - Duska Godina and Bojan Kuzmic	*	19/01/2017
2	Draft 2018 Programming Document 2018	**	26/01/2017
3	AB Decision on the appointment of a new Latvian BoR alternate member - Valentins Hitrovs	*	13/02/2017
4	AB Decision on the appointment of a new Lithuanian BoR alternate member - Darius Kontrimavičius	*	15/03/2017

<sup>3</sup> Mr Hansen resigned on 13 November 2017.

<sup>4</sup> Mr Shammass resigned on 25 October 2017.

<sup>5</sup> Mr Wozniak resigned on 25 September 2017.

5	AB Decision on the appointment of a new French BoR member and alternate member - Jean-Francois Carencio and H�el�ene Grassin	*	15/03/2017
6	AB Decision on the policy on protecting the dignity of the person and preventing psychological and sexual harassment - model decision		16/03/2017
7	AB Decision on the AB Rules of procedure- financial compensation		16/03/2017
8	AB Decision on the appointment of two members as reporting officers and an appeal assessor for the assessment of the annual performance of the Director	**	29/05/2017
9	AB Decision on the appointment of a new German BoR member and alternate member (switch) - Annegret Groebel and Jochen Homann	*	29/05/2017
10	AB Decision appointing the accounting officer ad interim		28/06/2017
11	AB Decision on the appointment of a new German BoR member and alternate member - Clara Poletti and Francesco Cariello	*	14/07/2017
12	AB Decision on the appointment of a new Lithuanian BoR alternate member - Irma Vasaryte	*	08/09/2017
13	AB Decision on the appointment of a new Slovakian member of the BoR - Lubomir Jahn�atek	*	08/09/2017
14	AB Decision on the appointment of a new Czech member of the BoR - Vladim�ir Outrata	*	08/09/2017
15	AB Decision on the appointment of the new Accountant		21/09/2017
16	AB Decision on the appraisal of middle managers		21/09/2017
17	AB Decision amending budget 2017 on the establishment plan and repealing the AB Decision 20/2016 on the adoption of the budget for the financial year 2017 and of the establishment plan of the Agency		21/09/2017
18	AB Decision on the Adoption of Transfer of Appropriations in the Budget of the Agency for the Cooperation of Energy Regulators for the financial year 2017	**	16/10/2017
19	AB Decision on the appointment of a new Portuguese member and alternate member of the BoR (Maria Christina Portugal and Alexandre Santos)	*	25/10/2017
20	AB Decision on the appointment of a new British member and alternate member of the BoR (Mark Copley and Andrew Burgess)	*	20/11/2017
21	AB Decision on the appointment of a new Slovak alternate member of the BoR (Marian Z�ahora)	*	20/11/2017
22	AB Decision granting permission to the Director of the Agency for the Cooperation of Energy Regulators to engage in outside activities for the year 2018		14/12/2017
23	AB Decision on the adoption of the budget for the financial year 2018 and of the establishment plan of the Agency for the Cooperation of Energy Regulators		14/12/2017
24	AB Decision on the Transfer of Appropriations in the Budget of the Agency for the Cooperation of Energy Regulators for the Financial Year 2017		14/12/2017
25	AB Decision on the implementation of telework in the Agency for the Cooperation of Energy Regulators		14/12/2017

26	AB Decision on the appointment of a new BoR member- Chirita Dumitru	*	14/12/2017
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\*Appointment by the Chair acting under the authority delegated by the AB pursuant to decision AB 05bis/2010 of 21 September 2010.

\*\*Adopted by written procedure following the Chair's declaring the urgency of the situation.

The AB adopted 1 opinion in 2017.

1	Opinion on the on the approval of the final accounts for the financial year 2016	28 June 2017
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As in previous years, the most significant risk for the Agency in 2017 was related to the implementation of REMIT. The main issue remained the gap between the minimum allocation of human resources which the Agency considers necessary to meet REMIT objectives and the staffing allocation under the EU budget.

Ineffective application of REMIT, even if due to reasons beyond the Agency's control, creates a reputational risk for the Agency (in addition to economic damages suffered by taxpayers due to the negative effects on markets), and more generally for the Union. Human resource constraints at the Agency, even beyond REMIT, remained a major concern in 2017.

After the publication of the Clean Energy For All Europeans, the Administrative Board adopted in the course of the year 2017 its position on the proposals for the recast of the Agency's funding regulation.

These risks were frequently discussed at AB meetings in 2017 and important controls were implemented.

Regarding REMIT implementation, the Agency adopted measures to reduce risk by attempting to raise the awareness of EU institutions, national regulatory authorities and stakeholders about the benefits of the proper implementation of REMIT, by adopting practical solutions to ensure completion of the registration process in the timeframe envisaged by REMIT and through the implementation of internal security measures.

Furthermore, with a view to appoint the next Director of the Agency as of 16 September 2018, the Administrative Board detailed the rules for the selection of the prospective director.

## 2.2 MAJOR DEVELOPMENTS

In November 2016 the European Commission brought new impetus to EU energy policy through the Clean Energy For All Europeans' proposals. The Agency consequently reinforced its communication efforts vis-à-vis the Institutions to build a constructive relationship with the institutional actors to ensure a common vision on the future of the EU energy market and to provide technical support, where appropriate. An event was organised by the Agency and the Council of European Energy Regulators (CEER) on the new Energy Market design on 23 - 24 January, "towards a future proof market design".

In 2017 the Agency continued to cooperate closely with the European Parliament's Committee for Transport, Research and Energy (ITRE). A delegation of the Committee visited the Agency's headquarters in Ljubljana on 21 September 2017 to discuss the Agency's work towards a single, well-functioning and transparent energy market in Europe. The delegation also held a joint session with the Agency's Administrative Board. Furthermore, an EP ITRE Committee Contact group meeting was held on 10 May 2017, as well as a briefing for MEP assistants and advisors in June 2017 in Brussels dedicated to Clean Energy Package issues.

The Market Monitoring Report covering 2016 was presented to the ITRE Committee on 28 November 2017. Furthermore, 3 public debriefings were also organised in the course of 2017.

Regulation (EU) 2017/1938 of 25 October 2017 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010 entered into force late in the year,



assigning new responsibilities to the Agency (with regard to the exemptions for bi-directional capacity on interconnections and decisions on cross-border cost allocation as a last resort where the EC requires bidirectional capacity).

In supporting the follow up actions targeted to reach out to consumers following the first ACER hearing with consumer organisations in 2016, the Agency committed to increase consumers' awareness and to hold meetings on an annual basis. In May 2017 the Agency made a presentation on the "Internal Energy Market: delivering benefits to consumers" at the European Consumer Consultative Group (ECCG) Sub-Group Energy Meeting, focusing in particular on the implementation of network codes and the findings of the Agency's Market Monitoring Report (MMR).

As concerns international developments, on 6 December 2017 the Agency signed an Administrative Arrangement with the National Regulatory Agency of Montenegro (RAE), which enabled RAE experts to join the Agency's Electricity Working Group and Gas Working Group as of January 2018. Participation in the Agency's Working Groups is in general limited to EU regulatory authorities; however admission of third country regulators is possible when the country has made satisfactory progress towards adopting and applying EU energy law, as well as measures ensuring the effective independence of its national energy regulator. The Agency was supported in the assessment of the implementation of the EU energy acquis in Montenegro by the Energy Community Secretariat.

With regard to the support of the exchange of experience with the regulatory bodies outside the EU, on 26 April 2017 the 13<sup>th</sup> EU-US Energy Regulators Roundtable was held in Arlington, USA to discuss energy market challenges.

As regards important internal developments, the Agency's Board of Regulators (BoR) at its 68<sup>th</sup> meeting elected Mr Garrett Blaney as its next Chair. Mr Blaney (CER, Ireland) succeeded Lord Mogg as of 6 November 2017 for a term of office of two and a half years (renewable). Ms Clara Poletti (ARERA, Italy) was appointed as Vice-Chair at the 70<sup>th</sup> BoR meeting and took over from Ms Annegret Groebel (BNetzA, Germany).

Furthermore, in 2017 the European Commission launched the procedure for selecting the next Director of the Agency, due to take over from Alberto Pototschnig on 16 September 2018.

## **2.3 BUDGETARY AND FINANCIAL MANAGEMENT AND OTHER ADMINISTRATIVE TASKS**

### **2.3.1 BUDGETARY AND FINANCIAL MANAGEMENT**

The Agency's budget for the financial year ending 31 December 2017 was funded by a subsidy from the general EU budget amounting to EUR 13 272 160. On top of the annual subsidy, an amount of EUR 979.86 was recognised under fund source IC4 as assigned revenue stemming from recovered overpaid amounts. No agreement was reached regarding contributions to the Agency from EFTA countries.

During the 2017 financial year, the Agency implemented 98.72% of its commitment appropriations. The sum of EUR 3 039 915.19 was carried over into 2018 to cover legal obligations that were pending at year's end.

Appropriations not used at the end of financial year 2017 amounted to EUR 293 657.68. These comprised of:

- unused 2017 appropriations amounting to EUR 171 112.06 (with EUR 170 132.10 stemming from fund source C1 and EUR 979.96 from fund source C4);
- cancelled appropriations carried over from 2016 amounting to EUR 122 606.52;
- exchange rate differences amounting to negative EUR 60.90.

The above amounts will be returned to the European Commission during the course of 2018.

A number of budgetary transfers were made in the 2017 financial year to reallocate resources from areas where budgetary savings were identified towards areas where a resources shortage emerged, so as to ensure the achievement of the Agency’s annual objectives. Eight lots of budgetary transfers were approved within and between headings, including two exceeding the 10% limit that were approved by the Agency’s Administrative Board.

The Agency ensured timely payment of its suppliers and therefore was not required to pay any interest for late payment.

Detailed information on budget implementation by funding source heading is presented in Annex II.

Task	Budget implementation and audit
<p>Work Programme objectives for 2017</p>	<p><u>Budget implementation</u></p> <p>The Agency has been constantly improving its financial management and budget implementation processes.</p> <p>A number of policies and procedures have been introduced and followed to ensure effective budget management. In 2015 the Agency introduced e-invoicing and a paperless workflow, which added to the efficiency of its financial management.</p> <p>In the past years the annual results from budget implementation have been gradually improving, reaching 98.72% of the commitment appropriations and 75.81% of the payment appropriations in 2017.</p> <p>In 2018 the Agency will strive further to improve the above results.</p> <p><u>Audit</u></p> <p>Since its establishment, the Agency has not received any critical recommendations on its financial management from the internal and external auditors.</p> <p>Furthermore, all recommendations from previous years have been implemented as planned, reported in a timely manner and approved by the respective auditing authority. As a result, the Agency has been granted a discharge for all years for which the discharge procedure has been closed.</p> <p>The objectives for 2017 were as follows:</p> <ul style="list-style-type: none"> <li>- Apply current accounting standards and rules in order to draw accurate financial statements that present a fair view of the Agency’s financial performance and position and receive an unqualified audit opinion.</li> <li>- Implement in a timely manner the recommendations from the Internal Audit Service (IAS), the European Court of Auditors (ECA) and the external audit firm.</li> <li>- Coordinate the budget planning, consumption forecast, budget reviews and transfer of appropriations aiming at achieving higher budget implementation rates.</li> <li>- Ensure proper assets management in order to safeguard the property of the Agency and minimise fraud.</li> <li>- Ensure proper treasury management through availability of liquidity to cover Agency’s obligations towards its suppliers and on time execution of payments.</li> <li>- Provide specific training to financial actors to ensure a smooth workflow within the financial circuits.</li> </ul>

Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Provisional accounts prepared and presented by 1 March 2017, final accounts by 1 July 2017.</li> <li>- Unqualified opinion from ECA by 30 June 2017.</li> <li>- Minimum 95% budget implementation for commitment appropriations and 75% for payment appropriations by 31 December 2017.</li> <li>- Fixed assets impairment check by end of November 2017.</li> <li>- Replenished bank account balance.</li> <li>- Presentation of financial matters delivered by end of June 2017.</li> </ul>
Achievement against target	<ul style="list-style-type: none"> <li>- Both provisional and final accounts, prepared according to current accounting standards, accounting rules and general accepted accounting principles, were presented in time by 1 March 2017 and 1 July 2017 respectively.</li> <li>- An unqualified opinion was obtained from ECA by 30 June 2017 for the 2016 annual accounts and, in draft format, in May 2018 for the 2017 annual accounts.</li> <li>- Good planning resulted in higher budget implementation rates at 31 December 2017 (98.72% for commitments and 75.81% for payments). Cancellation of funds carried forward from 2016 reached a rate of only 2.03%.</li> <li>- The fixed assets impairment check performed in November 2017 identified the assets to be disposed of, mainly due to obsolescence and defects that could not be repaired.</li> <li>- The bank account balance was replenished during the year to ensure smooth processing of due payments, no interest rate for late payments was paid in 2017.</li> <li>- Financial actors were regularly informed during the year about any relevant financial matters.</li> </ul>

## 2.3.2. PROCUREMENT AND FACILITY MANAGEMENT

Task	Procurement and facility management
Work Programme objectives for 2017	<ul style="list-style-type: none"> <li>- Further improve effectiveness and efficiency of the procurement processes and implement measures to rationalise and optimise the procurement processes for the implementation of the work programme.</li> <li>- Manage the Agency's premises in line with the evolving needs of the Agency, including, whenever necessary, the expansion of the occupancy of the office surface and the necessary fitting out works and procurement of equipment to ensure smooth continuation of the Agency's work.</li> <li>- Ensure the security in the Agency's premises, in line with the Agency's security policy.</li> </ul>
Performance indicators and targets (deadlines)	<p>At least 90% implementation of the adopted 2017 Procurement Plan.</p> <p>The Agency's premises managed in line with the Agency's facility management plan and within the allocated budget by the end of 2017.</p>
Achievement against target	<ul style="list-style-type: none"> <li>- The adopted annual procurement plan was successfully implemented. The implementation rate of the adopted annual procurement plan approved for 2017 was 109%. At the time of its adoption, the annual procurement plan included 47 procurement procedures. At the end of 2017 the procurement plan included 55 procurement procedures. Their status was as follows: 50.5 awarded, 1 not awarded, 1.5 on-going and 2 postponed to 2018.</li> <li>- The annual facility management plan was updated in Q1 and successfully implemented.</li> <li>- All works related to the office space made available for the operations of the Agency were completed in Q2.</li> </ul>

In addition to the adopted annual procurement plan and report on its implementation, the Agency prepares annual statistics, which are reported to the Court of Auditors and IAS. These statistics are also used by the management of the Agency to analyse the workload in procurement. The statistics include all procurement procedures listed in the annual procurement plan, which are more of a strategic nature and relate to the core business of the Agency, as well as procurement procedures for services and goods needed for the daily functioning of the Agency. The statistics detail the number, type and value of all procurement procedures concluded in 2017 as presented below:

### 1) Operational

Type of procedure	Number of procedures	Value of contracts in EUR	Total amount committed in EUR
<b>Negotiated – very low value – direct contract</b>	30	128,356.44	128,356.44
<b>Negotiated – middle value – direct contract</b>	0	0.00	0.00

<b>Negotiated – low value – framework contracts (FWC)</b>	1	69,600.00	69,600.00
<b>Negotiated – middle value –FWC</b>	1	60,000.00	Not applicable.
<b>Negotiated (Article 134(1)(a) RAP) - FWC</b>	1	400,000.00	Not applicable.
<b>Negotiated (Article 134(1)(b)(ii) RAP) - FWC</b>	1	10,000,000.00	Not applicable.
<b>Open – FWC (concluded in 2017)</b>	2	20,460,000.00	Not applicable.
<b>Specific contracts, following FWC</b>	18	1,421,507.94	1,421,507.94
<b>Order forms following FWC</b>	87	1,071,424.22	1,071,424.22
<b>TOTAL</b>	<b>141</b>	<b>33,610,888.60</b>	<b>2,690,888.60</b>

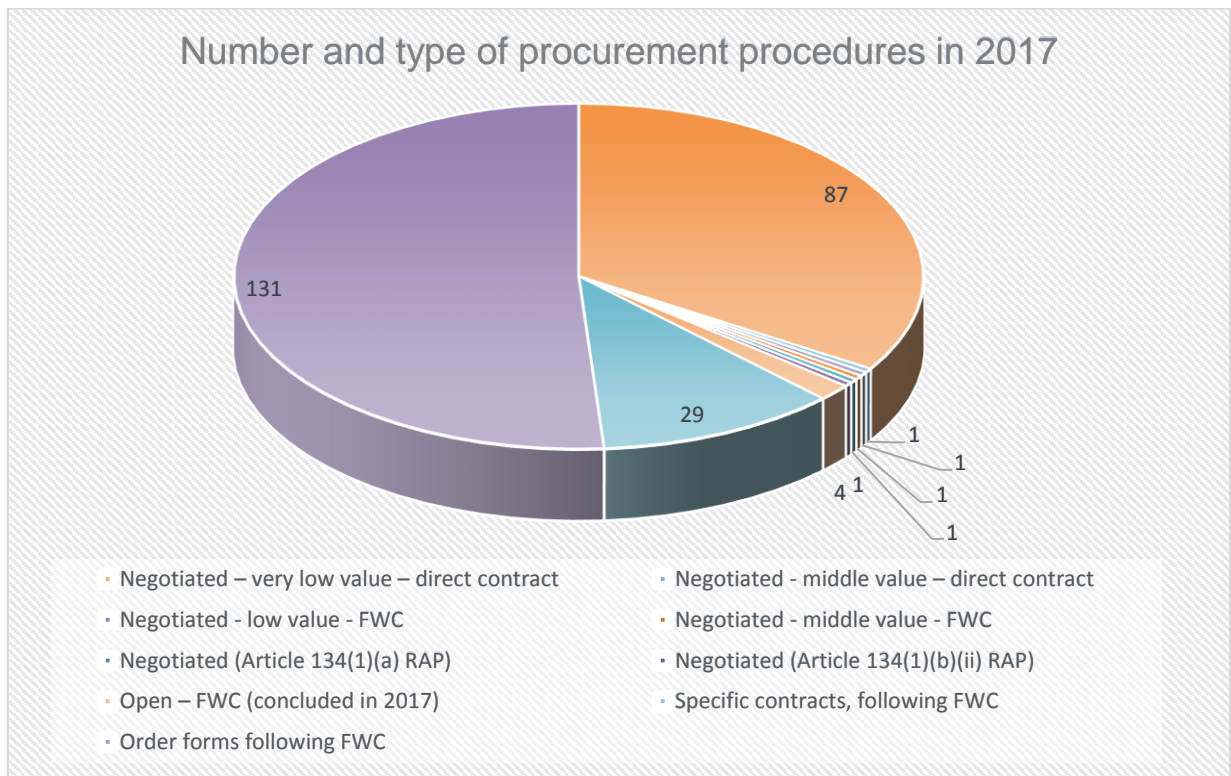
2) *Administrative*

<b>Type of procedure</b>	<b>Number of procedures</b>	<b>Value of contracts in EUR</b>	<b>Total amount committed in EUR</b>
<b>Negotiated – very low value – direct contract</b>	57	177,231.35	177,231.35
<b>Negotiated – middle value – direct contract</b>	0	0.00	0.00
<b>Negotiated – low value – framework contracts (FWC)</b>	0	0.00	Not applicable.
<b>Negotiated – middle value –FWC</b>	1	80,000.00	Not applicable.
<b>Negotiated (Article 134(1)(a) RAP) - FWC</b>	0	0.00	0.00
<b>Negotiated (Article 134(1)(b)(ii) RAP) - FWC</b>	0	0.00	0.00
<b>Open – FWC (concluded in 2017)</b>	2	2,400,000.00	Not applicable.
<b>Specific contracts, following FWC</b>	11	456,380.95	456,380.95
<b>Order forms following FWC</b>	44	355,806.54	355,806.54
<b>TOTAL</b>	<b>115</b>	<b>3,469,418.84</b>	<b>989,418.84</b>

3) *Total (operational and administrative)*

Type of procedure	Number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – very low value – direct contract	87	305,587.79	305,587.79
Negotiated – middle value – direct contract	1	69,600.00	69,600.00
Negotiated – low value – framework contracts (FWC)	1	60,000.00	Not applicable.
Negotiated – middle value –FWC	1	80,000.00	Not applicable.
Negotiated (Article 134(1)(a) RAP) - FWC	1	400,000.00	Not applicable.
Negotiated (Article 134(1)(b)(ii) RAP) - FWC	1	10,000,000.00	Not applicable.
Open – FWC (concluded in 2017)	4	22,860,000.00	Not applicable.
Specific contracts, following FWC	29	1,877,888.89	1,877,888.89
Order forms following FWC	131	1,427,230.76	1,427,230.76
<b>TOTAL</b>	<b>256</b>	<b>37,080,307.44</b>	<b>3,680,307.44</b>

The following graph shows the number of procurement procedures for each type concluded in 2017:



### 2.3.3 ICT INFRASTRUCTURE

Task	ICT development
<p>Work Programme objectives for 2017</p>	<ul style="list-style-type: none"> <li>- The IT Team's main goal in 2017 was to continue and further enhance the alignment of the IT services with the Agency's strategic goals and objectives, which was initiated in 2016 following the results of the ICT governance study and the new ACER ICT Strategy of 2016-2018.</li> <li>- For this reason, the expected coordination between the Agency's different IT experts (inside and outside the IT Team) was to be achieved through the fine-tuning of all procedures related to the ICT governance and the transition into a service-based organisation.</li> <li>- In addition, the necessary IT contracts that enable the implementation of the Agency's evolving needs for development of applications, automation and services were to be put in place.</li> <li>- Furthermore, the IT Team was to ensure the necessary ICT overarching infrastructure covering multiple units/departments, ensuring synergies (cross-departmental) and a unified IT environment.</li> <li>- The specific objectives for 2017 were as follows:               <ul style="list-style-type: none"> <li>- To ensure the fine tuning of ICT governance procedures and that the expected coordination between the different IT teams is in place.</li> <li>- To achieve the necessary service orientation by having in place the right procedures and rules (ITIL based) and adapting the IT Team's members work profiles to this.</li> <li>- To acquire and further develop applications and services to cover the Agency departments' needs and to maintain or renew the existing ones. The IT Team shall collect and assess business requirements and contribute to their implementation to support the efficient functioning of the Agency.</li> <li>- To put in place the necessary ICT overarching infrastructure, covering multiple units/departments, and ensuring synergies (cross-departmental) in a unified IT environment.</li> <li>- To assure high-level IT support services to enable the Agency's staff to perform their tasks effectively.</li> </ul> </li> </ul>
<p>Performance indicators and targets (deadlines)</p>	<ol style="list-style-type: none"> <li>1. Rules and procedures of ITIL based service management introduced by Q1 2017.</li> <li>2. External ICT services and support contracted by Q1 2017 and IT Team's members work profiles adapted accordingly.</li> <li>3. IT development contract in place by Q1 2017. The needed IT applications and services to be developed, maintained and fine-tuned under the new contract during the whole of 2017.</li> <li>4. Successful and timely completion of the tasks included in the 2017 IT Action Plan by Q4 2017.</li> <li>5. 85% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2017.</li> </ol>

Achievement against target	<ol style="list-style-type: none"> <li>1. <b>Not fully achieved</b> (partial implementation) due to the postponement of the recruitment procedure of the staff to work on this PI.</li> <li>2. <b>Not achieved</b> due to the non-awarding of the relevant procurement procedure (ARIS IT consultancy and support contract).</li> <li>3. PI <b>achieved on time</b> as the development contract was in place (Q1 2017) and several IT services were developed.</li> <li>4. PI <b>achieved</b>, as 2017 IT Action plan was concluded successfully and on time.</li> <li>5. PI <b>achieved</b> (99.2% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2017)</li> </ol>
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## 2.4 HUMAN RESOURCES MANAGEMENT

On 31 December 2017, the Agency's workforce was composed by 112 members: 63 Temporary Agents (51 Administrators and 12 Assistants), 21 Contract Agents, 3 Seconded National Experts, 12 trainees and 13 interimaire.

In 2017, the Agency implemented the reduction of one temporary staff position as envisaged in the Multiannual Financial Framework 2014-2020. In 2017 the Agency's budget was amended by way of an amending budget procedure (n. 03/2017): this resulted in the re-alignment of its Establishment Plan according to the grades needed to cover the evolution of the different positions. The organisational chart and the Agency's Establishment Plan are presented in Annex III and Annex IV, respectively.

Along with the revision and improvement of internal HR-related processes, guidelines and templates, the Agency adopted the following Model Decisions (AB Decisions) and Director's Decisions (DD):

- Decision AB n. 06/2017 of 16 March 2017 *on protecting the dignity and preventing psychological and sexual harassment* (repealing Decision AB n. 01/2013);
- Decision AB n. 25/2017 of 14 December 2017 *on implementation of telework in the Agency for Cooperation of Energy Regulators* (repealing Decision AB n. 21/2012);
- Director's Decision 2017-02 *on rules governing the election of the Staff Committee* (repealing DD 2011-24);
- Director's Decision 2017 -13 *on the rules governing the traineeship programme of the Agency for the Cooperation of Energy Regulators* (repealing DD 2016-09);
- Director's Decision 2017-16 *on the rules of procedures for the selection of temporary and contract staff* (repealing DD 2014-16);
- Director's Decision 2017-17 *on the Agency's Organisational Chart, Job Titles and Allocation of Posts*;
- Director's Decision 2017-23 *on duration and renewal of contracts before the expiry date* (Repealing DD 2013-11).

In 2017, the Internal Audit Service (IAS) performed an audit on the Human Resources Management (HRM) function of the Agency, in line with the Strategic Audit Plan for the period 2017-2019. The audit was conducted in accordance with the Mutual Expectations Paper, which also summarises the key milestones of the audit process. Following the receipt of the Draft Report, the Agency transmitted to the IAS its formal comments, which are attached to the Final Audit Report. After receipt of the Agency's comments, the IAS prepared the Final Audit Report,



which was received on 15 December 2017. The Report contained 5 (five) recommendations: one critical, two very important and two important, which have been accepted by the Agency. The Agency prepared a Draft Action Plan for the implementation of the accepted recommendations, which will be followed up in 2018 and 2019.

In 2017 the Agency signed a revised service level agreement (SLA) with the Directorate-General for Human Resources and Security (DG HR) for the provision of services related to the HR function. Moreover, the Agency has been implementing the initial phase of the acquisition of the HR personnel database system of the European Commission (Sysper), which will simplify and streamline the management of data (staff repository, analytics) related to the Agency's workforce.

The Agency carried out a benchmarking exercise for 2017 in line with the provisions of Article 29(3) of the framework financial regulation (FFR). The snapshot for the benchmarking exercise was taken on 31 December 2017. As prescribed by the methodology for agency job screening, it focused on the ratio of jobs in the area of administrative support and coordination, neutral and operational categories.

In line with the methodology, the following posts were included in the screening exercise:

- all establishment plan posts (irrespective of whether they were occupied, vacant, or unused job quotas);
- other types of statutory links or contracts when occupied by a jobholder: contract agents, seconded national experts, and trainees;
- jobs occupied by interimaire.

The following breakdown, based on three job type categories, of the 117 total positions in the Agency (including 5 Temporary Agent vacant posts), as of 31 December 2017:

- 1) Administrative support and coordination – 21 positions, accounting for 17.95% of total posts.
- 2) Operational – 88 positions, accounting for 75.21% of total posts.
- 3) Neutral – 8 positions, accounting for 6.84% of total posts.

The benchmarking exercise results are presented in Annex VI.

Task	Human resources management
Work Programme objectives for 2017	<ul style="list-style-type: none"> <li>- To recruit additional resources in line with the Agency's updated Establishment Plan and replace departing staff members in an efficient and timely manner.</li> <li>- To design, implement, and complete the annual performance appraisal exercise in 2017, in line with the new Implementing Rules.</li> <li>- To ensure that staff members are offered appropriate training opportunities aimed to improve their skills and competencies.</li> <li>- To consider the possible use of the Commission HR Tools, when available.</li> <li>- To receive positive evaluation results from the ECA.</li> <li>- Plan the implementation of the Competency Framework.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Average length of recruitment procedure: 4 months (including 1-month period of publication of the Vacancy Notice).</li> <li>- Minimum 95% occupancy rate of TA posts in the establishment plan by the end of 2017.</li> </ul>

	<ul style="list-style-type: none"> <li>- 100% of the eligible Agency's staff subject to performance appraisal to undergo evaluation in the 2017 exercise in line with the new Implementing Rules by end of June 2017.</li> <li>- Minimum 75% attendance at in-house organised trainings.</li> <li>- No critical or very important recommendations received from ECA audit in 2017.</li> <li>- Continued gradual revision of job descriptions in light of the Competency Framework. 50% of job descriptions to be revised by the end of 2017.</li> <li>- New Vacancy Notices aligned with the competencies and skills required for the positions advertised.</li> </ul>
Achievement against target	<ul style="list-style-type: none"> <li>- Staff with the necessary knowledge and skills selected and recruited for the Agency. Average length of recruitment procedures: 3.8 months.</li> <li>- Training and learning development activities made available as per identified training needs. 90% of staff members who submitted feedback forms were satisfied or very satisfied with the Agency's training policy</li> <li>- 100% of annual performance appraisals carried in line with the adopted rules.</li> <li>- SYSPER project implemented according to the plan.</li> <li>- Action Plan and establishment of the core values for the implementation of Competency Framework finalised.</li> </ul>

## 2.5 ASSESSMENT BY MANAGEMENT

In 2017 the Agency continued to implement effective policies, management tools and monitoring and control procedures, aiming to ensure the achievement of its objectives by employing its human and financial resources efficiently.

The Agency continued to execute the long-standing ex-ante and ex-post control procedures, with a commitment to improve the efficiency and effectiveness of organisational processes.

The ex-ante controls performed encompass the entire system of controls and checks regarding operational, procurement and financial activities.

An extensive ex-ante control system for every low, middle and high-value procurement procedure has been put in place. Ex-post control is performed annually by the Court of Auditors on a sample of at least 4 procurement procedures. Each year the Agency carries out an additional ex-post control of at least one high-value procurement procedure not covered by the Court of Auditors.

The ex-ante controls on financial transactions involve the use of standard check-lists on financial transactions and the strict application of the 'four eyes' principle.

A paperless workflow in the ABAC accounting system was adopted in 2015. A new model for paperless workflow of carry-overs was developed and implemented at the end of the 2016 financial year. It contributed to the improvement of the process, traceability of documentation and helped keep financial transactions in compliance with applicable rules.

Revised guidelines on financial circuits and segregation of duties at the Agency were adopted in 2015 and further applied in 2017. The guidelines define specific roles and responsibilities for all those taking part in the financial circuit. A new revision of these guidelines was finalised and adopted in May 2018.

2017 saw an improved rate of commitment appropriations - 98.72% compared to 98.11% in 2016.

Ex-ante and ex-post controls were further executed by using check-lists, consistent implementation of operational guidelines and regular and structured reporting to management. Strict management supervision is performed through regular reviews at management meetings of work programme implementation, the annual procurement plan and the degree of implementation of key performance indicators (KPIs) and of the risk management process.

Controls and supervisory checks performed in 2017 provided no evidence of significant or repetitive errors in reporting by Agency departments, budget execution, human resources management or KPI implementation. Monitoring reviews showed no instances of inadequate or ineffective controls that could expose the Agency to key risks.

Based on the results achieved in 2017 (both financial and operational) and the additional assurance provided by external and internal audits, it can be concluded that the control environment established by the Agency works as intended and provides reasonable assurance of achievement of objectives and legality and regularity of activities and underlying transactions.

## **2.6 BUDGET IMPLEMENTATION TASKS ENTRUSTED TO OTHER SERVICES AND ENTITIES**

No budget implementation tasks were entrusted to other services or entities. The treasury and accounting services were outsourced to the Directorate General for Budget as of 1 October 2017.

## **2.7 ASSESSMENT OF AUDIT RESULTS DURING THE REPORTING YEAR**

### **2.7.1 INTERNAL AUDIT SERVICE ('IAS')**

The IAS conducted a full risk assessment and IT risk assessment in February 2016, which resulted in a new strategic audit plan for the Agency for the period 2017-2019 and formulated the audit topics for the next planning period.

In 2017, the IAS performed an audit on the Human Resources Management (HRM) function of the Agency, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy of the design and the effectiveness of the internal control system related to Human Resources Management in the Agency.

The scope of the audit covered the following areas:

- Strategic and operational HR planning, i.e. the provision of strategic advice and support to the Head of Administration and the management of the Agency with regards to Human Resources Management and alignment to organisational needs;
- HR implementing rules, policies and procedures;
- Setup and coordination of the HR function, i.e. the design and implementation of the HRM strategy with regards to the organisation of work;
- Recruitment, i.e. coordination of the timely recruitment of suitably qualified staff, in accordance with internal procedures and EU rules;
- Performance management and training, i.e. performance appraisals and promotions of staff, identification of organisational needs and individual training needs and the design and delivery of learning and development plans for staff members;
- HR monitoring and reporting, i.e. financial management of the Agency's Human Resources budget;

- Ethics and integrity, i.e. Anti-fraud strategy, a policy on ethics and training to raise awareness to all staff.

The Final Audit Report was received on 15 December 2017. The Report contains 5 (five) recommendations: one critical, two very important and two important, which have been accepted by the Agency. The critical recommendation<sup>6</sup> pointed to the lack of established guidance for reporting and handling potential fraud cases and their outcome in the area of staff recruitment.

The adopted Action Plan is implemented in the course of 2018 and planned to be reported in detail in the CAAR 2018.

## **2.7.2 EUROPEAN COURT OF AUDITORS ('ECA')**

### **AUDIT OF THE 2016 ANNUAL ACCOUNTS**

ECA audited the 2016 annual accounts of the Agency in March 2017. The audit mission included analytical audit procedures, direct testing of transactions and an assessment of the key controls of the Agency's supervisory and control systems aiming to confirm the legality and regularity of the transactions underlying the Agency's accounts.

#### **OPINION ON THE RELIABILITY OF THE ACCOUNTS<sup>7</sup>**

According to ECA, the Agency's annual accounts accurately depicted, in all material respects, its financial position at 31 December 2016, the results of its operations and its cash flow for the year, in accordance with the provisions of its financial regulation and the accounting rules adopted by the Commission's accounting officer.

#### **OPINION ON THE LEGALITY AND REGULARITY OF TRANSACTIONS<sup>8</sup>**

In the opinion of the ECA, the transactions underlying the annual accounts for the 2016 financial year were legal and standard in all material respects.

The ECA made one comment, which did not call its opinion into question, regarding the high level of appropriation carried over into the following financial year, caused mainly by the multi-annual nature of the REMIT project.

The 2016 accounts were audited in March 2017 by an external audit firm engaged by the Agency in accordance with the provisions of Article 208 of the general financial regulation<sup>9</sup>. The external auditors audited the annual accounts (balance sheet at 31 December 2016 and the financial performance statement, the cash flow statement, the statement of changes in net assets and the notes attached to the financial accounts) and the budget implementation report (budget outturn account and annexes to the budget outturn account). The final audit report did not contain any findings or recommendations reflected in ECA's opinion of the final accounts.

### **AUDIT OF THE 2017 ANNUAL ACCOUNTS**

The European Court of Auditors (ECA) together with Ernst & Young audited the Agency's 2017 annual accounts. The comments made related to the large amount of funds carried over into the 2018 financial year mainly because of the multiannual nature of the REMIT project and a concentration of procurement procedures at the end of the year leading to pending obligations at year's end.

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<sup>6</sup> A critical recommendation reports to a fundamental weakness in the audited process that is detrimental at entity level (IAS Final Audit Report on Human Resources Management in ACER, p34)

<sup>7</sup> [https://www.eca.europa.eu/Lists/ECADocuments/ACER\\_2016/ACER\\_2016\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/ACER_2016/ACER_2016_EN.pdf)

<sup>8</sup> See footnote 6.

<sup>9</sup> Regulation (EU, EURATOM) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002.

## 2.8 FOLLOW-UP ON RECOMMENDATIONS AND ACTION PLANS FOR AUDITS

### 2.8.1 RECOMMENDATIONS ISSUED BY THE IAS

Following the IAS audit – as reported in Section 2.7.1 above - and with regards to ‘critical’ and ‘very important’ weaknesses, the IAS provided recommendations in the area of recruitment and management of conflict of interests, as well as appraisal and reclassification exercises. These recommendations were addressed in the Action Plan proposed by the Agency and subsequently accepted by the IAS. ACER actions addressing the critical recommendation on recruitment and management of conflicts of interests are foreseen to be implemented by Q3 2018.

Since the audit fieldwork, the Agency took actions, which were already welcomed by the IAS. Further corrective measures were identified and included in an Action Plan, which included adequate and reliable actions, target dates, and an assessment of their impact. In the next period the IAS will periodically assess the level of implementation of these actions by the Agency, based on which it may be able to close the recommendations made.

The measures already undertaken and planned address the weaknesses identified as critical and very important through: (1) development of practical Conflict of Interest guidelines for staff related to the processes of selection and recruitment and to appraisal and reclassification and (2) development of internal guidelines on the management of disciplinary and fraud issues, in order to complement existing internal rules. Furthermore, the Agency plans to (3) update its current rules and policies (including current templates) with regards to selection and recruitment of staff as well as (4) establish standard operation procedures in the identified areas. The planned measures will also involve (5) the performance of a risk assessment of document management related to HR files and determining mitigating measures in case of identified gaps, a process, which is already undergoing at the Agency in the context of acquisition of the Sysper2, the information system aiming at integrating all human resource management functions in the Agency. Finally, the Agency will be (6) performing the competency framework exercise, which includes the revision of the job descriptions of staff members and their roles and responsibilities.

### FOLLOW-UP ON PREVIOUS RECOMMENDATIONS – (2016 AUDIT – THE IAS RISK ASSESSMENT)

The IAS risk assessment audit was carried out in February 2016 and covered all Agency processes. This audit visit was the basis for setting up the Agency’s IAS Strategic Audit Plan 2017-2019, identifying the Agency’s key risks and proposing topics for forthcoming IAS audits. The following high-risk processes were identified during the full risk assessment:

- Document management;
- Business continuity;
- Monitoring of network code implementation;
- REMIT market surveillance; and
- IT governance.

The Agency would like to report the following:

- The implementation of the document management policy in ACER (adopted by the Director Decision 2016-13 of 22 June 2016 on Adopting the Document Management Policy of the Agency for the Cooperation of Energy Regulators), is ongoing, in accordance to the Action Plan of the Inter-Departmental Working Group on Document Management (IDMWG). To date, the following deliverables have been finalised: the drafting of the Agency’s Document Management Manual and the establishment of a central records repository tool, which will be the main document management tool (by

upgrading the current tool). Creation of 3rd level files by the Departments, in accordance to the ACER Filing and Retention Plan and awareness raising and providing necessary training to staff is ongoing.

- The Agency managed successfully to set a specific Framework Contract for Business Continuity, and is actively engaged in a network of Business Continuity with other EU and International Institutions and Bodies. Following a procurement procedure for services, a training and awareness campaign was completed by Q1 2018. It included a multi-level training programme for Management, Team Leaders and staff members. All training material is available, revised documentation was made available on the Agency intranet to all the staff members.

Business Continuity exercise took place in December 2017, and allowed to highlight gaps and opportunities for improvement in the area of Business Continuity, it also allowed to assess again the processes and the needs for Business Continuity in the wider context of the critical processes and functions.

A new Business Continuity ('BC') Plan has been drafted for the approval of the Director. According to the BC Plan, maintenance, together with extended testing, will be done again at the end of 2018.

In addition to those basic needs, the Agency will establish soon a system of Duty Officers (for which a Draft Decision is already available) in order to strengthen the BC capabilities of the Agency and to further involve and engage all the Staff in the BC processes.

All the tasks performed will be presented in the update of the Action Plan for 2018.

- As regards the actions related to the monitoring of the effects of the CACM NC in electricity, all actions envisaged for 2017 were successfully executed.

The scope of this activity was consistent with the geographical scope of the data made available to the Agency in 2017 (i.e. either for the whole continental Europe for some monitoring aspects or only for the Central-West European region for others). Where data was available (i.e. for the areas listed above), the following phases were accomplished: methodology phase (finished in April 2017), data processing: collection and assessing of data and sharing the preliminary results with NRAs (finished in June 2017), drafting phase: reporting the findings, debating the conclusions with NRAs and formulating recommendations (finished in August 2017), publication phase: preparing the design version of the figures and tables, and proof reading the report and prepare the public presentation of the results (finished in September/October 2017).

In order to widen the scope of the monitoring of the CACM GL, several bilateral meetings with ENTSO-E have been held. As a result of these meetings, ENTSO-E set up a project group which will be in charge of systematising the collection of the data that ACER needs in order to fulfil its tasks. Still, the collection of some data items, including data to be collected from non-TSOs entities, is subject to further discussions or evaluations to be performed by ENTSO-E.

Several meetings were held to discuss with ENTSO-E the collection of data for the purpose of monitoring the forward capacity allocation guideline (FCA GL). As a result of these meetings, ENTSO-E is now in possession of all relevant information to evaluate the feasibility of collecting the data requested by ACER.

As regards the actions related to the monitoring of the implementation of Network Codes in gas, all actions envisaged for 2017 were successfully executed, without major issues.

- Regarding the REMIT Market Surveillance process, the data quality policy was developed during spring and summer 2016 and applied ever since. There was a delay in formally adopting it caused by the reorganisation of the former Market Monitoring Department and the split into two REMIT departments, the Market Surveillance and

Conduct (MSC) Department and the Market Integrity and Transparency (MIT) Department, the latter being formally in charge for data quality, but supported by the MSC Department's market surveillance staff. An open letter on data quality was published highlighting the main data quality issues and calling reporting parties to cooperate on data quality with the Agency. The Agency is also closely cooperating with NRAs to improve data quality. An updated data quality policy was adopted in July 2017. Data quality has significantly improved ever since.

The Agency organised two training sessions for its staff regarding the use of SMARTS in 2017. The first session was dedicated to the use of ALICE Alert programming language and was attended, primarily, by surveillance analysts. The second session was focused on a more general introduction of SMARTS as a surveillance tool, its modules and functions from a user perspective. It was attended not only by surveillance analysts, but also by colleagues from the conduct teams and other departments of the Agency.

After restructuring the Market Monitoring Department in 2016 the existing processes and documentations carried out by the two new REMIT departments (i.e., the Market Surveillance and Conduct (MSC) department and the Market Integrity and Transparency (MIT) department) needed to be revised, an Alert Manual for SMARTS is being developed and details what and how NRAs receive information about alerts. In 2017, the existing Market Monitoring handbook was updated.

The Joint Agency and NRAs Market Surveillance Strategy was presented in June 2017. It details which geographical markets and products in the EU are monitored and by whom. Moreover, the strategy provides a basis for organising the logistics of disseminating from the Agency to NRAs instances of suspicious trading which are detected by SMARTS. The strategy will be reviewed every half year in order to take into account regulatory developments.

- Regarding the IT governance, the coordination meetings between the IT Teams' Team Leaders are happening since 2016, as described in the Action Plan. The results have been very encouraging up to now, as the meetings proved to be quite useful.

Additional resources planned to be recruited for the Administration IT Team in 2018, subject to budgetary and Establishment Plan posts availability.

## FOLLOW-UP ON EARLIER RECOMMENDATIONS (2015 AUDIT)

The 2015 IAS audit on procurement processes resulted in six recommendations (four 'important' and two 'very important')<sup>10</sup>. In 2017 all recommendations were reported to IAS. The two 'very important' recommendations and one 'important' recommendation were completed and they were proposed for closure. Three remaining 'important' recommendations have been reported but has not been fully implemented and therefore remain open.

### 2.8.2 RECOMMENDATIONS ISSUED BY THE ECA

The ECA issued a positive opinion on the reliability of the 2016 accounts and on the legality and regularity of the transactions underlying the accounts.

Its report contained one specific recommendation on the high amount of appropriations carried over into the following financial year, to a large extent related to the REMIT project (see section 2.7.2 above).

The Agency justified<sup>11</sup> the amount of carryover in its reply.

## FOLLOW-UP ON EARLIER RECOMMENDATIONS

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<sup>10</sup> As reported in the Agency's 2015 annual activity report

<sup>11</sup> [https://www.eca.europa.eu/Lists/ECADocuments/ACER\\_2016/ACER\\_2016\\_EN.pdf](https://www.eca.europa.eu/Lists/ECADocuments/ACER_2016/ACER_2016_EN.pdf); page 12

There have been positive developments concerning the 2014 recommendation on the establishment of a European School. The General Interest File of the European School Ljubljana was approved in December 2017 by the Board of Governors of the European Schools. The Dossier of Conformity was submitted by the Ministry of Education, Science and Culture in January 2018 and in April 2018 it was adopted by the Board of Governors of the European Schools. On 18 January 2018 the Government of the Republic of Slovenia adopted the Decision to establish the European School Ljubljana within the School Centre Ljubljana, as planned. This decision provides the legal basis for further activities. The Minister of Education, Science and Sports adopted a decision on the enrolment procedure, fees and some other aspects in January 2018. The School launched the website with basic information and the announcement of the enrolment of pupils in February 2018. The School recruited the Headmaster in February 2018. The call for teachers was launched in April 2018.

The financial agreement with the European Commission is planned to be signed in spring 2019, after the Accreditation Agreement is signed with the Board of Governors of the European Schools. The visit and the Audit Report of the team of inspectors envisaged in autumn 2018.

## 2.9 FOLLOW-UP ON OBSERVATIONS FROM THE DISCHARGE AUTHORITY

In its Report on discharge in respect of the Agency's budget implementation for financial year 2015<sup>12</sup> the European Parliament confirmed the status of the recommendations from previous years as 'completed' and issued the following recommendations:

- called on the Agency to inform the discharge authority of the measures implemented in relation to the efficiency of its ICS with a view of finding areas for further improvements;
- asked the Agency to keep the discharge authority informed on its study for a methodology proposal to evaluate the impact of gas network codes and guidelines in terms of implementation and market effects;
- called on the Agency to publish on its website the missing declarations of conflicts of interest of some board of regulators' members and asked the Agency to provide further information about a detected potential conflict of interest of one of its administrative board members.

The Agency duly addressed the above recommendations. It took the necessary steps to collect and publish the remaining CVs and declarations of interest. The annual assessment of the effectiveness of the Agency's internal control standards was conducted and, as a follow up where required, measures were taken to improve the control environment. The Agency provided the discharge authority with further information on the potential conflict of interest case concerning an Administrative Board member, noting that the member in question had in the meanwhile submitted his resignation.

## 2.10 TRANSPARENCY AND INTEGRITY

The Agency continued to pay attention to the management of (potential) conflicts of interest, which is crucial in ensuring its independence and transparency and in maintaining the trust of stakeholders and citizens. Since conflicts of interest ('Col'), actual or perceived, could call the integrity of the decision-making process into question, the Agency has implemented a comprehensive Col policy, including provisions related to staff (with stricter requirements for management), its boards, working groups and task forces.

In 2017 the Agency collected the annual declarations of interest ('Dols') of its management staff (Director and Heads of Department), of Administrative Board ('AB') members and alternates, of Board of Regulators ('BoR') members and alternates and of members and alternates of the Board of Appeal ('BoA'), as well as of the chairs and co-chairs of the Agency's

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<sup>12</sup> <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+TA+P8-TA-2017-0156+0+DOC+XML+V0//EN&language=EN>



working groups and of the convenors of the Agency's task forces. The Dols were reviewed in accordance with the policy provisions and published on the Agency's website together with the CVs of the people in question. Due to changes in the composition of the boards, notably the BoR, a few Dols were not immediately available on the website as they had first to be submitted by the newly appointed members.

In the context of the annual Col assessment in 2016, and again in 2017, the AB considered that, with respect to one of its members, there was a risk of at least a perception of conflict of interest. The AB thus took contact with the Appointing Institution (in this case, the Council). The member concerned resigned in October 2017, before the position of the Appointing Institution was communicated to the Agency.

In late 2017, in an effort further to increase transparency, the Agency introduced a register of meetings of the Director with external stakeholders, in line with recommendations from the European Ombudsman and similar practices in the European Commission. The register came into effect in January 2018 and is published on the Agency's website.

## **PART II (b) – EXTERNAL EVALUATIONS (*where applicable*)**

Not applicable.

## **PART III – ASSESSMENT OF THE EFFECTIVENESS OF INTERNAL CONTROL SYSTEMS**

### **3.1 RISK MANAGEMENT**

#### **OVERALL MANAGEMENT OF RISK**

As in previous years, the Agency managed its risks at various levels, ranging from standard risks addressed through internal control standards, to risks related to specific tasks monitored at department level. Critical risks, potentially affecting the Agency's main objectives, were assessed at Agency level.

As in previous years, the Agency's management monitored the achievement of the 2017 work programme objectives through the Agency's KPIs using the Agency's "traffic light" system (see annex 1). Most KPIs remain the same from year to year to ensure consistency in comparisons, however the targets to be achieved in the year in question are set on an annual basis. KPIs were discussed on a quarterly basis at coordination and management meetings. Specific attention was paid to objectives when related KPIs identified delays or under-performance and measures were identified to address such issues.

At the end of 2017, the Agency reviewed its KPI system following a recommendation contained in the Commission's Opinion on the Agency's Programming Document. The number of KPIs to be followed at the management level has been significantly reduced, the remaining performance indicators will be monitored at department level.

Besides the standard monitoring of the implementation of the annual work programme, additional processes were used to monitor the human and financial resources situation, in particular as concerns budget implementation (e.g. monthly implementation reports discussed at management meetings).

The activities and tasks envisaged in the 2017 annual work programme were planned on the basis of the draft budget approved by the AB in early 2016. As the Agency was not assigned all the resources necessary fully to implement its work programme, in early 2017 the Agency revised its annual work programme and matched the activities envisaged with available human resources.

#### **RISK REGISTER – CRITICAL RISKS IN 2017**

Along with the preparation of the Agency's programming document, the Agency ran its annual risk assessment exercise covering operational, legal and administrative areas of activity. Risks are assessed in relation to specific activities at department level (some activities being inter-departmental). A risk register of critical risks is compiled on the basis of the assessment of the likelihood and potential impact of individual risks, including the Agency's response to the risks.

As a result of the exercise, management identified three risks considered to be both likely and with a potentially significant impact on Agency activities: the first related to regulatory activities and the second and third to horizontal matters (procurement and human resources management).

The risks related to REMIT concerned the considerable divergence between the minimum allocation of human resources which the Agency considers necessary to meet the objectives of REMIT and the staffing allocation voted in the EU Budget. These risks affected the Agency's market monitoring of trading activity in wholesale energy markets. The remaining (horizontal) risks did not significantly affect the operation of the Agency.

#### **OTHER ISSUES**

While no cases of fraud were detected, the Agency continued to raise awareness among staff of anti-fraud issues.

Specific attention was also paid to data protection in relation to collection, processing and management of information. The data protection requirements and procedures within the Agency were screened and a revision of shortcomings began in order to prepare for compliance with the General Data Protection Regulation (GDPR) due to enter into force in 2018.

### 3.2 COMPLIANCE AND EFFECTIVENESS OF INTERNAL CONTROL STANDARDS

Since 2011, in keeping pace with its growth, the Agency has progressively developed and implemented a series of internal measures to ensure that its activities are controlled effectively and that they provide reasonable assurance with regard to the achievement of its objectives.

This is ensured, in particular, by the established internal control system<sup>13</sup> that aims to provide assurance of the effectiveness and efficiency of operational activities, to meet all legal and regulatory requirements, to ensure that financial and management reporting is reliable and that assets and information are safeguarded.

The internal control system encompasses 16 internal control standards (ICS), structured around the following six major ‘building blocks’:

1. Mission and values;
2. Human resources;
3. Planning and risk management process;
4. Operations and control activities;
5. Information and financial reporting;
6. Evaluation and audit.

The Agency has established an internal control standards framework that provides an overview of the control system, i.e. minimum requirements, specific measures to ensure compliance with these requirements and their state of play.

An assessment of the effectiveness of the internal control standards, based on the guidance drafted in 2014, was performed in 2015 to evaluate the efficiency of the controls in place and to identify and propose areas for improvement. The results of the assessment and the control activities performed in 2015, together with measures of improvement taken in 2017, are presented below.

#### ICS 2 – ETHICAL AND ORGANISATIONAL VALUES

In 2017 the Agency set and revised its mission, vision and values (through a bottom-up approach involving all staff), with the aim of building a solid structure for the creation and implementation of its Competency Framework: The Agency’s core values are: Cooperation, Transparency, Integrity, European, Professionalism, Respect and Excellence.

ACER’s mission defines its raison d’être and was designed in two versions:

Short version: *“The European Union Agency for the Cooperation of Energy Regulators fosters a fully integrated and well-functioning Internal Energy Market.”*

Long version: *“The European Union Agency for the Cooperation of Energy Regulators fosters a fully integrated and well-functioning Internal Energy Market, where electricity and gas are traded and supplied according to the highest integrity and transparency standards, and EU consumers benefit from a wider choice, fair prices and greater protection. For this purpose, we work with European Institutions, NRAs and stakeholders.”*

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<sup>13</sup> Established by the AB with Decision AB No 08/2011 on the Adoption of Internal Control Standards and revised by AB decision No 10/2012.

ACER's vision defines what the Agency strives to achieve: *"Our vision is to be a leading agency for independent, high-quality regulation in Europe to implement the Internal Energy Market and the Energy Union."*

In 2017 the Agency continued to implement its ethics and integrity policies such as the policy on the prevention and management of conflicts of interest, along with its anti-fraud and whistleblowing policies.

### ICS 3 – STAFF ALLOCATION AND MOBILITY

All temporary staff selection procedures in 2017 were launched in accordance with the model decision on the *procedure governing the engagement and use of temporary staff under Article 2(f) of the Conditions of Employment of Other Servants of the European Union (CEOS)*. These rules define a consistent policy for temporary staff in the Agency with a view to facilitating staff mobility both within the Agency and between EU decentralised agencies.

Moreover, in 2017 the Agency implemented the revised staff planning exercise methodology for the 2018-2020 period, in line with activity-based management principles and conforming to EU Agencies' benchmarking exercises. According to this approach, in years N-1 and N-2 positions are allocated according to Agency activities. This approach aims to streamline resource planning and identify staffing needs in greater detail.

### ICS 4 – STAFF EVALUATION AND DEVELOPMENT

In 2017 the Agency implemented the AB's decision on the *general implementing provisions governing the procedure for annual appraisal of temporary and contract staff of the Agency*.

The appraisal system is designed to provide regular and structured feedback to improve performance and contribute to future career development. It describes roles and responsibilities, timelines and the expected outcomes of the annual performance appraisal exercise and introduces a new qualitative approach to individual assessment.

At the end of 2017 the Agency undertook an internal analysis of the needs related to learning and development activities, which was aimed to conduct an individual gap analysis of staff needs in order to plan and implement the training activities for 2018.

### ICS 7 – OPERATIONAL STRUCTURE – AND ICS 8 – PROCESSES AND PROCEDURES

In 2017 the Agency further developed the existing tools:

- The **Repository** tool was updated by adding functionalities (i.e. filing, retention, workflows) in order to enable it to work as a proper Document Management Tool;
- The **Data Protection** tool has been updated and is now fully in use.
- The **KPI** tool, which enables a paperless process and workflow to monitor audit recommendations, IAS action plans and performance indicators, is now fully in use by the entire Agency.
- The **Helpdesk** tool has been further developed by adding more areas for reporting incidents.
- A new **Visitor** was developed to register visitors and deliveries to the Agency.

In implementing the above modifications and developments, the Agency focused on efficiency gains, data quality and optimisation in the use of resources and automatization of processes, thus ensuring data control and an audit trail.

The process of drafting the Standard Operating Procedures (SOPs) has started. A detailed Action Plan has been drafted. The Action Plan envisages the following main steps and is in alignment with ISO standards for quality management:

- Process Landscaping (catalogue of processes);
- Process Identification;
- Process Description;
- Process Implementation.

In the area of human resources, the Agency identified the main processes and commenced drafting of HR SOPs in the area of selection and recruitment, entry into service and staff appraisal.

An Accounting Officer was officially appointed, as the services were taken over by the European Commission.

The ICT policy reflects the Agency's current practices and needs with a view to striking a balance between reasonable flexibility for users and prioritising business needs, while maintaining a fast, efficient, professional and secure ICT user support and overall IT environment. The ICT Steering Committee met 5 times in 2017 in order to monitor and follow the implementation of the adopted ICT Policy.

## ICS 11 – DOCUMENT MANAGEMENT

Since the adoption of the Agency's Document Management Policy (*Director's Decision 2016-13 of 22 June 2016 on Adopting the Document Management Policy of the Agency for the Cooperation of Energy Regulators*), the Inter-Departmental Group on Document Management worked in 2017 mainly on the implementation of the policy by:

- Developing the rules for registration;
- Developing the rules for filing;
- Developing the Agency's Filing Plan and Retention Rules, endorsed by the Management Team in November 2017;
- Developing the Document Management tool by upgrading the existing Repository tool. New functionalities like filing, retention and workflows were envisaged;
- Developing the Documents Management Manual, describing all the document management operations.

## ICS 12 – INFORMATION AND COMMUNICATION

In 2017 the Agency made use of the feedback tool, by including a link to it in the Agency's opinions, recommendations and publications available to stakeholders, interested parties and the general public. The tool allows stakeholders to rate the relevance and quality of the Agency's deliverables and provide feedback. The feedback collected in 2017 on the Market Monitoring Report, one of the Agency's main products, indicated that 87% of stakeholders who replied were satisfied or very satisfied with the document.

## ICS 15 – ASSESSMENT OF INTERNAL CONTROL SYSTEMS

A general assessment of the effectiveness of the internal control system was conducted on the basis of the guidance issued in 2014 to assess the state of play and degree of compliance of the 16 internal control standards with the minimum requirements. In 2017 the following areas were identified and the control environment strengthened:

- IT governance and security - further implementation of information security policy, measures to improve IT governance;
- Business continuity – steps towards practical implementation of the Agency’s business continuity plan: procurement of the Business Continuity consultancy and set-up of the initiation phase of the Business Continuity Management System project.
- Document management - implementation of a document management policy and related procedures: registration, classification, filing plan, retention, etc.

Additional measures may be undertaken in the area of internal and external communication and in the development of the operational structure, processes and procedures further to strengthen existing controls, for example defining and developing the Standard Operating Procedures for the Agency.

## CONCLUSION

In 2017 the Agency continued to implement a comprehensive internal control and performance and results-oriented management system, including risk management and ensuring a proportional approach to compliance, on the one hand, and effectiveness of internal procedures and systems, on the other. According to the assessment of ICS implementation, the Agency complied with the minimum requirements underlying each control standard. The specific actions implemented and the controls introduced under each of the prioritised standards in 2017 proved to work efficiently and contributed to the Agency’s commitment to continuous improvement. In addition to the positive results achieved in previous years, no significant or material weaknesses in the Agency’s ICS were found in 2017. The annual review of the ICS and the risk assessment exercise provide reasonable assurance that the Agency is achieving its objectives.

## **PART IV – MANAGEMENT ASSURANCE**

### **4.1 REVIEW OF THE ELEMENTS SUPPORTING ASSURANCE**

The building blocks of assurance, as described in Part II and Part III, underpin the reasonable assurance provided by authorising officers in their declaration of assurance in the AAR. The reliability of the information contained in this report is supported by the following building blocks of assurance:

#### **BUILDING BLOCK 1: ASSESSMENT BY MANAGEMENT**

As presented above, the Agency developed and implemented a comprehensive set of procedures and tools to prepare, manage, control and monitor the implementation of its work programme and its human and financial resources.

These procedures encompass ex-ante and ex-post controls, planning, monitoring and reporting tools, control procedures performed by staff and assurance provided by internal and external audits, as well as evaluations of the Agency's activities.

The Agency also analyses major weaknesses, if any, in achieving its short-term objectives, the reputational risks, any significant weaknesses in the control system and recurrent errors. These weaknesses might involve the use of resources, sound financial management and the legality and regularity of transactions. The significance of a weakness is judged on the basis of:

- the nature and scope of the weakness;
- the duration of the weakness;
- the existence of mitigating controls which reduce the impact of the weakness; and
- the existence of effective corrective measures (action plans and financial corrections).

In 2017 no significant weaknesses requiring special attention, resources or actions were found. Based on the facts presented in the preceding sections, and in the light of the opinion expressed by the ECA on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts, it is safe to say that the Agency has established a working environment where risks are appropriately managed and where the internal control system works effectively and contributes to the achievement of the objectives.

This conclusion takes account of the Agency's concerted efforts to maintain a high level of efficiency in its internal control environment, which entails constant assessment and strengthening of existing controls (considering cost-effectiveness and estimated added value against the additional cost incurred by the Agency) to maintain full compliance with the requirements of ICS 16 and to ensure it will continue to achieve the objectives in its work programmes in years to come.

#### **REGISTER OF EXCEPTIONS**

Since 2011 the Agency has had a procedure in place to register exceptions which guarantees that all instances of overriding controls or deviations from established processes and procedures are documented in exception reports and are justified, duly approved before action is taken and logged centrally.

In 2017 no exceptions from established processes and procedures or procedural incidents were registered.

#### **BUILDING BLOCK 2: RESULTS OF AUDITS AND EXTERNAL EVALUATIONS DURING THE REPORTING YEAR**

In 2017 the Agency received one critical recommendation from internal or external auditors. Furthermore, as provided in Part III above, all recommendations from previous years were implemented as planned, reported in a timely manner and approved by the relevant authority.

The Agency confirms that, on the basis of its thorough assessments of the observations made by the IAS in its Audit report, and following the Action Plan already put in place and being implemented, it can conclude that a reasonable protection of the financial and reputational interests of the Agency is in place.

The Agency appreciates and acknowledges the efforts of the IAS to assess the quality of the control systems put in place and recognises the identified aspects in the HRM area where improvements are necessary. However, the Director does not see at this point a reason to express a reservation on the regularity and legality of the HR recruitment processes. With regard to ACER's reputational risk, it is now mitigated with the implantation of the new guidelines on the management of the disciplinary and fraud issues mentioned above. The Director has reasonable assurance that, overall, suitable controls are in place and working as intended, risks are being properly monitored and mitigated, and necessary improvements detected by the auditors are being implemented in accordance with the Action Plan, as accepted by the IAS. Therefore, the Director, in his capacity as Authorising Officer, intends to sign the Declaration of Assurance without any reservation.

The Agency's management has reasonable assurance that the resources assigned to the activities described in the annual activity report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions. This reasonable assurance is based on:

- Own judgement and the information available from the management supervision activities,
- The results of the self-assessment and,
- The observations of the IAS following the audits performed in the reporting period and the Action Plan adopted and currently implemented in cooperation with the IAS.

One 'important' recommendation from the 2015 IAS audit on procurement procedures has not been fully implemented in the course of 2017. The implementation of the recommendation will be finalised by mid-2018. The potential risks stemming from this are mitigated by additional internal ex-ante controls, in order to ensure that there is no significant impact on the effective functioning of the internal control system.

### **BUILDING BLOCK 3: FOLLOW-UP ON RESERVATIONS FROM PREVIOUS YEARS**

The authorising officer's declaration of assurance in the 2015 annual activity report did not contain any reservations.

### **BUILDING BLOCK 4: ASSURANCE RECEIVED FROM OTHER AUTHORISING OFFICERS IN CASES OF CROSSED SUB-DELEGATIONS**

No budget implementation tasks were entrusted to other services or entities thus minimising the risk of assurance.

#### **4.2 RESERVATIONS (*if applicable*)**

No reservations have been made in the current annual activity report.

#### **4.3 OVERALL CONCLUSIONS ON ASSURANCE (*where applicable*)**

Not applicable.



## PART V – DECLARATION OF ASSURANCE

I, the undersigned Director of the Agency for the Cooperation of Energy Regulators, in my capacity as authorising officer,

Declare that the information contained in this report gives a true and fair view and state that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place provide the necessary guarantees concerning the legality and regularity of the underlying transactions.

This reasonable assurance is based on my own judgment and on the information at my disposal, such as the results of the self-assessment, *ex-post* controls, the observations of the internal audit service and the lessons learnt from court of auditors' reports from past years.

I hereby confirm that I am not aware of anything not reported here which could harm the interests of the Agency.

Ljubljana, 8 June 2018







*(Signed)*

Alberto Pototschnig



## Annexes


### ANNEX I – REPORTING ON KPIS

#### TRAFFIC LIGHTS (VISUAL STATE OF PLAY) - LEGEND

					
KPI is fulfilled and task completed with a small delay/issue	KPI is fulfilled and task completed	On track, no problems envisaged	Slight delay or issue that still needs to be addressed but the KPI is expected to be fulfilled, possibly with a slight delay	Problem or delay due to external factors (e.g. not received on time from ENTSOs or the Commission)	Actual or expected problem or delay, KPI not achieved or lagging behind

#### External Communication




Task	Agency Website
Objectives and deadlines (indicative)	<p>The Agency's goal is to further improve its website in terms of user-friendliness, features and functionalities so that stakeholders find it easy to navigate. It needs to be regularly updated so as to encourage returning visits.</p> <p>In particular, tasks will focus on further developing ACER's online surveys, dedicated workspaces for meetings and workshops and different actions to bring the Agency's work closer to EU citizens.</p>
KPIs	<ol style="list-style-type: none"> <li>1. Unique website hits: 3% increase with respect to the preceding year.</li> <li>2. Online survey: at least 2/3 of respondents satisfied or highly satisfied.</li> </ol>
2017	<ol style="list-style-type: none"> <li>1. Unique visits: -37% unique visits compared to 2016. The tracking system changed in 2017.</li> <li>2. The online survey was answered by 126 stakeholders. 70% were satisfied or highly satisfied.</li> </ol> <div style="text-align: right;">    </div>

Task	Relations with media / information for stakeholders
Objectives and deadlines (indicative)	<p>To send Infoflashes (e-alerts to registered contacts) with the aim of keeping a large number of interested people and “multipliers” regularly informed on the Agency’s activities and initiatives.</p> <p>To answer urgent requests from journalists on a timely basis (within 3 working days, unless otherwise specified).</p>
KPIs	<p>3. Number of news items in Infoflashes: &gt; 40</p> <p>4. Number of references to the Agency in selected media included in the Agency’s media monitoring (proxy for impact): 200</p>
2017	<p>3: Total: 68</p> <p>4: Total: 138</p> <p>(Due to budgetary and HR constraints the Agency kept track of a limited amount of media, had all media been tracked the target would have most probably been attained).</p> 

Staff satisfaction

Task	Review of staff engagement /satisfaction
Objectives and deadlines (indicative)	<p>To assess on a regular basis staff’s engagement and satisfaction with internal communication and more in general satisfaction with working at the Agency in order to address potential shortcomings.</p> <p>Review to be performed every 2 years.</p>
KPIs	<p>5. 2/3 of staff participating in the staff engagement survey satisfied or highly satisfied.</p> <p>6. 70% of staff satisfied or highly satisfied with the level of information shared by line managers.</p>
2017	<p>This KPI is not applicable as the survey was postponed to early 2018, due to the significant increase in the cost of the contractor selected for the joint framework contract with other agencies and the need of the Agency to select a different local contractor.</p>

Administration and human resources

Task	Human resources management
Objectives and deadlines (indicative)	<p>To recruit additional resources in line with the Establishment Plan and replace departing staff members in an efficient and timely manner.</p> <p>To successfully complete the Annual performance appraisal exercise.</p> <p>To ensure that staff members regularly attend training to improve their skills and competencies.</p>
KPIs	<p>7. Average length of recruitment procedures: 4 months (including the 1-month period of publication of the vacancy notice).</p> <p>8. 100% of the Agency's staff subject to performance appraisal on an annual basis.</p> <p>9. 75% of staff satisfied or very satisfied with the Agency's training policy.</p>
2017	<p>7. Average length of recruitment procedures: 3.8 months. </p> <p>8. 100% of the Agency's staff subject to performance appraisal on an annual basis. </p> <p>9. 90% of staff members who submitted feedback forms were satisfied or very satisfied with the Agency's training policy. </p>

Budget Implementation and Audit

Task	Budget implementation and audit
Objectives and deadlines (indicative)	<p>To achieve a high level of budget implementation for both commitment and payment appropriations.</p> <p>To implement recommendations of the Internal Audit Service in a timely manner and to receive a positive opinion from the European Court of Auditors and implement its recommendations.</p>
KPI	<p>10. At least 95% execution of commitment appropriations.</p> <p>11. Minimum 75% execution of payment appropriations.</p> <p>12. Cancellation of payment appropriations below 5%.</p>

	<p>13. Non-qualified opinion received from the European Court of Auditors (ECA) and 75% of its recommendations implemented in line with the Agency's Action Plan.</p> <p>14. 80% of the internal audit service (IAS) recommendations implemented and reported in line with the Agency's Action Plan.</p>
2017	<p>The 2017 budget execution for the commitment appropriations reached 98.72%.</p> <p>The payment appropriations was at 75.81%.</p> <p>The cancellation of payment appropriations was at 2.03%.</p> <p>The Agency obtained an unqualified opinion from ECA for the 2016 accounts and implemented 50% of ECA recommendations according to the Agency'</p> <p>The Agency has implemented 50 % of IAS recommendations according to the Agency's Action Plan.</p>



### ICT infrastructure

Task	ICT development
Objectives and deadlines (indicative)	To ensure the further development and acquisition of applications and services to cover the Agency's departments' needs and to maintain or renew those already in place.
KPI	15. 80% of staff satisfied or very satisfied with IT services on the basis of an annual satisfaction survey.
2017	97.6% of staff satisfied or very satisfied with IT services on the basis of an annual satisfaction survey (only 12 tickets out of 2906 solved were marked as "not satisfied").




### Regulatory practice and cooperation with NRAs


Task	Regulatory cooperation
Objectives and deadlines (indicative)	Organise the regulatory activities of the Agency in an efficient and effective way, using the available resources to pursue the Agency's legislative mandate.

	<p>Maintain high efficiency in the working methods of the BoR, AWGs, as well as the REMITCG, and optimise their operational arrangements to facilitate their activities with a view to promoting regulatory cooperation.</p> <p>Ensure that the structure and focus of the AWGs always reflect the requirements of the regulatory framework, by establishing and dissolving the AWGs or by modifying their remit as required and further improve working arrangements to ensure their most effective contribution to the operation of the Agency and the smooth and timely preparation of its work.</p> <p>Increase public awareness, through regular debriefings, of the activities of the Agency and of the role of the BoR as the forum for NRA cooperation.</p> <p>Develop, where appropriate, beyond the existing working arrangements, the tools and specific mechanisms for the cooperation of NRAs (including at regional level) to facilitate the sharing of best practices and further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.</p> <p>Contribute to further developing regional cooperation through the dedicated GRI Groups (Gas Regional Initiative Groups), in line with the agreed objectives set out in the cross-regional plans in electricity and in gas, with a focus on new pilot projects.</p> <p>Foster exchange of experience with the regulatory associations outside the EU, where necessary, and on areas of mutual interest (e.g. FERC on market monitoring activities). Consolidate regulatory cooperation and working arrangements in the context of the tasks assigned to the Agency under the TEN-E Regulation.</p> <p>Produce a yearly, high-quality Market Monitoring Report.</p> <p>Reinforce cooperation between NRAs under REMIT, both at EU and regional level, through MOUs, and potential synergies in services to avoid duplication.</p> <p>Engage stakeholders in the Agency's work as appropriate.</p>
KPI	16. 70% positive feedback from an annual survey measuring stakeholders' satisfaction with the Agency's regulatory activities.
2017	<p>Given the previous years' surveys as well as the transition to a new Chairmanship of the Board of Regulators (BoR) during 2017, ACER did not conduct a dedicated survey but focused on implementing the improved working and transparency arrangements with regard to NRAs cooperation within the Agency. This took account of the new context for the IEM introduced by the Clean Energy Package proposals by the Commission. To this end the new BoR Chair pursued working improvements (including new formats of the BoR agenda) as well as preparations and scoping of a second BoR summit to address future challenges for the IEM which is envisaged for 2018.</p> <p>As in previous years, in 2017, the BoR, AWGs and Task Forces provided an efficient platform for the cooperation of NRAs within the Agency, bringing together a large number of experts and senior officials from the 28 NRAs.</p>

	<p>The Agency continued to undertake organisational improvements to maintain high efficiency in the working methods of the BoR in the light of the improvements introduced since 2016 (including rolling agendas on a yearly basis, monthly annotated agendas, rapid dissemination of agendas and conclusions of the AWGs and BoR meetings through a common platform, thereby maintaining a high level of transparent internal communication between the BoR and AWGs. Further improvements on the BoR agenda format were introduced.</p> <p>The AWG structure was reviewed and adapted by creating a new Legal Expert Network on 6 December 2017 and dissolving the Agency's Implementation, Monitoring and Procedures Working Group, in order to reflect the requirements of the regulatory framework and to ensure the most effective contribution to the operation of the Agency.</p> <p>In the interest of increasing transparency and awareness of the Agency's work and on its operation, the Agency's BoR as usual organised three public debriefs (quarterly) to present recent activities of the Agency and the BoR to interested parties.</p> <p>The Agency cooperated with NRAs at regional level, such as through the Regional Initiatives, which aims to bring together NRAs, TSOs and other stakeholders to advance integration at the regional level as a step towards the creation of a well-functioning Internal Energy Market (IEM).</p> <p>The Agency has made an effort to exchange experiences with regulatory authorities outside the EU. An Administrative Arrangement was signed on 6 December 2017 with the National Regulatory Agency of Montenegro (RAE), allowing experts of RAE to join the Agency's Electricity Working Group and Gas Working Group as of January 2018. Also, the 13th EU-US Energy Regulators Roundtable took place on 26-27 April 2017 in Arlington, Virginia.</p> <p>The annual Market Monitoring Report was published in October 2017 and was presented to the ITRE Committee on 28 November 2017. A public presentation of the report also took place in Brussels on 24 October.</p> <p>An ACER Contact Group was held as well as technical briefings with the MEPs' assistants on the Clean Energy Package.</p> <p>In supporting the follow up of actions targeted to reach out consumers following the first ACER hearing with consumer organisations in 2016, ACER committed to increase consumers' awareness, to pursue (on an annual basis) meetings. In May 2017 ACER presented the "Internal Energy Market: delivering benefits to consumers" at the dedicated ECCG Sub-Group Energy Meeting, in particular resulting from the implementation of the codes and the findings of the MMR.</p> <p>As in previous years, the Agency has extensively engaged stakeholders in its activities, including through public consultations, workshops and conferences. Notably, the Agency organised the 1st Energy Market Integrity and Transparency Forum, on 11 October 2017. The Agency's Sixth Annual Conference was held in June 2017 in Slovenia, and focused on the theme: Regions for the Internal Energy Market. Other notable events included the Conference on 'Network Codes for the Energy Union: joining forces on implementation' (May 2017) and the joint 'ACER-CEER Conference: Towards a future-proofed EU Energy Market Design' (January 2017).</p>
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	<p>In 2017 the Agency continued to organise together with ENTSO-E the European Stakeholder Committees (ESCs), which have been established to inform and consult stakeholders about the requirements in the guidelines/network codes during the implementation period. The Agency and ENTSO-E co-organise regular meetings to identify problems and propose improvements to the guidelines/network codes. There are three Stakeholder Committees: on Grid Connection, on Market, and System Operation.</p> 
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Electricity framework guidelines, network codes, opinions and recommendations

Task	Agency acts in the electricity field foreseen in the Work Programme and in regulations applicable to the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation monitoring.
KPI	17. 90% of opinions, reviews, recommendations and reports delivered on time.
2017	<p>ACER Decision on HAR on 11 October 2017</p> <p>ACER Decision on NEMOs HMMCP for single day-ahead coupling on 20 November 2017</p> <p>ACER Decision on NEMOs HMMCP for single intraday coupling on 20 November 2017</p> <p>ACER Decision on SEE HAR annex proposal on 18 December 2017</p> <p>ACER Decision on CIDM on 18 December 2017</p> 




Gas framework guidelines, network codes, opinions and recommendations

Task	Agency acts in the gas field foreseen in the Work Programme and in regulations applicable to the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation monitoring.
KPI	18. 90% of opinions, reviews, recommendations and reports delivered on time.
2017	<p>Opinion on ENTSG's Common Network Operation Tools (CNOTs) was adopted on 9 February 2017.</p> <p>4<sup>th</sup> ACER Implementation Monitoring Report on Contractual Congestion at Interconnection Points was adopted on 31 May 2017.</p>




	<p>ACER Report on the Implementation of the Balancing Network Code was adopted on 16 November 2017.</p> <p>First ACER Implementation Monitoring Report of the Network Code on Interoperability and Data Exchange was adopted on 4 December 2017.</p> 
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Cross-sector issues (Electricity and Gas)


Tasks	Key reports produced by the Agency in the gas and electricity fields: Annual Market Monitoring Report Annual consolidated report on progress of projects of common interest (PCI)
Objectives and deadlines (indicative)	<p>Overall objective: timely preparation of high quality reports. More specifically:</p> <p>A) The Annual Market Monitoring Report is to provide in-depth analysis of barriers to IEM integration and give recommendations to the European Parliament and Commission on how to remove them. Expected completion date: November.</p> <p>B) Annual Consolidated Report on progress of projects of common interest</p> <p>Report published within three months of the receipt of the annual reports by the project promoters.</p>
KPIs	<p>19. 100% of the above-mentioned reports published on time.</p> <p>20. Positive feedback on selected reports based on online surveys (70% satisfied or very satisfied).</p> <p>21. Number of unique downloads of the MMR.</p>
2017	<p>19. Consolidated Report on the Progress of Electricity and Gas Projects of Common Interest for the year 2016 was published on 30 June 2017.</p> <p>Annual Report on the Results of Monitoring the Internal Electricity and Gas Markets in 2016 was published on 6 October 2017.</p>  <p>20. 86% positive feedback received on MMR report.</p>  <p>21. The latest edition of the MMR was download 583 times in total, which is more than triple compared to the previous year.</p> 

Relevant opinion documents on ENTSO-E and ENTSG


<p>Tasks</p>	<p>ENTSO-E related opinions, reviews, recommendations and reports:</p> <p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund;</p> <p>Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report;</p> <p>Opinions on ENTSO-E's annual Summer and Winter supply outlooks;</p> <p>Opinions on ENTSO-E's common network operation tools including a common incidents classification scale;</p> <p>Opinion on ENTSO-E's research and development plan;</p> <p>Opinion on the electricity national ten-year network development plans to assess their consistency with the Community-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Community-wide network development plan;</p> <p>Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators.</p>
<p>Objectives and deadlines (indicative)</p>	<p>To meet the legal reporting requirements foreseen in various Regulations.</p> <p>Activities to be carried out upon submission of the relevant documents by ENTSO-E.</p> <p>E.g. Monitoring report on ITC implementation: September.</p> <p>Opinion on ENTSO-E's Work Programme: within two months after receipt of the document from ENTSO-E.</p> <p>Opinion on the electricity TYNDP: within two months after receipt of the document from ENTSO-E.</p> <p>Opinion on ENTSO-E's other documents: after receipt of the document from ENTSO-E.</p> <p>Opinion on the draft regional lists of proposed electricity projects of common interest: within three months of the date of receipt.</p>
<p>KPI</p>	<p>22. 90% of opinions, reviews, recommendations and reports delivered on time.</p>
<p>2017</p>	<p>Opinion on the draft ENTSO-E Annual Work Programme 2018 adopted on 19 December 2017</p> <p>Opinion on ENTSO-E's TYNDP Guidelines 2018 adopted on 12 December 2017</p> <p>Opinion on the ENTSO-E Annual Report 2016 adopted on 2 August 2017</p> <p>Opinion on ENTSO-E's recommendations on technical cooperation for third-country TSOs adopted on 7 April 2017</p>


	<p>Opinion on the ENTSO-E Winter Outlook Report 2016/2017 and Summer Review 2016 adopted on 13 February 2017</p> <p>Opinion on ENTOS' draft consistent and interlinked electricity and gas market and network model adopted on 3 April 2017</p> <p>Opinion on the draft ENTSO-E Guideline for CBA of Grid Development Projects adopted on 13 March 2017</p> <p>Opinion on the ENTSO-E draft TYNDP 2016 adopted on 7 February 2017</p> 
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<b>Tasks</b>	<p>ENTSO-G related opinions, reviews, recommendations and reports:</p> <p>Opinions on ENTOSG's annual work programme 2018 and ENTOSG's annual report 2016;</p> <p>Opinion on ENTOSG's research and development plan;</p> <p>Opinions on ENTOSG's annual Summer and Winter supply outlooks;</p> <p>Opinion on ENTOSG's draft Ten Year Network Development Plan 2017;</p> <p>Opinions on ENTOSG's recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators.</p>
Objectives and deadlines (indicative)	<p>To meet the legal reporting requirements foreseen in various regulations.</p> <p>Activities to be carried out upon submission of the relevant documents by ENTOSG.</p> <p>Opinion on ENTSO-G's Work Programme: within two months after receipt of the document from ENTSO-G.</p> <p>Opinion on ENTOSG's other documents: after receipt of the document from ENTOSG.</p> <p>Opinion on the draft regional lists of proposed gas projects of common interest: within three months of the date of receipt.</p>
KPI	23. 90% of opinions, reviews, recommendations and reports delivered on time
2017	<p>ACER Opinion on the ENTOSG draft Ten-Year Network Development Plan 2017 adopted on 15 March 2017.</p> <p>ACER Opinion on ENTOSG's Summer Supply Outlook 2017 adopted on 28 July 2017.</p> <p>ACER Opinion on the draft 2<sup>nd</sup> ENTOSG Cost-Benefit Analysis Methodology adopted on 24 October 2017.</p> <p>ACER Opinion on ENTOSG's Annual Report for the year 2016 of the European Network of Transmission System Operators for Gas adopted on 7 November 2017.</p>


	<p>ACER Opinion on ENTSOG's 2018 Draft Annual Work Programme was adopted on 7 December 2017.</p> <p>ACER Opinion on ENTSOG's Winter Supply Outlook 2017/2018 adopted on 15 December 2017.</p> 
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Wholesale Market Monitoring – REMIT


Task		Review of the REMIT operations and rulebook
Objectives and deadlines (indicative)		This review may result in the formulation of proposals to the European Commission for technical updates of REMIT, according to Article 6 of REMIT, or of the REMIT Implementing Regulation, the drafting of recommendations and guidance.
KPI		24. Deliverable of the outputs by end 2017.
2017		<p>3rd edition of the Transaction Reporting User Manual published on 26 April 2017</p> <p>4th edition of the Manual of Procedures on data reporting published on 18 May 2017</p> <p>1st edition of the RRM requirements not updated in 2017, but its technical support documentation, namely the ARIS data validation rules updated on 15 March 2017</p> <p>7th, 8th and 9th edition of the FAQs on REMIT transaction reporting published on 26 April 2017, 10 July 2017 and 8 December 2017</p> <p>4th edition of the FAQs on REMIT fundamental data and inside information collection published on 18 May 2017</p> 


Task		REMIT Information Management and operation and enhancement and operation of the Agency's REMIT information systems
Objectives and deadlines (indicative)		Provision of high quality wholesale energy market data for market monitoring purposes. Operation and further development and, if necessary, enhancements of ARIS for collection of trade, fundamental and other data and for the data sharing with NRAs, in connection with the REMIT implementing acts.
KPI		<p>25. 99% system availability.</p> <p>26. 0 breaches of the security system with a data leakage involved.</p>
2017		<p>More than 99% system availability and 0 breaches of the security system with a data leakage being involved.</p> <p>Publication of an Open Letter on REMIT transaction reporting data quality on 16 February 2017 and significant improvements of data quality ever since, but further</p> 

	improvement of data quality remains an ongoing task with scarce resources.
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<b>Task</b>	Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, in cooperation with NRAs, on the basis of data collected in connection with the REMIT implementing acts, and establishment, further development and operation of the Agency's market surveillance solution to perform its market monitoring activity
Objectives and deadlines (indicative)	Systematic Market Monitoring of the data collected according to Article 8 of REMIT. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.
KPI	27. 100% of sound alerts assessed in a preliminary initial assessment and 80% of alerts not being qualified as falsely rejected.
2017	<p>Market Monitoring (screening) of wholesale energy market data successfully started in the third quarter of 2017 on the basis of bespoke alerts. The first results demonstrated the validity of the Agency surveillance strategy. However, due to limited resources and some issues with data quality, the Agency is still unable to cover all markets with equal effectiveness.</p> <p>In fact, the number of alerts triggered, exceeded, as expected, the available resources to perform the required manual assessment by surveillance experts. Market monitoring remains an ongoing task with limited surveillance resources.</p> 

<b>Task</b>	Coordination of NRAs and other relevant authorities, including at regional level, without prejudice to their responsibilities
Objectives and deadlines (indicative)	To ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency's Guidance on the application of REMIT definitions and coordination of NRAs' investigation activities on cross-border market abuse instances.
KPIs	<p>28. - 95% of all NRA decisions are consistent with the ACER guidance.</p> <p>- 0% chance of missing not notifying the relevant authorities.</p>
2017	<p>100% of NRA decisions consistent with the ACER guidance and 0 % of notifications missed.</p> <p>19 June 2017: publication of the Guidance Note on Wash Trades, and an update of the ACER Guidance 4<sup>th</sup> edition.</p> 

Task	Cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries to promote a coordinated approach is taken to the enforcement of market abuse rules where actions relate to one or more wholesale energy products which are financial instruments to which Article 9 of Directive 2003/6/EC applies and also to one or more wholesale energy products to which Articles 3, 4 and 5 of REMIT applies
Objectives and deadlines (indicative)	Publication of REMIT Q&As as required. Promotion of best practices for the implementation of REMIT. Cooperation on the basis of Memoranda of Understanding (MoUs).
KPIs	29. Conclusion of MoUs with relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.
2017	21 <sup>st</sup> edition of the Q&As on REMIT published on 16 June 2017. No MoUs concluded in 2017 and no regular meetings with relevant authorities in 2017 due to lack of resources, but ad hoc meetings with ESMA and FERC representatives during 2017. 

Task	Reporting on REMIT: Annual report on Agency activities under REMIT
Objectives and deadlines (indicative)	The Agency shall submit at least on an annual basis a Report to the Commission in which the Agency shall assess the operation and transparency of different categories of market places and ways of trading and may make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.  Recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts.  Publication of the REMIT Quarterly reports.
KPI	30. Quarterly publications of the REMIT Quarterly
2017	Publication of the REMIT Quarterly for Q1, Q2, Q3 and Q4/2017. 

## Other Internal and Horizontal Tasks

Task	Implementation of Conflict of Interest Policy
Objectives and deadlines (indicative)	<p>As of 2015 the Agency has started to implement a new Policy for the Prevention and Management of Conflicts of Interest.</p> <p>In line with the Policy, by 31 January the Agency's senior management, members and alternates of the Administrative Board, Board of Regulators, Board of Appeal, as well as Agency Working Group Chairs and Co-Chairs and Task Force Convenors must submit their Declarations of Interest (Dols). The Dols are subsequently processed by review panels and, in case of conflicts of interest, measures taken.</p> <p>The DoI of Board members, as well as those of the Agency's management (Director and head of departments) are published on the Agency's website.</p>
KPI	<p>31. All Dols of staff submitted by the 31 January deadline. 90% of Dols of Boards' members and Agency Working Group Chairs and Co-Chairs and Task Force Convenors submitted by the 31 January deadline. Received Dols reviewed by end of April.</p> <p>32. All Dols published within one month of receipt or of the conclusion of the review process, whichever is later.</p>
2017	<p>Most DoI were submitted on time, in some cases the Agency/Boards had to call upon members to submit their Declarations. All declarations were reviewed and published on the Agency's website, in some cases with small delays.</p> 

## ANNEX II – FINANCIAL MANAGEMENT STATISTICS

### BUDGET OUTTURN ACCOUNT

The budget outturn account shows, on a cash basis, the actual amounts cashed as income and the amount of cash consumed to honour commitment payments. It also shows the amount of unused and cancelled appropriations.

	<b>31 December 2017 €</b>	<b>31 December 2016 €</b>
<b>INCOME</b>		
Commission subsidy	13,272,160.00	15,872,582.00
Other income - assigned revenue	979.96	5,206.69
<b>TOTAL INCOME</b>	<b><u>13,273,139.96</u></b>	<b><u>15,877,788.69</u></b>
<b>EXPENSES</b>		
<b>Expenditure related to agency employees -Title I</b>		
Payments	7,581,058.75	7,097,367.86
Carry-forwards and carry-overs	220,818.59	171,384.93
<b>Agency premises and associated expenses Title II</b>		
Payments	1,856,977.02	1,630,136.07
Carry-forwards and carry-overs	967,597.77	1,008,329.37
<b>Operational expenditure - Title III</b>		
Payments	624,076.94	787,858.19
Carry-forwards and carry-overs	1,851,498.83	4,877,911.67
<b>TOTAL EXPENSES</b>	<b><u>13,102,027.90</u></b>	<b><u>15,572,988.09</u></b>
Total appropriations not utilised	171,112.06	304,800.60
<b>BUDGET OUTTURN BEFORE SPECIAL ITEMS</b>	<b><u>171,112.06</u></b>	<b><u>304,800.60</u></b>
Cancelled carry-overs	122,606.52	223,237.87
Exchange rate differences	-60.90	845.28
<b>BUDGET OUTTURN</b>	<b><u>293,657.68</u></b>	<b><u>528,883.75</u></b>



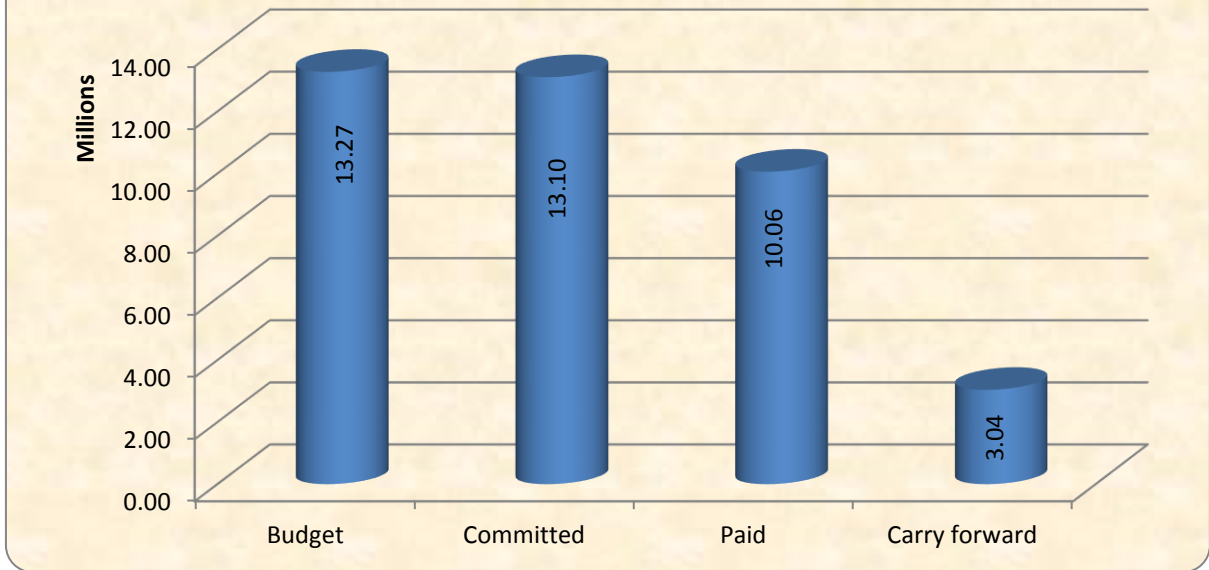
## BUDGET IMPLEMENTATION

The following tables show detailed budget implementation by budget title and individual budget line – fund source C1 (also see headings for C4 and C8).

### BUDGET IMPLEMENTATION APPROPRIATION FUND SOURCE – C1

	<b>31 December 2017 €</b>
<b>TITLE 1</b>	
Budget	7,867,425.00
Committed	7,801,877.34
Paid	7,581,058.75
Carry forward	220,818.59
Carry over	0.00
Total expenditure	7,801,877.34
Appropriations not utilized	65,547.66
Executed	99.17%
<b>TITLE 2</b>	
Budget	2,880,587.00
Committed	2,824,574.79
Paid	1,856,977.02
Carry forward	967,597.77
Carry over	0.00
Total expenditure	2,824,574.79
Appropriations not utilized	56,012.21
Executed	98.06%
<b>TITLE 3</b>	
Budget	2,524,148.00
Committed	2,475,575.77
Paid	624,076.94
Carry forward	1,851,498.83
Carry over	0.00
Total expenditure	2,475,575.77
Appropriations not utilized	48,572.23
Executed	98.08%
<b>TOTAL</b>	
Budget	13,272,160.00
Committed	13,102,027.90
Paid	10,062,112.71
Carry forward	3,039,915.19
Carry over	0.00
Total expenditure	13,102,027.90
Appropriations not utilized	170,132.10
Executed	98.72%

### Implementation of 2017 budget - fund source C1



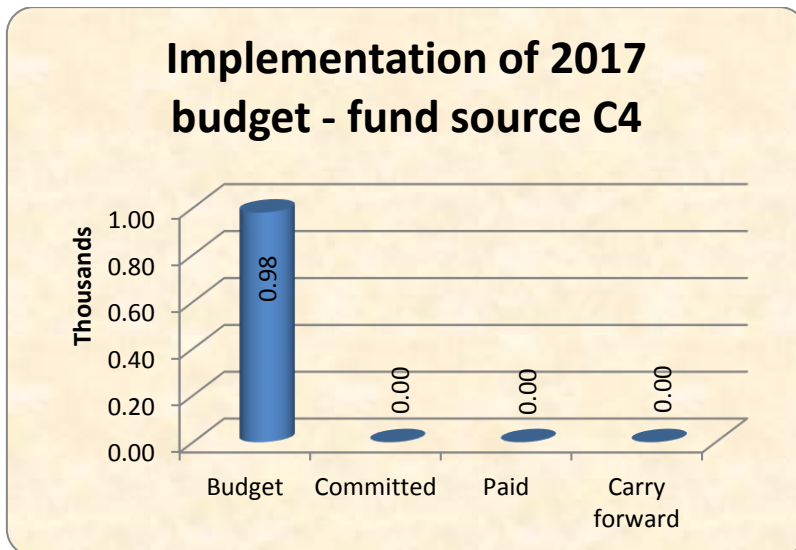
### BUDGET IMPLEMENTATION CURRENT YEAR – FUND SOURCE C4

31 December  
2017  
€

#### TITLE 1

Budget	979.96
Appropriations not utilized	979.96
Executed	0.00%

### Implementation of 2017 budget - fund source C4



## BUDGET IMPLEMENTATION – FUND SOURCE C8

31 December  
2017  
€

### TITLE 1

Budget	167,019.38
Committed	125,551.19
Paid	125,551.19
Total expenditure	125,551.19
Cancelled carry-forwards	41,468.19
Executed	75.17%

### TITLE 2

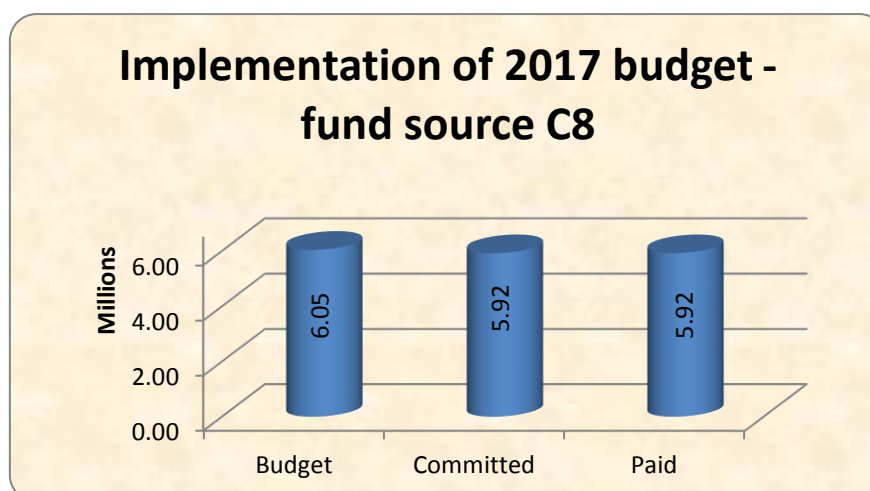
Budget	1,008,329.37
Committed	952,755.00
Paid	952,755.00
Total expenditure	952,755.00
Cancelled carry-forwards	55,574.37
Executed	94.49%

### TITLE 3

Budget	4,870,800.26
Committed	4,845,236.30
Paid	4,845,236.30
Total expenditure	4,845,236.30
Cancelled carry-forwards	25,563.96
Executed	99.48%

### TOTAL

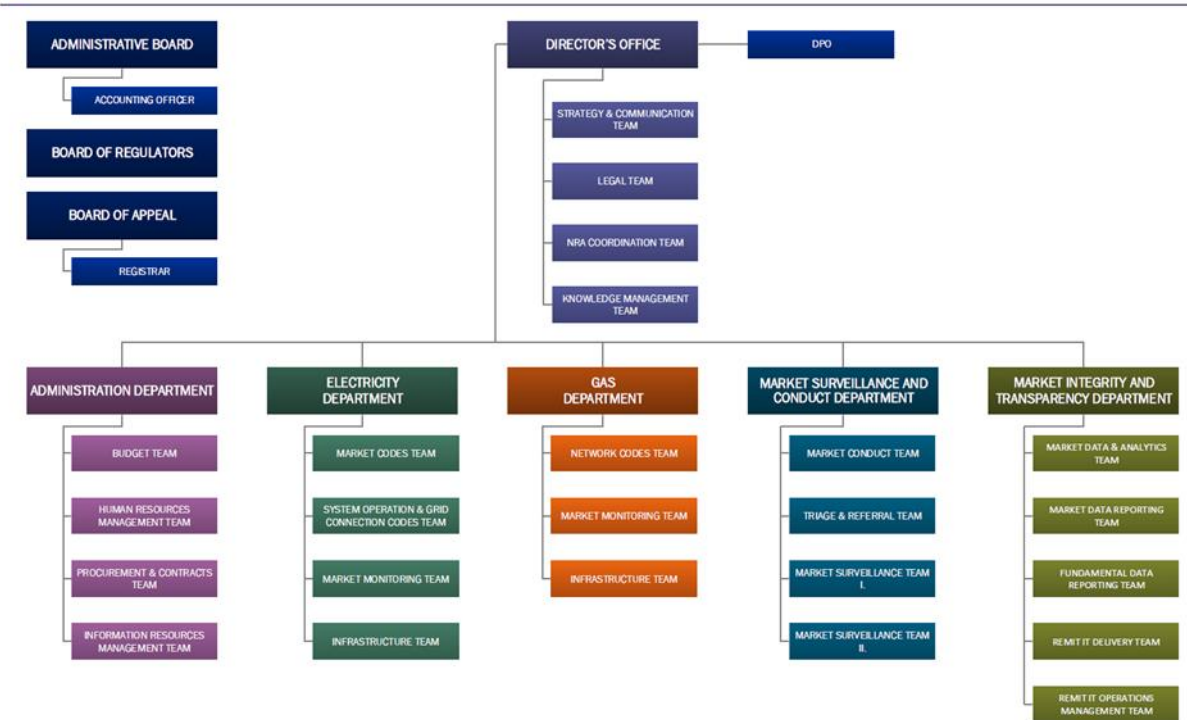
Budget	6,046,149.01
Committed	5,923,542.49
Paid	5,923,542.49
Total expenditure	5,923,542.49
Cancelled carry-forwards	122,606.52
Executed	97.97%



# ANNEX III – ORGANISATIONAL CHART



ACER ORGANISATION CHART



## ANNEX IV – ESTABLISHMENT PLAN

The Agency's establishment plan for 2017 is presented below:

Category and grade	Establishment plan in voted EU Budget 2017		Modifications in 2017 in application of flexibility rule <sup>14</sup>		Posts filled as at 31 December 2017		Establishment plan in voted EU Budget 2018	
	Officials	TA	Officials	TA	Officials	TA	Officials	TA
AD 16								
AD 15		1				1		1
AD 14								
AD 13								
AD 12		4				4		4
AD 11		5				1		5
AD 10						2		
AD 9		4				6		5
AD 8		11				8		11
AD 7		10				7		8
AD 6		7				8		10
AD 5		11				14		11
<b>Total AD</b>		<b>53</b>				<b>51</b>		<b>55</b>
AST 11								
AST 10								
AST 9								
AST 8								
AST 7								
AST 6		1						1
AST 5		4				2		2
AST 4		4				3		4

<sup>14</sup> In line with Article 38(1) of the framework financial regulation, the administrative board may, under certain conditions, modify the establishment plan by up to 10% of posts authorised.

AST 3		6				7		5
AST 2								
AST 1								
<b>Total AST</b>		<b>15</b>				<b>12</b>		<b>12</b>
AST/SC6								
AST/SC5								
AST/SC4								
AST/SC3								
AST/SC2								
AST/SC1								
<b>Total AST/SC</b>		<b>15</b>				<b>12</b>		<b>12</b>
<b>TOTAL</b>		<b>68</b>				<b>63</b>		<b>67</b>

## ANNEX V – HUMAN AND FINANCIAL RESOURCES BY ACTIVITY

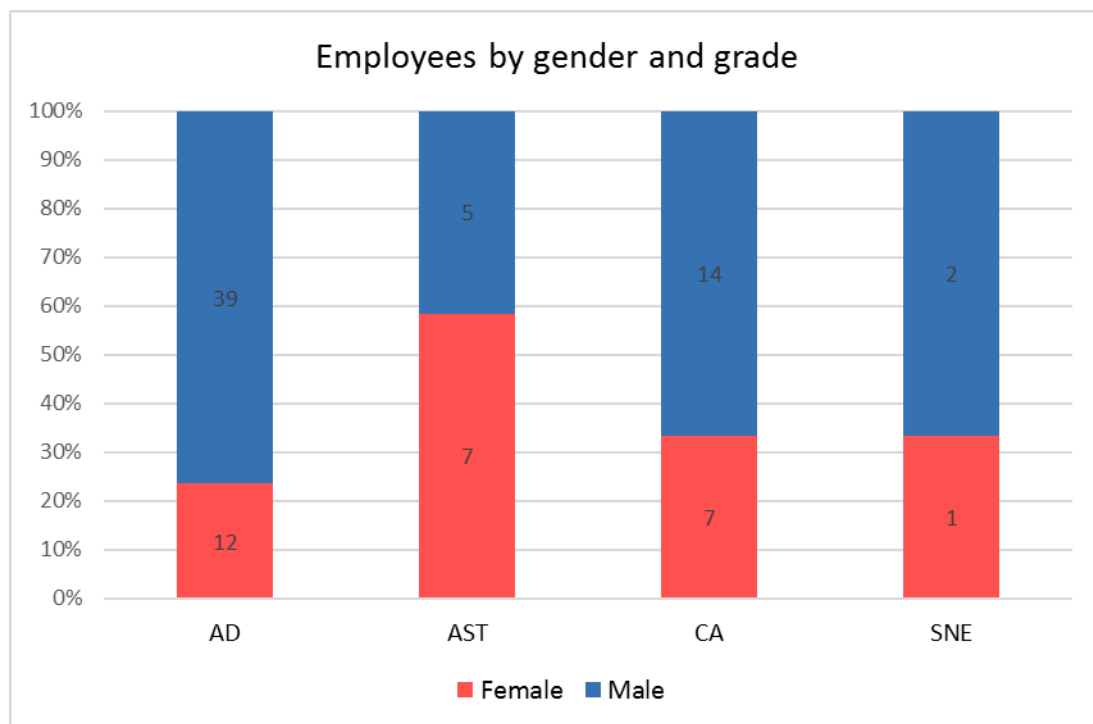
Gender and geographical balance

### 1) Gender balance

In accordance with Article 1d of the staff regulations and Articles 12(1) and 82(1) of the CEOS, the Agency applies an equal opportunities policy regarding its staff, adopting measures and taking actions to promote equal opportunities for men and women. Its targets can be broken down into several types of measures such as those designed to:

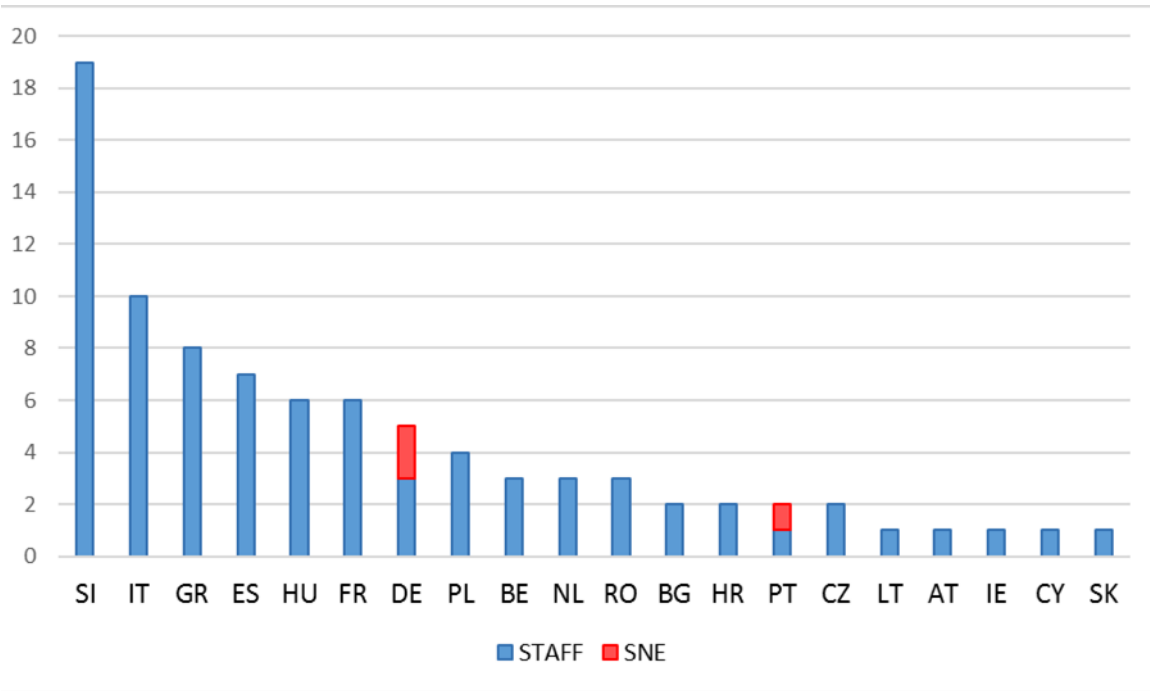
- eliminate all gender discrimination in recruitment, training and career development paths;
- reconcile personal and working life (e.g. implementing provisions on teleworking were adopted under Decision AB No 21/2012);
- raise awareness of gender equality issues; and
- protect personal dignity in the workplace.

The graph below represents an overview of the Agency's staff (including temporary staff, contract staff and seconded national experts) by grade and gender as of 31 December 2017.



**2) Geographical balance**

The graph below represents an overview of the Agency’s staff (temporary and contract staff, Seconded National Experts) by country of origin on 31 December 2017.





## ANNEX VI – RESULTS OF THE 2017 JOB SCREENING EXERCISE

Job Type (sub) category	Year 2016 (total number)	Year 2016 (%)	Year 2017 (total number*)	Year 2017 (%)
<b>Administrative support and coordination</b>	<b>23</b>	<b>19.01%</b>	<b>21</b>	<b>17.95%</b>
Administrative support	16	13.22%	13	11.11%
Coordination	7	5.79%	8	6.84%
<b>Operational</b>	<b>91</b>	<b>75.20%</b>	<b>88</b>	<b>75.21%</b>
Top level operational coordination	13	10.74%	14	11.97%
Programme management & implementation				
Evaluation & impact assessment				
General operation	78	64.46%	74	63.25%
<b>Neutral</b>	<b>7</b>	<b>5.79%</b>	<b>8</b>	<b>6.84%</b>
Finance/control	7	5.79%	8	6.84%
Linguistic				
<b>Total:</b>	<b>121</b>	<b>100%</b>	<b>117</b>	<b>100%</b>

## ANNEX VI – FINAL FINANCIAL ACCOUNTS

### STATEMENT OF FINANCIAL PERFORMANCE

EUR '000

	Note	2017	2016
<b>REVENUE</b>			
<b>Revenue from non-exchange transactions</b>			
<i>Funds from the Commission</i>	3.1	12 979	15 344
		<b>12 979</b>	<b>15 344</b>
<b>Revenue from exchange transactions</b>			
<i>Other exchange revenue</i>		2	1
		<b>2</b>	<b>1</b>
<b>Total Revenue</b>		<b>12 980</b>	<b>15 345</b>
<b>EXPENSES</b>			
<i>Operating costs</i>	3.2	(6 128)	(3 025)
<i>Staff costs</i>	3.3	(6 920)	(6 591)
<i>Finance costs</i>	3.4	(11)	–
<i>Other expenses</i>	3.5	(4 715)	(4 209)
<b>Total Expenses</b>		<b>(17 775)</b>	<b>(13 825)</b>
<b>ECONOMIC RESULT OF THE YEAR</b>		<b>(4 795)</b>	<b>1 519</b>

## CASHFLOW STATEMENT<sup>15</sup>

EUR '000

	Note	2017	2016
<i>Economic result of the year</i>		(4 795)	1 519
<b>Operating activities</b>			
<i>Depreciation and amortization</i>		1 487	1 463
<i>(Increase)/decrease in pre-financing</i>		465	1 050
<i>(Increase)/decrease in exchange receivables and non-exchange recoverables</i>		2 507	(5 829)
<i>Increase/(decrease) in payables</i>		(271)	(175)
<i>Increase/(decrease) in accrued charges</i>		(26)	52
<b>Investing activities</b>			
<i>(Increase)/decrease in intangible assets and property, plant and equipment</i>		(167)	(259)
<b>NET CASHFLOW</b>		<b>(800)</b>	<b>(2 179)</b>
<i>Net increase/(decrease) in cash and cash equivalents</i>		(800)	(2 179)
<i>Cash and cash equivalents at the beginning of the year</i>	2.5	802	2 981
<i>Cash and cash equivalents at year-end</i>	2.5	2	802

## STATEMENT OF CHANGES IN NET ASSETS

EUR '000

	Accumulated Surplus/(Deficit)	Economic result of the year	Net Assets
<b>BALANCE AS AT 31.12.2015</b>	<b>7 685</b>	<b>1 364</b>	<b>9 049</b>
<i>Allocation of the 2015 economic result</i>	1 364	(1 364)	–
<i>Economic result of the year</i>	–	1 519	1 519
<b>BALANCE AS AT 31.12.2016</b>	<b>9 049</b>	<b>1 519</b>	<b>10 568</b>
<i>Allocation of the 2016 economic result</i>	1 519	(1 519)	–
<i>Economic result of the year</i>	–	(4 795)	(4 795)
<b>BALANCE AS AT 31.12.2017</b>	<b>10 568</b>	<b>(4 795)</b>	<b>5 774</b>

<sup>15</sup> Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the Agency's treasury was integrated into the European Commission's treasury system. As a consequence, the Agency does not have any bank accounts of its own except for an imprest account. All payments and receipts are processed via the Commission's treasury system and registered on intercompany accounts which are presented under the heading exchange receivables.

# NOTES TO THE FINANCIAL STATEMENTS

## 1. SIGNIFICANT ACCOUNTING POLICIES

### 1.1. ACCOUNTING PRINCIPLES

The objective of financial statements is to provide information about the financial position, performance and cash flows of an entity that is useful to a wide range of users.

The overall considerations (or accounting principles) to be followed when preparing the financial statements are laid down in EU Accounting Rule 1 'Financial Statements' and are the same as those described in IPSAS 1: fair presentation, accrual basis, going concern, consistency of presentation, aggregation, offsetting and comparative information. The qualitative characteristics of financial reporting are relevance, faithful representation (reliability), understandability, timeliness, comparability and verifiability.

### 1.2. BASIS OF PREPARATION

#### 1.2.1. Reporting period

Financial statements are presented annually. The accounting year begins on 1 January and ends on 31 December.

#### 1.2.2. Currency and basis for conversion

The annual accounts are presented in thousands of euros, the euro being the EU's functional and reporting currency. Foreign currency transactions are translated into euros using the exchange rates prevailing at the dates of the transactions. Foreign exchange gains and losses resulting from the settlement of foreign currency transactions and from the re-translation at year-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the statement of financial performance. Different conversion methods apply to property, plant and equipment and intangible assets, which retain their value in euros at the date when they were purchased.

Year-end balances of monetary assets and liabilities denominated in foreign currencies are translated into euros on the basis of the European Central Bank (ECB) exchange rates applying on 31 December.

#### Euro exchange rates

Currency	31.12.2017	31.12.2016	Currency	31.12.2017	31.12.2016
<b>BGN</b>	<b>1.9558</b>	<i>1.9558</i>	<b>PLN</b>	<b>4.177</b>	<i>4.4103</i>
<b>CZK</b>	<b>25.5350</b>	<i>27.0210</i>	<b>RON</b>	<b>4.6585</b>	<i>4.5390</i>
<b>DKK</b>	<b>7.4449</b>	<i>7.4344</i>	<b>SEK</b>	<b>9.8438</b>	<i>9.5525</i>
<b>GBP</b>	<b>0.8872</b>	<i>0.8562</i>	<b>CHF</b>	<b>1.1702</b>	<i>1.0739</i>
<b>HRK</b>	<b>7.4400</b>	<i>7.5597</i>	<b>JPY</b>	<b>135.01</b>	<i>123.4000</i>
<b>HUF</b>	<b>310.3300</b>	<i>309.8300</i>	<b>USD</b>	<b>1.1993</b>	<i>1.0541</i>

#### 1.2.3. Use of estimates

In accordance with IPSAS and generally accepted accounting principles, the financial statements necessarily include amounts based on estimates and assumptions by management based on the most reliable information available. Significant estimates include, but are not limited to; accrued and deferred revenue and charges, provisions, financial risk on accounts receivables, contingent assets and liabilities, and degree of impairment of assets. Actual results could differ from those estimates.

Reasonable estimates are essential part of the preparation of financial statements and do not undermine their reliability. An estimate may need revision if changes occur in the circumstances on which the estimate was based or as a result of new information or more experience. By its nature, the revision of an estimate does not relate to prior periods and is not the correction of an error. The effect of a change in accounting estimate shall be recognised in the surplus or deficit in the periods in which it becomes known.

## 1.3. BALANCE SHEET

### 1.3.1. Intangible assets

Acquired computer software licences are stated at historical cost less accumulated amortisation and impairment losses. The assets are amortised on a straight-line basis over their estimated useful lives. The estimated useful lives of intangible assets depend on their specific economic lifetime or legal lifetime determined by an agreement. Internally developed intangible assets are capitalised when the relevant criteria of the EU accounting rules are met. The costs capitalisable include all directly attributable costs necessary to create, produce, and prepare the asset to be capable of operating in the manner intended by management. Costs associated with research activities, non-capitalisable development costs and maintenance costs are recognised as expenses when incurred.

### 1.3.2. Property, plant and equipment

All property, plant and equipment are stated at historical cost less accumulated depreciation and impairment losses. Historical cost includes expenditure that is directly attributable to the acquisition or construction of the asset. Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits or service potential associated with the item will flow to the entity and its cost can be measured reliably. Repairs and maintenance costs are charged to the statement of financial performance during the financial period in which they are incurred. Land and works of art are not depreciated as they are deemed to have an indefinite useful life. Assets under construction are not depreciated as these assets are not yet available for use. Depreciation on other assets is calculated using the straight-line method to allocate their cost less their residual values over their estimated useful lives, as follows:

Type of asset	Straight line depreciation rate
<i>Buildings</i>	4 % to 10 %
<i>Plant and equipment</i>	10 % to 25 %
<i>Furniture and vehicles</i>	10 % to 25 %
<i>Computer hardware</i>	25 % to 33 %
<i>Other</i>	10 % to 33 %

Gains or losses on disposals are determined by comparing proceeds less selling expenses with the carrying amount of the disposed asset and are included in the statement of financial performance.

### Leases

Leases of tangible assets, where the entity has substantially all the risks and rewards of ownership, are classified as finance leases. Finance leases are capitalised at the inception of the lease at the lower of the fair value of the leased asset and the present value of the minimum lease payments. The interest element of the finance lease payment is charged to statement of financial performance over the period of the lease at a constant periodic rate in relation to the balance outstanding. The rental obligations, net of finance charges, are included in financial liabilities (non-current and current). The interest element of the finance cost is charged to the statement of financial performance over the lease period so as to produce a constant periodic interest rate on the remaining balance of the liability for each period. The assets held under finance leases are depreciated over the shorter of the assets' useful life and the lease term.

Leases where the lessor retains a significant portion of the risks and rewards inherent to ownership are classified as operating leases. Payments made under operating leases are charged to the statement of financial performance on a straight-line basis over the period of the lease.

### 1.3.3. Impairment of non-financial assets

Assets that have an indefinite useful life are not subject to amortisation/depreciation and are tested annually for impairment. Assets that are subject to amortisation/depreciation are reviewed for impairment whenever events or changes in circumstances indicate that the carrying amount may not be recoverable. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable amount. The recoverable amount is the higher of an asset's fair value less costs to sell and its value in use.

Intangible assets and property, plant and equipment residual values and useful lives are reviewed, and adjusted if appropriate, at least once per year. An asset's carrying amount is written down immediately to its recoverable amount if the asset's carrying amount is greater than its estimated recoverable amount. If the reasons for impairments recognised in previous years no longer apply, the impairment losses are reversed accordingly.

### 1.3.4. Financial assets

The financial assets are classified in the following categories: financial assets at fair value through surplus or deficit; loans and receivables; held-to-maturity investments; and available for sale financial assets. The classification of the financial instruments is determined at initial recognition and re-evaluated at each balance sheet date.

*(i) Financial assets at fair value through surplus or deficit*

A financial asset is classified in this category if acquired principally for the purpose of selling in the short term or if so designated by the entity. Derivatives are also categorised in this category. Assets in this category are classified as current assets if they are expected to be realised within 12 months of the balance sheet date. During this financial year, the entity did not hold any investments in this category.

*(ii) Loans and receivables*

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They arise when the entity provides money, goods or services directly to a debtor with no intention of trading the receivable. They are included in non-current assets, except for maturities within 12 months of the balance sheet date. Loans and receivables include term deposits with the original maturity above three months.

*(iii) Held-to-maturity investments*

Held-to-maturity investments are non-derivative financial assets with fixed or determinable payments and fixed maturities that the entity has the positive intention and ability to hold to maturity. During this financial year, the entity did not hold any investments in this category.

*(iv) Available for sale financial assets*

Available for sale financial assets are non-derivatives that are either designated in this category or not classified in any of the other categories. They are classified as either current or non-current assets, depending on the period of time the entity expects to hold them, which is usually the maturity date.

### **Initial recognition and measurement**

Purchases and sales of financial assets at fair value through surplus or deficit, held-to-maturity and available for sale are recognised on trade date - the date on which the entity commits to purchase or sell the asset. Cash equivalents, loans and term deposits are recognised at settlement date. Financial instruments are initially recognised at fair value. For all financial assets not carried at fair value through surplus or deficit transaction costs are added to the fair value at initial recognition.

Financial instruments are derecognised when the rights to receive cash flows from the investments have expired or the entity has transferred substantially all risks and rewards of ownership to another party.

### **Subsequent measurement**

Financial assets at fair value through surplus or deficit are subsequently carried at fair value with gains and losses arising changes in the fair value being included in the statement of financial performance in the period in which they arise.

Loans and receivables and held-to maturity investments are carried at amortised cost using the effective interest method.

Available for sale financial assets are subsequently carried at fair value. Gains and losses arising from changes in the fair value are recognised in the fair value reserve. Interest on available for sale financial assets calculated using the effective interest method is recognised in the statement of financial performance.

The entity assesses at each balance sheet date whether there is objective evidence that a financial asset is impaired and whether an impairment loss should be recorded in the statement of financial performance.

#### **1.3.5. Pre-financing amounts**

Pre-financing is a payment intended to provide the beneficiary with a cash advance, i.e. a float. It may be split into a number of payments over a period defined in the particular contract, decision, agreement or basic legal act. The float or advance is either used for the purpose for which it was provided during the period defined in the agreement or it is repaid. If the beneficiary does not incur eligible expenditure, he has the obligation to return the pre-financing advance to the entity. The amount of the pre-financing may be reduced (wholly or partially) by the acceptance of eligible costs (which are recognised as expenses).

Pre-financing is, on subsequent balance sheet dates, measured at the amount initially recognised on the balance sheet less eligible expenses (including estimated amounts where necessary) incurred during the period.

### 1.3.6. Receivables and recoverables

As the EU accounting rules require a separate presentation of exchange and non-exchange transactions, for the purpose of drawing up the accounts, receivables are defined as stemming from exchange transactions and recoverables are defined as stemming from non-exchange transactions (when the entity receives value from another entity without directly giving approximately equal value in exchange).

Receivables from exchange transactions meet the definition of financial instruments and are thus classified as loans and receivables and measured accordingly (see 1.3.4 above).

Recoverables from non-exchange transactions are carried at original amount (adjusted for interests and penalties) less write-down for impairment. A write-down for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due according to the original terms of the recoverables. The amount of the write-down is the difference between the asset's carrying amount and the recoverable amount. The amount of the write-down is recognised in the statement of financial performance.

### 1.3.7. Cash and cash equivalents

Cash and cash equivalents are financial instruments and include cash at hand, deposits held at call or at short notice with banks, and other short-term highly liquid investments with original maturities of three months or less.

### 1.3.8. Provisions

Provisions are recognised when the entity has a present legal or constructive obligation towards third parties as a result of past events, it is more likely than not that an outflow of resources will be required to settle the obligation, and the amount can be reliably estimated. Provisions are not recognised for future operating losses. The amount of the provision is the best estimate of the expenditure expected to be required to settle the present obligation at the reporting date. Where the provision involves a large number of items, the obligation is estimated by weighting all possible outcomes by their associated probabilities ('expected value' method).

### 1.3.9. Payables

Included under accounts payable are both amounts related to exchange transactions such as the purchase of goods and services and to non-exchange transactions e.g. to cost claims from beneficiaries, grants or other EU funding.

Where grants or other funding is provided to the beneficiaries, the cost claims are recorded as payables for the requested amount when the cost claim is received. Upon verification and acceptance of the eligible costs, the payables are valued at the accepted and eligible amount.

Payables arising from the purchase of goods and services are recognised at invoice reception for the original amount and corresponding expenses are entered in the accounts when the supplies or services are delivered and accepted by the entity.

### 1.3.10. Accrued and deferred revenue and charges

Transactions and events are recognised in the financial statements in the period to which they relate. At year-end, if an invoice is not yet issued but the service has been rendered, the supplies have been delivered by the entity or a contractual agreement exists (e.g. by reference to a contract), an accrued revenue will be recognised in the financial statements. In addition, at year-end, if an invoice is issued but the services have not yet been rendered or the goods supplied have not yet been delivered, the revenue will be deferred and recognised in the subsequent accounting period.

Expenses are also accounted for in the period to which they relate. At the end of the accounting period, accrued expenses are recognised based on an estimated amount of the transfer obligation of the period. The calculation of accrued expenses is done in accordance with detailed operational and practical guidelines issued by the Accounting Officer which aim at ensuring that the financial statements provide a faithful representation of the economic and other phenomena they purport to represent. By analogy, if a payment has been made in advance for services or goods that have not yet been received, the expense will be deferred and recognised in the subsequent accounting period.

## 1.4. STATEMENT OF FINANCIAL PERFORMANCE

### 1.4.1. Revenue

Revenue comprises gross inflows of economic benefits or service potential received and receivable by the entity, which represents an increase in net assets, other than increases relating to contributions from owners.

Depending on the nature of the underlying transactions in the statement of financial performance it is distinguished between:

*(i) Revenue from non-exchange transactions*

Revenue from non-exchange transactions are taxes and transfers because the transferor provides resources to the recipient entity without the recipient entity providing approximately equal value directly in exchange.

Transfers are inflows of future economic benefits or service potential from non-exchange transactions, other than taxes. The entity shall recognise an asset in respect of transfers when the entity controls the resources as a result of a past event (the transfer) and expects to receive future economic benefits or service potential from those resources, and when the fair value can be reliably measured. An inflow of resources from a non-exchange transaction recognised as an asset (i.e. cash) is also recognised as revenue, except to the extent that the entity has a present obligation in respect of that transfer (condition), which needs to be satisfied before the revenue can be recognised. Until the condition is met the revenue is deferred and recognised as a liability (pre-financing received).

*(ii) Revenue from exchange transactions*

Revenue from the sale of goods and services is recognised when the significant risk and rewards of ownership of the goods are transferred to the purchaser. Revenue associated with a transaction involving the provision of services is recognised by reference to the stage of completion of the transaction at the reporting date.



## 1.4.2. Expenses

Expenses are decreases in economic benefits or service potential during the reporting period in the form of outflows or consumption of assets or incurrence of liabilities that result in decreases in net assets/equity. They include both the expenses from exchange transactions and expenses from non-exchange transactions.

Expenses from exchange transactions arising from the purchase of goods and services are recognised when the supplies are delivered and accepted by the entity. They are valued at original invoice amount. Furthermore, at the balance sheet date expenses related to the service delivered during the period for which an invoice has not yet been received or accepted are recognised in the statement of financial performance.

Expenses from non-exchange transactions relate to transfers to beneficiaries and can be of three types: entitlements, transfers under agreement and discretionary grants, contributions and donations. Transfers are recognised as expenses in the period during which the events giving rise to the transfer occurred, as long as the nature of the transfer is allowed by regulation or an agreement has been signed authorising the transfer; any eligibility criteria have been met by the beneficiary; and a reasonable estimate of the amount can be made.

When a request for payment or cost claim is received and meets the recognition criteria, it is recognised as an expense for the eligible amount. At year-end, incurred eligible expenses due to the beneficiaries but not yet reported are estimated and recorded as accrued expense.

## 1.5. CONTINGENT ASSETS AND LIABILITIES

### 1.5.1. Contingent assets

A contingent asset is a possible asset that arises from past events and of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity. A contingent asset is disclosed when an inflow of economic benefits or service potential is probable.

### 1.5.2. Contingent liabilities

A contingent liability is a possible obligation that arises from past events and of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation that arises from past events but is not recognised because: it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation or, in the rare circumstances where the amount of the obligation cannot be measured with sufficient reliability.

## 1.6. CONSOLIDATION

The accounts of this entity are fully consolidated in the EU consolidated annual accounts.

## 2. NOTES TO THE BALANCE SHEET

### ASSETS

#### 2.1. INTANGIBLE ASSETS

	EUR '000
Gross carrying amount at 31.12.2016	5 127
Additions	3
<b>Gross carrying amount at 31.12.2017</b>	<b>5 130</b>
Accumulated amortisation at 31.12.2016	(1 312)
Amortisation charge for the year	(1 273)
<b>Accumulated amortisation at 31.12.2017</b>	<b>(2 585)</b>
<b>NET CARRYING AMOUNT AT 31.12.2017</b>	<b>2 545</b>
NET CARRYING AMOUNT AT 31.12.2016	3 815

The above amounts relate to the REMIT Portal, an IT platform built to assist the agency with the monitoring of the wholesale energy markets and other computer software that is amortized at 25 % amortisation rate per year.

#### 2.2. PROPERTY, PLANT AND EQUIPMENT

	Plant and equipment	Furniture and vehicles	Computer hardware	Other	EUR '000 TOTAL
Gross carrying amount at 31.12.2016	2	123	1 124	267	1 516
Additions	–	4	160	–	164
<b>Gross carrying amount at 31.12.2017</b>	<b>2</b>	<b>127</b>	<b>1 284</b>	<b>267</b>	<b>1 680</b>
Accumulated depreciation at 31.12.2016	(2)	(45)	(824)	(206)	(1 077)
Depreciation charge for the year	–	(14)	(157)	(43)	(214)
<b>Accumulated depreciation at 31.12.2017</b>	<b>(2)</b>	<b>(59)</b>	<b>(981)</b>	<b>(249)</b>	<b>(1 291)</b>
<b>NET CARRYING AMOUNT AT 31.12.2017</b>	<b>–</b>	<b>68</b>	<b>303</b>	<b>18</b>	<b>389</b>
NET CARRYING AMOUNT AT 31.12.2016	–	78	300	61	439

#### 2.3. PRE-FINANCING

	EUR '000	
	31.12.2017	31.12.2016
Current pre-financing	160	625
<b>Total</b>	<b>160</b>	<b>625</b>

The amounts under this heading relate to pre-financing given to contractors for services related to the Nasdaq SMARTS project, that is expected to be completed in 2018. A bank guarantee was received to cover the full amount of the pre-financing given for this project.

The decrease of the pre-financing relates to the acceptance of expenses of the suppliers of services for the REMIT Portal.

#### 2.4. EXCHANGE RECEIVABLES & NON-EXCHANGE RECOVERABLES

At 31 December 2017 ACER did not have any non-current receivables and recoverables. The amounts included under this heading are of a current nature and can be broken down as follows:

EUR '000

	Note	31.12.2017	31.12.2016
<i>Recoverables from non-exchange transactions</i>	2.4.1	69	44
<i>Receivables from exchange transactions</i>	2.4.2	3 485	6 018
<b>Total</b>		<b>3 555</b>	<b>6 062</b>

#### 2.4.1. RECOVERABLES FROM NON-EXCHANGE TRANSACTIONS

EUR '000

	31.12.2017	31.12.2016
<i>Member States</i>	69	44
<b>Total</b>	<b>69</b>	<b>44</b>

Recoverables from Member States contain VAT amounts to be recovered from the Republic of Slovenia. The Agency benefits from a direct exemption for VAT from the Republic of Slovenia for purchases above the threshold amount of EUR 60. For purchases where the direct exemption is impracticable to obtain, the VAT is refunded by the Republic of Slovenia on a quarterly basis.

#### 2.4.2. RECEIVABLES FROM EXCHANGE TRANSACTIONS

EUR '000

	31.12.2017	31.12.2016
<i>Central treasury liaison accounts</i>	3 259	–
<i>Deferred charges relating to exchange transactions</i>	229	226
<i>Customers</i>	4	4
<i>Impairment on receivables from customers</i>	(3)	–
<i>Receivables from EU entities</i>	1	5 873
<i>Others</i>	(3)	(85)
<b>Total</b>	<b>3 485</b>	<b>6 018</b>

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. Because of this, ACER does not have any bank accounts of its own since 1 October 2017 (except for an imprest account, see note 2.5 below). All payments and receipts are processed via the Commission's treasury system and registered on inter-company accounts, which are presented under this heading.

Deferred charges consist of pre-payments made during the year for services that will be delivered in 2018. They mainly relate to subscriptions, insurance premium and school fees.

In 2016, the receivables from the EU entities related to the Commission subsidy instalment that was collected in January 2017. At 31 December 2017, there were no uncollected amounts from the Commission. The open balance related to receivables from the EU agency OSHA.

## 2.5. CASH AND CASH EQUIVALENTS

EUR '000

	31.12.2017	31.12.2016
<i>Current accounts</i>	–	795
<i>Imprest accounts</i>	2	6
<b>Total</b>	<b>2</b>	<b>801</b>

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. The majority of payments and receipts are processed via the Commission's treasury system and registered on liaison accounts, which are shown under receivables from exchange transactions (see note 2.4.2).

The amounts remaining under this heading relate to an imprest account that is managed by ACER and reserved for small local payments where it would be impractical to process them through the central treasury system.

## LIABILITIES

### 2.6. PAYABLES

EUR '000

	31.12.2017	31.12.2016
<i>Balancing subsidy surplus to be returned to the EC</i>	294	529
<i>Sundry payables</i>	12	41
<i>Vendors</i>	0	7
<b>Total</b>	<b>306</b>	<b>577</b>

The balancing subsidy surplus to be returned to the EC represents the unused amount of the 2017 Commission balancing subsidy that is to be reimbursed by ACER. This positive budgetary result will be returned to the Commission upon request in the course of 2018.

The sundry payables relate mainly to the goods delivered in 2017 for which no invoice was received at year-end. In 2016, this heading contained outstanding amounts from salaries (medical insurance, unemployment insurance, accident insurance) which were settled at the beginning of 2017.

### 2.7. ACCRUED CHARGES

EUR '000

	31.12.2017	31.12.2016
<i>Accrued charges</i>	571	597

Accrued charges are composed of estimated operating expenses of kEUR 255 that relate to expenses incurred in relation to operational activities of ACER in 2017 for which no invoices were received or validated at year end.

Also included under this heading are accrued administrative expenses, i.e. estimated costs of services and goods delivered in year 2017 but not yet invoiced or processed by the end of the year of kEUR 168, for supplies and maintenance (kEUR 66), non-IT services (kEUR 43), maintenance and security of buildings (kEUR 33) and communications and publications (kEUR 11).

The heading also includes accrued charges for untaken leave of kEUR 141.

### 3. NOTES TO THE STATEMENT OF FINANCIAL PERFORMANCE

#### REVENUE

#### NON-EXCHANGE REVENUE

##### 3.1. FUNDS FROM THE COMMISSION

	EUR '000	
	2017	2016
<i>Balancing subsidy from the Commission</i>	12 979	15 344

Funds from the Commission represent the annual balancing subsidy received from the Commission (kEUR 13 272), which is received in three instalments during the financial year. The amounts included under this heading correspond to the amounts of the Commission subsidy used during 2017. Unused amounts are shown under payables and will be reimbursed to the Commission in 2018.

#### EXPENSES

##### 3.2. OPERATING COSTS

	EUR '000	
	2017	2016
<i>Operating costs</i>	6 128	3 025

Included under this heading are operating expenses incurred in relation to operational missions, workshops, public hearings, REMIT project related costs and other operational expenditure incurred for the functioning of the Agency.

##### 3.3. STAFF COSTS

	EUR '000	
	2017	2016
<i>Staff costs</i>	6 920	6 591

Included under this heading are salary expenses and other employment-related allowances and benefits. Calculations related to staff costs are, based on the service level agreement, entrusted to the Office for administration and payment of individual entitlements (also known as the Paymaster's Office-PMO).

ACER staff members are part of the Pensions Scheme of European Officials. The administration of pensions is entrusted to the Commission, which also accounts for underlying pension expenses and liabilities.

A defined benefit plan is a pension plan that generally defines an amount of benefit an employee will receive on retirement, usually dependent on one or more factors such as age and years of service. Both the ACER staff and the Commission contribute to the pension scheme in the function of the basic salary of the staff. The contribution percentage is yearly revised to reflect the changes in staff regulation. The cost to the Commission is not reflected in ACER's accounts.

Future benefits payable to ACER staff under the Pension Scheme of European Officials are accounted for in the Commission accounts as it is the Commission who pays these benefits. Therefore, no provisions for such pensions are made in these accounts.

### 3.4. FINANCE COSTS

This heading almost entirely comprises impairment of short term receivables overdue for more than 2 years that were in line with the applicable impairment model written down to zero.

### 3.5. OTHER EXPENSES

	EUR '000	
	2017	2016
<i>Property, plant and equipment related expenses</i>	1 559	1 782
<i>Operating lease expenses</i>	972	702
<i>External non IT services</i>	747	579
<i>Office supplies and maintenance</i>	641	400
<i>Experts and related expenditure</i>	473	94
<i>Missions</i>	84	111
<i>Administrative expenses with EU entities</i>	71	262
<i>Training costs</i>	48	119
<i>Communications &amp; publications</i>	46	56
<i>Recruitment costs</i>	45	54
<i>Foreign exchange losses</i>	1	(0)
<i>Other</i>	28	48
<b>Total</b>	<b>4 715</b>	<b>4 209</b>

The leasing expenses included under this heading relate to the rental contract of ACER's offices in Ljubljana. The future payments foreseen for this contract are as follows:

	EUR '000			
	Future amounts to be paid			
	< 1 year	1- 5 years	> 5 years	Total
<i>Buildings</i>	991	4 168	1 188	6 347

## 4. OTHER SIGNIFICANT DISCLOSURES

### 4.1. OUTSTANDING COMMITMENTS NOT YET EXPENSED

Outstanding commitments not yet expensed amount to kEUR 2 617. The amount comprises the budgetary RAL ('Reste à Liquider') less related amounts that have been included as expenses in the 2017 statement of financial performance. The budgetary RAL is an amount representing the open commitments for which payments and/or de-commitments have not yet been made. This is the normal consequence of the existence of multi-annual programmes.

### 4.2. SERVICES IN KIND

During 2017, ACER received from the Council of the European Energy Regulators office space and logistical and secretarial support for the agency's liaison office in Brussels free of charge.

### 4.3. RELATED PARTIES

The related parties of ACER are the other EU consolidated entities and ACER key management personnel. Transactions between these parties take place as part of the normal ACER operations, thus no specific disclosure requirements are necessary for these transactions in accordance with the EU accounting rules.

### 4.4. KEY MANAGEMENT ENTITLEMENTS

The highest ranked civil servant of the ACER is the Executive Director, who executes the role of the Authorising Officer by delegation.

	31.12.2017	31.12.2016
<i>Executive Director</i>	<i>AD15</i>	<i>AD15</i>

The Executive Director is remunerated in accordance with the Staff Regulations of the European Union that are published on the Europa website, which is the official document describing the rights and the obligations of all officials of the EU. The Executive Director has not received any loans from ACER.

## 5. FINANCIAL RISK MANAGEMENT

### 5.1. TYPES OF RISK

**Market risk** is the risk that the fair value or future cash flows of a financial instrument will fluctuate, because of variations in market prices. Market risk embodies not only the potential for loss, but also the potential for gain. It comprises currency risk, interest rate risk and other price risk (the ACER has no significant other price risk).

- (1) *Currency risk* is the risk that the ACER operations or its investments' value will be affected by changes in exchange rates. This risk arises from the change in price of one currency against another.
- (2) *Interest rate risk* is the possibility of a reduction in the value of a security, especially a bond, resulting from an increase in interest rates. In general, higher interest rates will lead to lower prices of fixed rate bonds, and vice versa. ACER does not have any securities thus it is not exposed to the interest rate risk.

**Credit risk** is the risk of loss due to a debtor's/borrower's non-payment of a loan or other line of credit (either the principal or interest or both) or other failure to meet a contractual obligation. The default events include a delay in repayments, restructuring of borrower repayments and bankruptcy.

**Liquidity risk** is the risk that arises from the difficulty in selling an asset; for example, the risk that a given security or asset cannot be traded quickly enough in the market to prevent a loss or meet an obligation.

### 5.2. CURRENCY RISKS

#### Exposure to currency risk at year-end

At 31 December 2017 the financial assets are composed of current bank account (imprest account), exchange receivables and non-exchange recoverables. The financial liabilities comprise current payables and accrued charges. The ending balances of both financial liabilities and financial assets are mainly quoted in EUR. The impact of other currencies is individually immaterial. At year-end ACER thus does not have any significant exposure to currency risks.

### 5.3. CREDIT RISK

#### Financial assets that are neither past due nor impaired

At 31 December 2017 financial assets are neither past due nor impaired and comprise current bank accounts and current exchange receivables and non-exchange recoverables.

#### Financial assets by risk category

The financial assets comprise exchange receivables with debtors without external credit rating that have never defaulted in the past (kEUR 3 485), non-exchange VAT receivable from the Republic of Slovenia (lower medium investment grade) and an imprest account with UniCredit bank AG (prime and high investment grade).

#### Carrying amount of the financial assets which are impaired

The financial assets which are impaired include receivables from customers and receivables from staff that are overdue for more than 2 years. In line with the impairment model used for ACER those receivables were for the purpose of the annual accounts fully written down and have remaining net book value of 0 at 31 December 2017.



## 5.4. LIQUIDITY RISK

### **Maturity analysis of financial liabilities by remaining contractual maturity**

The financial liabilities are composed of accounts payable with contractual maturity of less than 1 year and accrued charges that are also classified under current liabilities.

## Annex VIII. Negotiated procedures

In 2017 there was one negotiated procedure under Article 134(1)(b) of the Commission Delegated Regulation No 1268/2012 of 29 October 2012 on the rules of application of Regulation 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union<sup>16</sup>, as amended ('RAP').

The table below contains data related to the procurement procedure under Article 134(1)(b) RAP:

2017 negotiated procedure under Article 134(1)(b) RAP			
No..	Contractor's name	Subject of contract	Contract amount
1	NASDAQ Technology AB	Provision of SMARTS market monitoring system services for the Agency's REMIT Information System (ARIS)	EUR 10,000,000.00

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<sup>16</sup> OJ L 362, 31.12.2012, p.1.



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