

DECISION No 01/2026
OF THE EUROPEAN UNION AGENCY
FOR THE COOPERATION OF ENERGY REGULATORS
of 20 January 2026

**amending Decision 19/2019 of 11 December 2019 on the Rules of Procedure of the
European Union Agency for the Cooperation of Energy Regulators**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

THE ADMINISTRATIVE BOARD OF THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators¹, and, in particular, Articles 14(5) and 19(1)(t) thereof,

Having regard to Regulation (EU) No. 1227/2011 of the European Parliament and the Council of 25 October 2011 on wholesale energy market integrity and transparency², as amended by Regulation (EU) 2024/1106 of the European Parliament and of the Council of 11 April 2024 amending Regulations (EU) No 1227/2011 and (EU) 2019/942 as regards improving the Union's protection against market manipulation on the wholesale energy market³, and, in particular, Articles 13(3) to (11) and 13a to 13h thereof,

Having regard to the proposal of the Director of 26 November 2025,

Having regard to the favourable opinion of the Board of Regulators of 10 December 2025,

Whereas:

- (1) Regulation (EU) 1227/2011 establishes a framework to ensure integrity and transparency in wholesale energy markets within the Union.
- (2) On 11 April 2024, the European Parliament and the Council adopted Regulation (EU) 2024/1106 amending Regulation (EU) 1227/2011 by introducing new investigatory and decision-making powers for the Agency regarding potential breaches of Articles 3, 4, 5, 8 and 15 of Regulation (EU) No. 1227/2011 having a cross-border dimension.

¹ OJ L 158, 14.6.2019, p. 22–53.

² OJ L 326, 8.12.2011, pp. 1–16.

³ OJ L, 2024/1106, 17.4.2024.

- (3) In order to combat breaches of Regulation (EU) 1227/2011 the Agency may, in close and active cooperation with the relevant national regulatory authorities, carry out investigations by exercising the powers to conduct on-site inspections, request information and take statements.
- (4) To fulfil its investigatory powers, the Agency may adopt decisions to order an on-site inspection or to request information. Furthermore, the Agency may adopt decisions imposing a periodic penalty payment in respect of the person subject to the investigation to compel that person to submit to an on-site inspection or supply the information requested. Upon completion of its investigation, the Agency shall draw up an investigation report setting out the Agency's findings.
- (5) Article 14(5) of Regulation 2019/942 requires the Agency to adopt and publish adequate and proportionate rules of procedure which shall include provisions to ensure a transparent and reasonable decision-making process.
- (6) By decision 19/2019 of 11 December 2019, the Administrative Board adopted the rules of procedure of the Agency as included in Annex I to that decision.
- (7) It is therefore appropriate to also adopt rules of procedure for the Agency's investigations and related decisions providing a clear and transparent framework for the procedure, contributing to the Agency carrying out its mandate and performing the tasks assigned to it in accordance with Regulation (EU) 2019/942 and Regulation 1227/2011,

HAS ADOPTED THIS DECISION:

Article 1

Decision 19/2019 is amended as follows:

In Article 1, the following subparagraph is added:

The Rules of Procedure for the Agency's investigations under Regulation (EU) 1227/2011, as included in Annex II, are hereby adopted.

Article 2

This Decision shall enter into force on the day of its adoption.

Done at Ljubljana, on 20 January 2026.

For the Administrative Board

The Chair

Edit HERCZOG

ANNEX II

**RULES OF PROCEDURE FOR INVESTIGATIONS OF THE EUROPEAN UNION AGENCY FOR THE
COOPERATION OF ENERGY REGULATORS PURSUANT TO REGULATION (EU) NO 1227/2011 OF
THE EUROPEAN PARLIAMENT AND THE COUNCIL OF 25 OCTOBER 2011 ON WHOLESALE
ENERGY MARKET INTEGRITY AND TRANSPARENCY**

TITLE I

GENERAL PROVISIONS

Article 1

Scope of application

These Rules lay down the administrative procedure by which the Agency carries out investigations on potential breaches of Articles 3, 4, 5, 8 and 15 of Regulation (EU) No. 1227/2011 of the European Parliament and the Council of 25 October 2011 on wholesale energy market integrity and transparency⁴ (hereinafter referred to as ‘Regulation (EU) No. 1227/2011’), as referred to in Article 13(3) to (11) and Article 13a to 13h thereof.

Article 2

Definitions

1. “Information” means any evidence, statement, document, data, record or other material regardless of its form or medium, including written, electronic, audio, visual, digital or any other format, which may be relevant to the investigation.
2. “Investigation” means any request for information, on-site inspection, interview and taking of statements or any other measure undertaken by the Agency in accordance with these Rules, with a view to ascertain the facts and, where necessary, the irregular nature of the activities under investigation for the purpose of achieving the objectives as set out in Article 13(3) of Regulation (EU) No. 1227/2011.
3. “New facts” means any information or circumstances that were unknown to the Agency prior to adopting the investigation report and that may affect the conduct of the investigation or the Agency’s findings.
4. “Person” means any natural or legal person.
5. “Person concerned” means any natural or legal person suspected of having acted in breach of Article 3, 4, 5, 8 or 15 of Regulation (EU) No. 1227/2011, and who therefore are subject to the investigation carried out by the Agency.

Article 3

General principles for investigations

1. The purpose of an investigation is to establish the relevant facts and circumstances regarding potential breaches of Regulation (EU) No. 1227/2011 in order to support and complement the enforcement activities of national regulatory authorities and shall be carried out in close and active cooperation with those authorities in accordance with Articles 13(3) and 13e of Regulation (EU) No. 1227/2011.
2. Investigations shall be grounded in evidence gathered through continuous market monitoring by the Agency and carried out without interruption and without undue delay in order to enhance their efficiency and contribute to the effectiveness of follow up measures by the national regulatory authorities.
3. All information gathered in the course of an investigation shall be collected, recorded and stored in due form and in accordance with applicable confidentiality and data protection rules. Only information relevant

⁴ Regulation (EU) No. 1227/2011 of the European Parliament and the Council of 25 October 2011 on wholesale energy market integrity and transparency (OJ L 326, 8.12.2011, pp. 1–16), as amended by Regulation (EU) 2024/1106 of the European Parliament and of the Council of 11 April 2024 amending Regulations (EU) No 1227/2011 and (EU) 2019/942 as regards improving the Union’s protection against market manipulation on the wholesale energy market (OJ L, 2024/1106, 17.4.2024).

to the matter subject to the investigation should be gathered and processed for the purpose of the investigation.

4. Investigations shall be carried out objectively and impartially, in conformity with the principles of legality, proportionality and confidentiality.
5. The Agency shall seek evidence for and against the person concerned during the investigation and take account of all circumstances brought to its knowledge.

Article 4

Rights of the persons concerned during the investigation

1. The Agency's investigations shall be conducted with full respect for the rights of the person concerned, as those rights are defined and set out in Articles 13d and 13h of Regulation (EU) No. 1227/2011.
2. The person concerned shall be informed of the rights and obligations applicable to the investigation when they are informed for the first time that an investigation has been opened.
3. The presumption of innocence shall apply throughout the investigation and the person concerned shall have the right not to make self-incriminating statements.

Article 5

Representation

Where a person has appointed a representative to represent them during the investigation, that representative shall provide evidence of due authorisation to act and accept service on behalf of the represented person.

Article 6

Duty to cooperate

1. Any person that holds information that are relevant for the purpose of the investigation shall cooperate with the Agency in the course of the investigation in ascertaining the facts of the case. In particular, the person shall provide the Agency with facts and evidence that are known to them. This is without prejudice to the right of the person concerned not to make self-incriminating statements.
2. Any person shall, to the extent reasonably possible, comply with the applicable IT security and data protection standards as specified by the Agency for the purpose of the investigation.
3. Any person shall, upon request, make themselves available to the Agency in a reasonable manner as required for the effective conduct of the investigation.

Article 7

Use of language

1. The person concerned or any person interviewed by the Agency shall have the right to use any of the official languages of the European Union or of the Member State in which they are domiciled or established, and shall for that purpose indicate their preferred language to the Agency.
2. Without prejudice to paragraph 1, any person may by written consent, and taking into account the working language of the Agency, agree to the use of another official language of the European Union for the purpose of the investigation.

Article 8

Service of documents

1. The Agency serves documents as provided in these Rules either by any appropriate electronic means, by registered post, by personal delivery or by any other method of service available to the Agency.
2. The person concerned shall indicate an electronic address for the purpose of service of documents. The indicated address shall be valid for the duration of the investigation unless a change is notified to the Agency. If the person concerned has not designated an address, the Agency may serve documents using any address known to it as being used by the person.
3. The person concerned shall confirm receipt of any document served by the Agency.

Article 9

Confidentiality, data protection and professional secrecy for information processed by the Agency during the investigation

1. Information obtained, received, exchanged or transmitted in the course of the investigation shall be processed in accordance with applicable Union law on confidentiality. The Agency shall process the information in full respect of the confidential nature of the investigation and the information shall be used only for the purpose for which it was acquired. The Agency shall ensure the protection of information, including by technical means, and facilitate secure communication channels during the investigation.
2. Information obtained, received, exchanged or transmitted in the course of the investigation, in whatever form, shall be protected according to the relevant Union data protection rules. Where, in the context of an investigation, it is necessary to restrict data subjects' rights pursuant to Articles 14 to 22, 35 and 36 of Regulation (EU) 2018/1725⁵, such restriction shall be applied in accordance with the Administrative Board Decision No. 23/2019 of 12 December 2019⁶. Any restriction must be strictly necessary and proportionate, limited in scope and duration, and shall respect the essence of the fundamental rights and freedoms concerned.
3. Information obtained, received, exchanged or transmitted in the course of the investigation, in whatever form, shall be subject to professional secrecy and enjoy the protection afforded by the rules applicable to the Agency.

TITLE II

OPENING OF INVESTIGATIONS

Article 10

Opening of investigations

1. An investigation may be opened ex officio or upon request of a national regulatory authority.
2. The opening of an investigation shall be based on whether the case falls within the scope of the Agency's investigatory powers pursuant to Articles 13(3) to 13(8) and 13(10) of Regulation (EU) No. 1227/2011,

⁵ Regulation (EU) No 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data (OJ L 295, 21.11.2018, pp. 39–98).

⁶ Decision No 23/2019 of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators of 12 December 2019 on internal rules concerning restrictions of certain rights of data subjects in relation to processing of personal data in the framework of the functioning of the Agency.

whether the available information is sufficient to reasonably suspect that the acts carried out are in breach of Article 3, 4, 5, 8 or 15 of Regulation (EU) No. 1227/2011 and, where applicable, subject to the criteria established by the Agency, after consulting and in cooperation with the national regulatory authorities, for identifying the cases with the most significant cross-border impact pursuant to Article 13(9) of Regulation (EU) No. 1227/2011.

Article 11

Appointment of an investigating officer

1. To ensure the effectiveness and efficiency of an investigation, the Agency may, in accordance with Article 13f of Regulation (EU) No. 1227/2011, appoint a dedicated investigating officer to lead the investigation.
2. The appointment of an investigating officer shall specify:
 - (a) the name and position of the investigating officer;
 - (b) the subject matter and purpose of the investigation;
 - (c) a reference to the powers vested in the investigating officer pursuant to Article 13f of Regulation (EU) No. 1227/2011.

Article 12

Notification to the person concerned of the opening of an investigation

1. The Agency shall notify the person concerned of the opening of an investigation. The Agency may defer such notification where necessary to preserve the confidentiality of the investigation and the exercise of its investigatory powers or of future administrative or criminal investigations by a national authority.
2. The notification shall be made in writing and indicate at least:
 - (a) the legal basis and grounds for opening the investigation;
 - (b) the date of opening the investigation;
 - (c) the provision(s) of Regulation (EU) No. 1227/2011 that the Agency suspects were breached;
 - (d) the person concerned;
 - (e) the matter and time period being investigated;
 - (f) the investigating officer appointed to conduct the investigation, if applicable;
 - (g) the relevant national regulatory authorities cooperating in the investigation;
 - (h) the reference number and contact details for the investigation.
3. The Agency shall without delay forward a copy of a notification under paragraph 1 to the concerned national regulatory authorities.

Article 13

Public notice

1. The Agency may, where relevant, publish a notice informing the public about the opening of an investigation. A notice shall not be published where necessary to preserve future administrative or criminal investigations by a national authority. The Agency shall consult the concerned national regulatory authorities prior to the publication of such notice.
2. The notice shall indicate that the opening of an investigation does not imply any conclusion as to whether the person concerned has acted in breach of Regulation (EU) No. 1227/2011.
3. In case the Agency has published a notice identifying a person concerned, and upon completion of its investigation does not consider that a breach of Regulation (EU) No. 1227/2011 took place, it shall publish a notice stating that the person concerned is no longer being investigated by the Agency.

TITLE III

INVESTIGATION MEASURES

Article 14

Provision of information

1. The Agency may, as set out in Article 15 and 16 of these Rules, require any person to provide any necessary information for the purpose of the investigation, including by adopting a decision to that end in accordance with Article 13b of Regulation (EU) No. 1227/2011.
2. The Agency shall without delay forward a copy of a request for information to the concerned national regulatory authorities.
3. The persons in receipt of a request for information, or their representatives, shall supply the information requested and be fully responsible for ensuring that the supplied information is complete, correct and not misleading.
4. Where a person refuses to supply the requested information or provides incomplete, incorrect or misleading information, the Agency may draw conclusions based on the available information.

Article 15

Request for information

1. The Agency may request any person to provide information for the purpose of the investigation.
2. The request for information shall be made in writing and indicate at least:
 - (a) the legal basis for the request;
 - (b) the purpose and the subject matter of the request;
 - (c) what information is required and, if appropriate, in which data format the information shall be provided;
 - (d) a proportionate time-limit within which the information is to be provided;
 - (e) that a reply to the request must be complete, correct and not misleading.
3. The request for information may also indicate that in case of failure to provide the requested information the Agency may require the information by a decision and, in case of the person concerned, may impose a periodic penalty payment pursuant to Article 13g of Regulation (EU) No. 1227/2011 in order to ensure that the information requested by such decision is provided.

Article 16

Request for information by a decision

1. The Agency may adopt a decision requesting any person to provide information for the purpose of the investigation.
2. The decision requesting information shall be made in writing and, in addition to the elements listed in Article 15(2) of these Rules, indicate at least:
 - (a) the requested persons obligation to respond to the request;
 - (b) the periodic penalty payments provided for in Article 13g of Regulation (EU) No. 1227/2011 in case the person concerned does not comply with the request, if applicable.
3. The decision shall be served to the person in accordance with Article 8 of these Rules.
4. In case a person does not comply with the decision to request information, the Agency may request assistance from the concerned national regulatory authority to ensure compliance with the Agency's decision.

Article 17

Interviews and taking of statements

1. The Agency may, at any time during the investigation and in accordance with Article 13c of Regulation (EU) No. 1227/2011, conduct interviews and take statements from any person who consents to be interviewed for the purpose of collecting information relating to the subject matter of the investigation.
2. Interviews and taking of statements may be conducted in person, via telephone, via video conference or via any other suitable means.
3. The Agency shall send an invitation to the person at least ten (10) calendar days prior to the interview and taking of statements. That period may be shortened with the consent of the person or in duly justified circumstances where the urgency of the investigation so requires.
4. The invitation shall include at least:
 - (a) the legal basis for the interview and taking of statements;
 - (b) the name of the person to be interviewed and give statements;
 - (c) the name and positions of the persons conducting the interview and taking of statements;
 - (d) the date, time and expected duration of the interview and taking of statements;
 - (e) the place or means of the interview and taking of statements;
 - (f) that the interview and taking of statements is to be conducted with the consent of the person;
 - (g) the subject matter of the interview and taking of statements;
 - (h) the rights of the person for the purpose of the interview and taking of statements, including the right not to make self-incriminating statements and to be assisted by a person of choice;
 - (i) the use of language for the interview and taking of statements in accordance with Article 7 of these Rules.
5. The Agency shall inform the concerned national regulatory authority in due time prior to the interview. The officials of the concerned national regulatory authority may assist the Agency to conduct the interview.
6. The Agency shall prepare a written record of the interview indicating the date, time and place of the interview, the persons present at the interview, the matters discussed, and the questions and answers provided. For this purpose, the Agency may, with the consent of the person interviewed, take up an audio recording of the interview or use a secure transcription tool.
7. Within ten (10) calendar days of the interview, the Agency shall provide a copy of the written record to the person interviewed, inviting the person to either approve the record or add observations. The Agency shall set a time limit within which the reply is to be provided taking into account the urgency of the investigation.

Article 18

On-site inspections at the premises of the persons concerned

1. The Agency may, for the purpose of an investigation and in accordance with Article 13a(2) of Regulation (EU) No. 1227/2011, conduct all necessary on-site inspections at the premises of the person concerned where business records could be kept. The on-site inspection shall be ordered by a decision adopted by the Agency.
2. The decision ordering the on-site inspection shall be made in writing and specify at least:
 - (a) the date, time and expected duration of the on-site inspection;
 - (b) the place of the on-site inspection;
 - (c) the legal basis for the on-site inspection;
 - (d) the subject matter and purpose of the on-site inspection;
 - (e) the provision(s) of Regulation (EU) No. 1227/2011 that the Agency suspects were breached;
 - (f) the procedural safeguards in accordance with Article 13d of Regulation (EU) No. 1227/2011;
 - (g) the relevant national regulatory authorities cooperating in carrying out the on-site inspection;

- (h) the periodic penalty payments provided for in Article 13g of Regulation (EU) No. 1227/2011 in case the person concerned does not submit to the on-site inspection, if applicable.
- 3. The decision shall be served to the person concerned, prior to the on-site inspection, in accordance with Article 8 of these Rules.
- 4. Prior to adopting a decision ordering an on-site inspection the Agency shall consult the national regulatory authority of the Member State where the on-site inspection is to take place.

Article 19

On-site inspections in private premises

- 1. The Agency may, in accordance with Article 13a(4) of Regulation (EU) No. 1227/2011, carry out an on-site inspection in private premises of directors, managers or other members of staff of businesses concerned by an investigation. The on-site inspection shall be ordered by a decision adopted by the Agency.
- 2. The decision ordering the on-site inspection in private premises shall be made in writing and specify at least:
 - (a) the date, time and expected duration of the on-site inspection;
 - (b) the place of the on-site inspection;
 - (c) the legal basis for the on-site inspection;
 - (d) the subject matter and purpose of the on-site inspection;
 - (e) the provision(s) of Regulation (EU) No. 1227/2011 that the Agency suspects were breached;
 - (f) the procedural safeguards in accordance with Article 13d of Regulation (EU) No. 1227/2011;
 - (g) the relevant national regulatory authorities cooperating in carrying out the on-site inspection;
 - (h) the periodic penalty payments provided for in Article 13g of Regulation (EU) No. 1227/2011 in case the person concerned does not submit to the on-site inspection, if applicable.
- 3. The Agency shall only carry out an on-site inspection in private premises if a reasonable suspicion exists that business records related to the subject matter of an on-site inspection relevant for the investigation are being kept at the private premise. The decision ordering the on-site inspection shall, in addition to the elements listed in paragraph 2, state the reasons for the conclusion that such reasonable suspicion exists.
- 4. The decision shall be served to the person, prior to the on-site inspection, in accordance with Article 8 of these Rules.
- 5. Prior to adopting a decision ordering an on-site inspection in private premises the Agency shall consult the national regulatory authority of the Member State where the on-site inspection is to take place.

Article 20

On-site inspections without prior announcement

- 1. The Agency may carry out an on-site inspection ordered by a decision pursuant to Article 18 or 19 of these Rules without prior announcement to the person where required for the proper conduct and efficiency of the inspection in accordance with Article 13a(2) of Regulation (EU) No. 1227/2011.
- 2. Where the Agency conducts an on-site inspection without prior announcement, the person shall be served the decision ordering the on-site inspection in accordance with Article 8 of these Rules at the time of the inspection.

Article 21

Authorisation of staff and other persons to conduct the on-site inspection

- 1. The Agency shall issue a written authorisation, in accordance with Article 13a(5) of Regulation (EU) No. 1227/2011, to conduct an on-site inspection for each official and other persons appointed to carry out the on-site inspection.

2. The duly authorised persons shall be invested with powers set out in Article 13a(3) of Regulation (EU) No. 1227/2011. Those powers shall only be carried out to the extent necessary for the purpose of the inspection.
3. Before starting the on-site inspection, authorised persons shall present the authorisation and a valid identification to the person subject to the inspection.
4. The authorisation issued by the Agency shall specify at least:
 - (a) the name of the authorised person;
 - (b) the subject matter and purpose of the investigation;
 - (c) a reference to the powers vested in the authorised person pursuant to Article 13a(3) of Regulation (EU) No. 1227/2011;
 - (d) a reference to the decision ordering the on-site inspection.

Article 22

Authorisation by a national judicial authority concerning an on-site inspection

1. The Agency shall, in accordance with Article 13a(9) of Regulation (EU) No. 1227/2011, apply for authorisation by a national judicial authority where:
 - (a) the relevant national law so requires for conducting an on-site inspection;
 - (b) the relevant national law so requires for assistance to be provided by the national regulatory authority;
 - (c) the on-site inspection is to take place in private premises.
2. The Agency may apply for authorisation to a national judicial authority as a precautionary measure, where appropriate.

TITLE IV

PERIODIC PENALTY PAYMENTS

Article 23

Decision imposing a periodic penalty payment

1. The Agency may, in accordance with Article 13g of Regulation (EU) No. 1227/2011, impose a periodic penalty payment in order to compel the person concerned to:
 - (a) supply the information requested by a decision adopted pursuant to Article 16 of these Rules; or
 - (b) submit to an on-site inspection ordered by a decision adopted pursuant to Article 18 or 19 of these Rules.
2. A decision imposing a periodic penalty payment may be adopted as an integral part of a decision adopted under Article 16, 18 or 19 of these Rules or as a separate decision.
3. Any periodic penalty payment imposed shall be effective and proportionate. To that effect, the amount of a periodic penalty payment shall be:
 - (a) 3 % of the average daily turnover in the preceding business year for legal persons;
 - (b) 2 % of the average daily income in the preceding calendar year for natural persons.
4. The periodic penalty payment shall be imposed on a daily basis until the person concerned complies with relevant decision of the Agency. In any case, a periodic penalty payment shall not be imposed for more than 6 months from the notification of the decision.
5. The decision shall be made in writing and, in addition to the elements listed in Article 16, 18 and 19 of these Rules as applicable, include at least:
 - (a) the legal basis for imposing a periodic penalty payment;
 - (b) the amount of the periodic penalty payment due on a daily basis;
 - (c) from when the periodic penalty payment shall be calculated;
 - (d) from when the periodic penalty payment is no longer imposed.

The decision shall only be based on findings on which the person concerned have had the opportunity to comment in accordance with Article 24 of these Rules.

6. The decision shall be served to the person concerned in accordance with Article 8 of these Rules.

Article 24

Right to be heard and access to file with regard to a decision imposing a periodic penalty payment

1. The Agency shall inform the person concerned about its intention to adopt a decision imposing a periodic penalty payment and provide that person the opportunity to be heard on the Agency's findings in accordance with Article 13h of Regulation (EU) No. 1227/2011.
2. The Agency shall set a time limit within which the person concerned may express in writing their views on the matter. The person concerned shall, upon request, be given the opportunity to present their views orally.
3. The person concerned has the right to access the documents in the Agency's file which relate to the decision to impose the periodic penalty payment. That right is with the exception of confidential information and internal preparatory documents of the Agency and shall be subject to the legitimate interests of other persons in the protection of their business secrets.
4. Access to the file can only be granted after the person concerned has been informed about the Agency's intention to adopt a decision imposing a periodic penalty payment and shall be granted by electronic means.
5. In order to be provided access, a person concerned shall submit a request to this purpose.
6. The Agency shall provide the person concerned with a list setting out the content of the file which relate to the decision to impose the periodic penalty payment together with the relevant underlying documents contained therein.
7. If a document contains confidential information, access can be granted only to a non-confidential version of the document or a summary of the relevant information contained therein.

Article 25

Decision fixing the amount of an imposed periodic penalty payment

1. Where a decision imposing a periodic penalty payment has been adopted in accordance with Article 23 of these Rules, and the person concerned has failed to comply with the obligation within the prescribed time limit, the Agency shall adopt a decision fixing the amount of the imposed periodic penalty payment due.
2. The decision shall:
 - (a) confirm the non-compliance with the decision imposing a periodic penalty payment;
 - (b) determine the duration of the non-compliance;
 - (c) calculate the total amount of the periodic penalty payment based on the daily periodic penalty payment imposed;
 - (d) provide the details and due date for the payment of the periodic penalty payment due.
3. Before adopting a decision fixing the amount of the periodic penalty payment due, the Agency shall give the person concerned the opportunity to be heard on the findings and the possibility to have access to documents in the Agency's file related to the decision in accordance with Article 24 of these Rules.
4. The decision shall be served to the person concerned in accordance with Article 8 of these Rules.

TITLE V

COMPLETION OF THE AGENCY'S INVESTIGATION

Article 26

Opportunity to provide comments

1. Prior to adopting the investigation report pursuant to Article 27 of these Rules, the Agency shall inform the person concerned of the facts concerning them and invite the person concerned to comment on those facts in writing in accordance with Article 13d(1)(d) of Regulation (EU) No. 1227/2011. The person concerned shall, upon request, be given the opportunity to present their comments orally.
2. In duly substantiated cases where necessary to preserve the confidentiality of the on-site inspection or of ongoing or future administrative or criminal investigation by a national authority, the Agency may defer the invitation to comment on the facts. For this purpose, the Agency may consult the concerned national regulatory authorities.
3. The invitation to comment on the facts shall include at least:
 - (a) an adequate time limit within which the person concerned shall provide the comments;
 - (b) a summary of the facts concerning the person concerned, including, as appropriate, any document related to those facts;
 - (c) the provisions of Regulation (EU) No. 1227/2011 which were the subject of the investigation.
4. In case no comments are provided by the person concerned within the set time limit, the Agency may draw up the investigation report based on the facts as described in the invitation to comment.

Article 27

Investigation report

1. The Agency shall, in accordance with Article 13(11) of Regulation (EU) No. 1227/2011, draw up and adopt the investigation report when the investigation has been completed and after the person concerned has been given the opportunity to comment on the facts concerning them, subject to Article 26(2).
2. The investigation report shall be drawn up on the basis of the information gathered and any comments provided by the person concerned. The investigation report shall be based on an impartial and objective assessment of the evidence gathered.
3. The investigation report shall set out the Agency's findings and shall include at least:
 - (a) the identity of the person concerned;
 - (b) the legal basis for the investigation and the provision of Regulation (EU) No. 1227/2011 subject to the investigation as well as the time period investigated;
 - (c) the investigation measures carried out by the Agency and the duration of the investigation;
 - (d) all the evidence on which the Agency has based its findings, including any written records of interviews;
 - (e) the facts established and an analysis of those facts;
 - (f) the comments provided by the person concerned, if applicable;
 - (g) an assessment by the Agency on whether a breach of Regulation (EU) No. 1227/2011 took place.
4. In case the Agency considers that a breach of Regulation (EU) No. 1227/2011 took place the Agency shall set out in the investigation report the provision(s) of Regulation (EU) No. 1227/2011 which are considered to be breached in relation to the facts established by the investigation. The Agency may also set out any recommendations to the concerned national regulatory authorities as regards follow-up measures to the investigation carried out by the Agency.
5. The Agency shall send the investigation report to the concerned regulatory authorities without undue delay after its adoption.

6. In case the Agency considered in the investigation report that a breach of Regulation (EU) No. 1227/2011 took place the Agency shall require that the concerned national regulatory authorities take the necessary measures, including in accordance with Article 18 of Regulation (EU) No. 1227/2011. Within three months of the receipt of the investigation report, the relevant national regulatory authorities shall communicate to the Agency the follow-up measures that they consider necessary.

TITLE VI

MISCELLANEOUS PROVISIONS

Article 28

Reopening of investigations

The submission of the investigation report to the national regulatory authority shall not preclude the Agency from reopening the investigation on the basis of new facts. These Rules shall apply to the reopening of the investigation and to the reopened investigation procedure.

Article 29

Adoption of decisions, authorisations and investigation reports

1. The Agency shall state in the decision adopted under these Rules the grounds on which the decision is based in a clear and unequivocal way.
2. The decisions, authorisations and the investigation reports shall be signed by the Director of the Agency, or a duly authorised delegate according to the rules governing the delegation of powers within the Agency. Signatures may be in electronic format.

Article 30

Information about available remedies

Decisions of the Agency adopted under these Rules shall refer to the right to have the decision of the Agency reviewed by the Court of Justice of the European Union.

Article 31

Correction of obvious inaccuracies

The Agency may at any time correct clerical mistakes, errors in calculations, and other obvious inaccuracies contained in its decisions, authorisations or investigation reports.