
**2nd meeting of the REMIT Expert Group
on wholesale energy market integrity and transparency**

Friday, 24 May 2024 from 13:30 to 16:30 CET

Online meeting

MINUTES

1. OPENING

1.1 Welcome

The Chair opened the meeting and welcomed the Experts, reminding them that the next meeting will be an in-person meeting on October 2nd in Ljubljana.

1.2 Approval of the Agenda

The agenda was approved without any objections.

1.3 Adoption of the Minutes

The minutes of the previous meeting had been shared in advance with the Experts. The minutes were approved without any objections.

2. LATEST DEVELOPMENTS

2.1 ACER

The chair briefly provided an update on the new organizational structure of the Agency, particularly regarding the pending new department for REMIT investigations, following the new ACER mandates introduced via the REMIT revision.

ACER also notified the Experts that the minutes of the other Expert Group on Data reporting have already been shared with them prior to the meeting, in order to keep both groups informed about any overlapping discussions and for both groups to benefit from the outcome of respective groups discussions.

The Experts expressed their appreciation for the initiative to distribute the minutes amongst the two Expert Groups.

2.2 Experts (Roundtable)

Nobody raised any questions, and the Chair directly proceeded with the third point of the agenda.

3. ACER ACCESS POINT FOR INSIDE INFORMATION

3.1 ACER presentation on the scoping of the access point

ACER presented some considerations for the creation of the access point, which needs to be developed and in operation within 1 year of the entry into force of the revised REMIT. During the presentation, ACER proposed different options for the scope of functionalities to be developed for the access point.

3.2. Discussion

Experts were asked about their expectations on the access point and its functionalities. One Expert asked if the access point itself will be an IIP, to which ACER answered that it will not, as the access point would only entail the (re)publishing or aggregation of already published inside information. It would not entail real-time publication.

The Experts shared their views on the different options. Experts consider that re-publication of details of inside information already published on IIPs would fulfil the legal obligation of Article 4(4a) of Regulation 2024/1106. Since market participants currently need to use different IIPs across Member States to get a complete overview of events, a tool that aggregates this information would be very useful for other market participants not heavily involved in the market. ACER asked what data aggregations would be useful to have on the access point. Experts suggested inter alia an aggregated view of unavailability events per bidding zone, as well as statistics on the frequency of unavailability events per affected asset or unit. Experts claimed that, especially for small MPs with fewer resources, this type of functionalities would be helpful. Experts also pointed out that market participants would find it useful to get further information regarding the service offer of IIPs, e.g. information on Terms & Conditions or fee structures.

Experts acknowledged that implementing many functionalities in the access point could become complex and needs to be carefully considered. Experts and ACER all agreed that the duplication of messages published on different IIPs might pose a challenge to the accurate aggregation of data.

4. ACER GUIDANCE REVIEW

4.1 ACER presentation

ACER presented the outline of the Guidance revision which had also been shared with the Experts prior to the meeting. The Experts were reminded that they will be consulted on the draft text of the updated Guidance in July.

4.2 Discussion

One Expert believed there was too much focus on hydrogen in the update, compared to other relevant topics stemming from the REMIT revision. ACER clarified that the inclusion of hydrogen is primarily an editorial edit, as the Hydrogen and decarbonised gas markets package introduced hydrogen to the REMIT legal framework by inserting it e.g. to the definition of wholesale energy products. This has created a chain reaction where most of the text referring to 'electricity and natural gas' now has to refer to 'electricity, natural gas and hydrogen'.

Additional points brought up by Experts were;

- more examples should be included in the document, especially on new/revised topics or obligations;
- additional clarifications on the changes in the definition of inside information were requested; and
- additional clarifications on situations where MPs can use other channels (back-ups) for publication of inside information.

Finally, one Expert asked the Chair for clarification on how the cap on fines will be treated or considered by regulators.

ACER considers the content of the Guidance revision to be sufficient to ensure that the Guidance reflects the amendments of the revised REMIT but acknowledges that the revision process is ongoing and NRAs as well as Experts will be asked to provide further input.

5. ORDER BOOK REPORTING

5.1 Presentation by Expert

One Expert presented their considerations on the new obligations on organised marketplaces (OMP) in Article 8(1)(a) of revised REMIT. The main issue identified was the legal uncertainty of not having the necessary contracts in place for the new structure of OMP reporting. The Expert believes some friction with the clients of organised marketplaces could have been avoided if more implementation time had been allowed. However, the ACER Open letter was helpful to clarify market participants' role, although there are still questions on the relationships and liabilities of market participants vs organised marketplaces vs registered reporting mechanisms.

5.2 Discussion

While many Experts agreed the ACER Open letter was highly appreciated, they also agreed some challenges still remain, e.g. the distribution of responsibilities, the formalisation of contracts for the new structure of OMP reporting and the possible double reporting in the transitional phase.

ACER thanked the presenting Expert for sharing these considerations.

6. EXPOSURE INFORMATION

6.1 Presentation by Expert

The Expert presented various options for exposure reporting and considerations on the goal of the reporting. The presentation included an overview of the assessment of different exposure types based on REMIT objectives and key principles. The assessment identified the following exposure types; Volume exposure, Notional value, MtM risk, Settlement risk and Credit risk. Volume exposure was suggested as the exposure type best fitting the objectives and key criteria.

Other Experts welcomed the presentation which provided good base for discussion.

6.2 Discussion

The presenter stressed that when defining exposures, the underlying principles and objectives around REMIT should be considered, for instance, that the reporting should be straightforward and feasible, without creating additional complexity or burden. The presenter also suggested

not to duplicate the existing financial market regulations and monitor the same objectives. Some of the Experts in the meeting expressly agreed with this perspective.

Regarding the credit risk parameter, it was stressed that companies calculate credit risk in different ways so for such an exposure reporting to be useful a lot of standardisations would be needed, which would probably not be proportionate to the value created.

ACER thanked the presenter and reminded the Experts that the further elaboration of exposure reporting will have to be detailed in the REMIT Implementing Regulation. Despite the Agency not having a formal role in the revision process, the discussions and feedback from the Expert groups will be considered when ACER forms its position on the REMIT Implementing Regulation revision lead by the European Commission.

7. PPAT AND PPET

7.1 ACER presentation

ACER presented its views on the concept of PPAET under REMIT. Following Articles 15(1) and 15(2) of REMIT, ACER introduced PPATs and PPETs separately, including a schema of different entities falling into the different categories, to be taken into consideration for the Guidance update. The Experts were asked their views on the meaning of 'execution of transaction' in relation to 'arranging of transactions', more specifically, if experts consider the concept of "arranging" to be part of "execution".

7.2 Discussion

On the question regarding 'arranging' and 'executing', one Expert shared that the concept of execution/arranging are two separate activities and that the service element is important. In this regard, the definition of 'professionally' proposed by ACER in the presentation is quite different from what is understood as professionals under MiFID. If you only do one/a few hedges you are not considered professional under MiFID. ACER agreed it is a nuanced definition but with a MiFID focus, not sure it can be duplicated into the energy space. The scope of being professional is not necessarily the same.

The Experts provided various additional comments, such as the relationship with MAR and the requirement to trade financial product, the scope of the different actors in the schema, and the possibility to include a list of PPAETs in the Guidance.

There was an additional question on Article 15(3) referring to article 4 supervision and how this obligation on the PPATs (not so much PPETs) would work in practice - what can be done with the information available? What information should be used?

One Expert highlighted that usually the trading entity has nothing to do with the publishing entity and that monitoring can be carried out before and after publication, but it is not possible to monitor the correctness of the publication. This information is not possessed by the entities. Difficult for a PPAT/PPET to assess and have access to information published by other actors. It was suggested to link the monitoring of article 4 with breaches of article 3 or 5.

ACER thanked the Experts for their views which will be of help in finalising this chapter of the ACER Guidance.

8. ANY OTHER BUSINESS

No AOB was proposed.

8.1 Next meeting

Next meeting is scheduled for October 2nd as a physical meeting in Ljubljana.