

8th Meeting of the REMIT Expert Group on wholesale energy market trading

Monday, 28 October 2019 from 10:30 to 16:00

Premises of the premises of the CEER, Course Saint-Michel 30a, 1040 Brussels, Belgium

Minutes (Chatham house rules)

ACER			
Volker	Zuleger	ACER	Chair
Ronja	Linssen	ACER	(via Telco)
Aleksandra	Zgorzak	ACER	(via Telco)
Nicolas	Scheib	ACER	(via Telco)
Michal	Miko	ACER	(via Telco)
Antonio	Santos	ACER	(via Telco)
Experts			
Volinka	Augustenborg	Ørsted	
Camilla	Berg	Nord Pool	
Christine	Hillion	EDF	
Giulia	Migueles-Pereyra	ENI	
Karl-Peter	Horstmann	RWE/EFET	
Robert	Jambrich	SEAS	
Jethro	Van Hardeveld	ICE Endex	
Pasi	Kuokkanen	IFIEC Europe	
Bernhard	Walter	EnBW	
Daniel	Friso	EI	
Tim	Leurs	CREG	
Marijn	Maenhoudt	CREG	
Erik	Korsvold	Nasdaq	

1. Opening

The meeting was opened by the chair who welcomed the Experts. The minutes of the last meeting were approved without any changes. The draft agenda was approved as mirrored below.

2. Recent issues

The chair provided an update on recent developments with regard to REMIT since the last Expert Group meeting.

The Agency has updated the Experts on the revision of the annual programming document for REMIT based on the latest allocation of the budget and resources for the Agency. The Agency has updated the Experts also on recent developments in respect to the selection procedure of the new Director of the Agency.

3. Public Consultation on implementing thresholds for the publication of II – first glance at the responses

The chair provided a presentation on the preliminary outcome of the public consultation on the definition of inside information which the Agency launched from 17 July to 16 September 2019. The goal of the public consultation was to collect information about the market participant's real-life experiences and approaches regarding their assessments of inside information pursuant to Article 2(1) of REMIT, which need to be disclosed according to Article 4 of REMIT. With the consultation the Agency wanted to assess the need and possibilities to provide further guidance to facilitate the process of identifying inside information. Especially, it aimed at assessing whether it would be beneficial to exclude certain data from the definition of inside information according to Article 2(1) of REMIT by introducing thresholds for the disclosure of inside information.

The Agency reported to the Experts about the content of the responses received. Depending on the question, it received up to 31 responses. The outcome of the responses was diverse. Whereas some respondents stressed the need for thresholds in order to assess whether an information should be considered as inside information or not, others formulated the need for a harmonised methodology provided through further ACER guidance. The Agency explained that a safe harbour approach by means of binding guidance by ACER cannot be granted under the current legal REMIT framework, since there is no mandate at the moment for the Agency to provide binding guidance on this subject.

Furthermore a possible impact on the legal framework of the financial market regulation which might occur by an implementation of thresholds in particular in regards, to Article 7 of MAR was discussed with the Experts.

4. Disclosure of inside information and transparency: Potential additional ACER Guidance on the definition of inside information and the assessment of IIPs

Representatives of the Agency's Market Surveillance and Conduct Department presented the update of Chapter 5 of the ACER Guidance on the definition of inside information and its criteria of (i) precise nature and (ii) significant price effect. The main purpose of this update is to align the ACER Guidance with the current case law and development of the financial legislation specifying the concept of inside information. The presentations together with the proposed changes have been shared with the experts. The MSC Department will collect feedback from Experts through individual email (written procedure).

Representatives of the Agency's Market Integrity and Transparency Department presented on received questions regarding the further need of ACER Guidance in regard to the disclosure of inside information. Among other, the public availability of UMMs was discussed, as well as possibilities of usage of data provided by inside information platforms which have usage restrictions installed. Further written comments from Experts have been collected by the Agency and will be taken into consideration to the extent possible.

5. EU Financial Market Legislation

News on the review of MAR and ESMA's Public Consultation on position limits were briefly discussed among Experts and the Agency.

6. BREXIT

Due to the postponed withdrawal of the UK from the European Union (March 2020), an update will be provided at a later point.

7. AOB

The chair closed the meeting.

It will be discussed whether the next Expert Group meeting will still take place in 2019, in temporal connection to the Roundtable meetings held from on 26 – 28 November 2019 at the ACER premises in Ljubljana. The exact date will be agreed and communicated in due time.