



**Agency for the  
Cooperation of Energy Regulators  
Programming Document  
2019 - 2021**

**Revised December 2018**

## Table of Contents

<b>DIRECTOR’S FOREWORD</b> .....	<b>5</b>
<b>LIST OF ABBREVIATIONS AND ACRONYMS</b> .....	<b>8</b>
<b>MISSION STATEMENT</b> .....	<b>11</b>
<b>SECTION I – GENERAL CONTEXT</b> .....	<b>13</b>
<b>STRATEGIC AIMS</b> .....	<b>13</b>
<b>SECTION II - MULTIANNUAL PROGRAMMING 2019 – 2021</b> .....	<b>17</b>
<b>1. MULTIANNUAL OBJECTIVES</b> .....	<b>17</b>
<b>2. MULTIANNUAL PROGRAMME</b> .....	<b>27</b>
2.1. INTRODUCTION .....	27
2.1.1. <i>Strategic Areas</i> .....	27
2.2. THE REGULATORY PRACTICE .....	28
2.2.1. <i>Institutional Framework</i> .....	28
2.2.2. <i>Regulatory practice - objectives</i> .....	31
2.2.3. <i>Regulatory Practice - Risks</i> .....	32
2.3. INTERNATIONAL COOPERATION .....	32
2.3.1. <i>Institutional Framework</i> .....	32
2.3.2. <i>International Cooperation - objectives</i> .....	34
2.3.3. <i>International Cooperation - Risks</i> .....	34
2.4. STRATEGIC AREA 1: COMPLETION OF THE INTERNAL ENERGY MARKET AND THE MONITORING OF ITS FUNCTIONING .....	35
2.4.1. <i>Implementation and monitoring of Network Codes and Guidelines</i> .....	35
2.4.2. <i>Monitoring of the Internal Energy Market</i> .....	35
2.5. STRATEGIC AREA 2: THE EUROPEAN INFRASTRUCTURE CHALLENGE .....	36
2.5.1. <i>Institutional Framework</i> .....	36
2.5.2. <i>TYNDP</i> .....	36
2.5.3. <i>Identification of PCIs</i> .....	37
2.5.4. <i>Cross-Border Cost Allocation</i> .....	37
2.6. STRATEGIC AREA 3: WHOLESALE ENERGY MARKET INTEGRITY AND TRANSPARENCY .....	37
2.6.1. <i>Institutional Framework</i> .....	37
2.6.2. <i>Operation of REMIT Information Management</i> .....	38
2.6.3. <i>Wholesale Market Monitoring</i> .....	38
2.7. STRATEGIC AREA 4: FUTURE CHALLENGES, INCLUDING RES INTEGRATION .....	39
<b>3. HUMAN AND FINANCIAL RESOURCES OUTLOOK 2019 - 2021</b> .....	<b>40</b>
3.1. OVERVIEW OF THE PAST AND CURRENT SITUATION .....	40
3.2. RESOURCE PROGRAMMING 2019 – 2021 .....	41
3.2.1. <i>Financial resources</i> .....	41
3.2.2. <i>Human resources</i> .....	47
<b>SECTION III – WORK PROGRAMME 2019</b> .....	<b>62</b>
<b>1. EXECUTIVE SUMMARY</b> .....	<b>62</b>

<b>2. ACTIVITIES</b> .....	<b>63</b>
2.1. ELECTRICITY NETWORK CODES (OPERATIONAL).....	68
2.2. GAS NETWORK CODES (OPERATIONAL).....	78
2.2.1. <i>Network Codes, their implementation and monitoring</i> .....	79
2.2.2. <i>Gas Regional Initiatives</i> .....	87
2.3. ELECTRICITY AND GAS INTERNAL MARKET MONITORING (OPERATIONAL).....	88
2.4. ELECTRICITY TSO COOPERATION (OPERATIONAL).....	91
2.5. GAS TSO COOPERATION (OPERATIONAL).....	94
2.6. TASKS TO SAFEGUARD THE SECURITY OF GAS SUPPLY (OPERATIONAL).....	96
2.7. GUIDELINES FOR TRANS-EUROPEAN ENERGY INFRASTRUCTURE (OPERATIONAL).....	98
2.7.1. <i>Electricity and Gas</i> .....	99
2.8. OTHER TASKS WHICH ARE SUBJECT TO SPECIFIC CONDITIONS (OPERATIONAL).....	102
2.8.1. <i>Tasks initiated by others</i> .....	102
2.8.2. <i>Opinions and Recommendations on the Agency’s own Initiative</i> .....	106
2.9. WHOLESALE MARKET MONITORING – REMIT (OPERATIONAL).....	107
2.10. COMMUNICATION (HORIZONTAL).....	118
2.10.1. <i>External Communication</i> .....	118
2.10.2. <i>Internal Communication</i> .....	123
2.11. ORGANISATION, ADMINISTRATION AND FUNCTIONING OF THE AGENCY (HORIZONTAL).....	124
2.11.1. <i>Organisation</i> .....	124
2.11.2. <i>The Agency’s Premises, Procurement and Facility Management</i> .....	125
2.11.3. <i>Human Resources</i> .....	126
2.11.4. <i>Budget Implementation and Audit</i> .....	128
2.11.5. <i>ICT Infrastructure</i> .....	130
2.11.6. <i>Other Internal and Horizontal Tasks</i> .....	132
<b>ANNEX I: 2019 RESOURCE ALLOCATION PER ACTIVITY</b> .....	<b>133</b>
<b>ANNEX II: FINANCIAL RESOURCES</b> .....	<b>135</b>
TABLE 1 – EXPENDITURE.....	135
TABLE 2 – REVENUE.....	137
TABLE 3 - BUDGET OVERTURN AND CANCELLATION OF APPROPRIATIONS.....	139
<b>ANNEX III: HUMAN RESOURCES – QUANTITATIVE</b> .....	<b>140</b>
TABLE 1 - STAFF POPULATION AND ITS EVOLUTION; OVERVIEW OF ALL CATEGORIES.....	140
TABLE 2 - MULTI-ANNUAL STAFF POLICY PLAN 2019- 2021.....	142
<b>ANNEX IV: HUMAN RESOURCES – QUALITATIVE</b> .....	<b>144</b>
A. RECRUITMENT POLICY.....	144
B. APPRAISAL OF PERFORMANCE AND RECLASSIFICATION/PROMOTIONS.....	147
C. MOBILITY POLICY.....	149
D. GENDER AND GEOGRAPHICAL BALANCE.....	150
E. SCHOOLING.....	151
<b>ANNEX V: BUILDINGS</b> .....	<b>153</b>
<b>ANNEX VI: PRIVILEGES AND IMMUNITIES</b> .....	<b>154</b>
<b>ANNEX VII: EVALUATIONS</b> .....	<b>155</b>

<b>ANNEX VIII: RISKS - ACER RISK REGISTER 2019 .....</b>	<b>156</b>
<b>ANNEX IX: 2019 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS</b> <b>160</b>	
<b>ANNEX X ORGANISATION CHART .....</b>	<b>162</b>
<b>ANNEX XI: KEY PERFORMANCE INDICATORS.....</b>	<b>163</b>

## DIRECTOR'S FOREWORD

I am pleased to present the revised Programming Document of the EU Agency for the Cooperation of Energy Regulators (the Agency) for the period 2019 - 2021.

The Programming Document contains a multiannual outlook, covering the 2019-2021 period, as well as the annual Work Programme for 2019. In November 2016 the European Commission unveiled its “Clean Energy for all Europeans” legislative package, including a proposal for the recast of the Agency’s founding Regulation. In its proposal, the Commission envisaged additional tasks and responsibilities for the Agency. The European Parliament and the Council have taken different views on this proposal, and therefore it is still uncertain what the actual scope of the mandate of the Agency as resulting from the recast of its founding Regulation will be. In any case, it is expected that the new provisions will not come into force until January 2020, at the earliest. Therefore, both the 2019 Work Programme and, given the uncertainty on the outcome of the legislative process, the multiannual outlook have been compiled according to the Agency’s current mandate.

In 2019 and in the two subsequent years, the Agency will be able to contribute to “a Union that Protects, Empowers and Defends”, in line with the priorities for the EU Multiannual Financial Framework. In fact, most of the Agency’s activities are aimed at promoting security of energy supply through a well-functioning Internal Energy Market based on the best use of the available resources and the optimal development of energy-sector infrastructure. More specifically, the Agency plans to pursue this overall objective through activities in four strategic areas: (i) the completion of the Internal Energy Market, through the full implementation of the adopted Guidelines and Network Codes, including the adoption and implementation of binding subsidiary instruments and the monitoring of such implementation; (ii) addressing the infrastructure challenge, by contributing to the correct prioritisation of infrastructure development, the implementation of priority projects and the monitoring of such implementation; (iii) the monitoring of wholesale energy trading to detect and deter market abuse, so as to promote the integrity and transparency of wholesale energy markets; and, to the extent that resources will be available, (iv) addressing longer-term regulatory challenges, mostly directly or indirectly related to the increased penetration of renewable-based generation in the EU energy system.

The Agency’s activities in the 2019 Work Programme are grouped in eleven areas: (1) the implementation of the electricity Network Codes; (2) the implementation of the gas Network Codes, including through the Gas Regional Initiative; (3) the monitoring of the internal electricity and gas markets; (4) supporting and monitoring the cooperation among TSOs in the

electricity sector; (5) supporting and monitoring the cooperation among TSOs in the gas sector; (6) safeguarding the security of energy supply; (7) energy infrastructure development planning and the implementation of priority projects; (8) tasks which the Agency performs on request and opinions and recommendations issued on its own initiative; (9) wholesale energy market monitoring; (10) communication activities; (11) coordination activities and administration of the Agency.

This Programming Document has been revised in line with the human and financial resources made available to the Agency 2019 in the EU budget adopted by the Budgetary Authority. This allocation falls considerably short of the Agency's needs as identified in the Programming Document adopted by the Administrative Board in September 2018. In particular, the Agency had requested 31 additional posts for 2019 (19 for activities related to the monitoring of wholesale energy markets, 2 in the energy infrastructure area, 1 in the security of supply area, 4 to support and monitor the implementation of Network Code and Guidelines and 5 for horizontal activities) and a budget of € 19.1 million. This budget was € 5.5 million higher than what the Agency was assigned in 2018, since, apart for covering for the cost of the additional staff, it also included funding:

- to replace the ageing Agency's IT infrastructure used for the implementation of REMIT and its monitoring framework. This replacement was already due to start in 2018, but has had to be postponed given the insufficient resources assigned to the Agency;
- to re-establish the annual licensing cycle for the Agency's surveillance software, which has had to be abandoned in 2018 due to budgetary limitations.

The draft 2019 EU Budget presented by the Commission and adopted by the Budgetary Authority envisages funding for replacing the Agency's ageing IT infrastructure. It also proposes a modest increase in the Agency's human resources, in terms of eight additional Contract Agent positions compared to the 2018 budget, mostly as an advance allocation of the additional staffing forecasted for the Agency to fulfil its extended mandate under the Clean Energy Package. While I am grateful to the Directorate-General for Energy of the European Commission and the Budgetary Authority for the additional funding envisaged for next year (part of which comes from a transfer from the Commission's own budget allocation), the additional positions unfortunately do little toward filling the current staffing gap and certainly do not allow the Agency to recruit the missing surveillance experts required to monitor wholesale energy market effectively or to prepare for the complex new tasks that the Clean Energy Package is likely to assign to the Agency, for which higher-graded posts are necessary.

Let me conclude this Foreword by thanking my colleagues in the Agency for their relentless effort, which is instrumental in the Agency delivering on its mandate despite the unfair resource conditions under which it is forced to operate. I am also grateful to the Agency's Administrative Board, the Board of Regulators, the European Parliament's Committee for Industry Research and Energy and the Directorate-General for Energy of the European Commission for their continuous support. I would also like to highlight the important role of the Board of Appeal, as an internal, yet independent, review body.

The Agency also continues to rely on the involvement of experts from NRAs in its Working Groups. I am most grateful to them, and to their parent institutions, for their precious support. I would also like to thank the numerous stakeholders who engage with us; their input is very valuable in shaping our work.

Alberto Pototschnig, Director  
Ljubljana, December 2018

## LIST OF ABBREVIATIONS AND ACRONYMS

Abbreviation	Meaning
The Agency	Agency for the Cooperation of Energy Regulators
AB	Administrative Board
AMIT WG	Agency's Market Integrity and Transparency Working Group
ARIS	Agency's REMIT Information System
AWG	Agency Working Group
BoA	Board of Appeal
BoR	Board of Regulators
CBA	Cost Benefit Analysis
CBCA	Cross-Border Cost Allocation
CEER	Council of European Energy Regulators
CEREMP	Centralised European Register of Energy Market Participants
CEP	Clean Energy Package
CMP	Congestion Management Procedures
CoI	Conflict of Interest
Dir	Directive
DoI	Declaration of Interest
EC	European Commission
EnC	Energy Community
ECRB	Energy Community Regulatory Board



ENTSO-E	European Network of Transmission System Operators for Electricity
ENTSOG	European Network of Transmission System Operators for Gas
ESMA	European Securities and Markets Authority
FERC	U.S. Federal Energy Regulatory Commission
FG	Framework Guideline
FTE	Full Time Equivalent
GRI	Gas Regional Initiative
IEM	Internal Energy Market
INEA	Innovation and Networks Executive Agency
ICT	Information and Communication Technology
ITC	Inter-TSO Compensation
ITIL	Information Technology Infrastructure Library
LNG	Liquefied Natural Gas
LSO	Liquefied Natural Gas (LNG) System Operators
MiFID	Markets in Financial Instruments Directive
MMR	Market Monitoring Report
MoU	Memorandum of Understanding
MS	Member State
NC	Network Code
NDP	Network Development Plan
NRA	National Regulatory Authority

OTC	Over the counter
PCI	Project of Common Interest
Reg	Regulation
REMIT	Regulation for Energy Market Integrity and Transparency
RRM	Registered Reporting Mechanisms
SMARTS	Market surveillance software
SNE	Seconded National Expert
SSO	Storage System Operators
TEN-E	Trans-European Energy Network
TF	Task Force
TSO	Transmission System Operator
TYNDP	Ten Year Network Development Plan

## MISSION STATEMENT

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. In this way, the Agency also contributes to the security of energy supply in the EU. For this purpose, we work with European Institutions, NRAs and stakeholders.

The Agency has been assigned tasks and responsibilities by a number of legislative acts, including:

- the Third Package – Directive 2009/72/EC (the “Electricity Directive”), Directive 2009/73/EC (the “Gas Directive”), Regulation (EC) No 713/2009 (the “Agency Regulation”), Regulation (EC) No 714/2009 (the “Electricity Regulation”) and Regulation (EC) No 715/2009 (the “Gas Regulation”);
- Regulation (EU) No 1227/2011 (REMIT) and Commission Implementing Regulation (EU) No 1348/2014 (the REMIT “Implementing Acts”);
- Regulation (EU) 994/2010, recently replaced by Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply (the “SoS Regulation”);
- Commission Regulation (EU) 838/2010 on the inter-TSO compensation mechanism (the “ITC Regulation”);
- Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure (“TEN-E Regulation”);
- Commission Regulation establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (984/2013/EU), as replaced by Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (“CAM Network Code”);
- Commission Regulation establishing a Network Code on Gas Balancing of Transmission Networks (312/2014/EU);
- Commission Regulation establishing a Network Code on interoperability and data exchange rules (703/2015/EU);

- Commission Decision (EU) 2015/715/EU amending Annex I to Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks (“Congestion management procedures – CMP Guidelines”);
- Commission Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management (“CACM Guideline”);
- Commission Regulation (EU) 2016/631 establishing a network code on requirements for grid connection of generators;
- Commission Regulation (EU) 2016/1388 establishing a Network Code on Demand Connection;
- Commission Regulation (EU) 2016/1447 establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules;
- Commission Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation (“FCA Guideline”);
- Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas;
- Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation;
- Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing;
- Commission Regulation (EU) 2017/2196 establishing a network code on emergency and restoration.

# SECTION I – GENERAL CONTEXT

## STRATEGIC AIMS

### Background

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. A well-functioning internal market is key to ensure security of energy supply for EU consumers.

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.

## **A challenging future**

While the current legislative framework and the first six years of its activity may indicate the areas in which the Agency will be called to operate in the future, it is likely that the Agency – having demonstrated the validity of its role<sup>1</sup> - be assigned additional responsibilities in the

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<sup>1</sup> This has been recognised by the European Commission in its first evaluation of the Agency (C(2014) 242 final, 22.1.2014): “*The Commission is satisfied to acknowledge that since its establishment ACER has become a credible and respected institution playing a prominent role*” (page 7). “[*The Commission*] congratulates ACER for having been able to undertake activities necessary to ensure a smooth implementation of REMIT and the TEN-E Regulation already ahead of those Regulations entering into force and the corresponding budgetary adjustments becoming available to ACER” (page 8).

years to come, both in relation to the institutional architecture of the Energy Union and in relation to the new challenges which the energy sector will face.

### Clean Energy for All Europeans

The European Commission's legislative proposal on "Clean Energy for All Europeans" of November 2016 - with the main focus on the internal electricity market, renewable energies, energy efficiency and security of electricity supply – already envisages a strengthening of the role of the Agency in a number of areas, including:

- the regulatory oversight of the ENTSOs, of regional operation centres (for electricity) and of NEMOs;
- the development of a coordinated European Adequacy Assessment;
- the coordination of national actions related to risk preparedness;
- the definition of terms and conditions or methodologies for the internal electricity market.

The exact scope of the additional responsibilities to be assigned to the Agency will only be defined once the legislative process is complete.

### Revision of the gas market legislation

In the meanwhile, the Commission has announced its intention also to proceed, in the next couple of years, with a review of the gas market legislation, at least with respect to those governance and procedural aspects for which the corresponding provisions for the electricity sector will be amended as a result of the "Clean Energy for All Europeans" legislation.

While it is unlikely that any of the new provisions will come into force already in 2019, and therefore affects the Work Programme of the Agency for that year, it may be harder to define any multiannual outlook, at least until the new legislation is adopted.

### Security of Gas Supply

Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010, which applies from 1 November 2017, has strengthened the role of the Agency in ensuring energy supply security by foreseeing a number of new tasks for the Agency, notably:

- the participation in the Gas Coordination Group (Article 4.1);
- if appropriate, issuing an opinion within four months of the receipt of the consultation request from the competent authority, on proposals to enable permanent physical capacity to transport gas in both directions or on the exemption requests (Annex III.3);

- issuing an opinion on the elements of the coordinated decision taken by competent authorities on the joint proposal to enable bi-directional capacity or on the request for exemption (Annex III.8);
- issuing a decision if the Commission decision pursuant to point 10 of Annex III requires bi-directional capacity, whereby the Agency shall adopt a decision covering the cross-border cost allocation in line with Article 5(7) of the Regulation within three months of receipt of the Commission decision. Before taking such a decision, the Agency shall consult the NRAs concerned and the transmission system operators. The three-month period may be extended by an additional period of two months where the Agency has to request additional information<sup>2</sup>.

### Strategic areas of work

In addition, in 2020 the current financial framework will come to an end, making any budgetary planning beyond this date difficult.

That said, it seems likely that over the next years the Agency will focus its activities at least on the following four main areas, all key in ensuring a well-functioning, secure and sustainable IEM and which will already guide the Agency's work next year:

- The Completion of the Internal Energy Market and the monitoring of its functioning;
- The Infrastructure Challenge;
- The monitoring of wholesale energy markets;
- The longer-term regulatory challenges, with an improved market design (resources permitting).

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<sup>2</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1938&from=EN>



## SECTION II - MULTIANNUAL PROGRAMMING 2019 – 2021

### 1. MULTIANNUAL OBJECTIVES

One of the priorities identified by the new European Commission is “Energy Union and Climate”, which includes, as two of its mutually reinforcing dimensions, the completion of the internal energy market and the security of energy supply. For both dimensions, rules for efficient market functioning, energy market integrity and transparency, and the strengthening of the energy infrastructure are key components.

In this context, the Agency’s “partner” Directorate-General for Energy, over the next three years, aims at:

- contributing to setting up an energy market providing citizens and business with affordable energy, competitive prices and technologically advanced energy services;
- promoting sustainable energy production, transport and consumption in line with the EU 2020 targets and with a view to the 2050 decarbonisation objective
- enhancing the conditions for safe and secure energy supply in a spirit of solidarity between EU countries, ensuring a high degree of protection for European citizens.

While the Agency is an independent body, it should contribute to the implementation of the Energy Union strategy, in particular to “a Union that Protects, Empowers and Defends”. In fact, many of the activities that the Agency is planning to perform over the next three years are instrumental to achieve the above objectives.

Moreover, as indicated above, the Commission has proposed new legislation for the electricity sector. However, as the legislative process is still ongoing, the current multiannual outlook is based mainly on the Agency’s mandate as it stands in January 2018.

#### **Objective 1: Contribute to the completion of the Internal Energy Market and monitoring of its functioning**

Supporting the integration of the electricity and gas markets in the European Union was the main role assigned to the Agency by its founding Regulation and other provisions in the Third Package. While significant progress has been achieved, this process will have to continue in the years to come and the Agency will still have to be engaged and crucially contribute to it.

### Implementation of the objective:

- Contributing to the implementation of the provisions in the adopted Network Codes and Guidelines. This will include a variety of specific tasks assigned to the Agency by these legal provisions that are instrumental to the integration and well functioning of the internal electricity and gas markets. It will also include decisions on binding tertiary instruments (“terms and conditions or methodologies”) when NRAs fail to agree or upon their joint request;
- Monitoring developments in the Internal Energy Market, the implementation of the Network Codes and Guidelines and their effects. These monitoring activities may result in recommendations for amending Network Codes or Guidelines or for other regulatory interventions, which may require the involvement of the Agency.

### Expected achievements

In both electricity and gas, the focus over the next few years will continue to be on the full implementation of all the Network Codes and Guidelines across the European Union and on the assessment of whether and how they are delivering the intended effects.

The legislative proposals unveiled by the Commission in November 2016 take stock of the results of the monitoring performed by the Agency over the last five years and envisage an enhanced market design for the electricity sector to deal with the identified obstacle to a well-functioning, efficient, secure and sustainable internal electricity market.

In this context, the Agency is ready to support and contribute to the policy debate and promote more coordinated and efficient solutions to address, in particular, problems of adequacy and flexibility. In this respect, the Agency will particularly focus on the role of demand response in addressing these challenges.

In gas, the Agency remains ready to focus its support, through the GRI, on the implementation of the Network Codes in those Member States that lag behind in the process.

The Agency will also take a more proactive role in its stakeholder engagements through, e.g. the chairing of the European Stakeholder Committees for the electricity Network Codes and Guidelines and by managing its on-line gas Functionality Platform, jointly developed with ENTSO-G to collect and follow up stakeholders’ issues relating to Network Codes.

### Performance indicators

- Timely implementation of the Network Codes and Guidelines;
- Timely decisions on terms and conditions or methodologies when referred for decision to the Agency;

- Implementation of an effective process, involving stakeholders, for monitoring the Network Code implementation and its effects on the IEM;
- Implementation of an effective amendment process.

### Risks

The Agency is only one of the key players involved in the completion of the Internal Energy Market. Therefore, the attainment of its objectives is largely dependent also on forces on which it has little or no control.

For example, the implementation of the provisions contained in the Network Codes and Guidelines highly depends on the engagement of NRAs and TSOs and the efficiency of their respective decision-making process.

Moreover, efficient monitoring requires the availability of information and data to be received from NRAs, TSOs and other stakeholders. At the moment the Agency has limited powers to require such information and data, and even where these powers exist there is no enforcement capacity. Therefore, the monitoring activities of the Agency may be hampered by the inability of, or difficulty in, obtaining the required information and data.

The adopted Network Codes and Guidelines foresee a role of the Agency in deciding on terms and conditions or methodologies in case NRAs fail to agree on them or upon their joint request. As the decisions which will be referred to the Agency are the most complex and contentious ones – on which NRAs were unable to agree - the Agency may itself not be able to come up with a decision which attracts the necessary support from the NRAs (including in the Board of Regulators) – thus failing to play the surrogate role envisaged by the legislation.

### **Objective 2: Contribute to the Infrastructure Challenge**

The TEN-E Regulation introduced a new framework aimed at promoting the development of PCIs, i.e. infrastructure projects that are particularly beneficial in supporting a more integrated European energy market. According to the Third Package, the Agency was already involved in the energy network development process, but the TEN-E Regulation projected this involvement into a completely new dimension. As one of the many players involved, the Agency aims to contribute to the infrastructure challenge in line with its legal mandate.

Implementation of the objective:

- Assessing the cost-benefit analysis methodologies developed by the ENTSOs and the consistent application of the criteria for identifying PCIs;
- Providing opinions on the draft PCI lists, in particular on the consistent application of the cost-benefit analysis and the selection criteria;
- Taking decisions, when it is called to do so, on investment requests and cross-border cost allocation submitted by PCI promoters.

PCI lists will be adopted every two years. TYNDPs - which are also developed every two years, but at present in different years for the electricity and gas sector - will serve as the basis for the PCI lists. Investment requests may be submitted by promoters of PCIs included in the lists. Therefore, the TYNDP/PCI identification/investment request process will run over two years, repeating itself every two years. The Agency will be crucially involved in all the stages of this process.

Expected achievements

The Agency will strive to enable efficient infrastructure investments to take place, with a particular focus on investments of cross-border relevance. Such investments should help further integrate the IEM, as well as to increase security of supply. In particular, they should contribute to the elimination of the so-called energy islands.

Performance indicators

- Consistent application of the criteria for identifying PCIs;
- Effective monitoring of PCI and other infrastructure developments;
- All decisions on the investment requests taken within the foreseen legal deadlines.

Risks

The Agency is only one of the key players involved in addressing the infrastructure challenge and in ensuring that efficient infrastructure investments take place and that energy islands are eliminated. Even in relation to its narrower objectives, for example reporting on the progress of PCIs and (if appropriate) providing recommendations to facilitate their implementation and to overcome delays/difficulties in PCI implementation, the Agency depends on the timely submission by project promoters of their annual reports and on the quality of the submitted reports.

The investment requests referred to the Agency are those on which NRAs fail to agree and therefore are likely to be the most complex ones. However, it is difficult to predict how many of such requests will be referred to the Agency and when this will happen. The Agency has

been calling for a reinforcement of its staffing effectively to implement the TEN-E Regulation. So far, only a fraction of the required posts has been authorised. Therefore, if several requests were to be referred to the Agency at the same time, the Agency might be unable to meet the legal deadline set for such decisions.

### **Objective 3: Increased integrity and transparency of wholesale energy markets**

A well-functioning pan-European energy market demands that energy is traded according to the highest transparency and integrity standards, so that prices reflect the fundamentals of demand and supply. This is also a major contributor to security of energy supply. REMIT aims at establishing the conditions for this to happen. Therefore, its effective implementation constitutes an integral part of the creation of an efficient IEM, of promoting security of energy supply and, thus, of the Energy Union's strategy. REMIT introduces a new, unprecedented, sector-specific market-monitoring framework to detect market abuse in European wholesale energy markets, thus deterring such behaviour. The Agency aims to ensure that REMIT is fully implemented so that consumers and other market participants can have confidence in the integrity of electricity and gas markets, that prices set on wholesale energy markets reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.

#### Implementation of the objective:

- Detecting and deterring market manipulation and trading based on inside information. Given the sheer volume of transactions reported by market participants, the Agency performs its monitoring functions, consisting in an initial assessment or analysis of the reported transactions, in two stages. The first stage is based on the automatic screening performed by purposely-developed surveillance software. This screening is expected to identify anomalous events based on predefined "alerts". The second stage looks into these anomalous events to identify those for which market abuse can be suspected and which are then notified to NRAs for investigation. This second stage focuses on market participants' behaviour and must therefore be conducted by highly qualified experts.

#### Expected achievements

Increased integrity and transparency of wholesale energy markets should foster open and fair competition in wholesale energy markets for the benefit of final energy consumers. Well-functioning energy markets are also instrumental to provide signals to promote security of supply through a cooperative approach throughout Europe. Efficient market monitoring by the

Agency at Union level is therefore vital for detecting and deterring market abuse in wholesale energy markets and a major contributor to the Energy Union strategy.

### Performance indicators

- Efficient operation of an effective REMIT trade and fundamental data reporting regime to facilitate market monitoring of wholesale energy markets;
- Effective market monitoring of wholesale energy markets to detect and deter trading based on inside information and market manipulation.

### Risks

The Agency's data collection and monitoring tasks require appropriate financial and human resources. The Agency has already highlighted on several occasions the inadequacy of its resources and submitted requests for additional posts – on top of those assigned in the REMIT Financial Statement - devoted to the implementation of REMIT. Such requests were included in the draft budgets adopted by the Agency's Administrative Board with a supportive opinion of the Board of Regulators, for every year since 2014. Only in 2016 the Agency received 15 additional posts, 11 of which were assigned to the REMIT area. Such a reinforcement, while welcome, was still far from what is required to fulfil the Agency's mandate in this respect and to meet the related multiannual objective. Therefore, the Agency submitted in the draft budget for 2017 and 2018 a request for 19 additional posts for REMIT-related activities, which however was not granted by the budgetary authorities<sup>3</sup>. The ongoing operation of REMIT also require financial resources at the annual rate of EUR 2.8 million to pay for the licence fees and support services for the Agency's REMIT Information System (ARIS) and related IT infrastructure. In recent years, such funding has not always been made available<sup>4</sup>. The shortage of staff in the Agency cannot be addressed by reallocating some of its activities to NRAs or other national competent authorities, as they do not have and cannot have an EU-wide vision of wholesale energy trading which is essential for effective monitoring in an increasingly integrating internal energy market. The lack of adequate resources puts the achievement of REMIT's aims - transparency and integrity of wholesale energy markets - at risk.

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<sup>3</sup> In fact, in both 2017 and 2018, the Agency was asked to reduce its staff by one Temporary Agent post each year.

<sup>4</sup> For example, in 2018 the EU Budget assigned an allocation of only EUR 1.5 million for REMIT-related IT expenditure.

In addition, the Agency's market monitoring, coordination and data collection tasks require a close interaction with NRAs and therefore create interdependencies with NRAs. Any underfunding of the Agency for its data collection and/or market monitoring will negatively affect its capability of enabling NRAs to perform their REMIT tasks and hamper an effective and efficient implementation of REMIT at both Union and national level.

#### **Objective 4: Contribute to address longer-term regulatory challenges**

The Conclusions Paper "Energy Regulation: A Bridge to 2025", issued in September 2014, presented European energy regulators' conclusions on the challenges facing the electricity and gas sectors over the coming decade and recommendations on the appropriate regulatory response within the framework of the Europe's Internal Energy Market. The Conclusions Paper covered a wide range of aspects related to: the gas and electricity sectors, including the changing face of electricity generation in the European Union; the changing role of Distribution System Operators; consumer empowerment and protection; and retail markets. The document also included a chapter on the governance of the process for the development of the internal European gas and electricity markets.

The Commission's legislative proposals on "Clean Energy for All Europeans" presented in November 2016 address many of the challenges identified in the Conclusions Paper. Once the new legislation is enacted, an enhanced framework to deal with the future challenges will be in place, in which the Agency is expected – based on the current proposals – to play an enhanced role.

Depending on the available resources, the Agency may review the conclusions and recommendations contained in the "Energy Regulation: A Bridge to 2025" Paper to assess to what extent the identified challenges are addressed by the "Clean Energy for All Europeans" legislative package, whether new challenges have emerged in the meanwhile and, if so, which additional actions may be required to address them.

#### **Implementation of the objective:**

- Depending on the available resources, the Agency may assess whether the "Clean Energy for All Europeans" legislation has addressed the challenges identified in the the "Energy Regulation: A Bridge to 2025" Conclusions Paper and whether new challenges have emerged which require regulatory response.

### Expected achievements

Depending on the availability of resources, the Agency may review the “Energy Regulation: A Bridge to 2025” Conclusions Paper to assess whether new challenges have emerged in the meanwhile and, if so, which additional actions may be required to address them.

### Performance indicators

- Development of the second edition of the “Energy Regulation: A Bridge to 2025” Paper containing an assessment of any new challenge facing the energy sector and the most appropriate regulatory response. Subject to the Agency receiving the necessary staffing.

### Risks

While of great value to the sector, activities in this area, which is beyond the strict legislative mandate of the Agency, will only be performed if the Agency is assigned sufficient resources. The lack of resources is therefore the main risk affecting activities in this area.

### **General risks and uncertainties**

Apart from the uncertainties related to the future scope of the mission of the Agency, which has already been significantly extended since its establishment and which is likely to be expanded again in the next years, including as a result of the legislation emerging from the “Clean Energy for all Europeans” package, the action of the Agency faces a number of risks, mainly related to its role as a EU institution dedicated to promoting the cooperation among NRAs and to the resources available to it.

Risks specific to the different areas of activities are listed above together with the related objectives and more specifically in the Annual Work Programme section. Here only the more general risks, affecting all the activities of the Agency, are outlined.

First, one of the essential characteristics of the Agency is the fact that it brings together the expertise and experience of NRAs and complements them with a European dimension. The cooperation between the Agency and NRAs and between NRAs within the Agency is therefore an essential part of the structure and working arrangements of the Agency. Such cooperation takes place, at technical level, in the Agency’s Working Groups (AWGs), which are composed of NRAs’ experts and Agency’s staff. At present, AWGs heavily rely on the voluntary engagement of NRAs’ resources. However, despite the strong commitment of NRAs over the past years, their resource limitations may have an impact on their engagement in the AWGs. Apart from undermining one of the main tenets of the Agency’s action, a possible reduced



engagement of NRAs in AWGs would significantly impair the Agency's ability to deliver on its mandate.

Secondly, in many areas, the tasks performed by the Agency are part of processes where other institutions and stakeholders are involved. Therefore, the time at which the Agency is required to contribute to these processes depends on the timing of the other activities included in the same processes and performed by other actors. These interdependencies between the activities of the Agency and those of other institutions and stakeholders, apart from creating uncertainty in the exact timing of the performance of some of the Agency's activities, may also make the planning of the utilisation of the Agency's own resources more difficult.

Finally, in a number of previous occasions, the Agency has been called to start implementing new provisions well before it was given any resource required to deliver on its new/enhanced mission effectively. This happened in the case of both REMIT, the TEN-E Regulation and, more recently, with the adoption of Network Codes and Guidelines, especially in the electricity sector. The Agency started to implement REMIT before it was able to recruit any additional dedicated staff member; the implementation of the TEN-E Regulation started well before the Regulation itself was adopted and finally, the Agency started to perform its new tasks for the implementation of the Network Codes and Guidelines without any new additional dedicated staff member. In all these cases, the Agency used the flexibility inherent in a young and efficient organisation to redeploy staff temporarily and to ask its staff to sustain an extraordinary level of effort, while counting also on the valuable support of NRAs. The "Clean Energy for All Europeans" legislative proposals envisage new tasks and responsibilities for the Agency. The Agency expects that such additional responsibilities will be matched by the timely allocation of the required additional resources.

The Agency is also monitoring closely developments related to the withdrawal of the United Kingdom from the EU (Brexit). To this purpose, in 2018 it reviewed the impact of Brexit on both its administrative and regulatory activities, so as to prepare for the necessary adjustments. The risk analysis indicates that Brexit will have limited repercussions on the Agency's administration and day-to-day regulatory action. The main impact will concern the role of the UK national regulator in the Agency's Board of Regulators and working groups and arrangements concerning the implementation of REMIT, for which the Agency is preparing alternative scenarios and mitigating measures.

This document, and in particular Section III presenting the Annual Work Programme outlining the specific activities which the Agency is planning to perform in 2019, was, as in previous years, developed on the assumption that the Agency would be assigned the resources

required effectively to deliver on its mission. It has now been revised in line with the level of resources actually made available to the Agency in the EU budget.

In order to ensure an appropriate prioritisation of its activities, and to allocate resources accordingly, focusing on those areas and activities which are most critical for delivering Energy Union objectives and, ultimately, benefits for consumers, in the Work Programme for 2019 the Agency has clustered its tasks and deliverables according to the following three priority levels.

**Priority level 1 – Critical** – Activities/tasks that must be fully performed/executed under any circumstance. Failure to do so would seriously undermine the functioning of the Internal Energy Market and the achievement of the Energy Union objectives.

**Priority level 2 – Important** – Activities/tasks that could be postponed, reduced in scope or de-scoped with only limited repercussion on the Internal Energy Market.

**Priority level 3 – Relevant** – Activities/tasks that the Agency could usefully perform, provided adequate resources were made available.

This classification does not explicitly take into consideration whether the Agency is legally required to perform the activities under consideration. It reflects the Agency's assessment of their importance. As a result, it may be that an activity that is not legally required is assigned a higher priority than one that the Agency is legally required to perform, but which is considered less fundamental in the context of the completion of the Internal Energy Market and the implementation of the Energy Union Strategy.

The classification system is a tool for the Agency to make the best use of the limited resources at its disposal. Due to the insufficient resources assigned to the Agency to perform all the activities included in the Work Programme for 2019, some tasks have been deprioritised starting from those classified as "relevant" and then, to the extent necessary, including those classified as "important", in order to devote sufficient resources to the "critical" activities. The Agency will nevertheless strive to perform, to the extent possible, all those activities legally mandated to it. However, in case of lack of resources, legally mandated activities classified at a lower priority level will be performed in a more concise form, possibly to the minimum extent compatible with the Agency complying with its legal obligations.

## Reputational risks and Conflicts of Interest

The Agency faces also a number of reputational risks related both to its own decisions and to those of its Boards. As of 2015 the Agency implements a Policy for the Prevention and Management of Conflicts of Interest.

By 31 January of each year, 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 Vice-Chairs and the 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, appropriate measures are taken.

The Dol of Board members, as well as those of the Agency's management (Director and Heads of Department) are published on the Agency's website.

## 2. MULTIANNUAL PROGRAMME

### 2.1. Introduction

#### 2.1.1. Strategic Areas

The Agency's activities over the next years will focus on four strategic areas, which are mirrored in the Multi-annual objectives listed in the section above:

- Strategic Area 1: Contribute to the completion of the Internal Energy Market and monitoring of its functioning;
- Strategic Area 2: Contribute to the Infrastructure Challenge;
- Strategic Area 3: Increased integrity and transparency of wholesale energy markets;
- Strategic Area 4: Contribute to address longer-term regulatory challenges, conditional on the available resources.

Moreover, two horizontal areas of work have crosscutting effects on the above strategic areas: the regulatory practice and international cooperation. This section aims to address the two horizontal areas and to lay down the main elements of the Agency's work in the four strategic areas listed above. The specific tasks and deliverables are listed in the annual work programme section.

## **2.2. The Regulatory Practice**

### **2.2.1. Institutional Framework**

#### **Cooperation with NRAs**

The Agency promotes and facilitates cooperation among NRAs at a European-level and in the exercise of their Union-related functions. It fully complements the NRAs' European mandate and their duty to promote, in close cooperation with each other and the Agency, a competitive, secure and environmentally sustainable internal energy market.

The Agency's formal structure ensures regulatory cooperation through the Board of Regulators, in which NRAs from all EU Member States are represented. Regulatory cooperation is also embedded in the Agency's framework that brings together experts from the NRAs and the Agency through the three Agency Working Groups, the REMIT Coordination Group, and the Gas Regional Initiatives Coordination Group<sup>5</sup>.

#### **Board of Regulators (BoR)**

##### **Composition**

The BoR consists of 28 members (and 28 alternates)<sup>6</sup> - one member (and one alternate) representing the NRA from each Member State - and one non-voting representative of the European Commission. The Director participates in the BoR meetings and presents his/her proposals for the Agency acts that require the favourable opinion of the BoR before their adoption, discusses and consults the BoR on other areas of work, and reports on the progress achieved. Without prejudice to its members acting on behalf of their respective NRAs, the BoR acts independently and its decisions must comply with European Union law.

##### **Tasks**

The tasks of the BoR described in the Third Package include:

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<sup>5</sup> The Electricity Regional Initiative Coordination Group was abolished in 2015, as the early implementation of the Internal Energy Market provisions extended beyond the regional dimension and was organised according to project-specific roadmaps.

<sup>6</sup> On 29 March 2017, the United Kingdom notified the European Council of its intention to withdraw from the European Union. Therefore, subject to the outcome of the negotiations following such a notification, the United Kingdom may cease to be an EU Member State as of 30 March 2019 and, in such a case, the UK NRA would no longer be a member of the BoR as of that date.

- providing opinions on many of the Agency's Opinions, Recommendations and Decisions considered for adoption by the Director in relation to the regulatory functions of the Agency;
- approving the Agency's Work Programme before it is adopted by the Administrative Board, and approving the section on regulatory activities in the Agency's Annual Report; and
- providing guidance to the Director within its field of competences.

In addition to these tasks, the BoR is consulted by the Director on all aspects of REMIT implementation, in accordance with the relevant legislation. It also makes recommendations with regard to the Commission's evaluation of the activities of the Agency and its working methods and is consulted on the Agency's budget before its adoption by the Administrative Board. The BoR also provides its opinions during the appointment of the Director - and possible extension of the Director's term - and is consulted by the European Commission on its proposal for the members of the Board of Appeal.

### **Meetings**

The BoR typically meets around 9 times a year. The meeting agendas, minutes and background documents, as well as BoR opinions and decisions, are made public and are available at the following links:

[http://www.acer.europa.eu/en/The\\_agency/Organisation/Board\\_of\\_Regulators/Pages/Meetings---Background-Documents.aspx](http://www.acer.europa.eu/en/The_agency/Organisation/Board_of_Regulators/Pages/Meetings---Background-Documents.aspx)

[http://www.acer.europa.eu/The\\_agency/Organisation/Board\\_of\\_Regulators/Pages/Opinions.aspx](http://www.acer.europa.eu/The_agency/Organisation/Board_of_Regulators/Pages/Opinions.aspx)

The BoR Chair and the Director hold open sessions ("debriefs") on a quarterly basis to update interested parties on the work of the BoR and on the overall work of the Agency.

### **Agency Working Groups (AWGs)**

The AWWGs provide the foundation for collaboration and cooperation among NRAs and with the Agency. By bringing together experts from the NRAs and the Agency, the AWWGs ensure, at technical level, the complementarity of regulatory functions at national- and EU-level. The AWWGs:

- provide input to the Director for the preparation of the Agency's Acts;
- support the Director (and the Agency staff) on other tasks, such as reviewing and analysing stakeholders' submissions during a consultation process;
- provide information to the BoR on the issues relevant to the Director's proposals, facilitating discussions in the BoR as it forms its opinions on the Director's proposals.

There are currently three AWGs covering the main areas of the Agency's work on regulatory issues:

- The Agency's Electricity Working Group (AEWG);
- The Agency's Gas Working Group (AGWG), and
- The Agency's Market Integrity and Transparency Working Group (AMITWG)

Each AWG has established Task Forces (TFs) to address specific issues. In the future, the number and focus of the AWGs may be adapted to reflect the requirements of the regulatory framework within which the Agency operates.

The current structure of the AWGs and TFs can be found at the following link:

[http://nra.acer.europa.eu/en/The\\_agency/Organisation/Working\\_groups/Pages/default.aspx](http://nra.acer.europa.eu/en/The_agency/Organisation/Working_groups/Pages/default.aspx)

### **The REMIT Coordination Group (REMIT CG)**

With the entry into force of the REMIT Implementing Acts in January 2015 and the start of the REMIT operational phase in October 2015, the Agency is required to "*ensure that national regulatory authorities carry out their tasks under this Regulation in a coordinated and consistent way*"<sup>7</sup>.

For this purpose, the REMIT Coordination Group brings together senior representatives in charge of the implementation of REMIT in all NRAs, to support a coordinated implementation of the Regulation. The REMIT CG and the AMITWG have implemented a range of innovative practices better to facilitate coordination and consistency between the Agency and NRAs in the implementation of REMIT, including workshops and Q&A (Questions and Answers) sessions and reports to build a common understanding among NRAs of how the relevant provisions of the REMIT Regulation should be interpreted and implemented.

### **Gas Regional Initiative Coordination Group (GRI CG)**

The Gas Regional Initiative (GRI) aims to identify and solve market integration issues at a regional level. The GRI CG is part of the Agency's framework. The GRI CG is chaired by the Agency and composed of all NRAs, especially the lead NRAs from the regional groups. The GRI CG provides a platform for ensuring that regulatory cooperation at regional-level maintains a pan-European dimension and consistency among NRAs in promoting the single

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<sup>7</sup> Article 16(1) of REMIT.

internal gas market, with particular focus on projects for the early implementation of the network codes.

### **2.2.2. Regulatory practice - objectives**

- Maintain high efficiency in the working methods of the BoR, AWGs, as well as the REMIT CG, and optimise their operational arrangements to facilitate their activities with a view to promoting regulatory cooperation and to ensuring the involvement of all NRAs in the Agency's work.
- 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 the most efficient operation of the Agency and the smooth and timely preparation of its work.
- Increase public awareness, through regular debriefings (every quarter), of the activities of the Agency and of the role and discussions at the BoR as the forum for NRA cooperation.
- Further develop, where appropriate, working arrangements and specific mechanisms for the cooperation of NRAs (including at regional level) to facilitate the sharing of best practices and enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level. In the past, the Agency introduced improvements as appropriate through a dedicated away-day with the AWG Chairs and TF Conveners (in 2014) and further discussions undertaken in the context of a BoR Summit (September 2015) which provided the opportunity to take stock of this experience and to identify and develop initiatives to enhance such cooperative arrangements to meet the future regulatory challenges and to promote the involvement of all NRAs in the work of the Agency. In December 2017, the Agency established a Legal Expert Network, bringing together legal experts from the Agency and NRAs, so as to reinforce the support and legal scrutiny of the Agency's work<sup>8</sup>. The "Clean Energy for All Europeans" proposals provide for the amendment of the Agency's Regulation to include the formal creation of the AWGs to support the Agency's work. Subject to the adoption of the proposals, the relevant rules will be adjusted and, where appropriate, the regional arrangements will also be addressed in line with the new framework introduced by the "Clean Energy for All Europeans" legislation.

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<sup>8</sup> A revision of the structure of the AWGs resulted in the dissolution of the Implementation, Monitoring and Procedures Working Group in 2017.

- Maintain and increase the efficiency of the working methods on the basis of lessons learned.
- Further contribute to develop regional cooperation in line with the regional arrangements under the new “Clean Energy for All Europeans” framework.

### **2.2.3. Regulatory Practice - Risks**

According to the Third Package and REMIT, the Agency and NRAs are under a mutual obligation to cooperate. In addition, the Agency is supported, albeit not as much as in its initial years, by the secondment of experts from NRAs. At present, the AWGs heavily rely on the voluntary engagement of NRAs’ resources. However, despite the strong commitment of NRAs over the past years, the NRAs’ resource limitations may have an impact on their engagement in the AWGs. Apart from undermining one of the main tenets of the Agency’s action, a possible reduced engagement of NRAs in AWGs would significantly impair the Agency’s ability to deliver on its mandate.

## **2.3. International Cooperation**

### **2.3.1. Institutional Framework**

While most of the tasks of the Agency focus on the EU IEM, some tasks require or may benefit from collaboration with regulatory entities in third countries.

Both the Agency Regulation and REMIT include provisions for the involvement of third countries in the activities of the Agency<sup>9</sup>, although so far no third country has been admitted formally to participate in the Agency.

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<sup>9</sup> Article 31 of Regulation (EC) No 713/2009 states that “(1) The Agency shall be open to the participation of third countries which have concluded agreements with the Community whereby they have adopted and are applying Community law in the field of energy and, if relevant, in the fields of environment and competition. (2) Under the relevant provisions of those agreements, arrangements shall be made specifying, in particular, the nature, scope and procedural aspects of the involvement of those countries in the work of the Agency, including provisions relating to financial contributions and to staff”. Article 19 of REMIT states that “Insofar as is necessary to achieve the objectives set out in this Regulation and without prejudice to the respective competences of the Member States and the Union institutions, including the European External Action Service, the Agency may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular, with those impacting the Union energy wholesale market in order to promote the harmonisation of the regulatory framework. Those arrangements shall not create legal obligations



However:

- Experts from the Swiss Federal Electricity Commission (EiCom) have been participating in the AEWG since January 2016, on the basis of a MoU signed on 11 January 2016;
- Experts from the Norwegian Water Resources and Energy Directorate (NVE) have been participating in the AWGs and in the REMIT CG since June 2016, on the basis of a MoU signed on 2 June 2016.

Moreover, the Contracting Parties of the Energy Community are also due to implement the Network Codes in their jurisdictions. This calls for stronger cooperation between the Agency and the regulatory authorities in these third countries. Institutional cooperation between the Agency and the Energy Community, which started soon after the Agency was established and was further strengthened in recent years, will thus be further enhanced, with both the Energy Community's Secretariat and the Energy Community's Regulatory Board (ECRB). In particular:

- Experts from the Energy Community Secretariat have been allowed to participate in the AEWG and AGWG since December 2016, on the basis an Administrative Arrangement between the Agency and the Energy Community Secretariat signed on 2 December 2016;
- Experts from the Energy Regulatory Authority of Montenegro, ('RAE') have been allowed to participate in the AEWG and AGWG since January 2018, on the basis of an Administrative Arrangement signed on 6 December 2017.

Moreover:

- The gas wholesale market volume and the electricity and gas retail markets volumes of the Agency's Market Monitoring Report also cover Energy Community Contracting Parties. This addition is produced in close cooperation with the Energy Community Secretariat;
- The TYNDPs in both electricity and gas typically also cover adjacent third countries. Their assessment may require the acquisition of information from regulatory authorities in such jurisdictions.

Finally, the effective implementation of REMIT requires the Agency to cooperate with entities tasked with wholesale market monitoring responsibilities in non-EU jurisdictions. Wholesale

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in respect of the Union and its Member States nor shall they prevent Member States and their competent authorities from concluding bilateral or multilateral arrangements with those supervisory authorities, international organisations and the administrations of third countries".

energy markets are becoming increasingly global and effective cooperation of monitoring authorities is essential to protect the integrity and transparency of these markets.

In this context, the Agency has been in contact with regulatory authorities in Switzerland<sup>10</sup> and the United States and in January 2015 signed a MoU, according to article 19 of REMIT, with the US Federal Energy Regulatory Commission (FERC). The MoU governs the cooperation between FERC and the Agency whenever an exchange of experience or information is required to support the respective market monitoring activities. The MoU was followed, in December 2015, by an Administrative Arrangement on the exchange of staff between the two bodies.

### **2.3.2. International Cooperation - objectives**

The Agency aims at fostering the exchange of experience with the regulatory institutions outside the EU (including the Energy Community), where necessary, and in areas of mutual interest (e.g. with FERC on market monitoring activities). It thus also participates at the EU-US energy regulators' roundtable, which involve representatives from the National Association of Regulatory Utility Commissioners (NARUC) and FERC.

Cooperation with the Energy Community should be enhanced at the Working Group level, in the areas of Network Codes, infrastructure (e.g. exemptions, cross-border cost allocation), market monitoring, cross-border capacity allocation, and possibly other issues that relate to borders between the EU and the Energy Community.

One tangible objective would be to define a legal framework and processes for coordinated decisions on cross-border issues – e.g. related to infrastructure, capacity-allocation – in those cases where EU MSs and Energy Community's Contracting Parties are involved.

### **2.3.3. International Cooperation - Risks**

Scarce resources, human and financial, in particular in the Energy Community Contracting Parties regulatory authorities, may strongly limit their cooperation with the Agency; however, the Energy Community Secretariat may financially support such cooperation.

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<sup>10</sup> The Swiss Federal Electricity Regulatory Commission ElCom. However, contacts in relation to the implementation of REMIT are suspended, pending the conclusion of the negotiations between the Swiss Federal Government and the European Union on the more general Energy *acquis*.

## **2.4. Strategic Area 1: Completion of the Internal Energy Market and the monitoring of its functioning**

The Agency plays a central role both in the completion of the IEM and in the efficient development of energy infrastructure. These objectives will remain at the forefront of the Agency's Work Programme over the next years, as will the implementation of the other pillars of the Energy Union, in line with the role the Agency will be given in this framework.

### **2.4.1. Implementation and monitoring of Network Codes and Guidelines**

The effective and timely implementation of the Network Codes (NCs) and Guidelines (GLs) will continue to be the main priority of the Agency in 2019 and beyond. An effective Network Code monitoring process, which is already being implemented, will continue to be used to monitor the impact of these NCs and GLs on the functioning of the IEM. The Agency will pay attention as to whether any enhancement is required to address the new challenges facing the electricity and gas markets in the future. The results will continue to be included in the Annual Market Monitoring Report.

### **2.4.2. Monitoring of the Internal Energy Market**

The Annual Market Monitoring Report (MMR) is the Agency's flagship publication, covering all relevant developments in the European gas and electricity markets. The MMR is a fact-based analysis covering all 28 EU Member States. NRAs are involved in its production.

Since 2016 the MMR has become more flexible, as the parts covering the four key areas - Wholesale Electricity Market, Wholesale Gas Market, Electricity and Gas Retail Markets and Consumer Protection and Empowerment - have become stand-alone volumes. Depending on when the required data for these volumes are available for the Agency, these can be published earlier in the year (in 2016 and 2017 the two Wholesale Markets volumes were published in September, with the rest of the MMR published end of October or in November).

However, the insufficient resourcing of the Agency forced a significant reduction of the scope of the Retail Markets Volume and, to a lesser extent, of the Wholesale Electricity Volume and of the Wholesale Gas Volume. Unless the Agency is provided with the additional resources it needs fully to fulfil its legal mandate, it is likely that a similar approach will have to continue in the years to come.

## **2.5. Strategic Area 2: The European Infrastructure Challenge**

### **2.5.1. Institutional Framework**

The Agency and NRAs cooperate in implementing the TEN-E Regulation, which entered into force on 15 May 2013. The Regulation aims at enhancing the physical integration of the internal energy market, including by ensuring that no Member State is isolated from the European network.

The Agency has various functions and roles regarding the development of the electricity and gas infrastructure. Cost-efficient network development is essential for overcoming physical congestion, improving energy security and ensuring sustainability. Capacity allocation methods and/or congestion management procedures alone cannot resolve physical congestion in electricity and gas transmission systems, especially at interconnection points and other system bottlenecks. Adequate physical transmission capacity is thus a prerequisite for completing the IEM.

The Commission is working on assessing the implementation of the TEN-E Regulation and, depending on the results of this assessment, proposals might be formulated on how methodologies or procedures could be improved. The Agency is ready to participate in this assessment and its activities in this area in 2019 and beyond will partly depend on the way in which the TEN-E framework will evolve.

### **2.5.2. TYNDP**

The Agency Regulation requires the Agency to monitor the execution of the tasks of ENTSO-E and ENTSG, and in particular, those related to the preparation of a Ten Year Network Development Plan (TYNDP), a task performed by ENTSO-E and ENTSG on a bi-annual schedule. With the adoption of the TEN-E Regulation, the role of the TYNDPSs has been enhanced, since, in order to be eligible for PCI status, projects should be included in the most recent TYNDP. The Agency also monitors the preparation and the execution of the electricity and gas regional investment plans (RIPs) and of the national infrastructure development plans, and assesses their consistency with respect to the Europe-wide TYNDP.

### **2.5.3. Identification of PCIs**

According to the TEN-E Regulation, the Agency gives an Opinion on the cross-regional consistency of the regional PCI lists. In this way, the Agency contributes to the overall quality of the PCI identification process. In line with the TEN-E Regulation, it is also responsible for PCI monitoring.

### **2.5.4. Cross-Border Cost Allocation**

If within 6 months of receiving an investment request, the concerned NRAs cannot agree on the cross-border cost allocation (CBCA) decision, they are required to hand over the case to the Agency. The Agency may also be called to take such a decision upon the joint request of all concerned NRAs. In such cases, the Agency should take the decision within 3 months of taking over the case, unless further information is sought, in which case an additional 2 months can be added to the period.

## **2.6. Strategic Area 3: Wholesale Energy Market Integrity and Transparency**

### **2.6.1. Institutional Framework**

REMIT, which established rules prohibiting abusive practices affecting wholesale energy markets, extended the Agency's original mandate by assigning new responsibilities in the area of wholesale energy market monitoring. Such activities are very different from the monitoring of the internal market that the Agency has been performing pursuant to the Agency Regulation and required the Agency to acquire new IT infrastructure and software to collect data from market participants at EU level, as well as new market monitoring tools and specialised expertise.

Regulatory cooperation is, however, an essential element of REMIT. Close cooperation and coordination between the Agency and NRAs is necessary to ensure proper monitoring of energy markets. Coordination is needed between the ambits of responsibilities of the Agency (monitoring of the European market) and of NRAs (monitoring at national level, investigation and enforcement).

Moreover, apart from NRAs, the Agency cooperates closely with the European Securities and Market Authority (ESMA), the competent financial market authorities of Member States and, where appropriate, with the Directorate General for Competition of the European Commission

and national competition authorities. The Agency may also establish strong links with major organised market places.

The scope and practical terms for implementing the cooperation with NRAs, ESMA and organised market places have been defined in MoUs. Whilst the MoU with NRAs is a multilateral agreement, the MoUs with ESMA and with organised market places are bilateral.

### **2.6.2. Operation of REMIT Information Management**

The implementation of REMIT required the Agency to develop, with the assistance of several IT companies and other contractors, a specialised IT system - ARIS, the Agency's REMIT Information System. This strategy, in which the Agency retained the programme management and coordination roles, was dictated by the fact that REMIT implementation was uncharted territory and neither its scope, nor the implementation time were foreseeable at the beginning, as the Implementing Acts were adopted only in December 2014.

The stabilisation of ARIS, together with the expiry of all framework contracts with the Agency's REMIT IT contractors between 2016 and 2018, provided the opportunity to reconsider the Agency's outsourcing strategy for the REMIT operational phase. The Agency is now managing the transition from the current programme management/IT service model to a REMIT information management model in order to optimise the use of the limited human resources available.

The transition to the REMIT information management model should be implemented by the end of 2019. The change of the Agency's hosting strategy in 2017 increased the operational risks for the Agency, as the transition occurred during ongoing operations, and as the Agency continued to be directly responsible for the physical security and the connectivity of the IT infrastructure hosted in its own premises. However, this solution was considered the most appropriate response to the persistent budgetary uncertainty that the Agency is facing.

### **2.6.3. Wholesale Market Monitoring**

Since 2016, the Agency is in a position to monitor trading activity in wholesale energy products and to assess the operation and transparency of different categories of market places and ways of trading.

The Agency receives data on a large number of wholesale energy market transactions, exceeding, by the end of 2018, 2,000,000 per day. It is required to screen such data, identify instances of possible market abuse and notify them to the competent national authorities

responsible for investigation and enforcement. In addition, the Agency receives notifications of suspicious transactions through its Notification Platform transaction reports, *inter alia* from market parties and organised market places, which need to be assessed and distributed in a secure way to the appropriate and relevant authority(ies). The Agency is also responsible for coordinating the investigations.

Finally, the Agency is required to assess the operation and the transparency of different categories of market places and ways of trading and to make recommendations regarding market rules, standards and procedures that could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirement for organised markets could contribute to enhanced market transparency.

## **2.7. Strategic Area 4: Future Challenges, including RES Integration**

The future greater penetration of renewable-based generation into the European electricity system, beyond contributing to the achievement of the EU climate policy goals, will be a source of new challenges for the electricity and gas systems in the years to come, including in terms of adequacy and flexibility. These challenges may require a regulatory and market design response. The Agency is committed to contributing to this effort.

- In September 2014, the Agency published the Conclusions Paper ‘Energy Regulation: A Bridge to 2025’, which identified the main trends that will characterise the energy sector over the next ten years, assessing their regulatory implications. The “Clean Energy for All Europeans” proposals reflected some of the conclusions reached in that Paper.
- In January 2015 the Agency presented a revised Gas Target Model (GTM). The implementation of the revised GTM focuses on a process of self-evaluation by the NRAs, whereby structural measures of regional market integration should be considered if the regular development of the national market falls short of the recommended values. The GTM indicators are calculated by the Agency based mainly on sanitised REMIT data, and are published in the Gas Wholesale Market Volume of the MMR. In the period 2019 – 2021, it should be clear which national markets will not be able to develop a sufficiently liquid hub by itself, and thus should embark on a process of regional market integration.

The Agency intends, over the next years, to reassess the identified challenges, to see to what extent they have been addressed, and to consider whether additional challenges have in the

meanwhile emerged, which may require a regulatory response. In particular, in electricity, as the system decarbonises, the traditional model of generation, network and market operation will have to be further developed. Many more generators will connect at distribution voltage levels. This will require distribution networks to become more actively managed and there will be a need to (re)define the relationship between TSOs and DSOs. Cross-border power flows driven by price signals and increased interconnection between countries will become ever more important and the coordination of those flows will be vital to manage the system and use resources efficiently. Perhaps most importantly, the demand side of the market will become more active and consumers will be able to take part in markets. The changes in market conditions are going to continue to raise questions about how to promote the investment that Europe needs – whether in transmission, distribution or generation capacity, smart grids or innovation – while maintaining security of supply and continuing to decarbonise. If investments have to take place in response to forward prices, it is imperative that price signals reflect scarcity and shorter-term markets reward those who provide the flexibility services that the system increasingly needs.

### **3. HUMAN AND FINANCIAL RESOURCES OUTLOOK 2019 - 2021**

#### **3.1. Overview of the past and current situation**

When the Agency was set up in 2010, its Establishment Plan envisaged sufficient resources for the tasks that were assigned to the Agency under the Third Package.

A more challenging resource situation, with persistent shortages, was created when new legislation in 2011 and 2013 assigned additional important tasks and responsibilities to the Agency, in particular in two areas:

1. Monitoring EU wholesale energy markets;
2. Energy infrastructure development.

These two areas are key components of the *Energy Union Strategy* identified as one of the priorities for the European Union.

The Agency's resources are presented in detail in the sections below and in Annexes I, II, III and IV.



## 3.2. Resource programming 2019 – 2021

### 3.2.1. Financial resources

The activities the Agency planned to perform require additional financial resources in 2019 and beyond.

#### Revenue

On the revenue side, there is an increase of only 19.06% in the approved EU subsidy for 2019 as compared to 2018 and the increase of 40.85% initially requested by the Agency. Of the total proposed contribution, 1.82% will be covered by the surplus resulted from the operations during the year 2017.

The difference in the requested funding between 2018 and 2019 grouped by budget title is illustrated below with detailed calculations presented in Annex II.

<b>Expenditure</b>	<b>2018</b>	<b>2019 approved budget</b>	<b>Variance</b>	<b>2019 Agency request</b>	<b>Difference between approved budget and Agency request</b>
<b>Title 1</b>	8,741,185	9,397,379	7.51%	11,070,056	(1,672,677)
<b>Title 2</b>	2,658,415	2,661,270	0.11%	3,703,423	(1,042,153)
<b>Title 3</b>	2,162,400	4,088,504	89.07%	4,328,000	(239,496)
<b>Total expenditure</b>	<b>13,562,000</b>	<b>16,147,153</b>	<b>19.06%</b>	<b>19,101,479</b>	<b>(2,954,326 )</b>

In this Section and in Annex I the Agency's requests are based on the legal mandate of the Agency as of January 2018. In the "Clean Energy for All Europeans" legislative proposal of November 2016, the Commission envisaged significant additional tasks and responsibilities for the Agency. However, since the exact scope and timing of any new tasks and responsibilities that future legislation might assign to the Agency will only become clear once

such legislation is adopted, the resources required for this enhanced role of the Agency are not included in the requests presented in this Section and in the Work Programme 2019 itself.

## **Expenditure**

### **Title 1**

Compared to 2018, there is a 7.51% increase in financial resources allocated for Title 1. The Agency had requested a 26.64% increase mainly relating to increased staff expenditure (remuneration) for the 31 additional Temporary Staff posts and 4 additional Contract Staff members it had requested as from January 2019.

This staff was considered necessary to ensure: (i) the effective implementation of REMIT (19 TA posts); (ii) the implementation of the electricity and gas Network Codes and Guidelines (2 TA posts, one for Gas and one for Electricity), (iii) the Cross Border Cost Allocation decision in the context of the Security of Gas Supply regulation (1 TA post); (iv) the Agency's ability to respond to requests for "Tasks initiated by others" (4 TA posts), such as decisions on CBCA investments and peer reviews; and (v) horizontal services to support the additional activities and increased staffing (5 TA posts).

### **Title 2**

For 2019 the Agency was allocated a 0.11% increase in financial resources under Title 2 as compared to 2018. The Agency had requested a 39.31% increase mainly related to an increase in the size of office space to accommodate the additional human resources requested for 2019, as well as to the following: agreed price indexation of the rented office space; additional studies envisaged in the fields of electricity, gas and market monitoring, external development of IT applications, gradual replacement of IT infrastructure and the use of *intra-muros* consultants on ICT services and support.

### **Title 3**

Concerning the REMIT-related IT budget, the Commission, in its Communication on the programming of human and financial resources for decentralised agencies 2014-2020 from 10.7.2013<sup>11</sup>, considered the Agency as a 'new tasks' agency due to the phasing in of new

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<sup>11</sup> Communication from the Commission to the European Parliament and the Council: Programming of human and financial resources for decentralised agencies 2014-2020 from 10.7.2013 (COM(2013) 519 final).

tasks assigned to it under REMIT. This is why the EU contribution to the Agency was increased from 2014 onwards to cover the recurring maintenance costs of IT infrastructure required under REMIT, which the Commission estimated at EUR 1.5 million per year. However, these estimates, defined in summer 2013, could not take into account the provisions of Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of REMIT, which significantly increased the complexity of the Agency's data collection. Furthermore, the Commission's estimates from 2013 could not have foreseen the number of parties who have applied to become registered reporting mechanisms or the volume of data reported to the Agency on a daily basis, which only became clear once data collection started in a phased approach as of 7 October 2015 and as of 7 April 2016.

The Agency has already registered more than 115 registered reporting parties, and collects in 2018, on average, more than 2 million records per day, which exceeds all expectations. These factors only materialised in 2014, 2015 and 2016 and led to higher REMIT-related IT budget needs at EUR 2.8 million than originally estimated by the Commission in 2013. The estimates were validated by the Limited Review performed by experts from the Directorate-General for Energy of the Commission in November-December 2016. Nevertheless, the estimates from 2013 were never revised by the Commission. The REMIT IT budget needs in 2019, at EUR 3.5 million, reflect the need to start to catch up with the replacement of ageing equipment for the in-house hosting solution, which was already due to start in 2018, but was delayed due to the insufficient budget assigned to the Agency in that year.

The REMIT IT expenditure for the following years is currently estimated at EUR 3.60 million in 2020 and EUR 3.75 million in 2021. This is due to the fact that the number of reporting market participants has almost doubled in recent years (from 7,700 in 2016 to 13,700 in 2018) and the number of collected records of transactions per day have even more than doubled (from 1.17 million in 2016 to more than 2 million at the beginning of 2018, and to more than 3 million in most recent months in 2018). This is mainly caused by an increasing market liquidity due to the implementation of network codes (e.g. market coupling, XBID) and market developments such as an increase in algorithmic trading especially in intraday and day-ahead electricity markets and it is therefore expected that (slower) growth will continue also in the future. This is why the increased REMIT IT budget for the years 2020 and 2021 is necessary to be able to upgrade the Agency's REMIT IT infrastructure accordingly, but also to invest in software development and IT information security to keep the REMIT IT up to date. A more detailed justification of the REMIT IT budget needs for 2020 and 2021 will follow in the PD 2020-2022 and in the PD 2021-2023.

Therefore, the adjusted REMIT-related IT budget needs from 2019 to 2021 can be broken down as follows<sup>12</sup>:

**Multiannual budget for REMIT IT in 2019-2021:**

<b>Expenditure Item</b>	<b>Total cost (million €) 2019</b>	<b>Total cost (million €) 2020</b>	<b>Total cost (million €) 2021</b>
<b>1. Infrastructure, hardware licenses, deployment, service desk and operations</b>	<b>1.75</b>	<b>1.44</b>	<b>1.54</b>
<b>2. Software maintenance, development, testing and software licenses</b>	<b>0.80</b>	<b>1.11</b>	<b>1.16</b>
<b>3. Surveillance and BI tools customisation, licenses and consultancy</b>	<b>0.70</b>	<b>0.65</b>	<b>0.65</b>
<b>4. Studies, technical writing, coordination, QA and information security</b>	<b>0.25</b>	<b>0.40</b>	<b>0.40</b>
<b>5. Others</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Grand TOTAL</b>	<b>3.50</b>	<b>3.60</b>	<b>3.75</b>

More specifically for 2019, the REMIT-related IT budgetary needs will thus be as follows:

**1. Infrastructure, hardware licenses, deployment, service desk and operations:**

This covers the annual cost of the infrastructure and the services needed to ensure the availability of the relevant IT systems, but without the costs of the market surveillance solution, which are accounted for separately. This estimate takes into account the change of hosting strategy decided at the end of 2016, as already indicated in Section 2.6.2. It is expected that the new strategy will flatten the annual recurring costs to EUR 950,000. This is the result of extrapolating the cost of the existing hosting arrangements and is based on current yearly hosting costs. However, the Agency will have to replace aging infrastructure equipment on an

<sup>12</sup> Please note that these estimates cover only the basic REMIT IT related costs and that no major additional development activities are included in the provided figures. The estimates do not cover the potential cost of additional consultants that the Agency will likely have to engage for efficient market monitoring from the business perspective due to the severe shortage of its own staff. The above figures should therefore be understood as the bare minimum necessary to keep REMIT related IT services running. Unless significant additional budget and/or human resources are allocated to REMIT (for IT and elsewhere) the level of service that the Agency can provide to key REMIT stakeholders (mainly NRAs but also others) will remain limited in many ways.

ongoing basis and since it did not receive the requested REMIT IT budget for 2018, the additional costs for 2019 are necessary in order to cover the planned replacement for both years (2018 and 2019).

The proper support of the data collection and data sharing solutions will require additional IT consultancy for user support currently estimated at EUR 250,000 per year.

Since the Agency's REMIT IT budget request was not satisfied in 2018, the budget for 2019 needs to be increased by EUR 550,000, to **EUR 1.75 million** in order to increase the Agency's hosting capacity and replace aging equipment to ensure business continuity. This figure is the sum of the needs for 2019 and the outstanding needs from 2018, which had to be postponed since the necessary budget was not made available.

**2. Software maintenance, development, testing and software licenses:** This covers the annual cost of REMIT software upgrades and maintenance, including the relevant licences (but excluding the licence for Market Monitoring Solution). These costs are estimated to be around 12.5% of the full development cost. Considering that the main development activities were completed by the end of 2015, the full development cost of delivering ARIS and related IT solutions can be approximated at EUR 4 million<sup>13</sup>, based on the actual consumption of the two main contracts used for development ACER/OP/ADMIN/12/2012/LOT 1/01 (core SW development) and DI/07150-00 (Database related services).

In addition, on the basis of a DIGIT framework contract (renewed in 2017), costs for consultancy related mainly to database maintenance and operations (Oracle) will have to be covered in 2019. The costs for these services are estimated at EUR 100,000.

It is expected that ARIS will be operating in a stable manner in 2018 and that only upgrades of the existing system will be necessary, but no new development activities.

IT consultancy services will be required and used to provide proper quality assurance (testing) for the IT solutions upgraded. The costs for these services are estimated at EUR 100,000 per year.

In addition, IT consultancy for service management support of around EUR 100,000 per year will be required to support the Agency to apply common standards for IT service management (ITIL; COBIT).

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<sup>13</sup> More precisely, 4,062,793.91 EUR.

Following the above reasoning, the overall "running" costs are estimated at **EUR 800,000** per year in 2019.

### **3. Surveillance and BI tools customisation, licenses and consultancy:**

In 2017 the Agency entered into a new Framework Contract for the market surveillance software. For any additional BI tools, the Agency will rely on the joined Framework Contracts from DG DIGIT (e.g. for Oracle BI tools). Based on the current prices available to and currently paid by the Agency, the yearly price of the license for the market monitoring solution and additional BI tools for data quality analysis is estimated at EUR 450,000 per year. As the Agency has not received adequate funding for its REMIT-related IT expenditure in 2018, it is not in a position to procure licences that will cover the initial months of the following year, a good practice to ensure business continuity. The Agency plans to do this in 2019 – and on a rolling basis in subsequent years. Therefore, the estimated licence costs for 2019 amount to EUR 600,000 (also to cover the first four months in 2020).

In addition, consultancy services related to the market monitoring and BI solutions necessary efficiently to analyse the REMIT data are estimated at EUR 100,000 per year.

Therefore, the budget for 2019 needs to be increased to **EUR 700,000**.

### **4. Studies, technical writing, coordination, QA and information security:**

This covers the annual cost of specific services to support the implementation and operation of:

- 1) The costs for studies, coordination and technical writing are estimated at EUR 100,000 for the preparation of REMIT IT systems upgrades.
- 2) The costs of IT consultancy for information security to ensure operational reliability compliant with common standards for information security based on ISO 27k family standards are estimated at EUR 150,000 per year. According to Article 12(1) of REMIT, the Agency is required to ensure confidentiality, integrity and protection of the information received pursuant to Article 4(2) and 8 and 10 of REMIT (operational reliability). In order to comply with these obligations, in the light of the Agency's lack of human resources, the Agency is relying on consultancy services to comply with this obligation.

This results in a total amount for support/helpdesk/training of **EUR 250,000 per year**.

The total annual cost for REMIT-related IT services in 2019 is therefore estimated at EUR 3.5 million, higher than in subsequent years - at EUR 2.8 million in 2020 and 2021 - due to the need to compensate for the insufficient allocation in 2018. This will apply on a yearly basis until 2020.

However, it should be stressed that these expenditure level – EUR 3.5 million in 2019 and EUR 2.8 million in 2020 and 2021 - only cover the costs considered necessary to ensure operational reliability of REMIT implementation and operation.

The increase in the financial resources requested under Title 3 also relates, albeit to a lesser extent, to increased expenditure for translation services given EPSO's requirement for publication of vacancies, according to which the Agency needs to translate all its vacancy notices in the 24 EU official languages, thus incurring additional costs. In addition, the possible requirement to have the Agency's opinions translated in all EU official languages contributes to the increased translation costs.

### **3.2.2. Human resources**

#### **3.2.2.1. New tasks**

As already indicated, since its establishment the Agency has already been assigned additional tasks with regards to:

- i) the monitoring of wholesale energy markets in the Union;
- ii) the optimal development of trans-European energy infrastructures, and
- iii) the implementation of the Network Codes and Guidelines.

In November 2016 the Commission unveiled its “Clean Energy for All Europeans” legislative proposals. While these proposals envisage new tasks and responsibilities for the Agency, it is not possible to predict at this stage when exactly the new legislation will come into force and which exact new responsibilities will be assigned to the Agency. However, it appears very likely that the Agency will progressively take over additional competences in the period covered by this multiannual outlook.

#### **3.2.2.2. Monitoring of wholesale energy markets in the Union**

The Agency has greater responsibilities in monitoring the EU wholesale energy market since trade reporting obligations took effect on 7 October 2015. Moreover, with the entry into force of the Network Codes and Guidelines provided for in Regulations (EC) No 714/2009 and (EC) No 715/2009, the Union electricity and gas markets are becoming even more integrated, with

increasing shares of cross-border trading. Against this background, a pan-European approach to market monitoring is the only effective way of detecting and preventing wholesale energy market abuse.

With the entry into operation of the REMIT monitoring framework, the previous Market Monitoring Department was restructured into two Departments as follows:

- a Market Integrity and Transparency (MIT) Department, responsible for:
  - i) REMIT Policy and Market Data Reporting;
  - ii) Market Data Analytics and Business Intelligence; and
  - iii) Market Data Management (REMIT IT Delivery and REMIT IT Operations and Management).
- a Market Surveillance and Conduct (MSC) Department, responsible for:
  - i) On a daily basis, assessing gas and electricity market data on anomalous instances and for this purpose implementing surveillance tools to detect potential instances of market abuse;
  - ii) Notifying and referring suspected market abuse instances to NRAs;
  - iii) Coordinating investigations performed by NRAs;
  - iv) Providing guidance to NRAs on market abuse definitions; and
  - v) Ensuring consistency in the application of market abuses provisions.

This type of structure is typical of other organisations performing similar market monitoring activities. In fact, the responsibilities are divided according to the different approaches and required skills. On this basis, the interaction with external stakeholders (organised market places, reporting parties, market participants) for the purposes of REMIT Policy, Market Data Reporting and market data management ('front office') and the interaction with NRAs and other regulatory authorities for the purposes of screening of transactions to identify anomalous instances and the assessment of these instances with the aim to determine whether they represent suspicious events (ahead of an investigation being launched) and market conduct tasks are assigned to different departments.

Since the Agency has been suffering from a severe shortage of resources during the whole implementation phase, only the core REMIT implementation tasks were undertaken in 2016 and 2017, while other tasks were postponed to later years. Given the persistent and possibly more acute resource limitations in 2018, which will continue in 2019 from a human resources perspective, many of these tasks (e.g. the implementation of an IT solution for sample transaction data requests for market participants from ARIS in order verify completeness, accuracy and timeliness of data submission to the Agency; publication of aggregated REMIT



information for transparency reasons; Improvement of the market participant registration form and improvements of CEREMP to bring them better in line with the REMIT Implementing Regulation) will have to be implemented during 2019 and beyond.

In 2015, the budgetary authorities approved 15 additional posts for the Agency in 2016 (against a request by the Agency for 44 additional posts), of which 10 were allocated to REMIT-related tasks at technical level<sup>14</sup>. Of these 10 posts, 8 were allocated to activities now assigned to the Market Integrity and Transparency Department. However, such an allocation could not fully meet the Agency's requirements related to the additional tasks and activities assigned to the Agency during the legislative process or by the REMIT Implementing Regulation and therefore the Agency is still not able to perform some of these tasks and activities:

- Closer cooperation with ESMA, national financial market authorities and, if applicable, competition authorities,
- Collection of EMIR<sup>15</sup> data and of additional data on emission allowances (Article 10(3) of REMIT for REMIT market monitoring purposes;
- Publication of data by the Agency for transparency purposes and making available sample data requests of reported data for market participants for data quality purposes (Article 12 of REMIT);
- Establishment of data sharing mechanisms with national financial market authorities, national competition authorities and other relevant authorities (Article 10(1) of REMIT).

In order to perform these tasks and activities, the Agency would need **additional 7 posts** (2 policy/legal officers, 2 IT officers and 3 IT assistants), which the Agency unsuccessfully requested for 2018 and 2019.

These additional 7 staff members were expected to be graded as follows:

Grade	TAs for the Market Integrity and Transparency Department
AD7	2
AD5	2
AST3	3

<sup>14</sup> An 11th post was used to appoint an additional Head of Department as a result of the split of the Market Monitoring Department into the Market Surveillance and Conduct and the Market Integrity and Transparency Departments, as indicated above.

<sup>15</sup> Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1–59).

**Wider scope of appropriate market surveillance and conduct activities**

The experience gained by the Agency in implementing and, more recently, operating the monitoring framework envisaged by REMIT has shown that its scope is wider than the one envisaged in the Commission's proposal and requires a larger number of highly qualified staff than those envisaged in the *Fiche Financière* of REMIT.

This scope includes:

- a) collecting, validating and auditing the data, to be reported by 200+ reporting mechanisms on an hourly/daily basis, and ensuring operational reliability of data received and maintained;
- b) analysing the data to detect suspected instances of market abuse;
- c) preparing detailed (preliminary and reviewed) case reports with detailed factual analyses including an economic and legal assessment to be notified to national authorities for their investigation;
- d) coordinating the investigative groups on cross-border cases;
- e) coordinating and providing guidance on the (consistent) enforcement of market abuse rules;
- f) screening, registering and assessing notifications on suspicious trading instances reported by national authorities, organised market places and market parties.

In this respect, the human resource requirements estimated by the Agency, which are higher than those foreseen in the *Fiche Financière* established for REMIT, reflect, apart from the experience gained during the implementation stage, also the benchmarking with other regulatory organisations entrusted with similar functions (e.g. the Federal Energy Regulatory Commission in the US and the Financial Conduct Authority in the UK).

In particular, the most resource-intensive activity is the analysis of the data reported by market participants and other reporting parties and collected by the Agency. This includes validating the reported data, as well as auditing and correcting inconsistencies in the assessed data.

In this respect, 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 triggered 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 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.

In view of the above, the Agency will have to devote significant resources both to the operation of the market screening tool, to the assessment of its output (in terms of alerts) and to the subsequent preliminary analysis of anomalous situations.

As explained above, of the 15 additional posts authorised for the Agency in 2016 by the budgetary authorities, 10 were allocated to REMIT-related activities at technical level. However, such an allocation could not fully meet the Agency’s requirements related to the additional tasks and activities assigned to the Market Surveillance and Conduct Department<sup>16</sup> to carry out monitoring activities. As a consequence, the Agency still requires an **additional 12 posts** (2 Team Leaders in Market Conduct and Market Surveillance, 9 monitoring officers, supported by 1 assistant) in order to perform market surveillance and conduct tasks at an appropriately effective level.

These posts, to be requested again for 2020, are expected to be graded as follows:

Grade	TAs for the Market Surveillance and Conduct Department
AD7	2
AD5	9
AST4	1

### 3.2.2.3. PCI monitoring and cross-border cost allocation decisions

The Agency was assigned 5 posts for the TEN-E Regulation tasks in 2014, compared to the 14 identified by the Agency as necessary to perform these tasks<sup>17</sup>. 3 more posts were

<sup>16</sup> A third post, on top of the 10 mentioned in the text, but within the 15 allocated to the Agency in 2016, was used for the Head of the new Market Surveillance and Conduct Department, while the post previously used for the Head of the Market Monitoring Department has been used for the Head of the new Market Integrity and Transparency Department.

<sup>17</sup> In reality, an initial allocation of 8FTEs was reduced to 5FTEs by imposing on the Agency the 5% reduction in staffing envisaged by 2018.

allocated to infrastructure activities, out of the 15 authorised in 2016. The Agency is already striving to maximise synergies with the existing TSO Cooperation teams (4 FTEs) which are already responsible, *inter alia*, for preparing the Agency's opinions on the TYNDPs, on the consistency across various plans, on the winter and summer supply outlooks of the ENTSOs, on the scenario developments and the European supply adequacy outlook components of the TYNDP, as well as for many other tasks of complex nature<sup>18</sup>.

Furthermore, the TYNDPs are becoming increasingly complex documents, given the many challenges faced by energy networks in the future, involving proper cost-benefit analysis, and interlinked electricity and gas market and network models, along with the need to coordinate plans at various levels (national, regional, and European) and support them to become a robust basis for the selection of PCIs.

Going forward, assessing the added-value of the TYNDPs and of the PCIs, as well as monitoring their implementation, will become an increasingly important activity for the Agency, to ensure that these plans and projects are, firstly, justified from a socio-economic point of view, and, secondly, put into action and operation, and that any problem or delay is identified early on and remedial actions taken. In 2015, the Agency started to monitor the implementation of individual PCIs, on the basis of reports submitted by project promoters by 31 March, and produce a report to the Regional Groups by 30 June. The scope and granularity of such monitoring clearly require greater resources than what the Agency has so far been allocated.

The monitoring activities in the infrastructure area will cover, on a continuous yearly basis, the PCIs and also the projects included in the TYNDP and in other plans (in total, more than 1000 electricity and gas investments were monitored in the Agency's Opinions published in 2014 and in 2016).

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<sup>18</sup> These experts deal with all TSO-related tasks assigned to the Agency by the Third Energy Package (*Regulation (EC) No 713/2009*) and by Commission Regulation (EU) No 838/2010 which can be summarised as follows:

- formulating opinions on draft statutes, lists of members and draft rules of procedure of the ENTSOs;
- formulating opinions on draft annual work programmes, draft EU-wide TYNDPs and other ENTSOs' relevant documents (e.g. annual summer and winter supply outlooks, annual work programme, annual report);
- monitoring the execution of tasks of ENTSOs; monitoring progress of new interconnector projects and the implementation of EU-wide TYNDPs, monitoring regional cooperation of TSOs;
- monitoring the functioning of the inter TSO compensation mechanism in electricity.

The Agency is also responsible to take decisions on investment requests submitted by PCI project promoters, including requests for cross-border cost allocation (CBCA), when the relevant NRAs fail to reach an agreement or upon their joint request. The fact that the requests that are referred for decision to the Agency are those on which NRAs are unable to agree implies that the Agency will have to take a decision on the most complex and/or contentious requests.

Based on the experience gathered over the first few years of implementation, the Agency assesses that effective implementation (in particular, the CBCA decisions) and monitoring of PCI projects, on top of the other tasks that the Agency is called to perform in the infrastructure area, require additional resources, estimated in **2 additional infrastructure officer posts**, 1 in the Electricity and 1 in the Gas Department.

The additional staff, to be requested again for 2020 and assigned to the Electricity and Gas Departments, is expected to be graded as follows:

Grade	TAs for the Electricity Department	TAs for the Gas Department
AD5	1	1

#### 3.2.2.4 Regulation concerning the security of gas supply

The tasks assigned to the Agency under Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply refer to taking decisions on CBCA, issuing opinions on exemption requests, issuing of opinions on the elements of coordinated decisions, participation in consultations as pertaining to the establishment of permanent bi-directional capacity at interconnection points, as well as to participation in the Gas Coordination Group.

For the above tasks, the Agency assessed that it would need, besides the FTE for the Gas Department mentioned above, **1 additional post** allocated specifically to activities mandated by the SoS Regulation. This post will be requested again for 2020.

Grade	TAs for the Gas Department
AD5	1

#### 3.2.2.5. Implementation of the adopted Network Codes and Guidelines

Some of the Network Codes and Guidelines adopted under the Third Package assign new tasks to the Agency. In electricity, these new tasks include, for example: (i) new specific reporting and monitoring obligations, including the monitoring of the implementation projects

established pursuant to the Guidelines on Capacity Allocation and Congestion Management, on Forward Capacity Allocation, on Electricity Balancing and on Electricity Transmission System Operation; and (ii) the organisation and coordination of the stakeholders' involvement in monitoring the implementation of the adopted Network Codes and Guidelines through, in particular, the European stakeholder committees. Moreover, the Guidelines on Capacity Allocation and System Operation Guidelines, Congestion Management, on the Forward Capacity Allocation and on Electricity Balancing foresee terms and conditions or methodologies in several areas that should be approved by all NRAs, upon the proposal of all TSOs and or NEMOs. However, in case NRAs are not able to reach a common position, typically within six months of receiving the TSOs'/NEMOs' proposal, the latter is transferred to the Agency for decision.

On the gas side, the text of the Network Code of Harmonised Gas Transmission Tariff Structures, adopted by the Commission, mandates the Agency to report on all national tariff methodologies. This implies a significant additional workload for the Agency, with the first actions already performed in 2017 and the bulk of the work expected during the second half of 2018 and the first half of 2019.

The completion of the Framework Guidelines and Network Development process is making staff available for the activities related to the approval of binding tertiary legislation and for the monitoring of the implementation of the Network Codes, Guidelines and such additional tertiary instruments. However, it is envisaged that this redeployment will not be sufficient and that **4 additional posts** will be required, 3 for the Electricity Department and 1 for the Gas Department to perform the new tasks related to the implementation of Network Codes and Guidelines. The additional staff, to be requested again for 2020, was expected to be graded as follows:

Grade	TAs for the Electricity Department	TAs for the Gas Department
AD 5	3	1

### 3.2.2.6. Growth of existing tasks

As indicated above, over the next years the Agency is facing important challenges in the implementation of the Network Codes and the TEN-E Regulation and in the monitoring of such implementation, as well as in operating REMIT. To meet these challenges, the Agency requires a significant increase in the number of staff with specific technical expertise, often in new areas, as illustrated above.

The increase in staff numbers and the substantial expansion in the activities of the Agency, including in new areas, require **5 additional posts** for central and support functions in the following areas: Legal Advice (2 Officers – AD6); Communication and Stakeholders Relations (1 Officer – AD5); Procurement (1 Assistant – AST3); Human Resources (1 Officer - AD6).

The additional staff for support functions, to be requested again for 2020, is therefore to be graded as follows:

Grade	TAs
AD6	3
AD5	1
AST3	1

Although the Budgetary Authority did not accept the requests for new Temporary Staff positions as explained above, it increased the Agency's total number of Contract Staff to 27; this results in the increase of six additional Contract Staff positions compared to the staffing plans of 2019.

The new Contract Staff are going to be allocated as follows:

Grade	CAs
FG IV	2 (upfront of the operations for the Clean Energy Package)
FG III	4 (support to operational and administrative tasks of the Agency)

According to the benchmarking methodology of staff allocation, these 6 positions are included in the FTE allocation for 2019 as 0.5.

### 3.2.2.7. Efficiency gains

With regards to the common effort of all EU institutions and bodies to reduce their staffing level by 5% by 2018, it is important to stress that the Agency already contributed to such an effort, in fact at a higher rate. Such a reduction was applied at a rate of 7% and already in full in 2014<sup>19</sup>.

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<sup>19</sup> In 2014 the Agency was indicated to receive 8 additional posts for the implementation of the TEN-E Regulation. However, the Agency was only authorised to recruit 5 additional staff. In the Communication from the Commission to the European Parliament and the Council on the Programming of human and financial resources for decentralised agencies 2014 – 2020 (p6) it is stated that “in view of its new tasks deriving from the TEN-E Guidelines over the period 2014 – 2017 ACER may receive 8 additional posts, as well as the corresponding appropriations. Combined with the 5% staff reduction and the annual levy for the redeployment pool, the total

Moreover, since it became formally operational in 2011, the Agency has been assigned substantial new tasks in the area of wholesale energy market monitoring (by REMIT), infrastructure development planning (by the TEN-E Regulation) and Network Code Implementation and monitoring.

To implement these new tasks, the Agency has been assigned:

- 15 additional posts in 2012 and 2013 for the implementation of REMIT;
- 5 additional posts in 2014 for the implementation of the TEN-E Regulation.
- 15 additional posts in 2016 for the implementation of REMIT, the TEN-E Regulation and for the Network Code implementation and monitoring process.

However, as indicated above, further resources are required in all these areas. The assessment provided in Sections 3.2.2.2 to 3.2.2.5 already takes into account the efficiency gains that the Agency can achieve and has achieved in the use of its staff.

Furthermore, the Agency is regularly re-assessing, optimising and streamlining its support functions and administrative processes. This is done by a number of means: knowledge sharing and introduction of best practices from other agencies, review, documentation and automation of certain processes.

A number of tools have been developed to improve efficiency and the use of resources:

HR Tool - personnel data and files, the annual performance appraisal, working time recording and flexitime, leave requests and annual leave balances, and teleworking requests are managed via the tool.

Financial Tool – the tool facilitates the entire preparatory process of the financial transactions prior to their initiation in ABAC. The following type of transactions are processed automatically: commitments, de-commitments, commitment top-ups, budget transfers, recovery orders and payments (invoices and direct payments). The tool also enables constant monitoring of the spending of the budget, the level of commitment and payment appropriations for each budget line. It further facilitated and optimised the paperless workflow, which the Agency has been operating since 2015.

Contracts Tool – the tool provides an inventory of all concluded contracts and agreements, enables their efficient management, monitoring of deadlines, consumption rates, etc.

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number of posts increases from 49 in 2013 to 52 in 2020.” From the table on p21 it can be seen that as a consequence, in the establishment plan 5 additional posts, instead of 8, were allocated to the Agency in 2014.



Mission Management Tool – the whole process from request of a mission (mission order) to the reimbursement of expenses (mission claim) is managed via the tool.

Document Management Tool – the tool facilitates the implementation of efficient document management and provides the possibility for registration of incoming, outgoing and internal documents, mail and records and their subsequent management: classification, archival, destruction or permanent preservation. The tool also provides a case management function.

Case Management Tool – the tool provides improved and efficient system form management of cases in the field of REMIT.

Other existing tools include an event management tool, a data protection tool, a transport management tool, a survey tool to collect feedback from stakeholders, an online library and the IT helpdesk.

The tools complement each other and are managed in view of ensuring efficient use of resources (the tools have shortened the processing time, minimised human error and improved transparency). In addition to automating the processes, the tools provide up-to-date, real-time information on the state of play of transactions, budget consumption, etc. and ensure business continuity of the operations and institutional memory (in cases of long-term absence or departure).

### **3.2.2.8. Negative priorities/Decrease of existing tasks**

Due to the limited resources available to the Agency, much less than would be needed to fulfil its statutory mission and perform the tasks mandated to it by legislation, the Agency has had to deprioritise a number of the activities initially included in the 2015, 2016, 2017, 2018 and 2019 Annual Work Programmes.

In particular, some activities planned, especially with respect to tasks related to the implementation of REMIT, and, to a lesser extent, the TEN-E Regulation and the Network Code implementation monitoring process, have been postponed or reduced in scope.

More specifically:

- In the area of REMIT:
  - the establishment of appropriate mechanisms to access emission allowances data has been so far postponed;
  - the publication of parts of the trade information the Agency collects under REMIT, (while ensuring that commercially sensitive information on individual market

participants or individual transactions or individual market places are not disclosed and cannot be inferred) has been so far postponed;

- the provision of commercially non-sensitive trade database for scientific purposes, subject to confidentiality requirements has been so far postponed;
- the assessment of the operation and transparency of different categories of market places and ways of trading in the context of the annual REMIT report was not performed in 2015, 2016 and 2017;
- the scope of the monitoring of trading activities 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 as provided in the REMIT implementing acts, was significantly reduced, prioritising available surveillance resources for cross-border aspects;
- the cooperation and coordination with NRAs, ESMA, national financial market authorities and, if applicable, competition authorities, to ensure a coordinated enforcement of market abuse rules under REMIT and under the Market Abuse Directive is being developed to the limited extent allowed by the available resources
- the enhancement and development of existing alerts for market monitoring purposes.

In the area of TSO cooperation:

- Annual monitoring report on the implementation and management of the inter-TSO compensation fund;
- Internal Monitoring Report on G-charges;
- Internal monitoring report on the use of congestion revenues;
- Opinions on ENTSO-E's annual Summer and Winter supply outlooks;
- Opinion on ENTSOs research and development plans.
- Opinions on ENTSO-G's common network operation tools including a common incidents classification scale;
- Opinion on ENTSO-G's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators

In the area of Network Codes implementation:

- The Gas Regional Initiatives Status Review Report has been discontinued;

- The upgrading of data collection tools for Network Codes implementation monitoring in gas has been postponed;

Such a deprioritisation is particularly unfortunate, as it leads to important activities being postponed; it is however inevitable, given the inadequate resources available to the Agency.

However, with REMIT fully operational, the lack of sufficient resources effectively to monitor wholesale market trading creates a serious risk of market abuse instances going undetected – and a consequent reputational risk for the Agency and all EU Institutions. Moreover, the Agency is being called further to step up its effort in the network codes/guidelines implementation and infrastructure areas.

In case the Agency had insufficient resources, it would postpone or reduce in scope the following activities.

***1.1 A number of opinions and reports in the TSO-cooperation and infrastructure area, notably:***

- 1.1.1 Annual monitoring report on the implementation and management of the inter-TSO compensation fund
- 1.1.2 Internal Monitoring Report on G-charges;
- 1.1.3 Internal monitoring report on the use of congestion revenues;
- 1.1.4 Opinions on ENTSO-E's annual Summer and Winter supply outlooks and on ENTSOG's Summer supply outlook;
- 1.1.5 Opinion on ENTSOs research and development plans.
- 1.1.6 Opinions on ENTSO-G's common network operation tools including a common incidents classification scale;
- 1.1.7 Opinion on ENTSO-G's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators

***1.2 The Consumer Protection part of the Market Monitoring Report;***

***1.3 Recommendations to assist NRAs and market players in sharing good practices, where necessary, regarding incentives and a common methodology to evaluate the incurred higher risks of investments.***

Therefore, a new holistic strategy to the prioritisation of activities, and to allocate resources accordingly, has to be pursued, focusing on those areas and activities that are most critical for delivering the Energy Union objectives and, ultimately, benefits to consumers.

Therefore, as illustrated in Section 1. – Multiannual Objectives – Risks and uncertainties, the Agency has established a classification system distinguishing between “critical”, “important”

and “relevant” activities/tasks, which serves as a basis for any future deprioritisation of the activities foreseen in the Agency’s Work Programme in case of an insufficient allocation of resources.

### **3.2.2.9. Redeployment of resources in view of budgetary constraints**

The current internal structure of the Agency is based on four technical departments – the Electricity, the Gas, the Market Integrity and Transparency and the Market Surveillance and Conduct Departments –, the Administration Department and the Director’s Office. The separate organisation of the technical work for the two sectors (electricity and gas) reflects their specificities in the area of regulation.

In order to increase synergies in market monitoring activities, to the extent possible, greater cooperation has been promoted and will continue to be promoted between the Market Surveillance and Conduct Department and the Market Monitoring Teams in the Electricity and Gas Departments (responsible for monitoring various aspects of the Internal Energy Market).

At the same time, the Agency is committed to continuous improvements and has been constantly working towards ensuring the most effective and efficient use of its resources, to the extent possible. The Agency started re-assigning staff members (FTEs) from working on developing Network Codes and Guidelines to the monitoring of their implementation and effects in order to oversee the impact on the functioning of the Internal Energy Market.

- In the Gas Department, Part of the wholesale Market Monitoring sub-team also contributes to the monitoring of the effects of the implementation of Network Codes. Next to that, the Infrastructure team took over an incremental investment case based on the CAM Network Code.
- In the Electricity Department, the entire Framework Guidelines and Network Codes team has been re-assigned to the Network Code implementation and monitoring process. In addition, the wholesale Market Monitoring sub-team also contributes to the monitoring of the (effects of the) Network Codes implementation process.

However, the largest gap between the staffing level required to fulfil the Agency’s legal mandate and the available resources is in the area of wholesale energy market monitoring (REMIT). Already in 2017 the Agency strived to fill this gap, by redeploying resources from other less critical activities. However, such a redeployment and its ability to fill the resource gap for the implementation of REMIT suffer from two limitations:

- The resource gap for the implementation of REMIT – currently estimated at 19 FTEs
  - is much wider than any feasible redeployment could fill<sup>20</sup>;
- The expertise required in the implementation of REMIT – on trading in wholesale energy and financial markets – is substantially different from the one required for the other activities performed by the Agency and available in the other departments.

Therefore, beyond any redeployment achieved in 2017, it is difficult to envisage any further action in 2019, in particular since the Agency will likely have to start preparing for the additional tasks in the framework of the “Clean Energy for All Europeans” package.

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<sup>20</sup> This gap is equal to more than half the combined staff of the Electricity and Gas Departments.

## SECTION III – WORK PROGRAMME 2019

### 1. EXECUTIVE SUMMARY

In 2019, the Agency will continue its efforts towards the completion of the internal energy market and the monitoring of its functioning, as well as to monitor wholesale energy trading under REMIT, thus promoting “a Union that Protects, Empowers and Defends”. Moreover, while the recast of the Agency’s founding Regulation and the other legislative acts included in the Clean Energy for All Europeans Package (CEP) will not enter into force until 2020, the Agency will have to start preparing for the some of the new tasks and responsibilities stemming from the CEP legislation.

However, with respect to the latter aspect, while the Agency is closely following the negotiations on the CEP legislation, and has mapped the new tasks and responsibilities it is likely to be allocated, it cannot foresee at this stage the exact outcome of the legislative process.

Therefore, whereas Annex I includes a list of the above-mentioned tasks, as envisaged in the Commission’s proposal of November 2016, and the staffing (in FTE terms) necessary to implement them, the draft 2019 Work Programme itself at this stage focuses primarily on the Agency’s current legal mandate.

As a consequence, the Agency’s priorities in 2019 will be similar to those in the previous years. This includes tasks related to the completion of the Internal Energy Market, such as support and monitoring of the implementation of the adopted Network Codes and Guidelines, infrastructure-related issues (tasks linked to the TYNDPs and PCIs, including cross-border cost allocation decisions) and the identification of any remaining barriers to competition, both at wholesale and retail level. The implementation of the wholesale energy market-monitoring framework established by REMIT will remain a major priority and a key challenge.

In preparing this draft Work Programme, the Agency published and presented an outline in a public workshop held in Ljubljana on 25 October 2017, in which stakeholders were asked for their views on the priorities the Agency should tackle.

The effectiveness with which the Agency is able to perform its tasks crucially depends on it being assigned the significant additional resources that it has been requesting since 2014. Although the number of Contract Staff has been increased to 27 in 2019, no additional Temporary Staff were assigned to the Agency for 2019, which has led to a realignment of the Work Programme to the resources at the Agency’s disposal.

## 2. ACTIVITIES

As illustrated in Section 1 (Multiannual Objectives – Risks and uncertainties), the Agency has developed a classification strategy allowing it to prioritise its activities.

The strategy is based on prioritising those activities/tasks:

- a. which are directly functional to the integration of a well-functioning Internal Energy Market and to the implementation of the Energy Union strategy, including:
  - i. in the network code area, the promotion of their implementation and its monitoring;
  - ii. in the infrastructure area, activities directly related or functional to the selection of PCIs, the monitoring of their implementation and, in particular, decisions on CBCAs;
- b. which are essential for the effective monitoring of wholesale energy markets according to REMIT, while recognising any possible synergy between the work of the Agency and of NRAs in this area<sup>21</sup>.

The following subsections identify the activities/task according to their priority level.

### 2. Critical activities

The following activities will be considered as “critical” and will in any case receive adequate resource allocations:

**2.1 All activities related to the implementation, monitoring and improvements/amendments of Network Codes and Guidelines, with the exception of some tasks in this field related to gas (see below under “Important activities”);**

**2.2 A Market Monitoring Report focusing only on the main developments and barriers in wholesale electricity and gas markets, including aspects mentioned under 1.1, i.e. market effects monitoring<sup>22</sup> (the retail and consumer sections of the report are classified as “important and “relevant”, respectively);**

**2.3 A number of activities in the TSO-cooperation and infrastructure area, notably:**

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<sup>21</sup> The completion of the Internal Energy Markets requires well-functioning wholesale electricity and gas markets. The effective implementation of REMIT, with its aim of detecting and deterring market abuse, is thus a major prerequisite for efficient market integration and security of energy supply that are essential components of the Energy Union strategy.

<sup>22</sup> This is a shorter and more selective version of the Market Monitoring Report that the Agency and CEER previously produced.

- 2.3.1 Opinions on the methodologies for the cost-benefit analysis (CBA) of (electricity and gas) infrastructure projects;
- 2.3.2 Opinions on the gas Community-wide Ten-Year Network Development Plans (TYNDPs);
- 2.3.3 Opinions on the draft PCI lists;
- 2.3.4 Annual consolidated report on progress of PCIs and recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation.

**2.4 All Decisions which the Agency may be required to take if NRAs fail to agree, or upon their joint request, notably<sup>23</sup>:**

- 2.4.1 on terms and conditions and operational security of cross-border interconnectors;
- 2.4.2 on Cross-Border Cost Allocation for PCIs;
- 2.4.3 on exemptions;
- 2.4.4 On the choice of a gas transmission capacity Booking Platform;
- 2.4.5 On a gas incremental capacity investment proposal

**2.5 A number of Opinions that the Agency may be called to issue on request, notably:**

- 2.5.1 "Peer Review" opinions;
- 2.5.2 Opinions on TSO certifications.

**2.6 All activities required for the effective monitoring of Wholesale Energy Markets according to REMIT - except for the Cooperation with NRAs, ESMA, etc., the REMIT annual report and the facilitation of the stakeholder involvement, as required, pursuant to REMIT and the REMIT Implementing Regulation, - notably those connected with:**

- 2.6.1 Policy activity to support the Agency's REMIT mandate ;
- 2.6.2 Registration and supervision of reporting parties according to Article 8 of REMIT
- 2.6.3 REMIT Information Management and operation of the Agency's REMIT Information Systems;
- 2.6.4 Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation,

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<sup>23</sup> The decisions on the proposals on "terms and conditions or methodologies" according to the adopted Guidelines will also be considered as "critical". They are included under 1.1 as they directly related to the implementation of such Guidelines.



including the screening and initial assessment of the reported data to detect instances of potential REMIT breaches to be notified to NRAs for investigation and enforcement;

2.6.5 Market conduct coordination of NRAs and other relevant authorities;

2.6.6 Cooperation with NRAs, including on Brexit related issues.

**1.7 Activities related to the Gas Security of Supply Regulation:**

1.7.1 Decisions covering the cross-border cost allocation pursuant to point 11 of Annex III of Regulation (EU) No 2017/1938, in line with Article 5(7) of the same Regulation, if the Commission decision pursuant to point 10 of Annex III requires bi-directional capacity.

1.7.2 Opinions on the elements of the coordinated decisions taken under point 6 of Annex III of Regulation (EU) No 2017/1938, taking into account any possible objection.

**3. Important Activities**

The following activities will be considered as “important”. Resources will be allocated to these activities only to the extent that they are not required to perform the “critical” activities. In case of severe lack of resources, legally mandated activities classified as “important” will be performed in a more concise form, possibly to the minimum extent compatible with the Agency complying with its legal obligations.

**3.1 A number of activities related to the implementation, monitoring and improvements/amendments of gas network codes and guidelines:**

2.1.1 Recommendations to assist NRAs and market players in sharing good practices, where necessary;

2.1.2 Implementation Monitoring Report updates for the Network Code on Capacity Allocation Mechanisms and Balancing, Agency Recommendation on tariff multipliers;

2.1.3 Continuous work on data quality, on indicators to measure the market effects of Network Codes, on appropriate data collection tools to improve monitoring of the Network Codes;

2.1.4 Review of the requests for amendments to the adopted Network Codes and Guidelines from interested persons and, where appropriate, based on these requests or on the Agency’s own initiative, preparation of the amendment proposals for the European Commission;

2.1.5 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 (if in the form of “Peer review” opinion or Decision it will be considered “Critical”);

2.1.6 (Shortened) report on monitoring of Congestion at interconnection points;

2.1.7 Facilitation of the stakeholder involvement, as required, pursuant to the adopted Network Codes and Guidelines;

2.1.8 All activities related to the Gas Regional Initiative beyond those related to the implementation and monitoring of Network Codes and Guidelines.

**3.2 A number of opinions in the TSO-cooperation and infrastructure area:**

3.2.1 Opinion on ENTSOs’ annual work programme;

3.2.2 Opinion on the consistency of electricity NDPs with the TYNDPs;

3.2.3 Opinions on potential updates to ENTSO-E’s common network operation tools and common incidents classification scale;

3.2.4 Opinion on ENTSO-E’s recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators;

3.2.5 Opinions on ENTSOG’s annual Winter supply outlooks.

**3.3 The Retail Market part of the Market Monitoring Report;**

**3.4 A number of REMIT-related activities which are not essential for the effective monitoring of Wholesale Energy Markets, notably:**

3.4.1 Cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries;

3.4.2 Annual REMIT Report;

3.4.3 Facilitation of the stakeholder involvement, as required, pursuant to REMIT and the REMIT Implementing Regulation.

**3.5 Gas Security of Supply Regulation:**

Opinions on proposals or exemption requests for permanent bi-directional capacity within four months of receipt of the consultation request on such proposals or exemption requests.

**4. Relevant activities**

The following activities will be considered as “relevant”. Resources will be allocated to these activities only to the extent that they are not required to perform the “critical” and “important” activities. In case of lack of resources, legally mandated activities classified as “relevant” will

be performed in a more concise form, possibly to the minimum extent compatible with the Agency complying with its legal obligations.

**4.1 A number of opinions and reports in the TSO-cooperation and infrastructure area, notably:**

- 4.1.1 Annual monitoring report on the implementation and management of the inter-TSO compensation fund
- 4.1.2 Internal Monitoring Report on G-charges;
- 4.1.3 Internal monitoring report on the use of congestion revenues;
- 4.1.4 Opinions on ENTSO-E's annual Summer and Winter supply outlooks and on ENTSOG's Summer supply outlook;
- 4.1.5 Opinion on ENTSOs research and development plans.
- 4.1.6 Opinions on ENTSO-G's common network operation tools including a common incidents classification scale;
- 4.1.7 Opinion on ENTSO-G's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators

**4.2 The Consumer Protection part of the Market Monitoring Report;**

**4.3 Recommendations to assist NRAs and market players in sharing good practices, where necessary, regarding incentives and a common methodology to evaluate the incurred higher risks of investments.**

Given the severe limitation in the resources allocated to the Agency in the 2019 EU Budget, the Agency will perform the activities classified as Relevant only to the minimum extent required to comply with its legal obligation. This implies that activities not legally mandated might not be performed at all. The Agency is confident that it will be able to perform the activities classified as Important to a reasonable extent.

**Financial Resource Constraints**

Finally, some activities, initially planned for 2017 and 2018 and 2019, have been postponed to 2020 since sufficient budgetary resources were not made available for the necessary IT investments.

1. Review of the electronic formats for data collection (XML schemas);
2. Enabling of sample transaction data requests for market participants from the ARIS 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;

3. 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;
4. Improvements to the market participant registration format pursuant to Article 9(3) of REMIT and improvements to CEREMP;
5. Enhancements to improve existing and develop new alerts to screen REMIT data for the purpose of market surveillance activities;
6. Enhancements of the Case Management Tool for the purpose of cooperation with NRAs.

### **Allocation of Human Resources to Activities**

With regard to the allocation of resources (FTE of Temporary Staff, Contract Agents and Seconded National Experts) against the different activities, the Agency follows the methodology for Agencies job screening, in accordance with Article 29(3) of the Framework Financial Regulation. Each job is identified according to one screening ‘type’: the three Screening types describe the general role of a job: **administrative support and coordination**, **neutral** or **operational**. Most jobs either fulfil an **operational** role, i.e. serving frontline activities (more or less directly serving the European citizen) or an **administrative support and coordination** role, as *enablers* of the operational jobs by being responsible e.g. for HR, ICT, logistics, etc. for their Agency. Financial management and control at Agency level and on-the-spot (external) audit are treated as **neutral**.

The FTE allocation includes staff working on the specific deliverables described in the work programme, as well as a proportional allocation of staff in horizontal activities classified as ‘operational’ according to the above methodology.

## **2.1. Electricity Network Codes (Operational)**

In this area, the Agency will focus its activities to supporting the implementation of the adopted Network Codes and Guidelines and to monitoring of such implementation.

More specifically, during 2019, the Agency plans to work towards the following deliverables:

<b>Task</b>	<b>Monitoring of the implementation of the adopted Network Codes and Guidelines</b> <b>This includes:</b>
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	<p>a. <b>Monitoring the implementation of the obligations (activities, deadlines, development of terms and conditions and methodologies) of ENTSO-E and other entities;</b></p> <p>b. <b>Monitoring the effect of the implementation (effect 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). For market-related network codes, this monitoring aspect will be part of the activities for the “Market Monitoring Report” (See the paragraph “Internal Energy Market monitoring - Cross-sectoral (Electricity and Gas)”;</b></p> <p>c. <b>Reporting to the Commission;</b></p> <p>d. <b>Work on data collection tools to improve monitoring of the Network Codes and assessing their effectiveness in the internal market. Continuous work on data quality, testing of indicators designed to assess Network Codes and the effectiveness of codes to achieve a functioning internal market.</b></p>
Priority level	1: Critical
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
Overview (status)	<p>In 2019, the Agency will focus on the implementation and monitoring of the 8 Network Codes and Guidelines. The Agency must identify delays in and barriers to their implementation and, if needed, propose mitigating measures in order to facilitate the implementation and well-functioning of the IEM.</p> <p>Together with ENTSO-E, the Agency needs to monitor the implementation of different requirements against the obligations specified in the Network Codes and Guidelines. To this end, the Agency will:</p> <ul style="list-style-type: none"> <li>(a) monitor the implementation of Network Codes and Guidelines, which includes continuous monitoring of the implementation activities, collection of relevant information and data, and the publication of dedicated monitoring reports; and</li> <li>(b) review and provide opinions on the monitoring of the implementation of Network Codes and Guidelines performed by ENTSO-E and other entities, where relevant.</li> </ul>
Objectives	<p>Specific objectives:</p> <ul style="list-style-type: none"> <li>(a) Continuous monitoring of the implementation activities with regard to the Network Codes and Guidelines.</li> <li>(b) Timely identification of delays in and barriers to the implementation of the Network Codes and Guidelines and reporting on them.</li> <li>(c) Monitoring the effect of the implementation of Network Codes and Guidelines (effect on the harmonisation of applicable rules</li> </ul>

	<p>aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market). For market-related Network Codes, this monitoring aspect will be part of the activities for the “Market Monitoring Report” (See “Internal Energy Market monitoring - Cross-sectoral - Electricity and Gas).</p> <p>(d) Providing opinions on ENTSO-E’s plans and reports on the monitoring of the implementation of the adopted Network Codes and Guidelines;</p> <p>(e) Providing opinions and recommendations on ENTSO-E and other entity’s reports related to implementation monitoring;</p> <p>(f) Determination and review of the relevant information and data required for the purpose of its monitoring activities pursuant to the adopted Network Codes and Guidelines;</p> <p>(g) Providing recommendations to assist NRAs and market players in implementing the Network Codes and Guidelines, where necessary.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
<p>Outputs</p>	<p>Report on monitoring the implementation of the Network Codes and Guidelines and, where necessary recommendations.</p> <p>Opinions on ENTSO-E’s plans for the monitoring of the implementation of the adopted Network Codes and Guidelines.</p> <p>Lists of information required for monitoring the implementation of the Network Codes and Guidelines.</p> <p>Opinions and requirements on ENTSO-E and other entity’s reports related to implementation monitoring.</p> <p>Monitoring the effect of the implementation of Network Codes and Guidelines For market-related network codes, this monitoring aspect will be part of the activities for the “Market Monitoring Report”.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely monitoring of the implementation activities and delivery of the implementation monitoring reports and necessary recommendations.</p> <p>Timely delivery of the opinions on ENTSO-E’s implementation monitoring plan and reports, the lists of required information for monitoring 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>
<p>Resources</p>	<p>1.2 FTE</p>
<p>Risks</p>	<p>Incomplete implementation or delays in data collection in some countries may cause delays, as data collection may not be possible in parallel with the drafting of the report.</p>

	<p>The workload related to this task depends on timely and successful implementation of the Network Codes and Guidelines. Given the limited resources of the Agency, the involvement of ENTSO-E/TSOs and NRAs is essential to ensure the timely preparation of the deliverables listed above.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>
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<b>Task</b>	<b>Recommendations to assist NRAs and market players in sharing good practices, with regard to the implementation of the Network Codes and Guidelines, where necessary</b>
Priority level	1: Critical
Legal basis	Article 7(2) of Regulation (EC) No 713/2009
Overview (status)	The Agency may support the implementation of the Network Codes and Guidelines and integration of electricity markets with concrete recommendations on sharing of good practices.
Objectives	<p>The aim of these recommendations is to provide guidance to TSOs, national regulatory authorities or market participants on how to implement specific requirements of the Network Codes or Guidelines or of Regulation (EC) No 714/2009, in order better to facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	Specific recommendation on sharing of good practices
Performance indicators and targets (deadlines)	Timely adoption of the recommendation enabling the addressees to take it into account within their respective processes.
Resources	0.7 FTE
Risks	<p>Lack of human resources to perform this activity.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Task</b>	<b>Investigation of the reasons when TSOs, NEMOs or other entities fail to submit terms and conditions or methodologies for the approval by NRAs, pursuant to the adopted Network Codes and Guidelines and reporting to the Commission</b>
Priority level	1: Critical
Legal basis	Article 9(4) of Commission Regulation (EU) 2015/1222, Article 4(4) of Commission Regulation (EU) 2016/1719, Article 4(7) of Commission Regulation (EU) 2017/2195 and Article 5(9) of Commission Regulation (EU) 2017/1485.
Overview (status)	TSOs or NEMOs have the obligation jointly to develop different terms and conditions or methodologies by specified deadlines. In case they fail to meet this obligation, the Agency needs to inform the European Commission about the failure and, if requested, to investigate and report to the European Commission about the reasons for such failure.
Objectives	To prevent significant delays in the implementation of the Network Codes and Guidelines and to facilitate further development in case of failures on TSOs or NEMOs side.  Multi-annual objective: contribute to the completion of the IEM.
Outputs	Information to the European Commission on the failure of TSOs or NEMOs to develop the terms and conditions or methodologies within the required deadline  Report to the European Commission on the reasons for failing to meet the requirements.
Performance indicators and targets (deadlines)	Timely identification of the failure and information to the European Commission. Timely delivery of the report on the reasons for failure.
Resources	0.7 FTE
Risks	Delays in the information collection based on which the Agency will identify the failure and based on which the Agency will identify the reasons for such failure.  Risk if this activity is not performed: delays in the completion of the IEM.



<b>Task</b>	<b>Assistance to NRAs for the approval of the terms and conditions or methodologies developed by TSOs, NEMOs or other entities, pursuant to the adopted Network Codes and Guidelines. Decisions on the terms and conditions or methodologies in case NRAs fail to agree or upon their joint request.</b>
Priority level	1: Critical
Legal basis	Article 7 and 8 of Regulation (EU) No 713/2009
Overview (status)	<p>The Network Codes and Guidelines establish numerous obligations for TSOs and other entities to develop proposals for terms and conditions or methodologies, which need to be approved by all NRAs or a group of NRAs. In the first few years following the entry into force of different Network Codes and Guidelines, 41 terms and conditions or methodologies will need to be developed at European level and approved by all NRAs. Additionally, 28 terms and conditions or methodologies need to be developed and approved by TSOs and NRAs of individual regions, where the number of regions established for different purposes varies between 5 and 10.</p> <p>As these approval procedures need to be coordinated, the Agency will facilitate such coordination within the Agency's working groups' structures.</p> <p>The Agency can also be requested to provide opinions and recommendations pursuant to the adopted Network Codes and Guidelines.</p> <p>Finally, the Agency can be requested to issue a decision at the request of NRAs or when the latter are not able to reach consensus.</p>
Objectives	<p>Specific objective: the Agency will provide a framework for the cooperation among NRAs and will strive 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.</p> <p>Multi-annual objective: contribute to the completion and well-functioning of the IEM.</p>
Outputs	Framework for the coordination of NRAs - Agreement and coordinated decisions of all NRAs on the proposed terms and conditions or methodologies.
Performance indicators and targets (deadlines)	<p>Coordinated NRAs decisions on the proposed terms and conditions or methodologies within the deadlines specified by the relevant Network Codes and Guidelines.</p> <p>Timely delivery of any ACER's opinion or recommendation or decisions on this matter.</p>

Resources	2.9 FTE
Risks	<p>The agreement might not be reached among all involved NRAs and coordinated decisions not taken.</p> <p>Lack of resources for the Agency to take the decision-making process over.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Task</b>	<b>Regulatory oversight of the implementation projects established pursuant to the Network Codes and Guidelines or, where relevant, in the framework of the early implementation process</b>
Priority level	1: Critical
Legal basis	Relevant Network Codes and Guidelines.
Overview (status)	<p>The Network Codes and Guidelines introduce numerous requirements and obligations for TSOs and other entities related to the integration of the electricity market. These requirements will be fulfilled through concrete implementation projects that require coordination, monitoring and supervision from NRAs and the Agency.</p> <p>The Agency assumes that many terms and conditions or methodologies developed and approved by TSOs and NRAs will be implemented through implementation projects. The Agency currently estimates that at least 25 different implementation projects will be established at European or regional level for the purpose of implementation of the Network Codes and Guidelines. As many of these projects are essential for the completion of the IEM, the Agency's involvement in these implementation projects is needed in order to ensure their timely finalisation. The active monitoring and coordination of these projects will require a substantial allocation of staff.</p>
Objectives	<p>Specific objective: facilitate the implementation of projects and ensure their timely completion, as well as the involvement of stakeholders within the implementation process.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	Implementation of requirements pursuant to the adopted Network Codes and Guidelines through specific implementation projects.
Performance indicators and	Completion of specific implementation projects within the deadlines established by the adopted Network Codes and Guidelines.

targets (deadlines)	
Resources	1.9 FTE
Risks	<p>Delays in implementation projects subject to unforeseen difficulties.</p> <p>Lack of resources for the Agency to follow and coordinate all these projects.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Task</b>	<b>Facilitation of stakeholder involvement, as required, pursuant to the adopted Network Codes and relevant Guidelines</b>
Priority level	1: Critical
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.
Overview (status)	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 will ensure wider acceptance of the changes introduced by the Network Codes and Guidelines, thus facilitating the completion of the IEM.
Objectives	<p>Specific objective: involvement of stakeholders within the implementation of the Network Codes and Guidelines and monitoring their operation and effect on the IEM.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	<p>The Agency will continue organising dedicated stakeholder committees for Network Codes and Guidelines. The stakeholder committees are chaired by the Agency, supported by ENTSO-E, and involve EU stakeholder organisations with direct interest in these Network Codes and Guidelines.</p> <p>The Agency is to facilitate stakeholder involvement also through other means, such as consultations, responses to individual requests, dedicated meetings and workshops with stakeholders, etc.</p>
Performance indicators and targets (deadlines)	High level of stakeholder satisfaction and support to the implementation process of the Network Codes and Guidelines.

Resources	1.0 FTE
Risks	<p>Lack of human and other resources to facilitate proper stakeholder involvement and in particular the functioning of stakeholder committees.</p> <p>Risk if this activity is not performed: lack of transparency and risk of distrust in the overall Network Code process.</p>

<b>Task</b>	<b>Review of the requests for amendments of the adopted Network Codes and Guidelines from interested persons and, where appropriate, based on these requests or at the Agency's own initiative, preparation of the amendment proposals for the European Commission</b>
Priority level	1: Critical
Legal basis	Article 7 of Regulation (EC) No 714/2009.
Overview (status)	By 2018, eight Network Codes and Guidelines will be adopted. Inevitably, some elements of these Network Codes and Guidelines will prove to be inadequate for the task and will need to be reviewed and changed in order to improve the process for the completion and functioning of the IEM.
Objectives	<p>Specific objective: to improve the requirements and procedures (both technical and governance) for faster implementation and better functioning of IEM.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	The Agency will propose amendments to the Network Codes and Guidelines to the European Commission where necessary in order to ensure more efficient implementation and functioning of the IEM.
Performance indicators and targets (deadlines)	Adequate support to stakeholders and regulators on the proposed amendments of the Network Codes and Guidelines.
Resources	0.3 FTE
Risks	<p>Unexpectedly high amount of requests for amendments of the Network Codes and Guidelines.</p> <p>Barriers in the implementation of the Network Codes requiring urgent amendments of the Network Codes and Guidelines.</p> <p>Lack of human and other resources to handle this activity.</p>

	Risk if this activity is not performed: delays in the completion of the IEM.
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<b>Task</b>	<b>Performance of the specific obligations of the Agency pursuant the adopted Network Codes and Guidelines</b>
Priority level	1: Critical
Legal basis	Relevant Network Codes and Guidelines.
Overview (status)	The Network Codes and Guidelines establish numerous new obligations for the Agency. These obligations relate to transparency, reporting, facilitation of cooperation, monitoring, providing opinions and recommendations, etc.
Objectives	<p>Specific objective: the Agency's specific obligations pursuant to the Network Codes and Guidelines should be fulfilled in a timely manner, with the aim of improving transparency and reporting, facilitate cooperation, etc.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Outputs	<p>The obligations for the Agency cover the following:</p> <ul style="list-style-type: none"> <li>(a) Reporting on different aspects of the Network Codes and Guidelines beyond the implementation monitoring (e.g. report on the efficiency of bidding zones pursuant to Commission Regulation (EU) 2015/1222);</li> <li>(b) Monitoring the development of aspects 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 Commission Regulation (EU) 2015/1222);</li> <li>(c) Overseeing processes and entities' obligations pursuant to the Network Codes and Guidelines (e.g. coordination of monitoring activities of entity or entities performing the MCO functions pursuant to Article 82 of Commission Regulation (EU) 2015/1222);</li> <li>(d) Publishing of reports and other documents to be developed pursuant to the Network Codes and Guidelines;</li> <li>(e) Requesting specific actions from different entities pursuant to the Network Codes and Guidelines (e.g. the Agency may request ENTSO-E to draft the technical report on bidding zones and TSOs to launch the review of bidding zones);</li> <li>(f) Maintaining different registers pursuant to the Network Codes and Guidelines (e.g. the Agency needs maintain a list of designated NEMOs, their status and where they operate on its</li> </ul>

	website pursuant to Article 4 of Commission Regulation (EU) 2015/1222 and a register of all derogations from grid connection network codes requirements that NRAs have granted or refused).
Performance indicators and targets (deadlines)	Timely delivery of these obligations.
Resources	1.9 FTE
Risks	Lack of human and other resources to facilitate the performance of these tasks. Risk if this activity is not performed: delays in the completion of the IEM.

Total resources allocated to the Activity 'Electricity Network Codes'	
Human Resources (Full Time Equivalents) <sup>24</sup>	Financial Resources (EUR)
10.5 <sup>25</sup>	1,289,448

## 2.2. Gas Network Codes (Operational)

In this area, the Agency's activities mainly focus on Network Codes implementation monitoring and potential amendment requests relating to specific provisions of the Codes. The implementation monitoring reports already cover congestion management procedures, capacity allocation mechanisms and balancing. In 2019-20, the Agency will focus its reporting on allowed revenue methodologies, tariff implementation, conditional capacities and on the incremental process. In other subject areas, the Agency will only update on contentious issues and keep monitoring the effectiveness of the codes.

<sup>24</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

<sup>25</sup> Due to the rounding effect (horizontal FTEs are distributed evenly among all activities and FTEs are rounded to one decimal point), there is a small discrepancy in the sum of the FTEs per activity compared to the total of the deliverables tasks included in the activity.

Beyond implementation monitoring, the Agency will support the coherent and coordinated implementation of the Network Codes and Guidelines across the EU. Some amendments of existing Network Codes may need to be triggered, depending on the experiences with the current provisions and on the lessons learnt from the implementation monitoring reports. Using the existing structures of the Gas Regional Initiative (GRI) and the newly established Baltic region Gas Market Coordination Group (RGMCG), the Agency will encourage the implementation of the Codes. Delayed implementation in the SSE GRI, where the greatest efforts shall be made, will be given a special attention.

### **2.2.1. Network Codes, their implementation and monitoring**

<b>Task</b>	<b>Preparation of the Conditional Capacity report</b>
Priority level	1: Critical
Legal basis	Article 38(4) of Commission Regulation (EU) 2017/459 (CAM NC).
Overview (status)	The CAM NC is in place and foresees standard timelines for firm capacity products. Nonetheless, in some countries products with limited allocability further diversify the range of standard products foreseen in the legislation. This report will shed light on the impact of such products.
Objectives	Specific objectives: A report on conditional capacities explaining the effects of these conditional products concerning efficient network use and market integration of the Union.  Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	Report on the conditionalities stipulated in contracts for standard capacity products for firm capacity.
Performance indicators and targets (deadlines)	Report delivered by 6 April 2019
Resources	Consultancy, 0.6 FTE
Risks	Getting appropriate data and support in the assessment by the relevant NRAs and TSOs. Lack of human resources. (Same deadlines with other tariff activities, which are time-consuming and demanding in terms of human resource).  Risk if this activity is not performed: potential inefficiency in the functioning of the IEM.

<b>Task</b>	<b>Finalise outstanding tariff consultation reviews as required by Network Code on Tariff Structures</b>
Priority level	1: Critical
Legal basis	Article 27(3) of Commission Regulation (EU) 2017/460 (Tariff NC).
Overview (status)	The procedure consisting of the review of the final consultation of the national reference price methodology by the Agency is foreseen at least every five years by the Tariff NC.
Objectives	<p>Specific objectives: better to align the application of tariff principles across the Union, by requiring the Agency to review the application of the tariff principles in the national implementations.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning. The review is foreseen to occur every five years.</p>
Outputs	<p>The Agency publishes its report and sends it to the NRAs or TSOs, depending on which entity published the consultation document, and the Commission the conclusion of its analysis.</p> <p>About 40 tariff reviews (based on the number of gas TSOs) with some regimes being alike. The reviews will span over a period from March 2018 to May 2019.</p>
Performance indicators and targets (deadlines)	Reports to be delivered within two months following the end of the public consultation. Process running over a period expected to end by 31 May 2019.
Resources	1.1 FTE with possible involvement of temporary SNEs
Risks	<p>High workload not fit for the size of the Agency's network codes team, unexpected work peaks due to the uncoordinated launch of national processes. If translations are required to process the received documentation, the timelines might shorten at the detriment of the analysis. This will be the first time the analysis is done, so no established evaluation methodology and process yet.</p> <p>Risk if this activity is not performed: reduced transparency in the functioning of the IEM.</p>

<b>Task</b>	<b>Implementation monitoring of the Network Code on Harmonised Transmission Tariff Structures</b>
Priority level	1: Critical



Legal basis	Article 36 of Commission Regulation (EU) 2017/460 (Tariff NC).
Overview (status)	The aim is to support the endeavours for successful implementation of the Network Code.
Objectives	Specific objective: ensure a comprehensive report with NRA involvement and appropriate data collection. Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	Review of the publication requirements as completed by ENTSOG and the TSOs; Reporting on the status of implementation; Include the learnings from the review of tariff reference price methodologies.
Performance indicators and targets (deadlines)	Report: 2020 or 2021, depending on the needs for additional data collection and its complexity.
Resources	1.6 FTE
Risks	Implementation is highly dependent on well-planned national processes. Binding deadlines for review could cover only the successfully implemented national cases. Risk if this activity is not performed: reduced transparency and efficiency in the functioning of the IEM.

<b>Task</b>	<b>Recommendations to assist NRAs and market players in sharing good practices, where necessary</b>
Priority level	2. Important
Legal basis	Article 4 and 7 of Regulation (EC) No 713/2009
Overview (status)	Implementation support, where relevant, and adaptation of designs incompatible with the codes
Objectives	Reaching the implementation targets by offering specific advice to Member States. Multi-annual objective: Contribute to the completion and well functioning of the IEM.
Outputs	Improve national designs, where necessary.

	Give feedback to the European decision-makers whether the general rules are suitable for national implementation.
Performance indicators and targets (deadlines)	Promote state of the art regulation.
Resources	0.3 FTE
Risks	This task is resource intensive and may require bilateral consultations, for which resources may not be provided. Risk if this activity is not performed: potential inefficiencies in the functioning of the IEM if best practices are not followed.

<b>Task</b>	<b>Implementation Monitoring Report updates for the Network Code on Capacity Allocation Mechanisms and Balancing, with a focus on reported issues or outstanding tasks, Agency Recommendation on tariff multipliers</b>
Priority level	2: Important This task might become critical in subsequent years.
Legal basis	Article 9 of Regulation (EC) No 715/2009 Article 38 of Commission Regulation (EU) 2017/459 Article 13(3) of Commission Regulation (EU) 217/460
Overview (status)	Report on issues that were not implemented in a timely manner and addressed appropriately in the previous editions. The Tariff NC foresees an evaluation of the level of multipliers and a recommendation from the Agency whether the levels of multipliers and seasonal factors could be reduced in the EU to a standard level.
Objectives	Specific objective: involve ENTSOG, TSOs and NRAs in this process, in particular asking them to contribute to data collection, taking into account potential IT changes needed for the incremental capacity process. Provide practical recommendations in the implementation report. Specific Tariff objective: reduce the maximum level of multipliers, which can be at high levels at certain IPs. Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	Updating on the state of play concerning the implementation of the adopted Network Codes.
Performance indicators and	Implementation monitoring reports. 2020 and 2021

targets (deadlines)	Recommendation on multipliers: 1 April 2021
Resources	1.6 FTE
Risks	Data collection and data availability from national NRA/TSO sources may be delayed or missing.  Risk if this activity is not performed: reduced transparency and efficiency in the functioning of the IEM.

<b>Task</b>	<b>Continuous work on data quality, indicators on market effects of the Network Codes, appropriate data collection tools to improve monitoring of the Network Codes</b>
Priority level	2. Important, in particular for tariff indicators, which have not been designed yet.
Legal basis	Article 9 of Regulation (EC) No 715/2009
Overview (status)	Enhance the tools to reach improved data collection and efficient and timely access to comparable data. Data quality in particular requires continuous attention, given that the improvements needed on ENTSOG's Transparency Platform have not been achieved yet.
Objectives	Specific objective: Involve ENTSOG and to the extent possible find joint solutions.  Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	Improve data collection tools and if necessary evaluate how to improve data sourcing.
Performance indicators and targets (deadlines)	Improved reports supported by effective data collection tools and good data quality.  Established effects monitoring indicators
Resources	0.6 FTE
Risks	Some improvements may not be achievable, as they would require a reinforcement the Agency's data collection powers.  Risk if this activity is not performed: reduced transparency and efficiency in the functioning of the IEM.

<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 on the Agency's own initiative, preparation of the amendment proposals for the European Commission, if appropriate amendment of the Transparency Annex</b>
Priority level	2: Important
Legal basis	Article 7 of Regulation (EC) No 715/2009
Overview (status)	Collect/propose amendments to the legal text, where necessary. Propose, in coordination with the Commission, revisions on own initiative to improve the quality of the legislative texts
Objectives	Specific objective: create a framework to enable the Agency to collect sensible requests and ensure stakeholder involvement to the process. Propose the review of legislative texts, based on the experiences collected through the implementation monitoring process.  Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	Evaluating and processing amendment requests, proposing amendments on own initiative where relevant.
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.
Resources	0.7 FTE
Risks	Implementation is dependent on stakeholder support to allow a proper process to be launched.  Risk if this activity is not performed: reduced efficiency in the functioning of the IEM.

<b>Task</b>	<b>Assistance to NRAs pursuant to the adopted Network Codes and Guidelines</b>
Priority level	1-2: Critical - Important, depending on whether the deliverable is a Decision (critical) or Opinion or Recommendation (important)
Legal basis	The Network Codes and 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 opinions 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.
Overview (status)	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.
Objectives	Specific objective: an efficient decision-making process for the adoption of different terms and conditions or methodologies developed pursuant to Network Codes and Guidelines.  Multi-annual objective: contribute to the completion and well functioning of the IEM.
Outputs	Decisions, opinions and recommendations related to the terms and conditions or methodologies established pursuant to Network Codes and Guidelines and, where necessary, recommendations for sharing good practices.
Performance indicators and targets (deadlines)	Timely delivery of decisions, opinions and recommendations.
Resources	0.3 FTE
Risks	The Network Codes and Guidelines require a significant amount of coordinated decisions within the first few years after entry into force. In case of an excessive number of disputes among the parties seeking agreement, the Agency may, due resource limitations, not be able to deliver the opinions and recommendations in an efficient and timely manner.  Risk if this activity is not performed: delays and reduced efficiency in the functioning of the IEM.

<b>Task</b>	<b>Shortened ACER report on monitoring of Congestion at interconnection points</b>
Priority level	2: Important. The Report is a legal obligation.
Legal basis	Point 2.2.2.1.2 of Annex I to the Commission's Decision of 24 August 2012 (CMP Guidelines).
Overview (status)	The next Report on Congestion at interconnection points is to be prepared with a view to the recommendations formulated in the previous ones and subject to market needs. The Agency may need to seek the review of the Congestion Management Guidelines to reduce the reporting frequency requested by the current legislation.

Objectives	<p>Specific objectives: CMP Scope list.</p> <p>Data consistency and quality, to be addressed with ENTSOG where relevant.</p> <p>Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.</p>
Outputs	Reports on Congestion at interconnection points.
Performance indicators and targets (deadlines)	<p>The timely delivery of the report and the collection of data for the report.</p> <p>Target date: Q2 of each year</p>
Resources	0.8 FTE
Risks	<p>Data requirements improve slowly and they do not meet the standards required for such a technical report. Deeper analysis of data may not be possible.</p> <p>Risk if this activity is not performed: reduced efficiency in the functioning of the IEM. More concerning for the SSE region, where the CMP GLs were implemented with a four- year delay.</p>

<b>Task</b>	<b>Facilitation of the stakeholder involvement, as required by the adopted Network Codes and Guidelines</b>
Priority level	2: Important
Legal basis	Delivering on the Intent of the Agency Regulation with a view to its Article 10.
Overview (status)	Getting support from stakeholders on cases in which the implementation rules and designs are incompatible with the codes.
Objectives	Multi-annual objective: Contribute to the completion and well functioning of the IEM.
Outputs	Reaching out to stakeholders and obtaining continuous feedback on the functioning of the regulatory framework.
Performance indicators and targets (deadlines)	Ongoing dialogue on the regulatory framework aiming at improvements on a national or EU level.
Resources	0.4 FTE
Risks	A continuous dialogue requires effort and resources, especially connecting to stakeholders mainly located in Western Europe.

	Risk if this activity is not performed: insufficient stakeholder involvement may lead to reduced efficiency in the functioning of the IEM.
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## 2.2.2. Gas Regional Initiatives

### Support and Monitoring

<b>Task</b>	<b>Involvement focusing on market integration projects and support for delayed implementations to improve compliance with the Network Codes, address regional market issues and NRA's capabilities to integrate their national markets into the internal market</b>
Priority level	2: Important
Legal basis	Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009 Article 6 of Regulation (EC) No 715/2009
Overview (status)	The Agency will coordinate, through the Gas Regional Initiatives Coordination Group, and support the active GRI regions. The expectation is that the active regions will remain South South East and South, with the North West region remaining inactive. The Baltic region has informally joined the GRI and may formally become part of it in the future.
Objectives	Specific objective: to foster the implementation of Network Codes and to promote regional market integration. Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	As part of the promotion of regional market integration, NRAs will report periodically on the implementation of the Gas Target Model and the Agency will summarise and evaluate the results of the self-evaluation and the proposed measures.
Performance indicators and targets (deadlines)	Provided in the regional Work Plans and the Gas Target Model.
Resources	1.1 FTE
Risks	As this is a voluntary process, progress depends on the extent to which NRAs are willing to commit resources to the process and can agree on measures to be taken. Risk if this activity is not performed: <u>the current active</u> involvement in the planning and organisational work of the SSE GRI especially

	would decrease the organisational effectiveness of the region, both for NRAs and for stakeholders.
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<b>Total resources allocated to the Activity 'Gas Network Codes'</b>	
<b>Human Resources (Full Time Equivalents)<sup>26</sup></b>	<b>Financial Resources (EUR)</b>
<b>9.3<sup>27</sup></b>	<b>1,129,694</b>

## **2.3. Electricity and Gas Internal Market Monitoring (Operational)**

As regards the Agency's work on Internal Energy Market monitoring, Article 11 of Regulation (EC) No 713/2009 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 has to be carried out in close cooperation with NRAs, the European Commission and other relevant organisations, and without prejudice to the competences of competition authorities. This work will be combined with part of the Agency's obligation under article 7(3) of Regulation (EU) 1227/2011.

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely. Since 2017, the Market Monitoring Report is produced in different volumes, published at different times (as soon as they are ready), thus making its structure more flexible and moving the publication of the monitoring results closer to the time of the monitored developments. The market monitoring report will be enriched with additional indicators to measure the effectiveness of the various Network Codes and Guidelines, starting with gas, as well as with GTM indicators.

<sup>26</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

<sup>27</sup> Due to the rounding effect (horizontal FTEs are distributed evenly among all activities and FTEs are rounded to one decimal point), there is a small discrepancy in the sum of the FTEs per activity compared to the total of the deliverables tasks included in the activity.



**Monitoring of the internal markets in electricity and natural gas**

Task	8 <sup>th</sup> Market Monitoring Report
Priority level	<p>1: Critical: Wholesale Electricity and Gas Market Volumes;            2: Important: Retail Market Volume;            3: Relevant: Customer Protection and Empowerment Volume.</p>
Legal basis	<p>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 Regulation (EU) No 1227/2011</p>
Overview (status)	<p>In line with previous editions, the MMR will provide an in-depth analysis of barriers to market integration and provide recommendations to the European Parliament and the Commission on how to remove them.</p> <p>The Agency's market monitoring teams for gas and electricity will coordinate the coverage of the MMR with the Directorate-General for Energy of the European Commission in order to avoid duplication of work.</p> <p>The Agency will cooperate and coordinate with the Council of European Energy Regulators (CEER).</p> <p>The Agency will also cooperate with the Energy Community Secretariat (ENC) regarding the inclusion of selected metrics for the Contracting Parties countries in some volumes of the MMR. The Energy Community Secretariat will coordinate data collection and support the analysis.</p>
Objectives	<p>Specific objective: contribute to the identification and removal of barriers to wholesale market integration (for gas also including the Gas Target Model Metrics) and of barriers to entry; assess access to networks (including by electricity produced or gas sourced from renewable energy sources); evaluate consumer welfare benefits or losses as a result of market integration (or lack thereof), and compliance with consumer rights including protection and enforcement of consumer rights. The MMR will also assess the market effects of the (implemented) network codes on the market integration process and the functioning of the Internal Energy Market (Art. 9 of Regulation (EC) No 715/2009 for gas and Article 9 of Regulation (EC) No 714/2009 for electricity, see section 2.1, regarding the "Monitoring of the implementation of the adopted Network Codes and Guidelines"). For this purpose, the specific data collection provisions in the relevant Network Codes will be taken into account, and data collection tools will be improved. Creation of transparency on retail price decomposition in electricity and natural gas.</p>

	Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning by creating market and data transparency through economic analysis and issuing of recommendations. Leverage of the MMR by European policy makers in the legislative process.
Outputs	Annual Market Monitoring Report
Performance indicators and targets (deadlines)	Timely completion of the Annual Market Monitoring Report. Expected completion date: November 2019 (parts delivered earlier). Positive feedback and uptake of conclusions and recommendations by the European Parliament and the European Commission. Reference to the MMR and use of its analysis by stakeholders. Possibility of a survey following the publication and presentation of the report.
Resources	7.2 FTE (2.6 for Electricity and 4.4 for Gas, 0.2 horizontal operational)
Risks	The quality of the report depends on the quality and accessibility of the data received and extracted by the Agency. Human resource constraints may affect the timely delivery and quality of the report. The integrity of all data sources needs to be secured electronically and, in some cases, to be coordinated with NRAs, CEER, ENC and the ENTSOs.  Risk if this activity is not performed: delays in the completion of the IEM (especially for wholesale) and overall lack of transparency. Specifically on the Retail Markets Volume: the EU will miss an objective and EU-wide view on the state of the retail markets, including a comparative analysis. This does not exist elsewhere at this stage. Specifically on the Consumer Protection and Empowerment Volume: the EU will miss an overview on compliance on the customer protection legislation implementation status.

<b>Total resources allocated to the Activity 'Electricity and Gas Internal Market Monitoring'</b>	
<b>Human Resources (Full Time Equivalents)<sup>28</sup></b>	<b>Financial Resources (EUR)</b>
<b>7.2</b>	<b>831,595</b>

<sup>28</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

## 2.4. Electricity TSO Cooperation (Operational)

The tasks related to the Agency’s work on electricity TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in: formulating opinions on draft statutes, list of members and draft rules of procedure of ENTSO-E; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO-E’s relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSO-E: and monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency plans to work in 2019 towards the following deliverables:

<p><b>Tasks</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>Opinions on ENTSO-E’s annual Summer and Winter supply outlooks.</b></p> <p><b>Opinions on ENTSO-E’s annual work programme 2020 and ENTSO-E’s annual report 2018.</b></p> <p><b>Opinions on potential updates to ENTSO-E’s common network operation tools and common incidents classification scale.</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><b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund.</b></p> <p><b>Internal Monitoring Report on G-charge.</b></p> <p><b>Internal monitoring report on the use of congestion revenues.</b></p> <p><b>Opinion on ENTSO-E’s research and development plan.</b></p>
<p>Priority level</p>	<p>2: Important:</p> <p>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;</p>

	<p>Opinions on ENTSO-E's annual Summer and Winter supply outlooks;</p> <p>3: Relevant:</p> <p>Opinions on ENTSO-E's annual work programme 2020 and ENTSO-E's annual report 2018;</p> <p>Opinions on potential updates to ENTSO-E's common network operation tools and common incidents classification scale;</p> <p>Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators;</p> <p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund;</p> <p>Internal Monitoring Report on G-charge;</p> <p>Internal monitoring report on the use of congestion revenues;</p> <p>Opinion on ENTSO-E's research and development plan.</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>Overview (status)</p>	<p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund. 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 (2012 - 2017).</p> <p>Activities about opinions on ENTSO-E documents to be carried out upon submission of the relevant documents by ENTSO-E.</p>

Objectives	<p>Specific objective: Perform the monitoring tasks and delivering the report and the opinions mentioned above.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Outputs	Annual monitoring report on the implementation and management of the inter-TSO compensation fund. Opinions as listed above
Performance indicators and targets (deadlines)	<p>Timely delivery and quality of the documents.</p> <p>Monitoring report on 2017 ITC implementation: October 2018.</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>
Resources	2.8 FTE
Risks	<p>The delivery is subject to the release of corresponding documents by ENTSO-E and to the availability of resources.</p> <p>Risk if this activity is not performed: except for the Opinion on the TYNDP and the monitoring of its implementation (where the impact could be higher), the impact of not delivering these documents would be limited.</p>

<b>Total resources allocated to the Activity 'Electricity TSO Cooperation'</b>	
<b>Human Resources (Full Time Equivalents)<sup>29</sup></b>	<b>Financial Resources (EUR)</b>
<b>2.8</b>	<b>319,509</b>

<sup>29</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

## 2.5. Gas TSO Cooperation (Operational)

The tasks related to the Agency's work on gas TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in: formulating opinions on draft statutes, list of members and draft rules of procedure of ENTSOG; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSOG's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOG; and monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency plans to work in 2019 towards the following deliverables:

<p><b>Tasks</b></p>	<p><b>Opinion on ENTSOG's draft Community-wide ten-year network development plan</b></p> <p><b>Opinions on ENTSOG's annual Summer and Winter supply outlooks</b></p> <p><b>Opinions on ENTSOG's annual work programme 2020 and ENTSOG's annual report 2018</b></p> <p><b>Opinion on ENTSOG's common network operation tools including a common incidents classification scale</b></p> <p><b>Opinion on ENTSOG's research and development plan</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>
<p><b>Priority level</b></p>	<p>1: Critical:</p> <p>Opinion on ENTSOG's draft Community-wide ten-year network development plan;</p> <p>2: Important:</p> <p>Opinions on ENTSOG's annual Winter supply outlooks;</p> <p>3: Relevant:</p> <p>Opinions on ENTSOG's annual work programme 2020, Summer supply outlook and ENTSOG's annual report 2018;</p> <p>Opinion on ENTSOG's common network operation tools including a common incidents classification scale;</p> <p>Opinion on ENTSOG's research and development plan;</p> <p>Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators.</p>

<p>Legal basis</p>	<p>For all deliverables: Article 6(3)(b) Regulation (EC) 713/2009.</p> <p>For 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 715/2009.</p>
<p>Overview (status)</p>	<p>Opinions on submitted documents have been 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>Objectives</p>	<p>Specific objective: upon receipt of ENTSOG's TYNDP, the Agency will deliver its opinion within the stated deadline.</p> <p>Other opinions will be provided upon receipt from ENTSOG of the relevant documents, within a reasonable time (usually two to three months), if they are not already covered by the opinion(s) on ENTSOG's Annual Work Programme and Annual Report.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
<p>Outputs</p>	<p>The Agency will report to the European Commission on the execution of the tasks of ENTSG referred to in Art. 8(1), (2) and (3) of Regulation (EC) 715/2009, using the deliverables (opinions and recommendations) listed above and other relevant Agency's acts, with additional comments where needed.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely delivery of the reports and opinions.</p> <p>Specifically for the Opinions on ENTSG's Work Programme and TYNDP: within two months after receipt of the document by ENTSG if considered non-compliant.</p>
<p>Resources</p>	<p>2.2 FTE</p>
<p>Risks</p>	<p>The delivery is subject to the release of corresponding documents by ENTSG and to the availability of resources (taking into account the possible prioritisation of the various activities for the tasks of Regulation 713/2009, Regulation 715/2009, Regulation (EU) No 347/2013, and Regulation (EU) 2017/1938).</p> <p>Risk if this activity is not performed: The Opinion on ENTSG AWP, AAR - will have a reduced leverage on defining priorities and closing gaps by making sure ENTSG delivers essential tools and products in pursuit of a fully functional gas market at EU level</p> <p>Report on NDP – TYNDP consistency - will potentially leave a blind spot for important network developments, possibly leading to slower and less efficient implementation of infrastructure.</p>

	<p>Opinion on Technical Cooperation - may result in not having a clear idea where from and how up to 70% of Europe's gas supply comes now (possibly more in the future), creating additional risks for inadequate cooperation of major supply routes.</p> <p>Opinion Annual Report - may lead to inadequate regulatory review of ENTSOG's deliverables and activities.</p> <p>Report on implementation of the TYNDP - will open a significant gap in keeping a proper record of and guiding the efficient closure of any infrastructure gaps, since many projects will not be monitored.</p> <p>Opinion on ENTSOG R&amp;D plan - may affect ENTSO's capacity to perform.</p> <p>Opinion on Winter and Summer Supply Outlooks - may lead to inconsistent application of tools such as network models, inaccurate identification of risks and infrastructure needs.</p>
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<b>Total resources allocated to the Activity 'Gas TSO Cooperation'</b>	
<b>Human Resources (Full Time Equivalents)<sup>30</sup></b>	<b>Financial Resources (EUR)</b>
<b>2.2</b>	<b>251,043</b>

## 2.6. Tasks to safeguard the security of gas supply (operational)

The tasks assigned to the Agency under Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply refer to taking decisions on CBCA, to issuing opinions on exemption requests, to issuing opinions on the elements of coordinated decisions, to the participation in consultations as pertaining to the establishment of permanent bi-directional capacity at interconnection points, as well as to participation in the Gas Coordination Group.

In relation to this area, the Agency plans to work in 2019 towards the following deliverables:

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<sup>30</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.



<b>Task</b>	<p><b>Decisions covering the cross-border cost allocation, if the Commission decision pursuant to point 10 of this Annex requires bi-directional capacity</b></p> <p><b>Opinions on proposals or exemption requests for permanent bi-directional capacity</b></p> <p><b>Opinions on the elements of the coordinated decisions taken, taking into account any possible objection</b></p>
Priority level	<p>1: Critical: Decisions on CBCA; Opinions on the elements of coordinated decisions;</p> <p>2: Important: Opinions on proposals or exemption requests</p>
Legal basis	Regulation (EU) No 2017/1938
Overview (status)	New tasks assigned to the Agency by Regulation (EU) No 2017/1938, to be performed for the first time in 2018.
Objectives	<p>Specific objectives:</p> <p>For decisions on CBCA: deliver the decision on CBCA within three months from the day of receipt of the decision from the Commission (with a possible extension of two months in case additional information is needed).</p> <p>For opinions on consultation documents: to be provided if appropriate, within four months from the date of receipt of the consultation document.</p> <p>For opinions on the elements of coordinated decisions: deliver the decision within three months from the date of receipt of the coordinated decision.</p> <p>Multi-annual objective: contribute to the measures to safeguard the security of gas supply.</p>
Outputs	The Agency will issue decisions and opinions where needed.
Performance indicators and targets (deadlines)	Timely delivery of the decisions and opinions
Resources	0.3 FTE
Risks	The delivery is subject to the release of corresponding documents by the competent authorities and the Commission and to the availability of resources.

	<p>Risk if the activity is not performed: The decisions on CBCA enable the implementation of projects for the establishment of permanent bi-directional capacity at interconnection points and thus contribute to the enhancement of the security of gas supply. Failing to deliver such decisions on time would affect the schedule of the execution of the projects and could lead to delays, thus resulting in greater uncertainty whether the measures to safeguard the security of gas supply will be effectively implemented as foreseen by the relevant stakeholders.</p> <p>Opinions on consultation documents - will potentially leave a blind spot for important network developments, possibly leading to slower and less efficient implementation of infrastructure that would help to enhance the security of gas supply.</p> <p>Opinions on elements of coordinated decisions - may result in significant delays in establishing permanent bi-directional capacity, creating additional risks for inadequate cooperation on measures to safeguard the security of gas supply.</p>
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Total resources allocated to the Activity 'Security of Gas Supply Regulation'	
Human Resources (Full Time Equivalents) <sup>31</sup>	Financial Resources (EUR)
0.3	91,288

## 2.7. Guidelines for Trans-European Energy Infrastructure (Operational)

The tasks assigned to the Agency under the TEN-E Regulation mostly relate to the process of identification and monitoring of the implementation of Projects of Common Interest (PCIs).

In relation to this area, the Agency plans to work in 2019 towards the following deliverables:

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<sup>31</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

### 2.7.1. Electricity and Gas

<b>Task</b>	<b>Annual consolidated report on progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation</b>
Priority level	1: Critical
Legal basis	Article 5(5) of Regulation (EU) No 347/2013
Overview (status)	The consolidated reports follow the submission by project promoters of annual reports for each project of common interest to the competent authority, 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.
Objectives	Specific objective: assess the progress of projects of common interest and, if appropriate, provide recommendations to facilitate their implementation and overcome difficulties.  Multi-annual objective: contribute to the infrastructure challenge.
Outputs	Annual consolidated report
Performance indicators and targets (deadlines)	Timely delivery of the report  Upon the receipt of the submissions from project promoters, the Agency will deliver its consolidated report within three months from the day of receipt. The work will be performed by Agency's staff in close cooperation with INEA with respect to its financial monitoring duties.
Resources	2.3 FTE (1.6 for Electricity, 0.4 for Gas, 0.3 horizontal operational)
Risks	The delivery is subject to the timely submission by project promoters of their annual reports and to the quality of the submitted reports, particularly regarding the provision of the necessary information about progress achieved in the development, construction and commissioning of the projects with regard to permit granting and consultation procedures, and, where relevant, delays compared to the implementation plan, the reasons for such delays and other difficulties encountered.  Risk if this activity is not performed: delays in the implementation of the PCIs.

<b>Task</b>	<b>Opinion(s) on ENTSO-E's and/or ENTSO-G's methodologies for cost-benefit analysis, if updated</b>
Priority level	1: Critical

Legal basis	Article 11(6) of Regulation (EU) No 347/2013
Overview (status)	The CBA methodologies were approved in February 2015 by the Commission and published by the ENTSO-E and the ENTSG on their websites. The methodologies shall be updated and improved regularly. ENTSG undertook an update of the methodology for gas, which is to be completed and submitted to the Commission in 2018.
Objectives	Specific objective: updated and improved CBA methodology(ies). Multi-annual objective: contribute to the infrastructure challenge.
Outputs	The Agency, on its own initiative or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request updates and improvements of the CBA methodology(ies) with due justification and timescales. In doing so, the Agency will take into account the suitability for the selection of projects of common interest and how to incorporate the unit investment costs from the ACER report.
Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.
Resources	1.3 FTE (0.3 for Electricity, 0.7 for Gas, 0.3 horizontal operational)
Risks	The delivery is subject to the release of corresponding documents by ENTSO(s), the willingness of the ENTSO(s) to take into account the Agency's point of view, and the availability of resources.  Risk if this activity is not performed: sub-optimality of the investment decision process.

<b>Task</b>	<b>Opinions 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>
Priority level	1: Critical
Legal basis	Point 12 of Annex III.2, Regulation (EU) 347/2013. Article 15(1) of Regulation (EC) No 713/2009.
Overview (status)	The Agency shall provide an opinion on the draft regional lists, in particular on the consistent application of the criteria and the cost-benefit analysis across regions. The opinion of the Agency is a biennial activity, in line with the schedule of the adoption of the PCI lists, the most recent of which was adopted in 2017.

Objectives	<p>Specific objective: deliver the opinion within three months from the date of receipt of the draft PCI list.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Outputs	The Agency will provide the opinion to the Commission.
Performance indicators and targets (deadlines)	Timely delivery of the opinion within three months from the date of receipt of the draft PCI list from the Commission.
Resources	0.6 FTE (0.4 for Gas, 0.2 horizontal operational)
Risks	<p>The delivery is subject to the quality and the consistency of the project data and the availability of background information related to the criteria used for the selection of the proposed PCIs, including, but not limited, to the information related to their costs and benefits.</p> <p>Risk if this activity is not performed: sub-optimal selection of PCIs and delays in the implementation of important energy infrastructure projects.</p>

<b>Task</b>	<b>Decisions on investment requests including on cross-border cost allocation<sup>32</sup></b>
Priority level	1: Critical
Legal basis	Article 12(6) of Regulation (EU) No 347/2013
Overview (status)	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 shall take the decision on the investment request including cross-border cost as well as the way the cost of the investments are reflected in the tariffs within three months (with a possible two months extension in case additional information is needed).
Objectives	<p>Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>

<sup>32</sup> This task is conditional and is executed upon request, however as it pertains specifically to infrastructure, it is included under "Guidelines for Trans-European Energy Infrastructure."

Outputs	The Agency shall take a decision on the investment request including cross-border cost as well as the way the cost of the investments are reflected in the tariffs.
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).
Resources	0.4 FTE
Risks	Availability of Agency and possibly NRA resources and required data. Timely receipt of complete file and supporting material from NRAs and project promoters, carrying out a quality consultation with NRAs and stakeholders prior to taking a decision.  Risk if this activity is not performed: delays in the implementation of PCIs.

<b>Total resources allocated to the Activity 'Guidelines for Trans-European Energy Infrastructure'</b>	
<b>Human Resources (Full Time Equivalents)<sup>33</sup></b>	<b>Financial Resources (EUR)</b>
<b>4.7</b>	<b>547,730</b>

## **2.8. Other tasks which are Subject to Specific Conditions (Operational)**

### **2.8.1. Tasks initiated by others**

In 2019, the Agency may be called to perform the following tasks on request:

Task	Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions
Priority level	1: Critical

<sup>33</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

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.
Overview (status)	For cross-border infrastructure, the Agency shall decide upon those regulatory issues which fall within the competence of NRAs, including terms and conditions for access and operational security, only: (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 shall consult the national regulatory authorities and the transmission system operators concerned and shall be informed of the proposals and observations of all the transmission system operators concerned.
Objectives	Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision. Multi-annual objective: contribute to the infrastructure challenge.
Outputs	The Agency shall take a decision on the regulatory issue. The Agency may, if necessary, provide an interim decision to ensure that security of supply or operational security of the infrastructure in question is protected.
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).
Resources	0.4 FTE
Risks	Timely receipt of the complete file and supporting material from NRAs and TSOs, carrying out a quality consultation with NRAs and TSOs prior to taking a decision.  The Commission may adopt Guidelines on the situations in which the Agency becomes competent to decide upon the terms and conditions for access to and operational security of cross-border infrastructure. There may be a mismatch between the moment such Guidelines are adopted by the Commission and the moment the procedure starts or is underway at the Agency.  Risk if this activity is not performed: inefficient operation of cross-border infrastructure or delay in its development.

<b>Task</b>	<b>“Peer reviews”, as submitted to the Agency pursuant to Article 7(4) of Regulation (EC) No 713/2009</b>
Priority level	2: Important
Legal basis	Article 7(4) and (5) of Regulation (EC) No 713/2009
Overview (status)	At the request of a regulatory authority or of the Commission, the Agency must 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 shall inform the Commission and the Member State concerned accordingly. By the end of 2014, the Agency received two peer review requests.
Objectives	<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> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	The Agency shall provide an opinion on whether an NRA’s decision 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.
Performance indicators and targets (deadlines)	Delivery of the Opinion within four months from the request and submitting the information report regarding lack of compliance to the Commission and the Member State concerned (if applicable) within a reasonable time.
Resources	0.4 FTE
Risks	<p>Receipt of complete quality information from NRAs, carrying out consultation with NRAs, time constraints.</p> <p>Risk if this activity is not performed: uncertainty on the compliance of NRA decision with applicable legislation, which in turn might affect the efficient operation of the IEM.</p>

<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>
Priority level	2: Important



Legal basis	Article 7(6) of Regulation (EC) No 713/2009
Overview (status)	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.
Objectives	Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.  Multi-annual objective: contribute to the completion and the well functioning of the IEM
Outputs	The Agency shall provide the opinion with regard to 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 after consultation with the Commission within three months.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Resources	0.4 FTE
Risks	Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.  Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient operation of the IEM.

<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>
Priority level	2: Important
Legal basis	Article 5 of Regulation (EC) No 713/2009
Overview (status)	Upon request by the European Parliament, the Council and the European Commission.
Objectives	Specific objective: provide support and advice to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations.  Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.

Outputs	Opinions and recommendations
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Resources	0.4 FTE
Risks	<p>Receipt of complete quality information about the issue for which an opinion and/or recommendation is requested along with all pertinent supporting evidence, coordination with stakeholders, time constraints.</p> <p>Risk if this activity is not performed: the legislators and policy makers may not obtain the relevant information to assist them in their functions.</p>

### **2.8.2. Opinions and Recommendations on the Agency's own Initiative**

In 2019 the Agency may decide to issue:

<b>Task</b>	<b>Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission</b>
Priority level	2: Important
Legal basis	Article 5 of Regulation (EC) No 713/2009
Overview (status)	The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.
Objectives	<p>Specific objective: further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.</p>
Outputs	Opinions and Recommendations
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Resources	0.2 FTE
Risks	Interaction with stakeholders, time constraints.

	Risk if this activity is not performed: issues where intervention by the Institutions is required may remain unaddressed.
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Total resources allocated to the Activity 'Tasks which are Subject to Specific Conditions'	
Human Resources (Full Time Equivalents) <sup>34</sup>	Financial Resources (EUR)
2.0	456,442

## 2.9. Wholesale Market Monitoring – REMIT (Operational)

Since July 2016 the Agency has been fully operational with its data collection under REMIT (see sections on strategic aims and multiannual programming for background information).

While this revised Work Programme has been adapted to the resources assigned to the Agency in the 2019 EU Budget, in the area of REMIT, the resources currently available to the Agency are not sufficient to ensure the effective operation of the REMIT activities throughout 2019. This is also due to the fact that the Agency was not provided with the appropriate resources in order to adequately fulfil the additional tasks assigned to it over several previous years which lead to a backlog of IT investments which has to be cleared.

The following activities under the task “Policy activity to support the Agency’s REMIT mandate” originally foreseen in the Work Programme have been deprioritised in line with the available human resources:

- Review of the REMIT operations and rulebook, in particular with regard to the review of the electronic formats for data collection (XML schemas), will only start in 2019 with a focus on the minimum necessary to improve data quality and will otherwise be postponed beyond 2019;
- Improvement of the market participant registration format pursuant to Article 9(3) of REMIT and improvements of the Agency’s IT solution CEREMP, which will be postponed beyond

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<sup>34</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as ‘operational’ according to the methodology for Agencies job screening (‘benchmarking’), in accordance with article 29(3) of the Framework Financial Regulation.

2019.

In addition, the Agency will not request the reporting of contracts reportable at request of the Agency according to Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 in 2019.

The following activities under the task “REMIT Information Management and operation of the Agency's REMIT Information Systems” originally foreseen in the Work Programme for the Operation and enhancement of the Agency's REMIT Information Systems will be deprioritised:

- Further development and enhancement of CEREMP due to the changes of the ACER registration form made in 2017/2018, which will be postponed beyond 2019;
- Collection of EMIR derivatives and emission allowances (postponed from previous years for budgetary reasons), which will depend on the available human resources and may have to be postponed beyond 2019;
- Publication of aggregated REMIT information for transparency reasons (postponed from previous years for budgetary reasons), which will be limited to use of aggregated REMIT information for transparency reasons for publications in the REMIT Quarterly and the Agency's Market Monitoring Report, but otherwise be postponed beyond 2019;
- 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, which will be postponed beyond 2019;
- Enhancements of the Agency's Case-Management-Tool and Notification Platform, which will be postponed beyond 2019;

The cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries, in particular with regard to a closer cooperation with ESMA, national financial market authorities and, if applicable, competition authorities, will remain at the current level of cooperation.

Moreover, the available human resources for market surveillance tasks are insufficient to adequately fulfil the mandate of the Agency. As a result:

- the market monitoring activities will necessarily be scaled down to what can be provided given the resources available. More specifically, market monitoring will focus on cross-border trading aspects as NRAs cannot cover this themselves as they do not have and cannot have an EU-wide vision of wholesale energy trading;

- the enhancement of existing and development of additional “bespoke alerts”, which are used to screen the EU wholesale markets and detect anomalous instances of trading behaviour, will be significantly slowed down which is due to the lack of human resources and sufficient financial resources;
- enhancements of the Case Management Tool for the purpose of cooperation with NRAs will be postponed.

Furthermore, the Agency is responsible for ensuring that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way. In this context, the Agency will introduce case prioritisation in order to determine which of the received cases should be given priority in being notified to relevant regulators. Cases where there is the risk of an inconsistent application of the REMIT provisions will be assigned high priority. Case prioritisation will assist in managing the growing backlog of cases.

In relation to the implementation of REMIT and the operation of the REMIT information management, as well as to the monitoring of trading activities in the European wholesale energy market, the Agency plans to work in 2019 in the following areas and towards the following deliverables:

Task	Policy activity to support the Agency’s REMIT mandate
Priority level	1: Critical
Legal basis	Articles 1(3), 7, 8 and 16 of Regulation (EU) No 1227/2011 (REMIT) and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014
Overview (status)	<p>The Agency will undertake a review of the REMIT operations and REMIT rulebook in light of the experience with data collection during 2016, 2017 and 2018. Eight years after the entry into force of REMIT and 4 years after the entry into force of the REMIT Implementing Acts, this will become a more and more critical task.</p> <p>The decision of the UK to leave the European Union will have a very important impact on the Agency’s work under REMIT. Brexit is presenting risks and challenges for the Agency, NRAs, as well as market participants and reporting parties under REMIT. The impact of Brexit on REMIT requires co-ordination to prepare and adapt to the changes in the Agency’s external environment, as well as communication with institutional and market stakeholders on relevant issues arising out of the Brexit negotiations and/or market developments.</p>
Objectives	Specific objective: 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

	<p>Implementing Regulation, the drafting of recommendations and updating of ACER Guidance, including on Brexit related REMIT matters.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p>
Outputs	<p>Recommendations to the Commission to review REMIT and/or the REMIT Implementing Acts</p> <p>Revision of ACER Guidance</p> <p>Revision of the Transaction Reporting User Manual</p> <p>Revision of the Manual of Procedures on transaction and fundamental data reporting</p> <p>Revision of the Requirements for the Registered Reporting Mechanisms</p> <p>Regular communication on Brexit related REMIT matters with market participants and other stakeholders, including relevant EU institutions and bodies</p>
Performance indicators and targets (deadlines)	<p>No strict deadline. However, timely completion of the revisions and, if necessary, of the recommendations to the Commission will ensure effectiveness of REMIT implementation.</p>
Resources	<p>3.1 FTE</p>
Risks	<p>Limited resources for REMIT policy activities.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

<b>Task</b>	<b>Registration of market participants and third parties acting on their behalf ('reporting parties') according to Article 8 of REMIT</b>
Priority level	1: Critical
Legal basis	Articles 8 and 12(1) of Reg. 1227/2011, Article 11(1) of Commission Regulation (EU) No 1348/2014
Overview (status)	<p>ACER assesses registration applications under REMIT and its Implementing Regulation. There are currently 119 reporting parties registered with the Agency.</p> <p>ACER's supervision of reporting parties involves day-to-day supervision through a risk-based approach with a particular focus on data quality and technical and operational requirements to ensure operational reliability.</p>

Objectives	Continue to process applications of registering reporting parties and to supervise reporting parties under REMIT ensuring lasting impact of supervisory activities at individual reporting party level  Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Assessment of registration applications; Monitoring of registered reporting parties.
Performance indicators and targets (deadlines)	Decreasing number of RRM applicants in the application process; Application of the ongoing supervision measures according to the Agency's requirements.
Resources	2.5 FTE
Risks	Limited resources for registration and supervisory activities. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

<b>Task</b>	<b>REMIT Information Management and operation of the Agency's REMIT Information Systems</b>
Priority level	1: Critical
Legal basis	Articles 7 to 10 and 12 of Reg. 1227/2011
Overview (status)	<p>REMIT Information Management includes data collection, data analysis, including data quality analysis, and data sharing.</p> <p>CEREMP was established in 2014 and the European register of market participants was launched on 17 March 2015. ARIS was established in 2014 and launched on 8 January 2015 for the registration of reporting parties and on 7 October 2015 and 7 April 2016 for the collection of trade and fundamental data. This task includes the following:</p> <ul style="list-style-type: none"> <li>- Operation of the Agency's REMIT Information Systems includes the operation and further development and, if necessary, enhancements of <ul style="list-style-type: none"> <li>a. the Centralised European Register of Energy Market Participants (CEREMP)</li> <li>b. the Agency's REMIT Information System (ARIS) for collection of trade, fundamental and other data, market monitoring and for data sharing with NRAs and other relevant authorities, in connection with the REMIT implementing acts: <ul style="list-style-type: none"> <li>i. Ongoing operations ensuring operational reliability and</li> </ul> </li> </ul> </li> </ul>

	<p>ii. The following further development and enhancements of ARIS, depending on available resources:</p> <ul style="list-style-type: none"> <li>- Implementation of the outcomes of the public consultation on the changes to electronic formats for transaction data, fundamental data and inside information reporting performed in Q4 2017 (postponed from previous years for budgetary reasons) will only start in 2019 with a focus on the minimum necessary to improve data quality and will otherwise be postponed beyond 2019;</li> <li>- Collection of EMIR derivatives and emission allowances (postponed from previous years for budgetary reasons) will only start in 2019, depending on available resources;</li> <li>- Upgrades in order to accommodate potential changes of electronic reporting formats imposed on the Agency through network code or market developments;</li> <li>- Enhancements of the Agency's data sharing solution with NRAs and further development of data sharing solutions with ESMA, national financial market authorities, national competition authorities and other relevant authorities;</li> <li>- Enhancements of the Agency's Business Intelligence tools for REMIT data quality analysis and reporting;</li> <li>- REMIT Portal upgrades to improve the support for the REMIT stakeholder management.</li> </ul>
<p>Objectives</p>	<p>Specific objective: To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.</p> <p>To operate the Agency's REMIT Information Systems operationally reliable.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
<p>Outputs</p>	<p>Continuous REMIT Information management and operations of the Agency's REMIT Information System</p> <p>Replacement and enhancement of IT infrastructure</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Continuous work on improving REMIT data quality measured by the number of yearly internal REMIT data quality reports.</p> <p>99% of planned system availability.</p> <p>Time from discovery of an incident until resolution;</p> <p>Time from discovery until escalation to Director/stakeholders.</p>
<p>Resources</p>	<p>8.2 FTE</p>
<p>Risks</p>	<p>Limited resources for operational activities.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>



<b>Task</b>	<b>Market monitoring of trading activity in wholesale energy markets</b>
Priority level	1: Critical
Legal basis	Article 7 and 8 of Reg. (EU) 1227/2011
Overview (status)	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, the Agency's surveillance strategy and further development and operation of the Agency's market surveillance solution, including the dissemination to NRAs of suspicious trading activities in a secure way.
Objectives	<p>Specific objectives:</p> <p>Market Monitoring of the data collected according to Article 8 of Reg. (EU) 1227/2011.</p> <p>Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p>
Outputs	Preliminary Initial Assessments of potential market abuse cases.
Performance indicators and targets (deadlines)	100% of the prioritised cross-border triggered alerts are preliminarily assessed and disseminated with NRAs in a secure way.
Resources	7.9 FTE
Risks	<p>Quality of the monitoring depends on the quality of the data collected.</p> <p>Limited resources for market monitoring in EU NRAs.</p> <p>Risk if this activity is not performed: ineffective implementation of REMIT.</p>

<b>Task</b>	<b>Market conduct coordination of NRAs and other relevant authorities</b>
Priority level	1: Critical
Legal basis	Article 16(1) of Reg. (EU) 1227/2011

<p>Overview (status)</p>	<p>The coordination of NRAs and other relevant authorities, including at the regional level, without prejudice to their responsibilities, aiming to promote best practices for the implementation of REMIT and to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way is ongoing. This may include the update of the Agency's guidance on the application of REMIT, and coordination of NRAs' investigation activities on cross-border market abuse instances. There are currently more than 140 cases pending.</p>
<p>Objectives</p>	<p>Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</p> <p>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.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
<p>Outputs</p>	<p>Publication of Agency Guidance on the application of REMIT as required.</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required.</p> <p>Coordination meetings with NRAs on the consistent application of market abuse provisions in REMIT.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>95% of all NRA decisions consistent with the ACER guidance.</p> <p>0% chance of not notifying priority cases to the relevant authorities.</p>
<p>Resources</p>	<p>4.9 FTE</p>
<p>Risks</p>	<p>Risk of leakage of highly sensitive trade data if adequate security measures are not in place.</p> <p>Risk of inconsistent application of market abuse provisions.</p> <p>Limited resources for coordination activities.</p> <p>Risk if this activity is not performed: ineffective and/or uncoordinated and/or inconsistent implementation of REMIT.</p>

<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>
Priority level	1: Critical (for cooperation with NRAs, including on Brexit-related issues); 2: Important (for cooperation with other authorities)
Legal basis	Articles 1(3), 10, 16 of Regulation (EU) No 1227/2011
Overview (status)	The cooperation with NRAs, ESMA, competent national financial market authorities and other relevant authorities is an ongoing activity which aims to ensure that 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 according to Article 1(3) of REMIT. Memoranda of Understanding are currently in place with NRAs, ESMA and FERC.
Objectives	<p>Specific objectives:</p> <p>Development of a common understanding on REMIT policy matters with NRAs and promotion of best practices for the application of REMIT, including on Brexit-related issues.</p> <p>Cooperation with other relevant authorities on REMIT-related matters.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Publication of REMIT Q&amp;As;</p> <p>Memoranda of Understanding (MoUs)</p>
Performance indicators and targets (deadlines)	<p>Publication of REMIT Q&amp;As on an ad-hoc basis;</p> <p>Promotion of best practices for the implementation of REMIT.</p> <p>Conclusion of MoUs with additional relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.</p>
Resources	3.1 FTE
Risks	<p>Limited resources for cooperation activities.</p> <p>Risk if this activity is not performed: ineffective and/or uncoordinated and/or inconsistent implementation of REMIT</p>

Task	Annual Report on the Agency activities under REMIT
Priority level	2: Important
Legal basis	Article 7(3) of Regulation (EU) No 1227/2011
Overview (status)	<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 will be replaced by the quarterly reports of the "REMIT Quarterly". In addition, a consistent part of the issues to be dealt with in the report may be included in the Agency's Market Monitoring Report.</p>
Objectives	<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> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Contribution to the Agency's Market Monitoring Report.</p> <p>Publication of the REMIT Quarterly reports.</p>
Performance indicators and targets (deadlines)	<p>Quarterly publications of the REMIT Quarterly.</p>
Resources	1.0 FTE
Risks	<p>Limited resources for reporting activities.</p> <p>Risk if this activity is not performed: the Commission and the public will not receive information on the implementation of REMIT and on the performance of organised market places, which may lead to persistent inefficiencies on the operations of the latter and to the ineffective implementation of REMIT</p>

<b>Task</b>	<b>Facilitation of the stakeholder involvement, as required, pursuant to REMIT and the REMIT Implementing Regulation</b>
Priority level	2: Important
Legal basis	Article 10 of Regulation (EC) No 713/2009; Article 8 of Regulation (EU) No 1227/2011; Articles 5(2), 10(3) and 11(1) of Commission Regulation (EU) No 1348/2014
Overview (status)	The Agency is obliged to consult stakeholders on different aspects of the implementation and operation of REMIT data collection. Involvement of stakeholders will ensure wider acceptance of REMIT data collection and any potential changes on REMIT data collection.
Objectives	Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Roundtable meetings, ad-hoc expert groups, EMIT Forum.
Performance indicators and targets (deadlines)	Ongoing dialogue on the REMIT data collection regime aiming at improvements at EU level.
Resources	0.5 FTE
Risks	Limited resources for performance of these activities. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

<b>Total resources allocated to the Activity 'Wholesale Market Monitoring – REMIT'</b>	
<b>Human Resources (Full Time Equivalents)<sup>35</sup></b>	<b>Financial Resources (EUR)</b>
<b>31.2</b>	<b>8,239,297</b>

<sup>35</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

## 2.10. Communication (Horizontal)<sup>36</sup>

The Agency's communication efforts, despite the limited resources available for this purpose, are focused on three elements (the first two external, the third one internal).

- Consulting extensively and at an early stage on its regulatory activities, in line with the Agency Regulation. Communication with NRAs and stakeholders thus remains a crucial element for the functioning of the Agency.
- Ensuring that the Agency's tasks and the impact of its work are understood also by the (specialised) media, the interested general public and specific groups of stakeholders (e.g. organisations representing consumers).
- Ensuring that staff is well informed on developments, both within the Agency and in the wider environment in which it operates, and to ensure a common understanding of the Agency's mission and objectives.

### 2.10.1. External Communication

In 2019 the Agency's external communication will focus on the following tasks:

Task	Agency Website
Overview (status)	<p>Digital communication remains the Agency's primary communication channel. The focus is further to develop a user-friendly website and to publish timely and informative e-alerts for all interested parties. In an effort to bring the work of the Agency closer to the citizens, the Agency is also striving to publish basic information on its activities in the EU official languages. While efforts towards multilingualism will be further pursued in 2019, they are severely limited by resource constraints.</p> <p>Focused web pages, press releases and news items will continue to be published and Agency debriefings will continue to be organised for stakeholders.</p> <p>The Agency is also present on social media (Twitter for general messages and Facebook and LinkedIn for job advertisements), however developments are limited due to resource constraints.</p>

<sup>36</sup> Communication resources are included under Administrative support and coordination categories.

Objectives	<p>Specific objective: further to improve the Agency's website in terms of usability, features and functionalities, so stakeholders find it easy to navigate and regularly to update it to encourage returning visits.</p> <p>Bring the work of the Agency closer to EU citizens.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>
Outputs	<p>Regular updating of pages</p> <p>News items</p> <p>Press releases</p> <p>Presence on social media (notably Twitter)</p> <p>Events</p> <p>Citizens summaries</p>
Performance indicators and targets (deadlines)	<p>Unique visits: 1% increase with respect to 2018.</p> <p>Number of tweets: 5% increase compared to 2018.</p> <p>Online survey on the website: at least 2/3 of respondents satisfied or highly satisfied.</p>
Resources	0.3 FTE
Risks	<p>Timely delivery by external contractors of outputs related to the website.</p> <p>Human resources constraints could result in delays in publishing information.</p> <p>Risk if this activity is not performed: reduced visibility of the activities of the Agency for stakeholders, limited stakeholder engagement, perceived reduction in the Agency's accountability.</p>

Task	Relations with Journalists
Overview (status)	<p>Press releases are launched on very specific topics that may have an impact on the general public. E-alerts (Infoflashes), which are generally accompanied by a web piece of news, are launched when more specific information is disseminated.</p>

	<p>Infoflashes also provide fresh information on upcoming Agency's conferences, workshops and events, as well as newly published open consultations or official documents such as opinions and recommendations. They are also used to provide information on the Agency's public debriefings. Infoflashes are issued to over 3,500 contacts (a number in constant growth), including stakeholders, national regulators, academics, media, think tanks, as well as other interested citizens. Subscription to the Agency's alerts is available within seconds when visiting ACER's website homepage.</p> <p>Press briefings generally coincide with the launch of press releases; they also focus on major events or deliverables.</p> <p>In addition, the Agency regularly responds to journalists' questions.</p>
Objectives	<p>Specific objectives: to keep a large number of interested people and "multipliers" regularly informed on the Agency's activities and initiatives.</p> <p>The Agency aims further to engage not only with specialised media, but also with national media in Member States, as gateways to policy-makers, national experts and the general public.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives</p>
Outputs	Infoflashes, Press releases, briefings
Performance indicators and targets (deadlines)	<p>Urgent requests from journalists to be answered on a timely basis (within 3 working days, unless otherwise specified).</p> <p>Number of news items within Infoflashes: &gt; 40.</p> <p>Number of references to the Agency in selected media included in the Agency's media monitoring (proxy for impact): 50.</p>
Resources	0.3 FTE
Risks	<p>No appreciable risk.</p> <p>Risk if this activity is not performed: reduced visibility of the activities of the Agency for stakeholders, limited stakeholder engagement, perceived reduction in the Agency's accountability.</p>

<b>Task</b>	<p><b>Events</b></p> <p><b>Annual Conference</b></p> <p><b>Workshop on the Outline of the 2021 Work Programme</b></p>
Overview (status)	The Agency engages policy makers, stakeholders and the media through workshops and public events, with the Agency's



	<p>traditional Annual Conference at the forefront. Events take various forms: they allow stakeholders to contribute to the Agency's deliverables; or inform interested parties and the media of the Agency's latest documents or future plans.</p>
Objectives	<p>Specific objectives:</p> <p>Annual Conference: to provide a platform for a high-level exchange of views among stakeholders and an outlook for a strategic overview of the Agency's tasks.</p> <p>Annual Work Programme presentation: to receive feedback on the Outline of the AWP from interested parties and to open the consultation period in which the Agency is open for suggestions on its AWP.</p> <p>Energy Market Integrity and Transparency Forum: to engage key stakeholders (from NRAs, institutions, industry and stakeholders in general) in discussions on activities linked to the implementation of REMIT.</p> <p>Regular workshops: to enable the Agency to inform stakeholders on specific issues related to its mandate and to receive their feedback.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>
Outputs	<p>Annual Conference for all stakeholders, focused on one of the Agency's major areas of work.</p> <p>Presentation of the Agency's Annual Work Programme (AWP) to stakeholders.</p> <p>Energy Market Integrity and Transparency Forum in Ljubljana for key stakeholders.</p> <p>Workshops on various topics.</p>
Performance indicators and targets (deadlines)	<p>Annual Conference:</p> <ul style="list-style-type: none"> <li>- Number of participants: &gt; 130.</li> <li>- Participants satisfaction survey: 2/3 majority satisfied or highly satisfied.</li> </ul> <p>Presentation of AWP:</p> <ul style="list-style-type: none"> <li>- Over 15 participants (present at the event or through interactive web streaming).</li> </ul> <p>Energy Market Integrity and Transparency Forum:</p> <ul style="list-style-type: none"> <li>- Number of participants: &gt; 90.</li> </ul> <p>Workshops:</p> <ul style="list-style-type: none"> <li>- Participants satisfaction survey: 2/3 majority satisfied or highly satisfied.</li> </ul>
Resources	0.3 FTE

<p>Risks</p>	<p>Workshop: Limited inputs from stakeholders, as most of the Agency's AWP is set by legal requirements.</p> <p>Due to the timing requirements of the Programming Document, stakeholders have to be engaged on the work programme already in year N-2, when the uncertainties related to the year in question are still considerable.</p> <p>Risk if this activity is not performed: reduced visibility of the activities of the Agency for stakeholders, limited stakeholder engagement, perceived reduction in the Agency's accountability.</p>
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Task	Publications
<p>Overview (status)</p>	<p>The Agency publishes a number of reports and other publications, some mandated by legal requirements, others on its own initiative. While most of these reports are drafted at the operational departments' level, they also require communication inputs (ranging from the design to all aspects related to their publication, presentation and promotion).</p> <p>Printed publications have progressively been reduced to a bare minimum; most publications are now produced and distributed in digital form only. The Agency issues two large-scale reports annually, which undergo professional graphic design and which are among its flagship deliverables: the Annual Activity Report and the Market Monitoring Report, which is divided into different volumes.</p>
<p>Objectives</p>	<p>Specific objectives:</p> <p>From a communication point of view, the objective is to ensure that the publications are clear, informative and well presented.</p> <ul style="list-style-type: none"> <li>- In the Annual Activity Report, the Agency reports yearly on its activities and achievements in relation to the tasks assigned to it in a specific year.</li> <li>- In the Market Monitoring Report, the Agency provides an assessment of the progress made towards the implementation of the Third Energy Legislative Package ('the 3rd Package') and the completion of the IEM. This MMR is issued together with the Council of European Energy Regulators (CEER).</li> <li>- Other publications: Besides its major publications, the Agency also disseminates information through brochures and specific leaflets in all EU official languages. These leaflets in all EU languages are also accessible digitally on the Agency's web homepage. The Agency also publishes many other sectorial reports on specific issues related to gas and electricity. The objective is to inform the general public and stakeholders on the Agency's activities, both general and more specific ones.</li> </ul>

	<p>The material is regularly updated to reflect new tasks assigned to the Agency.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>
Outputs	<ul style="list-style-type: none"> <li>- Annual Activity Report</li> <li>- Market Monitoring Report</li> <li>- Brochures, leaflets</li> <li>- Other publications</li> </ul>
Performance indicators and targets (deadlines)	<p><u>Annual Activity Report:</u></p> <ul style="list-style-type: none"> <li>- Published by 15 September.</li> <li>- Over 10 unique visits within one month of publication.</li> </ul> <p><u>Market Monitoring Report</u></p> <ul style="list-style-type: none"> <li>- Expected completion date: November 2019.</li> <li>- Over 75 unique visits within one month of publication.</li> <li>- Reader survey: 2/3 majority of respondents satisfied or highly satisfied.</li> </ul>
Resources	0.3 FTE
Risks	<p>No appreciable risks.</p> <p>Risk if this activity is not performed: reduced visibility of the activities of the Agency for stakeholders, limited stakeholder engagement, perceived reduction in the Agency's accountability.</p>

## 2.10.2. Internal Communication

Internal communication focuses primarily on:

- Digital communication: website, newsletters, newsfeeds
- Events/internal presentations

Task	Internal Communication
Overview (status)	<p>Internal communication activities aim to keep Agency staff informed and to enable both management and staff to fulfil their responsibilities effectively and efficiently. Staff members must be regularly informed of policy decisions taken by the Boards and the Director, enabling them better to understand their role and to acquire broader knowledge of the Agency's mission and activities. This should contribute to a common</p>

	<p>corporate culture, improve staff engagement and ultimately also improve external communication.</p> <ul style="list-style-type: none"> <li>- An internal newsletter for the Agency's staff is circulated on a monthly basis.</li> <li>- The intranet is being further developed to include all information relevant to the Agency's staff.</li> <li>- The Agency occasionally organises internal lunch-time presentations in which its staff members present specific topics related to the Agency's tasks to their colleagues.</li> </ul>
Objectives	<p>To increase the level of awareness of the Agency's work and recent developments related to the Agency.</p> <p>To provide new features and services according to staff needs and demands.</p> <p>To keep information updated and easily retrievable.</p> <p>To provide staff with an opportunity to acquaint itself with the work and tasks of the various departments.</p>
Outputs	<ul style="list-style-type: none"> <li>- Intranet</li> <li>- Internal newsletter</li> <li>- Presentations</li> </ul>
Performance indicators and targets (deadlines)	<p>Staff satisfaction on internal communication measured through a question on the internal newsletter in the staff survey.</p> <p>2/3 of participating staff satisfied or highly satisfied.</p>
Resources	0.3 FTE
Risks	<p>Human resource constraints could limit activities related to internal communication.</p> <p>Risk if this activity is not performed: reduced circulation of information among Agency's staff.</p>

## **2.11. Organisation, Administration and Functioning of the Agency (Horizontal)**

### **2.11.1. Organisation**

The Agency is divided into the following departments: the Electricity Department, the Gas Department, the Market Surveillance and Conduct Department and the Market Integrity and Transparency Department, as well as the Director's Office and the Administration Department, both dealing primarily with horizontal activities.

This section reports on the horizontal tasks that support the fulfilment of operational objectives: vis-à-vis the job screening methodology, the allocation of FTEs falls under the categories “Administrative support and coordination” and “neutral”.

The Agency’s organisational chart can be found in Annex X.

### **2.11.2. The Agency’s Premises, Procurement and Facility Management**

Since February 2014 the Agency is seated in its permanent premises in Ljubljana, rented for a period of 5 years, with an option for renewal for a further 5-year period and for expansion of the office space. In the course of the coming years certain adaptations and changes might be needed, depending on the use of the premises.

<b>Task</b>	<b>Procurement and Facility Management</b>
Overview (status)	<p>Procurements will be carried out in line with the 2019 Procurement Plan, in order to support the continuity of the Agency’s services, as well as to procure additional services, where needed.</p> <p>The rental agreement for the Agency’s permanent premises, which expires on 31 January 2019, provides a possibility for extension of the contract for another 5 years and expansion of the total office space used. In July 2017 the Agency notified the landlord of the intention to extend the lease term for an additional period of five (5) years, that is until 31 January 2024.</p> <p>No expansion is foreseen in the course of 2019, unless additional post will be allocated to the Agency as per its requests. Certain adaptations and changes might be performed, depending on the use of the premises and the Agency’s specific needs and security requirements.</p> <p>In 2019 the Agency will keep its liaison office in Brussels with two staff members (1 AD and 1 CA) assigned to it. The office is hosted in the premises made available, free of charge, by the Council of European Energy Regulators (CEER), as a contribution in kind to the work of the Agency. The IT and information resources are shared with the liaison office, which represents an indispensable part of the Agency’s structure.</p>
Objectives	<p>The objectives for 2019 are as follows:</p> <ul style="list-style-type: none"> <li>- Further improve effectiveness and efficiency of the procurement processes and implement measures to streamline and optimise the procurement processes for the implementation of the work programme.</li> </ul>

	<ul style="list-style-type: none"> <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>
Outputs	<ul style="list-style-type: none"> <li>- Annual procurement plan in place and successfully implemented.</li> <li>- Annual facility management plan in place and successfully implemented.</li> <li>- Secure and sufficient office space made available for the operations of the Agency.</li> </ul>
Performance indicators and targets (deadlines)	<p>At least 90% implementation of the adopted 2019 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 2019.</p>
Resources	2.5 FTE
Risks	<p>The non-availability of financial resources and human resource constraints may negatively affect the timely delivery of the objectives.</p> <p>The absence of timely and quality input from the project managers may affect the successful implementation of the adopted 2019 Procurement Plan.</p> <p>Risk if this activity is not performed: severe disruption of the Agency's activities. Consequential widespread negative impact on other stakeholders who are affected or involved in the Agency's activities.</p>

### 2.11.3. Human Resources

Task Human Resources Management	
Overview (status)	<p>The Human Resources Management (HRM) Team continues to streamline the internal HR processes and procedures, in light of the implementation of the Staff Regulation and its Implementing Provisions. This work will continue in 2019, as new Model Decisions for Agencies are being developed and Standard Operating Procedures in the areas are envisaged.</p> <p>The HRM Team will strive to maintain the quality of HRM services also in 2019, despite the lack of adequate resources.</p>

	<p>In order to gain in efficiency, best practices are explored with other EU Agencies and the Commission's HR Tool (Sysper) is being deployed for the Agency's use.</p> <p>The work in the area of Competency framework will be progressing using external resources (consultancy) in order to be at the forefront of career management.</p>
Objectives	<p>The objectives for 2019 are as follows:</p> <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 2019, 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 develop the use of the Commission HR Tools (Sysper), to the benefit of the administration of staff.</li> <li>- To receive positive evaluation results from the ECA.</li> <li>- The implementation of the Competency Framework to be finalised.</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- Staff with the necessary knowledge and skills recruited and retained in the Agency.</li> <li>- Learning and Development activities are made available as per identified needs.</li> <li>- Annual performance appraisal carried in line with the adopted rules.</li> <li>- Finalisation of the Competency Framework for the Agency.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Average length of recruitment procedure: 4 months (including the 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 2019.</li> <li>- 100% of the eligible Agency's staff subject to performance appraisal to undergo evaluation in the 2019 exercise in line with the new Implementing Rules by end of June 2019.</li> <li>- Minimum of 75% attendance at in-house organised trainings.</li> <li>- Finalisation of the Competency Framework: 100% of competencies and job descriptions mapped and revised by the end of 2019.</li> <li>- New Vacancy Notices aligned with the competencies and skills required for the positions advertised.</li> </ul>
Resources	3.5 FTE

<p>Risks</p>	<p>An increase in the number of recruitment procedures, and subsequently the number of staff in the Agency, may require more HR staff than currently envisaged, which may result in delays or a reprioritisation of objectives. The limited resources available in the HRM Team dealing with all range of demands related to workforce management require a constant focus on urgent priorities, to the detriment of a more structural approach in HRM, efficient procedures, sufficient attention to development matters, implementation of policies and rules.</p> <p>The Agency is facing difficulties in attracting the right candidates in light of the specific expertise required and competition from the private sector, which offers more competitive remuneration packages, which may result in more unsuccessful selection procedures.</p> <p>A low value of the correction coefficient for Slovenia, not reflecting the true cost of living in Ljubljana, has a significant negative impact on attracting new staff and staff retention.</p> <p>Risk if this activity is not performed: severe disruption of the Agency's activities. Consequential widespread negative impact on other stakeholders who are affected or involved in the Agency's activities.</p>
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#### 2.11.4. Budget Implementation and Audit

Task	Budget Implementation and Audit
<p>Overview (status)</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. The Agency is using invoicing and a paperless workflow, which have added to the efficiency of its financial management.</p> <p>In 2017 the Agency outsourced its accounting services to the Commission's Accounting Officer. This decision will be reviewed on an annual basis.</p> <p><u>Audit</u></p> <p>Since its establishment, the Agency has not received any critical recommendations from the internal and external auditors on its accounts and its budgetary and financial management.</p> <p>Furthermore, all recommendations from previous years have been implemented as planned, reported in a timely manner and approved by the respective authority. As a result, the</p>



	Agency has been granted a discharge for all years for which the discharge procedure has been closed.
Objectives	<p>The objectives for 2019 are 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<sup>37</sup>.</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 and support to financial actors to ensure a smooth workflow within the financial circuits.</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- Annual accounts prepared according to current accounting standards, accounting rules and general accepted accounting principles<sup>38</sup>.</li> <li>- Audit recommendations implemented in time.</li> <li>- Good planning resulting in higher budget implementing rates.</li> <li>- Agency's property records presenting the true value of its assets. Yearly impairment check of fixed assets. Scanning all inventory items every three years.</li> <li>- Cash flow management and on time payments.</li> <li>- Support on financial matters made available to all involved actors.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Provisional accounts prepared and presented by 1 March 2019, final accounts by 1 July 2019<sup>39</sup>.</li> <li>- Unqualified opinion from ECA.</li> <li>- Minimum 95% budget implementation for commitment appropriation and 75% for payment appropriation by 31 December 2019.</li> <li>- Replenished bank account balance.</li> <li>- Presentation of financial matters delivered by end of June 2019.</li> </ul>

<sup>37</sup> This specific objective will not apply in case the Agency will continue to outsource its accountings services to the Commission's Accounting Officer.

<sup>38</sup> This specific output will be prepared by the Commission's Accounting Officer in case the Agency continues to outsource its accountings services.

<sup>39</sup> See footnote 38.

Resources	5.5 FTE
Risks	<ul style="list-style-type: none"> <li>- Delays in procurement procedures and/or delays from contract implementations by project managers may have a negative impact on the achievement of the budget implementation targets.</li> <li>- Results from assets impairment checks may negatively affect the financial position of the Agency.</li> </ul> <p>Risk if this activity is not performed: failure to comply with accounting standards or to meet related objectives might have serious budgetary consequences for the Agency, including refusal of discharge.</p>

### 2.11.5. ICT Infrastructure

Task	ICT Development
Overview (status)	<p>The IT Team's main goal in 2019 is to continue and further enhance the alignment of the IT services to the Agency's strategic goals and objectives, in line with the the new ACER ICT Strategy of 2019-2021.</p> <p>For this reason, the expected coordination between the Agency's different IT Teams will be further enhanced in order to achieve the necessary level of collaboration and efficiency.</p> <p>In addition, the necessary IT contracts that will enable the implementation of the Agency's evolving needs for development of applications, hosting of infrastructure, automation and services will be used.</p> <p>Furthermore, the IT Team should ensure that there is the necessary ICT overarching infrastructure covering multiple units/departments, ensuring synergies (cross-departmental) and a unified and secure IT environment.</p>
Objectives	<p>The objectives for 2019 are as follows:</p> <ul style="list-style-type: none"> <li>- Ensure the fine-tuning of ICT governance procedures and that further coordination between the different IT teams is in place.</li> <li>- Further enhance the service orientation by having in place and fine-tuning the right procedures and rules (ITIL based) and adapting the IT Team's members work profiles to this.</li> <li>- Continue to work on the implementation of the Information security policy in order to ensure a secure IT environment.</li> <li>- 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</li> </ul>

	<p>implementation to support the efficient functioning of the Agency.</p> <ul style="list-style-type: none"> <li>- Put in place the necessary ICT overarching infrastructure, covering multiple units/departments, and ensuring synergies (cross-departmental) in a unified IT environment.</li> <li>- Ensure high-level IT support services to enable the Agency's staff to perform their tasks effectively.</li> </ul>
Outputs	<p>Efficient collaboration between the Agency's IT Teams.</p> <p>Service oriented, flexible IT environment suited to the Agency's objectives and needs.</p> <p>Secure IT environment in line with the Information Security policy.</p> <p>New applications and services made available to the users, in line with the identified needs.</p> <p>Unified IT environment that enables easy collaboration and interaction between the Agency's departments/units.</p> <p>IT requests fulfilled in a timely and efficient manner, adequate IT support rendered to the users.</p> <p>Successful achievement of the Agency's goals and objectives through the use of ICT.</p>
Performance indicators and targets (deadlines)	<p>Rules and procedures of ITIL based service management to be fully functional.</p> <p>Implementation on Information security policy in line with the adopted planning.</p> <p>The needed IT applications and services to be developed, maintained and fine-tuned under the necessary IT development contracts during the whole of 2019.</p> <p>Successful and timely completion of the tasks included in the 2019 IT Action Plan by Q4 2019.</p> <p>85% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2019.</p>
Resources	4.0 FTE
Risks	<p>Human resource constraints may affect the timely delivery and quality of the outputs.</p> <p>The budget for the tenders of IT application development and ICT service and support contracts is subject to approval. If adequate funding is not ensured, the Agency may not be able to achieve some important ICT objectives for 2019.</p> <p>The establishment of an ICT overarching infrastructure ensuring synergies may not be achieved due to security constraints or an inefficient choice of compatible technologies.</p>

	<p>IT contractors (e.g. for IT development, IT support) may not perform to the level expected, with a negative impact on the requested IT services/applications.</p> <p>Significant changes in other IT Teams of the Agency may affect the workload and priorities of the Admin IT Team.</p> <p>Risk if this activity is not performed: severe disruption of the Agency's activities. Consequential widespread negative impact on other stakeholders who are affected or involved in the Agency's activities</p>
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### **2.11.6. Other Internal and Horizontal Tasks**

Apart from the specific tasks and deliverables presented in this Work Programme, the Agency needs to maintain administrative support and a number of central services. Strategic direction, leadership and coordination across the different departments are also essential to ensure the effective and efficient operation of the Agency in meeting its objectives.

In line with the benchmarking methodology, the following staff members in the Director's Office are considered as 'operational' and have been allocated against the operational activities:

- Director, Administrative Assistant to the Director: 2 FTEs;
- Strategy and Communication Team: Policy Coordinator, 1 FTEs
- Legal Office: Team Leader – Legal Office, Legal Officer: 2 FTEs<sup>40</sup>
- NRA Coordination: Team Leader – NRA Coordination, Policy Officer – NRA Coordination: 2 FTEs
- Team Knowledge Management: Team Leader – Knowledge Management, IT Security Assistant: 2 FTE

In addition, the following positions are classified under 'administration and coordination' and are not assigned to activities within this Work Programme:

- Head of Administration: 1 FTE;
- Team Leader Strategy and Communication: 1 FTE;
- Legal Advisers (2 FTEs)<sup>41</sup>.

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<sup>40</sup> The Agency's legal advisers are considered partly operational and partly under coordination, depending on their role, in line with the Agencies' benchmarking methodology.

<sup>41</sup> As above.

## ANNEX I: 2019 RESOURCE ALLOCATION PER ACTIVITY

The table below provides aggregated human and financial resources per activity. The related justification and brief information on **HR and financial resources** are provided under section III for each activity. The original allocation of human resources to activities, revised in the current work programme, was calculated by adding to the staff employed by the Agency the additional staff requested within the 2019 budgetary procedure.

The original FTE allocations were based on Temporary Agent staff the Agency had requested for 2019:

4 additional posts for the Electricity Department

3 additional posts for the Gas Department

7 additional posts for the Market Integrity and Transparency Department

12 additional posts for the Market Surveillance and Conduct Department

5 additional posts for the Administration Department and for the Director's Office

Moreover, the Agency requested, for 2019 4 new Contract Staff FG III, to be allocated to the support of operational and administrative activities.

Within the budgetary procedure the Agency was however allocated the following staff:

Grade	CAs
FG IV	2 (upfront of the operations for the Clean Energy for All European Package) <sup>42</sup>
FG III	4 (support to operational and administrative tasks of the Agency)

The allocated staff is calculated as ½ FTE for the purposes of the 2019 Work Programme, on the assumption that staff will be recruited progressively throughout the year. At the same time, staff deployment is forecasted as ½ FTE.

As explained under Section III.1, the allocation of resources (FTE of Temporary Staff, Contract Agents and Seconded National Experts) against the different activities is carried out according to the methodology for Agencies job screening. Each job is identified according to one screening 'type': the three Screening *types* describe the general *role* of a job: **administrative support and coordination**, **neutral** and **operational**. Most jobs either fulfil an **operational** role, i.e. serving frontline activities (more or less directly serving the European citizen) or an **administrative support and coordination**

<sup>42</sup> The Agency expects that new tasks and responsibilities will be given to it in the legislation emerging from the "Clean Energy for all European" package proposed by the Commission. While the entry into force of this legislation is expected in 2020, the Agency will have to begin preparing for the tasks in question already in 2019.

role, as *enablers* of the operational jobs by being responsible e.g. for HR, ICT, logistics, etc. for their Agency. Financial management and control at Agency level and on-the-spot (external) audit are treated as **neutral**.

**2019 Full Time Equivalents and budget forecast - Breakdown per Activity**

Task groups	Current Positions PD 2019 REVISED	Budget 2019
<b>1. Electricity Network Codes (Operational)</b>	<b>10.5</b>	<b>1,289,448</b>
<b>2. Gas Network Codes (Operational)</b>	<b>9.3</b>	<b>1,129,694</b>
2.1. Network Codes, implementation and monitoring	8.2	1,004,172
2.2. Gas Regional Initiatives	1.1	125,522
<b>3. Electricity and Gas Internal Market Monitoring (Operational)</b>	<b>7.2</b>	<b>821,595</b>
<b>4. Electricity TSO Cooperation (Operational)</b>	<b>2.8</b>	<b>319,509</b>
<b>5. Gas TSO Cooperation (Operational)</b>	<b>2.2</b>	<b>251,043</b>
<b>6. Tasks to safeguard the security of gas supply (Operational)</b>	<b>0.3</b>	<b>91,288</b>
<b>7. Guidelines for Trans-European Energy Infrastructure (Operational)</b>	<b>4.7</b>	<b>547,730</b>
<b>8. Tasks which are Subject to Specific Conditions (Operational)</b>	<b>2.0</b>	<b>456,442</b>
8.1. Tasks initiated by others	1.7	410,798
8.2. Opinions and Recommendations on the Agency's own Initiative	0.2	45,644
<b>9. Wholesale Market Monitoring – REMIT (Operational)</b>	<b>31.2</b>	<b>8,239,297</b>
9.1. Operation and further development	8.2	2,125,617
9.2. Market monitoring of trading activity in wholesale energy markets	7.9	2,186,349
9.3. Review of the REMIT operations and rulebook	3.6	931,223
9.4. Market conduct coordination of NRAs and other relevant authorities	4.9	1,457,566
9.5. Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries	3.1	769,271
9.6. Annual Report on the Agency activities under REMIT	1.0	263,172
9.7. Registration of market participants and third parties acting on their behalf ('reporting parties') according to Article 8 of REMIT	2.5	506,099
<b>10. ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES</b>	<b>15.8</b>	<b>2,202,332</b>
<b>11. NEUTRAL CATEGORIES</b>	<b>6.5</b>	<b>798,773</b>
<b>TOTAL FTEs</b>	<b>92.5</b>	<b>16,147,153</b>

## ANNEX II: FINANCIAL RESOURCES

**Table 1 – Expenditure**<sup>43</sup>

Expenditure	2018		2019		2019 Agency' request	
	Commitment appropriations	Payment appropriations	Commitment appropriations	Payment appropriations	Commitment appropriations	Payment appropriations
<b>Title 1</b>	8 741 185	8 741 185	9,397,379	9,397,379	11 070 056	11 070 056
<b>Title 2</b>	2 658 415	2 658 415	2,661,270	2,661,270	3 703 423	3 703 423
<b>Title 3</b>	2 162 400	2 162 400	4,088,504	4,088,504	4 328 000	4 328 000
<b>Total expenditure</b>	<b>13 562 000</b>	<b>13 562 000</b>	<b>16,147,153</b>	<b>16,147,153</b>	<b>19 101 479</b>	<b>19 101 479</b>

	2017 executed budget commitment appropriations	2017 executed budget payments appropriations	Budget 2018	Budget 2019		VAR 2019/ 2018	Envisaged 2020	Envisaged 2021
				Approved budget	Agency request			
<b>Title 1</b>	<b>7 801 877</b>	<b>7 581 059</b>	<b>8 741 185</b>	<b>9 397 379</b>	<b>11 070 056</b>	<b>26.64%</b>	<b>11 435 368</b>	<b>11 812 735</b>
<b>Staff Expenditure</b>								
<b>11 Salaries &amp; allowances</b>	6 901 200	6 898 200	7 637 385	8 258 236	9 582 537	25.47%	9 911 031	10 250 365
- of which establishment plan posts	5 677 115	5 674 115	6 178 333	6 791 349	8 041 142	30.15%	8 318 769	8 605 558
- of which external personnel	1 224 085	1 224 085	1 459 052	1 466 886	1 541 396	5.64%	1 592 262	1 644 806
<b>12 Expenditure relating to Staff recruitment</b>	63 470	45 583	44 800	62 200	179 200	300.00%	185 114	191 222
<b>13 Mission expenses</b>	112 546	94 929	118 000	100 000	137 590	16.60%	137 590	137 590

<sup>43</sup> The amounts envisaged for years 2020 and 2021 are indicative.

<b>14 Socio-medical infrastructure</b>	56 626	24 946	30 000	52 005	62 360	107.87%	62 360	62 360
<b>15 Training</b>	129 591	65 185	180 000	175 000	272 500	51.39%	281 493	290 782
<b>16 External Services</b>	382 549	350 400	555 000	580 527	664 002	19.64%	685 914	708 549
<b>17 Receptions, events and representations</b>	14 485	13 989	15 000	16 500	16 500	10.00%	16 500	16 500
<b>18 Social welfare</b>	21 126	19 517	25 000	24 000	24 000	-4.00%	24 000	24 000
<b>19 Other Staff related expenditure</b>	120 284	68 310	136 000	128 911	131 367	-3.41%	131 367	131 367
<b>Title 2 Infrastructure and operating expenditure</b>	<b>2 824 575</b>	<b>1 856 977</b>	<b>2 658 415</b>	<b>2 661 270</b>	<b>3 703 423</b>	<b>39.31%</b>	<b>3 703 423</b>	<b>3 703 423</b>
<b>20 Rental of buildings and associated costs<sup>44</sup></b>	1 035 847	972 285	1 027 010	1 123 434	1 283 208	24.95%	1 283 208	1 283 208
<b>21 Information and communication technology</b>	479 792	320 425	565 000	465 000	605 000	7.08%	605 000	605 000
<b>22 Movable property and associated costs</b>	153 275	149 090	169 000	185 000	210 000	24.26%	210 000	210 000
<b>23 Current administrative expenditure</b>	187 993	159 388	203 000	168 036	242 500	19.46%	242 500	242 500
<b>24 Postage / Telecommunications</b>	51 200	38 739	82 000	84 000	95 000	15.85%	95 000	95 000
<b>25 Meeting expenses</b>	177 876	121 088	192 705	257 800	309 715	60.72%	309 715	309 715
<b>26 Running costs in connection with operational activities</b>	165 022	80 962	109 700	140 000	208 000	89.61%	208 000	208 000
<b>27 Information and publishing</b>			0	0	0	0	0	0
<b>28 Studies</b>	573 570	15 000	310 000	238 000	750 000	141.94%	750 000	750 000
<b>Title 3 Operational expenditure</b>	<b>2 475 576</b>	<b>624 077</b>	<b>2 162 400</b>	<b>4 088 504</b>	<b>4 328 000</b>	<b>100.15%</b>	<b>3 628 000</b>	<b>3 628 000</b>

<sup>44</sup> Including possible repayment of interest; detailed information as regards building policy provided in Table in Annex III.



to be specified by chapter	2 475 576	624 077	2 162 400	4 088 504	4 328 000	100.15%	3 628 000	3 628 000
<b>TOTAL EXPENDITURE</b>	<b>13 102 028</b>	<b>10 062 113</b>	<b>13 562 000</b>	<b>16 147 143</b>	<b>19 101 479</b>	<b>40.85%</b>	<b>18 766 791</b>	<b>19 144 158</b>

**Table 2 – Revenue**

Revenues	2018	2019	2019	2020	2021
	Revenues approved	Revenues approved	Agency' request	Budget Forecast	Budget Forecast
EU contribution	13 562 000	16 147 143	19 101 479	18 766 791	19 144 158
Other revenue	0		0	0	0
<b>Total revenues</b>	<b>13 562 000</b>	<b>16 147 143</b>	<b>19 101 479</b>	<b>18 766 791</b>	<b>19 144 158</b>

REVENUES	2017	2018	2019	2019	VAR 2019 /2018	Envisaged 2020	Envisaged 2021
	Budget executed	Revenues received by the agency	Revenues approved	Revenue forecasted by the agency			
<b>1 REVENUE FROM FEES AND CHARGES</b>		0	0	0	0	0	0
<b>2. EU CONTRIBUTION</b>	13 102 028	13 562 000	16 147 153	19 101 479	19.06%	18 766 791	19 144 158
of which Administrative (Title 1 and Title 2)	10 626 452	10 870 717	11 764 992	14 479 822	8.23%	15 138 791	15 516 158
of which Operational (Title 3)	2 475 576	2 162 400	4 099 504	4 328 000	89.07%	3 628 000	3 628 000
of which assigned revenues deriving from previous years' surpluses		528 883	293 657	293 657	-44.48%	0	0

<b>3 THIRD COUNTRIES CONTRIBUTION (incl. EFTA and candidate countries)</b>		0	0		0	0	
of which EFTA		0	0		0	0	
of which Candidate Countries		0	0		0	0	
<b>4 OTHER CONTRIBUTIONS</b>		0	0		0	0	
of which delegation agreement, ad hoc grants		0	0		0	0	
<b>5 ADMINISTRATIVE OPERATIONS</b>		0	0		0	0	
<b>6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT</b>		0	0		0	0	
<b>7 CORRECTION OF BUDGETARY IMBALANCES</b>		0	0		0	0	
<b>TOTAL REVENUES</b>	<b>13 102 028</b>	<b>13 562 000</b>	<b>16 147 153</b>	<b>19 101 479</b>	<b>19.06%</b>	<b>18 766 791</b>	<b>19 144 158</b>

## Table 3 - Budget outturn and cancellation of appropriations

### Calculation budget outturn

Budget outturn	2015	2016	2017
Revenue actually received (+)	11 267 795	15 877 789	13 273 140
Payments made (-)	-8 435 504	-9 515 362	-10 062 113
Carry-over of appropriations (-)	-2 277 372	-6 057 626	-3 039 915
Cancellation of appropriations carried over (+)	198 294	223 238	122 606
Adjustment for carry over of assigned revenue appropriations from previous year (+)	0	0	0
Exchange rate differences (+/-)	-786	845	-61
Adjustment for negative balance from previous year (-)	0	0	0
<b>Total</b>	<b>752 426</b>	<b>528 884</b>	<b>293 657</b>

### Budget outturn

Implementation of 2017 commitment appropriations reached a level of 98.72%, whereas the payments appropriation implementation rate was 75.81% thus reaching the pre-set targets. The related funds carried forward into 2018 amount to EUR 3.04m. Unused appropriations of funds carried over from 2016, amounting to EUR 0.12m, were mainly the result of lower claims for reimbursement of costs related to participation in meetings and operational missions' attendance.

## ANNEX III: HUMAN RESOURCES – QUANTITATIVE

**Table 1 - Staff population and its evolution; Overview of all categories<sup>45</sup>**

Staff population		Staff population actually filled in 31.12.2016	Staff population in EU Budget 2017	Staff population actually filled at 31.12.2017 <sup>46</sup>	Staff population in voted EU Budget 2018	Staff population – in voted EU Budget 2019	Staff population envisaged in 2020	Staff population envisaged in 2021
Officials	AD							
	AST							
	AST/SC							
TA	AD	48	53	51	55	55	91	91
	AST	12	15	12	12	12	19	19

<sup>45</sup> The posts envisaged for years 2020 and 2021 are indicative.

<sup>46</sup> Please note that two Temporary Agents AD (one in the Gas Department and one in the Electricity Department) take up their duties in January 2018.

	AST/SC	0	0	0	0	0	0	0
<b>Total</b>		<b>60</b>	<b>68</b>	<b>63</b>	<b>67</b>	<b>67</b>	<b>110</b>	<b>110</b>
CA GFIV		16	13	17	13	21	21	21
CA GF III		4	0	1	0	6	12	12
CA GF II		6	6	3	6	0	0	0
CA GFI								
<b>Total CA</b>		<b>26</b>	<b>19</b>	<b>21</b>	<b>19</b>	<b>27</b>	<b>33</b>	<b>33</b>
<b>SNE</b>		<b>4</b>	<b>4</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>
<b>TOTAL</b>		<b>90</b>	<b>91</b>	<b>87</b>	<b>90</b>	<b>98</b>	<b>147</b>	<b>147</b>
<i>Structural service Providers</i> <sup>47</sup>		10	n/a	13	n/a	12	6	
<i>External staff for occasional replacement</i>								

<sup>47</sup> Interimaires under the FWC ACER/OP/ADMIN/10/2014/O1

**Table 2 - Multi-annual staff policy plan 2019- 2021**

Category and grade	Establishment plan in EU Budget 2017		Modific. in 2017 in application of flexibility rule		Establishment plan in voted EU Budget 2018		Modific. envisaged in 2018 in application of flexibility rule		Establishment plan 2019		Establishment plan 2020		Establishment plan 2021	
	officials	TA	officials	TA	officials	TA	officials	TA	Officials	TA	New requests (incl CEP)	Total TA	Additional staff (2020 requests)	Total TA
AD 16														
AD 15		1				1				1		1		1
AD 14														0
AD 13										1		3		4
AD 12		4				4				3		3		3
AD 11		5				5				5		5		5
AD 10										1		1		1
AD 9		4				5				6		6		7
AD 8		11				11				10	1	9	1	8
AD 7		10				8				7	4	12	4	11
AD 6		7				10				12	2	16	2	18
AD 5		11				11				9	29	35	29	33
<b>Total AD</b>		<b>53</b>				<b>55</b>				<b>55</b>	<b>36</b>	<b>91</b>	<b>36</b>	<b>91</b>
AST 11														
AST 10														

AST 9													
AST 8													
AST 7													
AST 6		1				1			1		1		1
AST 5		4				2			2		2		2
AST 4		4				4			6	1	7	1	9
AST 3		6				5			3	6	9	6	7
AST 2													
AST 1													
<b>Total AST</b>		<b>15</b>				<b>12</b>			<b>12</b>	<b>7</b>	<b>19</b>	<b>7</b>	<b>19</b>
AST/SC6													
AST/SC5													
AST/SC4													
AST/SC3													
AST/SC2													
AST/SC1													
<b>Total AST/SC</b>													
<b>TOTAL</b>		<b>68</b>				<b>67</b>			<b>67</b>	<b>43</b>	<b>110</b>	<b>43</b>	<b>110</b>

# ANNEX IV: HUMAN RESOURCES – QUALITATIVE

## A. Recruitment policy

The Agency employs Temporary and Contract Staff. Seconded National Experts are working for the Agency under the relevant rules.

### 1) Rules for recruitment of Temporary and Contract Staff

The recruitment policy for Temporary Agents is laid down by Decision AB No 08/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 11 June 2015 laying down *general implementing provisions 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*.

Until the new implementing rules of the Commission will be adopted by the Administrative Board (following the adoption of the model decision by the Standing Working Party), the recruitment policy for contract agents is governed by Decision AB n° 11/2011 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 1 June 2011 on the *adoption of general implementing provisions on the procedures governing the engagement and the use of contract staff at ACER*.

The selection procedures for Temporary and Contract Staff involve the following steps:

- Publication of a Selection Notice on the Agency's website, defining eligibility and selection criteria, indicating the type and duration of the contract and the recruitment grade; depending on the assessment made by the Agency, the Selection Notice may also be published on the EPSO website (in this case the notice is translated in all official EU languages).
- Setting up of a Selection Committee representing the recruiting department, the Administration Department, and the Staff Committee.
- Setting-up questions for the written and oral examination.
- Pre-selection of candidates on the basis of applications against the evaluation of eligibility and selection criteria.
- Invitation of selected candidates to an oral interview and a written examination covering the specific competences in the area of expertise.
- Assessment of the candidates' performance during the oral interview and the written examination. The assessment is carried out by the Selection Committee against the criteria defined in the Selection Notice.
- The Selection Committee proposes a short list of successful candidates sent to the Authority Authorised to Conclude Contracts (AACC), who establishes the reserve lists and offers the employment contracts. All steps and decisions taken by the Selection Committee and the AACC are recorded in writing in the minutes of the selection procedure.



- The candidates to be recruited must pass a compulsory medical exam. Their entry grade and step, as well as their personal rights, are determined by the Pay Master Office.

## 2) Rules on the Secondment of National Experts (SNEs) to the Agency

National experts on secondment remain in the service of their employer. Secondment is not equivalent to employment, nor does it lead to employment by the Agency.

SNEs are selected in two ways:

1. By means of an open and transparent selection procedure. Vacancy notices are published no less than one month before the closing date for applications and are advertised, at least, on the Agency website, with a notification thereof on the EPSO portal and to the Permanent Representations to the EU. Where appropriate, other means of advertisement are used;
2. By direct contact between the Agency and the Administration where the candidate is working.

The initial period of secondment of national experts may not be less than six months and more than two years and under certain conditions can be renewed up to a total period of four years. Exceptionally, at the request of the department concerned and where the interest of the service warrants it, the Director may authorise one or more extensions of the secondment for a maximum of two more years at the end of the four-year period (cf. Art. 5(1) of AB n° 02/2011). Detailed rules on the secondment of SNEs are defined in the Administrative Board Decision n° 02/2011 laying down the rules on the secondment of national experts to the Agency. In 2015, the Agency also concluded a Service Level Agreement with the Federal Energy Regulatory Commission, which provides the framework for the secondment of members of staff of both bodies on a mutual basis.

### **a) Grade and function group corresponding to the tasks and to the level of the post**

Temporary Staff members are normally recruited in grades AD5 to AD8, depending on the level of responsibility, AD11 (in case of Heads of Department) and AST1 to AST3. The Director is recruited at AD14 level.

### **b) Duration of employment**

The Director's post is offered for a fixed-time contract for a period not exceeding five years, with the possibility of one extension for another fixed-time period not exceeding three years, by the Administrative Board, on the basis of a proposal from the Commission and after consultation with the Board of Regulators.

Temporary Agents are offered a first fixed-term contract of five years. Contracts of 2f Temporary Agents may be renewed once for an indefinite period.

Unless the contract is linked to a specific project with a defined start and end date, Contract Staff are given an initial contract with a duration of two years, with the possibility of renewal. If renewed, the first renewal shall be for a duration of three years, whilst if renewed for the second time, the contract shall become indefinite.

**c) Structural service providers<sup>48</sup>**

A number of structural service providers will be contracted for the implementation of specific tasks in the coming years, as follows:

The Agency will require up to 20 IT consultants (full FTEs, working either on-site or off-site) for operating, supporting, maintaining and developing IT solutions related to implementation of REMIT. The following framework contracts will be used in 2019 to cover the Agency's needs for structural service providers:

- Framework contract: ACER/OP/MIT/10/2017/LOT 1/01.
- Services ordered under this FWC will cover the operation, maintenance and development of REMIT IT systems. Duration of the FWC is up to 8 years.
  
- Framework contract: ACER/NEG/MIT/06/2017
- Services ordered under this FWC will cover the need for specialised consultancy regarding market monitoring. Duration of the FWC is up to 4 years.
  
- Framework contract: DI/07590
- This inter-institutional FWC will be used to cover the need for specialised consultancy regarding Oracle databases and business intelligence solutions. Duration of the FWC is up to 4 years.
  
- Framework contract: ACER/OP/MIT/10/2017/LOT 2/02
- Services under this FWC will be mainly related to quality assurance and information security. Duration of the contract is 8 years.

The Agency will use up to fourteen Interims (FTEs) for the provision of general secretarial and clerical support across all departments of the Agency.

- Tender procedure: ACER/OP/ADMIN/12/2017/01
- Duration of contract: 4 years

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<sup>48</sup> NB Structural service providers are not employed by the Agency.

## B. Appraisal of performance and reclassification/promotions

**Table 1 - Reclassification of temporary staff/promotion of officials**

Category and grade	Staff in activity at 1.01.2017 <sup>49</sup>		How many staff members were promoted/reclassified in 2018 <sup>50</sup>		Average number of years in grade of reclassified/promoted staff members
	officials	TA	officials	TA	
AD 16					
AD 15		1			
AD 14					
AD 13					
AD 12		4			
AD 11		1			
AD 10		2			
AD 9		6			
AD 8		8		1	2.75
AD 7		7		1	2
AD 6		8		1	2.5
AD 5		14		6	3.6
<b>Total AD</b>		<b>51</b>			
AST 11					
AST 10					
AST 9					
AST 8					
AST 7					
AST 6					
AST 5		2		1	6.5
AST 4		3			
AST 3		5		2	5

<sup>49</sup> These data include the grades following the reclassification exercise 2017.

<sup>50</sup> Subject to the condition that they acquire the third language (B2) by 31/12/2018

AST 2					
AST 1					
<b>Total AST</b>		<b>10</b>			
AST/SC6					
AST/SC5					
AST/SC4					
AST/SC3					
AST/SC2					
AST/SC1					
<b>Total AST/SC</b>					
<b>Total</b>		<b>61</b>			

**Table 2 - Reclassification of contract staff**

**Appraisal of performance and reclassification/promotions**

**Table 2 -Reclassification of contract staff<sup>51</sup>**

Function Group	Grade	Staff in activity at 1.01.2017	Staff members reclassified in 2018	Average number of years in grade of reclassified staff members
CA IV	18			
	17			
	16	2		
	15			
	14	8		
	13	4		
CA III	12			
	11			
	10	1		
	9	2		
	8	1		
CA II	7			
	6			
	5	3		
	4	2		
CA I	3			

<sup>51</sup> Please note that no Contract Staff has been reclassified in 2018

	2			
	1			
Total		23		

### The Agency's policy on performance appraisal and reclassification

The ability, efficiency and conduct in the service of each staff member of the Agency are subject to an annual report made in line with Article 43 of the Staff Regulations.

In 2011 the Administrative Board of the Agency adopted two decisions regarding **performance appraisal** (Decision AB n° 25/2011 establishing the policy and procedure for the performance appraisal of staff and Decision AB n° 26/2011 concerning the appraisal of the Director of the Agency for the Cooperation of Energy Regulators). The two decisions governed the rules and procedures on the performance appraisal of contract agents and temporary agents for the appraisal periods until the end of 2014.

As of December 2015 new rules on performance appraisal of temporary agents and contract agents have been adopted by the Administrative Board and entered into force (Decision AB n° 22/2015 on general provisions for implementing Article 87(1) of the Conditions of Employment of Other Servants of the European Union and implementing the first paragraph of Article 44 of the Staff Regulations and Decision AB n° 23/2015 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for temporary staff). These two decisions govern the procedure on performance appraisal as of the 2015 appraisal exercise (from the appraisal period starting from 1 January 2015).

As of 2016, the Agency's policy on the **reclassification of staff** is based on new implementing rules, adopted by the Administrative Board, which took effect as of 1 May 2016. There are Decision AB n° 06/2016 of 04 April 2016 on general implementing provisions regarding Article 87 (3) of the Conditions of Employment of Other Servants of the European Union and Decision AB n° 07/2016 of 04 April 2016 laying down implementing provisions regarding Article 54 of the Conditions of Employment of Other Servants of the European Union.

Following their adoption, the two decisions govern the reclassification procedure for temporary agents and contract agents, employed by the Agency.

## C. Mobility policy

### *Internal mobility*

The Agency started with recruitment procedures in 2010 and continued to recruit the remaining staff in the past years; given the size of the organisation, mobility within the Agency and the publication of vacant posts internally has not been implemented, although, before deciding to fill a post through an external selection procedure, the Director may consider whether the position can be filled by means of internal mobility.

### *Mobility among agencies (Inter-agency Job Market)*

The Agency has acceded to the agreement on the Inter-Agency Job Market (IAJM) as of 9 November 2012.

*Mobility between the agencies and the institutions*

Out of Temporary and Contract Staff members recruited in the period 2010 – 2017, 32 staff members came from other institutions (16 from EU agencies, 2 from the EC Representation, 12 from the EC, 1 from the European Parliament, 1 from the United Nations).

## D. Gender and geographical balance

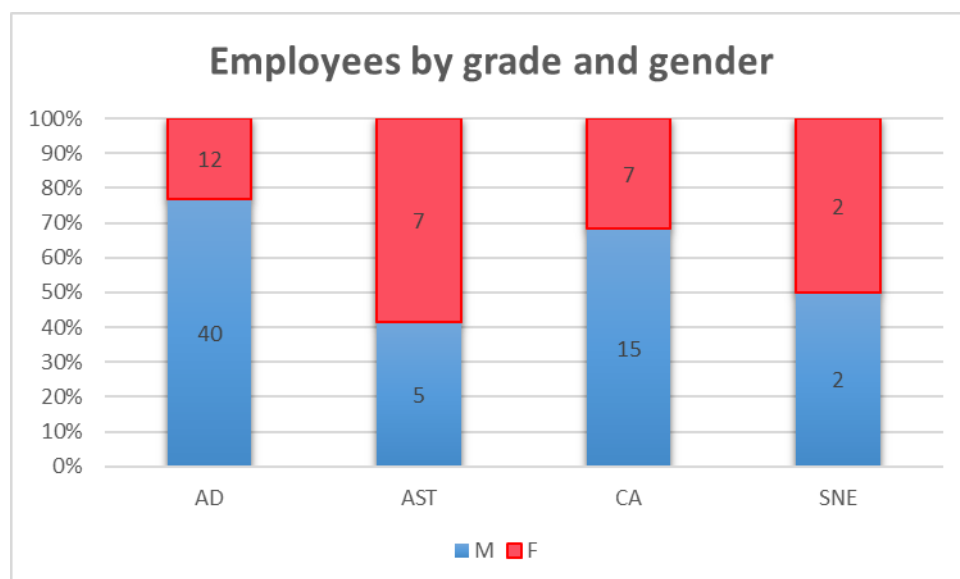
### 1) Gender balance

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 for 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:

- to remove barriers to any gender discrimination in recruitment, training and career development paths;
- to reconcile personal and working life (e.g. implementing provisions on teleworking have been adopted with the Decision AB n° 21/2012, and repealed with an improved text with AB Decision 25/2017);
- to raise awareness on issues of gender equality;
- to protect the dignity of the person in the workplace.

In order to promote and foster gender mainstreaming, the Agency organised awareness raising activities in September 2017, inviting the European Gender Equality Agency (EIGE) to give training and information for staff and HR Professionals. Moreover, the Agency is developing a gender mainstreaming policy for staff, which will be finalised with a timeline that depends on the availability of resources.

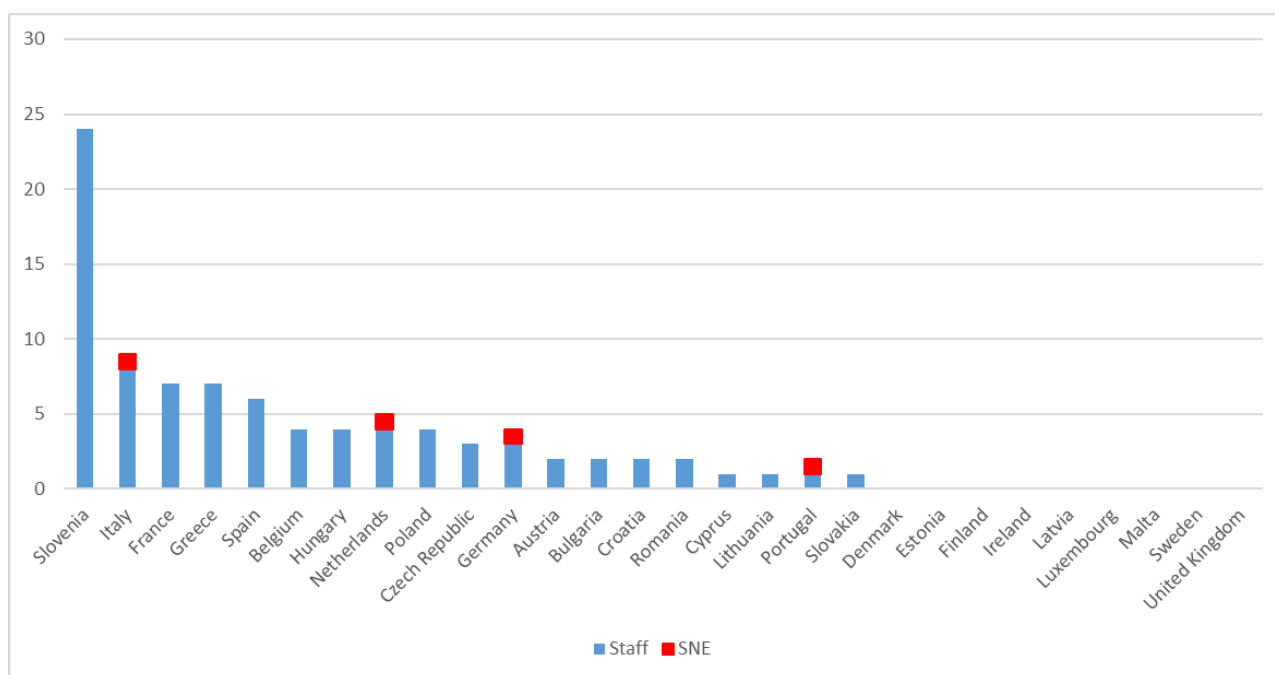
The graph below represents an overview of the Agency’s staff by grade and gender in November 2018:



## 2) Geographical balance

On 1 November 2018, ACER employed 90 staff members and had 4 SNEs of different geographical origin. Staff and SNEs came from 19 different EU countries: Austria, Belgium, Bulgaria, Cyprus, Czech Republic, Germany, Spain, France, Greece, Croatia, Hungary, Italy, Netherlands, Portugal, Romania, Slovenia, Slovakia, Lithuania and Poland.

The graph below represents an overview of the Agency’s staff by nationality and category as of 1 November 2018.



## E. Schooling

As established in the Seat Agreement (Article 13) between the Slovenian Government and the Agency, the Government shall establish a European School within the public school network in Slovenia, in accordance with the Convention defining the Statute of the European Schools and with the programmes of European schools. European Schools provide multilingual tuition in all EU languages and offer the European Baccalaureate recognised in all Member States. Staff members of the EU Institutions, including the agencies, should enjoy free access to European Schools (school fees and transport included).

Progress was achieved in 2017: the setting of the Accredited European School of Ljubljana (AES) was decided and the school became operational as of 3 September 2018, with entry grades at the P1 and P2 levels (corresponding to Grade 1 and 2 of Elementary School). The auditing process has started in September 2018, the accreditation process will be finalised with the decision of the Board of Governors of the European Schools, anticipated in April 2019. The financial agreement with the European Commission should be signed in the course of spring 2019.

Since for the time-being the AES only offers classes at the P1 and P2 levels, the Agency's staff members whose children are not eligible for those classes, are obliged to send their children to international schools. Until the AES offers a complete education cycle at the pupil's level, and given the school fees charged by the international schools in Ljubljana, there was a need to address the unequal conditions, to which the staff of the Agency is subject. To address this, the Administrative Board adopted Decision AB no 5/2018 of 7 June 2018 establishing measures to support the staff of the Agency with regard to kindergarten and school fees. In line with the decision, the Agency provides financial support to afore mentioned staff members, until the AES offers a complete education cycle at pupil's level. This approach is in line with the eligibility for the education allowance, as applied by the European Commission's Office for the Administration and Payment of Individual Entitlements. As per specific provisions of the decision, the Agency covers kindergarten and school fees for each eligible child, exceeding the sum of the allowances received by staff member, as per the Internal Commission Directive (Conclusion No 257/09 revised) and under the provisions of the Staff Regulations. Financial contribution, granted by the Agency, is paid directly to the schools kindergarten on the basis of concluded service agreements.

In both cases (European section or international school programmes), the Agency includes the budgetary credits necessary to cover its financial contribution in the provisional draft budget sent to the budgetary authority in the framework of the annual budgetary procedure. The Agency also transmits full information on the measures planned to the budgetary authority.

There are three private international schools in Ljubljana (American, British and French), as well as international sections in the national school system, both at primary and secondary level. There are also four universities in Slovenia, amongst others the University of Ljubljana with 23 faculties and 3 art academies.



## ANNEX V: BUILDINGS

### Current building(s)

	Name, location and type of building	Other Comment
<i>Information to be provided per building:</i>	Trg republike 3, Ljubljana, office building, rented	The Agency's current rental agreement entered into force on 01.02.2014. On 01.02.2019 the rental agreement will be extended for additional five (5) years. The premises are suitable for up to 164 working places. At the moment (1 November 2018) the Agency has 120 staff members (this includes temporary agents, contract agents, seconded national experts, interim staff and trainees) and up to 7 working places at a time available for consultants working on site.
Surface area (in square metres)	3,926.98 m <sup>2</sup> and 66 parking spaces	
- Of which office space	3,247.69m <sup>2</sup>	
- Of which non-office space	679.29 m <sup>2</sup>	
Annual rent (in EUR)	794,378.78	Of which rent only EUR 656,433.98 and parking EUR 137,944.80
Type and duration of rental contract	Rental for ten (10) years in total without possibility for an extension.	
Host country grant or support	<i>Not applicable.</i>	
Present value of the building	<i>Not applicable.</i>	

**Building projects in planning phase:** There are no building projects in planning phase.

**Building projects submitted to the European Parliament and the Council:** There are no new building projects foreseen.

## ANNEX VI: PRIVILEGES AND IMMUNITIES

The Protocol on the Privileges and Immunities of the European Union governs the status of the European Institutions and their staff in relation to the Member States. Thus, the protocol applies in full to the Agency and its staff.

The relations between the Agency and its host country, as well as particular rules and privileges applicable to Agency staff in Slovenia, are governed by the Seat Agreement between the Slovenian Government and the Agency for the Cooperation of Energy Regulators, signed in Ljubljana on 26 November 2010.

Agency privileges	Privileges granted to staff	
	Protocol of privileges and immunities / diplomatic status	Education / day care
<ul style="list-style-type: none"> <li>- Inviolability of premises and archives</li> <li>- Facilitations for communication Security</li> <li>-Direct exemption from taxes</li> </ul>	<ul style="list-style-type: none"> <li>- Staff immunity from Slovenian jurisdiction regarding acts carried out in the official capacity</li> <li>- Exemption from national taxes on salaries and wages</li> <li>- Staff exemption from import taxes and duties on personal effects in the first year</li> <li>- Exemption from social security contribution towards Slovenian schemes</li> <li>- Director and Heads of Departments holding Diplomatic status</li> </ul>	<p>Government of Slovenia established a European School of Ljubljana (ESL) with two language sections – EN and SI for P1 and P2 grades. The Agency will cover the school fees to the ESL once a financing agreement would be signed with the European Commission after the accreditation of the ESL.</p>

## **ANNEX VII: EVALUATIONS**

The Agency has an internal monitoring system based on a 'traffic lights' approach through which Key Performance Indicators - KPIs (see Annex XI) are monitored. Specific tasks are monitored at the department level, unless they are included in the KPIs. The traffic lights system ensures that the results achieved and deadlines met in relation to the objectives are monitored on a quarterly basis at the coordination and management meetings, with measures taken in case the objectives are at risk of not being met. The absorption of the Agency's budget is monitored through weekly reports providing an overview of both commitments and payments.

As a young Agency launched in 2011, the Agency has so far been subject to one external evaluation from the Commission, as foreseen in the Founding Regulation, in 2014.

The first few years of operation of the Agency were characterised primarily by the adoption of Framework Guidelines (FGs) and Network Codes (NCs). While the effects of FGs and NCs cannot be evaluated in the short term, the Agency has begun the process of developing ex-post evaluations on their impact.

The Agency developed tools for the ex-post evaluations of the network codes. After the release of the study for a methodology proposal to evaluate the impact of the gas NCs and Guidelines in 2015, the Agency through cases studies or in-depth analysis described the effect of the network codes in the dedicated sections of the Market Monitoring Reports and stand-alone monitoring reports for the implementation of the Congestion Management Guidelines, Capacity Allocation Mechanisms and Balancing Codes.

A total of 45 indicators were selected for the desired effects of network codes/guidelines (NC/GLs) and policy goals, of which 23 NC/GL indicators and 22 market monitoring indicators. The proposed indicators should not be used in isolation to draw conclusions regarding market impacts of NCs and GLs, but rather be looked at in combination and interpreted in the light of market fundamentals. These indicators are used by ACER in its annual Market Monitoring Report to measure the economic impact of NCs/GLs and its use will gradually increase over time. Further details are available on the Agency's website at <http://www.acer.europa.eu/Media/News/Pages/ACER-publishes-study-on-how-best-monitor-the-effects-of-the-implementation-of-the-network-codes.aspx>.

## ANNEX VIII: RISKS - ACER RISK REGISTER 2019<sup>52</sup>

Risk Description <sup>53</sup>	Risk type <sup>54</sup>	Activity/Objective affected	Risk Response <sup>55</sup>	Action Plan Summary		
				Brief description of action to be taken	Responsible	Implementation Target Date
<b>REGULATORY ACTIVITIES</b>						
<p><b>1. Operation of the Centralised European register of energy market participants (CEREMP) and of the Agency's REMIT Information System (ARIS) – MIT department</b></p> <p>The risks are linked to the shortage in human resources and budgetary</p>	External/ Internal	Operation of the Centralised European register of energy market participants (CEREMP) and the Agency's REMIT Information System (ARIS)	Reduce	- Raise awareness among EU institutions, National Regulatory Authorities, stakeholders, on the benefits of the proper implementation of REMIT.	Market Integrity and Transparency Department, Market Surveillance and Conduct	Q1 - Q4

<sup>52</sup> **Only for critical risks**

<sup>53</sup> Including cause and potential consequence. Risks are assessed always at their residual level (i.e. after taking into account controls existing in the organisation). The identified impact and likelihood of the residual risk is described in the field.

<sup>54</sup> Internal vs. External.

<sup>55</sup> Avoid / Transfer / Reduce / Accept.

<p>restraints in the introduction of the planned enhancement and actions, the change of IT services providers during 2018 for reasons of public procurement which will still impact the Agency in 2019.</p>		<p>Due to the budgetary constraints in 2017 and 2018 and the fact that the ARIS hosting was changed into an in-house data centre arrangement in 2017, the disaster recovery data centre does not exist anymore and just basic recovery is maintained which may hamper operational reliability.</p>		<ul style="list-style-type: none"> <li>- Practical solutions will have to be adopted for the registration process envisaged by REMIT.</li> <li>- Revision of the Work Programme and review of priorities in line with the available funds and allocation of human resources.</li> <li>- Raise awareness among EU institutions, National Regulatory Authorities, stakeholders, on the benefits of the proper implementation of REMIT.</li> <li>- Practical solutions will have to be adopted.</li> </ul>	<p>Department, DIR office, IT section of the ADMIN department</p> <p>Market Surveillance and Conduct Department</p>	<p>Q1 - Q4</p>
<p><b>2. Data quality</b> The Agency is tasked to collect data for the purpose of market monitoring in accordance with the REMIT implementing acts and to share it with NRAs and other relevant authorities for their market monitoring activities. There is a risk that the task will not be effectively performed, with an impact on the quality of the data collected under REMIT, due to the lack of IT budget in order to licence software and upgrade ARIS (validation rules, electronic formats</p>	<p>Internal/ External</p>	<p>This risks to negatively impact REMIT-related market monitoring by the MSC department and by NRAs as a spill-over.</p>	<p>Reduce</p>			

<p>changes) and, insufficient human resources.</p> <p><b>3. Market monitoring of trading activity in wholesale energy markets – MSC department</b></p> <p>The Agency deploys an automatic surveillance tool - in which the Agency has made significant investments in the last five years to screen more than 1.5 million transactions and orders to trade per day. The screening renders a number of alerts (or a suspicions event) which are expected to reach 80.000 - 90,000 in 2018 for the EU. These alerts require further screening and a proportion may require a preliminary assessment to be then disseminated to NRAs who are responsible for investigating and enforcement of REMIT.</p> <p>If the Agency lacks budget to support the automatic surveillance tool (SMARTS) the Agency might resort to Excel spreadsheets to manually analyse the REMIT data, but it would not be able to screen all the data due to the lack of human resources. As a result, a significant amount of REMIT data would not be screened for possible</p>	<p>Internal/ External</p>	<p>The Agency is tasked to perform market surveillance and disseminate to NRAs instances of suspicious trading activities in a secure way.</p>	<p>Reduce</p>	<ul style="list-style-type: none"> <li>- Raise awareness among EU institutions, National Regulatory Authorities, stakeholders, on the benefits of the proper implementation of REMIT.</li> <li>- Practical solutions will have to be adopted.</li> </ul>	<p>Market Surveillance and Conduct Department</p>	<p>Q1 - Q4</p>
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<p>REMIT breaches.</p> <p><b>4. Review of the REMIT operations and rulebook</b></p> <p>The risks are linked to the shortage in human resources and budgetary restraints.</p>	<p>Internal/ External</p>	<p>Review of the REMIT operations and rulebook. This risk is mainly related to the provision of transaction and fundamental data reporting guidance, but may also 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, aiming at enhancing the transparency and integrity of the wholesale energy market at the Policy level.</p>	<p>Reduce</p>	<ul style="list-style-type: none"> <li>- Raise awareness among EU institutions, National Regulatory Authorities, stakeholders, on the benefits of the proper implementation of REMIT.</li> <li>- Practical solutions will have to be adopted.</li> </ul>	<p>Market Integrity and Transparency Department</p>	<p>Q1 - Q4</p>
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## ANNEX IX: 2019 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>56</sup>	Indicative number of contracts envisaged <sup>57</sup>	Estimated value in EUR <sup>58</sup>	Estimated value in EUR <sup>59</sup>
IT system integration services for the Agency	service	specific contracts based on an existing framework contract	Q2-Q4	3	2,250,000	
IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS)	service	specific contracts based on an existing framework contract	Q2	1	250,000	
Market monitoring software for the Agency's REMIT information system (ARIS)	service	specific contracts based on an existing framework contract	Q1-Q3	3	575,000	
Oracle software licences and associated services	service	specific contracts based on an existing framework contract	Q2-Q3	2	500,000	
Provision of legal assistance in the field of energy regulation for the Agency	service	specific contracts based on an existing framework contract	Q2-Q4	1	20,000	
Provision of economic assistance in the field of energy regulation for the Agency	service	specific contracts based on an existing framework contract	Q2-Q3	2	80,000	
Legal support services to the Agency's Board of Appeal	service	specific contracts based on an existing framework contract	Q1-Q4	4	100,000	
Agency's website set-up and maintenance services	service	specific contracts based on an existing framework contract	Q2	1	50,000	

<sup>56</sup> Indicative timeframe for launching new procurement procedure or for signing specific contracts/order forms under the existing framework contracts.

<sup>57</sup> Order forms throughout the year are counted as one contract.

<sup>58</sup> Estimated commitments 2019.

<sup>59</sup> Estimated value for procurement procedures for new framework contracts.



Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>56</sup>	Indicative number of contracts envisaged <sup>57</sup>	Estimated value in EUR <sup>58</sup>	Estimated value in EUR <sup>59</sup>
Provision of consultancy services in the areas of physical security and information security	service	specific contracts based on an existing framework contract	Q1-Q2	1	23,000	
Provision of consultancy services in the area of business continuity for the Agency	service	specific contracts based on an existing framework contract	Q2	1	22,000	
Provision of consultancy services in the area of data protection for the Agency	service	specific contracts based on an existing framework contract	Q2	1	30,000	
Maintenance, support and development services for the SharePoint applications	service	specific contracts based on an existing framework contract	Q1	1	30,000	
Maintenance, support and development services for the Java/PHP applications	service	specific contracts based on an existing framework contract	Q2-Q3	2	80,000	
Provision of catering services for the Agency's events	service	order forms based on an existing framework contract	Q1-Q4	1	36,000	
Provision of printing services for the Agency	service	order forms based on an existing framework contract	Q1-Q4	1	15,000	
Provision of design services for the Agency	service	order forms based on an existing framework contract	Q1-Q4	1	15,000	
Provision of general legal support in Slovenian law for the Agency	service	specific contracts based on an existing framework contract	Q1	1	10,000	
<b>TOTAL PLANNED PROCUREMENT 2019</b>				<b>27</b>	<b>4,086,000<sup>60</sup></b>	<b>0<sup>61</sup></b>

<sup>60</sup> The global budgetary envelope reserved for procurement during the year 2019.

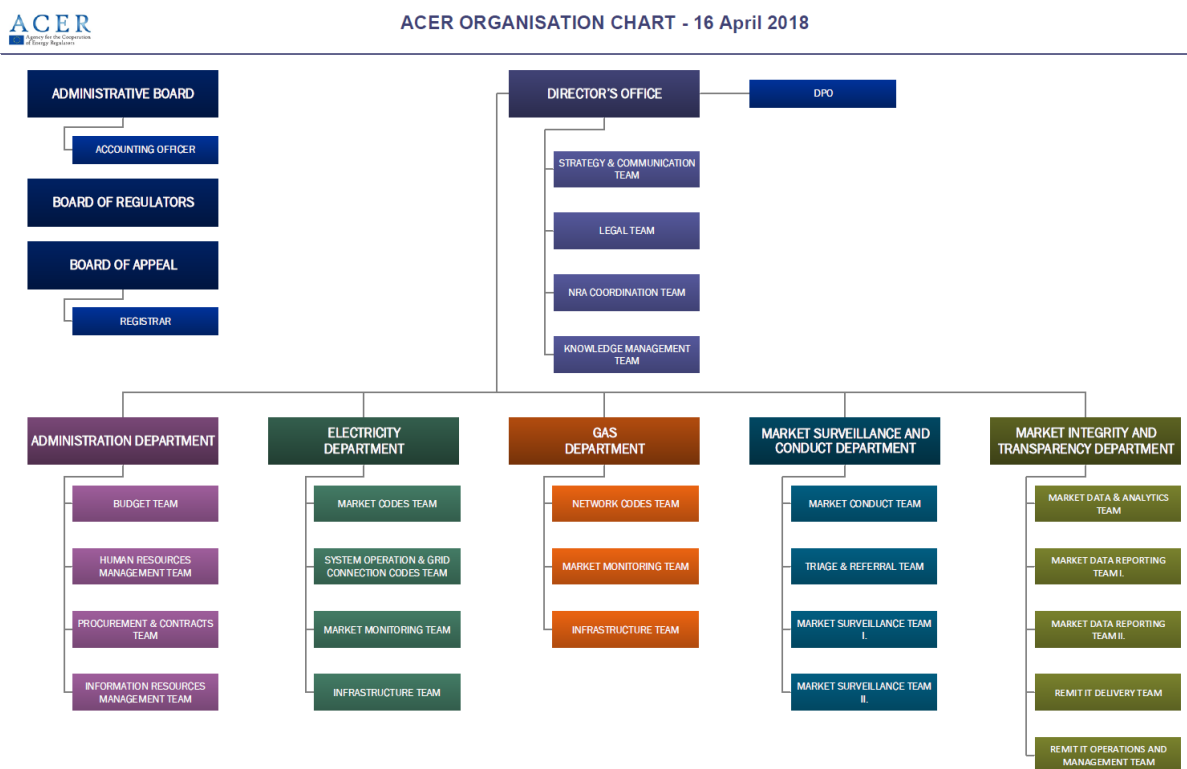
<sup>61</sup> Total estimated value for procurement procedures for new framework contracts to be launched in the course of 2019.

# ANNEX X ORGANISATION CHART

The number of staff in active service in the different departments as of 1 November 2018 is the following:

- Director's Office: **11** (9 TAs + 2 CAs);
- Administration Department: **17** (11 TAs + 5 CAs + 1 SNE);
- Gas Department: **16** (12 TAs + 3 CAs+ 1 SNE);
- Electricity Department: **16** (14 TAs + 2 CAs);
- Market Integrity and Transparency Department: **17** (7 TAs+ 8 CAs + 2 SNE);
- Market Surveillance and Conduct Department: **13** (11 TAs, 2 CAs).

The organisation chart below reflects the situation on 1 November 2018:



## ANNEX XI: KEY PERFORMANCE INDICATORS<sup>62</sup>

### Staff satisfaction

Task	Staff engagement /satisfaction
Objectives and deadlines (indicative)	To assess, on a regular basis, staff's engagement and satisfaction with working at the Agency in order to address shortcomings.  Review to be performed every 2 years.
KPI	1. 2/3 of participating staff satisfied or highly satisfied with the employment conditions at the Agency.

### Budget Implementation and Audit

Task	Budget Implementation and Audit
Objectives	To achieve a high level of budget implementation for both commitment and payment appropriations.  To receive a positive opinion from the European Court of Auditors and implement its recommendations.
KPI	2. At least 95% execution of commitment appropriations 3. Minimum 75% execution of payment appropriations. 4. Cancellation of payment appropriations from funds carried over to be below 5%. 5. Non-qualified opinion received from ECA and 75% of its recommendations implemented in line with the Agency's Action Plan.

<sup>62</sup> As in the past, the Agency has included the list of KPIs foreseen for 2019, although this Annex does not constitute a mandatory part of the Programming Document. Based on the Commission's Opinion on the Agency's Programming Document 2018-2020, the number of KPIs has been considerably reduced.

**Electricity Network Codes, Opinions, Recommendations, Decisions and Reports**

<b>Task</b>	<b>Timely adoption of the Agency Acts in the Electricity sector foreseen in the Work Programme and in the regulations relevant for the Agency</b>
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Electricity-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).
KPI	<b>6.</b> 90% of opinions, reviews, recommendations and reports delivered on time.

**Gas Network Codes, Opinions, Recommendations, Decisions and Reports**

<b>Task</b>	<b>Timely adoption of the Agency Acts in the Gas sector foreseen in the Work Programme and in the regulations relevant for the Agency</b>
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Gas-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).
KPI	<b>7.</b> 90% of opinions, reviews, recommendations and reports delivered on time.

**Cross-Sector Issues (Electricity and Gas)**

<b>Tasks</b>	<b>Annual Market Monitoring Report</b>
Objectives and deadlines (indicative)	Objective: timely preparation of a high quality Annual Market Monitoring Report (and of its constituent volumes, published separately). More specifically: the 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.
KPI	<b>8.</b> Positive feedback on the report based on an online survey (70% satisfied or very satisfied).

**Wholesale Market Monitoring – REMIT**

<b>Task</b>	<b>REMIT Information Management and operation and further enhancements of the Agency's REMIT Information Systems whilst ensuring operational reliability</b>
Objectives and deadlines (indicative)	<p>To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.</p> <p>To operate the Agency's REMIT Information Systems operationally reliable.</p>
KPI	<p><b>9.</b> Continuous work on improving REMIT data quality measured by the number of yearly internal REMIT data quality reports.</p> <p><b>10.</b> 99% system availability. <b>AND</b></p> <p>Time from discovery of an incident until resolution0 breaches of the security system with a data leakage involved. <b>AND</b></p> <p>Time from discovery until escalation to Director/stakeholders.</p>

<b>Task</b>	<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. Ensure that NRAs and other relevant authorities apply market manipulation provisions under REMIT in a coordinated and consistent way.</b>
Objectives and deadlines (indicative)	<p>Market Monitoring of the data collected according to Article 8 of REMIT. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices under REMIT.</p> <p>Aim to ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way and coordinate investigations of alleged cross-border market abuse instances as required.</p>
KPI	<p><b>11.</b> 100% of the cross-border triggered alerts are preliminarily assessed and disseminated with NRAs in a secure way.</p> <p><b>12.</b> 0% chance of not notifying priority cases to the relevant authorities.</p>