



**European Union Agency for the  
Cooperation of Energy Regulators**

**Programming Document**

**2020 - 2022**

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## **DIRECTOR'S FOREWORD**

I am pleased to present the Programming Document (PD) of the European Union Agency for the Cooperation of Energy Regulators (the Agency) for the period 2020 - 2022. The PD contains a multiannual outlook, covering the 2020-2022 period, as well as the annual Work Programme for 2020.

In the 2020 Work Programme, the Agency's activities are grouped in six areas: (1) REMIT Policy and Information Management; (2) Market Surveillance and Conduct; (3) Electricity and Gas Market Monitoring; (4) Internal Electricity Market; (5) Internal Gas Market; (6) Infrastructure and Security of Supply.

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The European Council's Strategic Agenda for 2019 – 2024, agreed in June 2019, includes, among its four priorities, “developing a strong and vibrant economic base” and “building a climate-neutral, green, fair and social Europe”. The new European Commission, which took office on 1 December 2019, will bring this agenda forward through the European Green Deal announced by President van der Leyen on 11 December 2019. The energy sector is called to play a major role in the European Union development and decarbonisation strategy and a well-functioning Internal Energy Market is key in supporting sustainable economic development. The Agency is honoured to be able to play its role in achieving the new European policy objectives, by promoting an efficient integration of the Internal Energy Market, including forward-looking infrastructure development, and by monitoring market developments and energy trading to ensure that any barrier to market integration is addressed and that market abuse is detected and deterred. In this context, the Agency adopted in November 2019 a Recommendation to the EU Institutions and published the accompanying “Bridge beyond 2025” Conclusions Paper, developed jointly with the Council of European Energy Regulators, highlighting the challenges facing the energy sector, and, in particular, the gas sector, in the path towards decarbonisation, and the most appropriate policy and regulatory response.

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In July 2019, the recast of the Agency founding Regulation and of the Electricity Regulation and Directive – part of the “Clean Energy for all Europeans” legislative package proposed by the Commission in November 2016 - finally entered into force, significantly widening the scope of activities of the Agency and its responsibilities. The new tasks assigned to the Agency are reflected in the Work Programme for 2020. In fact, the deadlines for most of the new activities are very tight - falling in the first half of 2020.

Such tight deadlines are putting even higher pressure on the Agency's limited human resources. In this respect, it is worth noting that the Agency has been struggling with inadequate staffing and financial resources for many years and the situation is only getting worse with the new tasks and responsibilities. In fact, the financial statement accompanying the "Clean Energy for All European" Package envisaged the allocation to the Agency of 18 additional FTEs, of which 4 Temporary Agent posts and 14 Contract Agent positions. While the Agency appreciates the effort of the Institutions to provide additional resources in the face of an extended remit, the new authorised posts are unfortunately not commensurate, in quantity and grading, to the width and complexity of the new tasks assigned to the Agency, which span some of the most crucial and contentious issues covered by the new legislation, such as resource adequacy and bidding-zone configuration.

In 2020, the Agency will also experience a peak in the number of "terms and conditions or methodologies" to be approved for the implementation of the electricity sector guidelines. Under the recast of the Agency's founding Regulation, the proposals for these terms and conditions or methodologies are submitted directly to the Agency for approval, rather than being referred to it only when National Regulatory Authorities cannot agree.

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As the PD is adopted after the Agency's 2020 Budget has been defined, it reflects the fact that some activities have had to be deprioritised or descoped, as this budget does not reflect the request for additional financial and human resources formulated by the Agency's Administrative Board in January 2019.

In this respect, it is most unfortunate that the many competing request for the limited EU budgetary resources did not allow the Budgetary Authority to meet the Agency's request and that in 2020, the Agency will be prevented from contributing, as effectively as it could, to the completion of an efficient, secure, sustainable and affordable Internal Energy Market. As always, the Agency will do its best in trying to deliver on this extended legal mandate.

However, the lack of adequate resources has been a constant challenge for the Agency. The accumulated shortfall in staffing, with respect to what would be required effectively to deliver the Agency's mandate, is now close to 30%. This is not the legacy that I would have wished to leave to my successor.

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In fact, my extended term as Director of the Agency will come to its end on 31 December 2019. Therefore, it will be for my successor, Mr Christian Zinglensen, to lead the Agency to implement this Work Programme in 2020. I wish him and all my colleagues all the best in tackling this challenge, I am sure that the Agency will continue to represent a reference point for high-quality regulation in Europe.

Let me conclude this Foreword by thanking my colleagues in the Agency for their relentless effort, which has been 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 2019

## LIST OF ABBREVIATIONS AND ACRONYMS

Abbreviation	Meaning
The Agency	European Union 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



EMIR	Regulation of the European Parliament and Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR)
ENTSO-E	European Network of Transmission System Operators for Electricity
ENTSO-G	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
MSC	Market Surveillance and Conduct
MoU	Memorandum of Understanding
MP	Market Participant
MS	Member State
NC	Network Code

NDP	Network Development Plan
NRA	National Regulatory Authority
NVE	Norwegian Energy Regulatory Authority
OTC	Over the counter
PCI	Project of Common Interest
Reg	Regulation
RCC	Regional Coordination Centre
REMIT	Regulation on wholesale Energy Market Integrity and Transparency
RRM	Registered Reporting Mechanisms
SMARTS	ACER's 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

### MISSION

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.

### VISION

Our vision is to be a leading agency for independent, high-quality regulation in Europe to implement the Internal Energy Market and the Energy Union.



### LEGAL BASIS

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”)<sup>1</sup>, Directive 2009/73/EC (the “Gas Directive”), Regulation (EC) No 713/2009 (the “Agency Regulation”)<sup>2</sup>, Regulation (EC) No 714/2009 (the “Electricity Regulation”)<sup>3</sup> 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”);

<sup>1</sup> Repealed from 1.1.2021 by Directive (EU) 2019/944 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast), *cfr infra*.

<sup>2</sup> Repealed by Regulation (EU) 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators (recast), *cfr infra*.

<sup>3</sup> Repealed from 1.1.2020 by Regulation (EU) 2019/943 on the internal market for electricity, *cfr infra*.

- 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.

The following acts, part of the Clean Energy for all Europeans package, have assigned additional tasks to the Agency:

- Regulation (EU) 2019/941 on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC;
- Regulation (EU) 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators (recast);
- Regulation (EU) 2019/943 on the internal market for electricity (recast);
- Directive (EU) 2019/944 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast)<sup>4</sup>.

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<sup>4</sup> Repeals Directive 2009/72/EC from 1.1.2021.

# SECTION I – GENERAL CONTEXT

## STRATEGIC AIMS

### Background

The Agency was established as part of the new institutional framework defined by the Third Energy 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. A well-functioning internal market is key to ensure security of energy supply for EU consumers.

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 the support of their 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. Moreover, with the entry into force of the Network Codes and Guidelines, 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.

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. The goal of increased integrity and transparency of wholesale energy markets is to foster open and fair competition in wholesale energy markets for the benefit of final consumers of energy and to protect energy consumers and other market participants by striving to ensure that prices reflect a fair and competitive interplay between supply and demand and that no profits can be drawn from market abuse. 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. The Agency 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, and enables NRAs and other relevant authorities at national level to perform investigations and enforcement by providing access to the relevant information held by the Agency which it has collected ('data sharing') and by aiming to ensure a coordinated approach at Union level.

The European Union is leading by example. Its action to drive the fight against market abuse in wholesale energy markets corresponds to the EU's positive agenda "to help create a Europe that protects, empowers and defends". 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. The central role given to the Agency in the implementation of REMIT contributes to cost-savings at the Member States level as concerns data collection, monitoring and surveillance of suspicious transactions.

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.

The Agency has delivered a successful implementation of REMIT. With the information available, it is set to detect instances of possible market manipulation, attempted market manipulation and trading based on inside information and enables NRAs and other relevant authorities at national level to investigate and enforce market abuse in wholesale energy markets. However, the Agency's vigour 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.

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 linked to the enabling of permanent physical capacity to transport gas in both directions, the related cross-border cost allocation and the exemption requests<sup>5</sup>.

## A challenging future

The above brief description of the developments in the legislative mandate of the Agency since its establishment – together with the new responsibilities assigned in 2019 in the “Clean Energy for All Europeans” Package (CEP) – 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.

### Clean Energy for All Europeans Package

The CEP, which includes a recast of the Agency’s founding regulation, strengthens the role of the Agency, with the assignment of numerous new tasks – most of which will enter into force in 2020 - which are crucial for promoting greater competition and security of energy supply to the benefit of European consumers and citizens, and with greater responsibilities in some of the processes in which it is already involved, including:

- directly revising and submitting the electricity sector Network Codes to the Commission for adoption;
- approving and amending, where necessary, the proposals for methodologies and calculations related to the European resource adequacy assessment in the electricity sector;
- approving and amending, where necessary, the proposals for technical specifications for cross-border participation in capacity mechanisms;
- approving the methodology regarding the use of revenues from congestion income from cross-border exchanges in electricity;
- providing an opinion, at the request of the Commission, on the ENTSO-E’s evaluation of national adequacy assessments;
- approving and amending, where necessary, the methodologies for identifying electricity crisis scenarios;

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<sup>5</sup> <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32017R1938&from=EN>



- providing an opinion on the technical guidance for the calculation of CO2 emission limits;
- monitoring the performance of the Member States in the area of security of electricity supply;
- monitoring and analysing the performance of Regional Coordination Centres (RCCs);
- monitoring progress of the Nominated Electricity Market Operators (NEMOs) in establishing their functions under the Guideline on capacity allocation and congestion management;
- providing operational assistance to NRAs, upon their request, regarding REMIT investigations (pursuant to Article 6(8) of Regulation (EU) 2019/942).

The Agency will also be called to decide directly on the EU-wide “terms and conditions or methodologies” for the implementation of guidelines, or on the regional ones when they have an impact beyond the region. So far, the Agency’s involvement was limited to those cases in which the national regulatory authorities failed to agree or unanimously referred the decision to the Agency. This, in the past two years, has already resulted in several complex or contentious methodologies being referred to the Agency for decision, but from now on all EU-wide terms and conditions or methodologies and some regional ones will fall under the direct competence of the Agency.

#### *Revision of the gas market legislation*

The Commission has also announced its intention to proceed, in the next couple of years, to a review of the gas market legislation, in order to reflect the role of the gas sector in the decarbonisation of the economy and to “mirror” in the gas sector some of the new governance and regulatory arrangements introduced for the electricity sector by the “Clean Energy for All Europeans” legislation.

While the Agency’s Work Programme includes an exhaustive list of tasks and deliverables, listed in the sub-activities; however, the breakdown of human resources in terms of Full Time Equivalent (FTEs) is presented at the activity level. The aim is to ensure the necessary flexibility in allocating resources to mandatory tasks subject to specific conditions (i.e. executed upon request).

### **STRATEGIC AREAS OF WORK**

In 2020 the current financial framework will 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 of which are 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 IEM and the monitoring of its functioning;
- The infrastructure challenge and Security of Supply;
- The monitoring of wholesale energy markets;
- The longer-term regulatory challenges, with an improved market design (resources permitting).

### **OPERATIONAL ACTIVITIES**

In view of the entry into force of the legislative acts stemming from the Clean Energy Package and in order better to streamline its tasks and deliverables, the Agency has reviewed its definition of operational activities and sub-activities. While REMIT-related tasks have been split into two separate activities, the overall number of activities has been reduced to the following six:

- Market Integrity and Transparency;
- Market Surveillance and Conduct;
- Internal Electricity Market;
- Internal Gas Market;
- Electricity and Gas Market Monitoring;
- Infrastructure and Security of Supply.

## **SECTION II - MULTIANNUAL PROGRAMMING 2020 – 2022**

### **WIDER CONTEXT: Energy Union Strategy, UN Sustainable Development Goals**

The Agency is committed to the European Commission’s goal of delivering a Europe that protects, empowers and defends. One of the priorities identified by the 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 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 2030 Energy and Climate Framework;
- 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.

In particular, while only some the Agency’s tasks are directly related to security of energy supply, most of activities of the Agency significantly contribute to it. In fact, all of the four objectives listed below are instrumental to improving security of supply in the EU: a fully functioning internal energy market, better infrastructure with improved connections, greater transparency and integrity of the markets and addressing the longer-term regulatory challenges the EU is facing are all conducive to greater security of supply of Member States. In addition, the Agency is increasingly involved in cybersecurity issues related to the energy market, on which it has developed significant expertise.

The Agency also contributes to the United Nations sustainable development goal of ensuring access to affordable, reliable, sustainable and modern energy for all.

# 1. MULTIANNUAL OBJECTIVES

**Objective 1: Contribute to the completion of a well-functioning and secure Internal Energy Market**

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 in order to deliver full benefits and the Agency will still have to be engaged and crucially contribute to it, in particular with the entry into force of the “Clean Energy for all Europeans” package.

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”) or particular cross-border issues 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;
- Performing the tasks assigned to the Agency under the “Clean Energy for All Europeans” Package (CEP).

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 acts in the CEP 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 latter 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 ENTSOG 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 or particular issues 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;
- Timely implementation of the resource adequacy-related methodologies.

#### 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.

The adopted Network Codes and Guidelines foresee a role of the Agency in deciding on terms and conditions or methodologies, or particular issues, 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.

The development - and therefore effective implementation - of sound and efficient adequacy-related methodologies will most likely take longer than what envisaged in legislation, as the

timing envisaged therein is extremely tight for ENTSO-E to develop and submit a proposal and even tighter for the Agency to approve and/or amend these proposals.

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

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.

On top of that, the 2017 Security of Gas Supply Regulation aims to improve the security of gas supply by requiring EU countries to work together in regional groups to assess the potential for disruption to their gas supplies and agree on joint actions to prevent or mitigate the consequences. The SoS Regulation foresees a number of tasks for ACER, in particular with respect to bidirectional capacities and reverse flow capacities.

### 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;
- Providing opinions on coordinated decisions (in cases where NRAs agree) and Decisions (in cases where NRAs cannot agree) on proposals to enable permanent physical reverse flow capacity;
- Providing opinions on requests for an exemption from the obligation to enable permanent bi-directional capacity;
- Performing the tasks assigned to the Agency under the CEP.

PCI lists are adopted every two years. TYNDPs - which are also developed every two years, - 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 runs over two years, repeating itself every two years. The Agency is 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, which the Agency believes would be necessary, 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. The effective implementation of REMIT is

thus a major pre-requisite for efficient market integration and the security of energy supply, both of which are essential components of the Energy Union 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. Moreover, the Agency aims to ensure that NRAs carry out their activities under REMIT in a coordinated and consistent way.
- Collection of wholesale energy market data by the Agency at pan-European level for assessing and monitoring wholesale energy markets and data sharing with NRAs and other relevant authorities for their potential market monitoring and for their investigations and enforcement at national level.

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 current 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>6</sup>. The ongoing operation of REMIT also requires financial resources at an annual minimum rate of EUR 3.6 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>7</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, including the risk of market abuse instances going undetected to the detriment of EU energy consumers.

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

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<sup>6</sup> In fact, in both 2017 and 2018, the Agency was asked to reduce its staff by one Temporary Agent post each year.

<sup>7</sup> For example, in both 2017 and 2018 the EU Budget assigned an allocation of only EUR 1.5 million for REMIT-related IT expenditure.

impact 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 “Clean Energy for All Europeans” Package addressed many of the challenges identified in the Conclusions Paper and provided an enhanced framework to deal with the future challenges in which the Agency will play a significant 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 to what extent the “Clean Energy for All Europeans” legislation has addressed the challenges identified in 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 new challenges 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.

A new dimension of risk for the energy sector, linked to its progressing digitalisation, comes from possible cyber-attacks. While not yet directly involved in this area, the Agency has developed significant experience in cybersecurity, in preparation for any call on it to contribute to addressing the issue at sector level (as is likely to be the case, following the adoption of the “Clean Energy for All Europeans” Package legislation).

### **General risks and uncertainties**

The future action of the Agency, whose mission has already been significantly extended since its establishment, including through the legislation that emerged from the “Clean Energy for all Europeans” Package, faces a number of risks, mainly related to its role as a EU body 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, AWWGs 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 AWWGs. 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.

Thirdly, 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 REMIT and the TEN-E Regulation. More recently, the adoption of the Network Codes and Guidelines, and of the Security of Gas Supply Regulation, all of which assigned additional significant tasks to the Agency, were not accompanied by any additional allocation of human or financial resources to the Agency. 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 the Agency proceeded with its new tasks for the implementation of the Network Codes and Guidelines and the Security of Gas Supply Regulation 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 extra-ordinary level of effort, while counting also on the valuable support of NRAs. The "Clean Energy for All Europeans" legislation assigned new tasks and responsibilities to the Agency, which should have been matched by the timely allocation of an adequate complement of additional resources.

More generally, despite its repeated requests, the Agency only received a fraction of the additional resources required effectively to deliver on its legislative mandate. Going forward, the risk of persistent understaffing and underfunding will be compounded by the uncertainty surrounding the new, post-2020 Multiannual Financial Framework, which envisages a considerable reduction of the annual subsidy to the Agency from the EU budget. The collection of REMIT fees may be an opportunity to overcome ACER's resource issues for its REMIT activities as of 2021. However, the timeline for the implementation of such REMIT fee scheme in 2020 and the lack of experience with the design and implementation of such a fee scheme may not fully satisfy the actual resource needs of ACER for 2021.

The Agency is also monitoring closely developments related to the withdrawal of the United Kingdom from the EU. 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.

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 (DoIs). The DoIs are subsequently processed by review panels and, in case of conflicts of interest, appropriate measures are taken. The DoIs of Board members, those of the Agency's management (Director and Heads of Department), and those of Agency Working Group Chairs and Task Force Convenors are published on the Agency's website.

### Classification of priorities

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, the Agency divides 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.

The classification system is a tool for the Agency to make the best use of the limited resources at its disposal. In case insufficient resources are assigned to the Agency to perform all the activities included in its Work Programme, activities are 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 nevertheless will endeavour to perform all legally-mandated activities. In case of resource limitations, 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.

This classification however 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.

## 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 and Security of Supply Challenges
- 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, including those stemming from the “Clean Energy for all Europeans” Package, 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.

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

##### **Composition**

The BoR consists of 28 members (and 28 alternates)<sup>8</sup> representing the NRAs of each Member State - as well as one non-voting representative of the European Commission. The Director participates in the BoR meetings as an observer and presents his/her proposals for the Agency Acts considered for adoption that require the favourable opinion of the BoR, discusses and consults the BoR on other areas of work, and reports on the progress achieved in the Agency’s work. 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 Regulation (EU) 2019/942:

- 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;

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<sup>8</sup> In the course of 2020 the United Kingdom is expected to cease to be an EU Member State. In such a case, the UK NRA would no longer be a member of the BoR.



- approving the Agency's Programming Document (PD) before it is adopted by the Administrative Board, and approving the section on regulatory activities in the Agency's Consolidated Annual Activity Report (CAAR);
- providing guidance to the Director within its field of competences;
- providing guidance to the Agency's Working Groups;
- providing opinions to the AB on the establishment and rules of procedure of the Agency's Working Groups (pursuant to Article 30(3) of Regulation EU 2019/942), on the ACER rules of procedure regarding a transparent and reasonable decision-making process (pursuant to Article 14(5) of Regulation EU 2019/942), and those regarding relations with third countries or international organisations, and on the communication and dissemination plans (pursuant to Articles 43(4) and 41(5) of Regulation EU 2019/942;
- Providing opinions regarding the appointment of the Director - and possible extension of the Director's term.

In addition to these tasks, the BoR is consulted:

- by the Director on all aspects of REMIT implementation, in accordance with the relevant legislation;
- with regard to the Commission's evaluation of the activities of the Agency and its working methods;
- on the Agency's budget before its adoption by the Administrative Board;
- by the European Commission on its proposal for the appointment of members of the Board of Appeal.

### **Meetings**

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

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

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

The BoR draft agendas and minutes are also sent to the European Parliament. The BoR Chair and the Director hold open sessions ("debriefs") two to four times per year in order 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, as well as from the European Commission, the AWWGs ensure, at technical level, the complementarity of regulatory action at national- and EU-level. Although the Third Package did not require the establishment of AWWGs, in order to strengthen regulatory cooperation between the Agency and NRAs, three AWWGs have been operating at the Agency.

- 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).

Their mandate was to support the Director in the preparation of the Agency's Acts and other activities of the Agency and to provide input to the Director and the BoR.

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

Under the new framework introduced by Regulation (EU) 2019/942, the AWWGs support the regulatory work of the Director and of BoR on regulatory issues and in the preparation of the regulatory acts of the Agency that require the BoR's favourable opinion. The Director consults the AWWGs before submitting the draft acts to the BoR. Under the new framework, the AWWGs carry out the activities assigned to them in the programming document and any activities assigned to them by the BoR and the Director under the Agency Regulation. To this end, in July 2019 the Administrative Board established, upon the entry into force of Regulation (EU) 2019/942, the Electricity Working Group and the Gas Working Group. At the same time, the AMIT WG will continue to exist as technical structure established by a decision of the Director.

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

[https://www.acer.europa.eu/en/The\\_agency/Organisation/Working\\_groups/Pages/default.aspx](https://www.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>9</sup>.*

For this purpose, the REMIT Coordination Group brings together senior representatives from NRAs in charge of the implementation of REMIT, to support a coordinated implementation of the Regulation. The REMIT CG and the AMITWG have implemented a range of innovative practices to better facilitate coordination and consistency between the Agency and NRAs in the implementation of REMIT, to build a common understanding among NRAs of how to interpret and implement relevant provisions of the REMIT Regulation. Such practices include workshops, Q&A sessions and the drafting of reports.

### **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 Agency chairs the GRI CG, which is composed of all NRAs, especially the leading ones 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 internal gas market, with particular focus on projects for the early implementation of the Network Codes.

### **Board of Appeal**

The Board of Appeal (‘BoA’) decides upon appeals brought before it against individual decisions of the Agency by the addressees or by those who are directly and individually concerned by the decision.

The number of appealed decisions is increasing: while the first BoA (2011-2016) reached two inadmissibility decisions upon appeals lodged against one act of the Agency, the current BoA (2016-2021) has already been involved in twelve appeals filed against six Agency decisions and has decided on their merits in six (consolidated) decisions. Along with the new responsibilities assigned to the Agency, a further increase in the number of appeal cases is foreseen.

The Agency currently provides the BoA with the registrar services (0.5 FTE) performed by a legal officer assigned to the Administration Department. A framework contract for provision of legal services in appeal cases for the BoA has been concluded with external legal providers for the period 2017-2020.

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<sup>9</sup> Article 16(1) of REMIT.

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

- Maintain high efficiency in the working methods of the BoR, AWGs, and the REMIT CG, and optimise their operational arrangements to facilitate their activities with a view to promoting regulatory cooperation with the involvement of all NRAs in the Agency's work. In particular, the working arrangements should be further developed and improved as provided in the Regulation (EU) 2019/942. The Agency will have additional important responsibilities in which both the BoR and the AWGs are involved. It is thus important that their working arrangements allow the participation of all NRAs in the Agency's work through the BoR and the AWGs.
- Ensure that the structure and focus of the AWGs always reflect the requirements of the regulatory framework and the Agency's activities as defined in the Programming Document, by establishing and dissolving the AWGs, or by modifying their remit as required 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 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 to reinforce the support and legal scrutiny of the Agency's work<sup>10</sup>. Following the entry into force of Regulation (EU) 2019/942, the relevant rules of the BoR and AWGs are being amended.
- Maintain and increase the efficiency of the working methods on the basis of lessons learned.

### **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

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<sup>10</sup> A revision of the structure of the AWGs resulted in the dissolution of the Implementation, Monitoring and Procedures Working Group in 2017.

years, by the secondment of experts from NRAs. At present, the AWGs rely heavily on the voluntary engagement of NRAs and the resources they commit. 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, which has been strengthened following the recast of the Agency Regulation.

## 2.3. International Cooperation

### 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>11</sup>, although until 2019 no third country has been admitted formally to participate in the Agency.

However, on 3 October 2019, the Third Energy Package became applicable to the EEA EFTA States – Iceland, Liechtenstein and Norway – even though with a number of specific provisions. In particular, on 5 May 2017, the European Economic Area (EEA) Joint Committee adopted Decision No 93/2017 amending Annex IV (Energy) to the EEA Agreement and incorporating the Third Energy Package in the EEA Agreement under certain provisions<sup>12</sup>.

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<sup>11</sup> Article 43 of Regulation (EU) 2019/942 states that "(1) The Agency shall be open to the participation of third countries, which have concluded agreements with the Union and which have adopted and are applying the relevant rules of the Union law in the field of energy including, in particular, the rules on independent regulatory authorities, third party access to infrastructure and unbundling, energy trading and system operation and consumer participation and protection, as well as the relevant rules in the field of environment and competition. 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 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".

<sup>12</sup> Derogations were made to several articles in the various acts, whilst the gas directive and regulation do not apply to Iceland in its entirety. Decision No 93/2017 only relates to the legislation adopted in 2009. Regulation (EU) No 1227/2011 (REMIT), the CBCA Regulation or the various electricity and gas Network Codes and Guidelines that have been subsequently adopted via

Decision No 93/2017 was adopted with constitutional requirements from all three EEA EFTA States. After the Liechtenstein, Norwegian and Icelandic Parliaments approved the adoption of the Third Energy Package on 6 September 2017, 22 March 2018, and 1 September 2019 respectively, the EEA Joint Committee Decision No. 93/2017 entered into force. This Decision provides the legal basis for the NRAs of the EEA EFTA States fully to participate in the Agency, its BoR, its AWGs and their substructure, albeit without the right to vote.

In line with the autonomy requirements of the EFTA institutions under the “two pillar system”<sup>13</sup> of the EEA Agreement, the EFTA Surveillance Authority (ESA) will take the formal decisions addressed to the EEA EFTA competent authorities and market operators in the EEA EFTA States, mirroring the role and competences ACER has in the EU Member States. ACER will thus have a non-binding role vis-à-vis the EEA EFTA States, whilst the NRAs of the EEA EFTA States and the Authority will be able to participate in the work of ACER.

At the technical level, involvement in the AWGs was granted, on the basis of a determination by the Director and the necessary arrangements, to the NRAs from a number of third countries. In particular

- 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

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Commission Regulation are therefore not concerned. All these legal acts are still subject to separate assessment and potential incorporation by the EEA Joint Committee at a later stage.

<sup>13</sup> The EEA EFTA States have not transferred any legislative competences to the joint EEA bodies and they are also unable, constitutionally, to accept decisions made by the EU institutions directly. To cater for this situation, the EEA Agreement established EEA EFTA bodies to match those on the EU side. The EEA EFTA institutions and EU institutions form two pillars, whereas the joint EEA bodies are situated in-between. The structure encompasses supervision and judicial control. As parallels to the European Commission and the ECJ, a surveillance authority and a court were established by the EEA Agreement to ensure the monitoring of implementation and application of EEA law in the EEA EFTA States.

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. On 7 October 2019 the Administrative Arrangement was modified to grant the Energy Community Secretariat also access to the Agency's Market Integrity and Transparency Working Group, following the inclusion of REMIT into the Energy Community *acquis*.
- 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 Volume of the Agency's Market Monitoring Report also cover Energy Community Contracting Parties. The data related to the latter is collected and analysed with the support of 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 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>14</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.

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<sup>14</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*.

## **International Cooperation - objectives**

The Agency aims to foster 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 involves representatives from the National Association of Regulatory Utility Commissioners (NARUC) and FERC.

The Agency will enable the participation of EEA EFTA NRAs in the Agency's boards and working groups in line with Decision of the EEA Joint Committee No 93/2017 of 5 May 2017 amending Annex IV (Energy) to the EEA Agreement (2019/205), and in general cooperate with the EFTA Surveillance Authority as required by Annex IV (Energy) of the EEA Agreement. 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.

### **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.

## **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 2020 and beyond. An effective Network



Code monitoring process, which has been already 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.

The CEP legislation also foresees that the Agency directly revises and submits the electricity sector Network Codes to the Commission for adoption. The Agency will also be called to decide directly on the EU-wide “terms and conditions or methodologies” for the implementation of guidelines, or on the regional ones when they have an impact beyond the region.

### **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 and, for some aspects, the Energy Community Contracting Parties. 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.

However, the insufficient resourcing of the Agency forced a significant reduction of the scope of the Electricity and Gas 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.

The CEP legislation assigns new monitoring tasks to the Agency, including the monitoring of:

- the wholesale and retail markets in electricity and natural gas, in particular the retail prices of electricity and natural gas;
- the impact of market developments on household customers, access to the networks including access of electricity produced from renewable energy sources;
- regulatory barriers for new market entrants and smaller actors, including citizen energy communities;
- state interventions preventing prices from reflecting actual scarcity;



- the performance of the Member States in the area of security of supply of electricity based on the results of the European resource adequacy assessment;
- Regional Coordination Centres (RCCs) and Nominated Electricity Market Operators (NEMOs).

### **2.4.3. New tasks from CEP**

The Agency will also implement the new tasks stemming from the CEP, such as approving the methodologies regarding the use of revenues from congestion income from cross-border exchanges in electricity and establishing best practices in the area of transmission and distribution tariffs methodologies.

## **2.5. Strategic Area 2: The European Infrastructure and Security of Supply Challenges**

### **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. Additional tasks have been added by the Clean Energy Package acts. In particular, the Agency will be tasked to approve the methodology regarding the use of revenues from congestion income.

### **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 assesses the consistency between the national infrastructure development plans and 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.

### **2.5.5. New tasks from CEP package**

The Agency will also implement the new tasks stemming from the CEP, such as approving and amending, where necessary, the proposals for methodologies and calculations related to the European resource adequacy assessment in the electricity sector; approving and amending, where necessary, the proposals for technical specifications for cross-border participation in capacity mechanisms; providing an opinion, at the request of the Commission, on the ENTSO-E's evaluation of national adequacy assessments; approving and amending, where necessary, the methodologies for identifying electricity crisis scenarios; monitoring the performance of the Member States in the area of security of electricity supply and monitoring and analysing the performance of Regional Coordination Centres (RCCs).

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

### **2.6.1 Institutional Framework**

The Agency plays a central role under REMIT in monitoring wholesale energy markets and in collecting the data for its assessment and monitoring wholesale energy markets at Union level

and for sharing the data and coordinating NRAs' potential market monitoring, investigations and enforcement at national or regional level. 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 ACER 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 Agency has delivered a successful REMIT implementation of data collection of wholesale energy markets data from market participants and of data sharing with NRAs. The Agency collects on average more than 3 million records of transactions per day. The implementation of REMIT required the Agency to build in-house expertise on data collection and to develop, with the assistance of several IT providers 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. Data collection successfully started in two phases on 7 October 2015 and 7 April 2016.

The successful implementation of REMIT data collection and the experience gained, 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, which was initially planned to be implemented by the end of 2019, is currently still ongoing. It was rescheduled to be implemented by the end of 2021 when the Agency will hopefully have an appropriate REMIT IT budget to finance system integrator services through REMIT fees. 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. At the end of 2019, the Agency started the renewal of its REMIT IT infrastructure with the additional REMIT IT budget received in 2019. The REMIT IT infrastructure replacement and the re-establishment of a disaster recovery site for ARIS will be implemented in 2020.

The continuous successful operation of the REMIT data collection and sharing against the lack of human and financial resources was a huge challenge in previous years and will remain a challenge in 2020.

### **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 data on wholesale energy market transactions (over 3 million transactions per day by the end of 2019, as mentioned above), must be screened to identify instances of possible market abuse to be notified to the competent national authorities responsible for investigation and enforcement. In addition, the Agency receives through its Notification Platform suspicious 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 and may provide operational assistance on investigations upon request of an NRA. The latter is, as mentioned, a new task for the Agency with the entry into force of Regulation (EU) 2019/942.

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" Package 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. A number of regional market integrations are under way.

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 2020 - 2022**

### **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. The Agency revises its staff planning on a yearly basis, according to the adopted budget for each year.

### **3.2. Resource programming 2020 – 2022**

#### **3.2.1. Financial resources**

The activities the Agency is planning to perform results in the need for increased financial resources in 2020 and beyond.

## **Revenue**

On the revenue side, the approved EU subsidy for 2020 marks a 2.61% increase, from 16 147 153 EUR for 2019 to 16 470 000 EUR. This is significantly lower than the increase of 27.87% requested by the Agency. Of the total received contribution, 1.17% will be covered by the surplus resulted from the operations during the year 2018. On top of the subsidy from the general budget of the EU, the Agency is receiving a contribution from EFTA countries of 2.45% of its budget amounting to 398 810 EUR.

The difference in the requested funding between 2019 and 2020 grouped by budget title is illustrated below with detailed calculations presented in Annex II.

<b>Expenditure</b>	<b>2019 budget</b>	<b>2020 requested budget</b>	<b>Variance</b>	<b>2020 approved budget (including EFTA contribution)</b>
<b>Title 1</b>	9,397,379	12,663,939	34.76%	10,707,603
<b>Title 2</b>	2,661,270	3,647,474	37.06%	2,722,584
<b>Title 3</b>	4,088,504	4,336,250	6.06%	3,438,623
<b>Total expenditure</b>	<b>16,147,153</b>	<b>20,647,663</b>	<b>27.87%</b>	<b>16,868,810</b>

## **Expenditure**

### **Title 1**

Compared to 2019, there is a 13.94% increase in financial resources allocated for Title 1. This mainly relates to increased staff expenditure (remuneration) for the four (4) additional Temporary Staff posts and six (6) additional Contract Staff members the Agency requested to be operational from the second half of 2020 to implement the tasks of the Clean Energy Package acts.

For the following years, 2021 and 2022, the increase within this Title relates only to the expected costs for salaries and allowances adjustments of the additional human resources required and staff promotions.

### **Title 2**

There is a minor 2.3% increase in the financial resources under Title 2 as compared to 2019. The increase mainly relates to gradual replacement of IT infrastructure, and maintenance of



the IT network. The level of the expenditure within this Title is expected to increase for subsequent years due to additional studies envisaged in the fields of electricity, gas and market monitoring, external development of IT applications, increased size of office space to accommodate the required additional human resources and price indexations.

### **Title 3**

There is a 15.9% decrease in the expenditure of Title 3 as compared to 2019 due to lack of funding.

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>15</sup>, considered the Agency as a 'new tasks' agency due to the phasing in of new 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 in the meantime already registered 120 registered reporting parties. The data collection has been increasing ever since go-live. Whilst the Agency started collecting around 1 million records of transactions on average per day in 2015, it collected 1.17 million records of transactions on average per day in 2016 and already more than 2 million records of transactions per day in 2018, which exceeded all expectations. These factors only materialised in 2015, 2016, 2017 and 2018 and led to REMIT-related IT budget needs at EUR 2.8 million, much higher 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. However, these figures from 2016 were

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<sup>15</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).



once more exceeded by recent developments. Since then the number of Market Participants has almost doubled (from 7,700 in 2016 to more than 14,400 in 2019) together with the number of collected records of transactions per day (from 1.17 million in 2016 to over 3 million in 2019). It is expected that further growth will continue also in 2020 due to an increasing market liquidity due to the implementation of network codes (e.g. market coupling) and market developments such as an increase in algorithmic trading especially in intraday and day-ahead electricity markets, in particular due to the European Single Intraday Coupling 2<sup>nd</sup> wave go-live in November 2019. The Agency currently estimates the overall increase of the baseline infrastructure costs to be 20% of the 2016 figure. An estimated growth of 20% for nearly twice the number of registered Market Participants and collected records per day compared to 2016 seems a very prudent estimate.

Furthermore, it should be noted that the 2016 baseline did not include any additional software development costs and the Agency has since then postponed any software development of new functionalities of ARIS. It is expected that specific software development activities will have to be covered in 2020 to implement the necessary changes, for instance in order to adapt REMIT data collection to modifications caused by legislative market design changes in the electricity or gas sector. In addition, in 2020 the REMIT software solutions will be 6 years old and specific adaptations of software architecture will be needed to keep up with technological changes/evolution and the increasing number of users, taking into account also a large amount of collected data that the Agency will have to store and manage in 2020 and beyond. The Agency also has to bear increasing software license costs under the DIGIT framework contract (DI/07590). Finally, the Agency will need additional consultancy services in 2020, mainly related to information security in order to implement recommendations from a recent audit by the European Commission's Internal Audit Service. Additional consultancy services will be necessary for the implementation of specific architectural changes in REMIT IT software/hardware and data quality.

For the aforementioned reasons, the Agency had requested a REMIT IT budget of EUR 3.6 million for 2020. However, this request was only partially satisfied by the adopted EU budget 2020. As a result, the Agency's REMIT IT budget in 2020 is expected to amount to EUR 2.8 million.

Therefore, the adjusted REMIT-related IT budget needs from 2020 to 2022 can be broken down as follows, taking into account that in 2021 and 2022 the Agency's REMIT IT activities should be financed through REMIT fees<sup>16</sup>:

**Multiannual budget for REMIT IT in 2020-2022:**

<b>Expenditure Item</b>	<b>Total cost (million €) 2020</b>	<b>Total cost (million €) 2021</b>	<b>Total cost (million €) 2022</b>
<b>1. Infrastructure, hardware licenses, deployment, service desk and operations</b>	<b>0.85</b>	<b>1.53</b>	<b>1.53</b>
<b>2. Software maintenance, development, testing and software licenses</b>	<b>0.775</b>	<b>1.25</b>	<b>1.25</b>
<b>3. Surveillance and BI tools customisation, licenses and consultancy</b>	<b>0.825</b>	<b>0.90</b>	<b>0.90</b>
<b>4. Studies, technical writing, coordination, QA and information security</b>	<b>0.35</b>	<b>0.90</b>	<b>0.90</b>
<b>5. Others</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Grand TOTAL</b>	<b>2.80</b>	<b>4.58</b>	<b>4.58</b>

Whilst EUR 2.8 million for REMIT-related IT expenditure, as baselined in 2016, will allow the Agency to ensure maintaining the basic ARIS operations (data collection, data sharing, market surveillance), it will not allow ACER to perform any major software development and it may risk to hamper ARIS operations and negatively impact data collection, data sharing and market surveillance in light of the increasing data volume collected which will only further increase in 2020 and beyond.

<sup>16</sup> Please note that the previous estimates of EUR 2.8m covered only the basic REMIT IT related costs and did not reflect any organic growth and that no major additional development activities were included in the provided figures. The previous figures were therefore to 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. However, in the meantime the Agency experienced organic growth of data collection and a need to invest in software development after several years of not being able to do so. In addition, for the years 2021 and 2022, the Agency must assume further organic growth of up to 10% for infrastructure and software maintenance related costs, based on the experiences made in previous years of REMIT data collection.

The estimates for the years 2021 and 2022 are based on the possibility to raise REMIT fees to improve the Agency's funding by covering its costs with regard to services provided to MPs or entities acting on their behalf enabling them to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner.

Since the budget for the year 2020 does not foresee that the Agency receives the requested REMIT IT budget of EUR 3.6 million for 2020, necessary investments in IT infrastructure and software development will have to be postponed once again to the years 2021 and beyond. This is why any REMIT IT budget covered by REMIT fees as of 2021 should be increased so that the Agency can undertake these investments in the years 2021 and beyond.

In addition, the budget for the year 2020 does not foresee an increase in human resources for the Agency's REMIT activities. This is why additional IT consultancy will be necessary to enable the Agency to perform its tasks in the years 2021 and beyond.

Furthermore, taking into account that the data volume collected grew from around 2 million records on average per day when the draft Programming Document 2020-2022 was drafted in December 2018 to more than 3 million records on average per day in June 2019, the data volume collected on a daily basis may continue to increase more drastically than expected so that there would be an increasing need for REMIT IT expenditure in 2021 and beyond. The current trend indicates that the data volume may increase to around 4 million records on average per day by the end of the year, which would be a duplication of the collected data volume within only one year. This could not be foreseen when the draft Programming Document 2020-2022 was drafted in end-2018.

Last, but not least, the change from a reporting obligation towards the Agency free of charge to a data collection service provided by the Agency against the payment of REMIT fees is expected to alter the expectations of reporting parties with regard to the Agency's mandate of collecting, handling, processing and analysing of information reported by reporting parties pursuant to Article 8 of REMIT significantly.

Such a rise in expectations would apply once the Agency is supposed to deliver data collection services against REMIT fees. For instance, this will require additional investment in the operation of the Agency's Central Service Desk (CSD) to respond to queries from reporting parties more efficiently and effectively and the implementation and operation of an IT solution for sample transaction data requests for MPs from ARIS in order to allow them to verify completeness, accuracy and timeliness of data submission to the Agency, but also the publication of aggregated REMIT information for transparency reasons which will allow that

reporting parties (as well as general public) get a return for paying fees and actually benefit from such arrangement.

Furthermore, the Agency may have to commit to respect specific level of service provided to reporting parties, which will change the current basis (i.e. “best effort”) on which the estimates for the draft Programming Document have been calculated. The increase in the financial resources requested under Title 3 also relates, albeit to a lesser extent, to the requirement to have the Agency’s opinions translated in EU official languages and contributes to the increased translation costs. The increased translation costs, however, do not cover all anticipated translation costs, as indicated in a dedicated communication to the services of the Commission.

Article 32 of the Agency’s founding regulation (recast) foresees the possibility for the Agency to raise fees for REMIT-related activities and stipulates, *inter alia*, that fees shall be due to the Agency for collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT (REMIT fees). These fees and the way in which they are to be paid, shall be set by the Commission after carrying out a public consultation and after consulting the Administrative Board and the Board of Regulators.

The costs to be covered by the fees as from 2021 onwards shall include the expenditure of REMIT IT, the expenditure with the salaries of staff working within the Market Integrity and Transparency (MIT) Department and the Market Surveillance and Conduct (MSC) Department, the salaries of the three additional staff responsible for the management of the fees scheme, part of related overheads, including the supporting invoicing system.

## **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:

- the monitoring of wholesale energy markets in the Union;
- the optimal development of trans-European energy infrastructures;
- the implementation of the Network Codes and Guidelines; and
- the tasks concerning measures to safeguard the security of gas supply.

With the adoption of the “Clean Energy for All Europeans” legislative proposals, new tasks and responsibilities have been assigned to the Agency.

### **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 (now Regulation (EU) 2019/943) 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.

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, 2017 and 2018, while other tasks were postponed to later years. Given the persistent and more acute resource limitations in 2019, many of these tasks (e.g. the implementation of an IT solution for sample transaction data requests for market participants from ARIS in order to 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 2020.

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>17</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 fully perform some of these tasks and activities:

- Promoting transparency of wholesale energy markets (monitoring effective and timely disclosure of inside information according to Article 4(1) of REMIT, 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 according to Article 12 of REMIT);
- Closer cooperation with ESMA, national financial market authorities and, if applicable, competition authorities;
- Collection of EMIR<sup>18</sup> data and of additional data on emission allowances (Article 10(3) of REMIT for REMIT market monitoring purposes;
- 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 have needed **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>17</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>18</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).

Moreover, given the very specific expertise required by the Agency for its REMIT data collection and the difficulties encountered in the last years to recruit Seconded National Experts (SNEs) from public administrations, the Agency requested the conversion of 2 SNE positions into Contract Staff posts, but this was not taken up in the Commission's budget proposal for the year 2020 and was therefore not approved for the Agency's budget 2020:

<b>Grade</b>	<b>CAs for the Market Integrity and Transparency Department</b>
FG IV	2

### **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 in a secure way 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; and, a new tasks for the Agency;
- g) providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations.

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 screening 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<sup>19</sup>; and
- 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 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 and also the development 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

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<sup>19</sup> The Agency has started in the course of 2019 to enhance its surveillance methodology to address the increasing number of triggered alerts, which need to be assessed by surveillance experts. The increase in alerts is due to the increase in data points while the number of surveillance experts remain unchanged. With the enhanced methodology, the Agency aims to explore how to further automate the processing of triggered alerts to e.g. reduce the need for specifically manual assessment.



additional tasks and activities assigned to the Market Surveillance and Conduct Department<sup>20</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 were requested again for 2020, and were expected to be graded as follows:

<b>Grade</b>	<b>TAs for the Market Surveillance and Conduct Department</b>
AD7	2
AD5	9
AST4	1

The recast of the Agency’s founding regulation assigns the Agency, as mentioned above, with a new task, which is to provide operational assistance to NRAs upon their request to support their investigations into suspicious behaviour from market participants in wholesale energy markets.

The Agency assessed<sup>21</sup> that the additional resources it would require, should it not reject any of the requests for assistance from NRAs, amounts to an estimated 22 full-time equivalent employees (FTEs) in 2020. However, the Market Surveillance and Conduct Department would not be able to absorb an operational expansion of this size in one or two years. It would therefore be appropriate to request a fraction<sup>22</sup> and evaluate on a yearly basis.

In this respect, the Agency requests for 2020 **5 additional posts** (5 conduct officers) in order to provide operational assistance on REMIT investigations to NRAs at an appropriately effective level.

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<sup>20</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>21</sup> See: “Note on the resources required to provide operational assistance to the NRAs on REMIT investigations pursuant to Article 6(8) of Regulation (EU) 2019/942”.

<sup>22</sup> The Agency will therefore reject all requests for support that will exceed the workload of 5 FTEs (approximately 75% of the requests).

These posts were expected to be graded as follows:

Grade	TAs for the Market Surveillance and Conduct Department
AD6	1
AD5	4

However, this request was not taken up in the Commission's budget proposal for the year 2020 and was therefore not approved for the Agency's budget 2020.

### 3.2.2.3. 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 mandates the Agency to report on all national tariff methodologies. This implies a significant additional workload for the Agency, with 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, for individual decisions in case NRAs cannot agree on a cross-border issue (such as in the case of the choice of a gas Booking Platform or an incremental capacity investment proposal) 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** are 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, 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) <sup>23</sup>	1

### 3.2.2.4. Infrastructure and Security of Supply

#### 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>24</sup> 3 more posts were 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>25</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

<sup>23</sup> Please note that the FTEs indicated in the table are part of the requests included in the CEP allocation (see 2.2.2.9).

<sup>24</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.

<sup>25</sup> These experts deal with all TSO-related tasks assigned to the Agency by the Third Energy Package 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.

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).

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 requested again for 2020 was expected to be graded as follows:

Grade	TAs for the Electricity Department	TAs for the Gas Department
AD5	(1) <sup>26</sup>	1

### **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 opinions on the elements of coordinated decisions, participation in consultations pertaining to the establishment of permanent bi-directional capacity at

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<sup>26</sup> Please see footnote 17.

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.

Grade	TAs for the Gas Department
AD5	1

### 3.2.2.5. Growth of existing tasks

As indicated above, over the next years the Agency is facing important challenges in the implementation of the REMIT operations and the Network Codes and the TEN-E Regulation. 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, requires **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 - AD5).

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

Grade	TAs for support functions
AD6	2
AD5	2
AST3	1

Beside the requests indicated above, the Agency envisaged the need to allocate 6 Contract Agents positions (FGIII), one for each of its department (including the Director' Office. This would foster a better support of all operational and administrative activities and replace the current interim assistants of the Heads of Department, as the role of this function is not only to provide support and secretarial tasks but also assist in operational tasks.

Grade	CAs for support functions
FG III	6

Clerical and secretarial support is covered by the use of structural service providers (intérimaires). Nonetheless, the reason the Agency requests of FGIII positions is that the part of the profile of departmental assistants is of non-clerical nature (assistance to budget implementation, operations-related tasks): this part is now distributed among statutory staff,

while the clerical part of the profile is carried out by intérimaires. To that end, the Agency is requesting to have statutory staff (CAs) with a profile that would match the Agency needs (clerical + operational support, i.e. FGIII positions. Another relevant factor is also related to the fact that the Agency needs to make such positions attractive, vis-à-vis the low correction coefficient.

### **3.2.2.6. 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>27</sup>.

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

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<sup>27</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 number of posts increases from 49 in 2013 to 52 in 2020.” As a consequence, in the establishment plan 5 additional posts, instead of 8, were allocated to the Agency in 2014.

automation of certain processes, centralisation of certain functions, related to support functions.

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.

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).

Moreover, the Agency is currently deploying Sysper; this system is an integrated HRM management tool used in all Commission services: its deployment will bring the management of staff data to a higher standard and facilitate the interface with rights and entitlements, personal files and career management for the Agency's staff.

### **3.2.2.7. 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 already 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 TSO cooperation area 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 establishment of appropriate mechanisms to share data with competent financial authorities of the Member States, national competition authorities, ESMA and other relevant authorities 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, 2017 and 2018;
- 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 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 of the Agency's Centralised European Registry of European Market Participants (CEREMP) to facilitate the national registration of market participants by NRAs has so far been postponed;
- the enhancement of ARIS to improve data quality and to take into account new market design developments through the implementation of network codes has so far been postponed;
- the enhancement and development of existing alerts for market monitoring purposes;
- the enhancement of the Case Management Tool for the purpose of securely exchanging sensitive information with NRAs;
- the enhancement of the Notification Platform for securely receiving sensitive information such as from market participants' suspicious transactions reports.

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 ENTSSOs 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.

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.

### **3.2.2.8. 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 established cross-department projects with staff members from different departments working on technical topics. Moreover, 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.
- 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 is much wider than any feasible redeployment could fill;
- 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 2020, in particular since the Agency has had to start implementing the additional tasks allocated to it in the framework of the “Clean Energy for All Europeans” Package.

### **3.2.2.9. New tasks foreseen under the “Clean Energy for All Europeans” legislative proposals**

With the adoption of the “Clean Energy for All Europeans” (CEP) legislative proposals, new tasks and responsibilities were assigned to the Agency. These tasks include:

1. the adoption of the new terms, conditions and methodologies to be developed under the Framework Guidelines/Network Codes process;
2. the adoption of a European Resource adequacy assessment methodology, including a particular focus on the contribution of interconnectors;
3. the adoption of a methodology to assess the participation of interconnectors to Capacity Mechanisms;

4. the adoption of a methodology for identifying the most relevant electricity crisis scenarios in a regional context;
5. the adoption of methodologies and calculations related to the European resource adequacy assessment;
6. the monitoring of state interventions preventing prices from reflecting actual scarcity, as well as on the performance of Member States in Electricity security of supply;
7. the progressive harmonisation of transmission and distribution tariff methodologies;
8. the monitoring of the use of congestion income across Europe;
9. the regulatory oversight of EU- or regional-wide entities
10. the support to the establishment of a new European DSO entity.

These new tasks require the recruitment of high-level technical experts who will have to approve or amend very complex and politically sensitive methodologies at EU level. Based on the Agency's recent recruitment experience, the proper fulfilment of all these new complex and sensitive tasks will not be possible with CA positions as proposed in the Financial Fiche<sup>28</sup>.

The additional staff the Agency had originally envisaged for the Electricity Department to perform these new tasks was as follows:

	<b>Grade</b>	<b>FTEs</b>
<b>TAs</b>	AD8	1
	AD7	1
	AD5	12
	AST3	2
<b>CAs<sup>29</sup></b>	FGIV	2

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<sup>28</sup> Please note that the Financial Fiche includes a proposal of 14 CAs and 4TAs. The Agency's request in terms of FTEs has been aligned to the Commission's proposal in term of FTEs' number, although the Agency reiterates the importance of employing Temporary Staff and not Contract Staff for this particular activity.

<sup>29</sup> 2 CAs have already been allocated within the 2019 budget, in order to prepare for the new tasks of the CEP.

## **SECTION III – WORK PROGRAMME 2020**

### **1. EXECUTIVE SUMMARY**

2020 will be another important year for the Agency in its efforts to contribute to the completion of the internal energy market and the monitoring of its functioning, as well as to monitor wholesale energy trading under REMIT. It will be a “special” year also due to two additional circumstances:

- 1) Most of the legal acts of the “Clean Energy for All Europeans” Package (CEP) will start to enter into force. The Agency will thus, once again, tackle new responsibilities and tasks.
- 2) 2020 will be the first full year in which the Agency will be headed by a new Director.

The new responsibilities foreseen within the CEP have led to a revision of the Agency’s definition of activities and sub-activities. While REMIT-related tasks, which constitute a large (though also largely insufficient) share of both human and financial resources, have been split into two separate activities, the overall number of operational activities has been reduced to the following six:

- Market Integrity and Transparency;
- Market Surveillance and Conduct;
- Internal Electricity Market;
- Internal Gas Market;
- Electricity and Gas Market Monitoring;
- Infrastructure and Security of Supply.

Full Time Equivalent (FTEs) will henceforth also be split at the activity level only (and no longer at the level of tasks or deliverables, as was the case in the past), thus ensuring the necessary flexibility also for tasks on demand which cannot be foreseen in advance, for example when the Agency is called to take important decisions on cross border cost allocations.

The 2020 Work Programme itself continues to focus primarily on the Agency’s legal mandate at the time of its drafting. As a consequence, besides the tasks stemming from the CEP, the Agency’s priorities in 2020 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 (TYNDP and PCI tasks, 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 preparation of this draft Work Programme, the Agency published and presented an outline in a public workshop held in Ljubljana on 19 October 2018, 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 the resources at its disposal. 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>30</sup>.

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

## **1. Critical activities**

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

- 1.1 All activities related to Market Integrity and Transparency, with the exception of some tasks relating to the registration of additional RRM, the publication of aggregated REMIT data for transparency reasons, enhancements of the Agency’s REMIT Information Systems, the cooperation with ESMA and other authorities, the REMIT annual report and stakeholder management;***

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<sup>30</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 pre-requisite for efficient market integration and security of energy supply that are essential components of the Energy Union strategy.

**1.2 All activities related to Market Surveillance and Conduct according to REMIT, with the exception of some tasks relating to cooperation with ESMA and other authorities and the REMIT annual report;**

**1.3 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”);**

**1.4 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>31</sup> (the retail and consumer sections of the report are classified as “important”);**

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

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

**1.6 All Decisions which the Agency may be required to take if NRAs fail to agree, or upon their joint request, notably<sup>32</sup>:**

- 1.6.1 on terms and conditions and operational security of cross-border interconnectors;
- 1.6.2 on Cross-Border Cost Allocation for PCIs;
- 1.6.3 on exemptions.

**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.

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<sup>31</sup> This is a shorter and more selective version of the Market Monitoring Report that the Agency and CEER previously produced.

<sup>32</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.

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.

**1.8 All the tasks stemming from the CEP** (except for the *best practice report on transmission and distribution tariff methodologies*).

## **2. 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.

### **2.1 A number of Market Integrity and Transparency -related activities which are not considered essential, notably:**

2.1.1 *Registration of new RRM's,*

2.1.2 *Publication of aggregated REMIT data for transparency reasons;*

2.1.3 *Enhancements of the Agency's REMIT Information Systems;*

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

2.1.5 *Annual REMIT Report;*

2.1.6 *Facilitation of the stakeholder involvement, unless required pursuant to REMIT and the REMIT Implementing Regulation.*

### **2.2 A number of activities related to Market Surveillance and Conduct:**

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

2.2.2 *Annual REMIT Report;*

2.2.3 *Development of applied surveillance and conduct business intelligence tools.*

### **2.3 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;*



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 (some requests are classified as priority 1);

2.1.5 Adoption of the opinions and recommendations at the request of one or more NRAs, or the European Commission, pursuant to Regulation (EU) 2019/942 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.

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

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

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

2.4.3 Opinions on TSO certifications.

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

**2.6 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.

**2.7 "Peer Review" opinions.**

**3. 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.

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

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

**3.2 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.**

**Financial Resource Constraints**

Finally, some activities, initially planned for 2017, 2018, 2019 and 2020, will have to be postponed beyond 2020 since sufficient budgetary resources were not made available for the necessary IT investments, unless additional resources would be made available in the course of 2020.

1. Review of the electronic formats for data collection for the collection of transaction and fundamental data (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 ARIS and 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 a 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 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. ACTIVITIES**

### **2.1. Market Integrity and Transparency (Operational)**

The effective implementation of REMIT is a major pre-requisite for efficient market integration and the security of energy supply. The Agency's market integrity and transparency work requires a strong data and analysis capacity to support the monitoring of wholesale energy markets to detect and deter market abuse, but also for its further market monitoring activities and to underpin the Agency's policy work under REMIT. This ongoing task involves policy activity to support the Agency's REMIT mandate, promoting transparency of wholesale energy markets, the registration of market participants and third parties acting on their behalf for data collection under REMIT, REMIT information management, i.e. data collection, data sharing and managing the REMIT datasets, including their cleaning, reconciliation and maintenance, by preparing basic and automatised reports as well as sophisticated analytical tools and methods, the operation and further enhancements of the Agency's REMIT Information Systems, ensuring operational reliability and data protection, cooperation of NRAs and their coordination, coordination with ESMA and other relevant authorities as well as the annual

report on the Agency's activities under REMIT.

In 2020, the Agency will have an enriched dataset whose sources will stem from the previously established legislative REMIT framework.

The costs and staff associated with maintaining the Agency's REMIT Information Systems databases (and therefore relevant IT systems) are included in the REMIT IT budget and staff for this activity.

While this revised Work Programme has been adapted to the resources assigned to the Agency in the 2020 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 2020. This is also due to the fact that the Agency was not provided with the appropriate resources in order to replace the ageing infrastructure and develop new IT applications to fulfil the additional tasks assigned to it by REMIT 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" will be deprioritised in line with the available resources:

- Recommendations/Proposals to the Commission to review REMIT and/or the REMIT Implementing Acts and/or to start new legislative proposals in the field of market integrity and transparency.
- Review of the REMIT operations and rulebook, in particular with regard to the review of the electronic formats for data collection of transaction and fundamental data (XML schemas).

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 2020.

The following activities under the task "Promoting transparency in wholesale energy markets" will be deprioritised in line with the available resources:

- Make publicly available parts of the information the Agency possesses, provided that commercially sensitive information on individual market participants or individual transactions or individual market places is not disclosed and cannot be inferred.
- Make available the Agency's commercially non-sensitive trade database for scientific purposes, subject to confidentiality requirements.

The following activities under the task "Registration and supervision of reporting parties according to Article 8 of REMIT" will be deprioritised in line with the available resources:

- Registration of new RRM.s.

The following activities under the tasks “REMIT Information Management and data analytics” and “Operation and further enhancements of the Agency's REMIT Information Systems” will be deprioritised in line with the available resources, unless additional resources were to become available in the course of 2020:

- Improvement of the market participant registration format pursuant to Article 9(3) of REMIT and improvements of the Agency’s IT solution CEREMP;
- Collection of EMIR derivatives and emission allowances (postponed from previous years for budgetary reasons). NRAs who would like to use EMIR derivatives and emission allowances data for their national market monitoring activities will have to request this information at national level from national financial regulatory authorities;
- Publication of aggregated REMIT information for transparency reasons;
- 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;
- Enhancements of the Agency’s Case-Management-Tool and Notification Platform.

The cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries will remain at the current level of **ad-hoc** cooperation. ACER will not be in a position to follow new policy and/or legislative developments in the field of EU financial legislation impacting REMIT. Any data sharing of REMIT data with national financial market authorities will have to be implemented at national level between NRAs and national financial market authorities.

In relation to the implementation of REMIT and the operation of the REMIT information management, the Agency plans to work in 2020 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)	The Agency will undertake a review of the REMIT operations and REMIT rulebook in light of the experience with data collection since 2015. In 2020 nine years will have elapsed since the entry into force of REMIT and five years since the entry into force of the REMIT Implementing Acts, making this an increasingly critical task.
Objectives	Specific objective: this review may result in the updating of ACER Guidance, the drafting of recommendations and the formulation of proposals to the European Commission for technical updates of REMIT, according to Article 6 of REMIT, of the REMIT Implementing Regulation or of new legislative proposals in the field of market integrity and transparency.  Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Revision of ACER Guidance on the application of REMIT; Revision of the Transaction Reporting User Manual; Revision of the Manual of Procedures on transaction and fundamental data reporting; Revision of the Requirements for the Registered Reporting Mechanisms.
Performance indicators and targets (deadlines)	No strict deadline. However, timely completion of the revisions and, if necessary, of the review of the ACER Guidance documents will ensure effectiveness of REMIT implementation.
Risks	Limited resources for the performance of these activities.  Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

Task	Promoting transparency of wholesale energy markets
Priority level	1: Critical (concerning the disclosure of inside information); 2: Important (concerning the publication of aggregated REMIT data)
Legal basis	Article 4(2) and Article 12(2) of REMIT
Overview (status)	Transparency has the power to create a level playing field, reduce the scope for anti-competitive practices and more generally, increase market operators' confidence in fair pricing mechanisms. REMIT regulates not only integrity, but also transparency of wholesale energy markets in order to guarantee that the relevant information is available to market operators. Higher transparency ensures that more information is available. The disclosure of the information that is deemed relevant in light of the good functioning of the market, affects the possibility for market operators to receive

	<p>efficient market signals before making their choices. Current experiences indicate that there is still a need to further promote transparency in wholesale energy markets with regard to the effective and timely disclosure of inside information according to Article 4(1) of REMIT and with the Agency making available, either publicly or to academia for scientific purposes, parts of the information which it possesses according to Article 12(2) of REMIT.</p>
Objectives	<p>Specific and multi-annual objectives: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Provide guidance and promote consistent implementation of REMIT in order for markets to become more transparent.</p> <p>Coordinate to ensure supervisory convergence on the application of Article 4(1) of REMIT.</p> <p>Make available the Agency's commercially non-sensitive trade database for scientific purposes, subject to confidentiality requirements.</p>
Performance indicators and targets (deadlines)	<p>Increasing number of market participants using inside information and/or transparency platforms for disclosure of inside information.</p> <p>Increasing number of universities and/or research institutes the Agency cooperates with for scientific purposes.</p> <p>Publication of the Agency's assessments of the operation and transparency of different categories of market places and ways of trading on a quarterly basis in the REMIT Quarterlylies.</p>
Risks	<p>Limited resources for the performance of these activities.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

<b>Task</b>	<b>Registration and supervision of reporting parties according to Article 8 of REMIT</b>
Priority level	<p>1: Critical (concerning the supervision of RRM's); 2: Important (concerning the registration of new RRM's)</p>
Legal basis	<p>Articles 8 and 12(1) of Reg. 1227/2011, Article 11(1) of Commission Regulation (EU) No 1348/2014</p>
Overview (status)	<p>ACER assesses registration applications under REMIT and its Implementing Regulation. There are currently 120 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 RRM requirements.
Risks	Limited resources for the performance of these activities.  Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

<b>Task</b>	<b>REMIT Information management and Data Analytics</b>
Priority level	1: Critical
Legal basis	Articles 7 to 10 and 12 of Reg. 1227/2011
Overview (status)	REMIT Information Management includes data collection, data analysis, including data quality analysis, and data sharing.
Objectives	Specific objective: To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.  Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Continuous REMIT Information management.
Performance indicators and targets (deadlines)	Continuous work on improving REMIT data quality measured by the number of yearly internal REMIT data quality reports.
Risks	Limited resources for the performance of these activities.  Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.



Task	Operation and further enhancements of the Agency's REMIT Information Systems (ARIS)
Priority level	1: Critical (concerning the operation of ARIS); 2: Important (concerning further enhancements of ARIS)
Legal basis	Articles 7 to 10 and 12 of Reg. 1227/2011
Overview (status)	<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): <ul style="list-style-type: none"> <li>i. Ongoing operations ensuring operational reliability and</li> <li>ii. Further development and enhancement of CEREMP (if additional resources become available in the course of 2020),</li> </ul> </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> <li>ii. The following further development and enhancements of ARIS, depending on available resources:</li> </ul> </li> </ul> </li> <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) limited to the minimum necessary to improve data quality, unless additional resources would become available during 2020;</li> <li>- Enhancements in order to accommodate potential electronic format changes in data collection and/or of the Agency's data sharing solution with NRAs due to regulatory developments, market design changes and/or market developments limited to the minimum necessary, unless additional resources would become available during 2020;</li> <li>- Enhancements of the Agency's Case-Management-Tool and Notification Platform if additional resources would become available during 2020;</li> <li>- REMIT Portal upgrades to improve the support for the REMIT stakeholder management if additional resources would become available during 2020.</li> </ul>

Objectives	<p>Specific objective: To operate the Agency's REMIT Information Systems operationally reliable.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	Continuous operations of the Agency's REMIT Information System
Performance indicators and targets (deadlines)	99% of planned system availability.
Risks	<p>Limited resources for the performance of these activities.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

<b>Task</b>	<b>Ensuring operational reliability and data protection</b>
Priority level	1: Critical
Legal basis	Articles 11 and 12 of Reg. 1227/2011
Overview (status)	The Agency shall ensure the confidentiality, integrity and protection of the information received pursuant to article 4(2) and Articles 8 and 10 of REMIT. The Agency shall take all necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in its systems. In addition, the Agency has to fulfil data protection obligations relating to the processing of personal data under relevant EU data protection legislation.
Objectives	<p>Specific objective: To ensure data protection and operational reliability.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Renewal of ARIS infrastructure for reasons of operational reliability;</p> <p>The Agency shall identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures.</p>
Performance indicators and targets (deadlines)	<p>Time from discovery of an incident until resolution;</p> <p>Time from discovery until escalation to Director/stakeholders.</p>
Risks	Limited resources for the performance of these activities.

	Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.
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<b>Task</b>	<b>Cooperation with NRAs and their coordination</b>
Priority level	1: Critical
Legal basis	Articles 10 and 16 of Regulation (EU) No 1227/2011
Overview (status)	The cooperation with NRAs and their coordination is an ongoing activity that aims to ensure that a coordinated approach is taken and that NRAs carry out their activities under REMIT in a coordinated and consistent way.
Objectives	Specific objectives: Development of a common understanding on REMIT policy matters with NRAs and promotion of best practices for the application of REMIT.  Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Publication of ACER Guidance and REMIT Q&As
Performance indicators and targets (deadlines)	Publication of ACER Guidance and REMIT Q&As on an ad-hoc basis;  Promotion of best practices for the implementation of REMIT.
Risks	Limited resources for the performance of these activities.  Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

<b>Task</b>	<b>Cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries</b>
Priority level	2: Important
Legal basis	Articles 8, 10 and 19 of Regulation (EU) No 1227/2011
Overview (status)	The cooperation with ESMA, competent national financial market authorities and other relevant authorities is an ongoing activity that aims to ensure that a coordinated approach is taken on data collection under REMIT and similar transaction reporting regimes in EU financial legislation. The Agency may also develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third

	countries, in particular with those that have an impact on the Union energy wholesale market, in order to promote the harmonisation of the regulatory framework. Memoranda of Understanding are currently in place with ESMA, NVE and FERC.
Objectives	Specific objectives: Cooperation with other relevant authorities on REMIT-related matters. Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Coordinated policy documents; Memoranda of Understanding (MoUs).
Performance indicators and targets (deadlines)	Implementation of the MoUs in practice through an ad-hoc exchange of information and/or meetings with the relevant authorities.
Risks	Limited resources for the performance of these activities. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

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)	The Agency submits at least on an annual basis a Report to the Commission on its activities under REMIT. 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. This is a shared task of the Market Integrity and Transparency Department and the Market Surveillance and Conduct Department.
Objectives	Specific objectives: 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. Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.

	<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	Publication of the REMIT Quarterly reports.
Performance indicators and targets (deadlines)	Quarterly publications of the REMIT Quarterly.
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	1: Critical (for material updates of the REMIT reporting user package as consultations are legally required); 2: Important (for other consultations with stakeholders)
Legal basis	Article 14 of Regulation (EU) 2019/942; 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)	<p>The Agency is obliged to consult stakeholders on material updates of the REMIT reporting user package and may consult stakeholders on different aspects of the implementation and operation of REMIT data collection.</p> <p>Involvement of stakeholders will ensure wider acceptance of REMIT data collection and any potential changes on REMIT data collection.</p>
Objectives	<p>Specific objective:</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p>
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.
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</b>	
<b>MARKET INTEGRITY AND TRANSPARENCY</b>	
<b>Human Resources (Full Time Equivalents)<sup>33</sup></b>	<b>Financial Resources (EUR)</b>
<b>18.4 (18.5 positions)</b>	<b>5,239,319</b>

## 2.2. Market Surveillance and Conduct (Operational)

In 2017, the Agency started EU-wide market surveillance of wholesale energy markets to detect market manipulation and insider trading on the basis of an agreed market surveillance strategy with NRAs. With this activity the Agency contributes to the trust in wholesale energy market price formation and protects EU consumers from unfair prices as a result of market manipulation and insider trading. This activity has to be carried out in close cooperation with NRAs and other authorities. Since 2018 NRAs have received on average 75 manually assessed triggered alerts per month that could entail breaches of REMIT for their jurisdiction, in order for them to investigate and enforce. In some of these alerts REMIT cases have been opened by NRAs.

In 2020, the Agency's main screening tool for the automatic screening of REMIT data needs to be further developed in order to improve efficiency and effectiveness in detecting market manipulation. For this the Agency requires surveillance experts with in-depth knowledge on

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<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. The vacant positions (new posts or turnover) as of 1 January 2020 are counted as 0.5 FTE, as staff will be recruited progressively throughout the year.

trading in wholesale energy market products, combined with strong data and analysis capacity. Moreover, improving the quality of data collected under REMIT will require further efforts to which surveillance experts will be making further contributions. With an increasing number of REMIT cases, conduct experts in the Agency will be challenged to ensure the consistent application of market abuse provisions by NRA. To this end, the Agency will, jointly with NRAs, further develop the Case Management Tool that serves as a knowledge database for NRAs pursuing their investigation and enforcement actions in REMIT.

In relation to the surveillance of trading activities in the European wholesale energy market and coordination of REMIT conduct activities, the Agency plans to work in 2020 in the following areas and towards the following deliverables:

<b>Task</b>	<b>Market surveillance of trading activity in wholesale energy markets</b>
Priority level	1: Critical
Legal basis	Article 7 and 8 of Regulation (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.
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>



	Risk if this activity is not performed: ineffective implementation of REMIT.
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<b>Task</b>	<b>Cooperation with NRAs on market conduct activities</b>
Priority level	1: Critical
Legal basis	Article 16(1) of Regulation (EU) 1227/2011; Article 6(8) of Regulation (EU) 2019/942
Overview (status)	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 (October 2018) more than 187 cases pending.
Objectives	<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>Assistance to national regulatory authorities regarding their REMIT investigations.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<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>
Performance indicators and targets (deadlines)	<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>
Risks	<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>
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<b>Task</b>	<b>Cooperation on conduct-related activities with ESMA, competent national financial market authorities and with supervisory authorities, international organisations and the administrations of third countries</b>
Priority level	2: Important
Legal basis	Articles 10, 16 and 19 of Regulation (EU) No 1227/2011
Overview (status)	The cooperation with ESMA, competent national financial market authorities and other relevant authorities is an ongoing activity that aims to ensure that a consistent approach is taken on cases. The Agency may also develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular with those that have an impact on the Union energy wholesale market, in order to promote the harmonisation of the regulatory framework. Memoranda of Understanding are currently in place with ESMA, NVE and FERC.
Objectives	<p>Specific objectives: Cooperation with other relevant authorities on REMIT-cases and in particular the notification of cases between NRAs and competent national financial market authorities.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	Memoranda of Understanding (MoUs), coordination with ESMA on Guidance Notes and case-by-case assessments.
Performance indicators and targets (deadlines)	Conclusion of MoUs with additional relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.
Risks	<p>Limited resources for the performance of these activities.</p> <p>Risk of not appropriately notifying relevant financial authorities.</p>

<b>Task</b>	<b>Development of applied surveillance and conduct business intelligence tools</b>
Priority level	2: Important
Legal basis	Article 7, 8 and 16(1) of Regulation (EU) 1227/2011

<p>Overview (status)</p>	<p>The development and enhancements of the Agency's main screening tool for market monitoring is an ongoing activity. The Agency has delivered six detailed business requirements for alerts, which have been implemented and put in production since 2017. Enhancement of existing alerts contributes to a more efficient and effective market monitoring while the development of additional alerts will contribute to a more comprehensive market surveillance.</p> <p>Moreover, the Agency developed the business requirements for the Notification Platform and the Case Management Tool. Through the former, the Agency receives suspicious transaction reports in a secure way and with the latter, the Agency securely stores and shares with NRAs REMIT cases and other related information. The implementation of several improvements to these IT tools could further automate some of the current manual work.</p> <p>Hence, successfully tested and fully implemented IT tool enhancements allow the Agency to deliver in a more efficient way on market surveillance of trading activity in wholesale energy markets and cooperation with NRAs on market conduct activities.</p>
<p>Objectives</p>	<p>Specific objective and multi-annual objective: enhance and develop detailed business requirements for the Agency's REMIT data screening tool, the Notification Platform and the Case Management Tool.</p>
<p>Outputs</p>	<p>Implementable detailed business requirements to enhance existing IT tools.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Annually delivering business requirement enhancements of existing tools for market monitoring and storing and dissemination of case related information in a secure way.</p>
<p>Risks</p>	<p>Limited resources for the performance of these activities.</p>

<p align="center"><b>Total resources allocated to the Activity MARKET SURVEILLANCE AND CONDUCT</b></p>	
<p align="center"><b>Human Resources (Full Time Equivalents)<sup>34</sup></b></p>	<p align="center"><b>Financial Resources (EUR)</b></p>
<p align="center"><b>13.4 (13.5 positions)</b></p>	<p align="center"><b>1,797,476</b></p>

<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. The vacant positions (new posts or turnover) as of 1 January 2020 are counted as 0.5 FTE, as staff will be recruited progressively throughout the year.

## 2.3. Internal Electricity Market (Operational)

In 2020, the Network Codes implementation process should remain a top priority. With the adoption of the “Clean Energy for all Europeans” legislation, the Agency has been assigned new tasks and responsibilities in the area of tariff methodologies and use of congestion income.

### 2.3.1. Network Codes, implementation, monitoring and amendments

In this area, the Agency will continue to support the implementation of the adopted Network Codes and Guidelines, to monitor their effective implementation and impact on the functioning of the Internal Electricity Market and to assess the need for amendments of the existing Network Codes and Guidelines.

#### I. Implementation of Network Codes: Adoption of terms and conditions or methodologies

Task	Assistance to NRAs in their regional-wide decisions on the terms and conditions or methodologies pursuant to Network Codes and Guidelines
Priority level	1: Critical
Legal basis	Articles 5 and 6 of Regulation (EU) 2019/942
Overview (status)	<p>The Guidelines establish numerous obligations for TSOs and NEMOs to develop regional proposals for terms and conditions or methodologies, which need to be approved by a group of NRAs (i.e. regional terms and conditions or methodologies). There are 28 terms and conditions or methodologies that need to be developed by TSOs and approved and NRAs of specific regions, where the number of regions established for different purposes varies between 5 and 10. In many cases, the terms and conditions or methodologies have already been adopted, but may need to be amended.</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>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>

	Finally, the Agency is entitled to decide directly on the regional terms and conditions or methodologies when these have an impact beyond the concerned region.
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 require amendments, amend, approve or reject the proposed terms and conditions or methodologies.</p> <p>The Agency will monitor cooperation of NRAs in order to plan Agency's resources for the cases where these proposals are referred to the Agency for a decision.</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 NRAs on the proposed terms and conditions or methodologies.
AWG input	The Electricity Working Group will be regularly informed about the progress made in the coordinated decisions of 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 decision on this matter.</p>
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 facilitate actively the coordination in all regions.</p> <p>Risk if this activity is not performed: delays in the implementation of the IEM.</p>

<b>Task</b>	<b>EU-wide Decisions on the terms and conditions or methodologies pursuant to Network Codes and Guidelines</b>
Priority level	1: Critical
Legal basis	Articles 5 and 6 of Regulation (EU) 2019/942
Overview (status)	The Guidelines establish numerous obligations for TSOs and other entities to develop proposals for terms and conditions or methodologies. Some of these methodologies are developed by all TSOs or all NEMOs and ACER is tasked to make a decision on them. Finally, many of these methodologies have already been

	adopted, but may require amendments, approval of which may also fall within the competence of the Agency.
Objectives	<p>Specific objective: When ACER becomes competent for the proposals from TSOs or NEMOs it needs to adopt a decision on the proposal within the legal deadline. The decision requires a favourable opinion of Board of Regulators.</p> <p>Multi-annual objective: contribute to the completion and well-functioning of the IEM.</p>
Outputs	Decision on the terms and conditions or methodologies proposed by TSOs and NEMOs.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of Agency's decisions on the terms and conditions or methodologies.
Risks	<p>Lack of resources for the Agency to adopt Decisions within the legal deadline in case of significant number of decisions at the same time.</p> <p>Risk if this activity is not performed: legal consequences due to delays in the adoption of decisions.</p> <p>Risk if this activity is not performed: delays in the implementation of the IEM.</p>

## II. Implementation of Network Codes: Monitoring and reporting on implementation

<b>Task</b>	<b>Facilitating the implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies</b>
Priority level	1: Critical
Legal basis	Article 32(1) of Regulation (EU) 2019/943 and Article 5(1)(d) of the Regulation (EU) 2019/942
Overview (status)	<p>Overseeing projects for implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.</p> <p>Facilitating resolution of implementation problems by providing (informal) opinions, recommendations as well as guidance.</p> <p>Informing and supporting the European Commission and the NRAs in executing their tasks with regard to monitoring the compliance of TSOs and NEMOs.</p>

Objectives	<p>Specific objective: Ensure timely and efficient finalisation of projects designed to implement the specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.</p> <p>Monitor the progress made in the implementation projects.</p> <p>Facilitate the resolution of problems.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.</p>
Outputs	Completion of projects for the implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.
AWG input	The Electricity Working Group will be informed on the specific problems and delays in the implementation projects.
Performance indicators and targets (deadlines)	Timely completion of projects for the implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.
Risks	<p>Lack of resources to monitor closely all implementation projects.</p> <p>Lack of legal competence to enforce compliance of TSOs and NEMOs to implement the legal requirements pursuant to Network Codes and Guidelines and terms and conditions or methodologies.</p> <p>Risks of delays in the completion of the IEM if these tasks are not performed.</p>

<b>Task</b>	<b>Reporting on the implementation of the Network Codes or Guidelines</b>
Priority level	1: Critical
Legal basis	Article 32 of Regulation (EU) 2019/943 and Article 5(1)(e) of the Regulation (EU) 2019/942
Overview (status)	Implementation monitoring report on issues that were not implemented in a timely manner and the practical and legal problems encountered during the implementation including the recommendations for improvements.
Objectives	<p>Specific objective: Deliver the implementation monitoring reports and providing practical recommendations. Engage with ENTSO-E, TSOs and NRAs in this process, for data collection and information exchange.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.</p>

Outputs	Updating on the state of play concerning the implementation of the Network Codes and Guidelines.
AWG input	The Electricity Working Group will be consulted on the implementation monitoring reports.
Performance indicators and targets (deadlines)	Timely delivery of implementation monitoring reports.
Risks	Data collection and data availability from NRAs/TSOs may be delayed or missing. Risks of delays in the completion of the IEM if these tasks are not performed.

<b>Task</b>	<b>Data collection for monitoring the Network Codes and Guidelines</b>
Priority level	Data collection tools: 1: Critical Data quality work: 1: Critical
Legal basis	Article 30(5) and 32 of Regulation (EU) 2019/943
Overview (status)	Development and improvements of specifications for data collection from ENTSO-E, NEMOs and NRAs for the purpose of monitoring the Network Codes and guidelines. Development and improvements of tools and databases for data processing and exchange for the purpose of monitoring the Network Codes and Guidelines.
Objectives	Specific objective: Continuous coordination with ENTSO-E, NEMOs and NRAs to find suitable and adequate data requirements and data exchange channels. Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	Efficient and effective data specifications and exchange channels.
AWG input	The Electricity Working Group will be consulted about these activities.
Performance indicators and targets (deadlines)	Improved reports supported by effective data specifications and exchange channels. Established effects monitoring indicators.



Risks	<p>Data requirements not updated sufficiently in advance for TSOs, NEMOs and NRAs to change their data production and storage activities, which may lead to delays in obtaining the appropriate data</p> <p>Risk if this activity is not performed: reduced transparency and efficiency in the functioning of the IEM.</p>
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### III. Implementation of Network Codes: Facilitating involvement of stakeholders

Task	Ensuring a proper involvement of stakeholders in the NC implementation and monitoring of Network Codes and Guidelines
Priority level	1. Critical
Legal basis	Article 11 of Regulation (EU) 2015/1222 and equivalent Articles in other Network Codes and Guidelines
Overview (status)	<p>Facilitate the involvement of stakeholders in the implementation of the Network Codes and Guidelines.</p> <p>Organise the European Stakeholder Committees.</p>
Objectives	<p>Ensure the stakeholders are informed and are able to provide inputs to the implementation process for the Network Codes and Guidelines.</p> <p>Multi-annual objective: Contribute to the completion and well functioning of the IEM.</p>
Outputs	Organisation of the European Stakeholder Committee meetings.
AWG input	Electricity Working Group will be regularly informed about the possible concerns and inputs from stakeholders. Electricity Working Group representatives are invited to European Stakeholder Committee meetings.
Performance indicators and targets (deadlines)	Stakeholders support and satisfaction with the implementation process.
Risks	<p>This task is resource intensive and requires continuous interaction with stakeholders and organisation of meetings, for which resources may not be provided.</p> <p>Not all expectations and requests from stakeholders can be accommodated.</p>



	Risk if this activity is not performed: potential inefficiencies, inconsistencies in the functioning of the IEM absent learnings from best practices.
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#### IV. Amendments of the existing Network Codes and Guidelines

Task	Review of the requests for amendments to the adopted Network Codes from interested persons and, follow up on joint Functionality platform notifications
Priority level	1: Critical or 2: Important, depending on the request.
Legal basis	Article 60 of Regulation (EU) 2019/943, as well as the consultation requirements from Article 14 of Regulation (EU) 2019/942
Overview (status)	<p>Collect proposals for amendments and issue Recommendations for amendments to the legal texts, where necessary.</p> <p>Propose, on own initiative and in coordination with the European Commission, revisions to improve the quality of the legislative texts.</p> <p>Follow up on stakeholders' notifications and, where necessary propose amendments based on Article 60 of Regulation (EU) 2019/943, as an outcome of the notifications received.</p>
Objectives	<p>Specific objective: create a framework to enable the Agency to collect proposals for amendments and ensure stakeholder involvement to the process. IT needs to be able to cater stakeholders' proposals.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Outputs	<p>Evaluating and processing amendment proposals.</p> <p>Facilitation of the stakeholder involvement, as required by the adopted Network Codes and Guidelines.</p>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft Recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	<p>Timely identification of the needs to amend legal texts and issuing of Recommendations for amendments.</p> <p>For the amendments, as established by Article 60 of Regulation (EU) 2019/942, no specific deadlines are foreseen.</p>
Risks	Implementation is dependent on stakeholder support and the relevant legal and political processes.

	Risk if this activity is not performed: reduced efficiency in the functioning of the IEM.
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### 2.3.2. Tariff Methodologies

Task	Best practice report on the transmission and distribution tariff methodologies
Priority level	1: Critical
Legal basis	Article 18(9) of Regulation (EU) 2019/943
Overview (status)	An ACER report providing a status review of NRA practices regarding transmission tariffs is to be published by the end of 2019. The report will be followed by a separate ACER report on distribution tariffs towards the end of 2020. These reports will contribute to the ACER best practice report on transmission and distribution tariff methodologies, which has to be updated every two years.
Objectives	<p>The best practice report shall address at least:</p> <ul style="list-style-type: none"> <li>(a) the ratio of tariffs applied to producers and tariffs applied to final customers;</li> <li>(b) the costs to be recovered by tariffs;</li> <li>(c) time-differentiated network tariffs;</li> <li>(d) locational signals;</li> <li>(e) the relationship between transmission tariffs and distribution tariffs;</li> <li>(f) methods to ensure transparency in the setting and structure of tariffs;</li> <li>(g) groups of network users subject to tariffs including, where applicable, the characteristics of those groups, forms of consumption, and any tariff exemptions;</li> <li>(h) losses in high, medium and low-voltage grids.</li> </ul>
Outputs	Report
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and	Timely delivery of the Report.

targets (deadlines)	
Risks	Lack of human resources to perform this activity. Risk if this activity is not performed: delays in the completion of the IEM.

### 2.3.3. Use of Congestion Income

Task	Use of revenues shall be subject to a methodology approved by the Agency
Priority level	1: Critical
Legal basis	Article 19(4) of Regulation (EU) 2019/943
Overview (status)	<p>New task</p> <p>According to Article 19(4) of Regulation (EU) 2019/943, ACER shall decide on the methodology on the use of congestion revenues proposed by the transmission system operators within six months of receiving it. According to the law the proposed methodology shall be submitted to ACER by 5 July 2020.</p> <p>According to Article 19(5) of Regulation (EU) 2019/943, by 1 March each year, the NRAs shall inform ACER and shall publish a report on congestion income. As such, ACER will monitor the use of congestion revenues and its compliance with the methodology.</p>
Objectives	ACER may request transmission system operators to amend or update the methodology referred to in the first subparagraph. ACER shall decide on the amended or updated methodology not later than six months after its submission.
Outputs	Decision
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the decision. The activity is expected to start in July 2020 and finish in January 2021
Risks	Risks of delay in receiving the methodology proposed by the transmission system operators and/or in adoption by ACER, which if materialised may also delay to achieve additional efficiency gains

	in the functioning of the IEM via more optimal use of congestion revenues.
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### 2.3.4. Other Tasks subject to specific conditions

#### Tasks initiated by others

In 2020, the Agency may be called to perform the following tasks on request:

Task	<b>“Peer reviews”, as submitted to the Agency pursuant to Article 6(5) of Regulation (EU) 2019/942</b>
Priority level	1: Critical
Legal basis	Article 6(5) and (6) of Regulation (EU) 2019/942
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 (EU) 2019/944, Directive 2009/73/EC, Regulation (EU) 2019/943 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	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.  Multi-annual objective: contribute to the completion and well functioning of the IEM.
Outputs	The Agency shall provide an opinion on whether an NRA’s decision complies with the Guidelines referred to in Regulation (EU) 2019/943, Regulation (EC) No 715/2009, Directive (EU) 2019/944 or Directive 2009/73/EC, or with other relevant provisions of those Directives or Regulations.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.
Performance indicators and	Delivery of the Opinion within four months from the request and submitting the information report regarding lack of compliance to the

targets (deadlines)	Commission and the Member State concerned (if applicable) within a reasonable time.
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 6(5) of Regulation (EU) 2019/942</b>
Priority level	1: Critical
Legal basis	Article 6(7) of Regulation (EU) 2019/942
Overview (status)	When a national regulatory authority encounters, in a specific case, difficulties with the application of Guidelines referred to in Directive (EU) 2019/944, Directive 2009/73/EC Regulation (EU) 2019/943 or Regulation (EC) No 715/2009, it may request the Agency for an opinion.
Objectives	<p>Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.</p> <p>Multi-annual objective: contribute to the completion and the well functioning of the IEM</p>
Outputs	The Agency shall provide the opinion with regard to the application of Guidelines referred to in Directive (EU) 2019/944, Directive 2009/73/EC, Regulation (EU) 2019/943 or Regulation (EC) No 715/2009 after consultation with the Commission within three months.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.</p> <p>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.</p>

<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: Critical
Legal basis	Article 3 of Regulation (EU) 2019/942
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
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Risks	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. Risk if this activity is not performed: the legislators and policy makers may not obtain the relevant information to assist them in their functions.

<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: Relevant
Legal basis	Article 6(2) of Regulation (EU) 2019/942.

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	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 (EU) 2019/943, in order better to facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.  Multi-annual objective: contribute to the completion and well functioning of the IEM.
Outputs	Specific recommendation on sharing of good practices
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely adoption of the recommendation enabling the addressees to take it into account within their respective processes.
Risks	Lack of human resources to perform this activity.  Risk if this activity is not performed: delays in the completion of the IEM.

## Opinions and Recommendations on the Agency's own Initiative

In 2020 the Agency may decide to issue:

Task	Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission
Priority level	1, 2, 3 Depending on the topic
Legal basis	Article 3 of Regulation (EU) 2019/942
Overview (status)	The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.
Objectives	Specific objective: further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.

	Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.
Outputs	Opinions and Recommendations.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Risks	Interaction with stakeholders, time constraints. Risk if this activity is not performed: issues where intervention by the Institutions is required may remain unaddressed.

<b>Total resources allocated to the Activity</b>	
<b>INTERNAL ELECTRICITY MARKET</b>	
<b>Human Resources</b> <b>(Full Time Equivalents)<sup>35</sup></b>	<b>Financial Resources</b> <b>(EUR)</b>
<b>14.4 (15.8 positions)</b>	<b>2,044,024</b>

## 2.4. Internal Gas Market (Operational)

By 2020, the Network Codes implementation process in gas should be well under way, and most provisions should have been implemented in most Member States. Experience shows that additional attention is needed for particular topics and particular Member States that are lagging behind. In addition, the Agency has experienced significant data quality issues during the previous years, which need to be addressed by both process interventions towards data providers, as well as by making the proper IT tools available, to ensure a more efficient process. The regular work in terms of follow-up tasks and implementation monitoring will

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<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. The vacant positions (new posts or turnover) as of 1 January 2020 are counted as 0.5 FTE, as staff will be recruited progressively throughout the year.



continue.

The number of decisions to be taken by the Agency has increased over the last years, and given their character these need to be given proper attention, in case of NRA disagreement.

Since stakeholders have started using the functionality process, the number of Network Code issues posted there has grown significantly, requiring more attention from the Agency, in cooperation with ENTSOG. With the Network Codes amendment process practically stalled for some years, there is a clear need to collect, prioritise and elaborate potential Network Code amendments, so that they can be put forward swiftly as soon as a proper amendment process has been agreed upon.

### **2.4.1. Network Codes, implementation, monitoring and amendments**

#### **I. Implementation of Network Codes: Decisions, assistance to NRAs, advocacy**

<b>Task</b>	<b>Agency decisions under Article 8(1)</b>
Priority level	1: Critical
Legal basis	Article 6 (10) of Regulation (EC) 2019/942
Overview (status)	The Agency shall decide upon those regulatory issues where the competent NRAs have not been able to reach an agreement within a period of six months or upon a joint request from the competent national regulatory authorities.
Objectives	Specific objective: Improve national designs, where necessary. Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.
Outputs	Decision Improve national designs, where necessary.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of a decision.

Risks	Lack of human resources to perform this activity.
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<b>Task</b>	<b>Drafting of recommendations and opinions based on the relevant articles of the Agency Regulation</b> <b>Assistance to the NRAs and key stakeholders in relation to the NC implementation and future legislation</b> <b>Support the voluntary regional frameworks as needed</b>
Priority level	2. Important
Legal basis	Articles 6 and 9 of Regulation (EU) 2019/942 (opinions and decisions referred to the Agency at the request of NRAs) Article 9 of Commission Regulation (EU) No 715/2009 Article 42 of Gas Directive (EU) No 73/2009
Overview (status)	Decisions, opinions issued as referred or requested. Implementation support, where relevant, and adaptation of designs incompatible with the codes, including 'soft' support actions (for example in Romania and Bulgaria in the past). Discussions within the framework of Regional Initiatives.
Objectives	Specific objective: Reaching the implementation targets by offering specific advice. 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.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Promote state of the art regulation.
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, inconsistencies in the functioning of the IEM absent learnings from best practices.
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## II. Reporting and monitoring

<b>Task</b>	<b>Follow-up reporting and other obligations as set out in the Network Codes on Gas Transmission Tariff structures, Capacity Allocation Mechanisms, Balancing and CMP (monitoring of Congestion at interconnection points)</b>
Priority level	1: Critical for tariffs, 2: Important, for the others
Legal basis	Article 9 of Commission Regulation (EC) No 715/2009 in conjunction with: Article 13(3) and 36 of Commission Regulation (EU) No 2017/460 (TAR NC); Article 38 of Commission Regulation (EU) No 2017/459 (CAM NC); Article 46 (4) and Recital 11 of Commission Regulation (EU) 312/2014 (BAL NC); Point 2.2.2.1.2 of Annex I to the Commission's Decision of 24 August 2012 (CMP Guidelines).
Overview (status)	Report on issues that were not implemented in a timely manner and/or addressed appropriately in the previous editions. Addressing specific reporting obligations (Congestion Reports).
Objectives	Specific objective: Provide the reports. Engage ENTSOG, TSOs and NRAs in this process, for data collection and information exchange. Provide practical recommendations in these reports. Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
Outputs	Updating on the state of play concerning the implementation of the network codes, so far adopted.
AWG input	The Gas Working Group will be informed as appropriate. According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of implementation monitoring reports.

Risks	<p>Data collection and data availability from national NRA/TSO sources may be delayed or missing.</p> <p>If the TAR NC related activities are not performed: delays in the completion of the IEM.</p>
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<b>Task</b>	<b>Continuous work on data quality, testing of indicators designed to assess Network Codes and the effectiveness of codes to achieve a functioning internal market. Work on data collection tools to improve monitoring of the Network Codes and assessing their effectiveness in the internal market</b>
Priority level	<p>Data collection tools: 2: Important</p> <p>Data quality work: 1: Critical</p>
Legal basis	Article 8(9) and 9 of Regulation (EC) No 715/2009
Overview (status)	<p>Enhance the existing tools to reach improved data collection, data processing and efficient and timely access to comparable data.</p> <p>Data quality in particular requires continuous attention, engaging the Agency's partners from the ENTSOG's Transparency Platform and Booking Platforms.</p>
Objectives	<p>Specific objective: Engage ENTSOG and to the extent possible find joint solutions. Deliver own solutions for the Agency's deliverables.</p> <p>Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.</p>
Outputs	Improve data collection tools and if necessary evaluate how to improve data sourcing.
AWG input	The Gas Working Group will be informed about these activities,
Performance indicators and targets (deadlines)	<p>Improved reports supported by effective data collection tools and good data quality.</p> <p>Established effects monitoring indicators.</p>
Risks	<p>Some improvements may not be achievable, as they would require a reinforcement of the Agency's data collection powers.</p> <p>Risk if this activity is not performed: reduced transparency and efficiency in the functioning of the IEM.</p>

### III. Amendments and activities related to the Functionality platform

Task	Review of the requests for amendments to the adopted Network Codes from interested persons and, follow up on joint Functionality platform notifications
Priority level	1: Critical or 2: Important, depending on the request.
Legal basis	Article 7 of Regulation (EC) No 715/2009, as well as the consultation requirements from Article 14 of Regulation (EU) 2019/942.
Overview (status)	<p>Collect/propose amendments to the legal text, where necessary.</p> <p>Propose, in coordination with the Commission, revisions on own initiative to improve the quality of the legislative texts</p> <p>Follow up on joint Functionality platform notifications and, where necessary, propose amendments based on Article 7, as an outcome of the notifications received.</p> <p>To the extent possible, provide joint solutions with ENTSOG as an outcome to the Functionality platform notifications.</p>
Objectives	<p>Specific objective: create a framework to enable the Agency to collect sensible requests and ensure stakeholder involvement to the process. Support the joint Functionality Platform resource and IT needs to be able to cater for the notifications it receives.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
Outputs	<p>Evaluating and processing amendment requests, and joint Functionality Platform notifications, solutions.</p> <p>Facilitation of the stakeholder involvement, as required by the adopted Network Codes and Guidelines as well as the Guidelines of the joint Functionality Platform.</p>
AWG input	According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	<p>Amendments, public consultations preceding amendments, solutions given to the cases notified on the joint Functionality Platform.</p> <p>For the amendments, as established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.</p>
Risks	Implementation is dependent on stakeholder support and the relevant legal and political processes.

	Risk if this activity is not performed: reduced efficiency in the functioning of the IEM.
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## 2.4.2. Tasks subject to specific conditions

### Tasks initiated by others

<b>Task</b>	<b>Adoption of the opinions and recommendations at the request of one or more NRAs, or the European Commission, pursuant to Regulation (EC) No 942/2019 as well as the adopted Network Codes and relevant Guidelines</b>
Priority level	1: Critical – 2: Important for peer reviews, priority 2 others
Legal basis	Article 6(4) and (5) of Regulation (EU) 2019/942
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 (EU) 2019/944, Directive 2009/73/EC, Regulation (EU) 2019/943 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.
Objectives	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.  Multi-annual objective: contribute to the completion and well functioning of the IEM.
Outputs	The Agency shall provide an opinion on whether an NRA's decision complies with the Guidelines referred to in Directive (EU) 2019/944, Directive 2009/73/EC, Regulation (EU) 2019/943 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
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.

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>
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Task	Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942
Priority level	2: Important
Legal basis	Article 6(7) of Regulation (EU) 2019/942
Overview (status)	When an NRA encounters, in a specific case, difficulties with the application of Guidelines referred to in Directive (EU) 2019/944, Directive 2009/73/EC, Regulation (EU) 2019/943 or Regulation (EC) No 715/2009, it may request the Agency for an opinion.
Objectives	<p>Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.</p> <p>Multi-annual objective: contribute to the completion and the well functioning of the IEM.</p>
Outputs	The Agency shall provide the opinion with regard to the application of Guidelines referred to in Directive (EU) 2019/944, Directive 2009/73/EC, Regulation (EU) 2019/943 or Regulation (EC) No 715/2009 after consultation with the Commission within 3 months.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.</p> <p>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.</p>



<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 3 of Regulation (EU) 2019/942
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
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Risks	Receipt of complete quality information about the issue for which an opinion and/or recommendation is requested, with all supporting evidence, coordination with stakeholders, time constraints. Risk if this activity is not performed: legislators and policy makers may not obtain relevant information to assist them in their functions.

### Opinions and Recommendations on the Agency's own Initiative

<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 3 of Regulation (EU) 2019/942
Overview (status)	The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.
Objectives	Specific objective: further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.



	Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.
Outputs	Opinions and Recommendations
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Risks	Interaction with stakeholders, time constraints. Risk if this activity is not performed: issues where intervention by the Institutions is required may remain unaddressed.

<b>Total resources allocated to the Activity</b>	
<b>INTERNAL GAS MARKET</b>	
<b>Human Resources (Full Time Equivalents)<sup>36</sup></b>	<b>Financial Resources (EUR)</b>
<b>7.9 (8 positions)</b>	<b>1,034,949</b>

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

As regards the Agency's work on Internal Energy Market monitoring, Article 15 of Regulation (EU) 2019/942 specifies that the Agency shall monitor the wholesale and retail markets in electricity and natural gas, in particular the retail prices of electricity and natural gas, compliance with the consumer rights laid down in Directive (EU) 2019/944 and Directive 2009/73/EC, the impact of market developments on household customers, access to the networks (including access of electricity produced from renewable energy sources), the

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<sup>36</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. The vacant positions (new posts or turnover) as of 1 January 2020 are counted as 0.5 FTE, as staff will be recruited progressively throughout the year.

progress made with regard to interconnectors, potential barriers to cross-border trade, regulatory barriers for new market entrants and smaller actors, including citizen energy communities, state interventions preventing prices from reflecting actual scarcity, such as those set out in Article 10(4) of Regulation (EU) 2019/943, the performance of the Member States in the area of security of supply of electricity based on the results of the European resource adequacy assessment as referred to in Article 23 of that Regulation, taking into account, in particular, the ex-post evaluation referred to in Article 17 of Regulation (EU) 2019/941. 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 is enriched with additional indicators to measure the effectiveness of the various Gas and Electricity Network Codes and Guidelines, e.g. with GTM indicators, some of which based on sanitised REMIT data, or with indicators related to the performance of electricity TSOs in the area of cross-zonal capacity calculation. Moreover, specific monitoring involving an intensive and complex data collection process is performed to assess the margin available for electricity cross-zonal trade in light of the minimum (70%) capacity target required by the CEP.

Task	9 <sup>th</sup> Market Monitoring Report
Priority level	<p>1: Critical: Wholesale Electricity and Gas Wholesale Market Volumes, including new aspects envisaged in the CEP, i.e. the monitoring of state interventions preventing prices from reflecting actual scarcity, as well as the monitoring of the performance of Member States in the area of electricity security of supply, and the monitoring of the margin available for cross-zonal trade in relation to the minimum (70%) target established in the recast electricity Regulation.</p> <p>2: Important: Retail Market and Customer Protection Volumes.</p>

<p>Legal basis</p>	<p>Article 15 of Regulation (EU) 2019/942</p> <p>Article 5 of Regulation (EU) 2019/942; Article 9(1) of Regulation (EU) 2019/943; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines</p> <p>Article 7(3) of Regulation (EU) No 1227/2011</p>
<p>Overview (status)</p>	<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. 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>
<p>Objectives</p>	<p>Specific objective:</p> <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.</p>
<p>Outputs</p>	<p>Annual Market Monitoring Report</p>
<p>AWG input</p>	<p>According to Article 30(4) of Regulation (EU) 2019/942, the Electricity Working Group and the Gas Working Group will be involved and provide their input for the two Wholesale chapters.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Timely completion of the Annual Market Monitoring Report.</p> <p>Expected completion date: November 2020 (parts delivered earlier).</p> <p>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.</p>
<p>Risks</p>	<p>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.</p>

	<p>Risk if this activity is not performed: delays in the completion of the IEM (especially for the wholesale part) and overall lack of transparency. 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. Consumer Protection and Empowerment Volume: the EU will miss an overview on compliance on the customer protection legislation implementation status.</p> <p>In electricity, an additional risk relates to the significant amount of data, data processing capabilities and IT and human resources required for the monitoring of the margin available for cross-zonal trade in light of the CEP minimum (70%) target. Failing to dimension or to assign the necessary (IT and human) resources to perform this task may jeopardise the accomplishment of this task in due time or with sufficient level of confidence in the results. In particular the IT implications of this task go beyond the remit of the market monitoring team and may require some wider assessment of the Agency's IT framework.</p>
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<b>Total resources allocated to the Activity</b>	
<b>ELECTRICITY AND GAS INTERNAL MARKET MONITORING</b>	
<b>Human Resources</b> <b>(Full Time Equivalents)<sup>37</sup></b>	<b>Financial Resources</b> <b>(EUR)</b>
<b>11 (12.4 positions)</b>	<b>1,604,171</b>

## **2.6. Infrastructure and Security of Supply (Operational)**

### **2.6.1. Guidelines for Trans-European Energy Infrastructure – Electricity and Gas**

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 2020 towards the following deliverables:

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<sup>37</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. The vacant positions (new posts or turnover) as of 1 January 2020 are counted as 0.5 FTE, as staff will be recruited progressively throughout the year.

<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.
AWG input	According to Article 30(4) of Regulation (EU) 2019/942, the Electricity Working Group and the Gas Working Group will be consulted and provide their input.
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.
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, evolution of costs, 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, reduced regulatory scrutiny over the PCIs at EU level.

<b>Task</b>	<b>Opinion(s) on ENTSO-E's and/or ENTSG'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 shall be updated and improved regularly.
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 of the CBA methodology for various purposes including the EU TYNDP, the selection of projects of common interest and NRA decisions on projects (e.g. regarding cross-border cost-allocation).
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity and Gas Working Groups will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators. .
Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.
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.

## 2.6.2 Electricity TSO Cooperation

The tasks related to the Agency's work on electricity TSO cooperation, pursuant to Article 4 of Regulation (EC) 2019/943, 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 2020 towards the following deliverables:

<b>Tasks</b>	<p><b>Opinions on ENTSO-E's annual work programme 2021 and ENTSO-E's annual report 2019 (Priority level – 3)</b></p> <p><b>Opinions on potential updates to ENTSO-E's common network operation tools and common incidents classification scale (Priority level: 2)</b></p> <p><b>Opinion on the implementation of the Union-wide electricity infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity (Priority level: 2)</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 (Priority level: 3)</b></p> <p><b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund (Priority level: 3)</b></p> <p><b>Internal Monitoring Report on G-charge (Priority level: 3)</b></p> <p><b>Opinions on ENTSO-E's annual Summer and Winter supply outlooks (Priority level: 3)</b></p> <p><b>Opinion on ENTSO-E's research and development plan (Priority level: 3)</b></p>
Priority levels	See above
Legal basis	<p>For all deliverables: Article 4(3) Regulation (EU) 2019/942</p> <p>For Work Programme and TYNDP: Article 4(5) Regulation (EU) 2019/942</p> <p>For ITC and G-charge: Point 1.(4) of Annex Part A, Commission Regulation (EU) No 838/2010 and Annex Part B, Commission Regulation (EU) No 838/2010</p>
Overview (status)	<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.</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
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Groups will be consulted on the draft opinions,



	recommendations and decisions requiring a favourable opinion of the Board of Regulators. According to Article 30(4) of Regulation (EU) 2019/942, the Electricity Working Groups will be consulted and provide their input on the Opinion on the electricity national 10-year network development plans to assess their consistency with the Union-wide network development plan, annual monitoring report on the implementation and management of the inter-TSO compensation fund, Internal Monitoring Report on G-charge.
Performance indicators and targets (deadlines)	Timely delivery and quality of the documents. Opinion on ENTSO-E's Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant. Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.
Risks	The delivery is subject to the release of corresponding documents by ENTSO-E and to the availability of resources. Risk if this activity is not performed: except for the Opinion on the TYNDP-NDP consistency (where the impact could be higher due to inconsistencies in infrastructure development), the impact of not delivering these documents would be limited.

### 2.6.3. Gas TSO Cooperation

The tasks related to the Agency's work on gas TSO cooperation, pursuant to Article 4 of Regulation (EC) 2019/942, consist in: formulating opinions on draft statutes, list of members and draft rules of procedure of ENTSG; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSG's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSG; 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 2020 towards the following deliverables:

<b>Tasks</b>	<b>Opinion on the implementation of the Union-wide gas infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity (priority level – 1)</b> <b>Opinion on the national 10-Year Network Development Plans to assess their consistency with the Union-wide 10-Year Network Development Plans (if appropriate) recommendations to</b>
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	<p><b>amend the national 10-year network development plans or the Union-wide network development plan (priority level - 2)</b></p> <p><b>Opinions on ENTSOG’s annual work programme 2021 and ENTSOG’s annual report 2019 (priority level – 2 - 3)</b></p> <p><b>Opinions on potential updates to ENTSOG’s common network operation tools and common incidents classification scale (priority level - 2)</b></p> <p><b>Opinion on ENTSOG’s recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators (priority level - 2)</b></p> <p><b>Opinions on ENTSOG’s annual Summer and Winter supply outlooks (priority level - 3)</b></p> <p><b>Opinion on ENTSOG’s research and development plan (priority level - 3)</b></p>
Priority levels	See above
Legal basis	<p>For all deliverables: Article 4(3)(b) Regulation (EU) 2019/942.</p> <p>For Work Programme and TYNDP: Article 4(3) Regulation (EU) 2019/942 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>
Overview (status)	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.
Objectives	<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>
Outputs	The Agency will report to the European Commission on the execution of the tasks of ENTSO-G 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.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group, as relevant, will be consulted on the draft opinions,

	recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the reports and opinions. Specifically for the Opinions on ENTSOG's Work Programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.
Risks	<p>The delivery is subject to the release of corresponding documents by ENTSOG and to the availability of resources (taking into account the possible prioritisation of the various activities for the tasks of Regulation (EU) 2019/942, 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 ENTSOG AWP, AAR - will have a reduced leverage on defining priorities and closing gaps by making sure ENTSOG 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>

#### **2.6.4. Tasks to safeguard the security of gas supply**

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 2020 towards the following deliverables:

<b>Task</b>	<p><b>Opinions and on the elements of coordinated decisions on proposals to enable permanent physical capacity to transport gas in both directions for permanent bi-directional capacity concerning the reverse direction (“physical reverse flow capacity”)</b></p> <p><b>Decisions on cross-border cost allocation on proposals to enable physical reverse flow capacity if the regulatory authorities concerned could not reach an agreement on the cost allocation within six month from the receipt of the joint proposal of the transmission system operators</b></p> <p><b>Opinions on requests for an exemption from the obligation to enable permanent bi-directional capacity (if the Agency decides to issue an opinion)</b></p>
Priority level	<p>1: Critical: Decisions on CBCA, Opinions on the elements of coordinated decisions;</p> <p>3: Relevant: 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.
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.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and	Timely delivery of the decisions and opinions.

targets (deadlines)	
Risks	<p>The delivery is subject to the release of corresponding documents by the competent authorities and the Commission and to the availability of resources.</p> <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>

### 2.6.5. Tasks related to DSOs

Tasks	Issuing a decision for DSO to provide any relevant information necessary for carrying out monitoring
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art. 3 (2))
Overview (status)	New task
Objectives	As per recital 14, in order to ensure that ACER has the information it needs to carry out its tasks, the Agency should be able to request and to receive that information from the EU DSO entity.
Outputs	At ACER's request, the EU DSO entity shall provide to ACER the information necessary for the purpose of carrying out ACER's tasks. To this end, ACER has the power to issue decisions, which shall refer to the legal basis under which the information is requested, the time limit within which the information is to be provided, and the purpose of the request.
Performance indicators and	Timely delivery of the decision.

targets (deadlines)	
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence.</p> <p>Risk if this activity is not performed: inefficient operation of ACER in this regard.</p>

<b>Tasks</b>	<b>Consider issuing an opinion to the EU DSO entity on its tasks, including on the EU DSO entity draft annual work programme and other relevant documents, taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal market for electricity</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art. 4)
Overview (status)	New task
Objectives	Monitoring the execution of tasks of the EU DSO entity.
Outputs	<p>ACER shall monitor the execution of tasks of the EU DSO entity.</p> <p>ACER may provide an opinion to the EU DSO entity on the draft annual work programme and other relevant documents referred to in Article 55 (2) of Regulation (EU) 2019/943.</p> <p>At the request of one or more regulatory authorities or at its own initiative, ACER shall issue a reasoned opinion as well as a recommendation to the EU DSO entity with regard to compliance with its obligations.</p> <p>Where an ACER opinion identifies a case of potential non-compliance and no coordinated decisions have been taken to remedy it, the matter shall be referred to ACER for a decision (Article 4, paragraph 7).</p> <p>Where a non-compliance has not been remedied within three months, ACER shall issue a recommendation to the regulatory authority to take action and shall inform the Commission.</p>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group or the Gas Working Group, as relevant, will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and	Timely delivery of the opinion, recommendation or decision.

targets (deadlines)	
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence, time constraints.</p> <p>Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, inefficient operation and possible non-compliance of the EU DSO entity.</p>

<b>Tasks</b>	<b>Supporting DSOs in establishing the EU DSO entity, including supporting the DSOs in adopting and publishing their statutes and rules of procedure</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 53 (5))
Overview (status)	New task
Objectives	The EU DSO entity will be established in 2021 following ACER's opinion and a positive opinion by the Commission.
Outputs	ACER shall deliver an opinion whenever there are changes to the documents referred to in paragraph 2, Art. 53, or upon reasonable request by ACER or the Commission.
AWG input	The Electricity Working Group will be informed consulted about these activities.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Risks	<p>Receipt of complete quality information along with any supporting evidence, time constraints.</p> <p>Risk if this activity is not performed: risk of inefficient operation of the EU DSO entity.</p>

### 2.6.6. Tasks related to Regional Coordination Centres

<b>Tasks</b>	<b>Issuing a decision for the RCCs to provide any relevant information necessary for carrying out monitoring</b>
Priority level	1: Critical

Legal basis	Regulation (EU) 2019/942 (Art. 3 (2))
Overview (status)	New task
Objectives	As per recital 14, in order to ensure that ACER has the information it needs to carry out its tasks, the Agency should be able to request and to receive that information from the EU DSO entity.
Outputs	At ACER's request, the RCC shall provide to ACER the information necessary for the purpose of carrying out ACER's tasks.  To this end, ACER has the power to issue decisions, which shall refer to the legal basis under which the information is requested, the time limit within which the information is to be provided, and the purpose of the request.
AWG input	The Electricity Working Group will be consulted about these activities.
Performance indicators and targets (deadlines)	Timely delivery of the decision.
Risks	Receipt of complete quality information along with all pertinent supporting evidence.  Risk if this activity is not performed: inefficient operation of ACER in this regard.

<b>Tasks</b>	<b>Issuing opinions and recommendations to the regional coordination centres (RCCs)</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art.7 (2) d) and Regulation (EU) 2019/943 (Arts. 36 (3) and 37 (2))
Overview (status)	New task
Objectives	To monitor and analyse the performance of regional coordination centres in an efficient and expeditious manner.
Outputs	Issuing opinions and recommendations addressed to the regional coordination centres regarding the amendment of system operation regions.  Issuing approvals regarding the assignment of new advisory tasks to regional coordination centres.



AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion and recommendation.
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.</p> <p>Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient operation of the RCCs.</p>

<b>Tasks</b>	<b>Monitoring the implementation of the tasks and cooperation between TSOs and ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Article 46) and Regulation (EU) 2019/942 (Art. 7 (2) b)
Overview (status)	New task
Objectives	Monitoring the implementation of the tasks of the regional coordination centres and cooperation between TSOs and ENTSO-E
Outputs	<p>ACER shall receive a report on the costs of regional coordination centres.</p> <p>ACER shall receive an annual report on the monitoring and information on the performance of regional coordination centres</p> <p>ACER shall receive a report on any shortcomings identified in the monitoring process.</p> <p>Requesting information from regional coordination centres where appropriate in accordance with Regulation (EU) 2019/942 (Art. 3 (2)).</p>
AWG input	The Electricity Working Group will be consulted about these activities.
Performance indicators and	Timely monitoring of tasks.



targets (deadlines)	
Risks	<p>Receipt of complete quality information along with any pertinent supporting evidence, time constraints.</p> <p>Risk if this activity is not performed: inefficient operation of the EU DSO entity.</p>

<b>Tasks</b>	<b>Monitoring and analysing the performance of Regional Coordination Centres with the NRAs and ENTSO-E, through submitted data resulting from their continuous monitoring</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/942 (Art. 7 (1))
Overview (status)	New task
Objectives	To monitor and analyse the performance of regional coordination centres
Outputs	To monitor and analyse the performance of regional coordination centres in an efficient and expeditious manner, ACER shall issue approvals and issue opinions and recommendations to the European Parliament, the Council and the Commission and to regional coordination centres.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group or the Gas Working Group, as relevant, will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion and recommendation.
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.</p> <p>Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient operation of the RCCs.</p>

## 2.6.7. Tasks related to Resource Adequacy

<b>Tasks</b>	<b>Amending or approving technical parameters developed by ENTSO-E for an efficient participation of cross-border capacities in capacity mechanisms and other technical features of capacity mechanisms</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 26)
Overview (status)	New task
Objectives	To amend or approve technical parameters as developed by ENTSO-E
Outputs	Decision on the technical parameters for an efficient participation of cross-border capacities in capacity mechanisms and other technical features of capacity mechanisms
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable.
Risks	Receipt of complete quality information along with any pertinent supporting evidence, time constraints. Risk of delays in case ENTSO-E submits late

<b>Tasks</b>	<b>Amending or approving a draft methodology for the European resource adequacy assessment based on set principles by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 23)
Overview (status)	This task is to be completed in 2020.
Objectives	To amend or approve a draft European resource adequacy methodology.

Outputs	Decision on the approval or amendment of the draft European resource adequacy methodology.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable.
Risks	Receipt of complete quality information along with any pertinent supporting evidence, time constraints. Risk of delays in case ENTSO-E submits late

<b>Tasks</b>	<b>Amending or approving draft methodologies for calculating: the value of lost load; the "cost of new entry" for generation, or demand response; and the reliability standard expressed as "expected energy not served" and the "loss of load expectation"</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 23)
Overview (status)	This task is to be completed in 2020.
Objectives	To amend or approve the pertaining methodology,
Outputs	Decision on the approval or amendment of the pertaining methodologies.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Risks	Receipt of complete quality information along with any pertinent supporting evidence, time constraints. Risk of delays in case ENTSO-E submits late.

<b>Tasks</b>	<b>Issuing an Opinion providing technical guidance related to the calculation of CO2 emission limits</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 22(4))
Overview (status)	This task is to be completed in 2020.
Objectives	To give guidance to MSs on the calculation of CO2 emission limits
Outputs	Opinion
AWG input	The Electricity Working Group will be consulted on the draft opinion.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Risks	Receipt of complete quality information along with any pertinent supporting evidence, time constraints.

### 2.6.8. Tasks related to Risk preparedness

<b>Tasks</b>	<b>Coordinating national actions related to risk preparedness with regulatory oversight over the RCC (Regional Coordination Centres)</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 12)
Overview (status)	New task
Objectives	To ensure that electricity crises with a cross-border impact are properly prevented or managed.
Outputs	The Commission may request ACER to provide technical assistance to Member States with a view to facilitating an agreement on regional and bilateral measures to be included in the risk-preparedness plan.
AWG input	The Electricity Working Group will be informed about these activities.

Performance indicators and targets (deadlines)	Timely delivery of the technical assistance.
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.</p> <p>Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient operation of the RCCs and risk-preparedness plans.</p>

<b>Tasks</b>	<b>Amending or approving changes of a proposal for a methodology for assessing short-term adequacy - seasonal adequacy, week-ahead to intraday adequacy submitted by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 8)
Overview (status)	This task is to be completed in 2020. Task potentially reinitiated in 2021, if required.
Objectives	To amend or approve the short-term and seasonal adequacy methodology.
Outputs	Decision on the approval or amendment of the short term and seasonal adequacy methodology.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Risks	<p>Receipt of complete quality information along with any pertinent supporting evidence, time constraints.</p> <p>Risk of delays in case ENTSO-E submits late.</p>

<b>Tasks</b>	<b>Amending or approving changes to the methodology for identifying the most relevant electricity crisis scenarios in a regional context submitted by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 5)
Overview (status)	New task
Objectives	Amending or approving changes to the methodology for identifying electricity crisis scenarios in a regional context
Outputs	Requesting updates or improvements to the methodology for identifying the most relevant electricity crisis scenarios in a regional context submitted by ENTSO-E with due justification.  Approve or amend proposed changes after consulting with the ECG, in its formation composed only of representatives of the Member States.
AWG input	The Electricity Working Group will be informed about these activities and will be subsequently consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely approval of the changes to the methodology.
Risks	Receipt of complete quality information along with all pertinent supporting evidence, consultations with the Commission and Member States, time constraints.  Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient implementation of the methodology and the subsequent identification of the most relevant electricity crisis scenarios in a regional context.

<b>Tasks</b>	<b>Monitoring the security of supply measures and reporting regularly to the ECG</b>
Priority level	3: Relevant
Legal basis	Regulation (EU) 2019/941 (Art. 18)
Overview (status)	New task

Objectives	To ensure the security of electricity supply.
Outputs	ACER shall, on an ongoing basis, monitor the security of electricity supply measures and shall report regularly to the ECG.
AWG input	The Electricity Working Group will be informed about these activities.
Performance indicators and targets (deadlines)	Timely reporting to the ECG.
Risks	<p>Receipt of complete quality information along with any pertinent supporting evidence, consultation with the Commission, time constraints.</p> <p>Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect security of supply.</p>

## 2.6.9. Tasks which are Subject to Specific Conditions

### Tasks initiated by others

In 2020, the Agency may be called to perform the following tasks on request:

Task	Decisions on investment requests including on cross-border cost allocation
Priority level	1: Critical
Legal basis	Article 12(6) of Regulation (EU) No 347/2013, Article 11(d) of Regulation (EU) 2019/943
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>

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.
AWG input	The Electricity or Gas Working Groups, as relevant, will be consulted about these activities.
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).
Risks	<p>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.</p> <p>Risk if this activity is not performed: delays in the implementation of PCIs.</p>

<b>Task</b>	<b>“Peer reviews”, as submitted to the Agency pursuant to Article 6(5) of Regulation (EU) 2019/942</b>
Priority level	1: Critical
Legal basis	Article 6(5) and (6) of Regulation (EU) 2019/942
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 (EU) 2019/944, Directive 2009/73/EC, Regulation (EU) 2019/943 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 Regulation (EU) 2019/943, Regulation (EC) No 715/2009, Directive (EU) 2019/944 or Directive 2009/73/EC, or with other relevant provisions of those Directives or Regulations.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity or Gas Working Group, as relevant, will be consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.
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.
Risks	Receipt of complete quality information from NRAs, carrying out consultation with NRAs, time constraints.  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.

<b>Task</b>	<b>Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942</b>
Priority level	1: Critical
Legal basis	Article 6(7) of Regulation (EU) 2019/942
Overview (status)	When a national regulatory authority encounters, in a specific case, difficulties with the application of Guidelines referred to Regulation (EU) 2019/943, Regulation (EC) No 715/2009, Directive (EU) 2019/944 or Directive 2009/73/EC, 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 Regulation (EU) 2019/943, Regulation (EC) No 715/2009, Directive (EU) 2019/944 or Directive 2009/73/EC after consultation with the Commission within three months.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity or Gas Working Group, as relevant, will be consulted on

	the draft opinions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Risks	<p>Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.</p> <p>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.</p>

<b>Task</b>	<b>Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions</b>
Priority level	1: Critical
Legal basis	Article 10 Regulation (EU) 2019/942; Article 63 of Regulation (EU) 2019/943; 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	<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>
Outputs	The Agency shall take a decision on the regulatory issue. The Agency may, if necessary, take an interim decision to ensure that security of supply or operational security of the infrastructure in question is protected.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group or Electricity Working Group, as relevant, will be

	consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.
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).
Risks	<p>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.</p> <p>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.</p> <p>Risk if this activity is not performed: inefficient operation of cross-border infrastructure or delay in its development.</p>

<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	1: Critical
Legal basis	Article 3 of Regulation (EU) 2019/942
Overview (status)	Upon request by the European Parliament, the Council and the European Commission.
Objectives	<p>Specific objective: provide support and advice to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations.</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
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group, as relevant, will be consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Risks	Receipt of complete quality information about the issue for which an opinion and/or recommendation is requested along with all pertinent

	<p>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>
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### Opinions and Recommendations on the Agency's own Initiative

<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 3 of Regulation (EU) 2019/942
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
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group, as relevant, will be consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Risks	<p>Interaction with stakeholders, time constraints.</p> <p>Risk if this activity is not performed: issues where intervention by the Institutions is required may remain unaddressed.</p>

<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	2: Important
Legal basis	Article 6(2) of Regulation (EU) 2019/942.

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	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 (EU) 2019/943, in order better to facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.  Multi-annual objective: contribute to the completion and well functioning of the IEM.
Outputs	Specific recommendation on sharing of good practices
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group or Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely adoption of the recommendation enabling the addressees to take it into account within their respective processes.
Risks	Lack of human resources to perform this activity.  Risk if this activity is not performed: delays in the completion of the IEM.

<b>Total resources allocated to the Activity</b>	
<b>INFRASTRUCTURE AND SECURITY OF SUPPLY</b>	
<b>Human Resources (Full Time Equivalents)<sup>38</sup></b>	<b>Financial Resources (EUR)</b>
<b>14.1 (15.5 positions)</b>	<b>2,005,213</b>

<sup>38</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. The new requests for 2020 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

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

### 2.7.1. 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, the last two dealing primarily with horizontal tasks.

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”.

### 2.7.2. 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.

Task	Procurement and Facility Management
Overview (status)	<p>Procurement procedures will be carried out in line with the 2020 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 expires on 31 January 2024, without a possibility for additional extension (in October 2018 the Agency extended the lease term for an additional period of five (5) years).</p> <p>No expansion is foreseen in the course of 2020. 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 2020 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 2020 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> <li>- Manage the Agency's premises in line with the evolving needs of the Agency.</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 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 2020 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 2020.</p>
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 2020 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>

### 2.7.3. 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 2020, 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 2020, 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 finalised, using external resources (consultancy) in order to be at the forefront of career management.</p>
<p>Objectives</p>	<p>The objectives for 2020 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 2020;</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>
<p>Outputs</p>	<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 Agency's Competency Framework.</li> </ul>
<p>Performance indicators and targets (deadlines)</p>	<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 2020.</li> <li>- 100% of the eligible Agency's staff subject to performance appraisal to undergo evaluation in the 2020 exercise in line with the current Implementing Rules by end of June 2020.</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 2020, including the additional positions.</li> <li>- New Selection Notices aligned with the competencies and skills required for the positions advertised.</li> </ul>
<p>Risks</p>	<p>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,</p>



	<p>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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### 2.7.4. Budget Implementation and Audit

Task	Budget Implementation and Audit
Overview (status)	<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.</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 Agency has been granted a discharge for all years for which the discharge procedure has been closed.</p>
Objectives	<p>The objectives for 2020 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</li> </ul>

	<p>of the Agency's financial performance and position and receive an unqualified audit opinion.<sup>39</sup></p> <ul style="list-style-type: none"> <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>
<p>Outputs</p>	<p>Annual accounts prepared according to current accounting standards, accounting rules and general accepted accounting principles.<sup>40</sup></p> <p>Audit recommendations implemented in time.</p> <p>Good planning resulting in higher budget implementing rates.</p> <p>Agency's property records presenting the true value of its assets. Yearly impairment check of fixed assets. Scanning all inventory items every three years.</p> <p>Cash flow management and on time payments.</p> <p>Support on financial matters made available to all involved actors.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Provisional accounts prepared and presented by 1 March 2020, final accounts by 1 July 2020.<sup>41</sup></p> <p>Unqualified opinion from ECA.</p> <p>Minimum 95% budget implementation for commitment appropriation and 75% for payment appropriation by 31 December 2020.</p> <p>Replenished bank account balance.</p> <p>Presentation of financial matters delivered by end of June 2020.</p>
<p>Risks</p>	<p>Delays in procurement procedures and/or delays from contract implementations by project managers may have a</p>

<sup>39</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>40</sup> This specific output will be prepared by the Commission's Accounting Officer in case the Agency continues to outsource its accountings services.

<sup>41</sup> See footnote 37.

	<p>negative impact on the achievement of the budget implementation targets.</p> <p>Results from assets impairment checks may negatively affect the financial position of the Agency.</p> <p>Downturn in the rating of the financial institution may negatively affect the Agency's solvency.</p> <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>
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### 2.7.5. ICT Infrastructure

Task	ICT Development
Overview (status)	<p>The IT Team's main goal in 2020 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 2020 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>
<p>Outputs</p>	<p>Efficient collaboration among 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 Annual Plan.</p>
<p>Performance indicators and targets (deadlines)</p>	<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 action plan.</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 2020.</p> <p>Successful and timely completion of the tasks included in the 2020 IT Action Plan by Q4 2020.</p> <p>85% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2020.</p>
<p>Risks</p>	<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 2020.</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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### 2.7.6. Communication

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.

Task	Communication
Overview (status)	<p><u>External Communication</u></p> <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 (Infoflashes) for all interested parties. Infoflashes are issued to over 1,000 contacts, including stakeholders, national regulators, academics, media, think tanks, as well as other interested citizens. Subscription to the Agency's alerts is available on ACER's website.</p> <p>The Agency is also present on social media (Twitter for general messages and Facebook and LinkedIn for job advertisements).</p> <p>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 2020, they are severely limited by resource constraints.</p>

	<p>The Agency also engages policy makers, stakeholders and the media through workshops and public events, with the Agency’s traditional Annual Conference and the EMIT Forum 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 documents or plans.</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 (leaflets); 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><u>Internal Communication:</u></p> <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 corporate culture, improve staff engagement and ultimately also improve external communication.</p>
<p>Objectives</p>	<p><u>Specific objectives of external communication:</u></p> <p>To further improve the Agency’s website in terms of usability, features and functionalities both for stakeholders and for EU citizens.</p> <p>To keep a large number of interested people and “multipliers” regularly informed on the Agency’s activities and initiatives.</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>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><u>Specific objectives of internal communication:</u></p>

	<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> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>
<p>Outputs</p>	<p>External communication: News items (Infoflashes), press releases, responses to journalists, presence on social media (notably Twitter), press briefings, events (annual conference, EMIT Forum, workshops and presentations), citizens summaries, publications.</p> <p>Internal communication: Intranet, internal newsletter, monthly internal newsletter, internal lunchtime presentations in which staff members present specific topics related to the Agency's tasks to their colleagues.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Unique website visits: 1% increase with respect to 2019.</p> <p>Number of tweets: 3% increase compared to 2019.</p> <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>Annual Conference: Number of participants: &gt; 120, participants satisfaction survey: 2/3 majority satisfied or highly satisfied.</p> <p>Energy Market Integrity and Transparency Forum: Number of participants: &gt; 90, 2/3 majority satisfied or highly satisfied.</p> <p>Market Monitoring Report: Over 75 unique visits within one month of publication, reader survey: 2/3 majority of respondents satisfied or highly satisfied.</p> <p>Staff satisfaction on internal communication measured through a question on the internal newsletter in the staff survey: 2/3 of participating staff satisfied or highly satisfied.</p>
<p>Risks</p>	<p>Timely delivery by external contractors of outputs related to the website.</p> <p>Human resources constraints.</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. For internal communication: reduced circulation of information among Agency's staff.</p>

<b>Total resources allocated to the ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES and NEUTRAL CATEGORIES</b>	
<b>Human Resources (Full Time Equivalents)<sup>42</sup></b>	<b>Financial Resources (EUR)</b>
<b>16.3 administrative (17.3 positions) and 6.5 neutral (7 positions)</b>	<b>2,238,077</b>
	<b>905,580</b>

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<sup>42</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. The vacant positions (new posts or turnover) as of 1 January 2020 are counted as 0.5 FTE, as staff will be recruited progressively throughout the year.



## ANNEX I: 2020 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 vacant positions (new posts or turnover) as of 1 January 2020 are counted as 0.5 FTE, as staff will be recruited progressively throughout the year.

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** 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**.

### 2020 Full Time Equivalents and budget forecast - Breakdown per Activity

Tasks 2020		SUM OF POSITIONS AS PER 2020 BUDGET	POSITIONS FILLED as of 01/01/2020	VACANT POST as of 01/01/2020	SUM of FTE (in house + 1/5 FTE vacant)	2020 budget
OPERATIONAL CATEGORIES	Market Integrity and Transparency	18.5	18.3	0.2	18.4	5,239,319
	Market Surveillance and Conduct	13.5	13.3	0.2	13.4	1,797,476
	Electricity and Gas Internal Market Monitoring	12.4	9.5	2.8	11.0	1,604,171
	Internal Electricity Market	15.8	13.0	2.8	14.4	2,044,024
	Internal Gas Market	8.0	7.8	0.2	7.9	1,034,949

	Infrastructure and Security of Supply	<b>15.5</b>	<b>12.7</b>	<b>2.8</b>	<b>14.1</b>	2,005,213
ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES		<b>17.3</b>	<b>15.3</b>	<b>2.0</b>	<b>16.3</b>	2,238,077
NEUTRAL CATEGORIES		<b>7.0</b>	<b>6.0</b>	<b>1.0</b>	<b>6.5</b>	905,580
<b>TOTAL</b>		<b>108.0</b>	<b>96.0</b>	<b>12.0</b>	<b>102.0</b>	<b>16,868,810</b>

## ANNEX II: FINANCIAL RESOURCES

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

Expenditure	2019		2020	
	Commitment appropriations	Payment appropriations	Commitment appropriations	Payment appropriations
Title 1	9,397,379	9,397,379	10,707,603	10,707,603
Title 2	2,661,270	2,661,270	2,722,584	2,722,584
Title 3	4,088,504	4,088,504	3,438,623	3,438,623
<b>Total expenditure</b>	<b>16,147,153</b>	<b>16,147,153</b>	<b>16,868,810</b>	<b>16,868,810</b>

	2018 executed budget commitment appropriations	2018 executed budget payments appropriations	Budget 2019	Budget 2020	VAR 2020/ 2019	Envisaged 2021	Envisaged 2022
Title 1							
Staff Expenditure	<b>8,452,187</b>	<b>8,276,185</b>	<b>9,397,379</b>	<b>10,707,603</b>	<b>13.94%</b>	<b>13,523,261</b>	<b>13,969,529</b>
11 Salaries & allowances	7,483,837	7,483,837	8,258,236	9,601,155	16.26%	12,071,327	12,490,152

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

- of which establishment plan posts	6,161,244	6,161,244	6,791,349	7,485,325	10.22%	9,542,367	9,877,737
- of which external personnel	1,322,593	1,322,593	1,466,886	2,115,830	44.24%	2,528,960	2,612,416
<b>12 Expenditure relating to Staff recruitment</b>	44,786	34,911	62,200	33,600	-45.98%	96,000	99,168
<b>13 Mission expenses</b>	96,423	91,444	100,000	100,000	0.00%	135,000	135,000
<b>14 Socio-medical infrastructure</b>	28,000	9,433	52,005	25,635	-50.71%	68,000	68,000
<b>15 Training</b>	130,949	74,720	175,000	192,857	10.20%	302,394	312,373
<b>16 External Services</b>	499,919	441,331	580,527	526,256	-9.35%	433,190	447,485
<b>17 Receptions, events and representations</b>	15,912	14,239	16,500	16,500	0.00%	16,500	16,500
<b>18 Social welfare</b>	16,236	16,190	24,000	27,000	12.50%	113,350	113,350
<b>19 Other Staff related expenditure</b>	136,000	110,081	128,911	184,600	43.20%	287,500	287,500
<b>Title 2</b>	<b>2,756,929</b>	<b>1,806,814</b>	<b>2,661,270</b>	<b>2,722,584</b>	<b>2.30%</b>	<b>3,866,860</b>	<b>3,866,860</b>
<b>Infrastructure and operating expenditure</b>							
<b>20 Rental of buildings and associated costs<sup>44</sup></b>	1,012,118	969,495	1,123,434	1,156,434	2.94%	1,290,300	1,290,300

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

<b>21 Information and communication technology</b>	407,405	184,996	465,000	595,000	27.96%	862,000	862,000
<b>22 Movable property and associated costs</b>	213,616	158,169	185,000	178,000	-3.78%	318,200	318,200
<b>23 Current administrative expenditure</b>	154,659	123,609	168,036	183,150	8.99%	209,200	209,200
<b>24 Postage / Telecommunications</b>	65,078	53,742	84,000	89,000	5.95%	104,600	104,600
<b>25 Meeting expenses</b>	170,890	122,349	257,800	201,000	-22.03%	382,560	382,560
<b>26 Running costs in connection with operational activities</b>	152,567	90,695	140,000	115,000	-17.86%	195,000	195,000
<b>27 Information and publishing</b>							
<b>28 Studies</b>	580,597	103,759	238,000	205,000	-13.87%	505,000	505,000
<b>Title 3 Operational expenditure</b>	<b>2,252,085</b>	<b>729,965</b>	<b>4,088,504</b>	<b>3,438,623</b>	<b>-15.90%</b>	<b>5,477,050</b>	<b>5,613,976</b>
<b>to be specified by chapter</b>	2,252,085	729,965	4,088,504	3,438,623	-15.90%	5,477,050	5,613,976
<b>TOTAL EXPENDITURE</b>	<b>13,461,201</b>	<b>10,812,965</b>	<b>16,147,153</b>	<b>16,868,810</b>	<b>4.47%</b>	<b>22,867,171</b>	<b>23,450,365</b>

**Table 2 – Revenue**

Revenues	2019	2020	2021	2022
	Revenues approved	Budget approved	Budget Forecast	Budget Forecast
EU contribution	15 853 496	16 277 975	13 724 671	13 932 447
Other revenue	293 657	192 025		
EFTA contribution		398 810	318 500	349 918
Fees and charges			8 824 000	9 168 000
<b>Total revenues</b>	<b>16 147 153</b>	<b>16 868 810</b>	<b>22 867 171</b>	<b>23 450 365</b>

REVENUES	2018	2019	2020	VAR 2020 /2019	Envisaged 2021	Envisaged 2022
	Budget executed	Revenues received by the agency	Revenue approved			
<b>1 REVENUE FROM FEES AND CHARGES</b>					8,824,000	9,168,000
<b>2. EU CONTRIBUTION</b>	13,461,201	16 147 153	16 470 000	2.00%	13,724,671	13,932,447
of which Administrative (Title 1 and Title 2)	10,680,233	11 794 992	12 839 351	9.13%	12,827,621	13,248,389
of which Operational (Title 3)	2,252,085	4 088 504	3 438 623	-15.90%	897,050	1,033,976
of which assigned revenues deriving from previous years' surpluses	528,883	293 657	192 025	-34.61%		
<b>3 THIRD COUNTRIES CONTRIBUTION (incl. EFTA and candidate countries)</b>			398 810	100.00%	318,500	349,918
of which EFTA						

of which Candidate Countries						
<b>4 OTHER CONTRIBUTIONS</b>						
of which delegation agreement, ad hoc grants						
<b>5 ADMINISTRATIVE OPERATIONS</b>						
<b>6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT</b>						
<b>7 CORRECTION OF BUDGETARY IMBALANCES</b>						
<b>TOTAL REVENUES</b>	<b>13,461,201</b>	<b>16 147 153</b>	<b>16 868 810</b>	<b>4.47%</b>	<b>22,867,171</b>	<b>23,450,365</b>

## Table 3 - Budget outturn and cancellation of appropriations

### Calculation budget outturn

Budget outturn	2016	2017	2018
Revenue actually received (+)	15,877,789	13,273,140	13,566,197
Payments made (-)	- 9,515,362	- 10,062,113	-10,812,965
Carry-over of appropriations (-)	- 6,057,626	- 3,039,915	-2,648,236
Cancellation of appropriations carried over (+)	223,238	122,606	86,926
Adjustment for carry over of assigned revenue appropriations from previous year (+)	0	0	0
Exchange rate differences (+/-)	845.00	-61.00	103
Adjustment for negative balance from previous year (-)	0	0	0
<b>Total</b>	<b>528,884</b>	<b>293,657</b>	<b>192,025</b>

### Budget outturn

Implementation of 2018 commitment appropriations reached a level of 99.26% whereas the payments appropriation implementation rate was 79.73% thus reaching the pre-set targets. The related funds carried forward into 2019 amount to EUR 2,648,236. Unused appropriations of funds carried over from 2017, amounting to EUR 89,926, were mainly the result of lower than expected value of claims for reimbursement from participation into meetings organised by the Agency and actual consumption of utilities for the last month before year-end.



## ANNEX III: HUMAN RESOURCES – QUANTITATIVE

**Table 1 - Staff population and its evolution; Overview of all categories**

Staff population		Staff population actually filled in 31.12.2017	Staff population in EU Budget 2018	Staff population actually filled at 31.12.2018	Staff population in voted EU Budget 2019	Staff population actually filled at 31.12.2019	2020 budget	Envisaged in 2021 (in parenthesis the additional CAs to be covered by fees)	Envisaged in 2022 (in parenthesis the additional CAs to be covered by fees)
Officials	AD	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	AST	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	AST/SC	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
TA	AD	51	55	52	55	55	59	87	87
	AST	12	12	12	12	12	12	15	15
	AST/SC	0	0	0	0	0	0	0	0
<b>Total</b>		<b>63</b>	<b>67</b>	<b>64</b>	<b>67</b>	<b>67</b>	<b>71</b>	<b>102</b>	<b>102</b>
CA GFIV		17	13	20	22	23	28	30 (+3)	30 (+3)
CA GF III		1	0	1	5	3	5	13	13
CA GF II		3	6	1	0	0	0	0	0
CA GF I		0	0	0	0	0	0	0	0

<b>Total CA</b>	<b>21</b>	<b>19</b>	<b>22</b>	<b>27</b>	<b>26</b>	<b>33</b>	<b>43</b>	<b>43</b>
<b>SNE</b>	<b>3</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>3</b>
<b>TOTAL</b>	<b>87</b>	<b>90</b>	<b>90</b>	<b>98</b>	<b>97</b>	<b>108</b>	<b>148 (+3)</b>	<b>148 (+3)</b>
<i>Structural service providers (Interimaires under the FWC ACER/OP/ADMIN/10/2014/O1)</i>	15 FTE	n/a	12 FTE	n/a	12 FTE	13 FTE	6 FTE	
<i>External staff for occasional replacement</i>	n/a	n/a	n/a	n/a	n/a	n/a	n/a	

**Table 2 - Multi-annual staff policy plan 2020- 2022**

Category and grade	Establishment plan in EU Budget 2018		Filled as of 31/12/2018		Modific. envisaged in 2018 in application of flexibility rule		Establishment plan in voted EU Budget 2019		Modific. envisaged in 2019 in application of flexibility rule		Establishment plan in EU budget 2020		Establishment plan 2021		Establishment plan 2022	
	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA
AD 16																
AD 15		1		1				1				1		1		1
AD 14														0		0
AD 13								1				3		4		4
AD 12		4		4				3				3		3		3
AD 11		5		1				5				5		4		4
AD 10				2				1				3		3		3
AD 9		5		7				6				8		14		14
AD 8		11		8				10				8		9		9
AD 7		8		6				7				8		15		15
AD 6		10		13				12				14		13		13
AD 5		11		10				9				6		21		21
<b>Total AD</b>	<b>0</b>	<b>55</b>	<b>0</b>	<b>52</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>59</b>	<b>0</b>	<b>87</b>	<b>0</b>	<b>87</b>
AST 11																
AST 10																
AST 9																
AST 8																

AST 7																
AST 6		<b>1</b>						<b>1</b>				<b>1</b>		<b>2</b>		<b>2</b>
AST 5		<b>2</b>		<b>2</b>				<b>2</b>				<b>2</b>		<b>4</b>		<b>4</b>
AST 4		<b>4</b>		<b>3</b>				<b>6</b>				<b>6</b>		<b>4</b>		<b>4</b>
AST 3		<b>5</b>		<b>7</b>				<b>3</b>				<b>3</b>		<b>5</b>		<b>5</b>
AST 2																
AST 1																
<b>Total AST</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>15</b>	<b>0</b>	<b>15</b>
AST/SC6																
AST/SC5																
AST/SC4																
AST/SC3																
AST/SC2																
AST/SC1																
<b>Total AST/SC</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>TOTAL</b>	<b>0</b>	<b>67</b>	<b>0</b>	<b>64</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>67</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>71</b>	<b>0</b>	<b>102</b>	<b>0</b>	<b>102</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° 16/2019 of the Administrative Board of the European Union Agency for the Cooperation of Energy Regulators of 26 September 2019 on the general provisions for implementing Article 79(2) of the Conditions of Employment of Other Servants of the European Union, governing the conditions of employment of contract staff employed under the terms of Article 3a thereof.

The selection procedures for Temporary and Contract Staff are regulated by Director's Decision 2017/16 and they 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, either via an Open Call for SNEs as published on the Agency's website or via specific selection notices which 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 exchange of letters between the Agency and the Administration of the public institutions 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.

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>45</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 25 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 2020 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 FWC is up to 8 years.

If the requested statutory resources are allocated as requested, the Agency forecasts the use of 13 Interims (FTEs) for the provision of general secretarial and clerical support across all departments of the Agency.

- Framework contract: ACER/OP/ADMIN/12/2017/02
- Duration of the FWC is up to 4 years.

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<sup>45</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 1.01.2018 <sup>46</sup>		How many staff members were promoted/reclassified in 2019 <sup>47</sup>		Average number of years in grade of reclassified/promoted staff members
	officials	TA	officials	TA	
AD 16					
AD 15		1		0	
AD 14					
AD 13					
AD 12		4		0	
AD 11		1		0	
AD 10		2		2	4.50
AD 9		6		3	4.66
AD 8		8		0	
AD 7		7		2	3.06
AD 6		8		3	2.71
AD 5		14		2	2.79
<b>Total AD</b>		<b>51</b>			
AST 11					
AST 10					
AST 9					
AST 8					
AST 7					
AST 6					
AST 5		2	0		
AST 4		3	0		
AST 3		7	1		5.33

<sup>46</sup> These data include the grades following the reclassification exercise 2018.

<sup>47</sup> Subject to the condition that they acquire the third language (B2) by 31/12/2019.



AST 2					
AST 1					
<b>Total AST</b>		<b>12</b>			
AST/SC6					
AST/SC5					
AST/SC4					
AST/SC3					
AST/SC2					
AST/SC1					
<b>Total AST/SC</b>					
<b>Total</b>		<b>63</b>			

**Table 2 - Reclassification of contract staff**

**Appraisal of performance and reclassification/promotions**

**Table 2 -Reclassification of contract staff<sup>48</sup>**

Function Group	Grade	Staff in activity at 1.01.2018	Staff members reclassified in 2019	Average number of years in grade of reclassified staff members
CA IV	18			
	17			
	16	2		
	15	1		
	14	9	4	3.02
	13	5		
CA III	12			
	11			
	10			
	9	1		
	8			
CA II	7			
	6			
	5	2		
	4	1		
CA I	3			

<sup>48</sup> Please note that no Contract Staff has been reclassified in 2018.

	2			
	1			
Total		21		

### 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, 35 staff members came from other institutions (16 from EU agencies, 2 from the EC Representation, 12 from the EC, 2 from European University Institute, 1 from European Central Bank, 1 from the European Parliament, 1 from the United Nations).

## D. Gender and geographical balance

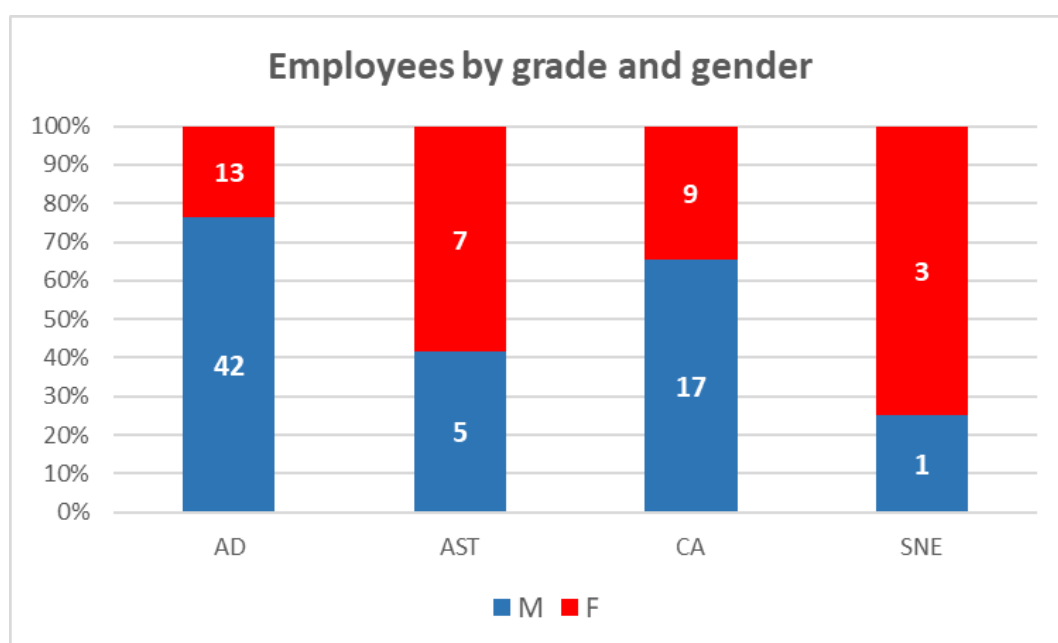
### 1) Gender balance

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.

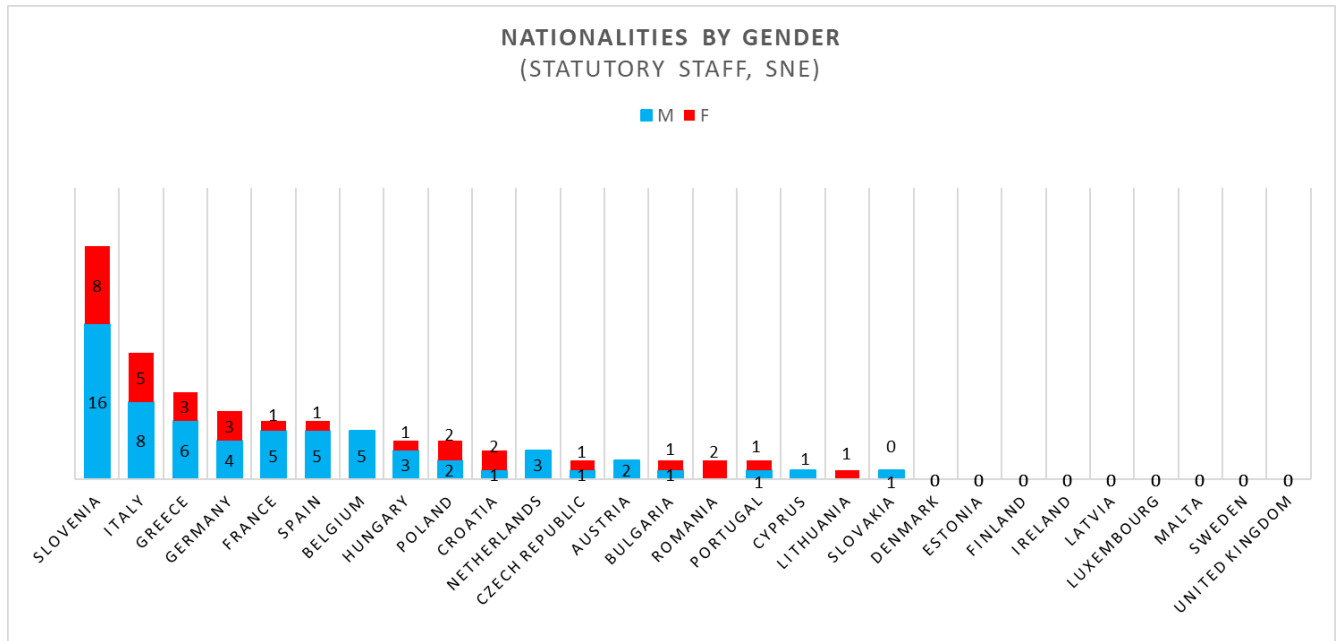
The graph below represents an overview of the Agency's staff by grade and gender in December 2019:



## 2) Geographical balance

On 1 January 2019, the Agency employed 86 staff members and had 2 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 December 2019.



## 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 2018: 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 for accreditation of the school 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 was 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>The 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 is 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). Now that most provisions of the Network Codes and Guidelines are in force, the Agency has begun monitoring its implementation and the effects they have on market functioning.

The Agency developed indicators 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 2020<sup>49</sup>

Risk Description <sup>50</sup>	Risk type <sup>51</sup>	Activity/Objective affected	Risk Response <sup>52</sup>	Action Plan Summary		
				Brief description of action to be taken	Responsible	Implementation Target Date
<b><u>REGULATORY ACTIVITIES</u></b>						
<b>REMIT Information management and Data Analytics</b>						
<b>Data quality</b> The risk of effectively performing the task of REMIT data quality assurance is the lack of IT budget in order to licence software and upgrade ARIS (validation rules,	Internal/ External	This risks negatively to impact REMIT-related market monitoring by the MSC department and	Reduce	- Raise awareness among EU institutions, National Regulatory Authorities, stakeholders, on the benefits of the proper implementation of REMIT.	Market Transparency and Integrity department & Market Surveillance and	Q1 – Q4

<sup>49</sup> **Only for critical risks**

<sup>50</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>51</sup> Internal vs. External.

<sup>52</sup> Avoid / Transfer / Reduce / Accept.

<p>electronic formats changes) and, insufficient human resources.</p> <p>This risks negatively to impact market monitoring by the MSC department and by NRAs as a spill-over effect for the following reasons. First, the ability of efficient and effective monitoring depends on the quality of the data received. Low data quality may, for example, trigger false positive alerts and market monitoring activities by the MSC department and NRAs. Failure to perform data quality tasks efficiently and effectively will prevent the Agency and NRAs to effectively monitor EU wholesale energy markets. Second, efficient and effective monitoring depends on a stable and adequate performing IT system and efficient and effective screening tools. The monitoring activities may be degraded due to, for example, unavailability of data or limitations on performance of relevant IT systems. The effectiveness and efficiency of the whole REMIT market monitoring scheme would therefore risk to be negatively impacted.</p>		<p>by NRAs as a spill-over.</p>		<p>- Practical solutions will have to be adopted.</p>	<p>Conduct Department</p>	
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<p><b>Operation and further enhancements of the Agency's REMIT Information Systems</b></p> <p><b>Ensuring operational reliability and data protection</b></p>						
<p>The risks are linked to the shortage in human resources and budgetary constraints for REMIT IT expenditure in previous years, the change of IT services providers during 2018 for reasons of public procurement which may still impact the Agency in 2020.</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 was abandoned which put operational reliability and business continuity at risk. The Agency is currently planning to re-establish the disaster recovery site in case the REMIT IT budget for 2019 will be made available as requested.</p> <p>The in-house arrangement of the ARIS data centre was established by purchasing existing hardware</p>	<p>Internal/ External</p>	<p>This risks negatively to impact REMIT-related market monitoring by the MSC department and by NRAs as a spill-over.</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 Transparency and Integrity department &amp; Market Surveillance and Conduct Department</p>	<p>Q1 – Q4</p>

infrastructure that has been used from the ARIS hosting period as the most rational option for migrating the data centre. Thus, the existing infrastructure of the ARIS in-house data centre will be about 5-6 years old in 2020. The upgrades/new acquisitions (that would at least partially allow replacing some parts of the old/impeded hardware infrastructure) was planned for 2019, but may still continue in 2020, this is an increased operational reliability and will not allow to ensure the same level of operational reliability as in the period 2015-2018.

In addition, in 2020 the REMIT SW solutions will be 6 years old and specific adaptations of SW architecture will be needed to keep up with technological changes / evolution and increasing number of users, taking into account also large amount of collected data that the Agency will have to store and manage in 2020.

Taking into account the quantity of the reported REMIT data and assuming same or even increased quantity and/or frequency of

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<p>reporting (e.g. by collecting EMIR derivatives as of 2020 and beyond and/or by collecting additional Urgent Market Messages on inside information from market participants from additional inside information platforms), the existing ARIS storage capacity could accommodate for 2019 data only (excluding extensive log –keeping in accordance with the security/retention policy) limiting data collection and monitoring in 2020.</p>						
<p><b>Market surveillance of trading activity in wholesale energy markets</b></p>						
<p><b>Data quality – see above</b> Limited budgetary and human resources for market monitoring activities. Limited budgetary resources risk hampering the implementation of a more comprehensive automated screening of REMIT data. This risks underdevelopment of existing screening tools rendering inefficiencies and risks that certain</p>	<p>Internal/ External</p>	<p>This risks to negatively impact REMIT-related market monitoring by the MSC department (in turn contributing less to the objective of REMIT which is to increase the confidence in the</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>- Prioritisation solutions will have to be adopted.</li> </ul>	<p>Market Surveillance and Conduct Department</p>	<p>Q1 – Q4</p>

<p>types of market manipulation practises remain undetected.</p> <p>Limited human resources for effectively performing market monitoring both at the Agency and/or in EU NRAs will negatively impact the market monitoring of trading activity in wholesale energy markets with the risk that breaches of REMIT remain undetected. This is due to insufficient surveillance experts available to assess identified anomalies resulting from the automatic screening of REMIT data.</p>		<p>price formation of EU wholesale energy markets for the benefit of EU energy consumers) and by NRAs as a spill-over impacting their investigation abilities.</p>				
<p><b>Cooperation with NRAs on market conduct activities</b></p> <p>Limited budgetary and human resources for coordination activities with NRAs.</p> <p>Risk of leakage of highly sensitive trade data if adequate security measures are not in place. For the coordination on case-related activities, the Agency implemented a case management tool (part of ARIS) that provide a secure way of sharing REMIT sensitive information and facilitate cooperation between NRAs. Failure of stable operation of</p>	<p>Internal/ External</p>	<p>This risks negatively to impact REMIT-related conduct coordination activities by the MSC department and by NRAs.</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>- Prioritisation solutions will have to be adopted.</li> </ul>	<p>Market Surveillance and Conduct Department</p>	

<p>this tool carries a risk of leakage of sensitive REMIT data and hampers efficient cooperation with relevant authorities, such as NRAs.</p> <p>With limited human resources and the growing number of REMIT cases, there is an increasing risk of insufficient coordination of conduct activities by NRAs. There is a risk that NRAs may inconsistently apply REMIT market manipulation provisions which in turn risks reducing the effectiveness of the overall REMIT framework.</p>						
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## ANNEX IX: 2020 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>53</sup>	Indicative number of contracts envisaged <sup>54</sup>	Estimated value in EUR <sup>55</sup>	Estimated value in EUR <sup>56</sup>
IT system integration services for the Agency	service	specific contracts based on an existing framework contract	Q2, Q3	2	1,100,000.00	
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	600,000.00	
Market monitoring software for the Agency's REMIT information system (ARIS)	service	specific contracts based on an existing framework contract	Q1, Q2	2	475,000.00	
Oracle software licenses and associated services	service	specific contracts based on an existing framework contract	Q1, Q2	2	654,000.00	
Consultancy services in the field of data analytics, data sharing and system modelling capabilities	service	Service contract	Q1-Q3	2	75,000.00	
Provision of legal assistance in the field of energy regulation for the Agency	service	specific contracts based on an existing framework contract	Q4	1	15,000.00	
Provision of economic assistance in the field of energy regulation for the Agency	service	specific contracts based on an existing framework	Q2 - Q4	1	30,000.00	

<sup>53</sup> Indicative timeframe for launching new procurement procedure or for signing specific contracts/order forms under the existing framework contracts.

<sup>54</sup> Order forms throughout the year are counted as one contract.

<sup>55</sup> Estimated commitments 2020.

<sup>56</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>53</sup>	Indicative number of contracts envisaged <sup>54</sup>	Estimated value in EUR <sup>55</sup>	Estimated value in EUR <sup>56</sup>
		contract				
Legal support services to the Agency's Board of Appeal	service	specific contracts based on an existing framework contract	Q1-Q4	3	55,000.00	
Provision of legal services in appeal cases to the Board of Appeal of the Agency	service	Framework contracts	Q4	3		500,000.00
Agency's website set-up and maintenance services	service	specific contracts based on an existing framework contract	Q3	1	90,000.00	
Provision of consultancy services in the areas of physical security and information security	service	specific contracts based on an existing framework contract	Q2	1	20,000.00	
Provision of consultancy services in the area of business continuity for the Agency	service	specific contracts based on an existing framework contract	Q2	1	25,000.00	
Provision of consultancy services in the area of data protection for the Agency	service	specific contracts based on an existing framework contract	Q2	1	30,000.00	
Provision of maintenance and development services for the IT applications of the Agency	service	Framework contracts	Q3	2		1,600,000.00
Organisation of the Agency's annual conference	service	Service contracts	Q2	3	15,000.00	
Provision of Internet connectivity, fixed and mobile telephony services for the Agency	service	Service contracts	Q4	2		600,000.00
Maintenance, support and development services for the SharePoint applications	service	specific contracts based on an existing framework contract	Q3	1	35,000.00	
Maintenance, support and development services for the Java/PHP applications	service	specific contracts based on an existing framework	Q1, Q2	2	40,000.00	

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>53</sup>	Indicative number of contracts envisaged <sup>54</sup>	Estimated value in EUR <sup>55</sup>	Estimated value in EUR <sup>56</sup>
		contract				
Provision of catering services for the Agency's events	service	order forms based on an existing framework contract	Q1-Q4	1	60,000.00	
Provision of printing services for the Agency	service	order forms based on an existing framework contract	Q1-Q4	1	5,000.00	
Provision of design services for the Agency	service	order forms based on an existing framework contract	Q1-Q4	1	10,000.00	
<b>TOTAL PLANNED PROCUREMENT 2020</b>				<b>34</b>	<b>3,334,000<sup>57</sup></b>	<b>2,700,000<sup>58</sup></b>

<sup>57</sup> The global budgetary envelope reserved for procurement during the year 2020.

<sup>58</sup> Total estimated value for procurement procedures for new framework contracts to be launched in the course of 2020.

# ANNEX X ORGANISATION CHART

The number of staff in active service in the different departments as of December 2019 is the following:

- Director's Office: **12** (9 TAs + 3 CAs);
- Administration Department: **18** (12 TAs + 6 CAs);
- Gas Department: **16** (12 TAs + 3 CAs + 1 SNE);
- Electricity Department: **22** (14 TAs + 7 CAs + 1 SNE);
- Market Integrity and Transparency Department: **17** (9 TAs+ 6 CAs + 2 SNE);
- Market Surveillance and Conduct Department: **12** (11 TAs, 1 CAs).

The organisation chart below reflects the situation on 1 May 2019:



## **ANNEX XI: KEY PERFORMANCE INDICATORS<sup>59</sup>**

### **Staff satisfaction**

<b>Task</b>	<b>Staff engagement /satisfaction</b>
Objectives and deadlines (indicative)	To assess, on a regular basis, staff 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**

<b>Task</b>	<b>Budget Implementation and Audit</b>
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 below 5%. 5. Non-qualified opinion received from ECA and 75% of its recommendations implemented in line with the Agency's Action Plan.

### **Internal Electricity Market and Infrastructure (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>

<sup>59</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.

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.

**Internal Gas Market and Infrastructure and Security of Supply (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.

**Electricity and Gas Internal Market Monitoring**

<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).

**Market Integrity and Transparency**

<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 AND</p> <p>Time from discovery of an incident until resolution AND</p> <p>Time from discovery until escalation to Director/stakeholders.</p>

**Market Surveillance and Conduct**

<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>