



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

**Programming Document**

**2021 - 2023**

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## DIRECTOR'S FOREWORD

It is a huge privilege to have been appointed director of ACER. I follow in the footsteps of Alberto Pototschnig, in many ways the “father” of the organisation and someone who has made a big mark on the EU energy regulatory landscape over the past decade.

I come to the position with a different background, more grounded in energy policy, diplomacy and EU affairs. That notwithstanding, I think I share the same excitement as other colleagues at ACER having more of a regulatory background – namely the opportunity to be at the front line, regulation-wise, of the many changes impacting energy systems in Europe.

Energy systems today are undergoing massive change, driven in part by technology, by market actor innovation and in part by evolving political priorities, not least as regards decarbonisation of the broader economy, in which energy transitions play a crucial part. As such, the regulatory landscape, in which ACER finds itself, is very much evolving, too. The National Regulatory Authorities, a key part of the Agency's “DNA”, experience this on a daily basis.

This evolving landscape has implications for how the Agency should assess its resources, how it seeks to enhance its agility in delivering priority tasks and how it engages with stakeholders, of which there are many. It also has implications for how the Agency communicates its activities going forward, keeping a close eye on how these fit within the wider European context, and for the future priorities which ACER may need to contribute to.

A lot of priority at political level is put into the decarbonisation pathways of the EU and its Member States. As part of the context under which the Agency operates, this is obviously relevant. As these decarbonisation priorities are translated into concrete actions, there will likely be a premium on cost-efficient solutions. Very often, more integrated and deepened markets across Europe represent cost-efficient ways of meeting such political priorities. And here, some, if not most of these solutions require strong regulatory underpinning, whether they concern infrastructure, markets or surveillance efforts.

---oOo---

When I was in the European Parliament back in November 2019 for my designation hearing, I was asked by one of the MEP's what type of overall vision I had for ACER going forward. I replied that if I were to put it into a one-sentence type of formula, it would be that ACER has a key role for “*building faith in increased mutual reliance*”.

At the time, I was reminded of some past discussions in EU Council circles (I was with the Danish government back then). At one point, we were discussing challenges around further

regional integration of power markets, specifically in the context of increasing renewable generation. I recall our conversation focusing on two perceived barriers to further integration, one on the cost of renewables, the other on the wish of some to retain “both hands on the wheel” (ie. in terms of national control).

Whilst the former seems less of an issue per cost decreases, innovation etc., the latter remains a fairly hot topic. And rightly so, one could add: Yes, some analysis will show significant cost-efficiencies around more integrated market solutions in Europe. But can policymakers, regulators, operators, market participants etc. have faith in these solutions? Will the solutions work, also when under pressure; will rules in the end be credibly and even-handedly enforced; will the institutional machinery around such solutions provide a fair and appropriate avenue for tackling disagreements?

Finding the right responses to such questions will be key if we, together, are to craft solutions which leverage our respective assets and strengths across the European Union – which actually is another way of saying that such responses will also need to provide comfort in us becoming ever more reliant on each other.

---oOo---

How then to think of the implications for the Agency over the next couple of years?

Well, back in my final interview this fall for the position, in which both the Agency’s Administrative Board and Board of Regulators participated, I presented the organisational implications as I saw them as follows (a bit abbreviated here):

### IMPLICATIONS FOR ACER GOING FORWARD

#### **Externally:**

- (1) ACER needs to be seen as a trusted partner in the delivery of its mandate:
  - Collaborative approaches throughout (*the "C" in ACER*).
  - Active “translator” of its work to stakeholders, both at the technical and the political level.
- (2) Rate of change means ACER needs to be **forward looking** - and to communicate what it sees.

#### **Internally:**

- (1) For ACER **resource needs** will remain acute – new approaches need to be sought.
- (2) ACER needs a strong **organisational culture** underpinning its tasks:
  - “*Leadership Pipeline*” principles driving personal empowerment and responsibility.
  - Enhanced team approaches across divisional divides.

Since my arrival in Ljubljana in the beginning of January 2020, we have had several discussions within the Agency on how best to take account of such, admittedly rather broad, principles. There has not been much time either to operationalise them in ways that naturally fit the characteristics of this programming document.

The Covid pandemic unexpectedly altered our way of working in 2020 and ultimately also affected the preparatory work for 2021 and beyond. This highly unusual year has also provided us with insights on the need to reprioritise the distribution of resources, a challenge we will continue to tackle in 2021. This is rendered further necessary by the continuous surge of legal appeals to the Agency's decisions (an inevitable consequence of the enhancement of the Agency's powers), which has made us cognisant of the need to invest further in legal resources. The continuous discrepancy between resources available and needs for REMIT surveillance and conduct also remains a major challenge, which the introduction of REMIT-related fees in 2021 should help to address. Similarly, the pandemic has rendered necessary new approaches in IT and system access that may also benefit the Agency in years to come.

A document which seeks to be both comprehensive and multi-annual is difficult to keep brief and succinct. I am guessing the reader will appreciate this as (s)he reads on ... For that reason, I would invite the reader to start by browsing a few of the overview sections below, not least our so-called "*Strategic Aims*". Here we try over a few pages to discern both broader challenges going forward guiding the Agency's work as well as those challenges currently being tackled, many of which remain a core mission for the Agency.

A vision or a strategy obviously needs to be put into practice to be of use. The proof of the pudding will be in the eating, as they say. For me, this programming document is our first attempt to put some of those "*dishes on the table*" – obviously with more to come.

I am keen for your feedback on how we have managed this very first serving – succinct or bloated; concise or bland. You be the judge and let us know. It is via feedback we can adjust and improve over time.

In fact, I would like for ACER to be seen as a strong representative of that philosophy; engaging on a strong technical and analytical foundation, working closely with the National Regulatory Authorities, engaging with our many stakeholders, attentive to various points of view, searching for solutions that at one and the same time have European-scale impact and help build faith in increased mutual reliance. And strongly committed to adjustments, agility and improvements in whatever we set out to do.

Happy reading.

Christian Pilgaard ZINGLERSEN

## LIST OF ABBREVIATIONS AND ACRONYMS

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



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

## MISSION STATEMENT

### 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. 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:

- The Third Package (some acts were recast within the Clean Energy for all Europeans Package):

Regulation (EC) No 713/2009 (the “Agency Regulation”), repealed and replaced by Regulation (EU) No 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators (recast),

Directive 2009/72/EC (the “Electricity Directive”), repealed and replaced 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),

Regulation (EC) No 714/2009 (the “Electricity Regulation”), repealed and replaced from 1.1.2020 by Regulation (EU) No 2019/943 on the internal market for electricity,

Directive 2009/73/EC (the “Gas Directive”),

Regulation (EC) No 715/2009 (the “Gas Regulation”);

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

- Commission Regulation establishing a Network Code on interoperability and data exchange rules (703/2015/EU);
- Commission Decision (EU) 2015/715/EU amending Annex I to Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks (“Congestion management procedures – CMP Guidelines”);
- Commission Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management (“CACM Guideline”);
- Commission Regulation (EU) 2016/631 establishing a network code on requirements for grid connection of generators;
- Commission Regulation (EU) 2016/1388 establishing a Network Code on Demand Connection;
- Commission Regulation (EU) 2016/1447 establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules;
- Commission Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation (“FCA Guideline”);
- Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas;
- Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation;
- Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing;
- Commission Regulation (EU) 2017/2196 establishing a network code on emergency and restoration;
- Regulation (EU) No 2019/941 on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC.
- Commission Decision (EU) 2020/2152 of 17 December 2020 on fees due to the European Union Agency for the Cooperation of Energy Regulators for collecting, handling, processing and analysing of information reported under Regulation (EU) No 1227/2011 of the European Parliament and of the Council.

# SECTION I – GENERAL CONTEXT

## STRATEGIC AIMS

### **An active ACER in a context of significant change**

The energy systems of Europe are undergoing massive change, driven in part by technology, by market actor innovation and in part by evolving political priorities, not least as regards decarbonisation of the broader economy, in which energy transition plays a crucial part.

As such, the regulatory landscape, in which the Agency for the Cooperation of Energy Regulators (ACER) finds itself, is very much evolving, too. The Covid pandemic is also having a deep impact on the Agency way of working, both internally and with stakeholders. All the above have implications on how the Agency deploys its resources, how it seeks to enhance its agility in delivering priority tasks and how it engages with stakeholders, of which there are many. It also has implications on how the Agency communicates its activities going forward, keeping a close eye on how these fit within the wider European context, and with the future priorities which the Agency may need to contribute to.

The Agency's work will continue to be anchored in its legal mandate, as recently enhanced by the "Clean Energy for all Europeans Package". Cooperation with National Regulatory Authorities (NRAs) remains an essential part of the Agency's mission and work.

Accordingly, the Agency's strategic aims in the coming years will be the following:

### **BROADER CHALLENGES GOING FORWARD**

- **Contributing, from a regulatory perspective, to the EU's wider energy and decarbonisation goals and the EU Green Deal;**
- **Implementing the Clean Energy for All Europeans Package;**
- **Engaging on the future gas market design of Europe;**
- **Engaging stakeholders for greater impact, communicating strategically and via modern tools;**
- **Redeploying resources to meet future challenges, also in light of the Covid pandemic;**
- **Putting the Agency's REMIT activities on sound financial footing.**

### **CURRENT CHALLENGES**

- **Implementing Electricity and Gas Network Codes and Guidelines and monitoring their effects;**

- **Increasing the transparency of wholesale energy markets and promoting their integrity under REMIT;**
- **Contributing to the EU's energy infrastructure challenge under the TEN-E regulation;**
- **Contributing to safeguard the security of gas supply.**

### **Broader challenges going forward**

- **Contributing, from a regulatory perspective, to the EU's wider energy and decarbonisation goals and the EU Green Deal**

While focusing on its legal mandate and tasks allocated to it since its establishment (see section on “Current challenges” below), the Agency aims to contribute, from a regulatory perspective, to the implementation of the European Union's Green Deal and the broader energy and decarbonisation objectives set at political level. A large share of its activities already contribute, directly or indirectly, to cost efficient solutions for Member States and consumers, to building faith in increased mutual reliance among key actors in the energy market and ultimately to the EU's goal of becoming the world's first climate-neutral continent.

The energy transitions needed to achieve this trajectory also require new approaches to the infrastructure underpinning efficient markets. Increased cross-border and regional cooperation will help achieve the benefits of energy transitions at more affordable prices for EU energy consumers. At the same time, there are important discussions to take account of as to the balance between wider, pan-European approaches and more localised flexibility solutions. Similarly, for some of the political priorities set at European level there are important discussions ahead on the right balance between setting the right market framework on one hand and broader government planning and market actor coordination on the other. Finally, the governance arrangements currently in place may no longer be appropriate in the new policy and technological environment. These will be important guideposts for the Agency's contributions to discussions on future energy challenges for Europe.

While energy transitions give rise to different challenges and opportunities across the economy, the EU's energy supply needs to remain secure and affordable for consumers and businesses. For this to happen, as also emphasised in the proposed Green Deal, it is essential to ensure that European markets are integrated, interconnected and digitalised, while respecting technological neutrality. The Agency plays a key role through its current activities and will seek to play a forward-looking role in these processes in the coming years, cooperating closely with NRAs.

➤ **Implementing the Clean Energy for All Europeans Package**

In addition to the above, as of 2020, the Agency has begun implementing the tasks allocated to it within the “Clean Energy for all Europeans Package” (CEP), which includes a recast of the Agency’s founding regulation. The latter strengthens the role of the Agency with the assignment of additional tasks that are crucial for promoting greater competition and security of energy supply to the benefit of European consumers and citizens as well as according it with greater responsibilities in some processes in which it was already involved. Briefly put, with the CEP the Agency has started delivering, along with the NRAs, ENTSO’s and others, the foundations for a more integrated, efficient and competitive energy system in Europe, taking account of the decarbonisation objectives set at the political level.

The Agency is also be called to decide directly on the EU-wide “terms and conditions or methodologies” for the implementation of guidelines (and on the regional ones where they have an impact beyond the region). This is an important expression of faith in the Agency as previously, the Agency’s involvement was limited to those cases in which the NRAs failed to agree or unanimously referred the decision to the Agency.

➤ **Engaging on the future gas market of Europe;**

The Commission has announced its intention to proceed, in the next couple of years, to a review of the gas market legislation, in order to adapt the role of gasses to 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. The Agency stands ready to engage on priority issues of regulatory relevance under this review and of course to implement the tasks subsequently allocated to it in the framework of the future gas market legislation.

➤ **Engaging stakeholders for greater impact, communicating strategically and via modern tools;**

Cooperation with NRAs will remain an integral part of the Agency’s strive to reach the above goals. Tackling the currently rapidly shifting energy landscape and taking into account the Agency’s new tasks will require it to reinforce and adjust its approach to key stakeholders. Indeed, within the remit of the Agency’s work, there is a multitude of stakeholders, many of whom have views of relevance for ACER’s tasks and approaches. Whilst targeting all stakeholders does not seem a feasible option, greater engagement with key stakeholders is necessary, drawing on more strategic, proactive approaches and underpinned by more modern communication tools. This will be a key shift in the workings of the Agency over the coming years.



➤ **Redeploying resources to meet future challenges also in light of the Covid pandemic**

The Agency has struggled to obtain the resources it has deemed necessary so far to fully perform its mandate and legal obligations, most notably as concerns the surveillance of the wholesale energy market under the Regulation on wholesale energy market integrity and transparency (REMIT). As such, it puts ever more onus on the pursuit of internal efficiencies and synergies relevant for the strategic priorities mentioned above. This is easily written, more difficult to put into practice. The Agency will seek to regularly reassess and redistribute resources available in light of shifting priorities. Also, the Agency will seek at fairly regular intervals to evaluate its internal organisation in order to have as agile and dynamic a structure as possible. The need for all the above has been rendered more urgent with the Covid pandemic, which is likely to continue influencing the Agency’s operations and ways of working at least in 2021 if not beyond. This entails additional emphasis, for example, on IT and system access.

➤ **Putting the Agency’s REMIT activities on sound financial footing**

The recast of the Agency’s founding regulation introduces fees as a new source for the funding of REMIT related services. These 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. Implementing the new REMIT fee model constitutes both a new operational challenge for the Agency and very much also an opportunity in terms of putting the Agency’s REMIT activities on sound financial footing for the years to come.

**Current challenges**

The Agency was established as part of the 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. ACER is currently undertaking a number of efforts linked this effort and these remain a core mission of the Agency.

➤ **Implementing Electricity and Gas Network Codes and Guidelines and monitoring their effects**

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 working on their implementation as well as 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.

### ➤ **Implementing 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 energy consumers 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 records of wholesale energy market transactions, irrespective of where they are concluded (on organised markets or over the counter) and of the type of product traded (for physical delivery or financial settlement), including orders to trade placed at organised markets, and fundamental data. In the implementation of the principle of subsidiarity and in the strive to gain efficiencies, the Agency was also tasked with conducting an initial assessment and analysis of these transactions and orders to trade to identify suspicious events, having potentially a cross-border impact; suspicious events which otherwise would not be detected at national level. Following the initial assessment performed at the Agency, suspicious events are further notified to NRAs, which are responsible for investigations and enforcement. This 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 market surveillance 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, efficient and effective market surveillance of suspicious

transactions in evolving, further integrating wholesale energy markets and ensuring the consistent application of market abuse provision by NRAs. The Agency's vigour to do so depends on the availability of expert staff and financial resources.

➤ **Contributing to the EU's energy infrastructure challenge under the TEN-E regulation;**

In line with the TEN-E Regulation, the Agency plays a role in the process of identifying critical energy infrastructure (PCIs) and in assisting NRAs in dealing with investment requests – including for cross-border cost allocation – submitted by PCI promoters.

➤ **Contributing to safeguard the security of gas supply**

Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply, which applies from 1 November 2017, strengthened the role of the Agency in ensuring gas supply security by foreseeing tasks linked to the enabling of permanent physical capacity to transport gas in both directions, the related cross-border cost allocation and exemption requests.

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 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.

**OPERATIONAL ACTIVITIES**

In its Annual Work Programme, the Agency's tasks and deliverables are divided into the following six operational Activities:

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

## SECTION II

### 1. MULTIANNUAL PROGRAMMING 2021 – 2023

#### WIDER CONTEXT

##### European Green Deal, Energy Union Strategy, UN Sustainable Development Goals

While the Agency is an independent body, it is fully committed to the **European Green Deal**, with a fully-integrated internal energy market in which energy should flow freely across the EU - without technical or regulatory barriers. The Agency therefore also contributes to the implementation of the **Energy Union Strategy**, in particular to the following two dimensions:

- Security, solidarity and trust - diversifying Europe's sources of energy and ensuring energy security through solidarity and cooperation between EU countries;
- A fully integrated internal energy market - enabling the free flow of energy through the EU through adequate infrastructure and without technical or regulatory barriers.

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.

## 1.1 Multiannual objectives

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

Supporting the integration of the electricity and gas markets in the European Union was the main role assigned to the Agency by its founding Regulation and other provisions in the Third Package, and further enhanced with the acts of the “Clean Energy for all Europeans” 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.

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 proposals 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, in particular in South-South East Europe.

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.

All these achievements should be instrumental to the goals of the European Green Deal.

#### 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 CEP-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.

Moreover, efficient monitoring requires the availability of information and data to be received from NRAs, TSOs and other stakeholders. While the powers of the Agency to collect relevant data have been significantly reinforced with the CEP, the Agency is still likely to be confronted with difficulties to obtain the required data within a reasonable timeframe, hampering its ability to effectively perform its duties. 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.

### **Objective 2: Contribute to the Infrastructure and Security of Supply Challenges**

The Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure (TEN-E Regulation) introduced a new framework aimed at promoting the development of Projects of Common Interest (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 new dimension. As one of the many players involved, the Agency aims to contribute to the infrastructure challenge in line with its legal mandate.

#### Implementation of the objective:

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

PCI lists are adopted every two years. Ten Year National Development Plans (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.

All these achievements should be instrumental to the goals of the European Green Deal.

### 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 to establish 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 introduced a new, unprecedented, sector-specific market-monitoring framework to detect market abuse in European wholesale energy markets, thus deterring such behaviour. It is a monitoring opportunity provided by digitalisation. 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 (‘triggered alerts’) 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 manner.
- **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 in providing 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. Reinforcements so far have been far from what is required to fulfil the Agency’s mandate in this respect and to meet the related multiannual objective.

As of 2021, the introduction of REMIT fees will be an opportunity for the Agency to overcome its funding gap for its REMIT activities, even though the introduction of fee financing will also create general risks and uncertainties.

In the view of the Agency, it is crucial to get the new REMIT fee model right. Several issues are at stake, for instance, whether there are adequate financial resources to pay for the licence fees and support services for the Agency’s REMIT Information Systems (ARIS) and related IT infrastructure. Additionally, 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 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 an enhanced role.

Over the Summer of 2019, the Agency launched a public consultation ‘A Bridge beyond 2025’ to ask stakeholder input in particular about the role gasses and sector coupling could play in

the decarbonisation agenda. A Conclusions Paper was issued jointly with CEER in November 2019 with recommendations.

The Agency and CEER noted that the priority for Europe’s energy sector is to decarbonise while maintaining security of supply, affordability for consumers and competitiveness for businesses. For the electricity sector, the “Clean Energy for all Europeans” Package (CEP) sets the path. For the gas sector and for cross-cutting aspects, such as infrastructure planning, legislation and policy need to be updated to facilitate decarbonisation, improve market functioning and maximise the opportunities arising from sector coupling.

Alongside this Conclusions Paper, the Agency published a formal Recommendation for changes to legislation.

For its contribution to long-term regulatory challenges, the Agency intends to focus on topics with regulatory relevance, for instance those linked to the *Bridge beyond 2025* Recommendation. These could include the future use of gas infrastructure, the role of power-to-gas installations, the possibilities for hydrogen in a decarbonised energy system, the development of hybrid infrastructure assets such as offshore grid linking multiple jurisdictions and the development of demand response.

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).

Implementation of the objective and expected achievements:

- The Agency may **follow-up on the Bridge Beyond 2025 Conclusions Paper** to address new challenges that have emerged and which require regulatory response.
- When asked and where relevant contribute, from a regulatory perspective, to the EU’s **wider energy and decarbonisation goals** and the EU Green Deal.
- The Agency may contribute to addressing **cybersecurity** issues in the energy sector.

Risks

While of great value to the sector, activities in this area will be performed in line with the resources available. The lack of sufficient resources is therefore the main risk affecting activities in this area.

## 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 an 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, AWGs heavily rely on the voluntary engagement of NRAs’ resources. However, despite the strong commitment of NRAs over the past years, their resource limitations may have an impact on their engagement in the AWGs. Apart from undermining one of the main tenets of the Agency’s action, a possible reduced engagement of NRAs in AWGs would 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.

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 both REMIT, the TEN-E Regulation and with the adoption of Network Codes and Guidelines, especially in the electricity sector.

Finally, the Agency has suffered for many years from significant understaffing and underfunding, especially for implementing REMIT and the TEN-E Regulation and for supporting the implementation of the adopted Network Codes and Guidelines. 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. As of 2021,

the Agency's REMIT activities are to be funded by fees charged to registered reporting parties. This is an opportunity for the Agency to overcome its funding gap for its REMIT activities. However, since the REMIT fees will have to be implemented by the European Commission in the course of 2020, there is the risk of timely implementation of the fees and the risk of underfunding.

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 (Dols). The Dols are subsequently processed by review panels and, in case of conflicts of interest, appropriate measures are taken. The Dols 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.

The Covid pandemic has added to the uncertainty of the Agency's operations, as it is unclear at the time of adoption of this Programming Document what its effects will be both within the Agency and the environment in which it operates in 2021 and beyond. In line with its continuity management plans the Agency has so far not been obliged to amend its work programme in the relation to the tasks and deliverables planned in 2020 and 2021.

However, as a result of the crisis, the Agency is looking into ways to update its working model. This will likely require more investment in communication and information tools, in training, and possibly also in further IT support.

## Classification of priorities

In order to ensure an appropriate prioritisation of its activities, and to allocate resources accordingly, the Agency divides its tasks and deliverables according to the following three priority levels.

**Priority level 1:** Tasks which are critical for a competitive internal energy market or security of supply and which should be delivered in a comprehensive way and approached proactively.

**Priority level 2:** “Reactive” tasks where ACER has to prepare and adopt individual decisions due to a referral from national regulatory authorities (NRAs), if NRAs fail to reach an agreement or as otherwise stipulated by EU legislation. Those decisions need to have satisfactory quality, both technical and legal, to be accepted widely by stakeholders and to withstand legal challenges.

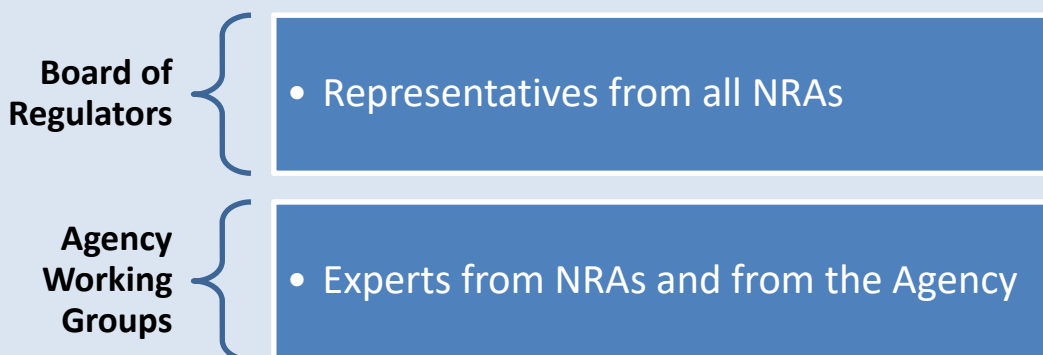
**Priority level 3:** Tasks which are of lower importance, but need to be undertaken to comply with EU legislation.

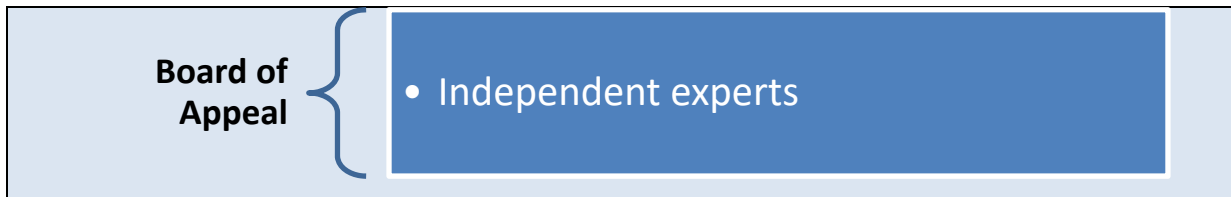
## 1.2. Regulatory Practice

### 1.2.1 The Regulatory Framework

#### Cooperation with Regulatory Authorities (RAs)

Formally through the Board of Regulators (BoR) and Agency Working Groups (AWGs). The Regulatory Authorities have a duty to cooperate with regard to cross-border issues with ACER, in particular through participation in the work of the Board of Regulators.





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

Key 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;
- 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 and to the Agency’s Working Groups within its field of competences;
- providing opinions to the Administrative Board on the establishment and rules of procedure of the AWGs, on the ACER rules of procedure regarding a transparent and reasonable decision-making process and those regarding relations with third countries or international organisations, and on the communication and dissemination plans;
- the BoR is consulted by the Director on all aspects of REMIT implementation.

The BoR consists of members (and alternates), representing RAs from each Member State, and one non-voting representative of the European Commission. The Director participates to the BoR as observer.

**Frequency of BoR meetings:** Around 9 times per year.

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

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

The AWGs provide the foundation for collaboration and cooperation among NRAs and with the Agency. Each AWG has established Task Forces (TFs) to address specific issues. In the

future, the number and focus of the AWGs may be adapted to reflect the requirements of the regulatory framework within which the Agency operates.

Under the new framework introduced by Regulation (EU) 2019/942 (the Agency's founding regulation recast), the AWGs were given a formal status. The AWGs 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 AWGs before submitting the draft acts to the BoR. Under the new framework, the AWGs 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.

**Three AWGs** 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).**

In July 2019, the Administrative Board formally established, upon the entry into force of Regulation (EU) 2019/942, the Electricity Working Group and the Gas Working Group. The AMITWG will discontinue to exist as technical structure established by a decision of the Director. It is replaced by a new contact group i.e., the **ACER REMIT Committee (ARC)** established on 12 November 2020. The ARC merges the AMITWG and REMIT CG (see below). As a result, the coordination between ACER and NRAs on REMIT matters will gain efficiency.

### **Coordination Groups**

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 was required to "ensure that national regulatory authorities carry out their tasks under this Regulation in a coordinated and consistent way."

- **The REMIT Coordination Group (REMIT CG)** was set up for the above purpose, bringing together senior representative from NRAs in charge of the implementation of REMIT. This group, as mentioned above, is merged with the AMIT WG into ARC as of 12 November 2020.
- **The Gas Regional Initiative Coordination Group (GRI CG)** was set up in the framework of the Gas Regional Initiative (GRI), which aims to identify and solve market integration issues at a regional level, with particular focus on projects for the implementation of the Network Codes.



**Frequency of AWG and CG meetings:** as required.

### **Board of Appeal (BoA)**

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 has significantly increased since the establishment of the Agency: 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 has manifested with the potential of simultaneous appeals being filed against a single decision, putting at sever risk the ability of the BoA, in its actual format, of performing its role. In addition, the appeal procedure before the BoA appears to remain a mere procedural step in bringing litigation before the General Court, therefore not proving an adequate response to the principle of procedural economy placed at the basis of its creation.

**Frequency of BoA meetings:** the BoA meets at least once per year within the framework of its institutional functions. In the handling of appeals, the BoA meets as many times as required by the nature of the appeal.

## **1.2.2. Regulatory practice – multiannual 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 RAs in the Agency's work. In particular, the working arrangements should be further developed and improved as provided in the Regulation (EU) 2019/942 as the Agency will have additional important responsibilities in which the BoR and the AWGs are involved.
- **Further develop, where appropriate, working arrangements and specific mechanisms for the cooperation of RAs** (including at regional level) to facilitate the sharing of best practices and enhance the cooperation between NRAs and the effectiveness of 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. Following the entry into force of Regulation 2019/942, the relevant rules of procedure of the BoR and AWGs are being amended.

- **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.

### 1.2.3 Regulatory Practice - Risks

According to REMIT and the CEP, the Agency and NRAs are under a mutual obligation to cooperate. In addition, the Agency is supported, albeit not as much as in its initial years, by the secondment of experts from NRAs. At present, the AWGs 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 expanded following Regulation 2019/942.

## 1.3. Strategic objectives

### **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 Agency’s role in this framework.

## **i) 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 2021 and beyond. An effective Network Code monitoring process, which is 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 will directly revise and submit 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.

## **ii) 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 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.

The CEP legislation assigned 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).

### **iii) Other tasks from the Clean Energy Package**

The Agency will also continue implementing 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.

#### **Monitoring of the progress in the achievement of the objectives in Strategic Area 1**

Bearing in mind that the Agency is only one of the actors involved in the objectives related to the completion of the Internal Energy Market, the Agency monitors progress in this field (including indicators) through dedicated implementation monitoring reports on each NC and Guideline and through its Annual Market Monitoring report. This latter report is divided into four volumes: The wholesale electricity (which provides an in-depth assessment of the effects of the implementation of the market-related Guidelines) and gas market volumes, the retail market volume and the customer protection and empowerment volume.

In gas, the Agency developed indicators for the ex-post evaluations of the NCs. 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.

The 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.

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

### **i) 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.

### **ii) 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.

### **iii) 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 selection process. In line with the TEN-E Regulation, it is also responsible for PCI monitoring and annual reporting.

#### **iv) 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.

#### **v) Other tasks from CEP package**

The Agency will also implement in the electricity sector 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; 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).

#### **Monitoring of the progress in the achievement of the objectives in Strategic Area 2**

Bearing in mind that the Agency is only one of the actors involved in the objectives related to the completion of the Internal Energy Market, the Agency monitors progress in this field through its Opinion on the PCI lists, its Annual Progress Report on the PCI and through its Opinions on the TYNDP-related topics.

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

#### **i) Institutional Framework**

REMIT has introduced a new and unprecedented sector-specific market integrity and transparency framework for European wholesale energy markets. As REMIT covers legislative and technical aspects on which there is little experience worldwide, its implementation has posed a formidable challenge to the Agency.

In 2021, ten years after the entry into application of REMIT and five years after data collection and market monitoring started, the Agency's REMIT implementation can only be regarded as a success story. In recent years, REMIT became a role model for the implementation of market integrity and transparency regimes in other jurisdictions impacting the Union energy wholesale energy market like Switzerland and the Energy Community. In addition, ACER's cooperation with the U.S. Federal Energy Regulatory Commission (FERC) is an important cornerstone in promoting market integrity and transparency and customer protection in a more and more global gas market.

Regulatory cooperation is an essential element of REMIT because of its decentralised design with Member States through their NRAs being responsible for investigations and enforcement at national level. Close cooperation and coordination between the Agency and NRAs is therefore necessary to ensure effective, efficient and consistent market oversight.

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 established strong links with major organised market places and may establish links with tax authorities as through its surveillance activities it could detect fraudulent behaviour in energy markets that go beyond the prohibition REMIT provisions.

Ensuring market integrity and transparency by the effective implementation of REMIT is a major pre-requisite for a well-functioning European internal energy market in which consumers and other market participants can have confidence that electricity and gas markets provide fair and reliable price signals reflecting a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse. Correct prices further unlock *decentralised supply resources* and provide a robust basis for investment decisions in for example generation, transmission and storage, such as battery technology, to enhance flexibility in supply.

Furthermore, the *European Green Deal's* increased climate ambition and the objectives to ensure effective carbon pricing, to avoid carbon leakage and to develop international carbon markets mean that more efforts will be needed to monitor the potential interaction between the European carbon market and the EU wholesale energy market.

Such an open, competitive, interconnected and integrated energy market is essential to achieve decarbonisation and security of energy supply at the lowest possible costs and to ensure that the clean energy transition benefits consumers. The effective implementation of

REMIT is therefore underpinning the *European Green Deal* which aims to transform the EU into a fair and prosperous society with a modern, resource-efficient and competitive economy which has successfully tackled climate and environment-related challenges.

## **ii) Market Information and Transparency**

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 companies and other contractors, a specialised IT system - ARIS, the Agency's REMIT Information System. This strategy, in which the Agency retained the programme management and coordination roles, was dictated by the fact that REMIT implementation was uncharted territory and neither its scope, nor the implementation time were foreseeable at the beginning, as the Implementing Acts were adopted only in December 2014. 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 should be implemented by the end of 2021. 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.

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 2021.

## **iii) 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 NRAs. 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

### **Monitoring of the progress in the achievement of the objectives in Strategic Area 3**

The Agency performs market monitoring of the data collected according to Article 8 of REMIT aiming to ensure the integrity and transparency of wholesale energy markets aiming to deter and/or detect abusive practices under REMIT. Moreover, the Agency aims 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.

## **Strategic Area 4: Longer term regulatory challenges**

The Agency will strive to support political priorities set at the EU level which are relevant for energy regulation, such as the European Green Deal and the related decarbonisation goals for the achievement of the EU climate policy objectives. The aim is to support more cost-effective pathways for the EU's energy objectives and to help regulators and policymakers remain at the forefront of the regulatory implications of a rapidly changing energy system.

In doing so, the Agency intends to focus on topics with clear regulatory relevance, for instance those linked to the *Bridge beyond 2025* Recommendation. These could include the future use of gas infrastructure, the role of power-to-gas installations, the possibilities for hydrogen in a

decarbonised energy system, the development of hybrid infrastructure assets such as offshore grid linking multiple jurisdictions and the development of demand response.

Challenges include also the future greater penetration of renewable-based generation into the European electricity system, which 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. To mention but one very recent example, in November 2019, the Agency presented a Recommendation on how to adapt the regulatory regime for gas networks to the decarbonisation agenda.

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.

#### **Monitoring of the progress in the achievement of the objectives in Strategic Area 4**

Bearing in mind that the Agency is only one of the actors involved in the objectives related to future challenges, the Agency monitors progress in the completion of the Internal Energy Market and helps identify the areas where improvement is needed through its Annual Market Monitoring report and through the monitoring reports on the implementation of NCs and Guidelines. In its Recommendation on decarbonisation in the gas sector, the Agency commits to adding sustainability indicators to track progress in this area as well.

## 2. HUMAN AND FINANCIAL RESOURCES OUTLOOK 2021 - 2023

### 2.1. 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 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.

Further additional responsibilities and tasks were allocated to the Agency within the acts of the Clean Energy for all Europeans Package, including the recast of the Agency's founding regulation.

With the possibility for the Agency to raise fees for the REMIT-related activities, in accordance with Article 32 of the recast founding regulation, additional human resources are necessary to manage the fees scheme from 2021. The estimates for the additional resources that the Agency would need to manage the fees scheme are presented in Annex IV.

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

## 2.2 Resource programming 2021 – 2023

### 2.2.1 Financial resources

The activities the Agency is planning to perform results in the need for increased financial resources in 2021 and beyond.

#### **Revenue**

The Agency's requests are based primarily on the legal mandate of the Agency.

Article 32 of Regulation (EU) 2019/942 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 MPs 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 fees shall be proportionate to the costs of the relevant services as provided in a cost-effective way and shall be sufficient to cover those costs. REMIT fees shall be set at such a level as to ensure that they are non-discriminatory and that they avoid placing an undue financial or administrative burden on MPs or entities acting on their behalf. The Commission shall regularly examine the level of REMIT fees on the basis of an evaluation and, if necessary, shall adapt the level of those fees and the way in which they are to be paid.

In addition to Article 32, recital 37 of Regulation (EU) 2019/942 explains the purpose of the REMIT fees, which are supposed to improve the Agency's funding and should cover 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. These better services will allow the reporting parties (as well as the general public) obtain an additional benefit for paying fees.

The REMIT fees should be charged annually to registered reporting parties as annual enrolment or supervisory fee. According to Article 11(1) of the REMIT Implementing Regulation, the Agency shall register reporting parties to ensure efficient, effective and safe exchange and handling of information. Registered reporting parties, so-called RRM, are MPs or entities reporting on their behalf according to Article 8 of REMIT, which fulfil the technical and organisational requirements for reporting data. Since the Agency is only collecting REMIT information through these RRM, the Agency can only provide data collection services to these entities. For this reasons these parties are the sole addressees of the REMIT fees.

As of the financial year 2021, the REMIT fees are supposed to cover the expenditure for the Agency's annual REMIT-related activities, i.e. the annual REMIT IT and REMIT-related human resources expenditure for collecting, handling, processing and analysing the information reported to the Agency under Article 8 of REMIT.

The 2021 Agency's revenue from the EU subsidy, as detailed in Annex III, will see a decrease of 12.54% as compared to the financial year 2020 due to the envisaged coverage of Agency's expenditure from fees.

<b>REVENUES</b>	<b>2020</b>	<b>2021</b>	<b>Variance</b>
<b>Revenue from fees and charges</b>	-	8,824,000	
<b>EU contribution</b>	16,277,975	14,236,015	-12.54%
<b>Assigned revenues deriving from previous years' surpluses</b>	192,025	198,348	3.29%
<b>EFTA contribution</b>	398,810	384,372	-3.62%
<b>TOTAL revenue</b>	<b>16,868,810</b>	<b>23,642,735</b>	<b>40.16%</b>

The total annual REMIT fee for a given financial year (n) is calculated on the basis of the fee scheme as foreseen in Commission Decision (EU) 2020/2152 of 17 December 2020 on fees due to the European Union Agency for the Cooperation of Energy Regulators for collecting, handling, processing and analysing of information reported under Regulation (EU) No 1227/2011 of the European Parliament and of the Council.

## **Expenditure**

### **Title 1**

Compared to 2020, there is a 12.16% increase in financial resources allocated for Title 1. This mainly relates to increased staff expenditure (remuneration) for the 3 additional Contract Staff members the Agency requests.

For the following years, 2022 and 2023 the slight increase within this Title relates only to the expected costs for salaries and allowances adjustments and staff promotions.

### **Title 2**

There is a 58.09% increase in the financial resources under Title 2 as compared to 2020. The increase mainly relates to expected additional legal counsel to prepare the Agency's defence against appeals; additional overheads due to an increase in the number of staff, the agreed price indexation of the rented office space; external development of IT applications, gradual replacement of IT infrastructure, and maintenance of the IT network. It is expected that the level of expenditure within this Title will remain unchanged for the subsequent years.

### **Title 3**

There is a 113.14% increase in the expenditure of Title 3 as compared to 2020. It shall be noted that expenditure related to expert consultations has been moved from Title 2 into Title 3 as of 2021.

In 2021, ACER REMIT IT expenditure is expected to be funded by fees charged to registered reporting parties according to Article 32(1)(b) of the Regulation (EU) 2019/942. All REMIT IT

expenditure for the Agency’s REMIT Information Systems (ARIS) is for collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT.

The expected REMIT-related IT budget needs from 2021 to 2023 can be broken down as follows:

**Multiannual budget for REMIT IT in 2021-2023:**

<b>Expenditure Item</b>	<b>Total cost (million €) 2021</b>	<b>Total cost (million €) 2022</b>	<b>Total cost (million €) 2023</b>
<b>1. Infrastructure, hardware licenses, deployment, service desk and operations</b>	<b>1.53</b>	<b>1.53</b>	<b>1.56</b>
<b>2. Software maintenance, development, testing and software licenses</b>	<b>1.25</b>	<b>1.25</b>	<b>1.28</b>
<b>3. Surveillance and Conduct IT tools customisation, licenses and consultancy</b>	<b>0.94</b>	<b>1.13</b>	<b>1.23</b>
<b>4. Studies, technical writing, coordination, QA and information security</b>	<b>0.90</b>	<b>0.90</b>	<b>0.93</b>
<b>5. Others</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Grand TOTAL</b>	<b>4.58</b>	<b>4.58</b>	<b>4.7</b>

The estimates for the period 2021-2023 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. The increase in the financial resources requested for REMIT IT expenditure compared to 2020 is justified as follows:

- Since the budget for the year 2020 did not satisfy the Agency’s REMIT IT budget needs, necessary investments in IT infrastructure and software development had to be postponed to the years 2021 and beyond.
- The budget for the year 2020 did 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.

- The growing data volume of currently more than 3 million records collected by the Agency on a daily basis requires an increasing need for additional REMIT IT expenditure in 2021 and beyond.
- 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 significantly 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.
- The budget for the year 2019 and 2020 was insufficient to fund the development and enhancement of (bespoke) alerts for efficient and effective screening of REMIT data for EU wide market surveillance. Therefore, this had to be postponed to the year 2021 and beyond given the significant backlog.
- The budget for the year 2019 and 2020 was insufficient to fund the development (including addressing a backlog of existing technical 'bugs') of the Case Management Tool. Therefore, this had to be postponed to the year 2021.

Furthermore, the Agency may have to commit to respect a specific level of services provided to reporting parties, which will change the current basis (i.e. "best effort") on which the estimates for the previous years have been calculated.

The increase in the financial resources requested under Title 3 also relates, albeit to a lesser extent, to increased expenditure for translation services based on the requirement to have the Agency's opinions translated in some EU official languages for which a waiver may not be obtained.

### **2.2.2. Human resources**

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

- i) the monitoring of wholesale energy markets in the Union and follow-up activities;
- ii) the optimal development of trans-European energy infrastructures;
- iii) the implementation of the Network Codes and Guidelines, and
- iv) the tasks concerning measures to safeguard the security of gas supply.
- v) the "Clean Energy for All Europeans" legislative acts.

Given the political and financial situation in the European Union, while arguing for the additional staff resources to be allocated to its activities, the Agency recognises the need to constantly re-evaluate its efficiency gains, to become more agile and to prioritise its request for new resources to the level necessary to integrate new staff according to the EU's political priorities.

Both the Agency's aspirational needs and actual requests of new resources for 2021 are included in this section of the Programming Document.

### **Monitoring of the wholesale markets in the Union**

The Agency has greater responsibilities in monitoring the EU wholesale energy market since trade reporting obligations took effect on 7 October 2015. Moreover, with the entry into force of the Network Codes and Guidelines provided for in Regulations (EC) No 714/2009 and (EC) No 715/2009, the Union electricity and gas markets are becoming even more integrated, with increasing shares of cross-border trading. Against this background, a pan-European approach to market monitoring is the only effective way of detecting and preventing wholesale energy market abuse.

With the entry into operation of the REMIT monitoring framework, the previous Market Monitoring Department was restructured in 2016 into two Departments.

#### **Market Integrity and Transparency Department's activities**

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).

In 2019 and 2020, ACER was struggling with its stakeholder communication and the handling of additional registrations of reporting parties to become Registered Reporting Mechanisms (RRMs) and with the handling of already registered 120 RRM. The RRM registration process requires legal and administrative work to manage, process, verify and finally accept the relevant documentation (application form, power of attorney, information about the reporting entity, fulfilment of requirements, final approval, etc.), but also to manage the RRM communication following its registration. In addition, particularly the following activities had to be deprioritised in previous years for resource reasons:

- Cooperation with ESMA and national financial market authorities on an ad hoc basis, not allowing for a continuous close cooperation as required;



- Collection of EMIR and MiFIR derivatives and emission allowances for the monitoring of EU wholesale energy markets and for data sharing with NRAs;
- Establishing data sharing mechanisms with ESMA/national financial regulatory authorities and DG COMP/national competition authorities;
- Publication of aggregated REMIT information for transparency reasons;
- Sample transaction data requests for market participants from ARIS in order to verify completeness, accuracy and timeliness of data submission to the Agency;
- Improvement of the market participant registration form: NRA request to facilitate their obligation to register Market Participants.

The additional human resources requested for 2021 and the introduction of REMIT fees in 2021, in particular the increased REMIT IT expenditure compared to previous years with the possibility to outsource additional tasks to contractors, should provide minimum resources for REMIT Information Management activities to allow the Agency to at least deliver its critical tasks in 2021. The human resource needs for future years will *inter alia* depend on market developments and the potential growth of data collected as well as on the required REMIT information services expected by the Agency's stakeholders.

### **Market Surveillance and Conduct Department's activities**

Market Surveillance and Conduct (MSC) Department, responsible for:

- i) Screening market data for potential abusive behaviour and development of surveillance tools to detect potential instances of market abuse;
- ii) Notifying and referring suspected market abuse instances to NRAs and other relevant authorities;
- iii) Requesting and coordinating investigations performed by NRAs;
- iv) Providing guidance to NRAs on market abuse definitions; and
- v) Providing operational assistance to a requesting NRA on their REMIT investigation.

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.

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 and the follow-up processes. This includes enhancing the quality of the data to a level that enables its efficient and effective use for market monitoring. This includes validating the reported data, as well as

auditing and correcting inconsistencies in the assessed data, a task to which the MSC Department contributes.

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 (SMARTS) on the basis of predefined “alerts”, to detect anomalous instances; if the data fulfils the alert logic the alert “triggers”;
- second, the manual assessment of high priority triggered alerts by a surveillance expert to validate the alert, including the checking of the correctness of the data and possible false positives<sup>1</sup>; and
- subsequently, on the basis of a market surveillance strategy agreed between the Agency and NRAs, an assessment and notification of potentially abusive behaviour that may result 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.

The Agency aims to ensure that all NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent manner, which is done mainly through case coordination and publishing Guidance to NRAs on the application of market abuse prohibitions. Concerning the case coordination, at the end of 2019 the total number of ongoing cases (instances of potential market abuse) requiring follow-up from the Agency was 218. This is expected to increase to 250 in 2020 and 270 in 2021. The increase is due to (i) the further increase in suspicious transactions reports notified by e.g. trading platforms; and (ii) an increase in the number of cases originating from alerts through the Agency’s surveillance activity (with increasing data points). The expected further increase of REMIT cases with the same number of case handlers available may render that the average number of cases per

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<sup>1</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.

case handler will exceed a threshold beyond which meaningful coordinating is no longer possible. The risks associated with this are presented in section 2.2.3.

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>2</sup> that the additional resources it would require, should it not reject any of the requests for assistance from NRAs, amounts to a significant increase in additional amount of staff 2021.

In order to appropriately fulfil the market surveillance and conduct mandate under REMIT, the Agency would need significantly more resources. In particular, the Agency can currently detect only a fraction of all potentially abusive behaviours pursuant to the REMIT regulation. The Agency lacks the appropriate funding to sufficiently continue with the surveillance tool customisation and the development of its surveillance methodology in order to fulfil its obligation under Article 7 of REMIT. In view of EU wholesale market evolution, it needs to do so on a continuous basis as wholesale energy market evolve and with it the need for the Agency to enhance its market surveillance tool and methodology. With the current level of available resources for these tasks, the Agency prioritise cases and alerts and will further apply backlogs. This risks that potential market abuse goes undetected which in turn risks impact the trust EU energy consumers have in the price formation of EU energy markets and risks reputational damage also to the EU institutions and ACER in particular.

### **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.

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<sup>2</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.

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 within strict deadlines. This implies a significant additional workload for the Agency, the bulk of which took place during the second half of 2018 and the year 2019. Since a number of NRAs missed the deadline to publish their national Reference Price Methodologies, the Agency’s work continued into the first half of 2020.

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.

### **2.2.3 Human Resources requested for 2021**

As indicated above, over the next years the Agency is facing important challenges in the implementation of the REMIT fees and the Network Codes and the TEN-E Regulation, together with the need of strongly reinforcing its communication and outreach efforts to the benefit of a better cooperation with stakeholders.

To meet these challenges, the Agency required a change in the management of its efficiency gains and an increase in the number of staff with specific technical expertise, often in new areas, as illustrated above.

For this purpose, the Agency envisaged a very substantial recalibration of its request for human resources, due to past experience, the new political context, the pressure for budget cuts, Brexit, but also to the new political priorities, including the European Green Deal, as described in the next section.

The proposed new approach did not require that all the requested posts would need to be financed by the EU subsidy, as 5 posts are proposed to be covered under the Fee model. The resources requested in January 2020, for the budget 2021 programming, included:

- 5 additional posts for REMIT would be covered by revenues from fees, thus addressing the resource gap of the Agency as far as this gap concerns REMIT implementation efforts and alleviates the “pressure” on the EU subsidy. These posts will: a) manage the fee model; b) support the registration of new reporting parties as Registered Reporting Mechanism (RRM), c) supervise and provide support services for already registered reporting parties;

d) enable a higher market surveillance coverage by ACER and e) mitigate the risk of an inconsistent application of market abuse provisions.

- 3 additional new posts requested are a response to the new realities and the rapid changes – digitalisation, new business models and new market actors – driven setting, as well as, the changing political context. *These three additional requests would target: (1) firstly, the pressing need for a significant change of the approach to communications and stakeholders’ engagement, effectively approaching and involving the stakeholders and experts in its operational activities and addressing the expectations of the industry and the market. This comes also in line with the Preliminary observations and Recommendations of the Performance Audit on EU Agencies, conducted by the European Court of Auditors, that the Commission and the agencies should strengthen the role of the agencies as common support centres to develop further cooperation with the European, national and international partners; (2) secondly, REMIT requirements for ACER and NRAs to take an active role in cooperating with the Commission services, the European Securities and Markets Authority (ESMA) and supervisory authorities from third countries impacting the wholesale energy market in order to promote the harmonisation of the regulatory market integrity and transparency framework within the Union and beyond.; and (3) thirdly the prescription of the Network Code Tariffs for an Agency report on each Reference Price Methodology (RPM), with a 4 month deadline (from the consultation publication) and FUNC platform, where stakeholders can raise issues with regard to Network Code implementation.*
- 6 posts as “conversions” of interim positions to statutory staff posts. This request aims to address the need of reducing the number of interim staff working on a long-term basis for the Agency. In line with the *Preliminary observations of the Performance Audit on EU Agencies*, conducted by the European Court of Auditors and given the complex legal framework for the use of interim staff there is a litigation risks and a risk of reputational damage, related to the use of interim staff. At the same time the new proposed posts would provide the proper level of operational support and efficiency needed to fulfil the mandate of the Agency.
- Within the procedure for the 2021 budget, no additional resources – besides the three Contract Staff positions envisaged in the REMIT fees’ decision (see below) - have been allocated to the agency. In this context, the Agency will continue to re-evaluate its priorities and its internal capacity, to the extent necessary to perform the tasks allocated to its mandate in an efficient manner.

## 1. Fee-financed posts

### **REMIT Fees management – 3 CA (FGIV)**

The Agency estimated that the administration of the REMIT fees would require 1 Contract Agent (CA) FGIV, who will be needed to support the Corporate Service Department in the budget management process to coordinate the issue of the annual invoices, ensure the collection of revenue, follow up on any payment delays and regularly report on the implementation of the annual revenue. As part of the process, the position will also be responsible for the calculation of interest on possible late payments, liaising with the legal team for enforced recoveries, preparing the allocation of fees and charges income by activities, allocation of related overheads to the activities covered by fees, analysis of the annual fees implementation, contributing to the annual reporting of fees consumption and development and implementation of an activity based budgeting system.

Two (2) CAs FGIV would be required to support the Market Integrity and Transparency Department to register new reporting parties as Registered Reporting Mechanism (RRM) as well as to supervise and to provide support services for already registered reporting parties. The Agency has to register new reporting parties and to supervise the ongoing compliance of registered reporting parties with Article 11(1) of the REMIT Implementing Regulation and intervene in case it suspects that they are in breach of technical requirements or not providing data. The scope of support services includes fulfilling requests to change the information registered with an RRM (name change, company structures changes, updates on responsible personnel etc.), registration of new RRM users, de-registration of RRM users, approval of changes initiated by RRM users (such as new data types to be reported), communication to RRM users (regular and ad-hoc information on reporting, system status, specific instructions). Following the introduction of REMIT fees, the Agency will have to enhance communication with RRM users, for the purpose of analysis of reported data, to prepare reports and statistics which would serve as a basis for invoicing, supporting the financial team of the Agency, assisting in reclamations resolution, planning, revisiting and updating the fee collection model and give advice to management. Against this background, the Agency will be required to provide enhanced REMIT information services to reporting parties following the introduction of REMIT fees, possibly including the satisfaction of sample transaction data requests from market participants to enable them to verify completeness, accuracy and timeliness of data submission to ACER.

In conclusion, the Agency assessed its need for a total of at least three (3) additional contract agents in support to the additional tasks resulted from the introduction of REMIT fees, which were granted by the budgetary authorities.

Grade	CAs for REMIT fee collection for the Corporate Service Department	CAs for REMIT fee model for the MIT Department
FG IV	1	2

The request of these positions in terms of function group is in line with Article 80 of the Condition of Employment of Other Servants (CEOS) whereby the staff members are performing administrative and advisory roles (“*Administrative, advisory, linguistic and equivalent technical tasks, performed under the supervision of officials or temporary staff.*”).

Besides the three Contract Staff positions granted for 2021, the agency requested the following reinforcements of FTEs in the REMIT area, to be covered by the fee’s scheme, and in the communication area. These requests were not granted by the budgetary authority, and the agency will continue in 2021 to find internal synergies to fulfil its mandate particularly under REMIT, to the extent possible with the current allocated resources:

#### **Market Surveillance and Market Conduct Officers – 2 TAs (AD5)**

**Market surveillance officer (1 AD5).** The Agency needs to continue with the surveillance tool customisation and the development of its surveillance methodology in order to fulfil its obligation under Article 7 of REMIT. In view of EU wholesale market evolution, it needs to do so on a continuous basis. In order to increase its ability to detect abusive behaviour additional alert methodology needs to be developed. Due to lack of resources the development was delayed in 2019 and postponed in 2020. Second, with the current level of resources (6 surveillance experts) about 85% of high priority alerts (high priority alerts present 10% of all triggered alerts) can be assessed and shared with NRAs for their investigation and enforcement follow-up. The remaining 15% is backlogged. Both reasons create a risk that potential market abuse goes undetected. This impacts the trust EU energy consumers have in the price formation of EU energy markets and risks reputational damage to Member States and ACER.

**Conduct activity officer (1 AD5).** ACER is responsible for ensuring that 29 NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way, which is done mainly through case coordination and publishing Guidance. Concerning the case coordination, at the end of 2019 the total number of ongoing cases (instances of potential market abuse) requiring follow-up from ACER was 218. This is expected to increase to 250 in 2020 and 270 in 2021. The increase is due to (i) the further increase in suspicious transactions reports notified by e.g. trading platforms; and (ii) an increase in the number of cases originating

from alerts through surveillance activity. With the current level of resources (6 conduct officers), the capability of ACER to properly follow-up these cases up is limited to about 50-60 priority cases per year. As a result, ACER will be able to follow up on 20% of the total number of pending cases in 2021. Moreover, the limited resources put a strain on the possibility of ACER to publish Guidance. Both issues risk an inconsistent application of market abuse provisions by NRAs or failing to notify the relevant authorities. The latter may cause reputational damage to ACER and the former risks reducing the overall effectiveness of the REMIT framework harming the Member States and EU citizens.

2 additional TA AD5 posts would have contributed to marginally increase the market surveillance coverage and to marginally increase case follow-up work aiming to bring the risk to a more acceptable level. As market surveillance and conduct activities are in scope of Article 8 of REMIT it was foreseen that the requested posts are to be funded by fees charged to registered reporting parties according to Article 32(1)(b) of the Regulation (EU) 2019/942.

## **2. EU subsidy- financed posts**

### **Stakeholders / Communications Officer – 1 AD7**

The energy systems of Europe are undergoing a massive change, driven in part by technology, by market actor innovation and, in part, by evolving political priorities, not least as regards decarbonisation of the broader economy, in which energy decarbonisation plays a crucial part. As such, the regulatory landscape, in which ACER finds itself, is very much evolving, too. This has implications for how ACER engages with stakeholders, of which there are many, and how it communicates its activities, how these fit within the wider European societal context and indeed which future priority efforts ACER may need to contribute to going forward.

In line with what were the *Preliminary observations and Recommendations of the Performance Audit on EU Agencies*, conducted by the European Court of Auditors, the Commission and the agencies should strengthen the role of the agencies as common support centres to develop further cooperation with the European, national and international partners there is also a pressing need for a significant change of the approach to communications and stakeholders' engagement, effectively approaching and involving the stakeholders and experts in its operational activities and addressing the expectations of the industry and the market.

In short, the strategic communications portfolio of ACER needs to adapt to significantly changed circumstances. This goes manifestly beyond the drafting of press releases and updating an antique website with already limited functionality. Both such efforts are needed



and will be prioritised. But modern, more stakeholder-oriented communications, if they are to be genuinely strategic, need to permeate an entire organisation, impacting more than press contacts and website uploads. As such, a strategic communications effort needed dedicated and experienced resources capable of helping senior management transform an organisation in this direction, to support the operational activities by engaging further with stakeholders and experts, thus also responding to their explicit expectations.

To that end, the Agency works closely with European Institutions, NRAs and stakeholders to fulfill its mandate. Relations with stakeholders are managed directly by the operational departments with the contribution of the very limited resources of the Communications team. In order to fulfil its strategic objectives and ensure closer cooperation and communication with regulators, stakeholders, policy makers and citizens, the Agency aims to upgrade significantly its outreach to the benefit of stakeholders. The aim is to ensure that the Agency can live up to the stakeholder and corporate communication requirements it will face, also in view of the additional tasks it is called to implement in the Clean Energy Package, and to ensure that its stakeholder outreach and communication work are fully engrained in the European Union's corporate communication priority on the European Green Deal.

A new Team Leader for stakeholders and communications outreach (AD 7) is therefore requested, in order to ensure:

- A strategic, systematic and proactive role in the Agency's engagement towards stakeholders at all levels;
- An upgrade in the corporate communication outreach of the Agency (including through social media).

### **REMIT Policy Officer – 1 AD7**

REMIT required ACER and NRAs to take an active role in cooperating with the Commission services, the European Securities and Markets Authority (ESMA) and supervisory authorities from third countries impacting the wholesale energy market in order to promote the harmonisation of the regulatory market integrity and transparency framework within the Union and beyond. Promoting such regulatory cooperation is not considered as being covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER for its services related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT.

ACER needs to closely cooperate with ESMA since wholesale energy markets encompass both commodity markets and derivatives markets and as price formation in both sectors is

interlinked. EU financial market legislation is therefore interacting with REMIT and impacting EU wholesale energy markets and their market design. In the light of the ongoing review of EU financial market legislation, ACER needs to follow more closely any potential new legislative proposals, draft technical advice and recommendations to the Commission. This requires a closer cooperation between ACER and ESMA in order to closely follow the regulatory developments in EU financial market legislation in 2021 and beyond. This would also benefit the Commission services as any future ESMA technical advice to the European Commission would then already take into account ACER's views concerning the potential impact on EU wholesale energy markets.

In addition, ACER needs to cooperate with competent supervisory authorities, international organisations and the administrations of third countries, in particular with those impacting the Union wholesale energy markets, in order to promote the harmonisation of the regulatory market integrity and transparency framework. In 2021, the need of promoting regulatory cooperation with competent regulatory authorities outside the Union will become even more important in the context of BREXIT, also taking into account that major broker platforms will remain in the UK. The implementation of REMIT in the Energy Community will require further cooperation with NRAs from these countries to promote the harmonisation application of REMIT.

Last, but not least, the close cooperation with other authorities also includes the cooperation with the Commission services. In the course of 2019, DG Energy showed interest to make use of REMIT data as data source for their market analysis for gas and electricity market reports and potentially for their work stream on the international role of the Euro in energy. This will require a closer interaction with the Commission services.

### **Gas Network Codes Officer – 1 AD5**

National gas transmission tariff methodologies determine how much shippers pay to book capacity on the network, for domestic or cross-border use. If such a methodology unduly shifts tariffs from domestic to cross-border points, this goes directly at the expense of cross-border flows, price convergence and market integration. Proper ACER scrutiny of the national methodologies can prevent or, alternatively, address such shortcomings.

The Network Code Tariffs prescribes an Agency report on each Reference Price Methodology (RPM), with a 4 month deadline (from the consultation publication). The Agency has so far

produced 22 such reports in the last 1.5 years.<sup>3</sup> The reports are around 25 pages each, following a standard template. The reports highlight cross-border issues which are a major concern to many shippers (who have approached the Agency).

The reports can be highly contentious since, although they are non-binding, they can be used by stakeholders to appeal the NRA's tariff methodology decision, in case it deviates from the Agency's report. Therefore, these reports are followed closely by NRAs and the interactions are often intensive. Also, it means they need to be robust in terms of quality and findings.

The Tariff methodology decisions are periodic; this work will come back every 1-5 years, depending on the national tariff periodicity. On average, the Agency expects around 7 RPM consultations, and thus ACER reports, for each of the coming years (from 2021 onwards);

Next to the Tariffs work, the FUNC platform (where stakeholders can raise issues with regard to Network Code implementation) has also taken off in the last 2 years. The Agency now receives on average 5 issues per year, which are dealt with together with ENTSOG. This leads to a situation where in many instances ENTSOG is factually in the lead, which could lead to unbalanced outcomes in cases where TSOs have a stake in the issue.

The other obligations with respect to NC implementation and monitoring for Capacity Allocation, Congestion Management, Balancing and Interoperability, are met by the remaining resources.

There are virtually no resources to deal with IT automation (even though this, after an initial investment, would lead to efficiency gains), follow-up reports (such as on Allowed Revenues, as requested by the Madrid Forum), engagement with NRAs lagging behind in NC implementation, and forward-looking activities (Bridge follow-up, market design, sector coupling). The Tariffs Network Code was a heavily debated compromise, which is not expected to change as part of the Decarbonisation package.

### **3. Replacement of interim staff, performing the function of assistants to the Director and Heads of Department – 6 CA FGIII**

The Agency requested six (6) Contract Staff positions (FGIII) to cover the needs of operational support in each of its departments. In 2020, the Agency employed around 12 interim staff for

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<sup>3</sup> See

[https://www.acer.europa.eu/en/Gas/Framework%20guidelines\\_and\\_network%20codes/Pages/Harmonised-transmission-tariff-structures.aspx](https://www.acer.europa.eu/en/Gas/Framework%20guidelines_and_network%20codes/Pages/Harmonised-transmission-tariff-structures.aspx)

basic secretarial and clerical tasks, while distributing the operational support functions among its statutory staff (Contract and Temporary Staff). In order to foster a better use of its resources at all relevant levels, and to the benefit of a streamlined implementation of tasks vis-à-vis the competencies of high qualified staff, this request is aimed to address the need of reducing the number of interim staff working on a long-term basis for the Agency. In line with the Preliminary observations of the Performance Audit on EU Agencies, conducted by the European Court of Auditors and given the complex legal framework for the use of interim staff there is a litigation risks and risk of reputational damage, related to the use of interim staff. At the same time the new proposed posts would have provided the proper level of operational support and efficiency needed to fulfil the mandate of the Agency.

With FG III posts it would have been possible to recruit highly qualified assistants who could provide very effective and efficient support to the Head of Departments (and the Director's office) on a long-term and more stable basis than intérimaires, and could also support the experts in the departments and avoid that operational support tasks need to be distributed among them. The agency will continue to avail of the use of interim staff in 2021, to the extent necessary to cover its basic secretarial and clerical functions, until the budgetary authorities grant statutory staff resources in the future.

***Overview table of the positions requested by the agency***

<b>Posts</b>	<b>Grade</b>
<b>Fee-financed</b>	
3 (REMIT fees)	FGIV (granted)
2 (MSC)	AD5 (not granted)
<b>Subsidy-financed</b>	
1 (MIT)	AD7 (not granted)
1 (Gas)	AD5 (not granted)
1 (DO)	AD7 (not granted)
6 (operational support)	FGIII (not granted)
<b>Total:</b>	
<b>14 posts requested (5 from fees and 9 from EU subsidy), 3 CAs' positions granted</b>	

## **2.3 Strategy for achieving efficiency gains**

The Agency recognises the need to streamline its structure and internal organisation to become a **more modern and agile organisation**.

As a decentralised agency, ACER is regularly re-assessing, optimising and streamlining its support functions and administrative processes. This is done by various means: knowledge sharing and introduction of best practices from other agencies, review, documentation and 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; 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, in 2020, the Agency has been deploying Sysper and ARES. Sysper is a system used as integrated HRM management tool used in all Commission services: its deployment brought the management of staff data to a higher standard and facilitated the interface with rights and entitlements, personal files and career management for the Agency's staff. ARES is the document management system in use in the Commission services: its deployment, in 2019, brought additional benefits to streamline data and document management for the Agency.

### **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 previous years.

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.

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

The Agency identifies its key priorities for 2021 and strives to further increase its flexibility, in particular by aiming to shift 10 to 15% of its internal capacity in terms of financial and human resources as functional to fulfil the identified priorities.

The structure of the agency has been revised in early 2020, and 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.

The Agency recognises the need to increase its efforts in term of staff flexibility: to this extent, in 2019, the Agency has adopted its competency framework, which will support the identification of necessary competencies to fulfil its mandate in an agile manner.

## SECTION III – WORK PROGRAMME 2021

### 1. EXECUTIVE SUMMARY

In 2021 the Agency will continue to contribute to the completion of the internal energy market and to monitor its functioning, as well as to monitor wholesale energy trading under REMIT. However, this will again be a very challenging year due to three additional circumstances:

- 1) 2021 will be the first year in which the Agency will not be fully funded by the EU budget but also by fees collected in for providing REMIT-related services. From 2021, under the next Multiannual Financial Framework, it is envisaged that ACER will receive an annual budgetary allocation around 20% lower than the current one, in the order of € 14 million. This will exclude any possibility to recruit extra staff and may also be insufficient to cover the costs of the existing staff and current operations. In the recast of its founding Regulation, ACER is allowed to raise fees for some of its REMIT-related activities. Therefore, it will only be by using the fees to the maximum possible extent that ACER might be able to cover its budgetary requirements related to its current staffing and operations, as they relate to REMIT operations but the problem of inadequate staffing is likely to remain.
- 2) REMIT-related tasks will in any case constitute a large (though also largely insufficient) share of both human and financial resources. However, the Agency is henceforth also obliged to provide support on REMIT breach investigations if NRAs request it to do so.
- 3) During the course of 2021 all the remaining provisions of the legal acts of the “Clean Energy for All Europeans” Package (CEP) will enter into force, most notably the new Electricity Directive. The Agency will thus, once again, tackle new responsibilities and tasks.

At the time of drafting this work programme, it is difficult to assess what the exact practical impact of the first two challenges mentioned above will be. There is however little doubt that the Agency’s resources will be stretched.

The 2021 Work Programme will in any case focus primarily on the Agency’s legally mandated tasks, as last modified with the entry into force of the CEP. 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.

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:

**Priority level 1:** Tasks which are critical for a competitive internal energy market or security of supply and which should be delivered in a comprehensive way and approached proactively.

**Priority level 2:** “Reactive” tasks where ACER has to prepare and adopt individual decisions due to a referral from national regulatory authorities (NRAs), if NRAs fail to reach an agreement or as otherwise stipulated by EU legislation. Those decisions need to have satisfactory quality, both technical and legal, to be accepted widely by stakeholders and to withstand legal challenges

**Priority level 3:** Tasks which are of lower importance, but need to be undertaken to comply with EU legislation. The following subsections identify the activities/tasks according to their priority level.

All tasks and deliverables listed in the Work Programme are classified according to the above prioritisation system.

### **Financial Resource Constraints**

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

1. Review of the electronic formats for data collection (XML schemas);
2. Enabling of sample transaction data requests for market participants from the ARIS in order to verify completeness, accuracy and timeliness of data submission to the Agency to facilitate market participants’ compliance with Article 11(2) of the Implementing Regulation;
3. Publication of aggregated REMIT information for transparency reasons according to Article 12(2) of REMIT, including making available the commercially non-sensitive trade database for scientific purposes;
4. Improvements to the market participant registration format pursuant to Article 9(3) of REMIT and improvements to CEREMP;
5. Enhancements to improve existing and develop new alerts to screen REMIT data for the purpose of market surveillance activities;
6. Enhancements of 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 Information 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 work in the field market information and transparency is contributing to this goal and is an ongoing activity which involves the promotion of regulatory cooperation and REMIT analytics and information management tasks.

#### **2.1.1 Promoting regulatory cooperation and data excellence**

##### **I. Promoting regulatory cooperation**

ACER takes an active role in assisting NRAs and in building a common regulatory culture among NRAs to promote the sound, efficient, and consistent exercise of their regulatory tasks under REMIT at Union level. Since wholesale energy markets encompass both commodity markets and derivatives markets and as price formation in both sectors is interlinked, ACER also cooperates with the European Securities and Markets Authority (ESMA) and national financial market authorities, but also with competition authorities, to ensure that a coordinated approach is taken on market integrity and transparency at Union level. In addition, ACER cooperates with competent supervisory authorities, international organisations and the

administrations of third countries, in particular with those impacting the Union wholesale energy markets, in order to promote the harmonisation of the regulatory market integrity and transparency framework. In 2021, the possibility of promoting regulatory cooperation with competent regulatory authorities outside the Union may become even more important in the context of Brexit: For example, the possibility to share information between ACER and UK entities via the REMIT Information System will depend on the to be negotiated future relationship between the EU and the UK and hence cooperation with the UK, which is an important location for international energy trading activities, may become more complex once the UK is a third country.

As of 2021, most of ACER's REMIT activities will be funded by fees. However, the presented tasks in the field of Promoting regulatory cooperation are not considered as being covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER for its services related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT. This is why the Agency's tasks in the field of Promoting regulatory cooperation will continue to be financed by the Union budget and/or other funding sources made available.

In relation to the promotion of regulatory cooperation in the framework of REMIT, the Agency plans to work in the following areas and towards the following deliverables in 2021:

<b>Task</b>	<b>Assisting NRAs in exercising, at Union level, their regulatory tasks under REMIT performed in the Member States</b>
Priority level	1: Critical
Legal basis	Article 1(2) of Regulation (EU) 2019/942; Articles 7(2) and 9(2) of REMIT
Overview (status)	<p>ACER's mission is to assist NRAs in exercising, at Union level, their regulatory tasks performed in the Member States. This includes NRAs' regulatory tasks under REMIT.</p> <p>ACER is already assisting NRAs in exercising their regulatory task of establishing and maintaining national registers of market participants according to Article 9(2) of REMIT ever since REMIT implementation started.</p> <p>ACER is also assisting NRAs in exercising their national market monitoring tasks according to Article 7(2) of REMIT. ACER has a possibility of license sharing of its Business Intelligence Solutions with NRAs. Several NRAs expressed their interest to use this license sharing possibility for the performance of their market monitoring and data analysis tasks at national level. ACER aims at sharing its Business Intelligence Solution with relevant NRAs in</p>

	2021 against the NRAs' coverage of ACER's costs for the use of these Business Intelligence solutions at national level.
Objectives	Specific objective: Provide effective and proactive ICT support to NRAs. Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Providing CEREMP for NRAs' national registers of market participants; Providing Business Intelligence solutions to NRAs for the exercise of their monitoring and data analysis tasks at national level through the Agency's contractors
Performance indicators and targets (deadlines)	99% Availability of the provided IT solutions to NRAs.
Risks	The outputs and performance are subject to adequate resources. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

<b>Task</b>	<b>Policy cooperation with NRAs and, where necessary, their coordination to aim at ensuring the coordinated and consistent application of REMIT</b>
Priority level	1: Critical
Legal basis	Article 16(1) of REMIT
Overview (status)	The cooperation with NRAs and their coordination on the application of the general definitions of REMIT is an ongoing activity that aims to ensure that NRAs carry out their activities under REMIT in a coordinated and consistent way. This task only covers policy cooperation and does not relate to collection, processing, handling and analysing of information reported to ACER according to Article 8 of REMIT.
Objectives	Specific objective: 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 to NRAs on the application of REMIT; Coordination of stakeholder queries with NRAs;

	Publication of REMIT Q&As.
Performance indicators and targets (deadlines)	<p>Publication of an updated ACER Guidance on the application of REMIT in 2021 as key achievement;</p> <p>Publication of updated REMIT Q&amp;A document as required;</p> <p>Rate of general REMIT stakeholder queries coordinated with NRAs and answered.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

<b>Task</b>	<b>Policy cooperation with ESMA, competent national financial market authorities and other authorities at Union level, supervisory authorities, international organisations and the administrations of third countries to promote the harmonisation of the regulatory framework</b>
Priority level	1: Critical
Legal basis	Articles 1(3) and 19 of REMIT
Overview (status)	<p>REMIT requires ACER and NRAs to take an active role in cooperating with the Commission services, the European Securities and Markets Authority (ESMA) and supervisory authorities from third countries impacting the wholesale energy market in order to promote the harmonisation of the regulatory market integrity and transparency framework within the Union and beyond. The cooperation is currently focussing on an ad hoc cooperation with ESMA. In 2021, the review of the EU financial market legal framework will require ACER to monitor developments with regard to the potential impact on the REMIT framework more closely. Last, but not least, the close cooperation with other authorities also includes the cooperation with the Commission services.</p> <p>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 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 the Energy Community Secretariat and FERC. In 2021, Brexit may require the conclusion of further MoUs to promote the harmonisation of the regulatory framework pursuant to Article 19 of REMIT.</p>
Objectives	<p>Specific objective: Promote the harmonisation of the regulatory framework within the Union and beyond</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>

Outputs	Potential coordinated policy documents; Additional Memoranda of Understanding (MoUs); Exchange of information and/or meetings on the basis of existing MoUs.
Performance indicators and targets (deadlines)	Implementation of the MoUs in practice through regular exchange of information and/or meetings with the relevant authorities.
Risks	The outputs and performance are subject to adequate resources. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

## II. Data excellence

Data and information is a key enabler to our success, supporting our drive to be a forward-looking, risk-based and data-driven EU Agency that operates efficiently. Good quality data and information, handled well and available quickly will allow the Agency to gain deeper insight into the markets and allow us to be more efficient at identifying and tackling risks.

The Agency shall develop technical and organisational requirements to ensure data excellence. The activities related to data excellence will provide both internal and external customers with services related to data collection, data quality, and data management in the field of electricity and natural gas.

The presented tasks in the field of data excellence related to data collection, data quality and data management outside the scope of REMIT are not considered as being covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER for its services related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT. This is why the Agency's tasks in the field of data excellence will continue to be financed by the Union budget and/or other funding sources made available insofar as they are not related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT.

Task	Information management for the electricity and gas departments
Priority level	1: Critical
Legal basis	Article 3(2) of Regulation (EU) 2019/942

<p>Outputs</p>	<p>Setup of a data strategy: Setup the baseline for implementation of a strategy (data governance, policies, requirements);</p> <p>Perform ad hoc data analysis;</p> <p>Develop new data marts and make information and tools available;</p> <p>Implement ACER information security policy for business IT systems.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Establishment of the ACER data strategy by early 2021 and its implementation according to plan;</p> <p>Make one data mart available for cross-departmental data analysis work by April 2021;</p> <p>Implementation of ACER Information security policy according to plan.</p>
<p>Risks</p>	<p>The outputs and performance are subject to adequate resources.</p>

### 2.1.2 REMIT Information Management

REMIT analytics and information management and information technology have become an enabler which supports ACER’s and NRAs’ market monitoring activities and case-work according to Article 7(1) and (2) of REMIT to promote wholesale energy market integrity and transparency, but also ACER’s wholesale energy monitoring and reporting activities according to Article 15 of the ARR (‘Market Monitoring Report’) and the Agency’s monitoring of the implementation of network codes to promote market integration. It has the the potential to support the monitoring activities and case-work of financial market authorities under EU financial market legislation and competition authorities under EU competition law and may foster sound policy-making.

REMIT analytics and information management activities aim to establish and manage information as a key asset to support market monitoring and provide reliable information on wholesale energy markets for the promotion of market integrity and transparency as a major pre-requisite for efficient market integration and the security of energy supply. This involves the delivery and operation of efficient and effective data and information-management services and increasing the Agency’s information processing capacity, and requires management of in-house and outsourced information and technology services.

The REMIT Analytics and Information Management tasks performed by the MIT Department are closely coordinated with and supported by the MSC Department’s market surveillance and

conduct activities, in particular concerning the tasks REMIT reporting guidance, data collection, data analysis and the operation and enhancements of the Agency's REMIT Information Systems where the MSC Department is relying on IT solutions for the performance of its tasks provided by the MIT Department. The Annual Report on the Agency activities under REMIT is a shared task of the MIT Department and the MSC Department.

ACER's REMIT analytics and information management activities provide the infrastructure fundamental for collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT, hence, as of 2021, will be funded by fees pursuant to Article 32(1)(b) of Regulation (EU) 2019/942.

In relation to the REMIT analytics and information management, the Agency plans to work in the following areas and towards the following deliverables in 2021:

<b>Task</b>	<b>Cooperation with NRAs on collecting, handling, processing and analysing of information collected pursuant to Article 8 of REMIT</b>
Priority level	1: Critical
Legal basis	Article 16(1) of REMIT
Overview (status)	ACER cooperates with NRAs on collecting, handling, processing and analysing of information collected pursuant to Article 8 of REMIT on an ongoing basis.
Objectives	Specific objective: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT. Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Joint ACER-NRA projects on collecting, handling, processing and analyzing of information; Coordination meetings; Sharing of best practices.
Performance indicators and targets (deadlines)	% planned vs. delivered projects.
Risks	The outputs and performance are subject to adequate resources. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

Task	European register of market participants
Priority level	1: Critical
Legal basis	Articles 8 and 9 of REMIT; Article 10(2) of the REMIT Implementing Regulation
Overview (status)	<p>ACER's European register of market participants was launched on 17 March 2015. It is based on the information provided by NRAs on an ongoing basis. The Agency has made publicly available parts of the European register of market participants to facilitate reporting according to Article 8 of REMIT, in particular the market participants registered and their ACER registration and other unique identification codes which are a prerequisite to identify the reporting parties when reporting data to ACER pursuant to Article 8 of REMIT. This is also why Article 10(2) of the REMIT Implementing Regulation requires market participants to identify themselves or to be identified by the third party reporting on their behalf shall use the ACER code which the market participant received or the unique market participant code which the market participant provided while registering in accordance with Article 9 of REMIT.</p>
Objectives	<p>Specific objective: Enable reporting parties to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner to the Agency.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Publication of the European register of market participants and continuous updates on the basis of the information provided through the national registers of market participants maintained by NRAs;</p> <p>Implementation of Brexit consequences in the European register of market participants.</p>
Performance indicators and targets (deadlines)	<p>99% Availability of the publicly made available parts of the European register of market participants on the Agency's REMIT portal;</p> <p>Implementation of Brexit consequences according to plan in early 2021.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>



<b>Task</b>	<b>Registration and enrolment of reporting parties in compliance with technical and organizational requirements</b>
Priority level	1: Critical
Legal basis	Articles 8 and 12(1) of REMIT, Article 11 of the REMIT Implementing Regulation
Overview (status)	<p>ACER assesses registration applications under REMIT and its Implementing Regulation.</p> <p>ACER’s supervision of registered 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> <p>There are currently 120 reporting parties registered with the Agency as so-called Registered Reporting Mechanisms (RRMs).</p> <p>As of 2021, this task will include the provision of support services for the collection of REMIT fees from registered reporting parties.</p>
Objectives	<p>Specific objectives: Ensuring efficient, effective and safe exchange and handling of information.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Contribution to the implementation of REMIT fees;</p> <p>Processed new registration applications;</p> <p>Assessment of whether changes to the current RRM registrations (structural changes of entities, changes in technical and organisational requirements etc.) are compliant with Article 11 (1) of REMIT Implementing Regulation and facilitate the changes by bilateral communication with the RRM and related amendments in the system;</p> <p>Engagement with individual registered reporting parties, audits, thematic reports and letters addressed to registered reporting parties identifying risks and requesting remediation in alignment with key supervisory priorities.</p>
Performance indicators and targets (deadlines)	<p>Contribution to effective REMIT fee implementation as key achievement;</p> <p>99% of availability of the RRM registration services;</p> <p>Implementation of the RRM compliance monitoring strategy as key achievement;</p> <p>Completeness, Accuracy and Timeliness of data submitted by registered reporting parties measured by the y-o-y improvement of</p> <ul style="list-style-type: none"> <li>- % of failing validation rules</li> <li>- % of reporting parties submitting reports with at least one failing validation rule</li> <li>- % of missing data points</li> </ul>

	<p>- % of records reported on time</p> <p>The time a reporting party takes to proceed to remedial actions following ACER’s supervisory action.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

Task	REMIT reporting guidance
Priority level	1: Critical
Legal basis	Article 7(3), second subparagraph, and Article 8 of REMIT; Articles 3(2), 5(2), 10(3) and 11(1) of the REMIT Implementing Regulation
Overview (status)	<p>The Agency is tasked to provide guidance to reporting parties on data collection (Requirements for registered reporting parties, Manual of Procedures on data collection, Transaction Reporting User Manual, FAQs on data collection). This requires a regular update of the guidance in the light of market developments (e.g. in case of new products admitted to trading at organised market places). ACER will review the REMIT rulebook on data collection in light of its experience with data collection and will continue to provide additional guidance as required. This includes providing regular updates to the list of organised market places and to the list of standard contracts. Both lists are published on the Agency’s REMIT portal and are updated as required in a timely manner. ACER will also continue monitoring and reviewing the REMIT legal framework, in particular in the context of Brexit, and may propose amendments as appropriate.</p> <p>This is a task the Market Surveillance and Conduct Department contributes to.</p>
Objectives	<p>Specific objectives: Continue to contribute to the establishment of a robust regulatory framework under REMIT to provide reporting parties with a clear understanding about the details of the information they are required to report;</p> <p>Follow market developments to provide the most up-to-date guidance and thus reported data that can be used for market monitoring;</p> <p>Regular involvement and ongoing dialogue on the REMIT data collection regime with stakeholders that report data aiming at improvements at EU level;</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>

Outputs	<p>Review of the Transaction Reporting User Manual;</p> <p>Review of the Manual of Procedures on transaction and fundamental data reporting, as required;</p> <p>Review of the Requirements for Registered Reporting Parties, as required;</p> <p>Provision of additional FAQs on data collection, as required;</p> <p>Published and regularly updated list of organised market places;</p> <p>Published and regularly updated list of standard contracts.</p>
Performance indicators and targets (deadlines)	<p>Yearly update of the Transaction Reporting User manual as key achievement;</p> <p>Yearly update of the FAQ documents on data collection as key achievement;</p> <p>Percentage of REMIT stakeholder queries on REMIT data collection answered;</p> <p>Quarterly updates of the list of organised market places and the list of standard contracts.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

Task	Data collection and data sharing
Priority level	<p>1: Critical (concerning continuous data collection and data sharing);</p> <p>2: Reactive (concerning ad hoc requests according to Article 4(1) of the REMIT Implementing Regulation)</p>
Legal basis	Articles 7(1), 8(1), (3), (4) and (5), Article 10(3) and Article 12 of REMIT; REMIT Implementing Regulation
Overview (status)	<p>The Agency is tasked to collect records of wholesale energy market transactions, including orders to trade from EU market participants at pan-European level. ACER currently collects more than 3 million records of transactions on a daily basis on average through 120 registered reporting parties reporting on behalf of more than 14,000 market participants registered with NRAs.</p> <p>The Agency shall establish mechanisms to share information it receives in accordance with Articles 7(1) and 8 of REMIT with NRAs competent financial market authorities of the Member States, national competition authorities, ESMA and other relevant authorities. For the purpose of carrying out their market monitoring of wholesale energy markets at national level according to Article 7(2) of REMIT, NRAs shall have access to relevant information held</p>

	<p>by the Agency which it has collected in accordance with Article 7(1) of REMIT, subject to Article 10(2) of REMIT. ACER's role as a pan-European central point of data collection and sharing of information is in order to avoid double reporting from market participants to these authorities in cases they have already reported the relevant information to the Agency.</p> <p>The Agency is currently sharing relevant REMIT information with NRAs on an ongoing basis and with other authorities at Union level on an ad hoc request basis. Other authorities from the Member States are asked to refer to the relevant NRA at national level.</p>
Objectives	<p>Specific objective: Collecting of information reported by reporting parties; Provide high-quality REMIT data for monitoring purposes of NRAs and other relevant authorities.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Continuous management of records of wholesale energy market transactions, including orders to trade, derivatives, fundamental data and inside information collected;</p> <p>Provision of REMIT information services to internal ACER users, NRAs and reporting parties;</p> <p>Projects to enhance data collection and data sharing; Potential Service Level Agreement with ESMA on the collection of derivatives; Sharing of relevant REMIT data with NRAs through ARIS on an ongoing basis and with other authorities on an ad hoc basis;</p> <p>Implementation of Brexit consequences in data collection and data sharing.</p>
Performance indicators and targets (deadlines)	<p>99% Availability of data collection and data sharing services;</p> <p>Market Coupling project implementation according to plan as Key Achievement;</p> <p>Accuracy, Consistency, Completeness, Integrity, and Timeliness of submitted data measured by the y-o-y improvement of:</p> <ul style="list-style-type: none"> <li>- Data time-to-value indicator,</li> <li>- Data transformation error rate.</li> </ul> <p>Implementation of Brexit consequences according to plan in early 2021.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

<b>Task</b>	<b>Operation and enhancements of the Agency's REMIT Information Systems ensuring operational reliability</b>
Priority level	1: Critical
Legal basis	Articles 4(2), 7, 8, 9, 10 and 12 of REMIT
Overview (status)	<p>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. The operation of the Agency's REMIT Information Systems particularly includes the operation of the following components:</p> <ul style="list-style-type: none"> <li>- the Centralised European Register of Energy Market Participants (CEREMP);</li> <li>- the Data collection instance (DCI) and Data Sharing (DS) module for collection of trade, fundamental and other data, market monitoring and for data sharing with NRAs and other relevant authorities;</li> <li>- Business Intelligence solutions for data analysis, market monitoring and market surveillance;</li> <li>- Case-Management-Tool (CMT);</li> <li>- Notification Platform;</li> <li>- REMIT Portal.</li> </ul> <p>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.</p>
Objectives	<p>Specific objective: Operate the Agency's REMIT Information Systems operationally reliable.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Maintenance and continuous operations of the Agency's REMIT Information Systems;</p> <p>Enhancements of the Agency's REMIT Information Systems, or components thereof;</p> <p>Application and IT service management;</p> <p>;Identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures;</p> <p>Implementation of Brexit consequences in ARIS.</p>
Performance indicators and targets (deadlines)	<p>99% service availability;</p> <p>% of enhancements delivered compared to planned;</p> <p>% budget execution of REMIT IT expenditure;</p>

	<p>Ticket resolution time;</p> <p>Time from discovery of an information security incident until resolution and until escalation to Director/stakeholders;</p> <p>Implementation of Brexit consequences according to plan in early 2021.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

Task	Data analysis
Priority level	1: Critical
Legal basis	Articles 7(3) and 8 of REMIT; Article 11 of the REMIT Implementing Regulation
Overview (status)	<p>ACER will continue giving attention to the quality of reported data under REMIT, as a precondition to data-driven monitoring, through action plans and methodologies and will work on the implementation of the data strategy. This task was identified as a continued priority for market monitoring and is decisive for all REMIT data users. This is a task the Market Surveillance and Conduct Department contributes to. Currently, data analysis is performed by using:</p> <ul style="list-style-type: none"> <li>- Standard reports developed using licensed proprietary software and</li> <li>- Ad hoc reports based on data retrieved by querying the ARIS databases.</li> </ul>
Objectives	<p>Specific objectives: Perform market data analysis in order to assure data quality, integrity and usability in close co-ordination with NRAs.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Data processes to support market monitoring and data analysis, Ongoing data analysis projects/reports;</p> <p>Assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market;</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p>
Performance indicators and	Delivery and implementation of REMIT data strategy as key achievement;

<p>targets (deadlines)</p>	<p>Continued measurement of % planned vs. delivered data projects; Accuracy, Consistency, Completeness, Integrity, and Timeliness of submitted data measured by the y-o-y improvement of:</p> <ul style="list-style-type: none"> <li>- Ratio of data to errors;</li> <li>- Rate of matched records.</li> </ul> <p>Publication of ACER's assessment of the operation and transparency of different categories of market places and ways of trading and evaluation whether any minimum requirements for organised markets could contribute to enhanced market transparency at least once per year.</p>
<p>Risks</p>	<p>The outputs and performance are subject to adequate resources. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

<p><b>Task</b></p>	<p><b>Making available REMIT data for scientific and transparency purposes</b></p>
<p>Priority level</p>	<p>2: Reactive</p>
<p>Legal basis</p>	<p>Articles 7, 8, 9, 10 and 12 of REMIT</p>
<p>Overview (status)</p>	<p>ACER may publish parts of the information it possesses to enhance transparency in wholesale energy markets pursuant to Article 12(2) of REMIT. Transparency has the power to create a level playing field, reduce the scope for anti-competitive practices and more generally, increase market participants' 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. The disclosure of the information that is deemed relevant in light of the efficient functioning of the market, affects the possibility for market participants to receive efficient market signals before making their choices. Current experiences indicate that there is still a need to further promote transparency in wholesale energy markets.</p> <p>The Agency is also tasked to make its non-sensitive trade database available for scientific purposes. In the past, this activity was limited to the Agency's cooperation with the European Commission's Joint Research Centre. In 2021 and beyond, the Agency aims at establishing and making available a dataset which will allow cooperating with universities and research institutes at Union level.</p> <p>As of 2021, this task should involve the provision of REMIT information services for reporting parties following the establishment of REMIT fees (e.g. sample transaction data requests for market participants to enable them to verify completeness, accuracy and timeliness of data submission to ACER), depending on available resources.</p>

Objectives	<p>Specific objective: Strive for adequate REMIT information services.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Making available REMIT data sets to researchers from universities and research institutes for scientific purposes;</p> <p>Making 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.</p>
Performance indicators and targets (deadlines)	<p>Continued measurement of % planned vs. delivered projects;</p> <p>Contribution to at least one ACER publication using REMIT market data;</p> <p>Engagement in at least one scientific project.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</p> <p>Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.</p>

<b>Task</b>	<b>Annual Report on the Agency activities under REMIT</b>
Priority level	1: Critical
Legal basis	Article 7(3) of REMIT
Overview (status)	<p>The Agency shall submit at least on an annual basis a Report to the Commission on its activities under REMIT. In such reports, ACER shall 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. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>In order to streamline the use of human resources, the REMIT Annual Report was 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 Annual Activity Report and/or the Agency’s Market Monitoring Report.</p> <p>This is a shared task of the Market Integrity and Transparency Department and the Market Surveillance and Conduct Department.</p>
Objectives	<p>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</p>



	<p>market rules, standards, and procedures which could improve market integrity and the functioning of the internal market.</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>Provide recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Contribution to the Agency's Annual Activity Report;</p> <p>Contribution to the Agency's Market Monitoring Report;</p> <p>Publication of the REMIT Quarterly reports,</p> <p>Potential recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market.</p>
Performance indicators and targets (deadlines)	<p>Quarterly publications of the REMIT Quarterly.</p>
Risks	<p>The outputs and performance are subject to adequate resources.</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 stakeholder involvement</b>
Priority level	1: Critical
Legal basis	Article 14 of the AAR; Article 8 of REMIT; Articles 5(2), 10(3) and 11(1) of the REMIT Implementing Regulation
Overview (status)	The Agency should inform stakeholders on different aspects of the implementation and operation of REMIT data collection. Material updates of ACER's REMIT reporting guidance even require consultation of relevant parties according to Articles 5(2), 10(3) and 11(1) of the REMIT Implementing Regulation. Involvement of stakeholders will ensure wider acceptance of REMIT data collection and the effectiveness of any potential update of REMIT data collection.

Objectives	Specific objective: Ongoing dialogue with stakeholder on the REMIT data collection regime aiming at improvements at EU level. Multi-annual objective: Increased integrity and transparency of wholesale energy markets
Outputs	REMIT Portal; Public consultations; Targeted consultations of relevant parties; Stakeholder roundtable meetings and webinars; Ad-hoc expert group meetings; EMIT Forum.
Performance indicators and targets (deadlines)	99% availability of the REMIT Portal; Number of stakeholders reached through consultations, meetings and webinars.
Risks	The outputs and performance are subject to adequate resources. Risk if this activity is not performed: ineffective or inefficient implementation of REMIT.

<b>Total resources allocated to the Activity</b>	
<b>REMIT ANALYTICS AND INFORMATION MANAGEMENT</b>	
<b>Human Resources</b> <b>(Full Time Equivalents)<sup>4</sup></b>	<b>Financial Resources</b> <b>(EUR)</b>
<b>20.5 (1.5 subsidy-financed, 19 fees-financed)</b>	<b>6 889 942 REMIT fee financed</b> <b>289 976 subsidy financed</b> <b>7 174 917 Total</b>

<sup>4</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 positions for 2021 are indicated as 1, although they are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

## 2.2. Market Surveillance and Conduct (Operational)

The activities performed by the Market Surveillance and Conduct Department includes, among others:

- analysing the available collected and validated REMIT data to detect suspected instances of market abuse;
- contributing to improving the available collected REMIT data;
- preparing detailed assessments with factual analyses including an economic and legal assessment to be notified in a secure way to national authorities for their investigation;
- screening, registering and assessing notifications on suspicious trading instances reported by national authorities, persons professionally arranging transactions, market parties and other entities;
- notifying ESMA and other relevant supervisory authorities on potential cases of market abuse;
- coordinating and cooperating with NRAs on REMIT cases reviews, investigations and enforcement actions;
- taking actions to ensure consistency in the application of REMIT by NRAs;
- establishing and managing investigatory groups;
- providing guidance on the application of REMIT on the market abuse provisions;
- developing and enhancing of specific IT tools that can support its surveillance and conduct tasks; and, a new task for the Agency,
- providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations.

The Agency has devoted significant resources for effective and efficient market monitoring between 2016 and 2019. First, to the operation to improve e.g. data quality. Second, to the development of the market surveillance tool in terms of the number of predefined bespoke alerts to detect potential market abuse. Third, to the process of assessing of the tool's output in terms of triggered alerts. Fourth, to the drafting of assessments and notifying the NRAs of anomalous situations. Lastly, to the sharing in a secure way of the results (i.e. assessed alerts) with NRAs for them to follow-up.

In 2017, the Agency started EU-wide market surveillance of wholesale energy markets using alerts 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. The Agency delivered on average about one preliminary initial assessments per month to NRAs. These assessments provide to the NRAs more context about the market behaviour of the market participant than merely the alerts.

Market surveillance and conduct performed by the MSC Department is supported by the MIT Department upstream by data collection, data quality and analytical processes and tools and downstream by the triage of cases of market abuse, the coordination of NRAs on REMIT market abuse reviews (including breaches of data reporting and data registration) and the coordination activities related to NRA investigations. The downstream activities rely on IT tools such as the Notification Platform (relevant for the triage processes) and the Case Management Tool. The latter is relevant for the coordination and dissemination of analysis on market abuse cases in a secure way and for the handling of breaches of the obligation to report data to the Agency.

Since the entry into force of REMIT, the Agency has been responsible for the review of more than 500 potential cases of potential REMIT breach to ensure the consistent application of market abuse provisions and for more than 4,000 interactions on cases with NRAs. During this period, NRA Decisions amounting to more than EUR 75 million in fines were issued across Europe.

The Agency expects an increasing pressure under its human and financial resources for its market surveillance and conduct activities in 2021, given the significant increase in the number of orders and transactions reported (6 million records per day in 2020) and the increase in notifications. Specifically, the Agency started in 2020 with 218 cases under review and this number is expected to be above 250 by the end of 2020.

This creates a need to increase the human resources available for these tasks, but also to develop the existing IT tools to improve the efficiency and effectiveness of the use of the existing resources. As a consequence, in 2021, the Agency's main screening tool for the automatic screening of REMIT data and the IT tools used to ensure cooperation and consistency will be further developed.

As of 2021, ACER's Market Surveillance and Conduct activities will be funded by fees charged to registered reporting parties according to Article 32(1)(b) of Regulation (EU) 2019/942. All the presented activities below are part of ACER's tasks of collecting, handling, processing and

analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT. The MSC Department’s market surveillance and conduct activities comprise the processing and analysing of the reported information for the purpose of improving the integrity of wholesale energy markets. This enhances the trust market participants and also energy consumers have in the market outcome and ensures the effective use of the reported data.

### 2.2.1. Market surveillance of trading activity in wholesale energy markets

In section 2.2.2. (Human resources) of the Multiannual Programming the Agency presents the Agency’s approach to performance EU wide market surveillance based on alerts. In particular, the Agency plans to work in 2021 in the following areas and towards the following deliverables in relation to the market surveillance of trading activities in European wholesale energy markets:

Task	Market surveillance of trading activity in wholesale energy markets
Priority level	1: Critical
Legal basis	Article 7, 8 and 16(4) of Regulation (EU) 1227/2011
Overview (status)	<p>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.</p> <p>This task is REMIT fee funded.</p>
Objectives	<p>Specific objectives:</p> <p>Screening and analysing of the data collected according to Article 8 of Reg. (EU) 1227/2011.</p> <p>Drafting initial assessments and notifying relevant regulatory authorities of potential abusive behaviour according to Article 16(4) of Reg. (EU) 1227/2011.</p> <p>Increased integrity and transparency of wholesale energy markets. Detection of market abusive practices.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>

Outputs	Reporting to NRAs assessed triggered alerts and initial assessments of potential market abuse cases.
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- 100% of high priority alerts are assessed and disseminated with NRAs in a secure way;</li> <li>- 15 initial assessments drafted and notified to the NRAs.</li> </ul>
Risks	<p>Efficient and effective surveillance activities depend on stable data collection under Article 8 and 9 and improvements to data quality. Any interruption in data collection or degradation of data quality will negatively affect surveillance activities.</p> <p>Limited resources for market monitoring in EU NRAs risks that breaches of REMIT go undetected. This potentially affects the trust EU energy consumers and market participants have in the price formation of EU energy markets and risks reputational damage to Member States and ACER.</p> <p>Risk if this activity is not performed: ineffective implementation of REMIT.</p>

### 2.2.2. Case cooperation on market abuse prohibitions and reporting obligations

The market surveillance (under Article 7 of REMIT) and the notification obligations (directly under Article 16 of REMIT and, indirectly, under Article 15 of REMIT) enable the identification of potential REMIT cases of market abuse (Articles 3 and 5 of REMIT) and/or related to the failure to comply with the obligations to disclose information, report, register, and/or notify (Articles 4, 8, 9, and 15 of REMIT).

The Agency has a leading role to ensure that these cases are pursued by the National Regulatory Authorities (NRAs) in a coordinated and consistent way (according to Article 16 of REMIT). Additionally, these cases generate a set of obligations to the Agency in accordance to Articles 16(2), (3), (4) and (5) of REMIT.

Specifically, the Agency has the following case cooperation activities with respect to market abuse prohibitions and reporting obligations:

- Case coordination activities:
  - Triage of received suspicious transaction reports (STRs)/Notifications (based on the available data collected by ACER under Article 8);
  - Follow-up notifications under Articles 16(1), 16(2) and 16(3);

- Requests from ACER and updates from NRAs (namely under Article 16 (4) (a) and (b) and Article 16 (5));
- Establishment and coordination of investigatory groups (under Article 16 (4) (c));
- Organising all information received and sent on cases of potential REMIT breach to ensure data protection (Article 11), operational reliability (Article 12), and professional secrecy (Article 17).
- Case consistency activities:
  - Review of potential REMIT breach assessments (closing and consistency);
  - Organising of case consistency meetings with NRAs;
  - Requests from ACER and case updates from NRAs on consistency issues;
  - Coordination of external communication on cases.
- Development, consultation and issuance of ACER Guidance:
  - ACER Guidance under Article 16(1), including Guidance Notes; Q&A from stakeholders and REMIT quarterly articles; Procedural guidance (namely through the MoU with NRAs; Market Monitoring Handbook to coordinate between NRAs and ACER; IT user Guides for the relevant coordination IT tools, among others).
- Statutory meetings
  - Organisation, management and promotion of REMIT cases coordination and consistency through the Regional Groups, the Market Monitoring Standing Committee (MM SC), the ARC, AB and BoR. In particular the MM SC is appreciated by NRAs as it provides a secure meeting to debate REMIT cases in detail and through that it contributes to the consistent application of market abusive provisions.
    - REMIT cases meetings with other supervisory entities such as competition authorities, tax authorities, third country (FCA, FERC, etc.)

These activities are currently grouped into two main tasks:

<b>Task</b>	<b>Case cooperation with NRAs on market abuse prohibitions and breaches of reporting obligations (REMIT cases)</b>
Priority level	1: Critical
Legal basis	Article 16 of Regulation (EU) 1227/2011
Overview (status)	This task includes all activities performed by ACER related to ensuring coordination and consistency in the application of REMIT by NRAs to cases of market abuse (Articles 3 and 5) and related to

	<p>information disclosure, reporting, registration, and monitoring obligations (Articles 4, 8, 9, and 15).</p> <p>It includes the following activities: case coordination; case consistency; development, consultation and issuance of ACER Guidance; statutory meetings involving the discussion of REMIT cases.</p> <p>This task is REMIT fee funded.</p> <p>In 2019, the Agency had the responsibility to follow 218 potential cases. Due to severe human resource constrains the Agency was only able to proactively follow 32% of the portfolio of existing cases.</p> <p>The Agency published in 2019 a new Guidance note on the application of Article 5 of REMIT on the prohibition of market manipulation regarding the practice of 'layering and spoofing'.</p> <p>In 2019, the Agency prepared and organised 5 large spectrum statutory meetings with NRAs on REMIT cases involving more than 30 participants.</p>
<p>Objectives</p>	<p>Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</p> <p>Aim to ensure that NRAs review, investigate and enforce REMIT cases in a coordinated and consistent way.</p> <p>Aim to ensure that REMIT cases with a predominant cross-border component are not deprioritised vis-a-vis the remaining REMIT cases.</p> <p>Ensure a proper and good quality of the Agency's guidance on the application of REMIT definitions of market abuse.</p> <p>Multi-annual objective: Ensure integrity and transparency of wholesale energy markets across the EU.</p>
<p>Outputs</p>	<p>Notifications on REMIT cases by ACER and triage and review of received Notifications from NRAs (and PPATs) based on the data received under Article 8.</p> <p>Cooperation between ACER and NRAs and among NRAs on REMIT cases.</p> <p>Coordination meetings with NRAs on the consistent application of market abuse provisions in REMIT (e.g. MM SC).</p> <p>Processing of requests from ACER and updates from NRAs.</p> <p>Establishment and coordination of investigatory groups.</p> <p>Reviews by ACER of potential REMIT breach assessments by NRAs (closing and consistency notes).</p> <p>Publication of Guidance.</p>
<p>Performance indicators and</p>	<p>- % of REMIT cases in stock pro-actively followed by the Agency: &gt; 25%;</p>



<p>targets (deadlines)</p>	<ul style="list-style-type: none"> <li>- Number of Agency interactions on REMIT cases to ensure a coordinated and consistent approach: &gt; 600 (documents and requests sent)/year;</li> <li>- Number of investigatory groups under management: 0/year;</li> <li>- Issued or updated ACER guidance to NRAs on the application of market abuse provisions (Scope, Insider Trading, Market Manipulation); and</li> <li>- Number of large scale meetings (&gt;50% of the target group) organised and chaired on market conduct topics: &gt; 4 times 30 people/meeting.</li> </ul>
<p>Risks</p>	<p>Limited human resources impact the performance and outputs of these activities.</p> <p>Limited resources for cooperation activities results in a limited percentage of cases pro-actively followed by ACER. This may lead to NRAs applying market abuse provisions in an inconsistent way harming the overall effectiveness of the regulation and/or tilting the level playfield across jurisdictions. This may also lead to under notifications by ACER generating asymmetry of information among NRAs. Both risks may cause reputational damage to ACER and harm Member States and EU citizens.</p> <p>The inexistence of resources to be allocated to the investigatory groups foreseen in Article 16 (4) c) increase the risk that cross-border cases will be negatively discriminated vis-a-vis national cases.</p> <p>The lack of resources for this activity risks the leakage of highly sensitive trade data or personal data if adequate security measures are not in place.</p>

<p><b>Task</b></p>	<p><b>Case cooperation with ESMA, competent national financial market authorities and with supervisory authorities, international organisations and the administrations of third countries</b></p>
<p>Priority level</p>	<p>2: Reactive</p>
<p>Legal basis</p>	<p>Articles 1(3), 10, 16 and 19 of Regulation (EU) No 1227/2011</p>
<p>Overview (status)</p>	<p>This task includes all activities performed by ACER related to REMIT cases cooperation with ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.</p> <p>It encompasses the notifications and meetings on REMIT cases with other supervisory authorities (manly ESMA and financial regulatory authorities).</p> <p>In 2019, the Agency triaged and reviewed the coordination needs on 116 REMIT cases and notified ESMA and the national financial market authorities whenever necessary.</p>

	<p>In 2019, the Agency organised and chaired one large spectrum meeting involving ESMA and the competent national financial market authorities.</p> <p>This task is REMIT fee funded.</p>
Objectives	<p>Specific objectives: The cooperation with ESMA, competent national financial market authorities and other relevant authorities aims to ensure that REMIT, MAR and other related regulations/legislations are applied in a coordinated way by the concerned relevant authorities. Also, to ensure a consistent approach is the application of REMIT and MAR provisions.</p> <p>It also aims at disseminating best practices among public authorities.</p> <p>Multi-annual objective: Ensure cooperation between public authorities dealing with related matters. Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Notifications to ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.</p> <p>Coordination meetings with ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.</p>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- % of notifications sent/received by ACER on cases that need referral: &gt; 85%;</li> <li>- Number of meetings with ESMA: 1/year;</li> <li>- Number of meetings with financial national authorities:0/year; and</li> <li>- Number of meetings with other entities: 0/year.</li> </ul>
Risks	<p>Very limited resources for the performance of these activities.</p> <p>Risk of not informing other relevant authorities creating jurisdictional problems for a successful enforcement of market integrity and transparency.</p>

### 2.2.3. Development and enhancement of applied surveillance and conduct IT tools

The tasks involving market surveillance of trading activity in wholesale energy markets, and REMIT cases cooperation require the use of applied surveillance and conduct IT tools.

These tools enable the processing and analysis of the data received under Article 8 of REMIT, but also the crossing of that data with other sources of information (namely REMIT cases information) that can contribute to a better monitoring of the wholesale energy markets and to an appropriate storage and dissemination of information among REMIT case handlers.

The main IT tools currently used by the Agency for that purpose are:

- The surveillance tool used (SMARTS) for the purpose of market surveillance under Article 7;
- The Notification Platform (NP) through which the Agency receives suspicious transaction reports in a secure way – used for the purposes of Article 15 and 16;
- The Case Management Tool (CMT) through which the Agency securely stores and shares with NRAs REMIT case information and other related information – used for the purposes of Article 16;
- The Case Management Tool Business Intelligence (CMT BI) through which the Agency builds intelligence based on the cases under coordination that can be used to enhance future consistency and coordination.

The main activities performed by the Agency regarding these tools with this task are:

Task	Development and enhancement of applied surveillance and conduct IT tools
Priority level	1: Critical
Legal basis	Article 7, 8, 16, 11, 12 and 17 of Regulation (EU) 1227/2011
Overview (status)	<p>This task includes the following main activities:</p> <ul style="list-style-type: none"> <li>- The development and enhancements of the Agency’s main surveillance tool for market surveillance;</li> <li>- Development of new alerts for detecting potential market abuse;</li> <li>- Enhancements of existing alerts for improved detection of potential market abuse;</li> <li>- The development and enhancements of the Agency’s Notification Platform (NP) and Case Management Tool (CMT); and</li> <li>- The training of staff, NRAs and other users for the use of the tools.</li> </ul> <p>The Agency has customised the surveillance tool and adapted it for use in the EU wholesale energy markets.</p> <p>The Agency has implemented nine bespoke alerts to screen REMIT data, which have been put in production since 2017. Enhancement of existing alerts contributes to a more efficient and effective market surveillance while the development of additional alerts will contribute to a more comprehensive market surveillance. The implementation of several improvements to this IT tool 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>

	This task is REMIT fee funded.
Objectives	Specific objective and multi-annual objective: enhance and develop detailed business requirements, testing and training for the Agency's REMIT data screening tool, the Notification Platform and the Case Management Tool.
Outputs	<p>Implementable detailed business requirements to enhance existing IT tools</p> <p>Development and implementation of new alerts</p> <p>Enhancement of existing alerts</p> <p>Delivery of surveillance tool enhancements.</p> <p>Development of in-house surveillance tools</p> <p>User testing of new deploys of the tools</p> <p>Business support to the IT teams</p> <p>Provision of training to the staff and NRAs on the tools</p>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- New alerts developed and implemented: 2/year</li> <li>- Alert enhancements delivered (on existing alerts): 50/year</li> <li>- Releases of main surveillance tool with 5 requirements delivered per release: 4/year</li> <li>- Development new in-house surveillance viewers: 2/year</li> <li>- Number of releases (new or maintenance) of the CMT/NP: 1/year</li> <li>- Number of releases (new or maintenance) of the CMT BI: 1/year</li> </ul>
Risks	<p>Limited financial resources for the performance of these activities.</p> <p>Dependency on contractors for the deployment of new releases of the main surveillance tool.</p> <p>Inefficient use of HRs.</p>

<b>Total resources allocated to the Activity</b>	
<b>MARKET SURVEILLANCE AND CASE COORDINATION</b>	
<b>Human Resources (Full Time Equivalent)<sup>5</sup></b>	<b>Financial Resources (EUR)</b>
<b>14.5 (1.5 subsidy-financed, 13 fees-financed)</b>	<b>284 976 subsidy financed 1 829 917 REMIT fee financed</b>

<sup>5</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

## 2.2.4. Support on REMIT breach investigations upon request from NRAs

In 2019, Regulation (EU) 2019/942 attributes a new task to ACER with regard to REMIT investigations by introducing a provision (Article 6(8)) which states that ACER may provide operational assistance to a requesting NRA on their REMIT investigation of potential market abuse cases (i.e., insider trading and market manipulation).

This task (i.e., ‘Support on REMIT breach investigation upon request from NRAs’) is currently not envisaged to be included in the tasks covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER. The additional resources required to perform this task are being assessed by the European Commission pursuant to Article 33(10) of the ACER regulation and will be financed by the Union budget. In 2021, the Agency will lack the required available resources to act on it. Lastly, given the nature of this task and what is at stake, it cannot be excluded at this stage that in the future this task will be funded through REMIT fees.

Task	Support on REMIT breach investigations upon request from NRAs
Priority level	2: Reactive
Legal basis	Article 6(8) of Regulation (EU) 2019/942
Overview (status)	<p>Specific objectives: the Agency may provide operational assistance to NRAs on their REMIT cases upon their request, a new task for the Agency following the entering into force of Regulation (EU) 2019/942. In accordance with Article 33(10) of Regulation (EU) 2019/942, the European Commission (‘EC’) is to assess the financial and human resources available to ACER in order to allow it to fulfil its role under Regulation (EU) 2019/942.</p> <p>This task includes 4 main activities:</p> <ul style="list-style-type: none"> <li>• Support on investigation coordination and strategy</li> <li>• Support on information gathering</li> <li>• Support on information assessment</li> <li>• Support on final reports/assessments</li> </ul> <p>This task is Union contribution financed.</p>
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 carry out their tasks under REMIT in a coordinated and consistent way.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Support by providing case-specific training;</p> <p>Support by organising dedicated workshops to brainstorm about the case merits and/or investigatory strategy with the NRAs;</p> <p>Support by producing an opinion on the investigatory strategy;</p> <p>Direct support by allocating ACER staff to the NRA investigation;</p> <p>Support in the identification of the evidence to be collected;</p> <p>Support in the process of gathering evidence;</p> <p>Support in the provision of ARIS data that goes beyond the scope of the current MoU on data sharing;</p> <p>Support in designing specific investigatory steps for information gathering;</p> <p>Support in analysing items of evidence collected by the NRA or extracted from ARIS during the investigation and producing a note on the findings for the NRA;</p> <p>Specific support in helping the NRA understand a specific item of the collected evidence;</p> <p>Support in producing a gap analysis between the evidence collected at that stage by the NRA and the evidence required to prove the existence of market abuse;</p> <p>Support in assessing the argumentation provided by market participants in defence of the behaviour deemed by the NRA as a breach of REMIT;</p> <p>Support by providing recommendations to the NRA on the best practices that can benefit the reports/assessments that the NRA needs to produce based on the specific collected evidence;</p> <p>Support by providing feedback and suggestions on the NRA's draft reports/assessments produced during the investigation process;</p> <p>Support by providing an opinion on the case merits based on the draft reports/assessments provided by the NRA;</p> <p>Support in drafting the Investigatory Report in order to produce the best possible report with the available evidence for the case.</p>
Performance indicators and targets (deadlines)	<p>For 2021 no KPI is planned as the Agency lacks the funding for appropriate HR. This task is therefore fully deprioritised and each request for support from NRAs on their cases will be not be acted on.</p>
Risks	<p>Risk of under enforcement of market abuse provisions on the wholesale energy markets.</p>

	<p>Risk of inconsistent application of the market abuse provisions across the EU.</p> <p>Reputational risk for the Agency for not supporting NRAs.</p>
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Total resources allocated to the task	
Support on REMIT breach investigation upon request from NRAs	
Human Resources (Full Time Equivalent)	Financial Resources (EUR)
0 subsidy-financed 0 REMIT fee financed	0 subsidy financed 0 REMIT fee financed

## 2.3. Internal Electricity Market (Operational)

In 2021, 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	2: Reactive - if there is a referral by NRAs for an Agency’s decision
Legal basis	Articles 5 and 6 of Regulation (EU) 2019/942
Overview (status)	The Network Codes and Guidelines establish numerous obligations for TSOs and NEMOs to develop 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

	<p>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> <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.</p>
<p>Objectives</p>	<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>
<p>Outputs</p>	<p>Framework for the coordination of NRAs - agreement and coordinated decisions of NRAs on the proposed terms and conditions or methodologies.</p>
<p>AWG input</p>	<p>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.</p>
<p>Performance indicators and targets (deadlines)</p>	<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>
<p>Risks</p>	<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)	<p>The Network Codes and 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. Other methodologies are developed by a group of TSOs in specific regions and approved by competent 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. ACER is tasked to make a decision on the regional terms and conditions or methodologies when:</p> <ul style="list-style-type: none"> <li>(a) the proposal from TSOs or NEMOs is referred to ACER by competent NRAs</li> <li>(b) the competent NRAs have not been able to reach an agreement within the legal deadline.</li> <li>(c) the terms and conditions or methodologies have an impact beyond the concerned region.</li> </ul> <p>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.</p>
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 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>
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## II. Implementation of Network Codes: Monitoring and reporting on implementation

Task	Facilitating the implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies
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 European Commission and 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 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	Timely completion of projects for the implementation of specific obligations pursuant to Network Codes and Guidelines and terms and conditions or methodologies.

targets (deadlines)	
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> <p>Difficulty and delay in collecting the relevant data/information</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	<p>Lack of resources to monitor closely the NC implementation.</p> <p>Data collection and data availability from NRAs/TSOs may be delayed or missing.</p> <p>Risks of delays in completion of IEM if tasks are not performed.</p> <p>Difficulty and delay in collecting the relevant data/information</p>

### III. Implementation of Network Codes: Facilitating involvement of stakeholders

<b>Task</b>	<b>Ensuring a proper involvement of stakeholders in the NC implementation and monitoring of Network Codes and Guidelines</b>
Priority level	1. Critical
Legal basis	Article 11 of Regulation (EU) 2015/1222 and equivalent Articles in other Network Codes and Guidelines.
Overview (status)	Facilitate the involvement of stakeholders in the implementation of the Network Codes and Guidelines. Organise the European Stakeholder Committees.
Objectives	Ensure the stakeholders are informed and are able to provide inputs to the implementation process for the Network Codes and Guidelines. Multi-annual objective: Contribute to the completion and well functioning of the IEM.
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	This task is resource intensive and requires continuous interaction with stakeholders and organisation of meetings, for which resources may not be provided. Not all expectations and requests from stakeholders can be accommodated. Risk if this activity is not performed: potential inefficiencies, inconsistencies in the functioning of the IEM absent learnings from best practices.

#### IV. Amendments of the existing Network Codes and Guidelines

<b>Task</b>	<b>Review of the requests for amendments to the adopted Network Codes from interested persons and, follow up on joint Functionality platform notifications</b>
Priority level	1: Critical
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 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	<p>Lack of resources to process all these requests for amendment.</p> <p>Implementation is dependent on stakeholder support and the relevant legal and political processes.</p> <p>Risk if this activity is not performed: reduced efficiency in the functioning of the IEM.</p>

### 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)	ACER shall provide and update at least every two years a best practice report on transmission and distribution tariff methodologies. An ACER report providing a status review of NRA practices regarding transmission tariffs was published in December 2019. A separate ACER report on distribution tariffs will be published towards the end of 2020. In 2021, ACER continues its work to identify best practices on transmission and distribution tariff methodologies and issue its next report by 2022.
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 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 Report.
Risks	<p>Lack of human resources to perform this activity.</p> <p>Risk if this activity is not performed: delays in completion of IEM.</p>

### 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 2019/943
Overview (status)	<p>New task</p> <p>According to Article 19(4) of Regulation 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 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 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.

## 2.3.4. Other Tasks subject to specific conditions

### Tasks initiated by others

In 2021, 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) No 2019/942</b>
Priority level	2: Reactive
Legal basis	Article 6(5) and (6) of Regulation (EU) No 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 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations. Where a national regulatory authority does not comply with the opinion of the Agency within four months from the day of receipt, the Agency shall inform the Commission and the Member State concerned accordingly. By the end of 2014, the Agency received two peer review requests.
Objectives	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 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)	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.
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<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	2: Reactive
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 2009/72/EC, Directive 2009/73/EC Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, it may request the Agency for an opinion.
Objectives	Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.  Multi-annual objective: contribute to the completion and the well functioning of the IEM
Outputs	The Agency shall provide the opinion with regard to the application of Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009 after consultation with the Commission within three months.
AWG input	According to Article 24(2) of Regulation 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	Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.  Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient operation of the IEM.

<b>Task</b>	<b>Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission</b>
Priority level	2: Reactive
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 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: Critical
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	<p>The aim of these recommendations is to provide guidance to TSOs, national regulatory authorities or market participants on how to implement specific requirements of the Network Codes or Guidelines or of Regulation (EC) No 714/2009, in order better to facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	Specific recommendation on sharing of good practices
AWG input	According to Article 24(2) of Regulation 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	<p>Lack of human resources to perform this activity.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

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

In 2021 the Agency may decide to issue:

<b>Task</b>	<b>Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission</b>
Priority level	1: Critical
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 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>6</sup></b>	<b>Financial Resources</b> <b>(EUR)</b>
<b>16.5 (subsidy-financed)</b>	<b>3 134 732</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 continue.

The number of decisions to be taken by the Agency has increased over the last years, and

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<sup>6</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.

given their character these need to be given proper attention, in case of NRA disagreement. This has also led to an increased number of appeals and court cases, all of which require substantial human and financial resources.

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

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

Task	Agency decisions under Art 6(10) of Regulation (EU) 2019/942
Priority level	2: Reactive to NRAs requests
Legal basis	Art 6(10) of Regulation (EU) 2019/942
Overview (status)	The Agency shall adopt individual decisions on regulatory issues having effects on cross-border trade or cross-border system security which require a joint decision by at least two regulatory authorities under one of the following legal acts:  (a) a legislative act of the Union adopted under the ordinary legislative procedure; (b) network codes and guidelines adopted before 4 July 2019 and subsequent revisions of those network codes and guidelines; or (c) network codes and guidelines adopted as implementing acts pursuant to Article 5 of Regulation (EU) No 182/2011.
Objectives	Specific objective: implement the network codes, 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  Implement the network codes, improve national designs, where necessary.

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)	Timely delivery of a decision.
Risks	Lack of human resources to perform this activity, next to the standard activities of the team.

<b>Task</b>	<b>Drafting opinions based on the Agency Regulation under Article 6(7) of Regulation (EU) 2019/942</b>
Priority level	1: Critical
Legal basis	Art 6(7) of Regulation (EU) 2019/942
Overview (status)	The Agency shall provide an opinion, where, in a specific case, a regulatory authority encounters difficulties with the application of the network codes and guidelines referred to Regulation (EC) No 715/2009 or Directive 2009/73/EC, within three months of the date of receipt of such a request.
Objectives	Specific objective: implementation of the network codes. Multi-annual objective: Contribute to the completion and well functioning of the IEM.
Outputs	Factual opinions Improve national designs, where necessary.
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)	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.

<b>Task</b>	<b>Assistance to the NRAs and key stakeholders in relation to the NC implementation through the Functionality process and individual requests</b>
Priority level	1 or 3, depending on the issue
Legal basis	Art 5 (1) of Regulation (EU) 2019/942
Overview (status)	Through the Gas Network Codes Functionality Platform, stakeholders can notify the Agency and ENTSOG of the issues concerning Gas Network Codes. The Functionality Platform gives an overview of all notified issues as well as their status and scheduled events, like public consultations or workshops.
Objectives	Specific objective: implementation of network codes and monitoring of implementation via cases. Multi-annual objective: Contribute to the completion and well functioning of the IEM.
Outputs	Issue solutions and other relevant documents.
AWG input	The AWG will be informed about these activities.
Performance indicators and targets (deadlines)	Promote state of the art regulation and good communication between regulators, TSOs and stakeholders about regulatory issues.
Risks	This task is resource intensive at times 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.

<b>Task</b>	<b>Support the voluntary regional frameworks as needed</b>
Priority level	3: Necessary to meet legal obligation with intensity that can vary
Legal basis	Article 22 of Regulation (EU) 2019/942
Overview (status)	The Agency will specifically support the GRI SSE region in order to improve the catching up of the region with the rest of the EU in terms of network codes implementation and gas market design.
Objectives	Specific objective: implementation of the network codes

	Multi-annual objective: Contribute to the completion and well functioning of the IEM.
Outputs	Workshop(s), regional and bilateral meetings and other forms of knowledge transfer and support, both from more experienced NRAs and from the Agency, to NRAs in the GRI SSE.
AWG input	The Gas Working Group will be informed about these activities, if relevant.
Performance indicators and targets (deadlines)	Promote state of the art regulation.
Risks	This task is resource intensive and requires bilateral consultations, for which resources are not provided. Risk if this activity is not performed: potential inefficiencies, inconsistencies in the functioning of the IEM absent learnings from best practices.

#### IV. Reporting and monitoring

<b>Task</b>	<b>Reporting obligations as set out in the Network Code on Gas Transmission Tariff structures under Article 13(3) of NC TAR (Multiplier Report) and carry on the work on best practices and concrete recommendations on allowed revenues and benchmarking</b>
Priority level	1: Critical
Legal basis	Article 13(3) of Regulation 2017/460 (NC TAR). 33 <sup>rd</sup> Madrid Forum Conclusions (for the allowed revenues part).
Overview (status)	By 1 April 2021 the Agency should issue a recommendation, in accordance with Regulation (EC) No 713/2009, recast by Regulation (EU) 2019/942, regarding the maximum level of multipliers. At the request of the Madrid Forum, the Agency was called to come forward with guidance based on best practices and concrete recommendations on allowed revenues and benchmarking to improve the implementation of the Tariff Network Code.
Objectives	Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
Outputs	The recommendation on the level of multipliers



	Guidance on best practices and concrete recommendations on allowed revenues and benchmarking. The work has started in 2020.
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.  The Gas Working Group will be informed about the Madrid Forum activities.
Performance indicators and targets (deadlines)	Timely delivery of the multiplier recommendation.  Delivery of best practices and recommendations on allowed revenues
Risks	Lack of human resources to perform for both activities, especially if complex tasks are required for allowed revenues.  Potential difficulties with relevant data collection.

<b>Task</b>	<b>Implementation Monitoring Reporting obligations and data automation for Balancing and reporting for Tariffs under Article 5(1)(e) of Regulation (EU) 2019/942</b>
Priority level	3: Necessary to meet legal obligation
Legal basis	Article 5(1)(e) of Regulation (EU) 2019/942 Article 9 of Regulation (EC) No 715/2009
Overview (status)	Implementation reports in the field of balancing on implementation to be able to measure balancing market performance. Continue reporting on tariff and check whether the implementation is on track.
Objectives	Specific objectives: Implement the network code and provide update on implementation. Provide practical recommendations in the implementation report.  Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
Outputs	Provide the reports and an automated assessment tool
AWG input	The Gas Working Group will be informed about these activities.
Performance indicators and targets (deadlines)	Timely delivery of implementation monitoring reports and the automated tool.

Risks	Manage data collection appropriately for an automation project; involve ENTSOG, TSOs and NRAs in this process.
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<b>Task</b>	<b>Reporting obligation as set out in CMP Guidelines (monitoring of Congestion at interconnection points)</b>
Priority level	3: Necessary to meet legal obligation
Legal basis	Point 2.2.2.1.2 in Annex I to the Commission's Decision of 24 August 2012 ('CMP Guidelines').
Overview (status)	Reports on Congestion at interconnection points are to be prepared with a view to the previous ACER recommendations
Objectives	<p>Specific requirements:</p> <p>Report on congestion at interconnection points according to the criteria set in the CMP Guidelines.</p> <p>Data consistency and quality, to be addressed with ENTSOG where relevant.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.</p>
Outputs	Report on Congestion at interconnection points
AWG input	The Gas Working Group will be informed about these activities and information will be collected for the report.
Performance indicators and targets (deadlines)	Timely delivery of the Congestion Report.
Risks	<p>Lack of human resources to perform this activity.</p> <p>Data quality issues take up more resources than necessary yet required issuing the Report and preparation for the automation of the Report in the next years.</p>

## 2.4.2 Tasks initiated by other public organisations

### I. Amendments of existing Network Codes and Guidelines

<b>Task</b>	<b>Review of the requests for amendments to the adopted Network Codes</b>
Priority level	1: Critical
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)	Collect/propose amendments to the legal text, where necessary in coordination with the Commission and with a focus on the change needs in the secondary legislation in 2021.
Objectives	Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.
Outputs	Facilitation of the stakeholder involvement, as required by the legislation.
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)	Revised articles, public consultations preceding amendments, using the solutions given to the cases notified on the joint Functionality Platform while also proposing other amendments that can improve the functioning of the internal gas market.  For the amendments, as established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.
Risks	Implementation is dependent on the relevant legal and political processes.  Risk if this activity is not performed: reduced efficiency in the functioning of the IEM.

### II. Opinions and recommendations in the areas of competence

<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(5) and (6) of Regulation (EU) No 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 2009/73/EC, Regulation (EC) No 715/2009, or with other relevant provisions. 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 Regulation (EC) No 715/2009, Directive 2009/73/EC.
AWG input	According to Article 24(2) of Regulation 2019/942, the Gas Working Group 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 and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission or on its own initiative, pursuant to Article 3(1) of Regulation (EU) 2019/942 on the issues related to the network codes</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, but also on own initiative.

Objectives	<p>Specific objective: provide support and advice to the European institutions and support the Green Deal initiatives from a regulatory perspective, with a focus on hydrogen, energy system integration and methane emissions.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.</p>
Outputs	Opinions, recommendations and/or policy papers.
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)	Timely delivery of the opinions and recommendations.
Risks	<p>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.</p> <p>Risk if this activity is not performed: legislators and policy makers may not obtain relevant information to assist them in their functions.</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	3: Necessary to meet legal obligation
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 gas markets with concrete recommendations on sharing of good practices.
Objectives	<p>The aim of these recommendations is to provide guidance to TSOs, national regulatory authorities or market participants on how to implement specific requirements of the Network Codes or Guidelines of Regulation (EC) No 715/2009, in order better to facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	Specific recommendation on sharing of good practices

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)	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>INTERNAL GAS MARKET</b>	
<b>Human Resources (Full Time Equivalents)<sup>7</sup></b>	<b>Financial Resources (EUR)</b>
<b>8 (subsidy-financed)</b>	<b>1 516 704</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 internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity has to be carried out in close cooperation with NRAs, the European Commission and other relevant organisations, and without prejudice to the competences of competition authorities. This work will be combined with part of the Agency’s obligation under article 7(3) of Regulation (EU) 1227/2011.

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely. Since 2017, the Market

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<sup>7</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.

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. Finally, with the adoption of the “Clean Energy for all Europeans” legislation, the market monitoring report should include 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.

<b>Task</b>	<b>10<sup>th</sup> Market Monitoring Report</b>
Priority level	1: Critical
Legal basis	Article 15 of Regulation (EU) No 2019/942 Article 5 of Regulation (EU) No 2019/942; Article 9(1) of Regulation (EC) No 714/2009; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines Article 7(3) of Regulation (EU) No 1227/2011
Overview (status)	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.  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).  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.
Objectives	Specific objective:  Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning by creating market and data transparency through economic analysis and issuing of

	recommendations. Leverage of the MMR by European policy makers in the legislative process.
Outputs	Annual Market Monitoring Report
AWG input	According to Article 30(4) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group will be involved and provide their input for the two Wholesale chapters.
Performance indicators and targets (deadlines)	Timely completion of the Annual Market Monitoring Report. Expected completion date: November 2020 (parts delivered earlier). Positive feedback and uptake of conclusions and recommendations by the European Parliament and the European Commission. Reference to the MMR and use of its analysis by stakeholders. Possibility of a survey following the publication and presentation of the report.
Risks	<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>



<b>Total resources allocated to the Activity</b>	
<b>ELECTRICITY AND GAS INTERNAL MARKET MONITORING</b>	
<b>Human Resources</b> <b>(Full Time Equivalent)<sup>8</sup></b>	<b>Financial Resources</b> <b>(EUR)</b>
<b>12 (subsidy-financed)</b>	<b>2 286 138</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 2021 towards the following deliverables:

<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.

<sup>8</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 2021 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

Outputs	Annual consolidated report in a slimmed-down version. This will be part of the reprioritisation of resources, taking into account that the PCI implementation status does not change significantly year-on-year. Additional detailed assessment of particular aspects of the PCI monitoring may be carried out subject to their importance and available resources.
AWG input	According to Article 30(4) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group will be consulted and provide their input.  According to Article 24(2) of Regulation 2019/942, the Electricity Working Group and 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 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.

Task	Updated Unit Investment Cost (UIC) Report
Priority level	1: Critical
Legal basis	Article 11(7) of the Regulation (EU) No 347/2013.
Overview (status)	By 16 May 2015, NRAs cooperating in the Agency's framework shall establish and make publicly available a set of indicators and corresponding reference values for the comparison of unit investment costs for comparable gas and electricity projects of the infrastructure categories. Those values may be used by the ENTSOs for CBA of subsequent TYNDPs. Therefore, the values from the 2015 UIC report should be updated in order to remain relevant for TYNDPs beyond 2021.

Objectives	The availability of an updated UIC report is needed in order to enable the ENTSOs to properly develop subsequent TYNDPs and the Agency and NRAs to accurately monitor and assess infrastructure projects. UIC reference values dating back from 2015 are becoming outdated. An update of the UIC Report after 6 years from its first publication is needed.
Outputs	Updated UIC report.
AWG input	Review the draft UIC report.
Performance indicators and targets (deadlines)	Timely delivery of the updated UIC report in 2021.
Risks	<p>The delivery of the updated UIC report is subject to the timely submission of information by infrastructure operators to NRAs and the Agency.</p> <p>Risk if this activity is not performed: Non-availability of updated UIC data to the ENTSOs, NRAs and the Agency, reduced quality of subsequent TYNDPs, reduced quality of project-level , TYNDP and PCI list assessments carried out by NRAs and the Agency.</p>

<b>Task</b>	<b>Opinion(s) on ENTSO-E's and/or ENTSOG'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	<p>Specific objective: updated and improved CBA methodology(ies).</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
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 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	<p>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.</p> <p>Risk if this activity is not performed: sub-optimality of the investment decision process.</p>

<b>Task</b>	<b>Opinions on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions</b>
Priority level	1: Critical
Legal basis	Point 12 of Annex III.2, Regulation (EU) 347/2013. Article 22 of Regulation (EU) No 2019/942.
Overview (status)	The Agency shall provide an opinion on the draft regional lists, in particular on the consistent application of the criteria and the cost-benefit analysis across regions. The opinion of the Agency is a biennial activity, in line with the schedule of the adoption of the PCI lists.
Objectives	<p>Specific objective: deliver the opinion within three months from the date of receipt of the draft PCI list.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Outputs	The Agency will provide the opinion to the Commission.
AWG Input	According to Article 24(2) of Regulation 2019/942, the Electricity and Gas Working Groups 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 within three months from the date of receipt of the draft PCI list from the Commission.
Risks	The delivery is subject to the quality and the consistency of the project data and the availability of background information related to the criteria used for the selection of the proposed PCIs, including, but not limited, to the information related to their costs and benefits.

	Risk if this activity is not performed: sub-optimal selection of PCIs and delays in the implementation of important energy infrastructure projects.
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## 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) No 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 2021 towards the following deliverables:

Tasks	
	<p><b>Opinions on ENTSO-E’s annual work programme 2022 and ENTSO-E’s annual report 2020 (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: 3)</b></p> <p><b>Opinion on the ENTSO-E electricity Union-wide TYNDP 2020 (Priority level 1): (the activity is expected to start Q4 2020 and finish in Q1 2021)</b></p> <p><b>Opinion on the electricity national 10-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national 10-year network development plans or the Union-wide network development plan (Priority level: 3) (the activity is expected to start Q4 2020 and finish in Q1 2021)</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 Opinion on the electricity national 10-year network development plans: Article 48(2) of Regulation (EU) 2019/943</p> <p>For Work Programme and TYNDP: Article 4(3) and 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> <p>For all other deliverables: Article 4(3) Regulation (EU) 2019/942.</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 Union-wide TYNDP 2020, 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	<p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund. Opinions as listed above. Internal monitoring report on G-charge will be carried out in 2021 subject to available resources.</p>
AWG input	<p>According to Article 24(2) of Regulation 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 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.</p>
Performance indicators and targets (deadlines)	<p>Timely delivery and quality of the documents.</p> <p>Opinion on ENTSO-E's Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant.</p> <p>Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.</p>

Risks	<p>The delivery is subject to the release of corresponding documents by ENTSO-E and to the availability of resources.</p> <p>Risk if this activity is not performed: except for the Opinion on the draft TYNDP 2020 and the TYNDP-NDP consistency (where the impact could be higher due to inconsistencies in infrastructure development and because the TYNDP is the basis for PCI selection), the impact of not delivering these documents would be limited.</p>
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### 2.6.3. Gas TSO Cooperation

The tasks related to the Agency’s work on gas TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in: formulating opinions on draft statutes, list of members and draft rules of procedure of 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 2021 towards the following deliverables:

Tasks	<p><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></p> <p><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 amend the national 10-year network development plans or the Union-wide network development plan (priority level - 3)</b></p> <p><b>Opinions on ENTSG’s annual work programme 2022 and ENTSG’s annual report 2020 (priority level – 3);</b></p> <p><b>Opinions on potential updates to ENTSG’s common network operation tools and common incidents classification scale (priority level - 3)</b></p> <p><b>Opinion on ENTSG’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>Opinions on ENTSG’s annual Summer and Winter supply outlooks (priority level - 3)</b></p> <p><b>Opinion on ENTSG’s research and development plan (priority level - 3)</b></p>
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Priority levels	See above
Legal basis	For all deliverables: Article 2(c) Regulation (EC) 2019/942 and Article 8(3) Regulation (EC) 715/2009. For Work Programme and TYNDP: Article 4(5) Regulation (EU) 2019/942 and Article 9(2) Regulation (EC) 715/2009.
Overview (status)	Opinions on submitted documents have been regularly delivered during the previous years. Pursuant to Article 4 Regulation (EU) 2019/942, the Agency shall issue opinions on these documents if it finds they do not contribute to the objectives or do not comply with the regulations, and may issue opinions in other instances.
Objectives	Specific objective: upon receipt of ENTSOG's TYNDP, the Agency will deliver its opinion within the stated deadline. Other opinions may be provided upon receipt from ENTSOG of the relevant documents, within a reasonable time (usually two to three months). Multi-annual objective: contribute to the infrastructure challenge.
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 2019/942, the Gas 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 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	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 (EC) 715/2009, Regulation (EU) No 347/2013, and Regulation (EU) 2017/1938). 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. 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. 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



	<p>now (possibly more in the future), creating additional risks for inadequate cooperation of major supply routes.</p> <p>Opinion Annual Report - may lead to inadequate regulatory review of ENTSOG’s deliverables and activities.</p> <p>Report on implementation of the TYNDP - will open a significant gap in keeping a proper record of and guiding the efficient closure of any infrastructure gaps, since many projects will not be monitored.</p> <p>Opinion on ENTSOG R&amp;D plan - may affect ENTSO’s capacity to perform.</p> <p>Opinion on Winter and Summer Supply Outlooks - may lead to inconsistent application of tools such as network models, inaccurate identification of risks and infrastructure needs.</p>
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#### 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: Opinions on the elements of coordinated decisions</p> <p>2: Reactive - Decisions on CBCA</p> <p>3: Necessary to meet legal obligation - 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 2019/942, the Gas 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 decisions and opinions.
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,</p>

	creating additional risks for inadequate cooperation on measures to safeguard the security of gas supply.
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### 2.6.5. Tasks related to DSOs

<b>Tasks</b>	<b>Issuing a decision for DSO 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, ACER 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.
AWG input	Informal involvement of the Board of Regulators.
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>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	3: Necessary to meet legal obligation

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 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, recommendation or decision.
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	3: Necessary to meet legal obligation
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	Receipt of complete quality information along with any supporting evidence, time constraints. Risk if this activity is not performed: risk of inefficient operation of the EU DSO entity.

### 2.6.6. Tasks related to Regional Coordination Centres

Tasks	Issuing a decision for the RCCs 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, ACER 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 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	Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints. Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient operation of the RCCs.

<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 targets (deadlines)	Timely monitoring of tasks.
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 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	Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.  Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect the efficient operation of the RCCs.

### 2.6.7. 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 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. Task potentially continued through further amendments in 2021, if required.
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 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. Task potentially continued through further amendments in 2021, if deemed necessary.
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 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.

### 2.6.8. 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 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	1: Critical
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	Receipt of complete quality information along with any pertinent supporting evidence, consultation with the Commission, time constraints.  Risk if this activity is not performed: uncertainty on the interpretation of relevant legislation, which in turn might affect security of supply.

### 2.6.9. Tasks which are Subject to Specific Conditions

#### Tasks initiated by others

In 2021, 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	2: Reactive
Legal basis	Article 12(6) of Regulation (EU) No 347/2013, Article 11(d) of Regulation (EU) No 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	Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.  Multi-annual objective: contribute to the infrastructure challenge.

Outputs	The Agency shall take a decision on the 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) No 2019/942</b>
Priority level	1: Critical
Legal basis	Article 6(5) and (6) of Regulation (EU) No 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 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations. Where a national regulatory authority does not comply with the opinion of the Agency within four months from the day of receipt, the Agency shall inform the Commission and the Member State concerned accordingly. By the end of 2014, the Agency received two peer review requests.
Objectives	<p>Specific objective: provision of a fact-based opinion and, in cases of lack of compliance with the Opinion, within four month from the date of its adoption, of an information report regarding lack of compliance to the Commission and the Member State concerned.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	The Agency shall provide an opinion on whether an NRA’s decision complies with the Guidelines referred to in 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 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	<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 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	<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 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 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>
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Task	Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions
Priority level	2: Reactive
Legal basis	Article 10 Regulation (EU) No 2019/942; Article 63 of Regulation (EU) No 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 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>
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Task	Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission
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 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)	Timely delivery of the opinions and recommendations.
Risks	<p>Receipt of complete quality information about the issue for which an opinion and/or recommendation is requested along with all pertinent supporting evidence, coordination with stakeholders, time constraints.</p> <p>Risk if this activity is not performed: the legislators and policy makers may not obtain the relevant information to assist them in their functions.</p>

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

In 2021 the Agency may decide to issue:

<b>Task</b>	<b>Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission</b>
Priority level	1: Critical
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 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)	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>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	3: Necessary to meet legal obligation
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	<p>The aim of these recommendations is to provide guidance to TSOs, national regulatory authorities or market participants on how to implement specific requirements of the Network Codes or Guidelines or of Regulation (EC) No 714/2009, in order better to facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.</p> <p>Multi-annual objective: contribute to the completion and well functioning of the IEM.</p>
Outputs	Specific recommendation on sharing of good practices
AWG input	According to Article 24(2) of Regulation 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	<p>Lack of human resources to perform this activity.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Total resources allocated to the Activity</b>	
<b>INFRASTRUCTURE AND SECURITY OF SUPPLY</b>	
<b>Human Resources (Full Time Equivalents)<sup>9</sup></b>	<b>Financial Resources (EUR)</b>
<b>14.2 (subsidy-financed)</b>	<b>2 696 603</b>

<sup>9</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

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

### 2.7.1. Organisation

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

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

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

Since February 2014 the Agency is seated in its permanent premises in Ljubljana (Slovenia), rented for a period of 10 years, with an option for expansion of the office space.

Task	Procurement and Facility Management
Overview (status)	<p>Procurement procedures will be carried out in line with the 2021 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 2021. 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 2021 the Agency will keep its liaison office in Brussels (Belgium) 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. Temporary secondment of staff to the liaison office might be implemented, as appropriate and needed.</p>
Objectives	<p>The objectives for 2021 are as follows:</p> <ul style="list-style-type: none"> <li>- Further improve effectiveness and efficiency of the procurement processes and implement measures to</li> </ul>

	<p>streamline and optimise the procurement processes for the implementation of the work programme.</p> <ul style="list-style-type: none"> <li>- Manage the Agency's premises in line with the evolving needs of the Agency, including, whenever necessary, the expansion of the occupancy of the office surface and the necessary fitting out works and procurement of equipment to ensure smooth continuation of the Agency's work.</li> <li>- Ensure the security in the Agency's premises, in line with the Agency's security policy.</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- Annual procurement plan in place and successfully implemented.</li> <li>- Annual facility management plan in place and successfully implemented.</li> <li>- Secure and sufficient office space made available for the operations of the Agency.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- At least 90% implementation of the adopted 2021 Procurement Plan.</li> <li>- The Agency's premises managed in line with the Agency's facility management plan and within the allocated budget by the end of 2021.</li> </ul>
Risks	<ul style="list-style-type: none"> <li>- The non-availability of financial resources and human resource constraints may negatively affect the timely delivery of the objectives.</li> <li>- The absence of timely and quality input from the project managers may affect the successful implementation of the adopted 2021 Procurement Plan.</li> <li>- 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.</li> </ul>

### 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 2021, 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 2021, 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>
Objectives	<p>The objectives for 2021 are as follows:</p> <ul style="list-style-type: none"> <li>- To recruit resources in line with the Agency's updated Establishment Plan and replace departing staff members in an efficient and timely manner, in line with the legal framework</li> <li>- To maintain an engaged and effective workforce, assessing – on a regular basis – staff satisfaction</li> <li>- To ensure that staff members are appraised and offered appropriate training opportunities aimed to improve their skills and competencies</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- Staff with the necessary knowledge and skills recruited and retained in the Agency.</li> <li>- Learning and Development activities are made available as per identified needs.</li> <li>- Annual performance appraisal carried in line with the adopted rules.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>• Average length of recruitment procedure: 4 months since the post becomes vacant</li> <li>• 95% of completion of the Establishment Plan</li> <li>• Annual percentage of staff turnover &lt;15%</li> <li>• Annual average days of uncertified sick leave per staff member &lt;10</li> <li>• Staff engagement survey (review to be performed every 2 years): 2/3 of staff satisfied or highly satisfied with the employment conditions at the Agency</li> <li>• 100% of the eligible Agency's staff subject to performance appraisal undergo evaluation in the yearly exercise, in line with the established competency framework</li> <li>• Learning and development (L&amp;D): 90% of the identified activities are provided according to the L&amp;D plan</li> </ul>
Risks	<p>An increase in the number of recruitment procedures, and subsequently the number of staff in the Agency, may require more HRM staff than currently envisaged, which may result in delays or a reprioritisation of objectives. The limited resources available in the HRM Team dealing with all range of demands related to workforce management require a constant focus on urgent priorities, to the detriment of a more structural approach in HRM, attention to details, efficient procedures, sufficient attention to development matters, implementation of policies and rules.</p> <p>The Agency has been facing difficulties in attracting the right candidates in light of the specific expertise required and</p>

	<p>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 2021 are as follows:</p> <ul style="list-style-type: none"> <li>- Apply current accounting standards and rules in order to draw accurate financial statements that present a fair view of the Agency’s financial performance and position and receive an unqualified audit opinion.<sup>10</sup></li> </ul>

<sup>10</sup> This specific objective will not apply in case the Agency will continue to outsource its accountings services to the Commission’s Accounting Officer.

	<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>11</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 2021, final accounts by 1 July 2021.</p> <p>Unqualified opinion from ECA.</p> <p>Minimum 95% budget implementation for commitment appropriation and 75% for payment appropriation by 31 December 2021.</p> <p>Replenished bank account balance.</p> <p>Presentation of financial matters delivered by end of June 2021.</p>
<p>Risks</p>	<p>Delays in procurement procedures and/or delays from contract implementations by project managers may have a negative impact on the achievement of the budget implementation targets.</p> <p>Results from assets impairment checks may negatively affect the financial position of the Agency.</p>

<sup>11</sup> This specific output will be prepared by the Commission's Accounting Officer in case the Agency continues to outsource its accountings services.



	<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 2021 is to continue and further enhance the alignment of the IT services to the Agency’s strategic goals and objectives, in line with the ACER ICT Strategy of 2019-2021. A special focus will be given to strenghten “Customer Intimacy” and improve “Operational Excellence” by building a trustful relationship to users and consumers of provided ICT services, and further improve services to meet business requirements.</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 effeciency.</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 2021 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>- Adopt agile service development methodologies that ensure involvement of all key stakeholders, end users and business owners and therefore properly manage expectations regarding provided ICT services.</li> <li>- Further enhance the service orientation by having in place and fine-tuning the right procedures, rules (ITIL based) and methodologies.</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. Adopting agile methodologies</li> </ul>

	<p>shall ensure the involvement of business owners and users in the entire service lifecycle to provide services that are fit for purpose and meets business requirements.</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> <li>- Modernisation of the ICT services hosting platform that is secure by design, robust and scalable.</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 2021.</p> <p>Successful and timely completion of the tasks included in the 2021 IT Action Plan by Q4 2021.</p> <p>85% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2021.</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 2021.</p> <p>The establishment of an ICT overarching infrastructure ensuring synergies may not be achieved due to security or privacy constraints or an inefficient choice of compatible</p>

	<p>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> <p>Risk of not replacing hardware that is end of its life due to funding restrictions.</p>
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### 2.7.6. Communication

The energy systems of Europe are undergoing massive change, driven in part by technology, by market actor innovation and in part by evolving political priorities, not least as regards decarbonisation of the broader economy, in which energy decarbonisation plays a crucial part.

As such, the regulatory landscape, in which ACER finds itself, is very much evolving, too. This has implications for how ACER engages with stakeholders, of which there are many, and how it communicates its activities, how these fit within the wider European societal context and indeed which future priority efforts ACER may need to contribute to going forward.

The strategic intelligence and communications portfolio of ACER needs to adapt to significantly changed circumstances. This goes manifestly beyond the drafting of press releases and updating an antique website with already limited functionality. Both such efforts are needed and will be prioritised. But modern, more stakeholder oriented communications, if they are to be genuinely strategic, need to permeate an entire organisation, impacting more than press contacts and website uploads. As such, a strategic communications effort needs dedicated and experienced resources capable of helping senior management transform an organisation in this direction.

ACER has to face emerging needs of becoming an organisation, called to engage in the context of a rapid change – digitalisation-, new business model- and new market actor - driven, and, not least, a vastly changing political context where incremental approaches are deemed less capable of driving rapid and comprehensive change, thus bringing up an array of new and unprecedented challenges, as well as, an increasing multitude of stakeholders to reach out to, not least due to the new tasks foreseen in the Clean Energy Package.

As such, the Agency needs to significantly change its approach to communications and stakeholders’ engagement. This entails a more fundamental shift in the approach of the Agency to the stakeholders, the means and terms of engagement with them, corporate communication actions and priorities.

The Agency’s communication efforts so far 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 more modern and 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 2021, 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</p>

	<p>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 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 ensure a strategic, systematic and proactive role in the Agency's engagement towards stakeholders at all levels;</p> <p>To upgrade the corporate communication outreach of the Agency (including through social media).</p> <p>To improve the Agency's website in terms of the Agency's strategic objectives and 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>To organise public events such as the 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) and the Energy Market Integrity and Transparency Forum (to engage key stakeholders 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, mission, values 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 2020.</p> <p>Number of tweets: 3% increase compared to 2020.</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>

## 2.7.8 Board of Appeal and Legal Services

### Board of Appeal

Where ACER has decision-making powers, interested parties have a right of appeal to a Board of Appeal ('BoA'). The BoA is independent from the Agency's administrative and regulatory structure. In order to guarantee its functioning and full independence, the BoA has a separate budget line within the budget of ACER. The decisions of the BoA are subject to appeal before the Court of Justice of the European Union (the Court of Justice).

The BoA has been established for reasons of procedural economy. It has four months to issue its decisions. It is composed of six members and six alternates<sup>12</sup>, perform their role on an honourable basis<sup>13</sup>. Only since 2019, those members or alternates that have handled appeal proceedings are eligible for indemnity. The indemnity represents a lump sum granted once for all appeal proceedings stemming from a single decision of the Agency<sup>14</sup>. The BoA currently receives external legal support.

In the course of the years 2015-2020, the BoA handled an increasing number of Agency's decision. Especially in the year 2020, the BoA has handled simultaneous multiple appeals against single decisions. Out of 14 BoA decisions only 4 did not translate into further litigation before the European Court of Justice. Out of these four decisions, three were not subject to further litigation as the proceeding before the BoA led to an annulment of the appealed Agency's decision.

	2015	2016	2017	2018	2019	2020
Number of ACER Decisions	1	1	6	9	16	30
Number of Appeals before the BoA	2	0	4	1	6	18

Table – Evolution of Agency's Decision and Appeals before the BoA<sup>15</sup>

<sup>12</sup> Members and Alternates are selected from among current or former senior staff of the regulatory authorities, competition authorities or other Union or national institutions with relevant experience in the energy sector. Members and alternates perform their role on

<sup>13</sup> See the public call for expression of interests launched by the European Commission: [https://ec.europa.eu/energy/sites/ener/files/documents/Public%20call%20for%20interest%20BoA\\_2016%20fin.pdf](https://ec.europa.eu/energy/sites/ener/files/documents/Public%20call%20for%20interest%20BoA_2016%20fin.pdf).

<sup>14</sup> Indemnities have been set by the Administrative Board of the Agency by Decision No 17 – 2019 of 26 September 2019, available [here](#).

<sup>15</sup> Last update 3.12.2020.

Following the ruling of the General Court in case T-735/1816, Aquind v ACER, the Agency will be called in the course of the year 2021 to revise the current approach to the BoA of the Agency and establish a process for the professionalization of the BoA. In this regard, in the year 2021, the BoA will be renewed with effects as of 18 October 2021. The European Commission will be called in January 2021 to launch a public call for expression of interest for the appointment of the next members and alternates of the BoA. In the call all the conditions of engagement have to be defined and the BoA has to be put in the conditions to perform its task as defined in the above-reported ruling to an adequate level so as to ensure that the principles of procedural economy is guaranteed.

Task	Legal Services/Board of Appeal
Overview (status)	<p>The BoA performs an essential role in ensuring effective judicial protection and procedural economy, making sure that the decisions that the Agency has adopted in areas that are at the very essence of the Energy Union are not involved in extensive litigation before the European Court of Justice.</p> <p>The current organisation of the BoA with the appointment of Members and Alternates acting on an honourable basis is no longer adequate to respond to the demand for review which has been expressed by market players after the entry into force of the Clean Energy for all Europeans package. It is therefore necessary to review the terms of engagement of Members and Alternates so as to reflect adequately the level of effort required, also in light of the recent ruling of the General Court in Case T-735/18.</p>
Objectives	<p>To ensure effective judicial protection;</p> <p>To ensure adequate assessment of appeals;</p> <p>To avoid unnecessary further litigation before the European Court of Justice;</p> <p>To ensure the right of defence;</p>
Outputs	Rulings and Interim measures.
Performance indicators and targets (deadlines)	<p>Number of decisions appealed before the General Court;</p> <p>Number of decisions remitted to the Agency.</p> <p>Target:</p> <p>Minimisation of appeals before the General Court.</p>



Risks	<ul style="list-style-type: none"> <li>(i) the lodging of simultaneous appeals against single decisions of the Agency; and</li> <li>(ii) the simultaneous handling of appeals against different Agency’s decision;</li> <li>(iii) absence of sufficient legal and economic/technical support in assessing appeals and Agency’s decisions.</li> </ul>
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### Legal Services

The Legal Services provide legal support in all domains in which the Agency is active (electricity, gas, REMIT, procedural issues, access to documents, data protection, public procurement and HR). It provides impartial and independent legal advice to the Director, other departments, the Administrative Board and the Board of Regulators.

It provides legal support for acts that may be contentious or against which an appeal can be lodged, and it ensures the legal follow-up in case of such appeal.

Based on the priorities set by the Director and when requested, the Legal Services provide direct legal support to the horizontal functions and the operational departments of the Agency. In many instances, due to the limited number of human resources present in the Legal Service and due to the internal working arrangements of the Agency, the involvement of the Legal Services is limited to the review of the Agency’s acts and, where appropriate, the provision of non-binding recommendations to make the Agency deliverables more robust against possible appeals.

Task	Legal Services
Overview (status)	<p>The Legal Services perform an essential role in improving the legal quality of the Agency’s acts, reducing the potential for litigation and pre-empting possible reputational damages stemming from the adoption of poor decisions, opinions and recommendations. It also ensure the soundness of procurement procedures and acts directly affecting staff members.</p> <p>The Legal Services provide also the secretariats of the Administrative Board, the managing body of the Agency, and the registrar of the Board of Appeal.</p> <p>In addition, the Legal Service exercise the function of Data Protection Officer and Transparency Officer (under Regulation (EC) 1049/2001).</p>
Objectives	<p>To ensure legal quality of Agency’s outputs;</p> <p>To minimise risks for challenges before the European Ombudsman, national courts of the Member States and the European Court of Justice;</p>

	<p>To ensure the soundness of procurement procedures and subsequent management of contracts;</p> <p>To ensure legal support to the bodies of the Agency for all matters concerning the governance of the Agency (the Administrative Board, the Director, the Board of Regulators and the Board of Appeal);</p>
Outputs	<p>Call for Tenders;</p> <p>Contracts;</p> <p>Individual Decisions;</p> <p>Recommendations;</p> <p>Opinions;</p> <p>Preliminary Initial Assessments (REMIT).</p>
Performance indicators and targets (deadlines)	<p>Number of call for tenders revises;</p> <p>Number of contracts revised;</p> <p>Number of individual decisions revised;</p> <p>Number of recommendations revised;</p> <p>Number of opinions revised;</p> <p>Number of internal consultations addressed.</p>
Risks	<p>(i) absence of sufficient human resources;</p> <p>(ii) absence of adequate human resources in terms of seniority and expertise;</p> <p>(iii) absence of sufficient financial resources;</p> <p>(iv) absence of adequate standard operating procedures establishing clear timing, roles and responsibilities in the adoption of the Agency's acts and giving sufficient time to the Legal services to perform its assessment;</p> <p>(v) the lodging of simultaneous appeals against single decisions of the Agency; and</p> <p>(vi) the simultaneous handling of appeals against different Agency's decision;</p> <p>(vii) multiple simultaneous appeals pending before different bodies/jurisdictions (BoA, General Court, European Court of Justice, National Courts);</p> <p>(viii) multiple contracts/call for tenders being launched simultaneously due to the delays in the implementation of the procurement plan;</p> <p>(ix) increase of workload due to the needs for data protection assessments, access to documents requests, increase in support to other Agency's functions (Board of Appeal and Administrative Board).</p>

<b>Total resources allocated to the ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES and NEUTRAL CATEGORIES</b>	
<b>Human Resources (Full Time Equivalents)<sup>17</sup></b>	<b>Financial Resources (EUR)</b>
<b>18.3 (Administrative: 17.3 subsidy- financed, 1 fee-financed) and 7 (Neutral: subsidy-financed)</b>	<b>3 286 719 from subsidy 104 142 from fees 1 329 886 from subsidy</b>

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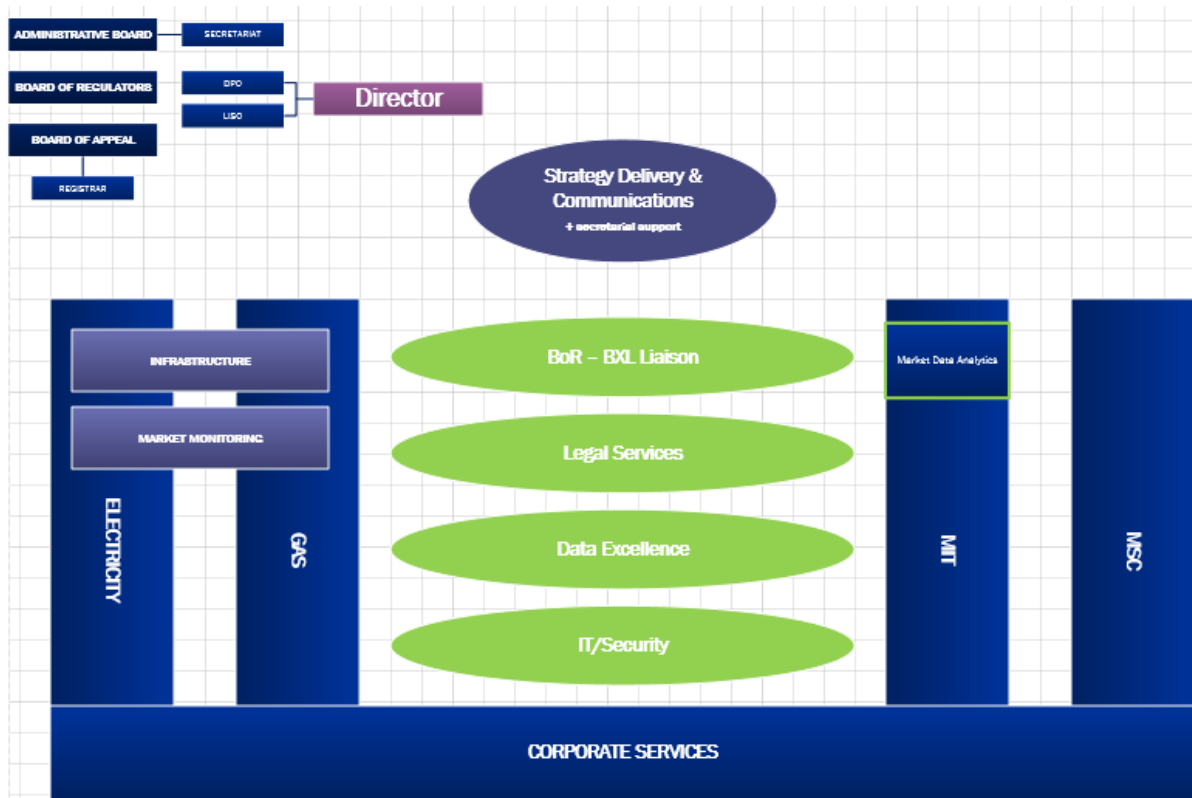
<sup>17</sup> The new positions for 2021 are indicated as 1, although they are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

## ANNEX I: ORGANISATION CHART

The number of staff in active service in the different departments as of 1 December 2020 is the following:

Contract type/ Department	SDC (+Dir.)	LS	BoR- BXL	CS	GAS	ELE	MIT	MSC	Total
AD	4	3	1	7	9	15	9	11	59
AST	1	0	0	8	1	1	1	0	12
CA	2	1	1	5	3	8	8	2	30
SNE	0	0	0	0	1	1	2	0	4
<b>SUBTOTAL Statutory Staff, SNEs</b>	<b>7</b>	<b>4</b>	<b>2</b>	<b>20</b>	<b>14</b>	<b>25</b>	<b>20</b>	<b>13</b>	<b>105</b>
Interim	1	0	0	5	1	1	1	1	10
Trainee	0	0	0	2	3	2	4	4	15
<b>GRAND TOTAL</b>	<b>8</b>	<b>4</b>	<b>2</b>	<b>27</b>	<b>18</b>	<b>28</b>	<b>25</b>	<b>18</b>	<b>130</b>

The organisation chart below reflects the situation as of December 2020:



## ANNEX II: 2021 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.

With regard to new requests, the allocated staff is calculated as ½ FTE for the purposes of the 2021 Work Programme, on the assumption that 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**.

### 2021 Full Time Equivalentents and budget forecast - Breakdown per Activity

ACTIVITIES	Current Positions (SUBSIDY)	Current Positions (FEES)	New Request (FEES)	TOTAL FTEs	2021 Budget (SUBSIDY)	2021 Budget (FEES)	TOTAL BUDGET
1. REMIT analytics & information management (Operational)	1.5	17.0	2.0	20.5	284,976	6,889,942	7,174,917
2. Market Surveillance and case coordination (Operational)	1.5	13.0		14.5	284,976	1,829,917	2,114,892
3. Internal Electricity Market (Operational)	16.5	-	-	16.5	3,134,732		3,134,732
4. Internal Gas Market (Operational)	8.0	-	-	8.0	1,516,704		1,516,704

5. Electricity and Gas Internal Market Monitoring (Operational)	12.0	-	-	12.0	2,286,138		2,286,138
6. Infrastructure and Security of Supply (Operational)	14.2	-	-	14.2	2,694,603		2,694,603
7. Administrative, Support and Coordination categories	17.3	-	1.0	18.3	3,286,719	104,142	3,390,861
8. Neutral categories	7.0	-	-	7.0	1,329,886		1,329,886
<b>TOTAL</b>	<b>78.0</b>	<b>30.0</b>	<b>3.0</b>	<b>111.0</b>	<b>14,818,735</b>	<b>8,824,000</b>	<b>23,642,735</b>

## ANNEX III: FINANCIAL RESOURCES 2021 - 2023

Starting with the financial year 2021 the Agency envisaged collection of revenues from fees and charges that will change its income structure to partially-subsided from EU budget.

The executed revenues, commitment and payment appropriations of the year N-1, the approved budget of the year N, the estimated revenues and expenditures of the upcoming years, and the budget outturns from the previous year are presented in the below tables.

### Table 1: Revenue

#### General revenues

REVENUES	2020		2021				
	Revenues approved for the agency including budget amendment		Budget Forecast				
Revenue from fees and charges	0		8 824 000				
EU contribution	16 898 573		14 434 363				
Third countries contribution (EFTA)	398 810		384 372				
Other Revenue	192 025		198 348				
<b>TOTAL REVENUES</b>	<b>17 397 383</b>		<b>23 642 735</b>				
REVENUES	General revenues						
	Executed 2019	Approved for the agency 2020 including budget amendment	2021		VAR 2021/2020 (%)	Envisaged 2022	Envisaged 2023
			Agency request	Budget forecast			
<b>1 REVENUE FROM FEES AND CHARGES</b>	0	0	8 824 000	8 824 000		9 168 000	9 205 000

<b>2 EU CONTRIBUTION</b>	15 538 087	16 898 573	14 434 363	14 434 363	-12.36%	12 801 518	13 315 763
<i>- Of which assigned revenues deriving from previous years' surpluses</i>	528 883	192 025	198 348	198 348	3.29%		
<b>3 THIRD COUNTRIES CONTRIBUTION (incl. EEA/EFTA and candidate countries)</b>	0	398 810	384 372	384 372	-3.62%		
<i>- Of which EEA/EFTA (excl. Switzerland)</i>	0	398 810	384 372	384 372	-3.62%		
<i>- Of which candidate countries</i>							
<b>4 OTHER CONTRIBUTIONS</b>							
<b>5 ADMINISTRATIVE OPERATIONS</b>							
<i>- Of which interest generated by funds paid by the Commission by way of the EU contribution (FFR Art. 58)</i>							
<b>6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT</b>							
<b>7 CORRECTION OF BUDGETARY IMBALANCES</b>							
<b>TOTAL</b>	<b>16 066 970</b>	<b>17 397 383</b>	<b>23 642 735</b>	<b>23 642 735</b>	<b>40.16%</b>	<b>21 969 518</b>	<b>22 520 763</b>

**Additional EU funding: grant, contribution and service-level agreements**

REVENUES	N	N+1
	Revenues approved for the agency	Budget Forecast
<b>TOTAL REVENUES</b>		



REVENUES	Additional EU funding: grant, contribution and service-level agreements						
	Executed 2019	Approved for the agency 2020	2021		VAR 2021/2020 (%)	Envisaged 2022	Envisaged 2023
			Agency request	Budget forecast			
ADDITIONAL EU FUNDING STEMMING FROM GRANTS (FFR Art.7)							
ADDITIONAL EU FUNDING STEMMING FROM CONTRIBUTION AGREEMENTS (FFR Art.7)							
ADDITIONAL EU FUNDING STEMMING FROM SERVICE LEVEL AGREEMENTS (FFR Art. 43.2)							
<b>TOTAL</b>							

**Table 2: Expenditure**

Expenditure	2020		2021	
	Commitment appropriations	Payment appropriations	Commitment appropriations	Payment appropriations
<b>Title 1 - Staff expenditure</b>	10 757 603	10 757 603	12 009 458	12 009 458
<b>Title 2 - Infrastructure and operating expenditure</b>	2 822 584	2 822 584	4 304 260	4 304 260
<b>Title 3 - Operational expenditure</b>	3 717 196	3 717 196	7 329 017	7 329 017
<b>TOTAL EXPENDITURE</b>	<b>17 297 383</b>	<b>17 297 383</b>	<b>23 642 735</b>	<b>23 642 735</b>

EXPENDITURE	Commitment appropriations						
	Executed Budget 2019	Budget 2020	Draft Budget 2021		VAR 2021/2020 (%)	Envisaged 2022	Envisaged 2023
			Agency request	Budget forecast			
<b>Title 1 - Staff expenditure</b>	<b>9 247 271</b>	<b>10 757 603</b>	<b>12 009 458</b>	<b>12 009 458</b>	<b>12.16%</b>	<b>12 334 855</b>	<b>12 741 905</b>
<b>Salaries &amp; allowances</b>	8 242 520	9 602 155	10 580 284	10 580 284	10.19%	10 948 618	11 329 107
- <i>Of which establishment plan posts</i>	6 600 629	7 486 325	8 102 165	8 102 165	8.23%	8 388 720	8 684 732
- <i>Of which external personnel</i>	1 641 891	2 115 830	2 478 120	2 478 120	17.12%	2 559 898	2 644 375
<b>Expenditure relating to Staff recruitment</b>	38 093	33 600	72 000	72 000	114.29%	74 376	76 830
<b>Mission expenses</b>	94 830	100 000	135 000	135 000	35.00%	135 000	135 000
<b>Socio-medical infrastructure</b>	40 470	24 635	66 500	66 500	169.94%	66 500	66 500
<b>Training</b>	110 360	192 857	273 984	273 984	42.07%	283 025	292 365
<b>External Services</b>	541 491	526 256	588 190	588 190	11.77%	447 485	462 252
<b>Receptions, events and representation</b>	16 322	16 500	16 500	16 500	0.00%	16 500	16 500
<b>Social welfare</b>	21 900	77 000	27 000	27 000	0.00%	113 350	113 350
<b>Other Staff related expenditure</b>	141 286	184 600	250 000	250 000	35.43%	250 000	250 000
<b>Title 2 - Infrastructure and operating expenditure</b>	<b>2 711 966</b>	<b>2 822 584</b>	<b>4 304 260</b>	<b>4 304 260</b>	<b>58.09%</b>	<b>3 361 860</b>	<b>3 361 860</b>
<b>Rental of buildings and associated costs</b>	1 113 846	1 156 434	1 290 300	1 290 300	11.58%	1 290 300	1 290 300
<b>Information, communication technology and data processing</b>	555 553	595 000	962 000	962 000	61.68%	862 000	862 000
<b>Movable property and associated costs</b>	166 470	178 000	160 600	160 600	-9.78%	318 200	318 200
<b>Current administrative expenditure</b>	158 929	283 150	209 200	209 200	14.22%	209 200	209 200
<b>Postage / Telecommunications</b>	85 500	89 000	104 600	104 600	17.53%	104 600	104 600
<b>Meeting expenses</b>	271 439	201 000	1 212 560	1 212 560	503.26%	382 560	382 560

EXPENDITURE	Commitment appropriations						
	Executed Budget 2019	Budget 2020	Draft Budget 2021		VAR 2021/2020 (%)	Envisaged 2022	Envisaged 2023
			Agency request	Budget forecast			
Running costs in connection with operational activities	140 435	115 000	365 000	365 000	217.39%	195 000	195 000
Studies	219 794	205 000			-100.00%		
<b>Title 3 - Operational expenditure</b>	<b>4 107 733</b>	<b>3 717 196</b>	<b>7 329 017</b>	<b>7 329 017</b>	<b>113.14%</b>	<b>6 272 803</b>	<b>6 416 998</b>
Meetings	183 252	303 000	394 450	394 450	30.18%	375 611	375 611
REMIT operations	3 618 501	3 078 573	4 630 075	4 630 075	65.36%	4 745 827	4 890 022
Translation expenses	179 462	217 123	513 600	513 600	136.55%	526 440	526 440
Expert consultations			1 590 892	1 590 892		505 000	505 000
Website, information and publication	126 517	118 500	200 000	200 000	68.78%	119 925	119 925
<b>TOTAL</b>	<b>16 066 970</b>	<b>17 297 383</b>	<b>23 642 735</b>	<b>23 642 735</b>	<b>40.16%</b>	<b>21 969 518</b>	<b>22 520 763</b>

EXPENDITURE	Payment appropriations						
	Executed Budget 2019	Budget 2020	Draft Budget 2021		VAR 2021/2020 (%)	Envisaged 2022	Envisaged 2023
			Agency request	Budget forecast			
<b>Title 1 - Staff expenditure</b>	<b>9 032 569</b>	<b>10 757 603</b>	<b>12 009 458</b>	<b>12 009 458</b>	<b>12.16%</b>	<b>12 334 855</b>	<b>12 741 905</b>
Salaries & allowances	8 144 371	9 602 155	10 580 284	10 580 284	10.19%	10 948 618	11 329 107
- Of which establishment plan posts	6 502 479	7 486 325	8 102 165	8 102 165	8.23%	8 388 720	8 684 732
- Of which external personnel	1 641 891	2 115 830	2 478 120	2 478 120	17.12%	2 559 898	2 644 375
Expenditure relating to Staff recruitment	32 425	33 600	72 000	72 000	114.29%	74 376	76 830
Mission expenses	93 070	100 000	135 000	135 000	35.00%	135 000	135 000

EXPENDITURE	Payment appropriations						
	Executed Budget 2019	Budget 2020	Draft Budget 2021		VAR 2021/2020 (%)	Envisaged 2022	Envisaged 2023
			Agency request	Budget forecast			
Socio-medical infrastructure	20 425	24 635	66 500	66 500	169.94%	66 500	66 500
Training	82 783	192 857	273 984	273 984	42.07%	283 025	292 365
External Services	521 122	526 256	588 190	588 190	11.77%	447 485	462 252
Receptions, events and representation	15 623	16 500	16 500	16 500	0.00%	16 500	16 500
Social welfare	16 465	77 000	27 000	27 000	0.00%	113 350	113 350
Other Staff related expenditure	106 286	184 600	250 000	250 000	35.43%	250 000	250 000
<b>Title 2 - Infrastructure and operating expenditure</b>	<b>1 881 332</b>	<b>2 822 584</b>	<b>4 304 260</b>	<b>4 304 260</b>	<b>58.09%</b>	<b>3 361 860</b>	<b>3 361 860</b>
Rental of buildings and associated costs	1 039 729	1 156 434	1 290 300	1 290 300	11.58%	1 290 300	1 290 300
Information, communication technology and data processing	157 925	595 000	962 000	962 000	61.68%	862 000	862 000
Movable property and associated costs	159 602	178 000	160 600	160 600	-9.78%	318 200	318 200
Current administrative expenditure	113 035	283 150	209 200	209 200	14.22%	209 200	209 200
Postage / Telecommunications	52 827	89 000	104 600	104 600	17.53%	104 600	104 600
Meeting expenses	189 447	201 000	1 212 560	1 212 560	503.26%	382 560	382 560
Running costs in connection with operational activities	96 176	115 000	365 000	365 000	217.39%	195 000	195 000
Studies	72 592	205 000			-100.00%		
<b>Title 3 - Operational expenditure</b>	<b>2 221 022</b>	<b>3 717 196</b>	<b>7 329 017</b>	<b>7 329 017</b>	<b>113.14%</b>	<b>6 272 803</b>	<b>6 416 998</b>
Meetings	202 502	303 000	394 450	394 450	30.18%	375 611	375 611
REMIT operations	1 893 818	3 078 753	4 630 075	4 630 075	65.36%	4 745 827	4 890 022
Translation expenses	118 095	217 123	513 600	513 600	136.55%	526 440	526 440
Expert consultations			1 590 892	1 590 892		505 000	505 000

EXPENDITURE	Payment appropriations						
	Executed Budget 2019	Budget 2020	Draft Budget 2021		VAR 2021/2020 (%)	Envisaged 2022	Envisaged 2023
			Agency request	Budget forecast			
Website, information and publication	6 608	118 500	200 000	200 000	68.78%	119 925	119 925
<b>TOTAL</b>	<b>13 134 923</b>	<b>17 297 383</b>	<b>23 642 735</b>	<b>23 642 735</b>	<b>40.16%</b>	<b>21 969 518</b>	<b>22 520 763</b>

**Table 3 Budget outturn and cancellation of appropriations**

Budget outturn	2017	2018	2019
Revenue actually received (+)	13 273 140	13 566 197	16 243 389
		- 10 812	
Payments made (-)	-10 062 113	965	- 13 197 948
	- 3 039 915	- 2 648 236	
Carry-over of appropriations (-)			-2 965 258
Cancellation of appropriations carried over (+)	122 606	86 926	113 984
Adjustment for carry over of assigned revenue appropriations from previous year (+)			4 197
Exchange rate differences (+/-)	-61	103	-16
Adjustment for negative balance from previous year (-)			
<b>Total</b>	<b>293 657</b>	<b>192 025</b>	<b>198 348</b>

The approved subsidy for the financial year 2019 amounted to EUR 16 147 153 plus an additional amount of EUR 96 236 collected during the year mainly in liquidated damages, overpaid amounts and contribution to services provided to third parties resulted in a total recognised revenue of EUR 16 243 389.

Payments amounting to EUR 13 197 948 were made during the financial year to honour the contractual obligations of the Agency. A total amount of EUR 2 965 258 was carried forward into the 2020 financial year to cover for the payment obligations remained open at year end. Appropriations amounting to EUR 113 984 were cancelled at the end of the 2019 financial year and will be returned to the general budget in the course of 2020. The cancelled amount was mainly due to lower than expected value of claims for reimbursement for missions and organised meetings, actual consumption level of utilities, IT consultancy services and cancelled contracts for underperformance of contractor. Unused commitment appropriations of the year 2018 that were automatically carried over and amounting to EUR 4 197 are also returned to the general budget. Minor exchange rate losses amounting to EUR 16 were recorded for the financial year. All the above result in a budget outturn of EUR 198 348.47 that will be returned to the Commission in the due course of 2020.

## ANNEX IV: HUMAN RESOURCES – QUANTITATIVE

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

**A) Statutory staff and SNE**

Human Resources	Year 2019			Year 2020	Year 2021	Year 2022	Year 2023
	Authorised Budget	Actually filled as of 31/12/2019	Occupancy Rate %	Authorised staff	Authorised staff	Envisaged staff	Envisaged staff
<b>Administrators (AD)</b>	55	55	100%	59	59	59	59
<b>Assistants (AST)</b>	12	12	100%	12	12	12	12
<b>Assistants/Secretaries (AST/SC)</b>	0	0	n/a	0	0	0	0
<b>ESTABLISHMENT PLAN POSTS</b>	<b>67</b>	<b>67</b>	<b>100%</b>	<b>71</b>	<b>71</b>	<b>71</b>	<b>71</b>
<b>Contract Agents (CA)</b>	27	26	96.30%	33	36	36	36
<b>Seconded National Experts (SNE)</b>	4	4 <sup>5</sup>	100%	4	4	4	4
<b>TOTAL STAFF</b>	<b>97</b>	<b>96</b>	<b>98.97%</b>	<b>108</b>	<b>111</b>	<b>111</b>	<b>111</b>

**B) Additional external staff expected to be financed from grant, contribution or service-level agreements**

Human Resources	Year 2020	Year 2021	Year 2022	Year 2023
	Envisaged staff	Envisaged staff	Envisaged staff	Envisaged staff
Contract Agents (CA) - FGIV	0	3	0	0
Seconded National Experts (SNE)				
<b>TOTAL</b>	<b>0</b>	<b>3</b>	<b>0</b>	<b>0</b>

**C) Other Staff**

- Structural service providers

	Actually filled as of 31/12/2019
Security	
IT	
Other (specify)	

- Interim workers

	Actually filled as of 31/12/2020	2021
Number	10	10



**Table 2 – Multi-annual staff policy plan**

Category and grade	Establishment plan in EU Budget 2019		Modific. in 2019 in application of flexibility rule		Establishment plan in voted EU Budget 2020		Modific. envisaged in 2020 in application of flexibility rule		Establishment plan 2021		Establishment plan 2022		Establishment plan 2023	
	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		0		0
AD 13		1				3		4		4		4		4
AD 12		3				3		3		3		3		3
AD 11		5				5		4		4		4		4
AD 10		1				3		3		3		3		3
AD 9		6				8		12		12		12		12
AD 8		10				8		9		9		9		9
AD 7		7				8		12		12		12		12
AD 6		12				14		10		10		10		10
AD 5		9				6		1		1		1		1
<b>Total AD</b>	<b>0</b>	<b>55</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>59</b>	<b>0</b>	<b>59</b>	<b>0</b>	<b>59</b>	<b>0</b>	<b>59</b>	<b>0</b>	<b>59</b>
AST 11														
AST 10														
AST 9														
AST 8														
AST 7														
AST 6		1				1		1		1		1		1

AST 5		2				2		2		2		2		2
AST 4		6				6		6		6		6		6
AST 3		3				3		3		3		3		3
AST 2														
AST 1														
<b>Total AST</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>12</b>	<b>0</b>	<b>12</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>TOTAL</b>	<b>0</b>	<b>67</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>71</b>	<b>0</b>	<b>71</b>	<b>0</b>	<b>71</b>	<b>0</b>	<b>71</b>	<b>0</b>	<b>71</b>

- **External personnel**

*Contract Agents*

Contract agents	Authorised 2019	Recruited as of 31/12/2019	Authorised 2020	Estimate 2021
Function Group IV	22	23	28	31
Function Group III	5	3	5	5
Function Group II				
Function Group I				
<b>TOTAL</b>	<b>27</b>	<b>26</b>	<b>33</b>	<b>36</b>

*Seconded National Experts*

Seconded National Experts	Authorised 2019	Recruited as of 31/12/2019	Authorised 2020	Estimate 2021
<b>TOTAL</b>	4	4	4	4

### Table 3 - Recruitment forecasts for year 2021 following retirement/Mobility or new requested posts

(Information on the entry level for each type of posts: Indicative table)

Job title in the Agency	Type of contract		TA/Official	CA
	(Official, TA or CA)		Function group/ grade of recruitment	Recruitment Function Group (I, II, III or IV)
(cf examples below)	Due to foreseen retirement/mobility	New post requested due to additional tasks <sup>18</sup>	Internal (Brackets) and external (single grade) foreseen for publication	
Team Leader		1	AD6-AD7 / AD7	
Policy Officer		1	AD6 - AD7 / AD6	
Policy Officer		3	AD5 / AD5	

<sup>18</sup> Please note that the requests are left for reference, while the only positions authorised for 2021 are three Contract Staff FGIV.

Agent		6		FGIII
Agent		3 (confirmed)		FGIV

Number of inter-agency mobility Year 2019 from and to the Agency: 0

## ANNEX V: HUMAN RESOURCES – QUALITATIVE

### A. Recruitment policy:

Implementing rules in place:

		Yes	No	If no, which other implementing rules are in place
Engagement of CA	Model Decision C(2019)3016	x		
Engagement of TA	Model Decision C(2015)1509	x		
Middle management	Model decision C(2018)2542	x		
Type of posts	Model Decision C(2018)8800		x	Commission Decision C(2013) 8979 – by analogy

### B. Appraisal and reclassification/promotions

Implementing rules in place:

		Yes	No	If no, which other implementing rules are in place
Reclassification of TA	Model Decision C(2015)9563	x		
Reclassification of CA	Model Decision C(2015)9561	x		

**Table 1 - Reclassification of TA/promotion of officials**

Grades	Average seniority in the grade among reclassified staff						
	2016	2017	2018	2019	2020	Actual average over 5 years	Average over 5 years (Annex IB SR)
AD05	2.00	4.91	3.64	2.79	2.56	n/a	2.8
AD06	3.00	3.50	2.50	2.71	2.75	n/a	2.8
AD07	4.21	3.00	2.00	3.06	3.36	n/a	2.8
AD08	n/a	3.36	2.75	n/a	3.10	n/a	3
AD09	n/a	n/a	n/a	4.66	3.00	n/a	4
AD10	n/a	n/a	n/a	4.50	n/a	n/a	4
AD11	n/a	4.08	n/a	n/a	n/a	n/a	4
AD12	n/a	n/a	n/a	n/a	n/a	n/a	6.7
AD13	n/a	n/a	n/a	n/a	n/a	n/a	6.7
AST1							3
AST2							3

AST3	n/a	5.31	3.16	5.33	2.64		3
AST4	n/a	3.16	n/a	n/a	3		3
AST5	n/a	n/a	n/a	n/a	n/a		4
AST6							4
AST7							4
AST8							4
AST9							N/A
AST10 (Senior assistant)							5
AST/SC1							4
AST/SC2							5
AST/SC3							5.9
AST/SC4							6.7
AST/SC5							8.3

**Table 2 - Reclassification of contract staff**

Function Group	Grade	Staff in activity at 1.01.2018	How many staff members were reclassified in Year 2019	Average number of years in grade of reclassified staff members	Average number of years in grade of reclassified staff members according to decision C(2015)9561
<b>CA IV</b>	17	0	0	n/a	Between 6 and 10 years
	16	2	0	n/a	Between 5 and 7 years
	15	1	0	n/a	Between 4 and 6 years
	14	9	4	3.02	Between 3 and 5 years
	13	5	0	n/a	Between 3 and 5 years
<b>CA III</b>	11	0	0	n/a	Between 6 and 10 years
	10	0	0	n/a	Between 5 and 7 years
	9	1	0	n/a	Between 4 and 6 years
	8	0	0	n/a	Between 3 and 5 years
<b>CA II</b>	6	0	0	n/a	Between 6 and 10 years
	5	2	0	n/a	Between 5 and 7 years



	4	1	0	n/a	Between 3 and 5 years
<b>CA I</b>	2	0	0	n/a	Between 6 and 10 years
	1	0	0	n/a	Between 3 and 5 years

## C. HR implementing rules foreseen for adoption Year 2021

Depending on the plans of the European Commission (DG HR) and the work of the Standing Working Party.

## D. Gender representation

**Table 1 - Data on 31/12/2020 /statutory staff (only officials, AT and AC)**

		Official		Temporary		Contract Agents		Grand Total	
		Staff	%	Staff	%	Staff	%	Staff	%
<b>Female</b>	Administrator level			14	13.86	9	8.91	23	22.77
	Assistant level (AST & AST/SC)			7	6.93	3	2.97	10	9.9
	Total			21	20.79	12	11.88	33	32.67
<b>Male</b>	Administrator level			45	44.55	17	16.83	62	61.38
	Assistant level (AST & AST/SC)			5	4.95	1	0.99	6	5.94
	Total			50	49.50	18	17.82	68	67.32
<b>Grand Total</b>				71	70.30	30	29.70	101	100

**Table 2 - Data regarding gender evolution over 5 years of the Middle and Senior management<sup>19</sup>**

	2015		2019	
	Number	%	Number	%
Female Managers	1	20%	1	16,7%
Male Managers	4	80%	5	83,3%

## E. Geographical Balance

Explanatory figures to highlight nationalities of staff (split per Administrator/CA FG IV and Assistant /CA FG I, II, III)

**Table 1 - Table on 31/12/2020 - statutory staff only (officials, AT and AC)**

Nationality	AD + CA FG IV		AST/SC- AST + CA FGI/CA FGII/CA FGIII		TOTAL	
	Number	% of total staff members in AD and FG IV categories	Number	% of total staff members in AST SC/AST and FG I, II and III categories	Number	% of total staff
Austria	2	1.98			2	1.98
Belgium	6	5.94			6	5.94

Please provide the total

<b>Bulgaria</b>	<b>3</b>	<b>2.97</b>			<b>3</b>	<b>2.97</b>
<b>Cyprus</b>	<b>1</b>	<b>0.99</b>			<b>1</b>	<b>0.99</b>
<b>Czech Republic</b>	<b>2</b>	<b>1.98</b>			<b>2</b>	<b>1.98</b>
<b>Germany</b>	<b>4</b>	<b>3.96</b>			<b>4</b>	<b>3.96</b>
<b>Denmark</b>	<b>1</b>	<b>0.99</b>			<b>1</b>	<b>0.99</b>
<b>Spain</b>	<b>6</b>	<b>5.94</b>	<b>1</b>	<b>0.99</b>	<b>7</b>	<b>6.93</b>
<b>France</b>	<b>5</b>	<b>4.95</b>	<b>1</b>	<b>0.99</b>	<b>6</b>	<b>5.94</b>
<b>Greece</b>	<b>9</b>	<b>8.91</b>	<b>1</b>	<b>0.99</b>	<b>10</b>	<b>9.91</b>
<b>Croatia</b>	<b>4</b>	<b>3.96</b>			<b>4</b>	<b>3.96</b>
<b>Hungary</b>	<b>3</b>	<b>2.97</b>			<b>3</b>	<b>2.97</b>
<b>Ireland</b>	<b>2</b>	<b>1.98</b>			<b>2</b>	<b>1.98</b>
<b>Italy</b>	<b>9</b>	<b>8.91</b>	<b>3</b>	<b>2.97</b>	<b>12</b>	<b>11.88</b>
<b>Lithuania</b>			<b>1</b>	<b>0.99</b>	<b>1</b>	<b>0.99</b>
<b>Netherlands</b>	<b>3</b>	<b>2.97</b>			<b>3</b>	<b>2.97</b>
<b>Portugal</b>	<b>1</b>	<b>0.99</b>	<b>1</b>	<b>0.99</b>	<b>2</b>	<b>1.98</b>
<b>Poland</b>	<b>2</b>	<b>1.98</b>	<b>1</b>	<b>0.99</b>	<b>3</b>	<b>2.97</b>

<b>Romania</b>	<b>1</b>	<b>0.99</b>			<b>1</b>	<b>0.99</b>
<b>Slovenia</b>	<b>20</b>	<b>19.80</b>	<b>7</b>	<b>6.93</b>	<b>27</b>	<b>26.73</b>
<b>Slovakia</b>	<b>1</b>	<b>0.99</b>			<b>1</b>	<b>0.99</b>
<b>TOTAL</b>	<b>85</b>	<b>84.16</b>	<b>16</b>	<b>15.84</b>	<b>101</b>	<b>100</b>

**Table 2 - Evolution over 5 years of the most represented nationality in the Agency**

Most represented nationality	2015		2019	
	Number	%	Number	%
<b>Slovene nationality</b>	<b>18</b>	<b>21,7%</b>	<b>24</b>	<b>25,8%</b>

## F. Schooling

<b>Agreement in place with the European School(s) of Ljubljana</b>				
<b>Contribution agreements signed with the EC on type I European schools</b>	<b>Yes</b>		<b>No</b>	<b>x</b>
<b>Contribution agreements signed with the EC on type II European schools</b>	<b>Yes</b>	<b>x</b>	<b>No</b>	
<b>Number of service contracts in place with international schools:</b>	<b>6</b>			
<b>Description of any other solutions or actions in place:</b>				
<p>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).</p> <p>Progress was achieved in 2018, as 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 was finalised with the decision of the Board of Governors of the European Schools, in April 2019. The financial agreement with the European Commission was signed in the course of fall 2019.</p> <p>Since for the time-being the AES only offers classes at the P1-P5 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,</p>				

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.

**It should be noted that the funds to cover the costs of the Agency's children to the European School Ljubljana will be covered by the European subsidy.**

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 VI: ENVIRONMENT MANAGEMENT**

The Agency is in the process of aligning its internal processes to good practices, such as the Eco-Management and Audit Scheme (EMAS) standards, with a view to reduce the impact of its administrative operations on the environment.

In this respect the Agency is taking the following steps in managing its environmental impact: improving waste management and sorting, introducing paperless financial circuits in the financial administration by further developing IT tools, promoting the use of public transport by staff, improving communication, i.e. behaviours among staff and suppliers as well as providing environmental on-the-job-training to newcomers (raising awareness on the use of energy in the offices (switch on/off when not needed), less printing/copying), promoting 'greener' procurement by introducing 'green' criteria in procurement documents, etc.

The Agency is also participating in the Greening Network initiative of the European agencies where environmental issues are discussed and experiences shared, including how to increase environmental awareness and responsibility as well present issues related to EMAS implementation.

The Agency is not EMAS registered or ISO14001 certified and is also not in the process of doing so due to the lack human resources, which would be needed for these activities.



## ANNEX VII: BUILDING POLICY

### Current building(s)

#	Building Name and type	Location	SURFACE AREA(in m <sup>2</sup> )			RENTAL CONTRACT					Host country (grant or support)	Building present value(€)
			Office space	non-office	Total	RENT (€/year)	Duration of the contract	Type	Breakout clause Y/N	Conditions attached to the breakout clause (if applicable)		
1	TR3, office building	Trg republike 3, 1000 Ljubljana, Slovenia	3,247.69	679.29	3,926.98	794,378.78	Rental for ten (10) years in total without possibility for an extension, until 31.01.2024.	Lease contract	Yes.	After 2 years of lease term the Agency is entitled to terminate the contract in the events specified in the lease contract.	Not applicable.	Not applicable.
<b>TOTAL</b>			<b>3,247.69</b>	<b>679.29</b>	<b>3,926.98</b>	<b>794,378.78</b>						

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 VIII: 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 IX: EVALUATIONS

The Agency has so far been subject to one external evaluation from the Commission, as foreseen in the Founding Regulation (FR), in 2014. The recast FR foresees that by 5 July 2024, and every five years thereafter, the Commission, with the assistance of an independent external expert, shall carry out an evaluation to assess ACER's performance in relation to its objectives, mandate and tasks.

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.

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>.

The Agency has an internal monitoring system based on a 'traffic lights' approach through which Key Performance Indicators - KPIs (see below) 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.

## Internal Key Performance Indicators

### Human Resources Management

Task	Staff engagement /satisfaction
Objectives and deadlines (indicative)	Continue to develop an effective and efficient organisation in full compliance with the EU regulatory framework
KPI	<ol style="list-style-type: none"> <li>1. 95% of completion of the Establishment Plan</li> <li>2. Staff engagement survey (review to be performed every 2 years): 2/3 of staff satisfied or highly satisfied with the employment conditions at the Agency</li> <li>3. 100% of the eligible Agency's staff subject to performance appraisal undergo evaluation in the yearly exercise, in line with the established competency framework</li> </ol>

### Budget Implementation and Audit

Task	Budget Implementation and Audit
Objectives	<p>To achieve a high level of budget implementation for both commitment and payment appropriations.</p> <p>To receive a positive opinion from the European Court of Auditors and implement its recommendations.</p>
KPI	<ol style="list-style-type: none"> <li>4. At least 95% execution of commitment appropriations</li> <li>5. Minimum 75% execution of payment appropriations.</li> <li>6. Cancellation of payment appropriations below 5%.</li> <li>7. Non-qualified opinion received from ECA and 75% of its recommendations implemented in line with the Agency's Action Plan.</li> </ol>

### Internal Electricity Market and Infrastructure (Network Codes, Opinions, Recommendations, Decisions and Reports)

Task	Timely adoption of the Agency Acts in the Electricity sector foreseen in the Work Programme and in the regulations relevant for the Agency
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>8.</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)**

Task	Timely adoption of the Agency Acts in the Gas sector foreseen in the Work Programme and in the regulations relevant for the Agency
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>9.</b> 90% of opinions, reviews, recommendations and reports delivered on time.

**Electricity and Gas Internal Market Monitoring**

Tasks	Annual Market Monitoring Report
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>10.</b> Positive feedback on the report based on an online survey (70% satisfied or very satisfied).

**Market Integrity and Transparency**

Task	REMIT Analytics and Information Management
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>11.</b> Key achievements (e.g. key projects) as well as continued measurement of % planned vs. delivered projects.</p> <p><b>12.</b> Accuracy, Consistency, Completeness, Integrity and Timeliness of information, measured by the yoy % change of composite indicator of data quality metrics,</p> <p>AND</p> <p>99% of service availability, measured as an average availability of individual REMIT information management services..</p>

**Market Surveillance and Conduct**

Task	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.
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>13.</b> 100% of the cross-border triggered alerts are preliminarily assessed and disseminated with NRAs in a secure way.</p> <p><b>14.</b> 0% chance of not notifying priority cases to the relevant authorities.</p>

## **ANNEX X: STRATEGY FOR THE ORGANISATIONAL MANAGEMENT AND INTERNAL CONTROL SYSTEMS**

In 2018 ACER adopted Decision No 17/2018 of the Administrative Boards of the Agency for the Cooperation of Energy Regulators on the Internal Control Framework of the Agency.

The internal control framework of the Agency is designed to provide reasonable assurance regarding the achievement of objectives, including the following:

- Effectiveness, efficiency and economy of operations,
- Reliability of reporting and safeguarding of assets and information,
- Prevention, detection, correction and follow-up of fraud and irregularities, and
- Adequate management of the risks relating to the legality and regularity of the underlying transactions<sup>20</sup>.

Internal control helps ACER to achieve its objectives and sustain operational and financial performance whilst respecting rules and regulations. Internal control supports sound decision-making by taking into account risks in the achievement of objectives and where necessary, reducing them to acceptable levels through cost-effective controls. Internal control applies to all activities, irrespective of whether they are financial or non-financial.

The ACER Internal Control Framework is based on the Framework of the European Commission, which was revised in 2017 with a view to aligning Commission standards to the highest international standards set by the COSO framework<sup>21</sup>.

The framework consists of 5 components and 17 Internal Control Principles. Characteristics of each principle have been included to help to define the principles.

The effectiveness of the internal control is assessed annually via Internal Control Indicators and reported in the Annual Activity Report.

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<sup>20</sup> Art. 30 Internal Control of Budget Implementation, Financial Regulation of ACER, Decision AB No 22/2013.

<sup>21</sup> The full text of the Internal Control-Integrated Framework is available at [www.coso.org](http://www.coso.org).

**COMPONENT I. Control Environment (Principles 1-5)**

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
AD	1. Demonstrates commitment to integrity and ethical values	We demonstrate a commitment to integrity and ethical values.	1.1 Number of annual awareness raising initiatives in ACER on ethics, integrity and conflict of interest and/or fraud (target: at least 1 per year in one or more areas).	Awareness raising material	1 per year	AD/HRM
			1.2 % of newcomers who take part in the induction programme on ethics, integrity and conflict of interest.	List of attendance	90%	AD/HRM
			1.3 Managers are promoting a fair, flexible and respectful workplace.	Staff Engagement Survey	70% of respondents agree	DO
			1.4 Staff meetings with the Director	Invitations	1/year	DO
DO	2. Exercises oversight responsibility	Management exercises oversight of the development and performance of internal control.	2.1 (Y/N) The ACER Annual Activity Report (AAR) includes the Declaration of Assurance of the Director.	AAR	Yes	DO
			2.2 Regular reporting on the status of follow-up to IAS recommendations.	Progress Reports	Yes	AD
AD	3. Establishes structure, authority and responsibility	Management establishes structures, reporting lines, and appropriate responsibilities in the pursuit of objectives.	3.1 (Y/N) ACER has clear rules of procedure in place.	Standard Operating Procedures	Yes	AD
			3.2 (Y/N) Financial circuits: roles and tasks are clearly defined.	Guidelines on financial circuits and segregation of duties	Yes	AD/BUDG



			3.3 (Y/N) Deputising and reporting arrangements for administrative and operational activities are in place.	Implementation of Director's Decision on Deputising in Sysper 2	Yes	AD
AD	4. Demonstrates commitment to competence	We demonstrate a commitment to attracting, developing, and retaining competent individuals in alignment with objectives.	4.1 Satisfaction rate with the ACER training policy. 4.2 % of authorized posts of the annual establishment plan filled at end of year. 4.3 (Y/N) ACER has a Competency Framework in place. 4.4 Percentage of Selection Notices (SN) advertised on different media.	Staff Engagement Survey Establishment Plan Director's Decision Publication and advertisement notices	75% of respondents satisfied 95% Yes 90% of SN advertised on at least 2 media channels	AD/HRM AD/HRM AD/HRM AD/HRM
AD	5. Enforces accountability	We hold individuals accountable for their internal control responsibilities in the pursuit of objectives.	5.1 Appraisal reports concluded in accordance with the applicable rules and appraisal standards.	Data from HR Tool JRC Report	100%	AD/HRM

**COMPONENT II. Risk Assessment (Principles 6-9)**

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
AD	6. Specifies suitable objectives	We define objectives with sufficient clarity to enable the identification and assessment of risks relating to the	6.1 (Y/N) Risk management in ACER is embedded in the planning process and is assessed at all levels of ACER (department and activity level) 6.2 Staff have a clear understanding of their work-related objectives and how their work contributes to achieving ACER's objectives.	Progress reports, AAR, SPD Risk register Staff Engagement Survey	Yes 70% of respondents agree	DO AD/HRM

		achievement of objectives.	6.3 ACER KPI 10 (Commitment Appropriation Execution Rate, (%) of implementation of Commitment Appropriations )	Budget Execution Reports	95%	AD/BUDG
			6.4 ACER KPI 11 (Payment Appropriations Execution Rate, (%) of Payment Appropriations )	Budget Execution Reports	75%	AD/BUDG
			6.5 ACER KPI 12 (Payment Appropriations Cancellation Rate, (%) of cancellation of Payment Appropriations )	Budget Execution Reports	<5%	AD/BUDG
DO	7. Identifies and analyses risk	We identify risks in relation to the achievement of objectives across the organisation and assess risks as a basis for determining how the risks should be managed.	7.1 (Y/N) A risk management exercise is conducted at least once a year as part of the AWP process.	AWP (as part of SPD), Risk register	Yes	DO
			7.2 (Y/N) Risks are followed-up in the AAR.	AAR	Yes	DO
DO	8. Assesses fraud risk	We consider the potential for fraud in assessing risks related to the achievement of objectives.	8.1 (Y/N) Annual fraud risk assessment is performed as part of the annual risk assessment exercise.	AAR	Yes	DO
			8.2 (Y/N) ACER has an up to date anti-fraud strategy (not older than 3 years).	AAR	Yes	AD
			8.3 (Y/N) The assessment of absence of conflict of interest (CoI) is done for selection and reclassification procedures.	Guidelines on prevention and management of CoI concerning staff involved in selection, recruitment or reclassification procedures	Yes	AD/HRM
DO	9. Identifies and analyses significant change	We identify and assess changes that could significantly impact the internal control system.	9.1 (Y/N) The preparation of the AWP includes an assessment of risks that could have an impact on the internal control system. Assessment of risks is done also on ad-hoc basis, as necessary.	AWP	Yes	DO

**COMPONENT III. Control Activities (Principles 10-12)**

ICP Owner		ICP	ICP Indicators	Evidence	Target	Indicator Owner
AD	10. Selects and develops control activities	We select and develop control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.	10.1 (Y/N) Business continuity arrangements identified in the ACER Business Continuity Plan are tested regularly.	BCP	Yes 1 test every year	DO
			10.2 (Y/N) 4 eyes principle has been ensured in all financial workflows	Guidelines on financial circuits and segregation of duties	Yes	AD/BUDG
			10.3 (Y/N) The segregation of duties among financial actors is clearly defined.	Guidelines on financial circuits and segregation of duties	Yes	AD/BUDG
			10.4 (Y/N) Ex-ante legal checks are performed on procurement procedures.	Procurement Guidelines for Project Managers	Yes	AD
			10.5 (Y/N) Delegations and nominations of financial actors are in place for every budgetary year.	Delegations register, Art. 40 of the Financial Regulation of ACER	Yes	AD
AD	11. Selects and develops general control over technology	We select and develop general control activities over technology to support the achievement of objectives.	11.1 (Y/N) ACER has an up to date ICT Strategy in place (not older than 3 years).	ICT Strategy	Yes	AD/IT
			11.2 Number of information security breaches/incidents.	Information Security Policy	0	DO
			11.3 (Y/N) The ICT Steering Committee is exercising control over technology and the implementation of the ICT Strategy.	Director's Decision on Establishing the	Yes	AD/IT

				ICT Steering Committee		
AD	12. Deploys through policies and procedures	We deploy control activities through corporate policies that establish what is expected and in procedures that put policies into action.	12.1 (Y/N) Exceptions and incidents reported have been reviewed and registered every year.	AAR, Register of exceptions, Register of incidents	Yes	AD
<b>COMPONENT IV. Information and Communication (Principles 13-15)</b>						

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
AD	13. Uses relevant information	We obtain or generate and use relevant, quality information to support the functioning of internal control.	13.1 (Y/N) A Share Point tool is used for collecting information regarding KPI monitoring and reporting which provides input towards the progress reports. Also, Business Intelligence tools are used to provide accurate data to support management decisions.	Progress Reports, KPI Monitoring Tool, Business Intelligence reports	Yes	AD
AD	14. Communicates internally	We communicate information internally, including objectives and responsibilities for internal control necessary to support the functioning of internal control.	14.2 (Y/N) ACER has a whistleblowing policy in place which is easily accessible to all staff (published on intranet).	Whistleblowing policy	Yes	HRM
			14.3 (Y/N) Staff members are aware of the ICPs.	Published on Intranet	Yes	AD

DO	15. Communicates externally	We communicate with external parties about matters affecting the functioning of internal control.	15.1 (Y/N) Changes and developments in the internal control system are clearly communicated and reported.	AAR	Yes	DO
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**COMPONENT V. Monitoring Activities (Principles 16-17)**

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
AD	16. Conducts ongoing and/or separate assessments	We select, develop, and perform ongoing and/or separate assessments to ascertain whether the components of internal control are present and functioning.	16.1 (Y/N) The risk assessment performed by IAS is duly taken into account, the Director defines risk responses and endorses the related action plans.	Audit Action Plan	Yes	AD
			16.2 (Y/N) The results of the regular monitoring and annual assessment of internal controls in ACER are integrated and followed-up in the AAR.	AAR	Yes	AD
AD	17. Assesses and communicates deficiencies	We assess and communicate internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management as appropriate.	17.1 (Y/N) The results of the continuous and specific assessments have been properly disclosed in the Annual Activity Report (AAR)	AAR	Yes	AD
			17.2 KPI 14 (budget implementation and audit) rate (%) of accepted internal audit recommendations implemented within agreed deadlines.	AAR	80%	AD
			17.3 Corrective actions related to incidents are taken in a timely manner.	Register of procedural incidents	Yes	AD

## Roles and responsibilities in internal control in ACER

The roles and responsibilities of internal control actors in the Agency are as follows:

Role	Responsibility
Director / Authorising Officer	Overall responsibility for the functioning of the internal control system in ACER.  Signs a declaration of assurance on the functioning of the ACER's Internal Control System annexed to the Annual Activity Report.
Authorising Officers by Delegation	Each Authorising Officer by Delegation is responsible for the functioning of the internal control system in the areas under their delegated responsibility.
Internal Control Coordinator	Supports the Director in overseeing and monitoring the implementation of internal control in ACER.  Ensures the awareness and understanding of the ACER Internal Control Framework by all staff, in particular through training, information and support activities.

### Methodology for monitoring and assessment

According to Internal Control Principle 16, "*We select, develop and perform ongoing and/or separate assessments to ascertain whether the components of internal control are present and functioning*", ACER regularly monitors the implementation of Internal Control Principles and carries out an annual assessment on the effectiveness of internal controls. Both are closely linked and form an integral part of the monitoring and reporting cycle. On the one hand, deficiencies identified in the context of regular monitoring are important elements to be taken into account in the overall assessment of the functioning and effectiveness of the internal control system. On the other hand, any shortcomings identified during the overall assessment are addressed and improvement actions are integrated in the Annual Activity Report and followed-up upon.

### Regular monitoring

The Internal Control Coordinator monitors the implementation of the Internal Control Principles at least once per year (Q4) through the indicators corresponding to each Internal Control Principle. The results are communicated to the Director's Office, which is coordinating the input for the progress reports that are presented to the Administrative Board. Any weakness identified during the regular monitoring is included in the annual review and assessment of internal controls. This enables the Agency to react to changing conditions and to correct any weaknesses identified or any deviations from intended performance in a timely manner. If necessary, internal control issues related to financial and human resources will be discussed in ad-hoc meetings.

## Annual assessments

Each year the Agency carries out an annual review and self-assessment of the compliance and effectiveness of internal control. This provides a global overview of the state of play of internal control and aims to provide reasonable assurance of the correct functioning and effectiveness of internal control in ACER. The results of the assessment are incorporated in the Annual Activity Report.

The annual assessment is carried-out following a three-step approach:

### Step 1: Definition of the internal control assessment criteria

The ACER Internal Control Indicators are intended to facilitate monitoring of the Internal Control Principles, Components and Internal Control System overall. A proportional approach has been used to define ACER Indicators. An owner has been assigned to the Internal Control Principle and to each Indicator.

### Step 2: Identification of internal control strengths and deficiencies

An internal control deficiency is an issue that requires the attention of management. It may include conflicts of interest, internal control weaknesses, errors, fraud, illegal acts, ineffectiveness, and inefficiency. A severe deficiency reduces the likelihood of achieving ACER's objectives.

To identify internal control strengths and deficiencies, ACER uses available information sources such as:

- Internal assessments
- Improvement actions / internal control strengths and weaknesses reported by staff
- Analysis of risks
- Risk Register
- Exceptions registered in the register of exceptions
- ECA, IAS and outsourced audit findings and recommendations

ACER aims to identify both the internal control strengths and deficiencies and assesses the severity of the identified deficiencies as follows:

- **Minor deficiency:** minor impact on the presence and/or functioning of the principle. The principle is in place and functions well, only minor improvements are needed.
- **Moderate deficiency:** moderate impact on the presence and/or functioning of the principle. The principle is in place and functions but some improvements are needed.
- **Major deficiency:** significant impact on the presence and/or functioning of the principle, but the principle is partially effective. With such a deficiency, the principle is partially in place and/or is partially functioning; substantial improvements are needed.
- **Critical deficiency:** fundamental impact on the presence and/or functioning of the principle and the principle is not effective. With such a deficiency, the principle is not in place and/or essentially does not function as intended.

### Step 3: Assessment of the Internal Control System

The assessment of the Internal Control System is carried out at three levels:

- at the level of the principles (based on the analysis of the detected strengths and deficiencies),
- at the level of the components (based on an analysis of the results at principle level),
- at the level of the internal control system as a whole (based on an analysis of the results at component level).

For each level assessed, ACER concludes the following:

<b>Effective internal control system</b>	No internal control weakness or deficiency identified.  The principle is present and functioning well, only minor improvements needed.
<b>Partially effective internal control system (minor weakness)</b>	Minor deficiency or combination of minor/moderate deficiencies identified.  The principle control system is present and functioning but some improvements are needed.
<b>Partially effective internal control system (major weakness)</b>	Major deficiency or combination of moderate deficiencies identified.  The principle control system is present and functioning but a lot of improvements are needed.
<b>Ineffective internal control system</b>	The principle is not present and functioning.  A critical internal control deficiency or combination of several major deficiencies determines that the principle in general is not effective.

The Agency will then assess the overall level of effectiveness of internal control. This overall conclusion will take into consideration the functioning of the Agency's internal control components in an integrated manner.



## ANNEX XI: 2021 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>22</sup>	Indicative number of contracts envisaged <sup>23</sup>	Estimated value in EUR <sup>24</sup>	Estimated value in EUR <sup>25</sup>
IT system integration services for the Agency	service	Specific contracts based on an existing framework contract	Q1, Q2	2	2,430,000	
IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS)	service	Specific contracts based on an existing framework contract	Q1, Q2	1	845,000	
Market monitoring software for the Agency's REMIT information system (ARIS)	service	Framework contract	Q4	1		10,000,000
Market monitoring software for the Agency's REMIT information system (ARIS)	service	Specific contracts based on an existing framework contract	Q1	2	575,000	
Oracle consultancy, software licenses and associated services	service	Specific contracts based on an existing framework contract	Q1, Q2	3	690,000	
Consultancy services in the field of system modelling capabilities	service	Service contract	Q2	1	60,000	
Updating the data collection process from the ENTSO-E's transparency platform	service	Service contract	Q3	1	10,000	
IT consultancy to update and maintain the code for processing data and performing the calculation related to the 70% target	service	Service contract	Q1	1	30,000	

<sup>22</sup> Indicative timeframe for launching new procurement procedure or for signing specific contracts/order forms under the existing framework contracts.

<sup>23</sup> Order forms throughout the year are counted as one contract.

<sup>24</sup> Estimated commitments 2021.

<sup>25</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>22</sup>	Indicative number of contracts envisaged <sup>23</sup>	Estimated value in EUR <sup>24</sup>	Estimated value in EUR <sup>25</sup>
Provision of legal assistance in the field of energy regulation for the Agency	service	Specific contracts based on an existing framework contract	Q2 - Q4	2	60,000	
Provision of economic assistance in the field of energy regulation for the Agency	service	Specific contracts based on an existing framework contract	Q1, Q2, Q3	3	115,000	
Legal support services to the Agency's Board of Appeal	service	Specific contracts based on an existing framework contract	Q1 - Q4	5	150,000	
Agency's website set-up and maintenance services	service	Specific contracts based on an existing framework contract	Q3	1	90,000	
Provision of consultancy services in the areas of physical security and information security	service	Specific contracts based on an existing framework contract	Q1	1	17,000	
Provision of consultancy services in the area of business continuity for the Agency	service	Specific contracts based on an existing framework contract	Q1	1	17,000	
Provision of consultancy services in the area of data protection for the Agency	service	Specific contracts based on an existing framework contract	Q2	1	30,000	
Provision of consultancy services in the areas of physical security and information security, business continuity and data protection for the Agency	service	Framework contracts	Q2	3		450,000
Provision of temporary agency workers to the Agency	service	Framework contract	Q3	1		1,000,000
Provision of temporary agency workers to the Agency	service	Specific contracts based on an existing framework contract	Q4	1	245,000	
Provision of medical services for the Agency	service	Framework contract	Q2	1		300,000
Provision of medical services for the Agency	service	Specific contracts based on an existing framework contract	Q2	1	68,000	
Supply of office stationery and office material for the Agency	goods	Framework contract	Q2	1		80,000
Supply of office stationery and office material for the Agency	goods	Order forms based on an existing framework contract	Q1 - Q4	1	20,000	
Provision of general legal support in Slovenian law for the Agency	service	Framework contract	Q2	1		60,000

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>22</sup>	Indicative number of contracts envisaged <sup>23</sup>	Estimated value in EUR <sup>24</sup>	Estimated value in EUR <sup>25</sup>
Provision of general legal support in Slovenian law for the Agency	service	Specific contracts based on an existing framework contract	Q3 - Q4	1	20,000	
Organisation of the Agency's annual conference	service	Service contracts	Q1	3	17,200	
Organisation of EMIT forum	service	Service contracts	Q3	1	8,000	
Renting conference facilities and catering for events organised in Brussels (Belgium)	service	Service contracts	Q1 - Q4	6	7,000	
Maintenance, support and development services for Agency tools and applications	service	Specific contracts based on an existing framework contract	Q2	1	56,000	
Maintenance, support and development services for the Java/PHP applications	service	Specific contracts based on an existing framework contract	Q1, Q2, Q3	3	105,000	
Provision of catering services for the Agency's events	service	Order forms based on an existing framework contract	Q1 - Q4	1	55,000	
Provision of printing services for the Agency	service	Order forms based on an existing framework contract	Q1 - Q4	1	10,000	
Provision of design services for the Agency	service	Order forms based on an existing framework contract	Q1 - Q4	1	15,000	
<b>TOTAL PLANNED PROCUREMENT 2021</b>				<b>54</b>	<b>5,745,200</b>	<b>11,890,000</b>

## ANNEX XII: PLAN FOR CONTRIBUTION AGREEMENTS

Table 1 – Impact of on-going and expected grant, contribution and service-level agreements

	General information				Financial and HR impacts				
	Date of signature	Duration	Counterpart	Short description		N	N+1	N+2	N+3
<b>Contribution agreements</b>									
1. Annex IV to the EEA Agreement	5 May 2017	unlimited	NRAs of the EFTA States, the EFTA Surveillance Authority	On 3 October 2019 the Decision of the Joint Committee No 93/2017 of 5 May 2017 amending Annex IV (Energy) to the EEA Agreement entered into force. One of the provisions in this Decision grants the NRAs of the EFTA States (Iceland, Liechtenstein and Norway) and the EFTA Surveillance Authority (ESA) full access to the BoR, the AWGs and their substructure, as members without the right to vote.	Amount	398 810	296 833	313 637	326 236
					Number of CA	0	0	0	0
					Number of SNE	0	0	0	0
					<b>Amount</b>	<b>398 810</b>	<b>296 833</b>	<b>313 637</b>	<b>326 236</b>
<b>Total contribution agreements</b>					<b>Number of CA</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
					<b>Number of SNE</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

# ANNEX XIII: STRATEGY FOR COOPERATION WITH THIRD COUNTRIES AND INTERNATIONAL ORGANISATIONS

## OBJECTIVES

The Agency stands ready, when asked and when relevant, to contribute to the goals of the EU in the world. In particular, through its contribution to the EU's energy policy goals, ACER aims to foster sustainable development based on balanced economic growth and price stability, a highly competitive market economy with full employment and social progress, and environmental protection, as pursued in the European Green Deal.

The Agency in particular stands ready to upgrade its cooperation with the European Commission in the Commission's outreach efforts towards third countries and with international organisations, with whom energy regulatory issues seem to play an increasing role.

Given the Agency's limited resources to pursue the above, for the time-being the Agency will focus primarily on the mandate to cooperate with third countries included in its founding regulation and in the Regulation on wholesale energy market integrity and transparency (REMIT). In addition, the Agency will focus on the new tasks allocated to it under the EEA Joint Committee Decision No 93/2017, through which Norway, Iceland and Liechtenstein will formally participate in the work of the Agency as of 2020. This is a stimulating development, given the importance of these countries for a number of energy priorities going forward.

On the basis of the legal framework described below, the Agency's Strategy for the Cooperation with third countries and international organisations is based on the following objectives:

### **1: ENGAGE**

### **2: EXCHANGE**

### **3. INFORM**

#### **1. Engage**

Enable the participation in the work of the Agency to EEA EFTA states, as well as third countries that abide to Article 43 of ACER's Founding Regulation. While most of the tasks of the Agency focus on the EU Internal Energy Market, some tasks require or may benefit from collaboration with regulatory entities in third countries.

## State of Play

EEA EFTA NRAs have been admitted formally to participate in the Agency:

- The EEA Joint Committee Decision No. 93/2017 entered into force in September 2019, paving the way for the participation of the NRAs of Norway, Iceland, Liechtenstein and the EFTA Surveillance Authority in the Agency's boards and working groups, and for the Agency's participation in work of the EFTA Surveillance Authority and its preparatory bodies.
- Experts from the Norwegian Water Resources and Energy Directorate (NVE-RME) have been participating in the AWGs and in the REMIT CG since June 2016, on the basis of a MoU signed in June 2016;

So far no third country has been admitted formally to participate in the Agency. However:

- Experts from the Swiss Federal Electricity Commission (EiCom) have been participating in the ACER Electricity Working Group (AEWG) since January 2016, on the basis of a MoU signed in January 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, with both the Energy Community's Secretariat and the Energy Community's Regulatory Board (ECRB). In particular:

- Experts from the Energy Community Secretariat have been allowed to participate in the AEWG and AGWG since December 2016, on the basis of an Administrative Arrangement (AA) signed between the Agency and the Energy Community Secretariat in December 2016. The AA was amended in October 2019 to enable the participation of the Energy Community Secretariat in ACER's Market Integrity and Transparency Working Group.
- 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 AA signed in 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.

### **Instruments**

Cooperation Agreements / Memoranda of Understanding / Administrative Arrangements

### **Actions**

- Involve third countries that comply with the conditions of article 43 and request to participate in the work of the Agency, so as to facilitate the implementation of the tasks of the Agency (completion of the Internal Energy Market also beyond the EU borders, REMIT-related surveillance, etc.).
- 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.
- Cooperate with peer regulatory agencies on market monitoring activities identifying the removal of barriers to the IEM.
- Enhance cooperation with the Energy Community 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 and to applying the EU energy acquis.
- 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.
- Support EU policies in the field of cross-border issues.

## **2. Exchange**

Foster the exchange of experiences and information with the regulatory institutions outside the EU, where necessary and in areas of mutual interest. Promote the harmonisation of the regulatory framework.

### **State of Play**

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>26</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.

The Agency also participates in the EU-US energy regulators' roundtable, which involves representatives from the National Association of Regulatory Utility Commissioners (NARUC) and FERC.

The Agency occasionally provides expert participation in Mediterranean Energy Regulators (MedReg) events.

#### **Instruments**

Memoranda of Understanding/ Administrative Arrangements

Participation in Roundtables / Conferences / Trainings

#### **Actions**

- Foster the exchange of experience in particular with the Energy Community, EEA EFTA, MedReg states and FERC (among others on market surveillance activities).

### **3. Inform**

Inform representatives of third countries that express interest in the work of ACER on the Agency's activities. Raise awareness on the Agency and its work in key countries outside the EU. Increase knowledge about the Agency and its work among key stakeholders in third countries (primarily NRAs).

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<sup>26</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*.



### **State of Play**

Resources permitting, the Agency responds positively to requests to visit the Agency from third countries, organising meetings, or half day and full day study visits. In recent years it has been visited by the NRAs and other stakeholders from the United States, Canada, Georgia, Northern Macedonia, Ukraine, Serbia, Senegal, the Ivory Coast, Brazil and Japan.

Resources permitting, ACER provides speakers in conferences of regional (multi-country) relevance in third countries when the subject matter pertains to the work of the Agency.

The Agency responds positively to requests for media interviews from media in EEA EFTA states and third countries, as well as to invitations to conferences / meetings enabling it to explain the Agencies work, responsibilities and powers. Past examples include, inter alia, Norway and Iceland, in which heated debates on the powers of the Agency in EEA countries took place prior to the adoption of the third energy package in these countries.

### **Instruments**

Study visits to ACER, conferences, visits to third countries, media interviews

### **Actions**

- Visits abroad: Upon invitation or prior agreement, visit institutions in key countries potentially affected by ACER's work or of key EU strategic importance.
- Resources permitting, step up media activities in third countries.

### **Caveat**

The Agency does not represent the EU on policy matters related to its area of work when interacting with third countries or international organisations. Similarly, the Agency cannot commit the EU to any international obligation. The Agency's cooperation with third countries and international organisations focuses primarily on matters that pertain to the Agency's mandate and institutional and legal framework.

## **LEGAL FRAMEWORK**

### **Cooperation agreements - Article 43 of ACER's Founding Regulation (recast)**

1. ACER 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 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 fields of environment and competition.
2. Subject to the conclusion of an agreement to that effect between the Union and third countries as referred to in paragraph 1, ACER may also exercise its tasks under Articles 3 to 13 with regard to third countries, provided that those third countries have adopted and apply the relevant rules in accordance with paragraph 1 and have mandated ACER to coordinate the activities of their regulatory authorities with those of the regulatory authorities of Member States. Only in such cases the references to issues of cross-border character shall relate to borders between the Union and third countries, and not to borders between two Member States.
3. The agreements referred to in paragraph 1 shall provide for arrangements specifying, in particular, the nature, scope and procedural aspects of the involvement of those countries in ACER's work, including provisions relating to financial contributions and to staff.
4. The Administrative Board shall adopt rules of procedures for relations with third countries referred to in paragraph 1 after receipt of a positive opinion by the Board of Regulators. The Commission shall ensure that ACER operates within its mandate and the existing institutional framework by concluding an appropriate working arrangement with ACER's Director.

### **REMIT – Article 19**

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.

## **EEA Joint Committee Decision No 93/2017**

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 provisos.<sup>27</sup>

Decision No 93/2017 was adopted with constitutional requirements from all three EEA EFTA States, Iceland, Liechtenstein and Norway. 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.

In line with the autonomy requirements of the EFTA institutions under the “two pillar system”<sup>28</sup> of the EEA Agreement, the EFTA Surveillance Authority (ESA) would 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.

### **RISKS**

- The Agency has limited resources, which it allocates to its legally mandated core tasks. Resources available for the cooperation with third countries is thus limited.
- The Agency could be perceived as interfering into national affairs of third countries (notably EEA countries in which adoption of the third package was considered controversial also because of the powers of the Agency).

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<sup>27</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 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>28</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.

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

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