

## **Memorandum of Understanding**

**on the cooperation for market monitoring under Regulation  
(EU) No. 1227/2011 of the European Parliament and of the  
Council on wholesale energy market integrity and  
transparency**

THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS (THE AGENCY) AND THE BELOW SIGNATORIES,

Whereas:

- (1) Regulation (EU) No. 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (hereinafter referred to as 'REMIT') introduces a sector-specific framework for the monitoring of wholesale energy markets, with the objective of detecting and deterring market manipulation and trading based on inside information.
- (2) According to Article 7(1) of REMIT, the Agency shall monitor trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation.
- (3) Efficient market monitoring requires regular and timely access to records of transactions as well as access to structural data on capacity and use of facilities for production, storage, consumption or transmission of electricity or natural gas. For this reason, the Agency should establish links with major organised market places and any other party involved in the monitoring of wholesale energy markets under REMIT.
- (4) It is appropriate to express a common understanding on the scope and terms of the cooperation between the Agency and any other party involved in the monitoring of wholesale energy markets under REMIT,

HAVE REACHED THE FOLLOWING UNDERSTANDING:

#### **Article 1**

##### **General principles and scope**

1. Without prejudice to the provisions set forth by Union law, and where applicable by national legislation, the purpose of this MoU is to promote a general framework for cooperation between market monitoring experts in the monitoring wholesale energy markets under REMIT. It intends to describe the processes and the scope of the cooperation with the parties to this MoU.
2. This MoU is not intended to replace existing legislation nor to restrict, extend or alter the powers, functions or duties of the parties to this MoU.

#### **Article 2**

##### **Cooperation on wholesale energy market monitoring principles and practices**

1. It is in the common interest of the parties to this MoU to exchange views and experiences on wholesale energy market monitoring principles and practices, including new developments with relevance for the monitoring of wholesale energy markets.
2. In order to promote a consistent Europe-wide market monitoring approach, market monitoring experts of the parties to this MoU aim to exchange views on general principles, best practices, and experiences, and discuss current issues and new developments of mutual interest with respect to wholesale energy market monitoring. Topics of particular interest may include matters such as developments in trading conduct and market practices, experiences from concluded disciplinary matters, developments in market rules.
3. The exchanges identified above shall take place in meetings. Market monitoring experts of the parties to this MoU will mutually agree on the frequency and the organisation of such meetings.

Where appropriate, officials from other relevant authorities or third parties may be invited to participate in such meetings.

Meetings will take place under the Chatham House Rule. Information should not be revealed to the public nor to those parties non-attending the meetings, except where it regards directly involved staff that operate under the secrecy rules applicable to the parties to this MoU.

4. The cooperation between the parties to this MoU is without prejudice to the existent obligations vis-à-vis the Agency, the NRAs and other competent authorities under national or Union law and vis-à-vis their clients under the applicable market rules.

### **Article 3**

#### **Ad hoc requests for information and clarification**

1. The Agency, when assessing and monitoring wholesale energy markets in accordance with Article 7(1) of REMIT, may request information and clarification from the party to this MoU in relation to the market data at its disposal.
2. Market surveillance experts of the party to this MoU, when monitoring wholesale energy markets under REMIT, may seek information and clarification from the Agency concerning the Agency's understanding of the application of REMIT.
3. To the extent permitted by Union and national law, the party to this MoU shall take all reasonable steps to provide the information or clarification sought by the Agency.

### **Article 4**

#### **General procedures for the cooperation**

1. The parties to this MoU will each nominate a list of liaison officer(s) and/or set up an email address for the purposes of cooperation undertaken under this MoU.
2. Depending on the subject matter, the liaison officers will determine the most efficient way of contact.

### **Article 5**

#### **Professional secrecy**

Non-public information exchanged between the parties within the framework of to this MoU is subject to professional secrecy and shall be used exclusively for the purposes of exercising the respective powers within the boundaries of REMIT. This exchange of information is without prejudice to the obligations stemming from Union or national law.

### **Article 6**

#### **Publication**

This MoU will be published on the Agency's website.

### **Article 7**

#### **Amendments to the MoU**

The parties to this MoU may, by common consent, make the amendments they consider necessary.

## Article 8

### Entry into effect and termination

1. This MoU enters into effect upon its signature and replaces any precedent agreement on the cooperation for market monitoring under Regulation (EU) No. 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency existent between the parties.
2. This MoU shall apply for an unlimited period of time as of its signature and may be terminated by any of the signatories at any time by giving written notice with a notice period of 30 days.

Drawn up in duplicate on [DD] [Month] 2021

For the European Union Agency for the Cooperation of Energy Regulators  Christian Pilgaard ZINGLERSEN The Director	For [Entity Name]  [Name] [SURNAME] Legal Representative
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