



REMIT COMPLIANCE GOOD PRACTICES

Energy Security Project (ESP)

AGENDA

- Aims of legislation, under Association Agreement and Energy Community Treaty.
Purposes of market monitoring.
- The origins of REMIT. What are the goals?
- Good practices. General overview.
 - How to enforce full REMIT and light REMIT
 - Market participants. A corporative framework REMIT compliant.
 - ACER central roles
- Good practices. Countries legislation.
 - Germany, Romania, Czech Republic in EU
 - Norway in EEA
- Good practices. PPATs offered services
 - Regional PX Nord Pool, Hungarian PX HUPX
 - Romania MO OPCOM, Czech Republic MO OTE
- Investigations
 - Statistics, Types of manipulation, Cases
- A Road Map to REMIT
- Market Monitoring and Mitigation in USA

AIMS OF ELECTRICITY LEGISLATION

- Association Agreement demands Ukraine legislation approximate the Energy Acquis Communautaire which Ukraine committed to implement within the framework of the Energy Community Treaty (including REMIT) and beyond Ukraine's obligations within the Energy Community Treaty.
- Legislation of Ukraine should aim to use REMIT as well as other applicable parts of the EU acquis as strong leverage to provide improved performance in Ukraine's electricity market and more trust by market participants.

AIMS OF MARKET MONITORING

- The EU and Energy Community market monitoring have an ex-post approach.
- Ex – post monitoring aims to give three types of input:
 - to market rules / design modification
 - to monitoring rules / approach modification and
 - to penalise the market abuse if exists

THE ORIGINS OF REMIT. WHY REMIT?

- REMIT originates in conclusions of Commission Report on Energy Sector Inquiry, Market Abuse Directive (MAD) and Market Conduct Rules of Nordic PX Nord Pool.
- Findings of Commission Sector Inquiry on market transparency and integrity (2007):

“Lack of reliable and timely information on the markets.”

“More effective and transparent price formation is needed. Many users have limited trust in the price formation mechanisms.”

SCOPE AND GOALS OF REMIT. IS IT A BURDEN OR LEVERAGE?

- REMIT aims to prevent market manipulation and insider trading in the gas and electricity markets.
- REMIT sets out arrangements for market monitoring, registration of market participants, reporting of energy market data and publication of inside information.
- REMIT requires the Member States to provide regulators with appropriate investigatory and enforcement powers.
- In its entirety, REMIT enforcement requires effort and incurs costs, but is highly beneficial and obviously mandatory.

HOW TO ENFORCE FULL REMIT AND LIGHT REMIT?

Compulsory in both EU and the Energy Community

- i. Ensure NRA has sufficient investigatory and enforcement powers to fulfill its role under REMIT(13)
- ii. Guarantee a right of recourse against the decisions of the Regulator (14)
- iii. Determine a sanctions regime (18)

Optionally

- iv. In the EU the NRA may also monitor trading activity in wholesale energy products at the national level (7.2.)

NOTE: In the Energy Community, under light REMIT, ensuring NRA's monitoring powers is a compulsory measure.

- v. National competition authority may carry out market monitoring with the NRA (7.2)
- vi. Possibility of establishing a form of cooperation between the national regulatory authorities the competent financial authorities, and national competition authority (16.1)

WHAT THE REGULATOR SHALL PURSUE WHEN IMPLEMENTS REMIT

- Maintaining confidence in the integrity of wholesale energy markets.
- Deterring failures to comply with REMIT requirements.
- Ensuring that no profits can be drawn from REMIT breaches.
- Penalties have their important role to discourage market abuse, but monitoring results shall also support the market rules validation or change if required.
- Taking care to high integrity and high competence of staff overseeing the markets.

WHAT THE REGULATOR'S STAFF OVERSEEING THE MARKETS SHALL OBSERVE

- Follow the principles of best regulatory practice, be proportionate and ensure that any sanctions imposed are effective, dissuasive and proportionate.
- Access of monitoring staff to confidential information and their advanced knowledge shall be used in the most honest way possible.
- Follow closely any non-binding guidance published by ACER / ECRB.

A CORPORATIVE FRAMEWORK REMIT COMPLIANT

Market Participants shall

- develop an organisational framework which is REMIT compliant
- implement measures to prevent REMIT infringement

Level of sanctions in case of infringement depends, inter alia, on existence of such a framework and commitment to improve it.

Nord Pool Consulting AS “REMIT Best Practice.”



excerpts

COMPLIANCE OBJECTIVES	TO COMPLY WITH REMIT REQUIREMENTS: REGISTRATION, DISCLOSURE AND REPORTING, MARKET ABUSE PREVENTION
Compliance organization and culture	An organization which is “properly organized and staffed”. Compliance program in place.
Compliance program	Identification of concrete actions to define compliant/non-compliant behaviour. To prevent, detect, respond.
Identification of inside information	Measures to ensure the inside information is identified, protected, published.
Measures to prevent insider trading and market manipulation	Internal routines to prevent the insider trading and market manipulation

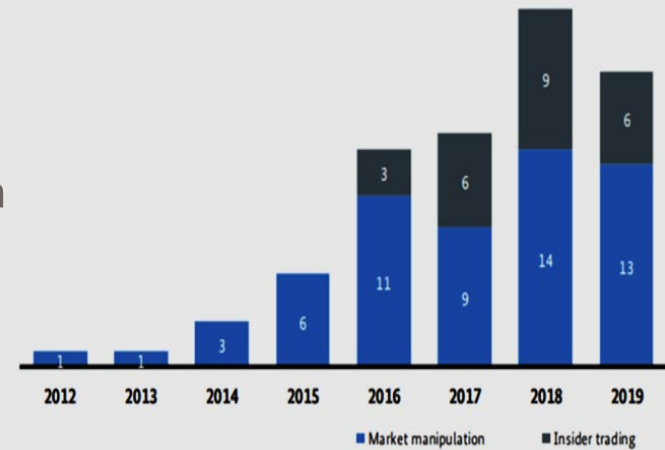
ACER CENTRAL ROLES

1. Guidance and coordination.
2. Participants registration. Central register management.
3. Registered Reporting Mechanisms (RRM) and Inside Information Platforms (IIP) registration.
4. Notification Platform (NP) management.
5. Pan-EU monitoring (complex monitoring system was developed to screen data from overall EU).

NOTE: Under “light REMIT”, the contracting parties NRAs should build solutions for RRM, IIP and NP and must assume domestic wholesale market monitoring.

GOOD PRACTICES. GERMANY IN EU.

- Federal Network Agency (Regulator) and Federal Cartel Office jointly enforce REMIT.
- They work together with the Federal Financial Supervisory Authority and the stock exchange supervisory authorities.
- Joint monitoring is based on data and alerts transmitted by ACER.
- The Regulator elaborates secondary legislation to implement REMIT.
- The Regulator registers market participants.



GOOD PRACTICES. OTHER MEMBER STATES.

	ROMANIA	CZECH REPUBLIC
Role of Regulator	Preliminary analysis of market abuse suspected by ACER, participants, PPATs, or from own monitoring, investigation.	Investigates, enforces and penalises under REMIT.
Cooperation	Other NRAs, ACER, financial and competition authorities	
Breaches, penalties	Natural persons, 4,000€ to 10,000€ Legal persons, 4,000€ to 80,000€	Natural persons, up to 38,000€ Legal persons up to 190,000€
Data Collection	1 st stage from participants, 2 nd stage in parallel from participants and ACER, 3 rd stage from ACER.	ERO's decision on a breach of Art. 8 (Data Collection) REMIT in 2019.
Investigations of Regulator	<ul style="list-style-type: none"> a) Insider trading b) Wholesale market manipulation c) Failure to publish inside information, to report trading data and to register d) Non-observance by PPATs of the REMIT obligations 	Energy Act amended to empower NRA to investigate potential infringements of market participants.
Registration	NRA established National Register of participants	

GOOD PRACTICES. NORWAY IN EEA.

- Norway is part of European Economic Area (EEA). Prohibitions under REMIT were applied first to Nord Pool members due to participation agreement.
- Energy Act was updated by “**Provisions on market behaviour and transparency in the power market**” in 2018.
- Ministry and NRA may impose fines for infringements. Competence upon infringements of license conditions, organized marketplaces and the provision of information is of NRA.
- The Ministry or regulatory authority may provide the energy authorities of other states under EEA Agreement, ACER or EFTA Surveillance Authority with information.
- Organised markets and market participants are obliged to provide to the Ministry and NRA information.

GOOD PRACTICES. INSIDE INFORMATION PLATFORMS (IIPS).

PUBLICATION REGARDING OUTAGES

1. Message ID
2. Event status
3. Type of Unavailability
4. Type of Event
5. Publication date/time
6. Event Start
7. Event Stop
8. Unit of Measurement
9. Unavailable Capacity
10. Available Capacity
11. Installed Capacity
12. Reason of the Unavailability
13. Remarks, additional information
14. Fuel type
15. Bidding zone
16. Affected Asset or Unit
17. Affected Asset or Unit EIC Code
18. Market participant
19. Market participant Code

Source: ACER website

List of data for outages in ACER Manual of Procedures on Data Reporting.

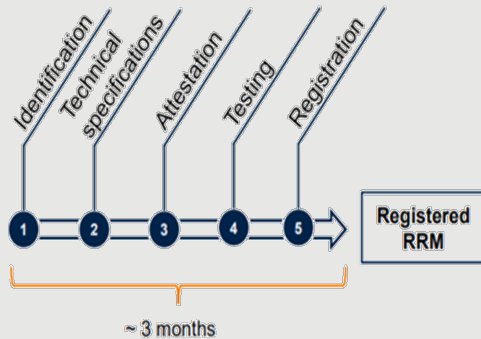
In 2020, ACER began registering Inside Information Platforms.

NAME OF THE PLATFORM	STATUS OF APPLICATION
Central European Gas Hub AG	1st phase completed, 2nd phase under evaluation
European Energy Exchange AG	1st phase completed, 2nd phase under evaluation
ELEXON Ltd	under evaluation, 1st phase
Energinet Elsystemansvar A/S	under evaluation, 1st phase
Gestore dei Mercati Energetici S.p.A.	1st phase completed, 2nd phase under evaluation
Hungarian Power Exchange	1st phase completed, 2nd phase under evaluation
JAO	under evaluation, 1st phase
Nord Pool AS	under evaluation, 1st phase
REN, Redes Energéticas Nacionais, SA	under evaluation, 1st phase
RTE Réseau de Transport d'Electricité	under evaluation, 1st phase
SEEBURGER AG	1st phase completed, 2nd phase under evaluation
Solien, s.r.o.	1st phase completed, 2nd phase under evaluation
Towarowa Giełda Energii S.A.	under evaluation, 1st phase
Webware Internet Solutions GmbH	1st phase completed, 2nd phase under evaluation

GOOD PRACTICES. PPATS. REGIONAL PX NORD POOL.

Registration

- Registered by ACER as Reporting Mechanism (RRM) to report trading data on behalf of market participants.



- Under evaluation in the first phase of registration as Inside Information.

Markets operated

- Nord Pool Spot – DAM and IDM for Nordic and Baltic countries
- N2EX – DAM and IDM (UK)

Offered services

- Reporting transactions**
 - at Nord Pool and N2EX,
 - at Other Organised Market Places and outside Organised Market Places (“OTC”).
- Compliance services**
 - Urgent Market Messages to report insider information and to forward transparency data to ENTSO-E platform.

GOOD PRACTICES. PPATS IN EU: ORGANISED MARKETS AND SERVICES.

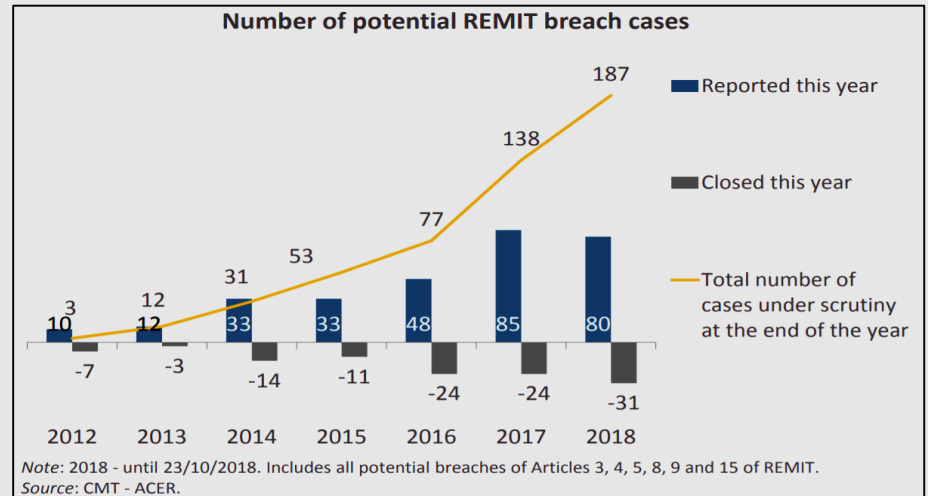
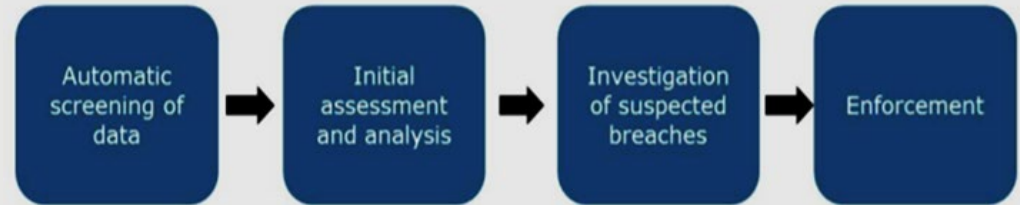
	Czech MO, OTE	Hungarian PX, HUPX	Romanian MO, OPCOM
Markets	Physical, Power: IDM, DAM, block market continuous trading Physical, Gas: IDM, DAM	Physical, Power: IDM, DAM Financial, Power: Futures Physical, Gas: IDM, DAM Financial, Gas: Futures	Physical, Power: IDM, DAM, bilateral contracts Physical, Gas: Spot, Bilateral contracts
Services	Registered as Registered Reporting Mechanism		
	YES		
	Registered as Inside Information Platform		
	NO	ONGOING 2 nd phase, under evaluation	NO

INVESTIGATIONS. STATISTICS.

- Suspicions from ACER surveillance or notified to ACER by external entities.
- ACER monitors but does not investigate .
- A case investigated by NRA could be closed without sanctions or could lead to sanctions.

Union wide market monitoring
by ACER

Investigation and enforcement
by NRAs



INVESTIGATIONS. TYPES OF MANIPULATION.

NAME	DESCRIPTION
wash trades	arrangements for the sale or purchase of a wholesale energy product, where there is no change in beneficial interests (e.g. selling and buying-back same quantity)
layering & spoofing	issuing orders to trade at different price levels (layering) or same price level (spoofing) on one side of the order book, to enter into one or multiple transactions on the other side of the order book
marking the close	deliberately buying or selling wholesale energy products at the close of the market to alter the closing price
cross-market manipulation	trading in one market with a view to improperly influencing the price of same or a related wholesale energy product in another market
transmission capacity hoarding	acquisition of all or part of the ATC without using it or without using it effectively
capacity withholding	decision, without justification, not to offer or to economically withhold the available production

Source: ACER guidelines

INVESTIGATIONS. CASES.

COUNTRY	DENMARK (2 SEPARATE CASES)	HUNGARY	UK
NRA	Danish NRA (Energytilsynet)	MEKH	OFGEM
The Subject (s)	<ul style="list-style-type: none"> Neas Energy Energi Danmark 	MAVIR	InterGen
The breach	Capacity Hoarding The companies hoarded ATC by trading with themselves in intraday market	Disseminating misleading information TSO disseminated misleading information about ATC	Disseminating misleading signals InterGen misled TSO by claiming that some of its plants would not be generating when demand is highest.
The Case(s)	Danish Energy Regulatory Authority transferred the 2 cases to the State Prosecutor for Serious Economic and International Crime	<ul style="list-style-type: none"> Part of ATC was not made available Market participants based their bids on incorrect values. DAM prices artificially increased 	<ul style="list-style-type: none"> Infringement of Grid Code, REMIT OFGEM found weaknesses in InterGen's procedures, management systems and internal controls
The Fine(s)	<ul style="list-style-type: none"> Neas Energy 20,000€ Energi Danmark 100,000€ Prosecutor confiscated revenue <ul style="list-style-type: none"> Neas Energy 400€ Energi Danmark 47,000€ 	Fine (Electricity Act, 2,800€ to 5,600,000€). Regulator considered efforts made to prevent similar situations. The fine: HUF 3,000€	<ul style="list-style-type: none"> Restitution payment £12,791,000 Fine: £35,000,000 reduced to £24,500,000 because InterGen has cooperated

ROAD MAP FOR REMIT COMPLIANCE (I)

- *From Oslo to Sarajevo, in EU, EEA, EnC, REMIT is a matter of compliance*
- *But Parliaments, Regulators, Organised Markets, Participants have also acquainted the potential benefits*
- *No country should remain isolated*

- Primary legislation **shall ensure**
 - NEURC competences to monitor wholesale market, to investigate, to set decisions, to enforce measures, to apply penalties under REMIT *
 - Right of recourse against the decisions of the regulatory authority
 - Sanction regime under REMIT
 - Obligations of Regulator for international cooperation under REMIT (compliant with ECRB Procedural Act)
- Primary legislation **may provide** to competition authority the right to carry out market monitoring with NEURC, and **may establish** a form of cooperation of NEURC with financial authority and competition authority

* *NEURC monitoring and investigation roles under REMIT and under Competition Law shall be separated in primary legislation.*

ROAD MAP FOR REMIT COMPLIANCE (2)

- *From Oslo to Sarajevo, in EU, EEA, EnC, REMIT is a matter of compliance*
- *But Parliaments, Regulators, Organised Markets, Participants have also acquainted the potential benefits*
- *No country should remain isolated*

- **Data collection** is the keystone of any monitoring framework.
- The Contracting Parties have the full freedom to implement a reporting and data collection framework as efficiently as that implemented by ACER.

“National regulatory authorities shall monitor trading activity in wholesale energy products to detect and prevent trading based on inside information and market manipulation in their national market.

***For this purpose, they may use the user manuals developed by the Agency for the Cooperation of Energy Regulators and may adopt rules on related data provision requirements from market participants**” (REMIT, art.7)*

ROAD MAP FOR REMIT COMPLIANCE (3)

- *From Oslo to Sarajevo, in EU, EEA, EnC, REMIT is a matter of compliance*
 - *But Parliaments, Regulators, Organised Markets, Participants have also acquainted the potential benefits*
 - *No country should remain isolated*
-
- **NEURC monitoring procedure** should incorporate market abuse under REMIT. List of indicators should be enhanced with indicators from ACER guides.
 - **Market Operator and TSO** shall develop monitoring procedures and internal organizational rules.
 - ECRB cannot ask for a **data collection** framework full REMIT-like, but national legislation **can do it**.
 - **One separate** regulation for **wholesale market participants registration** which sets the obligation to register, deadlines and formats for registration.

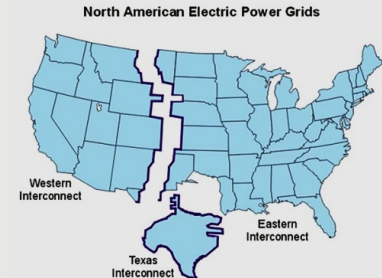
MARKET MONITORING AND MITIGATION IN USA

USA has seven competitive power pools and three zones served by integrated utilities.

Competitive pools have an independent system and market operator , that depending of attributes is an RTO or ISO



Non-competitive zones



INDEPENDENT SYSTEM OPERATORS (ISOS) & REGIONAL TRANSMISSION ORGANIZATIONS (RTOS)

- Several groups of grid owners formed ISOs, some from existing power pools. FERC encouraged utilities to join RTOs which would operate systems in an innovative and fair manner.
- All the ISOs and RTOs have energy and ancillary services markets in which buyers and sellers can bid for or offer generation.
- The ISOs and RTOs use bid-based markets to determine economic dispatch. Two-thirds of the nation's electricity load is served in ISO/RTO regions.
- Along with facilitating open-access to transmission, ISOs operate the transmission system independently of, and foster competition for electricity generation among, wholesale market participants.

HOW MARKET MONITORING IS UNDERTAKEN

The markets run by ISO-RTOs are subject to constant scrutiny by **Independent Market Monitors (IMM)**.

- **Monitoring Analytics** serves as external **IMM** for PJM; **Potomac Economics** serves MISO and ERCOT.
- SPP and CAISO uses only internal IMM.
- NYISO and ISO-NE use hybrid alternative: Potomac Economics and internal IMM.

- **Sometimes the conditions in markets organized in a competitive way may become uncompetitive. There is room for dominant players to abuse market power.**
- **Such conditions may appear when the system is constrained, or certain areas are constrained and there are significant market power concerns.**
- **The IMM both assesses market competitiveness and screens participants' offers.**
- **The mitigation is the limitation of bid prices to pre-defined caps, when conditions require this measure.**

IMM present their activities in State of the Market Reports which are issued quarterly and annually.

EU REMIT vs USA

- **USA** has an ex-ante and ex-post approach.
 - The ex-ante mitigation procedures correct the market abuse before it can affect the prices.
 - USA ex-post is, in general terms, similar to EU-REMIT.
- **REMIT** is an ex-post methodology to detect market abuse, inside trading, market rules flaws, etc.
 - If an action of a MP suggests market abuse or manipulation, an investigation is carried out.

— Thank you!

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