

Multilateral Memorandum of Understanding

**for administrative arrangements between the
European Union Agency for the Cooperation of Energy
Regulators and National Regulatory Authorities**

concerning

**cooperation and coordination of market monitoring
under Regulation (EU) No. 1227/2011 of the European
Parliament and of the Council on wholesale energy
market integrity and transparency (REMIT), as
amended by Regulation (EU) 2024/1106**

THE SIGNATORIES OF THIS MULTILATERAL MEMORANDUM OF UNDERSTANDING,

Whereas

1. On 8 December 2011, the EU adopted new stringent rules on wholesale energy trading. Regulation (EU) No. 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (REMIT) introduces a sector-specific framework for the monitoring of wholesale energy markets, with the objective of detecting and deterring market manipulation and insider trading.
2. On 11 April 2024, Regulation (EU) 2024/1106 of the European Parliament and of the Council amended REMIT. Article 13 of the revised REMIT conferred to the Agency investigatory powers for certain cases of suspected breaches of REMIT having a cross-border dimension. The Regulation's scope of application of the market abuse prohibitions of Article 3 and 5 was also expanded to cover wholesale energy products which are financial instruments, without prejudice to the applications of Regulations (EU) No 648/2012, (EU) No 596/2014 and (EU) No 600/2014 of the European Parliament and of the Council and of Directive 2014/65/EU of the European Parliament and of the Council as regards activities involving financial instruments.
3. Recital 17 of REMIT provides that efficient market monitoring at Union level is vital for detecting and deterring market abuse on wholesale energy markets. Close cooperation and coordination between the Agency and national regulatory authorities (NRAs) as provided in Article 2(10) of REMIT is therefore necessary to ensure proper monitoring and transparency of the energy markets.
4. 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.
5. According to Article 7(2) of REMIT, NRAs shall cooperate at regional level and with the Agency in carrying out the monitoring of wholesale energy markets. NRAs may also monitor trading activity in wholesale energy products at national level. Member States may provide for their national competition authority or a market monitoring body established within that authority to carry out market monitoring with the NRA. The undersigned national competition authorities or bodies are, for the purpose of this Memorandum of Understanding, considered as having the same rights, obligations and responsibilities as the NRAs.
6. According to Article 10(1) of REMIT, the Agency shall establish mechanisms to share the information it receives in accordance with Article 7(1) and Article 8 of REMIT with the Commission, NRAs, competent financial authorities of the Member States, national competition authorities, ESMA, Eurofisc and other relevant authorities. Before establishing such mechanisms, the Agency shall consult those authorities.
7. According to Article 11 of REMIT, REMIT shall be without prejudice to the obligations of Member States relating to their processing of personal data under Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection

of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) and with the Agency's obligations under Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data.

8. According to Article 12(1) of REMIT, the Agency shall ensure the confidentiality, integrity and protection of the information received pursuant to Article 4(2), 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. The Commission, NRAs, competent financial authorities of the Member States, national tax authorities, Eurofisc, national competition authorities, ESMA and other relevant authorities shall ensure the confidentiality, integrity and protection of the information that they receive pursuant to Articles 4(2), 7(2), 8(5) or 10 of REMIT and shall take steps to prevent any misuse of such information, and shall ensure compliance with the applicable data protection law. The Agency shall identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures.
9. According to Article 13(1) of REMIT, NRAs shall ensure that the prohibitions set out in Articles 3 (Prohibition of insider trading) and 5 (Prohibition of market manipulation) and the obligations set out in Article 4 (Obligation to publish inside information), Article 7c (Provision of LNG market data to the Agency), Article 8 (Data collection), Article 9 (Registration of market participants) and Article 15 (Obligations of persons professionally arranging and executing transactions) are complied with end enforced.
10. According to Article 13(3) of REMIT, the Agency may, in close and active cooperation with the relevant national regulatory authorities, carry out investigations by exercising the powers to conduct on-site inspections, issue requests for information and take statements in accordance with Articles 13a, 13b and 13c.
11. According to Article 13(4) of REMIT, in sufficient time before exercising its investigatory powers, the Agency shall inform the national regulatory authority and other authorities concerned of the Member State where the acts that the Agency reasonably suspects to be in breach of REMIT are carried out. The Agency may exercise its powers in that jurisdiction unless the national regulatory authority objects within three months from being informed by the Agency.
12. According to Article 13(11) of REMIT, upon completion of its investigation, the Agency shall draw up an investigation report setting out the Agency's findings with all evidence on which the findings are based. If the Agency considers in the investigation report that a breach of REMIT took place, it shall inform the national regulatory authority(ies) of the Member States concerned and require that they take the necessary measures, including, as appropriate, the imposition of penalties pursuant to Article 18 of REMIT.
13. According to Article 13e of REMIT, in order to ensure compliance with the relevant requirements set out in Articles 13 to 13c of REMIT, the NRAs and the Agency shall assist each other in the course of investigations.

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14. According to Article 16(1) of REMIT, the Agency shall aim to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way. The Agency shall, as appropriate, publish non-binding guidance on the application of the definitions set out in Article 2 of REMIT, including non-exhaustive indicators and examples of market behaviour relating to market manipulation, as well as insider trading. NRAs shall cooperate with the Agency and with each other, including at regional level, for the purpose of carrying out their duties in accordance with REMIT.
 15. According to Article 16(2) of REMIT, NRAs shall without delay inform the Agency in as specific a manner as possible where they have reasonable grounds to suspect that acts in breach of REMIT are being, or have been, carried out either in that Member State or in another Member State. Where an NRA suspects that acts which affect wholesale energy markets or the price of wholesale energy products in that Member State are being carried out in another Member State, it may request the Agency to take action in accordance with Article 16(4) of REMIT and, if the acts affect financial instruments subject to Article 2 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 (Market Abuse Regulation or MAR), in accordance with Article 16 (3) of REMIT.
 16. According to Article 16(2) of REMIT, before adopting a decision finding an infringement of REMIT, NRAs may inform the Agency and provide it with a summary of the envisaged decision in an official language of the Member State concerned. After adopting a decision on a breach of REMIT, the NRA shall provide that decision to the Agency and indicate to the Agency what information it has disclosed to the public.
 17. According to Article 16(3)(a) of REMIT, NRAs shall inform the Agency and the competent financial authority of their Member State where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy markets which constitute market abuse within the meaning of Regulation (EU) No 596/2014 and which affect financial instruments subject to Article 2 of that Regulation.
 18. According to Article 16(3)(d) of REMIT, NRAs shall inform the Agency, the national competition authority of their Member State and the Commission where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy market which are likely to constitute a breach of competition law.
 19. According to Article 16(4) of REMIT, the Agency shall, on the basis of initial assessments or analysis, where it suspects that there has been a breach of REMIT, have the power:
 - a. to request one or more NRAs to supply any information related to the suspected breach;
 - b. to request one or more NRAs to commence an investigation of the suspected breach, and to take appropriate action to remedy any breach found. Any decision as regards the appropriate action to be taken to remedy any breach found shall be the responsibility of the NRA concerned;

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- c. where it considers that the possible breach has, or has had, a cross-border impact, to establish and coordinate an investigatory group consisting of representatives of the concerned NRAs to investigate whether any provision in REMIT has been breached and in which Member State the breach took place. Where appropriate, the Agency may also request the participation of representatives of the competent financial authority or other relevant authority of one or more Member States in the investigatory group.
20. According to Article 16(5) of REMIT, an NRA receiving a request for information under Article 16(4)(a), or receiving a request to commence an investigation of a suspected breach under Article 16(4)(b), shall immediately take the necessary measures in order to comply with that request. If that NRA is not able to supply the required information immediately, it shall without further delay notify the Agency of the reasons. An NRA may refuse to act on a request where: (a) compliance might adversely affect the sovereignty or security of the Member State addressed; (b) judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the Member State addressed; or (c) a final judgment has already been delivered in relation to such persons for the same actions in the Member State addressed. In any such case, the NRA shall notify the Agency accordingly, providing as detailed information as possible on those proceedings or the judgment.
21. According to Article 16a of REMIT, NRAs may, with the consent of the delegate, delegate tasks and responsibilities to the Agency or another NRA subject to the conditions set out in this Article. Member States may set out specific arrangements regarding the delegation of responsibilities that are to be complied with before their NRAs enter into delegation agreements and may limit the scope of delegation to what is necessary for the effective supervision of market participants or groups. The Agency may assist NRAs by issuing non-binding guidance or exchanging best practices on the delegation of tasks and responsibilities between competent NRAs.
22. According to Article 17(1) of REMIT, any confidential information received, exchanged or transmitted pursuant to REMIT shall be subject to the conditions of professional secrecy laid down in Article 17(2) to 17(4) of REMIT. According to Article 17(4) of REMIT, without prejudice to cases covered by criminal law, the Agency and NRAs which receive confidential information pursuant to REMIT may use it only in the performance of their duties and for the exercise of their functions.
23. The most expedient way to define the scope and practical terms of implementing the cooperation foreseen in REMIT between the Agency and NRAs is a Memorandum of Understanding (MoU),

HAVE REACHED THE FOLLOWING UNDERSTANDING:

Chapter 1

General principles and scope

Article 1

General principles and scope

1. Without prejudice to the provisions set forth by EU and national legislation, the purpose of this MoU is to define the scope and practical terms of the cooperation under Articles 7, 13, 13a, 13b, 13c, 13e, 16 and 16a of REMIT between the Agency and the undersigning NRAs or national authorities and bodies in the meaning of Article 7(2) of REMIT, with the aim of promoting an effective, efficient and coordinated monitoring of wholesale energy markets and effective, and the efficient and coordinated investigation of cases of possible breach of REMIT.
2. Where, in accordance with Article 7(2), second subparagraph, of REMIT, Member States have provided for their national competition authority or a market monitoring body established within that authority to carry out market monitoring with the NRA, the rights, obligations and responsibilities of NRAs as described in this MoU shall also apply to the undersigning national competition authority or market monitoring body established within that authority.
3. The purpose of this MoU is to set out the procedures that the Agency and the NRAs intend to follow. This MoU does not replace or amend existing legislation and does not restrict, extend or alter the powers, functions or duties of the Agency or the NRAs.
4. This MoU sets only minimal terms of cooperation. The Agency and NRAs shall do every effort to cooperate in a constructive way and to exchange information in a timely manner. ACER and the NRAs shall make an effort to share relevant information as soon as possible in advance of the timing set in this MoU.
5. The cooperation between the Agency and the NRAs shall be based on the following principles:
 - a. *Distribution of powers.* This MoU shall be interpreted and applied in such a way as to ensure that the distribution of powers between the Agency and NRAs set forth by law, and in particular by REMIT, is not altered;
 - b. *Mutual collaboration.* Both the Agency and the NRAs shall cooperate in order best to fulfil their respective functions, as established in REMIT and other applicable legislation, and in the spirit of mutual trust and understanding.
6. All communications between the Agency and NRAs related to suspected breaches of REMIT referred in Articles 4 to 16 of this MoU shall be submitted through the secure communication channel described in Annex A.I. and addressed to the liaison officers appointed according to Article 20 of the present MoU. The Agency's confirmations foreseen in these Articles are automated in the form of automatic e-mails generated by the secure communication channel.

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7. All documents produced by the Agency and all meetings with the Agency referred to in this MoU shall be in English unless differently stated in this MoU or agreed in advance.

Chapter 2

Cooperation and coordination

Article 2

Cooperation on market monitoring (Art. 7 of REMIT)

1. 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. According to Article 7(2), NRAs shall cooperate at regional level and with the Agency in carrying out the monitoring of wholesale energy markets.
2. Where regional cooperation among NRAs on wholesale energy market monitoring exists, the NRAs shall on a quarterly basis inform the Agency of the main results of the regional monitoring.

Article 3

Cooperation at Union, regional and national level (Art. 16(1) of REMIT)

1. According to Article 16(1) of REMIT, the Agency shall aim to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way. The Agency shall publish non-binding Guidance on the application of the definitions set out in Article 2 of REMIT, as appropriate. NRAs shall cooperate with the Agency and with each other, including at regional level, for the purpose of carrying out their duties in accordance with REMIT.
2. NRAs shall keep the Agency informed about their application of the Agency's Guidance. Such information may be provided in the context of the Agency's REMIT Coordination Group.
3. NRAs may agree with each other and with the Agency on specific conditions to implement the cooperation on wholesale energy market monitoring at regional level in order to reflect regional or national specificities. Such agreements shall be appended to this MoU as an annex.
4. Market monitoring experts from the Agency and from NRAs shall together with market monitoring experts from organised marketplaces, including e.g. energy exchanges and broker platforms, meet at least once yearly with the aim of exchanging experiences and discussing current issues and new developments of mutual interest with respect to wholesale energy market monitoring. Topics of particular interest for such meetings may include matters such as developments in trading conduct and market practices, experiences from concluded disciplinary matters, developments in market rules.

The Agency convenes these meeting, inviting, where appropriate, also officials from national financial authorities and other relevant authorities.

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5. The Agency shall organise at least once a year a forum involving NRAs, ESMA and competent financial authorities with the aim of exchanging experiences and discussing current issues and new developments of mutual interest with respect to wholesale energy markets monitoring, investigation and enforcement of market abuse cases, and guidance on market abuse.

Article 4

Notifications from NRAs to the Agency of suspected breaches of REMIT (Art. 16(2) and 16(3) of REMIT)

1. According to Article 16(2) of REMIT, NRAs shall without delay inform the Agency in as specific a manner as possible where they have reasonable grounds to suspect that acts in breach of REMIT are being, or have been, carried out either in that Member State or in another Member State. Where an NRA suspects that acts which affect wholesale energy markets or the price of wholesale energy products in that Member State are being carried out in another Member State, it may request the Agency to take action in accordance with Article 16(4)(c) and, if the acts affect financial instruments subject to Article 2 of Regulation (EU) No 596/2014, in accordance with Article 16(3)(b) of REMIT.
2. Notifications from NRAs to the Agency where an NRA suspects that acts are being, or have been, carried out on wholesale energy markets which breach the prohibitions of market manipulation or insider trading, shall, without prejudice to national legislation, include at least the following information:
 - a. a description of the transaction(s) and/or order(s) concerned;
 - b. which prohibition(s) in REMIT the NRA suspects may have been breached;
 - c. the reasons for suspecting that the transaction(s) and/or order(s) and/or other acts might constitute market abuse;
 - d. in which Member State the suspected breach is being, or has been, carried out;
 - e. identities of persons carrying out transaction(s) and/or order(s);
 - f. identities of any other persons known to be involved in the transaction(s) and/or order(s);
 - g. identity of the person making the notification;
 - h. if applicable, a request to the Agency to take action in accordance with Article 16(4)(c) or Article 16(3)(b) of REMIT;
 - i. further information which may be of significance.

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3. Notifications referred to in paragraph 2 of this Article shall be submitted through the secure communication channel described in Annex A.I.
 4. Notifications from NRAs to the Agency of any suspected breach of REMIT other than market manipulation or insider trading shall include information on all relevant circumstances regarding the suspected breach, and shall be made available to the Agency through the secure communication channel described in Annex A.I. The Agency shall confirm to the NRA that it has received a notification.
 5. According to Article 16(3)(a) of REMIT, NRAs shall inform the Agency and the competent financial authority of the Member State where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy markets which constitute market abuse within the meaning of Regulation (EU) No 596/2014 and which affect financial instruments subject to Article 2 of that Regulation. According to Article 16(3)(d) of REMIT, NRAs shall inform the Agency, the national competition authority of their Member State and the Commission where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy market which are likely to constitute a breach of competition law.
 6. Notifications from NRAs to the Agency in accordance with Article 16(3)(a) and Article 16(3)(d) of REMIT shall be uploaded in the case file of the relevant case in the secure communication channel described in Annex A.I, and shall, without prejudice to the national legislation, include the same information as listed in the second paragraph of this Article. Notifications under Article 16(3)(d) are without prejudice to the national legislation and to the obligations under Regulation (EC) No 1/2003.
 7. The Agency shall confirm to the NRA that it has received a notification according to Article 16(2) or Article 16(3) of REMIT. The Agency may request information from the NRA regarding the proceedings in accordance with Article 5 of this MoU.

Article 5

Requests from the Agency to NRAs to supply information related to a suspected breach of REMIT (Art. 16(4)(a) of REMIT)

1. According to Article 16(4)(a) of REMIT, the Agency shall have the power to request one or more NRAs to supply any information related to a suspected breach of REMIT.
2. Requests from the Agency to NRAs in accordance with Article 16(4)(a) of REMIT shall include at least the following information:
 - a. a description of the specific information requested by the Agency;
 - b. the circumstances behind the information request;
 - c. an indication of whether the information contained in the request is confidential;

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- d. an indication of the urgency of the request, or the desired time period for reply;
 - e. further information which may be of significance.
3. The Agency will request information according to Article 16(4) of REMIT inter alia on the basis of its initial assessments or analysis.
 4. The relevant NRA(s) shall confirm to the Agency that it has received a request to supply information and shall indicate a preliminary date by when the requested information will be supplied.
 5. According to Article 16(5) of REMIT, an NRA receiving a request for information shall immediately take the necessary measures in order to comply with that request. If that NRA is not able to supply the required information immediately, it shall without further delay notify the Agency of the reasons. An NRA may refuse to act on a request where: (a) compliance might adversely affect the sovereignty or security of the Member State addressed; (b) judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the Member State addressed; or (c) a final judgment has already been delivered in relation to such persons for the same actions in the Member State addressed. In any such case, the NRA shall notify the Agency accordingly, providing as detailed information as possible on those proceedings or the judgment.
 6. Notifications from the NRAs to the Agency in accordance with Article 16(5) of REMIT shall be made through the secure communication channel described in Annex A.I, either through a request in the relevant case or through the upload of a letter notifying the Agency in the case file of the relevant case.

Article 6

Requests from the Agency to NRAs to commence investigations of a suspected breach of REMIT (Art. 16(4)(b) of REMIT)

1. According to Article 16(4)(b) of REMIT, the Agency shall have the power to request one or more NRAs to commence an investigation of a suspected breach of REMIT, and to take appropriate action to remedy any breach found. Any decision as regards the appropriate action to be taken to remedy any breach found shall be the responsibility of the NRA concerned.
2. Requests from the Agency to NRAs in accordance with Article 16(4)(b) shall include at least the following information:
 - a. which prohibition(s) or obligation(s) in REMIT the Agency suspects may have been violated and the reasons for these suspicions;
 - b. identities of the persons involved in the suspected breach;

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- c. if applicable, transaction(s) and/or order(s) involved;
 - d. if applicable, identities of the persons carrying out the transaction(s) and/or order(s);
 - e. further information which may be of significance.
 3. The NRAs shall confirm to the Agency that they have received a request to commence an investigation.
 4. According to Article 16(5) of REMIT, an NRA receiving a request to commence an investigation of a suspected breach of REMIT shall immediately take the necessary measures in order to comply with that request. An NRA may refuse to act on a request where: (a) compliance might adversely affect the sovereignty or security of the Member State addressed; (b) judicial proceedings have already been initiated in respect of the same actions and against the same persons before the authorities of the Member State addressed; or (c) a final judgment has already been delivered in relation to such persons for the same actions in the Member State addressed. In any such case, the NRA shall notify the Agency accordingly, providing as detailed information as possible on those proceedings or the judgment.
 5. Notifications by NRAs to the Agency in accordance with Article 16(5) of REMIT shall be made through the secure communication channel described in Annex A.I., either through a request in the relevant case or through the upload of a letter notifying the Agency in the case file of the relevant case.
 6. NRAs commencing investigations of suspected breaches of REMIT, pursuant to a request from the Agency under Article 16(4)(b) of REMIT, shall keep the Agency informed about the proceedings and outcome of the investigation through the secure communication channel described in Annex A.I., either through a request in the relevant case or through the upload of a document informing the Agency in the case file of the relevant case, preferably in English.

Article 7

Establishment and coordination of investigatory groups by the Agency (Art. 16(4)(c) of REMIT)

1. According to Article 16(4)(c) of REMIT, the Agency shall, where it considers that a possible breach of REMIT has, or has had, a cross-border impact, have the power to establish and coordinate an investigatory group consisting of representatives of concerned NRAs to investigate whether REMIT has been breached and in which Member State the breach took place. Where appropriate, the Agency may also request the participation of representatives of the competent financial authority or other relevant authority of one or more Member States in the investigatory group. According to Article 16(5) of REMIT, NRAs

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- shall participate in an investigatory group convened in accordance with Article 16(4)(c), rendering all necessary assistance.
2. Requests by the Agency to NRAs in accordance with Article 16(4)(c) of REMIT shall include at least the following information;
 - a. which prohibition(s) or obligation(s) in REMIT the Agency suspects may have been violated and the reasons for these suspicions;
 - b. identities of the persons involved in the suspected breach;
 - c. transaction(s) and/or order(s) involved;
 - d. identities of persons carrying out transaction(s) and/or order(s);
 - e. a list of authorities that have been requested to participate in the investigatory group;
 - f. further information which may be of significance.
 3. The NRAs shall confirm to the Agency that they have received a request to participate in an investigatory group.
 4. Representatives of the concerned NRAs participating in an investigatory group shall cooperate with the representatives of the Agency and with each other as well as with representatives of the competent financial authority or other relevant authority of one or more Member States if their participation in the investigatory group was requested by the Agency.

Article 8
Investigatory acts conducted by the Agency
(Art. 13 of REMIT)

1. According to Article 13(3) of REMIT, the Agency may in close and active cooperation with the relevant national regulatory authorities, carry out investigations by exercising the powers to conduct on-site inspection, request information and take oral statements in accordance with Articles 13a, 13b and 13c.
2. According to Article 13(4) of REMIT, in sufficient time before exercising its investigatory powers, the Agency shall inform the national regulatory authority and other concerned authorities of the Member State(s) where the Agency reasonably suspects that the acts in breach of REMIT are carried out.
3. The Agency shall notify the national regulatory authority(ies) of the Member State(s) where it suspects that certain acts in breach of REMIT have been carried out at least three months

before the date in which the Agency envisages to start to carry out investigatory acts pursuant to Article 13(3) of REMIT.

4. The Member State(s) concerned by acts in breach of REMIT are considered to be the following:
 - a. the Member State(s) where the wholesale energy product is supposed to be delivered;
 - b. the Member State where the person(s) involved in the suspected breach are established or registered or should be registered.
5. The information provided in the Notification by the Agency to the relevant NRA(s) in accordance with Article 13(4) of REMIT shall include at least:
 - a. The identification of the Case (CASE ID in the secure communication channel described in Annex A.I);
 - b. Which prohibition(s) or obligation(s) in REMIT the Agency suspects may have been breached;
 - c. The identity of the person(s) involved in the suspected breach;
 - d. The identification of the products and/or markets where the acts took place, if applicable;
 - e. The Member State(s) where the acts that the Agency reasonably suspects to be in breach of REMIT are carried out;
 - f. The period in which the acts took place;
 - g. The reasons for suspecting that the transaction(s) and/or order(s) and/or other acts or omissions might constitute a breach of REMIT;
 - h. The date in which the Agency envisages to start such investigatory acts;
 - i. Assessment from the Agency that the case meets the jurisdictional criteria foreseen under Articles 13(5), 13(6a), 13(7b) or 13(8) of REMIT;
 - j. further information which may be of significance.
6. The notification from the Agency to the NRAs shall be made through the secure communication channel described in Annex A.I. After sharing the notification in secure

communication channel described in Annex A.I, the Agency shall inform the NRAs' liaison officers about this via email.

7. The relevant NRAs shall confirm to the Agency that they have received the notification foreseen in paragraph 6 of this Article.
8. A State of Play meeting between the Agency and all the relevant NRAs shall take place no later than two months after the notification from the Agency. In the course of the State of Play meeting, NRAs shall share their preliminary considerations on the Notification from the Agency and indicate the statutory limitation periods and the legal standard of proof for the enforcement of that type of REMIT breach under their respective national laws.

Article 9

Objection by an NRA to investigatory acts conducted by the Agency (Art. 13(4) of REMIT)

1. According to Article 13(4) of REMIT, an NRA may object that the Agency exercises investigatory powers in its jurisdiction on the grounds that it (a) has formally opened or is conducting an investigation on the same facts; or (b) has conducted an investigation on the same facts and determined the existence or the absence of a breach.
2. No later than three months after the notification by the Agency is made available through the secure communication channel described in Annex A.I., each competent NRAs shall communicate, by formal letter addressed to the Agency, through the secure communication channel described in Annex A.I., its objection/non-objection to the Agency carrying out the investigatory acts envisaged in its jurisdiction.
3. The letter of objection shall contain at least the following information:
 - a. The legal ground on which the objection is based, namely if the NRA (a) has formally opened or is conducting an investigation on the same facts; or (b) has conducted an investigation on the same facts and determined the existence or the absence of a breach;
 - b. An overview of the main procedural and investigatory steps already taken by the NRA in relation to those facts, including the formal opening of the investigation if available and any other decision or action taken by the NRA regarding the same facts;
 - c. A copy of the decision ascertaining the existence or absence of a REMIT breach or a reasoned closing note determining the absence of a breach;
 - d. The identification of the case, if already notified to the Agency according to Article 4 of the present MoU;

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- e. The information in Article 4 of the present MoU, if not yet communicated to the Agency;
 - f. Whether the NRA's investigation covers all the facts mentioned in ACER's notification pursuant to Article 8(5) of the present MoU; if not, whether the NRA is willing to investigate such additional facts and has jurisdiction to do so.
4. When the NRA objects to the Agency exercising its investigatory powers on the grounds that it has formally opened or is conducting an investigation on the same facts, the NRA shall include, as an annex to the letter of objection, a copy of the decision to open an investigation or other relevant documents related to the investigation opened by the NRA.
 5. When the NRA objects to the Agency exercising its investigatory powers on the grounds that it has conducted an investigation on the same facts and determined the existence or the absence of a breach, the NRA shall include, as an annex to the letter of objection, a copy of the final Decision, Investigation Report, Statement of Objections or equivalent, and indicate the measures taken to put an end to the breach, if applicable.
 6. The Agency shall, as soon as possible, confirm to the relevant NRAs the receipt of the letter of objection pursuant to this Article.
 7. Upon receipt of a formal letter of objection, if not already done by the notifying NRA, the Agency shall as soon as possible confirm to the NRA the receipt of the letter of objection pursuant to this Article and inform the other competent NRAs by making it available to them in the case file, through the secure communication channel described in Annex A.I.
 8. Following a letter of objection from an NRA, the Agency may continue to exercise its powers in the remaining jurisdictions of those NRAs that have not raised an objection pursuant to paragraph 3 of this Article. The Agency shall not exercise its powers if an investigation has already been conducted on the same facts by any NRA and such NRA has concluded on the existence or the absence of a breach.
 9. A letter of non-objection shall contain the information listed in paragraph 3, letters b), c), and d) of this Article if relevant. The Agency shall, as soon as possible, confirm to the NRA the receipt of the letter of non-objection pursuant to this Article, and inform the other competent NRAs. Upon receipt of a letter of non-objection from all the relevant NRAs, the Agency may start the investigation earlier than the date envisaged in the notification sent by the Agency according to paragraph 2 of the present Article.
 10. Failure of an NRA to communicate to the Agency its objection/non-objection within three months from the Notification foreseen in Article 8(6) of the present MoU shall be considered as non-objection to the Agency exercising investigatory powers in its jurisdiction, so that the Agency will be entitled to exercise its investigatory powers pursuant to Articles 13 to 13j of REMIT in that jurisdiction starting from the date envisaged in the notification sent by the Agency according to paragraph 2 of the present Article.

Article 10

Requests from NRAs to the Agency to commence investigations of a suspected REMIT breach on acts having a cross-border impact (Art. 13(5)(c) of REMIT)

1. Pursuant to Article 13(5)(c) of REMIT, NRAs can request the Agency to exercise its powers to ensure that the prohibitions set out in Articles 3 and 5 of REMIT are enforced with regard to acts that, even if not carried out on wholesale energy products for delivery in at least two Member States, have a cross-border impact.

2. Requests from the NRAs to the Agency in accordance with Article 13(5)(c) of REMIT shall include at least the following information:
 - a. The identification of the Case (CASE ID in the secure communication channel described in Annex A.I);
 - b. Which prohibition(s) in REMIT the NRA suspects may have been breached;
 - c. The identity of the person(s) involved in the suspected breach;
 - d. The identification of the products and or markets where the acts took place;
 - e. The Member State(s) where the acts that the NRA reasonably suspects to be in breach of REMIT are carried out;
 - f. The period in which the acts took place;
 - g. The reasons for suspecting that the transaction(s) and/or order(s) might constitute a breach of REMIT;
 - h. The identification of the other national authorities which are concerned by the suspected breach;
 - i. The investigatory activities that the NRA has already conducted, if any.
 - j. The reasons why the behaviour has cross-border impact;
 - k. The reasons why the NRA considers the Agency to be best placed to investigate such acts.

3. The NRAs shall send these requests through the secure communication channel described in Annex A.I., either through a request inside the relevant case or through the upload of a document informing the Agency in the relevant case file.

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4. The Agency shall confirm to the NRAs the receipt of the request pursuant to this Article.
 5. Upon receipt of a request under Article 13(5)(c) of REMIT, the Agency shall, if not already done by the notifying NRA, inform the other competent NRAs by making the request available to them in the case file, through the secure communication channel described in Annex A.I.
 6. A State of Play meeting between the Agency and all the relevant NRAs shall take place no later than two months after the notification by the Agency to all the relevant NRAs of the request received under Article 13(5)(c) of REMIT.
 7. No later than three months from the date that the request from the NRA is made available in the case file through the secure communication channel described in Annex A.I., the Agency shall inform the requesting NRA whether it intends to conduct an investigation in relation to the acts outlined in the request from the NRA, and of the reasons thereof.
 8. In case the Agency intends to conduct an investigation following a request from an NRA under Article 13(5)(c) of REMIT, the Agency shall notify the information letter according to Article 8 of the present MoU to all the other relevant NRAs. The notification of a request from an NRA to the Agency to commence an investigation under Article 13(5)(c) of REMIT is considered as a letter of non-objection to the Agency's exercising its investigatory powers on those acts only from the requesting NRA.
 9. The Agency shall communicate as soon as possible and in any case no later than five months after the notification from the NRA of the request according to paragraph 3 of this Article, by formal letter addressed to all the relevant NRAs, through the secure communication channel described in Annex A.I., whether the Agency will investigate the case on behalf of the requesting NRA, and the reasons thereof, taking into account any objection received from other relevant NRAs.

Article 11
Cooperation regarding inspections carried out by the Agency
(Art. 13a of REMIT)

1. According to Article 13a(6), before adopting a decision to conduct an on-site inspection, the Agency shall consult the national regulatory authority of the Member State where the inspection is to be conducted.
2. According to Article 13a(7), officials and other persons authorised by the national regulatory authority of the Member State where the inspection is to be conducted shall, upon request from the Agency, actively assist the officials of and other persons authorised by the Agency to conduct an on-site inspection. Officials of the national regulatory authority may also attend the on-site inspection upon request.

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3. At least two months before the envisaged date of the inspection, the Agency's draft decision to carry out an on-site inspection shall be transmitted for consultation to the NRA(s) of the Member State(s) in which the Agency intends to carry out an on-site inspection through the secure communication channel described in Annex A.I..
 4. The Agency's draft decision shall include at least:
 - a. The date on which the on-site inspection is envisaged to start;
 - b. The reasons why the Agency considers the on-site inspection to be necessary;
 - c. Whether the inspection is envisaged to be carried out without prior announcement to the persons subject to the investigation and the reasons thereof;
 - d. The identification of the premises in which the inspection is planned;
 - e. If the inspection is envisaged to take place in the private premises of directors, managers and other member of staff of businesses concerned by an investigation where the Agency suspects that business records are kept, the reasons for this suspicion;
 - f. The subject matter and purpose of the inspection.
 5. Within one month from the receipt of the Agency's draft decision to conduct an on-site inspection, the NRA shall provide to the Agency any comment on the draft decision, including:
 - a. Whether the on-site inspection envisaged by the Agency requires authorisation by the competent national judicial authority according to the applicable national law;
 - b. If, even if not required by the applicable national law, the NRA advises that the Agency requests an authorisation by the competent national judicial authority as a precautionary measure;
 - c. Whether the NRA requests that its officials attend the on-site inspection conducted by the Agency.
 6. At least two months before the envisaged date of the inspection, in addition to the draft decision to conduct an on-site inspection, the Agency may notify to the NRA of the Member State where the on-site inspection is envisaged to take place, through the secure communication channel described in Annex A.I., a request for operational assistance regarding the preparation and conduct of the on-site inspection.

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7. The Agency's request for operational assistance shall indicate the type of assistance required to the NRA and the number of premises in which the inspection is envisaged to take place. The request for assistance from the Agency may also concern the procedure to request the assistance of the police or other equivalent enforcement authorities for the case that the person opposes the on-site inspection.
 8. Within one month from the receipt of the letter from the Agency requesting operational assistance, the NRA of the Member State where the inspection is to be conducted shall indicate to the Agency, through the secure communication channel described in Annex A.I., the procedure to obtain the authorisation by the competent national judicial authority if applicable, and the identity of the officials and other persons appointed or authorised by the NRA to assist the Agency's officials in the preparation and conduct of the inspection.
 9. The exact date of the inspection is to be determined in close cooperation between the Agency and the NRAs.
 10. The NRA shall put in place strict safeguards to protect all information related to the preparation and execution of unannounced on-site inspections and ensure that only the officials appointed to assist the Agency are made aware of the circumstances of the on-site inspection.
 11. The NRAs and the Agency shall keep at all stages close contacts, even beyond the provisions in this Article, in preparation of an inspection.

Article 12
Cooperation regarding requests for information from the Agency
(Art. 13b of REMIT)

1. According to Article 13b(6) of REMIT, the Agency shall, without delay, send a copy of a request for information issued by the Agency pursuant to Article 13(b)(1) of REMIT or of a decision to request information issued by the Agency pursuant to Article 13(b)(2) of REMIT to the NRAs of the Member States concerned.
2. According to Article 13b(4), where the Agency finds that a person does not comply with a request for information, the NRAs of the Member States concerned shall, at the Agency's request, provide the Agency with the necessary assistance in ensuring the fulfilment of the obligation to provide the information requested by the Agency, including through the imposition of fines in accordance with the applicable national law.
3. The Agency shall, without delay, make a copy of any request for information sent by the Agency available to the NRAs of the Member States concerned through the secure communication channel described in Annex A.I..

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4. If the Agency finds that a person does not comply with a request for information, the Agency shall discuss with the NRAs of the Member States concerned the most effective ways to ensure compliance. The Agency, following such discussion, may notify the NRAs of the Member States concerned a request for assistance to ensure compliance with the request for information, including through the imposition of a fine in accordance with the applicable national law.
 5. The Agency's request for assistance to the NRA shall contain at least the following information:
 - a. A summary of the procedural steps already undertaken by the Agency, including a copy of the letter sent to the relevant NRAs according to Article 8 of the present MoU;
 - b. A summary of the investigatory steps already undertaken by the Agency, including a copy of the request for information to which the Agency finds that the person did not comply to, and a copy of the reply received, if any;
 - c. Information on where the person that the Agency finds is not complying with its request for information is established, registered or should be registered;
 - d. The reasons why the Agency considers that the person did not comply to the request for information issued by the Agency;
 - e. The reasons why the Agency considers that the imposition of a fine by the NRA is necessary and proportionate.
 6. The Agency shall send the request referred to in paragraph 5 of this Article through the secure communication channel described in Annex A.I., either through a request in the relevant case or through the upload of a document informing the Agency in the relevant case file.
 7. The NRA shall confirm to the Agency the receipt of the request pursuant to paragraph 5 of this Article.
 8. A State of Play meeting between the Agency and the relevant NRAs shall take place no later than two months after the notification by the Agency of the request pursuant to paragraph 5 of this Article.
 9. No later than three months from the date that the request from the Agency is made available in the case file through the secure communication channel described in Annex A.I., the relevant NRAs shall inform the Agency of the follow-up measures they intend to adopt.

Article 13
Cooperation regarding interviews carried out by the Agency
(Art. 13c of REMIT)

1. According to Article 13c of REMIT, where the Agency intends to conduct an interview and take oral statements in the premises of an undertaking, the Agency shall inform the NRA of the Member State in whose territory the interview takes place.
2. At least one month before conducting an interview in the premises of an undertaking pursuant to Article 13c(2), the Agency shall inform the NRA of the Member State in whose territory the interview takes place through the secure communication channel described in Annex A.I. Upon agreement with the relevant NRA, the interview can take place earlier than the date originally envisaged.
3. The information provided by the Agency to the NRA shall include at least:
 - a. The identity of the person(s) that the Agency envisages to interview;
 - b. The date envisaged for the interview;
 - c. The subject matter and purpose of the interview.
4. The NRA receiving the information above may request that its officials or other authorised persons assist the officials of the Agency in the course of an interview conducted pursuant to Article 13c of REMIT through the secure communication channel described in Annex A.I. In such case, the date of the interview shall be determined in close cooperation between the Agency and the NRAs.

Article 14
(Art. 13e of REMIT)
Cooperation in the course of investigations carried out by the Agency

1. The Agency and NRAs shall cooperate in a constructive way. The present MoU only sets minimal cooperation arrangements, and the Agency and NRAs may always exchange information at an earlier time than stated in this MoU.
2. The Agency shall grant the relevant NRAs access to the case file of the ongoing investigations at any time upon their request. The case file accessible to the NRAs will contain all the documents relating to the investigation, including all the correspondence with the market participant or any third party, minutes of interviews with the market participant or any third party and minutes of on-site inspections and the documents collected in the course of on-site inspections.

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3. The Agency and the NRAs might at any time in the course of the investigation request a meeting to provide or receive updates on the ongoing investigations and coordinate on the investigatory steps where appropriate.

Article 15
Investigation Report from the Agency
(Art. 13(11) of REMIT)

1. According to Article 13(11) of REMIT, upon completion of its actions in the exercise of the investigatory powers pursuant to Article 13 of REMIT, the Agency shall draw up an investigation report setting the Agency's findings.
2. If, upon completion of its investigatory acts, the Agency considers that a breach of REMIT took place, the Agency shall transmit to the NRAs of the Member States concerned the Agency's Investigation Report including the following information:
 - a. The identity of the person(s) involved in the suspected breach, including of the controlling entities if relevant;
 - b. A summary of the procedure;
 - c. A detailed description of the facts investigated;
 - d. A summary of the investigatory steps undertaken by the Agency;
 - e. A summary of the comments on the facts of the case provided by the person subject to the investigation pursuant to Article 13d(1)(d);
 - f. The assessment of the Agency and its findings as to whether a breach of REMIT took place, taking into account the comments on the facts of the case provided by the person subject to the investigation pursuant to Article 13d(1)(d) and including references to the specific evidence collected by the Agency;
 - g. In case the Agency considers that a breach of REMIT took place, a non-binding recommendation to adopt specific follow-up measures and a description of the follow-up measures recommended, including the imposition of penalties pursuant to Article 18 of REMIT, and a reasoned assessment on the appropriateness of such follow-up measures to bring the breach to an end;
 - h. An executive summary of the Investigation Report which the Agency will use for the purpose of informing the European Parliament and the Council according to Article 13 (12) of REMIT.

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3. Alongside the Investigation Report, the Agency shall provide copy of all evidence on which the Agency's findings are based as an annex to the Investigation Report, including an index of the documents included in such annex.
 4. The Agency shall send the Investigation Report and the annexes to it through the secure communication channel described in Annex A.I..
 5. NRAs shall confirm to the Agency the receipt of the Investigation Report and of the evidence on which the Agency's findings are based.
 6. A State of Play meeting between the Agency and the NRA(s) receiving the Investigation Report may take place no later than two months after the receipt of the Investigation Report.

Article 16
Follow-up measures of NRAs following receipt of an ACER Investigation Report
(Art. 13(11) of REMIT)

1. Upon request from the NRA(s) of the relevant Member State(s) intending to adopt follow-up enforcement measures following an Investigation Report produced by the Agency and no later than two months from such request, the Agency shall provide:
 - a. A non-confidential version of the Agency's Investigation Report, redacting business secrets, trading strategies of third parties involved in the investigation and personal data;
 - b. A non-confidential version of all the evidence on which the Agency's findings were based, redacting business secrets, trading strategies of third parties involved in the investigation and personal data.
2. No later than three months from the receipt of the Investigation Report, in accordance with Article 13(11) of REMIT, the relevant NRA(s) shall communicate to the Agency, through the secure communication channel described in Annex A.I., the following information:
 - a. The measures that the NRA considers necessary, including the imposition of penalties pursuant to Article 18 of REMIT;
 - b. In case the NRA does not intend to adopt the follow-up measures recommended by the Agency, the reasons thereof.

Article 17
Delegation of tasks and responsibilities
(Art. 16a of REMIT)

1. According to Article 16a(1) of REMIT, NRAs may delegate tasks and responsibilities to the Agency or to another NRA. Member States may set out specific arrangements regarding the delegation of responsibilities that are to be complied with before their NRA enters into delegation agreements. NRAs shall keep the Agency informed about any such specific arrangements at national level.
2. According to Article 16a(3) of REMIT, the NRAs shall notify the Agency of any delegation agreements into which they intend to enter. The NRAs shall put the agreements into effect at the earliest one month after informing the Agency.
3. The notification from the NRA(s) to the Agency in accordance with Article 16a(3) of REMIT shall include at least the following information:
 - a. the delegation agreement they intend to enter, including any annexes, in one or more of the official languages of the Member State and, unless one of the official languages of the Member State is English, to the extent possible, in English;
 - b. the parties to the delegation agreement;
 - c. a description of the tasks and/or responsibilities the NRAs have agreed to delegate;
 - d. the reason(s) why a delegation is deemed necessary;
 - e. the conditions under which the tasks and/or responsibilities are delegated and the conditions for the termination of the delegation agreement; and
 - f. the timeframe for which the tasks and/or responsibilities are being delegated.
3. The Agency shall confirm to the NRA(s) that it has received the notification of the delegation agreement.
4. The Agency may issue an opinion on an intended delegation agreement notified to it, within one month of receipt of the notification.
5. The NRAs shall confirm to the Agency that they have received the opinion on the intended delegation agreement.
6. The NRAs shall notify the Agency when the final delegation agreement has been signed and, submit the final delegation agreement to the Agency in order for it to be published following Article 16a(5) of REMIT.
7. In the event an NRAs wishes to delegate a task or responsibility to the Agency, the NRA shall submit to the Agency a proposal for the delegation of tasks. The Agency shall confirm

to the NRA within three months if the proposal for the delegation of tasks is accepted or not. In the event of acceptance, the Delegation Agreement shall be concluded.

8. According to Article 16a(5) of REMIT, the Agency shall publish any delegation agreement as concluded by the NRA(s). This publication will be made on a dedicated section of the ACER website. The Agency shall publish the delegation agreement within one month of the final delegation agreement being submitted by the NRA(s).

Article 18

Communication on decisions adopted by NRAs (Article 16(2) of REMIT)

1. According to Article 16(2) of REMIT, before adopting a decision finding an infringement of REMIT, NRAs may inform the Agency and provide it with a summary of the envisaged decision in an official working language of the Member State concerned. After adopting a decision on a breach of REMIT, the NRA shall provide that decision to the Agency and indicate to the Agency what information it has disclosed to the public.
2. NRAs shall make every effort to inform the Agency at least five working days before the date envisaged for the adoption of a decision finding that a breach of REMIT occurred.
3. NRAs shall make every effort to provide the Agency with a summary of the case and of the assessment contained in the decision envisaged to be adopted, if possible in English, alongside a copy of the decision envisaged to be adopted in its original language.
4. NRAs shall inform the Agency and vice versa prior to any public communication relating to decisions adopted under REMIT. Any public communication relating to decisions adopted under REMIT shall indicate if such outcome has been achieved with the aid of the European cooperation provided for in REMIT and in this MoU.
5. No later than five working days after adopting a decision on a breach of REMIT, NRAs shall provide to the Agency a copy of the decision as adopted, as well as any annexes to it. Alongside the decision, the NRAs shall make every effort to provide an executive summary in English including information on the date of the decision, the name of the persons subject to penalties, the Article of REMIT that was breached and the penalty imposed or other measures taken.
6. The NRA shall inform as soon as possible the Agency of any subsequent change to the public version of the decision or to the public communication on the decision by the NRA.
7. The NRA shall make every effort to inform as soon as possible the Agency of any appeal of the decision finding that a breach of REMIT occurred and of the outcome of such appeal proceedings.
8. The Agency shall update the public list of sanction Decisions under REMIT within two weeks from the day it receives such information.

Article 19
General procedures for the cooperation

1. The Agency and NRAs shall establish smooth and effective communication channels for the proper compliance with the objectives of this MoU.
2. The Agency and NRAs shall each nominate a list of liaison officers for the purposes of cooperation undertaken under this MoU and shall notify any changes to all other parties to this MoU. The NRAs shall provide the necessary contact details of their liaison officers and their updates by creating new liaison officers accounts or updating the information on the ones registered in the secure communication channel described in Annex A.I. The Agency shall provide the necessary contact details of the Team leaders that will act as liaison officers and their updates by creating team leader accounts or updating the information on the ones registered in the secure communication channel provided to the NRAs in Annex A.I.
3. The notifications and requests envisaged in this MoU will be secured in order to ensure privacy of the confidential information exchanged. Details on the secure communication channel described in Annex A.I.
4. Except where the use of the specific secure communication channel described in Annex A.I is provided for in the present MoU, and depending on the subject of the interaction, the Agency and the concerned liaison officers will determine the most efficient way of interaction, which may be in written or oral form.

Chapter 3
Professional secrecy

Article 20
Professional secrecy
(Art. 17 of REMIT)

1. According to Article 17(1) of REMIT, any confidential information received, exchanged or transmitted pursuant to REMIT shall be subject to the conditions of professional secrecy laid down in Article 17(2) to 17(4) of REMIT.
2. Information shared between the Agency and NRAs, within the scope of this MoU, shall be used exclusively for the purposes permitted by REMIT.
3. Information shared with the NRA liaison officers within the scope of Articles 4 to 18 of the present MoU shall be treated based on a strict interpretation of the concept of the 'need to know' principle, i.e. only shared with the managers and the officials of the NRA who are directly involved in handling investigations of REMIT breaches or, even if not directly involved in the investigation, need to have access to such information for security purposes or the overall efficiency of the internal NRA's procedures.

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4. Information shared by the NRAs with ACER within the scope of Articles 4 to 16 of the present MoU shall be treated based on a strict interpretation of the concept of the 'need to know' principle, i.e. only shared with the managers and the officials of the Agency who are directly involved in handling investigations of REMIT breaches or, even if not directly involved in the investigation, need to have access to such information for security purposes or the overall efficiency of the Agency's internal procedures.

Chapter 4 Final provisions

Article 21 Publication

1. The Agency and NRAs agree to publish this MoU (excluding its Annexes) on their respective websites.

Article 22 Amendments to the MoU

1. The Agency and NRAs may, by common consent, make amendments to this MoU, and add or amend Annexes as they consider necessary, in particular concerning the registration of market participants according to Article 9 of REMIT, data sharing according to Article 10 of REMIT and cooperation according to Article 7(2) and Article 16 of REMIT.
2. This MoU and amendments thereof may be signed by either signing the joint List of Signatories or by signing a separate signatory page according to the model provided in Annex B. The individual signatory pages shall become part of these administrative arrangements upon their receipt by the Agency.

Article 23 Entry into effect and termination

1. This MoU shall enter into effect on the date of its signing.
2. This MoU shall be concluded for an unlimited period of time and may be terminated by any of the parties at any time by giving, at least, 30 days prior written notice to each other.
3. The NRAs and the Agency shall, no later than five years after the entry into force of the present MoU, assess its application and the need to revise its terms.
4. The present MoU is without prejudice to the possibility of having closer cooperation arrangements among the Agency and a select group of NRAs.

Drawn up in duplicate 23 October 2024.

For the European Union Agency for the Cooperation of Energy Regulators	For Spanish National Markets and Competition Commission (Comisión Nacional de los Mercados y la Competencia, CNMC)
	FERNANDEZ VICIEN CANI - DNI 25134010R Firmado digitalmente por FERNANDEZ VICIEN CANI - DNI 25134010R Fecha: 2024.11.07 12:07:53 +01'00'
Christian Pilgaard ZINGLERSEN The Director	Cani FERNÁNDEZ VICIÉN Legal Representative

Annex A.

**Administrative Arrangements between the European Union Agency for the
Cooperation of Energy Regulators and National Regulatory Authorities
on the sharing of information for the purpose of market monitoring under
Regulation (EU) No 1227/ 2011, as amended by Regulation (EU) 2024/1106**

**Annex A.I – Terms and Conditions on the use of
the secure communication channel established by the Agency: the Case Management
Tool**

1. INTRODUCTION

1.1. Purpose and Objectives

The Case Management Tool (CMT) is the secure communication channel specifically designed to fulfil the communication needs resulting from the MoU between the Agency and the NRAs concerning cooperation and coordination of market monitoring under REMIT.

The CMT is the IT application (including its updates) created and owned by the Agency in order to:

- a) Implement the MoU between the Agency and the NRAs concerning cooperation and coordination of market monitoring and investigations under REMIT, providing a secured communication channel for the notifications and requests envisaged in it;
- b) Enable NRAs and the Agency to coordinate actions, interacting and sharing information via a single platform;
- c) Enable the Agency to establish and maintain a customised application ensuring a coordinated and consistent approach to market abuse on European wholesale energy markets.

The NRAs are also free to use the CMT to notify each other and store exchanged REMIT breach case materials in instances where a notification to ACER is not required.

Until this secure communication channel becomes operational and the relevant NRA is deemed compliant with the Agency's REMIT Information Security Policy's requirements to be provided by the Agency, in case of a prolonged disruption of this secure communication channel (more than one week) or under exceptional circumstances related to the sensitivity marking of the confidential information exchanged, another secure communication channel agreed in advance between the relevant NRA and the Agency may be used by NRAs for the cooperation purposes envisaged in the MoU between the Agency and the NRAs concerning cooperation and coordination of market monitoring under REMIT.

The purpose of this Annex is to provide further details on the terms and conditions of use of the Case Management Tool.

1.2. Definitions

The following terms shall have the following meanings:

CMT – Case Management Tool, the IT application providing the functionalities described in Section 2.1;

User – dedicated ACER or NRA staff member authorised to use the CMT system;

Service – CMT hosting services, consisting of the provision of a suitable infrastructure (including both hardware and software) and the appropriate technical support necessary to ensure the availability of the CMT application to Users. The service also include the provision of the appropriate security measures to ensure the integrity (maintaining and assuring the accuracy and consistency of data over their entire life-cycle), confidentiality and availability levels of the data.

2. GENERAL TERMS AND CONDITIONS

The User shall fulfil the following prerequisites at the latest by the date when the CMT production hosting environment is implemented and becomes operational:

2.1. CMT functionality

The User is familiar with the purpose and functionality of the CMT and is able to use the system to:

- a) Receive/send information with regard to suspected breaches and related actions as established in the framework of Articles 13 to 16 of REMIT;
- b) Access case materials and case-specific information on potential breaches of REMIT, including materials relating to investigations conducted by the Agency; and/or
- c) Upload and/or download data; and/or
- d) Retrieve relevant information and/or
- e) Perform analysis related to specific data and requests.

Only the Users assigned to a case have visibility on the materials exchanged and stored in the CMT related to that case. The NRA User entrusted with administrative rights is assigned for administrative issues to all cases in which the NRA is involved. All materials exchanged and stored in the CMT are visible to the ACER Users.

2.2. Security

In accordance with the instructions issued by the Agency, the User carries out all appropriate organisational and technical actions required to ensure the confidentiality of its account(s) credentials. Except in the case of urgent action, the Agency consults the NRA and takes the NRA's feedback into account before issuing such instructions.

For the purpose of using the CMT, the NRAs and the Agency commit to comply with the REMIT Information Security Policy's requirements to be provided by the Agency.

2.3. Conflict of Interest

The NRA and the Agency shall establish arrangements and procedures in order to manage potential conflicts of interest. It is the NRA/Agency responsibility to ensure that any User that may have a conflict of interest on a specific case is not allowed to have further access to the materials of the case.

The Agency/the NRA involved in the case shall be notified accordingly.

2.4. Availability of staff

The name, surname and contact details of the Users and any changes thereof shall be communicated to the Agency without delay using the form to be provided by the Agency.

The Users must be trained according to the manuals and, if applicable, additional instructions issued by the Agency.

3. RESPONSIBILITIES IN THE OPERATION OF THE CMT

3.1. Agency's Responsibilities

The Service is provided by the Agency, at its premises in Ljubljana (Slovenia).

The Agency's responsibilities include:

- a) Operation and hosting of the CMT;
- b) Service desk availability by email and telephone from 10:00 to 16:00, during the working days of the Agency;
- c) Provision of second-level support (i.e. for issues relevant to the hosting infrastructure, incidents and / or other issues that cannot be resolved without the Agency's intervention);
- d) Change management process including collection, review, approval and, if appropriate, implementation of requested changes;
- e) Incident management process including collection, review, resolution and, if appropriate, investigation of reported incidents;
- f) Providing a test system of the CMT to enable NRAs to fulfil their duties in first-level support and to provide support to the rollout of new releases, migrations to new technical infrastructure and general troubleshooting;
- g) Provision of Users credentials and necessary information to operate the CMT;
- h) Ensuring that the Agency's REMIT Information Security Policy and Conflict of Interests Policies are complied with for the use of the CMT;
- i) In case of a security incident the Agency will inform the impacted NRA(s);
- j) Protection of individuals with regard to the processing of personal data in compliance with Regulation (EU) 2018/1725¹.

3.2. NRA's Responsibilities

The NRA's responsibilities include:

- a) Ensuring, on a best-effort basis, the availability of Users. In case Users are not available, the NRA shall provide adequate staff replacement and inform the Agency without delay using the form to be provided by the Agency;
- b) Ensuring that the Users maintain the confidentiality of the NRA's account(s) credentials;
- c) Ensuring that the Agency's REMIT Information Security Policy and Conflict of Interests Policies are complied with for the use of the CMT;
- d) Ensuring, on a best-effort basis, that Users acting as administrators of the CMT provide appropriate equipment to operate the CMT and first-level support to NRA's staff, as well as support to the rollout of new releases of the application, migrations to new technical infrastructure or general troubleshooting within the NRA organisation's business hours;
- e) Ensuring, on a best-effort basis, that Users acting as administrators of the CMT act as the contact point for the Agency to report incidents to the service desk and be available to the

¹ Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC , [OJ L 295, 21.11.2018, p. 39–98](#).

second-level support staff for follow-up on incidents until resolution. When reporting incidents, the NRA shall use the process and template to be provided by the Agency;

- f) Ensuring, on a best-effort basis, that Users acting as administrators of the CMT request changes based on the business needs and/or experience gained from daily operation of the system. When launching change requests, the NRA shall use the process and templates to be provided by the Agency;
- g) Ensuring that Users liaising with the Agency take responsibility for the dissemination of all manuals and, if applicable, additional instructions issued by the Agency to Users and responsibility for their training;
- h) Ensuring the protection of individuals with regard to the processing of personal data, in compliance with Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation).

4. SERVICE MANAGEMENT

4.1. Service Availability

The availability element relates to the performance of the Service during an agreed timeframe. High availability means that the Service is continuously available to Users, with a minimal downtime and a prompt recovery.

Functioning on a best-effort basis, the Agency aims to deliver the following Service levels with regards to hosting of CMT:

Objective	Coverage	Service Level
<i>Recovery Time Objective (RTO)</i> which defines the time needed to return to normal operations after disruption	24/7	≤ 48 hours
<i>Recovery Point Objective (RPO)</i> which defines the closest point in time before the disruption to which the recovery is possible without any loss of data.	24/7	≤ 24 hours

The Users shall contact the service desk using the details provided by the Agency and included in the service desk section of the Case Management Tool.

4.2. Service Maintenance

In order to ensure the maintenance and the evolution of the technical infrastructure, the preparation and the execution of system installations/upgrades/replacements is expected to take place periodically.

For any planned maintenance activity, the Agency undertakes to inform the NRA, if it will be impacted, with a communication of “planned intervention” sent at least one week in advance. The communication of “planned intervention” will include the following information:

- a) Description of maintenance activity;
- b) Expected timeframe;
- c) Impact on NRA.

A communication will be sent upon completion of the intervention.

The Agency aims to plan the maintenance activities in a way to achieve minimum impact on the NRA. Nonetheless the planning of the maintenance activities shall be at the sole discretion of the Agency.

As a result of unexpected failure, disruption, security breach or degradation, an unplanned maintenance activity might take place. In such a case, the Agency endeavours to inform the impacted NRA with an early notice in light of the specific circumstances of the case.

4.3. Request for Change

The NRA may submit a change request relevant to the CMT application. Change requests may fall into the following categories (non-exhaustive list):

- a) Identified bugs (technical errors or functional misbehaviour);
- b) Recommendations for enhancing functionality and usability.

The Change Management Process workflow diagram will be provided by the Agency. The template to be used by the NRA to submit requests for change will also be provided by the Agency.

4.4. Incident Management

The following may be classified as incidents:

- a) Unplanned disruption or degradation of the provided service;
- b) Security breaches or serious risks that may occur.

The NRA shall report incidents to the service desk following the Incident Management Process that will be provided by the Agency and using the template provided.

5. FEES

No fees will be charged to NRAs for using the Service herein described.

6. SPECIAL PROVISIONS

6.1. Ownership

Nothing in these Terms and Conditions should be read as conferring to the NRA any ownership rights to the CMT system, including any updates to it, its development or maintenance. All intellectual property rights in relation to changes in the CMT application proposed by the NRAs remain the exclusive property of the Agency.

6.2. Obligation to inform

The Agency and the NRAs shall contribute to the implementation of these Terms and Conditions also by providing each other, in a timely manner, all necessary information required to facilitate compliance with these Terms and Conditions.

If either the Agency or the NRA is not able, for any reason, to comply with these Terms and Conditions, it will inform the other party immediately, reporting the reasons for non-compliance and the plan to restore compliance.

6.3. Breach of these Terms and Conditions

If the NRA is in breach of these Terms and Conditions, the Agency is entitled to prevent or restrict the use of the Service for the NRA, in accordance with the provisions of Section 6.5.

6.4. Liability

The Service provided within this framework is offered on a best-effort basis. Thus the Agency does not commit to deliver the Service based on specific targets and is not accountable to the NRA in any manner. This statement is without prejudice to the Agency's commitment to comply with the REMIT Information Security Policy as provided for in Section 2.2.

The Agency is not liable for losses of data incurred by the NRA or its Users.

The Agency is not liable for the actions of the negligent NRA or its Users.

The Agency is not liable for potential consequences of the suspension / termination of the Service in accordance with Section 6.5.

The NRA and/or Agency have a responsibility to do everything possible to prevent or limit the extent of the damage in case a potentially damaging incident becomes known to the NRA and/or Agency.

The NRA and the Agency shall, at all times, act in accordance, in good faith and in compliance with these Terms and Conditions and, if applicable, the NRA shall also act in accordance with additional instructions provided by the Agency for the use of the CMT.

The NRA undertakes responsibility for its own conduct, for the conduct of its Users and for any data that is created and transmitted while using the Agency's Service.

6.5. Suspension and termination

When, in the case provided for in Section 6.3, the Agency intends to suspend or terminate the Service, it shall notify the NRA in writing of its intention. The notification shall indicate whether the Agency intends to suspend and / or terminate the Service, the time when the suspension / termination will take effect and the reasons for the suspension / termination.

In case the suspension / termination is due to a breach of these Terms and Conditions, the NRA shall have one month from the notification to remedy the breach. Failure to do so will entail the suspension / termination of the Service within one month.

In those cases where a breach of these Terms and Conditions by the NRA could jeopardise the functioning of the CMT, the Agency shall have the power to suspend the Service immediately. The NRA shall be informed in writing of the reasons for the suspension and be given one month to remedy the breach.

7. FINAL PROVISION

The provision of the Service starts when the Agency confirms that the CMT production hosting environment has been implemented and has become operational, and when the NRA has signed the MoU between the Agency and the NRAs concerning cooperation and coordination of market monitoring under REMIT and is deemed compliant with the Agency's REMIT Information Security Policy's requirements to be provided by the Agency for the purposes of using the CMT.

Annex A.II. - Administrative Arrangements between the European Union Agency for the Cooperation of Energy Regulators and National Regulatory Authorities on the sharing of information under Regulation (EU) No 1227/ 2011, as amended by Regulation (EU) 2024/1106

WHEREAS:

- 1) Article 7(1) of Regulation (EU) No 1227/2011 as amended by Regulation (EU) 2024/1106 ('REMIT') entrusts the Agency with the monitoring of trading activities in wholesale energy products to detect and prevent trading based on inside information, market manipulation and attempted market manipulation. It also provides that the Agency shall collect the data for assessing and monitoring wholesale energy markets as provided for in Article 8 of REMIT.
- 2) Pursuant to Article 7(2) of REMIT, national regulatory authorities shall cooperate at regional level and with the Agency in carrying out the monitoring of wholesale energy markets referred to in Article 7(1) and, for this purpose, they shall have access to relevant information collected by the Agency pursuant to Article 8 of REMIT, subject to Article 10(2) of the same. Article 7(2) of REMIT provides that national regulatory authorities may also monitor trading activities in wholesale energy products at national level. Recital 17 of REMIT further states that this role has been assigned to national regulatory authorities because of their comprehensive understanding of developments on energy markets in their Member State.
- 3) Article 10(1) of REMIT lays down an obligation for the Agency to establish mechanisms to share the information it receives pursuant to Article 7(1) and Article 8 of REMIT, under the condition that the receiving authorities have set up systems enabling the Agency to meet the requirements of operational reliability referred to in Article 12(1). Under the latter provision, the Agency is under the obligation to ensure the confidentiality, integrity, and protection of the data it collects, and to take all necessary measures to prevent any misuse of, and unauthorised access to the information maintained in its system. Article 12(1) of REMIT lays down an equivalent obligation as regards the authorities who receive such data from the Agency, providing in particular that they shall take steps to prevent any misuse of such information, and shall ensure compliance with applicable data protection law. Furthermore, Article 17 of REMIT provides that any confidential information received, exchanged or transmitted pursuant to REMIT shall be subject to the conditions of professional secrecy laid down therein.
- 4) Given that REMIT does not precisely define what information shall be made available to national regulatory authorities, it is appropriate to set forth general rules and criteria for access to such information. The establishment of the information sharing mechanism and the rules governing it should enable national regulatory authorities and the Agency to properly carry out their tasks under REMIT. In particular, they should, firstly, support the cooperation of national regulatory authorities at regional level and with the Agency in monitoring wholesale energy markets at Union level and the effective monitoring of wholesale energy markets at national level. Secondly, such rules should enable the Agency to ensure that national regulatory authorities carry out their tasks under REMIT in a

coordinated and consistent way. Finally, they should take into account the provisions of REMIT concerning operational reliability and professional secrecy.

- 5) Without prejudice to cases covered by criminal law, the information obtained via this Memorandum of Understanding may only be used in the performance of the duties and for the exercise of the functions of the national regulatory authority. Any monitoring activity beyond the domestic jurisdiction should not negatively interfere with the prosecution of infringements of REMIT under national law procedures. In this respect, national regulatory authorities having access to data collected by the Agency should comply with rules governing the jurisdiction of Member States before taking any measure towards market participants.
- 6) The details of the information to be provided by market participants pursuant to Article 8 of REMIT shall be defined by the Commission by means of implementing acts ('the Implementing Acts'). The implementation of the present Memorandum of Understanding is subject to whether the information necessary to apply the criteria defined therein is foreseen to be reported in the Implementing Acts.
- 7) It is important that the data sharing mechanism should be able to evolve over time, taking into account changing market circumstances, legislative changes or the experience gained in market monitoring. It is therefore appropriate to foresee a review mechanism in the current Memorandum of Understanding, in which both the Agency and the national regulatory authorities have the right to provide input.
- 8) Article 12 of the Multilateral Memorandum of Understanding of 17 July 2013², foresees that the Agency and national regulatory authorities, by common consent, may make amendments and add further Annexes to that document, in particular concerning data sharing according to Article 10 of REMIT.

Article 1

Subject matter and scope

1. These administrative arrangements lay down rules for the establishment of mechanisms to share information that the Agency receives, in accordance with Article 7(1) and Article 8 of REMIT, with national regulatory authorities.

² Multilateral Memorandum of Understanding between the Agency for the Cooperation of Energy Regulators and National Regulatory Authorities and market monitoring bodies concerning cooperation and coordination of market monitoring under Regulation (EU) No. 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (REMIT) of 17 July 2013.

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2. Such rules shall enable national regulatory authorities and the Agency to properly carry out their tasks under REMIT.

Article 2

Operational reliability and professional secrecy requirements

1. The Agency shall give access to the information referred to in Article 3 only to authorities which have set up systems enabling the Agency to meet the operational reliability requirements of Article 12(1) of REMIT and which comply with the obligation of professional secrecy laid down in Article 17 of REMIT.

Operational reliability requirements shall be defined by the Agency, after having consulted national regulatory authorities.

Article 3

Monitoring wholesale energy markets at national level

1. For the purpose of enabling national regulatory authorities to monitor trading activities at national level, the Agency shall grant access to the information it receives pursuant to Article 7(1) and Article 8 of REMIT on a continuous basis, based on the criteria laid down in this Article.
2. As regards supply and transportation contracts and orders to trade, each national regulatory authority shall be granted access to:
 - a) Records of transactions, including orders to trade, entered into by market participants registered with the national regulatory authority;
 - b) Records of transactions, including orders to trade, for which the delivery point / area is located in the Member State of the national regulatory authority. Where the delivery point / area is common to two or more Member States, access should be granted to the national regulatory authorities of all those Member States.
 - c) Records of transactions, including orders to trade, for which the originating point / area is located in the Member State of the national regulatory authority. Where the originating point / area is common to two or more Member States, access should be granted to the national regulatory authorities of all those Member States.

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- d) Records of transactions, including orders to trade related to the transportation of electricity or natural gas, where the transportation systems are located in the Member State of the national regulatory authority.
3. As regards information on derivative contracts that fall within the scope of REMIT, access shall be granted on the basis of the underlying supply or transportation contracts, applying the criteria laid down in paragraph 2 of this Article.
 4. As regards non-publicly available information related to the capacity and use of facilities for the production, storage, consumption or transmission of electricity or natural gas, including nominations, or related to the capacity and use of LNG facilities ('fundamental data'), each national regulatory authority shall have access to:
 - a) Information provided by Transmission System Operators, LNG System Operators and Storage System Operators established in the Member State of the national regulatory authority;
 - b) Information related to production, consumption, storage, transmission facilities or interconnectors located in the Member State of the national regulatory authority;
 - c) Information concerning production, consumption, storage, and transmission facilities located in those Member States that are physically connected with and/or share a border with the Member State of the national regulatory authority.

Provided that the information referred to in points a) and b) is reported to the Agency, it shall be made available in case the implementing acts do not foresee the mandatory direct reporting of such information to the national regulatory authority.

The Agency may also provide national regulatory authorities access to publicly available data it collects.

5. The Agency shall provide each national regulatory authority access to the information referred to in paragraphs 2 to 4 of this Article through a technical solution, provided that the national regulatory authority complies with the requirement referred to in Article 2. Such a technical solution shall enable each national regulatory authority to choose whether to access all or part of the data made available to them pursuant to paragraphs 2 to 4 of this Article.
6. Besides having access to the data made available to them pursuant to paragraphs 2 to 4 of this Article through the technical solution referred to in paragraph 5 of this Article,

national regulatory authorities may also access such information through a dedicated release of the Agency's IT market monitoring system. Access and use of this dedicated release of the Agency's IT market monitoring system is subject to the agreement for the sub-licensing of the Agency's IT market monitoring system.

7. Access pursuant to this Article shall be granted to and on the basis of the information reported by market participants or collected by the Agency pursuant to the Implementing Acts.

Article 4

Cooperation at regional level

1. In case a national regulatory authority agrees to grant access to all or part of the information made available to it pursuant to Article 3 to one or more other national regulatory authorities, the Agency shall give effect to such agreement under the conditions laid down in paragraphs 2 and 3 of this Article and provided that the provisions of Article 2 are complied with.
2. The agreement shall indicate in a precise manner what information shall be made available to the parties to the agreement. The agreement shall be notified to the Agency in writing.
3. Access to the information detailed out in the agreement will be made technically possible by the Agency on behalf of the signatories of the agreement, which remain responsible for ascertaining that the application of the provisions of the agreement is in compliance with any provision of Union law and/or the law of the Member States.

Article 5

Cooperation with the Agency in the course of investigations

1. In addition to the information referred to in Articles 3 and 4, national regulatory authorities shall have access to information which is required to support the cooperation with the Agency in case of suspicious or unusual events. This shall include cases where:
 - a) On the basis of an initial assessment, the Agency suspects that there has been a breach of REMIT, in accordance with Article 16(4) of the Regulation;

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- b) A national regulatory authority informs the Agency that it has reasonable grounds to suspect that acts in breach of REMIT are being or have been carried out, pursuant to Article 16(2) of the REMIT;
 - c) The information received by the Agency raises doubts about its quality and / or consistency;
 - d) The Agency detects or is informed about an unusual event and access to information is needed before an initial assessment pursuant to Article 16(4) of the REMIT can be completed; or
 - e) A national regulatory authority detects or is informed about an unusual event and access to information is needed before the national regulatory authority can reach the conclusion that there are reasonable grounds to suspect that the event is in breach of REMIT within the meaning of Article 16(2) of the REMIT.

Requests for access to information filed pursuant to letters b) and e) of this paragraph, shall be substantiated. In particular, they shall be accompanied by a detailed description of the suspicious / unusual event, of the information sought, and of the purpose for which the assistance is sought.

- 2. When dealing with a request pursuant to letters b) and e) of paragraph 1 which concerns data that has been made available to other national regulatory authorities in accordance with Article 3, the Agency shall inform those authorities when this is necessary for the Agency to properly carry out its functions in accordance with Article 16 of REMIT.
- 3. The procedure for requesting information pursuant to letters b) and e) of paragraph 1 and for the involvement of national regulatory authorities pursuant to paragraph 2 will be laid down in more detail in the Market Monitoring Handbook adopted by the Agency.

Article 6

Annual review clause

- 1. One year following its implementation, the Agency shall undertake a review of the present administrative arrangements in cooperation with the national regulatory authorities. Such a review shall aim, in particular, at ascertaining whether the information made available to national regulatory authorities and the procedures for granting access enable the Agency and national regulatory authorities to properly carry out their tasks under REMIT.

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2. The Agency may undertake subsequent reviews of these administrative arrangements on an annual basis following the procedure described in paragraph 1 of this Article, on its own initiative or at the request of the majority of national regulatory authorities signatories of these administrative arrangements.

Article 7

Amendments and entry into force

1. These administrative arrangements shall enter into force once it is signed by the Agency and at least one national regulatory authority, only with respect to its signatories.
2. Subsequent amendments to these administrative arrangements will only enter into force when agreed and signed by all signatory parties. The amendments will thereafter be an integral part of the administrative arrangements and will apply automatically to all national regulatory authorities signing these administrative arrangements after the amendments.
3. These administrative arrangements may be signed by either signing the joint List of Signatories or by signing a separate signatory page according to the model provided in Annex B. The individual signatory pages shall become part of these administrative arrangements upon their receipt by the Agency.

Annex A.III. - Administrative Arrangements between the European Union Agency for the Cooperation of Energy Regulators and National Regulatory Authorities on the sharing of information with the Commission, competent financial authorities of the Member States, national competition authorities, ESMA, Eurofisc and other relevant national authorities under Article 10 of Regulation (EU) No 1227/ 2011 as amended by Regulation (EU) 2024/1106

WHEREAS:

- 1) Article 7(1) of Regulation (EU) No 1227/2011 as amended by Regulation (EU) 2024/1106 ('REMIT') entrusts the Agency with the monitoring of trading activities in wholesale energy products to detect and prevent trading based on inside information, market manipulation and attempted market manipulation. It also provides that the Agency shall collect the data for assessing and monitoring wholesale energy markets as provided for in Article 8 of REMIT.
- 2) Article 10(1) of REMIT lays down an obligation for the Agency to establish mechanisms to share the information it receives pursuant to Article 7(1) and Article 8 of REMIT with national regulatory authorities, national financial authorities, national competition authorities and other relevant authorities. Information sharing in the meaning of Article 10(1) of REMIT may include the sharing of non-confidential information and the sharing of confidential information in the meaning of Article 17(3) of REMIT. The sharing of confidential information may involve the sharing of case-related information and the sharing of non-case-related information for market monitoring purposes.
- 3) Article 10(1) of REMIT foresees that the national regulatory authorities shall establish mechanisms to share the information they receive in accordance with Article 7(2) and Article 8 with the national competent financial market authorities, the national competition authorities, the national tax authorities and other relevant authorities at national level, while also providing that before establishing such mechanisms, the NRAs shall consult with the Agency. It is foreseen in the same provision that the Agency may issue nonbinding guidelines to facilitate the establishment of such mechanisms by the national regulatory authorities.
- 4) Article 2a of REMIT further foresees that National regulatory authorities shall give access to the aforementioned mechanisms only to authorities which have set up systems enabling the national regulatory authority to meet the requirements of Article 12(1) REMIT.
- 5) It is recognised that national regulatory authorities are best placed to share REMIT information they received from ACER with national competent authorities, in particular with financial market authorities, national competition authorities and market monitoring bodies in the meaning of Article 7(2) of REMIT as other relevant national authorities at national level according to Article 10(1) and (2) of REMIT. Pursuant to Article 16(1), subparagraph 3, of REMIT, national regulatory authorities shall cooperate with the Agency and with each other, including at regional level, for the purpose of carrying out their duties in accordance with REMIT. Pursuant to Article 16(1), subparagraph 4, of REMIT, national regulatory

authorities, competent financial market authorities and the national competition authority in a Member State may establish appropriate forms of cooperation in order to ensure effective and efficient investigation and enforcement and to contribute to a coherent and consistent approach to investigation, judicial proceedings and to the enforcement of REMIT and relevant financial and competition law. National regulatory authorities shall also inform the competent financial market authority of their Member State and the Agency where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy markets which constitute market abuse within the meaning of Regulation (EU) No 596/2014 and which affect financial instruments pursuant to Article 16(3)(a) of REMIT and the national competition authority of their Member State, the Commission and the Agency where they have reasonable grounds to suspect that acts are being, or have been, carried out on wholesale energy markets which are likely to constitute a breach of competition law pursuant to Article 16(3)(d) of REMIT. The effective and efficient cooperation between national regulatory authorities, national financial market authorities, national competition authorities and national monitoring bodies according to Article 7(2), second subparagraph, Article 16(1), subparagraph 4, (3)(a) and (3)(d) of REMIT therefore anyway requires the establishment of mechanisms to share information at national level. In case national rules prevent the sharing of non-case-related confidential information for market monitoring purposes between a national regulatory authority and a national competent authority, ACER may share the information with the national competent authority.

- 6) According to Article 10(2) of REMIT, the Agency shall give access to the mechanisms referred to in Article 10(1) of REMIT only to authorities which have set up systems enabling the Agency to meet the requirements of operational reliability referred to in Article 12(1) of REMIT. According to Article 12(1), first subparagraph, of REMIT, the Agency shall ensure the confidentiality, integrity, and protection of the data it collects, and to take all necessary measures to prevent any misuse of, and unauthorised access to the information maintained in its system. According to Article 12(1), third subparagraph, of REMIT, the Agency shall identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures. Article 12(1), second subparagraph, of REMIT requires national regulatory authorities, competent financial authorities of the Member States, national competition authorities, and other relevant authorities to ensure the confidentiality, integrity and protection of the information which they receive pursuant to Articles 4(2), 7(2) or 8(5) or Article 10 of REMIT and shall take steps to prevent any misuse of such information. Article 17 of REMIT provides that any confidential information received, exchanged or transmitted pursuant to REMIT shall be subject to the conditions of professional secrecy laid down therein.

- 7) ACER and national regulatory authorities have commonly agreed on a REMIT Information Security Policy and on a peer review process through the REMIT Information Security Implementation Group (RISIG) to assess compliance with the REMIT Information Security Policy of national regulatory authorities before ACER gives access to the information sharing mechanisms referred to in Article 10(1) of REMIT. ACER's RISIG peer review process should be applied to the relevant national regulatory authority before granting access to non-case-related confidential REMIT information for market monitoring purposes to national financial market authorities, national competition authorities and national market monitoring bodies in the meaning of Article 7(2), second subparagraph, of REMIT as other relevant authority in the meaning of Article 10(1) of REMIT.

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- 8) ACER and national regulatory authorities agree to use the cooperation of national regulatory authorities with financial market authorities, with competition authorities and with market monitoring bodies at national level as mechanism to share REMIT information with the aforementioned authorities and bodies according to Article 10(1) and (2) of REMIT. ACER will support national regulatory authorities in providing relevant information to these authorities as required.
 - 9) Article 12 of the Multilateral Memorandum of Understanding of 17 July 2013³ foresees that the Agency and national regulatory authorities, by common consent, may make amendments and add further Annexes to that document, in particular concerning data sharing according to Article 10 of REMIT.

Article 1

Subject matter and scope

1. These administrative arrangements lay down rules for the establishment of mechanisms to share information that the Agency receives, in accordance with Article 7(1) and Article 8 of REMIT, with national regulatory authorities for the purpose of establishing mechanisms to share the information received with competent authorities pursuant to Article 10(1) of REMIT, in particular with the Commission, competent financial authorities of the Member States, national competition authorities, ESMA, Eurofisc and other relevant national authorities under Article 10 of REMIT, as well as national market monitoring bodies in the meaning of Article 7(2) of REMIT.
2. Such rules shall enable the Agency and national regulatory authorities to properly carry out their tasks under REMIT, without prejudice to cases covered by criminal law or other relevant Union legislation.

Article 2

Information sharing with national competent authorities

³ Multilateral Memorandum of Understanding between the Agency for the Cooperation of Energy Regulators and National Regulatory Authorities and market monitoring bodies concerning cooperation and coordination of market monitoring under Regulation (EU) No. 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (REMIT) of 17 July 2013.

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1. For the implementation of ACER's mandate to establish mechanisms to share information it receives in accordance with Article 7(1) and Article 8 of REMIT with competent authorities pursuant to Article 10(1) of REMIT, in particular with the Commission, competent financial market authorities of the Member States, national competition authorities, ESMA, EUROFISC and other relevant authorities at Union level. B, national regulatory authorities may share the information received from ACER with these national competent authorities for the exercise of their functions in accordance with Article 12(1) and Article 17 of REMIT as follows :
 - a) National regulatory authorities shall identify the national competent authority, assess the legal mandate and justification of the national competent authority's information request and inform the Agency about the request for information sharing by the national competent authority.
 - b) For the sharing of non-confidential information, the national regulatory authority, on its own authority, may share the requested information with the national competent authority in summary or aggregate form such that an individual market participant or market place cannot be identified pursuant to Article 17(3) of REMIT.
 - c) For the sharing of confidential case-related information, including the ad hoc sharing of limited confidential information on a case-by-case basis for the purpose of data verifications, the national regulatory authority, subject to Article 12(1), second subparagraph, and Article 17 of REMIT to the Agency, and after having received the Agency's consent to the sharing of the requested confidential case-related information, may share the requested information with the national competent authority.
 - d) For the sharing of confidential non-case-related information for market monitoring purposes, the national regulatory authority, after having applied the Agency's RISIG peer review process and after having received the Agency's decision on granting access to the requested information to the national competent authority, may share the requested information with the national competent authority. In case national rules prevent the national regulatory authority from sharing such information at national level, the Agency may share the requested information with the national competent authority on the national regulatory authority's explicit request.

Article 3

Operational reliability and professional secrecy requirements

1. The Agency shall give access to the information referred to in Article 2 only to authorities which have set up systems enabling the Agency to meet the operational reliability requirements of Article 12(1) of REMIT and which comply with the obligation of professional secrecy laid down in Article 17 of REMIT.

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2. Operational reliability requirements shall be defined by the Agency, after having consulted national regulatory authorities.
 3. When national regulatory authorities are sharing REMIT information with other competent authorities, bodies or persons at the national level, it is the responsibility of all the involved parties to such an exchange to ensure the confidentiality, integrity and protection of the REMIT information and to take steps to prevent any misuse of such information by the recipient entities pursuant to Article 12(1) of REMIT.
 4. National regulatory authorities, national financial market authorities, national competition authorities and national market monitoring bodies established within the latter, in the meaning of Article 7(2) of REMIT, shall ensure the confidentiality, integrity and protection of the information which they receive and shall take steps to prevent any misuse of such information.

Article 4

Entry into force

1. These Administrative Arrangements shall enter into force once signed by the Agency and at least one national regulatory authority, only with respect to its signatories.
2. The review clause of the Multilateral Memorandum of Understanding applies.

Annex B.

Declaration on the Memorandum of Understanding between the European Union Agency for the Cooperation of Energy Regulators and National Regulatory Authorities concerning cooperation and coordination of market monitoring under Regulation (EU) No 1227/ 2011 as amended by Regulation EU 2024/1106

In my capacity as President, I hereby declare that Spanish National Markets and Competition Commission (Comisión Nacional de los Mercados y la Competencia, CNMC) enters into the Multilateral Memorandum of Understanding between the European Union Agency for the Cooperation of Energy Regulators and National Regulatory Authorities concerning cooperation and coordination of market monitoring under Regulation (EU) No 1227/2011 of 16 December 2015, as amended on 07 May 2024, as of 05 November 2024, including Annex A.III. thereof.

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President of CNMC