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| Date: 4 July 2013  ESMA/2013/BS/101 Annex 1 |

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| PROCEDURE |
| Exchange of the notification under Art. 16(3)(b) and (c) of Regulation (EU) 1227/2011 (REMIT) |

The Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market transparency and integrity (REMIT) requires:

* The Agency for the Cooperation of Energy Regulators (ACER) to inform the European Securities and Markets Authority (ESMA) and the competent financial authority where it has 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 Directive 2003/6/EC and which affect financial instruments subject to Article 9 of that Directive (Article 16(3)(b));
* The competent financial authority of a Member State to inform ESMA and ACER where it has reasonable grounds to suspect that acts in breach of Article 3 (prohibition of insider dealing) and 5 (prohibition of market manipulation) are being, or have been, carried out on wholesale energy markets in another Member State (Article 16(3)(c)).

This procedure sets out a process to be followed by ACER, ESMA and competent financial authorities to comply with obligations set out in Articles 16(3)(b) and (c) of REMIT.

For the purpose of implementation of this procedure ACER, ESMA and competent financial authorities shall assign relevant contact persons within their organisation and shall include contact details of these persons in the attached table (Annex).

The Head of Market monitoring department of ACER and the Head of Markets division of ESMA will always be copied to notifications made by ACER or competent financial authorities under Articles 16(3)(b) and (c) of REMIT.

The notification under Article 16(3)(b) will be made according to the following procedure:

* Where ACER has reasonable grounds to suspect that acts are being, or have been, carried out on wholesale markets which constitute market abuse within the meaning of Directive 2003/6/EC and which affect financial instruments subject to Article 9 of that Directive it will submit relevant notification through an email[[1]](#footnote-1);
* A common email will be sent to the relevant contact persons in the competent financial authority(ies) and ESMA;
* A follow up call to the notified contact persons is highly advisable;
* Receipt of the notification will be acknowledged through a follow up email by the relevant contact persons in the competent financial authority and ESMA.

The notification under Article 16(3)(c) will be made according to the following procedure:

* Where the competent financial authority has reasonable grounds to believe that acts in breach of Articles 3 and 5 are being, or have been, carried out on wholesale energy markets in another Member State it will submit relevant notification through an email;
* A common email will be sent to the relevant contact persons in ACER and ESMA;
* A follow up call to the notified contact persons is highly advisable;
* Receipt of the notification will be acknowledged through a follow up email by the relevant contact persons in ACER and ESMA.

Notifications circulated under Articles 16(3)(b) and (c) will at least include the following information:

1. Identification of the trading venue(s) concerned;
2. Date/timeframe the suspicious activity was observed (including, where relevant, the time stamp of particular transactions and orders);
3. Financial instrument(s) subject to suspicious activity (including product code and specifications on the derivative contract e.g. place of delivery, maturity, contract volume, option price);
4. Description of the suspicion (including, when available, relevant background information);
5. Confidentiality reminder;
6. Relevant contact person (including telephone and email address, where different from the contact person identified in the Annex).

Annex

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| Authority | Contact person | Position | Telephone | Email |
| ACER | Volker Zuleger | Head of the Market Monitoring Department | +386 (0)8 2004 618 | [Volker.Zuleger@acer.europa.eu](mailto:Volker.Zuleger@acer.europa.eu) |
| ACER |  |  |  | [market.conduct@acer.europa.eu](mailto:market.conduct@acer.europa.eu) |
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| ESMA |  |  |  | market.integrity@esma.europa.eu |
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1. When available, ESMA’s system for secure exchange of documents should be used [↑](#footnote-ref-1)