

DIRECTOR DECISION 2015-15

of 23 June 2015

**on the Establishment of the REMIT Coordination Group
of the Agency for the Cooperation of Energy Regulators**

THE DIRECTOR OF THE AGENCY FOR THE COOPERATION OF ENERGY REGULATORS,

Having regard to Article 339 of the Treaty on the Functioning of the European Union,

Having regard to Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing the Agency for the Cooperation of Energy Regulators¹ (hereinafter referred to as “the Agency”), and, in particular, Article 17(5) thereof,

Having regard to Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency², and, in particular, Article 16(1) thereof,

Whereas:

- (1) According to Article 16 of the Regulation (EU) No 1227/2011, the Agency shall aim to ensure that national regulatory authorities for energy (NRAs) carry out their tasks under that Regulation in a coordinated and consistent way.
- (2) 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 Regulation (EU) No 1227/2011.
- (3) Article 12(2) of Commission Implementing Regulation (EU) No 1348/2014 on data reporting implementing Article 8(2) and Article 8(6) of Regulation (EU) No 1227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency³ requires market participants, or persons or authorities acting on their behalf, to start reporting their market transactions to the Agency on 7 October 2015 and 7 April 2016, depending on the contracts being traded. The data collection and the monitoring of the trading activity in wholesale energy products which falls under the responsibility of the Agency will involve significant additional work for the Agency from these dates onwards.

¹ OJ L 211, 14.8.2009, p.1.

² OJ L 326, 8.12.2011, p. 1.

³ OJ L 363, 18.12.2014, p.121.

- (4) The new reporting and market monitoring duties are expected to lead to an increased need for further coordination between the Agency and NRAs, which should be facilitated via a structure where operational and policy discussions on market conduct (market monitoring and enforcement), market surveillance and market data management can be held.
- (5) In order to perform all the tasks arising from Regulation (EU) No 1227/2011, the Commission has signalled in its opinion of 30 October 2014 on the draft 2015 Work Programme of the Agency for the Cooperation of Energy Regulators that the Agency should, *inter alia*, consider involving NRA experts in addition to its own permanent staff to carry out its monitoring programme.
- (6) Whilst ensuring that the necessary measures are taken to guarantee the confidentiality, integrity and protection of the information received by the Agency, it is appropriate that the Agency establishes a Coordination Group, composed of Agency staff and senior NRA experts.
- (7) Such Coordination Group should enable the Agency and NRAs to assist each other and to meet the above obligations under Regulation (EU) No 1227/2011 and Commission Implementing Regulation (EU) No 1348/2014. The Coordination Group should also help strengthen and intensify the cooperation and coordination between the Agency and NRAs on issues related to market integrity and transparency, in particular by facilitating the exchange of ideas and approaches and the coordination of surveillance and enforcement actions in the field of market abuse.
- (8) Personal data relating to the members of the Coordination Group should be processed in accordance with Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data⁴.
- (9) The Agency, NRAs, bodies or persons which receive confidential information pursuant to Regulation (EU) No 1227/2011 may use it only in the performance of their duties and for the exercise of their functions, without prejudice to cases covered by criminal law. Any confidential information received, exchanged or transmitted pursuant to Regulation (EU) No 1227/2011 shall be subject to the conditions of professional secrecy laid down in Article 17 of Regulation (EU) No 1227/2011.
- (10) The Agency and NRAs have defined the scope and practical terms of cooperation and coordination of market monitoring under Regulation (EU) No 1227/2011 in a Multilateral Memorandum of Understanding signed on 17 July 2013.

HAS ADOPTED THIS DECISION:

⁴ OJ L 8, 12.1.2001, p.1.

Article 1

Establishment of the REMIT Coordination Group

The REMIT Coordination Group is hereby established.

Article 2

Tasks of the REMIT Coordination Group

1. The REMIT Coordination Group's objectives shall be to provide support and advise on the following primary responsibilities of the Agency under Regulation (EU) No 1227/2012:
 - (a) provide for a forum where the Agency and NRAs exchange views so that NRAs carry out their tasks under Regulation (EU) No 1227/2011 in a coordinated and consistent way pursuant to Article 16(1) of Regulation (EU) No 1227/2011;
 - (b) promote the building of common culture on market integrity monitoring and enforcement, through the enhancement of supervisory convergence and exchange of supervisory practices, notably in the field of market abuse, including the exchange on operational coordination and the exchange of information for market surveillance and market conduct purposes outside the investigatory groups referred to in Article 16(4)(c) of Regulation (EU) No 1227/2011 and prior to market abuse investigations and enforcement by NRAs;
 - (c) provide input to the Director for the Agency's data collection and data sharing tasks according to Articles 8, 10 and 12 of Regulation (EU) No 1227/2011.
2. The REMIT Coordination Group shall therefore in particular:
 - (a) develop and maintain a common market monitoring strategy for the Agency and NRAs according to Article 7(1) and (2) of Regulation (EU) No 1227/2011;
 - (b) contribute to the consistent application of the prohibition of market abuse, of the obligation of transaction reporting and of related requirements for market participants in wholesale energy markets;
 - (c) contribute to the development of the Agency's REMIT Information System (ARIS) and supporting documentation related to the reporting of transaction and fundamental data and other tasks the Agency has to fulfil according to Commission Implementing Regulation (EU) No 1348/2014;
 - (d) work to improve the Agency's involvement with non-EU jurisdictions in matters related to market monitoring and market abuse investigations according to Article 19 of Regulation (EU) No 1227/2011.

Article 3

Composition of the REMIT Coordination Group

1. The REMIT Coordination Group shall be composed of staff of the Agency and of NRAs.

2. Each NRA shall nominate a senior expert (e.g. the Head of its Market Monitoring Unit) as member to participate in the work of the REMIT Coordination Group and represent the NRA.
3. The personal data related to the members of the REMIT Coordination Group shall be collected and processed by the Agency in accordance with Regulation (EC) No 45/2001.

Article 4 **Operation of the REMIT Coordination Group**

1. The REMIT Coordination Group shall be chaired by the Head of the Agency's Market Monitoring Department (the "Chairman").
2. The Chairman shall convene the REMIT Coordination Group on a quarterly basis. The meetings shall in principle take place in the Agency's premises in Ljubljana. A draft agenda shall be shared with Coordination Group members four (4) weeks ahead of the meeting and NRA representatives shall be provided with the possibility to hand in topics for the agenda. Preparatory documents shall be provided two weeks ahead of the meeting. Remote access to the REMIT Coordination Group meetings shall be provided, as long as the security of the connection and the confidentiality of the information made available at the meeting can be guaranteed.
3. Subject to the needs of the Agency's Work Programme, the REMIT Coordination Group may set up Sub-groups to examine specific questions, in particular on issues relating to REMIT policy, market conduct, market surveillance and analytics and market data management, on the basis of terms of reference defined by the Group. The Sub-groups should be composed of Agency's and NRAs' staff. NRAs should nominate members to work in the Sub-group(s). Unless the terms of reference foresee permanent standing, such Sub-groups shall be dissolved as soon as their mandates are fulfilled.
4. The REMIT Coordination Group may establish a Consultative Expert Group (CEG) in order to benefit from the expertise of wholesale energy market stakeholders on issues related to regulatory compliance under Regulation (EU) No 1227/2011. In addition, the Chairman may invite experts from outside the REMIT Coordination Group or the CEG but with specific competence in a subject on the agenda to participate in the work of the Group or Sub-group on an ad-hoc basis. In addition, subject to prior approval of the Director, the Chairman may give observer status to third parties.
5. The members of the REMIT Coordination Group, of the Sub-groups, as well as the invited experts and observers, shall comply with the obligations of professional secrecy laid down by the Treaties and their implementing rules, and in particular in Article 17 of Regulation (EU) No 1227/2011. Should they fail to respect these obligations, the Agency may take all appropriate measures.
6. The discussions held and documents exchanged in the meetings of the REMIT Coordination Group and Sub-groups are considered confidential and subject to the

conditions of professionally secrecy laid down in Article 17 of Regulation (EU) No 1227/2011.

7. The Multilateral Memorandum of Understanding on cooperation and coordination of market monitoring under REMIT between the Agency and NRAs signed on 17 July 2013 shall be considered a Joint Compliance Commitment on behalf of the relevant NRA that the members and/or observers which the NRA nominates for the REMIT Coordination Group and its Sub-groups shall comply with the rules of professionally secrecy laid down in Article 17 of Regulation (EU) No 1227/2011.
8. Chapter 4.3 of the Annex to Decision AB No 02/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 31 January 2015 laying down a policy for the prevention and management of conflict of interest shall apply by analogy to the REMIT Coordination Group or Sub-groups.

Article 5 **Procedures within the REMIT Coordination Group**

1. Any opinions, recommendations or decisions by the REMIT Coordination Group shall be reached by consensus of all participants if possible.
2. In cases where no consensus among the REMIT Coordination Group participants can be reached and where responsibilities of NRAs are affected, the respective opinions, recommendations or decisions shall be presented to the Board of Regulators of the Agency in accordance with Article 1(5) of Regulation (EU) No 1227/2011.
3. If the use of resources of an individual NRA is affected by a decision, approval of the respective NRA is needed.

Article 6 **Entry into force**

This Decision shall enter into force on the day of its adoption.

Done at Ljubljana on 23 June 2015.


Alberto Pototschnig
Director