

Expert Group on wholesale energy market trading

Ljubljana, 1 October 2020

Subject: Establishment of a consultative Expert Group on wholesale energy market trading, integrity and transparency

Dear Sir or Madam,

The European Union Agency for the Cooperation of Energy Regulators (hereafter “the Agency” or “ACER”) has decided to set up a new consultative expert group on matters related to Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency (REMIT) and on energy trading in general.

This group will seek to build on the good experience of previous Expert Groups organised by the Agency. Its purpose is to offer advice and contribute to the Agency’s work on issues related to REMIT compliance as well as other EU legislation impacting energy trading and market functioning.

These may include:

- to advise the Agency on actions taken in accordance with REMIT concerning guidance and recommendations to national regulatory authorities, to the extent that these do not concern individual market participants, and in particular, the Agency’s non-binding guidance according to Article 16(1) of REMIT on the application of the definitions set out in Article 2 of REMIT;
- to advise and assist the Agency in assessing the obligation to disclose inside information under Article 4 of REMIT, including the effectiveness of so-called Inside Information Platforms which may facilitate this disclosure;
- to advise and assist the Agency in assessing the impact of REMIT on the energy trading regulatory environment with a view to developing concrete proposals for any future review of the regulation;
- to advise and assist the Agency in assessing the impact of new technologies, market developments and regulatory changes, in particular financial market regulation, on the functioning of wholesale energy markets in the EU;
- to advise and assist the Agency in matters related to the improvement of wholesale energy market integrity and transparency.

The Group may submit opinions and advice on any issue related to the tasks of the Agency according to REMIT with particular focus on the areas listed above. The terms of reference for the Group and specific criteria for the experts are provided in Annex 1.

At this stage, only experts responding to the criteria identified in Annex 1 are invited to apply.

In order to ensure transparency and openness, the organisation to which the applicant belongs should be registered in the EU Transparency Register at the following link: <https://ec.europa.eu/transparencyregister/public/ri/registering.do?locale=en>.

The application should set out briefly:

- List of relevant qualifications, including education and number of years of experience after award of the university degree in the area of wholesale energy markets (market integrity and transparency, energy trading and financial regulation), and in which countries or markets such experience has been obtained. Specific professional experience in the energy and/or financial sector, especially when it relates directly to REMIT, shall be taken into consideration. Minimum 8 years of relevant professional experience in the energy and/or financial sector will be required for industry experts and relevant academic field of research for academics and researchers;
- The person's current involvement in wholesale energy markets and REMIT as well as the company or organisation (including EU stakeholder organisation) he or she is a member of. For association members, please indicate current and past participation/contribution in task forces or working groups and the subject(s) dealt with;
- List of relevant publications; and
- Contact details.

Please apply by **28 October 2020**, i.e. four weeks after publication of this "Open Letter" on the Agency's website. Applications received after this deadline will not be considered.

Following the receipt of applications, a list of the members of the expert group will be drawn up according to a selection procedure conducted by the Agency. According to the "Rules of Procedure for the establishment of ad hoc expert groups" (see Annex 2 of this letter), the Group shall aim to have a broad range of relevant expertise according to Annex 1 and guarantee a balanced diversity.

Applications should be sent to: REMIT.expertgroup@acer.europa.eu.

Should you have any questions about this or the work of the Agency in this area, please do not hesitate to contact us at the same email address.

Sincerely,

Volker Zuleger

Head of the Market Integrity and Transparency Department

Martin Godfried

Head of the Market Surveillance and Conduct Department

Annex 1

Terms of reference for the ad hoc expert group on REMIT implementation measures

Deliverable

The ad hoc expert group (hereafter “the expert group”) should deliver expert advice on the specific questions requested by the Agency on wholesale energy market integrity and transparency and energy trading. The form of the advice to be submitted by the expert group to the Agency will be determined by the Chairpersons of the expert group.

Schedule

The expert group shall meet at least twice per calendar year and is expected to normally meet in Ljubljana or through virtual meetings. The meetings will be organised in coordination with the Agency. The experts shall serve for a period of two and a half years.

Qualification

Members of the expert group will be qualified individuals selected by the Agency on the basis of their expertise in the area of wholesale energy market integrity and transparency and trading and taking account of the different nature of the stakeholders affected by the work of the Agency.

Members of the expert group are bound by confidentiality requirements in relation to all non-public information they are provided with.

Knowledge of the contents of Regulation (EU) No 1227/2011 on wholesale energy market integrity and transparency is a precondition. Knowledge of financial regulation impacting on energy markets is considered advantageous.

The Agency will be seeking to ensure representation of the following types of stakeholders:

- Market participants;
- Organised markets and other persons professionally arranging transactions, including NEMOs;
- Users and distributors of wholesale energy market information (e.g. information providers, analysts);
- ENTSOs;
- Consultants; and
- Academics or researchers.

The Agency will draw up a list of candidates who meet the relevant criteria. Once the list is constituted, the Agency will select up to 12 applicants to become members of the expert group. Such selection will focus on forming a diverse group of experts. For the selection of potential experts with similar profiles, criteria such as the number of years of experience or participation in previous ACER REMIT experts groups will be considered. In addition, representatives from each of the ENTSOs may be selected as observers.

Annex 2

Rules of Procedure for the ad hoc consultative Expert Group on wholesale energy market trading (hereafter “expert group”)

Article 1 - Purpose

The role of the expert group is to provide, on an ad hoc basis, expert views to ACER in the development of regulatory policies linked to wholesale energy market trading and related topics. The status of the input provided by the expert group is that of **advice** to ACER. **The determination and implementation of regulatory policies are those of ACER alone.**

Article 2 - Application procedure

An Open Letter for the establishment of an ad hoc expert group will be published on the ACER website.

Persons interested in becoming members will be invited to contact ACER within the deadline specified in the Open Letter (generally four weeks after the Open Letter has been published). To be valid, the application of the expert must contain the following information:

- List of relevant qualifications, including education and number of years of experience in the area concerned specifying in which countries and markets these have been gained;
- Current involvement in the electricity/gas industry and the company or organisation (including EU stakeholder organisation) he or she is a member of (indicate current and past participation/contribution in task forces or working groups of associations by indicating the subject dealt with);
- List of relevant publications; and
- Contact details.

Applications will be assessed by a selection committee established by ACER on the basis of the information submitted by candidates.

Selected candidates will be contacted individually by ACER to confirm their appointment as members of the expert group. This communication will take place within three weeks after the closing of the period for applications which is made public on the ACER website together with the Open Letter for the establishment of an expert group.

Article 3 – Membership

The expert group is composed of members appointed by ACER.

The expert group shall aim at having a broad range of relevant expertise and diversity among its members. Specific criteria (depending on the relevant area of expertise) may be defined for the appointment of the experts.

Each of the ENTSOs will be among those eligible to nominate a qualified expert.

Members are appointed *ad personam* and primarily for their competences and shall therefore not have alternates.

Members are required to abide by the terms of ACER's Rules of Procedure for ad hoc expert groups, and shall sign them for acceptance upon joining the expert group.

The number of experts in an expert group will not exceed 12, with the exception of the ENTSO representatives.

Article 4 – Chair

Meetings shall be chaired by an ACER representative.

Article 5 – Responsibilities of the Chair

The Chair is responsible for the efficient conduct of the business of the ad hoc expert group and shall in particular:

- Plan the work of the expert group by define its tasks;
- Draw up the agenda for the meetings of the expert group and ensure minutes are taken;
- Chair the meetings of the expert group;
- Monitor the application of these Rules of Procedure;
- Present the work of the expert group to ACER on a regular basis; and
- Present the work of the expert group externally (particularly to the electricity and gas fora, when relevant).

Article 6 – Independence of the experts

Members shall make a declaration of commitment in their application to fulfil their duties and a declaration of interests which could be considered to be prejudicial to their independence.

Article 7 – Confidentiality of information

Experts shall not disclose to any persons, or company, including the one they might be linked to, any information acquired as a result of their work in the expert group.

The obligation to maintain confidentiality shall continue to apply even after participation of members in the expert group has ceased.

Article 8 – Transparency

The organisations to which the members of the expert group belong shall be registered in the EU Transparency Register.

The list of members of the expert group shall be made public.

The expert group shall operate in accordance with the need for a high level of transparency.

The following documents of the expert group shall be published on the ACER website, subject to the respect of confidentiality requirements:

- Open Letter for the establishment of an ad hoc expert group;
- Rules of Procedure for ad hoc expert groups;
- Minutes in a summary form.

Article 9 - Invitations to meetings

Any meeting of an expert group shall be convened at the invitation of the expert group Chair.

The date of the first meeting will be communicated in due course after the establishment of the ad hoc expert group.

Invitations shall be issued not later than 21 calendar days before the meeting.

Article 10 – Agenda

A draft agenda shall be drawn up by the Chair and circulated to the members of the ad hoc expert group no later than 10 calendar days before the meeting. The agenda shall be adopted at the beginning of each meeting.

Article 11 – Documentation

Documents that are necessary for the meetings shall be normally circulated to the members of the ad hoc expert group at least 10 calendar days before the meeting.

Article 12 – Minutes

It is the responsibility of the Chair, to take the minutes of the meeting of the expert group. The minutes shall include a summary record of the proceedings and action points.

Views, whether expressed orally or in writing by members in the context of an expert group shall not be ascribed to a particular individual.

Article 13 – Reimbursement

Experts should bear their own costs.

Article 14 – General provisions

Amendments to these Rules of Procedure shall be approved by ACER.

Annex 3

DECLARATION OF COMMITMENT AND CONFIDENTIALITY

I, the undersigned in my function as [alternate] member of the ACER Expert Group on wholesale energy market trading,

hereby undertake to make all reasonable efforts to fulfil my duties as [alternate] member of the of the ACER Expert Group on wholesale energy market trading. In particular, I am aware of my responsibility to declare at each meeting of the Group any interest which might be considered prejudicial to the treatment of items on the agenda.

hereby declare that I am aware of my obligation to respect confidentiality, even after my duties have ceased, if the information is subject to a request for confidentiality or for reasons of professional secrecy. I shall also respect the confidential nature of the opinions expressed by other members during discussions in meetings or provided in written form.

I understand that this declaration will be entered in a register held by ACER, which is accessible to the public.

Date:.....

Place:.....

Signature:.....

Annex 4

**DECLARATION REGARDING CONFIDENTIALITY AND PERSONAL DATA
PROTECTION**

I, the undersigned,....., formally
declare that:

- (1) I will treat confidentially any information and documents, in any form (i.e. paper or electronic), disclosed in writing or orally in relation to my participation and/or the performance of my tasks as a member of the ACER Expert Group on wholesale energy market trading ('the Group'), and process any personal data in accordance with [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.
- (2) I am fully aware of my obligations, *inter alia* in terms of confidentiality and personal data protection arising from my participation to the Group.
- (3) I will undertake to observe strict confidentiality in relation to my work as follows:
 - I will not use or disclose, directly or indirectly, confidential information or documents for any purpose other than fulfilling the tasks relating to my participation to the Group, without prior written approval from ACER;
 - I will not discuss the work of the Group with others, including other experts or relevant service staff not directly involved;
 - I will not communicate outside the relevant ACER team any confidential information that is revealed to me or that I have discovered. I will not make any adverse use of information given to me.

I shall continue to be bound by these undertakings after completion of my work unless this disclosure of confidential information is required by law.

If materials/ documents/ reports/ deliverables are made available to me either on paper or electronically, I agree to be held personally responsible for maintaining the confidentiality of the documents or electronic files sent and for returning, erasing or destroying all confidential documents or files on completing my work as instructed.

- (4) When my work takes place on premises ACER, I :
 - must not remove from the premises any copies or notes, either on paper or in electronic form;
 - will be held personally responsible for maintaining the confidentiality of any documents or electronic files sent, and for returning, erasing or destroying all confidential documents or files on completing my work as instructed.

- (5) If I seek further information (e.g. from the internet, specialised databases, etc.) to complete my work, I :
- must respect the overall rules for confidentiality for obtaining such information;
 - must not contact third parties without prior written approval from ACER.

Date:.....

Place:.....

Signature:.....