

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)**

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. 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 as defined in Article 2(10) of REMIT (NRAs) is therefore necessary to ensure proper monitoring and transparency of energy markets.
3. 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.
4. 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.
5. According to Article 10(1) of REMIT, the Agency shall establish mechanisms to share information it receives in accordance with Article 7(1) and Article 8 of REMIT with NRAs, competent financial authorities of the Member States, national competition authorities, ESMA and other relevant authorities. Before establishing such mechanisms, the Agency shall consult with those authorities.
6. 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 Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data or the obligations of the Agency, when fulfilling its responsibilities, relating to its processing of personal data under 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 data.
7. 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 unauthorized access to, the information maintained in its systems. NRAs, competent financial authorities of the Member States, national competition authorities, ESMA and other relevant authorities shall ensure the

confidentiality, integrity and protection of the information which 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. The Agency shall identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures.

8. 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 obligation set out in Article 4 (obligation to publish inside information) are applied.
9. 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.
10. 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 9 of Directive 2003/6/EC of the European Parliament and of the Council of 28 January 2003 on insider dealing and market manipulation (market abuse), in accordance with Article 16 (3) of REMIT.
11. 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 Directive 2003/6/EC and which affect financial instruments subject to Article 9 of that Directive.
12. 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.
13. 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 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.
 14. 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.
 15. 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.
 16. 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 and 16 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 as referred to in 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 is not intended to replace or amend existing legislation. Nothing in this MoU is intended to restrict, extend or alter the powers, functions or duties of the Agency or the NRAs.
4. The cooperation between the Agency and the NRAs shall be based on the following principles:
 - a. *Distribution of powers.* The clauses of 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.

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 market places, 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.

Article 4
Notifications by 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) and, if the acts affect financial instruments subject to Article 9 of Directive 2003/6/EC, in accordance with Article 16(3).
2. Notifications by 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 the following information:
 - a. a description of the transaction(s) and/or order(s) concerned;
 - b. the reasons for suspecting that the transaction(s) and/or order(s) might constitute market abuse;
 - c. in which Member State the suspected breach is being, or has been, carried out;
 - d. identities of persons carrying out transaction(s) and/or order(s);
 - e. identities of any other persons known to be involved in the transaction(s) and/or order(s);
 - f. capacity in which the person performing the transaction(s) and/or order(s) acts;
 - 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) or Article 16(3)(b) of REMIT;
 - i. further information which may be of significance.
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 by 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 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 Directive 2003/6/EC and which affect financial instruments subject to Article

9 of that Directive. 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 by NRAs to the Agency in accordance with Article 16(3)(a) and Article 16(3)(d) of REMIT shall be made to the Agency through the secure communication channel described in Annex A.I, and shall, without prejudice to 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 national legislation and to 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 by 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 by the Agency to NRAs in accordance with Article 16(4)(a) shall include 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;
 - 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 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.

Article 6

Requests by 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 by the Agency to NRAs in accordance with Article 16(4)(b) shall include 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. 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. if applicable, capacity in which the person performing the transaction(s) and/or order(s) acts;
 - f. 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.

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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.

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 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 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. capacity in which the person performing the transaction(s) and/or order(s) acts;
 - f. a list of authorities that have been requested to participate in the investigatory group;
 - g. 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

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 at all times.

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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 Agency and NRAs shall provide the necessary contact details of their liaison officers and their updates using the form to be provided by the Agency.
 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 are provided to the NRAs 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.

Article 9

Public communication

1. NRAs shall inform the Agency and vice versa prior to any public communication relating to breaches of REMIT.
2. If an NRA decides to make public a sanction within the course of its duties under REMIT it shall indicate if the outcome of the case has been achieved with the aid of the European cooperation provided for in REMIT and in this MoU.

Chapter 3

Professional secrecy

Article 10

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 (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.

Chapter 4

Final provisions

Article 11

Publication

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

Article 12

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 13

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.

Drawn up in duplicate on [DD] [Month] 2022

For the European Union Agency for the Cooperation of Energy Regulators Christian Pilgaard ZINGLERSEN The Director	For [Entity Name] [Name] [SURNAME] Legal Representative
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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**

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 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 Article 16 of REMIT;
- b) Access case materials and case-specific information on potential breaches of REMIT; 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 should 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 (EC) No 45/2001¹.

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;

¹ 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 data, OJ L 8, 12.1.2001, p. 1.

- 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 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 Directive 95/46/EC².

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

² Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, OJ L 281, 23.11.1995, p. 31.

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

WHEREAS:

- 1) Article 7(1) of Regulation (EU) No 1227/2011 ('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). 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. 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 2013³, foresees that the Agency and national regulatory authorities, by common consent,

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.

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. 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

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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.

 - 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.

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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 to be adopted by the Agency.

Article 6

Annual review clause

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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.
 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 national financial market authorities, national competition authorities and other relevant national authorities under Article 10 of Regulation (EU) No 1227/ 2011

WHEREAS:

- 1) Article 7(1) of Regulation (EU) No 1227/2011 ('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) National regulatory authorities are considered 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.

- 4) 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.
- 5) 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.
- 6) 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.

- 7) Article 12 of the Multilateral Memorandum of Understanding of 17 July 2013⁴, 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 national competent authorities pursuant to Article 10(1) of REMIT, in particular with national financial authorities, national competition authorities and 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

⁴ 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.

Information sharing with national competent authorities

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 national competent authorities pursuant to Article 10(1) of REMIT, in particular with national financial authorities of the Member States as defined in Article 2(9) of REMIT, with national competition authorities and with other relevant authorities of the Member States, 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, after having committed to comply with 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 request.

Article 3

Operational reliability and professional secrecy requirements

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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.
 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 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

In my capacity as [POSITION WITHIN THE NRA] I hereby declare that [NAME OF THE NRA] 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 6th of April 2022, as of [DATE of SIGNATURE], including / excluding [DELETE as APPROPRIATE] Annex A.III. thereof.