

Need of coordination of regulators related to energy commodities derivatives in the Energy Community Contracting Parties

I. Background

The evolution of liberalized energy markets brought new trading venues and trading instruments. In order to manage market and counterparty risk, energy market participants developed energy derivatives contracts which qualify as financial instruments. In most cases, such contracts are traded and/or cleared centrally. This means that the risk is transferred into a central clearing counterparty. In parallel, in Europe, but also globally, the framework regulating activities in financial instruments and activities of the central clearing counterparties has evolved creating stricter rules in dealing with derivatives contracts.

Energy markets in the Contracting Parties are going through the same evolution, while financial markets are less developed and in most cases there is no regulatory framework related to commodity derivatives. As financial framework develops, it is very important that E-Regs and F-Regs cooperate and coordinate activities related to energy commodity derivatives, in particular electricity and gas derivatives. Particularly this is important for the implementation of REMIT regulation for which Energy Regulators are responsible.

The gradual development of liberalized energy markets in the Contracting Parties creates a strong need for market participants to hedge price risks, which were not needed in the systemic market structure of monopolistic players with regulated prices. In order to further support the liberalization process, instruments which are allowing to hedge price risk in the future are essential.

II. General

The Contracting Parties need a platform to coordinate activities and harmonised views and practices in relation to oversight and supervision of the energy commodity derivatives. Such a platform shall offer a possibility for discussion of the matters pertaining to energy commodity derivatives and the coordination between E-Regs and F-Regs in the Contracting Parties when dealing with overlapping areas.

In particular, the Secretariat sees a need for:

1. Assessing the areas where E-Regs and F-Regs powers overlap. This might be the case of the energy derivative instruments and venues where such instruments are traded.
2. Facilitating the development of regulatory framework supporting trading in energy derivatives and clearing through central clearing.
3. Ensuring cooperation and coordination in relation to oversight, monitoring and surveillance of the activities that fall under the energy and financial framework, in particular in relation to integrity framework.
4. Exchange of experience in different Contracting Parties and EU Member States in relation to cooperation between E-Regs and F-Regs, and other competent authorities.
5. Issuing regulatory guidance to industry representatives and others in relation to overlapping areas.