Inside information vs. Transparency information

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Content

- REMIT framework
- Definition of inside information
- Transparency information vs. inside information
- Disclosure of inside information
Un-managed risk!

Policy makers and regulatory authorities should ensure stable legal and regulatory framework

Potential for abusive and unfair practices that undermines market confidence => price setting

Market participants should be able to manage market and credit risk

Effectively addressing market abuse?

- Third package does not fully address market abuse and monitoring

- In the EU energy market – market abuse is addressed via REMIT

- In the EU financial sector - market abuse is addressed via MAR
Framework around REMIT

- REMIT (Regulation 1227/2011)
  - Key REMIT requirements

- REMIT Implementing Regulation (1227/2011)
  - Data reporting: What/When/Who

- ACER Guidance

- Other guidance by ACER/NRAs/Industry

- Regulatory Guidance
Framework around REMIT REGULATION (EU) No 1227/2011

Market integrity (5Ps)

- Publication of inside information
- Prohibition of insider trading
- Prohibition of market manipulation
- Providing data [to ACER] & Monitoring
- Power for the NRA
**REMIT important definitions**

**Inside Information**
- Precise nature
- Not made public
- Relates to wholesale energy products
- Likely to significantly affect the prices
- Required to be disclosed (3rd package, etc.)
- Capacity and use of facilities for production, storage, transmission of electricity and gas

**Wholesale energy products**
- Contracts for supply of electricity or gas with delivery in EU
- Contracts relating to transport of electricity or gas in EU
- Derivatives relating to electricity or gas produced, traded or delivered
- Derivatives relating to transport of electricity or gas

**Market participants**
- Any person, including TSOs, entering into transactions (incl. placing orders) in ‘wholesale energy markets’:
  - Trading companies, producers, shippers, wholesale consumers, final customers, TSOs, storage operators, LNG operators and investment firms
  - REMIT registration

**Wholesale energy market**
- Markets within EU where energy products are traded:
  - Balancing market, intra-day and day-ahead market
  - Forward markets (contracts)
  - Derivatives markets
  - Markets for transportation capacities and related derivative markets
Defining “information”

Inside Information
- Precise nature
- Not made public
- Relates to wholesale energy products
- Likely to significantly affect the prices
- Required to be disclosed (3rd package, etc.)
- Capacity and use of facilities for production, storage, transmission of electricity and gas

- Information required to be published under:
  - 3rd package, including guidelines and network codes (as well as Transparency Regulation)

- Information relevant to:
  - the capacity and use of facilities for production, storage, consumption or transmission of electricity or gas
    - including planned/unplanned unavailability of such facilities

- Information required to be disclosed in accordance with legal or regulatory provisions

- Other information that a reasonable market participant would be likely to use as part of the basis of its decision to trade
Defining “information” – other information

Inside Information
- Precise nature
- Not made public
- Relates to wholesale energy products
- Likely to significantly affect the prices
- Required to be disclosed (3rd package, etc.)
- Capacity and use of facilities for production, storage, transmission of electricity and gas

- What about market participants’ plans and strategies?
  - ACER’s interpretation in the spirit of recital 12 of REMIT

- Inside Information does not include trading plans and strategies of market participants
  - ACER’s Guidance:
    - “trading plans” - systematic method for evaluating wholesale energy products, determining the amount of risk that is or should be taken, and formulating short and long-term investment objectives. Most plans require the use of various types of technical analysis tools.
    - “trading strategies” - set of objective rules designating the conditions that must be met for trades in their trading activities such as specifications for trade entries, trade filters and triggers, as well as rules for trade exits, money management, timeframes, order types, etc.
Defining inside information – (grey areas)

- **Inside Information**
  - Precise nature
  - Not made public
  - Relates to wholesale energy products
  - Likely to significantly affect the prices
  - Required to be disclosed (3rd package, etc.)
  - Capacity and use of facilities for production, storage, transmission of electricity and gas

- **To be classified as inside information, all criteria have to be met**

- **Grey areas on defining inside information**
  - **Precise nature**
    
    *If indicates as set of circumstances which exist or may be reasonably expected to come into existence or an event which has occurred*

  - **Likelihood** of having **significant** price effect
    
    *If the circumstances on which the info is based would likely have significant impact on prices if it became publicly known*

    → Likelihood is sufficient, no actual price effect is required
Transparency information vs. inside information

**Transparency information** (periodic structural data)

- Data that should be published under 3rd package and Transparency Regulation 543/2013
  - Such information may constitute inside information
  - Lack of publication makes related data REMIT relevant → insider information to be made public

**Inside information** (ad-hoc data)

- Goes beyond what is required 3rd package and Transparency Regulation
- Information a reasonable market participant would be likely to use as part of the basis of its decision to ‘trade’ (if likely to have price significance), but not trading strategies; e.g.:
  - Outage of capacity <100MW but with price significance (important for small markets of CPs)
  - Closure of certain nuclear/coal/gas plant, commissioning of a plant, etc.
  - Decisions related to climate change policies, etc.
Obligation to publish inside information

• Market participants to publish inside information in an effective and timely manner
  • Latest 1h after the occurrence, but before any trading activity occurs

• Scope
  • own business, parent/related undertaking
  • information market participant is in control of or responsible

• Content relevant to:
  • the capacity and use of facilities for production, storage, consumption or transmission of electricity or gas
  • including planned/unplanned unavailability of such facilities
Disclosure of inside information

- Inside information is required to be disclosed
  - as an urgent market message (UMM)
  - at centralized platforms to ensure easier access for users
  - on a non-discriminatory basis and free of charge
  - via an RSS feed specific for the disclosure of inside information,
  - allowing easy and fast access by the public;
  - and be kept available for the public for a period of at least 2 years in the official language(s) and in English or in English only
**Content of urgent market messages**

**Caption: “Publication according to Article 4(1) of REMIT – Urgent Market Message”**

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<thead>
<tr>
<th>Description</th>
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<tr>
<td>A subject heading that summarises the main content of the publication</td>
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<td>If the reason(s) for the unavailability is/are not known, regular updates should be provided until the reason(s) is/are confirmed</td>
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<td>If applicable, a history of prior publications regarding the same event,</td>
<td>e.g. if a prognosis is updated or an unplanned outage becomes a planned outage</td>
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Delays, exemptions…

- In case of potential delays in publication, market participants should inform NRA and ACER
  - Justification of such delay
  - Ensure that it does not mislead the market
  - Still not trade on such info

- “Sensitive critical infrastructure protection related information”
  - May delay publication
  - Still not trade on such info
Centralized platforms for UMMs

- ACER publishes the list of centralized platforms that publish UMMs
- [https://www.acer-remit.eu/portal/list-inside-platforms](https://www.acer-remit.eu/portal/list-inside-platforms)
Thank you!

www.energy-community.org

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