



European Union Agency for the Cooperation  
of Energy Regulators

**European Union Agency for the  
Cooperation of Energy Regulators**

**Single Programming Document**

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## DIRECTOR'S FOREWORD

At the time of writing, I have almost completed my second year as ACER Director. In several ways, it has been a rollercoaster type of year.

At times it has seemed the proverbial 'perfect storm' with the impact of Covid-19 on our working model combining with an unprecedented number of decisions (per the new Clean Energy Package mandates) coupled to numerous legal appeals, seriously challenging our financial resources and our legal services team. It speaks volumes of the ACER team how everyone managed to pull through.

At the same time, we enjoyed several moments where we thought we were close to getting out of the Covid-19 restrictions, being able to work together again face-to-face whilst reaping valuable lessons on a good mix of teleworking and physical presence. In fact, we managed to have some weeks of a '50-50' balancing of such work during the fall before a new wave of Covid-19 increases made us revert back to the (recent) 'old' teleworking model.

After any storm, whether perfect or not, it is good form to draw lessons, to evaluate for future purposes. Indeed, as in business, it is often when 'bootstrapping' one's approaches that true needs and pressure points of an organisation reveal themselves.

Whilst arguably those proverbial storms are far from over, I do find the past couple of years instructive, providing lessons ranging from the very strong resilience and adaptability shown by ACER colleagues, delivering despite the odds, to the significant pressures on our resources, financial and human, and the rather limited options for shifting resources across to meet unexpected strains. As such, increasingly throughout this time, I have felt that '*something has got to give*'.

This links to another lesson I have been tempted to draw during the year, namely that the Agency's contributions to wider European political priorities are probably not sufficiently recognised across a wider group of stakeholders and decision-makers, whether in the European Parliament, in national governments or beyond. To put it simply and perhaps provocatively, we might be 'too niche' compared to our role and potential impact.

This would probably not matter much were it not for the resource strain that seems recurrent. (The existence of this shortage of resources has been repeatedly confirmed in a number of studies, including recent ones by the European Court of Auditors, European Parliament and European Commission.)

In a context of severe economic circumstances impacting Europe, we like any other public institution will need to be prudent and realistic in terms of our resource asks. This rationale

was behind our request for only a limited number of additional human resources for 2022 as part of a realistic growth plan to be implemented in future years, external conditions permitting. Thankfully, this situation has been well recognised, leading to the European Commission's proposal in the fall of this year to gradually increase the Agency's staffing over the coming years and the subsequent conclusion of the EU 2022 budget by the European Parliament and the Council to this effect. This is a bit of a milestone, I find, and much appreciated.

Related to this, we are well aware that we need increasingly to 'make our case' in a competitive environment – why should we as ACER be amongst those few EU agencies that are endowed with additional resources?

Well, part of the reason in my view is that ACER plays a crucial role for a number of key objectives set at the highest political level in Europe. And that the terrain on which we play this role is likely to become ever more important, perhaps also more politically fraught and contentious, requiring us to be even more attentive, communicative and aware of differences than in the past.

The energy future that Europe is embarking upon is one of increased mutual reliance, further interdependence, of '*being in this together*'. We as ACER have a key role to play in underpinning this future trajectory, in close partnership with the NRAs, the "DNA" of our Agency. By doing this well we can help build faith in such increased mutual reliance; a precondition in my view for the long-term acceptance (and hence longevity) of this trajectory.

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To outline just some of the high-level priorities where ACER in my view plays a key role:

- *Decarbonisation and the Green Deal*: ACER helps supply the 'nuts & bolts' of a sustainable, integrated European energy system; one of the main cost-efficient measures to achieve enhanced decarbonisation.
- *Protecting security of supply across Europe*: The Agency provides much of the foundation for sharing resources across Member States, thus securing supply in cost-efficient ways, whilst supporting future-proof energy infrastructure.
- *Reinforcing European competitiveness in a global economy*: ACER enhances the competitiveness of European companies by contributing to lower prices via robust market rules and market surveillance.
- *Securing affordability of energy for European consumers*: The Agency protects consumers alongside National Regulators by promoting effective competition, sharing of resources and robust market surveillance.

Related to this, many upcoming efforts targeting “the next stage” of decarbonisation are likely to rely on - or even stand on - well-functioning, highly integrated energy markets in Europe. We must therefore avoid the temptation to “*tick the box*” e.g. on energy market integration. It is not done yet.

While the progress achieved so far in electricity market integration has brought significant economic benefits for Europe, a number of challenges remain. It is important, for example, to address delays in market coupling (achieving further integration of market timeframes) and to further increase the utilization of interconnectors (in line with the 70% target). Addressing these challenges will be key for several other political objectives, not least ambitious decarbonisation objectives at lower cost. These will also be central to other efforts, such as increased electrification, further sector coupling etc.

More recently, in view of the current high energy price impacting Europe, the Agency was tasked mid-October 2021 by the European Commission to assess benefits and drawbacks of the current wholesale electricity market design – and to do so by April of next year with a preliminary assessment due by mid-November of this year.

This is a key new task for us, not ‘budgeted’ in our initial programming of course, where we rely on a cross-agency project team assembled at short notice. Equally, it requires a flexible approach to other tasks and priorities so as to make room for this high-visibility contribution from our side to a crucial political debate.

As such, I find this most recent effort instructive for our working ways for the future, namely that we indeed are capable at short notice to react to the unforeseen and to work strongly across departmental divides in a ‘fast moving’ and somewhat politically sensitive context. At the same, there are also limits to how much or how many times we realistically can do this over one particular year, considering the Agency’s multiple statutory tasks which do not fall away ‘just because’ we are called upon to contribute to new important priorities.

Notwithstanding this caveat, I find this most recent effort bodes well for the years ahead. Exactly because of ACER’s contributions to the higher-level priorities outlined above, we may well be called upon to contribute more, rather than less, to high-profile and technically complex tasks up ahead.

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As regards increased mutual reliance across Member States in Europe, resource adequacy is a case in point. In 2020 the Agency, in close collaboration with ENTSO-E, took the first steps in developing and adopting methodologies underpinning future European-wide resource adequacy assessments, informing the assessment done nationally. This complex topic is

potentially contentious since it poses limits on discretion and manoeuvrability in light of measures undertaken in neighbouring Member States. This links, for example, to having appropriate pricing in place and to perceived needs for capacity remuneration mechanisms.

There are many reasons for such adequacy assessments to draw on cross-border perspectives and significant efficiencies to be gained. The implications of this approach are significant, too – it implies energy policy is becoming increasingly shared or coordinated amongst countries, and less strictly national. Debates at the national level do not always seem to factor this in; something we need to be mindful of to avoid the risk of increased disconnect.

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Many new challenges are coming to the Agency as well.

One relates to the vast changes impacting the gas sector where the Agency stands ready to implement a number of changes resulting from upcoming legislation. These might involve shifts in the market framework, new methane emissions regulation and/or underpinning emerging hydrogen market(s). Also, a number of political priorities are linked to more sector-integrated approaches for the future, several of which are bound to have implications for the Agency's work going forward.

Another example is the risk of cybersecurity; risks that are on the rise in the energy world as significant weaknesses could threaten not only cross-border electricity and gas flows but broader economic activity and indeed daily life as we know it. To counter such risks the Agency will be heavily involved in a new European-wide cybersecurity network code; a completely new area for the Agency.

Additionally, the Agency is called to implement appropriate working arrangements with the UK regulatory authorities reflecting multiple areas of energy collaboration between the EU and the UK going forward. Depending on the approach to be taken, this could have significant implications for the Agency, too.

In a similar vein, it is possible that the involvement with the Energy Community will become deeper (e.g. incorporating REMIT or the Clean Energy Package) affecting the Agency's work plan.

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It would seem appropriate given the Covid-19 crisis to close with a perspective on risk and how approaches which we currently take for granted may risk being challenged by new and unexpected developments.

Here, it can be instructive to ask: What might shake the foundations of the trajectory we are on and what implications might this have for some of the tasks entrusted to the Agency?

Arguably, one high-risk event that may threaten the further integration of markets is a significant electricity black-out impacting vast parts of Europe (a preliminary ‘scare’ was witnessed earlier in the year with a system split incident originating in Southern Europe). Looking ahead, a potential black-out might reflect inaccurate resource adequacy assessments across Member States, thus perhaps jeopardising the commitment to our shared resources / mutual reliance model in Europe. This in turn would speak to the importance of thorough and detailed resource adequacy assessments informing national decisions, drawing extensively on European-wide perspectives.

Another example is the risk of a substantial, high-visibility market manipulation event (an “ENRON moment”, if you will) which could impact trust in the integrity of energy markets. Already now, with the current high energy prices impacting Europe, the notion of possible market manipulation receives increased political attention. Whilst market functioning and market integration is one side of the “mutual reliance coin”, the other side is market surveillance countering possible market manipulation. This in some ways is the “political corollary” to continued reliance on integrated European energy markets to deliver various political objectives at lower cost.

Here, we need to further reinforce the monitoring of wholesale energy markets within the REMIT framework and to enhance the cooperation with NRAs. (To mention just one data point putting the continuously growing amount of data on energy transactions into perspective; more than 8 million records are now collected by the Agency on a daily basis.)

A key step has been taken this year (2021) with the introduction of REMIT fees for market participants, a new and much-welcome component of the Clean Energy Package, thus ensuring that our REMIT activities are put on a more sound financial footing. As this will need to be further supplemented by human resources, financed by such fees, to be fully effective, we are highly appreciate of the recent efforts to gradually increase our staff levels, including for our REMIT efforts.

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At the start of 2021 I had two broader ambitions for the coming year, in addition to us successfully delivering on our day-to-day tasks, namely to make headway in explaining our role and value-add to a broader audience than in the past and to assist in putting in motion a realistic, gradual resource growth plan for the coming years.



When looking back at this year's developments, I would be tempted to conclude that we are making progress. First, I feel the current high energy price environment has brought closer to policymakers what ACER stands for and the objectives that we contribute to (now also operationally for this very issue) and second, the European Commission has proposed a growth of the Agency's resources over the coming years, seeking to address structural resource shortages from the past, thankfully supported by the EU budgetary authorities in the 2022 budget negotiations.

Also here, therefore, I see significant 'rays of light' shining through for the coming years of ACER work.

I want to thank our NRA partners, our Administrative Board, our colleagues in DG ENER of the Commission, the ITRE Committee of the European Parliament and many other collaborators for their continued support.

Christian Pilgaard ZINGLERSEN

December 2021

## LIST OF ABBREVIATIONS AND ACRONYMS

Abbreviation	Meaning
The Agency	European Union Agency for the Cooperation of Energy Regulators
AB	Administrative Board
ARIS	Agency's REMIT Information System
AWG	Agency Working Group
BoA	Board of Appeal
BoR	Board of Regulators
CBA	Cost Benefit Analysis
CBCA	Cross-Border Cost Allocation
CEER	Council of European Energy Regulators
CEREMP	Centralised European Register of Energy Market Participants
CEP	Clean Energy Package
CMP	Congestion Management Procedures
CoI	Conflict of Interest
CS	Corporate Services (former Administration Department)
DoI	Declaration of Interest
EC	European Commission
EnC	Energy Community
ECRB	Energy Community Regulatory Board
EMIR	Regulation of the European Parliament and Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR)
ENTSO-E	European Network of Transmission System Operators for Electricity

ENTSOG	European Network of Transmission System Operators for Gas
ESMA	European Securities and Markets Authority
FERC	U.S. Federal Energy Regulatory Commission
FG	Framework Guideline
FTE	Full Time Equivalent
IEM	Internal Energy Market
ICT	Information and Communication Technology
ITC	Inter-TSO Compensation
ITIL	Information Technology Infrastructure Library
MiFID	Markets in Financial Instruments Directive
MMR	Market Monitoring Report
MSC	Market Surveillance and Conduct
MoU	Memorandum of Understanding
MP	Market Participant
NC	Network Code
NDP	Network Development Plan
NRA	National Regulatory Authority
OTC	Over the counter
PCI	Project of Common Interest
REMIT	Regulation on wholesale Energy Market Integrity and Transparency
RRM	Registered Reporting Mechanisms
SDC	Strategy Delivery and Communication

SMARTS	Market surveillance software
SNE	Seconded National Expert
SSO	Storage System Operators
TCA	Trade and Cooperation Agreement
TEN-E	Trans-European Energy Network
TSO	Transmission System Operator
TYNDP	Ten Year Network Development Plan

## MISSION STATEMENT

### MISSION

The European Union Agency for the Cooperation of Energy Regulators fosters a fully integrated and well-functioning Internal Energy Market, where electricity and gas are traded and supplied according to the highest integrity and transparency standards, and EU consumers benefit from a wider choice, fair prices and greater protection. For this purpose, we work with European Institutions, NRAs and stakeholders.

### VISION

Our vision is to be a leading agency for independent, high-quality regulation in Europe to implement the Internal Energy Market and the Energy Union.



## LEGAL BASIS

The Agency has been assigned tasks and responsibilities by a number of legislative acts:

- The Third Package (some acts were recast within the Clean Energy for all Europeans Package):

Regulation (EC) No 713/2009 (the “Agency Regulation”), repealed and replaced by Regulation (EU) No 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulators (recast),

Directive 2009/72/EC (the “Electricity Directive”), repealed and replaced from 1.1.2021 by Directive (EU) 2019/944 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast),

Regulation (EC) No 714/2009 (the “Electricity Regulation”), repealed and replaced from 1.1.2020 by Regulation (EU) No 2019/943 on the internal market for electricity,

Directive 2009/73/EC (the “Gas Directive”),

Regulation (EC) No 715/2009 (the “Gas Regulation”);

- Regulation (EU) No 1227/2011 (REMIT) and Commission Implementing Regulation (EU) No 1348/2014 (the REMIT “Implementing Acts”);
- Regulation (EU) 994/2010, recently replaced by Regulation (EU) 2017/1938 concerning measures to safeguard the security of gas supply (the “SoS Regulation”);
- Commission Regulation (EU) 838/2010 on the inter-TSO compensation mechanism (the “ITC Regulation”);
- Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure (“TEN-E Regulation”);
- Commission Regulation establishing a Network Code on Capacity Allocation Mechanisms in Gas Transmission Systems (984/2013/EU), as replaced by Commission Regulation (EU) 2017/459 establishing a network code on capacity allocation mechanisms in gas transmission systems and repealing Regulation (EU) No 984/2013 (“CAM Network Code”);
- Commission Regulation establishing a Network Code on Gas Balancing of Transmission Networks (312/2014/EU);

- Commission Regulation establishing a Network Code on interoperability and data exchange rules (703/2015/EU);
- Commission Decision (EU) 2015/715/EU amending Annex I to Regulation (EC) 715/2009 on conditions for access to the natural gas transmission networks (“Congestion management procedures – CMP Guidelines”);
- Commission Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management (“CACM Guideline”);
- Commission Regulation (EU) 2016/631 establishing a network code on requirements for grid connection of generators;
- Commission Regulation (EU) 2016/1388 establishing a Network Code on Demand Connection;
- Commission Regulation (EU) 2016/1447 establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules;
- Commission Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation (“FCA Guideline”);
- Commission Regulation (EU) 2017/460 establishing a network code on harmonised transmission tariff structures for gas;
- Commission Regulation (EU) 2017/1485 establishing a guideline on electricity transmission system operation;
- Commission Regulation (EU) 2017/2195 establishing a guideline on electricity balancing;
- Commission Regulation (EU) 2017/2196 establishing a network code on emergency and restoration;
- Regulation (EU) No 2019/941 on risk-preparedness in the electricity sector and repealing Directive 2005/89/EC.
- Commission Decision (EU) 2020/2152 of 17 December 2020 on fees due to the European Union Agency for the Cooperation of Energy Regulators for collecting, handling, processing and analysing of information reported under Regulation (EU) No 1227/2011 of the European Parliament and of the Council.

# SECTION I – GENERAL CONTEXT

## STRATEGIC AIMS

### **An active ACER in a context of significant change**

The energy systems of Europe are undergoing massive change, driven in part by technology, by market actor innovation and in part by evolving political priorities, not least as regards decarbonisation of the broader economy, in which energy transition plays a crucial part. The Covid-19 crisis has further accelerated decarbonisation trends and is changing the energy landscape in ways that at this stage may yet not be fully clear.

As such, the regulatory landscape, in which the Agency for the Cooperation of Energy Regulators (ACER) finds itself, is very much evolving, too. This has implications on how the Agency deploys its resources, how it seeks to enhance its agility in delivering priority tasks and how it engages with stakeholders, of which there are many. It also has implications on how the Agency communicates its activities going forward, keeping a close eye on how these fit within the wider European context, and with the future priorities which the Agency may need to contribute to.

The Agency’s work is anchored in its legal mandate, as enhanced by the “Clean Energy for all Europeans Package”. Cooperation with National Regulatory Authorities (NRAs) remains an essential part of the Agency’s mission and work.

Accordingly, the Agency’s strategic aims in the coming years will be the following:

### **BROADER CHALLENGES GOING FORWARD**

- **Contributing, from a regulatory perspective, to the EU’s wider energy and decarbonisation goals and the EU Green Deal;**
- **Implementing the Clean Energy for All Europeans Package;**
- **Engaging on the future gas market design and decarbonisation of Europe;**
- **Engaging stakeholders for greater impact, communicating strategically and via modern tools;**
- **Redeploying resources to meet future challenges;**
- **Putting the Agency’s REMIT activities on sound financial footing.**

### **CURRENT CHALLENGES**

- **Implementing Electricity and Gas Network Codes and Guidelines and monitoring their effects;**



- **Increasing the transparency of wholesale energy markets and promoting their integrity under REMIT;**
- **Contributing to the EU's energy infrastructure challenge under the TEN-E regulation;**
- **Contributing to safeguard the security of gas supply.**

**Broader challenges going forward.**

- **Contributing, from a regulatory perspective, to the EU's wider energy and decarbonisation goals and the EU Green Deal**

While focusing on its legal mandate and tasks allocated to it since its establishment, the Agency aims to contribute, from a regulatory perspective, to the implementation of the European Union's Green Deal and the broader energy and decarbonisation objectives set at political level. A large share of its activities contribute, directly or indirectly, to cost efficient solutions for Member States and consumers, to building faith in increased mutual reliance among key actors in the energy market and ultimately to the EU's goal of becoming the world's first climate-neutral continent.

The energy transitions needed to achieve this trajectory also require new approaches to the infrastructure underpinning efficient markets. Increased cross-border and regional cooperation will help achieve the benefits of energy transitions at more affordable prices for EU energy consumers. At the same time, there are important discussions to take account of as to the balance between wider, pan-European approaches and more localised flexibility solutions. Similarly, for some of the political priorities set at European level there are important discussions ahead on the right balance between setting the right market framework on the one hand and broader government planning and market actor coordination on the other hand, especially in the aftermath of the Covid-19 crisis. Finally, the governance arrangements currently in place may no longer be appropriate in the new policy and technological environment. These will be important guideposts for the Agency's contributions to ongoing discussions on future energy challenges for Europe.

While energy transitions give rise to different challenges and opportunities across the economy, the EU's energy supply needs to remain secure and affordable for consumers and businesses. For this to happen, as also emphasised in the Green Deal, it is essential to ensure that European markets are integrated, interconnected and digitalised, while respecting technological neutrality. The Agency plays a key role through its current activities and will seek to play a forward-looking role in these processes in the coming years, cooperating closely with NRAs.

➤ **Implementing the Clean Energy for All Europeans Package**

In addition to the above, since 2020, the Agency is implementing the tasks allocated to it within the “Clean Energy for all Europeans Package” (CEP), which includes a recast of the Agency’s founding regulation. The latter strengthens the role of the Agency with the assignment of additional tasks that are crucial for promoting greater competition and security of energy supply to the benefit of European consumers and citizens as well as according it with greater responsibilities in some processes in which it was already involved. Briefly put, with the CEP the Agency has started delivering, along with the NRAs, ENTSO’s and others, the foundations for a more integrated, efficient and competitive energy system in Europe, taking account of the decarbonisation objectives set at the political level.

The Agency is also called to decide directly on the EU-wide “terms and conditions or methodologies” for the implementation of guidelines (and on the regional ones where they have an impact beyond the region). This is an important expression of faith in the Agency as previously, the Agency’s involvement was limited to those cases in which the NRAs failed to agree or unanimously referred the decision to the Agency.

➤ **Engaging on the future gas market of Europe;**

The Commission has announced its intention to proceed, in the next couple of years, to a review of the gas market legislation, in order to adapt the role of gasses to the decarbonisation of the economy and to “mirror” in the gas sector some of the new governance and regulatory arrangements introduced for the electricity sector by the “Clean Energy for All Europeans” legislation. The Agency stands ready to engage on priority issues of regulatory relevance under this review and of course to implement the tasks subsequently allocated to it in the framework of the future gas market legislation.

➤ **Engaging stakeholders for greater impact, communicating strategically and via modern tools;**

Tackling the rapidly shifting energy landscape and taking into account the Agency’s new tasks requires it to reinforce and adjust its approach to key stakeholders. Indeed, within the remit of the Agency’s work, there is a multitude of stakeholders, many of whom have views of relevance for ACER’s tasks and approaches. Whilst targeting all stakeholders is not a feasible option, greater engagement with key stakeholders is necessary, drawing on more strategic, proactive approaches and underpinned by more modern communication tools. This will be a key shift in the workings of the Agency over the coming years and is currently in progress.

➤ **Redeploying resources to meet future challenges**

The Agency has struggled to obtain the resources it has deemed necessary so far to fully perform its mandate and legal obligations, most notably as concerns the surveillance of the wholesale energy market under the Regulation on wholesale energy market integrity and transparency (REMIT). As such, it puts ever more onus on the pursuit of internal efficiencies and synergies relevant for the strategic priorities mentioned above, despite the limited options for shifting resources across to meet unexpected strains. A shift of internal human resources took place both in 2020 (with the revision of the Agency’s organisational structure) and in 2021. The Agency will seek at fairly regular intervals to evaluate its internal organisation in order to have as agile and dynamic a structure as possible.

➤ **Putting the Agency’s REMIT activities on sound financial footing**

The recast of the Agency’s founding regulation introduces fees as a new source for the funding of REMIT related services. These fees shall be due to the Agency for collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf. Implementing the new REMIT fee model as of 2021 constitutes both a new operational challenge for the Agency and very much also an opportunity in terms of putting the Agency’s REMIT activities on sound financial footing for the years to come.

**Current challenges**

The Agency was established as part of the institutional framework defined by the Third Energy Package to support the completion of the Internal Energy Market and to fill the regulatory gap emerging in this process due to the mainly national competences of NRAs. ACER is currently undertaking a number of efforts linked this effort and these remain a core mission of the Agency.

➤ **Implementing Electricity and Gas Network Codes and Guidelines and monitoring their effects**

In its initial period, the Agency focused its effort on tasks related to the development of common market and network operation rules - through the preparation of Framework Guidelines, the evaluation of the Network Codes drafted by the ENTSOs and the support of their implementation - and to the planning of the development of European energy networks - with its opinions on the TYNDPs. Since the Network Codes and Guidelines entered into force, the Agency has been working on their implementation as well as monitoring their implementation and effects. This complements the more general monitoring of developments in the IEM, which the Agency has been performing since 2012, with the publication of annual Market Monitoring Reports. Moreover, with the entry into force of the Network Codes and

Guidelines, the Agency was assigned additional important tasks and responsibilities in supporting the coordination of NRAs and the harmonisation of IEM rules, including by stepping in when NRAs are unable to reach an agreement on binding subsidiarity instruments.

### ➤ **Implementing REMIT**

REMIT aims at increasing transparency of wholesale energy markets and at promoting their integrity by introducing explicit prohibitions of market abusive behaviour and envisaging the establishment of a new, sector-specific, monitoring framework to detect and deter market manipulation and insider trading. The goal of increased integrity and transparency of wholesale energy markets is to foster open and fair competition in wholesale energy markets for the benefit of final energy consumers and to protect energy consumers and other market participants by striving to ensure that prices reflect a fair and competitive interplay between supply and demand and that no profits can be drawn from market abuse.

In this respect, the Agency was tasked with collecting records of wholesale energy market transactions, irrespective of where they are concluded (on organised markets or over the counter) and of the type of product traded (for physical delivery or financial settlement), including orders to trade placed at organised markets, and fundamental data. In the implementation of the principle of subsidiarity and in the strive to gain efficiencies, the Agency was also tasked with conducting an initial assessment and analysis of these transactions and orders to trade to identify suspicious events, having potentially a cross-border impact; suspicious events which otherwise would not be detected at national level. Following the initial assessment performed at the Agency, suspicious events are further notified to NRAs, which are responsible for investigations and enforcement. This enables NRAs and other relevant authorities at national level to perform investigations and enforcement by providing access to the relevant information held by the Agency which it has collected ('data sharing') and by aiming to ensure a coordinated approach at Union level.

The market surveillance framework introduced by REMIT is unprecedented worldwide in terms of its geographical and product scope, and its implementation has posed a formidable challenge for the Agency, NRAs, market participants - which have to report trade data - and other stakeholders - responsible for reporting fundamental data. The central role given to the Agency in the implementation of REMIT contributes to cost-savings at the Member States level as concerns data collection, efficient and effective market surveillance of suspicious transactions in evolving, further integrating wholesale energy markets and ensuring the consistent application of market abuse provision by NRAs. The Agency's vigour to do so depends on the availability of expert staff and financial resources.

➤ **Contributing to the EU’s energy infrastructure challenge under the TEN-E regulation;**

In line with the TEN-E Regulation, the Agency plays a role in the process of identifying critical energy infrastructure (PCIs) and in assisting NRAs in dealing with investment requests – including for cross-border cost allocation – submitted by PCI promoters. As part of the European Green Deal and the decarbonisation policy objectives, the TEN-E legislation is under revision, with a proposal from the European Commission published in December 2020. The revision, which aims at modernising and upgrading the TEN-E framework, foresees additional tasks for ACER in this domain.

➤ **Contributing to safeguard the security of gas supply**

Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply, which applies from 1 November 2017, strengthened the role of the Agency in ensuring gas supply security by foreseeing tasks linked to the enabling of permanent physical capacity to transport gas in both directions, the related cross-border cost allocation and exemption requests.

The above brief description of the developments in the legislative mandate of the Agency since its establishment – together with the new responsibilities assigned in 2019 in the CEP – illustrates, on the one hand, the most important components of the current mission of the Agency and, on the other, how this mission has been significantly expanded over the last years, in some cases in new and “unexpected” areas, thus making the Agency still a “New Task” agency.

**OPERATIONAL ACTIVITIES**

In its Annual Work Programme, the Agency’s tasks and deliverables are divided into the following six operational Activities:

- **Market Information and Transparency;**
- **Market Surveillance and Conduct;**
- **Internal Electricity Market;**
- **Internal Gas Market;**
- **Electricity and Gas Market Monitoring;**
- **Infrastructure and Security of Supply.**

## SECTION II

### 1. MULTIANNUAL PROGRAMMING 2022 – 2024

#### WIDER CONTEXT

##### European Green Deal, Energy Union Strategy, UN Sustainable Development Goals

While the Agency is an independent body, it is fully committed to the **European Green Deal**, with a fully-integrated internal energy market in which energy should flow freely across the EU - without technical or regulatory barriers. The Agency therefore also contributes to the implementation of the **Energy Union Strategy**, in particular to the following two dimensions:

- Security, solidarity and trust - diversifying Europe's sources of energy and ensuring energy security through solidarity and cooperation between EU countries;
- A fully integrated internal energy market - enabling the free flow of energy through the EU through adequate infrastructure and without technical or regulatory barriers.

Many of the activities that the Agency is planning to perform over the next three years are instrumental to achieve the above objectives. In particular, while only some the Agency's tasks are directly related to security of energy supply, most of activities of the Agency significantly contribute to it. In fact, all of the four objectives listed below are instrumental to improving security of supply in the EU: a fully functioning internal energy market, better infrastructure with improved connections, greater transparency and integrity of the markets and addressing the longer-term regulatory challenges the EU is facing are all conducive to greater security of supply of Member States.

In addition, the Agency is increasingly involved in cybersecurity issues related to the energy market.

The Agency also contributes to the **United Nations sustainable development goal** of ensuring access to affordable, reliable, sustainable and modern energy for all.

## 1.1 Multiannual objectives

<b>Objective 1</b>	<b>Contribute to the completion of the Internal Energy Market and the monitoring of its functioning</b>
<b>Goals</b>	Supporting the integration of the electricity and gas markets in the European Union as assigned by the Agency's founding Regulation and other provisions in the Third Package, and further enhanced with the acts of the "Clean Energy for all Europeans" package. The achievements of these goals should be instrumental to the goals of the European Green Deal.
<b>Actions - 1</b>	<b>Contributing to the implementation of the provisions in the adopted Network Codes and Guidelines.</b> This includes a variety of specific tasks assigned to the Agency that are instrumental to the integration and well-functioning of the internal electricity and gas markets, as well as decisions on binding tertiary instruments or particular cross-border issues when NRAs fail to agree or upon their joint request.
<b>Actions - 2</b>	<p><b>Monitoring developments in the Internal Energy Market, the implementation of the Network Codes and Guidelines and their effects.</b> These monitoring activities may result in recommendations for amending Network Codes or Guidelines or for other regulatory interventions, which may require the involvement of the Agency.</p> <p>An effective Network Code monitoring process will continue to be used to monitor the impact of these NCs and GLs on the functioning of the IEM. The Agency will pay attention as to whether any enhancement is required to address the new challenges facing the electricity and gas markets in the future. The results will continue to be included in the Annual Market Monitoring Report, which is the Agency's flagship publication, covering all relevant developments in the European gas and electricity markets. The MMR is a fact-based analysis covering all EU Member States and, for some aspects, the Energy Community Contracting Parties. NRAs are involved in its production.</p> <p>Since 2016, the MMR has become more flexible, as the parts covering the four key areas - Wholesale Electricity Market, Wholesale Gas Market,</p>

	<p>Electricity and Gas Retail Markets and Consumer Protection and Empowerment - have become stand-alone volumes. Depending on when the required data for these volumes are available for the Agency, these can be published earlier in the year.</p>
<p><b>Actions - 3</b></p>	<p><b>Performing the tasks assigned to the Agency under the “Clean Energy for All Europeans” Package (CEP).</b></p> <p>The CEP legislation foresees that the Agency will directly revise and submit the electricity sector Network Codes to the Commission for adoption. The Agency will also be called to decide directly on the EU-wide “terms and conditions or methodologies” for the implementation of guidelines, or on the regional ones when they have an impact beyond the region.</p> <p>The CEP legislation assigned new monitoring tasks to the Agency, including the monitoring of:</p> <ul style="list-style-type: none"> <li>• the wholesale and retail markets in electricity and natural gas, in particular the retail prices of electricity and natural gas;</li> <li>• the impact of market developments on household customers, access to the networks including access of electricity produced from renewable energy sources;</li> <li>• regulatory barriers for new market entrants and smaller actors, including citizen energy communities;</li> <li>• state interventions preventing prices from reflecting actual scarcity;</li> <li>• the performance of the Member States in the area of security of supply of electricity based on the results of the European resource adequacy assessment;</li> <li>• Regional Coordination Centres (RCCs) and Nominated Electricity Market Operators (NEMOs).</li> </ul> <p>The Agency will also continue implementing the new tasks stemming from the CEP, such as approving the methodologies regarding the use of revenues from congestion income from cross-border exchanges in electricity and establishing best practices in the area of transmission and distribution tariffs methodologies.</p>



<p><b>Expected achievements</b></p>	<p>In both electricity and gas, the focus over the next few years will continue to be on the full implementation of all the Network Codes and Guidelines across the European Union and on the assessment of whether and how they are delivering the intended effects.</p> <p>The legislative proposals in the CEP take stock of the results of the monitoring performed by the Agency over the last five years and envisage an enhanced market design for the electricity sector to deal with the identified obstacle to a well-functioning, efficient, secure and sustainable internal electricity market.</p> <p>In this context, the Agency is ready to support and contribute to the policy debate and promote more coordinated and efficient solutions to address, in particular, problems of adequacy and flexibility. In this latter respect, the Agency will particularly focus on the role of demand response in addressing these challenges.</p> <p>In gas, the Agency remains ready to focus its support, through the GRI, on the implementation of the Network Codes in those Member States that lag behind in the process, in particular in South-South East Europe.</p> <p>The Agency will also take a more proactive role in its stakeholder engagements through, e.g. the chairing of the European Stakeholder Committees for the electricity Network Codes and Guidelines and by managing its on-line gas Functionality Platform, jointly developed with ENTSOG to collect and follow up stakeholders' issues relating to Network Codes.</p>
<p><b>Performance Indicators</b></p>	<ul style="list-style-type: none"> <li>➤ Timely implementation of the Network Codes and Guidelines;</li> <li>➤ Timely decisions on terms and conditions or methodologies or particular issues when referred for decision to the Agency;</li> <li>➤ Implementation of an effective process, involving stakeholders, for monitoring the Network Code implementation and its effects on the IEM;</li> <li>➤ Implementation of an effective amendment process;</li> <li>➤ Timely implementation of the CEP-related methodologies.</li> </ul> <p>Bearing in mind that the Agency is only one of the actors involved in the objectives related to the completion of the Internal Energy Market, the</p>

	<p>Agency monitors progress in this field (including indicators) through dedicated implementation monitoring reports on each NC and Guideline and through its Annual Market Monitoring report.</p> <p>In gas, the Agency developed indicators for the ex-post evaluations of the NCs. After the release of the study for a methodology proposal to evaluate the impact of the gas NCs and Guidelines in 2015, the Agency through cases studies or in-depth analysis described the effect of the network codes in the dedicated sections of the Market Monitoring Reports and stand-alone monitoring reports for the implementation of the Congestion Management Guidelines, Capacity Allocation Mechanisms and Balancing Codes.</p> <p>The indicators should not be used in isolation to draw conclusions regarding market impacts of NCs and GLs, but rather be looked at in combination and interpreted in the light of market fundamentals. These indicators are used by ACER in its annual Market Monitoring Report to measure the economic impact of NCs/GLs and its use will gradually increase over time.</p>
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<b>Objective 2</b>	<b>Contribute to the Infrastructure and Security of Supply Challenges</b>
<b>Goals</b>	<p>The Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure (TEN-E Regulation) introduced a new framework aimed at promoting the development of Projects of Common Interest (PCIs), i.e. infrastructure projects that are particularly beneficial in supporting a more integrated European energy market. According to the Third Package, the Agency was already involved in the energy network development process, but the TEN-E Regulation projected this involvement into a new dimension. The Regulation aims at enhancing the physical integration of the internal energy market, including by ensuring that no Member State is isolated from the European network. As one of the many players involved, the Agency aims to contribute to the infrastructure challenge in line with its legal mandate.</p> <p>The Agency has various functions and roles regarding the development of the electricity and gas infrastructure. Cost-efficient network development</p>

	<p>is essential for overcoming physical congestion, improving energy security and ensuring sustainability. Capacity allocation methods and/or congestion management procedures alone cannot resolve physical congestion in electricity and gas transmission systems, especially at interconnection points and other system bottlenecks. Adequate physical transmission capacity is thus a prerequisite for completing the IEM. Additional tasks have been added by the Clean Energy Package acts. In particular, the Agency will be tasked to approve the methodology regarding the use of revenues from congestion income.</p> <p>The achievements of these goals should be instrumental to the goals of the European Green Deal.</p>
<p><b>Actions - 1</b></p>	<p><b>Assessing the cost-benefit analysis methodologies</b> developed by the ENTSOs and the consistent application of the criteria for identifying PCIs.</p>
<p><b>Actions - 2</b></p>	<p><b>Providing opinions on the draft PCI lists</b>, in particular on the consistent application of the cost-benefit analysis and the selection criteria.</p>
<p><b>Actions - 3</b></p>	<p><b>Taking decisions on investment requests and cross-border cost allocation</b> submitted by PCI promoters, when called to do so.</p> <p>If within 6 months of receiving an investment request, the concerned NRAs cannot agree on the cross-border cost allocation (CBCA) decision, they are required to hand over the case to the Agency. The Agency may also be called to take such a decision upon the joint request of all concerned NRAs.</p>
<p><b>Actions - 4</b></p>	<p><b>Performing the tasks assigned to the Agency under the CEP</b>, such as approving and amending, where necessary, the proposals for methodologies and calculations related to the European resource adequacy assessment; approving and amending, where necessary, the proposals for technical specifications for cross-border participation in capacity mechanisms; providing an opinion, at the request of the Commission, on the ENTSO-E's evaluation of national adequacy assessments; approving and amending, where necessary, the methodologies for identifying electricity crisis scenarios; monitoring the performance of the Member States in the area of security of electricity</p>

	supply and monitoring and analysing the performance of Regional Coordination Centres (RCCs).
<b>Expected achievements</b>	<p>PCI lists are adopted every two years. Ten Year National Development Plans (TYNDPs) - which are also developed every two years, - serve as the basis for the PCI lists. Investment requests may be submitted by promoters of PCIs included in the lists. Therefore, the TYNDP/PCI identification/investment request process runs over two years, repeating itself every two years. The Agency is involved in all its stages.</p> <p>The Agency will strive to enable efficient infrastructure investments to take place, with a particular focus on investments of cross-border relevance. Such investments should help further integrate the IEM, as well as to increase security of supply. In particular, they should contribute to the elimination of the so-called energy islands.</p>
<b>Performance Indicators</b>	<ul style="list-style-type: none"> <li>➤ Consistent application of the criteria for identifying PCIs;</li> <li>➤ Effective monitoring of PCI and other infrastructure developments;</li> <li>➤ All decisions on the investment requests taken within the foreseen legal deadlines.</li> </ul> <p>Bearing in mind that the Agency is only one of the actors involved in the objectives related to the completion of the Internal Energy Market, the Agency monitors progress in this field through its Opinion on the PCI lists, its Annual Progress Report on the PCI and through its Opinions on the TYNDP-related topics.</p>

<b>Objective 3</b>	<b>Increased integrity and transparency of wholesale energy markets</b>
<b>Goals</b>	A well-functioning pan-European energy market demands that energy is traded according to the highest transparency and integrity standards, so that prices reflect the fundamentals of demand and supply. Correct prices further unlock decentralised supply resources and provide a robust basis for investment decisions in for example generation, transmission and storage, such as battery technology, to enhance flexibility in supply.

The Regulation on wholesale energy market integrity and transparency (REMIT) aims to establish the conditions for this to happen. The effective implementation of REMIT is thus a major pre-requisite for efficient market integration and the security of energy supply, both of which are essential components of the Energy Union strategy. REMIT introduced a new, unprecedented, sector-specific market-monitoring framework to detect market abuse in European wholesale energy markets, thus deterring such behaviour. It is a monitoring opportunity provided by digitalisation. The Agency aims to ensure that REMIT is fully implemented so that consumers and other market participants can have confidence in the integrity of electricity and gas markets, that prices set on wholesale energy markets reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.

As REMIT covers legislative and technical aspects on which there is little experience worldwide, its implementation has posed a formidable challenge to the Agency.

In recent years, REMIT became a role model for the implementation of market integrity and transparency regimes in other jurisdictions impacting the Union energy wholesale energy market like the UK, Switzerland, Norway and the Energy Community. The incorporation of REMIT in the EEA agreement is currently still pending. In addition, ACER's cooperation with the U.S. Federal Energy Regulatory Commission (FERC) is an important cornerstone in promoting market integrity and transparency and customer protection in a more and more global gas market.

Regulatory cooperation is an essential element of REMIT because of its decentralised design with Member States through their NRAs being responsible for investigations and enforcement at national level. Close cooperation and coordination between the Agency and NRAs is therefore necessary to ensure effective, efficient and consistent market oversight.

Moreover, apart from NRAs, the Agency cooperates closely with the European Securities and Market Authority (ESMA), the competent financial market authorities of Member States and, where appropriate, with the Directorate General for Competition of the European Commission and national competition authorities. The Agency established strong links with major organised market places and may establish links with tax authorities

	<p>as through its surveillance activities it could detect fraudulent behaviour in energy markets that go beyond the prohibition REMIT provisions.</p> <p>Furthermore, the European Green Deal's increased climate ambition and the objectives to ensure effective carbon pricing, to avoid carbon leakage and to develop international carbon markets mean that more efforts will be needed to monitor the potential interaction between the European carbon market and the EU wholesale energy market.</p> <p>Such an open, competitive, interconnected and integrated energy market is essential to achieve decarbonisation and security of energy supply at the lowest possible costs and to ensure that the clean energy transition benefits consumers. The effective implementation of REMIT is therefore underpinning the European Green Deal which aims to transform the EU into a fair and prosperous society with a modern, resource-efficient and competitive economy which has successfully tackled climate and environment-related challenges.</p>
<p><b>Actions - 1</b></p>	<p><b>Collection of wholesale energy market data</b> by the Agency at pan-European level for assessing and monitoring wholesale energy markets and data sharing with NRAs and other relevant authorities for their potential market monitoring and for their investigations and enforcement at national level.</p> <p>The Agency has delivered a successful REMIT implementation of data collection of wholesale energy markets data from market participants and of data sharing with NRAs. The Agency currently collects more than 8 million records of transactions, including orders to trade per day. The implementation of REMIT required the Agency to build in-house expertise on data collection and to develop, with the assistance of several IT companies and other contractors, a specialised IT system - ARIS, the Agency's REMIT Information System.</p> <p>The continuous successful operation of the REMIT data collection and data sharing against the lack of human and financial resources was a huge challenge in previous years and will remain a challenge in 2022 and beyond given the continuous growth of the collected data volume in recent years.</p>

<p><b>Actions - 2</b></p>	<p><b>Detecting and deterring market manipulation and trading based on inside information.</b> Given the sheer volume of transactions reported by market participants, the Agency performs its monitoring functions, consisting in an initial assessment or analysis of the reported transactions, in two stages. The first stage is based on the automatic screening performed by purposely-developed surveillance software. This screening is expected to identify anomalous events based on predefined “alerts”. The second stage looks into these anomalous events (‘triggered alerts’) to identify those for which market abuse can be suspected and which are then notified to NRAs for investigation. This second stage focuses on market participants’ behaviour and must therefore be conducted by highly qualified experts. Moreover, the Agency aims to ensure that NRAs carry out their activities under REMIT in a coordinated and consistent manner.</p> <p>The Agency receives through its Notification Platform suspicious transaction reports, inter alia from market parties and organised market places, which need to be assessed and distributed in a secure way to the appropriate and relevant authority(ies). The Agency is also responsible for coordinating the investigations and may provide operational assistance on investigations upon request of NRAs. The latter is a new task for the Agency with the entry into force of Regulation (EU) 2019/942.</p> <p>Finally, the Agency is required to assess the operation and the transparency of different categories of market places and ways of trading and to make recommendations regarding market rules, standards and procedures that could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirement for organised markets could contribute to enhanced market transparency.</p>
<p><b>Expected achievements</b></p>	<p>Increased integrity and transparency of wholesale energy markets should foster open and fair competition in wholesale energy markets for the benefit of final energy consumers. Well-functioning energy markets are also instrumental in providing signals to promote security of supply through a cooperative approach throughout Europe. Efficient market monitoring by the Agency at Union level is therefore vital for detecting and deterring market abuse in wholesale energy markets and a major contributor to the Energy Union Strategy.</p>

<p><b>Performance Indicators</b></p>	<ul style="list-style-type: none"> <li>➤ Efficient operation of an effective REMIT trade and fundamental data reporting regime to facilitate market monitoring of wholesale energy markets;</li> <li>➤ Effective market monitoring of wholesale energy markets to detect and deter trading based on inside information and market manipulation.</li> </ul>
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<p><b>Objective 4</b></p>	<p><b>Contribute to address longer-term regulatory challenges</b></p>
<p><b>Goals</b></p>	<p>The Agency will strive to support political priorities set at the EU level which are relevant for energy regulation, such as the European Green Deal and the related decarbonisation goals for the achievement of the EU climate policy objectives. The aim is to support more cost-effective pathways for the EU's energy objectives and to help regulators and policymakers remain at the forefront of the regulatory implications of a rapidly changing energy system.</p> <p>In doing so, the Agency intends to focus on topics with clear regulatory relevance, for instance those linked to the <i>Bridge beyond 2025</i> Recommendation. These could include the future use of gas infrastructure, the role of power-to-gas installations, the possibilities for hydrogen in a decarbonised energy system, the development of hybrid infrastructure assets such as offshore grid linking multiple jurisdictions and the development of demand response.</p> <p>Challenges include also the future greater penetration of renewable-based generation into the European electricity system, which will be a source of new challenges for the electricity and gas systems in the years to come, including in terms of adequacy and flexibility. These challenges may require a regulatory and market design response. The Agency is committed to contributing to this effort.</p> <p>The Agency intends, over the next years, to reassess the identified challenges, to see to what extent they have been addressed, and to consider whether additional challenges have in the meanwhile emerged, which may require a regulatory response. In particular, in electricity, as the</p>



	<p>system decarbonises, the traditional model of generation, network and market operation will have to be further developed. Many more generators will connect at distribution voltage levels. This will require distribution networks to become more actively managed and there will be a need to (re)define the relationship between TSOs and DSOs. Cross-border power flows driven by price signals and increased interconnection between countries will become ever more important and the coordination of those flows will be vital to manage the system and use resources efficiently. Perhaps most importantly, the demand side of the market will become more active and consumers will be able to take part in markets. The changes in market conditions are going to continue to raise questions about how to promote the investment that Europe needs – whether in transmission, distribution or generation capacity, smart grids or innovation – while maintaining security of supply and continuing to decarbonise. If investments have to take place in response to forward prices, it is imperative that price signals reflect scarcity and shorter-term markets reward those who provide the flexibility services that the system increasingly needs.</p> <p>A new dimension of risk for the energy sector, linked to its progressing digitalisation, comes from possible cyber-attacks. While not yet directly involved in this area, the Agency has developed experience in cybersecurity, in preparation for any call on it to contribute to addressing the issue at sector level.</p>
<p><b>Actions and expected achievements - 1</b></p>	<p>The Agency may <b>follow-up on the Bridge Beyond 2025 Conclusions Paper</b> to address new challenges that have emerged and which require regulatory response.</p>
<p><b>Actions and expected achievements - 2</b></p>	<p>When asked and where relevant, the Agency may <b>contribute, from a regulatory perspective, to the EU’s wider energy and decarbonisation goals and the EU Green Deal.</b></p>
<p><b>Actions and expected achievements - 3</b></p>	<p>The Agency may contribute to <b>addressing cybersecurity issues in the energy sector.</b></p>

<b>Performance Indicators</b>	<p>Bearing in mind that the Agency is only one of the actors involved in the objectives related to future challenges, the Agency monitors progress in the completion of the Internal Energy Market and helps identify the areas where improvement is needed through its Annual Market Monitoring report and through the monitoring reports on the implementation of NCs and Guidelines. In its Recommendation on decarbonisation in the gas sector, the Agency commits to adding sustainability indicators to track progress in this area as well.</p>
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**General risks and uncertainties related to the Multi-annual objectives**

The future action of the Agency, whose mission has already been significantly extended since its establishment, including through the legislation that emerged from the “Clean Energy for all Europeans” Package, faces a number of risks, mainly related to its role as an EU body dedicated to promoting the cooperation among NRAs and to the resources available to it.

Risks specific to the different areas of activities are listed more specifically in the Annual Work Programme section. Here only the more general risks, affecting all the activities of the Agency, are outlined.

First, one of the essential characteristics of the Agency is the fact that it brings together the expertise and experience of NRAs and complements them with a European dimension. The cooperation between the Agency and NRAs and between NRAs within the Agency is therefore an essential part of the structure and working arrangements of the Agency. Such cooperation takes place, at technical level, in the Agency’s Working Groups (AWGs), which are composed of NRAs’ experts and Agency’s staff. At present, AWGs heavily rely on the voluntary engagement of NRAs’ resources. However, despite the strong commitment of NRAs over the past years, their resource limitations may have an impact on their engagement in the AWGs. Apart from undermining one of the main tenets of the Agency’s action, a possible reduced engagement of NRAs in AWGs would impair the Agency’s ability to deliver on its mandate.

Secondly, in many areas, the tasks performed by the Agency are part of processes where other institutions and stakeholders are involved. Therefore, the time at which the Agency is required to contribute to these processes depends on the timing of the other activities included in the same processes and performed by other actors.

Thirdly, in a number of previous occasions, the Agency has been called to start implementing new provisions well before it was given any resource required to deliver on its new/enhanced

mission effectively. This happened in the case of both REMIT, the TEN-E Regulation and with the adoption of Network Codes and Guidelines, especially in the electricity sector.

Finally, the Agency has suffered for many years from significant understaffing and underfunding, especially for implementing REMIT and the TEN-E Regulation and for supporting the implementation of the adopted Network Codes and Guidelines.

The Agency is also monitoring closely developments related to the withdrawal of the United Kingdom from the EU. According to Article 9 of the Protocol on Northern Ireland, the provisions of Union law governing wholesale electricity markets listed in Annex 4 to the Protocol shall apply, under the conditions set out in that Annex, to and in the United Kingdom in respect of Northern Ireland and ACER will have to cooperate with the Northern-Irish Utility Regulator in that respect. In addition, the Trade and Cooperation Agreement between the EU and the EAEC, of the one part, and the UK, of the other part, foresees in its Article ENER.20 that ACER and the designated regulatory authority in the United Kingdom develop contacts and enter into administrative arrangements in order to facilitate meeting the objectives of this Agreement. This requires ACER to dedicate resources to the cooperation with both the Northern-Irish Utility Regulator and with the designated regulatory authority in the United Kingdom on an ongoing basis.

The Agency is only one of the key players involved in addressing the infrastructure challenge and in ensuring that efficient infrastructure investments take place and that energy islands are eliminated. Even in relation to its narrower objectives, for example reporting on the progress of PCIs and (if appropriate) providing recommendations to facilitate their implementation and to overcome delays/difficulties in PCI implementation, the Agency depends on the timely submission by project promoters of their annual reports and on the quality of the submitted reports.

The investment requests referred to the Agency are those on which NRAs fail to agree and therefore are likely to be the most complex ones. However, it is difficult to predict how many of such requests will be referred to the Agency and when this will happen. The Agency has been calling for a reinforcement of its staffing effectively to implement the TEN-E Regulation. So far, only a fraction of the required posts which the Agency believes would be necessary has been authorised. Therefore, if several requests were to be referred to the Agency at the same time, the Agency might be unable to meet the legal deadline set for such decisions

The Agency faces also a number of reputational risks related both to its own decisions and to those of its Boards. As of 2015, the Agency implements a Policy for the Prevention and Management of Conflicts of Interest. By 31 January of each year, the Agency's senior management, members and alternates of the Administrative Board, Board of Regulators,

Board of Appeal, as well as Agency Working Group Chairs and Vice-Chairs and the Task Force Convenors must submit their declarations of Interest (Dols). The Dols are subsequently processed by review panels and, in case of conflicts of interest, appropriate measures are taken. The Dols of Board members, those of the Agency's management (Director and Heads of Department), and those of Agency Working Group Chairs and Task Force Convenors are published on the Agency's website.

## 2. HUMAN AND FINANCIAL RESOURCES OUTLOOK 2022 - 2024

### 2.1. Overview of the past and current situation

When the Agency was set up in 2010, its Establishment Plan envisaged sufficient resources for the tasks that were assigned under the Third Energy Package. A more challenging resource situation, with persistent shortages, was created when new legislation in 2011 and 2013 entered into force, assigning additional important tasks and responsibilities to the Agency, identified as one of the priorities for the European Union, in particular in the area of monitoring EU wholesale energy markets and the development of the energy infrastructure. Further additional responsibilities and tasks were allocated to the Agency with in the Clean Energy for all Europeans Package, including the recast of the Agency’s founding regulation in 2019.

The multi-annual timeframe of this document contains a number of inherent uncertainties for ACER that have a significant impact on its planning process. It is, therefore, important to clearly signal these uncertainties so that the budgetary authority is fully aware that further refinement of ACER’s activities, and associated resource allocation, may be necessary as more clarity on these uncertainties emerges. Firstly, ACER is required to accurately forecast its REMIT fee income streams to calculate the required EU balancing subsidy. This will continue to be problematic, as it is dependent on market behaviour and the strategies of individual companies and, therefore, this inherent uncertainty will continue to impact ACER’s financial planning.

The Agency’s resources needs for 2022-2024 are presented in detail in the sections below and in the relevant Annexes.

### 2.2 Outlook for the years 2022 – 2024

#### 2.2.1 Financial resources

##### Revenue

REVENUES	2021	2022	Variance	2023	2024
Revenue from fees and charges	8,824,000	9,650,169	9.36%	10,721,247	11,358,658

<b>EU contribution</b>	14,236,015	14,583,947	2.44%	15,174,000	15,477,000
<b>Assigned revenues deriving from previous years' surpluses</b>	198,348	293,103	47.77%		
<b>EFTA contribution</b>	384,372	364,124	-5.27%	409,698	417,879
<b>TOTAL revenue</b>	<b>23,642,735</b>	<b>24,891,343</b>	<b>5.28%</b>	<b>26,304,945</b>	<b>27,253,537</b>

ACER's activities are funded by income from fees and the EU balancing subsidy. Commission Decision (EU) 2020/2152 from 17 December 2020 sets fees for collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT (so-called REMIT fees). The inherent uncertainty from the initial year of REMIT fee implementation in 2021 continues with respect to the budgeted revenue from REMIT fees in 2022, which is based on estimated records of transactions collected from reporting parties and is therefore dependent on market behaviour and the trading strategies of individual companies. The Agency will carry out regular reviews of fee forecasts and maintain contact with reporting parties to monitor early indications of possible changes in the REMIT reporting landscape. The Agency strongly believes that any deficit should be avoided. The revenue collected should be sufficient for the proper operation and evolution of REMIT activities covered by the fees. The Agency stresses that at the same time any surplus of fees needs to be avoided since it could not be used to subsidise ACER's non-REMIT related activities, as this approach would not be in line with Regulation (EU) 2019/942.

Any positive budget result will be repaid to the Commission in accordance with Article 17 of the Agency's Financial Regulation<sup>1</sup> up to the amount of the contribution received from the general EU budget for the respective year. If the budget result were negative, the Agency

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<sup>1</sup> Decision No 8/2019 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 21 June 2019 on the Financial Regulation of the Agency for the Cooperation of Energy Regulators.

would need to discuss with the Commission about how to resolve this problem, e.g. by initiating a budgetary transfer or by internal redistribution of funding.

The Agency will be charging the fees before the services are provided in accordance with Article 71 of its Financial Regulation. Debit notes will be issued in the first quarter for the current financial year and will have a fixed settlement period of thirty (30) days.

The timely collection of the revenue is very important in order to ensure the necessary cash inflows needed to cover the planned projects' expenditure throughout the year. Therefore, the Budget team of the Agency will ensure strict monitoring of the revenue collection.

In case the amounts of the issued debit notes are not fully recovered by the deadline specified in the documents, the Agency will immediately launch the procedure for 'effecting recovery by any means offered by the law' in accordance with Article 68 of its Financial Regulation.

## **Expenditure**

### **Title 1**

Compared to 2021, a 5.63% increase in financial resources is allocated for Title 1. This mainly relates to increased staff expenditure (remuneration) for the 5 additional Temporary Staff posts 6 additional SNEs and 1 additional Contract Staff members the Agency requests.

For the following years, 2023 and 2024 the slight increase within this Title relates only to the expected adjustments on the costs for salaries and allowances and staff promotions.

### **Title 2**

There is a 5.79% decrease in the financial resources under Title 2 as compared to 2021. The decrease mainly relates to the move of budget lines for expert consultations towards Title 3 and is offset to some extent by additional overheads due to an increase in the number of staff, the agreed price indexation of the rented office space; It is expected that the level of expenditure within this Title will remain unchanged for the subsequent years.

### **Title 3**

There is an 11.21% increase in the expenditure of Title 3 as compared to 2021.

As of 2021, ACER's REMIT IT expenditure is funded by fees charged to RRM's according to Article 32(1)(b) of the Regulation (EU) 2019/942 and Commission Decision (EU) 2020/2152. All REMIT IT expenditure for the Agency's REMIT Information Systems (ARIS) is for collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT.

The expected REMIT-related IT budget needs from 2022 to 2024 can be broken down as follows:

**Multiannual budget for REMIT IT in 2022-2024:**

<b>Expenditure Item</b>	<b>Total cost (million €) 2022</b>	<b>Total cost (million €) 2023</b>	<b>Total cost (million €) 2024</b>
<b>1. Infrastructure, hardware licenses, deployment, service desk and operations</b>	<b>2.00</b>	<b>1.81</b>	<b>1.8</b>
<b>2. Software maintenance, development, testing and software licenses</b>	<b>1.48</b>	<b>1.38</b>	<b>1.38</b>
<b>3. Surveillance and BI tools customisation, licenses and consultancy</b>	<b>0.90</b>	<b>0.93</b>	<b>0.93</b>
<b>4. Studies, technical writing, coordination, QA and information security</b>	<b>1.05</b>	<b>1.00</b>	<b>1.00</b>
<b>5. Business enhancements and development of surveillance and conduct tools</b>	<b>0.46</b>	<b>0.50</b>	<b>0.51</b>
<b>*6. Specific data and information services</b>	<b>0.42</b>	<b>1.65</b>	<b>1.7</b>
<b>Grand TOTAL</b>	<b>6.31</b>	<b>7.27</b>	<b>7.32</b>

*\*Part of this appropriation to be financed from subsidy as it does not fit under the scope of the fee scheme. Covered by subsidy as follows: 0.42m in 2022, 0.46m in 2023 and 0.46m in 2024*

The estimates for the period 2022-2024 are based on the possibility to raise REMIT fees to improve the Agency’s funding by covering its costs with regard to services provided to Market Participants or entities acting on their behalf enabling them to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner.

The REMIT IT budget needs are based on the following:

- The ongoing market design changes require technical changes to keep up to date with market developments in the REMIT reporting landscape. REMIT data collection, data sharing and analysis is always at the tail end of market design changes in electricity and gas, but also in the field of EU financial market legislation, and has to follow any developments in this respect.



- The growing data volume of currently more than 8 million records collected by the Agency on a daily basis (compared to 3 million records in 2019) requires an increasing need for additional REMIT IT expenditure in 2022 and beyond.
- The Agency has an issue of technical debt due to the underfunding of its REMIT IT activities until 2020.
- The budget for the year 2021 did not foresee an increase in human resources for the Agency's REMIT activities. This is why additional IT consultancy will be necessary to enable the Agency to perform its tasks in the years 2022 and beyond. As of 2023 the Agency is planning to use additional consultancy for IT and data analysis in the amount of 8 FTEs.
- The change from a reporting obligation towards the Agency free of charge to a data collection service provided by the Agency against the payment of REMIT fees is expected to alter significantly the expectations of reporting parties with regard to the Agency's mandate of collecting, handling, processing and analysing of information reported by reporting parties pursuant to Article 8 of REMIT.

Furthermore, the Agency may have to commit to respect a specific level of services provided to reporting parties, which will change the current basis (i.e. "best effort") on which the estimates for the previous years have been calculated.

The increase in the financial resources requested under Title 3 also relates to business IT costs for the Electricity and Gas departments' data collection and analysis, including the related development, operational and infrastructure costs.

The increase in the financial resources requested under Title 3 also relates, albeit to a lesser extent, to increased expenditure for translation services based on the requirement to have the Agency's opinions translated in some EU official languages for which a waiver may not be obtained.

### **Fees eligible costs**

As from the year 2021 the Agency is collecting fees from RRM's based on Commission Decision (EU) 2020/2152 by applying the approved fees model to the transactions reported by each RRM. The estimation of the fees to be collected in any year is estimated based on the eligible costs that are to be incurred with handling, processing and analysing of the collected fees. There are mainly two categories of costs, namely the cost of staff involved in these activities within the MIT and MSC departments and the costs related to the REMIT IT system that supports the data collection and processing. Their respective allocation is presented in the table below.

	2021	2022	2023	2024
<b>REMIT IT</b>				
Infrastructure, hardware licenses, deployment, service desk and operations	1,530,000	2,005,000	1,810,000	1,800,000
Software maintenance, development, testing and software licenses	1,250,000	1,475,000	1,380,000	1,380,000
Surveillance and BI tools customisation, licenses and consultancy	900,000	900,000	930,000	930,000
Studies, technical writing, coordination, QA and information security	800,000	500,000	500,000	500,000
Business enhancements and development of surveillance and conduct tools - MSCD	150,075	460,000	500,000	510,000
Expert consultation MIT and MSC	700,000	575,000	500,000	500,000
Specific data and information services			1,190,000	1,240,000
Other related operational costs	57,250	57,000	58,425	58,425
<b>Staff costs</b>				
Temporary Agents	2,252,882	2,558,214	2,648,734	2,715,288
Contract Agents	729,330	663,181	679,761	696,755
Seconded National Experts	87,500	150,724	154,492	158,355
<b>Overheads</b>	366,963	306,050	280,461	280,461
<b>TOTAL FEES</b>	<b>8,824,000</b>	<b>9,650,169</b>	<b>10,631,872</b>	<b>10,769,283</b>

## 2.2.2. Human resources

As already indicated, since its establishment the Agency has been assigned additional tasks with regards to:

- i) the monitoring of wholesale energy markets in the Union under REMIT;
- ii) the optimal development of trans-European energy infrastructures;
- iii) the implementation of the Network Codes and Guidelines;
- iv) the tasks concerning measures to safeguard the security of gas supply, and
- v) the “Clean Energy for All Europeans” legislative acts.

Given the political and financial situation in the European Union, while arguing for the additional staff resources to be allocated to its activities, the Agency recognises the need to constantly re-evaluate its efficiency gains, to become more agile and to prioritise its request for new resources to the level necessary to integrate new staff according to the EU's political priorities.

A shift of internal human resources took place in the past years. Internal mobility aims to reinforce the agency's workload in specific areas, such as legal support and market surveillance.

## **Monitoring of the wholesale markets in the Union under REMIT**

The Agency has greater responsibilities in monitoring the EU wholesale energy market since trade reporting obligations took effect on 7 October 2015. Moreover, with the entry into force of the Network Codes and Guidelines provided for in Regulations (EC) No 714/2009 and (EC) No 715/2009, the Union electricity and gas markets are becoming even more integrated, with increasing shares of cross-border trading. Against this background, a pan-European approach to market monitoring is the only effective way of detecting and preventing wholesale energy market abuse.

### **Market Information and Transparency activities**

The workload related to market information and transparency under REMIT continues to grow every year due to the growing number of records of transactions. In addition, REMIT data collection, data sharing and analysis is always at the tail end of market design changes in electricity and gas, but also in the field of EU financial market legislation, and has to follow any developments in this respect. ACER will also have to cooperate with the Northern Irish Utility Regulator under the Protocol on Northern Ireland and with Ofgem on the Agreement between the EU and UK following Brexit, with the Norwegian NRA NVE for the implementation of the registration of market participants and for data reporting once REMIT is incorporated into the EEA agreement and with the Energy Community on their implementation of REMIT. The additional human resources requested for 2022 and beyond can be financed through REMIT fees, also to cover additional consultancy in IT and data analysis. The human resource needs for future years will *inter alia* depend on market developments and the potential growth of data collected as well as on the required REMIT information services expected by the Agency's stakeholders.

### **Market Surveillance and Conduct Department's activities**

Market Surveillance and Conduct (MSC) Department, responsible for:

- i) On a daily basis, assessing gas and electricity market data on anomalous instances and for this purpose implementing surveillance tools to detect potential instances of market abuse;
- ii) Notifying and referring suspected market abuse instances to NRAs and other relevant authorities;
- iii) Requesting and coordinating investigations performed by NRAs;

- iv) Providing guidance to NRAs on market abuse definitions; and
- v) Providing operational assistance to a requesting NRA on their REMIT investigation.

The experience gained by the Agency in implementing and, more recently, operating the monitoring framework envisaged by REMIT has shown that its scope is wider than the one envisaged in the Commission's proposal and requires a larger number of highly qualified staff than those envisaged in the *Fiche Financière* of REMIT.

In particular, the most resource-intensive activity is the analysis of the data reported by market participants and other reporting parties and collected by the Agency. This includes enhancing the quality of the data to a level that enables its efficient and effective use for market monitoring. This includes validating the reported data, as well as auditing and correcting inconsistencies in the assessed data, a task to which the MSC Department contributes.

In this respect, to monitor wholesale energy markets in the most efficient and effective manner, the Agency analyses the trading and fundamental data in three steps:

- first, an automatic screening of the REMIT data performed by a dedicated screening IT tool (SMARTS) on the basis of predefined "alerts", to detect anomalous instances; if the data fulfils the alert logic the alert "triggers";
- second, the manual assessment of the automatically triggered alerts by a surveillance expert to validate the alert, including the checking of the correctness of the data and possible false positives<sup>2</sup>; and
- subsequently, on the basis of a market surveillance strategy agreed between the Agency and NRAs, a preliminary initial assessment of anomalous instances to identify suspicious practices that may amount to market abuse.

This analysis inevitably has to be performed by highly qualified surveillance experts, who have to cover trading in all Member States, in energy commodity markets and in energy derivatives, on organised markets and over-the-counter. Therefore, a wide range of expertise is required.

The total market surveillance coverage by the Agency is only a fraction of all EU wholesale energy products reported to the Agency. The key reasons for this level of coverage are the following: First, the Agency's main surveillance tool is underdeveloped. Therefore, certain

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<sup>2</sup> In the course of 2019 the Agency began to enhance its surveillance methodology to address the increasing number of triggered alerts, which need to be assessed by surveillance experts. The increase in alerts is due to the increase in data points while the number of surveillance experts remain unchanged. With the enhanced methodology, the Agency aims to explore how to further automate the processing of triggered alerts to e.g. reduce the need for specifically manual assessment.

data reported to the Agency cannot be efficiently and effectively screened. In order to further develop the tool it is specifically required to design, programme and test additional predefined alerts. Second, with the current level of available resources for market surveillance, it cannot be guaranteed that on a monthly basis all triggered alerts will be assessed and subsequently shared with NRAs for their investigation and enforcement follow-up.

The Agency aims to ensure that all NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent manner, which is done mainly through case coordination and publishing Guidance to NRAs on the application of market abuse prohibitions. Concerning the case coordination, the total number of ongoing cases (instances of potential market abuse) requiring follow-up from the Agency is expected to increase to 280 in 2021 (compared to 218 at the beginning of 2020). The increase is due to (i) the further increase in suspicious transactions reports notified by e.g. trading platforms; and (ii) an increase in the number of cases originating from alerts through the Agency's surveillance activity.

The recast of the Agency's founding regulation assigns the Agency, as mentioned above, with a new task, which is to provide operational assistance to NRAs upon their request to support their investigations into suspicious behaviour from market participants in wholesale energy markets. The Agency assessed<sup>3</sup> that the additional resources it would require, should it not reject any of the requests for assistance from NRAs, amounts to a significant increase in additional amount of staff 2021.

In order to appropriately fulfil the market surveillance and conduct mandate under REMIT, the Agency would need significantly more resources. With the current level of available resources for these tasks, the Agency prioritise cases and alerts and will further apply backlogs.

### **Implementation of the adopted Network Codes and Guidelines**

Some of the Network Codes and Guidelines adopted under the Third Package assign new tasks to the Agency. In electricity, these new tasks include, for example: (i) new specific reporting and monitoring obligations, including the monitoring of the implementation projects established pursuant to the Guidelines on Capacity Allocation and Congestion Management, on Forward Capacity Allocation, on Electricity Balancing and on Electricity Transmission System Operation; and (ii) the organisation and coordination of the stakeholders' involvement

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<sup>3</sup> See: Note on the resources required to provide operational assistance to the NRAs on REMIT investigations pursuant to Article 6(8) of Regulation (EU) 2019/942.

in monitoring the implementation of the adopted Network Codes and Guidelines through, in particular, the European stakeholder committees.

On the gas side, the text of the Network Code of Harmonised Gas Transmission Tariff Structures mandates the Agency to report on all national tariff methodologies within strict deadlines. This implies a significant additional workload for the Agency, the bulk of which took place during the second half of 2018 and the year 2019. Since a number of NRAs missed the deadline to publish their national Reference Price Methodologies, the Agency's work continued into 2020.

The completion of the Framework Guidelines and Network Development process is making staff available for the activities related to the approval of binding tertiary legislation, for individual decisions in case NRAs cannot agree on a cross-border issue (such as in the case of the choice of a gas Booking Platform or an incremental capacity investment proposal) and for the monitoring of the implementation of the Network Codes, Guidelines and such additional tertiary instruments.

## 2.3 Resource programming for 2022 - 2024

### Human Resources requested for 2022

#### Market surveillance and conduct activities

Based on the experience gained during the implementation stage of REMIT, ACER assessed that the human resource requirements to appropriately fulfil its market surveillance and case coordination mandate under Article 7 and 16 of REMIT are higher than those foreseen in the *Fiche Financière* when REMIT was established.

In addition, a study commissioned by the European Parliament<sup>4</sup> and reporting by ECA<sup>5</sup> confirms the lack of appropriate resources for the purpose of market surveillance and case coordination. Moreover, a recent draft report commissioned by the European Commission identifies significant human resources gaps across the Agency and in particular for the market

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<sup>4</sup> Demurtas, A.; Gorenstein Dedecca, J.; Van Nuffel, L.; Rademaekers, K., Budget and staffing needs at the Agency for the Cooperation of Energy Regulators (ACER), Publication for the committee on Industry, Research and Energy, Policy Department for Economic, Scientific and Quality of Life Policies, European Parliament, Luxembourg, 2020.

<sup>5</sup> European Court of Auditors, Special Report 22/2020.

surveillance and case coordination activities. This report moreover indicates not to have found any inefficiency in the use of available resources.

This scope of market surveillance and case coordination includes:

- collecting, validating and auditing the data, to be reported by 200+ reporting mechanisms on an hourly/daily basis, and ensuring operational reliability of data received and maintained;
- analysing the data to detect suspected instances of market abuse;
- preparing detailed (preliminary and reviewed) case reports with detailed factual analyses including an economic and legal assessment to be notified in a secure way to national authorities for their investigation;
- coordinating the investigative groups on cross-border cases;
- coordinating and providing guidance on the (consistent) enforcement of market abuse rules;
- screening, registering and assessing notifications on suspicious trading instances reported by national authorities, organised market places and market parties; and, a new tasks for the Agency;
- providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations, a new activity.

In particular, the most resource-intensive activity is the analysis of the data reported by market participants and other reporting parties and collected by the Agency. This includes validating the reported data, as well as auditing and correcting inconsistencies in the assessed data and screening of the priority triggered alerts to detect potential market abusive behaviour.

The assessing of priority triggered alerts inevitably has to be performed by highly qualified surveillance experts for which the Agency had 6 experts available in early 2021. They have to cover trading in and across all Member States, in energy commodity markets and in energy derivatives, on organised markets and over-the-counter. Therefore, a wide range of expertise is required. With the current number of experts the Agency is not able to assess all priority alerts risking that market abuse goes undetected.

Moreover, the Agency aims to expand the market surveillance coverage to an appropriate level by introducing more alerts to efficiently and effectively screen the REMIT data for potential market abusive behaviour. The Agency will have to devote significant resources both to the operation and also the development of the market screening tool, to the assessment of its output (in terms of alerts) and to the subsequent preliminary analysis of anomalous situations. This and the fact that the number of data points reported to the Agency will further



increase over the coming years will require additional market surveillance experts to assess the priority triggered alerts.

More market surveillance experts would ensure the level of trust EU energy consumers have in the price formation of EU wholesale energy markets and reduce the risk of reputational damage to Member States and ACER.

Moreover, additional TA AD5 posts would increase ACER's ability to follow-up vis-à-vis national regulatory authorities on REMIT cases. Currently ACER follows up actively only approximately 30% of these case (+250) due to the limited number (6) of case handlers. This risks inconsistent application by NRAs of market abuse provisions which in turn risks diminishing the overall effectiveness of REMIT as a regulatory framework.

The Agency requested for 2022 **additional 4 posts** (2 monitoring officers and 2 conduct officers) in order to build-up to the resources required to perform market surveillance and conduct tasks at an appropriately level. In its multi-annual part the afore-mentioned report from the European Commission shows that in the coming years more human resources would be required. However, the Market Surveillance and Conduct Department would not be able to absorb an operational expansion of this size in one or two years. It would therefore be appropriate to request a fraction and evaluate the situation on a yearly basis.

As mentioned above, the recast of the Agency's founding regulation assigns the Agency with the new task of providing operational assistance to NRAs upon their request to support their investigations into suspicious behaviour from market participants in wholesale energy markets pursuant to Article 6(8) of Regulation (EU) 2019/942. The above HR request is not intended to support this new activity.

### **Market Information and Transparency activities**

ACER will also require two additional posts for information and cybersecurity activities to manage the additional information security workload due to the handling of sensitive information under REMIT.

ACER is operating ARIS, ACER's REMIT Information System for data collection, data sharing, data analysis, market monitoring and case-handling. According to the European Cybersecurity Strategy, but also the European Data Strategy, securing network and information systems in the European Union is essential as it safeguards our communication and data.

This is, on the one hand, to enhance ACER's own information security and cybersecurity with regard to the ever increasing data volume of sensitive EU wholesale energy market data and, on the other hand, for invoicing purposes and the need for ACER to implement a possibility to allow 120 Registered Reporting Mechanisms (RRMs) and more than 10,000 market



participants to have an overview about their reported records on an ongoing basis. This would also allow ACER to implement a recommendation from the Commission’s Internal Audit Service on IT security in ACER and Information Security in the “REMIT” domain from 2019. The Commission’s Internal Audit Service recommended, inter alia, separating roles between IT operations and information security to minimize potential conflicts of interest. The auditors pointed out that if the same person is responsible for implementation of controls and monitoring of their effectiveness, the person may not be effective in detecting and addressing existing gaps in the domains he administers. This may result in implementation of inefficient or ineffective controls, consequently putting the confidentiality and/or integrity of related data at risk. These additional posts would enable to fulfil the recommendation in full in order to avoid potential criticism from RRM’s and market participants in this respect.

On the other hand, ACER also has to monitor compliance of RRM’s with the technical and organization requirements of the REMIT Implementing Regulation which obliges RRM’s to ensure the security, confidentiality and safe handling of information reported on behalf of market participants. Given the high risks related to cybersecurity, ACER should monitor the cybersecurity threat landscape and any information on security incidents RRM’s report to ACER on an on-going basis and provide guidance to RRM’s as required.

This is why 2 additional Contract Agent posts for the aforementioned activities are justified.

1 additional SNE is required for REMIT transaction reporting guidance and data quality analysis. The introduction of REMIT fees and market developments and changes make it relevant to update ACER’s reporting guidance more frequently as otherwise new market developments may be factored in wrongly in the data collection and market monitoring of ACER, but also in the REMIT fee scheme which is largely based on reported records of transactions, including orders to trade. The introduction of records-based fees will also require an ex-ante market development analysis in order to capture potential market design changes swiftly into new transaction reporting guidance provided by ACER.

The expectation from registered reporting parties and market participants voiced during the public consultation on REMIT fees is that ACER makes use of its mandate to make publicly available parts of the information which it possesses in the interest of improving transparency of wholesale energy markets pursuant to Article 12(2) of REMIT. This requires additional data analysis in order to analyse data and prepare it for publication.

Additional resources for market information and transparency purposes to reinforce reporting guidance and data analysis capabilities and publication of data for transparency reasons are also goals of the European data strategy which aims that data flows freely within the EU and across sectors for the benefit of businesses, researchers and public administrations. ACER’s

data collection of wholesale energy market data and increased transparency in this respect could support the European Commission in the European Data Strategy's goal to create a Common European Green Deal data space, a Common European financial data space and a Common European energy data space due to the nature of the wholesale energy market data collected which includes financial market data, energy spot market data and emission allowances data.

### **Infrastructure activities**

As part of the European Green Deal and the decarbonisation policy objectives, the legislation on Trans-European Networks – Energy (TEN-E) is under revision, with a proposal from the European Commission published in December 2020. The revision aims at modernising and upgrading the TEN-E framework, reflecting the Green Deal objectives and making it fit for the infrastructure needs of the clean energy system of the future. The revised Regulation should focus on the upgraded 2030 climate and energy targets and the 2050 climate neutrality objective under the European Green Deal, and adapt to the rapid ongoing technological developments.

The proposed changes reflect the key role energy infrastructure will play in the green transition. New and updated infrastructure categories and a new approach to infrastructure planning will support the role of electrification in the future energy mix, help to decarbonise the gas sector through renewable and low-carbon gases, including hydrogen, and develop a more integrated energy system.

In particular for ACER, the revised Regulation foresees the following changes in tasks:

By 31 July 2022, the Agency after having conducted an extensive consultation, shall publish Framework Guidelines for the joint scenarios to be developed by the ENTSOs. Those guidelines shall be regularly updated as necessary.

Approve incremental changes to the CBA methodologies for electricity and for gas;

The same procedures applies to the interlinked model (2023): Provide an Opinion on the draft Infrastructure Gaps Reports by the ENTSOs every two years;

The frequency of the Agency's PCI report will be reduced from yearly to once every two years. At the same time, reporting from project promoters on progress will no longer be directly to the Agency, but indirectly through the Competent Authorities. While the former will lead to an efficiency gain, the latter is likely to lead to an efficiency loss compared to the current situation, where reporting by project promoters is centralised through ACER's custom-made tool;

Every 2 years, the ENTSOs shall consult ACER on the draft guidelines for the inclusion of projects in the TYNDP;

Every 3 years, the Agency shall publish a report on Unit Investment Costs.

### **Legal services**

The changes brought about by the Clean Energy Package (CEP) have significantly increased the decision-making powers of the Agency. The various decisions which the Agency has been entrusted to take all relate to essential features which are at the core of the internal electricity market. It is the Agency's ambition to support and actively implement the objectives of the CEP via these decisions, and to monitor their compliance. Unfortunately, as a corollary, it does imply that the Agency necessarily will also have to manage the additional work load coming from the legal challenges against those decisions.

In recent years, the Agency notes a growing inclination amongst stakeholders (in particular TSOs) to appeal the Agency's decisions as compared to the past<sup>6</sup>. In 2020, the Agency was thus involved in 16 litigation procedures (8 ongoing before the General Court, and 8 ongoing before the Board of Appeal).

Also given that the recent judgements of the General Court started to interpret broadly the scope and standards of review of the Board of Appeal (cf T-735/18, *Aquind v ACER*). This ruling<sup>7</sup> may have as effect to further encourage stakeholders to appeal and will likely also have a domino effect on the current appeals pending before the General Court. As a result, the Agency expects the amount of appeals to continue to rise.

Although managing the multiple litigation proceedings before the BoA and ECJ is time and work intensive and requires considerable human resources, this element may have been overlooked at the time of adoption of the CEP, likely because there were barely any appeal cases ongoing at that time<sup>8</sup>.

In order to ensure adequate legal support for the Agency for both its internal decision-making, governance and management of appeals, in light of the required expertise, and as past experience has shown repeatedly that CA posts are not sufficiently attractive to recruit the

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<sup>6</sup> The amount of appeals is increasing annually, with a steep increase starting in 2019 and 2020. Moreover, nearly every single decision of the BoA that was not in favour of the appellant was further challenged before the General Court (whilst the BoA adopted 15 decisions in the last 5 years, 13 appeals against those BoA decisions were lodged before the General Court).

<sup>7</sup> Please note that the Agency intends to appeal the General Court's ruling before the Court of Justice.

<sup>8</sup> Prior to the entry into force of the Clean Energy Package (2019), one (1) appeal case was lodged in 2017 and two (2) in 2018, compared to six (6) new appeal cases in 2019 and nine (9) in 2020.

appropriate legal staff, a reinforcement of its Legal Services Team with two (2) additional TAs would be required. **The Board of Appeal**

The term of office of the current Board of Appeal expired on 16 October 2021. In light of that, in Spring 2021 the European Commission launched a public call for expression of interest to select the next members and alternates of the Board of Appeal.

In its recent judgement, the General Court started to interpret broadly the scope and standards of review of the Board of Appeal (cf T-735/18, *Aquind vACER*). In particular the General Court concluded that the Board of Appeal does not enjoy limited powers of review as the Union Courts. To the contrary, the Board of Appeal enjoys particularly extensive powers of review of the Agency's decisions being empowered to perform an assessment of technical and complex matters.

The steady increase in appeals and the *Aquind* ruling, together with the increase of vexatious litigation on all points of procedure by appellants, led the Board not only to rethink its Rules of Procedure and the manner in which the Board and its Registry should function and be organised, but it also directly affected the choice of profiles for the composition of the Board of Appeal. In particular, drawing from the experience of other Board of Appeals of the Union agencies, in order to attract experts in Union law and in the energy sector and ensure their independence, economic compensation was envisaged. The Union Agencies have established different forms of compensation, from the inclusion of the members of the Board of Appeal in the establishment plan of the Agency to the definition of economic compensation for external experts, going from a minimum of 5,000 EUR to a maximum of 8,000 EUR per ordinary member per appeal case, and from a minimum of 8,000 EUR to a maximum of 20,000 EUR per appeal case for the Chair of the Board and the Rapporteur of the appeal case. Taking into account the aforementioned aspect, the Administrative Board decided to set a maximum compensation of 6,000 EUR for Members and 9,000 EUR for the Chair and the Rapporteur for each decision that has been appealed before the Board of Appeal. Additional shortcomings have been identified with respect to the case management tool which at disposal of the Board of Appeal has used thus far. In order to increase efficiency, for which a new tool shall be developed for the Board members in the year 2022.

## **Cybersecurity and demand side flexibility**

Cybersecurity and demand side flexibility: the European Commission identified cybersecurity and demand side flexibility as priorities for the forthcoming years. A dedicated Network Code (NC) will have to be developed and adopted in the next couple of years in these two areas and, as for all other NCs or GLs, ACER will play an important role in monitoring their effective implementation, identifying possible shortcomings and the effects on these NCs on the IEM.

Cybersecurity however goes much beyond the usual work performed by ACER staff so far. ACER will therefore have to invest significant resources to get prepared itself for this important task. Given the novelty of cybersecurity for ACER, its urgency and importance, in particular in the Covid-19 context where teleworking becomes the norm, ACER is requesting one dedicated FTE position (under the form of SNE positions).

For similar reasons, ACER will also have to invest significant resources in the demand side flexibility topic and more specifically in the distribution sector (a completely newfield for ACER) which will be key for the uptake of flexibility and the integration of RES. ACER is requesting 1 dedicated FTE position (under the form of an SNE position) to be in a position of taking this new challenge up.

## **Support for BREXIT matters**

Right before the turn of the year, a comprehensive Trade and Cooperation Agreement (TCA) was agreed between the EU and the UK (the BREXIT deal). The TCA contains a number of important provisions regarding future energy collaboration between the EU and the UK, involving ACER in a number of priority tasks.

Down the road, there will likely be three primary tasks for ACER under the TCA: a) the drafting of opinions on TSO proposals of technical procedures, b) ensuring the cooperation on network development and Security of Supply, and c) ensuring coordinated monitoring of REMIT-related topics.

Importantly, over the course of the coming year, so-called “administrative arrangements” will need to be negotiated between ACER and OFGEM, this following guidance rendered by the Specialised Committee on Energy pursuant to Article ENER.20 (1), second subparagraph of the TCA.

According to the TCA, the AA and the ongoing cooperation on the basis of the AA shall cover at least the following areas: (a) electricity and gas markets; (b) access to networks; (c) the prevention of market abuse on wholesale electricity and gas markets; (d) the security of electricity and gas supply; (e) infrastructure planning; (f) offshore energy; (g) the efficient use

of electricity and gas interconnectors; (h) cooperation between transmission system operators; and (i) gas decarbonisation and gas quality.

To the extent these administrative arrangements will entail a new bilateral collaboration regime, as opposed e.g. to more ad hoc integration into ACER's existing structures, this will entail extra workload in managing the relationship on top of the significant workload for the delivery of the aforementioned tasks. There may also be a need for ACER to support DG ENER as the EU representative in the Specialised Committee on Energy (to which potential disagreements are likely to be referred).

In light of all above described activities and priorities and following an external evaluation of its resources carried out in 2020, the Agency's staffing situation has been revised by the budgetary authorities and the following resources have been allocated for the period 2022-2027:

Activities	Additional resources						Total 2022-2027
	2022	2023	2024	2025	2026	2027	
Legal services	1 AD7; 1 AST4	1 AD7					3
Internal electricity market	2 SNEs		1 AD				3
Internal gas market							0
Market monitoring report							0
Infrastructure and security of supply							0
REMIT: Market integrity and transparency	1 FGIV; 2 SNEs	1 AD					4
REMIT: Market surveillance and conduct	2 AD5; 1 SNE	1 AD	1 AD	2 AD	2 AD	1 AD	10
Energy Community		1 AD	1 AD (FEES)	1 AD	1 AD		4
Corporate and other horizontal services	1 SNE						1
<b>Totals</b>	<b>11</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>25</b>
<b>TEMPORARY STAFF</b>	<b>4</b>	<b>4</b>	<b>3</b>	<b>3</b>	<b>3</b>	<b>1</b>	<b>18</b>
<b>CONTRACT STAFF</b>	<b>1</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>1</b>
<b>SNES</b>	<b>6</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>

The Agency's approach is broadly aligned with the European Commission's proposal, with a few deviations related to specific considerations for types of contracts and grades (best fit according to the Agency's situation and available reserve lists).

For the year 2022, the Agency has planned to allocate the following 12 additional resources (included one Temporary Staff AD5 for the Ten-E Regulation) as follows:

<i>n</i>	<i>CAT</i>	<i>GRADE</i>	<i>COVER</i>	<i>Dept.</i>	<i>Details / Comments</i>
1	TA	AD7	SUBSIDY	LEGAL	Reinforced of 2 AD7, one new and one additional from IGR
2	TA	AD5	FEES	MSC	
3	TA	AD5	SUBSIDY	SDC/BRU	AB management, BREXIT MoU, horizontal processes
4	TA	AD5	SUBSIDY	IGR	For Ten-E
5	TA	AST4	SUBSIDY	HRM	Swift recruitment procedures for operational dept.
6	CA	FGIV	FEES	MIT	For Data Excellence, also reinforced by one current SNE
7	SNE	SNE	SUBSIDY	ELE	For cybersecurity
8	SNE	SNE	SUBSIDY	ELE	
9	SNE	SNE	FEES	MSC	
10	SNE	SNE	FEES	MSC	
11	SNE	SNE	FEES	MIT	
12	SNE	SNE	FEES	MIT	

The Agency recognises the need to streamline its structure and internal organisation to become a more modern and agile organisation. It has already taken various initiatives and made efforts to this purpose. The Agency's aim is to maintain and enhance the efficiency of its operations, while seeking to support activities in peak demand for extra resources for short or extended periods.

In the past years, the Agency has increased its efforts in identifying priority tasks and reprioritising its actions. It is pursuing a culture of continuous improvement and elasticity in the organisational chart of the Agency, with the implementation of structural changes aimed to increase the cooperation within teams and departments.

A process for internal mobility has been introduced, aiming to assess the needs and the resources on a regular and ad-hoc basis. As mentioned in the introduction to the multiannual Human Resources outlook, a shift of internal human resources took place both in 2020 (with the revision of the Agency's organisational structure) and in 2021, with the transfer of four positions.

In addition, an ambitious plan to rescale various HR areas is being implemented in 2021 and beyond, with the consultancy of Deloitte (FWC of the Commission on HR services). Particular efforts will be made in the following areas:

- 1) Implementation of a 360 degree feedback exercise, by conducting a survey for staff and preparing reports and an analysis based on the results, including an overall assessment of the Agency;
- 2) Implementation and integration of the Agency's competencies framework, with the revision of the standardised aspirational competencies for each Agency's job profile



(vacant or filled), including the identification of competencies needed for a specific task, in line with the Agency's work programme, aimed to guide managers in the allocation of resources and in drafting job descriptions and selection notices;

- 3) Improvement of professional development (to be initiated in 2022), with the implementation of the 'ACER academy', a new training programme which will include a matrix of different learning and development activities for staff, according to their role and career in the Agency and a catalogue of pre-determined learning and development activities and their path of implementation;
- 4) Development of analysis and strategy for efficiency gains (to be initiated in 2022), with a comparative analysis of the workload distribution, organisational structure and tasks allocation to teams, common practices from similar organisations by providing suggestions on how to better organise the work of the Agency, taking into consideration the new hybrid way of working (remote and on site).

As a decentralised agency, ACER is regularly re-assessing, optimising and streamlining its support functions and administrative processes. This is done by various means: knowledge sharing and introduction of best practices from other agencies, review, documentation and automation of certain processes, centralisation of certain support functions. One indicative example is the management of the Covid-19 situation in 2020 and 2021, whereby the Agency benefited from its active participation in the EUAN Advisory Group on Return to Office strategy, taking advantage from the experience of other institutions in sharing knowledge and common practices, aimed to implement a sound management of the situation.

Moreover, a number of tools have been developed to improve efficiency and the use of resources; the tools complement each other and are managed in view of ensuring efficient use of resources (the tools have shortened the processing time, minimised human error and improved transparency). In addition to automating the processes, the tools provide up-to-date, real-time information on the state of play of transactions, budget consumption, etc. and ensure business continuity of the operations and institutional memory (in cases of long-term absence or departure).

In addition, in 2020, the Agency completed its deployment of Sysper and fully implemented ARES. In particular, the upgrading to Sysper as the system used as integrated HRM management, contributed to the management of staff data to a higher standard and facilitate the interface with rights and entitlements, personal files and career management for the Agency's staff. The implementation of the transcoding from the payroll system of the European Commission highly increased the Agency's time spent on staff administration. Sysper is accessible remotely as from 2020, to the benefit of more efficient workflows of staff's requests.



ARES is the document management system in use in the Commission services: its deployment, in 2019, brings additional benefits to streamline data and document management for the Agency. The Agency is also pursuing the introduction of MIPS, the Commission's missions management system.

The Covid-19 crisis and the related increase in teleworking for business continuity needs has also brought about an ongoing reassessment and readjustment of the Agency's IT needs.

## 2.4 Negative priorities/decrease of existing tasks

Due to the limited resources available to the Agency, considerably fewer than would be needed to fulfil its statutory mission and fully perform the tasks mandated to it by legislation, the Agency has had to deprioritise a number of the activities.

In particular, some activities planned, especially with respect to tasks related to the implementation of REMIT, and, to a lesser extent, the TSO cooperation area and the Network Code implementation monitoring process, have been postponed or reduced in scope.

The Agency identifies its key priorities for 2022 and strives to increase its flexibility, in particular by aiming to shift the required internal capacity in term of financial and human resources as functional to fulfil the identified priorities.

At the same time, the Agency is committed to continuous improvements and has been constantly working towards ensuring the most effective and efficient use of its resources, to the extent possible. The Agency established cross-department projects with staff members from different departments working on technical topics.

At the beginning of 2020 and over 2021, the Agency has revised its organisational structure to streamline horizontal functions and provide critical mass to those functions, reducing fragility, increasing back-up capacity, adding to the learning environment and reaping efficiencies and savings. Under the new organisational model, there has been a strong encouragement to target the Agency's priorities in a cross-departmental collaborative manner. In line with this, the organigram aimed to reflect collaborative focus areas that are more firmly established, less ad hoc in nature and that target priority efforts of the Agency. Two such examples are an "Infrastructure" and a "Market Monitoring Reporting", cutting across the Electricity and Gas Departments. Moreover, Corporate Services also increased its efficiency by merging the budget, financial and procurement teams. The new team is responsible for the entire process within the procurement and financial circuits from procuring a specific product/service to the initiation to authorisation of financial transaction as well the coordination of the budgeting process and the assistance with the compilation of the annual accounts.

The Agency recognises the need to increase its efforts in terms of staff flexibility: to this purpose, in 2019 the Agency adopted its competency framework, which will support the identification of necessary competencies to fulfil its mandate in an agile manner (see reference to the external contract with Deloitte).

## SECTION III – WORK PROGRAMME 2022

### 1. EXECUTIVE SUMMARY

In 2022 the Agency will continue to contribute to the completion of the internal energy market and to monitor its functioning, as well as to monitor wholesale energy trading under REMIT. Planning for 2022 has been rendered difficult due to a number of reasons:

- 1) The budgetary and human resources were planned before the Commission's budget circular was available. The level of resources has been adjusted in the final draft submitted for favourable opinion to the Board of Regulators and for adoption to the Administrative Board, following European Commission's Opinion on the Draft Programming Document and the adoption of the EU budget by the Budgetary Authority.
- 2) The planning was finalised in early 2021, which is the first year in which the Agency will not be fully funded by the EU budget but also by fees collected in for providing REMIT-related services. The recourse to fees is instrumental to improve the Agency's financial standing in the middle to long run, however some uncertainty as to the implementation of the new fee model remain, especially in a rapidly changing Covid-19 energy market.
- 3) REMIT-related tasks will in any case constitute a large (though also largely insufficient) share of both human and financial resources, an issue which the fee model will only help to alleviate, even if implemented in line with expectations, as the Agency may finance only specific posts from the fees. The pressure on the Agency's REMIT staff will remain significant, especially since as of 2021 the Agency is also obliged to provide support on REMIT breach investigations if NRAs request it to do so.

There is little doubt therefore that the Agency's resources will be stretched, despite the positive developments in terms of planned increase in resources over the coming years. The 2022 Work Programme in any case focuses primarily on the Agency's legally mandated tasks, as last modified with the entry into force of the Clean Energy Package (CEP). This includes tasks related to the completion of the Internal Energy Market, such as support and monitoring of the implementation of the adopted Network Codes and Guidelines, infrastructure-related issues (TYNDP and PCI tasks, including cross-border cost allocation decisions) and the identification of any remaining barriers to competition, both at wholesale and retail level. The implementation of the wholesale energy market-monitoring framework established by REMIT will remain a major priority and a key challenge.

In order to ensure an appropriate prioritisation of its activities, and to allocate resources accordingly, the Agency divides its tasks and deliverables according to the following three priority levels.

**Priority level 1:** Tasks which are critical for a competitive internal energy market or security of supply and which should be delivered in a comprehensive way and approached proactively.

**Priority level 2:** “Reactive” tasks where ACER has to prepare and adopt individual decisions due to a referral from national regulatory authorities (NRAs), if NRAs fail to reach an agreement or as otherwise stipulated by EU legislation. Those decisions need to have satisfactory quality, both technical and legal, to be accepted widely by stakeholders and to withstand legal challenges.

**Priority level 3:** Tasks which are of lower importance, but need to be undertaken to comply with EU legislation.

All tasks and deliverables listed in the Work Programme are classified according to the above prioritisation system.

**Financial resources constraints**

It should be noted that some activities, initially planned for 2017, 2018, 2019, 2020 and 2021 have been postponed since sufficient human resources were not made available and due to the unaddressed technical debt<sup>9</sup> which accumulated over several years given the significant underinvestment in ARIS software enhancements.

1. Review of the electronic formats for data collection (XML schemas);
2. Enabling of sample transaction data requests for market participants from the ARIS in order to verify completeness, accuracy and timeliness of data submission to the Agency to facilitate market participants’ compliance with Article 11(2) of the Implementing Regulation;
3. Publication of aggregated REMIT information for transparency reasons according to Article 12(2) of REMIT, including making available the commercially non-sensitive trade database for scientific purposes;
4. Improvements to the market participant registration format pursuant to Article 9(3) of REMIT and improvements to CEREMP;

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<sup>9</sup> Technical debt is the deviation of a system from any of its non-functional requirements. All systems carry technical debt. The gradual accumulation of technical debt leads to a level of suboptimal performance, such that there will be significant and measurable negative impact on business performance. Therefore, it is necessary to make continuous investments to contain technical debt.

5. Enhancements to improve existing and develop new alerts to screen REMIT data for the purpose of market surveillance activities;
6. Enhancements and/or bug fixing of ARIS and of the Case Management Tool for the purpose of cooperation with NRAs.

### **Allocation of Human Resources to Activities**

The breakdown of additional human resources requested by the Agency for its 2022 work programme can be found under the Multiannual Programme (2.2 Resource programming for 2022 – 2024).

With regard to the allocation of resources (FTE of Temporary Staff, Contract Agents and SNEs) against the different activities, the Agency follows the methodology for Agencies job screening, in accordance with Article 29(3) of the Framework Financial Regulation. Each job is identified according to a screening ‘type’: the three screening types describe the general role of a job: administrative support and coordination, neutral or operational. Most jobs either fulfil an operational role, i.e. serving frontline activities (more or less directly serving the European citizen) or an administrative support and coordination role, as enablers of the operational jobs by being responsible e.g. for HR, ICT, logistics, etc. for their Agency. Financial management and control at Agency level and on-the-spot audit are treated as neutral.

The FTE allocation includes staff working on the specific deliverables described in the Work Programme 2022, as well as a proportional allocation of staff in horizontal activities classified as ‘operational’ according to the above methodology.

The Work Programme is divided into six **Operational Activities**:

- **Market Information and Transparency;**
- **Market Surveillance and Conduct;**
- **Internal Electricity Market;**
- **Internal Gas Market;**
- **Electricity and Gas Market Monitoring;**
- **Infrastructure and Security of Supply.**

**Horizontal** tasks are divided into the following three activities:

- **Corporate Services** (facility management, procurement, human resources, budget implementation & audit and ICT)
- **Strategy Delivery and Communication;**
- **Legal Services.**

The latter two are listed as separate activities due to their growing importance for the Agency. Strategy and Communication are both vital for the Agency to adjust to the continuously changing environment in which it operates, and to enhance its communication efforts with stakeholders, so that the value added brought by the Agency can be better understood. Legal services, on the other hand, have acquired increasing importance since the Agency is being called to take contentious issues which TSOs (in some instances, NRA's or others) may wish to challenge. This leads to an increased number of appeals and court procedures, both of which are a legitimate part of the decision process, but which inevitably increase the pressure on the Agency's resources.

The Agency would like to thank the stakeholders who provided inputs in the framework of the consultation launched in November 2020 on the draft activities included in this work programme.

## **2. ACTIVITIES**

### **2.1. Market Information and Transparency (Operational)**

The Agency's market information and transparency work is an ongoing activity under REMIT which involves the promotion of regulatory cooperation and data excellence as well as REMIT analytics and information management tasks. The latter tasks will be financed through REMIT fees on the basis of Article 32(1)(b) of Regulation (EU) 2019/942 as of 2021.

#### **2.1.1 Promoting regulatory cooperation and data excellence**

##### **I. Promoting Regulatory Cooperation**

ACER takes an active role in assisting NRAs and in building a common regulatory culture among NRAs to promote the sound, efficient, and consistent exercise of their regulatory tasks under REMIT at Union level. Since wholesale energy markets encompass both commodity markets and derivatives markets and as price formation in both sectors is interlinked, ACER also cooperates with the European Securities and Markets Authority (ESMA) and national financial market authorities, but also with competition authorities, to ensure that a coordinated approach is taken on market integrity and transparency at Union level. In addition, ACER cooperates with competent supervisory authorities, international organisations and the administrations of third countries, in particular with those impacting the Union wholesale energy markets, in order to promote the harmonisation of the regulatory market integrity and transparency framework.

The presented tasks in the field of Promoting regulatory cooperation are not considered as being covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER for its services related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT. The Agency’s tasks in the field of Promoting regulatory cooperation will continue to be financed by the Union budget and/or other funding sources made available.

In relation to the promotion of regulatory cooperation in the framework of REMIT, the Agency plans to work in the following areas and towards the following results in 2022:

<p><b>Objective 1:</b>  <b>Promoting Regulatory Cooperation</b></p>	<p><b>Assisting NRAs in exercising, at Union level, their regulatory tasks under REMIT performed in the Member States</b> (Priority level: 1)</p> <p><b>Policy cooperation with NRAs and, where necessary, their coordination to aim at ensuring the coordinated and consistent application of REMIT</b> (Priority level: 1)</p> <p><b>Policy cooperation with ESMA, competent national financial market authorities and other authorities at Union level, supervisory authorities, international organisations and the administrations of third countries to promote the harmonisation of the regulatory framework</b> (Priority level: 2)</p>
<p><b>Expected results</b>  <b>Assisting NRAs</b></p>	<p>24 NRAs will be using CEREMP as national registers pursuant to Article 9(2) of REMIT for the registration of market participants at national level. ACER’s business intelligence solutions SMARTS and OBIEE may be used by some NRAs.</p>
<p><b>Policy cooperation with NRAs</b></p>	<p>ACER and NRAs will continue to cooperate closely through the ACER REMIT Committee (ARC) and the relevant subgroup(s) to aim at ensuring a coordinated and consistent approach under REMIT. This will result in updated ACER Guidance on the application of REMIT and updated REMIT Q&amp;As as required.</p>
<p><b>Policy cooperation with ESMA and other authorities</b></p>	<p>Policy cooperation with ESMA, national financial market authorities, competition authorities, supervisory authorities and administrations from third countries as well as with international organisations will depend on the available human resources. ACER has currently MoUs in place with ESMA, the Energy Community Secretariat, FERC and the Northern Irish Utility Regulator. Additional cooperation may be required with other supervisory authorities from third</p>

countries. Without additional human resources being provided to ACER, cooperation will remain ad hoc.

Indicators	Latest result	Target Year N	Means and frequency of verification
99% Availability of the provided IT solutions to NRAs	Year N-2: n/a	99 %	Monthly performance monitoring
Continued measurement of % planned vs. delivered projects	Year N-2: n/a	YoY improvement	Monthly performance monitoring
Implementation of the MoUs in practice through regular exchange of information and/or meetings with the relevant authorities.	Year N-2: At least 1 meeting per cooperating authority per year	At least 1 meeting per cooperating authority per year	Monthly performance monitoring

### Main outputs

- Providing CEREMP for NRAs’ national registers of market participants
- Publication of ACER Guidance to NRAs on the application of REMIT;
- Coordination of stakeholder queries with NRAs;
- Publication of REMIT Q&As;
- Potential coordinated policy documents;
- Additional Memoranda of Understanding (MoUs);
- Exchange of information and/or meetings on the basis of existing MoUs.

Outputs relating to the multi-annual work programme objectives:

- Regulatory cooperation for a coordinated approach towards an increased integrity and transparency of wholesale energy markets.

Other outputs:

- Fostering regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.

## II. Data excellence

Data and information is a key enabler to the Agency’s success, supporting the drive to be a forward-looking and data-driven EU Agency that operates efficiently. Good quality data and information, handled well and available quickly allows the Agency to gain deeper insight into the subject matter and to be more efficient at identifying and tackling risks.

The Agency shall continue to implement technical and organisational requirements to ensure data excellence. The activities related to data excellence will continue to provide both internal



and external customers with services related to data collection, data quality, and data management in the field of electricity and natural gas markets. Data collection and data management for the electricity and gas departments is a general task and an enabler for providing ACER with the information necessary for the purpose of carrying out ACER’s tasks under Regulation (EU) 2019/942.

The Agency’s tasks in the field of Data excellence will continue to be financed by the Union budget and/or other funding sources made available.<sup>10</sup>

<b>Objective 2: Data excellence</b>		<b>Information management for the electricity and gas departments (Priority level: 1)</b>	
<b>Expected results</b>	Data collection and data management, including making information available to support the Agency’s mandate		
<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Implementation of the ACER data strategy	Year N-2: n/a	Continued measurement of % planned versus delivered	Monthly performance monitoring
Implementation of Data governance and policies according to plan	Year N-2: n/a	Continued measurement of % planned versus delivered	Monthly performance monitoring
<b>Main outputs</b>			
<ul style="list-style-type: none"> <li>• Implementation of the ACER data strategy</li> <li>• Implementation of ACER data governance and policies</li> <li>• Develop new data marts and make information and tools available</li> <li>• Implement ACER information security policy for business IT systems and data</li> </ul>			
Outputs relating to the multi-annual work programme objectives:			
<ul style="list-style-type: none"> <li>• Contribute to the completion of the IEM by providing high-quality data for policy development, decision-making and monitoring activities</li> </ul>			

<sup>10</sup> The presented objective in the field of Data excellence related to data collection, data quality and data management outside the scope of REMIT are not considered as being covered by Article 32(1)(b) of Regulation (EU) 2019/942 pursuant to which fees shall be due to ACER for its services related to collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT.

## 2.1.2 REMIT Analytics and Information Management

REMIT analytics and information management and information technology have become an enabler which supports ACER's and NRAs' market monitoring activities and case-work according to Article 7(1) and (2) of REMIT to promote wholesale energy market integrity and transparency, but also ACER's wholesale energy monitoring and reporting activities according to Article 15 of the ARR ('Market Monitoring Report') and the Agency's monitoring of the implementation of network codes to promote market integration. It has the potential to support the monitoring activities and case-work of financial market authorities under EU financial market legislation and competition authorities under EU competition law and may foster sound policy-making.

REMIT analytics and information management activities aim to establish and manage information as a key asset to support market monitoring and provide reliable information on wholesale energy markets for the promotion of market integrity and transparency as a major pre-requisite for efficient market integration and the security of energy supply. This involves the delivery and operation of efficient and effective data and information-management services and increasing the Agency's information processing capacity, and requires management of in-house and outsourced information and technology services.

The REMIT Analytics and Information Management tasks performed by the MIT Department are closely coordinated with and supported by the MSC Department's market surveillance and conduct activities, in particular concerning the tasks REMIT reporting guidance, data collection, data analysis and the operation and enhancements of the Agency's REMIT Information Systems where the MSC Department is relying on IT solutions for the performance of its tasks provided by the MIT Department. The Annual Report on the Agency activities under REMIT is a shared task of the MIT Department and the MSC Department.

ACER's REMIT analytics and information management activities provide the infrastructure fundamental for collecting, handling, processing and analysing of information reported by market participants or by entities reporting on their behalf pursuant to Article 8 of REMIT, hence, as of 2021, will be funded by fees pursuant to Article 32(1)(b) of Regulation (EU) 2019/942.

In relation to the REMIT analytics and information management, the Agency plans to work in the following areas and towards the following deliverables in 2022:

### **I. Regulatory cooperation, reporting guidance and policy activity to support the REMIT reporting mandate**

This deliverable comprises tasks related to regulatory cooperation, reporting guidance, the

annual report on REMIT activities and the facilitation of stakeholder involvement.

ACER closely cooperates with NRAs on collecting, handling, processing and analysing of information collected pursuant to Article 8 of REMIT on an ongoing basis to foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.

The Agency is tasked to provide guidance to reporting parties on data collection (Requirements for registered reporting parties, Manual of Procedures on data collection, Transaction Reporting User Manual, FAQs on data collection) according to Article 8 of REMIT and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014. This requires a regular update of the guidance in the light of market developments (e.g. in case of new products admitted to trading at organised market places) and includes providing regular updates to the list of organised market places and to the list of standard contracts.

The Agency shall submit at least on an annual basis a Report to the Commission on its activities under REMIT according to Article 7(3) of REMIT. In such reports, ACER shall assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.

The Agency should inform stakeholders on different aspects of the implementation and operation of REMIT data collection according to Article 14 of Regulation (EU) 2019/942. Material updates of ACER’s REMIT reporting guidance even require consultation of relevant parties according to Article 8 of REMIT and Articles 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014. Involvement of stakeholders will ensure wider acceptance of REMIT data collection and the effectiveness of any potential update of REMIT data collection.

**Objective 1:**

**Contribute to a coordinated, consistent and robust REMIT data reporting framework**

**Continue to contribute to a coordinated, consistent and robust REMIT data reporting regulatory framework for the purpose of market monitoring and promote supervisory convergence in the area of data reporting (Priority level: 1);**

**Enable reporting parties to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner to the Agency (Priority level: 1);**

**Collecting, handling, processing and analysing of REMIT information collected according to Article 8**

**of REMIT. (Priority level: 1)**

<b>Expected results</b>	ACER is the central point of data collection at pan-European level under REMIT. ACER will continue to closely cooperate with NRAs when collecting, handling, processing and analysing of REMIT information collected according to Article 8 of REMIT for the purpose of effective and efficient market monitoring of EU wholesale energy markets under REMIT. For this purpose, ACER will continue to review its REMIT reporting guidance on an ongoing basis and will provide updates as required. When doing so, ACER will take into account the experience gained with the relevant reporting requirements.
<b>Cooperation with NRAs</b>	
<b>REMIT reporting guidance</b>	
<b>Facilitation of stakeholder involvement</b>	
<b>Annual Report on the Agency activities under REMIT</b>	ACER will engage and co-operate with relevant stakeholders as required.
	ACER will publicly report about its activities under REMIT at least on an annual basis.

Indicators	Latest result	Target Year N	Means and frequency of verification
Number of relevant coordination meetings with NRAs	Year N-2: 8	8	Monthly performance monitoring
Update of TRUM as key achievement	Year N-2: 1 update	At least 1 update	Monthly performance monitoring
Update of FAQs on data collection	Year N-2: 2 updates	At least 1 update	Monthly performance monitoring
Update of MoP on data collection as required	Year N-2: 1 update	As required	Monthly performance monitoring
Update of the RRM requirements	Year N-2: 1 update	As required	Monthly performance monitoring
Updates of the List of OMPs	Year N-2: 4 updates	4 updates	Monthly performance monitoring
Updates of the List of Standard Contracts	Year N-2: 4 updates	4 updates	Monthly performance monitoring
Percentage of REMIT stakeholder queries on REMIT data collection answered	Year N-2: 100%	100%	Monthly performance monitoring

% planned vs. delivered projects	Year N-2: n/a	Yoy improvement of % planned versus delivered	Monthly performance monitoring
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### Main outputs

- Potential recommendations to the Commission to revise the REMIT reporting regime;
- Potential recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market;
- Coordination of potential breaches of Articles 8 and 9 of REMIT with NRAs
- Joint ACER-NRA projects on collecting, handling, processing and analyzing of information, with the SIDC data collection project as key deliverable;
- Review of the Transaction Reporting User Manual;
- Review of the Manual of Procedures on transaction and fundamental data reporting, as required;
- Review of the Requirements for Registered Reporting Parties, as required;
- Provision of additional FAQs on data collection, as required;
- Published and regularly updated list of organised market places;
- Published and regularly updated list of standard contracts.
- Contribution to the Agency’s Annual Activity Report;
- Contribution to the Agency’s Market Monitoring Report;
- Publication of the REMIT Quarterly reports,
- REMIT Portal;
- Public consultations;
- Targeted consultations of relevant parties;
- Stakeholder roundtable meetings and webinars;
- Ad-hoc expert group meetings;
- REMIT Forum.

Outputs relating to the multi-annual work programme objectives:

- Increased integrity and transparency of wholesale energy markets

## II. Regulatory registration and supervision of reporting parties

This deliverable comprises the tasks related to the European register of market participants and the registration and compliance monitoring of registered reporting parties.

ACER’s European register of market participants was established for the purpose of data collection under REMIT and is based on the information provided by NRAs on an ongoing basis (Articles 8 and 9 of REMIT; Article 10(2) of Commission Implementing Regulation (EU) No 1348/2014). The Agency has made publicly available parts of the European register of market participants to facilitate reporting according to Article 8 of REMIT, in particular the market participants registered and their ACER registration and other unique identification codes which are a prerequisite to identify the reporting parties when reporting data to ACER pursuant to Article 8 of REMIT. This is also why Article 10(2) of Commission Implementing

Regulation (EU) No 1348/2014 requires market participants to identify themselves or to be identified by the third party reporting on their behalf shall use the ACER code which the market participant received or the unique market participant code which the market participant provided while registering in accordance with Article 9 of REMIT.

ACER assesses registration applications under REMIT and its Implementing Regulation and monitors the compliance of registered reporting parties which involves day-to-day supervision through a risk-based approach with a particular focus on data quality and technical and operational requirements to ensure operational reliability pursuant to Article 8 of REMIT and Article 11(1) of Commission Implementing Regulation (EU) No 1348/2014. There are currently 118 reporting parties registered with the Agency as so-called Registered Reporting Mechanisms (RRMs). As of 2021, this task includes the provision of support services for the collection of REMIT fees from registered reporting parties.

ACER is also registering Inside Information Platforms and Transparency Platforms disclosing inside information on behalf of market participants for the efficient, effective and safe collection of inside information through web feeds (Article 8 of REMIT; Articles 10(1) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014.

<p><b>Objective 2:</b>  <b>Regulatory registration and supervision of reporting parties to ensure efficient, effective and safe exchange and handling of information</b></p>	<p><b>Enable reporting parties to report data pursuant to Article 8 of REMIT in an efficient, effective and safe manner to the Agency (Priority level: 1);</b></p> <p><b>Ensuring efficient, effective and safe exchange and handling of information (Priority level: 1);</b></p> <p><b>Collecting, handling, processing and analysing of REMIT information collected according to Article 8 of REMIT. (Priority level: 1)</b></p>
<p><b>Expected results</b>  <b>European register of market participants</b></p>	<p>Maintenance of the European Register of Market Participants with more than 14,000 market participants registered and transmitted to ACER by NRAs to identify market participants for reporting purposes when reporting to ACER.</p>
<p><b>Registration and enrolment of reporting parties in compliance with technical and organizational requirements</b></p>	<p>Registration and enrolment of more than 100 Registered Reporting Mechanisms for the reporting of records of transactions and fundamental data and around 20 platforms for the collection of inside information as well as compliance monitoring of these entities by ACER on a risk-based approach.</p>

Indicators	Latest result	Target Year N	Means and frequency of verification
99% Availability of the publicly made available parts of the European register of market participants on the Agency's REMIT portal	Year N-2: 99% planned system availability	99% service availability	Monthly performance monitoring
Contribution to effective REMIT fee implementation	Year N-2: n/a	Yoy improvement of % planned versus delivered	Monthly performance monitoring
Implementation of the RRM compliance monitoring strategy according to plan	Year N-2: n/a	Yoy improvement of % planned versus delivered	Monthly performance monitoring
Completeness of information	Year N-2: n/a	Yoy improvement	Monthly performance monitoring
Accuraccy of information	Year N-2: n/a	Yoy improvement	Monthly performance monitoring
Timeliness of information	Year N-2: n/a	Yoy improvement	Monthly performance monitoring
The time a reporting party takes to proceed to remedial actions following ACER's supervisory action	Year N-2: n/a	Yoy improvement	Monthly performance monitoring

### Main outputs

- Publication of the European register of market participants and continuous updates on the basis of the information provided through the national registers of market participants maintained by NRAs
- Contribution to the implementation of REMIT fees;
- Processed new registration applications;
- Assessment of whether changes to the current RRM registrations (structural changes of entities, changes in technical and organisational requirements etc.) are compliant with Article 11 (1) of REMIT Implementing Regulation and facilitate the changes by bilateral communication with the RRM and related amendments in the system;
- Engagement with individual registered reporting parties, audits, thematic reports and letters addressed to registered reporting parties identifying risks and requesting remediation in alignment with key supervisory priorities.

Outputs relating to the multi-annual work programme objectives:



- Increased integrity and transparency of wholesale energy markets.

### **III. Data analysis and dissemination**

This deliverable comprises the tasks data analysis and making available REMIT data for scientific and transparency purposes. Against the background of its legal mandate under Articles 7(3) and 8 of REMIT and Article 11 of Commission Implementing Regulation (EU) No 1348/2014, ACER will continue performing data analysis and giving attention to the quality of reported data under REMIT, as a precondition to data-driven monitoring, through action plans and methodologies and will work on the implementation of the data strategy. This task was identified as a continued priority for market monitoring and is decisive for all REMIT data users. This is a task the Market Surveillance and Conduct Department contributes to.

According to Article 12(2) of REMIT, ACER may publish parts of the information it possesses to enhance transparency in wholesale energy markets pursuant to Article 12(2) of REMIT. Transparency has the power to create a level playing field, reduce the scope for anti-competitive practices and more generally, increase market participants' confidence in fair pricing mechanisms. REMIT regulates not only integrity, but also transparency of wholesale energy markets in order to guarantee that the relevant information is available to market operators. The disclosure of the information that is deemed relevant in light of the efficient functioning of the market, affects the possibility for market participants to receive efficient market signals before making their choices. Current experiences indicate that there is still a need to further promote transparency in wholesale energy markets.

The Agency is also tasked to make its non-sensitive trade database available for scientific purposes pursuant to Article 12(2) of REMIT. In the past, this activity was limited to the Agency's cooperation with the European Commission's Joint Research Centre. In 2022 and beyond, the Agency aims at establishing and making available a dataset which will allow cooperating with universities and research institutes at Union level.

<p><b>Objective 3:</b>  <b>Data analysis and dissemination to assure data quality, integrity, transparency and usability of information</b></p>	<p><b>Perform market data analysis in order to assure data quality, integrity and usability in close co-ordination with NRAs (Priority 1);</b></p> <p><b>Making available REMIT data for scientific and transparency purposes (Priority 2);</b></p> <p><b>Collecting, handling, processing and analysing of information collected according to Article 8 of REMIT (Priority level: 1).</b></p>
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**Expected results**

**Data analysis**

On-going/ targeted data quality analysis and issues detection to support the data action plans executed in coordination with NRAs aiming at ensuring the data quality, as well as the integrity, confidentiality and availability of REMIT transaction data by conducting timely supervisory activities with lasting impact. Requesting remediation at individual RRM level.

**Making available REMIT data for scientific and transparency purposes**

ACER will make its commercially non-sensitive trade database available for scientific purposes, subject to confidentiality requirements, on request of scientists and in a way affordable to the Agency from a perspective of limited human resources. ACER will disseminate information in a fair manner according to transparent rules drawn up and made publicly available.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Delivery and implementation of REMIT data strategy according to plan	Year N-2: n/a	Yoy improvement of % planned versus delivered	Monthly performance monitoring
Continued measurement of % planned vs. delivered data projects	Year N-2: n/a	Yoy improvement of % planned versus delivered	Monthly performance monitoring
Integrity of information	Year N-2: n/a	Yoy improvement	Monthly performance monitoring
Consistency of information	Year N-2: n/a	Yoy improvement	Monthly performance monitoring
Contribution to ACER publications using REMIT market data	Year N-2: 2	At least 1	Monthly performance monitoring
Engagement in scientific data sharing project	Year N-2: 2	At least 1	Monthly performance monitoring
Publication of ACER's assessment of the operation and transparency of different categories of market places and ways of trading and evaluation whether any minimum requirements for	Year N-2: 1 publication	At least 1 publication	Monthly performance monitoring

organised markets could contribute to enhanced market transparency

### Main outputs

- Data processes to support market monitoring and data analysis,
- Ongoing data analysis projects/reports;
- Assess the operation and transparency of different categories of market places and ways of trading and, if necessary, make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market;
- Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency
- Making available of REMIT data sets to researchers from universities and research institutes for scientific purposes;
- Making publicly available parts of the information the Agency possesses, provided that commercially sensitive information on individual market participants or individual transactions or individual market places is not disclosed and cannot be inferred.

Outputs relating to the multi-annual work programme objectives:

- Increased integrity and transparency of wholesale energy markets

## **IV. Data collection, data management and data sharing**

This deliverable comprises the tasks data collection and data sharing and the operation and enhancement of the Agency's REMIT Information Systems ensuring operational reliability. The Agency is tasked to collect records of wholesale energy market transactions, including orders to trade from EU market participants at pan-European level.

The Agency shall also establish mechanisms to share information it receives in accordance with Articles 7(1) and 8 of REMIT with NRAs competent financial market authorities of the Member States, national competition authorities, ESMA and other relevant authorities. For the purpose of carrying out their market monitoring of wholesale energy markets at national level according to Article 7(2) of REMIT, NRAs shall have access to relevant information held by the Agency which it has collected in accordance with Article 7(1) of REMIT, subject to Article 10(2) of REMIT. The Agency is currently sharing relevant REMIT information with NRAs on an ongoing basis and with other authorities at Union level on an ad hoc request basis. Other authorities from the Member States are asked to refer to the relevant NRA at national level.

For the purpose of collecting, handling, processing and analysing information, ACER operates its REMIT Information Systems ARIS. 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) and Articles 8 and 10 of REMIT. The Agency shall take all necessary measures to prevent any misuse of, and unauthorised access to, the information maintained in its systems.

In addition, the Agency has to fulfil data protection obligations relating to the processing of personal data under relevant EU data protection legislation.

<p><b>Objective 4:</b> Data collection, data management and data sharing to increase integrity and transparency in wholesale energy markets</p>	<p><b>Collecting of information reported by reporting parties in an efficient, effective and safe manner; Providing high-quality REMIT data for monitoring purposes of ACER, NRAs and other relevant authorities (Priority level: 1);</b></p> <p><b>Operate the Agency’s REMIT Information Systems operationally reliable (Priority level: 1);</b></p> <p><b>Collecting, handling, processing and analysing of information collected according to Article 8 of REMIT (Priority level: 1).</b></p>
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**Expected results**

**Data collection and data sharing**

Continuous data collection, data sharing and data management of more than 10 million records of wholesale energy markets on average per day. Ad hoc access to EMIR and MiFID II data, including emission allowances and derivatives thereof, through ESMA.

**Operation and enhancements of the Agency’s REMIT Information Systems ensuring operational reliability**

ACER ensures data protection, confidentiality, integrity and protection of the information received, identifies sources of operational risk and minimises them through the development of appropriate systems, controls and procedures.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Service availability of data collection, data management and data sharing services	Year N-2: 99% planned service availability	99% service availability	Monthly performance monitoring
% of open tickets versus closed	Year N-2: n/a	Yoy improvement	Monthly performance monitoring
Continued measurement of % planned vs. delivered projects	Year N-2: n/a	Yoy improvement of % planned versus delivered	Monthly performance monitoring
Time from discovery of an information security incident/issue until resolution	Year N-2: n/a	Yoy improvement	Monthly performance monitoring

## Main outputs

- Continuous management of records of wholesale energy market transactions, including orders to trade, derivatives, fundamental data and inside information collected;
- Provision of REMIT information services to internal ACER users, NRAs and reporting parties;
- Projects to enhance data collection, data processing and data sharing;
- Sharing of relevant REMIT data with NRAs through ARIS on an ongoing basis and with other authorities on an ad hoc basis;
- Maintenance and continuous operations of the Agency’s REMIT Information Systems;
- Enhancements of the Agency’s REMIT Information Systems, or components thereof;
- Application and IT service management;
- Identify sources of operational risk and minimise them through the development of appropriate systems, controls and procedures.
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Outputs relating to the multi-annual work programme objectives:

- Increased integrity and transparency of wholesale energy markets.

<b>Total resources allocated to the Activity</b>	
<b>MARKET INFORMATION AND TRANSPARENCY</b>	
<b>Human Resources</b> <b>(Full Time Equivalents)<sup>11</sup></b>	<b>Financial Resources</b> <b>(EUR)</b>
<b>22.8</b>	<b>330,531 subsidy</b>
<b>1.8 FTEs SUBSIDY, 21 FTEs REMIT fee financed</b>	<b>7,633,539 fees</b>

## 2.2. Market Surveillance and Conduct (Operational)

The Agency’s Market Surveillance and Conduct Department promotes the integrity of wholesale energy market. A new task includes providing operational assistance to a requesting National Regulatory Authority on its REMIT investigation. Except for this latter task,

<sup>11</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as ‘operational’ according to the methodology for Agencies job screening (‘benchmarking’), in accordance with article 29(3) of the Framework Financial Regulation. New requests for 2022 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

all tasks will be financed through REMIT fees on the basis of Article 32(1)(b) of Regulation (EU) 2019/942 as of 2021.

In section 2.2.2. (Human resources) of the Multiannual Programming the Agency presents the Agency's approach to performance EU wide market surveillance based on alerts. In particular, the Agency plans to work in 2022 in the following areas and towards the following deliverables in relation to the market surveillance of trading activities in EU wholesale energy markets.

<p><b>Objective 1:</b> <b>Ensuring the integrity of wholesale energy markets and delivering trustworthy market outcomes for EU energy consumers</b></p>	<p><b>Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation according to Article 7 of REMIT, in cooperation with NRAs, on the basis of data collected in accordance with the REMIT implementing acts, the Agency's surveillance strategy and further development and operation of the Agency's market surveillance solution, including the dissemination to NRAs of suspicious trading activities in a secure way.</b> That is, analysing the available collected and validated REMIT data to detect suspected instances of market abuse; contributing to improving the available collected REMIT data; preparing detailed assessments with factual analyses including an economic and legal assessment to be notified in a secure way to national authorities for their investigation; and screening, registering and assessing notifications on suspicious trading instances reported by national authorities, persons professionally arranging transactions, market parties and other entities. <b>(Priority level 1)</b></p>
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**Expected results**  
**Reporting to NRAs assessed triggered alerts and initial assessments of potential market abuse cases.**

Screening and analysing of the data collected according to Article 8 of Reg. (EU) 1227/2011.

Drafting initial assessments and notifying relevant regulatory authorities of potential abusive behaviour according to Article 16(4) of Reg. (EU) 1227/2011.

Increased integrity and transparency of wholesale energy markets. Detection of market abusive practices.

Multi-annual objective: Increased integrity and transparency of wholesale energy markets.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
% of high priority alerts manually screened	n/a	100%	quarterly
# of initial assessments sent to relevant authorities	n/a	16	quarterly

## Main outputs

- Reporting to NRAs assessed triggered alerts and initial assessments of potential market abuse cases.

Outputs relating to the multi-annual work programme objectives:

- Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation according to Article 7 of REMIT, in cooperation with NRAs, on the basis of data collected in accordance with the REMIT implementing acts, the Agency’s surveillance strategy and further development and operation of the Agency’s market surveillance solution, including the dissemination to NRAs of suspicious trading activities in a secure way.

Other outputs:

- Providing support to NRAs to issue investigations rendering enforcement actions including sanctioning decisions.

### Objective 2:

**Ensuring a consistent application of market abuse provisions by NRAs in order secure effective REMIT framework**

**This task includes all activities performed by ACER related to ensuring coordination and consistency in the application of REMIT by NRAs to cases of market abuse (Articles 3 and 5) and related to information disclosure, reporting, registration, and monitoring obligations (Articles 4, 8, 9, and 15).** It includes the following activities: case coordination; case consistency; development, consultation and issuance of ACER Guidance; statutory meetings involving the discussion of REMIT cases. That is, notifying ESMA and other relevant supervisory authorities on potential cases of market abuse; coordinating and cooperating with NRAs on REMIT cases reviews, investigations and enforcement actions; taking actions to ensure consistency in the application of REMIT by NRAs; establishing and managing investigatory groups; providing guidance on the application of REMIT on the market abuse provisions; developing and enhancing of specific IT tools that can support its surveillance and conduct tasks; and, a new task for the Agency, providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations. (Priority level 1)

### Expected results

**To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.**

Notifications on REMIT cases by ACER and triage and review of received Notifications from NRAs (and PPATs) based on the data received under Article 8.

Cooperation between ACER and NRAs and among NRAs on REMIT cases.

Coordination meetings with NRAs on the consistent application of market abuse provisions in REMIT (e.g. MM SC).

Processing of requests from ACER and updates from NRAs.

Establishment and coordination of investigatory groups.

Reviews by ACER of potential REMIT breach assessments by NRAs (closing and consistency notes).

Publication of Guidance to NRAs on the application of REMIT market abuse provisions.

Indicators	Latest result	Target Year N	Means and frequency of verification
% of REMIT breach cases pro-actively followed by the Agency	n/a	> 25%;	Annual
Number of REMIT breach cases triaged and reviewed on cooperation needs	n/a	>100	Annual
Number of interactions on market abuse cases to ensure a coordinated and consistent approach (documents and requests sent)/year	n/a	: > 600	Annual
Number of statutory meetings (>50% of the target group) organised and chaired by the MSC department	n/a	9	Annual
Number of cross border investigatory groups under management	n/a	0	Annual
Number of pages of new/updated ACER guidance/Market Monitoring Handbook/Q&A/User Guides/Case articles published	n/a	>60	Annual

**Main outputs**

- Notifications on REMIT cases by ACER and triage and review of received Notifications from NRAs (and PPATs) based on the data received under Article 8.



- Cooperation between ACER and NRAs and among NRAs on REMIT cases.
- Coordination meetings with NRAs on the consistent application of market abuse provisions in REMIT (e.g. MM SC).
- Processing of requests from ACER and updates from NRAs.
- Establishment and coordination of investigatory groups.
- Reviews by ACER of potential REMIT breach assessments by NRAs (closing and consistency notes).
- Publication of Guidance to NRAs on the application of REMIT market abuse provisions.

Outputs relating to the multi-annual work programme objectives:

- Ensure integrity and transparency of wholesale energy markets across the EU.

<b>Objective 3:</b> <b>Development and enhancement of applied surveillance and conduct IT tools</b>	<b>Implementable detailed business requirements to enhance existing IT tools (Priority level 1)</b>		
<b>Expected results</b> <b>Improvements to the Agency's main surveillance tool for market surveillance, case coordination, notification platform.</b>	Development and implementation of new alerts Enhancement of existing alerts Delivery of surveillance tool enhancements. Development of in-house surveillance tools User testing of new deploys of the tools		
Indicators	Latest result	Target Year N	Means and frequency of verification
Number of alert enhancements implemented	n/a	20	Annual
Number of alerts developed and implemented	n/a	2	Annual
Number of new Case Management Tool (CMT) PowerBI improvements implemented	n/a	1	Annual
Number of Notification Platform and CMT issues/bugs/improvements documented for solving	n/a	>20	Annual



### Main outputs

- The development and enhancements of the Agency’s main surveillance tool for market surveillance;
- Development of new alerts for detecting potential market abuse;
- Enhancements of existing alerts for improved detection of potential market abuse;
- The development and enhancements of the Agency’s Notification Platform (NP) and Case Management Tool (CMT).

Outputs relating to the multi-annual work programme objectives:

- Enhance and develop detailed business requirements, testing and training for the Agency’s REMIT data screening tool, the Notification Platform and the Case Management Tool.

Other outputs:

- The training of staff, NRAs and other users for the use of the tools.

### Objective 4:

**Ensure cooperation between public authorities dealing with related matters.**

**The cooperation with ESMA, competent national financial market authorities and other relevant authorities aims to ensure that REMIT, MAR and other related regulations/legislations are applied in a coordinated way by the concerned relevant authorities. Also, to ensure a consistent approach is the application of REMIT and MAR provisions.**

It also aims at disseminating best practices among public authorities. (Priority level 2)

### Expected results

Increased integrity and transparency of wholesale energy markets.

### Indicators

#### Latest result

#### Target Year N

#### Means and frequency of verification

Number of large scale non-statutory meetings (ESMA, financial authorities, PPATs/OMPs, other entities)

n/a

4/year

Annual

### Main outputs

- Notifications to ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.

Outputs relating to the multi-annual work programme objectives:

- Ensure cooperation between public authorities dealing with related matters. Increased integrity and transparency of wholesale energy markets.

Other outputs:

- Coordination meetings with ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.
- Increased integrity and transparency of wholesale energy markets.

<p><b>Objective 5:</b></p> <p><b>To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</b></p>	<p><b>Specific objectives: the Agency may provide operational assistance to NRAs on their REMIT cases upon their request, a new task for the Agency following the entering into force of Regulation (EU) 2019/942. In accordance with Article 33(10) of Regulation (EU) 2019/942, the European Commission ('EC') is to assess the financial and human resources available to ACER in order to allow it to fulfil its role under Regulation (EU) 2019/942. (Priority level 2)</b></p> <p>This task includes 4 main activities:</p> <ul style="list-style-type: none"> <li>• Support on investigation coordination and strategy</li> <li>• Support on information gathering</li> <li>• Support on information assessment</li> <li>• Support on final reports/assessments</li> </ul> <p>This task is Union contribution financed.</p>
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<b>Expected results</b>	Ensuring that NRAs carry out their tasks under REMIT in a coordinated and consistent way.
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Indicators	Latest result	Target Year N	Means and frequency of verification
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For 2022 no indicator is planned as the Agency lacks the funding for appropriate HR. This task is therefore fully deprioritised and each request for support from NRAs on their cases will not be acted on.

n/a

n/a

n/a

**Main outputs**

- Support by providing case-specific training;
- Support by organising dedicated workshops to brainstorm about the case merits and/or investigatory strategy with the NRAs;
- Support by producing an opinion on the investigatory strategy;
- Direct support by allocating ACER staff to the NRA investigation;
- Support in the identification of the evidence to be collected;
- Support in the process of gathering evidence;

- Support in provision of ARIS data beyond the scope of current MoU on data sharing;
- Support in designing specific investigatory steps for information gathering;
- Support in analysing items of evidence collected by the NRA or extracted from ARIS during the investigation and producing a note on the findings for the NRA;
- Specific support in helping NRA understand a specific item of the collected evidence;
- Support in producing a gap analysis between the evidence collected at that stage by the NRA and the evidence required to prove the existence of market abuse;
- Support in assessing the argumentation provided by market participants in defence of the behaviour deemed by the NRA as a breach of REMIT;
- Support by providing recommendations to the NRA on the best practices that can benefit the reports/assessments that the NRA needs to produce based on the specific collected evidence;
- Support by providing feedback and suggestions on the NRA's draft reports/assessments produced during the investigation process;
- Support by providing an opinion on the case merits based on the draft reports/assessments provided by the NRA;
- Support in drafting the Investigatory Report in order to produce the best possible report with the available evidence for the case.

Outputs relating to the multi-annual work programme objectives:

- Increased integrity and transparency of wholesale energy markets.

Other outputs:

- Coordination meetings with ESMA, competent national financial market authorities, other supervisory authorities, international organisations and the administrations of third countries.

<b>Total resources allocated to the Activity</b>	
<b>MARKET SURVEILLANCE AND CONDUCT</b>	
<b>Human Resources (Full Time Equivalents)<sup>12</sup></b>	<b>Financial Resources (EUR)</b>
<b>19.6 (1.6 subsidy-financed)</b>	<b>293,806 subsidy financed 1,913,176 REMIT fee financed</b>

## **2.3. Internal Electricity Market (Operational)**

The European energy sector is engaged into a profound energy transition, whose overall success highly depends on the efficiency and integration of the European electricity markets.

<sup>12</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation. The new requests for 2022 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

Since the Directive on common rules for the internal market in electricity (1996), which marked the beginning of the market integration process at the European level, significant progress has been made towards establishing an efficient Internal Electricity Market. The successive legislative packages (and more recently the 'Clean Energy Package') contributed to further strengthening the foundations of the Internal Electricity Market.

Despite this progress, there are still numerous obstacles to overcome before achieving a truly integrated efficient market. In that respect, the full implementation of the Network Codes and Guidelines developed since 2011 (constituting the backbone of the Internal Electricity Market), the amendment and/or development of new Network Codes as well as the related monitoring activities will keep on being the main focus of ACER's work.

**Objective 1:**

**Ensuring the full implementation of Network Codes and Guidelines and more broadly of the new requirements laid down in the CEP**

**Background: most, if not all, terms, conditions or methodologies resulting from the guidelines shall be adopted by 2022. However, some already approved terms, conditions or methodologies (regional or EU-wide) will require amendments and then trigger a new decision-making process in order in particular to make them compliant with the new requirements laid down in the CEP.**

**Assisting NRAs for the approval of amended regional-wide terms and conditions or methodologies developed by TSOs, NEMOs or other entities, pursuant to the adopted Network Codes and Guidelines. Issuing decisions on these regional terms and conditions or methodologies in case NRAs fail to agree or upon their joint request. (Priority level 2)** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be regularly informed and formally consulted in case of decisions.

**Issuing decisions on the amended European-wide terms and conditions or methodologies. (Priority level 1)** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted in case of decisions.

**Monitoring the implementation of the obligations resulting from the adoption of the Network Codes, Guidelines, the different terms and conditions and methodologies and the Electricity Regulation. Investigating the reasons for delays and/or non-compliance and issuing recommendations and/or decisions to address these issues. (Priority level 1)** According to Article 24(2) of Regulation 2019/942, the

Electricity Working Group will be formally consulted in case of recommendations and/or decisions.

**Collecting the required data and information to perform these monitoring activities. If necessary, issuing recommendations and/or decisions to get these data and information.** (Priority level 1) According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted in case of recommendations and/or decisions.

**Continuing to promote the involvement of stakeholders in monitoring the implementation of network codes and guidelines, in particular through the European Stakeholder Committees.** (Priority level 1) The Electricity Working Group will be regularly informed and consulted.

**Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission** (Priority level 1)

**The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted on the opinions/recommendations.

**Expected results**

**A more efficient and secure Internal Electricity Market with harmonised European-wide rules**

The main bulk of work will still be for the concerns parties (TSOs, NEMOs and NRAs) to implement and where necessary enforce all the terms, conditions and methodologies adopted over the last few years.

ACER’s task will be to monitor the proper implementation of the methodologies and identify any possible shortcomings.

A few decisions are still expected, mainly to amend the existing terms, conditions and methodologies and to make them compliant with the CEP.

Indicators	Latest result	Target Year N	Means and frequency of verification
Timely adoption of decisions	n/a	100%	Continuous
Timely adoption of the implementation monitoring reports and where necessary of Opinions/ Recommendations to foster	n/a	100%	Continuous

the implementation of these  
NCs and GLs

**Main outputs**

- A more efficient and secure Internal Electricity Market with harmonised European-wide rules

Outputs relating to the multi-annual work programme objectives:

- Contribute to the completion of the IEM and the monitoring of its functioning.

**Objective 2:**

**Amendment and/or  
Development of new  
Network Codes and  
Guidelines**

**Adoption of new framework guidelines and issuing opinions and recommendations to the European Commission on new network codes and guidelines as well as on amendments of existing network codes and guidelines.**

This includes a thorough consultation process with all stakeholders and supporting the European Commission during the adoption of these new or amended network codes. (Priority level 1). According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted in case of recommendations.

**Expected results**

**A more efficient and  
secure Internal Electricity  
Market with harmonised  
European-wide rules**

ACER will make recommendations to amend the existing Network Codes and Guidelines and, where relevant to adopt new ones. ACER will support the European Commission in the Comitology process.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Timely adoption of recommendations	n/a	100 %	Continuous

## Main outputs

- Timely adoption of recommendations to amend the existing (or to develop new) Network Codes and Guidelines

Outputs relating to the multi-annual work programme objectives:

- Contribute to the completion of the IEM

### Objective 3:

#### Monitoring the Tariff practices and the use of congestion income

#### Tariff Methodologies

**Updating (completing and improving) the Best Practice Report on transmission and distribution tariff methodologies. (Priority level 1)** According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be formally consulted on the Report.

**Monitoring and promoting the implementation of best practices in Member States through recommendations. (Priority level 1)** According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be formally consulted in case of recommendation and will be regularly informed and consulted on the monitoring activity.

**Monitoring transmission charges paid by generators. (Priority level 3)** The Electricity Working Group will be regularly informed and consulted on the monitoring activity.

#### Use of Congestion Income

**Monitoring the effective and consistent implementation of the Agency's decision on the methodology regarding the use of the congestion income. (Priority level 1)** The Electricity Working Group will be regularly informed and consulted on the monitoring activity.

### Expected results

#### A more efficient and secure IEM

Following the adoption of the Tariff Best-practice Report, ACER will closely follow the evolution of tariff practices and assess the extent to which identified best practices are implemented

ACER will also monitor the use of congestion income and its compliance with the methodology approved by ACER

Indicators	Latest result	Target Year N	Means and frequency of verification
Timely adoption of monitoring reports in these two areas (Tariff and use of congestion income)	n/a	100 %	Continuous
<b>Main outputs</b>			
<ul style="list-style-type: none"> <li>Adoption of a report on the implementation of tariff best practices and of a report on the use of congestion income</li> </ul> <p>Outputs relating to the multi-annual work programme objectives:</p> <ul style="list-style-type: none"> <li>Contribute to the IEM</li> </ul>			

<p><b>Objective 4:</b>  <b>Monitoring the performance of RCCs and EU DSO entity (including data request)</b></p>	<p><b>New regional or EU-wide entities will play an increasingly important role in the completion of a truly integrated and secure IEM. ACER is entitled to monitor the performance of those entities and to issue opinions/recommendations should they fail to comply with their obligations.</b></p> <p><b>Regional Coordination Centres</b></p> <p><b>Monitoring and analysing the performance of RCCs with NRAs and ENTSO-E, through submitted data resulting from their continuous monitoring. Where relevant, issuing a decision to RCCs to provide the relevant information necessary for carrying out monitoring and issuing opinions and recommendations to the RCCs to improve their performance. (Priority level 1)</b> According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted in case of decisions, opinions and recommendations and regularly informed and consulted on the monitoring activity.</p> <p><b>DSOs-related tasks</b></p> <p><b>Monitoring the execution of tasks of EU DSO entity. ACER may provide an opinion on the EU DSO entity on the annual work programme and other relevant documents and can issue decisions for DSOs to provide relevant information necessary for carrying out monitoring. (Priority level 3)</b> According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be formally consulted on opinions</p>
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and decisions and will be regularly informed and consulted on the monitoring activity.

**The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted on the opinions/recommendation

**Expected results**

**In-depth monitoring of the performance of those entities**

Based on a sound and transparent data collection process, ACER will monitor the performance and compliance of those entities with the European legislative framework.

Indicators	Latest result	Target Year N	Means and frequency of verification
Timely adoption of Opinions/Recommendations	n/a	100 %	Continuous

**Main outputs**

- Timely adoption of Opinions/Recommendations to ensure a good performance and compliance

Outputs relating to the multi-annual work programme objectives:

- Contribute to the IEM

Total resources allocated to the Activity INTERNAL ELECTRICITY MARKET	
Human Resources (Full Time Equivalents) <sup>13</sup>	Financial Resources (EUR)
18.2 (subsidy-financed)	3,342,041

<sup>13</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation. The new requests for 2022 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

## 2.4. Internal Gas Market (Operational)

The focus of the deliverables will be on the implementation of issues that have not been implemented so far. This may require more targeted interaction with the EU Member States. The legislative changes in relation to the decarbonisation create some uncertainty and may increase the Agency's workload in 2022.

**Objective 1:**  
**Implementation of Network Codes: Decisions, assistance to NRAs, advocacy**

**The deliverables will focus on the implementation of provisions that have not been implemented yet. This may require more targeted interaction with a number of EU Member States, in particular cross-border disagreements between two or more countries can lead to lengthy processes. This can cover different topics related to the current network codes and may change each year in terms of reviewed substance.**

**Joint requests from the Functionality Platform: the Agency will interpret and provide solutions in a joint process with ENTSOG. (Priority level 1 or 3, depending on the case)** The Gas Working Group will be regularly informed and consulted.

**Decision regarding network codes when NRAs cannot agree** (based on Article 6(10) of Regulation (EU) 2019/942): the Agency will issue decisions in case NRAs disagree on cross-border matters. (Priority level 2) The Gas Working Group's will be formally consulted.

**Advocacy on network codes per market request or per the request of the NRAs** (based on Article 6 of Regulation (EU) 2019/942 or informal requests): the Agency will guide NRAs that require deeper explanations to the network codes in the course of the national implementation, or changes to the national implementation, per the NRA's request. (Priority level 1 or 3, depending on the case) The Gas Working Group will be informed, unless more structural guidance is provided, in which case it may go to the Gas Working Group for discussion.

**Expected results**

To create a seamless internal gas market ready for energy sector integration and an energy transition at least cost. In particular delivering the necessary decisions and guidances that are critical for a good cross-border cooperation.

Indicators	Latest result	Target Year N	Means and frequency of verification
Number and complexity of the Joint solutions on the Functionality platform	The number of cases per year usually varies between 5 and 6.	5-6	Continuously
Number and complexity of the Decisions and NRA-ACER advocacy	The number of cases is usually about 1 or 2 cases per year.	1-2	Continuously

### Main outputs

See under expected results.

Outputs relating to the multi-annual work programme objectives:

- Timely adoption to achieve good compliance with the IGM.

### Objective 2: Reporting and monitoring

**Targeted monitoring and reporting with a view to achieve full implementation in several Member States, to provide the reporting obligations imposed on the Agency by Union law and to review the functioning of the implemented market design triggered by new national rules or the market development.**

**Tariff Reports evaluating the national tariff consultations** (based on Article 27 of Regulation (EU) 2017/460): the Agency will improve compliance with its inputs to the final tariff decision of the NRA. (Priority level 1) The Gas Working Group will be informed.

**Annual Report on Congestion at Interconnection points in the European Union** with the planned automation of the report in 2022, entailing more data testing (based on Point 2.2.1.2 of the Commission Decision of 24 August 2012): the Agency will provide a list with the congested interconnection points with recommendations with a view to increase smooth congestion management on cross-border points. (Priority level 3) No formal Gas Working Group involvement (the group will be informed and consulted).

**Implementation Monitoring Report on the Tariff Network Code** with a view to the implementation issues that have not been delivered and in relation to the allowed revenues of the transmission system operators. (based on

Article 9(1) of Regulation (EC) 715/2009): the Agency will support the appropriate implementation of the network code to increase transparency of national tariff and allowed revenue settings. (Priority level 1) To the Gas Working Group for discussion.

**Implementation Monitoring Report for Balancing** with the application of the balancing analytical framework: the Agency will increase comparability of the national balancing market designs and improve learning about best practices. (Priority level 1) To the Gas Working Group for discussion.

**Expected results**

A seamless internal gas market that is ready to support energy sector integration and energy transition at least cost. In particular delivering the necessary reporting that will increase understanding and create improvements to achieve a good cross-border cooperation.

Indicators	Latest result	Target Year N	Means and frequency of verification
Number and complexity of the Reports mentioned above.	On average 10 reports per year over the periode 2019 - 2020	The number of Tariff reports for 2022 is estimated between 8 and 12	Continuously
Increased time of data testing in relation to the automation projects on Congestion Report and potential data screens needed in the Balancing reporting.	n/a	n/a	2022

**Main outputs**

Outputs relating to the multi-annual work programme objectives:

- Timely adoption to achieve good compliance with the IGM.

**Objective 3:**

Tasks initiated by the European Commission or at the Agency's initiative

The legislative changes in relation to the decarbonisation and strengthening the internal market create uncertainty about the number of tasks that the Agency should execute. In this respect, the Agency expects an increase

**in its workload in new network codes (e.g. revision of gas quality).**

**The Agency may engage in drafting an increased number of opinions and recommendations under its own initiative to support the decarbonisation process, provided sufficient resources are available.**

**Amendment of the Interoperability and Data Exchange Network Code** (based on Article 7 of Regulation (EC) 715/2009) (Priority level 1) For the Gas Working Group's review.

**Opinions and recommendations under own initiative** (based on Article 24(2) of Regulation 2019/942): the Agency will gradually explore the need to issue them. (Priority level 3) The Gas Working Group shall be consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.

**Expected results**

Support new legislation to upgrade the market design and prepare the ground for the energy sector integration and decarbonisation:

Posibility to support the revision of new network codes or implement network code modifications: at this point it is uncertain the nature and the volume of this workstream: the Agency will play an important role in implementing these legislative changes.

In particular the amendment of the *Interoperability and Data Exchange Network Code* is imminent to integrate the gas quality management for low carbon gases (based on Article 7 of Regulation (EC) 715/2009): this is the most imminent change process the Agency expects to bring some changes already in 2022.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Number of legislative changes and timeline for implementation	n/a	n/a	Continuously
Number and complexity of own initiative opinions and recommendations	1 own initiative Recommendation in 2019	n/a	Continuously

## Main outputs

See above under expected results.

Outputs relating to the multi-annual work programme objectives:

- Timely adoption to achieve good compliance with the changing IGM and support the decarbonisation efforts across the European Union.

Total resources allocated to the Activity INTERNAL GAS MARKET	
Human Resources (Full Time Equivalents) <sup>14</sup>	Financial Resources (EUR)
8 (subsidy-financed)	1,469,029

## 2.5 Electricity and Gas Internal Market Monitoring (Operational)

As regards the Agency’s work on Internal Energy Market monitoring, Article 15 of Regulation (EU) 2019/942 specifies that the Agency shall monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity has to be carried out in close cooperation with NRAs, the European Commission and other relevant organisations, and without prejudice to the competences of competition authorities. This work will be combined with part of the Agency’s obligation under article 7(3) of Regulation (EU) 1227/2011.

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely. Since 2017, the Market Monitoring Report is produced in different volumes, published at different times (as soon as they are ready), thus making its structure more flexible and moving the publication of the

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<sup>14</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as ‘operational’ according to the methodology for Agencies job screening (‘benchmarking’), in accordance with article 29(3) of the Framework Financial Regulation. The new requests for 2022 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

monitoring results closer to the time of the monitored developments. The market monitoring report is enriched with additional indicators to measure the effectiveness of the various Gas and Electricity Network Codes and Guidelines, e.g. with GTM indicators, some of which based on sanitised REMIT data, or with indicators related to the performance of electricity TSOs in the area of cross-zonal capacity calculation. Moreover, specific monitoring involving an intensive and complex data collection process is performed to assess the margin available for electricity cross-zonal trade in light of the minimum (70%) capacity target required by the CEP and the derogations granted to TSOs to deviate from the 70%. Finally, following the adoption of the “Clean Energy for all Europeans” legislation, the market monitoring report includes the monitoring of state interventions preventing prices from reflecting actual scarcity, as well as the monitoring of the performance of Member States in the area of electricity security of supply.

**Objective 1:  
Market Monitoring  
Report**

**Report on benefits and weaknesses of the existing wholesale electricity market design and possible recommendations to improve its functioning. The Electricity Working Group and the Gas Working Group will be regularly informed and consulted. (Priority level 1)**

**Wholesale Gas Market Volume; the Electricity Working Group and the Gas Working Group will be regularly informed and consulted. (Priority level 1)**

**Monitoring report on the amount of cross-zonal capacity available for trade and on the derogation decisions; the Electricity Working Group will be regularly informed and consulted. (Priority level 1)**

**Monitoring the performance of Member States in the area of security of supply. The Electricity Working Group will be regularly informed and consulted. (Priority level 1)**

**Retail Market and Customer Protection Volume; Working Group in the process of being established (Priority level 1)**

**Expected results**

**In line with previous editions, the MMR will provide an in-depth analysis of barriers to market integration and provide recommendations to the European Parliament and the Commission on how to remove them.**

The MMR Gas Wholesale Volume and the Report on the Electricity Wholesale market design will assess the functionality status of the electricity and gas wholesale markets, including, for gas, the assessment of the so called Gas Target Model Metrics and for electricity, regulatory access and smaller actors including energy communities, state interventions preventing prices from reflecting actual scarcity, and the analysis of Member States’ performance in the area of security of supply, based on the results of the European resource adequacy assessment. Dedicated volumes of the MMR will assess, as standalone reports, on the one hand the amount of cross-zonal capacity available

for the trade of electricity, compared to the minimum 70% target set in the Clean Energy Package, and, on the other hand, the analysis of Member States' performance in the area of security of supply. The new merged Retail and Customer Protection Volume will monitor the evolution of retail prices for electricity and gas as well as the impact of market developments on household customers and the compliance with consumer rights.

Indicators	Latest result	Target Year N	Means and frequency of verification
Timely completion of the Annual Market Monitoring Report.	MMR completed in November 2019 (parts delivered earlier)	November 2020 (parts delivered earlier).	Annual

### Main outputs

- Delivery of the 11<sup>th</sup> Annual Market Monitoring Report

Outputs relating to the multi-annual work programme objectives:

- Contribute to the completion of the IEM and the monitoring of its functioning by creating market and data transparency through economic analysis and issuing of recommendations.

Other outputs:

- Leverage of the MMR by European policy makers in the legislative process.

Total resources allocated to the Activity ELECTRICITY AND GAS INTERNAL MARKET MONITORING	
Human Resources (Full Time Equivalents) <sup>15</sup>	Financial Resources (EUR)
13.6 (subsidy-financed)	2,497,349

<sup>15</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation. The new requests for 2022 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.



## 2.5 Infrastructure and Security of Supply (Operational)

The Agency and NRAs cooperate in implementing the TEN-E Regulation, which entered into force on 15 May 2013. The Regulation aims at enhancing the physical integration of the internal energy market, including by ensuring that no Member State is isolated from the European network.

The Agency has various functions and roles regarding the development of the electricity and gas infrastructure. Cost-efficient network development is essential for overcoming physical congestion, improving energy security and ensuring sustainability. Capacity allocation methods and/or congestion management procedures alone cannot resolve physical congestion in electricity and gas transmission systems, especially at interconnection points and other system bottlenecks. Adequate physical transmission capacity is thus a prerequisite for completing the IEM. Additional tasks have been added by the Clean Energy Package acts. In particular, the Agency is tasked to approve the methodology regarding the use of revenues from congestion income.

### Objective 1:

**Ensuring the proper implementation of the TEN-E Regulation**

**Annual consolidated report on progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation. (Priority level 1)**

The consolidated reports are based on annual reports submitted to ACER by gas and electricity project promoters for each project of common interest. According to Article 30(4) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group shall be consulted and provide input.

**Requests of updates and Opinion(s) on ENTSO-E's and/or ENTSOG's methodologies for cost-benefit analysis, if updated (Priority level 1)**

The Agency, on its own initiative or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request updates and improvements of the CBA methodology(ies) with due justification and timescales. If an update is launched, ACER shall provide an Opinion to Member States and the Commission on the draft CBA methodologies and publish it.

According to Article 30(4) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group shall be consulted and provide input.

According to Article 24(2) of Regulation 2019/942, the

Electricity Working Group and the Gas Working Group will be formally consulted on the draft opinions. The Opinions require the favourable opinion of the Board of Regulators.

**Opinions on the draft regional lists of proposed projects of common interest, in particular on the consistent application of the criteria and the cost-benefit analysis across regions (Priority level 1)**

The Agency shall provide an opinion on the draft regional lists, in particular on the consistent application of the criteria and the cost-benefit analysis across regions. The opinion of the Agency is a biennial activity, in line with the schedule of the adoption of the PCI lists.

According to Article 24(2) of Regulation 2019/942, the Electricity Working Group and the Gas Working Group will be formally consulted on the draft opinions. The Opinions require the favorable opinion of the Board of Regulators.

**Decisions on investment requests including on cross-border cost allocation under Article 12(6) of Regulation (EU) 347/2013 (Priority level 2)**

Promoters of projects of common interest may submit an investment request including a request for cross-border cost allocation (CBCA). Where the national regulatory authorities concerned have not reached an agreement on the investment request within six months, or upon their joint request, the Agency shall take the decision on the investment request including cross-border cost as well as the way the cost of the investments are reflected in the tariffs within three months (with a possible two months extension in case additional information is needed. The Electricity or Gas Working Group, as relevant, will be informed about these activities.

**Expected results** Delivery of the above opinions and decisions.

Indicators	Latest result	Target Year N	Means and frequency of verification
Timely publication of the Decisions/Opinions/Recommendations/Reports	All delivered on time	100 %	Annual

**Main outputs**

Outputs relating to the multi-annual work programme objectives:

- Contribute to the infrastructure challenge.

**Objective 2:  
Monitoring the TSOs’  
cooperation in the  
Electricity Sector**

**Opinion on the draft Union-wide electricity infrastructure 10-Year Network Development Plan 2022 (Priority level 1)** According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be formally consulted.

**Opinion on the implementation of the Union-wide electricity infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity (Priority level 1)** According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be formally consulted.

**Opinion on the national 10-Year Network Development Plans to assess their consistency with the Union-wide 10-Year Network Development Plans (if appropriate) recommendations to amend the national 10-year network development plans or the Union-wide network development plan (Priority level 1)** The Electricity Working Group will be informed and consulted on the monitoring activity.

**Opinions on ENTSO-E’s annual work programme and ENTSOE’s annual report (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted.

**Opinions on potential updates to ENTSO-E’s common network operation tools and common incidents classification scale (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted.

**Opinion on ENTSO-E’s recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted.

**Opinions on ENTSO-E’s annual Summer and Winter supply outlooks (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted.

**Opinion on ENTSO-E’s research and development plan (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted.

**Annual monitoring report on the implementation and management of the inter-TSO compensation fund**

(Priority level 3) The Electricity Working Group will be informed and consulted.

**Expected results** Delivery of the above opinions and reports.

Indicators	Latest result	Target Year N	Means and frequency of verification
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Timely adoption and publication of the deliverables	Timely publication	Timely publication	Continuous
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**Main outputs**

See deliverables above.

Outputs relating to the multi-annual work programme objectives:

- Contribute to the infrastructure challenge.

**Objective 3:  
Ensuring the proper implementation of the adequacy-related methodologies**

**Monitoring the implementation of the methodologies approved in the course of 2020 (ERAA, Voll, Cone, RS and cross-border participation in CMs) with NRAs and upgrading them when necessary through a decision.** (Priority level 1) According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted on decisions and regularly informed and consulted on the monitoring activity.

**Issuing a recommendation based on the outcome of the resource adequacy monitoring, to improve market functioning and/or the efficiency of security of supply measures.** (Priority level 1) According to Article 24(2) of Regulation 2019/942, the Electricity Working Group will be formally consulted on the recommendation. New task: first performed in 2022.

**Expected results** Delivery of the above decisions, if necessary, and recommendation.

Indicators	Latest result	Target Year N	Means and frequency of verification
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Timely adoption of the monitoring report/decision/recommendation	Timely adoption	Timely adoption	Continuous
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## Main outputs

- Decision, if necessary and recommendation.

Outputs relating to the multi-annual work programme objectives:

- Contribute to the Infrastructure and Security of Supply Challenges

### Objective 4:

#### Monitoring the TSOs' cooperation in the Gas Sector

##### **Opinion on the draft Union-wide gas infrastructure 10-Year Network Development Plan 2022 (Priority level 1)**

According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be formally consulted.

**Opinion on the implementation of the Union-wide gas infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity (Priority level 1).** According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be formally consulted.

**Opinion on the national 10-Year Network Development Plans to assess their consistency with the Union-wide 10-Year Network Development Plans (if appropriate) recommendations to amend the national 10-year network development plans or the Union-wide network development plan (Priority level 1).** The Gas Working Group will be informed and consulted on the monitoring activity.

**Opinions on ENTSOG's annual work programme and ENTSOG's annual report (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be formally consulted.

**Opinions on potential updates to ENTSOG's common network operation tools and common incidents classification scale (Priority level 3).** According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be formally consulted.

**Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be formally consulted.

**Opinions on ENTSOG's annual Summer and Winter supply outlooks (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be formally consulted.

**Opinion on ENTSOG’s research and development plan (Priority level 3)** According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be formally consulted.

**Expected results** Delivery of the above opinions.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
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Timely adoption and publication of the deliverables	Timely adoption	Timely adoption	Continuous
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**Main outputs**

See deliverables above.

Outputs relating to the multi-annual work programme objectives:

- Contribute to the infrastructure challenge.

**Objective 5:**

**Ensuring the proper implementation of measures to safeguard the security of gas supply**

**Opinions and on the elements of coordinated decisions on proposals to enable permanent physical capacity to transport gas in both directions for permanent bi-directional capacity concerning the reverse direction (“physical reverse flow capacity”)** (Priority level 1) According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators. The Gas Working Group will be informed as relevant.

**Decisions on cross-border cost allocation on proposals to enable physical reverse flow capacity if the regulatory authorities concerned could not reach an agreement on the cost allocation within six month from the receipt of the joint proposal of the transmission system operators.** (Priority level 2) According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators. The Gas Working Group will be informed as relevant.

**Opinions on requests for an exemption from the obligation to enable permanent bi-directional capacity (if the Agency decides to issue an opinion)** (Priority level 1) According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be consulted on the draft opinions,

recommendations and decisions requiring a favourable opinion of the Board of Regulators. The Gas Working Group will be informed as relevant.

**Decisions on exemptions as provided for in Article 36(4) of Directive 2009/73/EC where the infrastructure concerned is located in the territory of more than one Member State (Priority level 1)** According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be formally consulted.

**Decisions on terms and conditions and operational security of cross-border interconnectors and on exemptions (Priority level 2).** For cross-border infrastructure, the Agency shall decide upon those regulatory issues which fall within the competence of NRAs, including terms and conditions for access and operational security, only: (a) in cases in which the competent national regulatory authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those regulatory authorities; or (b) upon a joint request from the competent national regulatory authorities. According to Article 24(2) of Regulation 2019/942, the Gas Working Group or Electricity Working Group, as relevant, shall be formally consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.

**Expected results** Delivery of the above opinions and decisions.

Indicators	Latest result	Target Year N	Means and frequency of verification
Timely adoption and publication of the deliverables	Timely adoption	Timely adoption	Ad hoc as relevant, within the specified time window for delivery

**Main outputs**

See outputs above.

Outputs relating to the multi-annual work programme objectives:

- Contribute to the continuous safeguarding of the security of gas supply.



**Objective 6:**  
**Contribute to the proper regulatory terms and conditions for access and operational security of cross-border infrastructure, and exemptions**

**Decisions on terms and conditions and operational security of cross-border interconnectors and on exemptions (Priority level 2).** For cross-border infrastructure, the Agency shall decide upon those regulatory issues which fall within the competence of NRAs, including terms and conditions for access and operational security, only: (a) in cases in which the competent national regulatory authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those regulatory authorities; or (b) upon a joint request from the competent national regulatory authorities. According to Article 24(2) of Regulation 2019/942, the Gas Working Group or Electricity Working Group, as relevant, shall be formally consulted on the draft decisions requiring a favourable opinion of the Board of Regulators.

**Expected results** Delivery of the above decisions.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Timely adoption and publication of the deliverables	Timely adoption	Timely adoption	Ad hoc as relevant, within specified time window for delivery

**Main outputs**

See outputs above.

Outputs relating to the multi-annual work programme objectives:

- Contribute to proper regulatory terms and conditions for access and operational security of cross-border infrastructure, and exemptions.

**Objective 7:**  
**Contribute to the implementation of Union energy legislation by NRAs and to the activities of EU level institutions**

**“Peer review” opinions as requested pursuant to Article 6(5) of Regulation (EU) No 2019/942 (Priority level 1).** At the request of a regulatory authority or of the Commission, the Agency must provide a fact-based opinion on whether a decision taken by a regulatory authority complies with the Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations. Where a national regulatory authority does not comply with the opinion of the Agency within four months from the day of receipt, the Agency shall inform the Commission and the Member State concerned accordingly. According to Article 24(2) of Regulation 2019/942,



the Electricity or Gas Working Group, as relevant, shall be formally consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.

**Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942 (Priority level 1).** When a national regulatory authority encounters, in a specific case, difficulties with the application of Guidelines referred to Regulation (EU) 2019/943, Regulation (EC) No 715/2009, Directive (EU) 2019/944 or Directive 2009/73/EC, it may request the Agency for an opinion. According to Article 24(2) of Regulation 2019/942, the Electricity or Gas Working Group, as relevant, shall be formally consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.

**Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission (Priority level 1).** Upon request, provide support and advice to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations. According to Article 24(2) of Regulation 2019/942, the Gas Working Group or Electricity Working Group, as relevant, shall be formally consulted on the draft opinions requiring a favourable opinion of the Board of Regulators.

**Expected result** Delivery of the above opinions and recommendations.

Indicators	Latest result	Target Year N	Means and frequency of verification
Timely adoption and publication of the deliverables	Timely adoption	Timely adoption	Ad hoc as relevant, within specified time window for delivery

**Main outputs**

See outputs above.

Outputs relating to the multi-annual work programme objectives:

- Contribute to the implementation of Union legislation by NRAs and to the activities of EU level institutions.

<b>Total resources allocated to the Activity INFRASTRUCTURE AND SECURITY OF SUPPLY</b>	
<b>Human Resources (Full Time Equivalents)<sup>16</sup></b>	<b>Financial Resources (EUR)</b>
<b>9.3 (subsidy-financed)</b>	<b>1,707,746</b>

## **2.7. Corporate Services (Horizontal)**

### **2.7.1. Organisation**

The Agency is divided into the following operational departments: the Electricity Department, the Gas Department, the Market Surveillance and Conduct Department and the Market Integrity and Transparency Department, as well as Corporate Services Department (former Administration Department), and other services under the Director that deal primarily with horizontal tasks (Strategy Delivery and Communications and Legal Services).

This section reports on the horizontal tasks that support the fulfilment of operational objectives: vis-à-vis the job screening methodology, the allocation of FTEs falls under the categories “Administrative support and coordination” and “neutral”.

The Agency’s organisational chart can be found in Annex I.

### **2.7.2. The Agency’s Premises and Facility Management**

Since February 2014 the Agency is seated in its permanent premises in Ljubljana (Slovenia), rented for a period of 10 years, with an option for expansion of the office space. The rental agreement expires on 31<sup>st</sup> January 2024 without the possibility for additional extension.

No expansion is foreseen in the course of 2022. Certain adaptations and changes might be performed, depending on the use of the premises and the Agency’s specific needs and security requirements.

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<sup>16</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as ‘operational’ according to the methodology for Agencies job screening (‘benchmarking’), in accordance with article 29(3) of the Framework Financial Regulation. The new requests for 2022 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year.

In 2022, the Agency will keep its liaison office in Brussels (Belgium) with two staff members assigned to it. The office hosted there is made available, free of charge, by the European Energy Regulators (CEER) as contribution in kind to the work of the Agency. The IT and information resources are shared with the liaison office, which represents an indispensable part of the Agency structure. Temporary secondment of staff to the liaison office might be implemented, as appropriate and needed.

**Objective 1:**  
**Manage the Agency's premises in line with evolving needs**

**The Agency's premises are managed according to evolving needs of the Agency, including, whenever necessary, the expansion of office space and its occupancy, and potential necessary fitting out works of the rented office space. Furthermore, it includes the procurement of equipment necessary to ensure smooth and continuous working conditions.**

**Expected results**

**Annual facility management plan in place and successfully implemented**

**Provide sufficient office space to all staff according to the E.C.'s manual of standard building specifications<sup>17</sup>**

Annual facility management plan is in place and successfully implemented.

The floor layout plan and office occupation is following the EC's manual of standard building specifications and ensures enough space per staff.

Indicators	Latest result	Target Year N	Means and frequency of verification
Agency's premises	Premises are managed in-line with the Agency's facility management plan and within the allocated budget.	Premises are managed in-line with the Agency's facility management plan and within the allocated budget by the end of 2022.	Check of Agency's facility management plan, building and rental costs are fully covered, regular maintenance and necessary improvements are performed.
Office allocation	According to EC's manual of	According to EC's manual of	Floor layout plan ensures the

<sup>17</sup> [https://ec.europa.eu/oib/pdf/mit-standard-building-specs\\_en.pdf](https://ec.europa.eu/oib/pdf/mit-standard-building-specs_en.pdf)

standard building specifications

standard building specifications

minimum space requirements as laid out in the EC's manual.

**Main outputs**

Annual facility management plan in place and successfully implemented (in time, within the budget).

Other outputs: Provide staff with appropriate office space and office equipment to perform tasks.

**Objective 2:**

**Ensure the security in the Agency's premises**

**Ensure the security and safety of staff members as well as equipment, documents, files, etc. stored and used in the Agency's premises in line with the Agency's security policy.**

**Expected results**

**Provide secure and sufficient office space, ensure staff safety throughout the premises**

Provide sufficient secure office space to the Agency throughout the premises. Align security and safety measures with the building owner.

Ensure staff safety by maintaining rented and acquired safety equipment (e.g. fire extinguisher, security doors)

**Indicators**

**Latest result**

**Target Year N**

**Means and frequency of verification**

Agency's premises are managed in-line with the Agency's security policy

Premises and systems are managed in-line with the Agency's security policy

Premises and systems are managed in-line with the Agency's security policy

Regular check of safety and security of systems and equipment  
Perform annual fire drill exercise

**Main outputs**

Agency's premises are managed in line with the Agency's security policy within the allocated budget by end of 2022.

Ensure staff safety and security by complying to the Agency's security policy .

### 2.7.3. Procurement

<b>Objective 1:</b>	<b>Procurement procedures carried out in line with the 2022 Procurement Plan, in order to support the continuity of the Agency's services, as well as to procure additional services, where needed.</b>		
<b>Procurement procedures</b>			
<b>Expected results</b>	Further improve effectiveness and efficiency of the procurement processes and implement measures to streamline and optimise the procurement processes for the implementation of the work programme.		
<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Annual procurement plan in place and successfully implemented.	Procurement plan successfully implemented.	At least 90% implementation of the adopted 2022 Procurement Plan.	Quarterly
<b>Main outputs</b>			
Implementaton of the Procurement Plan in line with the Agency's budget and needs.			

### 2.7.4 Human Resources

The strategic objective for the Human Resources Team is to continue developing an effective and efficient organisation in full compliance with the EU regulatory framework.

<b>Objective 1:</b>	<b>Selection and recruitment of the Agency's staff</b>		
<b>Expected results</b>	To recruit resources in line with the Agency's updated Establishment Plan and replace departing staff members in an efficient and timely manner, in line with the legal framework.		
<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Implementation of the establishment plan	Year N-2: 100%	95%	Quartely reports
Length of selection	Year N-2: 4	4 months since	Quarterly reports

procedure months the post becomes vacant

### Main outputs

Outputs relating to the multi-annual work programme objectives:  
95% of completion of the Establishment Plan.

### Objective 2: Staff engagement and satisfaction

**Expected results** To maintain an engaged and effective workforce, assessing – on a regular basis – staff satisfaction.

Indicators	Latest result	Target Year N	Means and frequency of verification
Annual percentage of staff turnover	Year N-2: 2.9%	<10%	Quarterly reports
Annual average days of uncertified sick leave per staff member	Year N-2: 1.3 days	< 10 days	Quarterly reports
Staff survey	Year N-2: concluded		Every two years

### Main outputs

Outputs relating to the multi-annual work programme objectives:  
Staff engagement survey (review to be performed every two years): 2/3 of staff satisfied or highly satisfied with the employment conditions at the Agency.

### Objective 3: Talent management

**Expected results** To ensure that staff members are appraised and offered appropriate training opportunities aimed to improve their skills and competencies.

Indicators	Latest result	Target Year N	Means and frequency of verification
Annual appraisal of staff	Year N-2: 100%	100%	Annual Appraisal Exercise conclusion

Learning and Development uncertified sick leave per staff member

Year N-2: n/a

Learning and development (L&D): 90% of the identified activities are provided according to the L&D plan

Quarterly reports

### Main outputs

Outputs relating to the multi-annual work programme objectives:

100% of the eligible Agency's staff subject to performance appraisal undergo evaluation in the yearly exercise, in line with the established competency framework.

## 2.7.5. Financial management

**Objective 1:** **Audit opinion on the financial statements of the Agency**  
**Clean audit opinion**

**Expected results**  
**Unqualified audit opinion**

Apply current accounting standards and rules in order to draw accurate financial statements that present a fair view of the Agency's financial performance and position and receive an unqualified audit opinion.

Indicators	Latest result	Target Year N	Means and frequency of verification
Audit opinion	n/a	100%	Final audit report and opinion

### Main outputs

Outputs relating to the multi-annual work programme objectives:

- Annual accounts prepared according to current accounting standards, accounting rules and general accepted accounting principles.

Other outputs:

- Audit recommendations implemented in time.

<b>Objective 2:</b>	<b>Higher budget implementation rates</b>
<b>Budget implementation</b>	

<b>Expected results</b>	Coordinate the budget planning, consumption forecast, budget reviews and transfer of appropriations aiming at achieving higher budget implementation rates.
<b>Above target implementation rates</b>	

Indicators	Latest result	Target Year N	Means and frequency of verification
Implementation rates	n/a	At least 95 % for commitments and 75% for payments	Monthly monitoring

**Main outputs**

Outputs relating to the multi-annual work programme objectives:

- Annual budget implementation rates above the set targets.

Other outputs: Regular quarterly budget reviews.

<b>Objective 3:</b>	<b>Assets register maintenance and inventory checks</b>
<b>Assets register maintenance</b>	

<b>Expected results</b>	Ensure proper assets management in order to safeguard the property of the Agency and minimise fraud.
<b>All assets registered</b>	

Indicators	Latest result	Target Year N	Means and frequency of verification
Recorded assets	n.a	100%	Ongoing asset registration from the invoices received

**Main outputs**

Outputs relating to the multi-annual work programme objectives:

- Safeguard of Agency’s equipment.

Other outputs:

- Regular assets impairment checks.



## 2.7.6. ICT Infrastructure

The CS-IT team’s main mission is to support the Agency’s mandate by providing appropriate and reliable ICT services. Special focus will be given to strengthen the relationship between ICT service providers and ICT service consumers (“Customer Intimacy”) and improve “Operational Excellence” by building reliable and secure services that adhere to evolving needs of the Agency.

<b>Objective 1:</b> <b>Ensure ICT governance</b>	<b>ICT governance ensures the alignment of all ICT related activities towards the Agency’s ICT and overall strategy. Especially by coordinating activities and finding synergies between the Agency’s IT teams and also Inter-Agency IT teams (e.g. ICTAC network) allows efficient usage of resources.</b>		
<b>Expected results</b> <b>Efficient collaboration among Agency’s IT Teams and EUIs</b>	All planned ICT activities are discussed within the IT-Experts Forum and the ISC (ICT Steering Committee) to align activities and find potential synergies. Furthermore, participating actively in the ICTAC network ensures efficiency gains by potential usage of “shared services” or sharing ideas and experience with certain technologies.		
Indicators	Latest result	Target Year N	Means and frequency of verification
Regular meetings of IT-Experts to align activities	n/a	100%	Bi-weekly meeting of IT-Experts to discuss planned activities, identify potential synergies and exchanging ideas and best practices
Regular meeting of ISC	n/a	100%	ISC meets in regular interval and discuss ISC topics raised by the IT-Experts
Participation in ICTAC network	n/a	100%	Bi-yearly meeting of ICTAC, exchanging ideas and assess technological developments as well as exchanging experience with existing or defining requirements towards new “shared

services”

## Main outputs

Outputs relating to the multi-annual work programme objectives:

- Continuation of efficient and effective collaboration of ICT activities throughout the Agency.

Other outputs:

- Sharing best practices, experience with other EUIs via the ICTAC network.

<p><b>Objective 2:</b> <b>ICT Service Orientation</b></p>	<p><b>Follow agile ICT service development and delivery methodologies that ensure involvement of all key stakeholders, end users and business owners and therefore allowing the timely delivery of fit-for-purpose and fit-for-use ICT services throughout the Agency.</b></p> <p><b>Enhance the service orientation by fine-tuning the right procedures and following industries standards and best practices (e.g. ITIL).</b></p>
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<p><b>Expected results</b> <b>Timely delivery of fit-for-purpose and fit-for-use ICT services</b></p>	<p>By involving all key stakeholders, evolving business requirements are timely addressed and implemented in the ICT service development lifecycle.</p>
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Indicators	Latest result	Target Year N	Means and frequency of verification
ICT Service Lifecycle management following ITIL methodology	n.a	100%	ITIL methodology adopted  Regular SCRUM meetings with business owners to reflect current needs and plan them into the backlog of the ICT Service evolvments
Adoption of Agile (e.g. SCRUM / KANBAN) methodologies for ICT service development	n.a	80%	First projects are following Agile methodology for the ICT service development lifecycle.

### Main outputs

Adoption of ITIL based service management for the full ICT service development lifecycle.

Outputs relating to the multi-annual work programme objectives:

- Continuous service improvement following ITIL standard.

Other outputs:

- Sharing best practices, processes and experience with other IT Teams.

<p><b>Objective 3:</b>  <b>Provide required ICT Services to the Agency</b></p>	<p><b>Define an IT Action plan that defines the ICT Services and projects to be provided to the Agency.</b></p> <p><b>Acquire and further develop applications and services to cover the Agency's needs.</b></p>
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<p><b>Expected results</b>  <b>Successful and timely completion of the task defined in the ICT Action plan</b></p>	<p>Successful achievement of the Agency's ICT objectives by completing all tasks defined in the ICT Action plan by Q4/2022, in time and in budget.</p>
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Indicators	Latest result	Target Year N	Means and frequency of verification
IT Action plan implemented	n/a	100%	All tasks successfully and timely completed according to the IT Action Plan.

### Main outputs

Successful achievement of the Agency's ICT goals and objectives through the use of the annual ICT Action Plan.

Outputs relating to the multi-annual work programme objectives:

- Providing fit-for-purpose and fit-for-use services as defined in the Agency's annual ICT Action Plan.

**Objective 4:**  
**High-quality IT support to staff** Provide high-quality IT support services to Agency staff to enable them performing their tasks effectively.

**Expected results**  
**IT Service and Incident requests are addressed / fulfilled in a timely and effective manner** Incoming IT requests are handled in time and in high quality by the Agency's Service Desk.

Indicators	Latest result	Target Year N	Means and frequency of verification
85% of staff rate provided services with "satisfied" or "very satisfied"	Year N-2: 2020: 78% of staff rated services with "satisfied", 21% with "very satisfied" (total: 99% achieved)	> 85% of staff rates services with either "satisfied" or "very satisfied"	Each ticket response is evaluated. A monthly report of the ratings by staff is generated and reported to management.

**Main outputs**

High quality services are provided to staff members, staff is satisfied with the quality of provided services

Outputs relating to the multi-annual work programme objectives:

- Keep the level of staff satisfaction continuously high.

**Objective 5:**  
**Operate a modern, effective ICT services hosting platform that is secure by design, robust and scalable** Provide the Agency with a modern and secure IT environment in line with the Information Security Policy.

**Expected results**  
**ICT is operated in a secure and robust environment** Continuous ICT services are provided to staff, even in case of unforeseen events, disasters or developing situations. ICT services are compliant with security and data protection requirements.

Indicators	Latest result	Target Year N	Means and frequency of verification
Implementation of	Year N-2:	100%	Annual risk

Information Security Policy in line with the adopted action plan. 2020: 100%

assessment of all ICT services

### Main outputs

ICT environment provides services that are compliant to the Information Security Policy and the General Data Protection Regulation.

Outputs relating to the multi-annual work programme objectives:

- Ensure the security of ICT services.

## 2.8 Strategy Delivery and Communication (Horizontal)

The focus of the SDC unit is to support the Agency’s mandate by providing on the one hand appropriate support to the Director and the senior management on strategic files and on the other hand delivering high quality strategic communication end products and outreach work.

The regulatory landscape, in which ACER finds itself, is very much evolving. This has implications for how ACER engages with stakeholders and how it communicates its activities, how these fit within the wider European societal context and indeed which future priority efforts ACER may need to contribute to going forward. The Agency’s remit has (and is) also been increasing hence so has the volume of communication and outreach activities.

The strategic communications portfolio of ACER is adapting to significantly changed circumstances as the Agency is, for example, called to issue more decisions. As such, it is warranted that more stakeholder-oriented communications are used to explain ACER’s work and its rationale.

### Three main goals

On the strategic communication front, this means executing the communication strategy with a focus on an energy content-rich and attractive ACER website; timely, clear and relevant external communication campaigns (social media, website, events) that explain ACER’s deliverables; and transparency toward stakeholders on what the Agency does.

On the outreach front, this entails enhancing communication with the European institutions, the NRAs and the external stakeholders, showing the added value brought by ACER within the European policy and energy regulatory context and explaining its work and its decisions.

On the strategy front, this entails, *inter alia*, supporting the Director in developing and updating strategic directions for the Agency and actions with middle- and long-term impact; managing

the calendar and formal communication and outreach; and preparing the internal senior management meetings.

<b>Objective 1:</b> <b>Maximise the impact of what ACER does via effective communications</b>	<b>In line with EU objectives, ACER’s external communications target ACER messages to key audiences to optimise the visibility of the unique role of ACER as the EU energy regulatory Agency.</b>
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<b>Expected results</b> <b>Increased awareness of ACER as an Agency that helps drive the EU agenda in areas where it can add value.</b>	ACER reaches out via events, webinars, press releases, social media messages, audiovisual content as well as providing an updated and user-friendly website offering timely publications and news but also well developed and structured content.
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Indicators	Latest result	Target Year - yearly	Means and frequency of verification
Number of articles in the media	Year N-2: 2020 (910)	5 % increase	Monitoring of weekly press review.
Pageviews (website)	Year N-2: 2020 (238,992)	5% growth	Quarterly monitoring Europa Analytics statistics
Infomash subscribers	Year N-2: 2020 (over 1.500)	5% increase	Quarterly monitoring the Infomash statistics.
Social Media followers	Medium specific	10% growth	Quarterly monitoring of social media statistics

**Main outputs**

Outputs relating to the multi-annual work programme objectives:

- Keeping the ACER website up to date as a user- friendly and easily accessible platform providing quality content.
- Creating new webpages in high level priority areas such as the Green Deal including ACER’s contributions.
- Maximising the impact of what ACER does and build connections and multipliers by expanding social media activity.
- Distributing news and mass mailing alerts as well as communicating in new formats such as podcasts and data visualisation or expanding use of tools like webinars.

**Objective 2:**  
**Stakeholder management: ensure a coordinated approach and monitor stakeholder satisfaction**

**Adopt a horizontal approach to stakeholder management for those energy files that warrant cross-departmental action.**

**Develop, test and use stakeholder tools across the organisation as to facilitate information sharing and discussion.**

**Incorporate learnings from the monitoring of stakeholder satisfaction into tangible actions to further improve the Agency’s stakeholder management and strategic communications**

**Expected results**  
**A cross-departmental stakeholder engagement approach**

Horizontal approaches are used across the organisation when beneficial and warranted on specific ACER tasks. Joint stakeholder tools are more and more used, information is efficiently shared and messages and ACER positions to be delivered are being syndicated efficiently and effectively.

<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>
Stakeholder overall ACER satisfaction rate	92% (2000*)	Min. 75% every year	
Stakeholder satisfaction rate on engagement and external communication	33% yes, 59% somewhat (2000*) *Note: starting year of this survey: sample was very small	Min. 75% answering yes by 2023	Yearly survey among core stakeholders Yearly survey among core stakeholders

**Main outputs**

Outputs relating to the multi-annual work programme objectives:

- Stakeholder satisfaction survey and processing of results including publication of main results. The Agency is also considering to holds surveys among its NRA partner base.
- Internal roll-out and uptake of stakeholder tools (e.g. stakeholder mapping)
- Position papers on selected topics: mostly on selected Green Deal related topics in which ACER together with NRAs can bring added value
- Higher levels of transparency via website to stakeholders on ACER calendar and consultations

## 2.9 Legal Services

Operating in a horizontal, cross-sectoral manner, the Legal Services Team provides impartial and independent legal advice to the four operational departments, as well as to Corporate Services, in order to support them in achieving the deliverables described in detail in the other sections of this Programming Document.

Access to documents requests received by the Agency, and the Agency's compliance with data protection, is equally followed up by respectively the Access to Documents Coordinator and the Data Protection Officer, both members of the Legal Services Team.

In addition to the in-house tasks of legal support described above, Legal Services provides legal support to the governance of the Agency. Aside from providing legal advice to the Director and the Board of Regulators when requested, Legal Services are responsible for the Secretariat for the Administrative Board. In addition, Legal Services provide the human resources to the Registry of the Board of Appeal, thus helping the Board of Appeal with administrative and secretarial/procedural support in the handling of the various ongoing appeals, managing the external legal counsel, and in involving independent experts.

Finally, the Legal Services Team provides legal support in litigation procedures, either before the Board of Appeal, the General Court, or the Authority Authorised to Conclude Contracts of Employment.

In 2020, the Agency was involved in 16 litigation procedures (8 ongoing before the General Court, and 8 ongoing before the Board of Appeal)<sup>18</sup>. In addition, it had received 6 Article 90(2) complaints in 2020.

In recent years, the Agency notes an increasing inclination of stakeholders (in particular TSOs) to appeal compared to the past. Thus, whilst only one appellant lodged an appeal before the BoA in 2017 and there were two appellants in 2018, this amount increased to 6 in 2019 and 9 in 2020. Moreover, nearly every single decision of the BoA that was not in favour of the appellant was further challenged before the General Court.<sup>19</sup>

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<sup>18</sup> In 2020, there were 9 new appeal cases submitted to the BoA, and 3 new appeal cases before the General Court. The remaining cases concern appeals which were lodged earlier but where the procedure was not yet completed.

<sup>19</sup> Whilst in the period 2015-2020 the BoA adopted 15 decisions, 13 appeals were lodged before the General Court against the BoA decisions (please note that the term to lodge an appeal before the General Court against the latest BoA decision has not yet closed).



The Agency does not consider it likely that this trend would cease to persist in the near future. The various decisions which the Agency has been entrusted to take as a result of the Clean Energy Package and which are described in greater detail in this Programming Document all relate to essential features of the electricity market, which are at the core of the internal electricity market. It is the Agency’s ambition to support and actively implement the objectives of the Clean Energy Package via its decisions. Unfortunately, as a corollary, it does imply that the Agency necessarily will also have to manage the additional workload stemming from the legal challenges against those decisions.

In light of the above expectations of work load for the Legal Services, the following three objectives can be identified.

<p><b>Objective 1:</b>  <b>Legal support to Agency departments</b></p>	<p><b>Legal support to the deliverables of the Agency departments prepared by the five Departments of the Agency (electricity, gas, MIT, MSC and CS (HR and procurement)) and as outlined in the Programming Document.</b></p>		
<p><b>Expected results</b></p>	<p>Increase in level of legal quality and robustness of the Agency deliverables concerned.</p>		
<p><b>Indicators</b></p>	<p><b>Latest result</b></p>	<p><b>Target Year N</b></p>	<p><b>Means and frequency of verification</b></p>
<p>Legal review of deliverables (e.g. decisions, opinions, recommendations, reports)</p>	<p>Year N-2: 74</p>	<p>65</p>	<p>Annual</p>
<p>Legal support for procurement activities</p>	<p>Year N-2: 71</p>	<p>152</p>	<p>Annual</p>
<p>Legal support for HR and budget implementation</p>	<p>Year N-2: 40</p>	<p>40</p>	<p>Annual</p>
<p>Access to Documents applications and reports</p>	<p>Year N-2: 15</p>	<p>20</p>	<p>Annual</p>
<p>Data Protection</p>	<p>Year N-2: 40</p>	<p>40</p>	<p>Annual</p>
<p><b>Main outputs</b>  See Expected Results</p>			

<b>Objective 2:</b>		<b>Provide legal support to the governance of the Agency (Director, BoR, BoA, AB).</b>		
<b>Legal support to ACER governance</b>				
<b>Expected results</b>		Increase in level of legal quality and robustness of the Agency deliverables concerned.		
<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>	
Legal support, advice and interpretation of existing applicable legislation and/or drafting of advice or acts including. Rules of Procedure, SLAs, and Administrative Arrangements.	Year N-2: 25	70	Annual	
<b>Main outputs</b> See Expected Results				
<b>Objective 3:</b>		<b>Management of the various appeals before the BoA, ECJ and complaints before the Authority Authorised to Conclude Contracts of Employment and European Ombudsman.</b>		
<b>Management of appeals</b>				
<b>Expected results</b>		Appropriate representation and defence of the challenged decisions of the Agency.		
<b>Indicators</b>	<b>Latest result</b>	<b>Target Year N</b>	<b>Means and frequency of verification</b>	
Appeals before BoA and the ECJ courts	Year N-2: 12	20	Annual	
Art.90(2) complaints, Ombudsman	Year N-2: 6	6	Annual	
<b>Main outputs</b> See Expected Results				

<b>Total resources allocated to the ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES and NEUTRAL CATEGORIES</b>	
<b>Human Resources (Full Time Equivalents)<sup>20</sup></b>	<b>Financial Resources (EUR)</b>
<b>24.5 Administrative (23.5 subsidy- financed and 1 fee-financed) and 7 Neutral (subsidy-financed)</b>	<b>5,600,672 from subsidy and 103,454 from fees</b>

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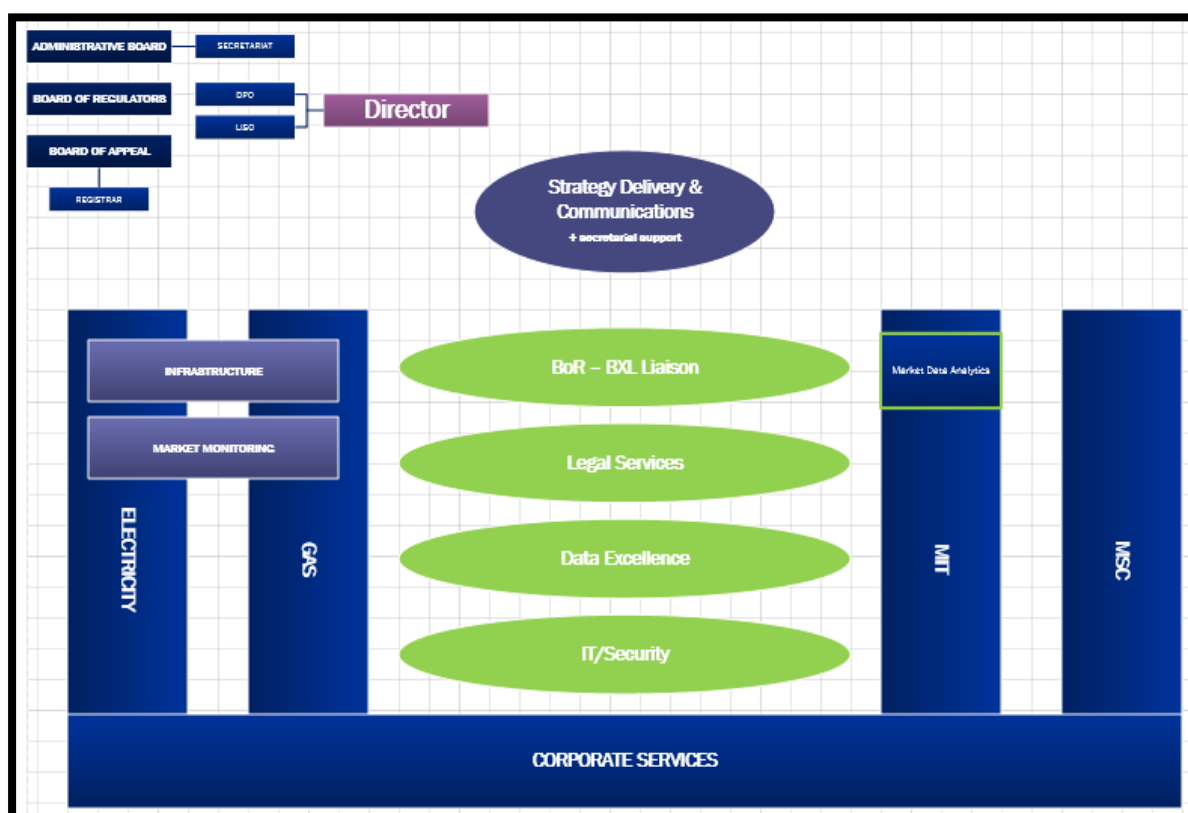
<sup>20</sup> The new requests for 2022 are counted as 0.5 FTE, on the presumption that staff will be recruited progressively throughout the year. Please note that the requests for 2 TAs AD7 for Legal Services is allocated 50% to operational categories and 50% to Neutral categories – in line with the benchmarking methodology.

## ANNEX I: ORGANISATION CHART

The number of staff in active service in the different departments as of December 2021 is the following:

Contract type/ Department	SDC (+Dir.)	LS	BoR-BXL	CS	IGR	ELE	MIT	MSC	Total
AD	4	3	1	5	10	12	8	12	55
AST	1	0	0	8	1	1	1	0	12
CA	2	2	1	9	4	6	9	2	35
SNE	0	0	0	0	1	1	1	0	3
<b>Statutory Staff, SNEs</b>	<b>7</b>	<b>5</b>	<b>2</b>	<b>22</b>	<b>16</b>	<b>20</b>	<b>19</b>	<b>14</b>	<b>105</b>
Interim	2	0	0	9	1	1	2	1	16
Trainee	0	0	0	1	3	3	5	4	16
<b>GRAND TOTAL</b>	<b>9</b>	<b>5</b>	<b>2</b>	<b>32</b>	<b>20</b>	<b>24</b>	<b>26</b>	<b>19</b>	<b>137</b>

The organisation chart below reflects the situation at the end of 2021:



## ANNEX II: 2021 RESOURCE ALLOCATION PER ACTIVITY 2022 - 2024

ACTIVITY	YEAR 2021			YEAR 2022			YEAR 2023			YEAR 2024		
	TA	CA & SNE (FTE)	BUDGET ALLOCATED	TA	CA & SNE (FTE)	BUDGET ALLOCATED	TA	CA & SNE (FTE)	BUDGET ALLOCATED	TA	CA & SNE (FTE)	BUDGET ALLOCATED
<b>1. MARKET INTEGRITY AND TRANSPARENCY (OPERATIONAL)</b>	11.8	7.7	7,174,918	10.8	12.0	7,964,071	12.0	12.0	8,326,228	13.0	12.0	8,465,563
<b>2. MARKET SURVEILLANCE AND CONDUCT (OPERATIONAL)</b>	11.8	4.5	2,114,892	14.6	5.0	2,206,982	15.8	5.0	2,307,342	16.8	5.0	2,345,954
<b>3. INTERNAL ELECTRICITY MARKET (OPERATIONAL)</b>	10.5	5.3	3,134,732	14.2	4.0	3,342,041	14.5	4.0	3,494,016	15.5	4.0	3,552,487
<b>4. INTERNAL GAS MARKET (OPERATIONAL)</b>	4.8	2.9	1,516,704	3.0	5.0	1,469,029	3.3	5.0	1,535,831	3.3	5.0	1,561,533
<b>5. ELECTRICITY AND GAS INTERNAL MARKET MONITORING (OPERATIONAL)</b>	4.7	8.6	2,286,138	4.6	9.0	2,497,349	5.1	9.0	2,610,913	5.1	9.0	2,654,605
<b>6. INFRASTRUCTURE AND SECURITY</b>	8.4	0.6	2,694,603	8.3	1.0	1,707,746	8.3	1.0	1,785,404	8.3	1.0	1,815,282

OF SUPPLY (OPERATIONAL)												
<b>7. ADMINISTRATIVE , SUPPORT AND COORDINATION CATEGORIES</b>	13.0	9.5	3,390,861	16.5	8.0	4,418,726	17.0	8.0	4,619,663	17.0	8.0	4,696,971
<b>8. NEUTRAL CATEGORIES</b>	6.0	1.0	1,329,886	4.0	3.0	1,285,400	4.0	3.0	1,343,852	4.0	3.0	1,366,341
<b>TOTAL</b>	<b>71.0</b>	<b>40.0</b>	<b>23,642,735</b>	<b>76.0</b>	<b>47.0</b>	<b>24,891,343</b>	<b>80.0</b>	<b>47.0</b>	<b>26,023,248</b>	<b>83.0</b>	<b>47.0</b>	<b>26,458,734</b>

The table above provides aggregated human and financial resources per activity. The related justification and brief information on **HR and financial resources** are provided under section III for each activity.

With regard to new requests, the allocated staff is calculated as ½ FTE for the purposes of the 2022 Work Programme, on the assumption that staff will be recruited progressively throughout the year.

As explained under Section III.1, the allocation of resources (FTE of Temporary Staff, Contract Agents and Seconded National Experts) against the different activities is carried out according to the methodology for Agencies job screening. Each job is identified according to one screening ‘type’: the three Screening *types* describe the general *role* of a job: **administrative support and coordination**, **neutral** and **operational**. Most jobs either fulfil an **operational** role, i.e. serving frontline activities (more or less directly serving the European citizen) or an **administrative support and coordination** role, as *enablers* of the operational jobs by being responsible e.g. for HR, ICT, logistics, etc. for their Agency. Financial management and control at Agency level and on-the-spot (external) audit are treated as **neutral**.

## ANNEX III: FINANCIAL RESOURCES 2022 - 2024

Starting with the financial year 2021 the Agency envisaged collection of revenues from fees and charges that will change its income structure , making it partially-subsided from the EU budget.

The executed revenues, commitment and payment appropriations of the year N-1, the approved budget of the year N, the estimated revenues and expenditures of the upcoming years, and the budget outturns from the previous year are presented in the below tables.

### Table 1: Revenue

#### General revenues

REVENUES	2020	2021	2022		VAR 2022 / 2021 (%)	2023	2024
	Executed revenue	Revenue 2021	Agency request	Revenue expected to be approved		Estimated revenue	Estimated revenue
1 REVENUE FROM FEES AND CHARGES	0	8,824,000	9,650,169	9,650,169	9.36%	10,631,872	10,769,283
2. EU CONTRIBUTION	16,909,733	14,236,015	14,583,947	14,583,947	4.50%	15,391,374	15,689,450
of which Administrative (Title 1 and Title 2)	13,343,833	12,356,302	12,474,097	12,474,097	0.95%	13,294,340	13,531,994

<b>of which Operational (Title 3)</b>	3,757,925	1,879,713	2,109,850	2,109,850	12.24%	2,097,034	2,157,457
<b>of which assigned revenues deriving from previous years' surpluses</b>	192,025	198,348	293,103	293,103	47.77%		
<b>3 THIRD COUNTRIES CONTRIBUTION (incl. EFTA and candidate countries)</b>	398,810	384,372	364,124	364,124	-5.27%		
<b>Of which EFTA</b>							
<b>Of which Candidate Countries</b>							
<b>4 OTHER CONTRIBUTIONS</b>							
<b>5 ADMINISTRATIVE OPERATIONS</b>							
<b>6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT</b>							
<b>7 CORRECTION OF BUDGETARY IMBALANCES</b>							
<b>TOTAL REVENUES</b>	<b>17,101,758</b>	<b>23,642,735</b>	<b>24,891,343</b>	<b>24,891,343</b>	<b>5.28%</b>	<b>26,023,246</b>	<b>26,458,734</b>



## Table 2: Expenditure

Allocation of expenditure from fees and charges:

EXPENDITURE	Commitment appropriations					2023	2024
	2020 executed budget	FEES budget 2021	Draft Budget 2022		VAR 2022/ 2021	Estimated budget	Estimated budget
			Agency request for FEES	Budget Approved			
<b>Title 1</b>	-	3,102,814	3,411,148	3,411,148	9.94%	3,496,427	3,583,838
<b>Staff Expenditure</b>	-	3,102,814	3,411,148	3,411,148	9.94%	3,496,427	3,583,838
<b>11 Salaries &amp; allowances</b>	-	2,922,945	3,289,644	3,289,644	12.55%	3,372,201	3,456,800
- of which establishment plan posts	-	2,106,115	2,475,738	2,475,738	17.55%	2,537,948	2,601,691
- of which external personnel	-	816,830	813,905	813,905	-0.36%	834,253	855,109
<b>12 Expenditure relating to Staff recruitment</b>	-	14,400	-	-	-100.00%	-	-
<b>13 Mission expenses</b>	-	-	-	-	0.00%	-	-
<b>14 Socio-medical infrastructure</b>	-	20,012	25,589	25,589	27.87%	25,589	25,589
<b>15 Training</b>	-	57,135	82,475	82,475	44.35%	85,197	88,008
<b>16 External Services</b>	-	-	-	-	0.00%	-	-
<b>17 Receptions, events and representations</b>	-	4,965	5,218	5,218	5.09%	5,218	5,218
<b>18 Social welfare</b>	-	8,125	8,222	8,222	1.20%	8,222	8,222
<b>19 Other Staff related expenditure</b>	-	75,231	-	-	-100.00%	-	-
<b>Title 2</b>	-	333,861	267,020	267,020	-20.02%	267,020	267,020
<b>Infrastructure and operating expenditure</b>	-	333,861	267,020	267,020	-20.02%	267,020	267,020
<b>20 Rental of buildings and associated costs</b>	-	333,861	267,020	267,020	-20.02%	267,020	267,020
<b>21 Information and communication technology</b>	-	-	-	-		-	-
<b>22 Movable property and associated costs</b>	-	-	-	-		-	-

<b>23 Current administrative expenditure</b>	-	-	-	-		-	-
<b>24 Postage / Telecommunications</b>	-	-	-	-		-	-
<b>25 Meeting expenses</b>	-	-	-	-		-	-
<b>26 Running costs in connection with operational activities</b>	-	-	-	-		-	-
<b>27 Information and publishing</b>	-	-	-	-		-	-
<b>28 studies</b>	-	-	-	-		-	-
<b>Title 3</b>	-	<b>5,387,325</b>	<b>5,972,000</b>	<b>5,972,000</b>	<b>10.85%</b>	<b>6,868,425</b>	<b>6,918,425</b>
<b>Operational expenditure</b>							
<b>Meetings</b>	-	57,250	57,000	57,000	-0.44%	58,425	58,425
<b>REMIT operations</b>	-	4,630,075	5,340,000	5,340,000	15.33%	6,310,000	6,360,000
<b>Translation expenses</b>	-	-	-	-		-	-
<b>Expert consultations</b>	-	700,000	575,000	575,000	-17.86%	500,000	500,000
<b>Website, information and publication</b>	-	-	-	-		-	-
<b>TOTAL EXPENDITURE</b>	-	<b>8,824,000</b>	<b>9,650,169</b>	<b>9,650,169</b>	<b>9.36%</b>	<b>10,631,872</b>	<b>10,769,283</b>

EXPENDITURE	Payment appropriations					2023	2024
	2020 executed budget	FEES budget 2021	Draft Budget 2022		VAR 2022/ 2021	Estimated budget	Estimated budget
			Agency request for FEES	Budget Approved			
<b>Title 1</b>	-	<b>3,102,814</b>	<b>3,411,148</b>	<b>3,411,148</b>	<b>9.94%</b>	<b>3,496,427</b>	<b>3,583,838</b>
<b>Staff Expenditure</b>	-	<b>3,102,814</b>	<b>3,411,148</b>	<b>3,411,148</b>	<b>9.94%</b>	<b>3,496,427</b>	<b>3,583,838</b>
<b>11 Salaries &amp; allowances</b>	-	2,922,945	3,289,644	3,289,644	12.55%	3,372,201	3,456,800
- of which establishment plan posts	-	2,106,115	2,475,738	2,475,738	17.55%	2,537,948	2,601,691
- of which external personnel	-	816,830	813,905	813,905	-0.36%	834,253	855,109
<b>12 Expenditure relating to Staff recruitment</b>	-	14,400	-	-	-100.00%	-	-
<b>13 Mission expenses</b>	-	-	-	-		-	-
<b>14 Socio-medical infrastructure</b>	-	20,012	25,589	25,589	27.87%	25,589	25,589
<b>15 Training</b>	-	57,135	82,475	82,475	44.35%	85,197	88,008
<b>16 External Services</b>	-	-	-	-		-	-
<b>17 Receptions, events and representations</b>	-	4,965	5,218	5,218	5.09%	5,218	5,218
<b>18 Social welfare</b>	-	8,125	8,222	8,222	1.20%	8,222	8,222
<b>19 Other Staff related expenditure</b>	-	75,231	-	-	-100.00%	-	-
<b>Title 2</b>	-	<b>333,861</b>	<b>267,020</b>	<b>267,020</b>	<b>-20.02%</b>	<b>267,020</b>	<b>267,020</b>
<b>Infrastructure and operating expenditure</b>	-	<b>333,861</b>	<b>267,020</b>	<b>267,020</b>	<b>-20.02%</b>	<b>267,020</b>	<b>267,020</b>
<b>20 Rental of buildings and associated costs</b>	-	333,861	267,020	267,020	-20.02%	267,020	267,020
<b>21 Information and communication technology</b>	-	-	-	-		-	-
<b>22 Movable property and associated costs</b>	-	-	-	-		-	-
<b>23 Current administrative expenditure</b>	-	-	-	-		-	-
<b>24 Postage / Telecommunications</b>	-	-	-	-		-	-
<b>25 Meeting expenses</b>	-	-	-	-		-	-
<b>26 Running costs in connection with operational activities</b>	-	-	-	-		-	-
<b>27 Information and publishing</b>	-	-	-	-		-	-
<b>28 studies</b>	-	-	-	-		-	-
<b>Title 3</b>	-	<b>5,387,325</b>	<b>5,972,000</b>	<b>5,972,000</b>	<b>10.85%</b>	<b>6,868,425</b>	<b>6,918,425</b>
<b>Operational expenditure</b>	-	<b>5,387,325</b>	<b>5,972,000</b>	<b>5,972,000</b>	<b>10.85%</b>	<b>6,868,425</b>	<b>6,918,425</b>

<b>Meetings</b>		57,250	57,000	57,000	-0.44%	58,425	58,425
<b>REMIT operations</b>		4,630,075	5,340,000	5,340,000	15.33%	6,310,000	6,360,000
<b>Translation expenses</b>		-	-	-		-	-
<b>Website, information and publication</b>		700,000	-	-	-100.00%	500,000	500,000
<b>Expert consultations</b>		-	575,000	575,000		-	-
<b>TOTAL EXPENDITURE</b>		<b>8,824,000</b>	<b>9,650,169</b>	<b>9,650,169</b>	<b>9.36%</b>	<b>10,631,872</b>	<b>10,769,283</b>

Allocation of expenditure from EU budget contribution:

EXPENDITURE	Commitment appropriations					2023	2024
	2020 executed budget	Subsidy 2021	Draft Budget 2022		VAR 2022/2021	Estimated budget	Estimated budget
			Agency request for SUBSIDY	Budget Approved			
<b>Title 1</b>	<b>10,045,253</b>	<b>8,906,644</b>	<b>9,274,299</b>	<b>9,274,299</b>	<b>4.13%</b>	<b>9,506,156</b>	<b>9,743,810</b>
<b>Staff Expenditure</b>							
<b>11 Salaries &amp; allowances</b>	9,040,988	7,597,339	7,600,818	7,600,818	0.05%	7,761,751	7,967,915
<i>- of which establishment plan posts</i>	7,158,613	5,936,049	5,832,334	5,832,334	-1.75%	5,949,055	6,109,901
<i>- of which external personnel</i>	1,882,376	1,661,290	1,768,485	1,768,485	6.45%	1,812,697	1,858,014
<b>12 Expenditure relating to Staff recruitment</b>	16,319	57,600	8,800	8,800	-84.72%	9,020	9,246
<b>13 Mission expenses</b>	21,599	135,000	125,200	125,200	-7.26%	125,200	125,200
<b>14 Socio-medical infrastructure</b>	12,558	46,488	56,071	56,071	20.61%	56,071	56,071

<b>15 Training</b>	210,696	216,849	178,325	178,325	-17.77%	182,123	185,995
<b>16 External Services</b>	499,338	648,190	1,028,825	1,028,825	58.72%	1,095,731	1,123,124
<b>17 Receptions, events and representations</b>	14,056	11,535	11,282	11,282	-2.19%	11,282	11,282
<b>18 Social welfare</b>	73,499	18,875	17,778	17,778	-5.81%	17,778	17,778
<b>19 Other Staff related expenditure</b>	156,199	174,769	247,200	247,200	41.44%	247,200	247,200
<b>Title 2</b>	<b>3,298,580</b>	<b>3,970,399</b>	<b>3,788,184</b>	<b>3,788,184</b>	<b>-4.59%</b>	<b>3,788,184</b>	<b>3,788,184</b>
<b>Infrastructure and operating expenditure</b>							
<b>20 Rental of buildings and associated costs</b>	1,117,483	956,439	1,284,469	1,284,469	34.30%	1,284,469	1,284,469
<b>21 Information and communication technology</b>	623,475	962,000	810,500	810,500	-15.75%	810,500	810,500
<b>22 Movable property and associated costs</b>	115,586	160,600	140,135	140,135	-12.74%	140,135	140,135
<b>23 Current administrative expenditure</b>	167,992	209,200	230,150	230,150	10.01%	230,150	230,150
<b>24 Postage / Telecommunications</b>	48,355	104,600	75,800	75,800	-27.53%	75,800	75,800
<b>25 Meeting expenses</b>	793,825	1,212,560	802,130	802,130	-33.85%	802,130	802,130
<b>26 Running costs in connection with operational activities</b>	104,819	365,000	445,000	445,000	21.92%	445,000	445,000

<b>27 Information and publishing</b>		-	-	-		-	-
<b>28 studies</b>	327,045	-	-	-		-	-
<b>Title 3</b>	<b>3,757,925</b>	<b>1,941,692</b>	<b>2,178,692</b>	<b>2,178,692</b>	<b>12.21%</b>	<b>2,097,034</b>	<b>2,157,457</b>
<b>Operational expenditure</b>							
<b>Meetings</b>	<b>41,781</b>	205,000	104,500	104,500	-49.02%	107,113	111,251
<b>REMIT operations</b>	<b>3,278,539</b>	-	220,000	220,000		-	-
<b>Translation expenses</b>	<b>310,381</b>	513,600	325,000	325,000	-36.72%	333,125	341,453
<b>Expert consultations</b>	-	890,892	1,144,492	1,144,492	28.47%	1,262,479	1,300,577
<b>Website, information and publication</b>	<b>127,223</b>	332,200	384,700	384,700	15.80%	394,318	404,175
<b>TOTAL EXPENDITURE</b>	<b>17,101,758</b>	<b>14,818,735</b>	<b>15,241,174</b>	<b>15,241,174</b>	<b>2.85%</b>	<b>15,391,374</b>	<b>15,689,450</b>

EXPENDITURE	Payment appropriations					2023	2024
	2020 executed budget	Subsidy 2021	Draft Budget 2022		VAR 2022/2021	Estimated budget	Estimated budget
			Agency request for subsidy	Budget Approved			
<b>Title 1</b>	9,782,662	8,906,644	9,274,299	9,274,299	4.13%	9,506,156	9,743,810
<b>Staff Expenditure</b>							
<b>11 Salaries &amp; allowances</b>	8,998,605	7,597,339	7,600,818	7,600,818	0.05%	7,761,751	7,967,915
- of which establishment plan posts	7,116,229	5,936,049	5,832,334	5,832,334	-1.75%	5,949,055	6,109,901
- of which external personnel	1,882,376	1,661,290	1,768,485	1,768,485	6.45%	1,812,697	1,858,014
<b>12 Expenditure relating to Staff recruitment</b>	15,319	57,600	8,800	8,800	-84.72%	9,020	9,246

<b>13 Mission expenses</b>	17,151	135,000	125,200	125,200	-7.26%	125,200	125,200
<b>14 Socio-medical infrastructure</b>	5,950	46,488	56,071	56,071	20.61%	56,071	56,071
<b>15 Training</b>	103,609	216,849	178,325	178,325	-17.77%	182,123	185,995
<b>16 External Services</b>	482,892	648,190	1,028,825	1,028,825	58.72%	1,095,731	1,123,124
<b>17 Receptions, events and representations</b>	7,963	11,535	11,282	11,282	-2.19%	11,282	11,282
<b>18 Social welfare</b>	1,386	18,875	17,778	17,778	-5.81%	17,778	17,778
<b>19 Other Staff related expenditure</b>	149,788	174,769	247,200	247,200	41.44%	247,200	247,200
<b>Title 2</b>	<b>1,688,090</b>	<b>3,970,399</b>	<b>3,788,184</b>	<b>3,788,184</b>	<b>-4.59%</b>	<b>3,788,184</b>	<b>3,788,184</b>
<b>Infrastructure and operating expenditure</b>							
<b>20 Rental of buildings and associated costs</b>	1,059,227	956,439	1,284,469	1,284,469	34.30%	1,284,469	1,284,469
<b>21 Information and communication technology</b>	126,359	962,000	810,500	810,500	-15.75%	810,500	810,500
<b>22 Movable property and associated costs</b>	109,054	160,600	140,135	140,135	-12.74%	140,135	140,135
<b>23 Current administrative expenditure</b>	112,666	209,200	230,150	230,150	10.01%	230,150	230,150
<b>24 Postage / Telecommunications</b>	32,816	104,600	75,800	75,800	-27.53%	75,800	75,800
<b>25 Meeting expenses</b>	191,833	1,212,560	802,130	802,130	-33.85%	802,130	802,130
<b>26 Running costs in connection with operational activities</b>	56,134	365,000	445,000	445,000	21.92%	445,000	445,000
<b>27 Information and publishing</b>						-	-
<b>28 studies</b>		-	-	-		-	-

<b>Title 3</b>	<b>2,552,065</b>	<b>1,941,692</b>	<b>2,178,692</b>	<b>2,178,692</b>	<b>12.21%</b>	<b>2,097,034</b>	<b>2,157,457</b>
<b>Operational expenditure</b>							
<b>Meetings</b>	58,399	205,000	104,500	104,500	-49.02%	107,113	111,251
<b>REMIT operations</b>	2,142,975	-	220,000	220,000		-	-
<b>Translation expenses</b>	191,171	513,600	325,000	325,000	-36.72%	333,125	341,453
<b>Expert consultations</b>	150,666	890,892	1,144,492	1,144,492	28.47%	1,262,479	1,300,577
<b>Website, information and publication</b>	8,855	332,200	384,700	384,700	15.80%	394,318	404,175
<b>TOTAL EXPENDITURE</b>	<b>14,022,816</b>	<b>14,818,735</b>	<b>15,241,174</b>	<b>15,241,174</b>	<b>2.85%</b>	<b>15,391,374</b>	<b>15,689,450</b>

**Table 3 Budget outturn and cancellation of appropriations**

Budget outturn	2018	2019	2020
Revenue actually received (+)	13,566,197	16,243,389	17,299,898
Payments made (-)	- 10,812,965	- 13,197,948	- 14,052,215
Carry-over of appropriations (-)	- 2,648,236	- 2,965,258	- 3,081,457
Cancellation of appropriations carried over (+)	86,926	118,181	126,274
Exchange rate differences (+/-)	103	- 16	604
<b>Total</b>	<b>192,025</b>	<b>198,348</b>	<b>293,104</b>

**Descriptive information and justification on budget outturn, cancelation of commitment appropriations, cancelation of payment appropriations for the year and payment appropriations carried over :**

The approved appropriation for the financial year 2020 amounted to EUR 17 297 383 plus an additional amount of EUR 2 515.27 collected during the year from overpaid contribution to schooling fees resulting in a total recognised revenue of EUR 17 299 898. A total amount of EUR 3 078 942 was carried forward into the 2021 financial year to cover for the payment obligations remained open at year end.



Appropriations amounting to EUR 93 063 were cancelled at the end of the 2020 financial year and will be returned to the general budget in the course of 2021. The cancelled amount was mainly due to lower than expected cost of Board meetings, actual cost of building maintenance and utilities consumption, less than expected postage and telecommunication costs, consultancy on REMIT projects and underperformance of one contractor. Unused commitment appropriations of the year 2019 that were automatically carried over and amounting to EUR 3 811.75 are also returned to the general budget. Minor exchange rate gains amounting to EUR 603.55 were recorded for the financial year. From the total revenue recorded for the year 2020 the Agency will be returning 1.69% of the total recognised revenue or EUR 293 104 to the general budget of the Union in the course of 2021

## ANNEX IV: HUMAN RESOURCES – QUANTITATIVE

### Table 1 - Staff population and its evolution; Overview of all categories

#### A) Statutory staff and SNE

Staff	Year 2020			Year 2021	Year 2022	Year 2023	Year 2024
	Authorised Budget	Actually filled as of 31/12/2020	Occupancy rate %	Authorised staff	Envisaged staff	Envisaged staff	Envisaged staff
<b>ESTABLISHMENT PLAN POSTS</b>							
Administrators (AD)	59	59	100%	59	63	67	70
Assistants (AST)	12	12	100%	12	13	13	13
Assistants/Secretaries (AST/SC)	0	0	n/a	0	0	0	0
<b>TOTAL ESTABLISHMENT PLAN POSTS</b>	71	71	100%	71	76	80	83
<b>EXTERNAL STAFF</b>	<b>FTE corresponding to the authorised budget</b>	<b>Executed FTE as of 31/12/2020</b>	<b>Execution Rate %</b>	<b>Headcount as of 31/12/2020</b>	<b>FTE corresponding to the authorised budget</b>	<b>Envisaged FTE</b>	<b>Envisaged FTE</b>
Contract Agents (CA)	33	28.2	85.45%	30	37	37	37
Seconded National Experts (SNE)	4	4	100%	10	10	10	10
<b>TOTAL EXTERNAL STAFF</b>	37	34	92%	47	47	47	47
<b>TOTAL STAFF</b>	<b>108</b>	<b>105</b>		<b>123</b>	<b>127</b>	<b>127</b>	<b>130</b>

**B) Additional external staff expected to be financed from grant, contribution or service-level agreements**

Human Resources	Year 2021	Year 2022	Year 2023	Year 2024
	Envisaged staff	Envisaged staff	Envisaged staff	Envisaged staff
Contract Agents (CA) - FGIV	3	4	4	4
Seconded National Experts (SNE)	0	4	4	4
<b>TOTAL</b>	<b>3</b>	<b>8</b>	<b>8</b>	<b>8</b>

**C) Other Staff**

Structural service providers<sup>21</sup>

	Actually filled as of 31/12/2020
Security	
IT	
Other (specify)	

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<sup>21</sup> Service providers are contracted by a private company and carry out specialised outsourced tasks of a horizontal/support nature. At the Commission, following general criteria should be fulfilled: 1) no individual contract with the Commission 2) on the Commission premises, usually with a PC and desk 3) administratively followed by the Commission (badge, etc.) and 4) contributing to the added value of the Commission.

- Interim workers<sup>22</sup>

	Actually filled as of 31/12/2021	2022
Number	16	18

**Table 2 – Multi-annual staff policy plan years 2022 - 2024**

Function group and grade	Year 2020				Year 2021		Year 2022				Year 2023		Year 2024	
	Authorised budget		Actually filled as of 31/12		Authorised budget		Envisaged				Envisaged		Envisaged	
	Permanent posts	Temporary posts	Permanent posts	Temporary posts	Perm. posts	Temp. posts	Perm. posts	Temp. posts	NEW	TOTAL	Perm. posts	Temp. posts	Perm. posts	Temp. posts
AD 16														
AD 15		1				1		1		1		1		1
AD 14				1										
AD 13		3				4		4		4		4		4
AD 12		3		4		3		3		3		3		3

<sup>22</sup> During the past years, the Agency has been requesting from the budgetary authorities an increase of its statutory staff workforce, to decrease the number of interim staff workers according to the recommendations of the Court of Auditors. This request aims to address the need of reducing the number of interim staff working on a long-term basis for the Agency. In line with the Preliminary observations of the Performance Audit on EU Agencies, conducted by the European Court of Auditors and given the complex legal framework for the use of interim staff there is a litigation risk and a risk of reputational damage related to the use of interim staff. At the same time, the new proposed posts would provide the proper level of operational support and efficiency needed to fulfil the mandate of the Agency. Nonetheless, given the political landscape and the limited resources that could be allocated to agencies, ACER decided not to include this request for 2022, to the benefit of higher staffing priorities.

<b>AD 11</b>		5		3		4		4		4		4		4
<b>AD 10</b>		3		4		3		7		3		3		3
<b>AD 9</b>		8		7		12		10		12		12		12
<b>AD 8</b>		8		10		9		9		9		9		9
<b>AD 7</b>		8		10		12		13	2	14		18		21
<b>AD 6</b>		14		11		10		8		10		10		10
<b>AD 5</b>		6		9		1			5	3		3		3
<b>AD TOTAL</b>		59		59		59		59	7	63		67		70
<b>AST 11</b>												0		0
<b>AST 10</b>												0		0
<b>AST 9</b>												0		0
<b>AST 8</b>												0		0
<b>AST 7</b>												0		0
<b>AST 6</b>		1				2		3		2		2		2
<b>AST 5</b>		2		3		4		5		4		4		4
<b>AST 4</b>		6		2		3		4		4				4
<b>AST 3</b>		3		7		3				3		3		3
<b>AST 2</b>												0		0
<b>AST 1</b>												0		0
<b>AST TOTAL</b>		12		12		12		12	0	13		13		13
<b>AST/SC 6</b>												0		0
<b>AST/SC 5</b>												0		0
<b>AST/SC 4</b>												0		0
<b>AST/SC 3</b>												0		0
<b>AST/SC 2</b>												0		0
<b>AST/SC 1</b>												0		0
<b>AST/SC TOTAL</b>												0		0

<b>TOTAL</b>		71		71		71		71	7	76		80		83
<b>GRAND TOTAL</b>		71		71		76		80		83				

- External personnel**

*Contract Agents*

Contract agents	FTE corresponding to the authorised budget 2020	Executed FTE as of 31/12/2020	Headcount as of 31/12/2020	FTE corresponding to the authorised budget 2021	FTE corresponding to the authorised budget 2022	FTE corresponding to the authorised budget 2023	FTE corresponding to the authorised budget 2024
<b>Function Group IV</b>	28	23.94	26	31	32	32	32
<b>Function Group III</b>	5	4.08	4	5	5	5	5
<b>Function Group II</b>	0	0	0	0	0	0	0
<b>Function Group I</b>	0	0	0	0	0	0	0
<b>TOTAL</b>	33	28.02	30	36	37	37	37

*Seconded National Experts*

Seconded National Experts	FTE corresponding to the authorised budget 2020	Executed FTE as of 31/12/2020	Headcount as of 31/12/2020	FTE corresponding to the authorised budget 2021	FTE corresponding to the authorised budget 2022	FTE corresponding to the authorised budget 2023	FTE corresponding to the authorised budget 2024
<b>TOTAL</b>	4	4	4	4	10	10	10

## Table 3 - Recruitment forecasts for year 2022 following retirement/Mobility or new requested posts

(Information on the entry level for each type of posts: Indicative table)

Job title in the Agency	Type of contract (Official, TA or CA)		TA/Official		CA
			Function group/grade of recruitment internal (Brackets) and external (single grade) foreseen for publication *		Recruitment Function Group (I, II, III and IV)
	Due to foreseen retirement/ mobility	New post requested due to additional tasks	Internal (brackets)	External (brackets)	
Policy Officer		1	AD5 - AD7	AD7	
Policy Officer		3	AD5 - AD7	AD5	
Assistant		1	AST1-AST4	AST3	
Agent		1			FGIV
Seconded National Expert		6			

Number of inter-agency mobility Year 2020 from and to the Agency: 0

## ANNEX V: HUMAN RESOURCES – QUALITATIVE

### A. Recruitment policy

Implementing rules in place:

		Yes	No	If no, which other implementing rules are in place
Engagement of CA	Model Decision C(2019)3016	x		
Engagement of TA	Model Decision C(2015)1509	x		
Middle management	Model decision C(2018)2542	x		
Type of posts	Model Decision C(2018)8800		x	Commission Decision C(2013) 8979 – by analogy

### B. Appraisal and reclassification/promotions

Implementing rules in place:

		Yes	No	If no, which other implementing rules are in place
Reclassification of TA	Model Decision C(2015)9560	x		
Reclassification of CA	Model Decision C(2015)9561	x		



**Table 1 - Reclassification of TA/promotion of officials**

Grades	Average seniority in the grade among reclassified staff						
	2017	2018	2019	2020	2021	Actual average over 5 years	Average over 5 years <b>(According to decision C(2015)9563)</b>
AD05	4.91	3.64	2.79	2.56	2.29	3.24	<b>2.8</b>
AD06	3.50	2.50	2.71	2.75	3	2.89	<b>2.8</b>
AD07	3.00	2.00	3.06	3.36	3	2.88	<b>2.8</b>
AD08	3.36	2.75	n/a	3.10	3.59	3.20	<b>3</b>
AD09	n/a	n/a	4.66	3.00	3.67	3.78	<b>4</b>
AD10	n/a	n/a	4.50	n/a	n/a	4.5	<b>4</b>
AD11	4.08	n/a	n/a	n/a	4.13	4.11	<b>4</b>
AD12	n/a	n/a	n/a	n/a	n/a	n/a	<b>6.7</b>
AD13	n/a	n/a	n/a	n/a	n/a	n/a	<b>6.7</b>
AST1							<b>3</b>
AST2							<b>3</b>

AST3	5.31	3.16	5.33	2.64	2.67	3.82	<b>3</b>
AST4	3.16	n/a	n/a	3.00	n/a	3.08	<b>3</b>
AST5	n/a	n/a	n/a	n/a	4	4	<b>4</b>
AST6							<b>4</b>
AST7							<b>4</b>
AST8							<b>4</b>
AST9							<b>N/A</b>
AST10 (Senior assistant)							<b>5</b>
AST/SC1							<b>4</b>
AST/SC2							<b>5</b>
AST/SC3							<b>5.9</b>
AST/SC4							<b>6.7</b>
AST/SC5							<b>8.3</b>

**Table 2 - Reclassification of contract staff**

<b>Function Group</b>	<b>Grade</b>	<b>Staff in activity at 31.12.Year 2021</b>	<b>How many staff members were reclassified in Year 2021</b>	<b>Average number of years in grade of reclassified staff members</b>	<b>Average number of years in grade of reclassified staff members according to Decision C(2015)9561</b>
<b>CA IV</b>	17	1			Between 6 and 10 years
	16	1			Between 5 and 7 years
	15	8			Between 4 and 6 years
	14	8	3	2.39	Between 3 and 5 years
	13	9			Between 3 and 5 years
<b>CA III</b>	11	0			Between 6 and 10 years
	10	1			Between 5 and 7 years
	9	7			Between 4 and 6 years
	8	0	1	2	Between 3 and 5 years
<b>CA II</b>	6	0			Between 6 and 10 years
	5	0			Between 5 and 7 years
	4	0			Between 3 and 5 years
<b>CA I</b>	2	0			Between 6 and 10 years
	1	0			Between 3 and 5 years

## C. Gender Representation

**Table 1 - Data on 31/12/2021 /statutory staff (only officials, AT and AC)**

		Official		Temporary		Contract Agents		Grand Total	
		Staff	%	Staff	%	Staff	%	Staff	%
<b>Female</b>	Administrator level			14	13.73	11	10.78	25	24.51
	Assistant level (AST & AST/SC)			7	6.86	4	3.92	11	10.78
	Total			21	20.59	15	14.71	36	35.29
<b>Male</b>	Administrator level			41	40.20	16	15.69	57	55.88
	Assistant level (AST & AST/SC)			5	4.90	4	3.92	9	8.82
	Total			46	45.10	20	19.61	66	64.71
<b>Grand Total</b>				67	65.69	35	34.31	102	100

**Table 2 - Data regarding gender evolution over 5 years of the Middle and Senior management<sup>23</sup>**

	2016		2021	
	Number	%	Number	%
<b>Female Managers</b>	<b>1</b>	<b>16.66</b>	<b>1</b>	<b>16.66</b>
<b>Male Managers</b>	<b>5</b>	<b>83.33</b>	<b>5</b>	<b>83.33</b>

**Action taken concerning gender imbalance:**

The Agency is conscious of importance of gender equality and of fair and equal representation of both genders at all levels. It is committed to striving towards remedying current imbalance across all Departments. It should be noted however that the members of ACER’s Senior Management Team are contractually bound to the Agency, which restricts near-term choices and adjustments at management level.

The Agency already has in place Rules of Procedure for the selection of Temporary and Contract Staff, according to which it “is an equal opportunities employer”. According to the same rules, when appointing the Selection Committee, the AACC needs to give consideration to the diversity in its composition, fostering to the extent possible, gender, age and geographical balance. Furthermore, the Agency publishes all its Selection Notices with a gender-neutral voice.

The Agency also developed a Leadership pipeline project, with the main goal to build, develop and foster a pipeline of skilled leaders. Within the project, the Agency plans to invest in leadership development and training opportunities for all colleagues. The Agency will endeavour to identify and communicate relevant career paths and stepping-stones for leadership roles. This is viewed as a possible way to help promote female colleagues to leadership positions.

Recently, the Agency also established an internal working group for Diversity and Inclusion. Main goal of the group is to foster diversity and inclusion, develop best practices and work towards their implementation. The Agency believes that this could also help in improving the current imbalance.

The Agency is considering several, additional, measures for addressing the matter in question:

- Developing Gender Equality Strategy for the Agency (setting the priorities, goals and commitment of the Agency over a 5-year period)

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<sup>23</sup> Staff who is defined as middle manager by the applicable General Implementing provisions on middle management

- Developing Mentorship programmes for Female leaders (targeted training for future female managers, including mentoring, coaching and career guidance)
  - Commitment to including a target number of female candidates for leadership position appointments
- All proposed measures are still under consideration since they require Agency’s resources (human and financial) and need alignment and coordination with the policies and rules already in place.

## D. Geographical balance

**Explanatory figures to highlight nationalities of staff (split per Administrator/CA FG IV and Assistant /CA FG I, II, III)**

**Table 1 - Data on 12/2021- statutory staff only (officials, AT and AC)**

Nationality	AD + CA FG IV		AST/SC- AST + CA FGI/CA FGII/CA FGIII		TOTAL	
	Number	% of total staff members in AD and FG IV categories	Number	% of total staff members in AST SC/AST and FG I, II and III categories	Number	% of total staff
<b>Austria</b>	2	1.96			2	1.96
<b>Belgium</b>	6	5.88			6	5.88
<b>Bulgaria</b>	2	1.96			2	1.96
<b>Cyprus</b>	1	0.98			1	0.98
<b>Czech Republic</b>	2	1.96			2	1.96

<b>Germany</b>	<b>3</b>	<b>2.94</b>			<b>3</b>	<b>2.94</b>
<b>Denmark</b>	<b>1</b>	<b>0.98</b>			<b>1</b>	<b>0.98</b>
<b>Spain</b>	<b>6</b>	<b>5.88</b>	<b>1</b>	<b>0.98</b>	<b>7</b>	<b>6.86</b>
<b>France</b>	<b>5</b>	<b>4.90</b>	<b>2</b>	<b>1.96</b>	<b>7</b>	<b>6.86</b>
<b>Greece</b>	<b>8</b>	<b>7.84</b>	<b>1</b>	<b>0.98</b>	<b>9</b>	<b>8.82</b>
<b>Croatia</b>	<b>4</b>	<b>3.92</b>	<b>1</b>	<b>0.98</b>	<b>5</b>	<b>4.90</b>
<b>Hungary</b>	<b>4</b>	<b>3.92</b>	<b>1</b>	<b>0.98</b>	<b>5</b>	<b>4.90</b>
<b>Ireland</b>	<b>2</b>	<b>1.96</b>			<b>2</b>	<b>1.96</b>
<b>Italy</b>	<b>9</b>	<b>8.82</b>	<b>4</b>	<b>3.92</b>	<b>13</b>	<b>12.75</b>
<b>Lithuania</b>		<b>0.00</b>	<b>1</b>	<b>0.98</b>	<b>1</b>	<b>0.98</b>
<b>Netherlands</b>	<b>3</b>	<b>2.94</b>			<b>3</b>	<b>2.94</b>
<b>Portugal</b>	<b>1</b>	<b>0.98</b>	<b>1</b>	<b>0.98</b>	<b>2</b>	<b>1.96</b>
<b>Poland</b>	<b>2</b>	<b>1.96</b>	<b>1</b>	<b>0.98</b>	<b>3</b>	<b>2.94</b>
<b>Romania</b>	<b>1</b>	<b>0.98</b>			<b>1</b>	<b>0.98</b>
<b>Slovenia</b>	<b>19</b>	<b>18.63</b>	<b>7</b>	<b>6.86</b>	<b>26</b>	<b>25.49</b>
<b>Slovakia</b>	<b>1</b>	<b>0.98</b>			<b>1</b>	<b>0.98</b>

<b>TOTAL</b>	<b>82</b>	<b>80.39</b>	<b>20</b>	<b>19.61</b>	<b>102</b>	<b>100</b>
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**Table 2 - Evolution over 5 years of the most represented nationality in the Agency**

<b>Most represented nationality</b>	<b>N-5</b>		<b>N-1</b>	
	<b>Number</b>	<b>%</b>	<b>Number</b>	<b>%</b>
<b>Slovenia</b>	<b>18</b>	<b>21.69</b>	<b>26</b>	<b>25.49</b>

## E. Schooling

<b>Agreement in place with the European School(s) of .....</b>				
<b>Contribution agreements signed with the EC on type I European schools</b>	<b>Yes</b>		<b>No</b>	
<b>Contribution agreements signed with the EC on type II European schools</b>	<b>Yes</b>	<b>x</b>	<b>No</b>	
<b>Number of service contracts in place with international schools:</b>	<b>5</b>			
<b>Description of any other solutions or actions in place:</b>				
<p>As established in the Seat Agreement (Article 13) between the Slovenian Government and the Agency, the Government shall establish a European School within the public school network in Slovenia, in accordance with the Convention defining the Statute of the European Schools and with the programmes of European schools. European Schools provide multilingual tuition in all EU languages and offer the European</p>				



Baccalaureate recognised in all Member States. Staff members of the EU Institutions, including the agencies, should enjoy free access to European Schools (school fees and transport included).

Progress was achieved in 2018, as the setting of the Accredited European School of Ljubljana (AES) was decided and the school became operational as of 3 September 2018, with entry grades at the P1 and P2 levels (corresponding to Grade 1 and 2 of Elementary School). The auditing process for accreditation of the school started in September 2018, the accreditation process was finalised with the decision of the Board of Governors of the European Schools, in April 2019. The financial agreement with the European Commission was signed in the course of fall 2019.

Since for the time-being the AES offers classes at the P1-P5 levels and S1-S3 level. The Agency's staff members whose children are not eligible for those classes, are obliged to send their children to international schools. Until the AES offers a complete education cycle at the pupil's level, and given the school fees charged by the international schools in Ljubljana, there was a need to address the unequal conditions, to which the staff of the Agency is subject. To address this, the Administrative Board adopted Decision AB no 5/2018 of 7 June 2018 establishing measures to support the staff of the Agency with regard to kindergarten and school fees. In line with the decision, the Agency provides financial support to afore mentioned staff members, until the AES offers a complete education cycle at pupil's level. This approach is in line with the eligibility for the education allowance, as applied by the European Commission's Office for the Administration and Payment of Individual Entitlements. As per specific provisions of the decision, the Agency covers kindergarten and school fees for each eligible child, exceeding the sum of the allowances received by staff member, as per the Internal Commission Directive (Conclusion No 257/09 revised) and under the provisions of the Staff Regulations. Financial contribution, granted by the Agency, is paid directly to the schools kindergarten on the basis of concluded service agreements.

In both cases (European section or international school programmes), the Agency includes the budgetary credits necessary to cover its financial contribution in the provisional draft budget sent to the budgetary authority in the framework of the annual budgetary procedure. The Agency also transmits full information on the measures planned to the budgetary authority.

**It should be noted that the funds to cover the costs of the Agency's children to the European School Ljubljana should be covered by the European subsidy.**

There are two private international schools in Ljubljana (British and French), as well as international sections in the national school system, both at primary and secondary level. There are also four universities in Slovenia, amongst others the University of Ljubljana with 23 faculties and 3 art academies.

## ANNEX VI: ENVIRONMENT MANAGEMENT

The Agency is in the process of aligning its internal processes to good practices, such as the Eco-Management and Audit Scheme (EMAS) standards, with a view to reduce the environmental impact of its administrative operations on the environment.

In this respect the Agency is taking the following steps in managing its environmental impact:

- improving waste management and sorting for recycling,
- enabling paperless workflows or processes (e.g. financial, recruitment, tendering) by employing proper IT tools,
- installing, improving and promoting the use of electronic communication (web/video conferencing) instead of physical travelling,
- modernization of IT equipment with energy saving components (e.g. Blue Angel or Energy Star certified),
- promoting the use of public transport by staff to reduce carbon footprint while commuting,
- improving communication and provide training to staff regarding greener behaviours (e.g. raise awareness of use of energy in the offices, less printing/copying, plastic usage),
- promoting 'greener' procurement by introducing 'green' criteria in procurement documents,
- Ensuring compliance with all environmentally relevant legislation and regulation of the host country.

In line with its proactive approach to environmental challenges, the Agency is also participating in the Greening Network initiative of the European agencies where environmental issues are discussed and experiences as well as best practices are shared, including how to increase environmental awareness and responsibility as well present issues related to environmental management implementation.

The Agency is not EMAS registered or ISO14001 certified and is also not in the process of doing so due to the fact of not having a direct contractual relationship with energy providers (heating, electricity, water, waste management), but it is looking into the possibility to take further steps to better meet EMAS standards together with the landlord of the building in which it is seated. In addition, the lack of human, technical and budgetary resources, which would be needed to establish an environmental action plan to set up a carbon compensation policy also impacts the Agency to register in EMAS or ISO14001 certification. Nevertheless, the Agency looks forward to establishing a working programme to obtain these certifications in the future.

In 2022 and beyond the Agency will further improve its green environment strategy and is regularly collecting ideas that support this initiative from its staff.

## ANNEX VII: BUILDING POLICY

### Current building(s)

#	Building Name and type	Location	SURFACE AREA(in m <sup>2</sup> )			RENTAL CONTRACT					Host country (grant or support)
			Office space	non-office	Total	RENT (€/year)	Duration of the contract	Type	Breakout clause Y/N	Conditions attached to the breakout clause (if applicable)	
1	TR3, office building	Trg republike 3, 1000 Ljubljana, Slovenia	3,247.69	679.29	3,926.98	660,556.92	Rental for ten (10) years in total without possibility for an extension, until 31.01.2024.	Lease contract	Yes.	After 2 years of lease term the Agency is entitled to terminate the contract in the events specified in the lease contract.	Not applicable.
<b>TOTAL</b>			<b>3,247.69</b>	<b>679.29</b>	<b>3,926.98</b>	<b>660,556.92</b>					

In 2022 ACER should start with the planning phase of its building project (new rental contract).

#### Indicative timelines for the new procedure for the office premises:

- Starting the project for the new premises: 31.01.2022 (24 months in total needed)
- Drafting technical specifications and aligning the needs (Director, Heads of Departments, IT, Security, FM, REMIT, Procurement): 3 months
- Launching market prospection: 2 months
- Selecting potential tenderers following the market prospection: 1-2 months
- Sending out invitations, evaluating the offers, site seeing and negotiations: 3-4 months
- Approval of the building file by EP and the Council: 3 months
- Renovation / fitting out to be performed by the landlord: 4-6 months
- Placing new furniture: 1 month
- Moving the Agency: 3 months.

## ANNEX VIII: PRIVILEGES AND IMMUNITIES

The Protocol on the Privileges and Immunities of the European Union governs the status of the European Institutions and their staff in relation to the Member States. Thus, the protocol applies in full to the Agency and its staff.

The relations between the Agency and its host country, as well as particular rules and privileges applicable to Agency staff in Slovenia, are governed by the Seat Agreement between the Slovenian Government and the Agency for the Cooperation of Energy Regulators, signed in Ljubljana on 26 November 2010.

Agency privileges	Privileges granted to staff	
	Protocol of privileges and immunities / diplomatic status	Education / day care
<ul style="list-style-type: none"> <li>- Inviolability of premises and archives</li> <li>- Facilitations for communication Security</li> <li>- Direct exemption from taxes</li> </ul>	<ul style="list-style-type: none"> <li>- Staff immunity from Slovenian jurisdiction regarding acts carried out in the official capacity</li> <li>- Exemption from national taxes on salaries and wages</li> <li>- Staff exemption from import taxes and duties on personal effects in the first year</li> <li>- Exemption from social security contribution towards Slovenian schemes</li> <li>- Director and Heads of Departments holding Diplomatic status</li> </ul>	<p>The government of Slovenia established a European School of Ljubljana (ESL) with two language sections – EN and SI for P1 and P2 grades. The Agency covers the school fees to the ESL, financing agreement has been signed with the European Commission after the accreditation of the ESL.</p>

## ANNEX IX: EVALUATIONS

The Agency has so far been subject to one external evaluation from the Commission, as foreseen in the Founding Regulation (FR), in 2014. The recast FR foresees that by 5 July 2024, and every five years thereafter, the Commission, with the assistance of an independent external expert, shall carry out an evaluation to assess ACER's performance in relation to its objectives, mandate and tasks.

The first few years of operation of the Agency were characterised primarily by the adoption of Framework Guidelines (FGs) and Network Codes (NCs). Now that most provisions of the Network Codes and Guidelines are in force, the Agency has begun monitoring its implementation and the effects they have on market functioning.

The Agency developed indicators for the ex-post evaluations of the network codes. After the release of the study for a methodology proposal to evaluate the impact of the gas NCs and Guidelines in 2015, the Agency through cases studies or in-depth analysis described the effect of the network codes in the dedicated sections of the Market Monitoring Reports and stand-alone monitoring reports for the implementation of the Congestion Management Guidelines, Capacity Allocation Mechanisms and Balancing Codes.

The proposed indicators should not be used in isolation to draw conclusions regarding market impacts of NCs and GLs, but rather be looked at in combination and interpreted in the light of market fundamentals. These indicators are used by ACER in its annual Market Monitoring Report to measure the economic impact of NCs/GLs and its use will gradually increase over time. Further details are available on the Agency's website at <http://www.acer.europa.eu/Media/News/Pages/ACER-publishes-study-on-how-best-monitor-the-effects-of-the-implementation-of-the-network-codes.aspx>.

The Agency has an internal monitoring system based on a 'traffic lights' approach through which Key Performance Indicators - KPIs (see below) are monitored. Specific tasks are monitored at the department level, unless they are included in the KPIs. The traffic lights system ensures that the results achieved and deadlines met in relation to the objectives are monitored on a quarterly basis at the coordination and management meetings, with measures taken in case the objectives are at risk of not being met. The absorption of the Agency's budget is monitored through weekly reports providing an overview of both commitments and payments.

## Internal Key Performance Indicators

### Staff satisfaction

Task	Staff engagement /satisfaction
Objectives and deadlines (indicative)	To assess, on a regular basis, staff's engagement and satisfaction with working at the Agency in order to address shortcomings.  Review to be performed every 2 years.
KPI	1. 2/3 of participating staff satisfied or highly satisfied with the employment conditions at the Agency.

### Budget Implementation and Audit

Task	Budget Implementation and Audit
Objectives	To achieve a high level of budget implementation for both commitment and payment appropriations.  To receive a positive opinion from the European Court of Auditors and implement its recommendations.
KPI	<ol style="list-style-type: none"> <li>2. At least 95% execution of commitment appropriations</li> <li>3. Minimum 75% execution of payment appropriations.</li> <li>4. Cancellation of payment appropriations below 5%.</li> <li>5. Non-qualified opinion received from ECA and 75% of its recommendations implemented in line with the Agency's Action Plan.</li> </ol>

### Internal Electricity Market and Infrastructure (Network Codes, Opinions, Recommendations, Decisions and Reports)

Task	Timely adoption of the Agency Acts in the Electricity sector foreseen in the Work Programme and in the regulations relevant for the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Electricity-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).

KPI	<b>6.</b> 90% of opinions, reviews, recommendations and reports delivered on time.
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**Internal Gas Market and Infrastructure and Security of Supply (Network Codes, Opinions, Recommendations, Decisions and Reports)**

Task	Timely adoption of the Agency Acts in the Gas sector foreseen in the Work Programme and in the regulations relevant for the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation, as well as adoption of Gas-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.  Various deadlines (depending on the act in question and the legal requirements).
KPI	<b>7.</b> 90% of opinions, reviews, recommendations and reports delivered on time.

**Electricity and Gas Internal Market Monitoring**

Tasks	Annual Market Monitoring Report
Objectives and deadlines (indicative)	Objective: timely preparation of a high quality Annual Market Monitoring Report (and of its constituent volumes, published separately). More specifically: the report is to provide in-depth analysis of barriers to IEM integration and give recommendations to the European Parliament and Commission on how to remove them.  Expected completion date: November.
KPI	<b>8.</b> Positive feedback on the report based on an online survey (70% satisfied or very satisfied).

**Market Integrity and Transparency**

Task	REMIT Analytics and Information Management
Objectives and deadlines (indicative)	To provide guidance, collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.

	To operate the Agency's REMIT Information Systems operationally reliable.
KPI	<p><b>9.</b> Key achievements (e.g. key projects) as well as continued measurement of % planned vs. delivered projects.</p> <p><b>10.</b> Accuracy, Consistency, Completeness, Integrity and Timeliness (ACCIT) of information, measured by the yoy % change of composite indicator of data quality metrics,</p> <p>AND</p> <p>99% of service availability, measured as an average availability of individual REMIT IT services.</p>

**Market Surveillance and Conduct**

<b>Task</b>	<b>Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, in cooperation with NRAs, on the basis of data collected in connection with the REMIT implementing acts. Ensure that NRAs and other relevant authorities apply market manipulation provisions under REMIT in a coordinated and consistent way.</b>
Objectives and deadlines (indicative)	<p>Market Monitoring of the data collected according to Article 8 of REMIT. Increased integrity and transparency of wholesale energy markets. Detection of abusive practices under REMIT.</p> <p>Aim to ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way and coordinate investigations of alleged cross-border market abuse instances as required.</p>
KPI	<p><b>11.</b> 100% of high priority alerts manually screened and transferred to NRAs</p> <p><b>12.</b> 16 initial assessments sent to relevant authorities</p> <p><b>13.</b> At least 25% of REMIT breach cases pro-actively followed by ACER</p> <p><b>14.</b> More than 100 REMIT breach cases triaged and reviewed on cooperation needs</p> <p><b>15.</b> More than 75% of market abuse enforcement Decisions by NRAs quoting the ACER Guidance</p> <p><b>16.</b> 0% of the requests from NRAs of operational assistance on REMIT investigations accepted by ACER</p>



## ANNEX X: STRATEGY FOR THE ORGANISATIONAL MANAGEMENT AND INTERNAL CONTROL SYSTEMS

In 2018 ACER adopted Decision No 17/2018 of the Administrative Boards of the Agency for the Cooperation of Energy Regulators on the Internal Control Framework of the Agency.

The internal control framework of the Agency is designed to provide reasonable assurance regarding the achievement of objectives, including the following:

- Effectiveness, efficiency and economy of operations,
- Reliability of reporting and safeguarding of assets and information,
- Prevention, detection, correction and follow-up of fraud and irregularities, and
- Adequate management of the risks relating to the legality and regularity of the underlying transactions<sup>24</sup>.

Internal control helps ACER to achieve its objectives and sustain operational and financial performance whilst respecting rules and regulations. Internal control supports sound decision-making by taking into account risks in the achievement of objectives and where necessary, reducing them to acceptable levels through cost-effective controls. Internal control applies to all activities, irrespective of whether they are financial or non-financial.

The ACER Internal Control Framework is based on the Framework of the European Commission, which was revised in 2017 with a view to aligning Commission standards to the highest international standards set by the COSO framework<sup>25</sup>.

The framework consists of 5 components and 17 Internal Control Principles. Characteristics of each principle have been included to help to define the principles.

The effectiveness of the internal control is assessed annually via Internal Control Indicators and reported in the Annual Activity Report.

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<sup>24</sup> Art. 30 Internal Control of Budget Implementation, Financial Regulation of ACER, Decision AB No 22/2013.

<sup>25</sup> The full text of the Internal Control-Integrated Framework is available at [www.coso.org](http://www.coso.org).

**COMPONENT I. Control Environment (Principles 1-5)**

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
CS	1. Demonstrates commitment to integrity and ethical values	We demonstrate a commitment to integrity and ethical values.	1.1 Number of annual awareness raising initiatives in ACER on ethics, integrity and conflict of interest and/or fraud (target: at least 1 per year in one or more areas).	Awareness raising material	1 per year	CS/HRM
			1.2 % of newcomers who take part in the induction programme on ethics, integrity and conflict of interest.	List of attendance	90%	CS/HRM
			1.3 Managers are promoting a fair, flexible and respectful workplace.	Staff Engagement Survey	70% of respondents agree	SDC
			1.4 Staff meetings with the Director	Invitations	1/year	SDC
CS	2. Exercises oversight responsibility	Management exercises oversight of the development and performance of internal control.	2.1 (Y/N) The ACER Annual Activity Report (AAR) includes the Declaration of Assurance of the Director.	AAR	Yes	CS
			2.2 Regular reporting on the status of follow-up to IAS recommendations.	Progress Reports	Yes	CS
CS	3. Establishes structure, authority and responsibility	Management establishes structures, reporting lines, and appropriate responsibilities in the pursuit of objectives.	3.1 (Y/N) ACER has clear rules of procedure in place.	Standard Operating Procedures	Yes	CS
			3.2 (Y/N) Financial circuits: roles and tasks are clearly defined.	Guidelines on financial circuits and segregation of duties	Yes	CS/BUDG

			3.3 (Y/N) Deputising and reporting arrangements for administrative and operational activities are in place.	Implementation of Director's Decision on Deputising in Sysper 2	Yes	CS
CS	4. Demonstrates commitment to competence	We demonstrate a commitment to attracting, developing, and retaining competent individuals in alignment with objectives.	4.1 Satisfaction rate with the ACER training policy. 4.2 % of authorized posts of the annual establishment plan filled at end of year. 4.3 (Y/N) ACER has a Competency Framework in place. 4.4 Percentage of Selection Notices (SN) advertised on different media.	Staff Engagement Survey Establishment Plan Director's Decision Publication and advertisement notices	75% of respondents satisfied 95% Yes 90% of SN advertised on at least 2 media channels	CS/HRM CS/HRM CS/HRM CS/HRM
CS	5. Enforces accountability	We hold individuals accountable for their internal control responsibilities in the pursuit of objectives.	5.1 Appraisal reports concluded in accordance with the applicable rules and appraisal standards.	Data from HR Tool JRC Report	100%	CS/HRM

**COMPONENT II. Risk Assessment (Principles 6-9)**

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
CS	6. Specifies suitable objectives	We define objectives with sufficient clarity to enable the identification and assessment of risks relating to the	6.1 (Y/N) Risk management in ACER is embedded in the planning process and is assessed at all levels of ACER (department and activity level) 6.2 Staff have a clear understanding of their work-related objectives and how their work contributes to achieving ACER's objectives.	Progress reports, AAR, SPD Risk register Staff Engagement Survey	Yes 70% of respondents agree	CS CS/HRM

		achievement of objectives.	6.3 ACER KPI 10 (Commitment Appropriation Execution Rate, (%) of implementation of Commitment Appropriations ) 6.4 ACER KPI 11 (Payment Appropriations Execution Rate, (%) of Payment Appropriations )	Budget Execution Reports Budget Execution Reports	95% 75%	CS/BUDG CS/BUDG
			6.5 ACER KPI 12 (Payment Appropriations Cancellation Rate, (%) of cancellation of Payment Appropriations )	Budget Execution Reports	<5%	CS/BUDG
CS	7. Identifies and analyses risk	We identify risks in relation to the achievement of objectives across the organisation and assess risks as a basis for determining how the risks should be managed.	7.1 (Y/N) A risk management exercise is conducted at least once a year as part of the AWP process. 7.2 (Y/N) Risks are followed-up in the AAR.	AWP (as part of SPD), Risk register  AAR	Yes  Yes	CS  CS
CS	8. Assesses fraud risk	We consider the potential for fraud in assessing risks related to the achievement of objectives.	8.1 (Y/N) Annual fraud risk assessment is performed as part of the annual risk assessment exercise. 8.2 (Y/N) ACER has an up to date anti-fraud strategy (not older than 3 years). 8.3 (Y/N) The assessment of absence of conflict of interest (CoI) is done for selection and reclassification procedures.	AAR  AAR  Guidelines on prevention and management of CoI concerning staff involved in selection, recruitment or reclassification procedures	Yes  Yes  Yes	CS  CS  CS/HRM
CS	9. Identifies and analyses significant change	We identify and assess changes that could significantly impact the internal control system.	9.1 (Y/N) The preparation of the AWP includes an assessment of risks that could have an impact on the internal control system. Assessment of risks is done also on ad-hoc basis, as necessary.	AWP	Yes	CS

**COMPONENT III. Control Activities (Principles 10-12)**

ICP Owner		ICP	ICP Indicators	Evidence	Target	Indicator Owner
CS	10. Selects and develops control activities	We select and develop control activities that contribute to the mitigation of risks to the achievement of objectives to acceptable levels.	10.1 (Y/N) Business continuity arrangements identified in the ACER Business Continuity Plan are tested regularly.	BCP	Yes 1 test every year	CS
			10.2 (Y/N) 4 eyes principle has been ensured in all financial workflows	Guidelines on financial circuits and segregation of duties	Yes	CS/BUDG
			10.3 (Y/N) The segregation of duties among financial actors is clearly defined.	Guidelines on financial circuits and segregation of duties	Yes	CS/BUDG
			10.4 (Y/N) Ex-ante legal checks are performed on procurement procedures.	Procurement Guidelines for Project Managers	Yes	CS
			10.5 (Y/N) Delegations and nominations of financial actors are in place for every budgetary year.	Delegations register, Art. 40 of the Financial Regulation of ACER	Yes	CS
CS	11. Selects and develops general control over technology	We select and develop general control activities over technology to support the achievement of objectives.	11.1 (Y/N) ACER has an up to date ICT Strategy in place (not older than 3 years).	ICT Strategy	Yes	CS/IT
			11.2 Number of information security breaches/incidents.	Information Security Policy	0	CS
			11.3 (Y/N) The ICT Steering Committee is exercising control over technology and the implementation of the ICT Strategy.	Director's Decision on Establishing the	Yes	CS/IT

				ICT Steering Committee		
CS	12. Deploys through policies and procedures	We deploy control activities through corporate policies that establish what is expected and in procedures that put policies into action.	12.1 (Y/N) Exceptions and incidents reported have been reviewed and registered every year.	AAR, Register of exceptions, Register of incidents	Yes	CS
<b>COMPONENT IV. Information and Communication (Principles 13-15)</b>						

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
CS	13. Uses relevant information	We obtain or generate and use relevant, quality information to support the functioning of internal control.	13.1 (Y/N) A Share Point tool is used for collecting information regarding KPI monitoring and reporting which provides input towards the progress reports. Also, Business Intelligence tools are used to provide accurate data to support management decisions.	Progress Reports, KPI Monitoring Tool, Business Intelligence reports	Yes	CS
CS	14. Communicates internally	We communicate information internally, including objectives and responsibilities for internal control necessary to support the functioning of internal control.	14.2 (Y/N) ACER has a whistleblowing policy in place which is easily accessible to all staff (published on intranet). 14.3 (Y/N) Staff members are aware of the ICPs.	Whistleblowing policy  Published on Intranet	Yes  Yes	HRM  CS
SDC	15. Communicates externally	We communicate with external parties about matters affecting the	15.1 (Y/N) Changes and developments in the internal control system are clearly communicated and reported.	AAR	Yes	SDC

		functioning of internal control.				
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**COMPONENT V. Monitoring Activities (Principles 16-17)**

ICP Owner	ICP	ICP Description	ICP Indicators	Evidence	Target	Indicator Owner
CS	16. Conducts ongoing and/or separate assessments	We select, develop, and perform ongoing and/or separate assessments to ascertain whether the components of internal control are present and functioning.	16.1 (Y/N) The risk assessment performed by IAS is duly taken into account, the Director defines risk responses and endorses the related action plans.	Audit Action Plan	Yes	CS
			16.2 (Y/N) The results of the regular monitoring and annual assessment of internal controls in ACER are integrated and followed-up in the AAR.	AAR	Yes	CS
CS	17. Assesses and communicates deficiencies	We assess and communicate internal control deficiencies in a timely manner to those parties responsible for taking corrective action, including senior management as appropriate.	17.1 (Y/N) The results of the continuous and specific assessments have been properly disclosed in the Annual Activity Report (AAR)	AAR	Yes	CS
			17.2 KPI 14 (budget implementation and audit) rate (%) of accepted internal audit recommendations implemented within agreed deadlines.	AAR	80%	CS
			17.3 Corrective actions related to incidents are taken in a timely manner.	Register of procedural incidents	Yes	CS

Note: CS – Corporate Services, SDC – Strategy Delivery and Communication.

## Roles and responsibilities in internal control in ACER

The roles and responsibilities of internal control actors in the Agency are as follows:

Role	Responsibility
Director / Authorising Officer	Overall responsibility for the functioning of the internal control system in ACER.  Signs a declaration of assurance on the functioning of the ACER's Internal Control System annexed to the Consolidated Annual Activity Report.
Authorising Officers by Delegation	Each Authorising Officer by Delegation is responsible for the functioning of the internal control system in the areas under their delegated responsibility.
Internal Control Coordinator	Supports the Director in overseeing and monitoring the implementation of internal control in ACER.  Ensures the awareness and understanding of the ACER Internal Control Framework by all staff, in particular through training, information and support activities.

### Methodology for monitoring and assessment

According to Internal Control Principle 16, "*We select, develop and perform ongoing and/or separate assessments to ascertain whether the components of internal control are present and functioning*", ACER regularly monitors the implementation of Internal Control Principles and carries out an annual assessment on the effectiveness of internal controls. Both are closely linked and form an integral part of the monitoring and reporting cycle. On the one hand, deficiencies identified in the context of regular monitoring are important elements to be taken into account in the overall assessment of the functioning and effectiveness of the internal control system. On the other hand, any shortcomings identified during the overall assessment are addressed and improvement actions are integrated in the Annual Activity Report and followed-up upon.

### Regular monitoring

The Internal Control Coordinator monitors the implementation of the Internal Control Principles at least once per year (Q4) through the indicators corresponding to each Internal Control Principle. The results are communicated to the Director's Office, which is coordinating the input for the progress reports that are presented to the Administrative Board. Any weakness identified during the regular monitoring is included in the annual review and assessment of internal controls. This enables the Agency to react to changing conditions and to correct any weaknesses identified or any deviations from intended performance in a timely manner. If necessary, internal control issues related to financial and human resources will be discussed in ad-hoc meetings.



## Annual assessments

Each year the Agency carries out an annual review and self-assessment of the compliance and effectiveness of internal control. This provides a global overview of the state of play of internal control and aims to provide reasonable assurance of the correct functioning and effectiveness of internal control in ACER. The results of the assessment are incorporated in the Consolidated Annual Activity Report.

The annual assessment is carried-out following a three-step approach:

### Step 1: Definition of the internal control assessment criteria

The ACER Internal Control Indicators are intended to facilitate monitoring of the Internal Control Principles, Components and Internal Control System overall. A proportional approach has been used to define ACER Indicators. An owner has been assigned to the Internal Control Principle and to each Indicator.

### Step 2: Identification of internal control strengths and deficiencies

An internal control deficiency is an issue that requires the attention of management. It may include conflicts of interest, internal control weaknesses, errors, fraud, illegal acts, ineffectiveness, and inefficiency. A severe deficiency reduces the likelihood of achieving ACER's objectives.

To identify internal control strengths and deficiencies, ACER uses available information sources such as:

- Internal assessments
- Improvement actions / internal control strengths and weaknesses reported by staff
- Analysis of risks
- Risk Register
- Exceptions registered in the register of exceptions
- ECA, IAS and outsourced audit findings and recommendations

ACER aims to identify both the internal control strengths and deficiencies and assesses the severity of the identified deficiencies as follows:

- **Minor deficiency:** minor impact on the presence and/or functioning of the principle. The principle is in place and functions well, only minor improvements are needed.
- **Moderate deficiency:** moderate impact on the presence and/or functioning of the principle. The principle is in place and functions but some improvements are needed.
- **Major deficiency:** significant impact on the presence and/or functioning of the principle, but the principle is partially effective. With such a deficiency, the principle is partially in place and/or is partially functioning; substantial improvements are needed.

- **Critical deficiency:** fundamental impact on the presence and/or functioning of the principle and the principle is not effective. With such a deficiency, the principle is not in place and/or essentially does not function as intended.

### Step 3: Assessment of the Internal Control System

The assessment of the Internal Control System is carried out at three levels:

- at the level of the principles (based on the analysis of the detected strengths and deficiencies),
- at the level of the components (based on an analysis of the results at principle level),
- at the level of the internal control system as a whole (based on an analysis of the results at component level).

For each level assessed, ACER concludes the following:

<b>Effective internal control system</b>	No internal control weakness or deficiency identified. The principle is present and functioning well, only minor improvements needed.
<b>Partially effective internal control system (minor weakness)</b>	Minor deficiency or combination of minor/moderate deficiencies identified. The principle control system is present and functioning but some improvements are needed.
<b>Partially effective internal control system (major weakness)</b>	Major deficiency or combination of moderate deficiencies identified. The principle control system is present and functioning but a lot of improvements are needed.
<b>Ineffective internal control system</b>	The principle is not present and functioning. A critical internal control deficiency or combination of several major deficiencies determines that the principle in general is not effective.

The Agency will then assess the overall level of effectiveness of internal control. This overall conclusion will take into consideration the functioning of the Agency’s internal control components in an integrated manner.

## **ANNEX XI: PLAN FOR CONTRIBUTION AGREEMENTS**

### **Impact of on-going and expected grant, contribution and service-level agreements**

No such agreements or equivalents exist or are planned.

# ANNEX XII: STRATEGY FOR COOPERATION WITH THIRD COUNTRIES AND INTERNATIONAL ORGANISATIONS

## OBJECTIVES

The Agency stands ready, when asked and when relevant, to contribute to the energy policy goals of the EU in the world. The Agency in particular stands ready to cooperate with the European Commission in its outreach towards third countries and international organisations, with whom energy regulatory issues play an increasing role.

Given the Agency's limited resources, it will continue to focus primarily on the mandate to cooperate with third countries included in its founding regulation, in the Regulation on wholesale energy market integrity and transparency (REMIT) and to the new tasks allocated to it under the EEA Joint Committee Decision No 93/2017, through which Norway, Iceland and Liechtenstein formally participate in the work of the Agency as of 2020. In addition, it will focus on the UK in accordance to the Trade and Cooperation Agreement between the European Union and the United Kingdom.

On the basis of the legal framework described below, the Agency's Strategy for the Cooperation with third countries and international organisations is based on the following:

### 1: ENGAGE

### 2: EXCHANGE

### 3. INFORM

#### 1. Engage

Enable the participation of third countries in the work of the Agency that abide to Article 43 of ACER's Founding Regulation. While most of the tasks of the Agency focus on the EU Internal Energy Market, some tasks require or may benefit from collaboration with regulatory entities in third countries.

#### State of Play

So far no third country has been admitted formally to participate in the Agency. However:

- The EEA Joint Committee Decision No. 93/2017 entered into force in September 2019, paving the way for the participation of the NRAs of Norway, Iceland, Liechtenstein and the EFTA Surveillance Authority in the Agency's boards and working groups, and for the Agency's participation in work of the EFTA Surveillance Authority and its preparatory bodies.

- Experts from the Swiss Federal Electricity Commission (ElCom) have been participating in the ACER Electricity Working Group (AEWG) since January 2016, on the basis of a MoU signed in January 2016;
- Experts from the Norwegian Water Resources and Energy Directorate (NVE) have been participating in the AWGs and in the REMIT CG since June 2016, on the basis of a MoU signed in June 2016.

Moreover, the Contracting Parties of the Energy Community are also due to implement the Network Codes in their jurisdictions. This calls for stronger cooperation between the Agency and the regulatory authorities in these third countries. Institutional cooperation between the Agency and the Energy Community, which started soon after the Agency was established and was further strengthened in recent years, with both the Energy Community's Secretariat and the Energy Community's Regulatory Board (ECRB). In particular:

- Experts from the Energy Community Secretariat have been allowed to participate in the AEWG and AGWG since December 2016, on the basis of an Administrative Arrangement (AA) signed between the Agency and the Energy Community Secretariat in December 2016. The AA was amended in October 2019 to enable the participation of the Energy Community Secretariat in ACER's Market Integrity and Transparency Working Group.
- Experts from the Energy Regulatory Authority of Montenegro, ('RAE') have been allowed to participate in the AEWG and AGWG since January 2018, on the basis of an AA signed in December 2017.

Moreover:

- The Gas Wholesale Market Volume and the Electricity and Gas Retail and Consumer Protection Markets Volume of the Agency's Market Monitoring Report also cover Energy Community Contracting Parties. The data related to the latter is collected and analysed with the support of the Energy Community Secretariat;
- The TYNDPs in both electricity and gas typically also cover adjacent third countries. Their assessment may require the acquisition of information from regulatory authorities in such jurisdictions.

### **Instruments**

Cooperation Agreements / Memoranda of Understanding / Administrative Arrangements

### **Actions**

- Involve third countries that comply with the conditions of article 43 and request to participate in the work of the Agency, so as to facilitate the implementation of the tasks of

the Agency (completion of the Internal Energy Market also beyond the EU borders, REMIT-related surveillance, etc.).

- Enable the participation of EEA EFTA NRAs in the Agency's boards and working groups in line with Decision of the EEA Joint Committee No 93/2017 of 5 May 2017 amending Annex IV (Energy) to the EEA Agreement (2019/205), and in general cooperate with the EFTA Surveillance Authority as required by Annex IV (Energy) of the EEA Agreement.
- Cooperate with peer regulatory agencies on market monitoring activities identifying the removal of barriers to the IEM.
- Enhance cooperation with the Energy Community at the Working Group level, in the areas of Network Codes, infrastructure (e.g. exemptions, cross-border cost allocation), market monitoring, cross-border capacity allocation, and possibly other issues that relate to borders between the EU and the Energy Community and to applying the EU energy acquis.
- Define a legal framework and processes for coordinated decisions on cross-border issues e.g. related to infrastructure, capacity-allocation – in those cases where EU MSs and Energy Community's Contracting Parties are involved.
- Support EU policies in the field of cross-border issues.

## **2. Exchange**

Foster the exchange of experiences and information with the regulatory institutions outside the EU, where necessary and in areas of mutual interest. Promote the harmonisation of the regulatory framework.

### **State of Play**

The effective implementation of REMIT requires the Agency to cooperate with entities tasked with wholesale market monitoring responsibilities in non-EU jurisdictions. Wholesale energy markets are becoming increasingly global and effective cooperation of monitoring authorities is essential to protect the integrity and transparency of these markets.

In this context, the Agency has been in contact with regulatory authorities in Switzerland<sup>26</sup> and the United States and in January 2015 signed a MoU, according to Article 19 of REMIT, with the US Federal Energy Regulatory Commission (FERC). The MoU governs the

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<sup>26</sup> The Swiss Federal Electricity Regulatory Commission EICom. However, contacts in relation to the implementation of REMIT are suspended, pending the conclusion of the negotiations between the Swiss Federal Government and the European Union on the more general Energy *acquis*.

cooperation between FERC and the Agency whenever an exchange of experience or information is required to support the respective market monitoring activities. The MoU was followed, in December 2015, by an Administrative Arrangement on the exchange of staff between the two bodies.

The Agency also participates in the EU-US energy regulators' roundtable, which involves representatives from the National Association of Regulatory Utility Commissioners (NARUC) and FERC.

The Agency occasionally provides expert participation in Mediterranean Energy Regulators (MedReg) events.

### **Instruments**

Memoranda of Understanding/ Administrative Arrangements

Participation in Roundtables / Conferences / Trainings

### **Actions**

- Foster the exchange of experience in particular with the Energy Community, EEA EFTA, MedReg states and FERC (among others on market surveillance activities).

## **3. Inform**

Inform representatives of third countries that express interest in the work of ACER on the Agency's activities. Raise awareness on the Agency and its work in key countries outside the EU. Increase knowledge about the Agency and its work among key stakeholders in third countries (primarily NRAs).

### **State of Play**

Resources permitting, the Agency responds positively to requests to visit the Agency from third countries, organising meetings, or half day and full day study visits. In recent years it has been visited by the NRAs and other stakeholders from the United States, Canada, Georgia, Northern Macedonia, Ukraine, Serbia, Senegal, the Ivory Coast, Brazil and Japan.

Resources permitting, ACER provides speakers in conferences of regional (multi-country) relevance in third countries when the subject matter pertains to the work of the Agency.

The Agency responds positively to requests for media interviews from media in third countries, as well as to invitations to conferences / meetings enabling it to explain the Agencies work, responsibilities and powers.

### **Instruments**

Study visits to ACER, conferences, visits to third countries, media interviews

### **Actions**

- Visits abroad: Upon invitation or prior agreement, visit institutions in key countries potentially affected by ACER's work or of key EU strategic importance.
- Resources permitting, step up media activities in third countries.

### **Caveat**

The Agency does not represent the EU on policy matters related to its area of work when interacting with third countries or international organisations. Similarly, the Agency cannot commit the EU to any international obligation. The Agency's cooperation with third countries and international organisations focuses primarily on matters that pertain to the Agency's mandate and institutional and legal framework.

## **LEGAL FRAMEWORK**

### **Cooperation agreements - Article 43 of ACER's Founding Regulation (recast)**

1. ACER shall be open to the participation of third countries which have concluded agreements with the Union and which have adopted and are applying the relevant rules of Union law in the field of energy including, in particular, the rules on independent regulatory authorities, third-party access to infrastructure and unbundling, energy trading and system operation and consumer participation and protection, as well as the relevant rules in the fields of environment and competition.
2. Subject to the conclusion of an agreement to that effect between the Union and third countries as referred to in paragraph 1, ACER may also exercise its tasks under Articles 3 to 13 with regard to third countries, provided that those third countries have adopted and apply the relevant rules in accordance with paragraph 1 and have mandated ACER to coordinate the activities of their regulatory authorities with those of the regulatory authorities of Member States. Only in such cases the references to issues of cross-border character shall relate to



borders between the Union and third countries, and not to borders between two Member States.

3. The agreements referred to in paragraph 1 shall provide for arrangements specifying, in particular, the nature, scope and procedural aspects of the involvement of those countries in ACER's work, including provisions relating to financial contributions and to staff.

4. The Administrative Board shall adopt rules of procedures for relations with third countries referred to in paragraph 1 after receipt of a positive opinion by the Board of Regulators. The Commission shall ensure that ACER operates within its mandate and the existing institutional framework by concluding an appropriate working arrangement with ACER's Director.

### **REMIT – Article 19**

Insofar as is necessary to achieve the objectives set out in this Regulation and without prejudice to the respective competences of the Member States and the Union institutions, including the European External Action Service, the Agency may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular, with those impacting the Union energy wholesale market in order to promote the harmonisation of the regulatory framework. Those arrangements shall not create legal obligations in respect of the Union and its Member States nor shall they prevent Member States and their competent authorities from concluding bilateral or multilateral arrangements with those supervisory authorities, international organisations and the administrations of third countries.

### **EEA Joint Committee Decision No 93/2017**

On 5 May 2017, the European Economic Area (EEA) Joint Committee adopted Decision No 93/2017 amending Annex IV (Energy) to the EEA Agreement and incorporating the third energy package in the EEA Agreement under certain provisos.<sup>27</sup>

Decision No 93/2017 was adopted with constitutional requirements from all three EEA EFTA States, Iceland, Liechtenstein and Norway. After the Liechtenstein, Norwegian and Icelandic Parliaments approved the adoption of the third energy package on 6 September 2017, 22 March 2018, and 1 September 2019 respectively, the EEA Joint Committee Decision No.

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<sup>27</sup> Derogations were made to several articles in the various acts, whilst the gas directive and regulation do not apply to Iceland in its entirety. Decision No 93/2017 only relates to the legislation adopted in 2009. Regulation (EU) No 1227/2011 (REMIT), the CBCA Regulation or the various electricity and gas Network Codes and Guidelines that have been subsequently adopted via Commission Regulation are therefore not concerned. All these legal acts are still subject to separate assessment and potential incorporation by the EEA Joint Committee at a later stage.

93/2017 entered into force.

In line with the autonomy requirements of the EFTA institutions under the “two pillar system”<sup>28</sup> of the EEA Agreement, the EFTA Surveillance Authority (ESA) would take the formal decisions addressed to the EEA EFTA competent authorities and market operators in the EEA EFTA States, mirroring the role and competences ACER has in the EU Member States. ACER will thus have a non-binding role vis-à-vis the EEA EFTA States, whilst the NRAs of the EEA EFTA States and the Authority will be able to participate in the work of ACER.

### **RISKS**

- The Agency has limited resources, which it allocates to its legally mandated core tasks. Resources available for the cooperation with third countries is thus limited.
- The Agency could be perceived as interfering into national affairs of third countries (notably EEA countries in which adoption of the third package was considered controversial also because of the powers of the Agency).
- Scarce resources, human and financial, in particular in the Energy Community Contracting Parties regulatory authorities, may strongly limit their cooperation with the Agency; however, the Energy Community Secretariat may financially support such cooperation.

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<sup>28</sup> The EEA EFTA States have not transferred any legislative competences to the joint EEA bodies and they are also unable, constitutionally, to accept decisions made by the EU institutions directly. To cater for this situation, the EEA Agreement established EEA EFTA bodies to match those on the EU side. The EEA EFTA institutions and EU institutions form two pillars, whereas the joint EEA bodies are situated in-between. The structure encompasses supervision and judicial control. As parallels to the European Commission and the ECJ, a surveillance authority and a court were established by the EEA Agreement to ensure the monitoring of implementation and application of EEA law in the EEA EFTA States.

## ANNEX XIII: 2022 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>29</sup>	Indicative number of contracts envisaged <sup>30</sup>	Estimated value in EUR <sup>31</sup>	Estimated value in EUR <sup>32</sup>
IT system integration services for the Agency	service	Specific contracts based on an existing framework contract	Q1, Q2	2	2,185,000	
IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS), information security and revision of HW/SW architecture	service	Specific contracts based on an existing framework contract	Q1 - Q2	1	500,000	
Benchmarking, advisory and consultancy services in information and communication technology	service	Specific contracts based on an existing framework contract	Q1 - Q2	1	550,000	
Non-exclusive licenses of a variety of software products to the Agency and the provision of maintenance, support and other informatics services and documentation	service	Order forms based on existing framework contracts	Q1 - Q3	4	1,075,000	
Oracle consultancy, software licenses, maintenance and associated services	service	Specific contracts based on an existing framework contract	Q1 - Q2	4	1,235,000	
Infrastructure upgrades, maintenance and vendor support for ARIS	service	Order forms based on existing framework contracts	Q1 - Q3	3	530,000	
Datacentre infrastructure solutions and services	service	Order forms based on existing framework contracts	Q1 - Q3	3	475,000	
Provision of economic assistance in the field of energy regulation for the Agency	service	Framework contracts	Q1	5		650,000

<sup>29</sup> Indicative timeframe for launching new procurement procedure or for signing specific contracts/order forms under the existing framework contracts.

<sup>30</sup> Order forms throughout the year are counted as one contract.

<sup>31</sup> Estimated commitments 2022.

<sup>32</sup> Estimated value for procurement procedures for new framework contracts.

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>29</sup>	Indicative number of contracts envisaged <sup>30</sup>	Estimated value in EUR <sup>31</sup>	Estimated value in EUR <sup>32</sup>
Provision of economic assistance in the field of energy regulation for the Agency	service	Specific contracts based on an existing framework contract	Q2 - Q3	1	60,000	
Agency's website set-up and maintenance services	service	Specific contracts based on an existing framework contract	Q2 - Q3	2	244,000	
Maintenance, support and development services for the Java/PHP applications	service	Specific contracts based on an existing framework contract	Q1 - Q3	2	257,000	
Provision of consultancy services in the areas of security, occupational health and safety and business continuity for the Agency	service	Framework contracts	Q1	2		1,000,000
Consultancy in learning and development and HR domains	service	Specific contracts based on an existing framework contract	Q2-Q3	3	250,000	
Organisation of Agency's events	service	Service contracts	Q1 - Q4	4	23,000	
Organisation of EMIT forum	service	Service contracts	Q3	2	8,000	
Renting conference facilities and catering for events organised in Brussels (Belgium)	service	Service contracts	Q1 - Q4	4	7,000	
Provision of catering services for the Agency's events	service	Order forms based on an existing framework contract	Q1 - Q4	1	45,000	
Provision of infographics services for the Agency	service	Order forms based on an existing framework contract	Q1 - Q4	1	15,000	
Provision of printing services for the Agency		Framework contract	Q2	1		60,000
Provision of printing services for the Agency	service	Order forms based on an existing framework contract	Q1 - Q4	1	15,000	
Provision of audio-visual services for the Agency	service	Order forms based on an existing framework contract	Q1 - Q2	1	15,000	
Provision of design services for the Agency	service	Order forms based on an existing framework contract	Q1 - Q4	1	15,000	
<b>TOTAL PLANNED PROCUREMENT 2022</b>				<b>49</b>	<b>7,504,000</b>	<b>1,710,000</b>