



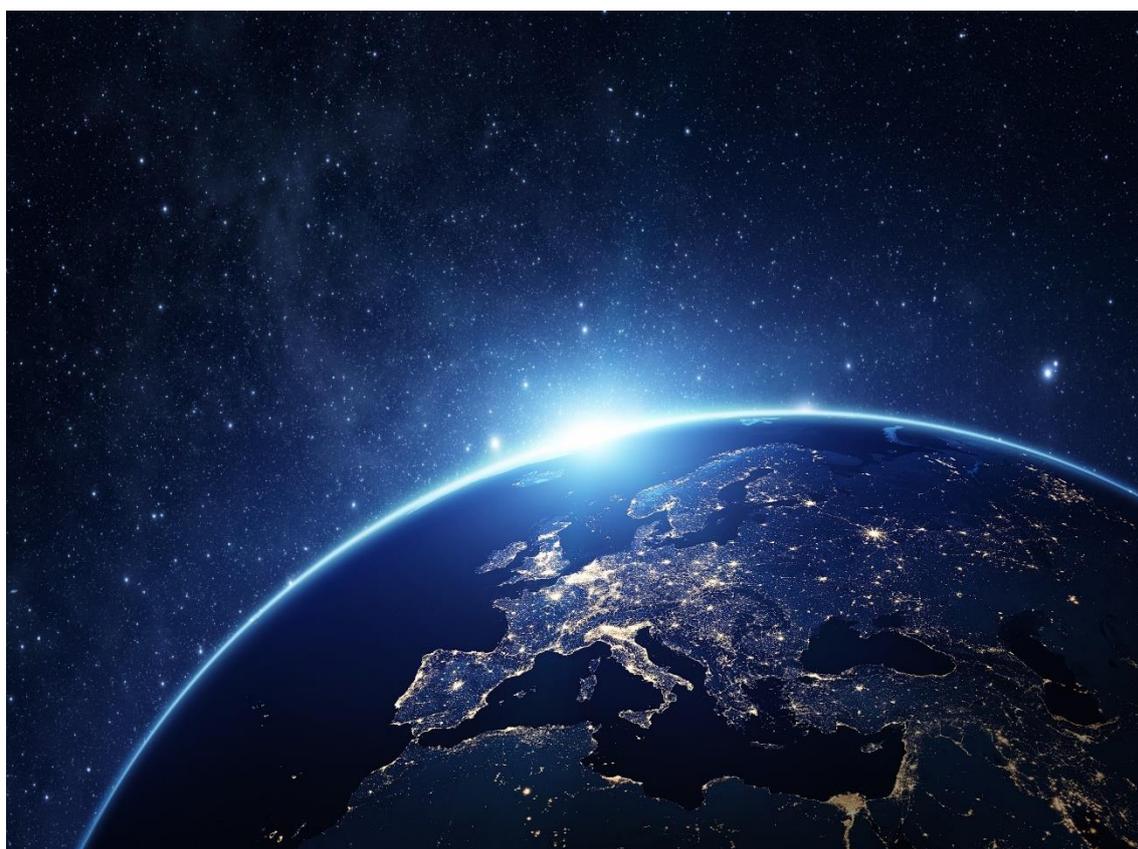
European Union Agency for the Cooperation  
of Energy Regulators

## CONSOLIDATED ANNUAL ACTIVITY REPORT

OF

## THE EUROPEAN UNION AGENCY FOR THE COOPERATION OF ENERGY REGULATORS

# 2020



**In pursuance of FR 2018/1046, FFR No 2019/715<sup>1</sup>**

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<sup>1</sup> Commission Delegated Regulation (EU) 2019/715 on the framework financial regulation for the bodies set up under the TFEU and Euratom Treaty and referred to in Article 70 of Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council (OJ L 122, 10.5.2019, p. 1).

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## THE ANALYSIS AND ASSESSMENT OF THE ADMINISTRATIVE BOARD

The Administrative Board has examined the Consolidated Annual Activity Report for the year 2020 of the European Union Agency for the Cooperation of Energy Regulators and notes that:

- the Agency aligned its policies and operational achievements with the EU priorities in the field of energy in line with ACER's 2020 work programme: the completion of the internal energy market and the monitoring of trading in the wholesale energy markets of the Union remained at the heart of the Agency's objectives;
- the challenges faced by the Agency related to the completion of the internal energy market, including delivering the benefits to EU energy consumers, are correctly identified and the operational achievements contributing to the implementation of the EU energy policy priorities are convincingly presented;
- the Agency faced impeccably the challenges deriving from the Covid-19 pandemic. It largely met its objectives through prioritisation and redeployment of staff, whenever possible, to overcome the difficulties encountered due to resource constraints and the need to allocate resources for peaks of unpredictable workload, especially when called to replace NRAs in the adoption of decisions requesting high-level expertise;
- resource constraints had a significant impact on the extent to which the Agency was able to contribute to the completion of the internal energy market to the benefit of energy consumers and the competitiveness of the Union, since some of the Agency's work could not be done to the extent which would be desirable;
- the Agency reached a high level rate of execution for commitment appropriations;
- the key performance indicator targets were largely met, with the exception of a few indicators concerning staff satisfaction and the improvement of REMIT data quality and market surveillance, due to the lack of sufficient resources;
- the Director has provided a clear declaration of assurance;
- the controls and supervisory checks performed in 2020 provided no evidence of significant or repetitive errors in reporting by Agency departments, budget execution, human resources management or KPI implementation;
- monitoring reviews showed no instances of inadequate or ineffective controls that could expose the Agency to key risks.

The Director shall take immediate actions to address the comments made by the European Court of Auditors in its preliminary observations and to report, in due course, on the actions taken.

It concluded that:

The Agency has successfully implemented the 2020 work programme. The available resources allocated to the activities described in the report were used for their intended purpose in accordance with sound financial management principles.

For the Administrative Board

The Chair

Dr J. PENKER

16 June 2021

**EXECUTIVE SUMMARY**  
**FOREWORD BY THE DIRECTOR OF THE AGENCY**

**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.

**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>Objective 2</b>	<b>Contribute to the Infrastructure and Security of Supply Challenges</b>
<b>Goals</b>	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

	<p>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 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.</p> <p>The achievements of these goals should be instrumental to the goals of the European Green Deal.</p>
<b>Objective 3</b>	<b>Increased integrity and transparency of wholesale energy markets</b>
<b>Goals</b>	<p>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.</p> <p>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</p>

	<p>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.</p> <p>A 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.</p>
<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 strives 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 focuses on topics with clear regulatory relevance, for instance those linked to the <a href="#">Bridge beyond 2025 Recommendation</a>. 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.</p>

## The Agency's Governance

- The [Director](#) manages and represents the Agency.
- The [Administrative Board](#) (AB) is responsible for the Agency's governance as well as all administrative and budgetary activities. The AB members are appointed by the European Commission, the European Parliament and the Council of the European Union.
- The [Board of Regulators](#) (BoR) is in charge of the regulatory policy and overseeing all the activities connected. The BoR is composed by senior representatives of the National Regulatory Authorities (NRAs) for energy of the 27 Member States.
- The [Board of Appeal](#) (BoA) deals with complaints lodged against [ACER decisions](#). It is independent from the administrative and regulatory boards.
- The [ACER Working Groups](#) advise the ACER Director and the Board of Regulators on the regulatory activities of the Agency. The Working Groups are composed of representatives of ACER, national regulators, and the European Commission.
- ACER can also count on the support of over a hundred committed employees, both permanent staff and experts seconded by national regulatory authorities (NRAs). ACER staff is organised in [departments and horizontal clusters](#), and is responsible for running the daily operations and effectively fulfilling the Agency's mandate.

## FOREWORD BY THE DIRECTOR OF THE AGENCY – THE YEAR IN BRIEF

It is a privilege for me to present the 2020 Consolidated Annual Activity Report ('CAAR') of the European Union Agency for the Cooperation of Energy Regulators ('ACER'). It describes the activities performed by the Agency, as well as the extent to which it met the objectives set out in its Work Programme, in the course of the first year of my mandate as Director, which began in January 2020.

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It is impossible not to begin a review of 2020 without highlighting the impact of the Covid19 pandemic on the Agency. Despite the significant constraints on the Agency's work, business continuity was ensured. Staff presence at the office was limited in line with the safety measures available, in full respect of the measures adopted by the Slovenian government. The Agency immediately made recourse to teleworking as its normal operational mode. A Continuity Management Group (CMG) was set up, which included the Senior Management as well as selected staff members.

Going forward, the Covid pandemic will inevitably affect our business model, which is likely to entail a mix of personal flexibility, more hybrid working models and a good amount of deliberate ‘togetherness time’ as an organisation, although not necessarily in the sense of all being in the office at the same time.

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While the pandemic did put a major strain on the Agency’s resources, rendering, inter alia, recruitment procedures and integration of new staff members more difficult, the Agency continued to deliver to the extent possible the tasks foreseen in its work programme.

The teleworking regime put a particular strain on the implementation of the REMIT-related tasks, already rendered difficult by the lack of staff allocated to the Agency in this field compared to the legal mandate concerning the supervision of energy wholesale markets to identify market manipulation. The Agency is collecting very large amounts of confidential data, which is safely available to case-handlers only through the security systems envisaged at the Agency itself. In fact the quantity of transactions collected continues to increase in the course of the year, from the more than 3 million records collected in 2019, to an average of over 6.8 million records of transactions and orders to trade per day in 2020. This increase posed a formidable challenge to the Agency and its REMIT information system ARIS.

The work of the Electricity and Gas departments proceeded largely in line with plans, despite the pandemic. Resources were however strained by the surging number of appeals against the Agency’s decisions, a consequence of the additional powers the Agency has been given in recent years. This surge also drastically increased the need for legal counsel in defending the Agency’s decisions.

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The Agency continued to contribute to the European Green Deal, which aims to make Europe the first climate-neutral continent by 2050. More specifically, 2020 was the first full year in which the Agency implemented the new tasks attributed to it within the Clean Energy Package (CEP) acts, including the recast of the Agency’s founding regulation. The latter also foresees the introduction of fees as a new source for the funding of REMIT related services. 2020 was therefore a crucial year for the finalisation of preparations for collecting fees related to collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf.

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The Covid19 pandemic hampered to some extent the introduction of more structural adjustments to the Agency and its working methods. With the aim of increasing synergies to

the extent possible, greater cooperation was nevertheless promoted by creating clusters (data excellence, legal service) and further enhancing cooperation between the Market Surveillance and Conduct Department and the Market Monitoring Teams in the Electricity and Gas Departments.

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The regulatory part of this CAAR (Part I) mirrors the Agency's 2020 Programming Document in terms of activities, tasks and deliverables. The Agency's main regulatory achievements can be found in the section below this foreword.

The administrative part of the report and the related annexes contain the information the Agency is required to report in line with the template for the CAAR for decentralised agencies. It should be noted that in 2020 the Agency met all its budget implementation targets. In the opinion of the European Court of Auditors (ECA), the payments underlying the accounts for the year ended 31 December 2019 are legal and regular in all material respects, apart from a total amount of EUR 988,138.35 that represent 6.3% of all payments made by the Agency in 2019. For these a qualified opinion on the legality and regularity of payments underlying the accounts was issued by ECA. The issue concerns the approach to certain IT procurement contracts. ECA noted in its preliminary observations in May that the thresholds to be taken into consideration are annual and not for the duration of the contract. The Agency replied to the identified short-comings and is striving to improve its internal controls and apply immediate mitigating actions, in order to avoid future reoccurrences. As a follow-up to ECA's findings, in January 2021 the issue was also thoroughly detailed before the EP and the Council Working Group respectively.

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Allow me to express my gratitude to my colleagues in the Agency for their effort, commitment, enthusiasm and flexibility, particularly in these challenging Covid19 times. The Agency's achievements would also not be possible without the strong support of the NRAs, through the Board of Regulators (BoR) and their expert contributions to the Agency's Working Groups.

The Agency's Administrative Board (AB) continues to play a crucial role in ensuring that ACER carries out its mission and performs the tasks assigned to it by legislation. I am grateful both to the BoR and AB for the support provided to the Agency and their flexibility in working methods. Stakeholders were also central to the work of the Agency in 2020 and will remain so in the future. I thank them for their contributions and support to the Agency.

As an EU Agency, ACER cooperates as closely as possible with the EU institutions. The Agency is grateful for the support of the European Commission, in particular to the Directorate General for Energy (DG ENER), and the European Parliament, most notably its Committee on Industry, Research and Energy (ITRE).

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The energy landscape is likely to further evolve, possibly also in unpredictable ways, in the aftermath of the Covid19 crisis. This is likely to have a significant impact on the regulatory framework, although decarbonisation of the broader economy will undoubtedly remain at the forefront of political priorities. The Agency stands ready to do its part, cooperating with NRAs and EU institutions and engaging with stakeholders, as well as adapting as swiftly as possible to the new needs from an organisational point of view.

Christian Pilgaard Zinglensen

Ljubljana, 16 June 2021

## THE AGENCY'S KEY ACHIEVEMENTS IN 2020

### ELECTRICITY SECTOR:

In 2020, the Agency issued several important decisions, with the aim of contributing to a more efficient Internal Electricity Market:

- 1) The **balancing**-related decisions adopted in the first half of 2020 to improve the design and foster the integration of balancing markets in Europe;
- 2) The European **Resource Adequacy**-related decisions, which provide a consistent framework for a more coordinated, meaningful and transparent assessment of potential resource adequacy gaps in Europe;
- 3) The **redispatching**-related methodologies, which provides a clear regulatory framework for the optimisation of remedial actions at regional level and for a fair cost-sharing solution in line with the polluter-pays principle;
- 4) The decision defining the methodology and assumptions that are to be used in the European **bidding zone review process** and for the alternative bidding zone configurations to be considered;
- 5) The publication of the first monitoring report on the **70% cross-zonal target**, which provides an overview of the implementation status of progress within each Member State.

### GAS SECTOR:

In 2020, the Agency focused, on the upcoming legislation to decarbonise the energy sector in line with the EU Green Deal. This included:

- 1) Two **White Papers**, which were prepared largely in 2020 (while they were published in 2021). The papers, fully coordinated with CEER, are to provide timely input in particular to the Commission on the regulatory aspects of pure hydrogen networks and of power-to-gas facilities;
- 2) Regular work streams on **Infrastructure regulation** (covering both TSO Cooperation, TEN-E, and Security of Supply);

- 3) **Network Code implementation** (covering capacity allocation, congestion management, balancing, tariffs, and interoperability);
- 4) **Market Monitoring** (covering both gas wholesale markets as well as retail markets and customer protection).

Due to the pandemic, the Agency shifted physical workshops to virtual webinar format, in particular reaching out to large groups of stakeholders on topics such as tariffs and TEN-E.

### **CROSS-SECTORAL (ELECTRICITY AND GAS):**

In 2020, cross-sectoral achievements included:

- 1) The publication of a position paper (jointly with CEER) on the revision of the **TEN-E Regulation**. The revised TEN-E Regulation is a key piece of EU legislation to enable the realisation of the Green Deal objectives. The position paper was published to ensure that the key regulatory insights and experiences in this area could be taken into account when drafting and deciding upon the legislation.
- 2) In the area of **retail markets** and **consumer protection** the previous three separate market monitoring reports from ACER and CEER were integrated into a single integrated Retail-Consumer Protection volume of the ACER-CEER Market Monitoring Report. This provided both a more integrated overview for the reader and lead to efficiency gains for the drafters.

### **REGULATION ON WHOLESALE MARKET MONITORING AND INTEGRITY (REMIT):**

In 2020, the Agency's key achievements in the field of REMIT were: the collection of wholesale energy market transactions, including orders to trade, for ACER's and NRAs' market monitoring activities, the continuous market monitoring of EU wholesale energy markets by ACER and the provision of guidance and the coordination of cases for an increased integrity and transparency of EU wholesale energy markets, which is important to foster open and fair competition in wholesale energy markets for the benefit of final consumers of energy.

#### **1) Collecting millions of records of transactions per day**

The Agency collects EU wholesale energy market data for assessing and monitoring wholesale energy markets. During 2020, the Agency experienced another duplication

of data collection from the more than 3 million records collected in 2019, as it collected, on average, more than 6.8 million records of transactions and orders to trade per day in 2020. This increase posed a formidable challenge to the Agency and its REMIT information system ARIS. The data collected is not only used by the Agency for its wholesale energy market surveillance activities and its monitoring of the Internal Energy market, but also by National Regulatory Authorities (NRAs) for their market monitoring at national and regional level. The increase in data collection exceeded all expectations and was due to increasing market liquidity following the implementation of network codes (e.g. the launch of the Cross-Border Intra-Day – XBID - platform) and market developments such as the increased use of algorithmic trading especially in intraday and day-ahead electricity markets. The Agency managed to handle such an increase in the number of records reported despite the limitation in its financial and human resources.

## **2) Delivering on market monitoring despite resource constraints**

Given the persistent limitation in its human and financial resources, the Agency had to define strict priorities for its implementation of market surveillance under REMIT. In 2020, the Agency therefore decided to continue to focus its market surveillance activities on cross-border trading, as this is where it has a unique advantage vis-à-vis NRAs. The Agency was able to successfully continue its market surveillance of EU-wide wholesale energy markets by restoring business continuity following the pandemic. However, in 2020 persistent data availability issues caused a 6 month delay of automated market surveillance screening.

In addition, in 2020 the Agency received 115 suspicious transactions reports from market participants, organised market places and other stakeholders. The Agency assessed these reports in order to complement them with further REMIT information and to securely notify them to the appropriate NRA(s) for their further follow up. The total number of cases under scrutiny at the end of 2020 was 282 compared to 218 in 2019. 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.

## **3) Ensuring consistency in the implementation of REMIT across the Union**

In 2020, the Agency provided further guidance to NRAs on insider trading by fully updating and publishing chapter 5 of the ACER Guidance.

## TASKS DEPRIORITISED OR NOT EXECUTED DUE TO LACK OF RESOURCES

The following tasks were deprioritised, cancelled, postponed or in part combined with other tasks, due to the limitation in available human resources, primarily in the field of REMIT:

### **MARKET INTEGRITY AND TRANSPARENCY:**

Several activities under the task “Policy activity to support the Agency’s REMIT mandate” and under the task “REMIT Information Management” originally foreseen in the Work Programme were deprioritised, mainly those relating to enhancements of ARIS and the completion of the Agency’s mandate to collect derivatives and emission allowances reported under EU financial market legislation.

In addition, the suspension of the registration of reporting parties as Registered Reporting Mechanisms (RRMs), originally announced on 20 November 2019, continued until end-2020 due to a level of resources incommensurate to ACER’s demanding workload, in particular under REMIT.

### **GAS:**

The Gas Regional Initiatives Status Review Report was again cancelled. The Congestion Report was again slimmed down. Work on data improvements for Network Codes was minimised.

### **ELECTRICITY AND GAS:**

The retail part of the Market Monitoring Report remained slimmed down, although in the new set-up it was integrated with the previous CEER retail markets report.

### **MARKET SURVEILLANCE AND CONDUCT:**

The scope of the efficiently and effectively monitoring of trading activities in wholesale energy markets to detect and prevent market abusive behaviour trading based on inside information and market manipulation based on REMIT data was limited to cross-border aspects.

Moreover, the development of additional “bespoke alerts” to detect anomalous instances of trading behaviour, was significantly slowed down since 2018. The enhancement of existing alerts for market monitoring purposes and development of new alerts was deprioritised in 2020 due to a lack of financial resources.

The enhancement of the Case Management Tool for the purpose of securely exchanging sensitive information on REMIT cases with NRAs was not executed.

During the pandemic the required restoring of the business requirements for the activity of case coordination between NRAs and ACER were not executed. Hence, no secure remote access was provided to the Case Management Tool for the relevant staff of the MSC Department.

Providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations (pursuant to Article 6(8) of Regulation (EU) No 2019/942) was not executed.

The suspension of the creation of cross-border investigatory groups for REMIT breach cases remained in place.

## **PART I: REGULATORY ACHIEVEMENTS IN 2020<sup>2</sup>**

### **STATEMENT BY CLARA POLETTI, CHAIR OF THE BOARD OF REGULATORS (BoR)**

In what was an exceptional year marked by the Covid pandemic, the Agency and the national regulatory authorities (NRAs) showed remarkable resilience and together, through their work in the Agency's BoR, Working Groups and Task Forces, successfully achieved the Agency's deliverables, which pave the way for a climate-neutral energy system.

The energy transition must be underpinned by a well-functioning Internal Energy Market. The Agency thus remains committed to its core mission and activities: promoting security of energy supply through a well-functioning Internal Energy Market based on free competition, the optimal development of energy-sector infrastructure and market integrity and transparency to the benefit of European Union (EU) consumers. 2020 saw a number of key Agency decisions and actions in all of these areas.

By way of example, an integrated electricity balancing market has been the final building block in the creation of the European electricity market, and in 2020, the Agency issued a series of decisions in line with Commission Regulation (EU) 2017/2195 establishing a Guideline on Electricity Balancing to standardise and harmonise key elements, such as balancing products, balancing energy pricing and imbalance settlement, to foster a single, efficient EU balancing market that can maximise welfare gains.

The Agency also approved the methodology and assumptions to be used in the bidding zone review process in line with Regulation (EU) 2019/943 on the internal market for electricity. The configuration of bidding zones in the Union will be designed in such a way as to maximise economic efficiency and to maximise cross-zonal trading opportunities while maintaining security of supply.

In parallel, the Agency approved a number of methodologies enabling the integration of regional power markets, including methodologies to establish a coordinated and more integrated use of redispatching and countertrading resources among Transmission System Operators of the Core and South East Europe capacity calculation regions, which ensure that the costs associated with the activation of redispatching and countertrading are fairly shared among Member States,

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<sup>2</sup> The independent section on regulatory activities as per Article 22(5) (e) of Regulation (EC) No (EC) No 942/2019 received the approval of the BoR at its session held on 1 June 2021.

as well as methodologies for regional operational security coordination in the Core and South East Europe capacity calculation regions.

Another milestone for European market integration was reached with the adoption of two decisions on the methodologies for assessing whether the EU, as a whole, has sufficient electricity resources to meet future electricity needs, followed by a decision on cross-border participation in capacity mechanisms. These European resource adequacy rules were introduced by the Clean Energy Package to ensure the security of Europe's electricity supply at the lowest possible cost for end-consumers.

The numerous exchanges between the Agency and NRAs on a number of European Green Deal initiatives relevant to the energy sector have so far culminated in three ACER-CEER joint papers: one position paper on the ongoing revision of the Trans-European Energy Networks (TEN-E) Regulation, which sets out a number of recommendations for improving the planning and implementation of electricity and gas infrastructure based on experience on the ground, and two white papers, one on the regulatory treatment of Power-to-Gas facilities and another on when and how to regulate hydrogen networks. These papers examine the choices available to us as we move towards a decarbonised, integrated energy system, focusing on topics also of relevance to the Hydrogen and Gas Markets Decarbonisation Package expected later this year. Energy plays a key role – beyond the power sector - in decarbonisation, and the Agency and NRAs have a valuable contribution to make to the wider debate on climate change mitigation.

In addition to providing a thorough assessment of progress towards the completion of the Internal Energy Market, the three volumes comprising the 9th ACER-CEER Market Monitoring Report (electricity wholesale markets, gas wholesale markets and retail markets and consumer rights) also analysed the impact of COVID-19 on Europe's energy markets. Fortunately, the health crisis did not thwart electricity and gas market integration. The MMR also presented the measures taken by NRAs across Europe to protect consumers' energy supply and keep energy markets functioning during this crisis.

COVID-19 also inevitably affected the work carried out by the Agency and NRAs to ensure market integrity and transparency. However, the oversight of the European wholesale energy market trading continued to be carried out by the Agency in close coordination with NRAs in accordance with Regulation (EU) No 1227/2011 (REMIT), to detect and deter market abuse. The Agency and NRAs have also intensified cooperation in investigating an increasing number of complex, cross-border cases of market abuse. A welcome development relating to REMIT is the adoption in December 2020 of the Commission Decision (EU) 2020/2152 on fees due to the Agency for collecting, handling, processing and analysing of information reported under REMIT.

The collection of REMIT fees (from 2021 onwards) will counter risks that arose in the past years due to chronic under-investments in the Agency's REMIT Information Systems.

Despite continuing pressures from significant budget constraints, its expanded mandate and the enduring pandemic, the Agency has delivered on its Work Programme, and NRAs were actively involved in fulfilling the Agency's responsibilities and tasks mentioned above. We continue to weather the storm together.

Looking forward, as stated in recital 3 of Regulation (EU) 2019/942 establishing a European Union Agency for the Cooperation of Energy Regulation, it is "anticipated that the need for coordination of national regulatory actions will increase further in the coming years. The Union's energy system is in the middle of its most profound change in decades. More market integration and the change towards more variable electricity production require increased efforts to coordinate national energy policies with neighbours and increased efforts to use the opportunities of cross-border electricity trade." I am confident that the Agency and NRAs – in particular in the context of the BoR – will find a way forward to address those challenges and deepen our collaboration.

Ljubljana, 1 June 2021

## A. Market Integrity and Transparency

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. This is also a major contributor to security of energy supply. REMIT aims at establishing 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.

ACER provides guidance to aim at ensuring a coordinated approach under REMIT and that reporting parties have a clear understanding about the details of the information which they are required to report. The collection of wholesale energy market data by the Agency at pan-European level is for the purpose of ACER's assessment and market monitoring to detect and prevent market abuse in EU wholesale energy markets and, through the data sharing with NRAs, for the purpose of their market monitoring to detect and prevent market abuse at regional and national level and for their investigations and enforcement at national level.

In 2020, ACER, in close cooperation with NRAs, provided guidance on the application of REMIT and on data reporting, collected in total 2.4 billion number of records or on average 6.8 million records a day, performed data quality analysis and provided this information for ACER's market monitoring and shared it with NRAs for their market monitoring, investigation and enforcement tasks. For an effective market monitoring, ACER must aim at high data quality of REMIT data. However, as already pointed out in previous year and identified as a risk in the Programming Document 2020-2022, the continuous underfunding of ACER's REMIT tasks hampered an effective and efficient REMIT analytics and information management work and an effective and efficient implementation of REMIT at both Union and national level. This is why several tasks had to be de-prioritised or postponed and the cooperation with ESMA, national financial market authorities, competition authorities, other relevant authorities and supervisory authorities of third countries was limited.

On 17 December 2020, the European Commission adopted Commission Decision (EU) 2020/2152 on fees due to the ACER for collecting, handling, processing and analysing of information reported under REMIT<sup>3</sup> to implement point (b) of Article 32(1) of Regulation (EU) 2019/942. The Agency looks forward to the application of REMIT fees as of 2021 to improve its funding and to cover its costs related to collecting, handling, processing and analysing of information reported under REMIT. Increased funding available to the Agency should also enable the Agency to improve the quality of the services provided by the Agency to entities

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<sup>3</sup> OJ L 428, 18.12.2020, p. 68.

reporting data and, if applicable, to market participants in general.

Task	Policy activity to support the Agency's REMIT mandate
Priority level	1: Critical
Legal basis	Articles 1(3), 7, 8 and 16 of Regulation (EU) No 1227/2011 (REMIT) and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014
WP objectives for 2020	<p>Specific objective: this review may result in the updating of ACER Guidance, the drafting of recommendations and the formulation of proposals to the European Commission for technical updates of REMIT, according to Article 6 of REMIT, of the REMIT Implementing Regulation or of new legislative proposals in the field of market integrity and transparency.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	No strict deadline. However, timely completion of the revisions and, if necessary, of the review of the ACER Guidance documents will ensure effectiveness of REMIT implementation.
Achievement against target	<p>The Agency published the following updates of its ACER Guidance and its REMIT Reporting User package in 2020:</p> <ul style="list-style-type: none"> <li>- <a href="#">5<sup>th</sup> edition of ACER Guidance</a> on 8 April 2020;</li> <li>- <a href="#">Updated 5<sup>th</sup> edition of ACER Guidance</a> on 18 November 2020;</li> <li>- <a href="#">Updated Transaction Reporting User Manual</a> on 30 June 2020 and quarterly updates of its Annex IV, lastly on 22 December 2020;</li> <li>- <a href="#">23<sup>rd</sup> and 24<sup>th</sup> editions of REMIT Q&amp;As</a> on 30 June and 16 December 2020;</li> <li>- <a href="#">Updated Open Letter on the withdrawal of the United Kingdom from the European Union and implications on the registration of market participants and data collection under REMIT</a> on 18 December 2020.</li> </ul> <p>The following activities under the task "Policy activity to support the Agency's REMIT mandate" originally foreseen in the Work Programme were deprioritised in line with the available human resources:</p> <ul style="list-style-type: none"> <li>- Review of the REMIT operations and rulebook, in particular with regard to the review of the electronic formats for data collection (XML schemas), only started in 2019 with a focus on the minimum necessary to improve data quality and has otherwise been postponed;</li> <li>- Improvement of the market participant registration format pursuant to Article 9(3) of REMIT and improvements of the</li> </ul>

	Agency's IT solution CEREMP, which has been postponed beyond 2019.
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<b>Task</b>	<b>Promoting transparency of wholesale energy markets</b>
Priority level	1: Critical (concerning the disclosure of inside information); 2: Important (concerning the publication of aggregated REMIT data)
Legal basis	Article 4(2) and Article 12(2) of REMIT
WP objectives for 2020	<p>Transparency has the power to create a level playing field, reduce the scope for anti-competitive practices and more generally, increase market operators' 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. Higher transparency ensures that more information is available. The disclosure of the information that is deemed relevant in light of the good functioning of the market, affects the possibility for market operators 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 with regard to the effective and timely disclosure of inside information according to Article 4(1) of REMIT and with the Agency making available, either publicly or to academia for scientific purposes, parts of the information which it possesses according to Article 12(2) of REMIT.</p> <p>Specific and multi-annual objectives: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>Increasing number of market participants using inside information and/or transparency platforms for disclosure of inside information.</p> <p>Increasing number of universities and/or research institutes the Agency cooperates with for scientific purposes.</p> <p>Publication of the Agency's assessments of the operation and transparency of different categories of market places and ways of trading on a quarterly basis in the REMIT Quarterlies.</p>
Achievement against target	<p>The Agency provided additional guidance to promote consistent implementation of REMIT in order for markets to become more transparent. However, the implementation of disclosure of inside information through platforms had to be postponed due to Covid-19. Market participants were granted with an additional delay to disclose information through inside information platforms until 1 January 2021 (see <a href="#">Open Letter on the impact of Covid-19 on certain compliance deadlines under REMIT</a> from 20 November 2020).</p> <p>The Agency made available its commercially non-sensitive trade database for scientific purposes, subject to confidentiality</p>

	<p>requirements, in its cooperation with the European Commission's Joint Research Centre.</p> <p>The publication of aggregated REMIT information for transparency reasons (postponed from previous years for budgetary reasons) was limited only to the use of aggregated REMIT information for transparency reasons for publications in the REMIT Quarterly and the Agency's Market Monitoring Report, but has otherwise been postponed beyond 2020.</p>
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<b>Task</b>	<b>Registration and supervision of reporting parties according to Article 8 of REMIT</b>
Priority level	1: Critical (concerning the supervision of RRM); 2: Important (concerning the registration of new RRM)
Legal basis	Articles 8 and 12(1) of Reg. 1227/2011, Article 11(1) of Commission Regulation (EU) No 1348/2014
WP objectives for 2020	<p>ACER assesses registration applications under REMIT and its Implementing Regulation. There are currently 120 reporting parties registered with the Agency.</p> <p>ACER's supervision of reporting parties 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. Continue to process applications of registering reporting parties and to supervise reporting parties under REMIT ensuring lasting impact of supervisory activities at individual reporting party level.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>Decreasing number of RRM applicants in the application process;</p> <p>Application of the ongoing supervision measures according to the RRM requirements.</p>
Achievement against target	<p>Whilst the suspension of the registration of additional reporting parties continued in 2020 due to a level of resources incommensurate to its workload, the ongoing supervision measures concerning the compliance of 122 RRM<sup>4</sup> with the technical and organisational requirements for reporting data to the Agency focused mainly on the completeness, accuracy and timely submission of data considered most relevant for market surveillance purposes due to the limited resources available to the Agency to perform this task.</p>

<sup>4</sup> It should be noted that ACER has over 12 times more RRM registered for transaction reporting under REMIT with less staff to supervise them than ESMA has trade repositories registered for transaction reporting under the European Union regulation on derivatives, central counterparties and trade repositories (EMIR).

<b>Task</b>	<b>REMIT Information management and Data Analytics</b>
Priority level	1: Critical
Legal basis	Articles 7 to 10 and 12 of Reg. 1227/2011
WP objectives for 2020	<p>REMIT Information Management includes data collection, data analysis, including data quality analysis, and data sharing.</p> <p>Specific objective: To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Continuous work on improving REMIT data quality measured by the number of yearly internal REMIT data quality reports.
Achievement against target	<p>In 2020, the total number of records collected was 2.4 billion, or 6.8 million per day on average (about 8 million on average as of September 2020). The data volume collected compared thus once again duplicated compared to the previous year. In addition, ACER listed 80 Organised Market Places and 24 489 standard contracts admitted to trading at Organised Market Places listed.</p> <p>The collection of EMIR derivatives and emission allowances was again postponed beyond 2020 for budgetary reasons. For the same reasons, the Agency did not request the reporting of contracts reportable at request of the Agency according to Article 4(1) of Commission Implementing Regulation (EU) No 1348/2014 in 2020.</p> <p>ACER undertook data quality analysis on an ongoing basis in 2020, even though several REMIT data quality projects had to be de-prioritised due to preparatory work on a potential REMIT fee model.</p> <p>The Agency shared relevant REMIT information with all NRAs in 2020, but did not implement REMIT information sharing with national financial market authorities or national competition authorities.</p>

<b>Task</b>	<b>Operation and further enhancements of the Agency's REMIT Information Systems (ARIS)</b>
Priority level	1: Critical (concerning the operation of ARIS); 2: Important (concerning further enhancements of ARIS)

Legal basis	Articles 7 to 10 and 12 of Reg. 1227/2011
WP objectives for 2020	<p>The Centralised European Register of Energy Market Participants (CEREMP) was established in 2014 and the European register of market participants was launched on 17 March 2015. The Agency's REMIT Information System (ARIS) was established in 2014 and launched in January 2015 for the registration of reporting parties and in October 2015 and April 2016 for the collection of trade and fundamental data. This task includes the following:</p> <p>Operation of the Agency's REMIT Information Systems includes the operation and further development and, if necessary, enhancements of:</p> <ul style="list-style-type: none"> <li>a. CEREMP: <ul style="list-style-type: none"> <li>i. Ongoing operations ensuring operational reliability and</li> <li>ii. Further development and enhancement of CEREMP (if additional resources become available in the course of 2020),</li> </ul> </li> <li>b. ARIS for collection of trade, fundamental and other data, market monitoring and for data sharing with NRAs and other relevant authorities, in connection with the REMIT implementing acts: <ul style="list-style-type: none"> <li>i. Ongoing operations ensuring operational reliability and</li> <li>ii. The following further development and enhancements of ARIS, depending on available resources:</li> </ul> </li> </ul> <p>Implementation of the outcomes of the public consultation on the changes to electronic formats for transaction data, fundamental data and inside information reporting performed in Q4 2017 (postponed from previous years for budgetary reasons) limited to the minimum necessary to improve data quality, unless additional resources would become available during 2020;</p> <p>Enhancements in order to accommodate potential electronic format changes in data collection and/or of the Agency's data sharing solution with NRAs due to regulatory developments, market design changes and/or market developments limited to the minimum necessary, unless additional resources would become available during 2020;</p> <p>Enhancements of the Agency's Case-Management-Tool and Notification Platform if additional resources would become available during 2020;</p> <p>REMIT Portal upgrades to improve the support for the REMIT stakeholder management if additional resources would become available during 2020.</p> <p>Specific objective: To operate the Agency's REMIT Information Systems operationally reliable.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>

Performance indicators and targets (deadlines)	99% of planned system availability.
Achievement against target	<p>ACER has pointed out several critical risks in the light of budget constraints and chronic under-investments over several years in the Programming Document (PD) 2020-2022 as in previous PDs, <i>inter alia</i> relating to the operation and further enhancements of ARIS and ensuring operational reliability and data protection. These critical risks materialised in several downtimes of ARIS during 2020, most prominently in a total downtime between 1 and 4 December 2020 and an unavailability of data collection and data sharing services between 4 and 11 December 2020.</p> <p>From a software development point of view, ARIS has an accumulated technical debt following several years of under-investment due to budgetary constraints. For instance, the following software enhancements of ARIS were already planned for several years, but could never be implemented for budgetary reasons:</p> <ul style="list-style-type: none"> <li>- Further development and enhancement of CEREMP due to the changes of the ACER registration form made in 2017/2018;</li> <li>- Sample transaction data requests for market participants from the Agency's REMIT Information System 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;</li> <li>- Enhancements of the Agency's Case Management Tool and Notification Platform, which were postponed beyond 2019.</li> </ul> <p>In addition, performance related optimisations due to the increasing data collection (and another duplication of data volume in 2020) could not be implemented in 2020 due to budget constraints.</p> <p>99% system availability could therefore not be achieved in 2020.</p>

Task	Ensuring operational reliability and data protection
Priority level	1: Critical
Legal basis	Articles 11 and 12 of Reg. 1227/2011
WP objectives for 2020	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>Specific objective: To ensure data protection and operational reliability.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>Time from discovery of an incident until resolution;</p> <p>Time from discovery until escalation to Director/stakeholders.</p>
Achievement against target	<p>The project for the renewal of ARIS infrastructure was completed and the Disaster Recovery site was re-established in 2020 and has since then been operational.</p> <p>ACER succeeded in keeping the time from discovery of an information security incident until escalation well below 48 hours in 2020, but did not achieve this goal for the time from discovery of an information security incident until resolution related to system availability due to resource constraints. There was no impact on confidentiality or integrity of REMIT information.</p>

<b>Task</b>	<b>Cooperation with NRAs and their coordination</b>
Priority level	1: Critical
Legal basis	Articles 10 and 16 of Regulation (EU) No 1227/2011
WP objectives for 2020	<p>The cooperation with NRAs and their coordination is an ongoing activity that aims to ensure that a coordinated approach is taken and that NRAs carry out their activities under REMIT in a coordinated and consistent way.</p> <p>Specific objectives: Development of a common understanding on REMIT policy matters with NRAs and promotion of best practices for the application of REMIT.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>Publication of ACER Guidance and REMIT Q&amp;As on an ad-hoc basis;</p> <p>Promotion of best practices for the implementation of REMIT.</p>
Achievement against target	<p>ACER and NRAs cooperated closely and promoted best practices through the ACER Market Integrity and Transparency Working Group and the REMIT Coordination Group and its subgroups. For efficiency reasons, as of end 2020 the two groups were merged into a newly established ACER REMIT Committee with several subgroups.</p> <p>The Agency published the following updates of its ACER Guidance and its REMIT Q&amp;A document in cooperation with NRAs in 2020:</p>

	<ul style="list-style-type: none"> <li>- <a href="#">5<sup>th</sup> edition of ACER Guidance</a> on 8 April 2020;</li> <li>- updated <a href="#">5<sup>th</sup> edition of ACER Guidance</a> on 18 November 2020;</li> <li>- 23<sup>rd</sup> and 24th editions of <a href="#">REMIT Q&amp;As</a> on 30 June and 16 December 2020.</li> </ul>
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Task	Cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries
Priority level	2: Important
Legal basis	Articles 8, 10 and 19 of Regulation (EU) No 1227/2011
WP objectives for 2020	<p>The cooperation with ESMA, competent national financial market authorities and other relevant authorities is an ongoing activity that aims to ensure that a coordinated approach is taken on data collection under REMIT and similar transaction reporting regimes in EU financial legislation. The Agency may also develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular with those that have an impact on the Union energy wholesale market, in order to promote the harmonisation of the regulatory framework. Memoranda of Understanding are currently in place with ESMA, NVE and FERC.</p> <p>Specific objectives: Cooperation with other relevant authorities on REMIT-related matters.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Implementation of the MoUs in practice through an ad-hoc exchange of information and/or meetings with the relevant authorities.
Achievement against target	<p>The cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries remained at a similar minimum level of cooperation as in previous years due to the lack of human resources.</p> <p>ACER and ESMA held one meeting at management and technical level in February 2020;</p> <p>Ad hoc participation of ACER staff in the ESMA Commodity Derivatives Task Force and ad hoc participation of ESMA staff in the ACER Market Integrity and Transparency Working Group;</p> <p>Ad hoc participation of NVE and the Energy Community Secretariat staff in the ACER Market Integrity and Transparency Working Group.</p>

Task	Annual Report on the Agency activities under REMIT
Priority level	2: Important
Legal basis	Article 7(3) of Regulation (EU) No 1227/2011
WP objectives for 2020	<p>The Agency submits at least on an annual basis a Report to the Commission on its activities under REMIT.</p> <p>In order to streamline the use of human resources, the REMIT Annual Report will be replaced by the quarterly reports of the “REMIT Quarterly”. In addition, a consistent part of the issues to be dealt with in the report may be included in the Agency’s Market Monitoring Report.</p> <p>This is a shared task of the Market Integrity and Transparency Department and the Market Surveillance and Conduct Department.</p> <p>Specific objectives:</p> <p>To 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.</p> <p>Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>Provide recommendations for potential reviews of REMIT, in particular according to Article 6 of REMIT, in view of potential needs to align REMIT definitions with new relevant Union legislation in the fields of financial services and energy, or in view of new developments on wholesale energy markets or of REMIT implementing acts.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Quarterly publications of the REMIT Quarterly.
Achievement against target	Publications of <a href="#">four quarterly editions of the REMIT Quarterly in 2020</a> .

Task	Facilitation of the stakeholder involvement, as required, pursuant to REMIT and the REMIT Implementing Regulation
Priority level	1: Critical (for material updates of the REMIT reporting user package as consultations are legally required); 2: Important (for other consultations with stakeholders)
Legal basis	Article 14 of Regulation (EU) 2019/942; Article 8 of Regulation (EU) No 1227/2011; Articles 5(2), 10(3) and 11(1) of Commission Regulation (EU) No 1348/2014
WP objectives for 2020	<p>The Agency is obliged to consult stakeholders on material updates of the REMIT reporting user package and may consult stakeholders on different aspects of the implementation and operation of REMIT data collection.</p> <p>Involvement of stakeholders will ensure wider acceptance of REMIT data collection and any potential changes on REMIT data collection.</p> <p>Specific objective:</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Ongoing dialogue on the REMIT data collection regime aiming at improvements at EU level.
Achievement against target	<p>The Agency consulted relevant stakeholders on material updates of the REMIT reporting user package. On 9 October 2020, the Agency held the 4<sup>th</sup> Energy Market Integrity and Transparency Forum with energy market stakeholders. In addition, the Agency held stakeholder roundtable meetings with Associations of Energy Market Participants, Organised Market Places and Inside Information Platforms from 24 to 26 October 2020 and ad hoc expert group meetings on 22 January, 3 March and 22 July 2020. Since the expert group had served for a period of two and a half years in mid-2020, a new call for the establishment of another consultative Expert Group on wholesale energy market trading, integrity and transparency in 2021 was launched on 1 October 2020.</p>

## B. Market Surveillance and Conduct

In 2017, the Agency started effective and efficient EU-wide market surveillance of wholesale energy markets to detect market manipulation and insider trading on the basis of an agreed market surveillance strategy with NRAs based on collected 'REMIT data'. With this activity the Agency contributes to the trust in wholesale energy market price formation and protects EU consumers from unfair prices as a result of market manipulation and insider trading. This activity has to be carried out in close cooperation with NRAs and other authorities.

This scope of market surveillance and conduct activities 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 based on an automatic methodology using bespoke alerts;
- 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;
- screening, registering and assessing notifications on suspicious trading instances reported by national authorities, organised market places and market parties;
- coordinating and notifying NRAs on market abuse cases;
- notifying financial regulators and ESMA on potential market abuse cases on wholesale energy products that are financial instruments in the scope of the Market Abuse Regulation (MAR);
- coordinating and providing guidance on the (consistent) application of market abuse rules;
- coordinating investigatory groups on cross-border cases;
- providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations.

In particular for market surveillance, 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.

Moreover, 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, organisation and management of statutory meetings and publishing Guidance to NRAs on the application of market abuse prohibitions.

In 2020, the available human and financial resources for market surveillance tasks and case coordination activities were insufficient to fully deliver the mandate of the Agency. As a result:

- the market surveillance activities were necessarily scaled down to what could be achieved with the resources available, rendering backlogs of unprocessed triggered alerts. More specifically, market surveillance focused on cross-border trading aspects as NRAs

cannot cover this themselves since they do not have and cannot have an EU-wide vision of wholesale energy trading;

- the enhancement of existing alerts and development of additional bespoke alerts, which are used to screen the EU wholesale markets and detect anomalous instances of trading behaviour, was significantly slowed down and therefore the market surveillance coverage remained unaltered;
- enhancements of the Case Management Tool for the purpose of cooperation with NRAs were postponed;
- the Agency kept the suspension to the creation of cross-border investigatory groups on market abuse cases;
- providing operational assistance to national regulatory authorities, upon their request, regarding REMIT investigations (pursuant to Article 6(8) of Regulation (EU) No 2019/942) was postponed; and
- given the available human resources, for the above mentioned tasks in 2020 the Agency prioritised cases and triggered alerts, and continued to work with backlogs.

In relation to the implementation of EU-wide market surveillance activities and case conduct coordination activities, the Agency worked on the following tasks:

Task	Market surveillance of trading activity in wholesale energy markets
Priority level	1: Critical
Legal basis	Article 7 and 8 of Regulation (EU) 1227/2011
WP objectives for 2020	<p>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.</p> <p>Specific objectives:</p> <p>Market Monitoring of the data collected according to Article 8 of Reg. (EU) 1227/2011.</p> <p>Increased integrity and transparency of wholesale energy markets. Detection of abusive practices.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>

Performance indicators and targets (deadlines)	100% of the prioritised cross-border triggered alerts are preliminarily assessed and disseminated with NRAs in a secure way.
Achievement against target	<p>The Agency performed efficient and effective market surveillance pursuant to Article 7 of REMIT. Business continuity, based on telework, was to a large extent ensured for market surveillance activities following the COVID-19 pandemic.</p> <p>The automated market surveillance screening of REMIT data triggered around 85,000 alerts, of which 10,000 were classified as “high-intensity” alerts. 90% of these were assessed by surveillance experts of the Agency. In total 500 manually assessed alerts were shared with NRAs for their follow up as potential breaches of REMIT, as they are responsible for investigation and enforcement under REMIT. In some of these alerts REMIT cases were opened by NRAs. 600 high-intensity alerts were backlogged 2020. In several instances the Agency followed the shared alerts up by providing an initial assessment kick-starting the investigation of the relevant national regulatory authority.</p> <p>Nevertheless, the Agency lacks the required human and financial resources to fully perform this task. Therefore, the Agency had to resort to prioritisation in the manual assessment of triggered alerts with only a fraction of these being (manually) assessed. Moreover, the level of data quality requires further improvement.</p> <p>The alerts triggering on cross-border trading is a priority for the Agency, although overall market monitoring activities go beyond it.</p> <p>Due to the pandemic setting, the Market Surveillance Forum was postponed to 2021, however ACER organised a virtual EMIT Forum.</p>

Task	Cooperation with NRAs on market conduct activities
Priority level	1: Critical
Legal basis	Article 16(1) of Regulation (EU) 1227/2011; Article 6(8) of Regulation (EU) 2019/942
WP objectives for 2020	<p>The coordination of NRAs and other relevant authorities, including at the regional level, without prejudice to their responsibilities, aiming to promote best practices for the implementation of REMIT and to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way is ongoing. This may include the update of the Agency’s guidance on the application of REMIT, and coordination of NRAs’ investigation activities on cross-border market abuse instances.</p> <p>Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</p>

	<p>Ensuring that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way, including the update of the Agency's guidance on the application of REMIT definitions and coordination of NRAs' investigation activities on cross-border market abuse instances.</p> <p>Assistance to national regulatory authorities regarding their REMIT investigations.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	<p>95% of all NRA decisions consistent with the ACER guidance.</p> <p>0% chance of not notifying priority cases to the relevant authorities.</p>
Achievement against target	<p>In 2020, under ACER coordination, NRAs issued 12 Decisions in cases of market abuse under REMIT with a total of fines exceeding EUR 50 million. <a href="#">Three Decisions</a> were announced publicly. All Decisions issued are final with the exception of 2 that are currently under appeal. All issued Decisions were consistent with REMIT and the ACER Guidance.</p> <p>In 2020, the Agency received and administratively processed 127 suspicious transactions reports from market participants, organised market places and other stakeholders that resulted in the creation of 102 new cases of potential breaches of REMIT that were duly notified to the relevant regulatory authorities. The coordination actions by the Agency resulted in the sharing of 529 documents and 224 requests between ACER and NRAs in the course of the year. More information can be found <a href="#">here</a>.</p> <p>At the end of 2020 the Agency was responsible for the coordination of 282 potential breaches of REMIT. Out of these, the Agency prioritised 82 cases for proactive follow-up, not being able to appropriately fulfil its coordination obligations for the remaining 200 cases due to lack of human resources.</p> <p>The Agency also abstained from creating any cross-border investigatory group in the course of 2020 due to lack of resources.</p> <p>ACER prepared, facilitated and chaired five Market Monitoring Standing Committee meetings with NRAs.</p> <p>Providing operational assistance to NRAs, upon their request, regarding REMIT investigations (pursuant to Article 6(8) of Regulation (EU) 2019/942) was not performed due lack of resources.</p>

<b>Task</b>	<b>Cooperation on conduct-related activities with ESMA, competent national financial market authorities and with supervisory authorities, international organisations and the administrations of third countries</b>
Priority level	2: Important

Legal basis	Articles 10, 16 and 19 of Regulation (EU) No 1227/2011
WP objectives for 2020	<p>The cooperation with ESMA, competent national financial market authorities and other relevant authorities is an ongoing activity that aims to ensure that a consistent approach is taken on cases. The Agency may also develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular with those that have an impact on the Union energy wholesale market, in order to promote the harmonisation of the regulatory framework. Memoranda of Understanding are currently in place with ESMA, NVE and FERC.</p> <p>Specific objectives: Cooperation with other relevant authorities on REMIT-cases and in particular the notification of cases between NRAs and competent national financial market authorities.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Performance indicators and targets (deadlines)	Conclusion of MoUs with additional relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.
Achievement against target	<p>ACER consulted ESMA and the competent financial market authorities on the new version of Chapter 5 of the 5<sup>th</sup> edition of the ACER Guidance on the application of the definition of inside information under REMIT.</p> <p>Coordination with ESMA and financial authorities occurred on all identified cases that involve wholesale energy products that are financial instruments.</p> <p>The multilateral annual meeting between ESMA, ACER, NRAs and Financial Market Authorities (FMAs) on market abuse enforcement on the energy markets (ETEF – Energy trading enforcement Forum) was postponed to 2021 due to COVID-19 restrictions in place.</p> <p>The cooperation with NVE continued as in previous years with the involvement of the national regulator in the ACER statutory meetings and its consultation on the new ACER Guidance issued.</p>

<b>Task</b>	<b>Development of applied surveillance and conduct business intelligence tools</b>
Priority level	2: Important
Legal basis	Article 7, 8 and 16(1) of Regulation (EU) 1227/2011

<p>WP objectives for 2020</p>	<p>The development and enhancements of the Agency’s main screening tool for market monitoring is an ongoing activity. The Agency has delivered six detailed business requirements for alerts, which have been implemented and put in production since 2017. Enhancement of existing alerts contributes to a more efficient and effective market monitoring while the development of additional alerts will contribute to a more comprehensive market surveillance.</p> <p>Moreover, the Agency developed the business requirements for the Notification Platform and the Case Management Tool. Through the former, the Agency receives suspicious transaction reports in a secure way and with the latter, the Agency securely stores and shares with NRAs REMIT cases and other related information. The implementation of several improvements to these IT tools could further automate some of the current manual work.</p> <p>Hence, successfully tested and fully implemented IT tool enhancements allow the Agency to deliver in a more efficient way on market surveillance of trading activity in wholesale energy markets and cooperation with NRAs on market conduct activities.</p> <p>Specific objective and multi-annual objective: enhance and develop detailed business requirements for the Agency’s REMIT data screening tool, the Notification Platform and the Case Management Tool.</p>
<p>Performance indicators and targets (deadlines)</p>	<p>Annually delivering business requirement enhancements of existing tools for market monitoring and storing and dissemination of case related information in a secure way.</p>
<p>Achievement against target</p>	<p>The enhancement of the Case Management Tool (CMT) for the purpose of securely exchanging sensitive information on REMIT cases with NRAs was not executed.</p> <p>During the pandemic the required restoring of the business requirements for the activity of case coordination between NRAs and ACER were not executed. Hence, no secure remote access was provided to the Case Management Tool for the relevant staff of the Market Surveillance and Conduct Department. This delayed the processing of cases in the CMT.</p> <p>The development and enhancements of the Agency’s main screening tool for EU wide market surveillance was significantly hampered in 2020 due to a lack of available financial resources.</p>

### C. Internal Electricity Market

The Agency continued to support the implementation of the adopted Network Codes and Guidelines, as well as of the Electricity Regulation, to monitor their effective implementation and impact on the functioning of the Internal Electricity Market and to assess the need for amendments of the existing Network Codes and Guidelines.

## I. Implementation of Network Codes: Adoption of terms and conditions or methodologies

Task	Assistance to the adoption of regional-wide decisions on the terms and conditions or methodologies pursuant to network codes and guidelines
Priority level	1: Critical
Legal basis	Articles 5 and 6 of Regulation (EU) 2019/942
WP objectives for 2020	<p>The network codes and guidelines establish numerous obligations for TSOs to develop proposals for regional terms and conditions or methodologies, which need to be approved by a group of NRAs. There are 28 terms and conditions or methodologies that need to be developed by TSOs and approved and NRAs of specific regions, where the number of regions established for different purposes varies between 5 and 10. In many cases, the terms and conditions or methodologies have already been adopted, but may need to be amended.</p> <p>As these approval procedures need to be coordinated, ACER facilitates such coordination within ACER's working groups' structures as well as within NRA's regional structures where ACER is invited.</p> <p>ACER can also be requested to provide opinions and recommendations pursuant to the adopted network codes and guidelines.</p> <p>ACER can be requested to issue a decision at the request of NRAs or when the latter are not able to reach consensus.</p> <p>Finally, ACER is entitled to decide directly on the regional terms and conditions or methodologies when these have an impact beyond the concerned region.</p> <p>Specific objective: ACER will provide a framework for the cooperation among NRAs and will strive to facilitate the reaching of an agreement among the involved NRAs on whether to require amendments, amend, approve or reject the proposed terms and conditions or methodologies.</p> <p>ACER will monitor cooperation of NRAs in order to plan ACER's resources for the cases where these proposals are referred to ACER for a decision.</p> <p>Multi-annual objective: contribute to the completion and well-functioning of the IEM.</p>
AWG input	The Electricity Working Group was regularly informed about the progress made in the coordinated decisions of NRAs on the proposed terms and conditions or methodologies.

<p>Performance indicators and targets (deadlines)</p>	<p>ACER delivered support and opinions to NRAs, when deciding on regional terms and conditions or methodologies in a timely manner.</p> <p>All decisions on regional terms and conditions or methodologies adopted by ACER in the area of electricity have been adopted within the required 6 month deadline. There were three exceptions, namely three decisions were adopted with a two-month delay due to practical and legal considerations, as well as due to circumstances related to the COVID pandemic.</p>
<p>Achievement against target</p>	<p>In 2020 ACER adopted the following decisions on terms and conditions or methodologies in the area of electricity:</p> <ol style="list-style-type: none"> <li>1. <a href="#"><u>ACER Decision 06-2020 on the Extension of Decision Deadline for the Long-Term Capacity Calculation Methodology in Hansa Region</u></a></li> <li>2. <a href="#"><u>ACER Decision 14-2020 on the Extension of Decision Deadline for a Capacity Calculation Methodology, Application of Coordinated NTC Approach and the Methodology for Coordinated Redispatching and Countertrading in Hansa Region</u></a></li> <li>3. <a href="#"><u>ACER Decision 15-2020 on the Extension of Decision Deadline for the Methodology for Cost Sharing of Redispatching and Countertrading in Hansa Region</u></a></li> <li>4. <a href="#"><u>ACER Decision 19-2020 on the Common Rules for Procurement of Balancing Capacity from Automatic Frequency Restoration Reserves in Nordic Load-Frequency Control Block</u></a></li> <li>5. <a href="#"><u>ACER Decision 20-2020 on the Exemption for Transfer of Balancing Capacity from Automatic Frequency Restoration Reserves in Nordic Load-Frequency Control Block</u></a></li> <li>6. <a href="#"><u>ACER Decision 21-2020 on the Application of the Market-Based Allocation Process in Nordic Region</u></a></li> <li>7. <a href="#"><u>ACER Decision 22-2020 on the Methodology for Market-Based Allocation Process of Cross-zonal Capacity for the Nordic Region</u></a></li> <li>8. <a href="#"><u>ACER Decision 27-2020 on Rejecting the Baltic Capacity Calculation Region TSOs' Proposal for the Long-Term Capacity Calculation Methodology</u></a></li> <li>9. <a href="#"><u>ACER Decision 28-2020 on the Request of the Regulatory Authorities of Continental Europe Synchronous Area to Extend the Period for Reaching an Agreement on the Proposal for Additional Properties for Frequency Containment Reserves</u></a></li> <li>10. <a href="#"><u>ACER Decision 30-2020 on the Core Capacity Calculation Region TSO's Proposal for the Methodology for Cost Sharing of Redispatching and Countertrading</u></a></li> <li>11. <a href="#"><u>ACER Decision 31-2020 on the South East Europe Capacity Calculation Region TSO's Proposal for the Methodology for Cost Sharing of Redispatching and Countertrading</u></a></li> <li>12. <a href="#"><u>ACER Decision 32-2020 on the Methodology for Splitting Long-Term Cross-Zonal Capacity for South-East Europe Region</u></a></li> <li>13. <a href="#"><u>ACER Decision 33-2020 on the Methodology for Regional Operational Security Coordination for the Core Capacity Calculation Region</u></a></li> </ol>

	<p>14. <a href="#">ACER Decision 34-2020 on the Methodology for Regional Operational Security Coordination for the South-East Europe Capacity Calculation Region</a></p> <p>15. <a href="#">ACER Decision 35-2020 on the Methodology for Coordinated Redispatching and Countertrading for the Core Capacity Calculation Region</a></p>
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<b>Task</b>	<b>EU-wide Decisions on the terms and conditions or methodologies pursuant to Network Codes and Guidelines and pursuant to Article 7 of the Electricity Regulation</b>
Priority level	1: Critical
Legal basis	Articles 5, 6 and 7 of Regulation (EU) 2019/942
WP objectives for 2020	<p>The network codes and guidelines establish numerous obligations for TSOs and other entities to develop proposals for terms and conditions or methodologies. Some of these methodologies are developed by all TSOs or all NEMOs and ACER is tasked to make a decision on them. Finally, many of these methodologies have already been adopted, but may require amendments, approval of which may also fall within the competence of ACER.</p> <p>Specific objective: When ACER becomes competent for the proposals from TSOs or NEMOs it needs to adopt a decision on the proposal within the legal deadline. The decision requires a favourable opinion of Board of Regulators.</p> <p>Multi-annual objective: contribute to the completion and well-functioning of the IEM.</p>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group was consulted on the draft decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	All decisions on EU-wide terms and conditions or methodologies adopted by ACER in the area of electricity were adopted within the required 6 month deadline.
Achievement against target	<p>In 2020 ACER adopted the following decisions on terms and conditions or methodologies in the area of electricity:</p> <ol style="list-style-type: none"> <li>1. <a href="#">ACER Decision 01-2020 on the Methodology for Pricing of Balancing Energy</a></li> <li>2. <a href="#">ACER Decision 02-2020 on the Implementation Framework for the European Platform for Automatic Frequency Restoration Reserves</a></li> <li>3. <a href="#">ACER Decision 03-2020 on the Implementation Framework for the European Platform for Manual Frequency Restoration Reserves</a></li> </ol>

	<ol style="list-style-type: none"> <li>4. <a href="#"><u>ACER Decision 04-2020 on the Amendment of the Price Coupling Algorithm and Continuous Trading Matching Algorithm</u></a></li> <li>5. <a href="#"><u>ACER Decision 05-2020 on the Amendment of Products for Single Intraday Coupling</u></a></li> <li>6. <a href="#"><u>ACER Decision 10-2020 on the Definition of System Operation Regions</u></a></li> <li>7. <a href="#"><u>ACER Decision 11-2020 on the Standard Products for Balancing Capacity for Frequency Restoration Reserves and Replacement Reserves</u></a></li> <li>8. <a href="#"><u>ACER Decision 12-2020 on the Methodology for Co-Optimised Allocation Process of Cross-Zonal Capacity</u></a></li> <li>9. <a href="#"><u>ACER Decision 13-2020 on the Implementation Framework for the European Platform for the Imbalance Netting Process</u></a></li> <li>10. <a href="#"><u>ACER Decision 16-2020 on the Methodology for Classifying the Activation Purposes of Balancing Energy Bids</u></a></li> <li>11. <a href="#"><u>ACER Decision 17-2020 on the Common Settlement Rules for Intended Exchanges of Balancing Energy</u></a></li> <li>12. <a href="#"><u>ACER Decision 18-2020 on the Harmonisation of the Main Features of Imbalance Settlement</u></a></li> <li>13. <a href="#"><u>ACER Decision 25-2020 on the Methodology for Sharing Firmness and Remuneration Costs of Long-Term Transmission Rights</u></a></li> <li>14. <a href="#"><u>ACER Decision 29-2020 on the Methodology and Assumptions that Are to Be Used in the Bidding Zone Review Process and for the Alternative Bidding Zone Configurations to Be Considered</u></a></li> <li>15. <a href="#"><u>ACER Decision 37-2020 on the Products That Can Be Taken Into Account in the Single Day-Ahead Coupling</u></a></li> </ol>
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## II. Implementation of Network Codes: Monitoring and reporting on implementation

Task	Facilitating the implementation of specific obligations pursuant to network codes and Guidelines and terms and conditions or methodologies
Priority level	1: Critical
Legal basis	Article 32(1) of Regulation (EU) 2019/943 and Article 5(1)(d) of the Regulation (EU) 2019/942
WP objectives for 2020	<p>Overseeing projects for implementation of specific obligations pursuant to network codes and guidelines and terms and conditions or methodologies.</p> <p>Facilitating resolution of implementation problems by providing (informal) opinions, recommendations as well as guidance.</p> <p>Informing and supporting the European Commission and the NRAs in executing their tasks with regard to monitoring the compliance of TSOs and NEMOs.</p>

	<p>Specific objective: Ensure timely and efficient finalisation of projects designed to implement the specific obligations pursuant to network codes and guidelines and terms and conditions or methodologies.</p> <p>Monitor the progress made in the implementation projects.</p> <p>Facilitate the resolution of problems.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.</p>
AWG input	The Electricity Working Group was informed on the specific problems and delays in the implementation projects.
Performance indicators and targets (deadlines)	<p>Timely delivery of implementation monitoring reports.</p> <p>In all the implementation projects, ACER provided timely and effective support and guidance where needed and facilitated the resolution of problems and disagreements.</p>
Achievement against target	<p>In 2020 ACER actively participated in several implementation projects of pan-European, provided informal guidance where needed and facilitated resolution of problems and disagreements. These projects were:</p> <ol style="list-style-type: none"> <li>1. European Platform for Automatic Frequency Restoration Reserves;</li> <li>2. European Platform for Manual Frequency Restoration Reserves;</li> <li>3. European Platform for Imbalance Netting;</li> <li>4. Core CCR day-ahead and intraday capacity calculation methodology;</li> <li>5. Interim Coupling Project for Coupling the MRC and 4MMC projects;</li> <li>6. Core CCR day-ahead coupling project;</li> </ol> <p>Single day-ahead and single intraday coupling development and extensions.</p>

<b>Task</b>	<b>Reporting on the implementation of the Network Codes or Guidelines</b>
Priority level	1: Critical
Legal basis	Article 32 of Regulation (EU) 2019/943 and Article 5(1)(e) of the Regulation (EU) 2019/942
WP objectives for 2020	<p>Implementation monitoring report on issues that were not implemented in a timely manner and the practical and legal problems encountered during the implementation including the recommendations for improvements.</p> <p>Specific objective: Deliver the implementation monitoring reports and providing practical recommendations. Engage with ENTSO-E,</p>

	<p>TSOs and NRAs in this process, for data collection and information exchange.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.</p>
AWG input	The Electricity Working Group was consulted on the implementation monitoring reports.
Performance indicators and targets (deadlines)	Timely delivery of implementation monitoring reports.
Achievement against target	<p>Updating on the state of play concerning the implementation of the Network Codes and Guidelines.</p> <p>In 2020, ACER published the following implementation monitoring reports:</p> <p><a href="#">ACER Report on Monitoring the Implementation of the Network Codes on Requirements for Generators - Third Edition</a></p> <p><a href="#">ACER Report on Monitoring the Implementation of the Network Codes on Demand and HVDC Connections - Second Edition</a></p>

<b>Task</b>	<b>Data collection for monitoring the Network Codes and Guidelines</b>
Priority level	<p>Data collection tools: 1: Critical</p> <p>Data quality work: 1: Critical</p>
Legal basis	Article 30(5) and 32 of Regulation (EU) 2019/943
WP objectives for 2020	<p>Development and improvements of specifications for data collection from ENTSO-E, NEMOs and NRAs for the purpose of monitoring the Network Codes and guidelines.</p> <p>Development and improvements of tools and databases for data processing and exchange for the purpose of monitoring the Network Codes and Guidelines.</p> <p>Specific objective: Continuous coordination with ENTSO-E, NEMOs and NRAs to find suitable and adequate data requirements and data exchange channels.</p> <p>Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.</p>
AWG input	The Electricity Working Group was consulted about these activities.

Performance indicators and targets (deadlines)	Improved reports supported by effective data specifications and exchange channels. Established effects monitoring indicators.
Achievement against target	Efficient and effective data specifications and exchange channels. In 2020, ACER and ENTSO-E signed an amendment to the Agreement for the ACER–ENTSO-E Data Provision to include the list of data to be monitored as per the SO Regulation. The collection of the aforementioned data is ongoing.

### III. Implementation of Network Codes: Facilitating involvement of stakeholders

Task	Ensuring a proper involvement of stakeholders in the implementation and monitoring of network codes and guidelines
Priority level	1. Critical
Legal basis	Article 11 of Regulation (EU) 2015/1222 and equivalent Articles in other Network Codes and Guidelines
WP objectives for 2020	Facilitate the involvement of stakeholders in the implementation of the Network Codes and Guidelines. Organise the European Stakeholder Committees. Ensure the stakeholders are informed and are able to provide inputs to the implementation process for the Network Codes and Guidelines. Multi-annual objective: Contribute to the completion and well functioning of the IEM.
Outputs	Organisation of the European Stakeholder Committee meetings.
AWG input	Electricity Working Group was regularly informed about the possible concerns and inputs from stakeholders. Electricity Working Group representatives are invited to European Stakeholder Committee meetings.
Performance indicators and targets (deadlines)	Stakeholders support and satisfaction with the implementation process.
Achievement against target	Organisation of the European Stakeholder Committee meetings.

#### IV. Amendments of the existing Network Codes and Guidelines

<b>Task</b>	<b>Review of the requests for amendments to the adopted network codes and guidelines from interested persons and developing recommendations for amendments of network codes and guidelines</b>
Priority level	1: Critical or 2: Important, depending on the request.
Legal basis	Article 60 of Regulation (EU) 2019/943, as well as the consultation requirements from Article 14 of Regulation (EU) 2019/942
WP objectives for 2020	<p>Collect proposals for amendments and issue recommendations for amendments to the legal texts, where necessary.</p> <p>Propose, on own initiative and in coordination with the European Commission, revisions to improve the quality of the legislative texts.</p> <p>Follow up on stakeholders' notifications and, where necessary propose amendments based on Article 60 of Regulation (EU) 2019/943, as an outcome of the notifications received.</p> <p>Specific objective: create a framework to enable ACER to collect proposals for amendments and ensure stakeholder involvement to the process. IT needs to be able to cater stakeholders' proposals.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>
AWG input	The Electricity Working Group was consulted on the scoping of the areas of the amendment of the Regulation (EU) 2015/1222 (CACM Regulation).
Performance indicators and targets (deadlines)	<p>Timely identification of the needs to amend legal texts and issuing of Recommendations for amendments.</p> <p>ACER delivered the results of scoping the areas for amendment of the Regulation (EU) 2015/1222 (CACM Regulation) within the deadline requested by European Commission.</p>
Achievement against target	Based on an invitation from the European Commission in 2020 ACER started scoping the areas for amendment of the Regulation (EU) 2015/1222 (CACM Regulation). By the end of 2020, ACER informed the European Commission about the results of the scoping and outlined the areas in which the CACM Regulation needs to be improved.

## V. Tariff Methodologies

Task	Best practice report on the transmission and distribution tariff methodologies
Priority level	1: Critical
Legal basis	Article 18(9) of Regulation (EU) 2019/943
WP objectives for 2020	<p>An ACER report providing a status review of NRA practices regarding transmission tariffs is to be published by the end of 2019. The report will be followed by a separate ACER report on distribution tariffs towards the end of 2020. These reports will contribute to the ACER best practice report on transmission and distribution tariff methodologies, which has to be updated every two years.</p> <p>The best practice report shall address at least:</p> <ul style="list-style-type: none"> <li>(a) the ratio of tariffs applied to producers and tariffs applied to final customers;</li> <li>(b) the costs to be recovered by tariffs;</li> <li>(c) time-differentiated network tariffs;</li> <li>(d) locational signals;</li> <li>(e) the relationship between transmission tariffs and distribution tariffs;</li> <li>(f) methods to ensure transparency in the setting and structure of tariffs;</li> <li>(g) groups of network users subject to tariffs including, where applicable, the characteristics of those groups, forms of consumption, and any tariff exemptions;</li> <li>(h) losses in high, medium and low-voltage grids.</li> </ul>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group was consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	<p>Timely delivery of the Report.</p> <p>The report was delivered with a slight delay due to the need for additional clarifications to ensure consistency among NRA inputs.</p>
Achievement against target	ACER published its <a href="#">Report on distribution tariffs</a> on 10 February 2021. The report completed the 2020 ACER report on transmission tariffs and constitutes a further step to deliver best practices on transmission and distribution tariff methodologies, as well as towards pursuing the objectives to increase transparency and comparability in tariff-setting.

## VI. Use of Congestion Income

Task	Use of revenues shall be subject to a methodology approved by the Agency
Priority level	1: Critical
Legal basis	Article 19(4) of Regulation (EU) 2019/943
WP objectives for 2020	<p>New task</p> <p>According to Article 19(4) of Regulation (EU) 2019/943, ACER shall decide on the methodology on the use of congestion revenues proposed by the transmission system operators within six months of receiving it. According to the law the proposed methodology shall be submitted to ACER by 5 July 2020.</p> <p>According to Article 19(5) of Regulation (EU) 2019/943, by 1 March each year, the NRAs shall inform ACER and shall publish a report on congestion income. As such, ACER will monitor the use of congestion revenues and its compliance with the methodology.</p> <p>ACER may request transmission system operators to amend or update the methodology referred to in the first subparagraph. ACER shall decide on the amended or updated methodology not later than six months after its submission.</p>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group will be consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	<p>Timely delivery of the decision. The activity is expected to start in July 2020 and finish in January 2021.</p> <p>ACER issued its decision in December 2020.</p>
Achievement against target	<p><a href="#">Decision on the Methodology for the use of congestion income.</a></p> <p>The decision was issued together with a recommendation to the NRAs to streamline the reporting activity on the use of congestion income (see below tasks under specific conditions).</p>

## VII. Other Tasks subject to specific conditions

### Tasks initiated by others

In 2020, the Agency could have been called to perform the following tasks on request, however no such requests were received:

- “Peer reviews”, as submitted to the Agency pursuant to Article 6(5) of Regulation (EU) 2019/942;
- Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942;
- Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission;
- Recommendations to assist NRAs and market players in sharing good practices, with regard to the implementation of the Network Codes and Guidelines, where necessary.

## Opinions and Recommendations on the Agency’s own Initiative

In 2020 the Agency decided to issue:

Task	Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission
Priority level	1, 2, 3 Depending on the topic
Legal basis	Article 3 of Regulation (EU) 2019/942
WP objectives for 2020	<p>The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.</p> <p>Specific objective: further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.</p>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group was consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Achievement against target	ACER issued in December 2020 a <a href="#">recommendation to the NRAs to streamline the reporting activity on the use of congestion income</a> .

## D. Internal Gas Market

By 2020, the Network Codes implementation process in gas was well under way, and implemented in most Member States. Experience showed nonetheless that additional attention was needed for particular topics and particular Member States that were lagging behind. For this reason the regular work in terms of follow-up tasks and implementation monitoring continued.

The joint functionality process hosting a number of Network Code issues has grown significantly and more complex requests were tabled, which required more attention from the Agency, in cooperation with ENTSOG.

The Agency looks forward to the decarbonisation package and the potential reopening of the Network Codes amendment process, which stalled for several years, and once relaunched, could align the codes to the needs expressed by the market.

### I. Network Codes, implementation, monitoring and amendments

#### Implementation of Network Codes: Decisions, assistance to NRAs, advocacy

Task	Agency decisions under Article 8(1)
Priority level	1: Critical
Legal basis	Article 6 (10) of Regulation (EC) 2019/942
WP objectives for 2020	<p>The Agency shall decide upon those regulatory issues where the competent NRAs have not been able to reach an agreement within a period of six months or upon a joint request from the competent national regulatory authorities.</p> <p>Specific objective: Improve national designs, where necessary.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and the monitoring of its functioning.</p> <p>The Agency will defend its Decisions when appealed.</p>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group was consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of a decision. Timely delivery of defence notes and interventions during the appeal process.

Achievement against target	<p>Improved national designs, where necessary. The Agency participated in the appeal process to defend its Decisions, in front of the General Court (T-212/20, T-704/19, T-684/19).</p> <p>Case T-704/19 is the HUAT decision case brought up by FGSZ (<a href="#">Decision No 05/2019 of 9 April 2019</a> - request to annul the Decision based on lack of competence, etc.).</p> <p>Case T-684-19 refers also to the HUAT <a href="#">Decision (Decision No 05/2019 of 9 April 2019), brought up by MEKH</a>. Starts action on a different ground (request to annul based on Art. 263 TFEU).</p> <p>Case T-212/20 is <a href="#">Gaz System vs. ACER, on the BoA decision regarding ACER Decision 10/2019</a> (bundled gas transmission capacity at the “Mallnow” physical interconnection point and “GCP” virtual interconnection point).</p>
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<b>Task</b>	<p><b>Drafting of recommendations and opinions based on the relevant articles of the Agency Regulation</b></p> <p><b>Assistance to the NRAs and key stakeholders in relation to the NC implementation and future legislation</b></p> <p><b>Support the voluntary regional frameworks as needed</b></p>
Priority level	2. Important
Legal basis	<p>Articles 6 and 9 of Regulation (EU) 2019/942 (opinions and decisions referred to the Agency at the request of NRAs)</p> <p>Article 9 of Commission Regulation (EU) No 715/2009</p> <p>Article 42 of Gas Directive (EU) No 73/2009</p>
WP objectives for 2020	<p>Decisions, opinions issued as referred or requested.</p> <p>Implementation support, where relevant, and adaptation of designs incompatible with the codes, including ‘soft’ support actions (for example in Romania and Bulgaria in the past).</p> <p>Discussions within the framework of Regional Initiatives.</p> <p>Specific objective: Reaching the implementation targets by offering specific advice.</p> <p>Multi-annual objective: Contribute to the completion and well functioning of the IEM.</p>
AWG input	<p>According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.</p>

Performance indicators and targets (deadlines)	<p>Promote state of the art regulation.</p> <p>Promote Regional integration projects.</p>
Achievement against target	<p>The Agency took part in discussion with the NRAs bilaterally and in regional settings. The outcome of this dialogue aimed at understanding and improving national implementation designs, where this was necessary.</p> <p>ACER gave feedback to the European Commission where the national implementation required improvements.</p> <p>ACER remained active in organising coordination meetings within the framework of its Regional Initiatives.</p> <p>More information could be found: <a href="#">Gas Regional Initiatives</a>.</p>

## Reporting and monitoring

Task	Follow-up reporting and other obligations as set out in the Network Codes on Gas Transmission Tariff structures, Capacity Allocation Mechanisms, Balancing and CMP (monitoring of Congestion at interconnection points)
Priority level	1: Critical for tariffs, 2: Important, for the others
Legal basis	<p>Article 9 of Commission Regulation (EC) No 715/2009 in conjunction with:</p> <p>Article 13(3) and 36 of Commission Regulation (EU) No 2017/460 (TAR NC);</p> <p>Article 38 of Commission Regulation (EU) No 2017/459 (CAM NC);</p> <p>Article 46 (4) and Recital 11 of Commission Regulation (EU) 312/2014 (BAL NC);</p> <p>Point 2.2.2.1.2 of Annex I to the Commission's Decision of 24 August 2012 (CMP Guidelines).</p>
WP objectives for 2020	<p>Report on issues that were not reported on before (Tariffs Report), or were not implemented in a timely manner or where interim measures applied and/or were not addressed appropriately in the previous editions (Balancing Report focusing on the interim measures countries; the short report on Capacity allocation mechanisms focusing on incremental capacity and virtual interconnection points).</p> <p>Addressing specific reporting obligations (Congestion Reports).</p> <p>Specific objective: Provide the reports.</p> <p>Engage ENTSO, TSOs and NRAs in this process, for data collection and information exchange.</p> <p>Provide practical recommendations in these reports.</p>

	Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.
AWG input	The Gas Working Group will be informed as appropriate. According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of implementation monitoring reports. Applying network code effects indicators and where still relevant compliance checks. Increase transparency about the quality of network code implementation across the EU.
Achievement against target	Updating on the state of play concerning the implementation of the network codes, so far adopted. Website publication of the reports: <a href="#">The internal gas market in Europe: The role of transmission tariffs.pdf (europa.eu);</a> <a href="#">ACER Report on TAR final country sheets.pdf (europa.eu);</a> <a href="#">ACER Report on enabling short-term gas markets after interim balancing measures.pdf (europa.eu);</a> <a href="#">ACER Monitoring update on incremental capacity projects and virtual interconnection points.2020.pdf (europa.eu)</a> <a href="#">7th ACER Report on congestion in the EU gas markets and how it is managed.pdf (europa.eu)</a>

<b>Task</b>	<b>Continuous work on data quality, testing of indicators designed to assess Network Codes and the effectiveness of codes to achieve a functioning internal market. Work on data collection tools to improve monitoring of the Network Codes and assessing their effectiveness in the internal market</b>
Priority level	Data collection tools: 2: Important Data quality work: 1: Critical
Legal basis	Article 8(9) and 9 of Regulation (EC) No 715/2009
WP objectives for 2020	Enhance the existing tools to reach improved data collection, data processing and efficient and timely access to comparable data. Data quality in particular requires continuous attention, engaging the Agency's partners from the ENTSOG's Transparency Platform and Booking Platforms. Specific objective: Engage ENTSOG and to the extent possible find joint solutions. Deliver own solutions for the Agency's deliverables.

	Multi-annual objective: Contribute to the completion of the IEM and the monitoring of its functioning.
AWG input	The Gas Working Group will be informed about these activities,
Performance indicators and targets (deadlines)	Improved reports supported by effective data collection tools and good data quality. Established effects monitoring indicators.
Achievement against target	Improve data collection tools and if necessary evaluate how to improve data sourcing.  The Agency is working on two automation projects, which are at different development phases. The balancing automation project intends to automate the calculation of balancing indicators across all Member States. The congestion report automation intends to use Booking Platform data and deliver the results of the report more effectively. Data quality is key for both projects. The projects started in 2020 and will keep progressing in 2021.

### Amendments and activities related to the Functionality platform

<b>Task</b>	<b>Review of the requests for amendments to the adopted Network Codes from interested persons and, follow up on joint Functionality platform notifications</b>
Priority level	1: Critical or 2: Important, depending on the request.
Legal basis	Article 7 of Regulation (EC) No 715/2009, as well as the consultation requirements from Article 14 of Regulation (EU) 2019/942.
WP objectives for 2020	<p>Collect/propose amendments to the legal text, where necessary.</p> <p>Propose, in coordination with the Commission, revisions on own initiative to improve the quality of the legislative texts</p> <p>Follow up on joint Functionality platform notifications and, where necessary, propose amendments based on Article 7, as an outcome of the notifications received.</p> <p>To the extent possible, provide joint solutions with ENTSOG as an outcome to the Functionality platform notifications.</p> <p>Specific objective: create a framework to enable the Agency to collect sensible requests and ensure stakeholder involvement to the process. Support the joint Functionality Platform resource and IT needs to be able to cater for the notifications it receives.</p> <p>Multi-annual objective: contribute to the completion of the IEM and the monitoring of its functioning.</p>

AWG input	According to Article 24(2) of Regulation 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Amendments, public consultations preceding amendments, solutions given to the cases notified on the joint Functionality Platform.  For the amendments, as established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.  Provide technical solutions, where amendments are not necessary.
Achievement against target	Evaluating and processing amendment requests, and joint Functionality Platform notifications, solutions.  Facilitation of the stakeholder involvement, as required by the adopted Network Codes and Guidelines as well as the Guidelines of the joint Functionality Platform.  See also: <a href="https://gasncfunc.eu">Gas-Func 2.0 - Landing page (gasncfunc.eu)</a>

## II. Tasks subject to specific conditions

### Tasks initiated by others

Task	Follow-up on the national consultations on gas transmission tariffs
Priority level	1: Critical
Legal basis	Article 27 of Commission Regulation (EU) No 2017/460 (TAR NC)
WP objectives for 2020	<p>Report on tariff cost-reflectivity, avoidance of cross-subsidisation, non-discrimination and transparency in relation to the implementation of national gas transmission tariff and their structures.</p> <p>Specific objective: Provide the country-specific reports following the national public consultations launched by either the NRA or the TSO, to ensure implementation is as much as possible in line with the NC TAR requirements and in particular does not discriminate between cross-border and internal flows.</p> <p>Engage either the concerned NRA and/or the TSO during the review process.</p> <p>Provide practical recommendations in these reports.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market and monitor its functioning.</p>

AWG input	The Gas Working Group was informed about the published reports.
Performance indicators and targets (deadlines)	Timely delivery of the reports. Increase transparency about the tariff compliance across the EU.
Achievement against target	Updating on the state of play concerning national tariff implementations. Website publication of the reports: <a href="https://europa.eu/acercer-reports-national-tariff-consultations">ACER Reports on the national tariff consultations (europa.eu)</a>

In 2020, the Agency could have been called to perform the following tasks on request, however no such requests were received:

- Follow-up on the national consultations on gas transmission tariffs;
- Adoption of the opinions and recommendations at the request of one or more NRAs, or the European Commission, pursuant to Regulation (EC) No 942/2019 as well as the adopted Network Codes and relevant Guideline;
- Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942;
- Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission;

## E. Electricity and Gas Internal Market Monitoring

The Agency's Market Monitoring report continued to be its flagship publication, providing transparency and insight into the functioning of the EU energy market in an independent way. In 2020, the Agency focused on i) integrating 3 previous reports (1 from ACER, 2 from CEER) in the area of retail markets and consumer protection into 1 integrated volume and ii) delivering a separate volume on the monitoring of the margin available for cross-zonal trade in relation to the minimum (70%) target established in the recast electricity Regulation.

Task	9 <sup>th</sup> Market Monitoring Report
Priority level	1: Critical: Wholesale Electricity and Gas Wholesale Market Volumes, including new aspects envisaged in the CEP, i.e. the monitoring of state interventions preventing prices from reflecting actual scarcity, as well as the monitoring of the performance of Member

	<p>States in the area of electricity security of supply, and the monitoring of the margin available for cross-zonal trade in relation to the minimum (70%) target established in the recast electricity Regulation.</p> <p>Monitoring report on the amount of electricity cross-zonal capacity available for trade;</p> <p>2: Important: Retail Market and Customer Protection Volumes.</p>
Legal basis	<p>Article 15 of Regulation (EU) 2019/942</p> <p>Article 5 of Regulation (EU) 2019/942; Article 9(1) of Regulation (EU) 2019/943; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines</p> <p>Article 7(3) of Regulation (EU) No 1227/2011</p>
WP objectives for 2020	<p>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.</p> <p>The Agency's market monitoring teams for gas and electricity will coordinate the coverage of the MMR with the Directorate-General for Energy of the European Commission in order to avoid duplication of work. The Agency will cooperate and coordinate with the Council of European Energy Regulators (CEER).</p> <p>The Agency will also cooperate with the Energy Community Secretariat (ENC) regarding the inclusion of selected metrics for the Contracting Parties countries in some volumes of the MMR. The Energy Community Secretariat will coordinate data collection and support the analysis.</p> <p>Specific objective AND Multi-annual objective: 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. Leverage of the MMR by European policy makers in the legislative process.</p>
AWG input	<p>According to Article 30(4) of Regulation (EU) 2019/942, the Electricity Working Group and the Gas Working Group were involved and provide their input for the two Wholesale chapters.</p>
Performance indicators and targets (deadlines)	<p>Timely completion of the Annual Market Monitoring Report.</p> <p>Completion date: November 2020 (parts delivered earlier).</p> <p>Positive feedback and uptake of conclusions and recommendations by the European Parliament and the European Commission. Reference to the MMR and use of its analysis by stakeholders. Survey following the publication and presentation of the report.</p>
Achievement against target	<p>The three complete volumes of the Annual Market Monitoring Report as well as a summary note are accessible at the <a href="#">ACER webportal</a>.</p>

	<p>This edition contains an expanded assessment of the market effects brought by the implementation of network codes and of consumer welfare attained benefits (or pending losses) resulting from the enhanced market integration (or lack thereof).</p> <p>An online public event on these three volumes was organised on 28 October 2020. ACER’s presentation is available <a href="#">here</a>.</p> <p>The new dedicated monitoring report on the amount of electricity cross-zonal capacity available for trade is accessible <a href="#">here</a>;</p> <p>A dedicated webinar to present this report was subsequently organised. The related information and presentations are available <a href="#">here</a>.</p>
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## F. Infrastructure and Security of Supply

In the area of Infrastructure and Security of Supply, in 2020 the Agency focused on the following topics:

- The adoption of the electricity adequacy-related methodologies, whose aim is to provide a consistent and transparent framework to assess potential adequacy needs at European level;
- The upcoming review of the TEN-E legislation, which will determine the legal framework under which the Agency will work for years to come, and which is crucial to enable the EU Green deal. The Agency delivered a position paper, fully coordinated with CEER, to ensure its views on the main regulatory issues would be known in time, ahead of the publication of the draft legislative proposal.

In relation to this area, in 2020 the Agency worked on the following deliverables:

### I. Guidelines for Trans-European Energy Infrastructure – Electricity and Gas

Projects of common interest (PCIs) are an important tool for achieving the energy policy and climate objectives of the EU, by helping to ensure affordable, secure, and sustainable energy for all citizens. PCIs also play an increasingly important role in the long-term decarbonisation of the economy in accordance with the Paris Agreement, in particular by ensuring that the gas and electricity infrastructure are developed in a consistent and transparent way, unequivocally meet the sustainability criteria, and create synergies for the efficient deployment of renewable energy sources in integrated systems across competitive markets.

Every year ACER reports on the progress of the projects' implementation of the most recent PCI list adopted by the European Commission.

ACER reports include the projects' current status, delays encountered, implementation plans, reasoning for potential issues occurred, costs and benefits, as well as related technical data.

<b>Task</b>	<b>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</b>
Priority level	1: Critical
Legal basis	Article 5(5) of Regulation (EU) No 347/2013
WP objectives for 2020	<p>The consolidated reports follow the submission by project promoters of annual reports for each project of common interest to the competent authority, either to the Agency or, for projects falling under the categories set out in Annex II.3 and 4 of Regulation (EU) No 347/2013, to the respective Group.</p> <p>Specific objective: assess the progress of projects of common interest and, if appropriate, provide recommendations to facilitate their implementation and overcome difficulties.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
AWG input	According to Article 30(4) of Regulation (EU) 2019/942, the Electricity Working Group and the Gas Working Group were consulted and provide their input.
Performance indicators and targets (deadlines)	<p>Timely delivery of the report.</p> <p>Upon the receipt of the submissions from project promoters, the Agency delivers its consolidated report within three months from the day of receipt. The work is performed by Agency's staff in close cooperation with INEA with respect to its financial monitoring duties.</p>
Achievement against target	The Agency adopted its <a href="#">annual consolidated report on the progress of projects of common interest</a> on 30 June 2020. The report includes a project specific <a href="#">Annex of electricity PCIs</a> and an <a href="#">Annex of gas PCIs</a> .

<b>Task</b>	<b>Opinion(s) on ENTSO-E's and/or ENTSG's methodologies for cost-benefit analysis, if updated</b>
Priority level	1: Critical
Legal basis	Article 11(6) of Regulation (EU) No 347/2013
WP objectives for 2020	<p>The CBA methodologies shall be updated and improved regularly.</p> <p>Specific objective: updated and improved CBA methodology(ies).</p>

	Multi-annual objective: contribute to the infrastructure challenge.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity and Gas Working Groups were consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.
Achievement against target	Not applicable (no CBA was updated)

## II. Electricity TSO Cooperation

Pursuant to Article 4 of Regulation (EU) No 2019/942, the tasks related to ACER’s work on electricity TSO cooperation consist in: formulating opinions on the draft statutes, list of members and draft rules of procedure of ENTSO-E; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO-E’s relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSO-E; and monitoring progress of new electricity infrastructure projects (focusing on Projects of Common Interest), the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, ACER continued its careful oversight of ENTSO-E’s activities, by also focusing on issues of particular importance in view of the long-term objectives of developing the European Union’s electricity infrastructure in a way which is consistent with sustainability and enables the efficient handling of climate and environmental challenges. In its monitoring of ENTSO-E’s activities, ACER put special effort on monitoring the level of transparency, credibility, sector integration (in particular with gas), and the degree to which sustainability and long-term objectives were properly handled by ENTSO-E and reflected in its documents. During 2020, ACER issued Opinions on the following aspects:

<b>Tasks</b>	<p><b>Opinions on ENTSO-E’s annual work programme 2021 and ENTSO-E’s annual report 2019 (Priority level – 3)</b></p> <p><b>Opinions on potential updates to ENTSO-E’s common network operation tools and common incidents classification scale (Priority level: 2)</b></p> <p><b>Opinion on the implementation of the Union-wide electricity infrastructure 10-Year Network Development Plan and</b></p>
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	<p><b>investments to create new interconnector capacity (Priority level: 2)</b></p> <p><b>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)</b></p> <p><b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund (Priority level: 3)</b></p> <p><b>Internal Monitoring Report on G-charge (Priority level: 3)</b></p> <p><b>Opinions on ENTSO-E's annual Summer and Winter supply outlooks (Priority level: 3)</b></p> <p><b>Opinion on ENTSO-E's research and development plan (Priority level: 3)</b></p>
Priority levels	See above
Legal basis	<p>For all deliverables: Article 4(3) Regulation (EU) 2019/942</p> <p>For Work Programme and TYNDP: Article 4(5) Regulation (EU) 2019/942</p> <p>For ITC and G-charge: Point 1.(4) of Annex Part A, Commission Regulation (EU) No 838/2010 and Annex Part B, Commission Regulation (EU) No 838/2010</p>
WP objectives for 2020	<p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund. Opinions on ENTSO-E's annual work programme and ENTSO-E's annual report, on ENTSO-E's annual Summer and Winter supply outlooks, on ENTSO-E's research and development plan, on the electricity national ten-year network development plans.</p> <p>Activities about opinions on ENTSO-E documents to be carried out upon submission of the relevant documents by ENTSO-E.</p> <p>Specific objective: Perform the monitoring tasks and delivering the report and the opinions mentioned above.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
AWG input	<p>According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Groups was consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators. According to Article 30(4) of Regulation (EU) 2019/942, the Electricity Working Groups were consulted and provided their input on the Opinion on the electricity national 10-year network development plans to assess their consistency with the Union-wide network development plan, annual monitoring report on the implementation and management of the inter-TSO compensation fund, Internal Monitoring Report on G-charge.</p>
Performance indicators and	Timely delivery and quality of the documents.

<p>targets (deadlines)</p>	<p>Opinion on ENTSO-E's Work Programme and TYNDP: within two months after receipt of the document by ENTSO-E if considered non-compliant.</p> <p>Opinion on ENTSO-E's other documents: after receipt of the document by ENTSO-E.</p>
<p>Achievement against target</p>	<p>The Agency adopted and published the following deliverables envisaged in its 2020 annual work programme:</p> <p><a href="#">Opinion on ENTSO-E's 2019 winter outlook</a> – April 2020</p> <p><a href="#">Opinion on ENTSO-E's 2020 summer outlook</a> – December 2020</p> <p><a href="#">Report to the European Commission on the implementation of the ITC mechanism in 2019</a> - December 2020</p> <p>The findings of the latest ACER monitoring on G-charge (in 2019) have been published as part of the <a href="#">ACER report on transmission tariffs</a>, which is updated at least once every 2 years. The additional internal monitoring report on G-charges is overlapping and thus redundant.</p> <p>In 2020, ACER carried out its monitoring on the implementation of the Union-wide electricity infrastructure 10-Year Network Development Plan and investments to create new interconnector capacity, but its findings have not been published yet.</p>

### III. Gas TSO Cooperation

Pursuant to Article 4 of Regulation (EU) No 2019/942, the tasks related to ACER's work on gas TSO cooperation consist in: formulating opinions on the draft statutes, list of members and draft rules of procedure of ENTSOG; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSOG's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOG; and monitoring progress of new gas infrastructure projects (focusing on Projects of Common Interest), the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, ACER continued its careful oversight of ENTSOG's activities, by also focusing on issues of particular importance in view of the long-term objectives of developing the European Union's gas infrastructure in a way which is consistent with sustainability and enables the efficient handling of climate and environmental challenges. In its monitoring of ENTSOG's activities, ACER dedicated special effort on monitoring the level of transparency, credibility, sector integration (in particular with electricity), and the degree to which sustainability and long-term objectives were properly handled by ENTSOG and reflected in its documents. During 2020, ACER issued Opinions on the following aspects:

<p><b>Tasks</b></p>	<p><b>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)</b></p> <p><b>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 - 2)</b></p> <p><b>Opinions on ENTSOG’s annual work programme 2021 and ENTSOG’s annual report 2019 (priority level – 2 - 3)</b></p> <p><b>Opinions on potential updates to ENTSOG’s common network operation tools and common incidents classification scale (priority level - 2)</b></p> <p><b>Opinion on ENTSOG’s recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators (priority level - 2)</b></p> <p><b>Opinions on ENTSOG’s annual Summer and Winter supply outlooks (priority level - 3)</b></p> <p><b>Opinion on ENTSOG’s research and development plan (priority level - 3)</b></p>
<p>Priority levels</p>	<p>See above</p>
<p>Legal basis</p>	<p>For all deliverables: Article 4(3)(b) Regulation (EU) 2019/942.</p> <p>For Work Programme and TYNDP: Article 4(3) Regulation (EU) 2019/942 and Article 9(2) Regulation (EC) 715/2009.</p> <p>For Opinions on ENTSOG’s common network operation tools including a common incidents classification scale and research plans: Article 8(3)(a) of Regulation 715/2009.</p>
<p>WP objectives for 2020</p>	<p>Opinions on submitted documents have been regularly delivered during the previous years, except for opinions on network operation tools including a common incidents classification scale and research plans and recommendations relating to the coordination of technical cooperation between Community and third-country transmission system operators, which were not submitted (or not as a separate document) to the Agency by ENTSOG.</p> <p>Specific objective: upon receipt of ENTSOG’s TYNDP, the Agency will deliver its opinion within the stated deadline.</p> <p>Other opinions will be provided upon receipt from ENTSOG of the relevant documents, within a reasonable time (usually two to three months), if they are not already covered by the opinion(s) on ENTSOG’s Annual Work Programme and Annual Report.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>

AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group, as relevant, was consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	<p>Timely delivery of the reports and opinions.</p> <p>Specifically for the Opinions on ENTSOG's Work Programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.</p>
Achievement against target	<p>ACER executed the tasks referred above as relevant to ENTSOG's tasks referred to in Art. 8(1), (2) and (3) of Regulation (EC) 715/2009. ACER adopted and published the following deliverables envisaged in its 2020 annual work programme:</p> <p>ENTSOG submitted to ACER its draft Union-wide gas infrastructure 10-Year Network Development Plan 2020 and investments to create new interconnector capacity, along with other relevant documents, only on 10 February 2021. Accordingly, ACER did not issue an opinion of the TYNDP 2020 during the year of 2020. However, ACER assessed the <a href="#">scenarios used by ENTSOG for the development of the TYNDP 2020 and published its opinion</a> on the subject on 5 November 2020.</p> <p>ACER published on 18 December 2020 its <a href="#">Opinion on the national 10-Year Network Development Plans to assess their consistency with the Union-wide 10-Year Network Development Plans</a>, including (where appropriate) recommendations to amend the national 10-year network development plans or the Union-wide network development plan. The Opinion included <a href="#">Annex I – National Development Plans: Methodological Aspects and Annex II – Consistency of NDP/TYNDP Projects</a>.</p> <p>ACER's <a href="#">Opinion on ENTSOG's annual work programme 2021</a> was published on 18 December 2020.</p> <p>ACER assessed that ENTSOG's annual report 2019 allows a fairly detailed coverage of all essential work areas of ENTSOG as covered in 2019, and the relevant outputs. ACER noted that future challenges identified in 2019 (e.g. de-carbonisation work) are also covered, albeit to a less detailed extent. Accordingly, ACER assessed that ENTSOG's annual report 2019 does not require an opinion. Accordingly, a "no objection letter" was sent to ENTSOG and the European Commission on 13 October 2020.</p> <p>In 2020, ACER did not receive from ENTSOG potential updates to ENTSOG's common network operation tools and common incidents classification scale, and accordingly no such opinions were issued.</p> <p>In 2020, ACER did not receive from ENTSOG updated recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators. Accordingly, no such opinions were issued.</p> <p>ACER reviewed ENTSOG's annual Summer and Winter supply outlooks for the winter of 2019./2020, the summer of 2020, and the</p>

	winter of 2020/2021. Based on its assessment of the above mentioned documents and taking into account its annual work programme, ACER decided not to issue a formal opinions. Accordingly, “no objection letters” were sent to ENTSOG and the European Commission on 14 January 2020, 13 July 2020, and 17 December 2020.
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#### IV. Tasks to safeguard the security of gas supply

ACER’s tasks within the framework of Regulation (EU) No 2017/1938 concerning measures to safeguard the security of gas supply include:

- Taking decisions on cross-border cost allocation (CBCA);
- Issuing opinions on exemption requests;
- Issuing opinions on the elements of coordinated decisions;
- Participating in consultations pertaining to the establishment of permanent bi-directional capacity at interconnection points;
- Participating in the Gas Coordination Group.

In relation to this area, ACER worked in 2020 on the following deliverables:

<b>Tasks</b>	<p><b>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”)</b></p> <p><b>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</b></p> <p><b>Opinions on requests for an exemption from the obligation to enable permanent bi-directional capacity (if the Agency decides to issue an opinion)</b></p>
Priority level	<p>1: Critical: Decisions on CBCA, Opinions on the elements of coordinated decisions;</p> <p>3: Relevant: Opinions on proposals or exemption requests</p>
Legal basis	Regulation (EU) No 2017/1938
WP objectives for 2020	<p>New tasks assigned to the Agency by Regulation (EU) No 2017/1938.</p> <p>Specific objectives:</p>

	<p>For decisions on CBCA: deliver the decision on CBCA within three months from the day of receipt of the decision from the Commission (with a possible extension of two months in case additional information is needed).</p> <p>For opinions on consultation documents: to be provided if appropriate, within four months from the date of receipt of the consultation document.</p> <p>For opinions on the elements of coordinated decisions: deliver the decision within three months from the date of receipt of the coordinated decision.</p> <p>Multi-annual objective: contribute to the measures to safeguard the security of gas supply.</p>
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Gas Working Group will be consulted on the draft opinions and recommendations requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the decisions and opinions.
Achievement against target	<p>In 2020, no requests were received from the Commission to issue CBCA decisions.</p> <p>A coordinated decision requiring the issuing of an opinion was received and the relevant opinion published by ACER on 8 May 2020:</p> <p><a href="#">Opinion on the elements of the coordinated decision on the request for exemption from the obligation to enable permanent physical bi-directional capacity at the "Deutschneudorf EUGAL" cross-border interconnection point from Germany to the Czech Republic.</a></p>

## V. Tasks related to DSOs

Tasks	Supporting DSOs in establishing the EU DSO entity, including supporting the DSOs in adopting and publishing their statutes and rules of procedure
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 53 (5))
WP objectives for 2020	New task: The EU DSO entity will be established in 2021 following ACER's opinion and a positive opinion by the Commission.
AWG input	The Electricity Working Group was informed consulted about these activities.

Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Achievement against target	ACER issued its <a href="#">Opinion on the statutory documents on the establishment of the EU DSO</a> entity in August 2020.

The following tasks foreseen in the Programming Document 2020 were not executed since the EU DSO is not yet in place:

- Issuing a decision for DSO to provide any relevant information necessary for carrying out monitoring;
- Opinion to the EU DSO entity on its tasks, including on the EU DSO entity draft annual work programme and other relevant documents, taking into account the objectives of non-discrimination, effective competition and the efficient and secure functioning of the internal market for electricity.

## **VI. Tasks related to Regional Coordination Centres**

The following tasks foreseen in the Programming Document 2020 were not executed since the RCCs are not yet operational:

- Issuing a decision for the RCCs to provide any relevant information necessary for carrying out monitoring;
- Issuing opinions and recommendations to the regional coordination centres (RCCs);
- Monitoring the implementation of the tasks and cooperation between TSOs and ENTSO-E
- Monitoring and analysing the performance of Regional Coordination Centres with the NRAs and ENTSO-E, through submitted data resulting from their continuous monitoring.

## **VII. Tasks related to Resource Adequacy**

<b>Tasks</b>	<b>Amending or approving technical parameters developed by ENTSO-E for an efficient participation of cross-border capacities in capacity mechanisms and other technical features of capacity mechanisms</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 26)

WP objectives for 2020	New task: To amend or approve technical parameters as developed by ENTSO-E
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group was consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable.
Achievement against target	ACER adopted a <a href="#">decision on the technical parameters for an efficient participation of cross-border capacities in capacity mechanisms and other technical features of capacity mechanisms</a> . – December 2020

<b>Tasks</b>	<b>Amending or approving a draft methodology for the European resource adequacy assessment based on set principles by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 23)
WP objectives for 2020	The task to amend or approve a draft European resource adequacy methodology was to be completed in 2020.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group was consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable.
Achievement against target	ACER adopted a <a href="#">methodology for carrying out the European resource adequacy assessment</a> , amending an ENTSO-E proposal, and following an extensive stakeholders consultation – October 2020.

<b>Tasks</b>	<b>Amending or approving draft methodologies for calculating: the value of lost load; the "cost of new entry" for generation, or demand response; and the reliability standard expressed as "expected energy not served" and the "loss of load expectation"</b>
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Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 23)
WP objectives for 2020	The task to amend or approve the pertaining methodology was to be completed in 2020.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group was consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Achievement against target	ACER adopted a <a href="#">methodology to calculate the cost of new entry, value of lost load and reliability standard</a> , amending an ENTSO-E proposal, and following an extensive stakeholders consultation – October 2020.

<b>Tasks</b>	<b>Issuing an Opinion providing technical guidance related to the calculation of CO2 emission limits</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/943 (Art. 22(4))
WP objectives for 2020	Guidance to MSs on the calculation of CO2 emission limits was to be provided in 2020.
AWG input	The Electricity Working Group was consulted on the draft opinion.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Achievement against target	ACER issued an <a href="#">opinion on the calculation of CO<sub>2</sub> emission limits</a> – December 2019.

### VIII. Tasks related to Risk preparedness

<b>Tasks</b>	<b>Amending or approving changes of a proposal for a methodology for assessing short-term adequacy - seasonal adequacy, week-ahead to intraday adequacy submitted by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 8)
WP objectives for 2020	The task to amend or approve the short-term and seasonal adequacy methodology was to be completed in 2020. Task potentially reinitiated in 2021, if required.
AWG input	According to Article 24(2) of Regulation (EU) 2019/942, the Electricity Working Group was consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely delivery of the deliverable
Achievement against target	ACER adopted a <a href="#">methodology for short term and seasonal adequacy assessments</a> – March 2020.

<b>Tasks</b>	<b>Amending or approving changes to the methodology for identifying the most relevant electricity crisis scenarios in a regional context submitted by ENTSO-E</b>
Priority level	1: Critical
Legal basis	Regulation (EU) 2019/941 (Art. 5)
WP objectives for 2020	New task: Amending or approving changes to the methodology for identifying electricity crisis scenarios in a regional context.
AWG input	The Electricity Working Group was informed about these activities and was subsequently consulted on the draft opinions, recommendations and decisions requiring a favourable opinion of the Board of Regulators.
Performance indicators and targets (deadlines)	Timely approval of the changes to the methodology.

Achievement against target	ACER adopted its <a href="#">decision on the methodology for identifying regional electricity crisis scenarios</a> in March 2020.
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Tasks	Monitoring the security of supply measures and reporting regularly to the ECG
Priority level	3: Relevant
Legal basis	Regulation (EU) 2019/941 (Art. 18)
WP objectives for 2020	New task: To ensure the security of electricity supply.
Outputs	ACER shall, on an ongoing basis, monitor the security of electricity supply measures and shall report regularly to the ECG.
AWG input	The Electricity Working Group will be informed about these activities.
Performance indicators and targets (deadlines)	Timely reporting to the ECG.
Achievement against target	ACER contacted the ECG in October 2020 to collect expectations and suggestions regarding the scope of the monitoring. ACER also intends to schedule at least an annual presentation of the main findings to the ECG.

The following task foreseen in the Programming Document 2020 was not executed since ACER did not receive any related request in 2020:

- Coordinating national actions related to risk preparedness with regulatory oversight over the RCC (Regional Coordination Centres): The Commission may request ACER to provide technical assistance to Member States with a view to facilitating an agreement on regional and bilateral measures to be included in the risk-preparedness plan.

## IX. Tasks which are Subject to Specific Conditions

### Tasks initiated by others

Task	Decisions on investment requests including on cross-border cost allocation
Priority level	1: Critical

Legal basis	Article 12(6) of Regulation (EU) No 347/2013, Article 11(d) of Regulation (EU) 2019/943
WP objectives for 2020	<p>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).</p> <p>Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
AWG input	The Electricity or Gas Working Groups, as relevant, were consulted about these activities.
Performance indicators and targets (deadlines)	Delivery of a decision within three months from the date of referral to the Agency (subject to a possible extension).
Achievement against target	<p>The Agency is obliged to take a decision on the investment request including cross-border costs, as well as the way the costs of the investments are reflected in the tariffs. In 2020, no investment request was referred to ACER.</p> <p>ACER's <a href="#">fourth monitoring report on CBCA decisions taken by NRAs</a> was published in September 2020.</p>

The following task foreseen in the Programming Document 2020 were not executed since ACER did not receive any related request or submission in 2020:

- “Peer reviews”, as submitted to the Agency pursuant to Article 6(5) of Regulation (EU) 2019/942 (at the request of a regulatory authority or of the Commission);
- Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 6(5) of Regulation (EU) 2019/942;
- Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions;
- Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission.

### **Opinions and Recommendations on the Agency’s own Initiative**

The following task foreseen in the Programming Document 2020 was not executed in 2020:

- Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission;
- Recommendations to assist NRAs and market players in sharing good practices, with regard to the implementation of the Network Codes and Guidelines, where necessary.

ACER notes that in December 2019 the European Commission presented the European Green Deal, an ambitious package of measures that should ensure that the EU meets its climate goals, while enabling European citizens and businesses to benefit from a sustainable green transition. ACER also points out that the Council of the European Union noted that by 2050 “green gases” - mainly hydrogen (H<sub>2</sub>) and biomethane – could represent from 30% to 70% of total gas use. One way in which the existing gas networks could contribute to this energy transition is via adaptation or repurposing of existing infrastructure, so that they could handle biomethane and admixtures of hydrogen and natural gas, or pure hydrogen injections. With this in mind, ACER performed a survey among national regulatory authorities (NRAs) aiming at identifying the status quo regarding the technical ability of the gas transportation system to accept such gasses. The survey collected information from 23 NRAs on the possibilities for admixing hydrogen and injecting biomethane, as well as on ongoing and planned network adaptations and investments that would allow the blending of hydrogen and the injection of biomethane in the existing gas transmission. The [ACER Report on NRAs Survey - Hydrogen, Biomethane, and Related Network Adaptations](#) was published on 10 July 2020.

## PART II (a): MANAGEMENT

### 2.1 ADMINISTRATIVE BOARD

The Administrative Board is the governing body of the Agency. It is charged with the appointment of the main bodies of the Agency, including the Director, and with exercising budgetary powers. The Director is accountable to the Administrative Board with respect to administrative, budgetary and managerial matters. Following the approval of the Board of Regulators, the Administrative Board adopts the work programme of the Agency for the coming year. It also plays a central role in establishing the budget, including the drafting of the financial rules applicable to the Agency, and the communication plans of the Agency. In addition to its prerogatives with regard to the budget, the Administrative Board ensures that the Agency carries out its mission and performs the tasks assigned to it in accordance with the Agency Regulation.

#### DECISIONS AND OPINIONS

The Administrative Board met 4 times in the course of 2020. In particular, the Administrative Board was convened in ordinary session on 30 January, 18 June 2020, 8 October 2020, and 17 December 2020.

It adopted the following 19 decisions:

Number	Subject Matter		Adoption
1	Appointment of one Member and one Alternate Member of the Board of Regulators - (ESA)	*	7 January 2020
2	Appointment of one Member of the Board of Regulators - (CRU-EIRE)	*	7 January 2020
3	Appointment of 2 Reporting Officers - Mr Zinglensen - Probationary Period		30 January 2020
4	Appointment of one Member and one Alternate Member of the Board of Regulators - (Orkustofnun)	*	6 February 2020
5	Procedure for dealing with professional incompetence	**	17 June 2020
6	Duties of Commission drivers	**	17 June 2020
7	Rules of Procedure of the Administrative Board	**	17 June 2020
8	Post-Employment Activities - Mr Pototschnig	**	17 June 2020
9	Appointment of one Member and one Alternate Member of the Board of Regulators - (ERU)	*	8 July 2020
10	Appointment of one Member and one Alternate Member of the Board of Regulators - (RAE)	*	8 July 2020
11	Appointment of one Member and one Alternate Member of the Board of Regulators - RONI	*	9 July 2020
12	Appointment of one Alternate Member of the Board of Regulators - MEKH	*	6 August 2020

13	Post-Employment Activities - Mr Pototschnig	**	4 September 2020
14	Appointment of one Member of the Board of Regulators - ACM	*	14 September 2020
15	Repealing Decision No 13-2020	**	11 November 2020
16	Appointment of two Members (CNMC-HEA) and one Alternate (URSO) of the Board of Regulators	*	16 November 2020
17	Amending Decision No. 22 -2020 on the establishment of the Budget and Establishment Plan of the Agency - Financial Year 2020	**	10 December 2020
18	Transfer of pension rights	**	10 December 2020
19	Budget and Establishment Plan of the Agency - Financial Year 2021	**	21 December 2020

\* Adopted by the Chair acting under the authority delegated by the AB pursuant to decision AB 05bis/2010 of 21 September 2010.

\*\* Adopted by written procedure following the Chair's declaring the urgency of the situation.

The AB also adopted X opinions in the course of the year 2020:

Number	Subject Matter		Adoption
1	Final Accounts – Financial Year 2019	**	1 July 2020

\*\* Adopted by written procedure following the Chair's declaring the urgency of the situation.

## **RISK AND CONTROL ISSUES DISCUSSED**

The AB discussed several risks and control issues, some of which could not be solved due to the interdependency with the budgetary constraints faced by the Agency.

The implementation of REMIT and the Clean Energy for all Europeans Package represented the Agency's main challenge in 2020, due to the gap between the minimum allocation of human resources that the Agency considered necessary to meet the objectives assigned to it and the staffing allocation under the subsidies received from the Union budget.

Ineffective application of REMIT, even if due to reasons beyond the Agency's control, has created a reputational risk for the Agency (in addition to the economic damage suffered by taxpayers due to the negative effects on markets), and more generally for the Union in terms of perceived deterrence.

Human resource constraints at the Agency, even beyond REMIT, remained a major concern in 2020, especially since an increasing number of important and contentious decisions have been assigned to the Agency following the entry into force of the Clean Energy for all Europeans Package. The Agency adopted measures to reduce the very short-term risks by attempting to raise the awareness of EU institutions, NRAs and stakeholders of the benefits of the proper implementation of REMIT, by adopting practical solutions and through the implementation of internal security measures. However, due to the timing of the adoption of the Package and the inherent shortage of human resources, the long-term risks inherent to the increase of the

decision-making powers of the Agency in a number of complex and contentious issues could not be adequately assessed and addressed in the programming document of the Agency. The level of litigation following the adoption of decisions by the Agency clearly revealed the shortage of human resources available to face the unprecedented number of complex appeals before the Board of Appeal of the Agency and before the Court of Justice. This calls for an increase in human resources assigned to the legal services and the Board of Appeal of the Agency.

## 2.2 MAJOR DEVELOPMENTS

2020 was marked by two major novelties, one pertaining specifically to the Agency, the arrival of a **new Director**, the other to the entire world, the **Covid19 pandemic**.

Christian Pilgaard Zinglensen took office in early January 2020 replacing Alberto Pototschnig, the first and until 2020 only Director of the Agency since its establishment. The Director's new approach included a reorganisation of the Agency and working methods, marking a new phase in the Agency's outreach towards stakeholders, institutions and the general public.

With the aim of increasing synergies to the extent possible, greater cooperation was promoted by creating clusters (data excellence, legal service) and further enhancing cooperation between the Market Surveillance and Conduct Department and the Market Monitoring Teams in the Electricity and Gas Departments. This entailed a partial reorganisation which went ahead in difficult circumstances, as at the beginning of its implementation the Covid pandemic broke out.

The Agency immediately made recourse to teleworking as its normal operational mode. On the basis of its business continuity plan, it set up a Continuity Management Group (CMG), which included the Senior Management as well as selected staff members. The group met on a regular basis throughout the year, taking decisions and providing guidance to the Agency's staff on the working arrangements, related safety measures, as well as HR and IT issues to be addressed.

Staff presence at the office was limited in line with the safety measures available, in full respect of the measures adopted by the Slovenian government. Various adjustments were necessary, as measures were tightened and relaxed in the course of the year. The CMG also regularly informed staff members of the measures in place in Slovenia (not always readily available in English), including those related to entry and exit from the country.

While the pandemic and the related altered working methods did put a major strain on the Agency's resources, rendering, inter alia, recruitment procedures and onboarding of new staff members more difficult, measures to ensure business continuity allowed the Agency to continue delivering to the extent possible the tasks foreseen in its work programme.

The teleworking regime put a particular strain on the implementation of the **REMIT-related tasks**, already rendered difficult by the lack of staff allocated to the Agency in this field compared to the legal mandate concerning the supervision of energy wholesale markets to identify market manipulation. The Agency is collecting very large amounts of confidential data, which is safely available to case-handlers only through the security systems envisaged at the Agency itself. In fact the quantity of transactions collected continues to increase in the course of the year, from the more than 3 million records collected in 2019, to an average of over 6.8 million records of transactions and orders to trade per day in 2020. This increase posed a formidable challenge to the Agency and its REMIT information system ARIS.

The work of the Electricity and Gas departments proceeded largely in line with plans, despite the pandemic. Resources were however strained by the **surging number of appeals** against the Agency's decisions, a consequence of the additional powers the Agency has been given in recent years. This surge also drastically increased the need for legal counsel in defending the Agency's decisions.

The Agency continued to contribute to the **European Green Deal**, which aims to make Europe the first climate-neutral continent by 2050. More specifically 2020 was the first full year in which the Agency implemented the new tasks attributed to it within the **Clean Energy Package** (CEP) acts adopted in mid-2019, including the recast of the Agency's founding regulation. The latter also foresees the introduction of **fees as a new source for the funding of REMIT related services**. 2020 was therefore a crucial year for the finalisation of preparations for collecting fees related to collecting, handling, processing and analysing the information reported by market participants or by entities reporting on their behalf.

The new REMIT fee model, for which a legal basis was finally adopted in December 2020, constitutes both a new operational challenge for the Agency, as well as an opportunity in terms of putting the Agency's REMIT activities on sound financial footing in future years, especially since the subsidy from the EU budget is expected to be reduced under the EU's next multiannual financial framework.

## 2.3 BUDGETARY AND FINANCIAL MANAGEMENT

During the financial year 2020 the operations of the Agency were fully subsidised from the general budget of the Union.

	kEUR	
	<b>31 December 2020</b>	<b>31 December 2019</b>
<b>INCOME</b>		
Commission subsidy	17 297	16 147
Other income	3	96
<b>TOTAL INCOME</b>	<b>17 300</b>	<b>16 243</b>

The initial approved appropriation for the financial year 2020 amounted to kEUR 16 868 including the contribution from EFTA states amounting to kEUR 399 and assigned revenue from previous year surpluses of kEUR 192. In December 2020 the Agency received a transfer of appropriations in the form of a subsidy amounting to kEUR 429 to support the unprecedented need of legal counsel in defending the Agency's decisions. Recovery of undue payments occurred during 2020, amounting to kEUR 3 brought the total revenue for the year to kEUR 17 300.

The Agency's appropriations by title during 2020 compared to the previous year are presented below:

	kEUR		
Heading	Appropriation 2020	Appropriation 2019	Variation 2020/2019
<b>Fund source - C1</b>			
Title 1 - Expenditure relating to staff and resources	10 148	9 267	9%
Title 2 - Agency's building and associated costs	3 356	2 745	22%
Title 3 - Operational expenditure	3 794	4 135	-9%
	<b>17 297</b>	<b>16 147</b>	<b>7%</b>
<b>Fund source - C4</b>			
Title 1 - Expenditure relating to staff and resources	3	67	
<b>Fund source - R0</b>			
Title 3 - Operational expenditure		29	
<b>TOTAL 2020 BUDGET</b>	<b>17 300</b>	<b>16 243</b>	<b>6%</b>

The 9% increase in the appropriations of 2020 within Title 1, as compared to 2019, mainly related to funds allocated to cover the increase in the number of staff and the related annual indexation of remuneration.

Title 2 registered a 22% increase in 2020 compared to 2019, mainly related to the legal expenses incurred in defending the appeals against the Agency's decision in the Electricity operational area and the related translations of these decisions.

The 9% decrease registered within Title 3 in 2020 compared to 2019 was mainly related to a lower budget allocation for REMIT.

The budget implementation for commitments was 99%, payments reached 83%, while 18% of payment appropriations were carried over to 2021.

Due to the COVID-19 crisis, significant savings were identified under the allocated appropriations for missions and events. The savings were absorbed by the unprecedented need for legal counsel and translations.

Six lots of budgetary transfers within and between headings were approved in the course of 2020, with an amount of EUR 1,380,364.18 transferred between several budget lines.

At the end of the financial year an amount of EUR 3,078,941.59 was automatically carried forward into 2021 in order to honour the commitment of the Agency that remained open at 31 December 2020. Detailed information per budget line is presented under Annex II.

During the 2020 financial year the Agency did not pay any late payments interest to its suppliers.

Commitments amounting to EUR 2,932,046 were carried forward from the financial year 2019 into 2020. Their implementation rate at 31 December 2020 was 96.83%.

### Budget implementation 2020

Fund source C1 - current year appropriations	Appropriation	Committed	% Committed	Paid	% Paid	Balance commitments	Balance payments
	(1)	(2)		(3)		(1-2)	(2-3)
Title 1 - Expenditure relating to staff and resources	10,148,347	10,045,253	98.98%	9,782,662	96.40%	103,094	262,591
Title 2 - Agency's building and associated costs	3,355,501	3,298,580	98.30%	1,838,755	54.80%	56,921	1,459,825
Title 3 - Operational expenditure	3,793,535	3,757,925	99.06%	2,401,399	63.30%	35,610	1,356,526
<b>Total</b>	<b>17,297,383</b>	<b>17,101,758</b>	<b>98.87%</b>	<b>14,022,816</b>	<b>81.07%</b>	<b>195,625</b>	<b>3,078,942</b>
Fund source C4 - recovered appropriations	Appropriation	Committed	% Committed	Paid	% Paid	Balance commitments	Balance payments
	(1)	(2)		(3)		(1-2)	(2-3)
Title 1 - Expenditure relating to staff and resources	2,515	-	0.00%	-	0.00%	2,515	-
Title 2 - Agency's building and associated costs	-	-	0.00%	-	0.00%	-	-
Title 3 - Operational expenditure	-	-	0.00%	-	0.00%	-	-
<b>Total</b>	<b>2,515</b>	<b>-</b>	<b>0.00%</b>	<b>-</b>	<b>0.00%</b>	<b>2,515</b>	<b>-</b>
Fund source R0 - carried over appropriations	Appropriation	Committed	% Committed	Paid	% Paid	Balance commitments	Balance payments
	(1)	(2)		(3)		(1-2)	(2-3)
Title 1 - Expenditure relating to staff and resources	-	-	0.00%	-	0.00%	-	-
Title 2 - Agency's building and associated costs	-	-	0.00%	-	0.00%	-	-
Title 3 - Operational expenditure	29,399	29,399	100.00%	29,399	100.00%	-	-
<b>Total</b>	<b>29,399</b>	<b>29,399</b>	<b>100.00%</b>	<b>29,399</b>	<b>100.00%</b>	<b>-</b>	<b>-</b>
Fund source C8 - carried over appropriations	Appropriation	Committed	% Committed	Paid	% Paid	Balance commitments	Balance payments
	(1)	(2)		(3)		(1-2)	(2-3)
Title 1 - Expenditure relating to staff and resources	214,702	209,310	97.49%	209,310	97.49%	5,392	-
Title 2 - Agency's building and associated costs	830,634	763,113	91.87%	763,113	91.87%	67,521	-
Title 3 - Operational expenditure	1,886,710	1,866,560	98.93%	1,866,560	98.93%	20,150	-
<b>Total</b>	<b>2,932,046</b>	<b>2,838,983</b>	<b>96.83%</b>	<b>2,838,983</b>	<b>96.83%</b>	<b>93,063</b>	<b>-</b>

The Agency reached its targets for the implementation of its budget of at least 95% for commitments, at least 75% for payments of the current year appropriations and at least 95% of the funds carried over from the previous year.

During the year regular ex-post controls of the underlying financial transactions were performed. No critical or important findings resulted from this exercise indicating high effectiveness of applied internal controls to the financial workflows.

### Procurement procedures - 2020

Type of procedure	% of procedure types used per total number of procedures
Negotiated – value below € 1,000	4.86%
Negotiated – very low value	16.22%
Negotiated – low value – direct contract	0.00%
Negotiated – low value – FWC	0.00%
Negotiated – middle value – direct contract	0.54%
Negotiated – middle value – FWC	0.54%
Negotiated – point 11.1(e) of Annex I FR	1.08%
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	4.32%
Open – FWC (concluded in 2020)	1.62%
Specific contracts, following FWC	23.24%
Order forms, following FWC	47.57%

## 2.4 DELEGATION AND SUB-DELEGATION OF THE POWERS OF IMPLEMENTATION TO AGENCY STAFF

For the reporting period, budget implementation powers were delegated to four authorising officers within the Agency, limiting the amounts and content of their authorising powers. The delegations cover all budget lines and are issued annually for each budget period. Each delegation is accompanied by a charter of tasks and responsibilities signed by each sub-delegated authorising officer.

The below table details the delegated tasks by function.

Authorising officer by sub-delegation function and grade	Authorisation of:	Limit amount
Head of Department – Administration, grade AD 12	Individual and provisional commitments Legal commitments Payments orders Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	EUR 750,000
Planning and Programming Officer, grade AD 10	Individual and provisional commitments	EUR 300,000

	Legal commitments Payments orders Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	
Team leader – Budget, Finance and Procurement	Payments orders Estimates of amounts receivable, recovery orders, related waivers, technical adjustments and cancellations	EUR 500,000
Financial Officer, grade AD 5	Payment orders Recovery orders Technical and accounting adjustments	EUR 20,000

The access rights of all financial actors to the financial systems, including those of the authorising officers by delegation, are checked annually against the issued delegations and nominations. No irregularities were identified. The delegations and nominations for the financial year 2020 were signed in November 2019 by the outgoing director and were not revoked by the incoming director, and remained as such valid. The Agency's director reconfirmed them in December 2020.

## 2.5 HUMAN RESOURCES MANAGEMENT

In 2020 the HRM team carried out several projects related to the selection and recruitment practices in the Agency. Firstly, standardised exit interviews with staff members, SNEs and trainees were introduced and the data was gathered and analysed on regular basis. Secondly, a lessons learned exercise on recruitment was also implemented, by gathering feedback from staff involved in the selection procedures between 2019 and 2020. The suggestions and follow-up action items, such as training of selection committee members and preliminary agreement among panellists on the scoring methodology, are already being applied to the selection procedures in 2021. Thirdly, a new detailed selection procedure checklist was developed covering all the steps of the selection procedure as well as instructions on the filing and archiving of documents. This will result in complete and consistent selection files and will reduce the possibility of clerical errors during the process. A process of revision of the current Director's Decision on the Rules of Procedure on Selection and Recruitment has been launched with the aim of adding further clarity on the

procedures to be followed by each selection committee as well as guaranteeing equal and transparent treatment of all applicants/candidates.

<u>Implementing rules</u>
Decision AB n. 18/2020 of 10 December 2020 on the adoption by analogy of Commission Decision C(2020)4818 of 20 July 2020 on the general implementing provisions for Articles 11 and 12 of Annex VIII to the Staff Regulations on the transfer of pension rights
Decision AB n. 6/2020 of 17 June 2020 on the adoption by analogy of Commission Decision C(2019)7822 of 30 October 2019 on the duties of Commission drivers

The number of leave days authorised per grade under the flexitime and compensatory leave scheme is presented in the following tables:

### Flexi leave days / Grade

CONTRACT TYPE	CATEGORY	GRADE	No. OF DAYS
TA	AD	11	0
TA	AD	10	1
TA	AD	9	3.5
TA	AD	8	5
TA	AD	7	3.5
TA	AD	6	3.5
TA	AD	5	5
TA	AST	5	3
TA	AST	4	2.5
TA	AST	3	1
CA	FGIV	16	0
CA	FGIV	15	0.5
CA	FGIV	14	5.5
CA	FGIV	13	0.5
CA	FGIII	8	0.5
CA	FGIII	9	0.5
CA	FGII	2	n.a.
SNE	SNE		1
<b>TOTAL</b>			<b>36.5</b>

### Compensatory special leave / Grade

CONTRACT TYPE	CATEGORY	GRADE	No. OF DAYS
TA	AD	12	2
TA	AD	11	6
TA	AD	10	0
TA	AD	8	11
TA	AD	7	14
TA	AD	5	14
CA	FGIV	16	2
<b>TOTAL</b>			<b>49</b>

For information on the follow-up to HR-related Internal audits see section 2.8.1.

## 2.6 STRATEGY FOR EFFICIENCY GAINS

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 digitalisation of certain processes, centralisation of certain functions related to support functions.

The Agency recognises the need to streamline its structure and internal organisation to become a more modern and agile organisation. In 2020 the internal structure of the Agency was revised, to better foster the cooperation among the four operational departments – Electricity, Gas, Market Integrity and Transparency and Market Surveillance and Conduct – as well as the Administration Department and the Director’s Office. In order to increase synergies in market monitoring activities, to the extent possible, greater cooperation was promoted by creating clusters (data excellence, legal service) and will continue to be promoted between the Market Surveillance and Conduct Department and the Market Monitoring Teams in the Electricity and Gas Departments.

With regard to the organisation of support functions, the Agency centralised its corporate services in 2020: the convergence of the Financial cell, the Budget and Procurement teams, under the leadership of the Budget Officer aimed to concentrate specialised and related knowledge within one team. 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 transactions, as well the coordination of the budgeting process and assistance with the compilation of the annual accounts.

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 identifies its key priorities and strives to increase its flexibility, in particular by aiming to shift 10 to 15% of its internal capacity in terms of financial and human resources as functional to fulfil the identified priorities.

The Agency established cross-department projects with staff members from different departments working on technical topics. Moreover, the Agency started re-assigning staff members (FTEs) from working on developing Network Codes and Guidelines to the monitoring of their implementation and effects in order to oversee the impact on the functioning of the Internal Energy Market. In particular, the agency launched an internal call for mobility at the end of 2020, aimed to redistribute resources internally, reinforcing support for the surveillance team and the legal team. The Agency recognises the need to increase its efforts in terms of staff flexibility: to this extent, in 2019, the Agency adopted its competency framework to support the identification of necessary competencies to fulfil its mandate in an agile manner. In 2020 the agency continued the integration of its competency framework in designing learning and development paths for staff, to the benefit of an increased flexibility and faster adaptability to their changing roles.

The Agency has taken a number of steps in the area of *digitalisation*, in order to contribute to further efficiency gains. To that end, a number of IT tools have been developed to improve efficiency and use of resources, by shortening the processing time, minimising human error and improving transparency. In addition to automating all the budget and financial processes, the tools provide up-to-date, real-time information on the state of play of transactions, budget consumption, etc. ensuring business continuity of the operations and institutional memory (in cases of long-term absence or departure). To this extent, in 2019 and 2020, the Agency began deploying Sysper and ARES tools of the European Commission. Sysper is a system used as an integrated HRM management tool used in all Commission services: its deployment brings the management of staff data to a higher standard and facilitates the interface with rights and entitlements, personal files and career management for the Agency's staff. Sysper automates all HR-related requests (including parental and part-time leave requests), streamlines the appraisal and reclassification audit trail and facilitates the presentation of statistical data at all levels. With the deployment of Sysper, the electronic archive will become obsolete since the Agency is in the process of obtaining the NDP (Numérisation Dossier Personnel) - a scanning module, which allows to scan paper documents constituting the personal file of a staff member. NDP is an independent module / application, working through Sysper. Its main functionalities are: scanning and managing

personal files, managing accesses to the files, share (view) PDF files by authorized people/services.

ARES is the document management system in use in the Commission services: its deployment, in 2019 and further enhancement in 2020, brings additional benefits to streamline data, document management and to integrate data and archives within the system of the European Institutions. ARES integrates and streamlines the full completion, including e-signature, of the paperless workflows, to the benefit of time savings for operational departments. Moreover, the FTEs effort dedicated for the ICT maintenance of these well-established EC systems decreases significantly, compared to the use of the previous tools: overall, the digitalisation projects in the Agency, by adopting Sysper and ARES Commission tools amounts to a saving of 1.0 FTE, which will be redirected to core operational activities.

## **2.7 ASSESSMENT OF AUDIT AND EX-POST EVALUATION RESULTS**

### **2.7.1 INTERNAL AUDIT SERVICE (IAS)**

The IAS conducted a full risk assessment and IT risk assessment in February 2016, which resulted in an IAS Strategic Audit plan for the Agency for the period 2017-2019.

In 2017, the Internal Audit Service (IAS) performed an audit on the HRM function of the Agency, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy of the design and the effectiveness of the internal control system related to human resources management in the Agency. The audit resulted in five recommendations: one critical, two very important and two important; one critical recommendation was later downgraded to very important and one very important recommendation was later downgraded to important. The Action plan has been fully implemented in 2020 and is expected to be closed by the IAS. The status of the Action plan is presented in 2.8.1.

In 2018, the IAS performed an audit on IT Security in the Agency and Information Security in the “REMIT” domain, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy of the design and the effectiveness of the implementation of the management and control systems put in place by the Agency for its IT security arrangements across the entire Agency and for the information security related to the ‘REMIT’ domain. The audit focused on the IT controls covered by the overall information security policy and the specific information security framework for the REMIT domain (REMIT information security policy including policies for specific domains, such as asset management, user access management, physical security, etc.). The audit resulted in eight important recommendations. The status of the Action plan is presented in 2.8.1.

In 2019, the IAS performed an audit on the Implementation of REMIT, in line with the Strategic Audit Plan for the period 2017-2019. The objective of the audit was to assess the adequacy, effectiveness and efficiency of the management and control systems in ACER related to the implementation of REMIT. The audit fieldwork was preceded by an anonymous survey with the NRA representatives in the REMIT Coordination Group (REMIT CG) as well as in the ACER/CEER Market Integrity, and Transparency Group (AMIT WG). The audit resulted in six recommendations: two very important and four important. The status of the Action plan is presented in 2.8.1.

In 2020, the IAS conducted a full risk assessment covering all processes (administrative, financial, operational and IT) which resulted in a new IAS Strategic Audit Plan for the Agency (SIAP) covering the period 2021-2023.

The IAS has identified the following main inherent risks and corresponding audit topics for the 2021-2023 audit plan:

1. Decision-making process under Article 2(d) of Regulation (EU) 2019/942
2. Planning, budgeting and monitoring
3. Stakeholder management and external communication
4. Appeal process (reserve audit topic)

**2.7.2 INTERNAL AUDIT CAPABILITY (IAC)** – not applicable.

**2.7.3 EUROPEAN COURT OF AUDITORS (ECA)**

#### **AUDIT OF THE 2019 ANNUAL ACCOUNTS**

In March 2020 the European Court of Auditors (ECA) audited the 2019 annual accounts of the Agency. The audit included analytical audit procedures, direct testing of transactions and an assessment of the key controls of the Agency's supervisory and control systems, aiming to confirm the legality and regularity of the transactions underlying the Agency's accounts.

#### **OPINION ON THE RELIABILITY OF THE ACCOUNTS**

According to ECA, the Agency's annual accounts accurately depicted, in all material respects, its financial position at 31 December 2019, the results of its operations and its cash flow for the year, in accordance with the provisions of its financial regulation and the accounting rules adopted by the Commission's accounting officer.

#### **OPINION ON THE LEGALITY AND REGULARITY OF TRANSACTIONS**

In the opinion of ECA, the revenue underlying the accounts for the year ended 31 December 2019 is legal and regular in all material respects.

The payments underlying the accounts for the year ended 31 December 2019 are legal and regular in all material respects, apart from a total amount of EUR 988,138.35 that represent 6.3% of all payments made by the Agency in 2019. For these a qualified opinion on the legality and regularity of payments underlying the accounts was issued by ECA.

## **AUDIT OF THE 2020 ANNUAL ACCOUNTS**

ECA audited the Agency's 2020 annual accounts in the period December 2020 - February 2021. As part of the process, ECA issues its preliminary findings to which the Agency has the opportunity to reply. Once the replies are analysed by ECA and agreed upon they will be included in their annual report expected to be published towards the end of 2021.

## **2.8 FOLLOW-UP OF RECOMMENDATIONS AND ACTION PLANS FOR AUDITS AND EVALUATIONS**

### **A) INTERNAL AUDIT SERVICE (IAS) AND EUROPEAN COURT OF AUDITORS (ECA)**

#### **2.8.1 RECOMMENDATIONS ISSUED BY THE IAS**

Following the IAS audit on the Implementation of REMIT in 2020, in line with the Strategic Audit Plan for the period 2017-2019, the final audit report contains six recommendations: two very important and four important. The Agency established an Action Plan to address all the recommendations, which has been approved by the IAS. The implementation of the Action Plan is due to begin in 2021.

The measures already undertaken and planned address the weaknesses indemnified as important through (1) monitoring and definition of KPIs for the REMIT activities, (2) activity planning and resource allocation for REMIT issues, (3) data governance for the Agency's REMIT information system, (4) stakeholders' management and communication, (5) set-up of the market monitoring process, (6) update of the procedural framework for the implementation of REMIT.

#### **FOLLOW-UP THE IAS STRATEGIC INTERNAL AUDIT PLAN 2021-2023**

In 2020, the IAS conducted a full risk assessment covering all processes (administrative, financial, operational and IT) which resulted in a new IAS Strategic Audit Plan for the Agency (SIAP) covering the period 2021-2023.

The following high-risk processes were identified during the full risk assessment:

1. Decision-making process under Article 2(d) of Regulation (EU) 2019/942
2. Planning, budgeting and monitoring
3. Stakeholder management and external communication

#### 4. Appeal process (reserve audit topic)

### **FOLLOW-UP ON EARLIER RECOMMENDATIONS (2017-2018 AUDITS)**

Following the IAS on the Human Resources Management in 2017, the IAS provided recommendations in the area of recruitment and management of conflicts of interests, as well as appraisal and reclassification exercises. All recommendations were fully implemented in 2018-2019, in line with the Action Plan. One critical (downgraded to very important), one very important recommendation have been closed by the IAS in 2019. In 2020 one more important recommendation has been closed by the IAS. The remaining two recommendations, one important (downgraded from very important) on Guidelines, document management, job descriptions and sharing of information, and one important recommendation on Planning of resources and monitoring, have been re-opened by the IAS for further improvement, but implemented fully in 2020.

Following the IAS audit on IT Security in the Agency and Information Security in the “REMIT” domain in 2018, the IAS provided recommendations in the area of the management and control systems put in place by the Agency for its IT security arrangements across the entire Agency and for the information security related to the ‘REMIT’ domain. Two important recommendations have been implemented and closed by the IAS in 2020 and four important recommendations have been implemented and closed by the IAS in 2021, in line with the Action Plan. Two remaining important recommendations have been partially implemented and will be fully reported to the IAS in 2021.

#### **2.8.2 OBSERVATIONS ISSUED BY THE ECA**

A qualified opinion from ECA was obtained on the legality and regularity of the 2019 accounts. According to ECA, revenues and payments underlying the accounts for the year that ended on 31 December 2019 are legal and regular in all material respects except for 6.3% of all payments made during the year. These were considered irregular by the Court because of the type of the underlying contracts used by the Agency.

The observations of ECA, the Agencies replies and the actions taken by the Agency in 2020 in order to address these findings are detailed below:

#### **ECA observation:**

*In 2018, the Agency signed a framework contract in cascade, in two lots, for a maximum amount of 25 million euros and with a maximum duration of 8 years. Lot 1 was for the provision of IT system integration services. Lot 2 was for IT consultancy. We audited two payments under these contracts, with a total value of 160 699 euros. The costs of items audited under specific contract 3 in lot 1, were not in fact covered by the competitive*

*procurement procedure. In other words, they were not covered by the price lists of the bids submitted for the contract. Within the framework contract, the effect of this was particularly evident in lot 1, where payments for items not covered by the competitive procedure amounted to 61,3 % of all payments made under the lot. In such cases, the Agency is required under the Financial Regulation to re-open the competition and conclude a specific contract. In this case, it failed to do so. The specific contracts under lot 1 of the FWC that were concluded so far are therefore irregular. Irregular payments for items not covered by the price lists under lot 1 of the framework contract in 2019 amounted to 975 708 euros.*

**Agency' reply:**

The Agency acknowledges the higher usage of goods/services from 'out of price list' under Lot 1 of this EUR 20m value contract and would like to bring to the attention the fact that the nature of the services under both contracts does not enable an all-inclusive list of services and products. This especially when services such as, system integrator, depend on the technical solution offered by the contractor. The Agency included in the tender specifications the option for out of price list services and products, to be able to cover the full scope required. The out of price list services and products are used to complement the main services, where needed, and to ensure that the full scope can actually be delivered. Before accepting the offers from the supplier, the Agency performed market researches to ensure that the prices of the goods/services offered were aligned to the market and the Agency was not overcharged, even though this research was not formally documented. The Agency already introduced a formal step in its procurement workflow in order to ensure that whenever it makes use of 'out of price list' the market researches performed for the specific contracts are thoroughly documented in a note to the file. In order to increase the competition in the forthcoming procurement procedures, the Agency will strive to include more detailed list of services and products in the tender specifications and will limit the use of "out of price list" orders.

**Agency' actions in 2020:**

After receiving in May 2020 the preliminary observations from ECA on ACER's accounts, the Agency considered and started implementing the following immediate measures, aiming to rectify the situation and to mitigate future occurrences, i.e.:

- Consideration to terminate the ongoing specific contract SC06. Article I.11 'Termination by either party' of the FWC allows the possibility to terminate a specific contract. However the article in question states that the contractor is entitled to payment only for the services provided before termination takes effect. The contract included services/products (i.e. licenses, hardware, etc.) which were ordered by the

contractor at the time the specific contracts were signed. Therefore terminating the specific contract would result in the Agency being obliged to pay for these services/products.

- Consideration to amend the FWCs so as to include the possibility for the reopening the competition for the out of price list purchases. However this would lead into altering substantially the original procurement documents which would require a new award decision based on a new procurement procedure. Re-opening of the competition will be included as an option in the next FWC.
- The Agency analysed in detail the out of price list purchases in all ongoing specific contracts, related to REMIT, as well as all requests for services that have been launched since the start of the FWC, where the out of price list services/products were ordered or were/are planned to be ordered. A detailed analysis for each SC, either concluded or planned, with accompanying remarks, is presented in the attached Excel file (Annex V).
- The Agency follows an internal action plan to monitor the status of the out of price list orders (i.e. already ordered or planned) with the aim to limit the ordering of out-of-price list products/service to the extent possible. All orders potentially including out-of-price list products/services are checked against the action plan. The implementation of the action plan is regularly monitored by the management of the Agency and the Administrative Board of the Agency.
- The Agency orders services/products under the current DIGIT FWCs, which are not included in the price list of the current FWC.
- Since May 2020, when ACER received the preliminary observations the Agency is minimising the use of the out of price list bringing it below 10 % of the value of each specific contract, signed afterwards. Taking into account the fact that this will be a long-term process and in view of the ongoing contracts, signed either in 2019 or 2020, the effort in that direction has to be recognised by ECA.
- On 22 October 2020 the Agency noted and on 30 November 2020 the Agency registered the specific contracts SC03, SC05 and SC06 in its register of procedural incidents as a formal acknowledgement of the irregularity related to the excessive use of the out of price list items ordered through these contracts.
- The Agency is reporting the irregularity recorded in the 2020 Consolidated Annual Activity Report.

A detailed overview of payments for 2020 for the out of price list services/products under Lot 1 and Lot 2 (Annex V) and the total amount paid in **2020** under Lot 1 and Lot 2 is as presented below:

<b>Contract Lot</b>	<b>Total paid in 2020 as of 31.12.2020</b>	<b>Total paid as out of price list in 2020 as of 31.12.2020</b>	<b>%</b>
Lot1	1 708 707,44 €	544 104,65 €	31,84%
Lot2	538 282,90 €	208 549,43 €	38,74%
<b>Total</b>	<b>2 246 990,34 €</b>	<b>752 654,08 €</b>	<b>33,50%</b>

It has to be noted, that in addition to the fact that the out of the price list purchases are brought below 10% of the value of a specific contract, the total % of the out of the price list purchases of services and goods has been decreased already two times, compared to the previous year.

**ECA observation:**

The Agency signed a framework contract for the operation of its data centre through a negotiated procedure, without a contract notice having been published beforehand. No reasonable explanations were given for using a negotiated procedure, and there was no legal requirement to use the specific contractor that was awarded the contract. ACER did not carry out a competitive procurement procedure before signing the direct contract, nor did it carry out any market research. We therefore conclude that the procedure was not in compliance with the Financial Regulation, and was thus irregular. Payments made under this contract in 2019 amounted to 12 430 euros.

**Agency' reply:**

In July 2013, the Agency concluded a rental contract that included, as a part of the fitting-out, also constructing and equipping a Data Centre. The Agency concluded in 2015 a contract with the same service provider for the regular maintenance of this Data Centre. Considering these and also taking into account the preference of the landlord to have only one contractor performing electrical and telecommunication works in the building for all its tenants, the Agency contracted the same provider for the regular maintenance of its Data Centre also in 2019. The Agency did not analyse other possibilities that the market offers in the area of maintenance of the Data Centre. As a mitigating measure, the Agency is proactively looking into the possibility to terminate the current contract and launch a middle value negotiates procurement procedure in the course of 2020.

**Agency' action in 2020:**

The Agency terminated the current contract, launched a new negotiated procurement procedure and concluded a new maintenance contract for its Data Centre.

## **Other observations that do not call the Court's opinion into question**

### **ECA observation:**

We audited recruitment procedures at ACER, and found various weaknesses which affected the candidate evaluation process. In one case, candidates had been assigned a score based on their merits, and this score had been recorded in a table, but a mathematical error had been made in calculating the total number of points assigned to each candidate. Some candidates were not assessed by one of the members of the selection committee, even though they should have been. Also, the Director of the Agency had issued a decision concerning the number of candidates invited to attend interviews and a written test. But this decision was not applied by the selection committee. As a result of these errors, 3 of the 16 candidates should not have been invited to interview, but were invited anyway. A further candidate should have been invited, but was not. Finally, the candidate who was recruited following the procedure did not fulfil the minimum eligibility requirements as set out in the Director's decision. We therefore conclude that the selection procedure was irregular, and that ACER did not comply with the principle of equal treatment and failed to apply effective internal controls. This may expose ACER to high reputational and financial risks, especially if unsuccessful candidates lodge appeals or start legal actions.

### **Agency' reply:**

The Agency acknowledges the clerical mistakes, which occurred in the audited procedure. The Agency recorded the non-compliance in its register of procedural incidents, will report it in the Consolidated Annual Activity Report for 2020 and already took measures to prevent such incidents in the future (by reinforcing the HRM team; organising information session on the rules of procedures; revising the current rules and procedures). The Selection Committee invited more than eight candidates to the written examination and the oral interview mostly due to the low participation rate of invited candidates in past procedures. Considering that the acceptance rate of job offers varies between 50 and 100% and that the reserve lists are often intended for the recruitment of several candidates and are renewed for several years in a row, it is often more cost efficient to invite more than eight applicants to the interview stage to have a reserve list with high quality candidates that will not be exhausted immediately. The Agency agrees that such decisions should be documented in advance.

### **ECA observation:**

ACER signed a framework contract with a temporary-work agency for the use of temporary-agency workers, or interim workers. In 2019, ACER had 20 interim workers in addition to 92 directly employed staff members. Interim workers can be used to perform specific tasks for a temporary period. We found evidence to suggest that the Agency had been using interim

workers to make up for shortages in directly employed staff members. All but one of the interim workers working at ACER were performing long-term tasks, such as secretarial work and office management. ACER should rely less on interim workers and should make sure that permanent ongoing tasks are performed by directly employed members of staff.

**Agency' reply:**

The Agency has taken full consideration of the requirements stated in the European and Slovenian legislation, related to temporary agency workers (interim workers). Given the budgetary constraints, the Agency considers that the tasks related to FG II contract staff could be performed by interim staff, as per the nature of profiles set in the Agency's framework contract. The Agency acknowledged that temporary agency workers should not be assigned if the user undertaking (in this case the Agency) has a permanent need for a specific job position. The Slovenian legal regulations offer no interpretation what is to be considered as "temporary" assignment. The Ministry of Labour and the Labour Inspectorate of Slovenia provided only opinion and certain flexibility in the interpretation of some aspects of the legislation. As a general approach, at the time of availing itself of temporary agency workers, the Agency always considers the temporary nature of the assignments.

**ECA observation:**

The Agency has had high levels carry-overs for several years; however, there have been slight improvements on the overall rate since 2018. In 2019, carry-overs of committed appropriations were high for two budget titles: Title II (building and associated costs) and Title III (operating expenditure). For Title II, carry-overs were 0,8 million euros or 31 % of the total amount of the Title (0,9 million euros or 35 % in 2018). For Title III, carry-overs were 1,9 million euros or 46 % (1,5 million euros, or 68 % in 2018). The carry-overs are mainly accounted for by IT hardware and consultancy services. They are also partially explained by the nature of the Agency's core activities: these include the maintenance, operation, support and development of the REMIT IT systems, tasks which span several months and can extend beyond the end of the year. However, a significant part (25 %) of Title II carry-overs to 2020 were committed in December 2019; this was only partially justified. This is indicative of a structural issue. To resolve it, the Agency should further improve its budget planning and its implementation cycles.

**Agency' reply:**

The Agency notes that in line with Art.12 (6) of ACER Financial Regulation, carry forward, is a legitimate way to implement the budget and to apply budget principles. The Agency also points out that its level of carry forwards, being 18,15% of the overall 2019 budget, represents the strong commitment of the Agency to bring down the level of carry forward in comparison

to the previous years. The fact that the Agency's budget has been underfunded during the past years, is negatively affecting its overall planning. To that effect, planned purchases have to be postponed due to the lack of funding and are awaiting savings from other areas of operation. After the last budget review of the year, the Agency managed to bundle in a transfer the necessary funds to cover the needs of additional IT equipment and consultancy that were on hold during the year. Given the short period until year-end, the goods/services ordered could no longer be delivered nor paid in 2019, therefore the related open commitment balances were carried forward into 2020.

**ECA observation:**

ACER did not comply with internal control principle 12 of its own internal control framework, under which the Agency must record deviations from the rules and procedures in its register of exceptions. In our audit, we identified some deviations from established procedures that should have been recorded (e.g. invitation to an interview of more candidates than the established maximum number in the Director's decision). However, the register of exceptions had not been filled in. This undermines the transparency and the effectiveness of the Agency's internal control systems.

**Agency' reply:**

When a deviation from established processes and procedures takes place without prior authorisation given by the Agency, a procedural incident occurs. In such cases, justifying, analysing and documenting the event and the circumstances triggering it occur ex-post and aims at identifying appropriate measures to be taken in order to avoid similar cases from occurring in the future. The Agency has registered the procedural incident identified by the Court early in 2020, after all the analysis of facts and remedies have been carried out and shared with the new Director, who took office on 1 January 2020.

All observations and the Agency's replies can be found in [ECA's publicly available report](#).

**FOLLOW-UP ON EARLIER RECOMMENDATIONS**

**B) FOLLOW-UP OF RECOMMENDATIONS ISSUED FOLLOWING INVESTIGATIONS BY THE EUROPEAN ANTI-FRAUD OFFICE (OLAF)**

Not applicable.

**2.9 FOLLOW-UP ON OBSERVATIONS FROM THE DISCHARGE AUTHORITY**

The Agency duly informed the discharge authority on progress achieved in the fields requested in the discharge report 2018 and acted upon the recommendations received.

The Discharge Authority welcomes the fact that the Agency has outsourced accounting services to the Commission and shares resources with other agencies in the areas of human resources management, information and communication technology management, budget and finance, procurement and facility management; considers this initiative to be a worthwhile example for other Union institutions to follow. The Agency remains an active member of the Performance Development Network (PDN) of Agencies and is also co-chairing the Working Group on Accredited European Schools. ACER regularly re-assesses, optimises and streamlines its support functions and administrative processes. Knowledge sharing and introduction of best practices from other agencies is a key aspect of this process. It also participates to inter-institutional procurement procedures. The Agency actively participates in the ICTAC (Information Communication Technology Advisory Committee) and participates in the EU Agencies' Advisory group on Covid19 contributing, sharing, but also exchanging a number of practical aspects and arrangements in terms of the impact of the pandemic on all the operations of the Agency.

The Discharge Authority encourages the Agency to pursue the digitalisation of its services. The Agency has taken a number of steps in the area of digitalisation, so that to contribute to further efficiency gain.

The Agency takes good note of the comment of the Discharge Authority on its concern about the lack of gender balance among the Agency's senior and middle management members of staff (five men and one woman) and its concerns about the geographic imbalance. The Agency has increased its efforts to make its vacancy notices widely accessible and ensures that no gender discrimination occurs in its selection procedures, which are fully based on experience and merit, and in its appraisal and reclassification processes, which are fully based on performance. The Agency' Staff Committee is setting up a working group dedicated to diversity & inclusion. The aim of the group is to brainstorm best practices and actions fostering diversity and discuss their possible implementation at ACER.

The Discharge Authority calls on the Agency to introduce all of the necessary tools to manage procurement procedures and report to the discharge authority on the progress made in that field. In 2018, the Agency introduced e-Invoicing for all Commission contracts used by the Agency. In 2019 the Agency implemented and is using e-Tendering for all low and middle value and open procurement procedures. In 2020, the Agency introduced also e-Submission for all open procurement procedures.

Calls on the Agency to disseminate the results of its research to the public and to reach out to the public by means of the social media and other media outlets. The Agency is in the process of establishing its Communications and stakeholders' engagement strategies. To

this purpose it has established a Strategic Delivery and Communications Team to enhance its focus and impact. It is striving to increase its activity on its social media, most notably Twitter and LinkedIn, to communicate with the wider public. Efforts are being made to revamp and modernise the Agency's website, focusing in particular to a more general public-friendly approach highlighting the Agency's value added. The Agency is committed to better strategize its communication activities and outreach. Among the various activities undertaken to meet this goal, ACER is building a stronger social media presence – both by improving online communication with the aim to enlarge the Agency's network and to make its work more accessible to a broader scope of stakeholders.

The Agency was invited to a hearing with the CONT Committee on the Discharge 2019 regarding the ECA qualified opinion on the legality and regularity of payments made by ACER, which was related to irregular procurement procedures. The Agency acknowledged ECA's findings and took relevant actions, the Discharge authority notes the Agency's reply to the Court's finding and the measures taken by the Agency to prevent a recurrence of irregular procurement procedures;

#### **FOLLOW-UP ON EARLIER RECOMMENDATIONS**

In response to ECA's comment from 2016 on the introduction of differentiated budget appropriations, the Agency replied that given the persistent uncertainty of the annual budgetary allocation to the Agency, it is difficult to employ a differentiated appropriations method on its operational budget title. During 2020 and for the implementation of the Commission's decision on fees, the Agency has obtained external expert advice confirming that with the imposed universal budgeting model the introduction of differentiated budget appropriations would be even more difficult as under the mentioned model the yearly surplus needs to be returned to the general budget of the Union and cannot be retained by the Agency to cover for scheduled payments in the upcoming years.

On ECA's observation from 2017 on the disaster recovery site being located at the same place as the original data, the Agency is pleased to have found the necessary funding and was able to move in 2020 the site to a different location.

The outstanding 2017 ECA observation on the usage of IT tools developed by the Commission for e-procurement has been complied with during 2020 with the implementation of e-submissions. The Agency is now using all three tools, the e-invoicing, e-tendering and e-submissions.

## **2.10 ENVIRONEMENT MANAGEMENT**

The Agency is aligning its internal processes to good practices, such as the Eco-Management and Audit Scheme (EMAS) standards, so as to reduce the impact of its administrative operations on the environment. The Agency undertook some significant steps in managing its environmental impact by improving waste management and sorting, introducing paperless financial circuits in the financial administration by further developing IT tools, reduced the use of paper across the Agency, and promoted the use of public transport by staff (although this measure was hardly used in 2020, when most staff was teleworking and not commuting to work due to the Covid pandemic). It also promoted 'greener' procurement by introducing 'green' criteria in procurement documents, modernised IT equipment reducing the average energy consumption and associated toner waste, installed and improved equipment and services for web conferences/webinars to reduce the Agency's travel needs, and negotiated with the landlord for the supply of energy from 100% renewable energy sources starting with 2021. Furthermore, measures implemented due to the COVID-19 pandemic also affected the environmental impact of the Agency. There were no on-site events after 16<sup>th</sup> March 2020 reducing the overall energy, water and waste consumption, reduced office presence resulted in a change of behaviour regarding printing and the use of paper, use of energy in the offices (power, heating), and waste, and increased the usage and adoption of web conferencing and online communication tools replacing physical conferences. See Annex VII.

## **2.11 ASSESSMENT BY MANAGEMENT**

In 2020, the Agency continued to implement effective policies, management tools, and monitoring and control procedures, aiming to ensure the achievement of its objectives by employing its human and financial resources efficiently.

The Agency continued to execute the long-standing ex-ante and ex-post control procedures, with a commitment to improve the efficiency and effectiveness of organisational processes.

The ex ante controls performed encompass the entire system of controls and checks regarding operational, procurement and financial activities.

An extensive ex-ante control system for every low-, medium- and high-value procurement procedure is in place. Ex-post control is performed annually by the Court of Auditors on a sample of at least four procurement procedures. Each year, the Agency carries out an additional ex-post control of at least one high-value procurement procedure not covered by the Court of Auditors.

The ex-ante controls on financial transactions involve the use of standard check-lists on financial transactions and the strict application of the 'four-eye' principle.

A paperless workflow in the Accrual-based Accounting System (ABAC) was adopted already in 2015. A paperless workflow of carry-overs, implemented since 2016 financial year, contributes to the improvement of the process and the traceability of documentation and helps keep financial transactions compliant with applicable rules, while supporting the digitalisation concerted efforts of the Agency.

Revised guidelines on financial circuits and segregation of duties at the Agency were adopted in 2019. The guidelines define specific roles and responsibilities for all those taking part in the financial circuit.

Ex-ante and ex-post controls were further executed by using check-lists, consistent implementation of operational guidelines, and regular and structured reporting to management in terms of financial, human and other resources. Strict management supervision is performed through regular reviews, at management meetings, of Work Programme implementation, the annual procurement plan and the degree of implementation of key performance indicators (KPIs) and of the risk management process.

Controls and supervisory checks performed in 2020 provided no evidence of significant or repetitive errors in reporting by Agency departments, budget execution, human resources management or KPI implementation. Monitoring reviews showed no instances of inadequate or ineffective controls that could expose the Agency to key risks.

Based on the results achieved in 2020 (both financial and operational) and the additional assurance provided by external and internal audits, it can be concluded that the control environment established by the Agency works as intended and provides reasonable assurance of achievement of objectives and the legality and regularity of activities and transactions.

## **PART II (b): EXTERNAL EVALUATIONS**

Article 45 of the Agency's founding regulation states the following:

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 evaluation shall in particular address the possible need to modify ACER's mandate, and the financial implications of any such modification.

Where the Commission considers that the continued existence of ACER is no longer justified with regard to its assigned objectives, mandate and tasks, it may propose that this Regulation be amended accordingly or repealed after carrying out an appropriate consultation of stakeholders and of the Board of Regulators.

The Commission shall submit the evaluation findings referred to in paragraph 1 together with its conclusions to the European Parliament, to the Council and to ACER's Board of Regulators. The findings of the evaluation should be made public.

By 31 October 2025, and at least every five years thereafter, the Commission shall submit to the European Parliament and the Council a report evaluating this Regulation and, in particular, ACER's tasks involving individual decisions. That report shall, as appropriate, take into account the results of the assessment pursuant to Article 69(1) of Regulation (EU) 2019/943. The Commission, where appropriate, shall submit a legislative proposal together with its report.

## **PART III: ASSESSMENT OF EFFECTIVENESS OF INTERNAL CONTROL SYSTEMS**

### **3.1 EFFECTIVENESS OF INTERNAL CONTROL**

The internal control system designed provides reasonable assurance of achieving effectiveness, efficiency and economy of operations, reliability of reporting, safeguarding of assets and information and prevention, detection, correction and follow-up of fraud and irregularities.

The established internal control system is based on segregation of duties, the risk management and control strategy, avoidance of conflicts of interest, appropriate audit trails and data integrity in data systems, and established procedures for monitoring performance and for follow-up of identified internal control weaknesses and threats.

Financial management and control is rooted in such core processes as procurement (from the assessment of needs to the selection of suppliers to the award decision), financial operations (all processes establishing the financial commitment to payment, contract monitoring and recoveries with ad hoc procedures in place are 100 % verified through ex

ante verification) and supervisory measures (including ex post controls and audits), which form the basis for achieving sound financial management.

Legality and regularity is audited independently by the ECA.

ACER exercises the following internal controls:

- Preventive controls – designed to keep errors or irregularities from occurring. Many of these controls are based on the concept of segregation of duties. The Agency is committed to further develop this type of controls, recognising the resources available.
- Detective controls – designed to identify errors or irregularities that already exist. They are implemented to ensure that the preventive controls are working efficiently. When procedural errors are identified they are recorded in the Register of procedural incidents of the Agency..
- Monitoring controls – designed to ensure that internal controls continue to operate effectively over time. When implemented, the Agency is able to identify and correct problems on a timely basis, and produce more accurate financial and other information and statements of periodic evaluation of internal controls, follow-up of irregularities identified and supervisory reviews of the different risks and mitigating measures.

Following the Commission's revision of its Internal Control Framework<sup>5</sup> in 2017, and in view of aligning the Agency's internal control system to the international and EU standards and to develop the most effective internal control environment, the Agency revised and adopted its own Internal Control Framework in December 2018.

The new framework<sup>6</sup> replaced the internal control standards with internal control principles. There are seventeen internal control principles that are structured in five components, which form the Agency's internal control system as of January 2019, namely:

1. Control Environment
2. Risk Assessment
3. Control Activities
4. Information and Communication
5. Monitoring Activities

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<sup>5</sup> Communication to the Commission: Revision of the Internal Control Framework, C (2017) 2373 of 17.04.2017.

<sup>6</sup> Decision No. 17/2018 of the Administrative Board of the Agency for the Cooperation of Energy Regulators 13 December 2018 on the adoption of the Internal Control Framework of the Agency for the Cooperation of Energy Regulators.

The implementation of the principles is monitored via indicators that help to assess the level of compliance and effectiveness of the internal control measures. The result of the assessment made in 2020 is the following:

Overall Assessment of Internal Control System		
Internal control Component	Present and functioning	Explanation/Conclusion
<b>CONTROL ENVIRONMENT</b> <b>Principle 1-5</b>	CATEGORY 2 - The component is present and functioning well but some improvements are needed.	<p><b>P1 We demonstrate a commitment to integrity and ethical values:</b> A welcome pack, including a Code of good administrative behaviour, is distributed to all newly recruited staff, including ethical matters. All the material on awareness raising initiatives in ACER on ethics, integrity and conflict of interest and/or fraud is available to all Staff on the Intranet. The Agency also re-appointed the Ethics Correspondent in November 2020 for a period of two years. The Agency was prevented from organising the Annual awareness-raising event on Ethics and Integrity in 2020, due to the COVID-19 situation. The next training will be organised in 2021.</p> <p>A staff engagement survey was conducted in October 2020. The overall participation rate was 82.5% (compared to 76% in the last survey). 77% of staff agreed that the working environment at ACER is respectful, and 58% of staff believed that ACER is committed to the fair treatment of staff, placing the average at 67.5%, which is below the target of 70%. Staff meetings with the Director are organised at least once a month. In 2020, due to teleworking regime, all meetings were organised online. The aim was to keep staff informed throughout the year on the developments in the Agency; acknowledging that there are various channels available to ensure this.</p> <p><b>P2 Management exercises oversight of the development and performance of internal control:</b> The declaration of Assurance of the Director is present in the CAAR. The reporting on the status of follow-up to IAS recommendations is done regularly, and it is a standing point in the agenda of the meetings of the Administrative Board.</p> <p><b>P3 Management establishes structures, reporting lines and appropriate responsibilities in the pursuit of objectives:</b> The Agency has defined its process mapping and is currently defining and developing its Standard Operating Procedures. Quality management procedures and workflows for process definition and improvement were defined and an intranet page on Quality Management is regularly updated. The Agency has updated Guidelines on financial circuits and segregation of duties. Deputising arrangements have been successfully implemented according to the Administrative Board decision 15-2015 on laying down the policy and procedure for</p>

		<p>deputising in SYSPER 2 in 2020, when Sysper was available to ACER staff.</p> <p><b>P4 We demonstrate a commitment to attracting, developing and retaining competent individuals in alignment with objectives:</b> A new learning and development policy was adopted in 2019. A staff engagement survey was conducted in October 2020. Overall participation was 82.5% (compared to 76% in the last survey). 43% of staff agree that the learning opportunities they get help them maintain their professional knowledge and skills updated, and 59% of staff agree that working in the Agency helps them to develop professionally, placing the average at 51%, which is below the target of 75%. All authorised posts of the annual establishment plan were filled in November 2020. The Competency Framework of the Agency is in place. 100% of selection notices advertised on at least 2 media channels (target: 90%).</p> <p><b>P5 We hold individuals accountable for their internal control responsibilities in the pursuit of objectives:</b> Appraisal reports were concluded according to the applicable rules and standards, reclassification decisions were taken by the Director, on the basis of proposals made by each Head of Department, following consultation with the Staff Committee and recommendations made by a Joint Reclassification Committee (JRC).</p>
<p><b>RISK ASSESSMENT</b> Principle 6-9</p>	<p>CATEGORY 1 - The component is present and functioning well.</p>	<p>All targets achieved.</p> <p><b>P6 We define objectives with sufficient clarity to enable the identification and assessment of risks relating to the achievements of objectives:</b> In June 2020 a mid-term risk management exercise was performed. A new risk management review (with a new template) was launched in October 2020. A staff engagement survey was conducted in October 2020. 76% of staff agreed they had a clear understanding of their work-related objectives, and 74% of staff agreed they feel that their work contributes to the achievement of ACER's objectives, placing the average at 75%, above the target of 70%. All budget related targets were achieved.</p> <p><b>P7 We identify risks related to the achievement of objectives across the organisation and assess risks as a basis for determining how the risks should be managed:</b> A risk management exercise is conducted at least once a year as part of the AWP process. In June 2020 a mid-term risk management exercise was performed. A new risk management review (with a new template) was launched in October 2020. Risks are followed-up in the AAR.</p> <p><b>P8 We consider the potential for fraud in assessing risks related to the achievement of objectives:</b> Fraud risk assessment is performed annually. The Anti-Fraud Strategy was adopted in 2019. The Guidelines on Management of Col concerning staff involved in selection, recruitment or</p>

		<p>reclassification procedures were adopted in 2018 and being applied in all selection procedures.</p> <p><b>P9 We identify and assess changes that could significantly impact the internal control system:</b> 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 an ad-hoc basis, as necessary.</p>
<p><b>CONTROL ACTIVITIES</b> <b>Principle 10-12</b></p>	<p>CATEGORY 2 - The component is present and functioning well but some improvements are needed.</p>	<p><b>P10 We select and develop control activities that contribute to the mitigation of risks to the achievement of objectives:</b> Business continuity arrangements identified in the ACER Business Continuity Plan are tested regularly. In 2020, due to the pandemic, it was not possible to test it properly (although the pandemic was in itself a test in business continuity), but the Agency is undergoing a review of the steps taking during the pandemic by a contractor to analyse how the crisis was managed and how the management of this crisis could have been improved. One of the measures taken to maintain business continuity during the COVID-19 pandemic was the establishment of the Continuity Management Group (CMG) to guarantee a proper chain of decision-making in the pandemic setting. The 4 eyes principle was ensured in all financial workflows. The segregation of duties among financial actors is clearly defined in the Guidelines on financial circuits and segregation of duties. Ex-ante legal checks are performed on all procurement procedures in line with the Procurement Guidelines for Project Managers. Delegations and nominations of financial actors are in place for every budgetary year.</p> <p><b>P11 We select and develop general control activities over technology to support the achievement of objectives:</b> The ICT Strategy is older than three years. The delay was mitigated by the fact that the Steering Committee met regularly during this period of time and provided oversight and strategic direction in the ICT domain. Furthermore, IT has a fixed slot in the bi-weekly Continuity Management Group meeting to discuss IT topics that are relevant to address the teleworking and "new normal" IT needs. Therefore, the effectiveness of the principle is not affected. The ICT Strategy will be transferred into and reflected in the Multiannual IT Action plan. There were seven information security incidents identified in 2020. The number of incidents increased over the beginning of the pandemic and subsequently stabilised. This was in part expected due to an increased number of attacks against all EU Institutions and Agencies. The incidents did not have any impact, and some proved to be false positives. The ISC (ICT Steering Committee) met three times in 2020. In addition, all ISC members meets bi-weekly in the CMG (Continuity Management Group) where ICT matters regarding business continuity and other strategical ICT topics are a fixed agenda point for each meeting.</p>

		<p><b>P12 We deploy control activities through corporate policies that establish what is expected and through procedures that put policies in action:</b> Exceptions and incidents reported were reviewed and registered and reported in the CAAR. In 2020 there were two exceptions and two incidents were registered in the Registers.</p>
<p><b>INFORMATION AND COMMUNICATION</b> <b>Principle 13-15</b></p>	<p>CATEGORY 1 - The component is present and functioning well.</p>	<p>All targets achieved.</p> <p><b>P13 We obtain or generate and use relevant quality information to support the functioning of internal control:</b> A Share Point tool is used for collecting information regarding KPI and PI monitoring and reporting which provides input towards the progress reports. Also, Business Intelligence tools are used to provide accurate data to support management decisions.</p> <p><b>P14 We communicate information internally, including objectives and responsibilities for internal control, necessary to support the function of internal control:</b> The whistleblowing policy together with other fraud awareness information are published on the Anti-Fraud intranet page. The Agency has developed a SOP for cooperation with OLAF and follow-up on investigations. All Internal Control related information and training material is also being published on the intranet page accessible to all staff.</p> <p><b>P15 We communicate with external parties about matters affecting the functioning of internal control:</b> Changes and developments in the internal control system are communicated and reported in the CAAR.</p>
<p><b>MONITORING ACTIVITIES</b> <b>Principle 16-17</b></p>	<p>CATEGORY 1 - The component is present and functioning well.</p>	<p>All targets achieved.</p> <p><b>P16 We select, develop and perform ongoing and/or separate assessments to ascertain whether the components of internal control are present and functioning:</b> The audit Action Plans are being implemented accordingly and regularly reported to the Administrative Board (AB) and annually reported in the CAAR. IC is being assessed quarterly and reported to the AB and annually in the CAAR and discharge authority.</p> <p><b>P17 We assess and communicate internal control deficiencies in a timely manner to those parties responsible for corrective action, including senior management as appropriate:</b> The results of the continuous and specific assessments have been properly disclosed in the CAAR. All actions of the IAS Action plan are being implemented according to the deadlines, except two, where new deadlines for implementation have been agreed.</p>

## OVERALL MANAGEMENT OF RISK

The Agency managed its risks at various levels, ranging from standard risks, addressed through the internal control principles mentioned above, to risks related to specific tasks, monitored at department level.

Critical risks, potentially affecting the Agency's main objectives, were assessed at Agency level, through the annual risk assessment exercise performed in parallel with the preparation of its Programming Document. This covers operational, legal and administrative areas of activity. Risks are assessed in relation to specific activities at department level (some activities being inter-departmental). A risk register of critical risks is compiled on the basis of the assessment of the likelihood and potential impact of individual risks, including the Agency's response to the risks. Critical risks were identified in relation to the implementation of the REMIT regulation,

As a result of the exercise, the management identified risks considered to be both likely and with a potentially significant impact on Agency activities. The identified risks concerned the implementation of REMIT due to the considerable divergence between the allocation of human resources which the Agency considered necessary to meet the objectives of REMIT and the staffing allocation voted in the EU Budget. The activities subject to critical risks concerned the operation of the Centralised European register of energy market participants (CEREMP) and the Agency's REMIT Information System (ARIS) and the market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation. Despite the mitigating measures adopted by the Agency, some risks materialised (see section on "tasks deprioritised or not executed" in Part I.

In 2020 a mid-year risk review was performed in June to re-assess the risks originally foreseen during the planning exercise. The risks was performed in line with the latest risk assessment and risk fiches used by the European Commission. Mid-year risk assessments will henceforth be performed on an annual basis.

As in previous years, the Agency's management monitored the achievement of the Work Programme objectives through the Agency's KPIs using the Agency's 'traffic light' system (see Annex I). Most KPIs usually remain the same from year to year to ensure consistency in comparisons, but the targets to be achieved in the year in question are set on an annual basis. The KPIs were discussed on a quarterly basis at coordination and management meetings. Specific attention was paid to objectives for which related KPIs identified delays or underperformance, and measures were identified to address such issues. The KPIs will be modified for the following years on the basis of recommendation received from the IAS particularly in the REMIT field.

Besides the standard monitoring of the implementation of the annual Work Programme, additional processes were used to monitor the human and financial resources situation, in particular concerning budget implementation (e.g. monthly implementation reports discussed at management meetings).

## **ANTI-FRAUD, CONFLICTS OF INTERESTS, TRANSPARENCY AND POST-EMPLOYEMENT**

The Agency adopted a new **Anti-Fraud Strategy** in March 2019, spanning over a three-year period. The strategy is based on the following elements: an annual risks assessment, the prevention and management of conflicts of interest (see below), internal rules on whistleblowing, the policy and procedure for the management of sensitive functions, as well as measures related to ethics and integrity.

The Anti-Fraud policy's objectives are the following:

Objective 1: To raise the level of fraud awareness in the Agency, including increased knowledge and capacity for performing preventive and detective controls

Objective 2: To support effective prevention and detection of fraud risk, in particular through development of procedures, guidelines or specific anti-fraud measures and controls, where necessary.

Objective 3: To establish appropriate internal procedures for reporting and handling potential fraud cases and their outcomes.

In 2019 the Agency also developed a Standard Operating Procedure (SOP) of cooperation with the European Anti-Fraud Office (OLAF). No cases of fraud were detected in 2020.

In 2020 the Agency continued to implement its comprehensive **policy for the prevention and management of conflicts of interest**, including provisions related to staff (with stricter requirements for management), its boards, working groups and task forces. The Agency thus collected the annual declarations of interest of its management staff (Director and Heads of Department), of AB members and alternates, of BoR members and alternates, and of members and alternates of the Board of Appeal (BoA), as well as of the chairs and vice-chairs of the Agency's working groups and of the convenors of the Agency's task forces. The declarations were reviewed in accordance with the policy and published on the Agency's website together with the CVs of the persons in question. No cases of potential conflict of interest were identified in 2020.

The Agency continue to implement the Decision on outside activities and assignments and **on occupational activities after leaving the Service**. Under Article 16 of the Staff Regulations, after leaving the service, staff members continue to be bound by the duty to behave with integrity

and discretion as regards the acceptance of certain appointments or benefits. Any former staff member who intends to engage in an occupational activity within two years of leaving the service must inform his/her former institution accordingly so that it can take an appropriate decision in this respect and, where necessary, forbid an activity or grant approval subject to appropriate restrictions. In 2020 no restrictions were imposed following the notifications received on occupational activities to be pursued by staff members leaving the Agency.

The third paragraph of Article 16 of the Staff Regulations stipulates that, in principle, the Appointing Authority will prohibit former senior staff, during the 12 months after leaving the service, from engaging in lobbying or advocacy vis-à-vis staff of their former institution for their business, clients or employers on matters for which they were responsible during their last three years in the service. The fourth paragraph of Article 16 of the Staff Regulations requires each institution, in compliance with Regulation (EC) No 45/20011 of the European Parliament and of the Council, to publish annually information on the implementation of the third paragraph, including a list of the cases assessed.

The outgoing Director left the Agency at the end of 2019 and notified the Agency on his future employment, in line with existing requirements.

### 3.2 CONCLUSIONS OF ASSESSMENT OF INTERNAL CONTROL SYSTEMS

<p><b>OVERALL ASSESSMENT</b> Are all components operating together in an integrated manner?</p>	<p><b>CATEGORY 2 - The internal control system is present and functioning but some improvements are needed.</b></p>
<p><b>Is the overall internal control system effective?</b> Category 1. Minor- Yes Category 2. Moderate- Yes Category 3. Major- Partially Category 4. Critical- No</p>	<p style="text-align: center;"><b>Yes</b></p> <p><b>Based on the table on Overall Assessment of Internal Control System, presented in 3.1, the overall assessment is categorised into Category 2, where the internal control system is present and functioning well but some improvements are needed. It has therefore been concluded that the overall internal control system of the Agency is effective.</b></p>

### 3.3 STATEMENT OF THE MANAGER IN CHARGE OF RISK MANAGEMENT AND INTERNAL CONTROL

*I, the undersigned,*

*Manager in charge of risk management and internal control within the Agency for the Cooperation of Energy Regulators (ACER),*

*In my capacity as Manager in charge of risk management and internal control, I declare that in accordance with ACER's Internal Control Framework, I have reported my advice and recommendations on the overall state of internal control in the Agency to the Executive Director.*

*I hereby certify that the information provided in the present Consolidated Annual Activity Report and in its annexes is, to the best of my knowledge, accurate, reliable and complete.*

*Ljubljana, 16 June 2021*



*Olga BORISSOVA*

*Head of Corporate Services*

## **PART IV: MANAGEMENT ASSURANCE**

### **4.1 REVIEW OF THE ELEMENTS SUPPORTING ASSURANCE**

The building blocks of assurance, as described in Part III, underpin the reasonable assurance provided by authorising officers in their declaration of assurance in the CAAR. The reliability of the information contained in this report is supported by the following building blocks of assurance.

#### **BUILDING BLOCK 1: ASSESSMENT BY MANAGEMENT**

As presented in the preceding sections, the Agency developed and implemented a comprehensive set of procedures and tools to prepare, manage, control and monitor the implementation of its Work Programme and its human and financial resources.

These procedures encompass ex ante and ex post controls, planning, monitoring and reporting tools, control procedures performed by staff, and assurance provided by internal and external audits, as well as evaluations of the Agency's activities.

The Agency also analyses major weaknesses, if any, in achieving its short-term objectives, the reputational risks, any significant weaknesses in the control system and recurrent errors. These weaknesses might involve the use of resources, sound financial management and the legality and regularity of transactions. The significance of a weakness is judged on the basis of:

- the nature and scope of the weakness;
- the duration of the weakness;
- the existence of mitigating controls which reduce the impact of the weakness; and
- the existence of effective corrective measures (action plans and financial corrections).

Apart from the exceptions and procedural incidents described in the following section, in 2020, no significant weaknesses requiring special attention, resources or actions were found. Based on the facts presented in the preceding sections, and in the light of the opinion expressed by the European Court of Auditors on the reliability of the accounts and the legality and regularity of the transactions underlying the accounts, it is safe to say that the Agency has established a working environment where risks are appropriately managed and where the internal control system works effectively and contributes to the achievement of the objectives.

This conclusion takes account of the Agency's concerted efforts to maintain a high level of effectiveness in its internal control environment, which entails constant assessment and strengthening of existing controls (considering cost-effectiveness and estimated added value

against the additional cost incurred by the Agency) to maintain full compliance with the requirements of Internal Control Framework of the Agency and to ensure it will continue to achieve the objectives in its Work Programmes in years to come.

## **REGISTER OF EXCEPTIONS AND PROCEDURAL INCIDENTS**

Since 2011, the Agency has had a procedure in place to register exceptions, which guarantees that all instances of overriding controls or deviations from established processes and procedures are documented in exception reports and are justified, duly approved before action is taken and logged centrally.

In 2020, there were two (2) exceptions and two (2) procedural incidents registered in the Registers, namely:

- Exception no. ACER/01/2020 related to the payment of invoice dated 19.02.2020, covering services provided under the Specific Contract no 40 implementing Framework Contract no DI/07600 (SLG.AVT.DI07600), covering the period 01.01.2019 – 31.12.2019.
- Exception no. ACER/02/2020 related to the temporary measure exemption from the REMIT Information Security Policy 2015 with respect to screening of REMIT data with SMARTS.
- Procedural incident no. ACER/2020/01 related to two recruitment procedures, where the auditors found an irregularity, which relates to the number of candidates invited to the written examination and oral interview.
- Procedural incident no. ACER/2020/02 related to the Internal Control Principle 12, namely the out of price list purchases under the framework contract for the provision of IT system integration services.

## **BUILDING BLOCK 2: RESULTS OF AUDITS AND EXTERNAL EVALUATIONS DURING THE REPORTING YEAR**

In 2020, the Agency received no critical recommendations from internal or external auditors. Furthermore, as provided in Part III above, all recommendations from previous years were implemented as planned, reported in a timely manner and most of them were approved by the relevant authority within 2020.

The Agency confirms that, on the basis of its thorough assessments of the observations made by the IAS in its Audit report, and following the Action Plan already put in place and being implemented, it can conclude that reasonable protection of the financial and reputational interests of the Agency is in place.

The Agency appreciates and acknowledges the efforts of the IAS to assess the quality of the control systems put in place and recognises the identified aspects in the area of information

security where improvements are necessary. However, due to the classification of the recommendations the Director does not see reasons to express a reservation on the regularity and legality of the security processes. The Director has reasonable assurance that, overall, suitable controls are in place and working as intended, and that risks are being properly monitored and mitigated, and necessary improvements detected by the auditors are being implemented in accordance with the Action Plan, as accepted by the IAS. Therefore, the Director, in his capacity as Authorising Officer, intends to sign the Declaration of Assurance without any reservation.

The Agency's management has reasonable assurance that the resources assigned to the activities described in the Consolidated Annual Activity Report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place provide the necessary guarantees concerning the legality and regularity of the underlying transactions. This reasonable assurance is based on:

- own judgment and the information available from the management supervision activities;
- the results of the self-assessment; and
- the observations of the IAS following the audits performed in the reporting period and the Action Plan adopted and currently implemented in cooperation with the IAS.

### **BUILDING BLOCK 3: FOLLOW-UP ON RESERVATIONS FROM PREVIOUS YEARS**

The authorising officer's declaration of assurance in the 2019 Annual Activity Report did not contain any reservations.

### **BUILDING BLOCK 4: ASSURANCE RECEIVED FROM OTHER AUTHORISING OFFICERS IN CASES OF CROSSED SUB-DELEGATIONS**

No budget implementation tasks were entrusted to other services or entities, thus minimising the risk requiring assurance.

### **SUMMARY OF WEAKNESSES IDENTIFIED AND THEIR EFFECT ON THE DECLARATION OF ASSURANCE**

No significant weaknesses were identified affecting the declaration of assurance. The control environment established by the Agency works as intended and provides reasonable assurance of achievement of objectives and the legality and regularity of activities and underlying transactions.

## 4.2 RESERVATIONS

By applying the commonly used practice, a materiality threshold is applied by the Authorising Office when deciding whether a reservation shall be made or not. The current threshold is set so as to include budgetary implications with an effect larger than 2.5% of the balance sheet value. This translates into EUR 123,000 for the financial year 2020.

No reservations have been made in the current Consolidated Annual Activity Report.

## PART V: DECLARATION OF ASSURANCE

*I, the undersigned, Director of the Agency for the Cooperation of Energy Regulators (ACER),*

*In my capacity as authorising officer,*

*Declare that the information contained in this report gives a true and fair view.*

*State that I have reasonable assurance that the resources assigned to the activities described in this report have been used for their intended purpose and in accordance with the principles of sound financial management, and that the control procedures put in place give the necessary guarantees concerning the legality and regularity of the underlying transactions.*

*This reasonable assurance is based on my own judgement and on the information at my disposal, such as the results of the self-assessment, ex-post controls, the work of the Internal Audit Service and the lessons learnt from the reports of the Court of Auditors for years prior to the year of this declaration.*

*Confirm that I am not aware of anything not reported here which could harm the interests of the agency.*

*Ljubljana, 16 June 2021*



*Christian Pligaard Zinglensen*

*Director*

## Annexes

### ANNEX I: CORE BUSINESS STATISTICS - REPORTING ON KPIS

#### TRAFFIC LIGHTS (VISUAL STATE OF PLAY) — LEGEND

					
KPI is fulfilled and task completed	KPI is fulfilled and task completed with a small delay/issue	On track, no problems envisaged (used for Q1, Q2 and Q3)	Slight delay or issue that still needs to be addressed but the KPI is expected to be fulfilled, possibly with a slight delay	Problem or delay due to external factors (e.g. not received on time from ENTSOs or the Commission)	Actual or expected problem or delay, KPI not achieved or lagging behind

#### 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.
<b>KPI 1</b>	2/3 of participating staff satisfied or highly satisfied with the employment conditions at the Agency.
2020 result	SES performed in October 2020. Participation rate: 83 % Overall satisfaction rate = 59 % (2 % higher than in 2018) 

#### 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.
<b>KPI 2</b>	At least 95% execution of commitment appropriations

2020 result	Commitments implementation rate at the end of Q4 = 98.87%	
<b>KPI 3</b>	Minimum 75% execution of payment appropriations.	
2020 result	Payments implementation rate at the end of Q4 = 81.07%	
<b>KPI 4</b>	Cancellation of payment appropriations below 5%.	
2020 result	At the end of Q4 cancelled payment appropriations from the funds carried forward was at 3.17%	
<b>KPI 5</b>	Non-qualified opinion received from the European Court of Auditors and 75% of its recommendations implemented in line with the Agency's Action Plan.	
2020 result	Qualified ECA opinion for the payments side of budget. Action plan developed to address all the observations.	

### ELECTRICITY NETWORK CODES, OPINIONS, RECOMMENDATIONS, DECISIONS AND REPORTS

<b>Tasks</b>	<b>Timely adoption of the Agency Acts in the Electricity sector foreseen in the Work Programme and in the regulations relevant for the Agency</b>	
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).	
<b>KPI 6</b>	90% of opinions, reviews, recommendations and reports delivered on time.	
2020 results	All deliverables were issued and more than 90% on time (a few were issued with a short - 2 month - delay due to their complexity and difficulties related to the Covid-19 pandemic).	

## GAS NETWORK CODES, OPINIONS, RECOMMENDATIONS, DECISIONS AND REPORTS

Tasks	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)	<p>Timely and effective Network Codes implementation, as well as adoption of Gas-related opinions and recommendations, including terms and conditions and methodologies, PCIs, etc.</p> <p>Various deadlines (depending on the act in question and the legal requirements).</p>
KPI 7	90% of opinions, reviews, recommendations and reports delivered on time.
2020 results	<p>Delivered on time:</p> <ul style="list-style-type: none"> <li>- Opinion on ENTSOG's Annual Report 2019 (letter) October </li> <li>- Opinion on ENTSOG's Scenario Development Report for TYNDP 2020 - November</li> <li>- Opinion on ENTSOG's Annual Work Programme 2021 - December</li> <li>- Opinion on Gas NDPs consistency with the EU TYNDP - December</li> </ul> <p>In progress and on track for January 2021:</p> <ul style="list-style-type: none"> <li>- White paper: Power to gas</li> <li>- White paper: Hydrogen</li> <li>- Policy paper on balancing misconduct in European Gas Markets</li> </ul>

## CROSS-SECTOR ISSUES (ELECTRICITY AND GAS)

Task	Annual Market Monitoring Report
Objectives and deadlines (indicative)	<p>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.</p> <p>Expected completion date: November.</p>
KPI 8	Positive feedback on the report based on an online survey (70% satisfied or very satisfied).
2020 results	<p>80% of respondents of the feedback survey were satisfied or very satisfied with the MMR Webinar on 28 October. </p> <p>MMR preparation objectives:</p> <p>Electricity: MMR Electricity Wholesale - published on 26 October:</p>

	Cross-sector: MMR Energy Retail and Consumer Protection - published 26 October.
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### **WHOLESALE MARKET MONITORING – REMIT**

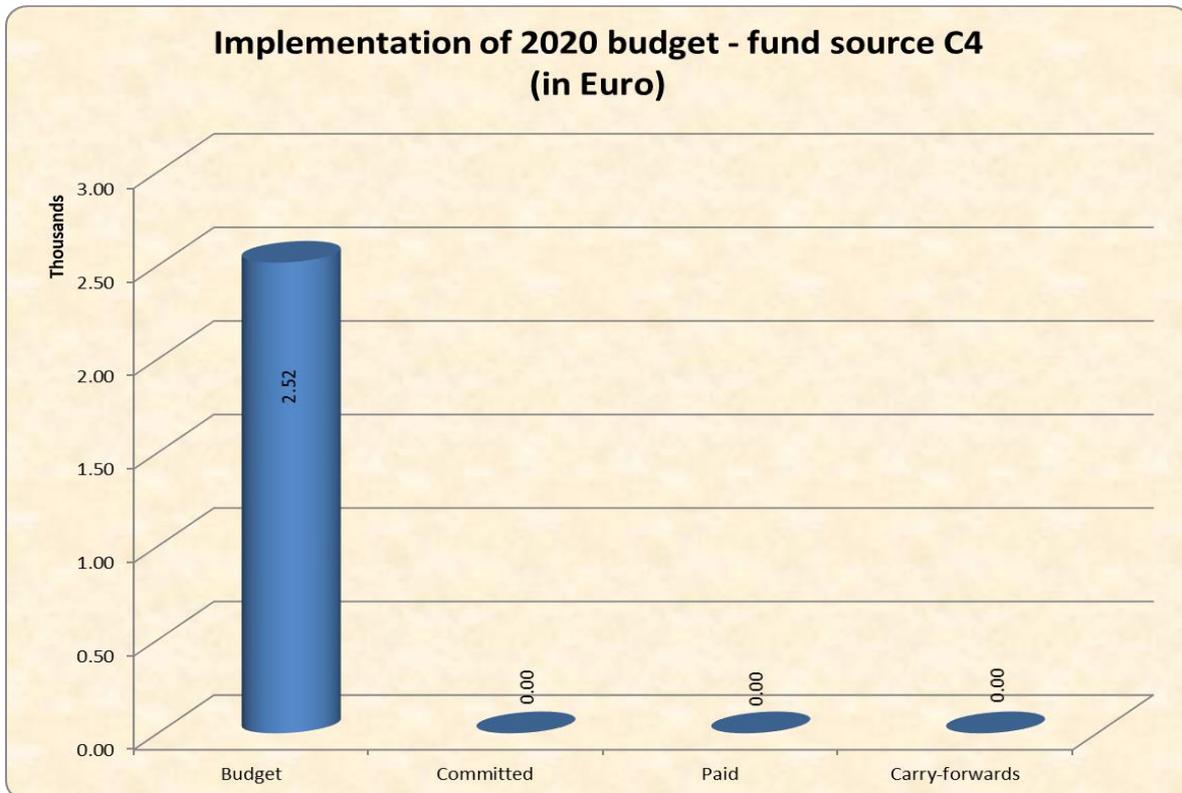
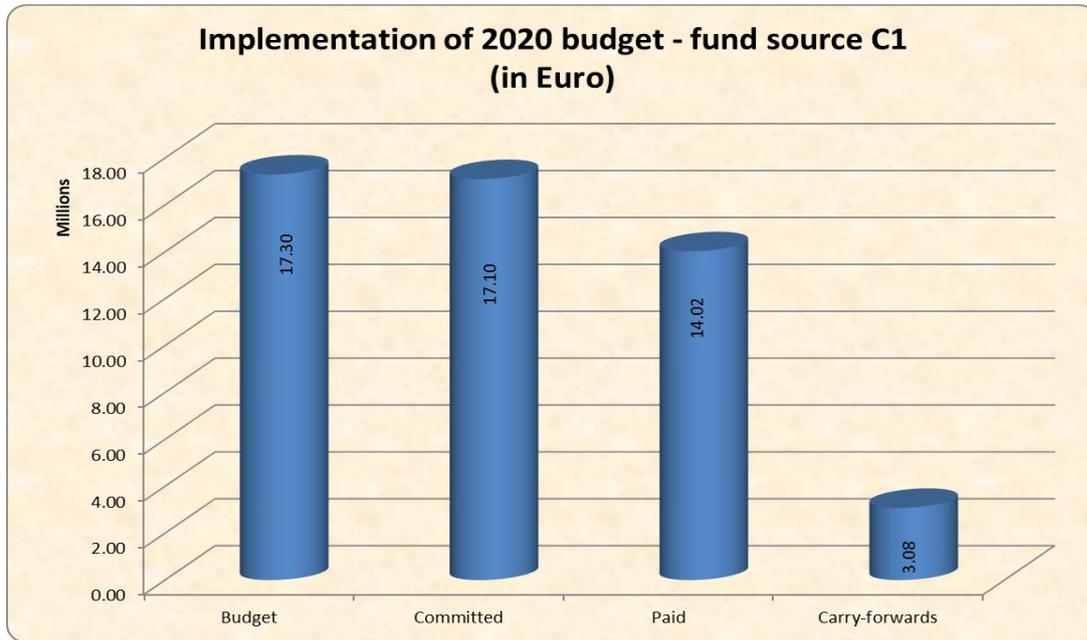
<b>Task</b>	<b>REMIT Information Management and operation and further enhancements of the Agency's REMIT Information Systems whilst ensuring operational reliability</b>
Objectives and deadlines (indicative)	To collect, analyse and provide high-quality REMIT data for monitoring purposes of the Agency, NRAs and other relevant authorities.  To operate the Agency's REMIT Information Systems operationally reliable.
<b>KPI 9</b>	Continuous work on improving REMIT data quality measured by the number of yearly internal REMIT data quality reports.
2020 result	Resources had to be dedicated to supporting DG ENER on the implementation of REMIT fees so that REMIT data quality work had to be deprioritised. 
<b>KPI 10</b>	99% system availability. AND Time from discovery of an incident until resolution 0 breaches of the security system with a data leakage involved. AND Time from discovery until escalation to Director/stakeholders.
2020 results	99% system availability could not be achieved and ACER was faced with several downtimes of ARIS negatively impacting data collection, data analysis, data sharing and market monitoring. 

<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)	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.  Aim to ensure that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way and

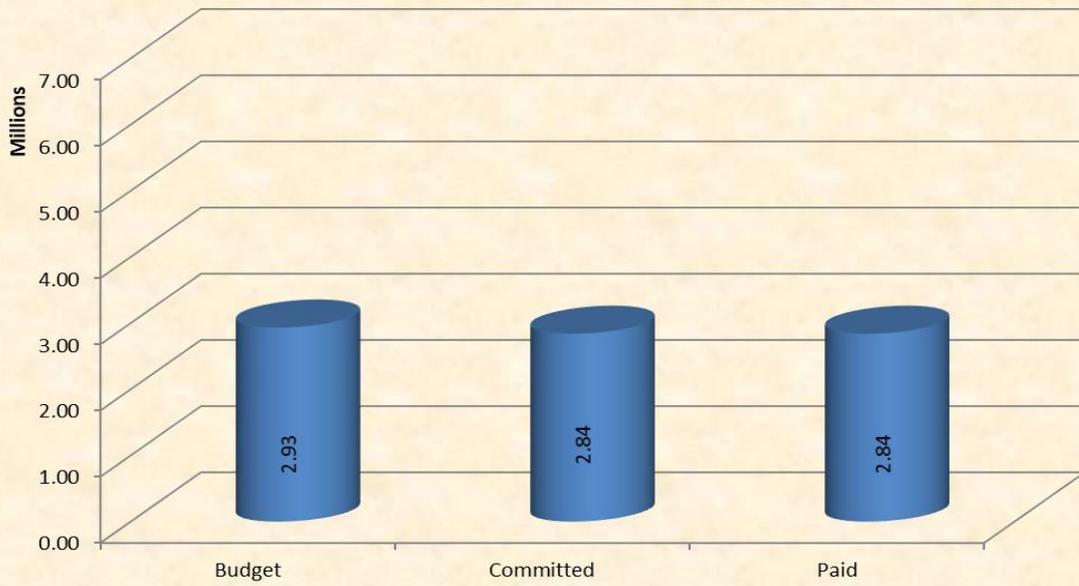
	coordinate investigations of alleged cross-border market abuse instances as required.
<b>KPI 11</b>	100% of the cross-border triggered alerts preliminarily assessed and disseminated to NRAs in a secure way.
2020 results	<p>The Agency lacks the required resources to perform appropriately this task pursuant to Article 7 of REMIT. Therefore, the Agency had to resort to prioritisation in the manual assessment of triggered alerts, with only a fraction of these being manually assessed. Moreover, the level of data quality requires further improvement.</p> <p>The sharing of manually assessed triggered alerts with NRAs on a monthly basis is ongoing and stable. The alerts triggering on cross-border trading is a priority for the Agency, although overall market monitoring activities go beyond it.</p> 
<b>KPI 12</b>	0% chance of not notifying priority cases to the relevant authorities.
2020 results	<p>KPI achieved.</p> 

## ANNEX II: FINANCIAL MANAGEMENT STATISTICS

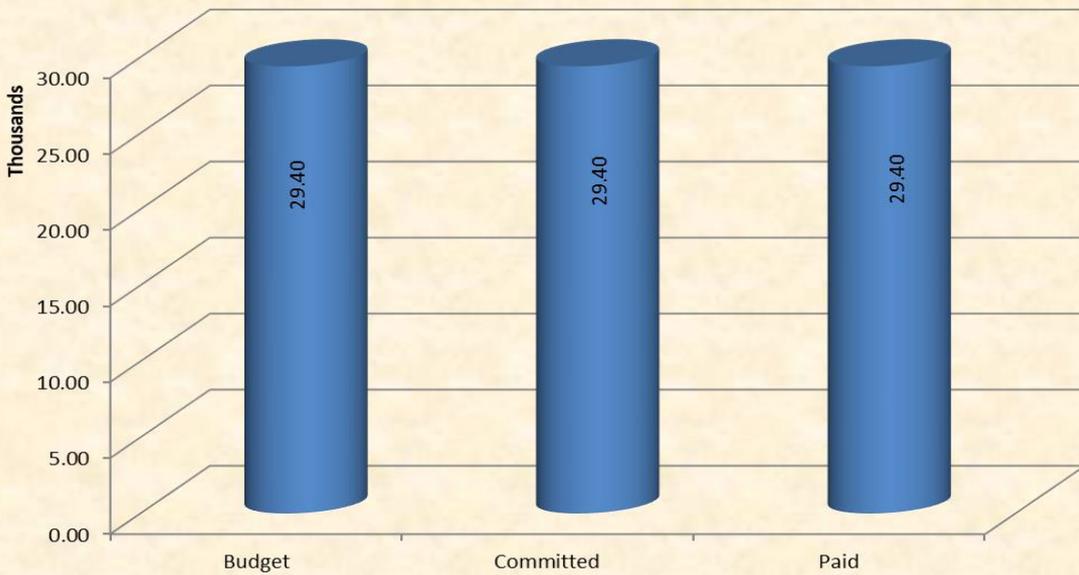
### Budget implementation by fund source



### Implementation of 2020 budget - fund source C8 (in Euro)



### Implementation of 2020 budget - fund source R0 (in Euro)



## Table Budget outturn and cancellation of appropriations

### Calculation budget outturn

Budget outturn	2018	2019	2020
Reserve from the previous years' surplus (+)			
Revenue actually received (+)	13 566 197	16 243 389	17 299 898
Payments made (-)	-10 812 965	-13 197 948	-14 052 215
Carryover of appropriations (-)	-2 648 236	-2 965 258	-3 081 457
Cancellation of appropriations carried over (+)	86 926	118 181	126 274
Adjustment for carryover of assigned revenue appropriations from previous year (+)			
Exchange rate differences (+/-)	103	-16	604
Adjustment for negative balance from previous year (-)			
<b>TOTAL</b>	<b>192 025</b>	<b>198 348</b>	<b>293 104</b>

\*N – the year covered by the programming document drafted in N-1 (as per definition art. 32)

### Budget outturn information and justification

During the financial year 2020 the operations of the Agency were fully subsidised from the general budget of the Union.

	kEUR	
	<b>31 December 2020</b>	<b>31 December 2019</b>
<b>INCOME</b>		
Commission subsidy	17 297	16 147
Other income	3	96
<b>TOTAL INCOME</b>	<b>17 300</b>	<b>16 243</b>

The initial approved appropriation for the financial year 2020 amounted to kEUR 16 868 including the contribution from EFTA states amounting to kEUR 399 and assigned revenue from previous year surpluses of kEUR 192. In December 2020 the Agency received a transfer of appropriations in the form of a subsidy amounting to kEUR 429 to support the unprecedented need of legal counsel in defending the Agency's decisions. Recovery of undue payments occurred during 2020, amounting to kEUR 3 brought the total revenue for the year to kEUR 17 300.

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 2,515.27 were automatically carried forward into 2021 but remained uncommitted 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 recognized revenue or EUR 293 104 to the general budget of the Union in the course of 2021.

### **Cancellation of commitment appropriations**

The implementation rate of the commitment appropriations for the year 2020 reached a level of 98.87%. From the total revenue recorded for the year 2020 an amount of EUR 166 225.96 was left unused and will be returned to the Commission during 2021.

### **Cancellation of payment appropriations and payment appropriations carried over**

From the total automatically carried forward appropriations from 2019 into 2020 amounting to EUR 3 078 941.59, an amount of EUR 93 063.20 representing 4.17% of the total amount carried forward has been cancelled and is to be returned to the Commission during 2021. Cancelled appropriations related mainly to underperformance of one contractor, less than expected cost of Boards missions, actual costs of building maintenance and utilities consumption, postage and telecommunication costs for the last months of the year, expert consultancy on REMIT projects and some other minor savings.

## **BUDGET APPROPRIATIONS AND TRANSFERS**

Title 1 (in EUR '000)

Item	Initial adopted budget	Budget appropriations			Final budget adopted
		Amending budgets	Transfers		
	1	2	3	4=1+2+3	
1100 Basic salaries and correction	4 850	-	(69)	4 781	
1101 Family allowances	764	-	49	813	
1102 Expatriation and foreign residence allowances	779	-	(9)	770	
1110 Contract agents	1 920	-	(229)	1 690	
1111 Seconded National Experts	196	-	(1)	195	
1120 Training and information for staff	193	-	20	213	
1130 Insurance against sickness	197	-	(1)	197	
1131 Insurance against accidents and occupational disease	25	-	(2)	23	
1132 Unemployment insurance for temporary staff	75	-	1	75	
1140 Birth and death grants	2	-	(0)	2	
1141 Annual travel expense from place of work to origin	82	-	(1)	81	
1142 Schooling fees	575	-	(180)	395	
1150 Overtime	43	-	(35)	9	
1160 Expenditure related to recruitment	34	-	(8)	25	
1161 Travel expenses taking up duty	10	-	(8)	2	
1162 Installation, resettlement and transfer allowances	30	-	(3)	27	
1163 Temporary daily subsistence allowances	53	-	(16)	37	
1170 Supplementary clerical and interim services	371	-	(34)	337	
1171 Administrative assistance	185	-	(28)	156	
1172 Trainees	155	-	19	174	
<b>Total Chapter 11</b>	<b>10 538</b>	<b>-</b>	<b>(537)</b>	<b>10 001</b>	

Item	Budget appropriations				
	Initial adopted budget	Amending budgets	Transfers	Final budget adopted	
	1	2	3	4=1+2+3	
1200	Mission expenses - Administrative staff	40	-	(30)	10
1201	Mission expenses - Director	30	-	(5)	25
1202	Mission expenses - Director office staff	30	-	(20)	10
Total Chapter 12		100	-	(55)	45
1300	Medical services and equipment	26	-	(12)	14
Total Chapter 13		26	-	(12)	14
1401	Social welfare of staff	27	50	(4)	73
1410	Staff Committee	17	-	(2)	15
Total Chapter 14		43	50	(5)	88
<b>Total Title 1</b>		<b>10 708</b>	<b>50</b>	<b>(609)</b>	<b>10 148</b>

Title 2 (in EUR '000)

Item	Budget appropriations				
	Initial adopted budget	Amending budgets	Transfers	Final budget adopted	
	1	2	3	4=1+2+3	
2000	Rent	656	-	8	665
2001	Removal costs	10	-	(5)	5
2010	Utilities	170	-	(17)	154
2011	Cleaning and maintenance	165	-	8	173
2020	Insurance	15	-	(3)	13
2030	Security and surveillance of buildings	110	-	12	122
2031	Health and safety at work	3	-	6	9
2040	Other expenditure on buildings	27	-	(21)	6
Total Chapter 20		1 156	-	(10)	1 146
2100	Consumables	10	-	(7)	3
2101	Software	30	-	(30)	-
2102	Subscriptions IT	430	-	5	435
2103	Disaster recovery site	45	-	(23)	22
Total Chapter 21		515	-	(55)	460
2210	Purchase of furniture	10	-	(5)	5
2220	Transportation costs	168	-	(57)	111
2230	Library acquisitions	117	-	22	139
Total Chapter 22		295	-	(41)	254
2300	Stationery and office supplies	30	-	(16)	14
2310	Bank charges	0	-	-	0
2320	Legal expenses	40	-	(8)	32
2322	Expert consultations - Gas	80	-	26	106
2323	Expert consultations - Electricity	80	-	128	208
2324	Expert consultations - Administration	20	-	(20)	-
2325	External audit expenses	36	-	(20)	16
2326	Information security	45	-	-	45
2327	Expert consultations - MSC	25	-	-	25
2328	Data protection	30	-	-	30
2330	Administrative Board meetings	34	-	-	34
2331	Board of Regulators meetings	82	-	(34)	49
2332	Board of Appeal	72	100	540	711
2333	External participants to meetings	8	-	(4)	4
2334	EU Agencies Network	6	-	-	6
Total Chapter 23		587	100	592	1 279
2400	Postal charges	14	-	(8)	6

Item	Initial adopted budget	Budget appropriations			Final budget adopted
		Amending budgets	Transfers		
		2	3	4=1+2+3	
1	2	3	4=1+2+3		
2410 Telecommunications subscriptions and charges	75	-	(29)	47	
2420 Hardware and other equipment	80	-	84	164	
Total Chapter 24	169	-	47	216	
<b>Total Title 2</b>	<b>2 723</b>	<b>100</b>	<b>533</b>	<b>3 356</b>	

Title 3 (in EUR '000)

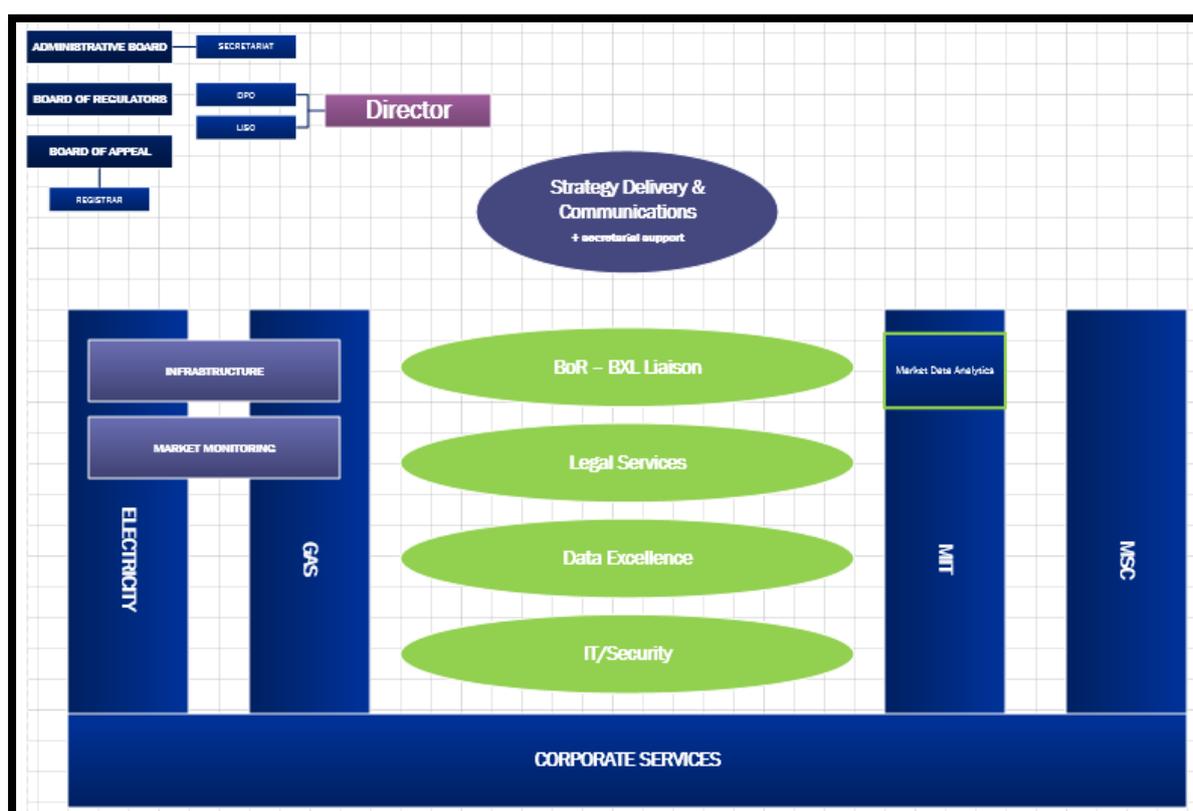
Item	Initial adopted budget	Budget appropriations			Final budget adopted
		Amending budgets	Transfers		
		2	3	4=1+2+3	
1	2	3	4=1+2+3		
3000 Representation expenses - Director office	2	-	-	2	
3001 Representation expenses - Administration	1	-	-	1	
3002 Representation expenses - Electricity	1	-	(1)	0	
3003 Representation expenses - MIT	1	-	(1)	-	
3004 Representation expenses - Gas	1	-	(0)	1	
3005 Representation expenses - MSC	1	-	(1)	-	
Total Chapter 30	7	-	(3)	4	
3100 Operational missions - Gas Department	60	-	(50)	10	
3101 Operational missions - Electricity Department	90	-	(72)	18	
3102 Operational missions - MIT	45	-	(40)	5	
3103 Operational missions - MSC	25	-	(15)	10	
Total Chapter 31	220	-	(177)	43	
3200 Public hearings, workshops, conferences	70	-	(47)	23	
3201 Website set-up and maintenance	90	-	-	90	
3202 Publications, information material	29	-	(13)	16	
Total Chapter 32	189	-	(59)	129	
3300 Translation at CDT	217	-	111	328	
Total Chapter 33	217	-	111	328	
3400 Insurance	6	-	-	6	
Total Chapter 34	6	-	-	6	
3500 Infrastructure, hardware licenses, deployment, service desk and operations	850	-	90	940	
3501 Software maintenance, development, testing and software licenses	775	-	-	775	
3502 Surveillance and BI tools customisation, licenses and consultancy	825	279	115	1 219	
3503 Studies, technical writing, coordination, QA and information security	350	-	-	350	
Total Chapter 35	2 800	279	205	3 283	
<b>Total Title 3</b>	<b>3 439</b>	<b>279</b>	<b>76</b>	<b>3 794</b>	
<b>GRAND TOTAL</b>	<b>16 869</b>	<b>429</b>	<b>0</b>	<b>17 297</b>	

### ANNEX III: ORGANISATIONAL CHART

The number of staff in active service in the different departments as of December 2020 was the following:

Contract type/ Department	SDC (+Dir.)	LS	BoR-BXL	CS	GAS	ELE	MIT	MSC	Total
AD	4	3	1	7	9	15	9	11	59
AST	1	0	0	8	1	1	1	0	12
CA	2	1	1	5	3	8	8	2	30
SNE	0	0	0	0	1	1	2	0	4
<b>SUBTOTAL Statutory Staff, SNEs</b>	<b>7</b>	<b>4</b>	<b>2</b>	<b>20</b>	<b>14</b>	<b>25</b>	<b>20</b>	<b>13</b>	<b>105</b>
Interim	1	0	0	5	1	1	1	1	10
Trainee	0	0	0	2	3	3	4	4	15
<b>GRAND TOTAL</b>	<b>8</b>	<b>4</b>	<b>2</b>	<b>27</b>	<b>18</b>	<b>29</b>	<b>25</b>	<b>18</b>	<b>131</b>

The organisational chart at the end of 2020 was the following:



## ANNEX IV: ESTABLISHMENT PLAN AND ADDITIONAL INFORMATION ON HUMAN RESOURCES MANAGEMENT

### ESTABLISHMENT PLAN

Human Resources	Year 2020		
	Authorised Budget	Actually filled as of 31/12/2020	Occupancy Rate %
Administrators (AD)	59	59	100%
Assistants (AST)	12	12	100%
Assistants/Secretaries (AST/SC)	0	0	n.a.
<b>ESTABLISHMENT PLAN POSTS</b>	<b>71</b>	<b>71</b>	<b>100%</b>
Contract Agents (CA)	33	30	90.9%
Seconded National Experts (SNE)	4	4	100%
<b>TOTAL STAFF</b>	<b>37</b>	<b>34</b>	<b>91.90%</b>

### Indicative table - Information on recruitment grade/function group for each type of post

<i>Key functions (examples – terminology should be adjusted to each agency's job titles)</i>	<i>Type of contract (official, TA or CA)</i>	<i>Function group, grade of recruitment*</i>	<i>Indication whether the function is dedicated to administrative support or operations [ subject to definitions used in screening methodology]</i>
Director	TA	AD14	Operational
Head of Department	TA	AD11	Operational

<i>Team Leader</i>	TA	AD7-AD8	Administrative/ Operational/Neutral
<i>Administrator</i>	TA	AD5-AD8	Administrative/ Operational/ Neutral
<i>Assistant</i>	TA	AST1-4	Administrative/ Operational/ Neutral
<i>FG IV</i>	CA	FG IV	Administrative/ Operational/Neutral
<i>FG III</i>	CA	FG III	Administrative/ Operational/Neutral

## RESULTS OF THE 2020 JOB-SCREENING EXERCISE<sup>7</sup>

Job Type (sub) category	Year 2019	Year 2019 (%)	Year 2020	Year 2020 (%)
<b>Administrative support and coordination</b>	<b>25</b>	<b>20.00%</b>	<b>29</b>	<b>21.32%</b>
<i>Administrative support</i>	17	13.60%	18	13.24%
<i>Coordination</i>	8	6.40%	11	8.09%
<b>Operational</b>	<b>91</b>	<b>72.80%</b>	<b>96</b>	<b>70.59%</b>
<i>Top level operational coordination</i>	11	8.80%	11	8.09%
<i>Programme management &amp; implementation</i>				
<i>Evaluation &amp; impact assessment</i>				
<i>General operation</i>	80	64.00%	85	62.50%
<b>Neutral</b>	<b>9</b>	<b>7.20%</b>	<b>11</b>	<b>8.09%</b>
<i>Finance/control</i>	9	7.20%	11	8.09%
<i>Linguistic</i>				
<b>Total:</b>	<b>125</b>	<b>100%</b>	<b>136</b>	<b>100%</b>

**HR implementing rules adopted in 2020** - See section 2.5 on human resources management.

<sup>7</sup> Table as per Methodology for Agencies job screening (2014)

## ANNEX V: HUMAN AND FINANCIAL RESOURCES BY ACTIVITY

### 2020 Full Time Equivalentents and budget - Breakdown per Activity

	<b>ACTIVITIES 2020</b>	<b>FTEs</b>	<b>2020 PD</b>	<b>2020 final budget</b>
<b>1</b>	<b>Market Integrity and Transparency</b>	18.4	5,239,319	5,809,212
<b>2</b>	<b>Market Surveillance and Conduct</b>	13.4	1,797,476	1,870,795
<b>3</b>	<b>Electricity and Gas Internal Market Monitoring</b>	11.0	1,604,171	1,506,996
<b>4</b>	<b>Internal Electricity Market</b>	14.4	2,044,024	1,972,795
<b>5</b>	<b>Internal Gas Market</b>	7.9	1,034,949	1,082,297
<b>6</b>	<b>Infrastructure and Security of Supply</b>	14.1	2,005,213	1,931,695
<b>7</b>	<b>ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES</b>	16.3	2,238,077	2,233,094
<b>8</b>	<b>NEUTRAL CATEGORIES</b>	6.5	905,580	890,498
	<b>TOTAL</b>	<b>102.0<sup>8</sup></b>	<b>16,868,810</b>	<b>17,297,383</b>

<sup>8</sup> The number refers to the Full Time Equivalent in 2020, indicating the occupancy of positions.

## ANNEX VI: CONTRIBUTION, GRANT AND SERVICE LEVEL AGREEMENTS & FINANCIAL FRAMEWORK PARTNERSHIP AGREEMENTS

Apart from the EU subsidy, no grants or other financial contributions were received by the Agency during the financial year 2020.

The number, type and value of all procurement procedures concluded in 2020 are presented below.

### 1) Operational

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	2	2.15%	1,362.50	1,362.50
Negotiated – very low value	13	13.98%	96,616.04	96,616.04
Negotiated – low value – direct contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	0	0.00%	0.00	0.00
Negotiated – middle value – direct contract	1	1.08%	72,600.00	65,340.00
Negotiated – middle value – FWC	0	0.00%	0.00	0.00
Negotiated – point 11.1(e) of Annex I FR	0	0.00%	0.00	0.00
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	8	8.60%	1,344,250.00	464,250.00
Open – FWC (concluded in 2020)	0	0.00%	0.00	0.00
Specific contracts, following FWC	30	32.26%	3,261,388.24	3,261,388.24
Order forms, following FWC	39	41.94%	326,623.63	326,623.63
<b>TOTAL</b>	<b>93</b>		<b>5,102,840.41</b>	<b>4,215,580.41</b>

### 2) Administrative

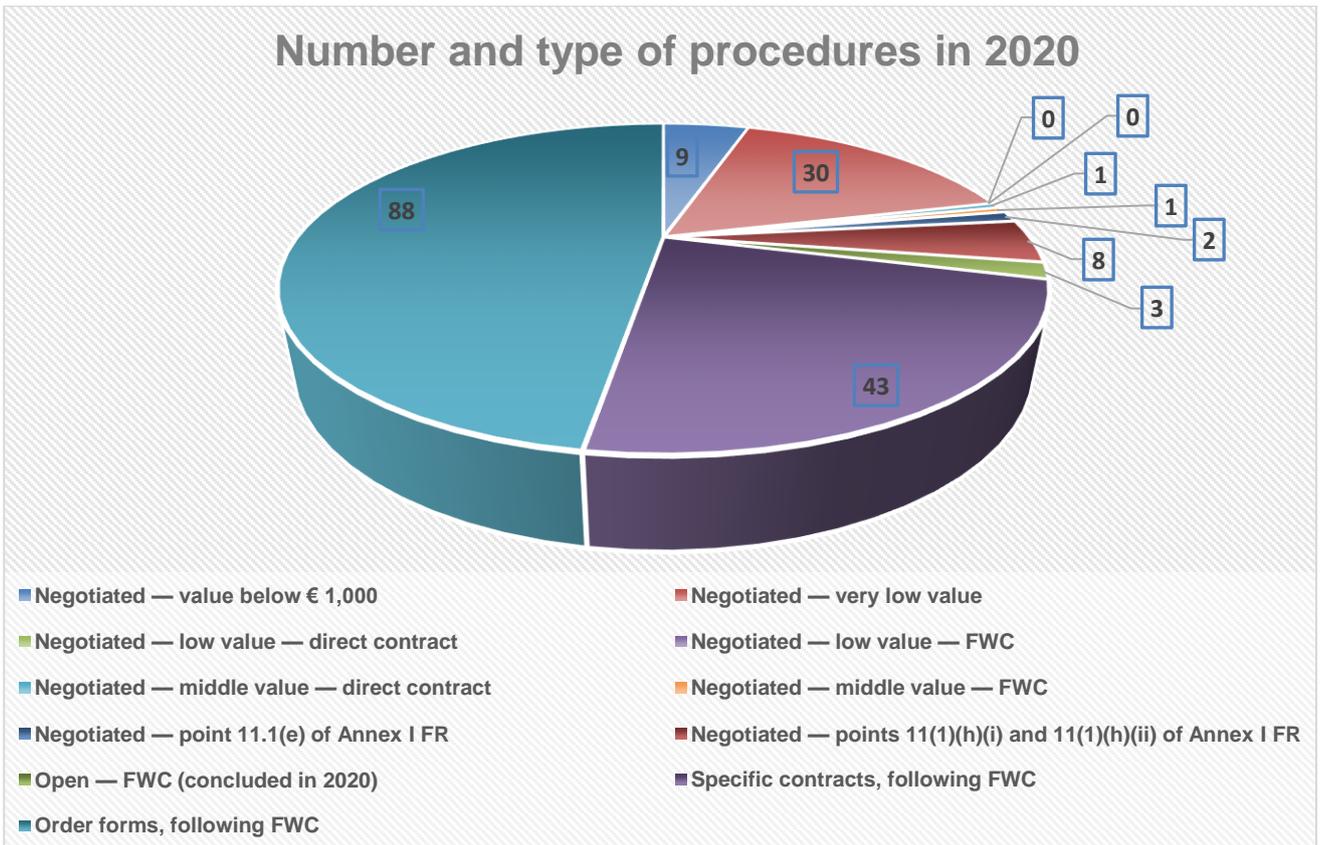
Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	7	7.61%	4,284.30	4,284.30
Negotiated – very low value	17	18.48%	82,741.62	82,741.62
Negotiated – low value – direct contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	0	0.00%	0.00	0.00
Negotiated – middle value – direct contract	0	0.00%	0.00	0.00

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – middle value – FWC	1	1.09%	100,000.00	1,500.00
Negotiated – point 11.1(e) of Annex I FR	2	2.17%	151,000.00	45,115.00
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	0	0.00%	0.00	0.00
Open – FWC (concluded in 2020)	3	3.26%	455,500.00	0.00
Specific contracts, following FWC	13	14.13%	611,329.58	611,329.58
Order forms, following FWC	49	53.26%	424,995.35	424,995.35
<b>TOTAL</b>	<b>92</b>		<b>1,829,850.85</b>	<b>1,169,965.85</b>

### 3) Total (operational and administrative)

Type of procedure	Number of procedures	% of the type of procedure per the total number of procedures	Value of contracts in EUR	Total amount committed in EUR
Negotiated – value below € 1,000	9	4.86%	5,646.80	5,646.80
Negotiated – very low value	30	16.22%	179,357.66	179,357.66
Negotiated – low value – direct contract	0	0.00%	0.00	0.00
Negotiated – low value – FWC	0	0.00%	0.00	0.00
Negotiated – middle value – direct contract	1	0.54%	72,600.00	65,340.00
Negotiated – middle value – FWC	1	0.54%	100,000.00	1,500.00
Negotiated – point 11.1(e) of Annex I FR	2	1.08%	151,000.00	45,115.00
Negotiated – points 11(1)(h)(i) and 11(1)(h)(ii) of Annex I FR	8	4.32%	1,344,250.00	464,250.00
Open – FWC (concluded in 2020)	3	1.62%	455,500.00	0.00
Specific contracts, following FWC	43	23.24%	3,872,717.82	3,872,717.82
Order forms, following FWC	88	47.57%	751,618.98	751,618.98
<b>TOTAL</b>	<b>185</b>		<b>6,932,691.26</b>	<b>5,385,546.26</b>

## Number and type of procedures in 2020



### ***Negotiated procedures***

In 2020 there were two (2) negotiated procedures under point 11.1(e) of Annex I FR carried out, as laid down in Article 74(10) FR:

2020 negotiated procedures under point 11.1(e) of Annex I FR		
Contractor's name	Subject of contract	Contract amount in EUR
MONTEL AS	Provision of subscriptions for specialised press/reporting for Montel products for the Agency	36,000.00
Reed Business Information Limited	Provision of subscriptions for specialised press/reporting for ICIS Heren products for the Agency	115,000.00

## ANNEX VII: ENVIRONMENT MANAGEMENT

The Agency is 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 operations. In this respect the Agency undertook or is undertaking already significant steps in managing its environmental impact:

- Continuously improving waste management and sorting. The Agency's green-ambassadors group implemented a better waste management within the Agency ensuring that sorting of waste occurs already at the work station and raising awareness of staff on proper sorting of waste;
- Improving the paperless financial circuits in the financial administration by migrating to the document management system in use by the Commission services (ARES) and further developing IT tools reduced the use of paper across the Agency;
- Introducing e-recruitment reduced use of paper for recruitment procedures;
- The introduction of e-submission in 2020 further reduced the use of paper in procurement procedures;
- Promoting the use of public transport by staff by promoting the reimbursement of annual public transport tickets;
- Promoting 'greener' procurement, by introducing 'green' criteria in procurement documents to drive lower impact choices e.g. low-grammage office paper, longer lasting, refillable products, etc.
- Modernisation of IT equipment by replacing multifunctional and small office printers, external displays and laptops with Blue Angel or Energy Star certified equipment reducing the average energy consumption and associated toner waste;
- Complying with all environmentally relevant legislation and regulations of our host country.
- Installing and improving equipment and services for web conferences/webinars to encourage virtual conferences to reduce travel;
- Negotiate with the landlord for the supply of energy from 100% renewable sources starting with 2021.

There are several variables or limitations that have an influence on why the Agency has not yet fully committed to EMAS or ISO1400. For example, the Agency does not have a direct contractual relationship with the providers for electricity, heating, water and waste management, but it is looking into the possibility to take further steps to better meet EMAS standards together with the landlord. Further limitations are imposed by the fact that the Agency's premises, the TR3 building, is under the protection of Cultural Heritage of Slovenia. Regardless of the contractual dependencies implied by the current building contract, the premises provide added benefits to the Agency in its pursuit of reducing its environmental impact by:

- being built with high quality, sustainable building materials;

- providing a high amount of natural sunlight due to the building's unique triangular prism shape and large windows, thus reducing the energy consumption for lighting;
- being located in the city centre where modified traffic flows give priority to pedestrians, cyclists and public transport, as well as being near the most important traffic junctions and connections making it easily reachable with eco-friendly alternatives by its staff members and guests;
- having a space for private bicycle-parking which was further extended upon the Agency's initiative following increased interest, thus further promoting eco-friendly commuting to work.

Further limitations are linked to the costs of implementing EMAS in terms of human resources and technical resources needed to conduct its initial environmental review and in budgetary terms (scarce budget for consultancy expertise to support implementation and reporting).

Nevertheless the Agency looks forward to obtaining those certifications in the future.

The Agency therefore drafted a greening action plan for 2021 and 2022 by defining concrete actions to reduce the carbon footprint.

Due to 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 shared, including how to increase environmental awareness and responsibility, as well present issues related to the implementation of EMAS.

Finally, COVID-19 pandemics also affected the environmental impact of the Agency:

- There were no on-site events after 16<sup>th</sup> March 2020 and thus no need for catering which resulted in a reduction in the overall energy, water and waste figures;
- Reduced office presence of staff resulted in a change of behaviour regarding printing and the use of paper, use of energy in the offices (power, heating), and waste;
- On-the-job training was suspended due to reduced office presence but will continue once staff returns to the office;
- Increased usage and adoption of web conferencing and online communication tools replacing physical conferences.

## ANNEX VIII: PROVISIONAL FINANCIAL ACCOUNTS

### BALANCE SHEET

		EUR '000	
	Note	31.12.2020	31.12.2019
<b>NON-CURRENT ASSETS</b>			
<i>Property, plant and equipment</i>	2.1	865	941
		<b>865</b>	<b>941</b>
<b>CURRENT ASSETS</b>			
<i>Exchange receivables and non-exchange recoverables</i>	2.2	4 051	3 397
<i>Cash and cash equivalents</i>	2.3	1	2
		<b>4 051</b>	<b>3 399</b>
<b>TOTAL ASSETS</b>		<b>4 917</b>	<b>4 340</b>
<b>CURRENT LIABILITIES</b>			
<i>Payables</i>	2.4	(314)	(198)
<i>Accrued charges and deferred income</i>	2.5	(984)	(986)
		<b>(1 298)</b>	<b>(1 184)</b>
<b>TOTAL LIABILITIES</b>		<b>(1 298)</b>	<b>(1 184)</b>
<b>NET ASSETS</b>		<b>3 619</b>	<b>3 156</b>
<i>Accumulated surplus</i>		3 156	3 312
<i>Economic result of the year</i>		462	(155)
<b>NET ASSETS</b>		<b>3 619</b>	<b>3 156</b>

### STATEMENT OF FINANCIAL PERFORMANCE

		EUR '000	
	Note	2020	2019
<b>REVENUE</b>			
<b>Revenue from non-exchange transactions</b>			
<i>Funds from the Commission</i>	3.1	17 004	15 949
		<b>17 004</b>	<b>15 949</b>
<b>Revenue from exchange transactions</b>			
<i>Other</i>	3.2	3	30
		<b>3</b>	<b>30</b>
<b>Total revenue</b>		<b>17 007</b>	<b>15 979</b>
<b>EXPENSES</b>			
<i>Operating costs</i>	3.3	(3 584)	(2 555)
<i>Staff costs</i>	3.4	(8 963)	(8 331)
<i>Other expenses</i>	3.5	(3 999)	(5 248)
<b>Total expenses</b>		<b>(16 545)</b>	<b>(16 134)</b>
<b>ECONOMIC RESULT OF THE YEAR</b>		<b>462</b>	<b>(155)</b>

## CASHFLOW STATEMENT<sup>9</sup>

	<i>EUR '000</i>	
	2020	2019
<i>Economic result of the year</i>	462	(155)
<b>Operating activities</b>		
<i>Depreciation and amortization</i>	344	1 455
<i>(Increase)/decrease in exchange receivables and non-exchange recoverables</i>	(653)	(337)
<i>Increase/(decrease) in payables</i>	116	(3)
<i>Increase/(decrease) in accrued charges &amp; deferred income</i>	(2)	(111)
<b>Investing activities</b>		
<i>(Increase)/decrease in intangible assets and property, plant and equipment</i>	(268)	(846)
<b>NET CASHFLOW</b>	<b>(1)</b>	<b>2</b>
<i>Net increase/(decrease) in cash and cash equivalents</i>	(1)	2
<i>Cash and cash equivalents at the beginning of the year</i>	2	0
<i>Cash and cash equivalents at year-end</i>	1	2

## STATEMENT OF CHANGES IN NET ASSETS

	<i>EUR '000</i>		
	Accumulated Surplus/ (Deficit)	Economic result of the year	Net Assets
<b>BALANCE AS AT 31.12.2018</b>	<b>5 774</b>	<b>(2 462)</b>	<b>3 312</b>
<i>Allocation 2018 economic result</i>	(2 462)	2 462	–
<i>Economic result of the year</i>	–	(155)	(155)
<b>BALANCE AS AT 31.12.2019</b>	<b>3 312</b>	<b>(155)</b>	<b>3 156</b>
<i>Allocation 2019 economic result</i>	(155)	155	–
<i>Economic result of the year</i>	–	462	462
<b>BALANCE AS AT 31.12.2020</b>	<b>3 156</b>	<b>462</b>	<b>3 619</b>

<sup>9</sup> Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. Because of this, ACER does not have any bank accounts of its own except for an imprest account. All payments and receipts are processed via the Commission's treasury system and registered on intercompany accounts which are presented under the heading exchange receivables.

## NOTES TO THE FINANCIAL STATEMENTS

### 1. SIGNIFICANT ACCOUNTING POLICIES

#### 1.1. ACCOUNTING PRINCIPLES

The objective of financial statements is to provide information about the financial position, performance and cashflows of an entity that is useful to a wide range of stakeholders.

The overall considerations (or accounting principles) to be followed when preparing the financial statements are laid down in EU Accounting Rule 1 'Financial Statements' and are the same as those described in IPSAS 1: fair presentation, accrual basis, going concern, consistency of presentation, materiality, aggregation, offsetting and comparative information. The qualitative characteristics of financial reporting are relevance, faithful representation (reliability), understandability, timeliness, comparability and verifiability.

#### 1.2. BASIS OF PREPARATION

##### 1.2.1. Reporting period

Financial statements are presented annually. The accounting year begins on 1 January and ends on 31 December.

##### 1.2.2. Currency and basis for conversion

The annual accounts are presented in thousands of euros, the euro being the EU's functional currency. Foreign currency transactions are translated into euros using the exchange rates prevailing at the dates of the transactions. Foreign exchange gains and losses resulting from the settlement of foreign currency transactions and from the re-translation at year-end exchange rates of monetary assets and liabilities denominated in foreign currencies are recognised in the statement of financial performance. Different conversion methods apply to property, plant and equipment and intangible assets, which retain their value in euros at the date when they were purchased.

Year-end balances of monetary assets and liabilities denominated in foreign currencies are translated into euros on the basis of the European Central Bank (ECB) exchange rates applying on 31 December.

#### Euro exchange rates

Currency	31.12.2020	31.12.2019	Currency	31.12.2020	31.12.2019
<b>BGN</b>	<b>1.9558</b>	1.9558	<b>PLN</b>	<b>4.5597</b>	4.2568
<b>CZK</b>	<b>26.2420</b>	25.4080	<b>RON</b>	<b>4.8683</b>	4.783
<b>DKK</b>	<b>7.4409</b>	7.4715	<b>SEK</b>	<b>10.0343</b>	10.4468
<b>GBP</b>	<b>0.8990</b>	0.8508	<b>CHF</b>	<b>1.0802</b>	1.0854
<b>HRK</b>	<b>7.5519</b>	7.4395	<b>JPY</b>	<b>126.4900</b>	121.9400
<b>HUF</b>	<b>363.8900</b>	330.5300	<b>USD</b>	<b>1.2271</b>	1.1234

##### 1.2.3. Use of estimates

In accordance with IPSAS and generally accepted accounting principles, the financial statements necessarily include amounts based on estimates and assumptions by management based on the most reliable information available. Significant estimates include, but are not limited to: amounts for employee benefit liabilities, accrued and deferred revenue and charges, provisions, financial risk on accounts receivable, contingent assets and liabilities, and degree of impairment of assets. Actual results could differ from those estimates.

Reasonable estimates are an essential part of the preparation of financial statements and do not undermine their reliability. An estimate may need revision if changes occur in the circumstances on which the estimate was based or as a result of new information or more experience. By its nature, the revision of an estimate does not relate to prior periods and is not the correction of an error. The effect of a change in accounting estimate shall be recognised in the surplus or deficit in the periods in which it becomes known.

#### 1.2.4. Application of new and amended European Union Accounting Rules (EAR)

##### **New EAR which are effective for annual periods beginning on or after 1 January 2020**

There are no new EAR which became effective for annual periods beginning on or after 1 January 2020.

##### **New EAR adopted but not yet effective at 31 December 2020**

On 17 December 2020 the Accounting Officer of the European Commission adopted the revised EAR 11 'Financial Instruments', which is effective for accounting periods beginning on or after 1 January 2021. The revised EAR 11 has been updated in line with the new IPSAS 41 'Financial Instruments' and establishes the principles for the financial reporting of the financial assets and financial liabilities held by the EU entities. For more information please refer to the EU annual accounts of 2020. No material impact of this change is expected due to the small amount of financial instruments in the financial statements of the entity.

### **1.3. BALANCE SHEET**

#### 1.3.1. Intangible assets

An intangible asset is an identifiable non-monetary asset without physical substance. An asset is identifiable if it is either separable, or arises from binding arrangements. Acquired intangible assets are stated at historical cost less accumulated amortisation and impairment losses. Internally developed intangible assets are capitalised when the relevant criteria of the EU accounting rules are met and the expenses relate solely to the development phase of the asset. Intangible assets are amortised on a straight-line basis over their estimated useful lives (3 to 11 years).

#### 1.3.2. Property, plant and equipment

All property, plant and equipment are stated at historical cost less accumulated depreciation and impairment losses. Cost includes expenditure that is directly attributable to the acquisition, construction or transfer of the asset. Subsequent costs are included in the asset's carrying amount or recognised as a separate asset, as appropriate, only when it is probable that future economic benefits or service potential associated with the item will flow to the entity and its cost can be measured reliably. Repairs and maintenance costs are charged to the statement of financial performance during the financial period in which they are incurred. Land is not depreciated, as it is deemed to have an indefinite useful life. Assets under construction are not depreciated as these assets are not yet available for use. Depreciation on other assets is calculated using the straight-line method to allocate their cost less their residual values over their estimated useful lives, as follows:

Type of asset	Straight line depreciation rate
<i>Buildings</i>	4 % to 10 %
<i>Plant and equipment</i>	10 % to 25 %
<i>Furniture and vehicles</i>	10 % to 25 %
<i>Computer hardware</i>	25 % to 33 %
<i>Other</i>	10 % to 33 %

Gains or losses on disposals are determined by comparing proceeds less selling expenses with the carrying amount of the disposed asset and are included in the statement of financial performance.

## Leases

A lease is an agreement whereby the lessor conveys to the lessee, in return for a payment or series of payments, the right to use an asset for an agreed period of time. Leases are classified as either finance leases or operating leases.

Finance leases are leases where substantially all the risks and rewards incidental to ownership are transferred to the lessee.

An operating lease is a lease other than a finance lease, i.e. a lease where the lessor retains substantially all the risks and rewards incidental to ownership of an asset. When entering an operating lease as a lessee, the operating lease payments are recognised as an expense in the statement of financial performance on a straight-line basis over the lease term with neither an asset nor a liability recognised in the balance sheet.

### 1.3.3. Impairment of non-financial assets

Assets that have an indefinite useful life are not subject to amortisation/depreciation and are tested annually for impairment. Assets that are subject to amortisation/depreciation are tested for impairment whenever there is an indication at the reporting date that an asset may be impaired. An impairment loss is recognised for the amount by which the asset's carrying amount exceeds its recoverable (service) amount. The recoverable (service) amount is the higher of an asset's fair value less costs to sell and its value in use.

Intangible assets and property, plant and equipment residual values and useful lives are reviewed, and adjusted if appropriate, at least once per year. If the reasons for impairments recognised in previous years no longer apply, the impairment losses are reversed accordingly.

### 1.3.4. Financial assets

Financial assets are classified in the following categories: 'financial assets at fair value through surplus or deficit', 'loans and receivables', 'held-to-maturity investments' and 'available for sale financial assets'. The classification of the financial instruments is determined at initial recognition and re-evaluated at each balance sheet date. Based on this classification the entity only has 'loans and receivables'.

Loans and receivables are non-derivative financial assets with fixed or determinable payments that are not quoted in an active market. They arise when the entity provides money, goods or services directly to a debtor with no intention of trading the receivable. They are included in non-current assets, except for maturities within 12 months of the balance sheet date. Loans and receivables include term deposits with the original maturity above three months.

## Initial recognition and measurement

Cash equivalents and loans are recognised when cash is deposited in a financial institution or advanced to borrowers. Financial instruments are initially recognised at fair value. For all financial assets not carried at fair value through surplus or deficit, transaction costs are added to the fair value at initial recognition.

Financial instruments are derecognised when the rights to receive cashflows from the investments have expired or the entity has transferred substantially all risks and rewards of ownership to another party.

## Subsequent measurement

Loans and receivables are carried at amortised cost using the effective interest method.

The entity assesses at each balance sheet date whether there is objective evidence that a financial asset is impaired and whether an impairment loss should be recorded in the statement of financial performance.

#### 1.3.5. Receivables and recoverables

The EU accounting rules require a separate presentation of exchange and non-exchange transactions. To distinguish between the two categories, the term 'receivable' is reserved for exchange transactions, whereas for non-exchange transactions, i.e. when the EU receives value from another entity without directly giving approximately equal value in exchange, the term 'recoverables' is used (e.g. recoverables from Member States related to own resources).

Receivables from exchange transactions meet the definition of financial instruments and are thus classified as loans and receivables and measured accordingly.

Recoverables from non-exchange transactions are carried at original amount (adjusted for interests and penalties) less write-down for impairment. A write-down for impairment is established when there is objective evidence that the entity will not be able to collect all amounts due according to the original terms of the recoverables. The amount of the write-down is the difference between the asset's carrying amount and the recoverable amount. The amount of the write-down is recognised in the statement of financial performance.

#### 1.3.6. Cash and cash equivalents

Cash and cash equivalents are financial instruments and include cash at hand, deposits held at call or at short notice with banks, and other short-term highly liquid investments with original maturities of three months or less.

#### 1.3.7. Payables

Included under accounts payable are both amounts related to exchange transactions such as the purchase of goods and services, and to non-exchange transactions e.g. to cost claims from beneficiaries, grants or other EU funding, or pre-financing received (see note 1.4.1).

Where grants or other funding are provided to the beneficiaries, the cost claims are recorded as payables for the requested amount, at the moment when the cost claim is received. Upon verification and acceptance of the eligible costs, the payables are valued at the accepted and eligible amount.

Payables arising from the purchase of goods and services are recognised at invoice reception for the original amount. The corresponding expenses are entered in the accounts when the supplies or services are delivered and accepted by the entity.

#### 1.3.8. Accrued and deferred revenue and charges

Transactions and events are recognised in the financial statements in the period to which they relate. At year-end, if an invoice is not yet issued but the service has been rendered, or the supplies have been delivered by the entity or a contractual agreement exists (e.g. by reference to a contract), an accrued revenue will be recognised in the financial statements. In addition, at year-end, if an invoice is issued but the services have not yet been rendered or the goods supplied have not yet been delivered, the revenue will be deferred and recognised in the subsequent accounting period.

Expenses are also accounted for in the period to which they relate. At the end of the accounting period, accrued expenses are recognised based on an estimated amount of the transfer obligation of the period. The calculation of accrued expenses is done in accordance with detailed operational and practical guidelines issued by the Accounting Officer. These aim at ensuring that the financial statements provide a faithful representation of the economic and other phenomena they purport to represent. By analogy, if a payment has been made in advance for services or goods that have not yet been received, the expense will be deferred and recognised in the subsequent accounting period.

## 1.4. STATEMENT OF FINANCIAL PERFORMANCE

### 1.4.1. Revenue

Revenue comprises gross inflows of economic benefits or service potential received and receivable by the entity, which represents an increase in net assets, other than increases relating to contributions from owners.

Depending on the nature of the underlying transactions in the statement of financial performance, revenue is distinguished between:

#### *(i) Revenue from non-exchange transactions*

Revenue from non-exchange transactions are taxes and transfers, because the transferor provides resources to the recipient entity, without the recipient entity providing approximately equal value directly in exchange. Transfers are inflows of future economic benefits or service potential from non-exchange transactions, other than taxes. For the EU entities, transfers mostly comprise funds received from the Commission (e.g. balancing subsidy to the traditional agencies, operating subsidy for the delegation agreements).

The entity shall recognise an asset in respect of transfers when the entity controls the resources as a result of a past event (the transfer) and expects to receive future economic benefits or service potential from those resources, and when the fair value can be reliably measured. An inflow of resources from a non-exchange transaction recognised as an asset (i.e. cash) is also recognised as revenue, except to the extent that the entity has a present obligation in respect of that transfer (condition), which needs to be satisfied before the revenue can be recognised. Until the condition is met the revenue is deferred and recognised as a liability.

#### *(ii) Revenue from exchange transactions*

Revenue from the sale of goods and services is recognised when the significant risk and rewards of ownership of the goods are transferred to the purchaser. Revenue associated with a transaction involving the provision of services is recognised by reference to the stage of completion of the transaction at the reporting date.

### 1.4.2. Expenses

Expenses are decreases in economic benefits or service potential during the reporting period in the form of outflows or consumption of assets or the incurring of liabilities that result in decreases in net assets. They include both the expenses from exchange transactions and expenses from non-exchange transactions.

Expenses from exchange transactions arising from the purchase of goods and services are recognised when the supplies are delivered and accepted by the entity. They are valued at the original invoice amount. Furthermore, at the balance sheet date expenses related to the service delivered during the period for which an invoice has not yet been received or accepted are recognised in the statement of financial performance.

Expenses from non-exchange transactions relate to transfers to beneficiaries and can be of three types: entitlements, transfers under agreement and discretionary grants, contributions and donations. Transfers are recognised as expenses in the period during which the events giving rise to the transfer occurred, as long as the nature of the transfer is allowed by regulation or an agreement has been signed authorising the transfer; any eligibility criteria have been met by the beneficiary; and a reasonable estimate of the amount can be made.

When a request for payment or cost claim is received and meets the recognition criteria, it is recognised as an expense for the eligible amount. At year-end, incurred eligible expenses due to the beneficiaries but not yet reported are estimated and recorded as accrued expense.

## 1.5. CONTINGENT ASSETS AND LIABILITIES

### 1.5.1. Contingent assets

A contingent asset is a possible asset that arises from past events and of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity. A contingent asset is disclosed when an inflow of economic benefits or service potential is probable.

### 1.5.2. Contingent liabilities

A contingent liability is either a possible obligation of which the existence will be confirmed only by the occurrence or non-occurrence of one or more uncertain future events not wholly within the control of the entity; or a present obligation where it is not probable that an outflow of resources embodying economic benefits or service potential will be required to settle the obligation.

A contingent liability also arises in the rare circumstances where a present obligation exists but cannot be measured with sufficient reliability.

Contingent liabilities are not recognised in the accounts. They are disclosed unless the possibility of an outflow of resources embodying economic benefits or service potential is remote.

## 1.6. CONSOLIDATION

The accounts of this entity are fully consolidated in the consolidated annual accounts of the EU.

## 2. NOTES TO THE BALANCE SHEET

### ASSETS

#### 2.1. PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment are tangible assets that are held for use in the production or supply of goods or services, for rental to others, or for administrative purposes, and are expected to be used during more than one reporting period.

	Plant and equipment	Furniture and vehicles	Computer hardware	Other	EUR '000 TOTAL
<i>Gross carrying amount at 31.12.2019</i>	2	152	2 114	264	2 531
<i>Additions</i>	-	6	245	17	268
<b>Gross carrying amount at 31.12.2020</b>	<b>2</b>	<b>158</b>	<b>2 359</b>	<b>281</b>	<b>2 799</b>
<i>Accumulated depreciation at 31.12.2019</i>	(2)	(85)	(1 244)	(260)	(1 590)
<i>Depreciation charge for the year</i>	-	(16)	(324)	(4)	(344)
<b>Accumulated depreciation at 31.12.2020</b>	<b>(2)</b>	<b>(101)</b>	<b>(1 567)</b>	<b>(264)</b>	<b>(1 934)</b>
<b>NET CARRYING AMOUNT AT 31.12.2020</b>	<b>-</b>	<b>57</b>	<b>792</b>	<b>16</b>	<b>865</b>
<i>NET CARRYING AMOUNT AT 31.12.2019</i>	-	67	870	4	941

In 2019, the Agency started preparing the infrastructure for its disaster recovery site by buying the necessary IT equipment. The installation and start of operation was extended into 2020, when ACER acquired computer hardware for an amount of kEUR 245.

## 2.2. EXCHANGE RECEIVABLES & NON-EXCHANGE RECOVERABLES

Exchange transactions are transactions in which the entity receives assets or services, or has liabilities extinguished, and directly gives approximately equal value (primarily in the form of goods, services or use of assets) to the other party in exchange. Non-exchange transactions are transactions in which an entity either receives value from another entity without directly giving approximately equal value in exchange, or gives value to another entity without directly receiving approximately equal value in exchange.

At 31 December 2020 ACER did not have any non-current receivables and recoverables. The amounts included under this heading are of a current nature and can be broken down as follows:

	<i>EUR '000</i>	
	31.12.2020	31.12.2019
<b>Recoverables from non-exchange transactions</b>		
<i>Member States</i>	28	34
	<b>28</b>	<b>34</b>
<b>Receivables from exchange transactions</b>		
<i>Central treasury liaison accounts</i>	3 339	3 117
<i>Deferred charges relating to exchange transactions</i>	675	233
<i>Other</i>	10	14
	<b>4 023</b>	<b>3 364</b>
<b>Total</b>	<b>4 051</b>	<b>3 397</b>

The heading recoverables from Member States contain VAT amounts to be recovered from the Republic of Slovenia. The Agency benefits from a direct exemption for VAT from the Republic of Slovenia for purchases above the threshold amount of EUR 60. For purchases where the direct exemption is impracticable to obtain, the VAT is refunded by the Republic of Slovenia on a quarterly basis.

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of ACER, the treasury of ACER was integrated into the Commission's treasury system. Except for imprest accounts (see note 2.3 below), ACER has not had any bank accounts of its own since 1 October 2017. All payments and receipts are processed via the Commission's treasury system and registered on inter-company accounts, which are presented under the heading Central treasury liaison accounts.

The deferred charges consist of pre-payments made during the year for services that will be delivered in 2021. They mainly relate to licenses, subscriptions, insurance premiums and school fees. The large increase under this heading is related to prepayment of NASDAQ smart licences covering the period 1 February 2021 – 30 September 2021 (kEUR 300) and prepayment of the 2021 school fees for European School of Ljubljana (kEUR 98).

## 2.3. CASH AND CASH EQUIVALENTS

Following the appointment of the Accounting Officer of the Commission as the Accounting Officer of the entity, the treasury of entity has been integrated into the Commission's treasury system. The majority of payments and receipts are processed via the Commission's treasury system and registered on liaison accounts, which are presented under heading 'receivables from exchange transactions'.

	<i>EUR '000</i>	
	31.12.2020	31.12.2019
<i>Imprest accounts</i>	1	2

The amounts remaining under this heading relate to imprest account that are managed by ACER and reserved for small local payments where it would be impractical to process them through the central treasury system.

## LIABILITIES

### 2.4. PAYABLES

Payables are liabilities to pay for goods or services that have been received or supplied and - unlike accrued charges - have already been invoiced or formally agreed with the supplier. Payables can relate to both exchange transactions (such as the purchase of goods and services) and non-exchange transactions (e.g. cost claims from beneficiaries of grants, pre-financing or other EU funding).

	<i>EUR '000</i>	
	31.12.2020	31.12.2019
<i>Commission subsidy</i>	293	198
<i>Current payables</i>	21	–
<b>Total</b>	<b>314</b>	<b>198</b>

The heading Commission subsidy comprises the unused pre-financing amounts received from the Commission in 2020, known as the balancing subsidy. The outstanding amount will be returned to the Commission upon request in the course of 2021.

### 2.5. ACCRUED CHARGES

Accruals are liabilities to pay for goods or services that have been received or supplied but - unlike payables - have not yet been invoiced or formally agreed with the supplier. They include amounts due to employees (e.g. accruals for untaken holidays). The calculation of accruals is based on the open amount of budgetary commitments at year-end. The portion of the estimated accrued charges relating to pre-financing paid has been recorded as a reduction of the pre-financing amounts.

	<i>EUR '000</i>	
	31.12.2020	31.12.2019
<i>Accrued charges</i>	984	986

The most material accrued expenses included under this heading are operating expenses (kEUR 314), untaken leave (kEUR 275), experts and related expenditure (kEUR 108), non-IT services (kEUR 69), office supplies and maintenance (kEUR 53), training costs (kEUR 49), land and building operating lease (kEUR 39).

### 3. NOTES TO THE STATEMENT OF FINANCIAL PERFORMANCE

#### REVENUE

##### NON-EXCHANGE REVENUE

###### 3.1. FUNDS FROM THE COMMISSION

Revenue from non-exchange transactions relates to transactions where the transferor provides resources to the recipient entity without the recipient entity providing approximately equal value directly in exchange. The heading mainly includes amounts received from the Commission during the year and recoveries of operational expenses.

	EUR '000	
	2020	2019
<i>Funds from the Commission</i>	17 004	15 949

During 2020, the operations of ACER were fully subsidised from the EU budget, receiving an amount of kEUR 17 297. The unused amount of kEUR 293 is recorded under accounts payable (see note 2.4) and will be reimbursed to the Commission in 2021.

##### EXCHANGE REVENUE

###### 3.2. OTHER EXCHANGE REVENUE

The revenue from exchange transactions and events relates to following types of transactions: rendering of services; sale of goods; and the use by others of entity assets yielding interest, royalties and dividends.

	EUR '000	
	2020	2019
<i>Other</i>	3	30

#### EXPENSES

###### 3.3. OPERATING COSTS

Included under this heading are expenses incurred in relation to operational activities.

		EUR '000	
	Note	2020	2019
<i>Operating costs</i>		3 584	2 555

Such activities are referring to operational missions, workshops, public hearings, REMIT project related costs and other operational expenditure incurred for the functioning of the Agency. The increase in operating costs by kEUR 1 029 as compared to 2019 is mainly related to a higher implementation of operational contracts originating in previous year.

###### 3.4. STAFF COSTS

This heading includes the expenses for salaries, allowances and other employment-related benefits. Based on the service level agreement between the entity and the Commission, the calculations of staff-related costs is carried out by the Commission's Office for Administration

and Payment of Individual Entitlements (also known as the Paymaster's Office - PMO). The pensions of the entity staff members are covered by the Pension Scheme of European Officials. This pension scheme is a defined benefit plan, i.e. the amount of benefit an employee will receive on retirement depends on several factors, the most important of which is years of service. Both the entity staff and the EU budget contribute to the pension scheme, with the contribution percentage being revised annually in line with the changes in the Staff Regulation governing the scheme. The cost to the EU Budget is not reflected in the entity accounts. Similarly, no provision related to the future pension payments is recognised in the annual accounts of the entity, as the obligation falls to the Commission. Consequently, both the annual cost to the EU budget, and the future benefits payable to the entity staff, are accounted for in the Commission's annual accounts as part of its provision for pensions and other post-employment benefits. The pension costs included in the Commission's Statement of Financial Performance represent current service cost (rights accrued during the year due to service) and interest cost (unwinding of the liability discounting) which have arisen following the year-end actuarial valuation of the employee benefits liabilities.

	<i>EUR '000</i>	
	2020	2019
<i>Staff costs</i>	8 963	8 331

### 3.5. OTHER EXPENSES

Included under this heading are expenses of administrative nature such as external non IT services, operating leasing expenses, communications and publications, training costs etc.

	<i>EUR '000</i>	
	2020	2019
<i>External non IT services</i>	1 228	1 463
<i>Operating leasing expenses</i>	911	976
<i>Administrative expenses with EU entities</i>	626	374
<i>Property, plant and equipment related expenses</i>	492	1 558
<i>Office Supplies &amp; maintenance</i>	399	428
<i>Training costs</i>	156	157
<i>Experts and related expenditure</i>	88	22
<i>Communications &amp; publications</i>	52	68
<i>Missions</i>	21	97
<i>Recruitment costs</i>	11	38
<i>Other</i>	15	67
<b>Total</b>	<b>3 999</b>	<b>5 248</b>

Property, plant and equipment related expenses are the maintenance and related service costs of the headquarters' premises in Ljubljana. The difference is mainly related to the full depreciation of intangible fixed assets in 2019, hence no depreciation costs in 2020 with relation to intangible assets.

The heading operating leasing expenses includes the rental contract of the ACER offices. The future payments for this contract are as follows:

EUR '000

	Future amounts to be paid			Total
	< 1 year	1- 5 years	> 5 years	
<i>Buildings</i>	947	2 034		2 981

#### 4. OTHER SIGNIFICANT DISCLOSURES

##### 4.1. OUTSTANDING COMMITMENTS NOT YET EXPENSED

The outstanding commitments not yet expensed comprise the budgetary RAL ('Reste à Liquider') less related amounts that have been included as expenses in the current year's statement of financial performance. The RAL represents the open budgetary commitments for which payments and/or de-commitments have not yet been made. This is the normal consequence of the existence of multi-annual programmes.

EUR '000

	31.12.2020	31.12.2019
<i>Outstanding commitments not yet expensed</i>	2 349	2 118

##### 4.2. SERVICES IN KIND

During 2020 ACER received from the Council of the European Energy Regulators offices space and logistical and secretarial support for the agency's liaison office in Brussels free of charge. The offered office space and share of common areas totalling to 32 m2 cost approximately EUR 5 150 per year.

##### 4.3. RELATED PARTIES

The related parties of the entity are the other EU consolidated entities and the key management personnel of these entities. As transactions between the relevant entity and the parties involved take place as part of the normal operations of the entity and on terms and conditions that are normal for such transactions, no specific disclosures are required.

##### 4.4. KEY MANAGEMENT ENTITLEMENTS

The Director, or head of entity, is remunerated in accordance with the Staff Regulations of the European Union, which establish the rights and obligations of all officials of the EU. The Staff Regulations are published on the Europa website.

	31.12.2020	31.12.2019
<i>Director</i>	AD 14	AD 14 <sup>10</sup>

##### 4.5. OTHER EVENTS

###### On-going legal cases

At the end of the financial year 2020 the Agency had nine legal cases (T-735/18 – Aquind v ACER; T-283/19 – Germany v ACER; T-631/19 BNetzA v ACER; T-684/19 - Magyar Energetikai és Közmű-szabályozási Hivatal v ACER; T-704/19 FGSZ v ACER; T-212/20 Gaz-System v ACER; T-606/20 APG & others; T-607/20 – APG & others) ongoing before the General Court requesting annulment of decisions taken by the Agency and one case (T-513/19

<sup>10</sup> In 2019, annual accounts erroneously disclosed as AD15.

Lux v Commission) where an application of intervention by ACER is requested. All cases are still ongoing. At this stage, any claim for damages against ACER is assessed as unlikely.

## Brexit

On 1 February 2020 the United Kingdom ceased to be a Member State of the European Union. Following the conclusion of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (the 'Withdrawal Agreement') between the two parties, the United Kingdom committed to pay all its obligations under the current MFF and previous financial perspectives following from its membership of the Union. The United Kingdom has paid into the 2020 EU Budget during the year, and received payments, as if it were a Member State.

At the date of transmission of these accounts, and based on the Withdrawal Agreement concluded and already in operation, there is no financial impact to be reported in these accounts. For further information on the impact of the Withdrawal Agreement on the EU, please see the 2020 consolidated EU annual accounts.

## 5. FINANCIAL RISK MANAGEMENT

### 5.1. TYPES OF RISK

**Market risk** is the risk that the fair value or future cash flows of a financial instrument will fluctuate, because of variations in market prices. Market risk embodies not only the potential for loss, but also the potential for gain. It comprises currency risk, interest rate risk and other price risk (the entity has no significant interest rate risk and other price risk).

(1) *Currency risk* is the risk that the entity operations will be affected by changes in exchange rates. This risk arises from the change in the price of one currency against another.

(2) *Interest rate risk* is the possibility of a reduction in the value of a security, especially a bond, resulting from an increase in interest rates. In general, higher interest rates will lead to lower prices of fixed rate bonds, and vice versa. The entity does not have any securities thus it is not exposed to the interest rate risk.

**Credit risk** is the risk of loss due to a debtor's non-payment or other failure to meet a contractual obligation. The default events include a delay in repayments, and bankruptcy.

**Liquidity risk** is the risk that arises from the difficulty in selling an asset; for example, the risk that a given security or asset cannot be traded quickly enough in the market to prevent a loss or meet an obligation.

### 5.2. CURRENCY RISKS

#### Exposure to currency risk at year-end

At the end of the year, the financial assets are composed of exchange receivables and non-exchange recoverables. The financial liabilities are composed of accounts payable. Their ending balances are mainly quoted in EUR, the entity is thus not exposed to currency risk.

### 5.3. CREDIT RISK

#### Financial assets that are neither past due nor impaired

At the end of the year, the financial assets comprise exchange receivables and non-exchange recoverables that are neither past due nor impaired, the entity is thus not exposed to credit risk.

#### **Financial assets by risk category**

The financial assets comprise exchange receivables with debtors without external credit rating that have never defaulted in the past (kEUR 4 023), non-exchange VAT receivable (kEUR 28) from the Republic of Slovenia (lower medium investment grade) and imprest account in UniCredit bank AG of kEUR 1 (prime and high investment grade).

#### **5.4. LIQUIDITY RISK**

##### **Maturity analysis of financial liabilities by remaining contractual maturity**

The financial liabilities are mainly composed of accounts payable. All the accounts payable have remaining contractual maturity of less than 1 year