



**Agency for the  
Cooperation of Energy Regulators  
Programming Document  
2018 - 2020**

**September 2017**

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## DIRECTOR'S FOREWORD

I am pleased to present the 2018 Draft Programming Document of the EU Agency for the Cooperation of Energy Regulators (ACER).

The 2018 Draft Programming Document contains a multiannual outlook, covering the 2018-2020 period. In November 2016 the European Commission unveiled its legislative proposal for “Clean Energy for all Europeans”, envisaging additional tasks and responsibilities for the Agency. It is however still uncertain when the new provisions will come into force – probably not before 2020 – and which will be the scope of the additional responsibilities assigned to the Agency as emerging from the legislative process. Therefore, the multiannual outlook has been compiled on the basis of the Agency’s current mandate. In particular, in 2018 and in the two subsequent years, the Agency expects to work in four strategic areas: (i) the completion of the Internal Energy Market, through the full implementation of the adopted Guidelines and Network Codes, including the adoption and implementation of binding subsidiary instruments; (ii) addressing the infrastructure challenge, by contributing to the correct prioritisation of infrastructure development, the implementation of priority projects and the monitoring of such implementation; (iii) the monitoring of wholesale energy trading to detect and deter market abuse, so as to promote the integrity and transparency of wholesale energy markets; (iv) addressing longer-term regulatory challenges, mostly directly or indirectly related to the increased penetration of renewable-based generation in the EU energy system.

The 2018 Draft Programming Document also includes the 2018 Draft Work Programme, providing a detailed description of the tasks that the Agency plans to perform in 2018. These tasks are grouped in ten areas: (1) the implementation of the electricity Network Codes; (2) the implementation of the gas Network Codes, including through the Gas Regional Initiative; (3) the monitoring of the internal electricity and gas markets; (4) supporting and monitoring the cooperation among TSOs in the electricity sector; (5) supporting and monitoring the cooperation among TSOs in the gas sector; (6) energy infrastructure development planning and the implementation of priority projects; (7) tasks which the Agency performs on request and opinions and recommendations issued on its own initiative; (8) wholesale energy market monitoring; (9) communication activities; (10) coordination activities and administration of the Agency.

As in previous years, the 2018 Draft Work Programme is compiled with reference to the Agency’s legislative mandate and the other activities which the Agency considers necessary to support and oversee the completion of the internal energy market, to promote the security of energy supply based on solidarity and trust and to ensure effective monitoring of trading in

wholesale energy markets. The 2018 Programming Document also identifies the human and financial resources that the Agency requires to deliver the Draft Work Programme. In particular, for 2018 the Agency requests 30 additional posts (19 for activities related to the monitoring of wholesale energy markets, 2 in the energy infrastructure area, 4 to support and monitor the implementation of Network Code and Guidelines and 5 for horizontal activities). Such additional staffing, as well as the financial resources required for the operation of the Agency – including of the information system for the monitoring of wholesale energy markets – are the basis for the estimate of expenditure of € 19.6 million adopted by the Administrative Board. In case the subsidy to the Agency determined as part of the EU Budget, and the related Establishment Plan, were not to reflect the Agency's requests, the Agency would have to revise its Work Programme and deprioritise some tasks/activities.

In this respect, and as an innovation with respect to previous years, the tasks in the 2018 Draft Work Programme have been classified according to three different priority levels: 1) Critical (tasks that must be performed under any circumstance, as failure to do so would seriously undermine the functioning of the Internal Energy Market and the achievement of the Energy Union objectives); 2) Important (tasks that could be postponed, reduced in scope or de-scoped with only limited repercussion on the Internal Energy Market); and 3) Relevant (tasks that the Agency could usefully perform, provided adequate resources were made available). The tasks classified as Critical are mostly those related to the effective monitoring of wholesale energy markets and to the implementation of Network Codes and Guideline and the monitoring of their effective application.

As the greatest staffing gap (19 FTEs) is at the moment in the monitoring of wholesale energy markets, the identification of this area as one of the top priorities for the Agency in 2018 would require, if no additional posts were authorised, the redeployment of staff from deprioritised tasks. It is however to be stressed that, as the staffing gap in wholesale energy market monitoring is very wide (compared to the total staff of the Agency) and the required expertise is significantly different from that applied elsewhere in the Agency, the scope of any redeployment is unlikely to be sufficient to fill the gap entirely and, thus, to provide the necessary resources for effectively monitoring wholesale energy trading. Therefore, in case the Agency's budgetary/staffing requests were not fully met, there would be a – possibly significant – risk that the monitoring activities performed by the Agency could not be as effective as necessary to ensure that market participants trade on the basis of the same information and to provide confidence to consumers that the prices they pay for the energy that they consume reflect market fundamentals and are not distorted (inflated) by manipulative behaviour.

It would be therefore most unfortunate if the Agency were again in 2018 put in a situation where it is prevented from fully delivering its Work Programme because of the persistent inconsistency between its legal mandate and the resources assigned to it. This has been a constant limitation over the last few years, but going forward greater challenges, in monitoring energy trading and in supporting the completion and well-functioning of the internal energy market, await the Agency. Therefore, despite the fact that the draft 2018 EU Budget presented by the Commission does not envisage any strengthening of the Agency's human and financial resources, I trust that the Budgetary Authority will, once and for all, address this inconsistency and provide the Agency with the additional resources that it requires to deliver on the mandate that the Legislator has assigned to it. This is all the more important since *de facto* the Agency continues to be a "New Task" Agency; significant new tasks are being assigned to it by the updated Gas Security of Supply Regulation, as well as through the entry into force of the adopted Network Codes and Guidelines.

Let me conclude this Foreword by thanking my colleagues in the Agency for their enduring commitment and effort, and the Agency's Administrative Board, the Board of Regulators, the European Parliament's Committee for Industry Research and Energy and the Directorate-General for Energy of the European Commission for their continuous support. I would also like to highlight the important role of the Board of Appeal, as an internal, yet independent, review body. New members have recently been appointed and I would like to wish them a successful mandate.

The Agency also continues to rely on the involvement of experts from NRAs in its Working Groups. I am most grateful to them, and to their parent institutions, for their precious support. I would also like to thank the numerous stakeholders involved in our activities; we value their contributions and try to take them on board to the extent possible.

The Energy Union strategy aims at delivering a "new deal" to energy consumers. In fact, the whole energy sector liberalisation and reform process has been aimed at providing better price, more quality and wider choice to consumers. Consumers can also play a more active role in the smarter and more flexible energy system of the future. The Agency remains fully committed to support this transition and stands ready to play its role!

Alberto Pototschnig, Director

Ljubljana, September 2017

## LIST OF ABBREVIATIONS AND ACRONYMS

Abbreviation	Meaning
The Agency	Agency for the Cooperation of Energy Regulators
AB	Administrative Board
AMIT WG	Agency's Market Integrity and Transparency Working Group
ARIS	Agency's REMIT Information System
AWG	Agency Working Group
BoA	Board of Appeal
BoR	Board of Regulators
CBA	Cost Benefit Analysis
CBCA	Cross-Border Cost Allocation
CEER	Council of European Energy Regulators
CEREMP	Centralised European Register of Energy Market Participants
CMP	Congestion Management Procedures
Col	Conflict of Interest
Dir	Directive
Dol	Declaration of Interest
EC	European Commission
EnC	Energy Community
ECRB	Energy Community Regulatory Board
ENTSO-E	European Network of Transmission System Operators for Electricity



ENTSOG	European Network of Transmission System Operators for Gas
ERI	Electricity Regional Initiative
ESMA	European Securities and Markets Authority
FERC	Federal Energy Regulatory Commission
FG	Framework Guideline
FTE	Full Time Equivalent
GRI	Gas Regional Initiative
IEM	Internal Energy Market
INEA	Innovation and Networks Executive Agency
ICT	Information and Communication Technology
ITC	Inter-TSO Compensation
ITIL	Information Technology Infrastructure Library
LNG	Liquefied Natural Gas
LSO	Liquefied Natural Gas (LNG) System Operators
MiFID	Markets in Financial Instruments Directive
MMR	Market Monitoring Report
MoU	Memorandum of Understanding
MS	Member State
NC	Network Code
NDP	Network Development Plan
NRA	National Regulatory Authority

OTC	Over the counter
PCI	Project of Common Interest
Reg	Regulation
REMIT	Regulation for Energy Market Integrity and Transparency
RRM	Registered Reporting Mechanisms
SMARTS	Market monitoring software
SNE	Seconded National Expert
SSO	Storage System Operators
TEN-E	Trans-European Energy Network
TF	Task Force
TSO	Transmission System Operator
TYNDP	Ten Year Network Development Plan

## MISSION STATEMENT

The Agency complements and coordinates the work of national energy regulators at EU level, and works towards the completion of the single EU energy market for electricity and natural gas.

ACER plays a central role in the development of EU-wide network and market rules with a view to enhancing competition to the benefit of consumers. The Agency coordinates regional and cross-regional initiatives, which favour market integration. It monitors the work of European networks of transmission system operators (ENTSOs), and notably, their EU-wide network development plans.

Under the Regulation on Guidelines for trans-European energy infrastructure ("TEN-E Regulation"), the Agency contributes to the energy infrastructure challenge through its role in the process of identification and monitoring of Projects of Common Interest (PCIs).

Furthermore, the Agency monitors the functioning of gas and electricity markets in general. In line with the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT), it monitors wholesale energy trading to detect and prevent trading based on inside information and market manipulation.

Finally, additional specific tasks are assigned to the Agency by the Network Codes and Guidelines adopted as part of the secondary legislation required to implement the Internal Electricity and Gas Markets.

In summary, the Agency has been assigned tasks and responsibilities by a number of legislative acts, including:

- the Third Package – Directive 2009/72/EC (the "Electricity Directive"), Directive 2009/73/EC (the "Gas Directive"), Regulation (EC) No 713/2009 (the "Agency Regulation"), Regulation (EC) No 714/2009 (the "Electricity Regulation") and Regulation (EC) No 715/2009 (the "Gas Regulation");
- REMIT and Commission Implementing Regulation (EU) No 1348/2014 (the REMIT "Implementing Acts");
- Regulation (EU) 994/2010 on security of gas supply;
- Commission Regulation (EU) 838/2010 on the inter-TSO compensation mechanism (the "ITC Regulation");
- Regulation (EU) No 347/2013 on Guidelines for trans-European energy infrastructure ("TEN-E Regulation");

- Commission Regulation (EU) 2015/1222 establishing a guideline on capacity allocation and congestion management;
- Commission Regulation (EU) 2016/631 establishing a network code on requirements for grid connection of generators;
- Commission Regulation (EU) 2016/1388 establishing a Network Code on Demand Connection;
- Commission Regulation (EU) 2016/1447 establishing a network code on requirements for grid connection of high voltage direct current systems and direct current-connected power park modules;
- Commission Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation.

Other Network Codes and Guidelines soon to be adopted assign new tasks and responsibilities to the Agency.

- Commission Regulation establishing a network code on electricity emergency and restoration;
- Commission Regulation establishing a guideline on electricity transmission system operation;
- Commission Regulation establishing a guideline on electricity balancing.

# SECTION I – GENERAL CONTEXT

## STRATEGIC AIMS

### Background

The Agency was established as part of the new institutional framework defined by the Third Package to support the completion of the Internal Energy Market and to fill the regulatory gap emerging in this process due to the mainly national competences of NRAs. Therefore, in its initial period, the Agency focused its effort on tasks related to the development of common market and network operation rules - through the preparation of Framework Guidelines, the evaluation of the Network Codes drafted by the ENTSOs and, more recently, the promotion of their early implementation - and to the planning of the development of European energy networks - with its opinions on the TYNDPs. Since the Networks Codes and Guidelines entered into force, the Agency has been monitoring their implementation and effects. This complements the more general monitoring of developments in the Internal Energy Markets, which the Agency has been performing since 2012, with the publication of annual Market Monitoring Reports.

New important responsibilities were assigned to the Agency at the end of 2011 by REMIT. REMIT aims at increasing transparency of wholesale energy markets and to promote their integrity by introducing explicit prohibitions of market abusive behaviour and establishing a new, sector-specific monitoring framework to detect and deter market manipulation and insider trading. In this respect, the Agency was tasked with collecting trade and fundamental data related to all wholesale energy market transactions, irrespective of where they are concluded (on organised markets, through other trading venues or over the counter) and of the type of product traded (for physical delivery or financial settlement) and with conducting an initial assessment and analysis of these transactions to identify suspicious events which are then notified to NRAs, responsible for investigations and enforcement.

The monitoring framework introduced by REMIT is unprecedented worldwide in terms of its geographical and product scope, and its implementation poses a formidable challenge for the Agency, NRAs, market participants - which have to report trade data - and other stakeholders - responsible for reporting fundamental data.

Following the entry into force of the REMIT Implementing Acts on 7 January 2015, the new monitoring framework with its reporting obligations went live in October 2015. As of 7 April 2016 data on transactions in the remaining wholesale energy contracts (OTC standard and

non-standard supply contracts; transportation contracts) and reportable fundamental data from Transmission System operators (TSOs), (Liquefied Natural Gas System Operators (LSOs) and Storage System operators (SSOs) also have to be reported to the Agency.

With the information available, the Agency is set to detect instances of suspect market manipulation and trading based on inside information. However, the Agency's ability to do so depends on the availability of expertise and resources, in an area - wholesale energy market monitoring - which is very different from the original focus of the Agency's activities (according to the Third Package).

In 2013 the TEN-E Regulation introduced a new framework for the development of critical energy infrastructure – PCIs –, foreseeing a role for the Agency in the process for identifying PCIs and in assisting NRAs in dealing with investment requests – including for cross-border cost allocation – submitted by PCI promoters. While the new tasks assigned to the Agency by the TEN-E Regulation are in an area – energy network development planning – on which the Agency had already been working on the basis of the provisions of the Third Package (e.g. the opinions on the TYNDPs), these new tasks have added substantially to the workload of the Agency.

Finally, with the entry into force of the Network Codes and Guidelines envisaged, as secondary legislation, by the Third Package, the Agency was assigned additional important tasks and responsibilities in supporting the coordination of NRAs and the harmonisation of IEM rules, including by stepping in when NRAs are unable to reach an agreement on binding subsidiarity instruments.

This brief description of the developments in the legislative mandate of the Agency since its establishment – which has focused on the main pieces of relevant legislation – illustrates, on the one hand, the most important components of the current mission of the Agency and, on the other, how this mission has been significantly expanded over the last years, in some cases in new and “unexpected” areas.

Adding to this, the Agency, in cooperation with the Council of European Energy Regulators (CEER), has conducted an assessment of the main trends affecting the energy sector over the next ten years and their regulatory implications (the “Energy Regulation: A Bridge to 2025”

initiative). A Conclusions Paper, presenting the results of this assessment, was issued by the Agency in September 2014<sup>1</sup>.

## **A challenging future**

While the current legislative framework and the first five years of its activity may indicate the areas in which the Agency will be called to operate in the future, there is no guarantee that the Agency's mandate will not be again further expanded, or otherwise modified, in the years to come, both in relation to the institutional architecture of the Energy Union and in relation to the new challenges which the energy sector will face.

In particular, the Agency has demonstrated the validity of its role as an effective instrument for developing a European dimension in the cooperation among NRAs and to make this cooperation even more robust and effective<sup>2</sup>. This successful experience may attract additional tasks to the Agency. Areas where additional competences may be assigned to the Agency, subject to legislative intervention, include the oversight of the ENTSOs and other bodies which fulfil essential functions in the energy sector, the approval of EU-wide regulatory instruments and security of supply, for instance through the revised Gas Security of Supply Regulation.

A reference to an Agency's enhanced role is contained in the European Commission's Framework Strategy for a Resilient Energy Union with a Forward-Looking Climate Change Policy, presented in February 2015. The Communication proposes a 'significant reinforcement of the powers and independence of ACER to carry out regulatory functions at the European level in order to enable it to effectively oversee the development of the internal energy market and the related market rules as well as to deal with all cross-border issues necessary to create a seamless internal market'.

The legislative initiative on Market Design unveiled by the Commission in November 2016 - with a main focus on the internal electricity market, renewable energies, energy efficiency and

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<sup>1</sup> Recommendation of the Agency No 05/2014 of 19 September 2014 on the regulatory response to the future challenges emerging from developments in the internal energy market.

<sup>2</sup> This has been recognised by the European Commission in its first evaluation of the Agency (C(2014) 242 final, 22.1.2014): "*The Commission is satisfied to acknowledge that since its establishment ACER has become a credible and respected institution playing a prominent role*" (page 7). "*[The Commission] congratulates ACER for having been able to undertake activities necessary to ensure a smooth implementation of REMIT and the TEN-E Regulation already ahead of those Regulations entering into force and the corresponding budgetary adjustments becoming available to ACER*" (page 8).

security of electricity supply - specifies the area where the Agency might be assigned additional responsibilities. They relate to:

- The regulatory oversight of the ENTSOs, of regional operation coordination centres (for electricity) and of NEMOs;
- The development of a coordinated European Adequacy Assessment for the electricity market;
- The coordination of national actions related to risk preparedness;
- The definition of terms and conditions or methodologies for the internal electricity market;

The actual scope of the additional responsibilities to be assigned to the Agency will only be finally defined once the legislative process is complete. In the meanwhile, the Commission has announced its intention also to proceed, in the next couple of years, with a review of the gas market legislation, at least with respect to those governance and procedural aspects for which the corresponding provision for the electricity sector will be amended as a result of the Market Design initiative.

While it is unlikely that any of the new provisions will come into force already in 2018, and therefore affects the Work Programme of the Agency for that year, it may be harder to define any multiannual outlook, at least until the new legislation is adopted.

That said, it seems likely that over the next years the Agency will focus its activities at least on the following four main areas, which will already guide the Agency's work next year:

- The Completion of the Internal Energy Market;
- The Infrastructure Challenge;
- The monitoring of wholesale energy markets;
- The longer-term regulatory challenges, with an improved market design.

Moreover, geopolitical developments continue to raise concerns regarding the security of energy supply in the EU. In February 2016 the Commission already proposed a revision of the Security of Gas Supply Regulation<sup>3</sup> and in February 2017 a Communication on Security of Electricity Supply<sup>4</sup> is expected. While security of energy supply has so far been an area of

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<sup>3</sup> Proposal for a Regulation of the European Parliament and of the Council concerning measures to safeguard the security of gas supply and repealing Regulation (EU) No 994/2010, 16.2.2016 COM(2016) 52 final.

<sup>4</sup> Communication on Boosting EU electricity interconnections for more security of supply, competitiveness and sustainability.



primary responsibility of MSs and the European Commission<sup>5</sup>, the new provisions envisage the involvement of the Agency. While the exact scope of the Agency's responsibilities will only be defined once the legislative process is complete, it is likely that, on the gas side, these provisions will come into force already in 2018. However, given that the legislative process is still ongoing, no specific action in this regard is included in this Work Programme.

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<sup>5</sup> However, some of the activities performed by the Agency, and included in this Work Programme (e.g. the decisions on cross-border cost allocation for PCIs which should facilitate their development), may contribute to enhance the security of EU energy supply.

## SECTION II - MULTIANNUAL PROGRAMMING 2018 – 2020

### 1. MULTIANNUAL OBJECTIVES

One of the priorities identified by the new European Commission is “Energy Union and Climate”, which includes, as two of its mutually reinforcing dimensions, the completion of the internal energy market and the security of energy supply. For both such dimensions, rules for efficient market functioning, energy market integrity and transparency, and the strengthening of the energy infrastructure are key components.

Many of the activities that the Agency is planning to perform over the next three years are instrumental to achieve these objectives and therefore contribute to the Energy Union strategy. Moreover, as indicated above, the Commission has proposed new or revised legislation both for the electricity and gas sector. However, as the legislative process is still ongoing, the current multiannual outlook is based exclusively on the Agency’s mandate as it stands in December 2016.

#### **Objective 1: Contribute to the completion of the Internal Energy Market**

Supporting the integration of the electricity and gas markets in the European Union was the main role assigned to the Agency by its founding Regulation and other provisions in the Third Package. In 2011 the Council of the European Union set 2014 as the target date for the completion of the Internal Electricity and Gas Markets. Significant progress has already been achieved, both in terms of the development of the required market and network operation rules and on the ground. Therefore, while by the end of 2014 it was possible to claim that the integration of the internal electricity and gas markets had advanced significantly, this process will have to continue in the years to come and the Agency will still have to be engaged and crucially contribute to it.

The Agency will in particular contribute to:

- The implementation of the provisions in the adopted Network Codes and Guidelines. This will include a variety of specific tasks assigned to the Agency by these legal provisions which are instrumental to the integration and well-functioning of the internal electricity and gas markets;
- Monitoring developments in the Internal Energy Market, of the implementation of the Network Codes and Guidelines and of their effects. These monitoring activities may

result in recommendations for amending Network Codes or Guidelines or for other regulatory intervention, which may require the involvement of the Agency.

### Expected achievements

In electricity, the focus over the next few years will continue to be on the full implementation of all the Network Codes and Guidelines across the European Union and on the assessment of whether and how the Electricity Target Model is delivering the intended effects or should instead be improved or refined to meet the impending challenges. The legislative proposals unveiled by the Commission in November 2016 take stock of the results of the monitoring performed by the Agency over the last five years and envisage an enhanced market design to deal with the identified obstacle to a well-functioning, efficient, secure and sustainable internal electricity market.

In this context, the Agency is ready to support and contribute to the policy debate and promote more coordinated and efficient solutions to address, in particular, problems of adequacy and flexibility. In this respect, the Agency will particularly focus on the role of demand response in addressing these challenges.

In gas, the last Network Code - on Harmonised Transmission Tariff Structures – is completing its legislative process and is expected to be adopted in the first half of 2017. For the time being, no new Framework Guidelines are expected to be put forward for development. The focus will thus be on implementation and effect monitoring of the adopted Network Codes and Guidelines. Before they become formally binding, a number of their provisions should already be implemented early in some MSs through the GRI. Given the voluntary nature of this process, its success will depend on the willingness of NRAs and TSOs to step forward. As soon as a Network Code becomes formally binding, the Agency begins monitoring its implementation.

The Agency will also take a more proactive role in its stakeholder engagements through, e.g. the chairing of the European Stakeholder Committees for the electricity Network Codes and Guidelines and by managing its on-line gas Functionality platform, jointly developed with ENTSO-G to collect and follow up stakeholders' issues relating to Network Codes.

### Performance indicators

- Timely implementation of the Network Codes and Guidelines;
- Implementation of an effective process, involving stakeholders, for monitoring the Network Code implementation and its effects on the IEM;
- Implementation of an effective amendment process.

## Risks

The implementation of the provisions contained in the Network Codes and Guidelines highly depends on the engagement of NRAs and TSOs and the efficiency of their respective decision-making process.

The Agency is only one of the key players involved in the completion of the Internal Energy Market. The attainment of its objectives is largely dependent also on forces on which it has little or no control.

Moreover, efficient monitoring requires the availability of information and data to be received from NRAs and from TSOs and other stakeholders. At the moment the Agency has limited powers to require such information and data, and even where these powers exist, no enforcement capacity. Therefore, the monitoring activities of the Agency may be hampered by the inability of, or difficulty in, obtaining the required information and data.

The adopted Network Codes and Guidelines foresee a role of the Agency in adopting third-level binding decisions in case NRAs fail to agree on them. However, the regulatory governance of the Agency – with the proposal of the Director requiring the favourable opinion by the BoR, based on a two-third majority of its members representing NRAs - may not guarantee that, even when the Agency intervenes in these situations, it will be able to provide the required decision - if the Director and (the necessary majority of the members in) the BoR have different views. In this case, the Agency will be unable to play the surrogate role envisaged by the legislation.

## **Objective 2: Contribute to the Infrastructure Challenge**

The TEN-E Regulation introduced a new framework aimed at promoting the development of PCIs, i.e. infrastructure projects that are particularly beneficial in supporting a more integrated European energy market. In 2011 the Council of the European Union set 2015 as the target date for removing “energy islands”, i.e. better connecting those EU regions whose systems have limited interconnection capacity with the rest of the Union. According to the Third Package, the Agency was already involved in the energy network development project, but the TEN-E Regulation projected this involvement into a completely new dimension. As one of the many players involved, the Agency aims to contribute to the infrastructure challenge in line with its legal mandate.

### Implementation of the objective:

- Assessing the cost-benefit analysis methodologies developed by the ENTSOs and the consistent application of the criteria for identifying PCIs;

- Providing opinions on the draft PCI lists, in particular on the consistent application of the cost-benefit analysis and the selection criteria;
- Taking decisions, when it is called to do so, on investment requests and cross-border cost allocation submitted by PCI promoters. PCI lists will be adopted every two years. TYNDPs - which are also developed every two years, but at present in different years for the electricity and gas sector - will serve as the basis for the PCI lists. Investment requests may be submitted by promoters of PCIs included in the lists. Therefore, the TYNDP/PCI identification/investment request process will run over two years, repeating itself every two years. The Agency will be crucially involved in all the stages of this process.

#### Expected achievements

The Agency will strive to enable efficient infrastructure investments to take place, with a particular focus on investments of cross-border relevance. Such investments should help integrate the internal energy market further, as well as to increase security of supply. In particular, they should contribute to the elimination of the so-called energy islands.

#### Performance indicators

- Consistent application of the criteria for identifying PCIs by the end of the multiannual period;
- Effective monitoring of PCI and other infrastructure development;
- All decisions on the investment requests taken within the legal deadlines foreseen.

#### Risks

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

The investment requests referred to the Agency are those on which NRAs fail to agree and therefore are likely to be the most complex ones. However, it is difficult to forecast how many of such requests will be referred to the Agency and when this will happen. The Agency has been calling for a significant reinforcement of its staffing to effectively implement the TEN-E Regulation. So far only a fraction of the required posts has been authorised. The Agency

therefore might be unable to meet the legal deadline set for such decisions, especially if several requests were referred to the Agency at the same time.

### **Objective 3: Increased integrity and transparency of wholesale energy markets**

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. Therefore, its effective implementation constitutes an integral part of the creation of an efficient internal energy market, of promoting security of energy supply and, thus, of the Energy Union's strategy. REMIT introduces a new, unprecedented, sector-specific market monitoring framework to detect market abuse in European wholesale energy markets, thus deterring such behaviour. The Agency aims to ensure that REMIT is fully implemented so that consumers and other market participants have confidence in the integrity of electricity and gas markets, that prices set on wholesale energy markets reflect a fair and competitive interplay between supply and demand, and that no profits can be drawn from market abuse.

#### Implementation of the objective:

- Following the entry into application in October 2015 of the obligation to report trade and fundamental data, the Agency is set to detect market manipulation and trading based on inside information. The Agency's monitoring strategy crucially depends on the available resources.
- Given the sheer volume of transactions reported by market participants, the Agency performs its monitoring functions, consisting in an initial assessment or analysis of the reported transactions, in two stages. The first stage is based on the automatic screening performed by purposely-developed surveillance software. This screening is expected to identify anomalous events based on predefined "alerts". The second stage looks into these anomalous events to identify those for which market abuse can be suspected and which are to be notified to NRAs for investigation. This second stage focuses on market participants' behaviour and must therefore be conducted by highly qualified experts, whom the Agency, at the time of writing of this multiannual outlook, still had a shortage of.

#### Expected achievements

Increased integrity and transparency of wholesale energy markets should foster open and fair competition in wholesale energy markets for the benefit of final consumers of energy. Well-

functioning energy markets are also instrumental to provide signals to promote security of supply through a cooperative approach throughout Europe. Efficient market monitoring by the Agency at Union level is therefore vital for detecting and deterring market abuse in wholesale energy markets and a major contributor to the Energy Union strategy.

#### Performance indicators

- Efficient operation of an effective REMIT transaction reporting regime to facilitate market monitoring of wholesale energy markets;
- Effective market monitoring of wholesale energy markets to detect trading based on inside information and market manipulation.

#### Risks

The Agency's monitoring and data collection tasks require appropriate financial and human resources. The Agency has already highlighted on several occasions the inadequacy of its resources and submitted requests for 30 additional posts – on top of those assigned by the REMIT Financial Statement - devoted to the implementation of REMIT. Such requests were included in the draft budgets for 2014, 2015 and 2016 adopted by the Agency's Administrative Board with a supportive opinion of the Board of Regulators. Only in 2016 the Agency received 15 additional posts, 11 of which were assigned to the REMIT area. Such a reinforcement, while welcome, was still far from what is required to fulfil the Agency's mandate in this respect and to meet the related multiannual objective. Therefore, the Agency submitted in the draft budget for 2017 a request for the remaining 19 additional posts, which however was not granted by the budgetary authorities<sup>6</sup>. The shortage of staff in the Agency cannot be addressed by reallocating some of its activities to NRAs or other national competent authorities, as they do not have and cannot have an EU-wide vision of wholesale energy trading which is essential for effective monitoring in an increasingly integrating internal energy market. This would put the achievement of REMIT's aims - transparency and integrity of wholesale energy markets - at risk. In addition, the Agency's market monitoring, coordination and data collection tasks require a close interaction with NRAs and therefore create interdependencies with NRAs.

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<sup>6</sup> In fact, in 2017 the Agency is asked to reduce its staff by one Temporary Agent post.

#### **Objective 4: Contribute to address longer-term regulatory challenges**

The Conclusions Paper “Energy Regulation: A Bridge to 2025”, issued in September 2014, contains European energy regulators’ conclusions on the challenges facing the electricity and gas sectors over the coming decade and recommendations on the appropriate regulatory response within the framework of the Europe’s Internal Energy Market. The Conclusions Paper covers a wide range of aspects related to: the gas and electricity sectors, including the changing face of electricity generation in the European Union; the changing role of Distribution System Operators; consumer empowerment and protection; and retail markets. The document also includes a chapter on the governance of the process for the development of the internal European gas and electricity markets. The 2025 time horizon was chosen to cover a period which is, at the same time, long enough to allow the development of a regulatory strategy, but not too long to keep the degree of uncertainty to a manageable level.

The Commission’s legislative proposals unveiled in November 2016 address many of the challenges identified in the Conclusion Paper. Once the new legislation will be enacted, an enhanced framework to deal with the future challenges will be in place, in which the Agency is expected – based on the current proposal – to play an enhanced role.

##### Implementation of the objective:

- Some of the recommendations contained in the Conclusions Paper called for immediate action by the Agency and specific tasks to implement them are already undergoing or are planned in the coming years, resources permitting. Other recommendations have a longer time span and will be implemented in future work programmes.
- Linked to the Bridge initiative and in parallel to it, in 2014 the Agency conducted a review of the Gas Target Model to assess whether it needs to be “augmented” to better meet the challenges that the energy sector will face in the next few years. The results of this review were presented in January 2015. A similar assessment of the Electricity Target Model, with specific focus on flexible response and the mechanisms to promote system adequacy, is reflected in the Commission’s legislative proposals unveiled in November 2016.

##### Future challenges – expected achievements

While some of the recommendations for regulatory action of the Conclusions Paper “Energy Regulation: A Bridge to 2025” call for immediate action by the Agency, in most cases, the recommendations have a longer time span and may require legislative changes, many of which have now been proposed by the Commission. The Agency, in cooperation with CEER,



has developed a plan with identified priorities and will implement the different actions, or formulate proposal for legislative action, accordingly and compatibly with its available resources.

#### Performance indicators

- Timely implementation of the priorities identified in the Bridge paper;
- Implementation of an effective process, involving stakeholders, for monitoring the Network Code implementation, its impact on the IEM and for identifying the need for further legislative initiatives;
- Perform the new tasks assigned to the Agency by the new legislation to be adopted following the Commission's proposal of February (in the area of security of gas supply) and December 2016 (in the area of electricity market design).

#### Risks

Since a number of these activities may have to be implemented before they can be enshrined in regulations, in order to address the identified challenges in a timely manner, the main risk to their implementation is related to the limited (human) resources available to the Agency and other relevant institutions (e.g. NRAs). However, even once or where the actions are mandated by binding rules, the limited resources may still pose a risk in terms of timely and effective implementation. A delay in regulatory action to respond to the identified challenges may not only lead to a less efficient energy sector, but also possibly jeopardise the secure operation of the energy systems.

Moreover, as already indicated above, the Agency still has limited power to require information and data to monitor market development and assess market performance, and therefore may be limited in its activities in this area.

#### **General risks and uncertainties**

Apart from the uncertainties related to the future scope of the mission of the Agency, which has already been significantly extended since its establishment and which is likely to be expanded again in the next years, the action of the Agency faces a number of risks, mainly related to its role as a EU institution dedicated to promoting the cooperation among energy regulators and to the resources available to it.

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

First, one of the essential characteristics of the Agency is the fact that it brings together the expertise and experience of NRAs and complements them with a European dimension. The cooperation between the Agency and NRAs and between NRAs within the Agency is therefore an essential part of the working method of the Agency. Such cooperation takes place, at technical level, in the Agency's Working Groups (AWGs), which are composed of NRAs' experts and Agency's staff. However, AWGs are not part of the institutional set-up of the Agency and NRAs contribute to them on a purely voluntary basis. The Agency therefore faces the possible risk of a diminished engagement of NRAs in AWGs, possibly due to NRAs' resource limitations. Apart from undermining one of the main tenets of the Agency's action, a possible reduced engagement of NRAs in AWGs would significantly impair the Agency's ability to deliver on its mandate.

Secondly, some of the new tasks assigned to the Agency by the adopted Network Codes and Guidelines – e.g. the Guideline on Capacity Allocation and Congestion management in electricity – call on the Agency to step into the decision-making process for terms and conditions or methodologies when consensus cannot be achieved among NRAs. However, the regulatory governance of the Agency – with the proposal of the Director requiring the favourable opinion by the BoR, based on a two-third majority of its members representing NRAs - may not guarantee that, even when the Agency intervenes in these situations, it will be able to provide the required decision - if the Director and (the necessary majority of the members in) the BoR have different views. In this case, the Agency will be unable to play the surrogate role envisaged by the legislation.

Thirdly, in many areas, the tasks performed by the Agency are part of processes where other institutions and stakeholders are involved. Therefore, the time at which the Agency is required to contribute to these processes depends on the timing of the other activities included in the same processes and performed by other actors. These interdependencies between the activities of the Agency and those of other institutions and stakeholders, apart from creating uncertainty in the exact timing of the performance of some of the Agency's activities, may also make the planning of the utilisation of the Agency's own resources more difficult.

Finally, in a number of previous occasions, the Agency has been called to start implementing new provisions well before it was given the resources required to deliver on its new/enhanced mission effectively. This happened in the case of both REMIT, the TEN-E Regulation and, more recently, with the adoption of Network Codes and Guidelines, especially in the electricity sector: the Agency started to implement REMIT before it was able to recruit any additional dedicated staff member; the implementation of the TEN-E Regulation started well before the Regulation itself was adopted and finally, the Agency started to perform its new tasks for the

implementation of the Network Codes and Guidelines without any new additional dedicated staff member. In all these cases the Agency used the flexibility inherent in a young and efficient organisation to redeploy staff temporarily and to ask its staff to sustain an extra-ordinary level of effort, while counting also on the valuable support of NRAs. The legislative proposals unveiled by the Commission in February and November 2016 envisage new tasks and responsibilities for the Agency. The Agency expects that such additional responsibilities will be matched by the required additional resources.

This document, and in particular Section III presenting the Annual Work Programme outlining the specific activities which the Agency is planning to perform next year, is, as in previous years, developed on the assumption that the Agency will be assigned the resources required to effectively deliver on its mission. Should these additional resources not be assigned to the Agency, this Work Programme will have to be revised in line with the level of resources actually available.

In particular, in order to ensure an appropriate prioritisation of its activities, and to allocate resources accordingly, focusing on those areas and activities which are most critical for delivering Energy Union objectives and, ultimately, benefits for consumers, in the Work Programme for 2018 the Agency has clustered its tasks and deliverables according to the following three priority levels.

**Priority level 1 – Critical** – Activities/tasks that must be performed/executed under any circumstance. Failure to do so would seriously undermine the functioning of the Internal Energy Market and the achievement of the Energy Union objectives.

**Priority level 2 – Important** – Activities/tasks that could be postponed, reduced in scope or de-scoped with only limited repercussion on the Internal Energy Market.

**Priority level 3 – Relevant** – Activities/tasks that the Agency could usefully perform, provided adequate resources were made available.

It is to be noted that this classification does not take into consideration whether the Agency is legally required to perform the activities under consideration. As a result, it may be that an activity that is not legally required is assigned a higher priority than one that the Agency is legally required to perform, but which is considered less fundamental in the context of the completion of the Internal Energy Market and the implementation of the Energy Union Strategy.

In case the resources assigned to the Agency will not be sufficient to perform all the activities included in the Work Programme for 2018, the deprioritisation of activities will be performed

starting from those classified as “relevant” and then, to the extent necessary, including those classified as “important”, in order to devote sufficient resources to the “critical” activities.

## **2. MULTIANNUAL PROGRAMME**

### **2.1 Introduction**

#### **2.1.1 Strategic Areas**

The Agency’s activities over the next years will focus on four strategic areas, which are mirrored in the Multi-annual objectives listed in the section above:

- Contribute to the completion of the Internal Energy Market;
- Contribute to the Infrastructure Challenge;
- Increased integrity and transparency of wholesale energy markets;
- Contribute to address longer-term regulatory challenges.

Moreover, two horizontal areas of work have crosscutting effects on the above strategic areas: the regulatory practice and international cooperation. This section aims to address the two horizontal areas and to lay down the main elements of the Agency’s work in the four strategic areas listed above. The specific tasks and deliverables are listed in the annual work programme section.

### **2.2 The Regulatory Practice**

#### **2.2.1 Institutional Framework**

##### **Cooperation with NRAs**

The Agency promotes and facilitates cooperation among NRAs at a European-level and in the exercise of their Union-related functions. It fully complements the NRAs’ European mandate and their duty to promote, in close cooperation with each other and the Agency, a competitive, secure and environmentally sustainable internal energy market.

The Agency’s formal structure ensures regulatory cooperation through the Board of Regulators, in which NRAs from all EU countries are represented. Regulatory cooperation is also embedded in the Agency’s framework that brings together experts from the NRAs and

the Agency through the four Agency Working Groups, the REMIT Coordination Group, and the Gas Regional Initiatives Coordination Group<sup>7</sup>.

## **Board of Regulators (BoR)**

### **Composition**

The BoR consists of 28 members (and 28 alternates), representing the NRA from each Member State, and one non-voting representative of the European Commission. The Director participates in the BoR meetings and presents his/her proposals for Agency Acts that require the favourable opinion of the BoR before their adoption, discusses and consults the BoR on other areas of work, reports on the progress achieved. The Director also reports regularly to the BoR on the Agency's activities. Without prejudice to its members' acting on behalf of their respective national regulatory authorities, the BoR acts independently and its decisions must comply with European Union law.

### **Tasks**

The tasks of the BoR described in the Third Package include:

- providing opinions on Agency Opinions, Recommendations and Decisions considered for adoption by the Director in relation to the regulatory functions of the Agency;
- approving the Agency's Work Programme before it is adopted by the Administrative Board, and approving the section on regulatory activities in the Agency's Annual Report; and
- providing guidance to the Director within its field of competences.

In addition to these tasks, the BoR is consulted by the Director on all aspects of REMIT implementation, in accordance with the relevant legislation. It also makes recommendations with regard to the Commission's evaluation of the activities of the Agency and its working methods and is consulted on the Agency's budget before its adoption by the Administrative Board. The BoR also provides its opinions during the appointment of the Director - and possible extension of the Director's term - and is consulted by the European Commission on its proposal for the members of the Board of Appeal.

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<sup>7</sup> The Electricity Regional Initiative Coordination Group was abolished in 2015, as the early implementation of the Internal Energy Market provisions extended beyond the regional dimension and was organised according to project-specific roadmaps.

## Meetings

The BoR typically meets around 9 times a year. The meeting agendas, minutes and background documents are made public and are available at the following link:

[http://www.acer.europa.eu/The\\_agency/Organisation/Board\\_of\\_Regulators/Pages/Opinions.aspx](http://www.acer.europa.eu/The_agency/Organisation/Board_of_Regulators/Pages/Opinions.aspx)

The BoR Chair and the Director hold open sessions (“debriefs”) on a quarterly basis to update interested parties on the work of the BoR and on the preparation of the Agency Acts being considered for adoption, as well as of the overall Agency work.

## Agency Working Groups (AWGs)

The AWGs provide the foundation for collaboration and cooperation among NRAs and with the Agency. By bringing together experts from the NRAs and the Agency, the AWGs ensure the complementarity of regulatory functions at national- and EU-level. The AWGs:

- provide input to the Director for the preparation of the Agency’s Acts;
- support the Director (and the Agency staff) on other tasks, such as reviewing and analysing stakeholders’ submissions during a consultation process;
- provide information to the BoR on the issues relevant to the Director’s proposals, facilitating discussions in the BoR as it forms its opinions on the Director’s proposal.

There are currently three AWGs covering the main areas of the Agency’s work on regulatory issues: Electricity, Gas and Monitoring, Integrity and Transparency. The Implementation, Monitoring and Procedures (IMP) Working Group was dissolved in July 2017. Each AWG has established Task Forces (TFs) to address specific issues. In the future, the number and focus of the AWGs may be adapted to reflect the requirements of the regulatory framework within which the Agency operates.

The current structure of the AWGs and the TFs can be found at the following link:

[http://nra.acer.europa.eu/en/The\\_agency/Organisation/Working\\_groups/Pages/default.aspx](http://nra.acer.europa.eu/en/The_agency/Organisation/Working_groups/Pages/default.aspx)

## The REMIT Coordination Group (REMIT CG)

With the entry into force of the REMIT Implementing Acts in January 2015 and the start of the REMIT operational phase in October 2015, the Agency is required to “*ensure that national*

*regulatory authorities carry out their tasks under this Regulation in a coordinated and consistent way”<sup>8</sup>.*

For this purpose, a REMIT Coordination Group was established in the first half of 2015, bringing together senior representatives in charge of the implementation of REMIT in all NRAs, to support a coordinated implementation of the Regulation. The REMIT CG and the AMIT WG have implemented a range of innovative practices to better facilitate coordination and consistency between the Agency and NRAs in the implementation of REMIT, including workshops and Q&A (Question and Answers) sessions and reports to build among NRAs a common understanding of how the relevant provisions of the REMIT Regulation should be interpreted and implemented.

### **Gas Regional Initiative Coordination Group (GRI CG)**

The Gas Regional Initiative (GRI) aims to identify and solve market integration issues at a regional level. The GRI CG is part of the Agency’s framework. The GRI CG is chaired by the Agency and composed of all NRAs, including the lead NRAs from the regional groups. The GRI CG provides a platform for ensuring that regulatory cooperation at regional-level maintains a pan-European dimension and consistency among NRAs in promoting the single internal gas market with particular focus on projects for the early implementation of the network codes.

### **2.2.2 Regulatory practice - objectives**

- Maintain high efficiency in the working methods of the BoR, AWGs, as well as the REMIT CG, and optimise their operational arrangements to facilitate their activities with a view to promoting regulatory cooperation.
- Ensure that the structure and focus of the AWGs always reflect the requirements of the regulatory framework, by establishing and dissolving the AWGs or by modifying their remit

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<sup>8</sup> Article 16(1) of REMIT.

as required and further improve working arrangements to ensure the most efficient operation of the Agency and the smooth and timely preparation of its work.

- Increase public awareness, through regular debriefings (every quarter), of the activities of the Agency and of the role and discussions at the BoR as the forum for NRA cooperation.
- Further develop, where appropriate, working arrangements and specific mechanisms for the cooperation of NRAs (including at regional level) to facilitate the sharing of best practices and enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level. In the previous years the Agency has continuously introduced improvements as appropriate through a dedicated away-day with the AWG Chairs and TF Conveners (in 2014) and further discussions undertaken in the context of a BoR Summit (September 2015) which provided the opportunity to take stock of this experience and to identify and develop initiatives to enhance such cooperative arrangements to meet the future regulatory challenges and to promote the involvement of all NRAs in the work of the Agency. A revision of the structure of the AWGs has resulted in the dissolution of the IMP Working Group. The Agency is currently considering establishing a Legal Expert Network, bringing together legal experts from the Agency and NRAs. The EC Clean Energy Package proposals provide for the amendment of the ACER Regulation to include the formal creation of the AWGs to support the Agency's work. Subject to the adoption of the relevant proposals, the relevant rules will be adjusted, where appropriate.
- Maintain and increase the efficiency of the working methods on the basis of lessons learned.
- Contribute to developing regional cooperation further with a focus on successful delivery of implementation projects as well as on accounting for the lessons learned from the pilot projects in the implementation of the Network Codes and Guidelines.
- Foster exchange of experience with the regulatory associations outside the EU, where necessary, and on areas of mutual interest (e.g. FERC on market monitoring activities, Norway, Switzerland and the ECRB).

### **2.2.3 Regulatory Practice - Risks**

According to the Third Package and REMIT, the Agency and the NRAs are under a mutual obligation to cooperate. In addition, the Agency is supported, albeit not as much as in its initial years, by the secondment of experts from NRAs. Moreover, the Agency relies on the voluntary participation of NRAs' experts in the AWGs, the REMIT CG and the GRI CG. Without such cooperation, the Agency would lack the contribution of the national expertise and experience



provided by NRAs and it would be greatly limited - in fact more than it is already - in its ability to deliver according to its regulatory mandate. The Agency would thus run the concrete risk of not meeting the expectation of stakeholders in delivering on its Work Programme, which is based on the assumption that the NRAs will continue to support and work closely with the Agency.

## 2.3 International Cooperation

### 2.3.1 Institutional Framework

While most of the tasks of the Agency focus on the EU Internal Energy Market, some tasks require or may benefit from collaboration with regulatory entities in third countries.

Both the Agency Regulation and REMIT include provisions for the involvement of third countries in the activities of the Agency<sup>9</sup>, although so far no third country has been admitted formally to participate in the Agency.

However:

- Experts from the Swiss Federal Electricity Commission (ElCom) have been participating in the Agency's Electricity Working Group since January 2016, on the basis of an MoU signed on 11 January 2016;
- Experts from the Norwegian Water Resources and Energy Directorate (NVE) have been participating in the Agency's Working Groups and in the REMIT CG since June 2016, on the basis of a MoU signed on 2 June 2016.

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<sup>9</sup> Article 31 of Regulation (EC) No 713/2009 states that "(1) The Agency shall be open to the participation of third countries which have concluded agreements with the Community whereby they have adopted and are applying Community law in the field of energy and, if relevant, in the fields of environment and competition. (2) Under the relevant provisions of those agreements, arrangements shall be made specifying, in particular, the nature, scope and procedural aspects of the involvement of those countries in the work of the Agency, including provisions relating to financial contributions and to staff". Article 19 of REMIT states that "Insofar as is necessary to achieve the objectives set out in this Regulation and without prejudice to the respective competences of the Member States and the Union institutions, including the European External Action Service, the Agency may develop contacts and enter into administrative arrangements with supervisory authorities, international organisations and the administrations of third countries, in particular, with those impacting the Union energy wholesale market in order to promote the harmonisation of the regulatory framework. Those arrangements shall not create legal obligations in respect of the Union and its Member States nor shall they prevent Member States and their competent authorities from concluding bilateral or multilateral arrangements with those supervisory authorities, international organisations and the administrations of third countries".

Moreover, the Contracting Parties of the Energy Community are also due to implement the Network Codes in their jurisdictions. This calls for stronger cooperation between the Agency and the regulatory authorities in these third countries. Institutional cooperation between the Agency and the Energy Community, which started soon after the Agency was established and was further strengthened in recent years, will thus be further enhanced, both as concerns relations with the Energy Community's Secretariat and its Regulatory Board (ECRB). In particular, with the Administrative Arrangements between the Agency and the Energy Community Secretariat, the Agency expects to receive the first applications from Energy Community Contracting Parties' NRAs who are close to implementing the Third Package in order to participate in the AWGs.

Furthermore, the TYNDPs in both electricity and gas typically also cover adjacent third countries. Their assessment may require the acquisition of information from regulatory authorities in such jurisdictions.

Finally, the effective implementation of REMIT requires the Agency to cooperate with entities tasked with wholesale market monitoring responsibilities in non-EU jurisdictions. Wholesale energy markets are becoming increasingly global and effective cooperation of monitoring authorities is essential to protect the integrity and transparency of these markets.

In this context, the Agency has been in contact with regulatory authorities in Switzerland<sup>10</sup> and the United States and in January 2015 signed a MoU, according to article 19 of REMIT, with the US Federal Energy Regulatory Commission (FERC). These arrangements will govern the cooperation between FERC and the Agency whenever an exchange of experience or information is required to support the respective market monitoring activities. The MoU was followed, in December 2015, by an Administrative Arrangement on the exchange of staff between the two bodies.

### **2.3.2 International Cooperation - objectives**

The Agency aims at fostering the exchange of experience with the regulatory institutions outside the EU, where necessary (including the Energy Community), and in areas of mutual interest (e.g. with FERC on market monitoring activities). It thus also participates at the EU-US energy regulators' roundtable.

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<sup>10</sup> The Swiss Federal Electricity Regulatory Commission ElCom. However, contacts in relation to the implementation of REMIT are suspended, pending the conclusion of the negotiations between the Swiss Federal Government and the European Union on the more general Energy *acquis*.

Cooperation with the Energy Community should be enhanced at the Working Group level, in the areas of Network Codes, infrastructure (e.g. exemptions, cross-border cost allocation), market monitoring, cross-border capacity allocation, and possibly other issues that relate to borders between the EU and the Energy Community.

One tangible objective would be to define a legal framework and processes for coordinated decisions on cross-border issues – e.g. related to infrastructure, capacity-allocation – in those cases where EU MSs and Energy Community's Contracting Parties are involved.

### **2.3.3 International Cooperation - Risks**

Scarce resources, human and financial, in particular in the Energy Community Contracting Parties regulatory authorities may strongly limit their cooperation with the Agency; however, the Energy Community Secretariat may financially support such cooperation.

## **2.4 Completion of the Internal Energy Market**

The Agency plays a central role both in the completion of the IEM and the efficient development of energy infrastructure. These objectives will remain at the forefront of the Agency's Work Programme over the next years, as will the implementation of the other pillars of the Energy Union, in line with the role the Agency will be given in this framework.

### **2.4.1 Implementation and monitoring of Network Codes and Guidelines**

The effective and timely implementation of the Network Codes (NCs) and Guidelines (GLs) will continue to be the main priority of the Agency in 2018 and beyond. An effective Network Code monitoring process, which is already being implemented, will continue to be used to monitor the impact of these NCs and GLs on the functioning of the Internal Energy Market. The Agency will pay attention as to whether any enhancement is required to address the new challenges facing the electricity and gas markets in the future. The results will continue to be included in the Annual Market Monitoring Report.

### **2.4.2 Monitoring of the Internal Energy Market**

The Annual Market Monitoring Report (MMR) is the Agency's flagship publication, covering all relevant developments in the European gas and electricity markets. The MMR is a fact-based analysis covering all 28 EU MSs. NRAs are involved in its production.

As of 2016 the MMR has become more flexible, as the four key topics (i.e. wholesale power and gas, retail markets and consumer protection) have become stand-alone volumes to the MMR. Depending on when the required data for these volumes are available for the Agency, these can be published earlier in the year (and in 2016 the two Wholesale Markets volumes were published in September, with the rest of the MMR published in November).

## **2.5 The European Infrastructure Challenge**

### **2.5.1 Institutional Framework**

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

The Agency has various functions and roles regarding the development of the electricity and gas infrastructure. Cost-efficient network development is essential for overcoming physical congestion, improving energy security and ensuring sustainability. Capacity allocation methods and/or congestion management procedures alone cannot resolve physical congestion in electricity and gas transmission systems, especially at interconnection points and other system bottlenecks. Adequate physical transmission capacity is thus a prerequisite for completing the Internal Energy Markets.

In 2017 the Commission is expected to assess the implementation of the TEN-E Regulation and, depending on the results of this assessment, proposals might be formulated on how methodologies or procedures could be improved. The Agency is ready to participate in this assessment and its activities in this area in 2018 will partly depend on the way in which the TEN-E framework will evolve.

### **2.5.2 TYNDP**

Article 6(2) of the Agency Regulation requires the Agency to monitor the execution of the tasks of ENTSO-E and ENTSG in accordance with Articles 9 of the Gas and Electricity Regulations, and in particular, those related to the preparation of a Ten Year Network Development Plan (TYNDP), a task performed by ENTSO-E and ENTSG on a bi-annual schedule. With the adoption of the TEN-E Regulation, the role of the TYNDPSs has been enhanced, since, in order to be eligible for PCI status, projects should be included in the most recent TYNDP. The Agency also monitors the preparation and the execution of the electricity

and gas regional investment plans (RIPs) and of the national infrastructure development plans, and assesses their consistency with respect to the Europe-wide TYNDP.

### **2.5.3 Identification of PCIs**

According to the TEN-E Regulation, the Agency gives an Opinion on the cross-regional consistency of the regional PCI lists. In this way, the Agency contributes to the overall quality of the PCI identification process. In line with the TEN-E Regulation, it is also responsible for PCI monitoring.

### **2.5.4 Cross-Border Cost Allocation**

If within 6 months of receiving an investment request, the concerned NRAs cannot agree on the cross-border cost allocation (CBCA) decision, they hand over the case to the Agency. The Agency may also be called to take such a decision upon the joint request of all concerned NRAs. In such cases, the Agency should take the decision within 3 months of taking over the case, unless further information is sought, in which case an additional 2 months can be added to the period.

## **2.6 Wholesale Energy Market Integrity and Transparency**

### **2.6.1 Institutional Framework**

REMIT, which established rules prohibiting abusive practices affecting wholesale energy markets, extended the Agency's original mandate by assigning new responsibilities in the area of wholesale energy market monitoring. Such activities are very different from the monitoring of the internal market that the Agency has been performing pursuant to its founding Regulation and require the Agency to acquire new IT infrastructure and software to collect data from market participants at EU level, as well as new market monitoring tools and specialised expertise.

Regulatory cooperation is, however, an essential element of REMIT. Close cooperation and coordination between the Agency and NRAs is necessary to ensure proper monitoring of energy markets. Coordination is needed between the ambits of responsibilities of the Agency (monitoring of the European market) and of NRAs (monitoring at national level, investigation and enforcement).

The Agency's Market Integrity and Transparency Working Group (AMIT WG) allows taking account of early input from the NRAs on the Agency's work. Furthermore, the regular discussions in the BoR will continue to promote such collaboration and to ensure that a coordinated approach is taken to the implementation of the relevant rules.

The Agency aims to ensure that NRAs carry out their tasks under REMIT in a coordinated and consistent way. To this end, a REMIT Coordination Group was established in early 2015, with the aim of ensuring an effective and efficient coordination of the Agency's and NRAs' activities in the operational phase of REMIT.

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

The scope and practical terms for implementing the cooperation with NRAs, ESMA and organised market places have been defined in Memoranda of Understanding (MoUs). Whilst the MoU with NRAs is a multilateral agreement, the MoUs with ESMA and with organised market places are bilateral.

### **2.6.2 Completion of REMIT Implementation**

During the REMIT implementation stage, the Agency put in place the IT tools and procedures for effectively monitoring wholesale energy markets, including data exchange with NRAs and other authorities (at national and EU level) with which the Agency cooperates. This stage started with the entry into force of REMIT on 28 December 2011. Since then, the Agency has issued four editions of the Guidance on the application of REMIT, a document defining the Registration Format and its Recommendations to the European Commission on the records of transactions as well as its REMIT Reporting User Package upon entry into force of the REMIT Implementing Regulation in early 2015. During the remaining part of the REMIT implementation stage, the Agency focused on completing the development and deployment of the IT system for the effective monitoring of the markets in wholesale energy products (the IT system for the Agency's European register of market participants and market participants' registration with NRAs is already operational). The software implementation progressed well and parts of the Agency's REMIT Information System (ARIS) - e.g. the platform for the registration of Registered Reporting Mechanisms - went live already in January 2015, upon entry into force of the REMIT Implementing Regulation. At the same time, the REMIT Portal,

the single point of access to all REMIT-related documentation and applications, was launched, the registration of Registered Reporting Mechanisms opened and a number of supporting documents were published. The remaining parts reached operational stage well in advance of the application of the corresponding provisions in REMIT. Data collection therefore started on 7 October 2015 and 7 April 2016 respectively.

In 2016 the Agency also revised its REMIT-related IT approach, and opted for a change in its hosting strategy, from external hosting, based on a service framework contract, to hosting in its own premises, with IT consultants providing onsite hosting services. This new hosting strategy involve some higher operational risks for the Agency, as it is becoming directly responsible for the physical security and the connectivity of the IT infrastructure hosted in its own premises, but was considered the most appropriate response to two enduring factors. On the one hand, the limited number of tenders which the Agency was typically able to attract in its hosting framework contract procedures could not assure that the Agency obtains value for money for the hosting services it requires. On the other hand, the persistent budgetary uncertainty which the Agency is facing makes external hosting through framework contracts – with its cyclical pattern of costs – difficult to manage.

In 2016 the Agency also began reviewing REMIT implementation in order to ensure coherence with other relevant Union legislation in the fields of financial services and energy and to take into account developments on wholesale energy markets.

### **2.6.3 Wholesale Market Monitoring**

Following the entry into force of the Commission's Implementing Regulation on 7 January 2015:

- data on transactions in wholesale energy contracts admitted to trading at Organised Market Places and fundamental data from the ENTSOs' central information transparency platforms is being reported to the Agency from 7 October 2015;
- data on transactions in the remaining wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from Transmission System operators (TSOs), (Liquefied Natural Gas System Operators (LSOs) and Storage System operators (SSOs) is being reported to the Agency from 7 April 2016.

As a result, in October 2015 the Agency began receiving data on a large number of wholesale energy market transactions exceeding, in number up to 1,000,000 per day, and the Agency is required to screen such data in the light of the actual state of the energy systems, identify



instances of possible market abuse and notify them to competent national authorities responsible for investigation and enforcement. In addition, the Agency receives suspicious reports, *inter alia* from market parties and organised market places, which need to be assessed and distributed in a secure way to the appropriate and relevant authority(ies). The Agency is also responsible for coordinating the investigations. Finally, the Agency assesses the operation and the transparency of different categories of market places and ways of trading and will make recommendations regarding market rules, standards and procedures that could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirement for organised markets could contribute to enhanced market transparency. Given that the prohibitions and obligations of REMIT already apply since 28 December 2011 to market participants and persons professionally arranging transactions, the Agency has already been obliged to review and to coordinate suspected cases of breaches of REMIT since then. Since the 2<sup>nd</sup> phase of data collection began on 7 April 2016, with backloading of reportable contracts concluded and remaining outstanding before that date ending by 6 July 2016, the Agency was in a position to monitor trading activity in wholesale energy products and to assess the operation and transparency of different categories of market places and ways of trading on the basis of an annual data set for the first time as of 2017.

## **2.7 Future Challenges, including RES Integration**

### **2.7.1 Institutional Framework**

The EU Council Conclusions of May 2013 stated that “the deployment of renewable energy sources will continue, while ensuring their cost reflectiveness [and] further market integration.” In fact, the future greater penetration of renewable-based generation into the European electricity system, beyond contributing to the achievement of the EU climate policy goals, will be a source of new challenges facing 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.

### **2.7.2 “Energy Regulation: A Bridge to 2025” Implementation**

The Conclusions Paper ‘Energy Regulation: A Bridge to 2025’, adopted by the Agency in September 2014, identified the main trends which will characterise the energy sector over the



next ten years, assessing their regulatory implications, so that the Agency and NRAs can develop a regulatory response which is fit for the purpose.

### **2.7.3 Review of the Electricity and Gas Target Models**

The review of the Gas Target Model (GTM) was completed in late 2014 and the results presented in January 2015.

The implementation of the GTM focuses on a process of self-evaluation by the NRAs, whereby structural measures of regional market integration should be considered if the regular development of the national market falls short of the recommended values. The indicator values are calculated by the Agency based on REMIT data, as part of the Gas Wholesale volume of the MMR. In the period 2018 – 2020, it should be clear which national market will not be able to develop a sufficiently liquid hub by itself, and thus should embark on a process of regional market integration.

In electricity, as the system decarbonises, the traditional model of generation, network and market operation will have to be further developed. We will continue to see many more generators connecting at distribution voltage levels. This will require distribution networks to become more actively managed and there will be a need to (re)define the relationship between TSOs and DSOs. Cross-border power flows driven by price signals and increased interconnection between countries will become ever more important and the coordination of those flows will be vital to manage the system and use resources efficiently. Perhaps most importantly, we will continue to see the emergence of an active demand side of the market and the ability for consumers to take part in markets. The changes in market conditions are going to continue to raise questions about how to promote the investment that Europe needs – whether in transmission, distribution or generation capacity, smart grids or innovation – while maintaining security of supply and continuing to decarbonise. If we want investments to take place in response to forward prices, it is imperative that everything is done to make sure that price signals reflect scarcity and to create shorter-term markets that will reward those who provide the flexibility services which the system increasingly needs.

### **2.7.4 The new proposed Security of Gas Supply Regulation**

In February 2016 the Commission proposed a new Security of Gas Supply Regulation intended to introduce a new and more efficient approach to preventing and mitigating possible security of gas supply crises. The proposed Regulation assigns new responsibility to the

Agency (e.g. in scrutinizing the joint decisions by Member States regarding reverse flows. It is possible that the new Regulation will come into force by 2018. It is however unfortunate that this Regulation, in the Commission's proposal, does not envisage any additional resources for the Agency to perform the new assigned tasks.

### **2.7.5 The Commission's Energy Market Design Initiative**

In November 2016 the Commission unveiled a package of legislative proposals to adapt the design of the energy market – and of the electricity market in particular – to the challenges posed, *inter alia*, by the greater penetration of renewable-based generation – which is typically more variable and less predictable than conventional generation – and the consequent need for a more flexible electricity system, and to implement the “new deal” for consumers envisaged in the Energy Union strategy.

The duration of the legislative process is still uncertain, but, given the wide-ranging scope of the proposals, it is likely to extend beyond 2017. It is therefore unlikely that the new provisions, which in the intention of the Commission would assign additional responsibilities to the Agency, will come into force and application already in 2018.

However, the Agency will stand ready to perform any additional activity mandated by the new legislation, provided that it is assigned the necessary additional resources.

## **3. HUMAN AND FINANCIAL RESOURCES OUTLOOK 2018 - 2020**

### **3.1 Overview of the past and current situation**

When the Agency was set up in 2010, its Establishment Plan envisaged sufficient resources for the tasks that were assigned to the Agency under the Third Package.

A more challenging resource situation, with persistent shortages, was created when new legislation in 2011 and 2013 assigned new important tasks and responsibilities to the Agency, in particular in two areas:

1. Monitoring EU wholesale energy markets;
2. Energy infrastructure development.

These two areas are key components of the *Energy Union Strategy* identified as one of the priorities of the new European Commission.

As in the previous years, the Agency presents, in this Programming Document, the staff requirements that it considers necessary effectively to implement the tasks assigned to it. These requirements are based on the situation at the time of the drafting of this document (November 2016) and are presented in detail in the sections below and in Annexes I, II, III and IV.

## **3.2 Resource programming 2018 – 2020**

### **3.2.1 Financial resources**

The increase in the number of activities the Agency is performing results in the need for increased financial resources foreseen in 2018 and beyond.

#### **Revenue**

On the revenue side, there is an increase of 47.65% in the proposed EU subsidy for 2018 as compared to 2017. This is required to cover the additional expenditure necessary to ensure the proper operation of all Agency's processes. Of the total requested contribution, 2.70% will be covered by the surplus resulted from the operations during the year 2016.

The difference in the requested funding between 2017 and 2018 grouped by budget title is explained below with detailed calculations presented in Annex II.

#### **Expenditure**

##### **Title 1**

Compared to 2017, there is a 45.25% increase in financial resources requested for Title 1, mainly relating to increased staff expenditure (remuneration) for the 30 additional staff requested as from January 2018. This staff is necessary to ensure the implementation of Regulation (EU) 1227/2011 on wholesale energy market integrity and transparency (19 additional staff members), Regulation (EU) No 347/2013 on Guidelines for Trans-European Energy Infrastructure (2 additional staff members), the electricity and gas network codes, including the monitoring of such implementation (4 additional staff members) and 5 additional staff to support the increase in the volume of horizontal services.

For the following years, 2019 and 2020 the slight increase within this Title relates only to the expected costs for salaries and allowances adjustments and staff promotions.

## Title 2

The 34.35% increase in 2018 of the requested financial resources under Title 2 as compared to 2017 mainly relates to an increase in the size of office space to accommodate the additional human resources requested for 2018, as well as to the following: agreed price indexation of the rented office space; additional studies envisaged in the fields of electricity, gas and market monitoring, external development of IT applications, gradual replacement of IT infrastructure and the use of intra-muros consultants on ICT services and support. It is expected that the level of expenditure within this Title will remain unchanged for the years 2019 and 2020.

## Title 3

The 74.98% increase in 2018 with respect to 2017 mainly reflects the higher costs for hosting services for the Agency's REMIT Information System.

Concerning the REMIT-related IT budget, the Commission, in its Communication on the programming of human and financial resources for decentralised agencies 2014-2020 from 10.7.2013<sup>11</sup>, considered the Agency as a 'new tasks' agency due to the phasing in of new tasks assigned to it under REMIT. This is why the EU contribution to the Agency was increased from 2014 onwards to cover the recurring maintenance costs of IT infrastructure required under REMIT, which the Commission estimated at EUR 1.5 million per year. However, these estimates, defined in summer 2013, could not take into account the provisions of Commission Implementing Regulation (EU) No 1348/2014 of 17 December 2014 on data reporting implementing Article 8(2) and Article 8(6) of REMIT, which defined the scope of the Agency's data collection exercise and, *inter alia*, (a) defined the list of the contracts and derivatives, including orders to trade, which are to be reported, (b) adopted uniform rules on the reporting of information; and (c) laid down the timing and form in which that information has to be reported. Furthermore, the Commission's estimates from 2013 could not take into account the number of reporting parties registered with the Agency as of 2015 and the volume of data reported to the Agency on a daily basis which only became clear once data collection started in a phased approach as of 7 October 2015 and as of 7 April 2016. The Agency has already registered more than 100 registered reporting parties, with approx. 1,500 applications still to be processed, and collects, on average, more than 1 million records of transactions, including orders to trade, per day, which exceeds all expectations. These factors only materialised in

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<sup>11</sup> Communication from the Commission to the European Parliament and the Council: Programming of human and financial resources for decentralised agencies 2014-2020 from 10.7.2013 (COM(2013) 519 final).

2014, 2015 and 2016 and led to higher REMIT-related IT budget needs than originally estimated by the Commission in 2013. Nevertheless, the estimates from 2013 were never adjusted by the Commission. The adjusted REMIT-related IT budget needs from 2018 to 2020 can be broken down as follows<sup>12</sup>:

**Multiannual budget requested for REMIT IT in 2018-2020:**

<b>Expenditure Item</b>	<b>Total cost (million €) 2018</b>	<b>Total cost (million €) 2019</b>	<b>Total cost (million €) 2020</b>
<b>1. Studies/Development/Coordination/ Technical Writing</b>	0.10	0.10	0.10
<b>2. Maintenance (Recurrent cost)</b>	0.50	0.50	0.50
<b>3. QA/Testing/Deployment/Monitoring</b>	0.10	0.10	0.10
<b>4. Support/Helpdesk/Training</b>	0.60	0.60	0.60
<b>5. Infrastructure/Licences</b>	1.50	1.50	1.50
<b>6. Others</b>	0	0	0
<b>Grand TOTAL</b>	<b>2.80</b>	<b>2.80</b>	<b>2.80</b>

**1. Studies/Development/Coordination/Technical Writing:**

It is expected that ARIS will be operating in a stable manner in 2018 and that only upgrades of the existing system will be necessary, but no new development activities. The costs for studies, coordination and technical writing are estimated at **EUR 100,000** for the preparation of upgrades through technical writing or studies and the coordination of contractors.

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<sup>12</sup> Please note that these estimates cover only the basic REMIT IT related costs and that no major additional development activities are included in the provided figures. The estimates do not cover the potential cost of additional consultants that the Agency will likely have to engage for efficient market monitoring from the business perspective due to the severe shortage of its own staff. The above figures should therefore be understood as the bare minimum necessary to keep REMIT related IT services running. Unless significant additional budget and/or human resources are allocated to REMIT (for IT and elsewhere) the level of service that the Agency can provide to key REMIT stakeholders (mainly NRAs but also others) will remain limited in many ways.

**2. Maintenance (Recurrent cost):** This covers the annual cost of REMIT software upgrades and maintenance, including the relevant licences (but excluding the licence for Market Monitoring Solution). These costs are estimated to be well below 15% of the full development cost. Considering that the main development activities were completed by the end of 2015, the full development cost of delivering ARIS and related IT solutions can be approximated at EUR 4 million<sup>13</sup>, based on the actual consumption of the two main contracts used for development ACER/OP/ADMIN/12/2012/LOT 1/01 (core SW development) and DI/07150-00 (Database related services).

In addition, on the basis of a DIGIT framework contract (to be renewed in 2017), costs for consultancy related mainly to database maintenance and operations (Oracle) will have to be covered in 2018. The costs for these services are estimated at EUR 100,000.

Following the above reasoning, the overall "running" costs are estimated at **EUR 500,000** per year.

**3. QA/Testing/Deployment/Monitoring:** IT consultancy services will be required and used to provide proper quality assurance (testing) for the IT solutions upgraded. The costs for these services are estimated at **EUR 100,000** per year.

**4. Support/Helpdesk/Training:** This covers the annual cost of specific services to support the implementation and operation of REMIT IT systems (e.g. testing and validation, end user support, information security, service management support) given the Agency's limited human resources for IT. IT consultancy services are required to enable the Agency to operate ARIS. It is expected that in 2017 the Agency will enter into a new Framework Contract for provision of IT consultancy services. In 2013 the Agency entered into a framework contract for IT consultancy for REMIT implementation (Tenders ACER/OP/MMD/09/2013) on the basis of which the following IT consultancy services are foreseen to be ordered in 2018 (at an estimated average price of EUR 1,500 per man-day):

- 1) IT consultancy for user support (RRMs, NRAs). The proper support of the data collection and data sharing solutions will require additional IT consultancy for user support currently estimated at EUR 250,000 per year.

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<sup>13</sup> More precisely, 4,062,793.91 EUR.

- 2) IT consultancy for information security to ensure operational reliability compliant with common standards for information security based on ISO 27k family standards. According to Article 12(1) of REMIT, the Agency is required to ensure confidentiality, integrity and protection of the information received pursuant to Article 4(2) and 8 and 10 of REMIT (operational reliability). In order to comply with these obligations, in the light of the Agency's lack of human resources, the Agency is relying on consultancy services to comply with this obligation. These services are estimated to cost EUR 150,000 per year.
- 3) IT consultancy for service management support of around EUR 100,000 per year to support the Agency to apply common standards for IT service management (ITIL; COBIT).
- 4) consultancy services related to the market monitoring and BI solutions necessary efficiently to analyse the REMIT data are estimated at EUR 100,000 per year.

This results in a total amount for support/helpdesk/training of **EUR 600,000 per year**.

**5. Infrastructure/Licences:** This covers the annual cost of the infrastructure and the services needed to ensure the availability of the relevant IT systems. This estimate takes into account the change of hosting strategy decided at the end of 2016, as already indicated in Section 2.6.2. It is expected that the new strategy will flatten the annual recurring costs to EUR 950,000. This is the result of extrapolating the cost of the existing hosting arrangements and is based on current yearly hosting costs.

In addition, it is expected that in 2017 the Agency will enter into a new Framework Contract for the market surveillance software. For any additional BI tools, the Agency will rely on the joined Framework Contracts from DG DIGIT (e.g. for Oracle BI tools). Based on the current prices available to and currently paid by the Agency, the yearly price of the licence for the market monitoring solution and additional BI tools for data quality analysis is estimated at EUR 550,000 per year.

This amounts to **EUR 1,500,000** in total for infrastructure and licences.

The total cost estimation for REMIT IT services for 2018 should therefore be baselined at **EUR 2,800,000**. This will apply on a yearly basis until 2020. The estimates are based on experiences with the Agency's current Framework Contracts. These estimates were validated by the Limited Review performed by experts from the Directorate-General for Energy in November-December 2016.

However, it should be stressed that an expenditure level of EUR 2.8 million only covers the costs considered necessary to ensure operational reliability of REMIT implementation and operation.

In case the Agency were not to receive the requested budget, but be set back to the EUR 1.5 million for REMIT-related IT expenditure, as defined in 2013, the Agency would only be able to ensure basic data collection operations and would have to cut the licence for the Agency's surveillance solution and IT consultancy costs for support services to reporting parties. This means that the Agency would be severely hampered in its market monitoring activities and could face serious problems even in the area of data collection should any unexpected event (e.g. system malfunctioning) materialises, thus jeopardising the entire monitoring activity of the Agency and the NRAs.

The increase in the financial resources requested under Title 3 also relates, albeit to a lesser extent, to increased expenditure for translation services given EPSO's requirement for publication of vacancies, according to which the Agency needs to translate all its vacancy notices in the 24 EU official languages, thus incurring additional costs. In addition, the possible requirement to have the Agency's opinions translated in all EU official languages contributes to the increased translation costs.

## **3.2.2 Human resources**

### **3.2.2.1. New tasks**

The *Framework Strategy for a Resilient Energy Union*, launched by the Commission on 25 February 2015<sup>14</sup> to fulfil one of the main priorities of its political agenda defined in July 2014, confirms, *inter alia*, the commitment of the European Union towards the creation of a single internal energy market and the enhancement of security of supply. The Agency performs tasks and responsibilities that are at the heart of the creation of the Energy Union with the integration of the electricity and gas markets. As already indicated, since its establishment the Agency has already been assigned additional tasks with regards to:

- i) the monitoring of wholesale energy markets in the Union;
- ii) the optimal development of trans-European energy infrastructures, and
- iii) the implementation of the Network Codes and Guidelines.

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<sup>14</sup> COM(2015) 80 final.



The new tasks that the Agency has been called to perform from 2016/2017 are provided in detail below, together with a description of the consequences on the Agency's staff policy, i.e. an overview of the human resources needed to fulfil these new important tasks. In November 2016 the Commission unveiled its Energy Market Design legislative proposals. While these proposals envisage new tasks and responsibilities for the Agency, it is not possible to predict at this stage whether the new legislation will come into force by 2018 and which additional competences it will finally assign to the Agency.

### 3.2.2.2. Monitoring of wholesale energy markets in the Union

The Agency has been called to undertake a key role in the monitoring of wholesale energy markets in the Union under REMIT. REMIT entered into force on 28 December 2011 and introduced explicit prohibitions of market manipulation, attempted market manipulation and insider trading, which took effect immediately.

The Agency has greater responsibilities in monitoring the EU wholesale energy market since trade reporting obligations took effect on 7 October 2015 and such role cannot be delegated. In fact, while REMIT envisages close cooperation between the Agency and NRAs, recital 17 of REMIT recognizes that the Agency "[...] is best placed to carry out such monitoring as it has both a Union-wide view of electricity and gas markets, and the necessary expertise in the operation of electricity and gas markets and systems in the Union".

Moreover, with the entry into force of the Network Codes provided for in Regulation (EC) No 714/2009, the Union electricity and gas markets will become even more integrated, with increasing shares of cross-border trading. Against this background, a pan-European approach to market monitoring is the only effective way of detecting and preventing wholesale energy market abuse.

The **implementation stage** of REMIT, which started upon the entry into force of REMIT, was completed by 7 July 2016 with the back-loading of outstanding contracts from the second phase of reporting under the REMIT Implementing Acts. The **operational stage** started on 7 January 2015, with the entry into force of the REMIT Implementing Acts.

With the entry into operation of the REMIT monitoring framework, the previous Market Monitoring Department was restructured into two Departments as follows:

- a Market Integrity and Transparency (MIT) Department, responsible for;
  - i) REMIT Policy and Market Data Reporting;
  - ii) Market Data Analytics and Business Intelligence; and
  - iii) Market Data Management.

- a Market Surveillance and Conduct (MSC) Department, responsible for:
  - i) On a daily basis, assessing gas and electricity market data on anomalous instances and for this purpose implementing surveillance tools to detect potential instances of market abuse;
  - ii) Notifying and referring suspected market abuse instances to NRAs;
  - iii) Coordinating investigations performed by NRAs;
  - iv) Providing guidance to NRAs on market abuse definitions; and
  - v) Ensuring consistency in the application of market abuses provisions.

This type of structure is typical of other organisations performing similar market monitoring activities. In fact, the responsibilities are divided according to the different approaches and skills requested for the performance of the duties. On this basis, the interaction with external stakeholders (organised market places, reporting parties, market participants) for the purposes of REMIT Policy, Market Data Reporting and market data management ('front office') and the interaction with NRAs and other regulatory authorities for the purposes of screening of the markets to identify anomalous instances and the assessment of these instances with the aim to determine whether they represent suspicious events (ahead of an investigation being launched) and market conduct tasks are assigned to different teams/departments.

Since the Agency has been suffering from a severe shortage of resources during the whole implementation phase, only the core REMIT implementation tasks were undertaken in 2016 while other tasks were postponed to later years. Given the persistent and possibly more acute resource limitations in 2017, many of these tasks (e.g. the implementation of an IT solution for sample transaction data requests for market participants from ARIS in order verify completeness, accuracy and timeliness of data submission to the Agency; Publication of aggregated REMIT information for transparency reasons; Improvement of the market participant registration form and improvements of CEREMP to bring them better in line with the REMIT Implementing Regulation) will have to be implemented during 2018.

It is to be stressed once again that if the Agency is not provided with the additional resources and expertise required to fulfil its mission under REMIT, the effectiveness of market monitoring at Union level, which is vital for detecting and deterring market abuse on wholesale energy markets, will be endangered. As a result, the integrity and transparency of wholesale energy markets in the Union may be impaired, adversely affecting energy consumers. In this context, it is unlikely that NRAs will be able to replace the Agency in such activities since they do not have the Union-wide vision of the energy markets required for effective monitoring.

With regard to *human resources* needed to implement the Agency's mandate under REMIT, the *Fiche Financière* of REMIT only reflected the Commission proposal from 8 December 2010. It could not have considered the *additional tasks and responsibilities* assigned to the Agency by amendments introduced in the course of the legislative process, until its final adoption on 25 October 2011, or in the REMIT Implemented Regulation. Equally, given the lack of any previous relevant experience, the Commission's proposal could have not envisaged the *actual scope of the monitoring activities* assigned to the Agency, which turned out to be much more resource intensive.

### **Additional tasks and responsibilities assigned to the Agency during the REMIT legislative process**

Amendments of the REMIT text introduced in the course of the legislative process by the European Parliament and the Council have assigned the following additional tasks and activities for the Agency:

- *ACER guidance on market abuse definitions (Articles 2, 6 and 16(1), second subparagraph, of REMIT);*
- *Monitoring of additional data taking into account modifications to the definition of inside information, the prohibition of insider dealing and the obligation to publish inside information (Articles 2, 3 and 4 of REMIT);*
- *Monitoring of additional data on emission allowances (Article 10(3) of REMIT);*
- *Establishment of strong links with major organised markets (Recital 18 of REMIT);*
- *Assessment of the operation and transparency of different categories of market places and ways of trading (Article 7(3) of REMIT);*
- *Close cooperation with NRAs, ESMA, national financial market authorities and, if applicable, competition authorities to ensure a coordinated enforcement of market abuse rules under REMIT and under the Market Abuse Directive (Article 1(3), 8, 10 and 16 of REMIT; MAD/MiFID review);*
- *Registration of market participants (Article 9 of REMIT);*
- *Publication of data by the Agency (Article 12 of REMIT).*

Further additional tasks were assigned to the Agency by the REMIT Implementing Acts. For example, beyond the activities envisaged in the Commission's legislative proposal, the REMIT Implementing Regulation specified that the Agency is also responsible for registering reporting parties and producing and maintaining a number of policy documents, manuals and lists, including:

- the Transaction Reporting User Manual ("TRUM");

- the Manual of Procedures on transaction and fundamental data reporting (“MoP”);
- the Requirements for the Registration of Registered Reporting Mechanisms (“RRM Requirements”);
- the List of Organised Market Places;
- the List of Standard Contracts;
- List of Registered Reporting Mechanisms (“RRMs”);
- List of Inside Information Platforms;
- European Register of Market Participants.

The management of such documents and lists will be a recurring task for the Market Integrity and Transparency Department.

Finally, the entry into force of the MiFID II package in early 2018 will reinforce the need to cooperate even closer with ESMA on transaction reporting matters given the dependency of the REMIT data collection of wholesale energy products that are financial instruments under MiFID.

In 2015, the budgetary authorities approved 15 additional posts for the Agency for 2016 (against a request by the Agency for 44 additional posts), of which 10 were allocated to REMIT-related tasks at technical level<sup>15</sup>. Of these 10 posts, 8 have now been allocated to the Market Integrity and Transparency Department to carry out some of the additional tasks and activities assigned to the Agency during the legislative process or by the REMIT Implementing Regulation. However, such an allocation could not fully meet the Agency’s requirements and therefore the Agency is still not able to perform some of these tasks and activities:

- Closer cooperation with ESMA, national financial market authorities and, if applicable, competition authorities,
- Collection of additional data on emission allowances (Article 10(3) of REMIT;
- Publication of data by the Agency (Article 12 of REMIT).

In order to perform these tasks and activities, the Agency would need an additional 7 staff members (2 policy/legal officers, 2 IT officers and 3 IT assistants), which the Agency unsuccessfully requested for 2017, and are requested again for 2018.

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<sup>15</sup> An 11<sup>th</sup> post was used to appoint an additional Head of Department as a result of the split of the Market Monitoring Department into the Market Surveillance and Conduct and the Market Integrity and Transparency Departments, as indicated above.

These additional 7 staff members are expected to be graded as follows:

Grade	TAs for the Market Integrity and Transparency Department
AD7	2
AD5	2
AST3	3

### **Wider scope of appropriate market surveillance and conduct activities**

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

This scope includes:

- a) 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;
- b) analysing the data to detect suspected instances of market abuse;
- c) preparing detailed (preliminary and reviewed) case reports with detailed factual analyses including an economic and legal assessment to be notified to national authorities for their investigation;
- d) coordinating the investigative groups on cross-border cases;
- e) coordinating and providing guidance on the (consistent) enforcement of market abuse rules;
- f) screening, registering and assessing notifications on suspicious trading instances reported by national authorities, organised market places and market parties.

In this respect, the human resource requirements estimated by the Agency, which are higher than those foreseen in the *Fiche Financière* established for REMIT, reflect, apart from the experience gained during the implementation stage, also the benchmarking with other regulatory organisations entrusted with similar functions (e.g. the Federal Energy Regulatory Commission in the US and the Financial Conduct Authority in the UK).

In particular, the most resource intensive activity is the analysis of the data reported by market participants and other reporting parties and collected by the Agency. This includes validating the reported data, as well as auditing and correcting for inconsistencies in the assessed data.

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

- first, an automatic screening performed by a dedicated IT tool on the basis of predefined “alerts” will enable to detect anomalous instances;
- subsequently, a preliminary analysis of anomalous instances will be performed in order to identify suspicious practices that may amount to market abuse.

This analysis inevitably has to be performed by highly qualified experts, who have to cover trading in all 28 Member States, in energy commodity markets and in energy derivatives, on organised markets and over-the-counter. Therefore, a wide range of expertise is required.

In view of the above, the Agency will have to devote significant resources both to the operation of the market screening tool, to the assessment of its output (in terms of alerts) and to the subsequent preliminary analysis of anomalous situations.

A combination of horizontal (product-specific) and regional desks is envisaged, with:

- 1 monitoring officer for each of the following products/markets: (1) EU intraday/within-day and balancing electricity and natural gas markets, (2) EU day-ahead and forward electricity and natural gas markets and (3) EU derivatives relating to electricity and natural gas markets each, for a total of 3 monitoring officers for market surveillance and analytics tasks;
- 1 monitoring officer for each of the 5 regional areas for electricity and 5 regional areas for natural gas, for a total of 10 monitoring officers for market surveillance and analytics tasks, supported by 2 assistants.

While the “horizontal” product/market monitoring approach could already be implemented with the Agency’s current market surveillance and analytics staff, the regional market monitoring approach would require **10 additional monitoring officers**.

Moreover, **2 additional monitoring officers supported by 2 assistants** should be foreseen to coordinate the cross-border investigations conducted by NRAs.

Therefore, an effective approach to market monitoring would require **12 additional officers and 2 assistants for market surveillance and analytics tasks**, beyond the staffing level of the current resources envisaged and already authorised in the *Fiche Financière* of REMIT.

As already indicated, of the 15 additional posts authorised for the Agency in 2016 by the budgetary authorities, 10 were allocated to REMIT-related activities at technical level. Of these 10 posts, only 2 could be allocated to the Market Surveillance and Conduct Department to carry out monitoring activities. As a consequence, the Agency still requires an additional 12

posts in order to perform market surveillance and conduct tasks at an appropriately effective level.

These posts are expected to be graded as follows:

Grade	TAs for the Market Surveillance and Conduct Department
AD7	2
AD5	9
AST4	1

### 3.2.2.3. PCI monitoring and cross-border cost allocation decisions

The Agency was assigned 5 FTEs for the TEN-E Regulation tasks in 2014, compared to the 14 identified by the Agency as necessary to perform these tasks<sup>16</sup>. 3 more posts were allocated to infrastructure activities, out of the 15 authorised in 2016. The Agency is already striving to maximise synergies with the existing TSO Cooperation teams (4 FTEs) which are already responsible, *inter alia*, for preparing the Agency's opinions on the TYNDPs, the consistency across various plans, the winter and summer supply outlooks of the ENTSOs, the scenario developments and European supply adequacy outlook components of the TYNDP, as well as many other tasks of complex nature<sup>17</sup>.

Furthermore, the TYNDPs are becoming increasingly complex documents, given the many challenges faced by energy networks in the future, involving proper cost-benefit analysis, and interlinked electricity and gas market and network models, along with the need to coordinate plans at various levels (national, regional, and European) and support them to become a robust basis for the selection of PCIs.

Going forward, assessing the added-value of the TYNDPs and of the PCIs, as well as

<sup>16</sup> In reality, an initial allocation of 8FTEs was reduced to 5FTEs by imposing on the Agency the 5% reduction in staffing envisaged by 2018.

<sup>17</sup> These experts deal with all TSO-related tasks assigned to the Agency by the Third Energy Package (*Regulation (EC) No 713/2009*) and by Commission Regulation (EU) No 838/2010 which can be summarised as follows:

- formulating opinions on draft statutes, lists of members and draft rules of procedure of the ENTSOs;
- formulating opinions on draft annual work programmes, draft EU-wide TYNDPs and other ENTSOs' relevant documents (e.g. annual summer and winter supply outlooks, annual work programme, annual report);
- monitoring the execution of tasks of ENTSOs; monitoring progress of new interconnector projects and the implementation of EU-wide TYNDPs, monitoring regional cooperation of TSOs;
- monitoring the functioning of the inter TSO compensation mechanism in electricity.



monitoring their implementation, will become an increasingly important activity for the Agency, to ensure that these plans and projects are, firstly, justified from a socio-economic point of view, and, secondly, put into action and operation and that any problem or delay is identified early on and remedial actions taken. In 2015, the Agency started to monitor the implementation of individual PCIs, on the basis of reports submitted by project promoters by 31 March, and produce a report to the Regional Groups by 30 June. The scope and granularity of such monitoring clearly require greater resources than what the Agency has so far been allocated.

The PCIs monitoring activities will cover, on a continuous yearly basis, the PCIs and also the projects included in the TYNDP and in other plans (in total, more than 1000 electricity and gas investments were monitored in the Agency's Opinions published in 2014 and in 2016).

Based on the experience gathered over the first few years of implementation, the Agency assesses that effective implementation (in particular of CBCA) and monitoring of PCI projects, on top of the other tasks that the Agency is called to perform in the infrastructure area, will require additional resources, estimated in **2 additional infrastructure officer positions**, 1 in the Electricity and 1 in the Gas Department.

The additional staff, to be assigned to the Electricity and Gas Departments, is expected to be graded as follows:

Grade	TAs for the Electricity Department	TAs for the Gas Department
AD5	1	1

#### 3.2.2.4. Implementation of the adopted Network Codes and Guidelines

Some of the Network Codes and Guidelines adopted under the Third Package assign new tasks to the Agency. In electricity, these new tasks include, for example, new specific reporting and monitoring obligations pursuant the adopted market-related Guidelines, the monitoring of the implementation projects established pursuant to the Guidelines on Capacity Allocation and Congestion Management, on Forward Capacity Allocation on Electricity Balancing and on Guideline on Electricity Transmission System Operation, the organisation and coordination of stakeholders' involvement in monitoring the implementation of the adopted Network Codes and Guidelines through, in particular, the European stakeholder committees established pursuant to the Network Codes and Guidelines. Moreover, the Guidelines on Capacity Allocation and Congestion Management, on the Forward Capacity Allocation and on Electricity Balancing foresee terms and methodologies in several areas that should be approved by all



NRAs, upon the proposal of all TSOs. However, in case NRAs are not able to reach a common position, typically within six months of receiving the TSOs' proposal, the approval decision is passed to the Agency.

On the gas side, the text of the Network Code of Harmonised Gas Transmission Tariff Structures, being adopted by the Commission, mandates the Agency to report on all national tariff methodologies. This implies a significant additional workload for the Agency, even though the actual entry into force of these provisions is not expected before the beginning of 2018.

The completion of the Framework Guidelines and Network Development process is making staff available for the activities related to the approval of binding tertiary legislation and for the monitoring of the implementation of the Network Codes, Guidelines and such additional tertiary instruments. However, it is envisaged that this redeployment will not be sufficient and **4 additional posts** will be required, 3 for the Electricity Department and 1 for the Gas Department. The additional staff is expected to be graded as follows:

Grade	TAs for the Electricity Department	TAs for the Gas Department
AD 5	3	1

### 3.2.2.5. Growth of existing tasks

As indicated above, over the next years the Agency is facing important challenges in the implementation of the Network Codes and the TEN-E Regulation and in the monitoring of such implementation, as well as in operating REMIT. To meet these challenges, the Agency requires a significant increase in the number of staff with specific technical expertise, often in new areas, as illustrated above.

The increase in staff numbers and the substantial expansion in the activities of the Agency, including in new areas, requires some addition to the resources available for central and support functions in the following areas: Legal Advice (2 Officers – AD6); Communication and Stakeholders Relations (1 Officer – AD5); Procurement (1 Assistant – AST3); Budget Officer (1 Officer - AD6).

The requested additional staff for support functions is expected to be graded as follows:

Grade	TAs
AD6	3
AD5	1
AST3	1

### 3.2.2.6. Efficiency gains

With regards to the common effort of all EU institutions and bodies to reduce the staffing level by 5% by 2018, it is important to stress that the Agency already contributed to such effort, in fact at a higher rate. Such a reduction was applied at a rate of 7% and already in full in 2014<sup>18</sup>.

Moreover, since it became formally operational in 2011, the Agency has been assigned substantial new tasks in the area of wholesale energy market monitoring (by REMIT), infrastructure development planning (by the TEN-E Regulation) and Network Code Implementation and monitoring.

To implement these new tasks, the Agency has been assigned:

- 15 additional posts in 2012 and 2013 for the implementation of REMIT;
- 5 additional posts in 2014 for the implementation of the TEN-E Regulation.
- 15 additional posts in 2016 for the implementation of REMIT, the TEN-E Regulation and the Network Code implementation and monitoring process.

However, as indicated above, further resources are required in all these areas. The assessment provided in Sections 3.2.2.2 to 3.2.2.5 already takes into account the efficiency gains that the Agency can achieve and has achieved in the use of its staff. Consequently, it is expected that ACER's staff will still grow beyond 2016.

Furthermore, the Agency is regularly re-assessing, optimizing and streamlining its support functions and administrative processes. This is done by a number of means: knowledge sharing and introduction of best practices from other Agencies, review, documentation and automation of certain processes.

A number of tools have been developed to improve efficiency and the use of resources:

HR Tool - personnel data and files, the annual performance appraisal, working time recording and flexitime, leave requests and annual leave balances, and teleworking requests are managed via the tool.

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<sup>18</sup> In 2014 the Agency was indicated to receive 8 additional posts for the implementation of the TEN-E Regulation. However, the Agency was only authorised to recruit 5 additional staff. In the Communication from the Commission to the European Parliament and the Council on the Programming of human and financial resources for decentralised agencies 2014 – 2020 (p6) it is stated that “in view of its new tasks deriving from the TEN-E Guidelines over the period 2014 – 2017 ACER may receive 8 additional posts, as well as the corresponding appropriations. Combined with the 5% staff reduction and the annual levy for the redeployment pool, the total number of posts increases from 49 in 2013 to 52 in 2020.” From the table on p21 it can be seen that as a consequence, in the establishment plan 5 additional staff members instead of 8 were allocated to the Agency in 2014.

Financial Tool – the tool facilitates the entire preparatory process of the financial transactions prior to their initiation in ABAC. The following type of transactions are processed automatically: commitments, de-commitments, commitment top-ups, budget transfers, recovery orders and payments (invoices and direct payments). The tool also enables constant monitoring of the spending of the budget, the level of commitment and payment appropriations for each budget line. It further facilitated and optimized the introduced paperless workflow.

Contracts Tool – the tool provides an inventory of all concluded contracts and agreements, enables their efficient management, monitoring of deadlines, consumption rates, etc.

Mission Management Tool – the whole process from request of a mission (mission order) to the reimbursement of expenses (mission claim) is managed via the tool.

Records Repository Tool – the tool facilitates the implementation of efficient document management and provides the possibility for registration of incoming, outgoing and internal documents, mail and records and their subsequent management: classification, archival, destruction or permanent preservation. The tool also provides a case management function.

Case Management Tool – the tool provides improved and efficient system form management of cases in the field of REMIT.

Other existing tools include: an event management tool; transport management tool; survey tool to collect data from stakeholders; online library; IT helpdesk.

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

### **3.2.2.7. Negative priorities/Decrease of existing tasks**

Due to the limited resources available to the Agency, much less than would be needed to fulfil its statutory mission and perform the tasks mandated to it by legislation, the Agency has had already to deprioritise a number of the activities initially included in the 2015, 2016 and 2017 Annual Work Programmes.

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

More specifically:

- In the area of REMIT:
  - the establishment of appropriate mechanisms to access emission allowances data has been so far postponed;
  - the publication of parts of the trade information the Agency will collect under REMIT, provided that commercially sensitive information on individual market participants or individual transactions or individual market places are not disclosed and cannot be inferred, has been so far postponed;
  - the provision of commercially non-sensitive trade database for scientific purposes, subject to confidentiality requirements has been so far postponed;
  - the assessment of the operation and transparency of different categories of market places and ways of trading in the context of the annual REMIT report was not performed in 2015 and 2016;
  - the scope of the monitoring of trading activities 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, was reduced;
  - the cooperation and coordination with NRAs, ESMA, national financial market authorities and, if applicable, competition authorities, to ensure a coordinated enforcement of market abuse rules under REMIT and under the Market Abuse Directive is being developed to the limited extent allowed by the available resources.

Such deprioritisation is particularly unfortunate, as it leads to important activities being postponed; it is however inevitable, given the inadequate resources available to the Agency. Should no additional resources be secured in 2017/2018, some of the tasks identified in the current Work Programme will also have to be deprioritised.

However, with REMIT fully operational, the lack of sufficient resources to monitor effectively wholesale market trading creates a serious risk of market abuse instances going undetected – and a consequent reputational risk for the Agency and all EU Institutions. Moreover, the Agency is being called to further step up its effort in the network codes/guidelines implementation and infrastructure areas.

Therefore, a new holistic strategy to the prioritisation of activities, and to allocate resources accordingly, needs to be pursued, focusing on those areas and activities that are most critical for delivering the Energy Union objectives and, ultimately, benefits to consumers.

Therefore, as illustrated in Section 1. – Multiannual Objectives – Risks and uncertainties, the Agency has established a classification system distinguishing between critical, important and relevant activities/tasks, which will serve as a basis for any future deprioritisation of the activities foreseen in the Agency's Work Programme in case of an insufficient allocation of resources.

### **3.2.2.8. Redeployment of resources in view of budgetary constraints**

The current internal structure of ACER is based on four technical departments – the Electricity, the Gas, the Market Integrity and Transparency and the Market Surveillance and Conduct Departments –, the Administration Department and the Director's Office. The separate organisation of the technical work for the two sectors (electricity and gas) reflects their specificities in the area of regulation.

In order to increase synergies in market monitoring activities, to the extent possible, greater cooperation will be promoted between the Market Surveillance and Conduct Department and the Market Monitoring Teams in the Electricity and Gas Departments (responsible for monitoring various aspects of the Internal Energy Market).

At the same time, the Agency is committed to continuous improvement and has been constantly working towards ensuring the most effective and efficient use of its resources, to the extent possible. More specifically, the following measures have been taken in 2016:

- The Agency has started re-assigning staff members (FTEs) from working on developing Network Codes and Guidelines to the monitoring of their the implementation and effects in order to oversee the impact on the functioning of the Internal Energy Market.
- In the Gas Department, the number of FTEs re-assigned in this way is 3.2 FTEs out of 5 FTEs. On top of that, part of the wholesale Market Monitoring sub-team also contributes to the monitoring of the effects of the implementation of Network Codes (estimated at 0.2 FTE, to grow in the future as more effects indicators can be calculated).
- In the Electricity Department, during the first half of the year the focus remained on the adoption of the NCs. The entire Framework Guidelines and Network Codes team (4.5 FTEs) has been re-assigned to the Network Code implementation and monitoring process. In addition, the wholesale Market Monitoring sub-team (i.e. 2

FTEs) also contributes to the monitoring of the (effects of the) Network Codes implementation process.

However, the largest gap between the staffing level required to fulfil the Agency's legal mandate and the available resources is in the area on wholesale energy market monitoring (REMIT). Already in 2017 the Agency is looking into filling this gap, by redeploying resources from other less critical activities, according to the priority structure presented in Section 1. However, such a redeployment and its ability to fill the resource gap for the implementation of REMIT suffer from two limitations:

- The resource gap for the implementation of REMIT – currently estimated at 19 FTEs - is much wider than any feasible redeployment could fill<sup>19</sup>;
- The expertise required in the implementation of REMIT – on trading in wholesale energy and financial markets – is substantially different from the one required for the other activities performed by the Agency and available in the other departments.

Therefore, beyond any redeployment achieved in 2017, it is difficult to envisage any further action in 2018.

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<sup>19</sup> This gap is equal to more than half the combined staff of the Electricity and Gas Departments.

## **SECTION III – WORK PROGRAMME 2018**

### **1. EXECUTIVE SUMMARY**

The Agency's priorities in 2018 will be similar to those in the previous year (based on the Agency's mandate at the time of drafting of this Work Programme). This includes tasks related to the completion of the Internal Energy Market, such as support and monitoring of the implementation of the adopted Network Codes and Guidelines, infrastructure-related issues (TYNDP and PCI tasks, including cross-border cost allocation decisions) and the identification of any remaining barriers to competition, both at wholesale and retail level. The implementation of the wholesale energy market-monitoring framework established by REMIT will remain a major priority and a key challenge.

In preparation of this draft Work Programme, the Agency published and presented an outline in a public workshop held in Ljubljana on 17 October 2016. Stakeholders were asked to provide feedback and inputs by 18 November. The Agency thanks stakeholders for their valuable feedback and input on the outline of the Work Programme.

The effectiveness with which the Agency is able to perform its tasks crucially depends on it being assigned the significant additional resources that it has been requesting since 2014. As illustrated in Section 1 (Multiannual Objectives – Risks and uncertainties), the Agency has developed a classification system allowing it to prioritise its activities in line with the available resources.

The strategy is based on prioritising those activities/tasks:

- a. which are directly functional to the integration of a well-functioning Internal Energy Market and to the implementation of the Energy Union strategy, including:
  - i. in the network code area, the promotion of their implementation and its monitoring;
  - ii. in the infrastructure area, activities directly related or functional to the selection of PCIs, the monitoring of their implementation and, in particular, decision making on CBCA;

- b. which are essential for the effective monitoring of wholesale energy markets according to REMIT, while recognising any possible synergy between the work of the Agency and of NRAs in this area<sup>20</sup>.

The following subsections identify the activities/task according to their priority level. The activities marked with an asterisk (\*) are likely to be completed in 2017, but are included here as their timing depends on the submission of related documents by other actors and therefore their timing might be delayed.

### **1. Critical activities**

The following activities will be considered as “critical” and they will receive adequate resource allocations.

**1.1 All activities related to the implementation, monitoring and improvements/amendments of network codes and guidelines, with the only exception of the Gas Congestion Report and the Gas Regional Initiative;**

**1.2 A Market Monitoring Report focusing only on the main developments and barriers in wholesale electricity and gas markets including aspects mentioned under 1.1, i.e. market effects monitoring<sup>21</sup>;**

**1.3 A number of activities in the TSO-cooperation and infrastructure area, notably:**

- 1.3.1 Opinions on the methodologies for the cost-benefit analysis (CBA) of (electricity and gas) infrastructure projects;
- 1.3.2 Opinions on the electricity and gas Community-wide Ten-Year Network Development Plans (TYNDPs), including on the TYNDP Scenario Development Report and Mid-term Adequacy Forecast;
- 1.3.3 Opinions on the draft PCI lists\*;
- 1.3.4 Annual consolidated report on progress of PCIs and recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation.

**1.4 All Decisions which the Agency may be required to take if NRAs fail to agree, or upon their joint request, notably:**

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<sup>20</sup> The completion of the Internal Energy Markets requires well-functioning wholesale electricity and gas markets. The effective implementation of REMIT, with its aim of detecting and deterring market abuse, is thus a major prerequisite for efficient market integration and security of energy supply that are essential components of the Energy Union strategy.

<sup>21</sup> This is a shorter and more selective version of the Market Monitoring Report that the Agency and CEER have so far produced.



- 1.4.1 on terms and conditions and operational security of cross-border interconnectors, in particular in the framework of the implementation of the market-related Network Codes in electricity;
- 1.4.2 on Cross-Border Cost Allocation for PCIs;
- 1.4.3 on exemptions.

**1.5 A number of Opinions that the Agency may be required to issue, notably:**

- 1.5.1 “Peer Review” opinions;
- 1.5.2 Opinions on TSO certifications.

**1.6 All activities required for the effective monitoring of Wholesale Energy Markets according to REMIT - except the Review of the REMIT operations and rulebooks and the REMIT annual report - notably those connected with:**

- 1.6.1 The collection of trade and fundamental data (with the exception of emission allowances trading data) and the management and operation of the Agency’s REMIT Information System (ARIS), including the Centralised European Register of Energy Market Participants (CEREMP), for the purposes of data collection, market monitoring and data sharing;
- 1.6.2 Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation, including the screening and initial assessment of the reported data to detect instances of potential REMIT breaches to be notified to NRAs for investigation and enforcement;
- 1.6.3 Coordination of NRAs and other relevant authorities, aiming to promote best practices for REMIT and a coordinated approach to market monitoring, investigation and enforcement under REMIT, including the establishment and coordination of cross-border investigatory groups;
- 1.6.4 Cooperation with NRAs, ESMA, competent national financial market authorities, competition authorities and other relevant authorities with the aim of ensuring that a coordinated approach is taken to the enforcement of market abuse rules. Cooperation with competent national financial market authorities and competition authorities will be performed on an ad-hoc basis rather than entering into new MoUs.

## **2. Important Activities**

The following activities will be considered as “important”. Resources will be allocated to these activities only to the extent that they are not required to perform the “critical” activities. It is

expected that, due to the severe shortage of resources, the Agency will not be able to perform all the “important” activities.

**2.1 The Gas Congestion Report;**

**2.2 All activities related to the Gas Regional Initiative beyond those related to the implementation and monitoring of network codes and guidelines, and with the exception of the Annual Gas Regional Initiative Status Review Report;**

**2.3 A number of opinions in the TSO-cooperation and infrastructure area, notably:**

- 2.3.1 Opinion on ENTSOs’ annual work programme;
- 2.3.2 Opinions on the consistency of electricity and gas NDPs with the electricity and gas TYNDPs, respectively;

**2.4 The Retail Market part of the Market Monitoring Report;**

**2.5 A number of REMIT-related activities which are not essential for the effective monitoring of Wholesale Energy Markets, notably:**

- 2.5.1 Review of the REMIT operations and rulebook;
- 2.5.2 Annual REMIT Report.

**3. Relevant activities**

The following activities will be considered as “relevant”. Resources will be allocated to these activities only to the extent that they are not required to perform the “critical” and “important” activities. It is expected that, due to the severe shortage of resources, the Agency will be forced to de-scope these activities.

**3.1 A number of opinions and reports in the TSO-cooperation and infrastructure area, notably:**

- 3.1.1 Opinion on ENTSO-E’s annual seasonal adequacy outlooks and reports;
- 3.1.2 Opinion on ENTSOs’ recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators;
- 3.1.3 Opinion on ENTSOs’ annual reports;
- 3.1.4 Report on monitoring the implementation of the Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity;
- 3.1.5 Internal Monitoring Report on G-charge;
- 3.1.6 ITC Monitoring Report;
- 3.1.7 Internal monitoring report on the use of congestion revenues;

- 3.1.8 Opinions on ENTSOs' common network operation tools including a common incidents classification scale;
- 3.1.9 Opinions on ENTSOs' research and development plan;
- 3.1.10 Opinions on ENTSG's annual Summer and Winter supply outlooks;
- 3.1.11 Activities related to the Harmonisation of electricity tariffs structures.

***3.2 The Consumer Protection and Empowerment part of the Market Monitoring Report;***

***3.3 Annual Gas Regional Initiative Status Review Report;***

***3.4 Agency's participation in the EC's expert group on Interconnection targets.***

**Financial Resource Constraints**

Finally, some activities, currently planned for 2017, might need to be postponed to 2018 if sufficient budgetary resources are not made available for the necessary IT investments. These activities may be further postponed if the required financial resources are again not made available in 2018.

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

**Allocation of Human Resources to Activities**

With regard to the allocation of resources (FTE of Temporary Staff, Contract Agents and Seconded National Experts) against the different activities, the Agency followed the methodology for Agencies job screening, in accordance with Article 29(3) of the Framework Financial Regulation. Each job is identified according to one screening 'type': the three Screening *types* describe the general *role* of a job: **administrative support and coordination**, **neutral** and **operational**. Most jobs either fulfil an **operational** role, i.e. serving frontline activities (more or less directly serving the European citizen) or an **administrative**

**support and coordination** role, as *enablers* of the operational jobs by being responsible e.g. for HR, ICT, logistics, etc. for their Agency. Financial management and control at Agency level and on-the-spot (external) audit are treated as **neutral**.

## 2. ACTIVITIES

### 2.1 Electricity Network Codes (Operational)

As regards the Agency's work on Framework Guidelines and Network Codes, Article 6(1) of Regulations (EC) No 714/2009 and (EC) No 715/2009 stipulates that the European Commission, after consulting the Agency, ENTSOs and other relevant stakeholders, establishes an annual priority list identifying the areas to be considered for the development of Network Codes. This programme takes into account the priorities informally discussed with the European Commission – Directorate-General for Energy. As in previous years, the Agency expects the Commission to consult on the priority list for 2018 in the first half of 2017 and to formalise it afterwards. Therefore, no firm indication as to which priority areas will be identified for 2018 is currently available.

However, some tasks in 2018 will derive from work already started in the previous year(s). This includes the implementation of the adopted Network Codes and Guidelines and its monitoring. More specifically, during 2018, the Agency plans to work towards the following deliverables:

Task	Preparation for and monitoring of the implementation of the adopted Network Codes and Guidelines
Priority level	1: Critical
Legal basis	Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 7(2) of Regulation (EC) No 713/2009
Overview (status)	<p>By 2018, eight Network Codes and Guidelines in the areas of market, grid connection and system operation will be adopted. The focus of the Agency will be on the implementation and monitoring of the Network Codes and Guidelines. The Agency needs to identify delays and barriers in the implementation and if needed propose mitigating measures in order to facilitate the well-functioning of the Internal Energy Market.</p> <p>Together with ENTSO-E, the Agency needs to monitor the implementation of different requirements against the obligations</p>

	<p>specified in the Network Codes and Guidelines. To this end, the Agency will:</p> <ul style="list-style-type: none"> <li>a. issue opinions on ENTSO-E's plans for the monitoring of the implementation of the adopted Network Codes and Guidelines;</li> <li>b. determine and potentially update lists of relevant information to be communicated by ENTSO-E to the Agency for the purpose of its monitoring activities.</li> </ul>
Objectives	<p>Specific objectives:</p> <ul style="list-style-type: none"> <li>(a) Timely identification and reporting on delays and barriers in the implementation of the Network Codes and Guidelines.</li> <li>(b) Providing opinions on ENTSO-E's plan for the monitoring of the implementation of the adopted Network Codes and Guidelines;</li> <li>(c) Providing opinions and requirements on ENTSO-E and other entity's reports related to implementation monitoring;</li> <li>(d) Determination of a list of relevant information to be communicated by ENTSO-E to the Agency for the purpose of its monitoring activities pursuant to the adopted Network Codes and Guidelines;</li> <li>(e) Providing recommendations to assist NRAs and market players in implementing the Network Codes and Guidelines, where necessary.</li> </ul> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	<p>Report on monitoring the implementation of the Network Codes and Guidelines and, where necessary recommendations.</p> <p>Opinions on ENTSO-E's plans for the monitoring of the implementation of the adopted Network Codes and Guidelines.</p> <p>Lists of information required for monitoring the implementation of the Network Codes and Guidelines.</p> <p>Opinions and requirements on ENTSO-E and other entity's reports related to implementation monitoring.</p>
Performance indicators and targets (deadlines)	<p>Continue delivering the implementation monitoring reports and necessary recommendations.</p> <p>The timely delivery of the opinions on ENTSO-E's implementation monitoring plan, the lists of required information for monitoring of the implementation of the adopted Network Codes and Guidelines, and opinions and requirements on ENTSO-E's and other entities' reports related to implementation monitoring.</p>
Resources	1.2 FTE
Risks	Incomplete implementation or delays in data collection in some countries may cause delays, as data collection may not be possible in parallel with the drafting of the report.

	<p>The workload related to this task depends on timely and successful implementation of the Network Codes and Guidelines. Given the limited resources of the Agency, the involvement of ENTSO-E/TSOs and NRAs is essential to ensure the timely preparation of the above deliverables.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>
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Task	Recommendations to assist NRAs and market players in sharing good practices, where necessary
Priority level	2: Important
Legal basis	Article 7(2) of Regulation 713/2009
Overview (status)	The Agency may support the implementation of the Network Codes and Guidelines and integration of electricity markets with concrete recommendations on sharing of good practices.
Objectives	The aim of these recommendations is to provide guidance to TSOs, national regulatory authorities or market participants on how to implement specific requirements of the Network Codes or Guidelines or of Regulation 714/2009 in order to better facilitate their efficient functioning so that they contribute to non-discrimination, effective competition and the efficient functioning of the market.
Outputs	Specific recommendation on sharing of good practices
Performance indicators and targets (deadlines)	Timely adoption of the recommendation enabling the targeted entities to take it into account within their respective processes.
Resources	0.8 FTE
Risks	<p>Lack of human resources to perform this activity.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

Task	Investigation of the reasons when TSOs, NEMOs or other entities fail to submit terms and conditions or methodologies for the approval by NRAs pursuant to the adopted Network Codes and Guidelines
Priority level	1: Critical
Legal basis	Article 9(4) of Regulation 2015/1222

Overview (status)	TSOs or NEMOs have the obligation, pursuant to Regulation 1225/2015, to jointly develop different terms and conditions or methodologies within the therein-specified deadlines. In case they fail to meet this obligation, the Agency needs to inform the European Commission about the failure and, if requested, to investigate and report to the European Commission about the reasons for such failure.
Objectives	To prevent significant delays in the implementation of the Network Codes and Guidelines and to facilitate further development in case of failures on TSOs or NEMOs side.
Outputs	Information to the European Commission on the failure of TSOs or NEMOs to develop the terms and conditions or methodologies within the required deadline Report to the European Commission on the reasons for failing to meet the requirements.
Performance indicators and targets (deadlines)	Timely identification of the failure and information to the European Commission. Timely delivery of the report on the reasons for failure.
Resources	0.8 FTE
Risks	Delays in the information collection based on which the Agency will identify the failure and based on which the Agency will identify the reasons for such failure. Risk if this activity is not performed: delays in the completion of the IEM.

<b>Task</b>	<b>Assistance to NRAs for the approval of the terms and conditions or methodologies developed by TSOs, NEMOs or other entities pursuant to the adopted Network Codes and relevant Guidelines</b>
Priority level	1: Critical
Legal basis	To be established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222 this task is specified in Article 9(9) and (10).
Overview (status)	The Network Codes and Guidelines establish numerous obligations for TSOs and other entities to develop proposals for terms and conditions or methodologies, which need to be approved by all NRAs or a group of NRAs pursuant to Commission Regulation (EU) 2015/1222. In the first few years following the entry into force of different Network Codes and Guidelines, around 40 terms and conditions and methodologies will need to be developed at European level and approved by all NRAs. Additionally, around 30



	<p>terms and conditions and methodologies need to be developed and approved by TSOs and NRAs of individual regions, where the number of regions established for different purposes varies between 5 and 10.</p> <p>As these approval procedures need to be coordinated, the Agency will facilitate such coordination within the Agency's working groups' structures.</p> <p>The Agency can also be requested by NRAs to provide an Opinion on the terms and conditions pursuant to Article 9(9) of Commission Regulation (EU) 2015/1222.</p> <p>Efficient decision-making procedures are needed in order to facilitate the completion of the Internal Energy Market.</p>
Objectives	<p>Specific objective: the Agency will provide a framework for the coordination of NRAs and will strive to facilitate the reaching of an agreement among the involved NRAs on whether to approve, reject or require amendments to the proposed terms and conditions or methodologies.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	<p>Framework for the coordination of NRAs - Agreement and coordinated decisions of all NRAs on the proposed terms and conditions or methodologies.</p>
Performance indicators and targets (deadlines)	<p>Coordinated NRAs decisions on the proposed terms and conditions or methodologies within the deadlines specified by the relevant Network Codes and Guidelines.</p> <p>Timely delivery of any ACER's opinion.</p>
Resources	<p>1.9 FTE</p>
Risks	<p>The agreement might not be reached among all involved NRAs and coordinated decisions not taken.</p> <p>Lack of resources for the Agency to take the decision-making process over.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Task</b>	<b>Coordination of implementation projects established pursuant to the Network Codes and Guidelines and, where relevant, pursuant to the early implementation process</b>
Priority level	1: Critical
Legal basis	Established pursuant to Network Codes and relevant Guidelines.



Overview (status)	<p>The Network Codes and Guidelines introduce numerous requirements and obligations for TSOs and other entities to fulfil requirements related to the integration of the electricity market. These requirements will be fulfilled through concrete implementation projects that require coordination, monitoring and supervision from NRAs and the Agency.</p> <p>The Agency assumes that many terms and conditions or methodologies developed and approved by TSOs and NRAs will be implemented through implementation projects. The Agency currently estimates that at least 20 different implementation projects will be established at European or regional level for the purpose of implementation of the Network Codes and Guidelines. As many of these projects are essential for the completion of the Internal Energy Market, the Agency's involvement in these implementation projects is needed in order to ensure their timely finalisation. The active monitoring and coordination of these projects will require a substantial allocation of staff.</p>
Objectives	<p>Specific objective: facilitate the implementation of projects and ensure the timely completion, as well as the involvement of stakeholders within the implementation process.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	Implementation of requirements pursuant to the adopted Network Codes and Guidelines through specific implementation projects.
Performance indicators and targets (deadlines)	Completion of specific implementation projects within the deadlines established by the adopted Network Codes and Guidelines.
Resources	1.7 FTE
Risks	<p>Delays in implementation projects subject to unforeseen difficulties.</p> <p>Lack of resources for the Agency to follow and coordinate all these projects.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Task</b>	<b>Facilitation of stakeholder involvement, as required, pursuant to the adopted Network Codes and relevant Guidelines</b>
Priority level	1: Critical
Legal basis	To be established pursuant to the Network Codes and relevant Guidelines. For example, in Commission Regulation (EU) 2015/1222 this task is specified in Article 11.

Overview (status)	The Agency, in close cooperation with ENTSO-E, is obliged to organise stakeholder involvement with regard to the different aspects of the implementation and operation of the Network Codes and Guidelines. Involvement of stakeholders within the implementation process will ensure wider acceptance of the changes introduced by the Network Codes and Guidelines, thus facilitating the completion of the Internal Energy Market.
Objectives	Specific objective: involvement of stakeholders within the implementation of the Network Codes and Guidelines and monitoring their operation and effect on the Internal Energy Market. Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	The Agency will continue organising dedicated stakeholder committees for all families of Network Codes and Guidelines. The stakeholder committees are chaired by the Agency and involve EU stakeholder organisations with direct interest in these Network Codes and Guidelines.  The Agency is to facilitate stakeholder involvement also through other means, such as consultations, responses to individual requests, dedicated meetings and workshops with stakeholders, etc.
Performance indicators and targets (deadlines)	The general level of stakeholder satisfaction and support to the implementation process of the Network Codes and Guidelines.
Resources	1.1 FTE
Risks	Lack of human and other resources to facilitate proper stakeholder involvement and in particular the functioning of stakeholder committees.  Risk if this activity is not performed: lack of transparency and risk of distrust in the overall NC process.

<b>Task</b>	<b>Review of the requests for amendments to the adopted Network Codes and Guidelines from interested persons and, where appropriate, based on these requests or the Agency's own initiative, preparation of the amendment proposals for the European Commission</b>
Priority level	1: Critical
Legal basis	Article 7 of Regulation (EC) No 714/2009.
Overview (status)	By 2018 eight Network Codes and Guidelines will be adopted. Inevitably, some elements of these Network Codes and Guidelines

	will prove to be inadequate for the task and will need to be reviewed and changed in order to improve the process for the completion and functioning of the Internal Energy Market.
Objectives	<p>Specific objective: to improve the requirements and procedures (both technical and governance) for faster implementation and better functioning of Internal Energy Market.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	The Agency will propose amendments to the Network Codes and Guidelines to the European Commission where necessary in order to ensure more efficient implementation and functioning of the Internal Energy Market.
Performance indicators and targets (deadlines)	General level of satisfaction and support of stakeholders and regulators to the proposed amendments of the Network Codes and Guidelines.
Resources	0.4 FTE
Risks	<p>Unexpectedly high amount of requests for amendments of the Network Codes and Guidelines.</p> <p>Barriers in the implementation of the Network Codes requiring urgent amendments of the Network Codes and Guidelines.</p> <p>Lack of human and other resources to handle this activity.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

Task	Performance of the specific obligations of the Agency pursuant the adopted Network Codes and Guidelines
Priority level	1: Critical
Legal basis	To be established pursuant to the Network Codes and relevant Guidelines.
Overview (status)	The Network Codes and Guidelines will establish numerous new obligations for the Agency. These obligations relate to transparency, reporting, facilitation of cooperation, monitoring, providing opinions and recommendations, etc.
Objectives	Specific objective: the Agency's specific obligations pursuant to Network Codes and Guidelines should be fulfilled in a timely manner, with the aim of improving transparency and reporting, facilitate cooperation, etc.

	Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	<p>The obligations for the Agency cover the following:</p> <ul style="list-style-type: none"> <li>(a) Reporting on different aspects of the Network Codes and Guidelines beyond the implementation monitoring (e.g. report on the efficiency of bidding zones pursuant to Regulation (EU) 2015/1222);</li> <li>(b) Monitoring the development of aspects of the Network Codes and Guidelines as well as entities having obligations pursuant to the Network Codes and Guidelines (e.g. monitoring of NEMO's progress in establishing and performing single day-ahead or intraday coupling and providing reports and recommendations to European Commission pursuant to Article 7 of Regulation (EU) 2015/1222);</li> <li>(c) Overseeing processes and entities' obligations pursuant to the Network Codes and Guidelines (e.g. coordination of monitoring activities of entity or entities performing the MCO functions pursuant to Article 82 of Regulation (EU) 2015/1222);</li> <li>(d) Publishing of reports and other documents to be developed pursuant to the Network Codes and Guidelines;</li> <li>(e) Requesting specific actions from different entities pursuant to the Network Codes and Guidelines (e.g. the Agency may request ENTSO-E to draft the technical report on bidding zones and TSOs to launch the review of bidding zones);</li> <li>(f) Maintaining different registers pursuant to the Network Codes and Guidelines (e.g. the Agency needs maintain a list of designated NEMOs, their status and where they operate on its website pursuant to Article 4 of Regulation (EU) 2015/1222) and maintaining a register of all derogations from grid connection network codes NRAs have granted or refused;</li> <li>(g) Report on the monitoring of progress in establishing and performing single day-ahead and intraday coupling;</li> <li>(h) Reporting on TSOs', NEMOs' or other entities' failure to submit terms and conditions or methodologies for the approval by NRAs pursuant to the adopted Network Codes and relevant Guidelines.</li> </ul>
Performance indicators and targets (deadlines)	Timely delivery of these obligations.
Resources	1.2 FTE
Risks	<p>Lack of human and other resources to facilitate the performance of these tasks.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Task</b>	<b>Monitoring the performance of market coupling operator function and maintaining the list of designated and operating nominated electricity market operators</b>
Priority level	1: Critical
Legal basis	Article 7, Regulation EC 1225/2015
Overview (status)	Pursuant to CACM Guideline, the market coupling operator function will be established by all NEMOs. The Agency needs to monitor the NEMOs' progress in establishing and performing the MCO functions in particular regarding the contractual and regulatory framework and regarding technical preparedness to fulfil the MCO functions.
Objectives	The Agency needs to identify whether the MCO function is implemented and operated efficiently and, in case of identified inefficiencies, propose mitigating solutions to the European Commission.
Outputs	<ol style="list-style-type: none"> <li>1. Report to the Commission whether progress in establishing and performing single day-ahead or intraday coupling is satisfactory;</li> <li>2. Possible recommendation to the Commission on any further measures needed for timely effective and efficient delivery of single day-ahead and intraday coupling.</li> </ol>
Performance indicators and targets (deadlines)	Effective monitoring of MCO function to prevent inefficient outcomes in the single day-ahead and intraday coupling.
Resources	0.4 FTE
Risks	<p>Lack of resources to deal with this activity.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

<b>Task</b>	<b>Monitoring of the effect of Network Codes and relevant Guidelines on the harmonisation of applicable rules aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market</b>
Priority level	1: Critical
Legal basis	Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 7(2) of Regulation (EC) No 713/2009.
Overview (status)	The Agency needs to monitor what is the effect of different Network Codes and Guidelines on the harmonisation of applicable rules

	aimed at facilitating market integration as well as on non-discrimination, effective competition and the efficient functioning of the market. The purpose of this monitoring is to identify which elements of the network codes serve the purpose and which elements would need to be improved in order to better facilitate the completion and efficient functioning of the Internal Energy Market.
Objectives	<p>Specific objective: timely identification and reporting on barriers to market integration as well as on the effect of Network Codes and Guidelines non-discrimination, effective competition and the efficient functioning of the market.</p> <p>Multi-annual objective: contribute to the completion and efficient functioning of the Internal Energy Market.</p>
Outputs	Report on monitoring the effect of the Network Codes and Guidelines at least one year after their requirements have been fulfilled and are operational, and where necessary, issue recommendations.
Performance indicators and targets (deadlines)	Delivery of the second monitoring report (Target date: Q4 2019) and timely delivery of any relevant recommendations.
Resources	1.1 FTE
Risks	<p>Delays in the implementation of the Network Codes and Guidelines might require postponement of the monitoring of their effect.</p> <p>Limited resources might also require a reduction in the scope and extent of monitoring of the effect of Network Codes and Guidelines.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM.</p>

Total resources allocated to the Activity 'Electricity Network Codes'	
Human Resources (Full Time Equivalents) <sup>22</sup>	Financial Resources (EUR)
10.6	1,548,838

<sup>22</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

## 2.2 Gas Network Codes (Operational)

The Agency shifted its activities from developing Framework Guidelines and recommending Network Codes to implementation monitoring. The implementation monitoring reports already covered areas such as congestion management procedures, capacity allocation and balancing. The Agency will focus its reports on contentious issues in these subject areas. Indicators measuring effectiveness of the code implementation are gradually being applied.

The provisions of the Tariffs Network Code are on their way to being implemented. The focus will be on the implemented tariff provisions, individual analyses of national tariff methodologies and an analyses on conditional capacities and the role they play.

Beyond implementation monitoring, the Agency will support the coherent and coordinated implementation of the Network Codes and Guidelines across the EU. The amendment of existing Network Codes may need to be triggered, depending on the experiences with the current provisions. Using the existing structures of the Gas Regional Initiative (GRI) and the newly established Baltic region Gas Market Coordination Group (RGMCG), the Agency will encourage early implementation, with a focus on the SSE GRI, where the greatest efforts shall be made.

### 2.2.1 Network Codes, their implementation and monitoring

Task	Review of the requests for amendments to the adopted Network Codes from interested persons and, where appropriate, based on these requests or the Agency's own initiative, preparation of the amendment proposals for the European Commission
Priority level	1 – 2: Important to critical, depending on the content of the amendment and its impact on the internal energy market 3: Relevant: for those amendments that could be delayed to the following year
Legal basis	Article 7 of Regulation (EC) No 715/2009
Overview (status)	Collect/ propose amendments to the legal text, where necessary.

Objectives	<p>Specific objective: create a framework to enable the Agency to collect sensible requests and ensure stakeholder involvement to the process.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	Evaluating and processing amendment requests, proposing amendments on own initiative where relevant.
Performance indicators and targets (deadlines)	<p>Amendments, public consultations preceding amendments.</p> <p>As established by Article 7 of Regulation (EC) No 715/2009, no specific deadlines are foreseen.</p>
Resources	0.8 FTE
Risks	Implementation is highly dependent on stakeholder support to allow a proper process to be launched.

Task	Implementation of the Network Code on Harmonised Transmission Tariff Structures and methodology review
Priority level	1: Critical
Legal basis	Tasks foreseen in Article 36 of the relevant network code.
Overview (status)	Support the endeavours for successful implementation with reviewing methodologies and the implementation of the relevant chapters already applicable.
Objectives	<p>Specific objective: ensure NRA involvement in the process and report on the progress made towards the full application of the provisions of this code.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	<p>Reporting on the status of implementation for the relevant articles of the Network Code on Tariffs,</p> <p>Offering opinions on tariff methodologies.</p>
Performance indicators and targets (deadlines)	<p>Implementation report: Q1/2018</p> <p>Opinions throughout the year, depending and in conjunction with the national tariff review processes.</p>
Resources	2.5 FTE



Risks	Implementation is highly dependent on well-planned national processes. Binding deadlines for review could cover only the successfully implemented national cases.
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Task	<b>Implementation Monitoring Report updates for the Network Code on Capacity Allocation Mechanisms (with a view on incremental capacity and other amended provisions), Balancing, Interoperability and Data Exchange</b>
Priority level	<p>1: Critical tasks: Reviewing the balancing regime of interim measure countries, Reviewing the application of the incremental processes.</p> <p>2: Important: Checking the status of the implementation and application of Virtual Interconnection Points. Working on data collection and data quality improvements. This task will become critical the year after.</p> <p>3: Relevant: exhaustive updates on non-implemented subject areas for the codes listed in the title.</p>
Legal basis	<p>Article 9 of Regulation (EC) No 715/2009</p> <p>Article 38 of Regulation (EU) No 984/2013</p>
Overview (status)	Report for issues that were not implemented in a timely manner and addressed appropriately in the previous editions.
Objectives	<p>Specific objective: involve ENTSOG, TSOs and NRAs in this process, in particular asking them to contribute to data collection, taking into account potential IT changes needed for the incremental capacity process. Provide practical recommendations in the implementation report.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	Updating on the state of play concerning the implementation of the network codes, so far adopted.
Performance indicators and targets (deadlines)	Implementation monitoring report. Q4/2018
Resources	1.2 FTE
Risks	Data collection and data availability from national NRA/TSO sources may be delayed or missing.

Task	5 <sup>th</sup> ACER report on monitoring of Congestion at interconnection points
Priority level	2: Important. The Report is a legal obligation. The Report of 2016 foresees that at least two consecutive years are followed-up to verify whether the congestion levels further drop at the Interconnection Points.
Legal basis	Point 2.2.2.1.2 of the Commission's Decision of 24 August 2012 Annex I Point 2.2 on Congestion management procedures in the event of contractual congestion (CMP Guidelines).
Overview (status)	The Fifth Report on Congestion at interconnection points is to be prepared with a view to the recommendations of the fourth Agency report.
Objectives	Specific objectives: CMP Scope list. Data consistency and quality, to be addressed with ENTSOG where relevant. Multi-annual objective: Contribute to the completion of the Internal Energy Market.
Outputs	Fourth Report on Congestion at interconnection points.
Performance indicators and targets (deadlines)	The timely delivery of the report and the collection of data for the report. Target date: Q2 2018
Resources	1.2 FTE
Risks	Data requirements may still not meet the standards. Deeper analysis of data may not be available. Risk if not performed: no update on the status of congestion in the European Union. This is more concerning for the SSE region, where the application of CMP GLs were implemented with a four-year delay.

Task	Follow-up reporting of reviewing obligations as set out in the Network Codes on Balancing, Capacity Allocation Mechanisms and Tariff structures
Priority level	1: Critical for Tariffs Structures Network Code and CAM amendment::

Legal basis	<ol style="list-style-type: none"> <li>1. Tasks foreseen in Article 27 of the Code to review the national tariff regimes</li> <li>2. Other tasks relate to the preparatory work for the report on the allowed/target revenue based on Article 34, to be published Q1/2019</li> <li>3. Starting research and building up the analyses on the conditional capacities.</li> <li>4. Review the template containing the main terms and conditions of contracts, as required by amended NC CAM (not yet published, future Article 20)</li> </ol> <p>Important activities would relate to updated interim reports being checked for Balancing (Article 46)</p>
Overview (status)	<p>The reviews are prepared with a view to support smart tariff implementations.</p> <p>The two other reports aim to offer a better understanding on the one hand on the formation of the allowed/target revenues, on the other hand on the utilisation of conditional capacities.</p> <p>The EU template serves to create more alike contracting terms and conditions for bundled capacity contracts.</p>
Objectives	<p>Screen the compliance of national tariff regimes with the Tariff Code.</p> <p>Understanding the best practices for allowed revenues.</p> <p>Collecting comprehensive data on the status and application of conditional capacities, in cooperation with ENTSOG where relevant.</p> <p>The last round of Interim report for balancing would be important to finalise implementation in the Union.</p> <p>The Agency shall follow the work that leads to the template and review the template prepared by ENTSOG.</p>
Outputs	<p>About 40 tariff reviews (based on the number of gas TSOs) with some regimes being alike.</p> <p>A report covering about 24 Member States (using gas) on the methodologies concerning allowed / target revenues and the best practices they apply.</p> <p>Data collection for the reports mentioned under points 2 and 3 in this box, above.</p> <p>Template work requires the follow-up of the ENTSOG process and the delivery of the Agency opinion with due regard to the opinions of the national regulators.</p>
Performance indicators and	<p>The Agency's review process on national tariff rules is triggered by the starting date of the national consultations. The Agency has two months to react and propose improvements. Based on the</p>

targets (deadlines)	<p>expiration of the regimes and initial planning most reviews will take place during the last two quarters of this year, with a peak in Q4/2018.</p> <p>The report on the methodologies shall be published by March-April 2019. Substantial data collection and conceptual work will precede the publication.</p> <p>Data collection to be finalised for the conditional capacity report.</p> <p>Template work until October/November, with a peak in Q3-Q4.</p>
Resources	1.9 FTE
Risks	<p>The tariff regime review is resource intensive. Planning and having experts in-house is critical.</p> <p>The additional reports and template review require good resource planning in conjunction to the tariff regime review. Depending on the quality of data received for these additional reports further manpower constraints may appear.</p>

<b>Task</b>	<b>Work on data collection tools to improve monitoring of the Network Codes and assessing their effectiveness in the internal market, including work on data quality, testing of indicators designed to assess Network Codes and designing the tariff indicators</b>
Priority level	<p>3: Critical for the creation of tariff indicators.</p> <p>2: Important for data quality and the continuous improvement of the data available of the Agency</p>
Legal basis	Article 9 of (EC) Regulation (EC) No 715/2009
Overview (status)	Improve the tools to reach improved data collection and access to comparable data efficiently and in a timely manner.
Objectives	<p>Specific objective: Involve ENTSOG and to the extent possible find joint solutions.</p> <p>Multi-annual objective: Contribute to the completion of the Internal Energy Market.</p>
Outputs	Improve data collection tools and if necessary evaluate how to improve data sourcing.
Performance indicators and targets (deadlines)	<p>Improved reports supported by effective data collection tools and good data quality.</p> <p>Established effects monitoring indicators</p>

Resources	0.8 FTE
Risks	Some improvements may not be achievable, as they would require a reinforcement the Agency's data collection powers.

Task	Recommendations to assist NRAs and market players in sharing good practices, where necessary
Priority level	2: Important
Legal basis	Article 4 and 7 of the Agency Regulation
Overview (status)	Implementation support, where relevant, and adaptation of designs incompatible with the codes
Objectives	Reaching the implementation targets by offering specific advice to Member States. Multi-annual objective: Contribute to the completion of the Internal Energy Market
Outputs	Improve national designs, where necessary. Give feedback to the European decision makers whether the general rules are suitable for national implementation.
Performance indicators and targets (deadlines)	State of the art regulation.
Resources	0.5 FTE
Risks	This task is resource intensive and may require bilateral consultations, for which resources may not be provided.

Task	Facilitation of the stakeholder involvement, as required, pursuant to the adopted Network Codes and Guidelines
Priority level	2: Important
Legal basis	Delivering on the Intent of the Agency Regulation with a view to its Article 10.
Overview (status)	Getting support from stakeholders on cases in which the implementation rules and designs are incompatible with the codes.
Objectives	Multi-annual objective: Contribute to the completion of the Internal Energy Market

Outputs	Reaching out to stakeholders and obtaining continuous feedback on the functioning of the regulatory framework.
Performance indicators and targets (deadlines)	Ongoing dialogue on the regulatory framework aiming at improvements on a national or EU level.
Resources	0.5 FTE
Risks	A continuous dialogue requires effort and resources, especially connecting to stakeholders mainly located in Western Europe.

## 2.2.2 Gas Regional Initiatives

### A) Support and Monitoring

Task	Coordination and monitoring of activities for the early voluntary implementation of Network Codes before their rules become legally binding
Priority level	2: Important - Coordination 3: Relevant - Monitoring
Legal basis	Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009 Article 6 of Regulation (EC) No 715/2009
Overview (status)	ACER will coordinate, through the Gas Regional Initiatives Coordination Group, and support the active GRI regions. The expectation is that the active regions will remain South South East and South, with the North West region remaining inactive.
Objectives	Specific objective: to foster the early implementation of Network Codes and to promote regional market integration. Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	As part of the promotion of regional market integration, NRAs will report periodically on the implementation of the Gas Target Model and ACER will summarise and evaluate the results of the self-evaluation and the proposed measures.
Performance indicators and targets (deadlines)	Provided in the regional Work Plans and the Gas Target Model.

Resources	0.4 FTE
Risks	<p>As this is a voluntary process, progress depends on the extent to which NRAs are willing to commit resources to the process and can agree on measures to be taken.</p> <p>Risk if not performed: <u>the current</u> active involvement in the planning and organisational work of the SSE GRI especially would decrease the organisational effectiveness of the region, both for NRAs and for stakeholders.</p>

## B) Annual Status Review Report

Task	Annual Regional Initiatives Status Review Report
Priority level	3: Relevant
Legal basis	Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009
Overview (status)	Annual report documenting progress made in the Gas Regional Initiatives, possibly including RGMCG, and providing guidance for future work.
Objectives	<p>Specific objective: to inform stakeholders about progress made, and to encourage NRAs to achieve such progress.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Output	Annual report
Performance indicators and targets (deadlines)	Delivery of the report by January 2018
Resources	0.7 FTE
Risks	<p>The quality of the report depends on the input provided by the NRAs.</p> <p>Risk if not performed: there would be no evaluation of the work – participation and deliverables - of GRIs, which means there would be less pressure on NRAs and TSOs to deliver throughout the year. In addition, there would be no overview for stakeholders about ongoing activities in the region, which they find useful.</p>

Task	Continued greater involvement and hands-on support in the SSE region
Priority level	2: Important
Legal basis	Several articles on regional cooperation in Regulation (EC) No 713/2009 and Regulation (EC) No 715/2009
Overview (status)	ACER will specifically support the GRI SSE region in order to improve the catching up with the rest of the EU in terms of network codes implementation.
Objectives	<p>Specific objective: To improve compliance with the network codes and capability to integrate their national markets into the internal market.</p> <p>Multi-annual objective: Contribute to the completion of the Internal Energy Market.</p>
Outputs	Workshop(s) and other forms of hands-on knowledge transfer and support, both from more experienced NRAs and from the Agency, to NRAs in the GRI SSE.
Performance indicators and targets (deadlines)	Improved scores of the GRI SSE MS in the NC implementation monitoring reports.
Resources	0.9 FTE
Risks	<p>Key staff from the GRI SSE NRAs may leave during the process, for instance due to salary cuts and more attractive offers from the private sector (as has happened in the past).</p> <p>Risk if not performed: <u>the current</u> active involvement in the planning and organisational work of the SSE GRI especially would decrease the organisational effectiveness of the region, both for NRAs and for stakeholders.</p>



Total resources allocated to the Activity 'Gas Network Codes'	
Human Resources (Full Time Equivalents) <sup>23</sup>	Financial Resources (EUR)
11.4	1,664,291

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

As regards the Agency's work on Internal Energy Market monitoring, Article 11 of Regulation (EC) No 713/2009 specifies that the Agency shall monitor the internal market for electricity and natural gas, and, in particular, retail prices of electricity and natural gas, access to networks (including the access of electricity produced from renewable energy sources), and compliance with consumer rights as laid down in the Third Package. This activity has to be carried out in close cooperation with NRAs, the European Commission and other relevant organisations, and without prejudice to the competences of competition authorities. This work will be combined with part of the Agency's obligation under article 7(3) of Regulation (EU) 1227/2011.

Market monitoring is becoming increasingly sophisticated, as the relevant developments in the European electricity and gas markets are followed more closely. Making the structure of the report more flexible will help in moving the monitoring closer in time to the actual events. The market monitoring report will be enriched with additional indicators to measure the effectiveness of the various Network Codes, starting with gas, as well as with GTM indicators.

### Monitoring of the internal markets in electricity and natural gas

Task	7 <sup>th</sup> Market Monitoring Report
Priority level	1: Critical - Wholesale electricity and gas

<sup>23</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

	<p>2: Important - Retail</p> <p>3: Relevant - Customer protection</p>
Legal basis	<p>Articles 11 (1) and (2) of Regulation (EC) No 713/2009</p> <p>Article 6(6) of Regulation (EC) No 713/2009; Article 9(1) of Regulation (EC) No 714/2009; Article 9(1) of Regulation (EC) No 715/2009; Network Codes and Guidelines</p> <p>Article 7(3) of Reg. (EU) No 1227/2011</p>
Overview (status)	<p>In line with previous issues, the MMR will provide in-depth analysis of barriers to integration and give recommendations to the European Parliament and Commission on how to remove them.</p> <p>The Agency's policy and market monitoring teams for gas and electricity will coordinate the substance of the MMR with the Directorate-General for Energy of the European Commission in order to avoid duplication of work.</p> <p>The Agency will also cooperate and coordinate with the Council of European Energy Regulators (CEER).</p>
Objectives	<p>Specific objective: removal of barriers to integration. The report will cover retail prices in electricity and natural gas, barriers to entry, wholesale market integration (for gas also including the Gas Target Model Metrics), consumer welfare benefits or losses as a result of market integration (or lack thereof), access to networks (including electricity produced or gas sourced from renewable energy sources and assess market effects of those Network Codes and relevant Guidelines that are in force and for which a sufficiently long data time series is available), and compliance with consumer rights (including protection and enforcement of consumer rights). The report will cover the operation of different categories of market places and ways of trading. Lastly, the report will also assess the effect the (implemented) network codes have on the market integration process and the functioning of the Internal Energy Market. For this purpose the specific data collecting provisions in the relevant Network Codes and Guidelines will be considered.</p> <p>Multi-annual objective: contribute to the completion of the Internal Energy Market.</p>
Outputs	<p>Annual Market Monitoring Report</p>
Performance indicators and targets (deadlines)	<p>Timely completion of the Annual Market Monitoring Report.</p> <p>Expected completion date: November 2018 (with parts delivered earlier).</p> <p>Positive feedback by the European Parliament, the European Commission and stakeholders on the market monitoring report, including the possibility of a survey following the publication and presentation of the report.</p>
Resources	<p>8.4 FTE (3.8 for Electricity and 4.6 for Gas)</p>

Risks	<p>The quality of the report depends on the quality and accessibility of the data received by the Agency. Human resource constraints may affect the timely delivery and quality of the report. The integrity of all data sources needs to be secured electronically and, in some cases, to be coordinated with REMIT and the ENTSOs.</p> <p>Risk if this activity is not performed: delays in the completion of the IEM (especially for the wholesale part) and overall lack of transparency. Specifically on the Retail volume: the EU will miss a critical and EU wide view on the state on the state of the retail markets. This does not exist at this stage. If taken over by CEER it will not be an assessment but a description of selected indicators without any conclusion that may be critical of any MSs. Specifically on the Consumer protection volume: the EU will miss an overview on compliance on the customer protection legislation implementation status.</p>
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Total resources allocated to the Activity 'Electricity and Gas Internal Market Monitoring'	
Human Resources (Full Time Equivalents) <sup>24</sup>	Financial Resources (EUR)
8.4	1,217,269

## 2.4 Electricity TSO Cooperation (Operational)

The tasks related to the Agency's work on TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in formulating opinions on draft statutes, list of members and draft rules of procedure of the ENTSOs; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOs, monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

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<sup>24</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

In relation to this area, the Agency plans to work in 2018 towards the following deliverables:

<b>Tasks</b>	<p><b>Annual monitoring report on the implementation and management of the inter-TSO compensation fund;</b></p> <p><b>Opinions on ENTSO-E's annual work programme 2019 and ENTSO-E's annual report 2017;</b></p> <p><b>Opinions on ENTSO-E's annual Summer and Winter supply outlooks;</b></p> <p><b>Opinions on potential updates to ENTSO-E's common network operation tools and common incidents classification scale;</b></p> <p><b>Opinion on ENTSO-E's research and development plan;</b></p> <p><b>Opinion on the electricity national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan;</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;</b></p> <p><b>Report on monitoring the implementation of the electricity Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity;</b></p> <p><b>Opinion on the ENTSO-E electricity Union-wide TYNDP 2018.</b></p>
<b>Priority level</b>	1-2-3 depending on the deliverables
<b>Legal basis</b>	<p>Article 1(4) of Annex Part A, Commission Regulation (EU) No 838/2010</p> <p>Articles 6(3)(b) and 6(4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(d) and 8(3)(e) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(f) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(a) of Regulation (EC) No 714/2009</p> <p>Article 8(11) of Regulation (EC) No 714/2009</p> <p>Article 6(3)(b) of Regulation (EC) No 713/2009 in conjunction with Article 8(3)(c) of Regulation (EC) No 714/2009</p> <p>Articles 6(7) and 6(8) of Regulation (EC) No 713/2009</p>

	Articles 6(3)(b) and 6(4) of Regulation (EC) No 713/2009 in conjunction with Articles 8(3)(b) and 8(10) of Regulation (EC) No 714/2009
Overview (status)	<p>Annual monitoring report on ITC, 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, on monitoring the implementation of the electricity Community-wide TYNDP were already prepared in the last years (2012 and/or 2013 and/or 2014 and/or 2015).</p> <p>Activities about opinions on ENTSO-E documents to be carried out upon submission of the relevant documents by ENTSO-E.</p>
Objectives	<p>Specific objective: monitoring of ITC and opinions.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Outputs	Annual monitoring report, Opinions
Performance indicators and targets (deadlines)	<p>Timely delivery and quality of the documents.</p> <p>Monitoring report on 2017 ITC implementation: October 2018.</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>
Resources	3.3 FTE
Risks	<p>The delivery is subject to the release of corresponding documents by ENTSO-E and to the availability of resources.</p> <p>Risk if this activity is not performed: except for the Opinion on the TYNDP and the monitoring of its implementation (where the impact could be higher), the impact of not delivering these documents would be limited.</p>

<b>Total resources allocated to the Activity 'Electricity TSO Cooperation'</b>	
<b>Human Resources (Full Time Equivalents)<sup>25</sup></b>	<b>Financial Resources (EUR)</b>
<b>3.3</b>	<b>483,603</b>

## 2.5 Gas TSO Cooperation (Operational)

The tasks related to the Agency's work on TSO cooperation, pursuant to Article 6 of Regulation (EC) No 713/2009, consist in formulating opinions on draft statutes, list of members and draft rules of procedure of the ENTSOs; formulating opinions on draft annual work programmes, draft Community-wide ten-year network development plans (TYNDPs) and other ENTSO's relevant documents (e.g. annual Summer and Winter supply outlooks); monitoring the execution of tasks of ENTSOs, monitoring progress of new interconnector projects, the implementation of TYNDPs and regional cooperation of TSOs.

In relation to this area, the Agency plans to work in 2018 towards the following deliverables:

<b>Tasks</b>	<b>Opinions on ENTSOG's annual work programme 2019 and ENTSOG's annual report 2017;</b> <b>Opinion on ENTSOG's common network operation tools including a common incidents classification scale;</b> <b>Opinion on ENTSOG's research and development plan;</b> <b>Opinions on ENTSOG's annual Summer and Winter supply outlooks;</b> <b>Opinion on ENTSOG's draft Ten Year Network Development Plan 2018;</b> <b>Reviews and recommendations on national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate)</b>
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<sup>25</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

	<p><b>recommendations to amend the national ten-year network development plans or the Union-wide network development plan;</b></p> <p><b>Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators;</b></p> <p><b>Report on monitoring the implementation of the Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity</b></p>
Priority level	1-2-3 depending on the deliverable.
Legal basis	<p>For all deliverables: Article 6(3)(b) Regulation (EC) 713/2009.</p> <p>For Work Programme and TYNDP: Article 6(4) Regulation (EC) 713/2009 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.</p>
Overview (status)	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.
Objectives	<p>Specific objective: upon receipt of ENTSOG's 2019 Work Programme, ACER will deliver its opinion within two months from the day of receipt (the work will be performed by ACER staff in close cooperation with the relevant ACER working group).</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 AWP and Annual Report.</p> <p>Multi-annual objective: contribute to the infrastructure challenge.</p>
Outputs	The Agency will report to the European Commission on the execution of the tasks of ENTSO-E and ENTSO-G referred to in Art. 8(1), (2) and (3) of Regulation (EC) 714/2009 and Regulation (EC) 715/2009, using the deliverables (opinions and recommendations) listed above and other relevant Agency's acts, with additional comments where needed.
Performance indicators and targets (deadlines)	<p>Timely delivery of the reports and opinions.</p> <p>Opinion on ENTSOG's Work Programme and TYNDP: within two months after receipt of the document by ENTSOG if considered non-compliant.</p>

Resources	3.0 FTE
Risks	<p>The delivery is subject to the release of corresponding documents by ENTSG and to the availability of resources (taking into account the possible prioritisation of activities for the tasks of Regulation (EU) No 347/2013).</p> <p>Risk if not performed: The Opinion on ENTSG AWP, AAR - will have a reduced leverage on defining priorities and closing gaps by making sure ENTSG delivers essential tools and products in pursuit of a fully functional gas market at EU level</p> <p>Risk if not performed: Report on NDP – TYNDP consistency - will potentially have a blind spot for important network developments, possibly leading to slower and less efficient implementation of infrastructure.</p> <p>Risk if not performed: Opinion on Technical cooperation - may result in not having a clear idea where from and how up to 60% of Europe's gas supply comes now (possibly more in the future), creating additional risks for inadequate cooperation of major supply routes.</p> <p>Risk if not performed: Opinion Annual Report - may lead to inadequate quality assurance (from regulatory perspective) of ENTSG's deliverables.</p> <p>Risk if not performed: Report on implementation TYNDP - will open a significant gap in keeping a proper record of and guiding the efficient closure of any infrastructure gaps, since many projects will not be monitored.</p> <p>Risk if not performed: Opinion on ENTSG R&amp;D plan - may affect ENTSG's capacity to perform.</p> <p>Risk if not performed: Opinion on Winter and Summer Supply Outlooks - may lead to inconsistent application of tools such as network models, inaccurate identification of risks (incl. SoS) and infrastructure needs.</p>



Total resources allocated to the Activity 'Gas TSO Cooperation'	
Human Resources (Full Time Equivalents) <sup>26</sup>	Financial Resources (EUR)
3.0	434,167

## 2.6 Guidelines for Trans-European Energy Infrastructure (Operational)

The tasks assigned to the Agency under the TEN-E Regulation mostly relate to the process of identification and monitoring of the implementation of Projects of Common Interest (PCIs).

In relation to this area, the Agency plans to work in 2018 towards the following deliverables:

### 2.6.1 Electricity and Gas

Task	Annual consolidated report on progress of projects of common interest and (if appropriate) recommendations to facilitate the implementation and overcome delays/difficulties in PCI implementation
Priority level	1: Critical
Legal basis	Article 5(5) of Regulation (EU) No 347/2013
Overview (status)	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.
Objectives	Specific objective: provide feedback on the progress of projects of common interest and, if appropriate, provide recommendations to facilitate their implementation and overcome difficulties.  Multi-annual objective: contribute to the infrastructure challenge.

<sup>26</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

Outputs	Annual consolidated report
Performance indicators and targets (deadlines)	Timely delivery of the report Upon the receipt of the submissions from project promoters, the Agency will deliver its consolidated report within three months from the day of receipt. The work will be performed by ACER staff in close cooperation with the relevant ACER working groups and with INEA with respect to its financial monitoring duties.
Resources	2.0 FTE (1.1 for Electricity + 0.9 for Gas)
Risks	The delivery is subject to the timely submission by project promoters of their annual reports and to the quality of the submitted reports, particularly regarding the provision of the necessary information about progress achieved in the development, construction and commissioning of the projects with regard to permit granting and consultation procedures, and, where relevant, delays compared to the implementation plan, the reasons for such delays and other difficulties encountered.  Risk if this activity is not performed: delays in the implementation of the PCIs.

Total resources allocated to the Activity 'Guidelines for Trans-European Energy Infrastructure'	
Human Resources (Full Time Equivalents) <sup>27</sup>	Financial Resources (EUR)
2.0	290,196

## 2.7 Tasks which are Subject to Specific Conditions (Operational)

### 2.7.1 Tasks initiated by others

In 2018 the Agency may be called to perform the following tasks on request:

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<sup>27</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

Task	Decision on terms and conditions and operational security of cross-border interconnectors and on exemptions
Priority level	1: Critical
Legal basis	Article 8 Regulation (EC) No 713/2009; Article 17 of Regulation (EC) No 714/2009; Article 36(4) of Directive 2009/73/EC for decisions on exemptions.
Overview (status)	For cross-border infrastructure, the Agency shall decide upon those regulatory issues which fall within the competence of NRAs, including terms and conditions for access and operational security, only: (a) in cases in which the competent national regulatory authorities have not been able to reach an agreement within a period of six months from when the case was referred to the last of those regulatory authorities; or (b) upon a joint request from the competent national regulatory authorities. The competent national regulatory authorities may jointly request that the period is extended by a period of up to six months. When preparing its decision, the Agency shall consult the national regulatory authorities and the transmission system operators concerned and shall be informed of the proposals and observations of all the transmission system operators concerned.
Objectives	Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision. Multi-annual objective: contribute to the infrastructure challenge.
Outputs	The Agency shall take a decision on the regulatory issue. The Agency may, if necessary, provide an interim decision to ensure that security of supply or operational security of the infrastructure in question is protected.
Performance indicators and targets (deadlines)	Delivery of a decision within six months from the date of referral to the Agency (subject to a possible extension).
Resources	0.5 FTE
Risks	Timely receipt of the complete file and supporting material from NRAs and TSOs, carrying out a quality consultation with NRAs and TSOs prior to taking a decision.  The Commission may adopt Guidelines on the situations in which the Agency becomes competent to decide upon the terms and conditions for access to and operational security of cross-border infrastructure. There may be a mismatch between the moment such Guidelines are adopted by the Commission and the moment the procedure starts or is underway at the Agency.

Task	<b>Adoption of the opinions and recommendations at the request of one or more NRAs, or the European Commission, pursuant to Regulation (EC) No 713/2009 as well as the adopted Network Codes and relevant Guidelines</b>
Priority level	1: Critical
Legal basis	The Network Codes and relevant Guidelines provide specific roles for the Agency in the NRAs' decision-making processes established pursuant to these Network Codes and Guidelines. The roles include facilitating coordination between parties seeking agreement, providing opinion and recommendations on issues that need coordinated decisions and, in specific cases, issuing a decision when the parties seeking agreements were not able to find it. In addition, pursuant to Article 7(2) of Regulation (EC) No 713/2009 the Agency may make recommendations to assist NRAs and market players in sharing good practices.
Overview (status)	Once the Network Codes and Guidelines enter into force, the Agency is given a central role in facilitating the decision making process established within these Network Codes and Guidelines.
Objectives	Specific objective: an efficient decision-making process for the adoption of different terms and conditions or methodologies developed pursuant to Network Codes and Guidelines.  Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	Opinions and recommendations related to the terms and conditions or methodologies established pursuant to Network Codes and Guidelines and, where necessary, recommendations for sharing good practices.
Performance indicators and targets (deadlines)	Timely delivery of opinions and recommendations.
Resources	0.5 FTE
Risks	The Network Codes and Guidelines require a significant amount of coordinated decisions within first few years after entry into force. In case of an excessive number of disputes among the parties seeking agreement, the Agency may, due to limited resources, not be able to deliver the opinions and recommendations in an efficient and timely manner.

Task	Decision on terms and conditions or methodologies to be approved pursuant to the adopted electricity Network Codes and Guidelines
Priority level	1: Critical
Legal basis	Article 8 of Regulation (EC) No 713/2009; Network Codes and relevant Guidelines, e.g. Article 9(11) of Commission Regulation (EU) 2015/1222
Overview (status)	The Network Codes and Guidelines will establish numerous obligations for TSOs and NEMOs or other third entities to develop proposals for terms and conditions or methodologies, which need to be approved either by all NRAs or by a group of NRAs pursuant to Commission Regulation (EU) 2015/1222. If NRAs fail to reach an agreement within 6 months, or upon their joint request, the Agency shall take a decision concerning the submitted proposals for terms and conditions or methodologies within 6 months.
Objectives	Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision. Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	The Agency shall take a decision on the terms and conditions or methodologies.
Performance indicators and targets (deadlines)	Delivery of the decision within six months from the date of referral to the Agency.
Resources	1.1 FTE
Risks	Timely receipt of the complete file and supporting material from NRAs and the parties submitting the proposal, carrying out a quality consultation with NRAs and those parties prior to taking a decision.

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
Overview (status)	Promoters of projects of common interest may submit an investment request including a request for cross-border cost allocation (CBCA) pursuant to Article 12(3) of Regulation (EU) No 347/2013. 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).
Objectives	Specific objective: provide support to the NRAs in the regulatory approval process and conclude this process by issuing a decision. Multi-annual objective: contribute to the infrastructure challenge.
Outputs	The Agency shall take a decision on the investment request including cross-border cost as well as the way the cost of the investments are reflected in the tariffs.
Performance indicators and targets (deadlines)	Delivery of a decision within three months from date of referral to the Agency (subject to a possible extension).
Resources	1.5 FTE
Risks	Availability of Agency and possibly NRA resources and required data. Timely receipt of complete file and supporting material from NRAs and project promoters, carrying out a quality consultation with NRAs and stakeholders prior to taking a decision.

Task	Peer reviews upon request by an NRA or the Commission pursuant to Article 7(4) of Regulation (EC) No 713/2009
Priority level	1 - 2 (Critical or Important, depending on the topic)
Legal basis	Article 7(4) and (5) of Regulation (EC) No 713/2009
Overview (status)	At the request of a regulatory authority or of the Commission, the Agency must provide a fact-based opinion on whether a decision taken by a regulatory authority complies with the Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations. Where a national regulatory authority does not comply with the opinion of the Agency within four months from the day of receipt, the Agency shall inform the Commission and the Member State concerned accordingly. By the end of 2014, the Agency received two peer review requests.
Objectives	Specific objective: provision of a fact-based opinion and, in cases of lack of compliance with the Opinion, within four month from the date of its adoption, of an information report regarding lack of compliance to the Commission and the Member State concerned.

	Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	The Agency shall provide an opinion on whether an NRA's decision complies with the Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, or with other relevant provisions of those Directives or Regulations.
Performance indicators and targets (deadlines)	Delivery of the Opinion and the information report regarding lack of compliance to the Commission and the Member State Concerned (if applicable) within a reasonable time.
Resources	0.5 FTE
Risks	Receipt of complete quality information from NRAs, carrying out consultation with NRAs, time constraints.

Task	<b>Opinions on the application of Union energy legislation upon request by an NRA pursuant to Article 7(6) of Regulation (EC) No 713/2009</b>
Priority level	1 - 2 (Critical or Important, depending on the topic)
Legal basis	Article 7(6) of Regulation (EC) No 713/2009
Overview (status)	When a national regulatory authority encounters, in a specific case, difficulties with the application of Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009, it may request the Agency for an opinion.
Objectives	Specific objective: issuance of an opinion to support NRAs in the application of the legal provisions at issue.  Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	The Agency shall provide the opinion with regard to the application of Guidelines referred to in Directive 2009/72/EC, Directive 2009/73/EC, Regulation (EC) No 714/2009 or Regulation (EC) No 715/2009 after consultation with the Commission within three months.
Performance indicators and targets (deadlines)	Timely delivery of the opinion.
Resources	0.5 FTE

Risks	Receipt of complete quality information along with all pertinent supporting evidence, consultation with the Commission, time constraints.
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Task	Opinions on preliminary decisions by NRAs on TSO certification when requested by the Commission
Priority level	2: Important
Legal basis	Article 9(2) of Regulation (EC) No 713/2009 Article 3(1) of Regulations (EC) No 714/2009 and (EC) No 715/2009
Overview (status)	Regular consultation and information exchange takes place between the Commission and the Agency. The Agency has not yet been requested to provide the opinion on the national regulatory authority's decision regarding the certification of TSOs.
Objectives	Specific objective: provide support to the TSO certification process. Multi-annual objective: contribute to the infrastructure challenge.
Outputs	Information exchange, opinion, if requested.
Performance indicators and targets (deadlines)	Timely delivery of the opinion to the Commission.
Resources	0.4 FTE
Risks	Receipt of complete quality information about the preliminary decision on certification along with all pertinent supporting evidence, coordination with stakeholders, time constraints.

Task	Opinions and recommendations in the areas of its competence, upon request by the European Parliament, the Council or the European Commission
Priority level	1 - 2 (Critical or Important, depending on the topic)
Legal basis	Article 5 of Regulation (EC) No 713/2009
Overview (status)	Upon request by the European Parliament, the Council and the European Commission.
Objectives	Specific objective: provide support and advice to the European Parliament, the Council and the European Commission, by delivering the requested opinions and recommendations.



	Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	Opinions and recommendations
Performance indicators and targets (deadlines)	Timely delivery of the opinions and recommendations.
Resources	0.5 FTE
Risks	Receipt of complete quality information about the issue for which an opinion and/or recommendation is requested along with all pertinent supporting evidence, coordination with stakeholders, time constraints.

## 2.7.2 Opinions and Recommendations on the Agency's own Initiative

In 2018 the Agency may decide to issue:

Task	Opinion on ENTSO-E's and/or ENTSO-G's methodologies for cost-benefit analysis, if updated
Priority level	1: Critical
Legal basis	Article 11(6) of Regulation (EU) No 347/2013
Overview (status)	The CBA methodologies were approved in February 2015 by the Commission and published by the ENTSO for Electricity and the ENTSO for Gas on their websites. The methodologies shall be updated and improved regularly.
Objectives	Specific objective: updated and improved CBA methodology(ies). Multi-annual objective: contribute to the infrastructure challenge.
Outputs	The Agency, on its own initiative or upon a duly reasoned request by national regulatory authorities or stakeholders, and after formally consulting the organisations representing all relevant stakeholders and the Commission, may request updates and improvements of the CBA methodology(ies) with due justification and timescales. In doing so, the Agency will take into account the suitability for the selection of projects of common interest and how to incorporate the unit investment costs from the ACER report.
Performance indicators and	Timely delivery of ad-hoc requests for CBA methodologies updates and improvements.

targets (deadlines)	Risk if this activity is not performed: sub-optimality of the investment decision process.
Resources	1.0 FTE (0.5 for Electricity + 0.5 for Gas)
Risks	The delivery is subject to the release of corresponding documents by ENTSO(s), the willingness of the ENTSO(s) to take into account the Agency's point of view, and the availability of resources.

<b>Task</b>	<b>Opinions and recommendations in the areas of its competence, to the European Parliament, the Council and the Commission</b>
Priority level	1 - 2 (Critical or Important, depending on the topic)
Legal basis	Article 5 of Regulation (EC) No 713/2009
Overview (status)	The Agency may issue opinions and recommendations on its own initiative with regard to its areas of competence.
Objectives	Specific objective: further enhance the cooperation between NRAs and the effectiveness of the regulatory action at EU level.  Multi-annual objective: contribute to the completion of the Internal Energy Market.
Outputs	Opinions and Recommendations
Performance indicators and targets (deadlines)	Timely delivery of a recommendation.
Resources	0.4 FTE
Risks	Interaction with stakeholders, time constraints.

<b>Total resources allocated to the Activity</b> <b>‘Tasks which are Subject to Specific Conditions’</b>	
<b>Human Resources</b> <b>(Full Time Equivalents)<sup>28</sup></b>	<b>Financial Resources</b> <b>(EUR)</b>
<b>6.9</b>	<b>1,003,465</b>

## 2.8 Wholesale Market Monitoring – REMIT (Operational)

Many of the obligations and the market abuse prohibitions introduced by REMIT already applied since the entry into force of the Regulation on 28 December 2011. In addition, the entry into force in early January 2015 of the REMIT Implementing Regulation triggered important deadlines for data reporting. Market participants and third parties reporting on their behalf were obliged to:

- within nine months, i.e. by 7 October 2015, report transactions in wholesale energy contracts admitted to trading at Organised Market Places and fundamental data from the ENTSOs central information transparency platforms, and
- within fifteen months, i.e. by 7 April 2016, report transactions in the remaining wholesale energy contracts (OTC standard and non-standard supply contracts; transportation contracts) and reportable fundamental data from TSOs, LSOs and SSOs.

The operational phase of REMIT started with the entry into force of the REMIT Implementing Acts, on 7 January 2015. This is when the Agency launched its REMIT portal and opened its registration system for Registered Reporting Mechanisms. In parallel, NRAs started to register market participants through the Agency’s Centralised European Register of Energy Market Participants (CEREMP). The Agency published an excerpt of the European register of market participants on 17 March 2015 and is updating it on a continuous basis.

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<sup>28</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as ‘operational’ according to the methodology for Agencies job screening (‘benchmarking’), in accordance with article 29(3) of the Framework Financial Regulation.

The operational phase overlapped with the ongoing implementation phase of REMIT during a transitional period which lasted until the time the Agency became fully operational with its data collection on the basis of the phased approach of the REMIT Implementing Acts, i.e. 7 July 2016, when all data sets had to be reported to the Agency, including the back-loading of outstanding non-standard contracts. During the transitional period the Agency completed the development and deployment of the IT platforms and procedures for the acquisition of market participants registration information from NRAs, the operation of CEREMP, the acquisition of the reported transaction and fundamental data, the assessment of trading activities to detect any instance of market abuse, the sharing of these data with NRAs, the notification to NRAs of suspected market abuse instances and the coordination of cross-border investigations.

The full implementation of this Work Programme depends on the Agency being assigned the required additional staff envisaged in this respect and presented in Section 3.2.2. It is assumed that these additional resources will be recruited in the course of 2018. Therefore, each additional member of staff is counted as ½ full-time equivalent over the whole year.

Task	Market monitoring of trading activity in wholesale energy markets
Priority level	1: Critical
Legal basis	Article 7 and 8 of Reg. (EU) 1227/2011
Overview (status)	<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, and establishment, further development and operation of the Agency's market surveillance solution to perform its market monitoring activity.</p> <p>A revised market monitoring surveillance strategy is being developed in line with the currently limited resources available to the Agency.</p>
Objectives	<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>

Outputs	Preliminary Initial Assessments of potential market abuse cases.
Performance indicators and targets (deadlines)	100% of sound alerts assessed in a preliminary initial assessment (PIA) and 80% of alerts not being qualified as falsely rejected.
Resources	10.7 FTE
Risks	Quality of the monitoring depends on the quality of the data collected.  Limited resources for market monitoring in EU NRAs.

Task	Review of the REMIT operations and rulebook
Priority level	2: Important
Legal basis	Articles 1(3), 7,8 and 16 of Reg. 1227/2011 and Articles 3(2), 5(2), 10(3) and 11(1) of Commission Implementing Regulation (EU) No 1348/2014
Overview (status)	ACER will undertake a review of the REMIT operations and rulebook in the light of the experience with data collection during 2016 and 2017.
Objectives	Specific objective: This review may result in the formulation of proposals to the European Commission for technical updates of REMIT, according to Article 6 of REMIT, or of the REMIT Implementing Regulation, the drafting of recommendations.  Multi-annual objective: Increased integrity and transparency of wholesale energy markets
Outputs	Transaction Reporting User Manual review  Manual of Procedures on transaction and fundamental data reporting review  Requirements for the Registered Reporting Mechanisms review
Performance indicators and targets (deadlines)	Deliverable of the outputs by end 2018
Resources	5.8 FTE
Risks	Limited resources for review activities.

Task	REMIT Information Management and operation of the Agency's REMIT Information Systems
Priority level	1: Critical
Legal basis	Articles 7-10 and 12 of Reg. 1227/2011
Overview (status)	CEREMP was established in 2014 and the European register of market participants was launched on 17 March 2015. ARIS was established in 2014 and launched on 8 January 2015 for the registration of reporting parties and on 7 October 2015 and 7 April 2016 for the collection of trade and fundamental data.
Objectives	<p>Specific objective: Operation and further development and, if necessary, enhancements of the Centralised European register of energy market participants (CEREMP), of the Agency's REMIT Information System (ARIS) for collection of trade, fundamental and other data and for the data sharing with NRAs, in connection with the REMIT implementing acts.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets</p>
Outputs	Continuous operations of CEREMP and ARIS
Performance indicators and targets (deadlines)	<p>99% of planned system availability.</p> <p>AND</p> <p>0 breaches of the security system with a data leakage involved.</p>
Resources	13.5 FTE
Risks	Limited resources for operational activities.

Task	Market conduct coordination of NRAs and other relevant authorities
Priority level	1: Critical
Legal basis	Article 16(1) of Reg. (EU) 1227/2011
Overview (status)	The coordination of NRAs and other relevant authorities, without prejudice to their responsibilities, is ongoing. There are currently more than 70 cases pending.
Objectives	<p>Specific objectives: To foster regulatory convergence and to avoid regulatory arbitrage resulting from different regulatory practices under REMIT.</p> <p>To aim at ensuring that NRAs and other relevant authorities carry out their tasks under REMIT in a coordinated and consistent way,</p>

	<p>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>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>
Outputs	<p>Publication of Agency Guidance on the application of REMIT as required.</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required.</p>
Performance indicators and targets (deadlines)	<p>95% of all NRA decisions are consistent with the ACER guidance.</p> <p>0% chance of missing not notifying the relevant authorities.</p>
Resources	7.5 FTE
Risks	<p>Risk of leakage of highly sensitive trade data if adequate security measures are not in place.</p> <p>Risk of inconsistent application of market abuse provisions.</p> <p>Limited resources for coordination activities.</p>

<b>Task</b>	<b>Cooperation with NRAs, ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries</b>
Priority level	1: Critical
Legal basis	Articles 1(3), 10, 16 of Reg. (EU) 1227/2011
Overview (status)	The cooperation with NRAs, ESMA, competent national financial market authorities and other relevant authorities is an ongoing activity. Memoranda of Understanding are currently in place with NRAs, ESMA and FERC.
Objectives	<p>Specific objectives:</p> <p>Development of a common understanding on REMIT policy matters with NRAs and promotion of best practices for the application of REMIT.</p> <p>Cooperation with other relevant authorities on REMIT-related matters.</p> <p>Multi-annual objective: Increased integrity and transparency of wholesale energy markets.</p>

Outputs	Publication of REMIT Q&As; Memoranda of Understanding (MoUs)
Performance indicators and targets (deadlines)	Publication of REMIT Q&As on a quarterly basis; Promotion of best practices for the implementation of REMIT. Conclusion of MoUs with additional relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.
Resources	4.0 FTE
Risks	Limited resources for cooperation activities.

Task	Annual Report on the Agency activities under REMIT
Priority level	2: Important
Legal basis	Article 7(3) of Reg. (EU) 1227/2011
Overview (status)	The Agency submits at least on an annual basis a Report to the Commission on its activities under REMIT.  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.
Objectives	Specific objectives:  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.  Evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.  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.  Multi-annual objective: Increased integrity and transparency of wholesale energy markets.
Outputs	Publication of the REMIT Quarterly reports.



Performance indicators and targets (deadlines)	Quarterly publications of the REMIT Quarterly.
Resources	1.4 FTE
Risks	Failure to deliver.

Total resources allocated to the Activity 'Wholesale Market Monitoring – REMIT'	
Human Resources (Full Time Equivalents) <sup>29</sup>	Financial Resources (EUR)
42.9	9,240,660

## 2.9 Communication (Horizontal)<sup>30</sup>

The Agency's communication efforts are focused on three elements (the first two external, the third one internal), despite the limited resources available for this purpose:

- Consulting extensively and at an early stage on its regulatory activities, in line with its Founding Regulation. Communication with NRAs and stakeholders thus remains a crucial element for the functioning of the Agency.
- Ensuring that the Agency's tasks and the impact of its work are understood also by the (specialised) media, the interested general public and specific groups of stakeholders (e.g. consumers).
- Ensuring that staff is well informed on developments, both within the Agency and in the wider environment in which it operates, and to ensure a common understanding of the Agency's mission and objectives.

<sup>29</sup> The FTE allocation includes staff working on the deliverables under this activity, as well as a proportional allocation of staff in horizontal activities classified as 'operational' according to the methodology for Agencies job screening ('benchmarking'), in accordance with article 29(3) of the Framework Financial Regulation.

<sup>30</sup> Communication resources are included under Administrative support and coordination categories.

## 2.9.1 External Communication

In 2018 the Agency's external communication will focus on the following tasks:

Task	Agency Website
Overview (status)	<p>Digital communication remains the Agency's primary communication channel. The focus is on further developing a user-friendly website and to publish timely and informative e-alerts for all interested parties. In an effort to bring the work of the Agency closer to the citizens, the Agency is also striving to publish basic information on its activities in the EU official languages. While efforts towards multilingualism will be further pursued in 2018, they are severely limited by resource constraints.</p> <p>Press releases, news items and Citizens' summaries (putting the Agency's activities in a wider context using language that is comprehensible also to non-experts) will continue to be published and Agency debriefings will continue to be organised for stakeholders.</p> <p>While the Agency is exploring the possibility for its presence on social media, developments in this respect are likely to remain on hold due to resource constraints.</p>
Objectives	<p>Specific objective: to further improve the Agency's website in terms of usability, features and functionalities, so stakeholders find it easy to navigate and regularly updated to encourage returning visits.</p> <p>Bring the work of the Agency closer to EU citizens.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>
Outputs	<p>Regular updating of pages</p> <p>News items</p> <p>Press releases</p> <p>Events</p> <p>Citizens summaries</p>
Performance indicators and targets (deadlines)	<p>Unique visits: 2% increase with respect to 2017.</p> <p>Online survey on the website: at least 2/3 of respondents satisfied or highly satisfied.</p>
Resources	0.3 FTE
Risks	Timely delivery by external contractors of outputs related to the website.

	Human resources constraints could result in delays when providing public information.
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Task	Relations with Journalists
Overview (status)	<p>Press releases are launched on very specific topics that may have an impact on the general public. E-alerts (Infoflashes), which are generally accompanied by a web piece of news, are launched when more specific information is disseminated.</p> <p>Infoflashes also provide fresh information on upcoming ACER conferences, workshops and events, as well as newly published open consultations or official documents such as opinions and recommendations. They are also used to provide information on the Agency's public debriefings. Infoflashes are issued to over 3,400 contacts (a number in constant growth), including stakeholders, national regulators, academics, media, think tanks, as well as other interested citizens. Subscription to the Agency's alerts is available within seconds when visiting ACER's website homepage.</p> <p>Press briefings generally coincide with the launch of press releases; they also focus on major events or deliverables.</p> <p>In addition, the Agency regularly responds to journalists' questions.</p>
Objectives	<p>Specific objectives: to keep a large number of interested people and multipliers regularly informed on the Agency's activities and initiatives.</p> <p>The Agency aims to further engage not only with specialised media but also with national media in Member States, as gateways to policy-makers, national experts and the general public.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives</p>
Outputs	Infoflashes, Press releases, briefings
Performance indicators and targets (deadlines)	<p>Urgent requests from journalists are to be answered on a timely basis (within 3 working days, unless otherwise specified).</p> <p>Number of news items within Infoflashes: &gt;40.</p> <p>Number of references to the Agency in selected media included in the Agency's media monitoring (proxy for impact): 200.</p>
Resources	0.3 FTE
Risks	No appreciable risk.

Task	Events <b>Annual Conference</b> <b>Workshop on the Outline of the 2020 Work Programme</b>
Overview (status)	The Agency engages policy makers, stakeholders and the media through workshops and public events, with the Agency's traditional Annual Conference at the forefront. Events take various forms: they allow stakeholders to contribute to the Agency's deliverables; or inform interested parties and the media of the Agency's latest documents or future plans.
Objectives	<p>Specific objectives:</p> <p>Annual Conference: to provide a platform for a high-level exchange of views among stakeholders and an outlook for a strategic overview of the Agency's tasks.</p> <p>Annual Work Programme presentation: to receive feedback on the Outline of the AWP from interested parties and to open the consultation period in which the Agency is open for suggestions on its AWP.</p> <p>Regular workshops: to enable the Agency to inform stakeholders on specific issues related to its mandate and to receive their feedback.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>
Outputs	<p>Annual Conference for all stakeholders, focused on one of the Agency's major areas of work.</p> <p>Presentation of the Agency's Annual Work Programme (AWP) to stakeholders.</p> <p>Workshops on various topics.</p>
Performance indicators and targets (deadlines)	<p>Annual Conference:</p> <ul style="list-style-type: none"> <li>- Number of participants: &gt; 150.</li> <li>- Participants satisfaction survey: 2/3 majority satisfied or highly satisfied.</li> </ul> <p>Presentation of AWP:</p> <ul style="list-style-type: none"> <li>- Over 15 participants (present at the event or through interactive web streaming).</li> </ul> <p>Workshops:</p> <ul style="list-style-type: none"> <li>- Participants satisfaction survey: 2/3 majority satisfied or highly satisfied.</li> </ul>
Resources	0.8 FTE

Risks	<p>Workshop: Limited inputs from stakeholders, as most of the Agency's AWP is set by legal requirements.</p> <p>Due to the timing requirements of the Programming Document, stakeholders have to be engaged on the work programme already in year N-2, when the uncertainties related to the year in question are still considerable.</p>
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Task	Publications
Overview (status)	<p>The Agency publishes a number of reports and other publications, some mandated by legal requirements, others on its own initiative. While most of these reports are drafted at the operational departments' level, they also require communication inputs (ranging from the design to all aspects related to their publication, presentation and promotion).</p> <p>Printed publications have progressively been reduced to a bare minimum; most publications are now produced and distributed in digital form only. The Agency issues four large-scale reports annually which undergo professional graphic design and which are among its flagship deliverables.</p>
Objectives	<p>Specific objectives:</p> <p>From a communication point of view, the objective is to ensure that the publications are appealing, clear, informative and well presented.</p> <ul style="list-style-type: none"> <li>- In the Annual Activity Report the Agency reports yearly on its activities and achievements in relation to the tasks assigned to it in a specific year.</li> <li>- The Regional Initiatives Status Review Report, aims to promote the early implementation of some of the most critical rules for the integration of the electricity and gas markets. It also aims to promote transparency towards stakeholders, informing them on progress achieved in RIs, obstacles faced during the year and indicate the way forward.</li> <li>- In the Market Monitoring Report the Agency provides an assessment of the progress made towards the implementation of the Third Energy Legislative Package ('the 3rd Package') and the completion of the internal energy market. This report is issued together with the Council of European Energy Regulators (CEER).</li> </ul>

	<p>- In the REMIT Report the Agency reports on its activities under the Regulation on wholesale energy market integrity and transparency (REMIT). The aim is 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 that could improve market integrity and the functioning of the internal market.</p> <p>- Other publications: Besides its major publications, the Agency also prepares for information purposes brochures and specific leaflets in all EU official languages for events and visits. These leaflets in all EU languages are also accessible digitally from the Agency's web homepage. The Agency also publishes many other sectorial reports on specific issues related to gas and electricity. The objective is to inform the general public and stakeholders on the Agency's activities, both general and more specific ones.</p> <p>The material is regularly updated to reflect new tasks assigned to the Agency.</p> <p>Multiannual objective: to contribute to all the Agency's multiannual operational objectives.</p>
Outputs	<ul style="list-style-type: none"> <li>- Annual Activity Report</li> <li>- Regional Initiatives Status Review Report</li> <li>- Market Monitoring Report</li> <li>- REMIT Report</li> <li>- Brochures, leaflets</li> <li>- Other publications</li> </ul>
Performance indicators and targets (deadlines)	<p><u>AAR:</u></p> <ul style="list-style-type: none"> <li>- Published by 15 June.</li> <li>- Over 10 unique visits within one month of publication.</li> </ul> <p><u>Regional Initiatives Report</u></p> <ul style="list-style-type: none"> <li>- Publication in January 2018.</li> </ul> <p><u>Market Monitoring Report</u></p> <ul style="list-style-type: none"> <li>- Expected completion date: November 2018.</li> <li>- Over 75 unique visits within one month of publication.</li> <li>- Reader survey: 2/3 majority of respondents satisfied or highly satisfied.</li> </ul> <p><u>REMIT Report</u></p> <ul style="list-style-type: none"> <li>- Expected submission of the 3rd Annual Report of REMIT: Q2 2018.</li> </ul> <p>Over 30 unique visits within one month of the publication of the report.</p>

Resources	0.3 FTE
Risks	No appreciable risks.

## 2.9.2 Internal Communication

Internal communication focuses primarily on:

- Digital communication: website, newsletters, newsfeeds
- Events/internal presentations

Task	Internal Communication
Overview (status)	<p>Internal communication activities aim to keep Agency staff informed and to enable both management and staff to fulfil their responsibilities effectively and efficiently. Staff members must be regularly informed of policy decisions taken by the Boards and the Director, enabling them to better understand their role and to acquire broader knowledge of the Agency's mission and activities. This should contribute to a common corporate culture, improve staff engagement and ultimately also improve external communication.</p> <ul style="list-style-type: none"> <li>- An internal newsletter for the Agency's staff is circulated on a monthly basis.</li> <li>- The intranet is being further developed to include all information relevant to the Agency's staff.</li> <li>- The Agency occasionally organises internal presentations over lunch-time in which ACER staff members present specific topics related to the Agency's tasks to their colleagues.</li> </ul>
Objectives	<p>To increase the level of awareness of ACER's work and recent developments related to the Agency.</p> <p>To provide new features and services according to staff needs and demands.</p> <p>To keep information updated and easily retrievable.</p> <p>To provide staff with an opportunity to acquaint itself with the work and tasks of the various departments.</p>
Outputs	<ul style="list-style-type: none"> <li>- Intranet</li> <li>- Internal newsletter</li> <li>- Presentations</li> </ul>

Performance indicators and targets (deadlines)	Staff satisfaction on internal communication measured through a question on the internal newsletter in the staff survey.  2/3 of participating staff satisfied or highly satisfied.
Resources	0.8 FTE
Risks	Human resource constraints could limit activities related to internal communication.

## 2.10 Organisation, Administration and Functioning of the Agency (Horizontal)

### 2.10.1 Organisation

At the time of drafting of this Work Programme, the Agency was divided into the following departments: the Electricity Department, the Gas Department, the Market Surveillance and Conduct Department and the Market Integrity Department, as well as the Director's Office and the Administration Department, both dealing primarily with horizontal activities.

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

The Agency's organisational chart can be found in Annex X.

### 2.10.2 The Agency's Premises, Procurement and Facility Management

Since February 2014 the Agency is seated in its permanent premises in Ljubljana, rented for a period of 5 years, with an option for renewal for a further 5-year period and for expansion of the office space. In the course of the coming years certain adaptations and changes might be needed, depending on the use of the premises.

Task	Procurement and Facility Management
Overview (status)	Procurements will be carried out in line with the 2018 Procurement Plan, in order to enable the continuity of the Agency's services, as well as to procure additional services, where needed.



	<p>The rental agreement for the Agency's permanent premises, which expires on 31 January 2019, provides a possibility for expansion of the total office space used.</p> <p>No expansion is foreseen in the course of 2018. Certain adaptations and changes might be performed, depending on the use of the premises and the Agency's specific needs and security requirements.</p> <p>In 2018 the Agency will keep its liaison office in Brussels with three staff members (1 AD, 1 CA and 1 SNE/CA) assigned to it. The office is hosted on the premises made available, free of charge, by the Council of European Energy Regulators (CEER), as a contribution in kind to the work of the Agency. The IT and information resources are shared with the liaison office, which makes it an indispensable part of the Agency's structure.</p>
Objectives	<p>The objectives for 2018 are as follows:</p> <ul style="list-style-type: none"> <li>- Further improve effectiveness and efficiency of the procurement processes and implement measures to rationalise and optimise the procurement processes for the implementation of the work programme.</li> <li>- Manage the Agency's premises in line with the evolving needs of the Agency, including, whenever necessary, the expansion of the occupancy of the office surface and the necessary fitting out works and procurement of equipment to ensure smooth continuation of the Agency's work.</li> <li>- Ensure the security in the Agency's premises, in line with the Agency's security policy.</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- Annual procurement plan in place and successfully implemented.</li> <li>- Annual facility management plan in place and successfully implemented.</li> <li>- Secure and sufficient office space made available for the operations of the Agency.</li> </ul>
Performance indicators and targets (deadlines)	<p>At least 90% implementation of the adopted 2018 Procurement Plan.</p> <p>The Agency's premises managed in line with the Agency's facility management plan and within the allocated budget by the end of 2018.</p>
Resources	2.5 FTE
Risks	The non-availability of financial resources and human resource constraints may negatively affect the timely delivery of the objectives.

	The absence of timely and quality input from the project managers may affect the successful implementation of the adopted 2018 Procurement Plan.
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### 2.10.3 Human Resources

Task	Human Resources Management
Overview (status)	<p>The Human Resources (HR) Team continues to concentrate efforts on the redesign and adaptation of processes and procedures in light of the implementation of the amended Staff Regulations and subsequent new Implementing Rules. Such implementation involves several areas of activity, from internal policy drafting, consultations, practical implementation, development of supporting documentation and tools.</p> <p>It is expected that the above processes will also continue in 2018, as new model decisions for Agencies are being developed.</p> <p>ECA performed an audit in December 2015 in the area of human resources administration and management.</p> <p>The HR Team will strive to maintain the availability and the quality of HR services also in 2018.</p> <p>In addition to above, recruitment will remain the main activity with the allocation of additional resources to the Agency.</p> <p>Best practices are explored with other EU Agencies and will be introduced to contribute to a balanced workplace.</p> <p>The concept of Competence framework was discussed within the Agencies' Network, however it has lost its momentum, therefore the Agency is progressing in this area on its own using internal resources in order to be at the forefront of these developments.</p>
Objectives	<p>The objectives for 2018 are as follows:</p> <ul style="list-style-type: none"> <li>- To recruit additional resources in line with the Agency's updated Establishment Plan and replace departing staff members in an efficient and timely manner.</li> <li>- To design, implement, and complete the Annual performance appraisal exercise in 2018, in line with the new Implementing Rules.</li> <li>- To ensure that staff members are offered appropriate training opportunities aimed to improve their skills and competencies.</li> <li>- To consider the possible use of the Commission HR Tools, when available.</li> <li>- To receive positive evaluation results from the ECA.</li> </ul>

	<ul style="list-style-type: none"> <li>- The implementation of Competence Framework to be planned.</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- Staff with the necessary knowledge and skills recruited and made available to the Agency.</li> <li>- Training made available as per identified training needs.</li> <li>- Annual performance appraisal carried in line with the adopted rules.</li> <li>- Action Plan for the implementation of Competence Framework to be finalised.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Average length of recruitment procedure: 4 months (including the 1-month period of publication of the Vacancy Notice).</li> <li>- Minimum 95% occupancy rate of TA posts in the establishment plan by the end of 2018.</li> <li>- 100% of the eligible Agency's staff subject to performance appraisal to undergo evaluation in the 2017 exercise in line with the new Implementing Rules by end of June 2018.</li> <li>- Minimum of 75% attendance at in-house organised trainings.</li> <li>- No critical or very important recommendations received from ECA audit in 2018.</li> <li>- Continued gradual revision of job descriptions in light of the Competency Framework. 50% of job descriptions to be revised by the end of 2018.</li> <li>- New Vacancy Notices aligned with the competencies and skills required for the positions advertised.</li> </ul>
Resources	4.0 FTE
Risks	<p>An increase in the number of recruitment procedures, and subsequently the number of staff in the Agency, may require more HR staff than currently envisaged, which may result in delays or a reprioritisation of objectives.</p> <p>The Agency is facing difficulties in attracting the right candidates in light of the specific expertise required and competition from the private sector, which offers more competitive remuneration packages, which may result in more unsuccessful selection procedures.</p> <p>A decrease of the correction coefficient for Slovenia may have a significant negative impact on attracting new staff and staff retention.</p> <p>The lack of an Accredited European School is another factor that has a negative impact on attracting and retaining staff at the Agency.</p>

## 2.10.4 Budget Implementation and Audit

Task	Budget Implementation and Audit
Overview (status)	<p><u>Budget Implementation</u></p> <p>The Agency has been constantly improving its financial management and budget implementation processes.</p> <p>A number of policies and procedures have been introduced and followed to ensure effective budget management. In 2015 the Agency introduced e-invoicing and a paperless workflow, which proved in the following years to have added to the efficiency of its financial management.</p> <p>In the past years, the annual results from budget implementation have been gradually improving, reaching 95.09% of the commitment appropriations and 74.88% of the payment appropriations in 2015.</p> <p>In 2018 the Agency will strive to further improve the above results.</p> <p><u>Audit</u></p> <p>Since its establishment, the Agency has not received any critical recommendations from the internal and external auditors.</p> <p>Furthermore, all recommendations from previous years have been implemented as planned, reported in a timely manner and approved by the respective authority. As a result, the Agency has been granted a discharge for all years for which the discharge procedure has been closed.</p>
Objectives	<p>The objectives for 2018 are as follows:</p> <ul style="list-style-type: none"> <li>- Apply current accounting standards and rules in order to draw accurate financial statements that present a fair view of the Agency's financial performance and position and receive an unqualified audit opinion.</li> <li>- Implement in a timely manner the recommendations from the Internal Audit Service (IAS), the European Court of Auditors (ECA) and the external audit firm.</li> <li>- Coordinate the budget planning, consumption forecast, budget reviews and transfer of appropriations aiming at achieving higher budget implementation rates.</li> <li>- Ensure proper assets management in order to safeguard the property of the Agency and minimise fraud.</li> <li>- Ensure proper treasury management through availability of liquidities to cover Agency's obligations towards its suppliers and on time execution of payments.</li> <li>- Provide specific training to financial actors to ensure a smooth workflow within the financial circuits.</li> </ul>

Outputs	<ul style="list-style-type: none"> <li>- Annual accounts prepared according to current accounting standards, accounting rules and general accepted accounting principles.</li> <li>- Audit recommendations implemented in time.</li> <li>- Good planning resulting in higher budget implementing rates.</li> <li>- Agency's property records presenting the true value of its assets. Yearly impairment check of fixed assets. Scanning all inventory items every three years. Next scan due in November 2019.</li> <li>- Cash flow management and on time payments.</li> <li>- Training on financial matters made available to all involved actors.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Provisional accounts prepared and presented by 1 March 2018, final accounts by 1 July 2018.</li> <li>- Unqualified opinion from ECA by 30 June 2018.</li> <li>- Minimum 95% budget implementation for commitment appropriation and 75% for payment appropriation by 31 December 2018.</li> <li>- Fixed assets impairment check by end of November 2018.</li> <li>- Replenished bank account balance.</li> <li>- Presentation of financial matters delivered by end of June 2018.</li> </ul>
Resources	4.5 FTE (including 2.0 FTE from the Financial Cell)
Risks	<ul style="list-style-type: none"> <li>- Reservations on financial results made by the Accounting Officer may have a negative impact on the audit opinion.</li> <li>- Delays in procurement procedures and/or delays from contract implementations by project managers may have a negative impact on the achievement of the budget implementation targets.</li> <li>- Results from assets impairment checks may negatively affect the financial position of the Agency.</li> <li>- Downturn in the rating of the financial institution may negatively affect the Agency's solvency.</li> </ul>

### 2.10.5 ICT Infrastructure

Task	ICT Development
Overview (status)	<p>The IT Team's main goal in 2018 is to continue and further enhance the alignment of the IT services with the Agency's strategic goals and objectives, which was initiated in 2016 following the results of the ICT governance study and the new ACER ICT Strategy of 2016-2018.</p> <p>For this reason, the expected coordination between the Agency's different IT Teams should be achieved together with</p>

	<p>the fine-tuning of all procedures related to the ICT governance and the transition into a service-based organisation.</p> <p>In addition, the necessary IT contracts that will enable the implementation of the Agency's evolving needs for development of applications, automation and services should be put in place.</p> <p>Furthermore, the IT Team should ensure that there is the necessary ICT overarching infrastructure covering multiple units/departments, ensuring synergies (cross-departmental) and a unified IT environment.</p>
Objectives	<p>The objectives for 2018 are as follows:</p> <ul style="list-style-type: none"> <li>- To ensure the fine-tuning of ICT governance procedures and that the expected coordination between the different IT teams is in place.</li> <li>- To achieve the necessary service orientation by having in place the right procedures and rules (ITIL based) and adapting the IT Team's members work profiles to this.</li> <li>- To acquire and further develop applications and services to cover the Agency departments' needs and to maintain or renew the existing ones. The IT Team shall collect and assess business requirements and contribute to their implementation to support the efficient functioning of the Agency.</li> <li>- To put in place the necessary ICT overarching infrastructure, covering multiple units/departments, and ensuring synergies (cross-departmental) in a unified IT environment.</li> <li>- To assure high level IT support services to enable the Agency's staff to perform their tasks effectively.</li> </ul>
Outputs	<ul style="list-style-type: none"> <li>- Efficient collaboration between the Agency's IT Teams.</li> <li>- Service oriented, flexible IT environment suited to the Agency's objectives and needs.</li> <li>- New applications and services made available to the users, in line with the identified needs.</li> <li>- Unified IT environment that enables easy collaboration and interaction between the Agency's departments/units.</li> <li>- IT requests fulfilled in a timely and efficient manner, adequate IT support rendered to the users.</li> <li>- Successful achievement of the Agency's goals and objectives through the use of ICT.</li> </ul>
Performance indicators and targets (deadlines)	<ul style="list-style-type: none"> <li>- Rules and procedures of ITIL based service management to be fully functional by Q1 2018.</li> </ul>

	<ul style="list-style-type: none"> <li>- External ICT services and support to be fully utilised by Q3 2018 and IT Team's members work profiles adapted accordingly.</li> <li>- The needed IT application and services to be developed, maintained and fine-tuned under the necessary IT development contracts during the whole of 2018.</li> <li>- Successful and timely completion of the tasks included in the 2018 IT Action Plan by Q4 2018.</li> <li>- 85% of staff satisfied or very satisfied with the IT services on the basis of an annual satisfaction survey by Q4 2018.</li> </ul>
Resources	5.0 FTE
Risks	<ul style="list-style-type: none"> <li>- Human resource constraints may affect the timely delivery and quality of the outputs.</li> <li>- The budget for the tenders of IT application development and ICT service and support contracts is subject to approval, as it comes as an addition to the usual IT Team's budget. If the budget is not approved, the Agency will not be able to achieve some important objectives for 2018.</li> <li>- The establishment of an ICT overarching infrastructure ensuring synergies may not be achieved due to security constraints or an inefficient choice of compatible technologies.</li> <li>- IT contractors (e.g. for IT development, IT support) may not perform to the level expected, with a negative impact on the requested IT services/applications.</li> <li>- Significant changes in other IT Teams of the Agency (e.g. MMD internal hosting) may affect the workload and priorities of the Admin IT Team.</li> </ul>

### 2.10.6 Other Internal and Horizontal Tasks

Apart from the specific tasks and deliverables presented in this Work Programme, the Agency needs to maintain administrative support and a number of central services. Strategic direction, leadership and coordination across the different departments are also essential to ensure the effective and efficient operation of the Agency in meeting its objectives.

In line with the benchmarking methodology, the following staff members in the Director's Office are considered as 'operational' and have been allocated against the operational activities:

- Director, Secretary of the Director, Assistant to the Director, 2 Knowledge Managers, Administrative Assistant: 5.5 FTEs;
- Legal Advisers: 1 FTEs<sup>31</sup>;
- National Regulatory Agencies Cooperation Officers: 3 FTEs<sup>32</sup>.

In addition, the following positions are classified under 'administration and coordination' and are not assigned to activities within this Work Programme:

- Head of Administration, Assistant to the Head of Administration/Internal Control Assistant: 2 FTEs;
- Strategy, Coordination and Compliance adviser 1 FTE;
- Legal Advisers (4 FTEs).<sup>33</sup>

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<sup>31</sup> The Agency's legal advisers are considered partly operational and partly under coordination, depending on their role, in line with the Agencies' benchmarking methodology.

<sup>32</sup> At the time of writing this Programming Document the Agency has one cost-free Seconded National Expert: given that this positions do not have a budgetary impact for the Agency, they are not included in the FTE allocation for 2018.

<sup>33</sup> As above.



## ANNEX I: 2018 RESOURCE ALLOCATION PER ACTIVITY

The table below provides aggregated human and financial resources per WP activity. The related justification and brief information on **HR and financial resources** are provided under section III for each activity. The allocation of human resources to activities was calculated by adding to the staff employed by the Agency the additional staff requested within the 2018 budgetary procedure.

The following FTE allocations are based on staff the Agency is requesting for 2018:

**4 additional posts for the Electricity Department**

**2 additional posts for the Gas Department**

**7 additional posts for the Market Integrity and Transparency Department**

**12 additional posts for the Market Surveillance and Conduct Department**

**5 additional posts for the Administration Department and for the Director's Office**

The requested staff is calculated as  $\frac{1}{2}$  FTE for the purposes of the 2018 Work Programme, on the assumption that staff will be recruited progressively throughout the year. At the same time staff deployment is forecasted as  $\frac{1}{2}$  FTE.

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

**2018 Full Time Equivalents and budget forecast - Breakdown per Activity**

<b>Task groups</b>	<b>SUM</b>	<b>In-house</b>	<b>New Request</b>	<b>2018 budget</b>
<b>1. Electricity Network Codes (Operational)</b>	<b>10.6</b>	<b>10.1</b>	<b>0.5</b>	<b>1,548,838</b>
<b>2. Gas Network Codes (Operational)</b>	<b>11.4</b>	<b>10.9</b>	<b>0.5</b>	<b>1,664,291</b>
<b>3. Electricity and Gas Internal Market Monitoring (Operational)</b>	<b>8.4</b>	<b>8.4</b>	<b>0.0</b>	<b>1,217,269</b>
<b>4. Electricity TSO Cooperation (Operational)</b>	<b>3.3</b>	<b>3.3</b>	<b>0.0</b>	<b>483,603</b>
<b>5. Gas TSO Cooperation (Operational)</b>	<b>3.0</b>	<b>3.0</b>	<b>0.0</b>	<b>434,167</b>
<b>6. Guidelines for Trans-European Energy Infrastructure (Operational)</b>	<b>2.0</b>	<b>2.0</b>	<b>0.0</b>	<b>290,196</b>
<b>7. Tasks which are Subject to Specific Conditions (Operational)</b>	<b>6.9</b>	<b>4.9</b>	<b>2.0</b>	<b>1,003,465</b>
<b>8. Wholesale Market Monitoring – REMIT (Operational)</b>	<b>42.9</b>	<b>33.4</b>	<b>9.5</b>	<b>9,240,660</b>
<b>ADMINISTRATIVE SUPPORT AND COORDINATION CATEGORIES</b>	<b>18.5</b>	<b>17.0</b>	<b>1.5</b>	<b>2,694,394</b>
<b>NEUTRAL CATEGORIES</b>	<b>7.0</b>	<b>6.0</b>	<b>1.0</b>	<b>1,019,500</b>
<b>TOTAL FTE</b>	<b>114.0</b>	<b>99.0</b>	<b>15.0</b>	<b>19,596,383</b>

## ANNEX II: FINANCIAL RESOURCES

**Table 1 – Expenditure**

Expenditure	2017		2018	
	Commitment appropriations	Payment appropriations	Commitment appropriations	Payment appropriations
<b>Title 1</b>	8,607,771	8,607,771	12,503,090	12,503,090
<b>Title 2</b>	2,629,889	2,629,889	3,533,283	3,533,283
<b>Title 3</b>	2,034,500	2,034,500	3,560,010	3,560,010
<b>Total expenditure</b>	<b>13,272,160</b>	<b>13,272,160</b>	<b>19,596,383</b>	<b>19,596,383</b>

	2016 executed budget commitment appropriations	2016 executed budget payments appropriations	Budget 2017	Draft Budget 2018	VAR 2018/ 2017	Envisaged 2019	Envisaged 2020
				Agency request			
<b>Title 1</b>							
<b>Staff Expenditure</b>	<b>7,268,753</b>	<b>7,097,368</b>	<b>8,607,771</b>	<b>12,503,090</b>	<b>45.25%</b>	<b>12,915,692</b>	<b>13,341,910</b>
<b>11 Salaries &amp; allowances</b>	6,556,200	6,551,609	7,853,641	11,168,600	42.21%	11,550,966	11,945,950
- of which establishment plan posts	5,152,661	5,148,069	6,149,492	9,523,594	54.87%	9,851,675	10,190,582
- of which external personnel	1,403,540	1,403,540	1,704,149	1,645,006	-3.47%	1,699,291	1,755,368
<b>12 Expenditure relating to Staff recruitment</b>	58,646	56,646	44,800	179,200	300.00%	185,114	191,222
<b>13 Mission expenses</b>	111,954	84,869	112,590	169,425	50.48%	169,425	169,425
<b>14 Socio-medical infrastructure</b>	37,419	33,053	60,494	58,623	-3.09%	58,623	58,623
<b>15 Training</b>	150,000	72,518	107,800	260,040	141.22%	268,621	277,486
<b>16 External Services</b>	242,980	210,971	310,200	477,000	53.77%	492,741	509,001

<b>17 Receptions, events and representations</b>	14,910	14,910	15,000	15,000	0.00%	15,000	15,000
<b>18 Social welfare</b>	26,444	11,732	23,962	41,700	74.03%	41,700	41,700
<b>19 Other Staff related expenditure</b>	70,200	61,060	79,284	133,502	68.38%	133,502	133,502
<b>Title 2 Infrastructure and operating expenditure</b>	<b>2,638,465</b>	<b>1,630,136</b>	<b>2,629,889</b>	<b>3,533,283</b>	<b>34.35%</b>	<b>3,533,283</b>	<b>3,533,283</b>
<b>20 Rental of buildings and associated costs<sup>34</sup></b>	1,027,314	950,993	1,020,823	1,270,608	24.47%	1,270,608	1,270,608
<b>21 Information and communication technology</b>	494,101	197,011	673,518	770,000	14.33%	770,000	770,000
<b>22 Movable property and associated costs</b>	185,104	151,582	165,400	284,650	72.10%	284,650	284,650
<b>23 Current administrative expenditure</b>	165,665	126,744	148,500	171,700	15.62%	171,700	171,700
<b>24 Postage / Telecommunications</b>	54,500	44,380	97,000	102,000	5.15%	102,000	102,000
<b>25 Meeting expenses</b>	155,028	81,170	221,180	292,325	32.17%	292,325	292,325
<b>26 Running costs in connection with operational activities</b>	41,385	35,640	89,700	102,000	13.71%	102,000	102,000
<b>27 Information and publishing</b>							
<b>28 Studies</b>	515,369	42,616	213,768	540,000	152.61%	540,000	540,000
<b>Title 3 Operational expenditure</b>	<b>5,665,770</b>	<b>787,858</b>	<b>2,034,500</b>	<b>3,560,010</b>	<b>74.98%</b>	<b>5,560,010</b>	<b>3,560,010</b>
<b>to be specified by chapter</b>	5,665,770	787,858	2,034,500	3,560,010	74.98%	5,560,010	3,560,010
<b>TOTAL EXPENDITURE</b>	<b>15,572,988</b>	<b>9,515,362</b>	<b>13,272,160</b>	<b>19,596,383</b>	<b>47.65%</b>	<b>22,008,985</b>	<b>20,435,203</b>

<sup>34</sup> Including possible repayment of interest; detailed information as regards building policy provided in Table in Annex III.

**Table 2 – Revenue**

Revenues	2017	2018
	Revenues approved	Budget Forecast
EU contribution	13,272,160	19,596,383
Other revenue	0	0
Total revenues	<b>13,272,160</b>	<b>19,596,383</b>

REVENUES	2016	2017	2018		VAR 2018 /2017	Envisaged 2019	Envisaged 2020
	Budget executed	Revenues received by the agency	As requested by the agency	Budget Forecast			
<b>1 REVENUE FROM FEES AND CHARGES</b>							
<b>2. EU CONTRIBUTION</b>	15,572,988	13,272,160	19,596,383		47.65%	22,008,985	20,435,203
of which Administrative (Title 1 and Title 2)	9,199,218	10,485,660	16,036,373		52.94%	16,448,975	16,875,193
of which Operational (Title 3)	5,665,770	2,034,500	3,560,010		74.98%	5,560,010	3,560,010
of which assigned revenues deriving from previous years' surpluses	708,000	752,000			-100.00%	0	0
<b>3 THIRD COUNTRIES CONTRIBUTION (incl. EFTA and candidate countries)</b>							
of which EFTA							
of which Candidate Countries							

<b>4 OTHER CONTRIBUTIONS</b>							
<b>of which delegation agreement, ad hoc grants</b>							
<b>5 ADMINISTRATIVE OPERATIONS</b>							
<b>6 REVENUES FROM SERVICES RENDERED AGAINST PAYMENT</b>							
<b>7 CORRECTION OF BUDGETARY IMBALANCES</b>							
<b>TOTAL REVENUES</b>	<b>15,572,988</b>	<b>13,272,160</b>	<b>19,866,138</b>		<b>47.65%</b>	<b>22,008,985</b>	<b>20,435,203</b>

## Table 3 - Budget outturn and cancellation of appropriations

### Calculation budget outturn

Budget outturn	2014	2015	2016
Revenue actually received (+)	10,895,960	11,267,795	15,877,789
Payments made (-)	-7,598,986	-8,435,504	-9,515,362
Carry-over of appropriations (-)	-2,736,510	-2,277,372	-6,057,626
Cancellation of appropriations carried over (+)	148,844	198,294	223,238
Adjustment for carry over of assigned revenue appropriations from previous year (+)	0	0	0
Exchange rate differences (+/-)	-756	-786	845
Adjustment for negative balance from previous year (-)	0	0	0
Total	708,552	752,427	528,884

### Budget outturn

Implementation of 2016 commitment appropriations reached a level of 98.11%. Payments appropriation implementation rate was 59.93% mainly due to the multiannual nature of the REMIT project. The related funds carried forward into 2017 amounted to €6.06m. Unused appropriations of funds carried over from 2015 amounting to 0.2m were mainly the result of a cancelled contract due to non-performance of one supplier.

## ANNEX III: HUMAN RESOURCES – QUANTITATIVE

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

Staff population		Staff population actually filled in 31.12.2015	Staff population in EU Budget 2016 <sup>35</sup>	Staff population actually filled at 31.12.2016 <sup>36</sup>	Staff population in voted EU Budget 2017 <sup>37</sup>	Staff population – Agency’s request in Draft EU Budget 2018 <sup>38</sup>	Staff population envisaged in 2019 <sup>39</sup>	Staff population envisaged in 2020 <sup>40</sup>
Officials	AD							
	AST							
	AST/SC							
TA	AD	39	54	48	53	78	78	78
	AST	15	15	12	15	20	20	20
	AST/SC	0						

<sup>35</sup> As authorised for officials and temporary agents (TA) and as estimated for contract agents (CA) and seconded national experts (“SNE”).

<sup>36</sup> Staff in active service

<sup>37</sup> *Ibid.*

<sup>38</sup> Anticipated request for staff by the Agency, NOT including the possible resources in the Commission proposal for the Winter Package.

<sup>39</sup> *Ibid.*

<sup>40</sup> *Ibid.*



Total	<b>54</b>	<b>69</b>	<b>60</b>	<b>68</b>	<b>98</b>	<b>98</b>	<b>98</b>
CA GFIV	9	13	16	13	20	20	20
CA GF III	5	0	4		4	4	4
CA GF II	6	6	6	6	1	1	1
CA GFI							
<b>Total CA</b>	<b>20</b>	<b>19</b>	<b>26<sup>41</sup></b>	<b>19</b>	<b>25</b>	<b>25</b>	<b>25</b>
<b>SNE</b>	<b>6</b>	<b>4</b>	<b>3 + (1)<sup>42</sup></b>	<b>4</b>	<b>4<sup>43</sup></b>	<b>4<sup>44</sup></b>	<b>4<sup>45</sup></b>
<b>TOTAL</b>	<b>80</b>	<b>92</b>	<b>90</b>	<b>91</b>	<b>127</b>	<b>127</b>	<b>127</b>
<i>Structural service providers</i>	14	14	19	21	23	23	23

<sup>41</sup> Additional CA employed, as the resources provided have not covered the needs of the Agency. Budgetary appropriations have been ensured from budget savings.

<sup>42</sup> At the time of writing this Programming Document the Agency has one cost-free Seconded National Expert: given that this positions do not have a budgetary impact for the Agency, they are not included in the FTE allocation for 2018 and in the staff evolution table; the cost free SNE is included in the statistics of actual staff.

<sup>43</sup> *Ibid*

<sup>44</sup> *Ibid*

<sup>45</sup> *Ibid*

External staff <sup>46</sup> for occasional replacement <sup>47</sup>							
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**Table 2 - Multi-annual staff policy plan 2018- 2020**

Category and grade	Establishment plan in EU Budget 2016		Modifications in 2016 in application of flexibility rule <sup>48</sup>		Establishment plan in voted EU Budget 2017		Modifications envisaged in 2017 in application of flexibility rule - <sup>49</sup>		Establishment plan – Agency's request in Draft EU Budget 2018 <sup>50</sup>		Establishment plan 2019		Establishment plan 2020	
	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA	officials	TA
AD 16														
AD 15		1		1		1		1		1		1		1
AD 14														

<sup>46</sup> FTE

<sup>47</sup> For instance replacement due to maternity leave or long sick leave.

<sup>48</sup> In line with Article 32 (1) of the Framework Financial Regulation, the Administrative Board may modify, under certain conditions, the establishment plan by up to 10% of posts authorised.

<sup>49</sup> The Agency is currently envisage to request the Administrative Board to approve the modification of the Establishment Plan in 2017, according to Art. 32 (1) of the Framework Financial Regulation.

AD 13												1		2
AD 12				3				4		4		3		2
AD 11		5		5		5		5		5		5		5
AD 10												1		2
AD 9		2		2		2		4		5		5		5
AD 8		10		10		10		11		11		11		10
AD 7		10		10		10		10		13		12		13
AD 6		7		7		7		7		14		15		15
AD 5		19		16		18		11		25		24		23
<b>Total AD</b>		<b>54</b>		<b>54</b>		<b>53</b>		<b>53</b>		<b>78</b>		<b>78</b>		<b>78</b>
AST 11														
AST 10														
AST 9														
AST 8														
AST 7														
AST 6				1				1		1		2		2
AST 5		1		4		1		4		4		3		4
AST 4		1		1		1		4		7		8		8

AST 3		13		9		13		6		8		7		6
AST 2														
AST 1														
<b>Total AST</b>		<b>15</b>		<b>15</b>		<b>15</b>		<b>15</b>		<b>20</b>		<b>20</b>		<b>20</b>
AST/SC6														
AST/SC5														
AST/SC4														
AST/SC3														
AST/SC2														
AST/SC1														
<b>Total AST/SC</b>		<b>0</b>		<b>0</b>		<b>0</b>		<b>0</b>		<b>0</b>		<b>0</b>		<b>0</b>
<b>TOTAL</b>		<b>69</b>		<b>69</b>		<b>68</b>		<b>68</b>		<b>98</b>		<b>98</b>		<b>98</b>

## ANNEX IV: HUMAN RESOURCES – QUALITATIVE

### A. Recruitment policy

**The Agency employs Temporary Agents and Contract Agents.** Seconded national experts are working temporarily for the Agency under the rules applicable to such experts.

The establishment plan of the Agency does not foresee permanent posts and it is not envisaged to require such posts in the future.

#### 1) Rules for recruitment of temporary agents and contract agents

The recruitment policy for temporary agents is laid down by Decision AB No 08/2015 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 11 June 2015 laying down *general implementing provisions on the procedure governing the engagement and use of temporary staff under Article 2(f) of the Conditions of Employment of Other Servants of the European Union*. Up until the new implementing rules of the Commission will be adopted by the Administrative Board (following the adoption of the model decision by the Standing Working Party), the recruitment policy for contract agents is governed by Decision AB n° 11/2011 of the Administrative Board of the Agency for the Cooperation of Energy Regulators of 1 June 2011 on the *adoption of general implementing provisions on the procedures governing the engagement and the use of contract staff at ACER*.

The selection procedures for temporary agents and contract agents involve the following steps:

- Publication of a vacancy notice on the Agency website, defining eligibility and selection criteria, indicating the type and duration of the contract and the recruitment grade; depending on the assessment made by the Agency, the vacancy may also be published on the EPSO website (in this case the vacancy is translated in all official EU languages).
- Setting up of a Selection Committee representing the recruiting department, the Administration Department, and the Staff Committee.
- Setting-up questions for the written and oral examination.
- Pre-selection of candidates on the basis of applications, evaluation of eligibility and selection criteria.
- Invitation of selected candidates to interviews and a written examination covering the specific competences in the area of expertise, in particular in the domain of the Agency, general aptitudes and language abilities.
- Assessment of candidates through interviews and anonymous written tests. The assessment is carried out by the selection committee against predefined criteria.
- All steps and decisions taken by the Selection Committee are recorded in writing in the minutes of the selection procedure.

- The selection committee proposes a short list of successful candidates sent to the Authority Habilitated to Conclude Contracts (AHCC) who establishes the reserve lists and offers the employment contracts.
- The candidates to be recruited must pass a compulsory medical exam. Their entry grade and step, as well as their personal rights, are determined by the Pay Master Office.

## 2) Rules on the secondment of national experts (SNEs) to the Agency

SNEs are not recruited by the Agency; they do not become staff members but remain employed and paid by the employer seconding them to the Agency. As compensation for the additional costs of living temporarily abroad, SNEs are entitled to daily and monthly subsistence allowances.

SNEs are selected in two ways:

1. By means of an open and transparent selection procedure. Vacancy notices are published no less than one month before the closing date for applications and are advertised, at least, on the Agency website, with a notification thereof on the EPSO portal and to the Permanent Representations to the EU. Where appropriate, other means of advertisement are used;
2. By direct contact between the Agency and the Administration where the candidate is working.

The initial period of secondment of national experts may not be less than six months and more than two years and under certain conditions can be renewed up to a total period of four years. Exceptionally, at the request of the department concerned and where the interest of the service warrants it, the Director may authorise one or more extensions of the secondment for a maximum of two more years at the end of the four-year period (cf. Art. 5(1) of AB n° 02/2011). Detailed rules on the secondment of SNEs are defined in the Administrative Board Decision n° 02/2011 laying down the rules on the secondment of national experts to the Agency. In 2015, the Agency also concluded a Service Level Agreement with the Federal Energy Regulatory Commission, which provides the framework for the secondment of members of staff of both bodies on a mutual basis.

### **a) Grade and function group corresponding to the tasks and to the level of the post**

Temporary Staff members are normally recruited at levels AD5 to AD8, depending on the level of responsibility, AD11 (in case of Heads of Department) and AST3. The Director was recruited at AD14 level.

Following the adoption by the Commission of implementing rules and general implementing provisions to give effect to the amended Staff Regulations (SR), in line with Article 110(2) of the SR, the provisions of Commission Decision of 16.12.2013 laying down general implementing provisions concerning the criteria applicable to classification in step on appointment or engagement (C (2013) 8970) apply by analogy to the Agency as of 1 October 2014.

### **b) Duration of employment**

The Director's post is that of a short-term Temporary Agent. He is offered a fixed-time contract for a period not exceeding five years, with the possibility of one extension for another fixed-time period not exceeding three years, by the Administrative Board, on the basis of a proposal from the Commission and after consultation with the Board of Regulators.

Long-term temporary agents are offered a first fixed-term contract of five years. Contracts of 2f temporary agents may be renewed once for an indefinite period.

Contract agents are offered a first fixed-term contract of duration between three months and five years, depending on the Agency's needs.

The Agency is currently revising its policy on the duration and renewal of contract of employment for Temporary and Contract Staff, to foster transparency and better streamline the practices.

**c) Structural service providers<sup>51</sup>**

A number of structural service providers will be contracted for the implementation of specific tasks in the coming years, as follows:

The Agency will require up to 9 IT consultants (full FTEs) for operating, supporting, maintaining and developing IT solutions related to implementation of REMIT

- Framework contract: ACER/OP/ADMIN/12/2012.
- Services ordered under the FWC will need to be executed by April 2018 at the latest. The Agency plans to launch a new procurement procedure for the web applications development and maintenance services in the course of 2017, with the duration of 4 years.
- Framework contract: ACER/OP/ADMIN/21/2012
- Services ordered under the FWC will need to be executed by June 2018 at the latest. The Agency plans to launch a new procurement procedure for the provision of its market monitoring system for ARIS in the course of 2017, with the duration of 4 years.
- Framework contract: ACER/OP/MMD/02/2016
- The Agency will launch the procurement procedure for REMIT IT Integration Services in 2017, with the duration of 4 years, and will also join the DIGIT procurement procedure for provision of services related to Oracle software.
- Framework contract: ACER/OP/MMD/09/2013
- Duration of contract: 4 years

The Agency will use up to fourteen Interims (FTEs) for the provision of general secretarial support across all departments of the Agency.

- Tender procedure: ACER/OP/ADMIN/10/2014
- Duration of contract: 4 years

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<sup>51</sup> NB Structural service providers are not employed by the Agency.

## B. Appraisal of performance and reclassification/promotions

Table 1 - Reclassification of temporary staff/promotion of officials

Category and grade	Staff in activity at 1.01.2016		How many staff members were promoted/ reclassified in 2017		Average number of years in grade of reclassified/promoted staff members
	officials	TA	officials	TA	
AD 16					
AD 15		1			
AD 14					
AD 13					
AD 12		3			
AD 11		1			
AD 10		2			
AD 9		4			
AD 8		6			
AD 7		3			
AD 6		8			
AD 5		11			
<b>Total AD</b>		<b>39</b>			
AST 11					
AST 10					
AST 9					
AST 8					
AST 7					
AST 6					
AST 5		1			
AST 4		5			
AST 3		8			
AST 2					
AST 1					
<b>Total AST</b>		<b>14</b>			
AST/SC6					



AST/SC5					
AST/SC4					
AST/SC3					
AST/SC2					
AST/SC1					
<b>Total AST/SC</b>					
<b>Total</b>		<b>53</b>			

**Table 2 - Reclassification of contract staff**

**Appraisal of performance and reclassification/promotions**

**Table 2 -Reclassification of contract staff**

Function Group	Grade	Staff in activity at 1.01.2016	Staff members reclassified in 2017	Average number of years in grade of reclassified staff members
CA IV	18			
	17			
	16	1		
	15			
	14	5		
	13	3		
CA III	12			
	11			
	10			
	9	4		
	8	1		
CA II	7			
	6			
	5	5		
	4	1		
CA I	3			
	2			
	1			
<b>Total</b>		<b>20</b>		

## The Agency's policy on performance appraisal and promotion/reclassification

The ability, efficiency and conduct in the service of each staff member of the Agency are subject to an annual report made in line with Article 43 of the Staff Regulations.

In 2011 the Administrative Board of the Agency adopted two decisions regarding **performance appraisal** (Decision AB n° 25/2011 establishing the policy and procedure for the performance appraisal of staff and Decision AB n° 26/2011 concerning the appraisal of the Director of the Agency for the Cooperation of Energy Regulators). The two decisions governed the rules and procedures on the performance appraisal of contract agents and temporary agents for the appraisal periods until the end of 2014.

As of December 2015 new rules on performance appraisal of temporary agents and contract agents have been adopted by the Administrative Board and entered into force (Decision AB n° 22/2015 on general provisions for implementing Article 87(1) of the Conditions of Employment of Other Servants of the European Union and implementing the first paragraph of Article 44 of the Staff Regulations and Decision AB n° 23/2015 laying down general provisions for implementing Article 43 of the Staff Regulations and implementing the first paragraph of Article 44 of the Staff Regulations for temporary staff). These two decisions govern the procedure on performance appraisal as of the 2015 appraisal exercise (from the appraisal period starting from 1 January 2015).

As of 2016, the Agency's policy on the **reclassification of staff** is based on new implementing rules, adopted by the Administrative Board, which took effect as of 1 May 2016. There are Decision AB n° 06/2016 of 04 April 2016 on general implementing provisions regarding Article 87 (3) of the Conditions of Employment of Other Servants of the European Union and Decision AB n° 07/2016 of 04 April 2016 laying down implementing provisions regarding Article 54 of the Conditions of Employment of Other Servants of the European Union.

Following their adoption, the two decisions govern the reclassification procedure for temporary agents and contract agents, employed by the Agency.

## C. Mobility policy

### *Internal mobility*

The Agency started with recruitment procedures in 2010 and continued to recruit the remaining staff in the past 5 years; given the size of the organisation, mobility within the Agency and the publication of vacant posts internally has not been implemented.

### *Mobility among agencies (Inter-agency Job Market)*

The Agency has acceded to the agreement on the Inter-agency Job Market (IAJM) as of 9 November 2012. Currently, no posts/positions have become vacant due to departures to other Agencies and no posts/positions were filled with staff coming from other Agencies (recruited through IAJM).

### *Mobility between the agencies and the institutions*

Out of the 90 staff (TAs and CAs) members recruited in the period 2010 – 2016, 26 staff members came from other institutions (11 from EU agencies, 2 from the EC Representation, 12 from the EC, 1 from the European Parliament).

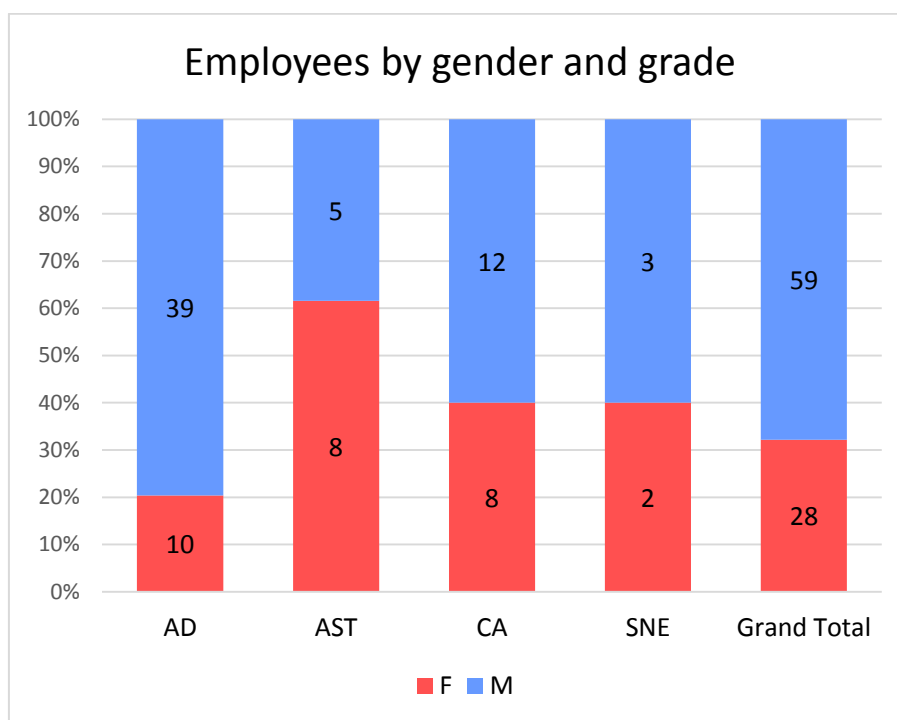
## D. Gender and geographical balance

### 1) Gender balance

In accordance with Article 1d of the Staff Regulations and Articles 12(1) and 82(1) of the CEOS, the Agency applies an equal opportunities policy for its staff, adopting measures and taking actions to promote equal opportunities for men and women. Its targets can be broken down into several types of measures:

- to remove barriers to any gender discrimination in recruitment, training and career development paths;
- to reconcile personal and working life (e.g. implementing provisions on teleworking have been adopted with the Decision AB n° 21/2012);
- to raise awareness on issues of gender equality;
- to protect the dignity of the person in the workplace.

The graph below represents an overview of the Agency's staff by grade and gender as of 1 September 2017<sup>52</sup>:



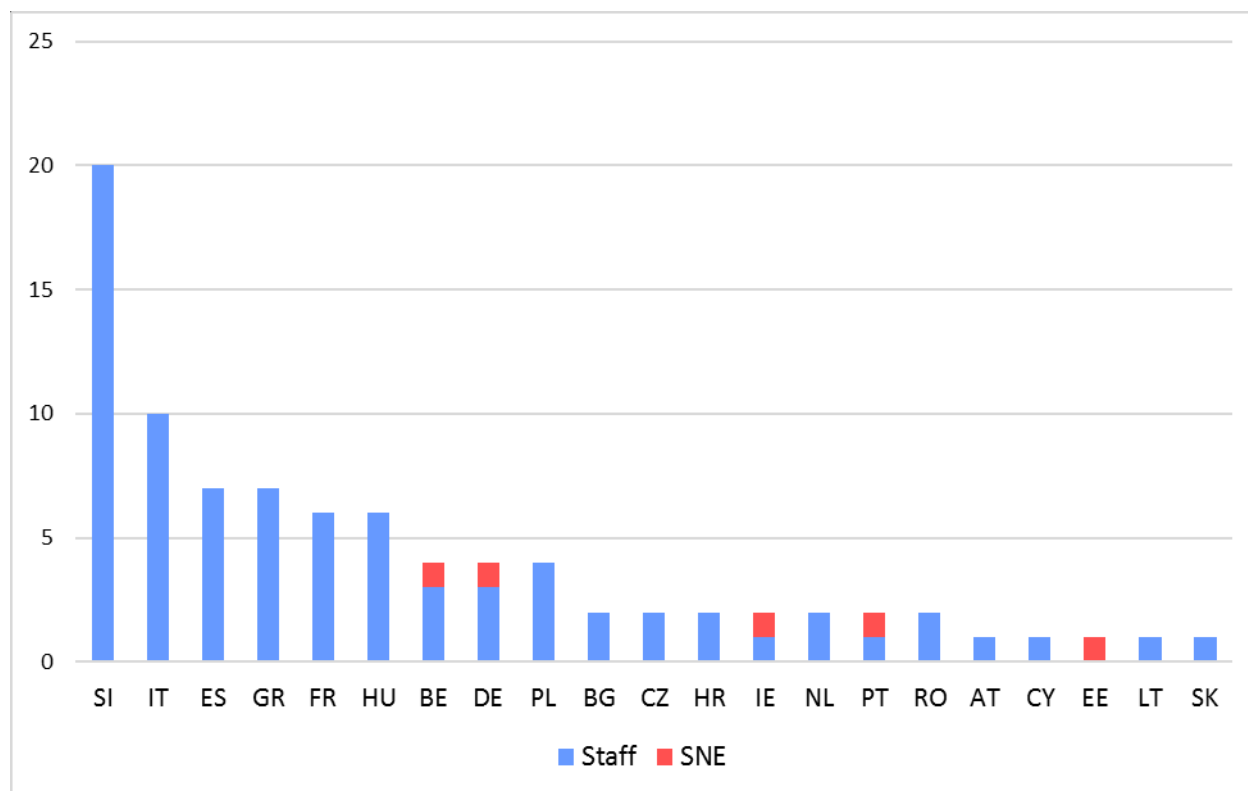
### 2) Geographical balance

On 1 September 2017, ACER employed 87 staff members and had 5 SNEs of different geographical origin. Staff and SNEs came from 21 different EU countries: Austria, Belgium,

<sup>52</sup> Including one cost-free Seconded National Expert.

Bulgaria, UK, the Netherlands, France, Germany, Greece, Hungary, Italy, Lithuania, Poland, Romania, Slovenia, Spain, Portugal, Czech Republic, Ireland, Slovakia, Cyprus and Croatia.

The graph below represents an overview of the Agency's staff by nationality and category as of 1 September 2017<sup>53</sup>:



## E. Schooling

As established in the Seat Agreement (Article 13) between the Slovenian Government and the Agency, the Government shall establish a European School within the public school network in Slovenia, in accordance with the Convention defining the Statute of the European Schools and with the programmes of European schools.

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

Since there is no European school that could be attended free of charge in or within 50 kilometres from Ljubljana, and in fact anywhere in Slovenia, staff members of the Agency are obliged to send their children to international schools offering education in English or French. These schools are considerably more expensive than the double education allowance

<sup>53</sup> Including one cost-free Seconded National Expert.

foreseen under Article 3, Annex VII of the Staff Regulations. In this respect a measure of social nature is needed to address the unequal working conditions (in line with the Article 1(e) of the Staff Regulations) to which the Agency's staff is subject to compared to the staff working in other European Union institutions located in places where European Schools are available.

To address this, the Administrative Board adopted Decision AB no 10/2014 of 18 September 2014 "on the support granted to ACER staff members in respect to kindergarten and school fees", where it is recognised that "the Agency needs to employ and retain staff of the highest standards of ability, efficiency and integrity, recruited on the broadest possible geographical basis from among nationals of EU Member States", that "the availability of proper schooling opportunities is extremely important in attracting staff to the Agency" and, therefore, that "in the absence of a European School in Ljubljana, it is appropriate that the Agency provides support to staff against the cost of international schooling in Ljubljana or elsewhere, in order for staff to be able to choose the best possible solution for kindergarten and schooling of their children". In line with the specific provisions of the decision, the Agency fully covers kindergarten and school costs exceeding the sum of educational allowance or pre-school allowance, received by staff members under the Staff Regulations. The additional financial contribution, granted by the Agency, is paid directly to the schools on the basis of concluded service agreements.

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

There are three private international schools in Ljubljana:

1. **QSI International School of Ljubljana**, an American school operating in Ljubljana since 1995, which offers education from pre-school through secondary school (4-17 years of age).
2. **British School International** is a newly established school for students aged 3-18. It also offers Cambridge International Examinations and A-level qualification in the Secondary section.
3. **Ecole Française de Ljubljana** is part of AEFÉ (Agency for teaching French abroad) network for 2 to 11 years old children. Lessons are taught in English, French and Slovenian language.

There are international sections in the national school system, both at primary (OŠ Danila Kumar) and secondary level (Gimnazija Bežigrad).

**OŠ Danila Kumar** has been offering an international programme since 1993 for children of foreign nationals living in Slovenia. The Ministry of Education subsidises the school, covering more than half of the operational costs. International programmes exist also at the kindergarten level. School tuition fees for international schools cost between 5.505 EUR and 6.500 EUR. The fees for the kindergarten programme (food included) amount to 7.769 EUR per year.

**Gimnazija Bežigrad** launched its two international programmes in 1993. Both programmes are offered by the International Baccalaureate Organization. The Middle Years Program (MYP) is for students in grades 9 and 10 and the Diploma Program (DP) for grades 11 and 12. School tuition fee for the international programme is 4782.00 EUR.

There are also four universities in Slovenia, amongst others the University of Ljubljana with 23 faculties and 3 art academies.

## ANNEX V: BUILDINGS

### Current building(s)

	Name, location and type of building	Other Comment
<i>Information to be provided per building:</i>	Trg republike 3, Ljubljana, office building, rented	The Agency's current rental agreement entered into force on 01.02.2014. The premises are suitable for up to 128 working places. At the moment the Agency has 121 staff members (this includes temporary agents, contract agents, seconded national experts, seconded experts, interim staff and trainees) and up to 7 working places at a time available for consultants working on site.
Surface area (in square metres)	3,234.18 m2 and 54 parking spaces	
- Of which office space	2,708.82 m2	
- Of which non-office space	525.36 m2	
Annual rent (in EUR)	765,146.43	Of which rent only EUR 651,622.59 and parking EUR 113,523.80
Type and duration of rental contract	Rental for 5 years with a possibility for an extension for an additional period of up to five (5) years.	
Host country grant or support	<i>Not applicable.</i>	
Present value of the building	<i>Not applicable.</i>	

### Building projects in planning phase

Depending on the approval of additional posts the Agency might look into the possibility of expanding the premises to acquire additional working places.

### Building projects submitted to the European Parliament and the Council

There are no new building projects foreseen.

## ANNEX VI: PRIVILEGES AND IMMUNITIES

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

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

Agency privileges	Privileges granted to staff	
	Protocol of privileges and immunities / diplomatic status	Education / day care
<ul style="list-style-type: none"> <li>- Inviolability of premises and archives</li> <li>- Facilitations for communication</li> <li>Security</li> <li>-Direct exemption from taxes</li> </ul>	<ul style="list-style-type: none"> <li>- Staff immunity from Slovenian jurisdiction regarding acts carried out in the official capacity</li> <li>- Exemption from national taxes on salaries and wages</li> <li>- Staff exemption from import taxes and duties on personal effects in the first year</li> <li>- Exemption from social security contribution towards Slovenian schemes</li> <li>- Director and Heads of Departments holding Diplomatic status</li> </ul>	<ul style="list-style-type: none"> <li>- Proposed establishment of schooling facilities for children of agency's staff members and transitional solutions</li> <li>- Government of Slovenia committed to establish a European School in Slovenia. The Agency to pay school fees, on the basis of established references, in the interim period.</li> </ul>

## ANNEX VII: EVALUATIONS

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

In late 2015 the Agency launched a survey enabling stakeholders to assess ACER's regulatory activities, working methods and efficiency (for example in relation to the timely provision of deliverables), transparency, engagement with stakeholders and publications. A similar survey is to be launched on an annual basis.

As a young Agency launched in 2011, the Agency has so far been subject to one external evaluation from the Commission, as foreseen in the Founding Regulation, in 2014.

The first few years of operation of the Agency were characterised primarily by the adoption of Framework Guidelines (FGs) and Network Codes (NCs). While the effects of FGs and NCs cannot be evaluated in the short term, the Agency has begun the process of developing ex-post evaluations on their impact. In October 2015 the Agency released a study for a methodology proposal to evaluate the impact of the gas NCs and Guidelines (GLs) in terms of implementation and market effects.

A total of 45 indicators were selected for the desired effects of network codes/guidelines (NC/GLs) and policy goals, of which 23 NC/GL indicators and 22 market monitoring indicators. The proposed indicators should not be used in isolation to draw conclusions regarding market impacts of NCs and GLs, but rather be looked at in combination and interpreted in the light of market fundamentals. These indicators are used by ACER in its annual Market Monitoring Report to measure the economic impact of NCs/GLs and its use will gradually increase over time. Further details are available on the Agency's website at <http://www.acer.europa.eu/Media/News/Pages/ACER-publishes-study-on-how-best-monitor-the-effects-of-the-implementation-of-the-network-codes.aspx>.



## ANNEX VIII: RISKS - ACER RISK REGISTER 2018<sup>54</sup>

Risk Description <sup>55</sup>	Risk type <sup>56</sup>	Activity/Objective affected	Risk Response <sup>57</sup>	Action Plan Summary		
				Brief description of action to be taken	Responsible	Implementation Target Date
<b><u>REGULATORY ACTIVITIES</u></b>						
<b>1. Implementation of REMIT</b> In 2018 the Agency will continue its activities for the full implementation of REMIT. At the time in which the 2018 WP was planned there was still a considerable divergence between the minimum allocation of human resources that the Agency considered necessary to fulfil its role in meeting the objectives of REMIT	External	Implementation of REMIT – activities subject to critical risks:	Reduce	- Raise awareness among EU institutions, National Regulatory Authorities, stakeholders, on the benefits of the proper implementation of REMIT.	Market Integrity and Transparency Department, Market Surveillance and Conduct Department, DIR office,	Q1 - Q4

<sup>54</sup> **Only for critical risks**

<sup>55</sup> Including cause and potential consequence. Risks are assessed always at their residual level (i.e. after taking into account controls existing in the organisation). The identified impact and likelihood of the residual risk is described in the field.

<sup>56</sup> Internal vs. External.

<sup>57</sup> Avoid / Transfer / Reduce / Accept.

and the posts effectively at its disposal.						
Limited resources for operational activities: Due to lack of resources dedicated to the technical support and further evolution of ARIS (including CEREMP) and the lack of resources for the registration of Market Participants by NRAs at national level, the potential issues with performance and availability of the system may not allow for efficient data collection. This may negatively affect the quality and availability of market data and, ultimately, the efficiency and effectiveness of market monitoring. The lack of resources dedicated to operational activities of ARIS (including CEREMP) increases the risks related to information security.	External	1. Operation of the Centralised European register of energy market participants (CEREMP) and the Agency's REMIT Information System (ARIS)		- Practical solutions will have to be adopted for the registration process envisaged by REMIT.	IT section of the ADMIN department	Q1
Quality of the monitoring depends on the quality of the data received: Due to potential issues with IT systems supporting market monitoring, the efficiency and effectiveness of monitoring activities may be degraded (e.g. low quality data, unavailability of data, limitations on performance of	External	2. Market monitoring of trading activity in wholesale energy markets to detect and prevent trading based on inside information and market manipulation.		- Revision of the Work Programme and review of priorities in line with the available funds and allocation of human resources.		Q1

<p>relevant IT systems). The lack of resources during the REMIT implementation phase may also negatively affect the data collection and hence market monitoring, as any compromise that had to be accepted during the REMIT implementation phase may then have negative consequences. In addition, 2017 will be the first year of full data collection and market monitoring of trading activity. The effectiveness of this activity depends on the quality of data received, functioning surveillance software and integration of new staff in order to perform operations. Failure to perform any of the tasks mentioned previously will prevent the Agency to effectively monitor EU energy markets. Finally, limited resources for market monitoring both at the Agency and/or in EU NRAs will automatically negatively affect the market monitoring of trading activity in wholesale energy markets.</p> <p>The success of REMIT in general also depends on the cooperation with</p>	External	3. Coordination of NRAs and other relevant authorities		- Cooperation, guidance and awareness-raising.		Q1 – Q4
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<p>National Regulatory Agencies, especially as concerns the follow-up and investigations in cases of potential market manipulation identified by the Agency and the consistent application of market abusive provisions pursuant to REMIT.</p> <p>There is also a risk of leakage of highly sensitive trade data if adequate security measures are not in place.</p> <p>Ineffective application of REMIT, even if due to reasons outside the Agency's control, could represent a reputational risk for ACER (in addition to the economic damage suffered by taxpayers due to the negative effects on markets).</p>	Internal				- Implementation of internal security measures.		Q1 – Q4
	External						

## ANNEX IX: 2018 INDICATIVE PROCUREMENT PLAN FOR OPERATIONAL TASKS

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>58</sup>	Indicative number of contracts envisaged <sup>59</sup>	Estimated value in EUR <sup>60</sup>	Estimated value in EUR <sup>61</sup>
Software development services	service	specific contracts based on an existing framework contract	Q2	2	400,000	
Surveillance software and market surveillance support services	service	specific contracts based on an existing framework contract	Q2-Q3	3	660,000	
IT consultancy services for the implementation of the Agency's REMIT Information System (ARIS)	service	specific contracts based on an existing framework contract	Q2	1	750,000	
IT hosting services for the Agency	service	specific contracts based on an existing framework contract	Q2-Q3	2	1,050,000	
Oracle software licences and associated services	service	specific contracts based on an existing framework contract	Q2	1	100,000	

<sup>58</sup> Indicative timeframe for launching new procurement procedure or for signing specific contracts/order forms under the existing framework contracts.

<sup>59</sup> Order forms throughout the year are counted as one contract.

<sup>60</sup> Estimated commitments 2018.

<sup>61</sup> Estimated value for procurement procedures for new framework contracts.

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>58</sup>	Indicative number of contracts envisaged <sup>59</sup>	Estimated value in EUR <sup>60</sup>	Estimated value in EUR <sup>61</sup>
Acquisition of new software, additional software licenses and software maintenance renewals	service	specific contracts based on an existing framework contract	Q1-Q4	3	90,000	
Provision of economic assistance in the field of energy regulation for the Agency	service	specific contracts based on an existing framework contract	Q2-Q3	4	220,000	
Provision of technical assistance in the field of energy regulation for the Agency	service	specific contracts based on an existing framework contract	Q2-Q3	2	120,000	
Provision of legal assistance in the field of energy regulation for the Agency	service	specific contracts based on an existing framework contract	Q2-Q3	1	30,000	
Provision of economic, technical and legal assistance in the field of energy regulation for the Agency	service	new framework contracts	Q1	15		1,800,000
Legal support services to the Agency's Board of Appeal	service	specific contracts based on an existing framework contract	Q1-Q4	2	60,000	
Agency's website set-up and maintenance services	service	specific contracts based on an existing framework contract	Q4	1	90,000	
Agency's website set-up and maintenance services	service	new framework contract	Q3	1		500,000
Consultancy services in the areas of physical security and information security	service	specific contracts based on an existing framework contract	Q1	2	40,000	
Maintenance, support and development services for the SharePoint application	service	specific contracts based on an existing framework contract	Q3-Q4	1	100,000	
Maintenance, support and development services for the Java/PHP applications	service	specific contracts based on an existing framework contract	Q2-Q4	1	60,000	

Subject matter of the contracts envisaged	Type of procurement	Type of contract	Indicative time-frame <sup>58</sup>	Indicative number of contracts envisaged <sup>59</sup>	Estimated value in EUR <sup>60</sup>	Estimated value in EUR <sup>61</sup>
Provision of catering services for the Agency's events	service	order forms based on an existing framework contract	Q1-Q4	1	50,000	
Provision of catering services for the Agency's events	service	new framework contract	Q1	1		200,000
Provision of printing services for the Agency	service	order forms based on an existing framework contract	Q1-Q4	1	15,000	
Provision of printing services for the Agency	service	new framework contract	Q1	1		80,000
Provision of design services for the Agency	service	order forms based on an existing framework contract	Q1-Q4	1	13,900	
Provision of design services for the Agency	service	new framework contract	Q1	1		60,000
Legal support in litigation before the EU Courts	service	specific contracts based on an existing framework contract	Q1-Q4	1	15,000	
General legal support services in the field of Slovenian law, including litigation before Slovenian courts	service	specific contracts based on an existing framework contract	Q1-Q4	1	10,000	
<b>TOTAL PLANNED PROCUREMENT 2018</b>				<b>50</b>	<b>3,873,900<sup>62</sup></b>	<b>2,640,000<sup>63</sup></b>

<sup>62</sup> The global budgetary envelope reserved for procurement during the year 2018.

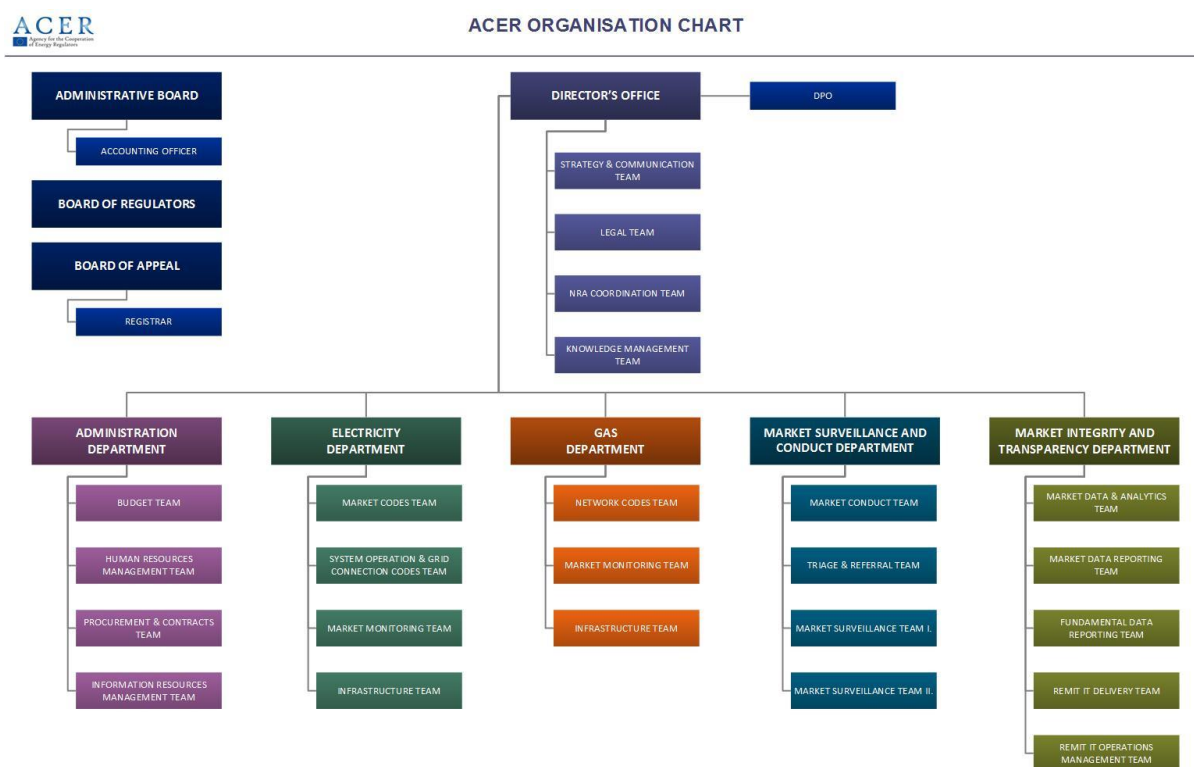
<sup>63</sup> Total estimated value for procurement procedures for new framework contracts to be launched in the course of 2018.

## ANNEX X ORGANISATION CHART

The number of staff in active service in the different departments as of 1 September 2017 is the following:

- Director's Office: **13** (8 TAs + 4 CAs + 1 (cost-free) SNE);
- Administration Department: **13** (9 TAs + 3 CAs + 1 SNE);
- Gas Department: **16** (12 TAs + 3 CAs + 1 SNE);
- Electricity Department: **14** (13 TAs + 1 CAs);
- Market Integrity and Transparency Department: **18** (10 TAs + 6 CAs + 2 SNE);
- Market Surveillance and Conduct Department: **13** (10 TAs, 3 CAs).

The organisation chart below reflects the situation on 1 September 2017:





## ANNEX XI: KEY PERFORMANCE INDICATORS<sup>64</sup>

### External Communication

Task	Agency Website
Objectives and deadlines (indicative)	<p>The Agency's goal is to further improve its website in terms of usability, features and functionalities, so stakeholders find it easy to navigate, and to regularly update it to encourage returning visits.</p> <p>In particular, tasks will focus on further developing the ACER online surveys, the dedicated workspaces for meetings and workshops, as well as different actions to bring the work of the Agency closer to EU citizens.</p>
KPIs	<ol style="list-style-type: none"> <li>1. Unique website hits: 2% increase with respect to the preceding year.</li> <li>2. Online survey: at least 2/3% of respondents satisfied or highly satisfied.</li> </ol>

Task	Relations with media / information for stakeholders
Objectives and deadlines (indicative)	<p>To send Infoflashes (e-alerts to registered contacts) with the aim of keeping a large number of interested people and multipliers regularly informed on the Agency's activities and initiatives.</p> <p>To answer urgent requests from journalists on a timely basis (within 3 working days, unless otherwise specified).</p>
KPIs	<ol style="list-style-type: none"> <li>3. Number of news items within Infoflashes: &gt; 40</li> <li>4. Number of references to the Agency in selected media included in the Agency's media monitoring (proxy for impact): 200</li> </ol>

<sup>64</sup> As in the past, the Agency has included the list of KPIs foreseen for 2018, although this Annex does not constitute a mandatory part of the Programming Document.

### **Staff satisfaction**

Task	Review of staff engagement /satisfaction
Objectives and deadlines (indicative)	To assess on a regular basis staff's engagement and satisfaction with internal communication and more in general satisfaction with working at the Agency in order to address potential shortcomings.  Review to be performed every 2 years.
KPIs	5. 2/3 of participating staff satisfied or highly satisfied.  6. 70% of staff satisfied or highly satisfied with the level of information shared by line managers.

### **Administration and human resources**

Task	Human Resources Management
Objectives and deadlines (indicative)	To recruit additional resources in line with the Establishment Plan and replace departing staff members in an efficient and timely manner.  To successfully complete the Annual performance appraisal exercise.  To ensure that staff members regularly attend training to improve their skills and competencies.
KPIs	7. Average length of recruitment procedures: 4 months (including the 1-month period of publication of the Vacancy Notice).  8. 100% of the Agency's staff subject to performance appraisal on an annual basis.  9. 75% of staff satisfied or very satisfied with the Agency's training policy.

### **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 implement recommendations of the Internal Audit Service in a timely manner and to receive a positive opinion from the European Court of Auditors and implement its recommendations.
KPI	<p><b>10.</b> At least 95% execution of commitment appropriations.</p> <p><b>11.</b> Minimum 75% execution of payment appropriations.</p> <p><b>12.</b> Cancellation of payment appropriations below 5%.</p> <p><b>13.</b> Non-qualified opinion received from ECA and 75% of its recommendations implemented in line with the Agency's Action Plan.</p> <p><b>14.</b> 80% of IAS recommendations implemented and reported in line with the Agency's Action Plan.</p>

### **ICT Infrastructure**

Task	ICT Development
Objectives	<p>To ensure the further development and acquisition of applications and services to cover the Agency's departments' needs and to maintain or renew those already in place.</p> <p>Where needed, upgrade or renew the ICT equipment, software and hardware infrastructure of the Agency.</p>
KPI	<b>15.</b> 80% of staff satisfied or very satisfied with IT services on the basis of an annual satisfaction survey.

### **Electricity Framework Guidelines, Network Codes, Opinions and Recommendations**

Task	Agency Acts in the Electricity field foreseen in the Work Programme and in the regulations relevant for the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation monitoring.
KPI	<b>16.</b> 90% of opinions, reviews, recommendations and reports delivered on time.

## **Gas Framework Guidelines, Network Codes, Opinions and Recommendations**

Task	Agency Acts in the Gas field foreseen in the Work Programme and in the regulations relevant for the Agency
Objectives and deadlines (indicative)	Timely and effective Network Codes implementation monitoring.
KPI	<b>17.</b> 90% of opinions, reviews, recommendations and reports delivered on time.

## **Cross-Sector Issues (Electricity and Gas)**

Tasks	Key reports produced by the Agency in the Gas and Electricity fields:  <b>Annual Market Monitoring Report</b> <b>Regional Initiatives Annual Status Review Report</b> <b>Annual Consolidated Report on progress of projects of common interest</b>
Objectives and deadlines (indicative)	<p>Overall objective: timely preparation of high quality reports. More specifically:</p> <p>A) The <u>Annual Market Monitoring Report</u> is to provide in-depth analysis of barriers to IEM integration and give recommendations to the European Parliament and Commission on how to remove them. Expected completion date: November.</p> <p>B) The <u>Regional Initiatives Annual Status Review Report</u> promotes transparency towards stakeholders, informing them on progress achieved in RIs, obstacles faced during the year and indicates the way forward. Expected completion date: January 2018.</p> <p><u>C) Annual Consolidated Report on progress of projects of common interest</u> Report published within three months of the receipt of the annual reports by the project promoters.</p>
KPIs	<p><b>18.</b> 67% of the above-mentioned reports published on time.</p> <p><b>19.</b> Positive feedback to selected reports based on online surveys (70% satisfied or very satisfied).</p> <p><b>20.</b> Number of unique downloads of the MMR.</p>

**Opinion on ENTSO-E and ENTSG Relevant Documents**

<p><b>Tasks</b></p>	<p>Annual monitoring report on the implementation and management of the inter-TSO compensation fund;</p> <p>Opinions on ENTSO-E's annual work programme 2019 and ENTSO-E's annual report 2017;</p> <p>Opinions on ENTSO-E's annual Summer and Winter supply outlooks;</p> <p>Opinions on potential updates to ENTSO-E's common network operation tools and common incidents classification scale;</p> <p>Opinion on ENTSO-E's research and development plan;</p> <p>Opinion on the electricity national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan;</p> <p>Opinion on ENTSO-E's recommendations relating to the coordination of technical cooperation between the Union and third-country transmission system operators;</p> <p>Report on monitoring the implementation of the electricity Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity;</p> <p>Opinion on the ENTSO-E electricity Union-wide TYNDP 2018.</p>
<p>Objectives and deadlines (indicative)</p>	<p>To meet the legal reporting requirements foreseen in various Regulations.</p> <p>Activities to be carried out upon submission of the relevant documents by ENTSO-E.</p> <p>E.g. Monitoring report on ITC implementation: September.</p> <p>Opinion on ENTSO-E's Work Programme: within two months after receipt of the document from ENTSO-E.</p> <p>Opinion on the electricity TYNDP: within two months after receipt of the document from ENTSO-E.</p> <p>Opinion on ENTSO-E's other documents: after receipt of the document from ENTSO-E.</p>
<p>KPI</p>	<p><b>21.</b> 90% of opinions, reviews, recommendations and reports delivered on time.</p>

<b>Tasks</b>	<p>Opinions on ENTSOG's annual work programme 2019 and ENTSOG's annual report 2017;</p> <p>Opinion on ENTSOG's common network operation tools including a common incidents classification scale;</p> <p>Opinion on ENTSOG's research and development plan;</p> <p>Opinions on ENTSOG's annual Summer and Winter supply outlooks;</p> <p>Opinion on ENTSOG's draft Ten Year Network Development Plan 2018;</p> <p>Reviews and recommendations on national ten-year network development plans to assess their consistency with the Union-wide network development plan and (if appropriate) recommendations to amend the national ten-year network development plans or the Union-wide network development plan;</p> <p>Opinion on ENTSOG's recommendations relating to the coordination of technical cooperation between Union and third-country transmission system operators;</p> <p>Report on monitoring the implementation of the Union-wide TYNDP and the progress as regards the implementation of projects to create new interconnector capacity.</p>
Objectives and deadlines (indicative)	<p>To meet the legal reporting requirements foreseen in various regulations.</p> <p>Activities to be carried out upon submission of the relevant documents by ENTSOG.</p> <p>Opinion on ENTSOG's Work Programme: within two months after receipt of the document from ENTSOG.</p> <p>Opinion on ENTSOG's other documents: after receipt of the document from ENTSOG.</p>
KPI	<p><b>22.</b> 90% of opinions, reviews, recommendations and reports delivered on time.</p>

## **Wholesale Market Monitoring – REMIT**

<b>Task</b>	<b>Establishment, further development and operation of a Centralised European Registry for Energy Market Participants (CEREMP) and of the Agency's REMIT information system (ARIS) for collection of trade, fundamental and other data and for the data sharing with NRAs, in connection with the REMIT implementing acts</b>
Objectives and deadlines (indicative)	<p>To operate CEREMP and its interfaces with the registration system of NRAs.</p> <p>To operate ARIS and to collect and make data available for internal assessment and for sharing with NRAs for REMIT purposes.</p>
KPI	<p><b>23.</b> 99% system availability.</p> <p><b>24.</b> 0 breaches of the security system with a data leakage involved.</p>

<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, and establishment, further development and operation of the Agency's market surveillance solution to perform its market monitoring activity</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.
KPI	<b>25.</b> 100% of sound alerts assessed in a preliminary initial assessment (PIA) and 80% of alerts not being qualified as falsely rejected.

<b>Task</b>	<b>Coordination of NRAs and other relevant authorities, including at the regional level, without prejudice to their responsibilities</b>
Objectives and deadlines (indicative)	To ensure 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.

	Coordination of investigation of alleged cross-border market abuse instances as required.
KPIs	<p><b>26.</b> - 95% of all NRA decisions are consistent with the ACER guidance.</p> <p>- 0% chance of missing not notifying the relevant authorities.</p>

<b>Task</b>	<b>Cooperation with ESMA, competent national financial market authorities and other authorities and with supervisory authorities, international organisations and the administrations of third countries to promote a coordinated approach is taken to the enforcement of market abuse rules where actions relate to one or more wholesale energy products which are financial instruments to which Article 9 of Directive 2003/6/EC applies and also to one or more wholesale energy products to which Articles 3, 4 and 5 of REMIT applies</b>
Objectives and deadlines (indicative)	<p>Cooperation on the basis of Memoranda of Understanding (MoUs);</p> <p>Coordination of investigation of alleged cross-border market abuse instances as required.</p>
KPIs	<b>27.</b> Conclusion of MoUs with relevant authorities and implementation of the MoUs in practice through regular meetings with the relevant authorities.

<b>Task</b>	<b>Reporting on REMIT: Annual Report on the Agency activities under REMIT</b>
Objectives and deadlines (indicative)	<p>The Agency shall submit at least on an annual basis a Report to the Commission in which the Agency shall assess the operation and transparency of different categories of market places and ways of trading and may make recommendations to the Commission as regards market rules, standards, and procedures which could improve market integrity and the functioning of the internal market. It may also evaluate whether any minimum requirements for organised markets could contribute to enhanced market transparency.</p> <p>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>Expected submission of the Annual Report of REMIT: Q2/Q3.</p>



KPI	<b>28.</b> Submission of the Annual Report on REMIT implementation by end Q3.
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### **Other Internal and Horizontal Tasks**

Task	Implementation of Conflict of Interest Policy
Objectives and deadlines (indicative)	<p>As of 2015 the Agency has started to implement a new Policy for the Prevention and Management of Conflicts of Interest.</p> <p>In line with the Policy, by 31 January the Agency's senior management, members and alternates of the Administrative Board, Board of Regulators, Board of Appeal, as well as Agency Working Group Chairs and Co-Chairs and Task Force Convenors must submit their declarations of Interest (Dols). The Dols are subsequently processed by review panels and, in case of conflicts of interest, measures taken.</p> <p>The Dol of board members, as well as those of the Agency's management (Director and head of departments) are published on the Agency's website.</p>
KPI	<p><b>29.</b> All Dols of staff submitted by the 31 January deadline. 90% of Dols of Boards' members and Agency Working Group Chairs and Co-Chairs and Task Force Convenors submitted by the 31 January deadline. Received Dols reviewed by end of April.</p> <p><b>30.</b> All Dols published within one month of receipt or of the conclusion of the review process, whichever is later.</p>

**Note:** The KPIs above also implicitly include selected KPIs for Directors of Decentralised Agencies:

Percentage of completion of the activities of the AWP;

Timely achievement of objectives of the AWP;

Rate of budget execution;

Rate of payments;

Rate of audit recommendations implemented;

Length of recruitment procedures;

Staff satisfaction (based on the Agency's staff satisfaction survey).