



**Quarterly report for Market Surveillance  
1 October to 31 December 2014**

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This report gives an update on matters regarding surveillance, regulations and incidents Market Surveillance (MS) has worked on as well as news from MS from the fourth quarter of 2014 (Q4). Further, the report aims at increasing the understanding of how MS operates and the interpretation of the Market Conduct Rules (MCR).

## **News**

### *Nord Pool Spot's Market Surveillance focuses on insider trading and market manipulation according to REMIT Article 15*

#### The regulatory regime in Europe has changed significantly

With the new Transparency Regulation (EU Regulation No. 543/2013) entered into force 5 January 2015, in addition to the implementation of REMIT (EU Regulation No. 1227/2011), the regulatory regime in Europe has changed significantly. The prohibition of market manipulation, insider trading, and disclosure requirements are now regulated by common European law, whereas earlier this was regulated only by Nord Pool Spot's (NPS) own MCR.

According to REMIT Article 15 legal persons professionally arranging transactions, such as NPS, are obliged to have effective arrangements in place to detect possible breaches of the prohibition of insider trading and market manipulation. MS will continue to monitor the market for this purpose.

However, following up on possible breaches of the disclosure requirements in the Transparency Regulation and REMIT Article 4 is defined as a task for the National Regulatory Authorities (NRAs) in the regulations. Still MS will continue to monitor also the disclosure requirements in a transitional period, as the NRAs so far have limited experience with this task. NPS is currently in close dialogue with the NRAs on this topic.

#### Nord Pool Spot needs to adapt to the new regime

In order to avoid double regulation, NPS is in the process of simplifying the set of rules members have to comply with. In practice, NPS is planning to remove the prohibition of insider trading, prohibition of market manipulation and the disclosure requirements from the MCR as they exist today, and replace them with references to the respective EU regulation.

NPS is also in the process of ensuring, through changes to MCR, that trading in Norway is subject to similar rules as set out in REMIT and the Transparency Regulation until these regulations are implemented in Norway. To further harmonise the set of rules for NPS' members, and to avoid the possibilities for double sanctioning, we also aim at removing the possibility of MS to give non-public warnings, public warnings and violation charges (except in Norway). In the future, only



NRAs will have sanctioning powers for breaches related to REMIT and the Transparency Regulation.

### Practical Implications

When the abovementioned changes are implemented, the practical implications will be the following:

- MS will continue to monitor the market with respect to insider trading and market manipulation according to REMIT Article 15, not according to a separate set of MCR
- MS will conduct initial investigations in order to detect possible insider trading and market manipulation according to REMIT
- MS will report suspected breaches of REMIT to the relevant NRA, who will have the authority to investigate and give sanctions based on national laws
- MS will monitor the disclosure requirements set out in REMIT Article 4 and the Transparency Regulation in a transitional period until the NRAs have had some time to prepare for fully taking on this task

### *Implemented changes to the UMM system*

The Transparency Regulation ([EU No. 543/2013](#)) refers to submission and publication of data in electricity markets. The regulation requires fundamental market data to be published on a central transparency platform implemented by the ENTSO-E, making the data available to the public, free of charge. From 5 January 2015 producers, consumers and Transmission System Operators (TSOs) are required, as *primary owners* of data under the Transparency Regulation, to submit information on changes in the actual and planned availability of their facilities. *Primary owners* must submit data to the transparency platform operated by the ENTSO-E via the TSO or a data provider (where agreed by TSO). NPS has on behalf of the Nordic TSOs, Elering and Litgrid developed a solution to implement submission of data directly from the UMM (Urgent market message) system to the ENTSO-E platform. This solution will also be open to other TSOs, should they wish to use this service. The service will allow primary owners of data, that are also users of the UMM system, to publish information subject to the Transparency Regulation as set out in article 7, 10, 11.1.a and 15 through the UMM system. NPS has also agreed on delivering transparency data for the TSOs to the ENTSO-E platform based on art. 16.1.d of the Transparency Regulation.

### *REMIT seminar 15 October in Oslo*

MS invited all members to a one-day seminar where the main topic was REMIT on 15 October 2015. The agenda included topics on reporting of orders and transactions, interpretation of REMIT, national implementation of REMIT, Registered Reporting Mechanism (RRM) and Trade Reporting User Manual (TRUM). In addition, the Transparency Regulation was addressed. Both ACER and Statkraft Energi AS held presentations at the seminar.

### *Co-operation with NRAs*

NPS is holding a Regulatory Council with the NRAs 3 to 4 times a year. In order to discuss further in detail concrete examples and interpretations of REMIT, a sub-group of the Regulatory Council



with representatives from the NRAs has been formed. Our experience from this group so far has been very positive, and from September, also Ofgem takes part in the group. The Regulatory Council has also established a sub-group to discuss the interpretation of the Transparency Regulation. The first meeting was held on 30 September 2014. During the fourth quarter, another two meetings have been held in the group.

### *Courses*

Market Surveillance offer tailored in-house training for companies who wish to understand the MCR, REMIT and how to use the UMM (Urgent market message) system. Our expertise and long experience in the business will provide the participants to understand the regulation, how to comply with the MCR and efficient use of the UMM system. Three such courses have been held in November and December.

## **Investigations and findings**

### *Cases sent to authorities*

According to article 15 of REMIT, MS is obliged to inform the NRA should there be any suspected breach of the prohibition against market manipulation or the prohibition of insider trading as set out in REMIT. According to the market place licence from NVE, NPS is also obliged to report any possible breaches of other laws and regulations affecting the NPS market. To ensure an efficient, transparent and well-functioning market, MS also reports possible breaches on our own initiative, for example when we receive input from participants on specific incidents. No cases of possible breaches of REMIT in the Nordic or Baltic area were sent to the authorities during the fourth quarter. However, several incidents were discussed informally with the NRAs and information regarding two incidents were given to NRAs upon request.

### *Breaches of the Market Conduct Rules*

Breaches of the MCR which have been concluded on during the last quarter and which have resulted in non-public warnings are described below. In these cases MS has concluded that the severity of the breaches could not justify a public warning or violation charge. However, these breaches of the MCR can be taken into account should there be more breaches of the MCR in the future.

- A TSO published erroneous information regarding available cross border capacity. The erroneous information was sent in the evening, and the UMM was corrected early the next morning. The TSO was given a non-public warning for breaching the MCR section 5.3(a).
- On three occasions, members published UMMs more than 60 minutes after the information occurred. All three members received non-public warnings for breaching the MCR section 5.4.



### *Input from market participants*

MS has received five tips from market participants during the period from 1 October to 31 December 2014. MS appreciates all input from market participants, and these tips represent an important source of information for MS. The tips received during fourth quarter 2014 are described below:

- MS received a tip from a member that a TSO had published incorrect cross border capacities in a UMM. MS investigated the incident, and the TSO was given a non-public warning.
- MS received a tip that cross border capacities published in a UMM did not correspond with the capacities given to Elspot. MS investigated the incident, and found that the TSO had not been able to update the capacities given to Elspot, as the new information arose just around the time limit for giving capacities to Elspot.
- MS received several tips regarding information that had been given to the media regarding availability of a power plant were the information published in the media did not correspond to information given in UMM. MS investigated the incident, and did not find any breach of the MCR.
- MS received two tips regarding unclear or missing information in UMMs regarding cross border capacities. MS investigated the incidents, and did not find breaches with the MCR.
- MS received a tip that a power plant had changed its production pattern. MS is still investigating the matter.

## Statistics

The table below shows a summary of the statistics for 2013 and Q1, Q2, Q3 and Q4 for 2014.

Investigations from MS	1st quarter 2014	2nd quarter 2014	3rd quarter 2014	4th quarter 2014	2013
<b>Number of written investigations initiated in the period</b>	31	22	12	9	99
<b>Number of statements of breach/non-public warnings issued in the period</b>	12	14	5	4	46
<b>Number of written warnings</b>	0	0	0	0	0
<b>Number of violation charges</b>	0	0	0	0	0
<b>Number of cases sent to authorities</b>	4	2	4	0	10
<b>Number of tips received from members</b>	14	8	5	6	28

Concluded breaches	2014	2013
<b>Disclosure requirements</b>	35	44
<b>Market manipulation</b>	0	0
<b>Good Business Conduct</b>	0	1
<b>Insider trading</b>	0	2

*The numbers may be updated from previous reports*