

Quarterly Report by Market Surveillance 1st Quarter 2015, 1 January to 31 March

This report gives an update regarding surveillance, regulations and incidents Market Surveillance (MS) has worked on as well as news from MS from the first quarter of 2015. The report aims at increasing the understanding of how MS operates and the interpretation of the Market Conduct Rules (MCR). Previously, MS has produced separate reports for the Nordic and Baltic areas and for the N2EX UK market. Hence forward, these reports will be merged into one.

News

Market Conduct Rules (MCR)

With the new Transparency Regulation¹ in addition to REMIT², the regulatory regime in Europe has changed significantly, and both Nord Pool Spot/N2EX and members have faced changes. The prohibition of market manipulation and insider trading, and the disclosure requirements in the Nordic and Baltic areas, are now regulated by common European law, compared to earlier where this was only regulated by Nord Pool Spot's own MCR.

The MCR for N2EX members contains an obligation to comply with applicable law, as opposed to having a specific prohibition against insider trading and market manipulation, which would then be double regulated. The MCR for the Nordic and Baltic area on the other hand contains prohibitions against insider trading and market manipulation similar to those set out in REMIT. In order to avoid double regulation and to harmonise the MCR for N2EX and the Nordic and Baltic area, Nord Pool Spot is in the process of simplifying the set of rules with which members have to comply. In practice, Nord Pool Spot is planning to remove the prohibition of insider trading, prohibition of market manipulation and the disclosure requirements from the MCR in the Nordic and Baltic area as they exist today, and replace them with references to the respective EU regulation. In this way, the MCR will be better harmonised across all Nord Pool Spot's markets.

Nord Pool Spot is also in the process of ensuring, through changes to MCR, that trading in Norway is subject to similar rules as those set out in the above-mentioned regulations until REMIT and the Transparency Regulation are implemented in Norway.

The process of updating the MCR is on-going, and the new MCR were presented to the Nord Pool Spot Customer Advisory Board on 12 March 2015. The intention is to remove the prohibition of insider trading and market manipulation, and replace these with a reference to REMIT, during spring 2015. The disclosure requirements will be kept as they are until 1 January 2016. This will allow for a transitional period with MS monitoring the disclosure requirements until 1 January 2016. At the same time, removing the prohibition of insider trading and market manipulation

¹ COMMISSION REGULATION (EU) No 543/2013 of 14 June 2013 on submission and publication of data in electricity markets and amending Annex I to Regulation (EC) No 714/2009 of the European Parliament and of the Council – entered into force 5 January

² Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency

from the MCR at an earlier stage will reduce challenges relating to double regulation. An appendix with special regulations valid for Norwegian members will be added, as REMIT is not yet implemented in Norway.

Practical Implications

When the above-mentioned 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 rather than 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 National Regulatory Authority(NRA), who will have the authority to investigate and give sanctions based on national laws
- MS will continue to monitor the disclosure requirements in the Market Conduct Rules until 1 January 2016. More information regarding the changes planned from 1 January 2016 will be given in due course.

Cooperation with NRAs

The Regulatory Council sub-group regarding REMIT issues had one meeting during the first quarter. ACER, Ofgem and almost all the Nordic and Baltic regulators participated in the meeting. We believe this cooperation helps to achieve effective monitoring and equal treatment of Nord Pool Spot members regarding considerations on potential breaches of REMIT. The next meeting will be held during June.

Market Surveillance had two meetings with Ofgem during the first quarter, discussing various topics. Market Surveillance has provided information on our routines for monitoring the market, and we have given advice regarding surveillance based on our previous experience.

Courses and seminars

Nord Pool Spot offers 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 enable participants to understand the regulation, how to comply with the MCR and REMIT, and efficient use of the UMM system. More information can be found on the Nord Pool Spot website.

On 17 February 2015 Market Surveillance participated in a breakfast seminar in London regarding reporting of orders and transactions. Market Surveillance contributed in a panel discussion aiming at answering questions from market participants relating to the reporting of orders and transactions according to REMIT.

Investigations and findings

There have been no concluded investigations on N2EX during the first quarter of the year.

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 Norwegian regulator, NVE, Nord Pool Spot is also obliged to report any possible breaches of other laws and regulations affecting the Nord Pool Spot 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.

Two cases were reported according to Article 15 in REMIT during the first quarter of 2015.

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.

- On nine different occasions, members published information subject to the disclosure requirements more than 60 minutes after the information occurred. The members were given non-public warnings for breaching the MCR section 5.4.
- On two different occasions, members published UMMs regarding failures on a power plant, stating erroneous information regarding event start. Both members received a non-public warning for breaching the MCR section 5.3 (f).
- A member had maintenance on a hydro power station, and this led to a limitation in the production capacity before the actual maintenance. This was not informed of in a UMM, and the member received a Non-public warning for breaching the MCR section 5.2(a) for not publishing information subject to the disclosure requirements.
- A member published information regarding a planned event more than three years ahead through other channels than the UMM system. MS deems that the information published was of such a character that it could have affected the prices of derivatives, hence was subject to the disclosure requirements section 5.2 (e). Information was given via UMM several hours after the initial publication, and the member was given a non-public warning for breaching the MCR section 5.4.

Input from market participants

MS has received eight tip-offs from market participants during the period from 1 January 2015 to 31 March 2015. MS appreciates all such input as it represents an important source of information. The information received is described below:

- MS received input from a market participant regarding uncertainty around information published from a nuclear power plant, affecting the Elspot auction. MS looked into the matter, but found no breach of the MCR.
- MS received a question regarding information published in UMMs regarding yearly maintenance on a nuclear power plant, where it had been informed through the power plant's web page that the maintenance had been prolonged, but the information had not been informed in a UMM. MS found that the information had in fact been published in a UMM.
- MS received information that the system price was higher than expected, and that there could be lack of production capacity bid in Elspot. MS found no breach of the MCR.
- MS received input that information regarding a new interconnection was not published to the market via UMM. MS followed up on the incident, and found that there was a breach of the MCR.
- MS received input that information subject to the disclosure requirements was published in media before it was published in UMM. MS found that there had been published information in the UMM system, and no breach of the MCR was found.
- MS received a complaint regarding imprecise information in a UMM. No breach of the MCR was found.
- MS received input that information regarding updated installed capacity was not updated in future UMMs. The UMMs were updated after request from MS, but no breach of the MCR was found.
- MS received input regarding conflicting UMMs on a connection between two areas. MS looked into the incident, and found no breaches of the MCR. There was a misunderstanding on how to interpret information published from the TSOs; when there are overlapping incidents, it is the lowest capacity in the period that is valid.

Statistics

The table below shows a summary of statistics for 2013, 2014 and Q1 2015.

Investigations from MS	2013	2014	1st quarter 2015
Number of written investigations initiated in the period	99	77	14
Number of statements of breach/non-public warnings issued in the period	46	35	13
Number of written warnings	0	0	0
Number of violation charges	0	0	0
Number of cases sent to authorities	6	12	2
Number of tip-offs received from members	28	33	9

Concluded breaches	2013	2014	1st quarter 2015
Disclosure requirements	44	35	13
Market manipulation	0	0	0
Good Business Conduct	1	0	0
Insider trading	2	0	0

The numbers may be updated from previous reports