



Quarterly report for Market Surveillance
1 October to 31 December 2013

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 2013 (Q4). Further, the report aims at increasing the understanding of how MS operates and the interpretation of the Market Conduct Rules (MCR).

News

Implementing Acts

The European Commission is currently working on finalising the Implementing Acts that are to give details regarding reporting of orders and transactions according to Article 8 of REMIT. MS has provided input to the Commission, primarily through Europex. Europex submitted a position paper to the European Commission on 15 November 2013. The main issues raised by Europex were as follows:

- Organised markets are happy to contribute to the reporting of orders and transactions, but the responsibility for reporting of orders and transactions should lie with the Market Participants as stated in REMIT and not the organised markets
- Orders to trade should not only be reported for orders completed on organised markets, but also for OTC trading
- The entry into force of the reporting obligations should be equal for standardised and non-standardised contracts. Taking into account the necessary considerable IT implementation efforts it seems to be reasonable to foresee a reporting obligation starting 12 months after the adoption of the regulation, as opposed to six months as proposed by the Commission.

The process of giving input to the implementing acts will continue in the first months of 2014 through the authorities in each member state.

Market situation in the Baltic area

A significant increase in electricity prices was observed in the Baltic Elspot areas for delivery 25 June. MS was contacted by all three Baltic regulators regarding the high prices, and was asked to investigate whether there were any suspicions of breach of REMIT or the Market Conduct Rules (MCR). MS investigated the matter and attended a meeting with the Baltic regulators along with ACER and the competition authorities. MS has now finalised the investigations and has found no cases of breaches with REMIT. Two non-public warnings were given to Baltic members for breaches with the disclosure requirements set out in the MCR during June, and one of these was directly related to 25 June. These are described as individual incidents below.



Investigations and findings

Cases sent to authorities

During Q4, MS has investigated two incidents regarding bidding strategies in the Elspot market. MS deems that this behavior should be scrutinised further according to the prohibition of market manipulation in REMIT. MS has forwarded the cases to the appropriate regulatory bodies in accordance with article 15 of REMIT.

Prohibition of insider trading - Disclosure requirements - Good Business Conduct

MS has investigated possible breaches of the disclosure requirements, prohibition of insider trading and breaches of good business conduct during the period from 1 October to 31 December 2013. On 27 May, the MCR were revised. Before 27 May, MS issued "statements of breach" to members committing smaller breaches of the MCR. With effect from 27 May a new disciplinary action of "non-public warning" has been introduced as a formal disciplinary action and replaces the "statement of breach". Breaches of the MCR which have been concluded on during the period and which have resulted in statements of breach or non-public warnings are described below. In these cases MS has concluded that the severity of the breaches could not justify a sanction. However, these breaches of the MCR can be taken into account should there be more breaches of the MCR in the future.

- A member did not publish information of a directive issued by a TSO restricting production at two power plants with a total installed capacity of more than 800 MW to a maximum of 400 MW. The member has received a non-public warning according to the MCR section 5.2.a.
- A TSO sent a UMM informing that capacity could be reduced down to 80 MW. However, the capacity was in fact reduced down to 0 MW, without the UMM being updated. The TSO was given a non-public warning for breaching the MCR section 5.2.b.
- A TSO published a UMM with incorrect event start date. Event start was set 24 hours prior to the actual start of the event. The TSO was given a non-public warning of the MCR section 5.2.f. for publishing incorrect information about the "event start" date.
- A TSO published information regarding changes to installed capacity on a connection. MS was of the opinion that the information regarding the changes occurred at an earlier point in time than when the information was published as Nord Pool Spot received the information the day before it was published. All information subject to the disclosure requirements shall be published within 60 minutes after the information occurs, and the TSO received a non-public warning for breaching the MCR section 5.4.
- Three members published UMMs regarding outages more than 60 minutes after the information occurred. The members were given non-public warnings for not having published the information within 60 minutes as required by the MCR section 5.4.
- A member published a UMM regarding an outage that were to last until the evening on the same day. However, the outage lasted longer, and updated information was not sent until the morning on the following day. Further, when new information was given, this



was published as a new UMM, where it was indicated that there was a new incident occurring at that time, and thus, no information was published informing about the fact that the unit was also unavailable during the night. The member was given a non-public warning for not publishing information according to the MCR section 5.2 a.

- A member did not update information regarding the start-up of new production capacity. Further, erroneous information regarding the same station was given in another UMM. MS has followed up on this over a long period, and a statement of breach was given in December 2013 for breaching the disclosure requirements in the MCR section 3.1 and 3.5, and the prohibition of insider trading set out in the MCR section 2.3.
- A member placed erroneous orders in Elspot in four different bidding areas. The member was given a non-public warning for breaching good business conduct as set out in the MCR section 3.2. The incident was not considered to be severe enough to constitute market manipulation.
- A TSO failed to publish information subject to the disclosure requirements on an interconnection. The TSO was given a non-public warning for breaching the MCR section 5.2.
- A member gave information to the media regarding the duration of an incident at a power plant affecting the available capacity to the market. The information had not been published to the market through a UMM, but was published on the following day. The handling of the information given in the UMM represented a breach of the MCR section 3.4 for not providing correct “decision time” to the market, and of the MCR section 3.5 for publishing information subject to the disclosure requirements more than 60 minutes after the information occurred. Further, the incident represented a breach of the MCR section 2.4 for not having kept inside information confidential prior to the publication of the information in a UMM. The member was given a statement of breach for breaching the MCR section 3.4, 3.5 and 2.4.
- A member published a UMM regarding a failure as a yearly maintenance, and hence did not inform the market of the correct cause of the event. The member was given a non-public warning for breaching the MCR section 5.3.g.
- A member published a UMM regarding a maintenance on the wrong production unit, and updated to the correct unit after two days. The updated UMM contained incorrect decision time. The member received a non-public warning for breaching the MCR section 5.3.c for not providing correct “decision time” and 5.4 for publishing information more than 60 minutes after the information occurred.
- A member published a UMM stating in the remarks field that a restart decision was under examination by authorities, and that more information would follow. The same day the member received the aforementioned approval from the authorities, and an article regarding this was published in the media. Later the same day, the member updated the information, and stated a “decision time” later than the point in time when the approval had been received. Since the information regarding the approval was not published within 60 minutes and did not give sufficient information regarding the cause of the event, the member received a non-public warning for breaching the MCR section 5.4 cf. 5.2.a and section 5.3.g.



- On two different occasions, a TSO published information regarding the available capacity for the following day on a connection in a UMM after the Elspot capacities had been published. In addition the UMMs contained wrong “decision time”. The TSO received a non-public warning for breaches of the MCR section 5.3 for providing wrong “decision time”, and 5.4 for not publishing information within 60 minutes.
- A member published a UMM regarding a failure at a power plant with an open “Event stop”. The member failed to update the UMM when the event was finished, and a UMM was not published until 5 days later. The member received a non-public warning for breaching the MCR section 5.4 for not publishing information within 60 minutes.
- A TSO updated the “Event stop” more than two hours after the event had ended, and received a non-public warning for breaching the MCR section 5.4.

Input from market participants

MS has received 8 tips from market participants in the period from 1 October to 31 December 2013. MS appreciates all input from market participants, and even though there is found no breach of the MCR, it may represent a breach of other regulations. All tips received are described below:

- MS has received two tips regarding capacities given to Elspot market that were not in accordance with UMMs sent for the same connection. MS investigated the incidents, but found no breach with the MCR. For one incident, advice was given to the TSO in question regarding how to give best information to the market.
- MS received information regarding a member that had got potential inside information regarding a power plant. MS investigated the incident, but found no breach of the MCR
- MS received a question about why a UMM regarding capacity on a connection only gave information for capacity in one direction. MS contacted the relevant TSO, and updated information was published. However, Market Surveillance concluded that the incident did not constitute a breach of the MCR.
- MS received a question about publication of information regarding explicit auctioning of transmission capacities. MS investigated the issue, but found no breach of the MCR.
- MS received a tip regarding information published on the Internet by an employee of a TSO. MS investigated the incident, but found no breach of the MCR.
- MS received questions regarding limitations on capacity on a connection, where no UMM seemed to be explaining the limitation. MS found no breaches of the MCR.
- MS received questions regarding possible lack of published information related to a test on a thermal power plant. MS found no breaches of the MCR.

Statistics

The table below shows a summary of the statistics for 2013.

| Investigations from MS | 1 st quarter 2013 | 2 nd quarter 2013 | 3 rd quarter 2013 | 4 th quarter 2013 | Total 2013 | Total 2012 |
|--|------------------------------------|------------------------------------|------------------------------------|------------------------------------|---------------|---------------|
| Number of written investigations initiated in the period | 17 | 28 | 30 | 24 | 99 | 127 |
| Number of statements of breach/non-public warnings issued in the period | 5 | 12 | 11 | 18 | 46 | 50 |
| Number of written warnings | 0 | 0 | 0 | 0 | 0 | 0 |
| Number of violation charges | 0 | 0 | 0 | 0 | 0 | 0 |
| Number of cases sent to authorities | 2 | 1 | 1 | 2 | 6 | 8 |
| Number of tips received from members | 4 | 11 | 5 | 8 | 28 | 33 |

| Concluded breaches | 1 st quarter 2013 | 2 nd quarter 2013 | 3 rd quarter 2013 | 4 th quarter 2013 | Total 2013 | Total 2012 |
|--------------------------------|------------------------------------|------------------------------------|------------------------------------|------------------------------------|---------------|---------------|
| Disclosure requirements | 5 | 11 | 11 | 17 | 44 | 49 |
| Market manipulation | 0 | 0 | 0 | 0 | 0 | 0 |
| Good Business Conduct | 0 | 0 | 0 | 1 | 1 | 0 |
| Insider trading | 0 | 1 | 0 | 1 | 2 | 10 |

The numbers may be updated from previous reports