

## Focus areas

### *Internal trading in Elbas:*

Following requests from members regarding Market Surveillance's ("MS") view on internal trading in Elbas, MS has prepared a document giving guidance on how members may submit internal trades without breaching the Market Conduct Rules ("MCR"). To decrease the risk of breaching the MCR members are advised to trade at prices that can be justified, to make sure relevant routines on internal trading in Elbas are in place and to avoid placing purchase and sales orders simultaneously. Nord Pool Spot ("NPS") is also currently looking into the possibility of allowing internal trades to be marked so that all members can see that such trades are in fact internal trades. The whole document can be found [here](#).

### *Real-time power data services*

MS has received a number of questions regarding real-time power data services, i.e. companies measuring real-time production at different power plants and selling these data to subscribers of the service. MS deems that the information provided through such services is considered to be publicly available as soon as the information is published by the provider. MS has not found any indication that these services are not available to everyone who wishes to subscribe to them. However, MS will stress that a member responsible for disclosing the information may be holding inside information even though information is published through a real-time service. Any information such as the cause of the incident, the duration etc. which are not published by the provider of real-time services could still to be considered as inside information.

### *Questions regarding UMMs and old information:*

MS has received questions regarding incidents that should have been disclosed in a UMM, but where the information for some reason has not been disclosed to the market. At some point in time such information may no longer be relevant to the market and members have asked whether they are obliged to publish such old information.

MS deems that the relevant information is subject to the disclosure requirements from the moment the event that leads to the relevant information occurs. All such information shall be given to the market immediately, and no later than sixty minutes after the occurrence of the event which leads to the relevant information.

If a member has not published the relevant information within 60 minutes after the event occurred, MS deems that the member is nevertheless obliged to publish a UMM regarding the incident. However, in some cases the information will clearly no longer be relevant to the market. In such cases MS is of the opinion that the member will no longer be obliged to publish the information. In this respect MS would emphasize that the information may be relevant to the market even if the information is no longer likely to have a significant effect on prices if published. The decision whether the information is relevant or not, will depend on several factors such as the length of the

time period before the information was discovered, the effect the incident had on the market, etc. If members are unsure whether they are still obliged to publish such information they may contact MS for guidance.

## Investigations and findings

During the period from 17 August to 31 December 2011, MS has initiated 83 new investigations involving written requests to members. Any breaches of the MCR are described in the sections below.

### *Sanctions*

- On 17 September 2011 a member sent an erroneous Elspot nomination to NPS. The nomination resulted in more than 900 MW too much electricity purchased in each hour of the auction at any given price for all 24 hours Sunday 18 September 2011. MS investigated possible breaches of the MCR in connection with this incident and recommended that the member should be given a written warning for market manipulation. Based on the recommendation from MS, NPS concluded that the incident constitutes market manipulation cf. MCR 4.1. In addition, the incident represented a breach of the disclosure requirements cf. MCR 3.5, but the breach of the disclosure requirements was of less significance with respect to the sanction. NPS has not found any evidence that the member acted with intent or had any illegitimate purpose by the erroneous nomination. In accordance with the recommendation from MS, NPS issued a written warning for market manipulation. The recommendation from MS can be found [here](#). The decision from NPS was published in exchange information [no. 70/2011](#).

### *Erroneous Elspot nominations*

In addition to the erroneous Elspot nomination described above, five investigations regarding erroneous Elspot nominations submitted to NPS have been concluded in the period from 17 August and 31 December. MS has investigated all these incidents, and concluded that none of them could be considered as market manipulation as set out in MCR 4.1. However, in four of these incidents the members were given a statement of breach for not disclosing relevant information within 60 minutes. In one of these cases the member traded in Elbas while having inside information. MS considered the effect of their Elbas trading on the market to be limited given the market situation and that the trades conducted were internal trades. MS therefore decided not to recommend a sanction for insider trading.

When investigating an incident regarding erroneous nominations in Elspot, MS deems that there are two main considerations, namely the effect the erroneous nominations had on the market and the degree of negligence displayed by the member when submitting the erroneous nominations. In all of these incidents MS concluded that the effect on the market had been limited and the degree of guilt or negligence was less severe than in similar cases where a sanction has been recommended.

### *Prohibition of insider trading - Disclosure requirements*

MS has investigated possible breaches on the disclosure requirements and/or prohibition of insider trading in the period. These are summarised below.

- A member informed the market that a unit was available to the market earlier than planned. Between the time the relevant information occurred and the time when the information was published the member traded relevant products in Elbas. The member was given a statement of breach for trading when holding inside information (MCR 2.3). MS decided not to recommend a sanction because of the limited volume traded, and because the person who executed the order was not aware of the information when executing the order. The breach of the MCR may be taken into account should there be more breaches of the MCR in the future.
- A member published a UMM about an updated “Event stop” regarding a consumption failure. Prior to publication of this information the member traded in Elbas while holding inside information. In addition, the “Decision time” stated in the UMM was incorrect. The member was given a statement of breach for trading when holding inside information (MCR 2.3) and for breaching the disclosure requirements (MCR 3.4). Given the market situation and the fact that all trades executed had the member as both buyer and seller, MS considered the effect on the market to be limited and decided not to recommend a sanction. The breaches of the MCR may be taken into account should there be more breaches of the MCR in the future.
- A planned maintenance on a production unit was cancelled by the TSO. It took approximately 2 hours from the moment the producer received the confirmation from the TSO until the market was informed. When asked by MS, the member informed that this information was taken into consideration to some extent when nominating in Elspot for the next day. Based on an overall perspective where, among other things, the fact that the change in the member’s Elspot nomination was very limited, MS decided not to recommend a sanction. The member received a statement of breach for not having disclosed information within 60 minutes (MCR 3.5) and for trading when holding inside information (MCR 2.3). The breaches of the MCR may be taken into account should there be more breaches of the MCR in the future.
- A member informed about maintenance on three units in separate UMMs. The three UMMs had different “Decision times”, but the maintenance had been decided on simultaneously. In addition, the information was not disclosed to the market within 60 minutes. This incident led to a statement of breach for disclosing incorrect information (MCR 3.4) and for not informing the market within 60 minutes (MCR 3.5). The breaches of the MCR may be taken into account should there be more breaches of the MCR in the future.
- On two separate occasions a TSO published incorrect information to the market. At the same time relevant information was not published within 60 minutes after it had occurred. In both incidents the TSO was given a statement of breach for giving incorrect information (MCR 3.4) and for not disclosing the information within 60 minutes (MCR 3.5). MS deems

that the breaches had limited effect on the market and therefore no sanction was recommended. However, the incidents can be taken into account should there be more breaches of the MCR in the future.

- On two separate occasions members have been given a statement of breach for violating section 3.4 of the MCR by not disclosing correct information regarding production outages. It is the view of MS that the breaches had limited effect on the market, and MS decided not to pursue these matters any further. The breaches may however be taken into account should there be more breaches of the MCR in the future.
- A TSO published a UMM regarding a planned outage on an interconnector which would lead to a reduction of the capacity. The UMM was published the same day as the planned outage begun and the stated “Decision time” was incorrect. The incident represented a breach of the MCR section 3.4 and 3.5. A sanction was considered, but since another UMM regarding the same interconnector contained information where the capacity could be reduced even further, the effect on the market was considered to be limited. The breaches of the MCR may be taken into account should there be more breaches of the MCR in the future.
- A member has on two occasions been given a statement of breach for violating section 3.4 of the MCR by not disclosing correct information regarding consumption failures. It is the view of MS that the breaches had limited effect on the market and decided not to pursue these matters any further. The breaches of the MCR may be taken into account should there be more breaches of the MCR in the future.
- On five separate occasions members have been given a statement of breach for violating both MCR 3.4 and MCR 3.5. It is the view of MS that the breaches had limited effect on the market, but they can be taken into account should there be further breaches of the MCR in the future.
- On ten separate occasions members have been given a statement of breach for violating section 3.5 of the MCR by not disclosing information within 60 minutes. For all these incidents the breaches were less severe, and MS deems that the incidents had limited effect on the market. MS has advised the members to implement sufficient routines in order to avoid similar incidents going forward. The breaches of the MCR may be taken into account should there be further breaches of the MCR in the future.

## Input from members

- One participant questioned why prognosis for capacities from the TSOs did not correspond with UMMs regarding trade capacity. MS investigated the matter, but found no evidence of any breaches of the MCR.



- MS received a tip regarding an outage on a production plant where the owner had traded in Elbas prior to publishing a UMM. MS investigated the incident, and found no breaches of the MCR.
- MS was contacted regarding an outage on a production unit occurring after the Elspot auction on that day. The person who contacted MS was of the opinion that there were indications that this unit was not nominated in Elspot. MS investigated the incident, but found no breaches of the MCR.
- A member requested additional information in relation to a UMM about an erroneous Elspot nomination from a TSO. MS contacted the TSO, and they published a follow-up with more information. MS did not find any breach of the MCR.
- A member contacted MS with a question regarding why a production station suddenly was unavailable for the market indefinitely. MS investigated the matter, but found no breaches of the MCR.
- MS received a question of why not all available capacity from a member was available for the market. MS has investigated the incident, but found no breaches of the MCR.
- A member contacted MS to inform that the capacity between two Elspot areas was reduced, and they could not find a UMM that explained the reduction. MS has investigated the case, and found no breaches of the MCR.
- MS was contacted with questions regarding a future upgrade of capacity on an interconnector. Information of a planned upgrade was published on the TSO's web site, but there was no UMM on the matter. MS contacted the TSO, and the information on the web site was corrected and a UMM was published. MS did not find any breaches of the MCR.
- MS received two tips regarding members in the Estonian market. MS investigated the incidents, but found no breaches of the MCR.
- MS received a question concerning why some capacity at a power plant was not made available for the market. MS investigated the matter, but found no breaches of the MCR.

## Statistics

In 2011, MS has concluded 176 investigations involving written requests to members. The investigations resulted in 64 statements of breach of the MCR. The majority of these were related to the disclosure requirements. The investigations also resulted in three sanctions, where two of them resulted in written warnings and one resulted in a violation charge. In addition, MS sent information regarding five incidents to relevant authorities. The statistics are summarized below:

Number of written investigations	176
Number of statements of breach	64
Number of written warnings	2
Number of violation charges	1
Number of cases sent to other authorities	5
Number of tips received from participants	45

*Breaches in cases given statements of breach or sanctions:*

Disclosure requirements	67
Market manipulation	2
Insider trading	15