



Quarterly report for Market Surveillance  
1 January to 31 March 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 first quarter of 2014 (Q1). Further, the report aims at increasing the understanding of how MS operates and the interpretation of the Market Conduct Rules (MCR).

## News

### *MoU with Nordic and Baltic NRAs and Nord Pool Spot*

On 7 March Nord Pool Spot signed a Memorandum of Understanding (MoU) with all the national regulators (NRAs) in the Nordic and Baltic. The intention is to ensure that the obligations according to REMIT are carried out in a consistent and efficient way. The MoU includes routines for exchange of information, notification, investigation and enforcement and can be found [here](#).

### *MoU with ACER*

Nord Pool Spot has also signed a MoU with ACER to ensure a close and efficient cooperation and a common framework for monitoring. ACER has signed a similar MoU with other large organised market places. The MoU also includes a mutual right to ask for information and guidance in specific cases. Market monitoring experts from ACER, NRAs and organised market places will meet at least twice a year to ensure a close cooperation.

### *New routines*

MS has implemented some new routines according to the MoU with the NRAs as described above:

#### *Typical case handling by MS:*

- MS detects a suspicious transaction and starts investigating in order to detect possible breaches of article 3 or 5 of REMIT. This typically includes asking questions to the market participant.
- If a reasonable suspicion of breach of REMIT is detected MS reports to the relevant NRA
- The report from MS gives a description of the incident, points at the relevant regulation and describes why MS deems that there is a reasonable suspicion
- Within five working days after MS has notified the NRA, the NRA shall confirm that the notification has been received and confirm that the participant in question may be informed about the notification
- MS normally suggests a meeting with the relevant NRA(s) in order to present the case, answer questions and discuss further actions
- Once MS has detected and reported a reasonable suspicion, all further investigations in relation to REMIT are conducted by the NRA



- To the extent possible the NRA gives information to MS regarding the outcome of the investigations
- MS may continue its investigations of possible breaches of the MCR in parallel with the investigations made by the NRA, but normally MS will await the conclusion from the NRA

## 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.

### *Cases sent to authorities according to REMIT Article 15*

- A member submitted an erroneous order in the Elspot market. The error implied that the member offered volumes at a significantly higher price than intended for some hours. MS deems it is likely that the erroneous order significantly affected the prices in the relevant Elspot area and a neighbouring area for some of these hours. The member contacted MS regarding the erroneous order, and informed the market about the incident in an urgent market message (UMM). As the incident may represent a breach of the prohibition against market manipulation as set out in REMIT Article 5, MS has forwarded the case to the relevant NRA in accordance with our obligation as set out in REMIT article 15. MS awaits the decision from the NRA before any further action with regards to possible breaches of the MCR is taken.
- A member published a UMM informing of a test involving mandatory production at a production unit. The UMM was published with incorrect start date of the test, and the member had information about the correct start date whilst trading in the Elspot and the Elbas market. As the incident may represent a breach of the prohibition against insider trading as set out in REMIT Article 3, MS has forwarded the case to the relevant NRA in accordance with our obligation as set out in REMIT article 15. MS awaits the decision from the NRA before any further action with regards to possible breaches of the MCR is taken.

### Other cases sent to authorities

- MS received a tip regarding possible market manipulation. The alleged market manipulation did not relate to transactions in Nord Pool Spot's markets and the information was forwarded to ACER as it might affect two countries.
- MS received a tip regarding flow between areas that was significantly higher than the Elspot capacities. MS found no breaches of the MCR, but the information has been forwarded to the relevant NRA.

### *Breaches of the Market Conduct Rules*

MS has investigated possible breaches of the MCR during the period from 1 January to 31 March 2014. Breaches of the MCR which have been concluded on during the period 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.

- Information regarding an expansion of installed capacity on a consumption unit was not published through a UMM. The incident represents a breach of the MCR section 5.4 cf. 5.2.a. Two different members were obliged to disclose this information according to the MCR. Both members received a non-public warning.
- A member published a UMM regarding principles of calculation and allocation of cross-border capacity. The information published was subject to the disclosure requirements as set out in the MCR. The UMM was published several days after the decision was made. The member stated that they needed time to reach an agreement with the national regulator. In the MCR section 5.4.a there is a possibility to exceptionally delay the publication of information subject to the disclosure requirements. There may have been grounds to exceptionally delay the publication of the information in this case as there was a need to reach an agreement with the NRA. However, the exemption in section 5.4.a requires that information regarding the delay of information is provided to MS. This was not done. The member received a non-public warning for breaching the MCR section 5.4.
- A TSO failed to publish information regarding an incident reducing cross-border capacity. The member received a non-public warning for breaching the MCR section 5.2.b as information subject to the disclosure requirements was not published to the market.
- Four members published information subject to the disclosure requirements more than 60 minutes after the information occurred. All four members received a non-public warning for breaching the MCR section 5.4.
- On two separate occasions, members published UMMs more than 60 minutes after the information occurred, and in addition failed to give correct information regarding the duration of the event. Both members received a non-public warning for breaching the MCR section 5.3 and the MCR section 5.4.
- On two different occasions, two TSOs published UMMs with information regarding a maintenance affecting cross-border capacities more than 60 minutes after the information occurred. At the same time they failed to inform about the correct decision



time. Both TSOs were given a non-public warning for breaching the MCR section 5.3 and the MCR section 5.4.

### *Input from market participants*

MS has received 14 tips from market participants during the period from 1 January to 31 March 2014. MS appreciates all input from market participants, and even though no breach of the MCR is found, the incidents may represent a breach of other regulations. All tips received are described below:

- MS received a tip regarding a UMM from a nuclear power plant requesting that more information should be published. More information was published the same day. MS found no breach of the MCR.
- MS received several complaints from two different members regarding poor information in UMMs published from another member. MS has followed up on this, but found no breach of the MCR.
- A member notified MS that there were rumours that a maintenance plan did not correspond with information published in UMMs. MS investigated the matter, but found no breach of the MCR.
- MS received a tip regarding information relating to a maintenance that was published too late. MS investigated the matter, but found no breach of the MCR.
- MS received a tip regarding possible market manipulation. The alleged market manipulation did not relate to transactions in Nord Pool Spot's markets and the information was forwarded to ACER as it might affect two countries.
- MS received a complaint regarding poor information on an interconnector. MS followed up on the incident, but found no breach of the MCR. MS will follow up on how information regarding large variations in the capacity between two areas should be published to the market.
- MS received a tip regarding missing information relating to capacity on an interconnector. MS investigated the matter and found that a UMM had been published explaining the capacities. No breach of the MCR was found.
- MS received a tip regarding flow between areas that was significantly higher than the Elspot capacities. MS found no breaches of the MCR, but the information has been forwarded to the relevant NRA.
- MS received a tip that the capacities between two areas did not correspond to information published in UMM. The TSO who did not publish information received a non-public warning.
- MS has received several tips and complaints regarding poor information, both in general and on specific occasions, on an interconnector. MS has investigated the incidents, and the relevant TSO has received a non-public warning for breaching the MCR. Further, MS will arrange a meeting with the TSO to discuss how the information to the market can be improved. Other measures from MS will also be considered in order to improve transparency.

## Statistics

The table below shows a summary of the statistics for 2012, 2013, and Q1 in 2014.

Investigations from MS	1 <sup>st</sup> quarter 2014	Total 2013	Total 2012
<b>Number of written investigations initiated in the period</b>	29	99	127
<b>Number of statements of breach/non-public warnings issued in the period</b>	12	46	50
<b>Number of written warnings</b>	0	0	0
<b>Number of violation charges</b>	0	0	0
<b>Number of cases sent to authorities</b>	4	6	8
<b>Number of tips received from members</b>	14	28	33

Concluded breaches	1 <sup>st</sup> quarter 2014	Total 2013	Total 2012
<b>Disclosure requirements</b>	12	44	49
<b>Market manipulation</b>	0	0	0
<b>Good Business Conduct</b>	0	1	0
<b>Insider trading</b>	0	2	10

*The numbers may be updated from previous reports*