

**QUARTERLY NEWSLETTER**  
from Nord Pool Market Surveillance

**Q3 2020**

Welcome to the latest quarterly newsletter from Nord Pool’s Market Surveillance team. In Market Surveillance, we very much appreciate having a close dialogue with our customers. This is of great importance for building our competence on the power market and is a key pillar in fulfilling our obligations to maintain effective market surveillance. Such dialogue also constitutes an important tool in our work to achieve regulatory clarity, and in that way to prevent insider trading and market manipulation. That helps us to ensure an efficient and trustworthy market. In this issue of our quarterly newsletter we are therefore delighted to share the views of the Compliance Officer of one of Nord Pool’s customers, Statkraft.

**Marek Dal-Canton**  
Compliance Officer, Statkraft



Marek Dal-Canton is a Compliance Officer working in the Market Regulation & Compliance department of Statkraft. Following several years working as an attorney in international law firms, Marek joined Statkraft in 2012, focusing in particular on compliance with REMIT and MAR. Although Marek is based in Düsseldorf, Germany, he concentrates on compliance across all of Statkraft’s activities in the Nordics, the UK and continental Europe. Marek is a regular speaker at conferences, he is engaged in energy associations such as EFET and is in regular contact with ACER and national regulators as well as with the trade surveillance teams of exchanges.

We have taken the opportunity to ask some questions of Marek that we believe will be of interest to other market participants that are looking into building an effective compliance setup.

**Compliance risks in power markets – Statkraft’s view**

**1. Can you provide a brief description of Statkraft’s activities in the power trading area?**

Statkraft is Europe’s largest producer of renewable energy, developing, building and operating hydro, wind, solar, gas and biomass assets. While our foundation is the Norwegian hydro power fleet, we are expanding globally to increase renewable power generation from water, wind and sun. A pillar of Statkraft’s market activities in the Nordics is long-term financial trading as well as physical power trading in day-ahead and intraday.

**2. What are the main tasks and priorities in your role as a Compliance Officer at Statkraft? What do you think is important for building a successful compliance regime, in terms of REMIT, for a power trading company?**

As Compliance Officer in Statkraft, my main task is to do my utmost to ensure that Statkraft is compliant with regards to REMIT (and other regulations). This requires, on the one hand, an understanding of the regulation (including follow-up of developments like case law, guidance, etc.) and on the other, an understanding of the business (e.g. the physics for balancing or in particular, in the Nordics, the hydrology), with extensive work bringing these two together.

In order to build a successful compliance regime many factors are crucial, including unconditional support from management, training, governance, active detection, etc. The best overview can be found in the REMIT Best Practice Report that was published by Nord Pool<sup>1</sup>.

**3. Which areas of Statkraft’s activities are the most interesting/have a higher risk from a compliance perspective? How do you address these?**

I would say that, from a compliance perspective, the highest risk is generally related to market behaviour in trading activities. Traders need to constantly monitor several markets and forecasts, trade several products simultaneously and need to take decisions quickly. This complexity on the one hand, and the complicated rules of market manipulation on the other, create a high risk that demands constant attention and regular training. However, in the Nordic power market the area of inside information is an interesting and complex one. The implication of having several hydro power plants along the same river affecting each other, numerous concessionary obligations including fishing and recreation requirements, or icing in reservoirs, are a few examples of why the assessment of inside information for hydro power plants is much more complicated than for conventional thermal plants. In order to address those risks, we have a strong and knowledgeable team and are in regular contact with Nord Pool Market Surveillance and the Norwegian regulator NVE, who are very helpful in providing guidance.

**4. Do you see any upcoming compliance risks in the power industry that you think will become especially relevant in the coming years? Is it possible to prepare for/mitigate the risks before they materialise?**

One relatively immediate risk that I see evolved from the latest ACER REMIT guidance. The vast majority of market participants voted in last year’s ACER consultation on inside information for the approval of the 100 MW threshold (or alternatively also a lower approved threshold). Instead, ACER left it to each individual

company to “calculate” an appropriately tested threshold. This is doubly unfortunate. On one hand it creates an unnecessary liability for companies who are uncertain when to publish information. In particular where inside information is to be published directly by power plant personnel who do not have the information required to do the assessment. On the other hand, it also creates uncertainty for traders on published UMMs. A trader usually looks at aggregated figures. If one company is using a threshold of 60 MW and the next one of 90 MW and a third one 110 MW, it gives a misleading signal to the trader on what the real unavailability is – exactly the opposite of what was intended by REMIT. Here the risk can only be mitigated by a standard threshold that applies for the relevant market for all market participants.

**5. Do you benefit from contact with the Market Surveillance team at Nord Pool and in what way?**

In my view, the work of Nord Pool Market Surveillance is already outstanding. Nord Pool in general has always been a trusted marketplace that is at the same time both innovative and quick in reacting to market developments. And this applies also to the Market Surveillance team at Nord Pool. For instance, Nord Pool was the first spot exchange to introduce the flagging system to eliminate the potential misleading signal of wash-trades and it was the first (and is still the only) one to publish a REMIT Best Practice Report that provides useful and needed guidance to market participants on setting up a compliance regime. In addition, we very much value regular discussions on REMIT topics in the Nord Pool REMIT Working Group.

The Market Surveillance team at Nord Pool and the Statkraft compliance department have in principle the same aim: ensuring a fair level playing field for all market participants and avoiding any misconduct in the market. We very much value the extensive knowledge and market overview of the Market Surveillance team. When something is unclear we usually receive a swift response from the Market Surveillance team to our questions, that helps us in making the right decisions and staying compliant.

<sup>1</sup> [https://www.nordpoolgroup.com/globalassets/download-center/remit/remit-best-practice\\_second-edition.pdf](https://www.nordpoolgroup.com/globalassets/download-center/remit/remit-best-practice_second-edition.pdf)

**6. Do you have any suggestions on what could decrease the risk of companies breaching the regulation unintentionally or being exposed to market manipulation from other market participants? Are there any guidelines or regulations missing that you would want to see, from your company's perspective?**

Following the latest ACER REMIT Guidance update from April this year, the obvious answer is that guidance is needed in the first place regarding a trusted threshold for inside information. Here I see a risk that companies are trying their best to stay compliant and would still be scrutinised for failing to apply the “right”, appropriately tested, threshold.

Apart from the lack of an inside information threshold, the different application of REMIT with regards to balancing in individual countries is also problematic. Many market participants (including Statkraft) are active in several markets and they face very different – and often unclear – regimes on how to balance renewable assets and what information can be used to do so. With REMIT we have a European regulation that should be interpreted and applied in the same manner across Europe. Those different interpretations create a substantial risk for market participants.

**7. Do you foresee any changes or updates to REMIT in the near-to-medium future?**

My expectation is that the legal text of REMIT will not be amended in the near future. And I believe that – at least with regards to the main provisions of REMIT (prohibition of market manipulation and insider trading and the obligation to publish inside information) – no change is actually required.

However, where change is required is in the level of guidance that we receive from ACER and the national regulators. The energy world is transforming rapidly in Europe with the replacement of nuclear and coal by intermittent renewable energy, the rise of algorithmic trading, the increase in cross-border trading, changes in balancing regimes, etc. Market participants must constantly adapt to these changes and implement them, while this often creates uncertainties regarding REMIT compliance. I would like to encourage ACER and the NRAs across Europe to engage more with market participants, listen to their problems, invite them to consultations before placing guidance and trying to provide universal answers. Market participants want to be compliant; it is just often very difficult to imagine how the respective NRA would assess a certain situation.

**8. Is there anything you would like to add/point our attention to with respect to compliance?**

I would like to note that, regardless whether we talk within EFET, NEAT, Energi Norge or whatever other association of energy companies, I have the strong feeling that every company is benefitting from a fair, level playing field and trusted market-places, is supporting REMIT and is trying hard to comply with the rules. It is just the lack of concrete guidance and different interpretations in individual countries that provides challenges for companies to operate in a compliant manner.

**HOW TO CONTACT MARKET SURVEILLANCE**

We hope that you have enjoyed reading our latest quarterly newsletter. Please let us know if you have any comments on the subjects covered here, or if there are any issues you would like us to examine in future editions: [market.surveillance@nordpoolgroup.com](mailto:market.surveillance@nordpoolgroup.com)

**ABOUT NORD POOL** Nord Pool, Europe's leading power market, delivers efficient, simple and secure trading across Europe. The company offers day-ahead and intraday trading, clearing and settlement to customers regardless of size or location. Today 360 companies from 20 countries trade on Nord Pool's markets in the Nordic and Baltic regions, Germany, France, The Netherlands, Belgium, Austria and the UK. Nord Pool is a Nominated Electricity Market Operator (NEMO) in 15 European countries, while also servicing power markets in Croatia and Bulgaria. In 2019 Nord Pool had a total turnover of 494 TWh traded power.