



# Market integrity framework and transparency

## The regulators' view

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## Consultation of DG ENER: First reaction of ERGEG

Energy Regulators strongly support the ideas outlined in the recently published consultation on market integrity in energy trading.

Especially, we welcome that the European Commission took up the **ERGEG/CESR proposals!**



# What did ERGEG/CESR recommend to the European Commission in 2008?

**Energy and Financial Regulators recommended a sector-specific tailor-made market abuse regime (not only gas and electricity, but also emission allowances).**

- **Transparency of fundamental data**  
(price sensitive information, e.g. power plant outages)
- **Transparency of trading data**  
(anonymous publication of transactions close to real-time)
- **Efficient reporting to regulators**
- **Efficient supervision**



# Consultation of DG ENER: First reaction of ERGEG



## Why do we need a sector-specific regime?

- Enlarging the scope of financial regulation to cover all gaps identified was not considered useful by the financial regulators.
- Energy trading supervision requires a **thorough understanding of the functioning of the electricity and gas markets** (complexity of transactions mainly energy driven).



## Why do we need a sector-specific regime?

- Electricity and gas trading is different from trading other commodities/financial products.
    - Non-storability of electricity
    - Depending on availability of transport facilities
    - Vulnerable to the risk of capacity withholding (generation and transportation rights)
- This was supported by **energy and financial regulators.**



## Why do we need a sector-specific regime?

Against the background of the financial crisis, financial regulation will be adapted and the coverage of commodity derivatives may be enlarged.

The precise scope of these adaptations is not yet clear.

→ Therefore, it is not possible to assess whether there is an alternative to the sector-specific regime which would adequately secure market integrity in energy trading.



## Why should the regime cover all kinds of trading?

- **Experience** (e.g. US) shows that market abuse happens involving **exchange and OTC** trading, **physical and financial** products.
- Therefore, the sector-specific regime should cover all trading: **short and long-term, physical and financial trading.**
- Limiting the regime to spot markets would create a **toothless tiger!**





## Why should transaction reporting be required?

- 3rd package limited to record keeping and also ERGEG/CESR mandate and advice limited to record keeping
- However, **regular reporting is considered necessary by energy regulators for effective supervision of trading**
- This would enable the regulator responsible for monitoring to rapidly analyse the reported data or investigate in case of suspicion for market misconduct brought to their attention
- Small players might benefit from exemptions / lower reporting requirements → Avoid unnecessary barriers to market entry!

# Who should be responsible for the supervision?

## Options

- National or European regulators (or both)
  - Energy or Financial regulators (or both)
- **Both choices are highly political! Therefore, this issue needs to be discussed between Member States, Commission and Parliament!**

**European solution as favoured by the Commission?**



# Who should be responsible for the supervision?

## Realistic and acceptable solution

- Supervisory structure has to take into account US experiences (CFTC, FERC) and Almunia proposals (ESMA)
- Revised financial regulation (esp. MAD, MiFID)
- **Cooperation between energy and financial regulators,**
  - legal basis for the cooperation and exchange of data has to be ensured

**Proposals of the G20/Commission with the aim to foster the integrity of financial markets (against the background of the financial crisis)**

**Key elements:**

- **Standardisation of OTC derivatives and mandatory central clearing of such contracts on **exchanges** / other” **organised trading venues**“ .**
- OTC derivatives contracts that are **not** suitable for **central clearing** (because too „customized“) have to provide substantially higher **collaterals**.
- **Position limits for “speculative” positions**
- **Exemptions/facilitation for non-financial** („commercial“) investors **may** be granted.



## Energy regulators' reaction: Don't throw the baby out with the bath water

- **Proposals could have a detrimental effect on competition in the energy markets** as unilaterally risk-oriented and expensive regulation would make hedging more difficult, especially for SMEs.
- Thus, Energy regulators support the **ECOFIN Council** statement (2 December 2009) pleading *“to take into account differences [...] of **specific market participants**, including non-financial firms, and **commodity markets**, e.g. for **gas and electricity**. Any future policy option should ensure that non-financial institutions can continue to manage their risks without incurring disproportionate costs...”*

## Energy regulators' proposal: Merger of the best ideas!

- We propose a **MERGER of BEST IDEAS!**
  - **A realistic view of the market** (supply and demand) **provided by ERGEG/CESR's sector specific transparency regime is a systemic protection against the building up of dangerous positions!**  
The compliance and financial burden of the whole risk management would be lower.
- **Win-win** situation both for the **market** and the **financial stability**.



**Thank you for your attention!**