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**CESR and ERGEG advice to the European Commission in the  
context of the Third Energy Package**

**Responses to the fact-finding questions of the mandate  
C.1-C.3 and E.12-E.17**

**July 2008**



## **CESR AND ERGEG RESPONSE TO THE EUROPEAN COMMISSION'S REQUEST FOR TECHNICAL ADVICE IN THE CONTEXT OF THE THIRD ENERGY PACKAGE**

### Background

1. This paper covers the first tranche of the CESR and ERGEG response to the European Commission's (Commission) request for technical advice related to Articles 22f and 24f and Recitals 20 and 22 respectively in the two proposals for Directives amending Directive 2003/54/EC and Directive 2003/55/EC (The Third Energy Package). This response covers the questions of the mandate that can be considered to be fact-finding questions without elements of policy advice (C.1-C.3 and E.12-E.17).
2. The joint mandate to CESR and ERGEG was issued by the Commission in December 2007. CESR and ERGEG were originally requested to deliver their technical advice in two parts, by the end of May 2008 and by the end of December 2008. In April 2008, CESR and ERGEG requested the Commission to postpone the deadline for the delivery of the responses to the fact-finding questions included in the first part of the mandate until the end of July 2008. The Commission has recently informed both CESR and ERGEG of its agreement with this request.

### Work undertaken

3. In order to provide the Commission with the response to the fact-finding questions, a questionnaire was circulated to all the member authorities of CESR and CEER. The relevant national authorities were asked to coordinate their responses in such a way that only one joint response from each country would be provided. 26 responses were given to the questionnaire.
4. During the process of collecting answers to the questionnaire, some questions of the original mandate were clarified in cooperation with the representatives of the Commission services in order to improve the uniformity of answers to the questionnaire. Where applicable, these clarifications are noted below in connection with each question.

### Structure of the paper

5. This paper includes firstly a high level summary of the joint national responses to the questionnaire. The summary should be read together with the individual responses that are included in Annex 1 (together with a list of respondents). The mandate of the Commission is included in Annex 2.

### Further work

6. In addition to the responses to these fact-finding questions, CESR and ERGEG will prepare the advice on the policy questions included in the mandate. A consultation paper on the question F.20 on market abuse was published on 21 July 2008. The final advice on market abuse is due by the end of September. Furthermore, CESR and ERGEG will consult on the advice to the other policy questions (i.e. transparency, record keeping and exchange of information) in the course of the autumn in order to deliver the advice on them by the end of December 2008 as requested by the Commission.

## SUMMARY OF THE JOINT NATIONAL RESPONSES

C.1. How many of the following also fall under the definition of investment firms under Article 4(1)(1) of Directive 2004/39/EC (MiFID):

(a) undertakings active in 'supply' of electricity within the meaning of Directive 2003/54/EC (Art 2.19)?

(b) undertakings active in the 'supply' of natural gas within the meaning of the Directive 2003/55/EC (Art 2.7 and 2.8)?

*Clarification provided: The purpose of this question is to collect information on how many undertakings (i.e. individual firms, not groups of firms) active in 'supply' of electricity and natural gas were authorised as investment firms due to the implementation of MiFID. There is no need to include credit institutions into these amounts.*

<b>Electricity</b>	<b>Gas</b>
<p>According to Art. 2.19 of the Directive 2003/54/EC 'supply' means the sale, including resale, of electricity to customers.</p> <p>The majority of countries (22) indicated that there are no undertakings which are active in supply of electricity and at the same time have a license of an investment firm. In case that there are such companies the numbers are relatively low as can be seen from the following figures:</p> <ul style="list-style-type: none"> <li>• France – 1</li> <li>• Germany – 7</li> <li>• United Kingdom - 1</li> </ul>	<p>According to Art. 2.7 and 2.8 of the Directive 2003/55/EC 'supply' means the sale, including resale, of natural gas, including LNG, to customers.</p> <p>The majority of countries (22) indicated that there are no undertakings which are active in supply of gas and at the same time have a license of an investment firm. In case that there are such companies the numbers are relatively low as can be seen from the following figures:</p> <ul style="list-style-type: none"> <li>• France – 1</li> <li>• Germany – 6</li> <li>• United Kingdom – 18</li> </ul>

- C.2. What are the existing record-keeping obligations with respect to transactions in electricity and gas derivatives to which investment firms are subject by reason of MiFID? Consider both the transaction reporting obligation of firms under Article 25 of MiFID as well as the record-keeping obligations under Article 13(6) of MiFID.

*Clarification provided: The purpose of this question is to gather information on the existing national record-keeping and transaction reporting obligations that are additional to the ones required by MiFID.*

<b>Electricity</b>	<b>Gas</b>
In general, there are no existing national record-keeping and transaction reporting obligations with respect to transactions in electricity derivatives that are additional to the ones required by MiFID.	In general, there are no existing national record-keeping and transaction reporting obligations with respect to transactions in gas derivatives that are additional to the ones required by MiFID.

C.3. What (regulatory) authority oversees trading activities in energy markets in EU Member States?

Electricity	Gas
<p>The competences of the (regulatory) authorities are generally determined on the basis of whether the product traded is the commodity itself (i.e. electricity) or a financial instrument (derivative) with electricity as an underlying as well as whether trading is conducted on-exchange or OTC.</p> <p>In most countries, the trading in electricity derivatives is supervised by the securities regulator whereas trading/transactions in electricity are supervised by the energy regulator. In many cases, OTC trading in the underlying (electricity) is not subject to any supervision. France is an exception since the energy regulator has a power of surveillance on every product (both electricity and electricity derivatives) for delivery/settlement in France, for every maturity and every venue (including OTC).</p> <p>In some countries there is a specific authority responsible for supervising the exchange. In Austria and the Czech Republic the supervision of the commodity exchange is conducted by the relevant ministries. In Germany, the exchange supervisory authorities of the Federal States supervise the orderly conduct of trading on exchanges and monitor the pricing process in collaboration with the exchanges' own trading surveillance units, while BaFin is responsible for investigations in case of insider trading regarding financial instruments admitted to trading and market manipulation.</p> <p>In the case of Poland, the division of responsibilities is determined on the basis of whether the contract/financial instrument is offered to more than 300 persons or to an unspecified addressee and whether it is standardised. In that case, the supervision over the transactions of such contracts/instruments comes within the purview of the Polish Financial Supervision Authority. If the contract is bilateral (without an intermediary) and individual (not standardised), it comes under supervisory purview of the Energy Regulatory Authority.</p> <p>In several countries rules and practices for coordination and cooperation between energy and securities regulators have been created due to the overlap in competences. In</p>	<p>The answers relating to the gas trading activities are similar to the ones on electricity trading activities. However, in contrast to the electricity market, it is more common in the gas market that there is no regulated commodity exchange where trading would be conducted. This leads to a situation where gas trading is not supervised at all in several countries where trading is conducted only in the OTC market. Where there is no derivatives market, the role of the securities regulators is naturally also less significant than in the electricity market.</p> <p>France is an exception since the energy regulator has a power of surveillance on every product (both gas and gas derivatives) for delivery/settlement in France, for every maturity and every venue (including OTC).</p>

Italy, there is a specific requirement for Consob to exercise a number of regulatory functions with regard to regulated energy derivatives markets after having heard AEEG. In addition, Consob and AEEG are required to cooperate by exchanging information. The Norwegian authorities perform simultaneous supervision if a participant is subject to the supervision of both Kredittilsynet as an investment firm and the NVE as a participant in the physical electricity market, and there is a formal and operational cooperation between the two authorities in this respect.

An example of cross-border cooperation is the Iberian market MIBEL, the regulation and supervision of which is carried out through a joint coordination committee of the securities regulator CMVM, energy regulator ERSE and the Spanish equivalents (CNMV and CNE).

The UK FSA's regulation of energy derivatives is also slightly wider than MiFID's scope in that physically settled futures or forwards transactions are regulated in the UK where a contract is deemed to be for "investment purposes", even if it may otherwise not fall within Section C of Annex 1 to MiFID.

E.12. What requirements, deriving from national law, are currently put on energy traders, brokers or exchanges<sup>1</sup> to publish information 'post-trade', for example on publishing traded volumes, prices etc?

*Clarification provided: National law was interpreted to cover also secondary legislation and regulations issued by the competent authorities. The respondents were asked to distinguish between post-trade transparency requirements applicable for the underlying market (electricity/gas) and for the derivatives market (electricity/gas derivatives).*

Electricity	Gas
<p>In general, the post-trade transparency requirements applicable to electricity trading (i.e. trading in the commodity itself) set out in the legislation apply only to on-exchange trades. The following countries have such requirements in the national legislation:</p> <ul style="list-style-type: none"> <li>• Austria</li> <li>• Belgium</li> <li>• Estonia</li> <li>• Germany</li> <li>• Greece</li> <li>• Lithuania</li> <li>• Portugal</li> <li>• Romania</li> <li>• Spain</li> </ul> <p>In the above countries, the content of the post-trade transparency requirements generally covers prices and aggregated volumes. Normally this information is published on a daily basis.</p> <p>The following countries have post-trade transparency requirements in the national legislation applicable to (potential) on-exchange (RMs and/or MTFs) trades made in electricity derivatives (financial instruments):</p> <ul style="list-style-type: none"> <li>• France</li> <li>• Germany</li> <li>• Greece</li> <li>• Italy</li> <li>• Poland</li> <li>• Portugal</li> <li>• Sweden</li> <li>• United Kingdom</li> </ul> <p>The nature of these requirements varies to a large extent from detailed regulatory requirements (e.g. Italy) to more general</p>	<p>Compared to the electricity market, the post-trade transparency requirements are less common in the gas markets. Only the following countries noted that their national legislation includes post-trade transparency requirements applicable to on-exchange gas trading:</p> <ul style="list-style-type: none"> <li>• Austria</li> <li>• Germany</li> </ul> <p>The following countries have post-trade transparency requirements in the national legislation applicable to (potential) on-exchange (RMs and/or MTFs) trades made in gas derivatives (financial instruments):</p> <ul style="list-style-type: none"> <li>• France</li> <li>• Germany</li> <li>• Greece</li> <li>• Italy</li> <li>• Poland</li> <li>• United Kingdom</li> </ul> <p>In all of the above cases, the post-trade transparency requirements are the same as the corresponding requirements in the electricity and electricity derivatives markets.</p> <p>Generally, there are no legal requirements on brokers and energy traders to publish post-trade information.</p>

<sup>1</sup> The term exchange was used in the mandate of the Commission. In some cases, the information presented below is applicable only in the case of RMs, but sometimes it is applicable also to MTFs. Please see the individual answers for further information.

requirements imposed on e.g. the RMs and MTFs to include relevant transparency requirements in their rules (e.g. France).

In addition to the specific post-trade transparency requirements in place in the above countries, the Norwegian legislation (secondary energy regulation and primary securities legislation) requires that the regulated energy and energy derivatives markets organise an efficient market. The post-trade transparency requirements in the market conduct rules of the regulated markets derive from this efficiency requirement.

Generally, there are no legal requirements on brokers and energy traders to publish post-trade information. The general efficiency requirement of the Norwegian legislation has been utilised by the regulated markets to impose post-trade transparency requirements also for certain off-exchange trades (see summary to question E.16).



E.13. What requirements, deriving from national law, are currently put on energy traders, brokers or exchanges to publish information 'pre-trade', for example on publishing bids to organised markets?

*Clarification provided: National law was interpreted to cover also secondary legislation and regulations issued by the competent authorities. The respondents were asked to distinguish between pre-trade transparency requirements applicable for the underlying market (electricity/gas) and for the derivatives market (electricity/gas derivatives).*

Electricity	Gas
<p>In general, the pre-trade transparency requirements set out in the legislation apply only to on-exchange trades. The following countries have such requirements applicable to electricity trading (i.e. trading in the commodity itself) in the national legislation:</p> <ul style="list-style-type: none"> <li>• Estonia</li> <li>• Germany</li> <li>• Romania</li> </ul> <p>The following countries have pre-trade transparency requirements (in some cases only at a very general level) in the national legislation applicable to (potential) on-exchange (RMs and/or MTFs) trades made in electricity derivatives (financial instruments):</p> <ul style="list-style-type: none"> <li>• France</li> <li>• Germany</li> <li>• Greece</li> <li>• Italy</li> <li>• United Kingdom</li> </ul> <p>Generally, there are no legal requirements on brokers and energy traders to publish pre-trade information.</p> <p>In addition to the specific pre-trade transparency requirements in place in the above countries, the Norwegian legislation (secondary energy regulation and primary securities legislation) requires that the regulated energy and energy derivatives markets organise an efficient market. The pre-trade transparency requirements in the market conduct rules of the regulated markets derive from this efficiency requirement.</p>	<p>Compared to the electricity market, the pre-trade transparency requirements are less common in the gas market. Only Germany clearly stated that pre-trade transparency requirements applicable to on-exchange trades made in the gas market exist in the national legislation.</p> <p>The following countries have pre-trade transparency requirements in the national legislation applicable to trades made in gas derivatives (financial instruments):</p> <ul style="list-style-type: none"> <li>• France</li> <li>• Germany</li> <li>• Greece</li> <li>• Italy</li> <li>• United Kingdom</li> </ul> <p>The content of these requirements is the same as that of the corresponding requirements for electricity derivatives.</p> <p>Generally, there are no legal requirements on brokers and energy traders to publish pre-trade information.</p>

E.14. Is there a difference in transparency requirements for spot trading compared to future and forward trading? If so, why?

*Clarification provided: Because the differences in the transparency requirements for spot trading compared to derivatives trading were requested to be covered in the answers to questions E.12 and E.13, the respondents were requested to only explain the reason for the differences here.*

Electricity	Gas
<p>As shown in the summaries of responses to questions E.12 and E.13, in most countries there are differences between the transparency requirements in spot trading compared to on-exchange futures/forward trading. Reasons for the differences that were mentioned include:</p> <ul style="list-style-type: none"> <li>• Significant differences in the operation of the two types of markets</li> <li>• The fact that the spot markets are not within the scope of MiFID</li> </ul> <p>An exemption is Germany where the legal requirements for spot and derivatives trading at the exchange are the same as they stem from the exchange law.</p> <p>See also the summaries in questions E.12 and E.13.</p>	<p>See the comments on the electricity markets.</p>

E.15. Is there a difference in transparency requirements for exchange trading compared to OTC trading? If so, why?

<b>Electricity</b>	<b>Gas</b>
<p>There is a difference between transparency requirements for exchange trading compared to OTC trading as there are generally no transparency requirements for OTC trading.</p> <p>However, in Portugal there are no differences between the transparency requirements in the on-exchange and OTC spot trading. Regarding futures trading, if OTC transactions of electricity derivatives are registered on the OMIP Trading Platform the same rules as on on-exchange trades are applicable. If not, OTC trading with physical delivery is only subjected to information to system operator concerning volumes of energy traded.</p> <p>See also the summaries in questions E.12 and E.13.</p>	<p>There are generally no transparency requirements for OTC trading.</p> <p>See the summaries in questions E.12 and E.13.</p>

E.16. What information, other than required by law or regulation, is made public by energy traders, brokers, information services or exchanges?

Electricity	Gas
<p>Some respondents mention the role of information services (e.g. Platts) in publishing various price and volume information (Austria, France, Germany, the UK) either for a fee or for free. Three respondents (Austria, France and the UK) refer to the role of brokers in providing trade information (in practice only to their clients).</p> <p>In addition, some answers include details on the information published by the exchanges (RMs and/or MTFs in e.g. Austria, Belgium, France, Germany, Italy, Norway and Portugal). In case of the Norwegian (and Nordic) regulated markets, the market conduct rules of the exchanges set out requirements not only for the pre- and post-trade transparency of on-exchange trades but also on the post-trade transparency of all trades cleared by the associated clearinghouse (OTC, bilateral).</p>	<p>See the comments on the electricity market.</p>

E.17. Is access to information on traded volumes and prices equal for all parties active in that market or is there a general lack of information?

<b>Electricity</b>	<b>Gas</b>
<p>There is wide variety in the responses regarding the equality of access to/lack of information. Some respondents consider that the access to information is equal to all parties. On the other hand, some respondents also refer to a general lack of information.</p> <p>Some respondents state that the amount of information available depends on the way of trading. In bilateral trading, there is generally no transparency. Information on the brokered contracts might be available in the brokers' platforms but generally only customers have access to the trade information. Receiving the trade information, e.g. from information services, might also require the payment of a fee. In the case of exchange trading, some exchanges provide the same post-trade information to the public as to their members, whereas other exchanges provide more information to their members.</p>	<p>See the comments on the electricity market.</p>



## ANNEX 1

This Annex includes the joint responses of the CESR and CEER members from the following countries:

1. Austria
2. Belgium
3. Czech Republic
4. Denmark
5. Estonia
6. Finland
7. France
8. Germany
9. Greece
10. Hungary
11. Iceland
12. Italy
13. Latvia
14. Lithuania
15. Luxembourg
16. Malta
17. Netherlands
18. Norway
19. Poland
20. Portugal
21. Romania
22. Slovak Republic
23. Slovenia
24. Spain
25. Sweden
26. United Kingdom

## Annex 1: Individual responses to the fact-finding questions (C.1 to C.3, E.12 to E.17) in the request of the European Commission for technical advice in the context of the third energy package

### C.1: How many of the following also fall under the definition of investment firms under Article 4(1)(1) of Directive 2004/39/EC (MiFID):

(a) undertakings active in 'supply' of electricity within the meaning of Directive 2003/54/EC (Art 2.19)?

(b) undertakings active in the 'supply' of natural gas within the meaning of the Directive 2003/55/EC (Art 2.7 and 2.8)?

Member State	Electricity	Gas
AUSTRIA	ue to Article 39 of the commission Regulation (EC) No 1287/2006 a derivative contract relating to e.g. the transmission or transportation capacity relating to commodities, whether cable, pipeline or other means falls under the criterion of an "other derivative financial instruments" within the meaning of Article 38 and therefore any investment services relating to these derivatives are within the scope of the MiFID.  In Austria until now none of such undertakings are authorised as investment firms.	We refer to our explanation regarding Electricity.
BELGIUM	(a) In Belgium, there are no such undertakings falling under article 4 (1)(1) of MiFID licensed.	(b) In Belgium, there are no such undertakings falling under article 4 (1)(1) of MiFID licensed.
BULGARIA		
CYPRUS		
CZECH REPUBLIC	not available	not available
DENMARK	(a) None  (b) None	(a) None  (b) None
ESTONIA	There is no undertakings falling either under Directive 2003/54/EC (Art 2.19) or Directive 2003/55/EC (Art 2.7 and 2.8) having license as investment firms under Article 4(1)(1) of Directive 2004/39/EC.	There is no undertakings falling either under Directive 2003/54/EC (Art 2.19) or Directive 2003/55/EC (Art 2.7 and 2.8) having license as investment firms under Article 4(1)(1) of Directive 2004/39/EC.
FINLAND	None.	None.
FRANCE	One of the undertakings active in supply of electricity falls under the definition of a MiFID investment firm under French law and was authorised as such by the French competent authorities. It is GASELYS.  One of the undertakings is a UK investment firm doing business in France under the free provision of services.  One is a UK investment firm but does not provide investment service in France.  One is a German investment firm doing business in France under the free provision of services and with a branch in France.	One of the undertakings active in supply of gas falls under the definition of a MiFID investment firm under French law and was authorised as such by the French competent authorities.
GERMANY	(a) 7 (seven): EnergieFinanz GmbH; KOMFin GmbH; RWE Trading Services GmbH; Statkraft Markets Financial Services GmbH; Syneco Trading	(b) 6 (six), among them undertakings which also fall under (a): actogas GmbH; KOMFin GmbH; RWE Trading Services GmbH; Statkraft Markets

	GmbH; Trianel Energy Management GmbH; Vattenfall Europe Power Management GmbH.	Financial Services GmbH; Syneco Trading GmbH; Trianel Energy Management GmbH.
GREECE	None undertaking active in supply of electricity in Greece is authorized as investment firm.	None undertaking active in supply of natural gas in Greece is authorized as investment firm.
HUNGARY	No such undertakings are active in the Hungarian electricity supply.	No such undertakings are active in the Hungarian natural gas supply.
ICELAND	There is no internal market for electricity in Iceland and therefore are no investment firms active in the supply of electricity.	There is no natural gas distribution in Iceland, hence no internal market for gas and therefore are no investment firms active in supply of natural gas.
IRELAND		
ITALY	None of the firms referred to in the question are eligible as investment firms pursuant to Italian legislation. The provision of investment services is reserved to investment firms and banks duly authorised in accordance with the relevant directives. However, pursuant to Article 25 of the Consolidated Law on Finance, regulated markets can accept as market members persons or entities other than investment firms and banks, provided that they meet relevant eligibility requirements. Such persons or entities admitted as members of regulated markets, must comply to relevant conduct of business rules and must operate in such a way as to comply with market integrity obligations.	See the answer provided with for Electricity.
LATVIA	None of the undertaking active in "supply" of electricity within the meaning of Directive 2003/54/EC (Art 2.19) falls under the definition of investment firm.	None of the undertaking active in "supply" of gas within the meaning of Directive 2003/54/EC (Art 2.19) falls under the definition of investment firm.
LITHUANIA	0	0
LUXEMBOURG	0	0
MALTA	Since the implementation of MiFID no undertaking active in the 'supply' of electricity has been authorised as an investment firm in terms of the MiFID.	Since the implementation of MiFID no undertaking active in the 'supply' of natural gas has been authorised as an investment firm in terms of the MiFID.
NORWAY	<p>a) There were before MiFID and are under MiFID no investment firms with activity in 'supply' of electricity.</p> <p>Overview:</p> <p>An overview of the Nordic market may be suitable as a basis for many of the following questions, even if this question do not ask for this particularly.</p> <p>First we consider the balancing market, the end user market and the grid operations to generally be out of scope for the wholesale contract market of electricity.</p> <p>There are at the moment four investment firms (licensed) active mainly in the electricity derivatives market, one of these also with license as MTF.</p> <p>Within the electricity derivatives market there are also licensed one exchange (Nord Pool) and two clearing houses (Nord Pool Clearing and NOS Clearing). All exchange traded and cleared contracts (incl. OTC-cleared contracts) are with</p>	No supervised gas trading activity on Norwegian regulated markets or MTFs. If such activity is established for financial instruments it will be treated the same way for gas derivatives trading.



	<p>cash settlement (no physical delivery obligations).</p> <p>The main underlying market at Nord Pool are the Nordic countries. However Nord Pool do notify derivatives contracts with the spot market in Germany and The Netherlands as underlying as well. Nord Pool Clearing clears exchange traded contracts (mandatory) and exchange standardised OTC-traded contracts (non-mandatory), with the same countries as underlying. NOS Clearing clears OTC-traded standardised contracts in principle related to all the regulated markets trading electricity derivatives in Europe.</p> <p>Within the physical spot market there is one market place for spot trading in the Nordic countries (Nord Pool Spot). The Nordic countries are Norway, Sweden, Finland and Denmark excl. Iceland. The settlement in the physical spot market is done by NPS.</p>	
POLAND	<p>According to article 2.1.I Directive 2004/39/EC does not apply to firms which provide investment services and/or perform investment activities consisting exclusively in dealing on own account on markets in financial futures or options or other derivatives.</p> <p>None of the undertakings in Poland asked PFSA for authorisation.</p>	<p>According to article 2.1.I Directive 2004/39/EC does not apply to firms which provide investment services and/or perform investment activities consisting exclusively in dealing on own account on markets in financial futures or options or other derivatives.</p> <p>None of the undertakings in Poland asked PFSA for authorisation.</p>
PORTUGAL	<p>Prior notes:</p> <p>This questionnaire applies only to the Iberian Electricity Market (MIBEL). MIBEL has two divisions, the derivatives market (established in Portugal) and the spot market (established in Spain).</p> <p>The MIBEL derivatives market, managed by OMIP is currently an organized non-regulated market, but following MiFID implementation it is expected to change into a regulated market. At this time, the OMIP admits to trading physical and financial futures contracts for which the underlying is electricity. The contracts are standardised.</p> <p>According to the Portuguese Securities Legal Framework, futures admitted to trading on OMIP are financial instruments.</p> <p>The trading members are admitted by the market operator and they can be, generally, financial intermediaries (only can act on physical futures for third parties) and electrical entities (these can only trade for own/house account).</p> <p>The MIBEL derivatives market is supervised by CMVM.</p> <p>The spot market for Portugal operates on a joint trading platform with Spain (OMEL). Participation in spot market trading by Portuguese agents is subject to the rules stipulated in the Commercial Relations Code approved by ERSE, which is in line with the definitions set in the national legal framework and Directive 2003/54/EC. The same basic rules apply to trade under bilateral contracts, which refer to energy traded bilaterally with physical delivery.</p> <p>ERSE is responsible for monitoring the application of the regulatory framework, namely the rules</p>	<p>Prior notes:</p> <p>The Natural Gas sector in Portugal is under a derogation period for the liberalization of the market, since it is under the definition of an emerging market. In that sense, liberalization is now starting in Portugal, for only large customers, and there is no organized market defined in terms of MiFID. However, ERSE and the Spanish regulatory authority for energy (CNE) recently submitted a principles document for the Iberian Natural Gas Market (MIBGAS) to public hearings. Therefore, further developments are pending on final institutional arrangements for MIBGAS.</p>

	<p>concerning trading of energy, as set in the Codes.</p> <p>Answer:</p> <p>None of them fall under the definition of investment firm under article 4(1)(1) of MiFID.</p> <p>According to the Portuguese Legislation, an investment firm is a firm whose regular activity includes the provision of investment services for third parties and which is subject to the own funds requirements provided for in Directive 2006/49/EC of the European Parliament and of the Council of 14 June 2006, except for the credit institutions and the undertakings mentioned in Article 4 (1-1) of Directive 2004/39/EC of the European Parliament and of the Council of the 21 April 2004. Mainly, investment firms are Broker companies, Broker-dealer companies and Asset management companies [Article 199 -A, Legal Framework of Credit Institutions and Financial Companies; Article 293 /2, of the Portuguese Securities Code].</p> <p>Regarding the MIBEL derivatives market, only electrical entities are active in 'supply' of electricity. Investment firms provide financial services in this market and can trade only physical futures on clients' behalf.</p>	<p>Answer: None.</p>
ROMANIA	<p>Performing investment services represents the sole object of the investment firms. Having regard to the definition of the financial instruments as referred to in Article 7, section (1), par. 141, of the Government Emergency Ordinance (GEO) No. 99/2006 regarding credit institutions and capital adequacy, approved by Law No. 227/2007, investment firms can perform transactions in financial instruments similar to those provided by Article 7, section (1), par. 141, items e) to g) of the GEO No 99/2006, hence cannot perform commodity transactions (gas or energy). Consequently to those above mentioned, firms involved in energy or gas transactions cannot be authorized as investment firms.</p>	<p>Performing investment services represents the sole object of the investment firms. Having regard to the definition of the financial instruments as referred to in Article 7, section (1), par. 141, of the Government Emergency Ordinance (GEO) No. 99/2006 regarding credit institutions and capital adequacy, approved by Law No. 227/2007, investment firms can perform transactions in financial instruments similar to those provided by Article 7, section (1), par. 141, items e) to g) of the GEO No 99/2006, hence cannot perform commodity transactions (gas or energy). Consequently to those above mentioned, firms involved in energy or gas transactions cannot be authorized as investment firms.</p>
SLOVAK REPUBLIC	0	0
SLOVENIA	<p>Supply undertakings under the Directive 2003/54/EC do not fall under the definition of investment firms.</p>	<p>Supply undertakings under the Directive 2003/55/EC do not fall under the definition of investment firms.</p>
SPAIN	<p>Notwithstanding undertakings trading electricity spot contracts, none falls under the definition of investment firms under the provisions of MiFID.</p>	<p>Notwithstanding undertakings trading gas spot contracts, none falls under the definition of investment firms under the provisions of MiFID.</p>
SWEDEN	<p>0 (no undertakings active in the supply of electricity are authorised as investment firms).</p>	<p>0 (no undertakings active in the supply of gas are authorised as investment firms).</p>
THE NETHERLANDS	<p>No (0) electricity suppliers fall under the definition of investment firms under the MiFID.</p>	<p>No (0) gas suppliers fall under the definition of investment firms under the MiFID.</p>
UNITED KINGDOM	<p>There is 1 investment firm under MiFID that is, on the basis of our review, an undertaking active in the supply of electricity. This firm is The Royal Bank of Scotland PLC.</p> <p>There are 18 investment firms under MiFID which are, on the basis of our review, undertakings active in the supply of natural gas. The firms are as follows:</p>	<p>There is 1 investment firm under MiFID that is, on the basis of our review, an undertaking active in the supply of electricity. This firm is The Royal Bank of Scotland PLC.</p> <p>There are 18 investment firms under MiFID which are, on the basis of our review, undertakings active in the supply of natural gas. The firms are as follows:</p>

	<ul style="list-style-type: none"> <li>• ABN Amro Bank NV</li> <li>• Arcadia Petroleum Ltd</li> <li>• Barclays Bank Plc</li> <li>• BNP Paribas</li> <li>• Calyon</li> <li>• Citigroup Global Markets Limited</li> <li>• Conocophillips (UK) Limited</li> <li>• Deutsche Bank AG</li> <li>• Dresdner Bank AG</li> <li>• Fortis Bank S.A./N.V.</li> <li>• Gaselys</li> <li>• J.P. Morgan Securities Ltd</li> <li>• Koch Supply and Trading Co Limited</li> <li>• Merrill Lynch Commodities (Europe) Limited</li> <li>• Mitsui &amp; Co Energy Risk Management Ltd</li> <li>• Morgan Stanley Capital Group Ltd</li> <li>• ScottishPower Energy Management Limited</li> <li>• UBS Limited</li> </ul> <p>The above numbers of firms were calculated by looking at individual firms that are active both in the supply of gas and/or electricity, and are classed as an investment firm under MiFID. However, numerous examples were found of large firms that appear to own a number of subsidiary companies or commercial entities. It was frequently the case that one or more of the subsidiaries might be classed as an investment firm under MiFID, whilst other subsidiaries may be active in gas and/or electricity supply. However, in accordance with the advice provided to us on how to answer these questions, large company groups that may have some subsidiaries classed as MiFID investment firms, and others active in gas and/or electricity supply were not counted unless the same subsidiary was found to qualify under the MiFID and gas/electricity supply criteria. To clarify the use of the word 'supply', we have taken it to mean any firm that sells or resells energy, whether to final consumers or to other businesses that may sell it to a third party.</p>	<ul style="list-style-type: none"> <li>• ABN Amro Bank NV</li> <li>• Arcadia Petroleum Ltd</li> <li>• Barclays Bank Plc</li> <li>• BNP Paribas</li> <li>• Calyon</li> <li>• Citigroup Global Markets Limited</li> <li>• Conocophillips (UK) Limited</li> <li>• Deutsche Bank AG</li> <li>• Dresdner Bank AG</li> <li>• Fortis Bank S.A./N.V.</li> <li>• Gaselys</li> <li>• J.P. Morgan Securities Ltd</li> <li>• Koch Supply and Trading Co Limited</li> <li>• Merrill Lynch Commodities (Europe) Limited</li> <li>• Mitsui &amp; Co Energy Risk Management Ltd</li> <li>• Morgan Stanley Capital Group Ltd</li> <li>• ScottishPower Energy Management Limited</li> <li>• UBS Limited</li> </ul> <p>The above numbers of firms were calculated by looking at individual firms that are active both in the supply of gas and/or electricity, and are classed as an investment firm under MiFID. However, numerous examples were found of large firms that appear to own a number of subsidiary companies or commercial entities. It was frequently the case that one or more of the subsidiaries might be classed as an investment firm under MiFID, whilst other subsidiaries may be active in gas and/or electricity supply. However, in accordance with the advice provided to us on how to answer these questions, large company groups that may have some subsidiaries classed as MiFID investment firms, and others active in gas and/or electricity supply were not counted unless the same subsidiary was found to qualify under the MiFID and gas/electricity supply criteria. To clarify the use of the word 'supply', we have taken it to mean any firm that sells or resells energy, whether to final consumers or to other businesses that may sell it to a third party.</p>
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<b>Comments</b>	
LUXEMBOURG	In the absence of a power exchange on a national level or any other regulated market place in the energy sector in the sense of Directive 2004/39/EC, there are no authorised investment firms. Energy suppliers active in Luxembourg may be considered as investment firms in other member states.
SLOVENIA	Electricity and gas supply undertakings buy electricity and gas for their customers, however only in the quantity and at the time they need it for supply, not as an investment. Some gas storage is due to very small quantities only of optimization nature.

**C.2: What are the existing record-keeping obligations with respect to transactions in electricity and gas derivatives to which investment firms are subject by reason of MiFID? Consider both the transaction reporting obligation of firms under Article 25 of MiFID as well as the record-keeping obligations under Article 13(6) of MiFID.**

Member State	Electricity	Gas
AUSTRIA	There are no provisions for transaction reporting of electricity contracts in the Securities Supervision Act.	There are no provisions for transaction reporting of gas contracts in the Securities Supervision Act.
BELGIUM	<p>We have in Belgium the same record obligations for all financial instruments (within the meaning of MiFID - including electricity derivatives) executed by investment firms. Those obligations are based on CESR Level 3 recommendations on the List of minimum records (Article 51(3) of the MiFID implementing Directive). Detailed requirements are included in the CBFA Regulation of 5 June 2007 on the organisational requirements for institutions that offer investment services. There are no relevant additional record obligations.</p> <p>Transactions in financial instruments listed on a regulated market (within the meaning of MiFID - including electricity derivatives) that are executed by investment firms and credit institutions have to be reported to the CBFA (financial regulator).</p>	<p>We have in Belgium the same record obligations for all financial instruments (within the meaning of MiFID - including gas derivatives) executed by investment firms. Those obligations are based on CESR Level 3 recommendations on the List of minimum records (Article 51(3) of the MiFID implementing Directive). Detailed requirements are included in the CBFA Regulation of 5 June 2007 on the organisational requirements for institutions that offer investment services. There are no relevant additional record obligations.</p> <p>Transactions in financial instruments listed on a regulated market (within the meaning of MiFID - including gas derivatives) that are executed by investment firms and credit institutions have to be reported to the CBFA (financial regulator).</p>
BULGARIA		
CYPRUS		
CZECH REPUBLIC	<p>Final accounts and annual register for a period of 10 years.</p> <p>Other (as an accounting document, account books, depreciation fund, stocktaking list etc.) for a period of 5 years.</p>	<p>Final accounts and annual register for a period of 10 years.</p> <p>Other (as an accounting document, account books, depreciation fund, stocktaking list etc.) for a period of 5 years.</p>
DENMARK	There are no general record-keeping obligations with respect to transactions in electricity derivatives.	There are no general record-keeping obligations with respect to transactions in gas derivatives.
ESTONIA	<p>With respect to transactions in electricity and gas derivatives there are no additional record-keeping obligations in comparison to other commodities derivatives. Also there are no additional record keeping obligations to ones required by MiFID. MiFID is incorporated into Securities Market Act ("SMA").</p> <p>SMA § 85. General obligations of investment firms</p> <p>Upon the provision of investment services and non-core services, an investment firm is required to: 10) register and store the information collected upon the provision of investment services and required to be registered and stored by this Act and legislation established on the basis thereof and by Commission Regulation 1287/2006/EC;</p> <p>SMA § 90. Record-keeping and retention obligation</p> <p>(1) An investment firm and a branch of a foreign investment firm entered in the Estonian commercial register shall keep records of the services provided and the transactions concluded and the communication between the client and the</p>	<p>With respect to transactions in electricity and gas derivatives there are no additional record-keeping obligations in comparison to other commodities derivatives. Also there are no additional records keeping obligations to ones required by MiFID. MiFID is incorporated into Securities Market Act ("SMA").</p> <p>SMA § 85. General obligations of investment firms</p> <p>Upon the provision of investment services and non-core services, an investment firm is required to: 10) register and store the information collected upon the provision of investment services and required to be registered and stored by this Act and legislation established on the basis thereof and by Commission Regulation 1287/2006/EC;</p> <p>SMA § 90. Record-keeping and retention obligation</p> <p>(1) An investment firm and a branch of a foreign investment firm entered in the Estonian commercial register shall keep records of the services provided and the transactions concluded and the communication between the client and the</p>

	<p>investment firm and retain the records.</p> <p>(2) The records specified in subsection (1) of this section shall enable the Supervision Authority to assess the compliance of the activities of the investment firm and the branch of a foreign investment firm with this Act and also to determine the rights and obligations of the investment firm and the branch of a foreign investment firm and the client.</p> <p>(3) The records shall be retained in a durable medium in a way accessible for future reference by the Supervision Authority, and in such a form and manner that the following conditions are met:</p> <p>1) the Supervision Authority must be able to access the records readily and to reconstitute each key stage of the processing of each transaction;</p> <p>2) it must be possible for the Supervision Authority to ascertain easily any amendments, and the contents of the records prior to such amendments;</p> <p>3) it must not be possible for the records to be altered otherwise.</p> <p>(4) An investment firm and a branch of a foreign investment firm shall retain the records specified in subsection (1) of this section unaltered and available to the Supervision Authority for a period of at least five years unless the Supervision Authority has established a different term or a longer term is provided by law. An investment firm and a branch of a foreign investment firm shall retain the records which set out the respective rights and obligations of the investment firm and the client under a contract to provide services, or the terms on which the firm provides the services to the client for at least the duration of the legal relationship related to the provision of investment or non-core services with the client unless a longer term is provided by this Act or other legislation.</p> <p>(5) The Supervision Authority has the right to require investment firms to retain the records specified in subsection (1) of this section for such longer period than the one specified in subsection (4) of this section as is justified by the nature of the security or transaction, if that is necessary to enable the Supervision Authority to exercise its supervisory functions under this Act.</p> <p>(6) Following the termination of the authorisation of an investment firm, the Supervision Authority has the right to require the firm to retain records for the outstanding term of the five year period required under subsection (4) of this section.</p> <p>(7) A more precise procedure for keeping records and a list of information subject to registration is provided in Articles 7 and 8 of the Commission Regulation (EC) No 1287/2006.</p> <p>(8) The Supervision Authority shall draw up a list of the records investment firms are required to keep.</p>	<p>investment firm and retain the records.</p> <p>(2) The records specified in subsection (1) of this section shall enable the Supervision Authority to assess the compliance of the activities of the investment firm and the branch of a foreign investment firm with this Act and also to determine the rights and obligations of the investment firm and the branch of a foreign investment firm and the client.</p> <p>(3) The records shall be retained in a durable medium in a way accessible for future reference by the Supervision Authority, and in such a form and manner that the following conditions are met:</p> <p>1) the Supervision Authority must be able to access the records readily and to reconstitute each key stage of the processing of each transaction;</p> <p>2) it must be possible for the Supervision Authority to ascertain easily any amendments, and the contents of the records prior to such amendments;</p> <p>3) it must not be possible for the records to be altered otherwise.</p> <p>(4) An investment firm and a branch of a foreign investment firm shall retain the records specified in subsection (1) of this section unaltered and available to the Supervision Authority for a period of at least five years unless the Supervision Authority has established a different term or a longer term is provided by law. An investment firm and a branch of a foreign investment firm shall retain the records which set out the respective rights and obligations of the investment firm and the client under a contract to provide services, or the terms on which the firm provides the services to the client for at least the duration of the legal relationship related to the provision of investment or non-core services with the client unless a longer term is provided by this Act or other legislation.</p> <p>(5) The Supervision Authority has the right to require investment firms to retain the records specified in subsection (1) of this section for such longer period than the one specified in subsection (4) of this section as is justified by the nature of the security or transaction, if that is necessary to enable the Supervision Authority to exercise its supervisory functions under this Act.</p> <p>(6) Following the termination of the authorisation of an investment firm, the Supervision Authority has the right to require the firm to retain records for the outstanding term of the five year period required under subsection (4) of this section.</p> <p>(7) A more precise procedure for keeping records and a list of information subject to registration is provided in Articles 7 and 8 of the Commission Regulation (EC) No 1287/2006.</p> <p>(8) The Supervision Authority shall draw up a list of the records investment firms are required to keep.</p>
FINLAND	Finland has implemented the record keeping obligations as defined in MiFID.	Finland has implemented the record keeping obligations as defined in MiFID.

	<p>Additionally, those telephone lines that are meant to be used for receiving client orders related to financial instruments, shall be recorded. The recordings shall be kept for at least two years and not longer than is necessary with regard to processing the rights and obligations relating to the order. (Act on Investment Firms, 26.10.2007/922).</p>	<p>Additionally, those telephone lines that are meant to be used for receiving client orders related to financial instruments, shall be recorded. The recordings shall be kept for at least two years and not longer than is necessary with regard to processing the rights and obligations relating to the order. (Act on Investment Firms, 26.10.2007/922).</p>
FRANCE	<p>France did not implement any national record-keeping and/or transactions reporting requirements for investment firms going beyond MiFID requirements. Existing record-keeping and transaction reporting requirements for investment firms are the MiFID ones.</p>	<p>France did not implement any national record-keeping and/or transactions reporting requirements for investment firms going beyond MiFID requirements. Existing record-keeping and transaction reporting requirements for investment firms are the MiFID ones.</p>
GERMANY	<p>In Germany, the transaction reporting and record-keeping requirements for transactions in electricity derivatives laid down in MiFID are applicable. Germany has neither additional requirements for MiFID investment firm nor other requirements for firms which do not fall under MiFID (e.g. because they qualify for a MiFID exemption). It should also be noted that the transaction reporting and record keeping requirements only apply to "financial instruments" according to MiFID. Beside electricity and gas derivatives with cash settlement and those traded on regulated markets or MTFs which can be physically settled, only the derivatives covered by Article 38 of the MiFID Level 2 Regulation No. 1287/2006 are considered to be financial instruments.</p> <p>The MiFID requirements for transaction reporting were transposed in Sec. 9 of the Securities Trading Act (Wertpapierhandelsgesetz) and a revised Ordinance on Transaction reporting requirements (Wertpapierhandel-Meldeverordnung) where also references were made to the directly applicable provisions of the MiFID Level 2 Regulation No. 1287/2006 in this respect.</p> <p>The MiFID requirements on record-keeping of transactions in financial instruments have been transposed in Sec. 34(1) and (3) of the Securities Trading Act where references were made to the directly applicable requirements in Article 7 and 8 of the MiFID Level 2 Regulation No. 1287/2006.</p> <p>Currently, with regard to non-securities derivatives (including commodities derivatives) Germany acts in accordance with CESR's public statement of 26 October 2007 (ref.: CESR/07-627b).</p>	<p>In Germany, the transaction reporting and record-keeping requirements for transactions in gas derivatives laid down in MiFID are applicable. Germany has neither additional requirements for MiFID investment firms nor other requirements for firms which do not fall under MiFID (e.g. because they qualify for a MiFID exemption). It should also be noted that the transaction reporting and record keeping requirements only apply to "financial instruments" according to MiFID. Beside electricity and gas derivatives with cash settlement and those traded on regulated markets or MTFs, only the derivatives covered by Article 38 of the MiFID Level 2 Regulation No. 1287/2006 are considered to be financial instruments.</p> <p>The MiFID requirements for transaction reporting were transposed in Sec. 9 of the Securities Trading Act (Wertpapierhandelsgesetz) and a revised Ordinance on Transaction reporting requirements (Wertpapierhandel-Meldeverordnung) where also references were made to the directly applicable provisions of the MiFID Level 2 Regulation No. 1287/2006 in this respect.</p> <p>The MiFID requirements on record-keeping of transactions in financial instruments have been transposed in Sec. 34(1) and (3) of the Securities Trading Act where references were made to the directly applicable requirements in Article 7 and 8 of the MiFID Level 2 Regulation No. 1287/2006.</p> <p>Currently, with regard to non-securities derivatives (including commodities derivatives) Germany acts in accordance with CESR's public statement of 26 October 2007 (ref.: CESR/07-627b).</p>
GREECE	<p>There are no additional requirements for record keeping obligations with respect to transactions in electricity compared with transactions in other commodity derivatives. As far transaction reporting obligations are concerned no additional requirements to the ones required by MiFID (i.e. for derivatives admitted to trading in regulated markets) exist.</p>	<p>There are no additional requirements for record keeping obligations with respect to transactions in gas compared with transactions in other commodity derivatives. As far transaction reporting obligations are concerned no additional requirements to the ones required by MiFID (i.e. for derivatives admitted to trading in regulated markets) exist.</p>
HUNGARY	<p>The Hungarian legislation does not contain any record keeping obligations for investment firms that are additional to the ones required by MiFID with respect to transactions in electricity derivatives.</p>	<p>The Hungarian legislation does not contain any record keeping obligations for investment firms that are additional to the ones required by MiFID with respect to transactions in gas derivatives.</p>
ICELAND	N/A	N/A

IRELAND		
ITALY	<p>Market rules provide for detailed record keeping obligations in addition to Consob's general requirements applicable to investment firms. Pursuant to Article 6, paragraph 2-bis, of the Consolidated Law on Finance and article 29 of the Joint Regulation of Consob and Bank of Italy all transactions in electricity or energy derivatives must be recorded and kept for five years. The data on transactions are subject to reporting obligations pursuant to Art. 25 of MiFID. Moreover, market members must notify suspicious transactions pursuant to the legislation implementing Art. 6 of the market abuse Directive.</p>	<p>Market rules provide for detailed record keeping obligations in addition to Consob's general requirements applicable to investment firms. Pursuant to Article 6, paragraph 2-bis, of the Consolidated Law on Finance and article 29 of the Joint Regulation of Consob and Bank of Italy all transactions in electricity or energy derivatives must be recorded and kept for five years. The data on transactions are subject to reporting obligations pursuant to Art. 25 of MiFID. Moreover, market members must notify suspicious transactions pursuant to the legislation implementing Art. 6 of the market abuse Directive.</p>
LATVIA	<p>Law on the Financial Instruments Market transposes requirements set by MiFID regarding transaction reporting and record keeping obligations. There is no national requirements that are additional to the ones required by MiFID.</p> <p>As the Riga Stock Exchange does not provide trading with the commodities derivatives, the rules of the Exchange neither provide record keeping nor transaction reporting obligations in respect of electricity derivatives.</p>	<p>Law on the Financial Instruments Market transposes requirements set by MiFID regarding reporting obligation and record keeping obligations. There is no national requirements that are additional to the ones required by MiFID.</p> <p>As the Riga Stock Exchange does not provide trading with the commodities derivatives, the rules of the exchange neither provide record keeping nor transaction reporting obligations in respect of gas derivatives.</p>
LITHUANIA	<p>According to the Law on Electricity:</p> <p>33 (1) Electricity undertakings shall record, group and aggregate their transactions relating to transmission, distribution, supply and other non-electricity activities in separate accounts and registers of accounting.</p> <p>33 (3) The transmission system operator, distribution system operator and public suppliers, fulfilling public service obligations shall keep separate accounts specifying expenditure and income relating to activities connected with the fulfilment of this obligation.</p> <p>The Law on Markets in Financial Instruments transposes requirements set by MiFID regarding transaction reporting and record keeping obligations. The Lithuanian legislation does not contain any record keeping obligations for investment firms that are additional to the ones required by MiFID with respect to transactions in electricity derivatives.</p>	<p>According to the Law on Natural Gas:</p> <p>1. Natural gas undertakings shall record, group and aggregate their transactions relating to transmission, distribution, storage, liquefaction, supply for domestic and non-domestic consumers and other non-gas activities in separate accounts and registers of accounting.</p> <p>2. The Regulator has a right to obligate gas undertakings to keep separate accounts for activities connected with the fulfilment of public service obligations and supply of last resort.</p> <p>The Law on Markets in Financial Instruments transposes requirements set by MiFID regarding transaction reporting and record keeping obligations. The Lithuanian legislation does not contain any record keeping obligations for investment firms that are additional to the ones required by MiFID with respect to transactions in gas derivatives.</p>
LUXEMBOURG	<p>The record-keeping obligations and the transaction reporting obligation of investment firms with respect to transactions in electricity derivatives are those provided in the MiFID.</p>	<p>The record-keeping obligations and the transaction reporting obligation of investment firms with respect to transactions in gas derivatives are those provided in the MiFID.</p>
MALTA	<p>No electricity derivatives are traded on the Maltese regulated market and therefore to date the Authority does not receive transaction reports with respect to transactions executed by Maltese investment firms in electricity derivatives. In addition, from the information available, we understand that none of the Maltese authorised investment firms act directly on an EU electricity derivatives market.</p> <p>With respect to record keeping obligations, Maltese authorised investment firms are required to retain record of all transactions [including those executed on a reception and transmission of order basis] undertaken by them, including those</p>	<p>No gas derivatives are traded on the Maltese regulated market and therefore to date the Authority does not receive transaction reports with respect to transactions executed by investment firms in gas derivatives. In addition, from the information available, we understand that no Maltese authorised investment firms act directly on an EU gas derivatives market.</p> <p>With respect to record keeping obligations, Maltese authorised investment firms are required to retain record of all transactions [including those executed on a reception and transmission of order basis] undertaken by them, including those undertaken in gas derivatives, which requirements</p>

	undertaken in electricity derivatives, which requirements are those specified by the MiFID and are in no way additional to these.	are those specified by the MiFID and are in no way additional to these.
NORWAY	<p>Art. 25 (1)</p> <p>The physical contracts traded and settled at Nord Pool Spot and the electricity derivatives contracts traded and cleared at Nord Pool and Nord Pool Clearing are all treated as a whole in Nord Pool Market Surveillance. All other non-standardised OTC-traded derivatives contracts (direct OTC trading) are not seen as financial instruments in accordance with MiFID.</p> <p>Nord Pool as an exchange is obliged in accordance to Norwegian legislation to have proper market surveillance of the exchange traded contracts and OTC-traded contracts in the exchange traded products. The OTC-traded products are seen as the contracts cleared at Nord Pool Clearing with the same standardisation as the exchange products.</p> <p>Routines and instructions of the market surveillance services are approved by Kredittilsynet and the member requirements are stated in the trading rules as "Market Conduct Rules" of the exchange. These rules are approved by Kredittilsynet and may be found at <a href="http://www.nordpool.com">www.nordpool.com</a> under "Regulation and compliance". The trading rules also give Market surveillance ability to ask the participants of transaction data of trading in the non-standardised OTC derivatives market. Market surveillance may also ask the Nordic System Operators for data related to the balancing market.</p> <p>The MTFs are required to have proper market surveillance of their market.</p> <p>Art 25 (2)</p> <p>Commission regulation no. 1287/2006 article 7 and 8 is implemented in Norwegian legislation as it is.</p> <p>Art 25 (3)</p> <p>The transaction reporting system (TRS) for commodity derivatives contracts is not yet operational, partly because the national system is not able to handle commodity derivatives contracts and partly because the central system for exchange of data between the national TRS's is not yet handling commodity derivatives contracts. When operational Kredittilsynet most likely will be given information from the exchange directly and not from the licensed investment firms, maybe supported with data from the supervised investment firms. At the moment all participants are obliged to keep record of the trades executed after 1st November 2007 for reporting in the future.</p> <p>A problem according to TRS and commodity derivatives is that the number of transactions reported from investment firms will give far less transparency of the electricity derivatives market than the existing system with market surveillance at Nord Pool.</p> <p>TRS may become more needed as a tool for</p>	<p>No supervised gas trading activity on Norwegian regulated markets or MTFs. If such activity is established for financial instruments it will be treated the same way for gas derivatives trading.</p>



	market transparency if the liquidity is spread out on several regulated markets and/or MTFs.	
POLAND	Not applicable.	Not applicable.
PORTUGAL	<p>Under the Portuguese Securities Code, which transposed MiFID, the rules applicable to investment firms regarding transactions in electricity derivatives are the same as the ones applicable to financial markets in general. There are no additional rules besides MiFID requirements. Regarding MIBEL derivatives market these rules apply only to members which are investment firms.</p> <p>On the subject of transactions reporting, Portuguese investment firms have to report all the transactions executed in any financial instruments admitted to trading on a regulated market. The report is made directly from the investment firms or via a reporting system approved by CMVM (in this case the obligation on the investment firm is not applied). At this time, the obligation of reporting is only required for financial instruments whose ISIN Code is available. If not, the reporting of transactions, under the reports made to CMVM due the TREM obligations, is not required [Article 315, Portuguese Securities Code and CMVM's Instruction nr 2/2007].</p> <p>Regarding other record-keeping requirements the Portuguese law does not distinguish between financial instruments and requires that the investment firms to arrange for records to be kept of all services and transactions performed, namely information related to all obligations with respect to clients [Article 307 and subsequent, Portuguese Securities Code].</p> <p>Note these rules are also applicable to all financial intermediaries (including banks providing investment services).</p>	Not applicable.
ROMANIA	In addition to the statements and records as referred to in MiFID, CNVM Regulation No 32/2006 binds investment firms to draw up, on a daily basis, a series of statements regarding the transactions with derivatives. Therefore investment firms must keep records of margin calls and of other debts/credits of their clients, and monthly forward to CNVM a report regarding transactions in derivatives (Art. 152, section (1), item a) and Art. 153, section (1), item c) from CNVM Regulation no. 32/2006). The report contains information regarding the number of transactions, number of contracts, value of the contracts, number and type of the open positions and the risk exposure during the reporting period. To be mentioned that there are no differences in the reporting requirements based on the asset of a derivative.	In addition to the statements and records as referred to in MiFID, CNVM Regulation No 32/2006 binds investment firms to draw up, on a daily basis, a series of statements regarding the transactions with derivatives. Therefore investment firms must keep records of margin calls and of other debts/credits of their clients, and monthly forward to CNVM a report regarding transactions in derivatives (Art. 152, section (1), item a) and Art. 153, section (1), item c) from CNVM Regulation no. 32/2006). The report contains information regarding the number of transactions, number of contracts, value of the contracts, number and type of the open positions and the risk exposure during the reporting period. To be mentioned that there are no differences in the reporting requirements based on the asset of a derivative.
SLOVAK REPUBLIC	In relation to the Act no. 209/2007 of the Statute of laws, Directive MiFID was implemented into Slovak legal system, in which also the "record keeping and transaction reporting obligations" laid by this Directive. There are no special obligations concerning electricity and gas derivatives.	In relation to the Act no. 209/2007 of the Statute of laws, Directive MiFID was implemented into Slovak legal system, in which also the "record keeping and transaction reporting obligations" laid by this Directive. There are no special obligations concerning electricity and gas derivatives.
SLOVENIA	Electricity derivatives do not exist at the electricity exchange in Slovenia (day ahead electricity market only). The vast majority of electricity trade is undertaken on a bilateral basis (bilateral	Natural gas derivatives do not exist in Slovenia, even organized day ahead market does not exist. All the trade with natural gas is undertaken on a bilateral basis (bilateral contracts).

	contracts).  If any initiative came to establish futures market with derivatives, the Law on financial instruments is applicable. This law defines any obligations, which are now not applicable.	If any initiative came to establish futures market with derivatives, the Law on financial instruments is applicable. This law defines any obligations, which are now not applicable.
SPAIN	Since the firms trading electricity spot contracts don't fall under the provisions of MiFID, no record-keeping obligations are applicable.	Since the firms trading gas spot contracts don't fall under the provisions of MiFID, no record-keeping obligations are applicable.
SWEDEN	There are no national record keeping and transaction reporting obligations but the majority of all active participants in this respect are members at NordPool ASA which means that the majority of all trading activities take place at this exchange. All members at NordPool ASA has to follow the extensive requirements deriving from that membership.  As regards financial instruments, there are no additional requirements to MiFID.	As regards financial instruments, there are no additional requirements to MiFID.
THE NETHERLANDS	Record keeping: One-on-one implementation of MiFID. No additional obligations.  Transaction reporting: Reporting only applicable to transactions in electricity and gas derivatives traded on a regulated market.	Record keeping: One-on-one implementation of MiFID. No additional obligations.  Transaction reporting: Reporting only applicable to transactions in electricity and gas derivatives traded on a regulated market.
UNITED KINGDOM	There are no transaction reporting obligations additional to the ones required by MiFID, apart from an extension of those obligations to financial instruments admitted to trading on UK Prescribed Markets ("PMs") (i.e. AIM and PLUS markets) and OTC derivatives on debt and equity instruments admitted to regulated markets ("RMs") and PMs. However, FSA, UK RMs, trade bodies & CESR recommended non-securities derivatives (including energy derivatives) should be excluded from transaction reporting. Nevertheless, non-securities RMs remain responsible for monitoring/reporting of energy derivatives.  On top of the record-keeping obligations under MiFID, there are out-of-scope requirements for other records, e.g. tapes, to be held by firms, and the applicable holding periods may differ from the 5 year period set out in MiFID.	There are no transaction reporting obligations additional to the ones required by MiFID, apart from an extension of those obligations to financial instruments admitted to trading on UK Prescribed Markets ("PMs") (i.e. AIM and PLUS markets) and OTC derivatives on debt and equity instruments admitted to regulated markets ("RMs") and PMs. However, FSA, UK RMs, trade bodies & CESR recommended non-securities derivatives (including energy derivatives) should be excluded from transaction reporting. Nevertheless, non-securities RMs remain responsible for monitoring/reporting of energy derivatives.  On top of the record-keeping obligations under MiFID, there are out-of-scope requirements for other records, e.g. tapes, to be held by firms, and the applicable holding periods may differ from the 5 year period set out in MiFID.

<b>Comments</b>	
FRANCE	For every answer :  What is called an power or gas exchange in the energy sector is not necessarily an "exchange" under the definition of financial markets.  In order to have common definitions between financial and energy markets, the word "exchange" will be as much as possible avoided in the questionnaire and will be replaced either by Regulated Market (= "exchange" in the definition of financial markets) or MTF (Multilateral trading facilities) (in particular to refer to Powernext which, is often called the "French Power Exchange" whereas it is not a regulated market).  In that respect, it is worth underlining that a FUTURES refers to derivatives traded on a regulated market or a MTF, whereas a FORWARD is traded on the OTC. As some brokers (in particular all brokers offering trading services on energy for settlement in France) are MTFs, they are considered to be offering trading in FUTURES products.

**C3: What (regulatory) authority oversees trading activities in energy markets in EU Member States?**

Member State	Electricity	Gas
AUSTRIA	<p>Wiener Börse AG (Austrian Stock Exchange) holds licenses to act as a stock exchange and as a commodities exchange. The Energy Exchange Austria Abwicklungsstelle für Energieprodukte AG (EXAA) conducts its business under the license granted to Wiener Börse AG as an "Abwicklungsstelle" (execution agency). It operates a physical day-ahead auction market. EXAA does not list forward or futures products.</p> <p>Licenses to operate as a commodities exchange are granted by the Minister of Economics and Labour. According to Art. 40 Börsegesetz (Stock Exchange Act) commodity exchanges are under supervision of the Minister of Economics and Labour. The Minister appoints an employee of the ministry as a "Börsekommissär" (Stock Exchange Commissioner). The Börsekommissär supervises the activities of the commodities exchange, especially whether the commodities exchange acts in accordance with the stock exchange act.</p> <p>Trading activities outside of the power exchange (OTC trades) are not supervised by any regulatory authority in Austria.</p>	<p>No organised commodity exchange trades gas contracts in Austria.</p> <p>CEGH (Central European Gas Hub GmbH), also known as "Hub Baumgarten" acts as a physical wholesale trading hub for gas with limited liquidity. Unlike EXAA, CEGH is not a regulated commodities exchange. According to our understanding trading is only limited to short-term products.</p> <p>If it would be commodity exchange for gas the same provisions as for electricity would be applicable.</p> <p>Wholesale gas transactions (trades) as such are not supervised by any regulatory authority in Austria.</p>
BELGIUM	<p>Supervision on the energy markets is linked to the type of instrument traded (i.e. whether it is a pure commodity or a financial instrument within the meaning of MiFID).</p> <p>The CBFA (financial regulator) is competent for the supervision of the exchange when financial instruments within the meaning of MiFID are traded. No such financial instruments are currently traded on-exchange.</p> <p>With respect to Belpex, the supervision by the CBFA as financial regulator is limited to providing an opinion on its market rules.</p> <p>Power exchange: CREG (energy regulator) has to monitor the spot market.</p> <p>OTC-markets: no regulation.</p>	<p>Supervision on the energy markets is linked to the type of instrument traded (i.e. whether it is a pure commodity or a financial instrument within the meaning of MiFID). The CBFA (financial regulator) is competent for the supervision of the exchange when financial instruments within the meaning of MiFID are traded. No such exchange exists currently in Belgium.</p> <p>Gas spot products: no regulation.</p>
BULGARIA		
CYPRUS		
CZECH REPUBLIC	<p>National supervision above Prague power exchange and activity exchange broker exerts relevant state administration body through designated stock list commissioner. The relevant state body is the Ministry of Industry and Trade.</p> <p>There is the market operator in the Czech Republic which organizes trading too. The supervision on this trading can be partly organized by the Energy Regulatory Office.</p> <p>In case of determination law about economic competition (abuse of dominant position), the relevant authority is the Office For The Protection Of The Competition.</p>	<p>There is no supervision in ordinary circumstances, only in case of determination law about economic competition (abuse of dominant position). The relevant authority for this is the Office For The Protection Of The Competition.</p>

DENMARK	<p>The only Danish trading activity in electricity which is directly overseen by a regulatory authority is that on the Nordic power exchange, NordPool. This activity is overseen by the Norwegian financial regulator.</p> <p>In addition to this, trading in energy derivatives is in principle subject to the Danish financial regulation but no transactions are recorded or overseen.</p>	<p>Trading activities in gas are de facto not overseen by a regulatory authority. Trading in energy derivatives is in principle subject to the Danish financial regulation but no transactions are recorded or overseen.</p>
ESTONIA	<p>The Estonian Electricity market is not opened yet. Until 01.01.2009 10% of the market is opened, from 2009-2013 35% of the market will be opened and from 2013 100% of the market will be opened. Therefore today the trading taking place is minimal.</p> <p>Estonian Competition Authority oversees the application of competition principles.</p> <p>Financial Supervision Authority oversees</p> <p>(i) investment firms;</p> <p>(ii) Investment services;</p> <p>(iii) Public offerings of securities;</p> <p>(iv) Regulated markets, MTF-s and SI-s;</p> <p>(v) Clearing houses;</p> <p>If services in or trading with electricity or gas commodity derivatives fall under one abovementioned categories Financial Supervision Authority is supervisory authority for securities markets. Financial Supervision Authority does not supervise any commodities markets or electricity or gas markets where trading is carried in goods itself. If electricity or gas derivatives are traded by producers of such a goods on their name and not as main activity OTC or spot and there is no offering of investment services by those firms they are not under Financial Supervision Authority 's supervision.</p>	<p>Although the gas market is open for competition, the trading activities are minimal since there is practically only one importer of gas.</p> <p>Estonian Competition Authority oversees the application of competition principles.</p> <p>Financial Supervision Authority oversees</p> <p>(i) investment firms;</p> <p>(ii) Investment services;</p> <p>(iii) Public offerings of securities;</p> <p>(iv) Regulated markets, MTF-s and SI-s;</p> <p>(v) Clearing houses;</p> <p>If services in or trading with electricity or gas commodity derivatives fall under one abovementioned categories Financial Supervision Authority is supervisory authority for securities markets. Financial Supervision Authority does not supervise any commodities markets or electricity or gas markets where trading is carried in goods itself. If electricity or gas derivatives are traded by producers of such a goods on their name and not as main activity OTC or spot and there is no offering of investment services by those firms they are not under Financial Supervision Authority 's supervision.</p>
FINLAND	<p>Rahoitustarkastus (FSA) is the competent authority to supervise trading activities of standardized derivative contracts, the underlying of which is a commodity. Currently there is no regulated market for standardized derivative contracts, the underlying of which is a commodity.</p> <p>Additionally, regulation of insider dealing and market manipulation is also applied to derivative contracts, the underlying of which is a commodity, that are not traded on a regulated market or on a market that is otherwise under regulatory supervision. (Securities Market Act, 26.5.1989/495, Section 5 Chapters. 1,2,12 - 15).</p>	<p>Rahoitustarkastus (FSA) is the competent authority to supervise trading activities of standardized derivative contracts, the underlying of which is a commodity. Currently there is no regulated market for standardized derivative contracts, the underlying of which is a commodity.</p> <p>Additionally, regulation of insider dealing and market manipulation is also applied to derivative contracts, the underlying of which is a commodity, that are not traded on a regulated market or on a market that is otherwise under regulatory supervision. (Securities Market Act, 26.5.1989/495, Section 5 Chapters. 1,2,12 - 15).</p>
FRANCE	<p>In France, CRE monitors gas and electricity wholesale markets. Indeed, according to article 28 of the French energy law n° 2000-108 of 02.10.2000, the French Energy Regulatory Commission (CRE) "monitors electricity and natural gas transactions between suppliers, traders, and generators, transactions conducted on organised markets, and cross-border transactions. It checks that suppliers, traders and generators' offers are consistent with their technical and economic constraints."</p>	<p>In France, CRE monitors gas and electricity wholesale markets. Indeed, according to article 28 of the French energy law n° 2000-108 of 02.10.2000, the French Energy Regulatory Commission (CRE) "monitors electricity and natural gas transactions between suppliers, traders, and generators, transactions conducted on organised markets, and cross-border transactions. It checks that suppliers, traders and generators' offers are consistent with their technical and economic constraints."</p>

<p>It thus includes every type of transaction on the wholesale gas and electricity markets for settlement in France, and every period of delivery, for both financial and physical products, that is to say :</p> <ul style="list-style-type: none"> <li>- every transaction channel : direct bilateral, brokered, or done via an exchange</li> <li>- every period of time : forward, day-ahead, intraday and balancing</li> <li>- every type of transaction, both physical and financial</li> <li>- for every counterparties, whatever their nationality, as long as transactions are for settlement in France.</li> </ul> <p>The AMF is the competent authority responsible for the regulation and supervision of regulated markets and MTF and their operators where financial instruments are traded. The AMF is also the competent authority for the regulation and supervision of French investment firms trading/dealing in financial instruments, be it on a regulated market an MTF or OTC, with the exception of prudential regulation, which is the competence of the French Banking Commission. Entities dealing only in non financial instruments (or falling within the scope of an exemption provided by MIFID Article 2) are outside the scope of competence of the AMF.</p> <p>At the moment, power trading in France occurs in three ways :</p> <ul style="list-style-type: none"> <li>- direct bilateral trading</li> <li>- trading through brokers. 5 brokers offer trading services for electricity (day-ahead and futures) for settlement in France: ICAP, GFI, Spectron, TFS and Tullett Prebon. These brokers are UK firms based in London and Amsterdam, and are not regulated by the AMF. They do business in France under MIFID free provision of services.</li> <li>- trading through Powernext. Powernext Futures is the only MTF active on energy futures in France and is regulated by the AMF. Powernext has day-ahead segments, which are not of the competence of the AMF</li> <li>- trading through EEX France (EEX France is a segment of the German Regulated Market, EEX, which offers continuous futures trading for settlement in France). This platform has been inactive for months.</li> </ul> <p>At the moment, gas trading in France occurs in two ways :</p> <ul style="list-style-type: none"> <li>- direct bilateral trading</li> <li>- trading through brokers. 1 broker offers trading services for gas (day-ahead and futures) for settlement in France: ICAP. This broker is a UK firm located in London, and is not regulated by the AMF.</li> <li>- Powernext has announced the launch of a gas trading platform (MTF) for day-ahead and futures</li> </ul>	<p>It thus includes every type of transaction on the wholesale gas and electricity markets for settlement in France, and every period of delivery, for both financial and physical products, that is to say :</p> <ul style="list-style-type: none"> <li>- every transaction channel : direct bilateral, brokered, or done via an exchange</li> <li>- every period of time : forward, day-ahead, intraday and balancing</li> <li>- every type of transaction, both physical and financial</li> <li>- for every counterparties, whatever their nationality, as long as transactions are for settlement in France.</li> </ul> <p>The AMF is the competent authority responsible for the regulation and supervision of regulated markets and MTF and their operators where financial instruments are traded. 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	<p>products. However, trading in this platform will not begin before the end of 2008.</p> <p>There is currently no regulated market in France where power or gas futures are admitted to trading. There is an MTF where power futures are traded (Powernext).</p>	<p>products. However, trading in this platform will not begin before the end of 2008.</p> <p>There is currently no regulated market in France where power or gas futures are admitted to trading. There is an MTF where power futures are traded (Powernext).</p>
GERMANY	<p>BaFin, as Germany's integrated financial supervisor, guarantees the proper functioning, stability and integrity of the German financial system. Therefore, BaFin safeguards the ability of financial institutions to meet their payment obligations (prudential supervision of solvency requirements) and ensures the transparency and integrity of the financial market, e.g. combats insider dealing and market manipulation (market supervision).</p> <p>Supervision of the individual exchanges (e.g. the European Energy Exchange – "EEX") is the responsibility of the exchange supervisory authorities (Börsenaufsichtsbehörden) of the Federal States (Bundesländer). They supervise the orderly conduct of trading on the individual exchanges in accordance with the provisions of the Exchanges Act (Börsengesetz). In particular, the exchange supervisory authorities monitor the pricing process in collaboration with the exchanges' own trading surveillance units (Handelsüberwachungsstellen). BaFin co-operates with the exchange supervisory authorities in fulfilling the functions of exchange regulator at the international level.</p> <p>According to the Energy Industry Act (Energiewirtschaftsgesetz, EnWG) Bundesnetzagentur as the federal regulator for the electricity grids and the regulatory authorities of the Federal States (Bundesländer) are competent for guaranteeing non-discriminative access to the grid and adequacy of the fees for this access.</p> <p>In Germany the task of protecting competition is undertaken by the Federal Cartel Office (Bundeskartellamt) and the competition authorities of the respective states. In antitrust cases, the Bundeskartellamt also examines trading activities of firms under investigation.</p>	<p>BaFin, as Germany's integrated financial supervisor, guarantees the proper functioning, stability and integrity of the German financial system. Therefore, BaFin safeguards the ability of financial institutions to meet their payment obligations (prudential supervision of solvency requirements) and ensures the transparency and integrity of the financial market, e.g. combats insider dealing and market manipulation (market supervision).</p> <p>Supervision of the individual exchanges (e.g. the European Energy Exchange – "EEX") is the responsibility of the exchange supervisory authorities (Börsenaufsichtsbehörden) of the Federal States (Bundesländer). They supervise the orderly conduct of trading on the individual exchanges in accordance with the provisions of the Exchanges Act (Börsengesetz). In particular, the exchange supervisory authorities monitor the pricing process in collaboration with the exchanges' own trading surveillance units (Handelsüberwachungsstellen). BaFin co-operates with the exchange supervisory authorities in fulfilling the functions of exchange regulator at the international level.</p> <p>According to the Energy Industry Act (Energiewirtschaftsgesetz, EnWG) Bundesnetzagentur as the federal regulator for the electricity grids and the regulatory authorities of the Federal States (Bundesländer) are competent for guaranteeing non-discriminative access to the grid and adequacy of the fees for this access.</p> <p>In Germany the task of protecting competition is undertaken by the Federal Cartel Office (Bundeskartellamt) and the competition authorities of the respective states. In antitrust cases, the Bundeskartellamt also examines trading activities of firms under investigation.</p>
GREECE	<p>Spot trading:</p> <p>RAE oversees directly trading activities in the Greek Wholesale Spot Market, and indirectly over the counter trading activities for the interconnection transmission capacity in case of secondary trading between counterparties by having the right to request data from the them.</p> <p>Hellenic Transmission System Operator (HTSO) is a S.A. company the 51% of which belonging to the Public Sector, and the 49% belonging to Public Power Corporation S.A. in Greece and has mainly a double role. The first role in respect to the Transmission System is always to look after for the existence of a balance between production and consumption and the electric energy to be provided in a reliable, safe and in terms of quality acceptable way. The second role of HTSO is to settle the market, in other words to act like an energy stock market that arranges on a daily basis who owns to whom. HTSO does not provide electric energy and whatever basic exchanging relations exist they are bilateral ones between</p>	<p>Spot trading:</p> <p>Under Law 3428/05 (Art. 29) there is a provision for the development of Spot Natural Gas Market. According to the above law the operator of the market can be the existing TSO. Furthermore, the Ministry of Development will be responsible to establish a code regarding the market operation, following Operator's proposal and the consenting opinion of RAE. However, at the moment there is no market in Greece for natural gas.</p>

	<p>producers/providers and their customers.</p> <p>According to Greek National Grid Control and Power Exchange Code for Electricity, HTSO is required to monitor the operation of the Energy Transactions System on a daily basis and keep relevant records, as well as the Registers provided for by the provisions of Greek National Code for Electricity.</p> <p>In the context of such obligation, it is required to keep statistics and comparative data concerning the operation of the Energy Transactions System, prepare periodic reports notified to RAE (Regulatory Authority for Energy), and publish such information on its website, in the way approved by RAE decision No 76/2007.</p> <p>Derivatives trading:</p> <p>HCMC is the competent authority for the provision of investment services related to derivatives, and the operation of derivatives markets. Currently there is no regulated market in Greece for derivatives in electricity.</p>	<p>Derivatives trading:</p> <p>HCMC is the competent authority for the provision of investment services related to derivatives, and the operation of derivatives markets. Currently there is no regulated market in Greece for derivatives in gas.</p>
HUNGARY	<p>As far as the trading activities in energy market is concerned the Hungarian Financial Supervisory Authority (referred as: HFSA) is responsible for the supervision of trading activity in options, futures, forwards and derivatives relating to commodities (including gas and electricity) other than dealing on own accounts and intra-group transactions. The responsibility marked by the Act CXXXV of 2007 on HFSA is irrespective of the type of settlement and the type of market participants.</p> <p>In Hungary there is no power exchange, the physical trade in electricity is done by OTC Trading, Direct OTC trading and as forward and Day-ahead transactions. The overseeing authority is the Hungarian Energy Office (HEO). For electricity there exists a trading platform operated by MVM (MVM Market Place <a href="http://www.mvmpiacter.hu">http://www.mvmpiacter.hu</a>). This Market Place is not a power exchange, it helps bringing together of parties for buying and selling electricity (offering electricity in the platform and the interested party buys it immediately, or auctioning of electricity). Bids for the electricity in excess of the long-term contracts of MVM can be placed for minimum month-ahead contracts. Only registered participants see the trading data (but only their own data and at the end the partner's data by contracting), but HEO may see all transactions.</p>	<p>As far as the trading activities in energy market is concerned the Hungarian Financial Supervisory Authority (referred as: HFSA) is responsible for the supervision of trading activity in options, futures, forwards and derivatives relating to commodities (including gas and electricity) other than dealing on own accounts and intra-group transactions. The responsibility marked by the Act CXXXV of 2007 on HFSA is irrespective of the type of settlement and the type of market participants.</p> <p>Gas is supplied on basis of bilateral contracts.</p>
ICELAND	<p>The transmission company, Landsnet, may operate an electricity market provided that it keeps the accounts for such operation separate from accounts relating to other activities. Such a market has not yet been opened.</p>	N/A
IRELAND		
ITALY	<p>The Italian Energy regulator for the Electricity and Gas sectors (AEEG) is responsible for monitoring transactions on electricity markets, including spot and forward contracts transactions executed on the Power Exchange or Over the Counter. AEEG has the power to request information directly to market participants or to the Italian Power</p>	<p>AEEG is responsible for monitoring transactions in the gas market. It is worth mentioning that wholesale transactions are organised exclusively on bilateral basis (directly and via an intermediary). However, the AEEG is currently working on the implementation of a market that should also include a multilateral system for</p>

	<p>Exchange (IPEX) managing company (Gestore del Mercato Elettrico - GME) on spot and forward transactions executed on regulated markets or over the counter, physically settled. AEEG can ask information from market participants different from authorised persons pursuant to the Consolidated Law on finance with respect to forward transactions financially settled. Rules for spot and physically settled forward contract markets organised within the Italian Power Exchange (IPEX) shall be approved by the Italian Minister for the Economic Development, upon advice provided by AEEG. Consob is the competent authority for the supervision of regulated markets as defined pursuant to directive 2004/39/EC (MiFID), including those trading electricity derivatives. Consob is the sole authority in Italy (an duly notified as such to the European Commission) competent for detecting and prosecuting market abuse on regulated markets pursuant to directive 2003/6/EC. However, under Art. 66-bis of the Consolidated Financial Law, Consob should exercise a number of regulatory functions, with regard to energy derivatives markets, having heard AEEG. Pursuant to the above mentioned Art. 66-bis, Consob can adopt the following measures in agreement with AEEG:</p> <ul style="list-style-type: none"> <li>- opposition to the changing of the ownership structure of the market operator;</li> <li>- authorization (or withdrawal of the authorization) to operate a regulated market;</li> <li>- requests to the market operator to amend such market rules that are considered unable to guarantee the transparency and orderly market management;</li> <li>- recognition of (non EEU) foreign markets to operate in Italy;</li> <li>- opposition to the market operator agreements regarding the choice of a foreign entity to perform the market clearing operations.</li> </ul> <p>AEEG remains responsible for the overall stability and competitiveness of electricity and gas markets, and the safe, efficient operation of national electricity and gas transportation networks. Consob and AEEG should cooperate and give themselves assistance also by exchange of information.</p>	<p>wholesale transactions in the next future. Wholesale gas transactions may take place at the entry points of the transmission system and at the Virtual Exchange Point (PSV) which is a trading point virtually located between the entry and the exit points of the national transmission system. Transactions are mostly for physical delivery and pursued for balancing even if, more recently, wholesale activities for sole trading purpose are increasing. In addition, all transactions at the PSV are OTC. The Italian TSO (Snam Rete Gas) has organised an electronic registration platform at PSV, which can be accessed by shippers and traders. Such IT platform consists of a system that registers OTC transactions (spot and forward) between wholesalers entitled to trade at the PSV. The regulated markets trading gas derivatives are subject to the same rules provided for electricity derivatives.</p>
LATVIA	<p>Public Utilities Commission (PUC) oversees traders of electricity.</p> <p>Financial and Capital Market Commission oversees investment services providers (investment brokerage companies and credit institutions) and exchanges.</p> <p>In practice, no commodity exchange operates in Latvia. Likewise trading in commodity derivatives does not take place in Riga Stock Exchange.</p> <p>Financial and Capital Market Commission supervises transaction in commodities derivatives, if the commodity derivative falls within the scope of financial instrument of Annex C of MiFID.</p>	<p>Public Utilities Commission (PUC) oversees traders of gas.</p> <p>Financial and Capital Market Commission oversees investment services providers (investment brokerage companies and credit institutions) and exchanges.</p> <p>In practice, no commodity exchange operates in Latvia. Likewise trading in commodity derivatives does not take place in Riga Stock Exchange.</p> <p>Financial and Capital Market Commission supervises transaction in commodities derivatives, if the commodity derivative falls within the scope of financial instrument of Annex C of MiFID.</p>
LITHUANIA	<p>Competition Council, National Control Commission for Prices and Energy and Ministry of Economy.</p>	<p>Competition Council, National Control Commission for Prices and Energy and Ministry of Economy.</p>



	<p>National Control Commission for Prices and Energy oversees the activity of electricity companies what is related with the licensing and pricing issues. The Lithuanian Securities Commission is a supervisory authority for the securities markets. The Lithuanian Securities Commission does not supervise any commodities markets or electricity or gas markets where trading is carried in goods itself. If electricity or gas derivatives are traded by producers of such a goods on their name and not as main activity OTC or spot and there is no offering of investment services by those firms they are not under the Lithuanian Securities Commission's supervision.</p>	<p>National Control Commission for Prices and Energy oversees the activity of licensed gas companies and also responsible for pricing issues. The gas market is open for competition, but there is practically only one importer of gas. It determines the fact, that there is no gas as commodity exchange trades. The Lithuanian Securities Commission is a supervisory authority for the securities markets. The Lithuanian Securities Commission does not supervise any commodities markets or electricity or gas markets where trading is carried in goods itself. If electricity or gas derivatives are traded by producers of such a goods on their name and not as main activity OTC or spot and there is no offering of investment services by those firms they are not under the Lithuanian Securities Commission's supervision.</p>
LUXEMBOURG	<p>Concerning trading in financial instruments, the CSSF is the competent authority when trading is carried out by an entity that falls under the supervision of the CSSF.</p> <p>Within its market surveillance task, ILR oversees physical trading activities. Energy traders/suppliers have to submit to ILR an annual report giving among others indications on the supply origin and sources of the electricity or natural gas supplied to their customers (wholesalers, retailers or end consumers).</p>	<p>Concerning trading in financial instruments, the CSSF is the competent authority when trading is carried out by an entity that falls under the supervision of the CSSF.</p> <p>Within its market surveillance task, ILR oversees physical trading activities. Energy traders/suppliers have to submit to ILR an annual report giving among others indications on the supply origin and sources of the electricity or natural gas supplied to their customers (wholesalers, retailers or end consumers).</p>
MALTA	<p>The MFSA is responsible for the implementation and regulation of activities which inter alia fall within the scope of the MiFID. It is also the competent authority in terms of the local legislation which transposes the Market Abuse Directive. In addition, the MFSA is also responsible for the regulation and supervision of regulated markets and MTFs.</p>	<p>The MFSA is responsible for the implementation and regulation of activities which inter alia fall within the scope of the MiFID. It is also the competent authority in terms of the local legislation which transposes the Market Abuse Directive. In addition, the MFSA is also responsible for the regulation and supervision of regulated markets and MTFs.</p>
NORWAY	<p>Please also see the overview section in question C.1</p> <p>Kredittilsynet supervise the electricity derivatives market including: investment firms (including MTF's), regulated markets and clearinghouses. Market surveillance is formally a part of the supervision of regulated markets and MTF's.</p> <p>NVE supervise the participants in the physical electricity market. Further NVE supervise the Nordic spot market place (Nord Pool Spot) including the settlement system of physical contracts. NVE also supervise the Norwegian Transmission System Operator, Statnett.</p> <p>The market participants in the financial market that will be subject to the exceptions in MiFID Article 2 (1) related to providing investment services in commodity derivatives or derivatives contracts will not be supervised by either Kredittilsynet nor NVE.</p> <p>If a participant will be subject to supervision both by Kredittilsynet as a investment firm and by NVE as a participant in the physical electricity market the supervision will be performed simultaneously. However, Kredittilsynet and NVE have established a formal group together with the Norwegian Competition Authority, both on operational level and on formal level. The mandate of the group is to ensure proper supervision of the total electricity</p>	<p>No supervised gas trading activity on Norwegian regulated markets or MTFs. If such activity is established for financial instruments it will be supervised by Kredittilsynet.</p>

	market in Norway and also to exchange market information and handle concrete cases, when needed.	
POLAND	<p>The answer depends on the kind of trading activity.</p> <p>If the contract/financial instrument is offered to more than 300 persons or to an unspecified addressee and it is standardised, the supervision over the transactions of such contracts/instruments comes within the purview of the Chairman of Polish Financial Supervision Authority (this includes all financial instruments and physical products traded on energy exchange and by traders and brokers).</p> <p>Energy traders and brokers fall within the scope of general legislation laying down general supervisory measures on financial market participants. The supervisory powers are granted to the Chairman of PFSA.</p> <p>If the contract is bilateral (without an intermediary) and individual (not standardised), it comes under supervisory purview of the Chairman of Energy Regulatory Authority (Chairman of ERA is i.e. vested with powers to resolve disputes over refusal to conclude sale agreements in individual cases).</p>	The same as in the case of electricity. The trading activity as regards financial instruments is practically non-existent (one big player in the market).
PORTUGAL	<p>The MIBEL derivatives market is supervised by CMVM.</p> <p>ERSE is responsible for general supervision of trading involving Portuguese agents in spot trading, regulated futures trading obligations, bilateral trading and OTC with physical delivery.</p> <p>The organisation of MIBEL (and the Derivatives Market) is based on the "Agreement between the Portuguese Republic and the Kingdom of Spain relative to the constitution of an Iberian Electrical Energy Market" ("MIBEL Agreement"), signed by the respective governments, October 1st 2004.</p> <p>Under the terms of the "MIBEL Agreement", despite its cross-border activity, the MIBEL derivatives market is a market directly subject to Portuguese law and jurisdiction and supervised by CMVM [Articles 353 and 359, Portuguese Securities Code].</p> <p>Although the derivatives market is under the direct supervision and regulation of the CMVM, taking into account the underlying asset of the products traded on this market, CMVM powers are carried out in coordination with ERSE, as the entity responsible for the regulation of the natural gas and electricity activities in Portugal.</p> <p>Notwithstanding the powers granted to the Portuguese Authorities, under the terms of the "MIBEL Agreement", the regulation and supervision of the MIBEL is carried out through a joint coordination committee of CMVM, ERSE and equivalent Spanish Authorities, the National Securities Market Commission (Comisión Nacional del Mercado de Valores - CNMV) and the National Energy Commission (Comisión Nacional de Energía CNE).</p>	All trading is subjected to supervision of ERSE under the regulatory framework.

<p>ROMANIA</p>	<p>In Romania, pursuant to Art. 7, section (1) of the Law No. 13/2007 the competent authority in electricity and gas sectors is ANRE. ANRE regulates and oversees:</p> <ul style="list-style-type: none"> <li>• spot transactions on energy and gas sectors,</li> <li>• forward transactions having as asset gas and energy, when these transactions are not cleared and settled through a recognized clearing house.</li> </ul> <p>Following its statute, CNVM regulates and oversees capital markets, derivatives financial instruments markets (including commodities derivatives markets – gas and energy), and the specific institutions and activities of these ones.</p> <p>In accordance with the national Electricity Law 13/2007 with subsequent modifications, the Romanian Energy Regulatory Authority - ANRE - is responsible for creating and implementing the appropriate regulatory framework to ensure the proper functioning of the electricity sector in terms of efficiency, competition, transparency and consumer protection. Also, ANRE has the explicit obligation to notify the Competition Council any infringement of the legal provisions on competition and transparency or the existence of an abuse of dominant position. In order to fulfil its obligations, ANRE is permanently monitoring the functioning of the wholesale and the retail electricity markets by means of technical, commercial and accounting data and information that all the electricity sector participants (generators, distribution companies, suppliers, transmission company), including the operators of the centralised markets are reporting periodically to ANRE. For ensuring the safe and efficient data storage and processing, templates are used to collect data /information; the templates are established according to the current regulatory framework, and are updated accordingly, being published on ANRE website.</p> <p>The Romanian wholesale market has the following components (products):</p> <ol style="list-style-type: none"> <li>1. Forward transactions with physical settlement <ul style="list-style-type: none"> <li>- Regulated contracts' market (corresponding to the consumption of the final consumers supplied at regulated tariffs and for assuring the technological consumption of the networks) - non standardised contracts with quantities and prices established by ANRE and concluded between generators and suppliers without any intermediary (direct OTC trading), with a maturity of one year (usually);</li> <li>- Negotiated contracts' market - non standardised contracts between all kind of market participants, with quantities and prices established by the counterparties and concluded without any intermediary (direct OTC trading); the maturity is (usually) between one month and several years;</li> <li>- CMBC – centralised market of bilateral contracts operated by SC OPCOM SA - non standardised wholesale transactions between generators, suppliers and big industrial consumers, initiated by one party and concluded with the party which wins the auction on price organised by the power exchange, which does not act as a central counterparty. The trading is executed using the conditions established by the party which initiated the auction and the maturity could be between one month and several years;- CMBC-CN -</li> </ul> </li> </ol>	<p>In Romania, pursuant to Art. 7, section (1) of the Law No. 13/2007 the competent authority in electricity and gas sectors is ANRE.</p> <p>ANRE regulates and oversees:</p> <ul style="list-style-type: none"> <li>• spot transactions on energy and gas sectors,</li> <li>• forward transactions having as asset gas and energy, when these transactions are not cleared and settled through a recognized clearing house.</li> </ul> <p>Following its statute, CNVM regulates and oversees capital markets, derivatives financial instruments markets (including commodities derivatives markets – gas and energy), and the specific institutions and activities of these ones.</p> <p>According to Gas Law 351/2004 with subsequent modifications, ANRE is the public independent body and competent authority for the gas sector. The mission of ANRE is to create and implement the appropriate regulatory system to ensure the proper functioning of the gas sectors in terms of efficiency, competition, transparency and protection of the consumer. ANRE works together with other central or local public administration bodies - as Competition Council - so that interests of all sector players may be harmonized and transparency of the regulatory process assured.</p> <p>ANRE elaborates, applies and approves regulations for the organization and function of natural gas market, on ensuring continuity and security of natural gas supply to customers.</p> <p>ANRE monitors the natural gas internal market and the compliance with the rules on natural gas market organization and functioning including the compliance with criteria and methods for approving prices and for establishing the regulated tariffs in the gas sector.</p> <p>ANRE is responsible for creating the database necessary to develop the activity, as well as for providing information to other bodies involved in the elaboration of the development strategy in natural gas sector, as well as in the international trade with natural gas.</p> <p>The national gas market is formed by a competitive sector (gas is freely traded between suppliers and suppliers and eligible consumers) and a regulated one (natural monopoly activities based on frame contracts for gas transport, underground storage, distribution and supply at regulated prices).</p> <p>At present there are licensed 6 domestic producers (Petrom, Romgaz, Amromco, Toreador, Wintershall Medias, Aurelian Oil&amp;Gas), 3 underground storage operators (Romgaz, Amgaz, Depomures), 1 transport system operator (SNTGN Transgaz S.A. Medias), 34 supply and distribution operators and 76 suppliers (acting on the wholesale market). There is not in place any gas exchange or trading platform.</p> <p>Natural gas mixture structure is determined on monthly bases by the market Operator organized within the Natural Gas national Dispatch within the structure of Natural Gas Transportation National Company "TRANSGAZ"- SA Medias, under the conditions of covering the entire and balanced internal market's demand. The market Operator</p>
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	<p>centralised market for partially standardized bilateral contracts with continuous negotiation, operated by SC OPCOM SA - partially standardised wholesale transactions between generators, suppliers and big industrial consumers, executed on the platform of power exchange which does not act as a central counterparty (MTF). The trading is executed using the conditions established by the party which initiated the auction. The contracts could be traded week-ahead, month-ahead, quarter-ahead or year-ahead. - The Power floor of RCE (Romanian Commodities Exchange) - non-standardised wholesale transactions between brokers, members of RCE, representing all kinds of electricity market participants, executed on the platform of RCE which does not act as a central counterparty (MTF). The trading is executed using the conditions established by the party which initiated the auction. The maturity is usually between one month and one year.</p> <p>2. Day ahead market operated by SC OPCOM SA - standardised wholesale transactions executed on the platform of power exchange, with a physical settlement on the day after the trading day.</p> <p>3. Balancing market operated by TSO - Real time market.</p> <p>ANRE has the authority to oversight any type of market mentioned above, except the Power floor of RCE (Romanian Commodities Exchange), because this institution is governed by a special law (Commodities Exchange law), which explicitly mentions the Romanian Trade and Industry Chamber as the oversight authority. Under these circumstances, ANRE is trying to carry out its activity based on the cooperation of the RCE.</p> <p>For monitoring the centralised electricity markets operated by SC Opcom SA (the electricity market operator/power exchange) and CN Transelectrica SA (the balancing market operator), ANRE is working together with the specialised monitoring units established by the operators.</p> <p>ANRE examines the behaviour of market participants and, if its own analyses confirm that there are serious reasons to suspect a possible infringement of the legal provisions on competition and transparency or the existence of an abuse of dominant position, ANRE informs the Competition Council.</p>	<p>has the obligation to observe the compliance with natural gas mixture structure certified by ANRE, by all licensed operators and eligible customers. The natural gas mixture structure is displayed on the ANRE's web-site.</p>
SLOVAK REPUBLIC	<p>Electricity: Since 1.4.2008 Act no.92/2008 on the Commodities Exchange of the Statute of laws has been in force, in which the control over the Commodities Exchange is set. In general the Ministry of Economy carries out the control powers, in relation to commodity derivatives traded on its regulated market the oversight is carried out by the National Bank of Slovakia.</p>	<p>Since 1.4.2008 Act no.92/2008 on the Commodities Exchange of the Statute of laws has been in force, in which the control over the Commodities Exchange is set. In general the Ministry of Economy carries out the control powers, in relation to the Commodity derivatives traded on its regulated market the oversight is carried out by the National Bank of Slovakia.</p>
SLOVENIA	<p>Trading activities at the electricity exchange are of the spot type only. Securities Market Agency does not supervise this exchange as it does not comply with the provisions of the Market in Financial Instruments Act that implements the basic capital market directives (MiFID, Market Abuse Directive, Prospectus Directives and Transparency Directive). In case any of the trading (spot and future) and issuing activities comply with requirements of the law, the Agency will act in accordance with the law.</p>	<p>There is no oversight over trading activities in terms of the directive, since the gas trading activities do not have the characteristics of the investments nor derivatives.</p>

SPAIN	Under the terms of the "MIBEL – the joint Spanish and Portuguese electricity market- Agreement", the spot market on electricity is under the supervision of the Spanish energy regulator -CNE, Comisión Nacional de Energía-, while the organized derivatives market is under the supervision of the Portuguese Securities regulator (CMVM). The Council of Regulators of MIBEL – composed by the Chairpersons of the Spanish and Portuguese Financial and Energy regulators - oversees the function and the evolution of MIBEL.	The spot market on gas is under the supervision of the Spanish energy regulator - CNE, Comisión Nacional de Energía.
SWEDEN	Finansinspektionen (Swedish Financial supervisory authority) regarding trading in financial instruments. All traded products on physical transactions are done on the exchange Nord Pool ASA (for all Nordic countries) which in its turn is regulated by the Norwegian financial supervisory authority.	Finansinspektionen (Swedish financial supervisory authority) regarding trading in financial instruments. There are no organised physical trade and there is, for the time being, no exchange on the gas market in Sweden.
THE NETHERLANDS	The Netherlands Authority for the Financial Markets (AFM) oversees the trading activities of forward transactions executed on regulated markets and MTF's.	The Netherlands Authority for the Financial Markets (AFM) oversees the trading activities of forward transactions executed on regulated markets and MTF's.
UNITED KINGDOM	<p>Pure spot trading in physical commodities is not generally a regulated activity regulated by the FSA. Nor is the FSA responsible for ensuring security of supply or for protecting consumers from price fluctuations.</p> <p>Trading in certain commodity derivatives does constitute a regulated activity regulated by the FSA. The FSA regulates many OTC transactions by authorised firms as part of its supervision of those firms.</p> <p>The FSA's regulatory perimeter for energy derivative firms is currently wider than MiFID's, although the FSA can waive prudential requirements for energy market participants (EMPs) which have as their main business the generation, production, storage, distribution and/or transmission of electricity or gas and only engage in limited regulated energy activity.</p> <p>The FSA's regulation of energy derivative instruments is slightly wider than MiFID's scope in that physically settled futures or forwards transactions are regulated in the UK where a contract is deemed to be for "investment purposes", even if it may otherwise not fall within Section C of Annex 1 to MiFID.</p> <p>Trading in electricity or gas derivatives on an exchange or MTF in the UK would also be regulated by the FSA.</p> <p>Ofgem monitors data on physical trades and transactions carried out in Great Britain. It does not regulate the trading of energy derivatives. Ofgem does not place a requirement on firms that fall within its regulatory remit to submit specific data regarding their trading activities. Ofgem acquires its information on trading from a variety of sources, which include price reporters and data services, such as Heren, Platts, Bloomberg, Datamonitor, etc., exchanges that publish data (such as UKPX, APX, etc.), as well as from other sources. Some of the data sources that Ofgem uses to monitor market activity are available to any other market participants, though there may be a subscription cost payable to the data</p>	<p>Pure spot trading in physical commodities is not generally a regulated activity regulated by the FSA. Nor is the FSA responsible for ensuring security of supply or for protecting consumers from price fluctuations.</p> <p>Trading in certain commodity derivatives does constitute a regulated activity regulated by the FSA. The FSA regulates many OTC transactions by authorised firms as part of its supervision of those firms.</p> <p>The FSA's regulatory perimeter for energy derivative firms is currently wider than MiFID's, although the FSA can waive prudential requirements for energy market participants (EMPs) which have as their main business the generation, production, storage, distribution and/or transmission of electricity or gas and only engage in limited regulated energy activity.</p> <p>The FSA's regulation of energy derivative instruments is slightly wider than MiFID's scope in that physically settled futures or forwards transactions are regulated in the UK where a contract is deemed to be for "investment purposes", even if it may otherwise not fall within Section C of Annex 1 to MiFID.</p> <p>Trading in electricity or gas derivatives on an exchange or MTF in the UK would also be regulated by the FSA.</p> <p>Ofgem monitors data on physical trades and transactions carried out in Great Britain. It does not regulate the trading of energy derivatives. Ofgem does not place a requirement on firms that fall within its regulatory remit to submit specific data regarding their trading activities. Ofgem acquires its information on trading from a variety of sources, which include price reporters and data services, such as Heren, Platts, Bloomberg, Datamonitor, etc., exchanges that publish data (such as UKPX, APX, etc.), as well as from other sources. Some of the data sources that Ofgem uses to monitor market activity are available to any other market participants, though there may be a subscription cost payable to the data</p>

	<p>provider. Ofgem also receives data from sources that is not made available to market participants.</p> <p>The Northern Ireland Authority for Utility Regulation (also known as "Ofreg") is responsible for the regulation and oversight of the gas and electricity markets in Northern Ireland.</p>	<p>provider. Ofgem also receives data from sources that is not made available to market participants.</p> <p>The Northern Ireland Authority for Utility Regulation (also known as "Ofreg") is responsible for the regulation and oversight of the gas and electricity markets in Northern Ireland.</p>
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<b>Comments</b>	
SLOVAK REPUBLIC	No OTC, No Power Exchange in SK.
SLOVENIA	The question is not applicable to the present Slovenian situation. If derivatives are going to be developed, the Law on financial instruments which implements the MiFID Directive, will become applicable.
UK	<p>Ofgem is the gas and electricity regulator for Great Britain (GB). In Northern Ireland, the gas and electricity sectors are regulated by the Northern Ireland Authority for Utility Regulation, also known as "Ofreg".</p> <p>This questionnaire relates to energy derivatives and financial instruments. Within the United Kingdom, the majority of energy related financial transactions take place in GB rather than Northern Ireland, and so in providing answers to this questionnaire, Ofgem have, where appropriate, focused on the situation in GB.</p>

**E.12: What requirements, deriving from national law, are currently put on energy traders, brokers or exchanges to publish information 'post-trade', for example on publishing traded volumes, prices etc?**

Member State	Electricity	Gas
AUSTRIA	<p>According to § 31 Börsegesetz EXAA has to publish results (prices, volumes) per listed product after the trading session.</p> <p>Within the OTC trading environment brokers and traders have no 'post-trade' transaction related publication obligations.</p>	<p>As mentioned no organised commodity exchange trades gas contracts in Austria, but if it would be established as a commodity exchange the same provisions as for electricity (§ 31 Börsegesetz to publish results) would be applicable.</p> <p>Within the OTC trading environment brokers and traders have no 'post-trade' transaction related publication obligations.</p>
BELGIUM	<p>When implementing MiFID in Belgium, no post-trade requirements have been inserted in financial law with respect to instruments traded on energy markets.</p> <p>Energy traders and brokers: no requirements.</p> <p>Power exchange – spot market: Belpex has to publish on a daily basis the total market demand and supply, prices and aggregated volumes. Belpex does this without any charges.</p> <p>Belpex also has to provide the CREG (energy regulator) volumes and price bid orders for each market player and for each hour.</p>	<p>When implementing MiFID in Belgium, no post-trade requirements have been inserted in financial law with respect to instruments traded on energy markets.</p> <p>Gas spot products: no regulation.</p>
BULGARIA		
CYPRUS		
CZECH REPUBLIC	<p>For market operator - matching curves for supply and demand, amount of electricity from realized contracts, prices for each commercial hour, amount of electricity from unsuccessful supply and demand, number of accepted successful and unsuccessful supply and demand.</p> <p>For Prague power exchange – closed price.</p>	N/A in national law.
DENMARK	There are no requirements on this in the Danish regulation.	There are no requirements on this in the Danish regulation.
ESTONIA	<p>There is no energy market where trading is carried on in energy derivatives in Estonia. If such an energy market would fall under the regulated market definition according to SMA, same rules as to ordinary stock market would apply.</p> <p>The system operators must publish the information about traded volumes and prices on their websites.</p>	<p>No obligations.</p> <p>There is no energy market where trading is carried on in energy derivatives in Estonia. If such an energy market would fall under the regulated market definition according to SMA, same rules as to ordinary stock market would apply.</p>
FINLAND	None	<p>Not relevant.</p> <p>Please note, the Finnish gas market is not open and actually there is just one monopoly seller at wholesale level.</p>
FRANCE	<p>French energy laws do not set up any requirement regarding transparency of energy trading.</p> <p>Under French financial laws and regulations, no post-trade transparency requirements apply to investment firms trading energy contracts.</p>	<p>French energy laws do not set up any requirement regarding transparency of energy trading.</p> <p>Under French financial laws and regulations, no post-trade transparency requirements apply to investment firms trading energy contracts.</p>

	<p>There is no requirement for day-ahead products (the underlying).</p> <p>Where a financial instrument energy contract would be traded on regulated market (this is currently not the case), the market operator shall publish information about prices and quantities within a time period suited to the instrument traded, the method of trading and the amount of the transaction.</p> <p>This time period shall be established in the market rules and shall make it possible to provide the market with adequate information. Publication shall occur at the latest on the opening of the trading session of the third business day after the transaction date (AMF General Regulation Article 514-8).</p> <p>Where that financial instrument energy contract is traded on an MTF, the MTF operator shall publish information on the transactions made on the MTF that is relevant in view of the characteristics of the financial instrument traded, in particular whether or not it is admitted to trading on a regulated market, the method used to trade it, and the number and type of the MTF members and final investors holding the financial instrument.</p> <p>(AMF General Regulation Art 522-5)</p>	<p>There is no requirement for day-ahead products (the underlying).</p> <p>Where a financial instrument energy contract would be traded on a regulated market (this is currently not the case), the market operator shall publish information about prices and quantities within a time period suited to the instrument traded, the method of trading and the amount of the transaction.</p> <p>This time period shall be established in the market rules and shall make it possible to provide the market with adequate information. Publication shall occur at the latest on the opening of the trading session of the third business day after the transaction date (AMF General Regulation Article 514-8).</p> <p>Where that financial instrument energy contract is traded on an MTF, the MTF operator shall publish information on the transactions made on the MTF that is relevant in view of the characteristics of the financial instrument traded, in particular whether or not it is admitted to trading on a regulated market, the method used to trade it, and the number and type of the MTF members and final investors holding the financial instrument.</p> <p>(AMF General Regulation Art 522-5)</p>
GERMANY	<p>According to Art. 24(3) of the German Exchange Act (Börsengesetz) exchanges are obliged to notify promptly the exchange prices and the respective turnover to the trading participants (although exchanges may ask for an adequate remuneration). The term "exchange" covers regulated markets and MTFs operated by a regulated market. It also includes commodity and commodity derivative exchanges. The exchange rules (Börsenordnung) shall provide further details.</p>	<p>According to Art. 24(3) of the German Exchange Act (Börsengesetz) exchanges are obliged to notify promptly the exchange prices and the respective turnover to the trading participants (although exchanges may ask for an adequate remuneration). The exchange rules (Börsenordnung) shall provide further details. The term "exchange" covers regulated markets and MTFs operated by a regulated market. It also includes commodity and commodity derivative exchanges.</p>
GREECE	<p>Spot trading:</p> <p>According to the Greek National Grid Control and Power Exchange Code for Electricity, the Hellenic Transmission System Operator (HTSO), regarding "post-trade" information is required to immediately publish (Article 183, Generation Imbalances Marginal Price Recording and Publishing) the Generation Imbalances Marginal Price in its website. Furthermore, HTSO is obliged daily to publish data in 5 days period for:</p> <ul style="list-style-type: none"> <li>- System Marginal Price (SMP)</li> <li>- The actual availability of units</li> <li>- The actual operation of units</li> <li>- Actual load</li> </ul> <p>Derivatives trading:</p> <p>According to CMC rule 8/452/1.11.2007 post trade transparency requirements apply for derivatives admitted to trading in regulated markets. Currently there is no regulated market in Greece for derivatives in electricity.</p>	<p>Spot trading:</p> <p>At the moment there is no any Spot trading activities in the Greek natural gas market, as well as there is no requirements deriving from national law.</p> <p>Derivatives trading:</p> <p>According to CMC rule 8/452/1.11.2007, regulated markets should specify in their rulebook the post-trade transparency information to be made public in respect of all financial instruments admitted to trading in their systems. Currently there is no regulated market in Greece for derivatives in gas.</p>
HUNGARY	<p>The national law does not contain any requirement on post trade transparency regarding brokers and exchanges that are additional to the ones required</p>	<p>The national law does not contain any requirement on post trade transparency regarding brokers and exchanges that are additional to the ones required</p>



	<p>by MiFID.</p> <p>The Act on Electricity No. LXXXVI of 2007 is under amendment, and the related governmental and ministerial decrees as well. So we can only provide answers based on the laws in force at present which shall be modified in the near future.</p> <p>The data to be published by the Hungarian Energy Office (HEO) regarding electricity including trade and supply in the ministerial decree No. 36/2002. (XII. 19.) of the Ministry for Economy and Transport for electricity. The data regarding trading are published on the web site of the HEO (<a href="http://www.eh.gov.hu/home/html/index.asp?msid=1&amp;sid=0&amp;lng=2&amp;hkl=223">http://www.eh.gov.hu/home/html/index.asp?msid=1&amp;sid=0&amp;lng=2&amp;hkl=223</a>) only as aggregated volume data by traders and as aggregated average price for all traders per month ex post.</p>	<p>by MiFID.</p> <p>The Act on Gas is discussed in the Parliament, so we can only provide answers based on the laws in force at present which shall be modified in the near future.</p> <p>The data to be published by the Hungarian Energy Office (HEO) regarding gas including trade and supply are regulated in the ministerial decree No. 86/2003. (XII. 16.) of the Ministry for Economy and Transport. The data regarding trading are published on the web site of the HEO (<a href="http://www.eh.gov.hu/home/html/index.asp?msid=1&amp;sid=0&amp;lng=2&amp;hkl=223">http://www.eh.gov.hu/home/html/index.asp?msid=1&amp;sid=0&amp;lng=2&amp;hkl=223</a>) only as aggregated volume data and average price data by traders per month ex post.</p>
ICELAND	N/A	N/A
IRELAND		
ITALY	<p>According to the AEEG decision 50/05 (pursuant to law 481/95), the Italian Power Exchange (IPEX) must publish basic information on wholesale market results as well as several market indexes (e.g.: average prices; market concentration indexes, average quantity transacted; liquidity indexes, number of market participants etc...) : According to the same decision, the Italian TSO (TERNA) has similar transparency obligations in relation to the balancing market. Pursuant to Regulation 1228/03, the Italian TSO publishes information on assigned interconnection capacity. Derivatives market. With reference to trading in electricity derivatives, Articles 32 and 33 of the Consob Regulation on Markets, provide for that the management companies and managers of multilateral trading facilities or persons intending to perform systematic internaliser activities on financial instruments other than shares admitted to trading on regulated markets shall establish and maintain adequate pre- and post-trade transparency rules in reference to said financial instruments, also differentiated according to the structural characteristics of the market, the type of financial instrument traded, the size of the transactions and the type of operator, and with particular regard to the market share of retail investors. Pursuant to the Article 34 of Consob Regulation on Markets, authorised intermediaries shall make public the following information: a) the date and time of the transaction; b) the identification details of the financial instrument; c) the price and quantity of the transaction concluded. These obligations shall apply to transactions: a) concluded outside a regulated market, multilateral trading facilities or systematic internaliser, on financial instruments other than shares admitted to trading on Italian regulated markets; b) with a value of less than or equal to 500,000 euro.</p> <p>For transactions exceeding the mentioned threshold, authorised intermediaries shall make public at least the information relating to the date and time of the transaction, financial instrument identification details and the price, together with an indication as to whether the transaction exceeds the threshold. The information shall be published with reference to each transaction by the end of the working day following conclusion of the transaction. For transactions executed outside regulated markets or multilateral trading facilities,</p>	<p>Having regards to spot contracts, there is not a national law requiring to publish trading information, but an AEEG's decision that has introduced compulsory duties on wholesalers. In particular, prices and quantity regarding gas exchanges are not published: the TSO and wholesalers have the duty to communicate spot prices and quantity exchanged to the AEEG. Derivatives market. With reference to trading in gas derivatives, see the answer provided with on electricity derivatives.</p>

	<p>the obligation to publish information shall be fulfilled by the seller unless otherwise agreed between the parties. The pre- and post-trading information shall be made public and accessible to investors through one of the following channels: a) the structures of a regulated market or multilateral trading facilities; b) third party structures; c) own means. Management companies, managers of multilateral trading facilities and authorised intermediaries shall inform Consob within 15 days of the entry into force of this regulation, and thereafter within 7 days of any change, of the distribution channel used for pre- and post-trading information. Management companies may provide access, under reasonable commercial terms in a non-discriminatory manner, to devices said companies use to disclose pre- and post-trading information to authorised intermediaries obliged to publish the details of transactions.</p>	
LATVIA	<p>No special requirements for traders, brokers to publish information on trading activities – only one trader sells electricity on a bilateral bases, other consumers have tariffs accepted by PUC. There are no electricity brokers and exchanges in Latvia.</p>	<p>No special requirements for traders, brokers to publish information on gas trading activities. There are only captive consumers in the gas sector. PUC accepts tariffs for all consumers in Latvia.</p>
LITHUANIA	<p>The national law does not contain any requirement on post trade transparency regarding brokers and exchanges that are additional to the ones required by MiFID. There is no energy market where trading is carried on in energy derivatives in Lithuania.</p>	<p>The national law does not contain any requirement on post trade transparency regarding brokers and exchanges that are additional to the ones required by MiFID. There is no energy market where trading is carried on in energy derivatives in Lithuania.</p>
LUXEMBOURG	<p>The law of 13 July 2007 on markets in financial instruments has transposed the MiFID provisions on post-trade transparency requirements into the Luxembourg legislation. The post-trade transparency requirements relate only to shares admitted to trading on a regulated market and not to derivatives.</p>	<p>The law of 13 July 2007 on markets in financial instruments has transposed the MiFID provisions on post-trade transparency requirements into the Luxembourg legislation. The post-trade transparency requirements relate only to shares admitted to trading on a regulated market and not to derivatives.</p>
MALTA	<p>There are no specific post-trade reporting requirements which apply solely to energy traders, brokers or exchanges and which are additional to or different from MiFID's post-trade reporting requirements which are generally applicable and which have been transposed into national law (reference may be made in this regard to Section 6 of Part B of the Investment Services Rules for Investment Services Providers; to the Financial Markets Act (Off-Market Deals) Regulations 2007 and to the Financial Markets Act (Transparency) Regulations, 2007 ). Refer also to reply to C2.</p>	<p>Same as reply regarding Electricity.</p>
NORWAY	<p>Please also see the overview section in question C.1</p> <p>The Nordic exchange has detailed requirements for pre and post trade transparency, through Nord Pool's market conduct rules. As for trades outside the exchange (e.g. OTC and bilateral), it holds that all trades cleared by Nord Pool are to be published (volume and price) within 15 minutes of the trade.</p> <p>The physical market:</p> <p>In the physical market NVE has issued a market place license to NPS which implies approve the conduct rules for the physical market. The trading on NPS is auction based and post- trade data is published on an aggregated basis according to the rules of the market place. The rules of the market</p>	<p>No supervised gas trading activity on Norwegian regulated markets or MTFs. If such activity is established for financial instruments it will be treated the same way for gas derivatives trading.</p>

	<p>place are approved by the physical supervisory authority of Norway.</p> <p>The financial market:</p> <p>To some extent the transparency of electricity derivatives market in Norway is regulated through the exchange. The exchange regulate the market according to the exchange rules and the exchange rules are approved by the FSA of Norway.</p> <p>TRS-reporting as described in C.2</p>	
POLAND	<p>According to Article 15 of the Act on Trading in Financial Instruments, regulated market also comprises energy exchange market, organized by commodity exchange. The company organizing regulated market has certain information obligations. It publishes aggregated volume (turnover), and price of every transaction as well as daily and final strike price for financial instruments.</p> <p>Energy traders and brokers – no requirements.</p>	The same as in the case of electricity.
PORTUGAL	<p>Specific requirements to publish “post-trade” information are applied only to shares admitted to trading in a regulated market, according to EC Regulation nr 1287/2006. CMVM Regulation nr 2/2007 also extended these requirements to warrants and certificates [Articles 221 and 316, Portuguese Securities Code, Articles 16 and the followings, CMVM’s Regulation nr 2/2007].</p> <p>The MIBEL derivatives market is a trading platform for energy derivatives contracts, thus those post-trade requirements are not applicable.</p> <p>Nevertheless, please consider that OMIP as market operator, must publish a daily market bulletin, which contains (Article 2, CMVM’s Regulation nr 3/2007) the following information:</p> <ul style="list-style-type: none"> <li>- A list of available contracts, with possibility of limiting that dissemination to those with open positions;</li> <li>- The Contractual General Clauses and the Contract Specifications;</li> <li>- The relevant prices on the market, namely the daily minimum and maximum prices of the executed transactions, as well as the settlement price for each contract;</li> <li>- The quantity of the contracts traded in each session;</li> <li>- The applicable fees;</li> <li>- The relevant regulations;</li> <li>- Any other information considered relevant to the market.</li> </ul> <p>All companies in the electricity sector must report all physical trading to the system operator under a regulated framework. In this sense there is total availability of information concerning volumes of energy traded, but information about prices is only available for spot trading and for futures trading under auctioning mechanisms.</p>	All trading is reported to the system operator (volumes only).

ROMANIA	<p>Financial markets</p> <p>On the regulated markets authorized by CNVM there are no transactions in derivative instruments based on energy or gas assets, and according to CNVM regulations there are no different pre or post trading requirements on the regulated market, depending upon the financial instrument traded and there are no additional requirements to the provisions of MiFID. We should also mention that the reporting requirements of the transactions also apply to the financial instruments, which are not traded on a regulated market (Art. 149, section (1) of the CNVM Regulation no. 32/2006, transposing Art. 25.3 and 45 of the Directive no 39/2004). Transaction reports must contain the elements referred to in Art. 13 of the EC Regulation no 1287/2006.</p> <p>Physical markets</p> <p>Depending on the market type, the following 'post-trade' information has to be published:- Regulated/ negotiated contracts' markets - no 'post-trade' publication requirements;- CMBC - SC OPCOM SA has to publish, after the auction closing, for each transaction: the initiating party, the type of offer (selling/buying), the traded volume, the delivery period, the opening price, the final price, the type of contract (base load, peak, other etc.), the counterparty and the names of the other participants in the auction;- CMBC-CN - SC OPCOM SA has to publish, after the auction closing, for each transaction: the initiating party, the type of product, the traded volume, the delivery period, the opening price, the closing price, the names of the participants in the auction;- The Power floor of RCE - RCE has to publish, after the auction closing, for each transaction, the closing price;- Day ahead market operated - SC OPCOM SA has to publish, each day, after the trading closing, for each hour: the traded volume and the price;</p> <p>Balancing market</p> <p>CN Transelectrica SA has to publish in one/two days after the trading (depending on the type of information), for each hour, a lot of data regarding the balancing market, including the aggregated volumes and prices of the offers received from the market participants and the offers selected.</p>	<p>Financial markets</p> <p>On the regulated markets authorized by CNVM there are no transactions in derivative instruments based on energy or gas assets, and according to CNVM regulations there are no different pre or post trading requirements on the regulated market, depending upon the financial instrument traded and there are no additional requirements to the provisions of MiFID. We should also mention that the reporting requirements of the transactions also apply to the financial instruments, which are not traded on a regulated market (Art. 149, section (1) of the CNVM Regulation no. 32/2006, transposing Art. 25.3 and 45 of the Directive no 39/2004). Transaction reports must contain the elements referred to in Art. 13 of the EC Regulation no 1287/2006.</p> <p>Physical markets</p> <p>According to Methodology on Monitoring the Natural Gas Internal Market (Order 62/2007 for Approving the Methodology on Monitoring the Natural Gas Internal Market) the gas operators have the obligation to draw up and submit to ANRE-DPGN (Department for Natural Gas Market) a report on the volumes of natural gas traded and/or services and related prices, according to the templates included in the annexes to the present methodology. The report is drawn up on a monthly basis, is filled in with data for the previous month and has to be submitted to ANRE on line by the 20th day of the ongoing month at the latest.</p> <p>DPGN has the right to request clarifications and/or detailed data and information included in the report submitted, as the case may be. The clarification reply is submitted to DPGN within 5 working days from date of the request.</p> <p>The operator licensed for gas supply (as purchaser) has the obligation to submit to ANRE copies of all natural gas purchase and/or sale-purchase contracts, concluded with domestic suppliers for a period exceeding 11 consecutive calendar months, as well as all additional documents signed afterwards and that amend the initial contract.</p>
SLOVAK REPUBLIC	Requirement to provide information to the electricity customer on the share of particular primary energy sources in the electricity generated and supplied for the previous year and shall also do so also for the supply of electricity generated in 3rd states; the information shall be provided upon request also to the respective state authority; to provide information to the electricity customer regarding the environmental impact of the generated and supplied electricity; or to refer the customer to a public source of such information; the supplier shall provide such information upon request also to the respective state authority	No requirements.
SLOVENIA	<p>In principle, the traded volumes and achieved prices (spot) are published when trade exists. More details in</p> <p><a href="http://www.borzen.si/eng/activities/documentregulations">http://www.borzen.si/eng/activities/documentregulations</a></p>	No such obligations exist since there is no organized market in Slovenia.

SPAIN	<p>Market rules and grid code establish the type of data and conditions to its publication.</p> <p>The requirements to publish information post-trade put on traders are essentially concerning system security issues (real time power plants availability, forecasted imbalances, etc.). These data are provided only to the system operator or the power exchange.</p> <p>The requirements put on the power exchange and/or the system operator consists of publishing every market results, volumes and prices. These data become public in different periods according to the level of aggregation: by market (daily), by technology (D+3), by agent (M+2) by bid unit (M+3).</p>	There are no requirements to publish information on 'post-trade' basis.
SWEDEN	<p>The majority of all active participants in this respect are members at NordPool ASA which means that the majority of all trading activities take place at this exchange. All members at NordPool ASA has to follow the extensive requirements deriving from that membership. NordPool ASA is authorised by the Norwegian ministry of finance as an exchange under the Exchange Act 2007.</p> <p>Swedish financial institutes are required to publish post-trade information (including OTC trading) for financial instruments admitted to trading on a regulated market.</p>	None.
THE NETHERLANDS	There are no requirements from financial supervision perspective (derivatives markets) or from perspective of energy regulation (spot markets). However, regulated market will publish post-trade information on voluntary basis.	There are no requirements from financial supervision perspective (derivatives markets) or from perspective of energy regulation (spot markets). However, regulated market will publish post-trade information on voluntary basis.
UNITED KINGDOM	<p>Transactions in standardised energy products (e.g. futures) often take place on an exchange or MTF. For those multilateral venues, transparency requirements are set by regulators and/or national legislation in order to ensure efficient price formation. For instance, in the UK, it is necessary before a contract is traded on an exchange for a view to be taken that there is sufficient information available regarding the underlying markets to enable participants to make reasonably informed decisions about the associated derivatives. Users of an exchange or MTF would see its trading and pricing activity in real time, including volumes traded, the last traded price and outstanding bids and offers, but without counterparty details. Those facilities concentrate on forward or futures transactions, not spot ones.</p> <p>Most trading of energy derivatives takes place as OTC transactions. Transparency for those transactions, however, is driven by the markets themselves, depending on the nature of the instrument, the market in which it trades and the needs of the given community of users. For those active in OTC transactions, information on prices in the underlying markets and other on-exchange data, models and market-driven transparency information (e.g. information services) are often used for pricing. In addition, transparency information may be of little or no value in some circumstances (e.g. for highly bespoke derivatives).</p> <p>Firms that are licensed by Ofgem to participate in</p>	<p>Transactions in standardised energy products (e.g. futures) often take place on an exchange or MTF. For those multilateral venues, transparency requirements are set by regulators and/or national legislation in order to ensure efficient price formation. For instance, in the UK, it is necessary before a contract is traded on an exchange for a view to be taken that there is sufficient information available regarding the underlying markets to enable participants to make reasonably informed decisions about the associated derivatives. Users of an exchange or MTF would see its trading and pricing activity in real time, including volumes traded, the last traded price and outstanding bids and offers, but without counterparty details. Those facilities concentrate on forward or futures transactions, not spot ones.</p> <p>Most trading of energy derivatives takes place as OTC transactions. Transparency for those transactions, however, is driven by the markets themselves, depending on the nature of the instrument, the market in which it trades and the needs of the given community of users. For those active in OTC transactions, information on prices in the underlying markets and other on-exchange data, models and market-driven transparency information (e.g. information services) are often used for pricing. In addition, transparency information may be of little or no value in some circumstances (e.g. for highly bespoke derivatives).</p> <p>Firms that are licensed by Ofgem to participate in</p>

	<p>the electricity and gas markets are not required by the terms of their licences to publish post-trade information on their trading activities. Ofgem is currently of the opinion that there is sufficient data available to the market to make mandatory post-trade information disclosure unnecessary. In carrying out its duties, Ofgem does have the powers to request information from firms on their trading activities, though in practice this is used for the purpose of enforcing licences and competition law, and not to provide additional transparency to the market.</p>	<p>the electricity and gas markets are not required by the terms of their licences to publish post-trade information on their trading activities. Ofgem is currently of the opinion that there is sufficient data available to the market to make mandatory post-trade information disclosure unnecessary. In carrying out its duties, Ofgem does have the powers to request information from firms on their trading activities, though in practice this is used for the purpose of enforcing licences and competition law, and not to provide additional transparency to the market.</p>
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<b>Comments</b>	
FINLAND	<p>First of all, we would like to point out, that NordPool (Nordic common market place) is operated by Norwegian company, which is under Norwegian legislation (energy,- competition- and financial supervision Act). So there is no activities like this under Finnish legislation.</p> <p>In this case, many of these questions are more like "what if we have.." But our present Electricity Market Act doesn't cover these type of questions at all.</p>

**E.13: What requirements, deriving from national law, are currently put on energy traders, brokers or exchanges to publish information 'pre-trade', for example on publishing bids to organised markets?**

Member State	Electricity	Gas
AUSTRIA	No relevant 'pre-trade' transaction related publication requirements exist for commodity exchanges, traders or brokers.	As mentioned no organised commodity exchange trades gas contracts in Austria.  No relevant 'pre-trade' transaction related publication requirements exist for traders or brokers.
BELGIUM	When implementing MiFID in Belgium, no pre-trade requirements have been inserted in financial law with respect to instruments traded on energy markets.	When implementing MiFID in Belgium, no pre-trade requirements have been inserted in financial law with respect to instruments traded on energy markets.  Gas spot products: no regulation.
BULGARIA		
CYPRUS		
CZECH REPUBLIC	N/A in national law.	N/A in national law.
DENMARK	There are no requirements on this in the Danish regulation.	There are no requirements on this in the Danish regulation.
ESTONIA	There is no energy market where trading is carried on in energy derivatives in Estonia. If such a energy market would fall under the regulated market definition according to SMA, same rules as to ordinary stock market would apply.  The system operators must publish the information about prices and volumes of their bids on their websites.	No obligations  There is no energy market where trading is carried on in energy derivatives in Estonia. If such a energy market would fall under the regulated market definition according to SMA, same rules as to ordinary stock market would apply.
FINLAND	None.	Not relevant.
FRANCE	French energy laws do not set up any requirement regarding transparency of energy trading.  Under French financial laws and regulations, no pre-trade transparency requirements apply to MiFID investment firms trading energy contracts.  There is no requirement for day-ahead products (the underlying).  Where a financial instrument energy contract would be traded on a regulated market (this is currently not the case), the market operator shall decide on the information on buying and selling interests it will publish to ensure fair and orderly trading. This information shall be appropriate to the characteristics of the financial instruments concerned and to the way it is traded (AMF General Regulation Article 514-7).  Where a financial instrument energy contract is traded on an MTF, the MTF operator shall publish relevant information about buying and selling interests in view of the characteristics of the financial instrument traded, in particular whether or not it is admitted to trading on a regulated market, the method used to trade it, and the number and type of facility members and final investors holding the financial instrument.(AMF	French energy laws do not set up any requirement regarding transparency of energy trading.  Under French financial laws and regulations, no pre-trade transparency requirements apply to MiFID investment firms trading energy contracts.  There is no requirement for day-ahead products (the underlying).  Where a financial instrument energy contract would be traded on a regulated market (this is currently not the case), the market operator shall decide on the information on buying and selling interests it will publish to ensure fair and orderly trading. This information shall be appropriate to the characteristics of the financial instruments concerned and to the way it is traded (AMF General Regulation Article 514-7).  Where a financial instrument energy contract is traded on an MTF, the MTF operator shall publish relevant information about buying and selling interests in view of the characteristics of the financial instrument traded, in particular whether or not it is admitted to trading on a regulated market, the method used to trade it, and the number and type of facility members and final investors holding the financial instrument (AMF

	General Regulation Art 522-4)	General Regulation Art 522-4).
GERMANY	<p>According to Article 24(2) of the German Exchange Act (Börsengesetz) exchange prices must be properly fixed and correspond to the actual market situation of trading on the exchange. In particular, offers must be made accessible to trading participants and the acceptance of offers must be possible.</p> <p>According to Art. 24(3) of the German Exchange Act, the exchange rules may also stipulate that before fixing the exchange price the best bid and ask limits must be disclosed.</p>	<p>According to Article 24(2) of the German Exchange Act (Börsengesetz) exchange prices must be properly established and correspond to the actual market situation of trading on the exchange. In particular, offers must be made accessible to trading participants and the acceptance of offers must be possible.</p> <p>According to Art. 24(3) of the German Exchange Act, the exchange rules may also stipulate that before fixing the exchange price the best bid and ask limits must be disclosed.</p>
GREECE	<p>Spot trading</p> <p>According to the Greek National Grid Control and Power Exchange Code for Electricity, the Hellenic Transmission System Operator (HTSO) has the following obligations regarding "pre-trade" information:</p> <p>1. is required in the context of Daily Ahead Scheduling to publish in its website two (2) hours prior to Gate Closure the following information for each Dispatch Period of the Dispatch Day:</p> <ul style="list-style-type: none"> <li>- total System Load Forecast;</li> <li>- System Reserve Requirement Forecast;</li> <li>- System Inter-Zonal Constraint Forecast;</li> <li>- the energy quantities in the Energy Offers submitted by the Transmission System Operator in accordance with Article 29, cumulatively for each Dispatch Period; and</li> <li>- the Load Declarations in accordance with Article 16 paragraph (5) of the National Code for Electricity.</li> </ul> <p>2. is required until 10:00 am each day to publish in its website balance information for each Dispatch Period of the previous Dispatch Day, regarding the deviations of the real Transmission System operation and of other installations from the Forecasts, the Energy Offers, and the Load Declarations of the above paragraph (Article 51, Transmission System Operator obligations regarding Load, System Inter-Zonal Constraints and Reserve Requirement Forecasting).</p> <p>3. is required to post in its website by 14:00 hours three days prior to the respective dispatch day the total transmission capacity, transmission reliability margin and net transmission capacity, which is determined in consultation with the operators of the respective transmission systems outside of Greece for each Dispatch Period of each Dispatch Day (Article 311, Interconnection transmission capacity).</p> <p>Derivatives trading</p> <p>According to CMC rule 8/452/1.11.2007 pre- trade transparency requirements apply for derivatives admitted to trading in regulated market in Greece for derivatives in electricity.</p>	<p>Spot trading</p> <p>At the moment there is no any Spot trading activities in the Greek natural gas market, as well as there is no requirements deriving from national law.</p> <p>Derivatives trading</p> <p>According to CMC rule 8/452/1.11.2007, regulated markets should specify in their rulebook the pre-trade transparency information to be made public in respect of all financial instruments admitted to trading in their systems. Currently there is no regulated market in Greece for derivatives in gas.</p>
HUNGARY	<p>The national law does not contain any requirement on pre trade transparency regarding brokers and exchanges that are additional to the ones required</p>	<p>The national law does not contain any requirement on pre trade transparency regarding brokers and exchanges that are additional to the ones required</p>



	by MiFID.  No such requirement exists in the legislation for electricity.	by MiFID.  No such requirement exists in the legislation for gas.
ICELAND	N/A	N/A
IRELAND		
ITALY	Pursuant to law 79/99 the Italian Power Exchange must publish Market Rules, subject to Ministerial approval, and following AEEG advise. According to the Market Rules, the Power Exchange must publish the following information: a) The forecasted aggregated demand (provided by the TSO) for each zone b) The transmission limits in import and export between each couple of interconnected zones. Pursuant to the AEEG decision 250/04, the network code requires the Italian TSO (TERNA) to publish information on planned network maintenances (updated on a yearly basis), available interconnection capacity (updated yearly, monthly and daily), forecasted wind generation (updated daily). Derivatives market. With reference to trading in electricity derivatives, duties to publish pre-trade information are the same as those listed under Articles 32 and 33 of the Consob Regulation on Markets (see the answer E.12 above).	There is not such an obligation because there is not an organised market, as above specified.  Derivatives market.  With reference to trading in gas derivatives, see the answer provided with on Electricity derivatives.
LATVIA	No requirements (see answer to E.12.).	No requirements (see answer to E.12.).
LITHUANIA	The national law does not contain any requirement on post trade transparency regarding brokers and exchanges that are additional to the ones required by MiFID. No such requirement exists in the legislation for electricity.	The national law does not contain any requirement on post trade transparency regarding brokers and exchanges that are additional to the ones required by MiFID. No such requirement exists in the legislation for gas.
LUXEMBOURG	The law of 13 July 2007 on markets in financial instruments has transposed the MiFID provisions on pre-trade transparency requirements into the Luxembourg legislation. The pre-trade transparency requirements relate only to shares admitted to trading on a regulated market and not to derivatives.	The law of 13 July 2007 on markets in financial instruments has transposed the MiFID provisions on pre-trade transparency requirements into the Luxembourg legislation. The pre-trade transparency requirements relate only to shares admitted to trading on a regulated market and not to derivatives.
MALTA	There are no specific pre-trade reporting requirements which apply solely to energy traders, brokers or exchanges and which are additional to or different from MiFID's pre-trade reporting requirements which are generally applicable and which have been transposed into national law (reference may be made in this regard to Section 6 of Part B of the Investment Services Rules for Investment Services Providers; to the Financial Markets Act (Off-Market Deals) Regulations 2007 and to the Financial Markets Act (Transparency) Regulations, 2007 ). Refer also to reply to C2.	Same as reply regarding Electricity.
NORWAY	NPS is required to publish all relevant data in accordance with the overall efficiency aim in the Norwegian Electricity Act and the market place license.  All exchanges in Norway must publish the product specification of all the products at the exchange. An example of Product specification, Trading Appendices-Appendix 1 from Nord Pool may be seen under "Regulation and compliance" at <a href="http://www.nordpool.com">www.nordpool.com</a> .	No supervised gas trading activity on Norwegian regulated markets or MTFs. If such activity is established for financial instruments it will be treated the same way for gas derivatives trading.
POLAND	Energy exchange publishes information about best	Not applicable. No exchange trading exists.

	bids.	
PORTUGAL	Regarding MIBEL derivatives market the information required is disclosed through the daily market bulletin (see answer above).	Not applicable.
ROMANIA	<p>Financial markets</p> <p>On the regulated markets authorized by CNVM there are no transactions in derivative instruments based on energy or gas assets, and according to CNVM regulations there are no different pre or post trading requirements on the regulated market, depending upon the financial instrument traded and there are no additional requirements to the provisions of MiFID. We should also mention that the reporting requirements of the transactions also apply to the financial instruments, which are not traded on a regulated market (Art. 149, section (1) of the CNVM Regulation no. 32/2006, transposing Art. 25.3 and 45 of the Directive no 39/2004). Transaction reports must contain the elements referred to in Art. 13 of the EC Regulation no 1287/2006.</p> <p>Physical markets</p> <p>Depending on the market type, the following 'pre-trade' information has to be published:</p> <ul style="list-style-type: none"> <li>- Regulated/ negotiated contracts' markets - no 'pre-trade' publication requirements;</li> <li>- CMBC - SC OPCOM SA has to publish, before the auction, for each selling/buying offer: the initiating party, the type of contract (base load, peak, other etc.), the offered/asked volume, the opening price, the delivery period, the proposed contract;</li> <li>- CMBC-CN - SC OPCOM SA has to publish, before the auction, for each selling/buying offer: the initiating party, the type of product, the offered/asked volume, the opening price, the delivery period, the proposed contract;</li> <li>- The Power floor of RCE - no 'pre-trade' publication requirements;</li> <li>- Day ahead market operated - no 'pre-trade' publication requirements;</li> <li>- Balancing market - CN Transelectrica SA has to publish before the trading day, for each hour, some data regarding the balancing market, including the aggregated volumes of the offers received from the market participants per type of regulation and prognosis data for total consumption and generation.</li> </ul>	<p>Financial markets</p> <p>On the regulated markets authorized by CNVM there are no transactions in derivative instruments based on energy or gas assets, and according to CNVM regulations there are no different pre or post trading requirements on the regulated market, depending upon the financial instrument traded and there are no additional requirements to the provisions of MiFID. We should also mention that the reporting requirements of the transactions also apply to the financial instruments, which are not traded on a regulated market (Art. 149, section (1) of the CNVM Regulation no. 32/2006, transposing Art. 25.3 and 45 of the Directive no 39/2004). Transaction reports must contain the elements referred to in Art. 13 of the EC Regulation no 1287/2006.</p> <p>Physical markets</p> <p>Not applicable.</p>
SLOVAK REPUBLIC	Auction regulations are currently being elaborated.	No organised markets, OTC, power exchanges.
SLOVENIA	Not applicable.	No such obligations exist since there is no organized market in Slovenia.
SPAIN	<p>Traders or brokers provide information to the power exchange and/or the system operator: technical characteristics and availability of power plants (in advance and real time), existing bilateral contracts and daily use, daily bids to organised markets, etc.</p> <p>The power exchange (or the system operator) publishes information related to market and system requirements: interconnections available capacity, foreseen demand, volumes and prices resulting of previous market sessions, etc. Bids become public after three months.</p>	There are no requirements to publish information on 'pre-trade basis'.

SWEDEN	<p>The majority of all active participants in this respect are members at NordPool ASA which means that the majority of all trading activities take place at this exchange. All members at NordPool ASA has to follow the extensive requirements deriving from that membership. NordPool ASA is authorised by the Norwegian ministry of finance as an exchange, under the Exchange Act 2007.</p> <p>Sweden follows the MiFID standard requirements. There are no MTFs or SIs in the energy market.</p>	None.
THE NETHERLANDS	There are no requirements from financial supervision perspective or from perspective of energy regulation. However, regulated market will publish pre-trade information on voluntary basis.	There are no requirements from financial supervision perspective or from perspective of energy regulation. However, regulated market will publish pre-trade information on voluntary basis.
UNITED KINGDOM	See the answer to question E.12.	See the answer to question E.12.

### **Comments**

FINLAND	<p>First of all, we would like to point out, that NordPool (Nordic common market place) is operated by Norwegian company, which is under Norwegian legislation (energy,- competition- and financial supervision Act). So there is no activities like this under Finnish legislation.</p> <p>In this case, many of these questions are more like "what if we have.." But our present Electricity Market Act doesn't cover these type of questions at all.</p>
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**E.14: Is there a difference in transparency requirements for spot trading compared to future and forward trading? If so, why?**

Member State	Electricity	Gas
AUSTRIA	<p>There is no future or forward trading at EXAA. As mentioned above, it publishes results (prices, volumes) for its day-ahead (spot) products after the trading session.</p> <p>Forward trading is solely carried out on OTC markets. On such markets in Austria (be it spot or forward) no transaction related post- or pre-trade transparency requirements exist that traders or brokers would be subject to.</p>	<p>As mentioned no organised commodity exchange trades gas (be it spot or forward/futures) contracts in Austria.</p> <p>OTC trading, as far as it exists, is centered on CEGH and involves rather short-term products. No standardised OTC trading (be it spot or forwards) exists in Austria, as it is known e.g. from the UK.</p> <p>No formal transaction related post- or pre-trade transparency requirements exist that traders or brokers would be subject to.</p>
BELGIUM	<p>When implementing MiFID in Belgium, no additional requirements have been inserted in financial law with respect to instruments traded on energy markets.</p> <p>There is no Belgium-based future or forward trading platform.</p>	<p>When implementing MiFID in Belgium, no additional requirements have been inserted in financial law with respect to instruments traded on energy markets.</p> <p>There is no Belgium-based future or forward trading platform.</p>
BULGARIA		
CYPRUS		
CZECH REPUBLIC	No	There is not a spot market.
DENMARK	No	No
ESTONIA	In general spots would not qualify as securities in the meaning of SMA and EC no. 1287/2006, therefor there would not be any similar transparency rules.	Not applicable.
FINLAND	No.	Not relevant.
FRANCE	<p>French energy laws do not set up any requirement regarding transparency of energy trading.</p> <p>Under MiFID, a spot contract is not a financial instrument. Accordingly, none of the financial regulation applies to spot trading.</p> <p>Under existing rules and regulation, there are no transparency requirements for forward OTC trading.</p> <p>For futures trading taking place on a regulated market or an MTF, see answer to questions E.12/E.13 above.</p>	<p>French energy laws do not set up any requirement regarding transparency of energy trading.</p> <p>Under MiFID, a spot contract is not a financial instrument. Accordingly, none of the financial regulation applies to spot trading.</p> <p>Under existing rules and regulation, there are no transparency requirements for forward OTC trading.</p> <p>For futures trading taking place on a regulated market or an MTF, see answer to questions E.12/E.13 above.</p>
GERMANY	There is no difference with regard to legal transparency requirements for spot and futures trading on a regulated market or an MTF operated by a regulated market (=exchange) in the provisions of the German Exchange Act.	There is no difference with regard to legal transparency requirements for spot and futures trading on a regulated market or an MTF operated by a regulated market (=exchange) in the provisions of the German Exchange Act.
GREECE	According to answers on questions E.12 and E.13, there is a difference in transparency requirements compared to spot trading and derivatives trading, due to significant differences in the operation of the two markets, and to the fact that commodities are out of the scope of MiFID.	

HUNGARY	<p>As the scope of the Act CXXXVIII of 2007 on Investment Service Providers and Commodity Brokers does not cover the spot transactions relating to gas and electricity, no transparency requirement is required. In case of future and forward transactions we refer to the transparency requirement prescribed by MiFID, there is no additional requirements in this respect.</p> <p>No such requirement exists in the legislation for electricity.</p>	<p>As the scope of the Act CXXXVIII of 2007 on Investment Service Providers and Commodity Brokers does not cover the spot transactions relating to gas and electricity, no transparency requirement is required. In case of future and forward transactions we refer to the transparency requirement prescribed by MiFID, there is no additional requirements in this respect.</p> <p>No such requirement exists in the legislation for gas.</p>
ICELAND	N/A	N/A
IRELAND		
ITALY	<p>The above transparency requirements concerning the Power Exchange apply only to day-ahead trading on IPEX. The differences between the transparency requirements for spot and derivatives trading are due to the fact that derivatives are financial instruments. Future and forward contracts trading holding a financial nature (e.g. when they serve a hedging function, or when they are subject to a margin system set by a central counterparty) fall under the transparency requirements set by the Consolidated Law on Finance.</p>	<p>With regard to the PSV System where transaction can be pursued both on spot and forward basis there are not differences in transparency requirements. With reference to trading in gas derivatives, see the answer provided with on Electricity derivatives.</p>
LATVIA	No requirements (see answer to E.12.).	No requirements (see answer to E.12.).
LITHUANIA	Not applicable (see answer to E.12.).	Not applicable (see answer to E.12.).
LUXEMBOURG	Not applicable.	Not applicable.
MALTA	N/A	N/A
NORWAY	In Norway both futures and forwards are cash settled and the requirements for spot trading are then naturally the same.	Not relevant.
POLAND	Not applicable.	Not applicable.
PORTUGAL	Yes. Spot trading is subjected to report to the system operator in terms of volume traded, whereas forward trading is only subjected to information to electricity system operator for those contracts with physical delivery (delivery is assured in the spot market).	Not applicable.
ROMANIA	<p>Financial markets</p> <p>If on a regulated market authorized by CNVM will unfold transactions with derivatives (including those ones having as support commodities, gas or energy), market operators and/or investment firms are bound to disclose, continuously and during the entire trading period and in equitable market terms, current prices and current sale and purchase quantities for the tradable financial instruments on the regulated markets under their supervision (Art. 46, section (1) of the CNVM Regulation no. 2/2006). Also market operators are bound to disclose in real time and in equitable market terms, the price, volume and time of the transactions with financial instruments on the regulated markets under their supervision (Art. 48, section (1) of the CNVM Regulation no. 2/2006). In the case of the forward transactions which are cleared and settled through recognized clearing houses, the requirements for transparency will be similar with the above</p>	<p>Financial markets</p> <p>If on a regulated market authorized by CNVM will unfold transactions with derivatives (including those ones having as support commodities, gas or energy), market operators and/or investment firms are bound to disclose, continuously and during the entire trading period and in equitable market terms, current prices and current sale and purchase quantities for the tradable financial instruments on the regulated markets under their supervision (Art. 46, section (1) of the CNVM Regulation no. 2/2006). Also market operators are bound to disclose in real time and in equitable market terms, the price, volume and time of the transactions with financial instruments on the regulated markets under their supervision (Art. 48, section (1) of the CNVM Regulation no. 2/2006). In the case of the forward transactions which are cleared and settled through recognized clearing houses, the requirements for transparency will be similar with the above</p>

	<p>mentioned ones.</p> <p>Physical markets</p> <p>Yes, there are differences in transparency requirements for spot trading compared to forward trading; for the time being there are no future transactions.</p> <p>The main differences are:</p> <p>a. Spot - The requirements for DAM transparency correspond to the international practice in the power exchange field (see E12, E13)</p> <p>b. Spot versus CMBC, CMBC-CN and The Power floor of RCE</p> <p>The CMBC market was established by ANRE to be administered by RPE, in accordance with the Order No. 408, issued in June 2006 by the Ministry of Economy and Trade, with the declared scope of increasing the transparency on the bilateral contracts. The Order compelled the state-owned generators to sell their output on the CMBC, which is organised based on an initiating offer to buy at maximum prices or an initiating offer to sell at minimum prices and on the participants' bids on price; the only admitted exceptions from the rule were the participating in DAM, BM and any other standardised forward market.</p> <p>The increase in the number and volumes of the contracts concluded through transparent bids on CMBC determined a high degree of convergence between bilateral contracts prices and DAM prices, which indicates an increase of efficiency in the functioning of electricity market and in eliminating the disturbances, as well.</p> <p>These are the main reasons for what CMBC is a completely transparent market, all the information regarding each transaction being public information.</p> <p>The CMBC-NC is a step forward with the goal to standardise the contracts/products and to create the conditions of establishing the market for futures products. This is why the degree of transparency of the CMBC-NC market is still very similar with the one of CMBC and greater than DAM.</p> <p>The Power floor of RCE is something between CMBC and CMBC-NC, but is organised by the Romanian Commodity Exchange, without the intervention of ANRE. Although RCE has to answer just to the explicit transparency requirements from the electricity law, ANRE having no regulatory or oversight power on it, the degree of transparency is almost similar to the CMBC. The reason for acting like this could be the experience of the other two markets and the RCE' trial to compete with them, by assuring similar products.</p>	<p>mentioned ones.</p> <p>Physical markets</p> <p>Not applicable.</p>
SLOVAK REPUBLIC	Not applicable as there is no power exchange in Slovakia.	Not applicable as there is no power exchange in Slovakia.
SLOVENIA	Only transparency requirements for spot trade exist in Slovenia. (n.a.)	No such obligations exist since there is no organized market in Slovenia.
SPAIN	Yes. The reason being they are markets operated by different market operators and subject to	Not applicable.

	different regulation.	
SWEDEN	No difference for standard products. For financial instruments, the standard MiFID requirements apply.	No.
THE NETHERLANDS	No difference in transparency requirements.	No difference in transparency requirements.
UNITED KINGDOM	See the answer to question E.12.	See the answer to question E.12.

<b>Comments</b>	
FINLAND	This is also a kind of hypothetical question, so it's impossible to answer.
LUXEMBOURG	No energy exchange existing on a national level.

**E.15: Is there a difference in transparency requirements for exchange trading compared to OTC trading? If so, why?**

Member State	Electricity	Gas
AUSTRIA	Yes, there are no explicit trading rules for OTC trading; while exchange trading is regulated under the stock exchange law. According to this, as mentioned above, EXAA has to publish its results (prices, volumes) per listed product after the trading session.	At the moment there are no differences, since no exchange based gas trading exists.
BELGIUM	When implementing MiFID in Belgium, no additional requirements have been inserted in financial law with respect to instruments traded on energy markets.  Yes: Power exchange Belpex has to publish on a daily basis the total market demand and supply, prices and aggregated volumes. For OTC-markets, there are no requirements.	When implementing MiFID in Belgium, no additional requirements have been inserted in financial law with respect to instruments traded on energy markets.  There is no difference because there are none for both markets.
BULGARIA		
CYPRUS		
CZECH REPUBLIC	No	Traders have unified approach to all customers.
DENMARK	No	No
ESTONIA	There are no energy derivatives trading in the Estonian regulated markets. Not applicable.	Not applicable.
FINLAND	No.	Not relevant.
FRANCE	French energy laws do not set up any requirement regarding transparency of energy trading.  Under French financial laws and regulations there are no transparency requirements for forward OTC trading.  For futures trading taking place on a regulated market or an MTF, see answer to questions E.12/E.13 above. Regulated markets and MTF are regulated entities which have to provide for fair and orderly markets; transparency is considered to be part of it.	French energy laws do not set up any requirement regarding transparency of energy trading.  Under French financial laws and regulations there are no transparency requirements for forward OTC trading.  For futures trading taking place on a regulated market or an MTF, see answer to questions E.12/E.13 above. Regulated markets and MTF are regulated entities which have to provide for fair and orderly markets; transparency is considered to be part of it.
GERMANY	Yes. All aforementioned national legal requirements with regard to transparency derive from the Exchange Act. Thus, OTC trading is not in the scope of these provisions.  It is important to note that MiFID rules on pre- and post-trade transparency relate solely to shares admitted to trading on a regulated market – other financial instruments and commodities are not covered.	Yes, because all aforementioned national legal requirements with regard to transparency derive from the Exchange Act. Thus, OTC trading is not in the scope of these provisions.  It is important to note that MiFID rules on pre- and post-trade transparency relate solely to shares admitted to trading on a regulated market – other financial instruments and commodities are not covered.
GREECE	There are no transparency requirements for OTC spot and derivatives trading.	There are no transparency requirements for OTC spot and derivatives trading.
HUNGARY	As the national does not contain any transparency requirement additional to MiFID and its implementing measures, at this point HFSA refers to the transparency rules of MiFID.  No such requirement exists in the legislation for	As the national does not contain any transparency requirement additional to MiFID and its implementing measures, at this point HFSA refers to the transparency rules of MiFID.  No such requirement exists in the legislation for



	electricity.	gas.
ICELAND	N/A	N/A
IRELAND		
ITALY	Yes. Transparency requirements under the Market Rules of IPEX do not apply to OTC trading. The transparency requirements set by the Consolidated Law on Finance apply to contracts traded in the regulated financial derivative markets only.	This question does not apply to the Italian gas system because there is no exchange trading. With reference to trading in gas derivatives, see the answer provided with on Electricity derivatives.
LATVIA	No requirements (see answer to E.12.).	No requirements (see answer to E.12.).
LITHUANIA	Not applicable (see answer to E.12.).	Not applicable (see answer to E.12.).
LUXEMBOURG	Not applicable.	Not applicable.
MALTA	N/A	N/A
NORWAY	Please see the Overview in C1.	Not relevant.
POLAND	Yes. There are only general, contractual rules for OTC trading, whereas trading on energy exchange is subject to transparency requirements described above.	No exchange trading exists.
PORTUGAL	Regarding spot trading there are no differences. Regarding futures trading, if OTC transactions of electrical derivatives are registered on the OMIP Trading Platform the same rules mentioned above are applicable (figures on trades executed). If not, OTC trading with physical delivery is only subjected to information to system operator concerning volumes of energy traded.	Not applicable.
ROMANIA	<p>As it was mentioned, for the time being, on the exchange there are no other standardised transactions except spot. So, the comparison could be just with the spot trades and the answer is yes, there are differences in transparency requirements for spot trading compared to direct bilateral contracts, part of the OTC trading.</p> <p>a. Spot versus bilateral contracts</p> <p>In the absence from the Romanian electricity market of any index company (like Platts, for example), just ANRE collects some aggregated data for the bilateral transactions (monthly quantity and corresponding value for each transaction); obviously, ANRE has not the capacity to collect data on the hourly level and can not substitute itself to the index companies. But, trying to compensate the absence of those information from the market, ANRE aggregates the available data and publishes periodically aggregated volumes and prices for all regulated/negotiated trades.</p> <p>In order to offer more precise information, beginning with this year, ANRE intends to publish the information corresponding to the negotiated contracts traded in that period, per type of contract (base load, peak, off peak), as well.</p> <p>See answer to E.14.</p>	Not applicable. see answer to E.14.
SLOVAK REPUBLIC	Not applicable as there is no power exchange in Slovakia.	Not applicable as there is no power exchange in Slovakia.

SLOVENIA	Exchange data are published at the Borzen web site.  The transparency requirements on bilateral (not organized OTC) are limited to reporting of annual supplied quantities, categories of consumption and statistical average prices for typical customers.	The transparency requirements on bilateral (not organized OTC) are limited to reporting of annual supplied quantities, source, type of consumption and statistical average prices for typical customers.
SPAIN	Yes. The requirements previously stated referred to the electricity regulated markets. There are no requirements on OTC markets.	Not applicable.
SWEDEN	No difference for standard products.  For financial instruments, there are no pre-trade requirements for OTC trading.	No.
THE NETHERLANDS	No difference in transparency requirements.	No difference in transparency requirements.
UNITED KINGDOM	See the answer to question E.12.	See the answer to question E.12.

**Comments**

LUXEMBOURG	No energy exchange existing on a national level.
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**E.16: What information, other than required by law or regulation, is made public by energy traders, brokers, information services or exchanges?**

Member State	Electricity	Gas
AUSTRIA	<p>EXAA publishes the aggregated bid curves for each traded product at about 13:15 of each trading day.</p> <p>Several price reporters (Platts, Argus,..) assess the traded Austrian electricity wholesale market and publish price data on a regular bases. Also brokers might publish Austrian price data.</p>	<p>Following the merger OMV/EnergieAllianz/OÖF – "ECONGAS" (9.10.2002) as a commitment of the parties a gas-release programme was agreed upon. After the auctions some data, such as the volumes sold are usually published.</p> <p>As part of the above mentioned merger settlement CEGH is obliged to make public the following information:</p> <ul style="list-style-type: none"> <li>- Hub-Contract</li> <li>- Bulletin Board</li> <li>- Online access to allocated gas volumes</li> <li>- CEGH Member List + CEGH Identification Names</li> </ul> <p>CEGH releases following monthly data on a voluntary basis:</p> <ul style="list-style-type: none"> <li>- Title Tracking Volume</li> <li>- Physical Throughput Volume</li> <li>- Churn Rate</li> <li>- Number of registered and active trading members</li> </ul>
BELGIUM	<p>Power exchange Belpex publishes the following additional information, without any charges:</p> <ul style="list-style-type: none"> <li>- the non-nominative monthly market shares in the buy and sell market</li> <li>- the netto exchange curves (NEC-curves); specific for the trilateral coupled market</li> <li>- list with the participants on Belpex.</li> </ul> <p>Energy traders and brokers: no requirements</p> <p>Power exchange – spot market: Belpex publishes the bid and ask orders with full market depth for the Continuous Day Ahead Market and for the Continuous Intraday Market.</p> <p>There is a liquidity provider for the Continuous Intraday Market: Belpex N.V. has to publish the obligation of these liquidity providers (order size, percent of time present, price quotes boundaries, ...).</p>	<p>Huberator:</p> <ul style="list-style-type: none"> <li>- publishes physical and traded volumes of OTC (daily, monthly, quarterly and yearly reports).</li> </ul> <p>Power Exchange:</p> <ul style="list-style-type: none"> <li>- publishes volumes and prices of Within Day and Day-Ahead products.</li> </ul>
BULGARIA		
CYPRUS		
CZECH REPUBLIC	<p>For market operator – price index of day ahead market, progress of daily, monthly indexes, summary with daily results of day ahead market, development of capacity on day ahead market, results of block market, intra day market, balancing market.</p>	No
DENMARK	On the NordPool exchange prices and volumes are	None

	made public each day.	
ESTONIA	Not applicable.	Not applicable.
FINLAND	NordPool issues a lot of information, but it's hard to say is there any other information than required by law or regulation. Please check NVE's answer.	Not relevant.
FRANCE	<p>- Traders : none</p> <p>- Brokers :</p> <p>The 5 main brokers mentioned above are not regulated by the AMF. However, they publish information on French electricity markets (day-ahead and Futures) that was considered worth mentioning in this questionnaire.</p> <p>o Pre-trade :</p> <p>Ø Detailed data : the customers of a broker can see in real time bids and offers posted on the broker's screen (however, it is possible for a client to specify that a trade must not appear on the screen). Information available is: product, price and volume. Counterparties are not mentioned.</p> <p>o Post-trade</p> <p>Ø Detailed data : the customers of a broker can see in real time most trades (indeed, it is possible for a client to specify that a trade must not appear on the screen) concluded via this broker. Information available is: product, price and volume. Counterparties are not mentioned.</p> <p>Ø Aggregated data : Brokers also offer information services (for a fee), consisting of historic and statistics on the trades and prices made on their own platform.</p> <p>- Information services : Post-trade, aggregated data. For fee information delivered by financial information company (like Platts or Heren) on prices, spreads and volumes, both OTC and exchange. This data is collected by the means of daily polls to some traders. Thus they are non-exhaustive and approximate.</p> <p>- Powernext Day-ahead Auction (day-ahead fixing at 11:00am):</p> <p>o Post-trade :</p> <p>Ø Aggregated data: statistics on volumes, prices, resilience of prices, temperatures.</p> <p>Ø Detailed data: hourly fixing prices and volumes ; hourly aggregated offer and demand curves of the day. Access to previous aggregated offer and demand curves is charged, except for Powernext Day-ahead Auction's members who have a free access.</p> <p>- Powernext Day-ahead Continuous (continuous day-ahead trading platform) and Powernext Intraday (continuous intraday trading platform):</p> <p>o Pre-trade :</p> <p>Ø Detailed data: bids and offers appear on the screen during the trading session (but are not available under the form of historical data)</p> <p>o Post-trade :</p> <p>Ø Aggregated data: average daily and monthly prices and volumes</p> <p>Ø Detailed data: end of the day results (aggregated volumes and statistics on prices), list of all transactions (anonymous) with product,</p>	<p>- Traders : none</p> <p>- Brokers :</p> <p>1 main broker mentioned above is not regulated by the AMF. However, they publish information on French gas markets (day-ahead and Futures) that was considered worth mentioning in this questionnaire.</p> <ul style="list-style-type: none"> <li>• the customers of a broker can see in real time most trades (indeed, it is possible for a client to specify that a trade must not appear on the screen) concluded via this broker. Information available is: product, price and volume. Counterparties are not mentioned.</li> <li>• Brokers also offer information services (for a fee), consisting of historic and statistics on the trades and prices made on their own platform.</li> </ul> <p>- Information services : for fee information delivered by financial information company (like Platts or Heren) on prices, spreads and volumes, both OTC and exchange. This data is collected by the means of daily polls to some traders. Thus they are non-exhaustive and approximate.</p> <p>- No "gas exchange" or MTF in France as of 17th April 2008. Powernext is considering to launch a "gas exchange" but no official decision has been made so far.</p>

	<p>price, volume and hour of transaction.</p> <ul style="list-style-type: none"> <li>- EEX France : The data published for trades done on EEX France are : <ul style="list-style-type: none"> <li>o Pre-trade : <ul style="list-style-type: none"> <li>Ø Detailed data: bids and offers appear on the screen during the trading session (but are not available under the form of historical data)</li> </ul> </li> <li>o Post-trade : <ul style="list-style-type: none"> <li>Ø Aggregated data per day and per product : best bid, best ask, number of transactions, last trade (time, price, volume), volume, global open interest.</li> </ul> </li> </ul> </li> <li>- Powernext Futures (continuous futures trading). Powernext Futures is the only MTF active on energy futures in France and as such regulated by the AMF. Based on the principles set out in the AMF Regulation (see answers to Q E.12 and E.13) Powernext publishes the following information.: <ul style="list-style-type: none"> <li>o Pre-trade : <ul style="list-style-type: none"> <li>Ø Detailed data: bids and offers appear on the screen during the trading session (but are not available under the form of historical data)</li> </ul> </li> <li>o Post-trade : <ul style="list-style-type: none"> <li>Ø Aggregated data: statistics on volumes, number of members, open interest, delivery, prices.</li> <li>Ø Detailed data: end of the day results (aggregated volumes and settlement price) list of all transactions (anonymous) with product, price, volume and hour of transaction, and global open interest.</li> </ul> </li> </ul> </li> </ul>	
GERMANY	<p>According to the Exchange rules of the European Energy Exchange ("EEX") in Leipzig (Germany), products of the EEX Power Spot are traded in the Closed Auction or Continuous Trading on the EEX Spot Market. In the Derivatives market products of the EEX are traded in continuous trading with open auctions. The scope of pre-trade transparency varies due to the respective price fixing process (Closed Auction or Continuous trading with open order book).</p> <p>According to Art. 44 of the Exchange Rules of the EEX, the board of the EEX publishes exchange prices and underlying transaction volumes by electronic means. The board is also authorized to publish information serving to adequately inform the public of matters related to market activities.</p> <p>The website of the EEX displays market information such as open interest. Furthermore, information on power plants (e.g. standard messages, list of power plants, map providing an overview of power plants and further information thereof, net production). This information is based on bilateral agreements with the respective reporting companies.</p> <p>Additionally, some generators voluntarily publish information regarding their generation units on their own websites (particularly RWE AG and E.ON Energie AG). Some generators (currently 23) also voluntarily publish aggregated generation data on the website of the EEX (e.g. E.ON Energie AG, EnBW Energie Baden-Württemberg AG, RWE AG, Vattenfall Europe AG).</p> <p>Information relevant for price formation is also</p>	<p>According to the Exchange rules of the EEX, products of the EEX Spot Markets (including gas) are traded in continuous trading with or without open auctions. They can also be traded in closed or in open auctions according to the Trading Conditions. In the Derivatives market products of the EEX are traded in continuous trading with open auctions. The scope of pre-trade transparency varies due to the respective price fixing process.</p> <p>According to Art. 44 of the Exchange Rules of the EEX, the board of the EEX publishes exchange prices and underlying transaction volumes by electronic means. The board is also authorized to publish information serving to adequately inform the public of matters related to market activities.</p> <p>Gas Storage Europe (GSE) publishes aggregated data on the amount of gas in storages at some European hubs (e.g. Germany, TTF, Baumgarten) on a weekly basis. Partially, there are also links to equivalent quantitative data published by storage system operators individually. The information is provided for GSE members only.</p> <p>In order to improve usability of interruptible capacity rights and promote cross-border gas trade, seven major gas network operators have launched a project to publish daily information on flows and interruptions at interconnection points, daily aggregate day-ahead nominations as well as a database on historic gas flow information. This information on the actual utilisation of the system will enable shippers to assess the likelihood that transports on an interruptible basis will be interrupted. Interruptible rights are not fulfilled in</p>

	<p>required by law to be published by the TSO. These requirements are included in Regulation (EC) 1228/2003, especially in its new Annex ("Congestion Management Guidelines"), the German Energy Industry Act (EnWG) and the associated ordinance on rules regarding the grid access (StromNZV). This information refers to – among others - available transmission capacity, load flows at the border, outages in transmission grid, vertical load, generation (especially outages of generation units) and information on balancing.</p> <p>Furthermore, professional information services (e.g. Bloomberg, Reuters, Platts) provide aggregated data (volumes/prices) on OTC-trading. It has to be assumed that not all information about OTC trading is published here.</p>	<p>case of physical congestion.</p> <p>Information relevant for price formation is also required by law to be published by the TSO. These requirements are included in Regulation (EC) 1775/2005, especially in its Annex, the German Energy Industry Act (EnWG) and the associated ordinance on rules regarding the grid access (GasNZV). This information refers to – among others - contracted and available firm and interruptible capacities, information on gas quality and pressure requirements and information on balancing.</p> <p>Furthermore, it is assumed that professional information services (e.g. Bloomberg) offer the provision of aggregated data (volumes/prices) on part of OTC-trading.</p>
GREECE	<p>HTSO, further to requirements deriving from national law, publishes reports regarding the operation of the Greek Electricity Market. These reports have mainly information about installed capacity, demand growth, RES production etc</p>	
HUNGARY	<p>According to the records of HFSA, the supervised entities do not conduct trading activity in options, futures, forwards and derivatives relating to gas and electricity. Moreover, there is no trading activity in these instruments on the Budapest Stock Exchange. For this reason, the HFSA is not aware of any additional information published by the supervised entities.</p> <p>Regarding MVM Market Place see answer in C.3, other traders don't publish such information.</p>	<p>According to the records of HFSA, the supervised entities do not conduct trading activity in options, futures, forwards and derivatives relating to gas and electricity. Moreover, there is no trading activity in these instruments on the Budapest Stock Exchange. For this reason, the HFSA is not aware of any additional information published by the supervised entities.</p> <p>No detailed public information (except marketing information in press release of traders).</p>
ICELAND	N/A	N/A
IRELAND		
ITALY	<p>In general trading information, basically spot and forward prices for physical settled contract and contracts prices, quantity and open interest for financial derivatives, are made available by data information providers. These information are publicly available or usually accessible by paying a fee. Pursuant to the Market rules, the Italian Power exchange publish the following information:</p> <p>a) For each zone: The zonal marginal selling price paid to the accepted offers on IPEX; The total accepted bid volume and Total accepted offer volume; The aggregated zonal offer curve and aggregated zonal demand curve. b) The single national buying price paid by the bids accepted on IPEX. c) Individual bids and offers are disclosed a year later.</p>	<p>In general trading information, basically spot and forward prices, for physically settled contract, and contracts prices, quantity and open interest for financial derivatives are made available by data information providers. Users can have access to such information usually by paying a specific fee. The TSO also publishes information, other than those required by regulation, regarding for example, time series on monthly quantity and number of transactions at PSV.</p>
LATVIA	Not applicable.	Not applicable.
LITHUANIA	Not applicable.	not applicable.
LUXEMBOURG	Not applicable.	Not applicable.
MALTA	To date no information is made public in this respect.	To date no information is made public in this respect.
NORWAY	<p>The Nordic exchange has detailed requirements for pre and post trade transparency, through Nord Pool's market conduct rules. As for trades outside the exchange (e.g. OTC and bilateral), it holds that all trades cleared by Nord Pool are to be</p>	<p>No supervised gas trading activity on Norwegian regulated markets or MTFs. If such activity is established for financial instruments it will be treated the same way for gas derivatives trading.</p>

	<p>published (volume and price) within 15 minutes of the trade.</p> <p>The exchange must publish all relevant trading data to the market participants. However this might not be distributed without costs for the receiver. To conduct proper transparency Nord Pool distributes trading data at their website delayed with app. 15 minutes. See "Financial market Nordic" and "OTC Trades Nordic" at www.nordpool.com. All trading data is brought out anonymously contract by contract and summarised.</p> <p>The publication of additional data from the exchange may be separated in two. Data related to the physical supply and demand from the participants in the physical or/and at the exchange must publish unexpected changes in volume bigger than 100 MW. This is called Urgent Market Messages, and is also distributed on the Nord Pool website. Data related to the system operator or other occasional news is distributed from the exchange to the participants as operational messages and exchange information. These kind of information is related to mainly the physical electricity market, but also to the financial market.</p>	
POLAND		
PORTUGAL	<p>Concerning the MIBEL derivatives market, the information that shall made public is established under the Portuguese Securities Code (or other regulation issued by CMVM) or in the rules issued by the market operator which are registered at CMVM [Article 209, Portuguese Securities Code].</p> <p>All information about spot trading, including bids, is made public with a time lag of 3 months in the website of OMEL (spot trading platform). This information includes volumes, prices (final prices and bid prices) and interconnection trading. Bilateral trading is reported by the system operator (information about volumes).</p>	All available information is reported by the system operator.
ROMANIA	<p>Depending on the market type, the following information is made public without being required by law or regulation:- Regulated/ negotiated contracts' markets – ANRE publishes periodically the total volume of the regulated/negotiated contracts and the average price of the regulated/negotiated contracts;- The Power floor of RCE – RCE publishes, after the auction closing, for each transaction: the initiating party, the type of offer/contract, the opening price, the offered/asked volume, the delivery period, the proposed contract, the traded volume, the counterparties;- Day ahead market - SC OPCOM SA publishes each day, after the trading closing, for each hour, the aggregated curves of selling and buying offersIn accordance with the revision of the Electricity wholesale commercial code, which has to be approved this year, timely generation and demand data, maintenance schedules and information on longer term availability of generation and grid networks have to be published by the CN Transelectrica SA.see answer to E.14.</p>	Not applicable.see answer to E.14.
SLOVAK REPUBLIC	<p>Published information – according to the international Financial Reporting Standards:</p> <p>Assets, accounts payable, income, costs, earnings, profit from sold electricity and distributed</p>	<p>Published information – according to the international Financial Reporting Standards:</p> <p>Assets, accounts payable, income, costs, earnings, profit from sold gas and distributed gas, value of</p>

	<p>electricity, value of purchased and produced electricity, cost for purchased electricity.</p> <p>Published information (not required by law):</p> <p>Number of off-take spots, area of supply, length of grids (hV,mV,IV) - depending upon individual strategies of company.</p>	purchased gas, cost for purchased gas.
SLOVENIA	Supplier's annual reports and regulator's annual report (end of July for the past year).	Supplier's annual reports and regulator's annual report (end of July for the past year).
SPAIN	Only information required by regulation is made public by market participants and exchanges.	Not applicable.
SWEDEN	Extensive information is published on the exchange NordPool's website.	None.
THE NETHERLANDS	<ul style="list-style-type: none"> <li>- Daily prices and volumes for the spot market (APX)</li> <li>- Daily prices for forward market (Endex)</li> <li>- Daily assessment prices for forward market (Brokers)</li> </ul>	<ul style="list-style-type: none"> <li>- Daily prices for spot market (APX)</li> <li>- Daily prices for forward market (Endex)</li> <li>- Daily assessment for forward market (Brokers)</li> </ul>
UNITED KINGDOM	<p>See the answer to question E.12, as elaborated below.</p> <p>Exchanges or one of their related businesses, e.g. ICE Energy Live, UKPX, APX, etc. can provide a data service with energy prices and news. Information services, e.g. Bloomberg, provide information on exchange trading, as described above, to non-members/users.</p> <p>Information services, such as Platts, seek benchmark prices and other information on OTC derivative and spot transactions from market practitioners and elsewhere and publish that information, along with news and articles on energy market subjects. Platts uses a "window" - a set time - to collect some of its OTC prices from market participants.</p> <p>Prices from, e.g. Platts, Bloomberg or Reuters, can be, in turn be used in OTC derivatives contracts themselves to calculate payments made under those contracts, e.g. the "floating rate" side of a energy derivative swap.</p> <p>Information and data services and other similar organisations would typically make a charge for providing their information on prices, etc. Those charges are likely to be fairly modest (e.g. £4,000 for Platts services) in comparison to the size of trades undertaken by market participants.</p> <p>Brokers may also accumulate similar information, but access to their information, particularly real time information, may be more limited, e.g. primarily for their clients.</p>	<p>See the answer to question E.12, as elaborated below.</p> <p>Exchanges or one of their related businesses, e.g. ICE Energy Live, UKPX, APX, etc. can provide a data service with energy prices and news. Information services, e.g. Bloomberg, provide information on exchange trading, as described above, to non-members/users.</p> <p>Information services, such as Platts, seek benchmark prices and other information on OTC derivative and spot transactions from market practitioners and elsewhere and publish that information, along with news and articles on energy market subjects. Platts uses a "window" - a set time - to collect some of its OTC prices from market participants.</p> <p>Prices from, e.g. Platts, Bloomberg or Reuters, can be, in turn be used in OTC derivatives contracts themselves to calculate payments made under those contracts, e.g. the "floating rate" side of a energy derivative swap.</p> <p>Information and data services and other similar organisations would typically make a charge for providing their information on prices, etc. Those charges are likely to be fairly modest (e.g. £4,000 for Platts services) in comparison to the size of trades undertaken by market participants.</p> <p>Brokers may also accumulate similar information, but access to their information, particularly real time information, may be more limited, e.g. primarily for their clients.</p>

<b>Comments</b>	
BELGIUM	TSO also gives a lot of information that is relevant for the energy market (interconnection capacity, load forecasts, consumption, availability of power plants, produced energy by fuel type, balancing prices, ...).
LUXEMBOURG	No energy exchange existing on a national level.



**E.17: Is access to information on traded volumes and prices equal for all parties active in that market or is there a general lack of information?**

Member State	Electricity	Gas
AUSTRIA	<p>All EXAA market participants and data subscribers have the possibility to see the volumes and prices of each product immediately. For the public all results are available at 13:15 on the homepage of EXAA.</p> <p>Concerning OTC trades:</p> <ul style="list-style-type: none"> <li>- Transaction related data are generally known to all trading participants (apart from details of bilaterally negotiated deals that are not communicated into the marketplace).</li> <li>- Published price data in general seem to be more comprehensive and complete than volume data.</li> </ul>	<p>Transaction related data are generally known to all trading participants as far as they are assessed by price reporting agencies.</p> <p>t the moment trading is very limited on CEGH. Price reporting is just picking up. To date, no regular price assessments exist. With increasing trading activity more price reporting can be expected, the assessment of which would normally be available to all interested parties.</p>
BELGIUM	Yes.	No regulation.
BULGARIA		
CYPRUS		
CZECH REPUBLIC	Yes.	There is N/A this kind of market in the Czech Republic.
DENMARK	Aside from the trade on NordPool, there is a general lack of information.	There is a general lack of information.
ESTONIA	Not applicable.	Not applicable.
FINLAND	In theory, all market participants should have an equal access to market information within a reasonable price, but sometimes it's not so easily available.	Not relevant.
FRANCE	<p>Access to information may not be equal for all parties as transparency varies depending the way of concluding transactions</p> <ul style="list-style-type: none"> <li>- There is no transparency on bilateral trading. Only the counterparties of deals have the information.</li> <li>- There is some transparency for trading done on the 5 brokers' platforms mentioned above, but only the broker's customers have access to the trade information.</li> <li>- Trading on Powernext (Day ahead auction, Intraday, Continuous or Futures) is transparent. The same post-trade information is disseminated to the public and Powernext members. Powernext members may have access to more pre-trade information than the public. The content of the information disseminated varies according to the instrument traded.</li> </ul> <p>According to CRE, as a consequence of these different transparency status, companies with limited financial resources (new entrants) may be at a disadvantage vs incumbents as they may choose to limit their trading to some channels only (exchange only or a single broker for example) to limit the costs.</p>	<p>Access to information is not equal for all parties as transparency varies according to the way of concluding transactions</p> <ul style="list-style-type: none"> <li>- There is no transparency on bilateral trading. Only the counterparties of deals have the information.</li> <li>- There is some transparency for trading done on the broker's platform mentioned above, but only the broker's customers have access to the trade information.</li> </ul> <p>According to CRE, as a consequence of these different transparency status, companies with limited financial resources (new entrants) may be at a disadvantage vs incumbents as they may choose to limit their trading to some channels only (a single broker for example) to limit the costs.</p> <p>In any case, there is no available consolidated data regarding the traded market overall size (and even more for market size by product type).</p>

	In any case, there is no available consolidated data regarding the traded market overall size (and even more for market size by product type).	
GERMANY	Access to this kind of post-trade information is not equal for all parties active in the market. Some information about OTC trading is only available to certain market participants such as registered users and will be charged. Information about bilateral transactions not executed via an intermediary is only known to the parties involved and not published.	Access to this kind of post-trade information is not equal for all parties active in the market. Some information about OTC trading is only available to certain market participants such as registered users and will be charged. Information about bilateral transactions not executed via an intermediary is only known to the parties involved and not published.
GREECE	Our belief is that access to information, on traded volumes and prices in the Greek pool, is equal for all parties.	
HUNGARY	As the national legislation does not contain transparency requirement additional to MiFID and its implementing measures, at this point we refer to the transparency rules of MiFID which provide equal access to the information in question.  Regarding MVM Market Place see answer in C.3.	As the national legislation does not contain transparency requirement additional to MiFID and its implementing measures, at this point we refer to the transparency rules of MiFID which provide equal access to the information in question.  Gas is supplied on basis of bilateral contract, contract terms are transparent only for HEO.
ICELAND	N/A	N/A
IRELAND		
ITALY	With reference to electricity derivatives traded on regulated markets, the access to information is provided in a non-discriminatory manner.	Given the bilaterally way to pursue transactions, in the Italian gas market there is a general lack of information affecting the parties active in that market. The Italian AEEG is actively involved to increase the level of information available to all the parties involved. With reference to trading in gas derivatives, the access to information is provided in a non-discriminatory manner.
LATVIA	Not applicable.	Not applicable.
LITHUANIA	Not applicable.	Not applicable.
LUXEMBOURG	Not applicable.	Not applicable.
MALTA	Our answer to E.16 refers.	Our answer to E.16 refers.
NORWAY	There is no evidence of substantial asymmetric information in the market. However there is a natural imbalance between the participants. The producers and retailer companies normally have a comparative advantage in the knowledge of the physical electricity market, and the financial players will have a comparative advantage in the knowledge of the capital market.	Not relevant.
POLAND	There are no legal differences as regards access to market information.  The problem is that the financial energy market compared to bilateral contracts is relatively shallow. This causes price volatility. But as the process of dissolving long term contracts will continue, the liquidity of the exchange should improve, and price distortions should disappear.	The same as in the case of electricity, but no exchange trading.
PORTUGAL	As established in the Portuguese Securities Code, all the parties (trading members) have access to the same information on the OMIP Trading Platform, at the same time. There are no differences of information among the different	Yes. All agents under the same conditions have equal and transparent access to the information.

	<p>kind of trading members (electrical or financial entities) [Articles 206 and 208, Portuguese Securities Code, Article 15,1,b), CMVM's Regulation nr 3/2007].</p> <p>In general, according to the Trading Rulebook, OMIP facilitates the following information to market participants:</p> <ul style="list-style-type: none"> <li>- OMIP makes available to participants, on an equal basis, the information it deems necessary for the normal course of trading and for the execution of transactions in the trading platform, namely the information concerning the transactions executed by trading members;</li> <li>- For each contract traded on the market, OMIP makes available to the trading members, on a real time basis and through the Trading Platform, daily information on price and quantity of orders, price, quantity and the time regarding the most recent executed transaction.</li> </ul> <p>Regarding spot market, all agents under the same conditions have equal and transparent access to the information.</p>	
ROMANIA	<p>Yes, the access to information on traded volumes and prices is equal for all parties active in that market.</p> <p>See answer to E.14.</p>	<p>There is equal access to information. ANRE is entitled to make public any data or information on monthly, quarterly or annual commercial transactions on the natural gas internal market, as well as the data and information regarding the fulfilment of obligations of securing the access to transmission and/or distribution systems and to underground storages, in compliance with Art. 9 par. (2) of the Gas Law No. 351/2004, with subsequent amendments.</p> <p>The data and information shall be made public only in processed and aggregate versions so that identification of individual transactions is not possible and confidentiality of contractual relations is secured.</p> <p>ANRE shall not make public the data and information on monthly, quarterly or annual commercial transactions within one category of customers unless that category has at least 3 customers that are registered, except when there is an approval from the licensee that submitted the information or when this data and information are well known or are of public interest.</p> <p>See answer to E.14.</p>
SLOVAK REPUBLIC	General lack of information.	General lack of information.
SLOVENIA	<p>For those information which are published, i.e. at the exchange, there are all information publicly available.</p> <p>For OTC trading there are no such requirements.</p>	For OTC trading there are no such requirements.
SPAIN	All interested parties have the same access to public information on volumes and prices.	All interested parties have the same access to public information.
SWEDEN	<p>Yes, access to information on traded volumes and prices on the exchange are equal for all parties active in the market.</p> <p>For trading in financial instruments, there are</p>	Yes.

	<p>minimum rules for equal information. There may be differences if you are a member of the exchange, but that will be regulated by the membership rules.</p>	
THE NETHERLANDS	<p>Volumes &amp; prices of bilateral contracts are not disclosed to the market.</p> <p>Prices of brokered contracts are made known only via assessments. Volumes are not disclosed.</p> <p>Traded volumes and historic prices on the exchanges are only available for members. Prices are made available on a daily basis via the website of exchanges.</p>	<p>Volumes &amp; prices of bilateral contracts are not disclosed to the market.</p> <p>Prices of brokered contracts are made known only via assessments. Volumes are not disclosed.</p> <p>Traded volumes and historic prices on the exchanges are only available for members. Prices are made available on a daily basis via the website of exchanges.</p>
UNITED KINGDOM	<p>Market participants in the energy and other commodities derivative markets have emphasised the importance of an understanding of the structure and operation of both the derivatives markets and the underlying markets in order to be able to use the derivatives markets properly. Keeping abreast of the latest developments that would move the markets would be an important feature, including, for example, information on capacity constraints of the European gas pipeline networks. Some energy firms with trading arms may have, as a consequence of their businesses, more information about the energy markets as compared with non-energy firms.</p> <p>Transparency for trading on an exchange or MTF means that market participants can have access to market information arising from that trading, either by virtue of their membership or otherwise through information services and other similar organisations. As mentioned above, there would likely be a nominal charge made for access to these information services. Some MTF trading may take place via an intermediary, e.g. the involvement of a broker, which may relay market information and give input into pricing prior to the execution of a trade. Brokers may also be involved in OTC trading. See the answer to question E.16. There is little call for additional transparency in the OTC commodity derivative markets generally.</p>	<p>Market participants in the energy and other commodities derivative markets have emphasised the importance of an understanding of the structure and operation of both the derivatives markets and the underlying markets in order to be able to use the derivatives markets properly. Keeping abreast of the latest developments that would move the markets would be an important feature, including, for example, information on capacity constraints of the European gas pipeline networks. Some energy firms with trading arms may have, as a consequence of their businesses, more information about the energy markets as compared with non-energy firms.</p> <p>Transparency for trading on an exchange or MTF means that market participants can have access to market information arising from that trading, either by virtue of their membership or otherwise through information services and other similar organisations. As mentioned above, there would likely be a nominal charge made for access to these information services. Some MTF trading may take place via an intermediary, e.g. the involvement of a broker, which may relay market information and give input into pricing prior to the execution of a trade. Brokers may also be involved in OTC trading. See the answer to question E.16. There is little call for additional transparency in the OTC commodity derivative markets generally.</p>

<b>Comments</b>	
LUXEMBOURG	No energy exchange existing on a national level.

## ANNEX 2

Mandate to the Committee of European Securities Regulators (CESR) and the Energy Regulators' Group for Electricity and Gas (ERGEG) for technical advice pursuant to Articles 22f and 24f and Recitals 20 and 22 respectively in the two proposals for Directives amending Directive 2003/54/EC and Directive 2003/55/EC (The Third Energy Package)

This mandate requests joint advice from CESR and ERGEG on issues concerning record keeping and transparency of transactions in electricity and gas supply contracts and derivatives. The mandate is given in order to find out if additional measures are necessary with respect to transparency in energy trading, as announced by Commissioners Piebalgs and McCreevy following the adoption of the legislative proposals for the internal gas and electricity markets. It is also meant to provide to the Commission the adequate technical background to adopt the guidelines under Articles 22f/24f and Recitals 20 and 22 in the two proposals for Directives amending Directive 2003/54/EC and Directive 2003/55/EC.

This is a draft provisional mandate; it will possibly be completed by additional provisional mandates, depending on the development of the negotiation process before the Council and the European Parliament in relation to the proposed amendments to Directive 2003/54/EC and 2003/55/EC.

This mandate does not prejudice in any way the ongoing negotiations on any article in the Council and the European Parliament in the context of the co-decision procedure. A formal mandate may be sent to CESR and ERGEG once the amendments have been adopted in the co-decision procedure by the European Parliament and Council.

Advice is also sought on a possible clarification of the scope of the Market Abuse Directive in relation to trading in commodities and commodity derivatives.

The present mandate takes into full consideration the agreement on implementing the Lamfalussy recommendations reached with the European Parliament on 5 February 2002. In this agreement, the Commission committed itself to a number of important points, including full transparency. For this reason, this request for technical advice will be published on DG Internal Market's and DG Energy and Transport's web site and the European Parliament will be duly informed.

### 1. Background and legal framework

The European Commission is to adopt guidelines pursuant to the following:

Article 22f of the Proposal for a Directive of the European Parliament and of the Council amending Directive 2003/54/EC concerning common rules for the internal market in electricity relevantly states:

#### Article 22f

##### Record keeping

1. Member States shall require supply undertakings to keep at the disposal of the national regulatory authority, the national competition authority and the Commission, for at least five years, the relevant data relating to all transactions in electricity supply contracts and electricity derivatives with wholesale customers and transmission system operators.
2. The data shall include details on the characteristics of the relevant transactions such as duration, delivery and settlement rules, the quantity, the dates and times of execution and the transaction prices and means of identifying the wholesale customer concerned, as well as specified details of all unsettled electricity supply contracts and electricity derivatives.
3. The regulatory authority may decide to make available to market participants elements of this information provided that commercially sensitive information on individual market players or individual transactions is not released. This paragraph shall not apply to information about financial instruments which fall within the scope of Directive 2004/39/EC.

4. To ensure the uniform application of this Article, the Commission may adopt guidelines which define the methods and arrangements for record keeping as well as the form and content of the data that shall be kept. These measures, designed to amend non-essential elements of this Directive by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 27b(3).

5. With respect to transactions in electricity derivatives of supply undertakings with wholesale customers and transmission system operators, this Article shall only apply once the Commission has adopted the guidelines referred to in paragraph 4.

6. The provisions of this Article shall not create additional obligations vis-à-vis the authorities mentioned in paragraph 1 for entities falling within the scope of Directive 2004/39/EC.

7. In case the authorities mentioned in paragraph 1 need access to data kept by entities falling within the scope of Directive 2004/39/EC, the authorities responsible under that Directive shall provide the authorities mentioned in paragraph 1 with the required data.

Recital 20 states:

20. Prior to adoption by the Commission of guidelines defining further the record keeping requirements, the Agency for the Cooperation of Energy Regulators and the Committee of European Securities Regulators (CESR) should cooperate to investigate and advise the Commission on the content of the guidelines. The Agency and the Committee should also cooperate to further investigate and advise on the question whether transactions in electricity supply contracts and electricity derivatives should be subject to pre and/or post-trade transparency requirements and if so what the content of those requirements should be.

The same provisions apply *mutatis mutandis* in Article 24f and Recital 22 in the proposal to amend Directive 2003/55/EC for gas.

The mandate also asks CESR and ERGEG for their views on possible clarifications to the scope of the Market Abuse Directive in the context of the review of that directive by the Commission to be completed in early 2009.

## 2. Consultation and sources of advice

The Commission is to act ‘on the basis of public consultation and in the light of discussions with competent authorities’. The Commission’s White Paper on Financial Services Policy 2005-2010 set out our commitment to open and transparent consultation:<sup>2</sup>

Open consultations (including with stakeholder groups) will continue to play a central role and will be required before any legislation is deemed necessary. The Commission will continue to publish responses received to its consultations, practical summaries and feedback statements.

In its advice CESR and ERGEG are asked to consider the advice on commodities markets and trading given separately by CESR and CEBS, the Committee of European Banking Supervisors, in the context of the Commission's ongoing review under Article 65(3) of Directive 2004/39/EC on Markets in Financial Instruments, and Article 48(2) and (3) of Directives 2006/49/EC on Capital Adequacy of Investment Firms and Credit Institutions. CESR and ERGEG are also asked to consider the views expressed during the Commission's Call for Evidence on commodities and the conclusions reached in the subsequent feedback statement.<sup>3</sup>

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<sup>2</sup> *Op. cit.* at paragraph 2.1.

<sup>3</sup> [http://ec.europa.eu/internal\\_market/securities/docs/isd/derivatives\\_en.pdf](http://ec.europa.eu/internal_market/securities/docs/isd/derivatives_en.pdf)

3. The principles to which CESR and ERGEG should have regard

As regards its working approach, CESR and ERGEG are invited to take account of the following principles:

- The principles set out in the Lamfalussy Report and mentioned in the Stockholm Resolution of 23 March 2001;
- CESR and ERGEG should provide comprehensive advice on the matters described in Annex I;
- CESR and ERGEG should address to the Commission any questions which arise in the course of its work;
- CESR and ERGEG should also have close regard for the respective roles and functions of their members in various EU jurisdictions, as well as the relationship and levels of cooperation there are between energy and securities regulators in each. To the fullest, they should take this into account when issuing their advice.

4. Questions in relation to which technical advice is sought

Please consult Annex I for a list of questions in relation to which advice is sought.

5. Due date

The advice from CESR and ERGEG is sought by the end of May 2008 for questions in Sections C, E and F, and by the end of December 2008 for questions in Sections D and G.

## Annex I

### A. Introduction

Well-functioning wholesale energy markets are an essential part of efficient energy markets. As competition develops trading becomes more and more important in the energy market. This means that financial and energy market regulation increasingly intertwine to achieve the goal of an internal energy market.

The Sector Inquiry as performed by DG Competition gave rise to concerns on the trust in and regulatory oversight over trading in energy markets. It concluded that "customers have little trust in the functioning of wholesale markets. They suspect market manipulation on the spot and forward markets by large generators to be the main reason for recent price increases. Concentration is a key factor in the proper analysis of the price developments. Other factors are the developments in fuel prices and the impact of the EU Emission Trading System.

Most wholesale markets have remained national in scope. The level of concentration in generation has remained high in most Member States giving generators scope for market power. The level of concentration in trading markets is less striking than in generation, particularly on forward markets where electricity can be traded several times before delivery. However, all spot and forward markets, even the most developed forward markets, remain dependent on the few players which enjoy a net excess of generation compared to their retail supplies.

Further, an analysis of who determines the clearing price at certain power exchanges indicates that there is scope to directly influence prices by excessive bidding prices for operators in Italy, Spain and Denmark. Possibilities to move prices might also exist in other markets.

In addition to excessive bidding, large operators can push up prices by withdrawing capacity. In that respect, it appears that load factors of generation units have increased over time in Germany and in France suggesting higher efficiency levels and a tighter supply/demand balance. However, significant generation capacity – most of it with low marginal costs – was retired in Germany despite slowly increasing demand. Also, certain plants with rather low marginal costs did not operate fully at all times."

DG Competition then carried out a detailed study of the functioning of the electricity markets in six Member States and the final report was published in April. The first part of the study looks at how many operators are effectively competing on the market on an hourly basis. The second part of the study reports on the difference between what the price of the market was in the period and what it would have been if the markets in DE, ES, NL, and UK had been perfectly competitive. This difference, referred to in the study as the "mark-up", was calculated by stimulating a perfectly competitive market for each hour of the period. The study shows that the mark ups vary over time and between Member States. Mark-ups are generally higher in DE and ES, and lower in GB and NL. The mark-up identified in the study is not the same as the profit of each company.

The third part of the study looks at the relationship between the number of operators competing at a given time and the "mark-ups". This analysis shows that there is a statistically relevant correlation between the numbers of generators who have spare capacity and the mark-ups in each hour: in other words, the more needed generators are, the higher the mark-ups in the market become.

More information on the sector inquiry and the electricity study can be found via <http://ec.europa.eu/comm/competition/sectors/energy/inquiry/index.html>.

As prices in bilateral contracts with end-customers are increasingly linked to wholesale market prices either directly or indirectly, there will be a growing incentive for the large energy undertakings to use their market power to influence wholesale market prices. The Commission therefore proposed strengthening the transparency requirements on physical information in its legislative proposals of 19 September 2007. It is currently considering the need for additional transparency requirements on trading activities. For example, given the different degrees of transparency between transactions on trading fora, including brokers' screens, and OTC



transactions, there is a risk that high priced deals could be directed through transparent fora, thus raising the official wholesale price and having a knock-on effect on end-users.

Commissioners Piebalgs and McCreevy have stated, at the time of the adoption of the legislative proposals for the internal energy market, that transparency of trading in energy markets is a topic that needs further study to see if additional measures are necessary. They have agreed to cooperate with ERGEG and CESR on this topic, and to reach a conclusion by May 2008. Therefore the Commission services have the following mandate for advice to ERGEG and CESR.

## B. Definitions

**Market failure:** any significant sub-optimality in market functioning. For example, where applicable, evidence of this could take the form of a wide dispersion of market prices, persistent concentrated market shares, persistent excess profits, a high level of investor complaints, significant information asymmetries leading to misallocation of resources, excessive risk-taking leading to a potentially high level of systemic risk, etc.

**Regulatory failure:** a regulatory state of affairs (including at European or at Member State level) which has the effect of:

- (i) creating significant competitive distortions; or
- (ii) significantly impairing the free movement of services between Member States; or
- (iii) encouraging market participants to engage in a significant degree of regulatory arbitrage.

## C. Fact-Finding

1. How many of the following also fall under the definition of investment firms under Article 4(1)(1) of Directive 2004/39/EC (MiFID):
  - (a) undertakings active in 'supply' of electricity within the meaning of Directive 2003/54/EC (Art 2.19)?
  - (b) undertakings active in the 'supply' of natural gas within the meaning of the Directive 2003/55/EC (Art 2.7 and 2.8)?
2. What are the existing record-keeping obligations with respect to transactions in electricity and gas derivatives to which investment firms are subject by reason of MiFID? Consider both the transaction reporting obligation of firms under Article 25 of MiFID as well as the record-keeping obligations under Article 13(6) of MiFID.
3. What (regulatory) authority oversees trading activities in energy markets in EU Member States?

## D. Record-keeping

4. Do regulators believe that there should be a difference between the proposed record-keeping obligations under the proposed amendments to the electricity Directive and gas Directive and the existing record-keeping obligations with respect to transactions in electricity and gas derivatives to which investment firms are subject by reason of MiFID (Articles 25 and 13(6))?
5. Pending the outcome of the legislative process in respect of the proposed Directives amending Directives 2003/54/EC and 2003/55/EC (the Third Energy Package), what methods and arrangements for record keeping do CESR and ERGEG consider the Commission should specify as guidelines under this legislation for:
  - (a) transactions in electricity and gas supply (spot) contracts? (To the fullest extent possible this should be a harmonised specification.) If there are any deviations from

the obligations relating to commodity derivatives already applicable to investment firms, these should be justified;

- (b) transactions in electricity and gas derivatives contracts? (To the fullest extent possible this should be a harmonised specification.) If there are any deviations from the recommendations in a), these should be justified.

In answering this question, CESR and energy regulators are asked to consider specifying a single transaction record format based on the content and data to be provided as per Table 1 of Annex I of Regulation EC 1287/2006.

6. How would this information be most efficiently kept at the disposal of authorities as mentioned under paragraph 1 of Article 22f/24f in the case of spot transactions and non-investment firms?
7. How would securities regulators most efficiently provide information to energy regulators pursuant to paragraph 7 of Article 22f/24f?
8. Which securities regulator would most efficiently be responsible for such provision in the case of investment firms with more than one branch?
9. Would it be feasible and efficient to employ the Transaction Reporting Exchange Mechanism (TREM) or a similar electronic system to exchange this data?
10. Is there a case for data to be forwarded from energy regulators to securities regulators on an automatic basis? If so, what data?

#### E. Transparency

In answering the following, CESR and ERGEG are invited, where applicable, to build on the answers provided in CESR's initial advice to the Commission on commodity and exotic derivatives and related business (CESR/07-429, July 2007).

11. What guidelines and arrangements do energy regulators propose for the making available of aggregate market data by them under paragraph 3 of Article 22f/24f?
12. What requirements, deriving from national law, are currently put on energy traders, brokers or exchanges to publish information 'post-trade', for example on publishing traded volumes, prices etc?
13. What requirements, deriving from national law, are currently put on energy traders, brokers or exchanges to publish information 'pre-trade', for example on publishing bids to organised markets?
14. Is there a difference in transparency requirements for spot trading compared to future and forward trading? If so, why?
15. Is there a difference in transparency requirements for exchange trading compared to OTC trading? If so, why?
16. What information, other than required by law or regulation, is made public by energy traders, brokers, information services or exchanges?
17. Is access to information on traded volumes and prices equal for all parties active in that market?
18. If not, is unequal access to or general lack of information on trading causing distortion of competition?

19. In light of the findings in the Commission Sector Inquiry on energy and the subsequent study of the electricity wholesale markets, please consider:
- a) whether, pending the outcome of the legislative process in respect of the proposed Directives amending Directives 2003/54/EC and 2003/55/EC, greater EU-wide pre- and/or post-trade transparency rules for electricity and gas supply contracts (physical and spot trading) and electricity and gas derivatives would contribute to a more efficient wholesale price formation process and efficient and secure energy markets;
  - b) whether such transparency arrangements could be expected to effectively mitigate the concerns identified in the Sector Inquiry above;
  - c) whether uniform EU-wide pre- and post-trade transparency could have other benefits;
  - d) whether additional transparency in trading could have negative effects on these markets, for example could liquidity in these markets be expected to decrease? Is there a risk that trading could shift to third countries to escape regulation?
  - e) If you believe that there are risks arising from additional pre- and post-trade transparency requirements, how do you believe that these risks can be mitigated (e.g. aggregation, delay in publication, anonymity)?

F. Market abuse

20. Is the scope of Directive 2003/6/EC on insider dealing and market manipulation (market abuse) such as to properly address market integrity issues in the electricity and gas markets? Would the assessment be different if greater transparency obligations in line with the analysis above were adopted? What suggestions do regulators have to mitigate any shortcomings?

G. General

21. What timelines or delays should be built into the implementation of any of the above recommendations?

Impact analysis

CESR and ERGEG should analyse the options that they identify in an initial screening for further study in terms of likely impacts (costs and benefits) on market quality, and on market users including intermediaries and consumers/suppliers of commodities.

To the extent possible, in developing their advice CESR and ERGEG should apply the framework for impact analysis recently drawn up by the 3 Lamfalussy Level 3 Committees.

Wherever possible, quantitative and statistical data and economic analysis should be provided to justify conclusions.