

## **CEER Note on Accepted Market Practices in the Energy Sector**

**16 April 2019**

Regulation 1227/2011/EU of the European Parliament and the Council on wholesale energy market integrity and transparency (REMIT) has established a robust legal framework to deal with market abuses in the wholesale energy sector. Article 5 of REMIT sets out a prohibition on market manipulation declaring a wide range of behaviours illegal.

The definitions in Article 2 of REMIT for market manipulation and attempted market manipulation allude to the notion of "accepted market practices" (AMP). This allows market participants to claim that a certain type of behaviour is legitimate and that that transaction or order to trade conforms to accepted market practices on the wholesale energy market concerned.

Currently a handful of AMPs are in effect in the financial sector, none of them are applicable in the energy sector. The result of a CEER questionnaire to National Regulatory Authorities of the EU and EEA Member States and Switzerland shows that respondents have no national rules on establishing AMPs in the energy sector, have not established any AMP under REMIT and do not plan to do so.

According to Recital (27) of REMIT, ACER should ensure that REMIT is applied in a coordinated way across the Union, coherent with the application of formerly Directive 2003/6/EC (MAD), now Regulation 596/2014/EU (MAR).

To that effect pursuant to Article 16(1) of REMIT, ACER can publish non-binding guidance on the application of the definitions set out in REMIT, as appropriate.

Currently there is no possibility for market participants to conform to an AMP with respect to an assessment whether a transaction is compliant with article 5 of REMIT since no Member State has adopted AMPs for the energy sector.