

Brussels, 1 June 2023

Position of the Polish Electricity Association (PKEE) in response to European Commission's proposal for a regulation of the European Parliament and of the Council amending Regulations (EU) No 1227/2011 and (EU) 2019/942 to improve the Union's protection against market manipulation in the wholesale energy market

The Polish Electricity Association (PKEE) welcomes the legislative initiative aimed at strengthening wholesale energy market transparency and the development of new protection measures against market manipulation.

Review of the REMIT regulation creates an opportunity for making a step towards improvement of the functioning of short-term markets. We believe that the review should be considered as an evolution instead of a revolution. It should be underlined that the energy market has to be predictive and stable to foster further development, having in mind the need for shielding of investment environment for its participants. The scope of the regulation should also consider the nature and the specificity of the electricity sector which should be safeguarded against the risks of causing disturbance which might result in impacting the consumers through increased market prices. Having in mind that an impact assessment has not been prepared for the current review, it is difficult to assume with certainty the possible impact of the proposition on the energy market and investment environment. For that reason, we believe that the proposed changes should be approached with caution as a step in the evolution towards a more profound reform which should follow, where a full impact assessment should take place.

We are convinced that increasing the level of protection of consumers and industry at the national level but also at the EU level against any abuse on the market is the right direction. However, as in similar cases, we should be very cautious when it comes to extending the competencies of the EU institutions over the national regulatory and financial supervision authorities. The introduction of new measures should be well thought over in regard to possible effects on the market and its participants. Consideration should be given to strengthening cooperation between these institutions. Introducing reporting obligations may result in excessive powers of these institutions and the creation of unnecessary or unjustified administrative burdens when considering an already available legal set of tools.

It is debatable whether ACER's powers should be increased to inspect the persons subject to investigation under the provisions of the REMIT regulation as we consider national regulatory authorities (NRA's) in Member States to have a primary role. The role of ACER and its opinion in the process of delegation of tasks and responsibilities to other NRA should not be considered dominant and should be adjusted appropriately to the scope of the agreement between the NRA's. Similarly ACER's guidelines and recommendations should be first and foremost auxiliary and subsidiary to NRA's operations in the Member States. Control over application

of measures or penalties for infringement of the regulation should stay within the competence of the Member States. Proposed measures should also reflect and consider existing procedures functioning in Member States.

We support efforts for the sake of market transparency and countermeasures against detected abuses or manipulation of the functioning EU energy market. The increasing level of transparency and more importantly improved ability to trace and detect suspicious activities or foul play should be considered as a relevant element of the review. We welcome the idea of a broader exchange of information, as it is a key aspect of cooperation and detection of potential breaches in both wholesale energy markets and financial markets. One of the key elements of the regulation would be addressing the issue of authorization and supervision of confidential information platforms in relation to registered reporting mechanisms, which is considered as overall positive.