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The Emerging Governance for the Energy Union

A new role for the Agency

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Status quo: ACER tasks according to the 3rd Package



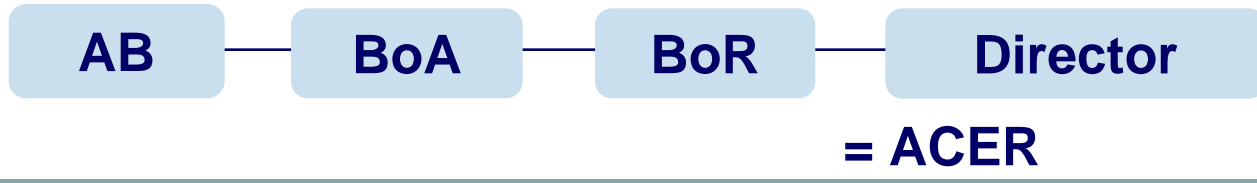
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ACER internal procedures	In general, ACER performed quite well since 2011. However, uncertainties regarding roles and responsibilities between the different ACER bodies need to be clarified
rule making	OK
amendments of rules	A clear, light and transparent process is needed
monitoring	OK
enforcement	Improvements needed: currently ACER is a lame duck when it comes to enforcing cross-border rules
arbitration between NRAs	A clear and transparent process and procedural rules are needed.
oversight of ENTSOs	Improvements needed: e.g. some recommendations to be turned into binding decisions; ENTSOs to become facilitators of market integration rather than lobbying organizations of national TSOs

(1) ACER internal procedures



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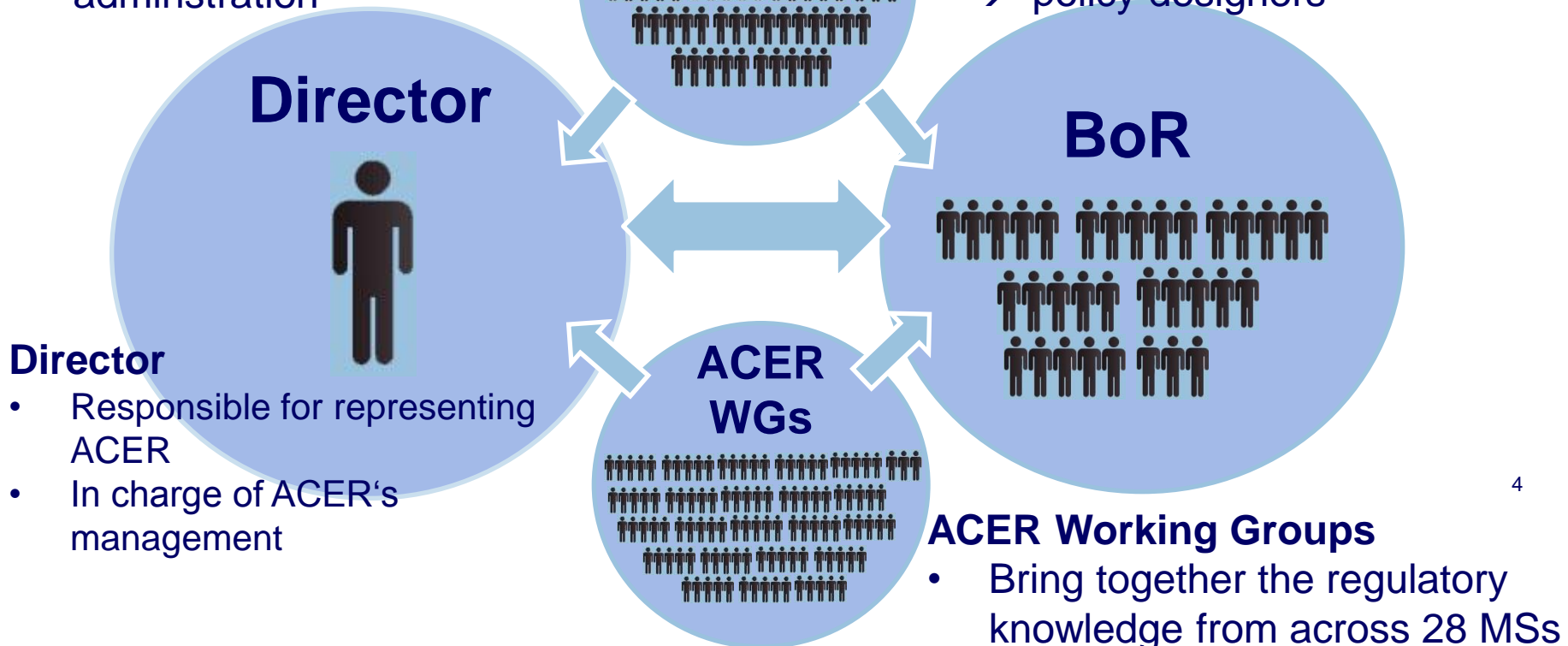


ACER Staff

- High level regulatory experts and administration

Board of Regulators

- Brings together the regulatory knowledge from across 28 MSs
→ policy designers



(1) Increasing ACER's effectiveness

Tasks of ACER



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Regulatory design

- Main input by BoR
- Consideration of views by Director

Individual implementation and enforcement

- Lead by Director
- BoR may be asked for opinion

Data collection and monitoring

- Joint process based on current model

Oversight of specific bodies

- Joint process based on current model

(2) ENTSOs: Oversight and enforcement (I)



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- ACER's obligation to ensure that third parties (ENTSOs, capacity allocation platforms, etc.) exercise their own obligations duly and in compliance with applicable rules
 - Developing non-binding recommendations or request to adjust ENTSO's behavior
- Two fundamental conflicts in current architecture
 - ENTSOs must carry out tasks in the interest of the IEM, but consists of national TSOs with national interest
 - Non-binding opinions of ACER do not allow effective oversight, but create considerable workload for ACER

(2) ENTSOs: Oversight and enforcement (II)



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Need for improving ACER's oversight and enforcement powers

Need for enabling ENTSOs to act more unequivocally in European interest

- ACER Documents to be made optional
- Need for enabling ENTSOs to act more unequivocally in European interest

(2) ENTSOs: Strengthening ENTSOs' independence from the inside



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Improve Transparency

- ENTSOs to publish all documents, minutes from Board, Assembly and Committee meetings
- Possibility for EC to participate at meetings as observer

Increase independence of ENTSO staff from TSO-elected Secretaries General

- EC to appoint Secretaries General

(2) A governance model for new entities



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- Creation of completely new entities with monopoly-type tasks (gas capacity booking platforms, NEMOs, exchanges, RSCs etc.)
 - Oversight at supra-national level currently very limited

Oversight (for existing and future entities) needs to be institutionalized, but limited to monopoly functions as not to hamper competitive activities

- ACER to carry out this oversight through issuing binding decisions (general terms and conditions, audit of costs, etc.)



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