Where do energy and financial sectors meet

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Energy Derivatives Coordination Group - 5 Nov 2020
Legal & regulator framework

**Energy Sector**

- Electricity/Gas Directive and Regulation
- Codes and Guidelines
- Transparency requirements
- Integrity regime (REMIT)

...  

**Energy regulators** – with powers to supervise the energy sector

**Financial Sector**

- Markets in Financial Instruments Directive
- European Market Infrastructure Regulation (EMIR)
- Market abuse regulation (MAR)

...  

**Financial regulators** – with powers to supervise the financial sector
## Industry / participants

### Electricity/gas industry
- Network operators (TSO/DSO) – natural monopolies
- Producers, traders, suppliers, consumers
- Market places / trading venues

### Financial Sector
- Trading venues
- Clearing institutions
- Banks
- Investors in financial instruments (shares, bonds, derivatives and various structured products)
Powers of the regulatory authorities

- Services
- Markets
- Participants

Energy Regulators
Financial Regulators
Market – definition of the products

All Commodity Contracts (including weather and emissions)

- All non-spot Physical and Financial Contracts (forwards, options, futures, swaps, etc.)
- Traded on MTF (physical and financial)
- Optionality for cash or physical settlement

"other derivative financial instruments"
Standardised and equivalent to contracts traded on regulated market, cleared or with regular margin calls (physical and financial)

Physicals

- Physical bilateral and brokered deals (non-MTF)

Commodity Derivatives

- Traded on regulated market or subject to its or clearing rules (phys. and fin.)
- Subject to clearing rules and given up for clearing

Non-OTC Commodity Derivatives

- Traded on EU regulated market & equivalent non-EU (physical and financial)
- Traded on other non-EU regulated market (physical and financial)
- Traded on MTF (physical and financial)
- Optionality for cash or physical settlement

OTC Commodity Derivatives

- Trade on regulated market or subject to its or clearing rules (phys. and fin.)
1. Framework is clear but there are overlaps:
   - EReg – CompReg on market definition to assess the market power/dominance
   - EReg – FrReg on definition of products and markets (physical vs. financial contracts)

2. Data reporting coordinated - monitoring is mainly individual, but findings are exchanged in case of overlaps:
   - EReg – FrReg mutualz exchange of data, exchange of findings

3. Investigation in most cases should be coordinated or even joint in case of overlaps:
   - EReg – FrReg – CompReg: avoid separate data and information request. Ensure coordinated steps and communication with the public and the suspect.

4. Enforcement may differ depending from the country EReg – FrReg – CompReg:
   - EReg – FrReg – CompReg – judicial authority
Cooperation

- Not a good will cooperation – it is a legal requirement (referring to EU law and energy community acquis)
  - in most cases in the EU it is requirement in the national Law,
    - example in AT ‘… E-Control, the Financial Market Authority, the Federal Competition Authority and the Exchange Commissioners to inform each other about observations and findings that are necessary for fulfilling the responsibilities as defined in REMIT.’
  - In FR, as a precursor in the field of whole energy market oversight, CRE contributing to the implementation and cooperation with different authorities
  - In DE there is an MoU between authorities dealing with different layers of regulatory oversight
    - An MoU seems to be the main cooperation mechanisms between different authorities
MoU – areas for cooperation

- MoU may be the most appropriate mechanism
  - Because the framework is evolving the MoU should include more than investigation segment
    - Cooperate also on the area of joint/coordinated guidance regarding different definitions to avoid confusions, definitions of markets, products, etc.
    - Exchange of information on monitoring, potential suspicious, history of market participants in the respective market, exposure of certain market participant on other market segments (so pre-investigation phase)
    - No double reporting/data should be exchanged between different authorities (ESMA-ACER example)
  - ...
MoU – areas for cooperation (ctd)

- Forming investigatory groups from different experts for investigation. Agreeing on the investigation and on the impact of potential breach
- Communication means and frequency
- Confidentiality and data protection
- Regular meetings-updates and potential staff exchange (internship)
- Exchanges on ongoing law amendments that impact market integrity regime
- Cooperation regarding enforcement measure to be undertaken – refer it to court?
- Etc.
Thank you for your attention!

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