Methodology of 4 April 2018 for wholesale electricity market monitoring

CHAPTER I: General provisions SECTION 1: Purpose

Art. 1

This methodology for monitoring the wholesale electricity market (methodology) aims to establish how the National Energy Regulator (ANRE) monitors the functioning of the Romanian wholesale electricity market in order to assess the level of performance, efficiency, competition and transparency on the market, in order to prevent/discourage anticompetitive practices, market abuse, including practices that may affect the safety of the national energy system. Art. 2

The application of this methodology ensures the prerequisites for carrying out the preliminary analysis phase of the suspicions of market abuse referred to by ACER, participants in the wholesale electricity market, "persons trading on a professional basis", in accordance with Regulation (EU) No 1.227/2011 of the European Parliament and of the Council of 25 October 2011 on the integrity and transparency of the wholesale energy market (REMIT) or which may result from their own monitoring activity carried out by ANRE.

Art. 3

The objectives pursued by applying this methodology are:

a) assessing the level of performance, efficiency and competition on each component of the wholesale electricity market, identifying those elements leading to their decline;

b) increasing the transparency of the wholesale electricity market, with a direct effect on promoting and ensuring the competitive environment;

c) monitoring compliance with the regulations issued by ANRE on the organisation and functioning of the wholesale electricity market as a whole and on each of its components, subject to equal and non-discriminatory treatment to all market participants;

d) supervision of the behaviour of wholesale electricity market participants in compliance with the primary and secondary electricity legislation;

e) identification of possible abnormal and/or inadequate market behaviour as well as anti-competitive or market abuse practices, with referrals to the Competition Council, ACER or other competent bodies where there is a suspicion of infringement of applicable legislation in force;

f) ensuring cooperation with domestic and international electricity bodies or related areas (e.g.: competition, financial) in order to comply with the provisions of primary national legislation and applicable European regulations.

Art. 4

The application of this methodology shall aim to achieve the aforementioned objectives, including by:

a) updating the database organised at national level specific to the electricity sector, including data/information that characterises the wholesale electricity market, necessary both to carry out the activity of ANRE and to provide information to other domestic and international electricity bodies;

b) establishing the unitary system of indicators used by ANRE in monitoring the wholesale electricity market;

c) establishing the reporting obligations for data and information required in market monitoring, format and frequency of reporting, including data flow in order to avoid double reporting by wholesale electricity market participants under the terms of the REMIT provisions;

d) establishing transparency obligations on the results of the functioning of the wholesale electricity market on each of its components as a result of market monitoring.

e)

SECTION 2: Scope of application Art. 5

This methodology creates the specific procedural framework for monitoring the wholesale electricity market carried out by the monitoring compartment at ANRE level in collaboration with the monitoring entities at OPEE and OTS level respectively.

Art. 6

This methodology is used as a working tool in ANRE's own wholesale market monitoring activity and sets out the main milestones for the surveillance activities of centralised markets under the management of OPEE and TSOs, in accordance with the national legislation and directly applicable European regulations.

Art. 7

This methodology applies to OPEE, OTS, as operators of centralised markets and license holders issued by ANRE, and to foreign legal entities entitled to participate in electricity markets in Romania, considered for the purposes of this methodology, "market participants", as follows:

a) electricity producers holding dispatchable production units (according to the power category classification of the applicable Regulation);

- b) suppliers;
- c) the traders;
- d) PRE;
- e) concessional distribution operators;
- f) transmission system operator (as a participant in centralised markets);
- g) dispatchable final customers.

SECTION 3: Definitions and abbreviations

Art. 8

For the purposes of this methodology, the terms and expressions used shall have the following meanings:

market abuse	
	behaviour of the market participant involving the use of inside information in the course of
	trading a wholesale product, i.e. the manipulation or attempted manipulation of the energy
	market – concept governed by the provisions of Articles 3 and 5 of the REMIT

Methodology from 2018 - synthetic form for date 2019-04-15

anti-competitive commercial practice in which a dominant participant may engage in order to
maintain or strengthen its position in a market prohibited by competition law
separate organisational entity within ANRE responsible for monitoring the wholesale electricity market
behaviour characterised by a mismatch between a participant's trading intentions on an electricity market component at a given time (expressed by offers, notifications) and its earlier manifestations or public data characterising that moment
behaviour deviating from existing regulations and related procedures and may have a negative effect on the efficiency of the wholesale electricity market
data set on wholesale energy products reporting in accordance with Article 3 of Regulation (EU) No 1.348/2014 for standardised and non-standardised contracts which, according to the Memorandum of Understanding concluded between ACER and the national regulatory authorities of the EU, will be made available continuously to ANRE in pre-established formats only if the strict security and confidentiality conditions imposed by ACER are met
separate organisational entity at the level of OPEE/OTS, with powers to monitor the electricity markets under management
Processable format, posted on the website http: //www.anre.ro/, designedby type of market participant, market operator or transmission system operator, designed to complete the data and information required by ANRE in order to determine the necessary indicators for monitoring activity' concept invoked in REMIT and detailed in the REMIT Application Guide
concept invoked in NEIVIT and detailed in the REIVIT Application Guide
Monitoring machete completed monthly, individually, by each market participant to whom the provisions of this methodology apply and uploaded to the ANRE portal, intended to collect data from the reporting economic operators (according to the completion instructions published on http://www.anre.ro/)

Art. 9

The abbreviations used in this methodology have the following meanings:

ACER	Agency for the Cooperation of Energy Regulators
ANRE	National Energy Regulatory Authority
ATC	Available interconnection capacity
CEER	European Council of Energy Regulators
I'M GOING TO	Supplier of last resort
NTC	Net interconnection capacity
O.D.	Distribution operator
OPEE	Electricity market operator – OPCOM – S.A.
отѕ	Transmission system operator – CNTEE Transelectrica – S.A.
PACI.	
	Market for SEN interconnection capacity allocation with neighbouring power systems
PAM	Retail electricity market
PAN	Wholesale electricity market
PC-OTC	
	Centralised market with continuous double negotiation of bilateral electricity contracts
ССР	Centralised markets for bilateral contracts organised at OPCOM level – S.A.
РССВ ТНЕМ	Centralised markets for bilateral electricity contracts – way of trading through extended
	auction
PCCB-NC	Centralised market for bilateral electricity contracts – way of trading through continuous
	negotiation
PCCB-PC	Centralised market for bilateral electricity contracts – how to trade through processing contracts
PCSU	Centralised market for universal service
ON	Balancing market
PI	Intra-day market
PMC	Electricity market for large end customers
PRE	Party responsible for balancing
PSTS	The market for system technology services
PZU	Day-ahead market
REMIT	Regulation (EU) No 1.227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency

Art. 10

The definitions, specific terms and notions used have the meanings contained in:

a) Law of electricity and natural gas no. 123/2012, as amended and supplemented;

b) Government Emergency Ordinance no. 33/2007 on the organisation and functioning of the National Energy Regulatory Authority, approved with amendments and additions by Law no. 160/2012, as amended and supplemented;

Competition Law no. 21/1996, republished, with subsequent additions and amendments; c)

d) Regulation (EU) No 1.227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT);

e) Commission ImplementingRegulation (EU) No 1.348/2014 of 17 December 2014 on data reporting for the implementation of Article 8(2) and (6) of Regulation (EU) No 1.227/2011 of the European Parliament and of the Council on wholesale energy market integrity and transparency (Regulation (EU) No 1.348/2014);

 f) Commission Regulation (EU) No 543/2013 of 14 June 2013 on the transmission and publication of data on electricity markets and amending Annex I to Regulation No 714/2009 of the European Parliament and of the Council (Regulation (EU) No 543/2013);

g) the wholesale electricity market, as amended and supplemented;

h) Guidelines for the application of Regulation (EU) No 1.227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency – non-binding document (the REMIT Implementation Guide).

CHAPTER II:General principles of the monitoring activity SECTION 1: Responsibilities Art. 11

In order to fulfil the ANRE's task of monitoring the functioning of the electricity market in order to assess its level of efficiency, transparency and competition, it is necessary to determine:

- a) the application and compliance of applicable legislation and market rules;
- b) the behaviour of participants in markets that are part of the wholesale electricity market;
- c) the effectiveness of the current regulation and market structure;
- d) the fulfilment of the obligations to ensure transparency of information;
- e) the degree of integrity of the wholesale electricity market.

Art. 12

In order to ensure the task of monitoring the wholesale electricity market, during the surveillance and performance assessment phases of the component markets, ANRE (through the monitoring compartment) is in a close collaborative relationship with OPEE and TSOs (through monitoring entities, distinctly organised at the level of the two operators on the basis of their own specific procedures) in order to ensure the efficiency of the wholesale electricity market monitoring activity as a whole.

Art. 13

The responsibility of permanent monitoring of specified elements lies with the monitoring department of ANRE and monitoring entities within the OPEE and TSOs, within the limits specified by the primary and secondary national legislation and directly applicable European legislation.

Art. 14

The monitoringactivity of the wholesale electricity market carried out by ANRE through the monitoring compartment focuses mainly on identifying the mutual influences between wholesale market components, the analysis of the interdependence between the wholesale and retail electricity markets and the effects of related markets on the wholesale electricity market (e.g. green certificates markets). The activity at ANRE level is mainly based on data and information collected after the moment of trading of energy products on different electricity markets or the moment of electricity supply.

Art. 15

For the purpose of fulfilling the monitoring obligations, market participants shall be required to submit the data and information required on the basis of monitoring models developed according to this methodology in a correct, timely and correct manner in the formats specified for each stage of data collection.

Art. 16

In addition to the data obtained from the monthly collection process based on monitoring models, ANRE may request the respective market participants in writing, with reasons for the necessity and specification of the requested content and formats, other data and information on its own activity on the wholesale electricity market.

Art. 17

In order to fulfil the obligations of Regulation (EU) No 543/2013, the ANRE monitoring compartment shall carry out checks on how TSOs and data providers provided for in that European Regulation transmit the data to the Central Information Transparency Platform (EMFIP) in terms of ensuring the rhythmicity, quality and completeness of the data transmitted. At the request of ANRE, the TSOs shall present possible malfunctions in ensuring data flow and proposals to remedy them. Art. 18

The monitoringwork carried out by the monitoring entities of the EPO and TSOs concerns the monitoring of the centralised electricity markets under management. By virtue of this role, based on the set of indicators set out in this methodology, the monitoring entities within the EPO and the TSOs shall assess, through sets of indicators established by their internal procedures, the functioning of the managed markets, identify situations of malfunction and their causes, any inappropriate, abnormal market behaviour, possible suspicion of abuse of dominant position, detects any other situations or actions which might affect competition in the market under consideration.

Art. 19

Monitoring entities within the EPO and TSOs shall endeavour to carry out proactive, preventive monitoring of the centralised markets under administration. In this respect, the monitoring entities within the EPO and TSOs shall be responsible for identifying possible abnormal market behaviours of participants in the administered markets at the bidding stage prior to the time of trading/delivery. Where bids do not correspond to normal bidding behaviour, the monitoring entities in the OPEE and TSOs shall urgently analyse that situation and apply a set of measures, up to the blocking of those offers from trading. In parallel, they shall inform ANRE as soon as possible of those events and of the measures taken. The necessary measures and the conditions under which they are applied in the event of abnormal tendering shall be detailed by their own internal procedures referred to in Article 18.

Art. 20

In order to fulfil their obligations as persons carrying out professional transactions, the OPEE and TSOs shall implement their own specific strategies for monitoring the markets in each administration, in order to identify possible breaches of the provisions of Articles 3, 4 and 5 of the REMIT, based on the REMIT Application Guide and adjacent documents (last versions published on the REMIT portal), building on the development of monitoring systems (collection, storage, processing and dissemination of information).

Art. 21

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To this end, the monitoring entities within the EPO and the TSOs shall describe in their own procedures, distinct from those in Article 18, the arrangements for fulfilling those obligations, in accordance with the steps described as good practice in this area in the REMIT Guidelines (updated version published on the REMIT portal).

Art. 22

In order to fulfil the monitoring obligations and those of 'professional transactions', the EPO and TSOs shall ensure that all the prerequisites for the proper organisation of the activity at the level of the two operators are met, including permanent access to all data resulting from the operation of the markets within their competence. The analysis and IT systems of OPEE and TSOs are adapted to the requirements of market surveillance and behaviour, according to REMIT.

SECTION 2: Premises for monitoring activity Art. 23

ANRE collaborates with the specialised departments of the Competition Council, in accordance with the provisions of the cooperation protocol concluded between the two institutions, in order to prevent and discourage anti-competitive practices on electricity markets. In so far as it deems it necessary, ANRE may request the collaboration of the Competition Council in the monitoring phase of the functioning of the electricity markets in order to identify situations of breach of competition law and in the preliminary analysis of cases of suspected breach of REMIT provisions.

Art. 24

Under the signed cooperation protocol and REMIT provisions, ANRE informs the Competition Council when, after the analyses carried out, it has reasonable grounds to suspect that acts that could constitute violations of competition law are committed on a wholesale energy market.

Art. 25

ANRE shall cooperate with the specialised departments of the Financial Supervisory Authority, in accordance with the provisions of the Collaboration Protocol concluded between the two institutions, in order to coordinate the ways of ensuring the application of REMIT provisions and monitoring the functioning of electricity markets in order to identify situations of violation of the specific legislation.

Art. 26

Market participants, OPEE, TSOs or any other natural/legal person may make referrals to ANRE regarding the functioning of electricity market components, the behaviour of participants in those markets or the existence of possible market abuse.

Art. 27

In order to respect the principle of confidentiality of data/information, complaints concerning the existence of a possible market abuse on the wholesale electricity market, according to REMIT, will be submitted by filling in a form on the REMIT notification platform, provided by ACER (on the portal www.acer-remit.eu/portal/notification-platform and link to), the loading being thus considered to be transmitted to ANRE.For the other types of referrals the transmission is made directly to ANRE, through known means of communication (lethal and/or electronic format).

CHAPTER III:Data and information necessary for monitoring the wholesale electricity market SECTION 1: Modalities of collection subsection 0:

Art. 28

The surveillance, evaluation of the performance of the wholesale electricity market and the determination of the behaviour of market participants carried out by ANRE through the monitoring compartment shall be based mainly on the collection of data/information specific to the trading activity of market participants defined in Article 7, on the components of the wholesale electricity market.

Art. 29

The categories of data/information required shall be organised in monitoring models, depending on the type of each market participant and for OPEE and TSOs respectively. All types of data/information contained in monitoring models are detailed in the annexes.

Art. 30

Depending on their content and analytical needs identified in the monitoring activity, the data/information collected may have daily, weekly, monthly, half-yearly or annual frequency. Upon written and justified request of ANRE, data can be collected on a timely basis, depending on the requests for reporting or analysis submitted by various national and/or European institutions or on their regulatory/monitoring/reporting needs.

Art. 31

Given that some of the data collected directly by ANRE from the economic operators referred to in Article 7 lett.

a) —f) based on monitoring models are reported directly to ACER according to REMIT and in order to reduce their reporting obligations to a minimum, three steps in the process of collecting data related to wholesale electricity products trading shall be defined:

stage I – characterised by maintaining the direct collection of data and information from wholesale/OPEE/OTS participants;

stage II – characterised by the parallel existence of direct collection through monitoring models (according to Stage I) and starting the process of taking trading/providing wholesale electricity products from the ACER database, reported according to REMIT;

stage III – characterised by the full take-over from the ACER database of trading/providing data for wholesale electricity products, reported according to REMIT; in addition, data/information that are not reporting according to REMIT will continue to be collected directly from wholesale market participants/OPEE/OTS.

SUBSECTION 1: Stage | Art.

32

Until the completion of the process of adapting the ANRE IT system to the set of security requirements required by ACER, including testing the processes of taking and processing the data received from ACER to the wholesale electricity market monitoring needs in accordance with national legislation, the data collection process shall be carried out on the basis of the direct collection of data from participants/OPEE/OTS.

Art. 33

The data shall be collected through individualised monitoring models on each type of wholesale market participant, made according to the type of license held. Thus, the market participants referred to in Article 7 a) to g) shall transmit the required data on a monthly basis, in electronic format (by loading the processable format on the ANRE portal) and letric (until the implementation of the electronic signature mechanism), under the conditions and deadlines provided in the instructions for completion, according to the monitoring models contained in Annex no. 1 and Annex no. 3 (Maket A1), posted on the website www.anre.ro. Art. 34

Market participants shall comply with the deadlines for transmission, specified formats and other requests regarding how to transmit and complete the data contained in the completion instructions attached to each type of model monitoring model posted on the website www.anre.ro.

Art. 35

As soon as they become active on one of the components of the wholesale market, the market participants referred to in Art. 7 lett. a)-c) shall be obliged to send to the monitoring compartment of ANRE a notice regarding the start of the activity of electricity production/transaction or supply to final customers. Following the receipt of the respective notification, the monitoring department shall take the necessary steps that, as soon as possible (maximum 5 working days from the date of receipt of that notification) the market participant can upload, on his own account from the ANRE portal, his own data into one of the monitoring models, depending on the main type of activity he carries out (production, supply, trading).

Art. 36

Where an electricity producer holding dispatchable production units also has a separate power supply licence issued by ANRE, it shall report on the monitoring model specific to dispatchable manufacturers including the data and information characterising its activity as a supplier.

Art. 37

Where a licence holder of electricity supply has non-dispatchable production units, it shall report the data and information characterising its activity as a supplier on the electricity supplier-specific monitoring model.

Art. 38

The collection of data from market participants shall be made by ANRE through the ANRE portal, on the account of each participant and exceptionally, in case of analytical needs that ANRE identifies, on the e-mail address intended to receive reports from market participants. The data are automatically retrieved in the national database organised at ANRE level according to the legal provisions.

Art. 39

Monitoring models shall be reviewed annually to reflect the provisions of the existing regulatory framework or the takeover needs in the database. They shall be published on the ANRE website in clearly defined locations, accompanied by specific completion instructions. ANRE shall inform in writing all active market participants at that time on the publication of the revised set of monthly monitoring models, specifying the changes made.

Art. 40

For the purpose of carrying out the monitoring activity of ANRE, the OPEE and OTS shall transmit electronically (by the e-mail address dedicated to the receipt of monitoring reports), daily/weekly/monthly frequency (depending on the specifics of the data transmitted) the data/information set out in Annex no. 2 and Annex no. 3 (except model A1).Depending on the monitoring needs, ANRE shall specify/aggregate with the OPEE or TSOs the format in which the data will be transmitted. Art. 41

In addition to periodic data reporting, at the written and justified request of ANRE, OPEE and TSOs shall transmit other types of data relating to the centrally managed markets and the activity of participants on these markets, in the format requested by ANRE and with the transmission deadlines agreed by both parties. Those data may also include results of simulations of the functioning of the managed markets, in predetermined assumptions required by ANRE.

SUBSECTION 2: Stage II Art. 42

After ANRE has fulfiled the entire set of security conditions provided by ACER for the transmission of data/information on the secure channel and obtaining from ACER the permission to access data reported in accordance with Regulation (EU) No 1.348/2014, Stage II is started, where the transition from monitoring on the basis of trading data collected directly from market participants to monitoring based on the combined source collection of the data (phase II or III) is started.

Art. 43

In Stage II, market participants referred to in Article 7 a) to g) and OPEE/OTS shall continue to transmit the data/information according to the requirements of stage I, under the same conditions and with the same reporting obligations, the requested transmission format being exclusively electronically through the electronic signature mechanism.

Art. 44

Upon written and reasoned request of ANRE, participants in the wholesale market shall also transmit the paper format of the monthly monitoring reports.

Art. 45

Stage II is the test phase for the quality of the data shared by ACER in terms of fairness and completeness, compared to data directly reported by wholesale market participants with reporting obligations under REMIT and OPEE/OTS.

Art. 46

The collection of data/information related to wholesale market participants who do not have reporting obligations according to REMIT shall be made as described in Stage I.

Art. 47

For this purpose, the monitoring compartment of ANRE, with the support of the IT service, will process in parallel both the data shared by ACER and those received directly from market participants, in order to obtain the indicators followed in its own monitoring activity. ANRE shall determine to what extent the shared data set ensures qualitative and quantitative needs for the calculation and analysis of the indicators used by ANRE in the monitoring activity carried out according to the legal provisions in force.

Art. 48

The transitional phase takes until the data acquisition system from ACER, including their integration into the ANRE database, becomes fully functional and the data quality check received is completed.

Art. 49

The completion of the transitional phase and the transition to Stage III will be announced on the www.anre.ro website at least 3 months in advance. ANRE will also post on its website the new monitoring models designed to collect directly from market participants those types of data not found in the data shared by ACER.

Art. 50

ANRE shall submit all due diligences to complete the transitional phase of data collection as soon as possible.

SUBSECTION 3: Stage III

Art. 51

Data shared by ACER in accordance with REMIT provisions shall be transmitted in specific formats via a dedicated secure channel with daily download frequency. They are integrated into the national database organised by ANRE and processed in order to obtain the indicators followed in the monitoring activity of ANRE, together with data collected directly from market participants/OPEE/OTS, based on dedicated monitoring models.

Art. 52

At this stage, monitoring shall be carried out on the basis of the data set shared by ACER to ANRE in accordance with the provisions of REMIT and an additional data set which, not reported according to REMIT or having different/insufficiently detailed content, shall be collected directly from market participants/OPEE/OTS.

Art. 53

In order to fulfil the statutory monitoring obligations of ANRE, the data additional to those received through ACER shall relate at least to negotiated purchase contracts from non-dispatched producers, sales on supply contracts to non-household final customers/households supplied on a competitive basis (by consumption tranches), data on electricity produced and delivered by the producers referred to in Article 7 (a), fuel consumption and available stocks. Further collect information on the balancing market, settlement of ERP imbalances, amounts resulting from the redistribution of additional revenue/costs arising from system balancing, internal settlement of the ERP.

Art. 54

Reporting obligations on the format, reporting deadlines, how to complete the data and transmit the resulting monthly reporting will be detailed in the complement instructions attached to each type of Stage III monitoring model.

Art. 55

Following the entry into the third stage of data collection, the ANRE monitoring compartment updates the internal procedure of monitoring activity to reflect the changes.

SECTION 2: Indicators used in the monitoring activity subsection 0:

Art. 56

Monitoring the functioning of the wholesale electricity market, assessing its level of competition and transparency, identifying the causes of potential failures, are key elements in promoting a secure, competitive and sustainable national electricity market integrated at European level. The determination shall be made objectively through the set of indicators presented in this methodology, which are working tools for the monitoring compartment of ANRE, respectively the monitoring entities of the OPEE and TSOs.

Art. 57

The indicators used are considered relevant for the current degree of development of the Romanian electricity market and reflect both the requirements of national legislation in the field and the needs for transparency and integration into the single electricity market specified in the regulations in force at European Union level.

Art. 58

Building on the set of indicators presented in the methodology, the monitoring entities taking the level of the OPEE and TSOs;

a) establish, through their monitoring procedures, the indicators used for the efficiency of the functioning of supervised markets, the structure/concentration of markets and the trading behaviour of participants in those markets, identify and analyse situations at risk of market manipulation and offers/trading orders/transactions suspected of being made on the basis of inside information or presenting indications of manipulation/attempt to market manipulation;

- b) follow the evolution over time of the defined indicators;
- c) make comparisons of indicators achieved at national level with similar indicators on international markets;
- d) ensures the storage of the values of the defined indicators;
- e) publish synthesis reports on the basis of relevant indicators for each of the supervised electricity markets.

Art. 59

In addition to the indicators set out in the preceding Article, the monitoring entities from the OPEE and TSOs shall develop their own sets of indicators and analysis systems in order to identify and analyse situations at risk of market manipulation, transactions that may be suspected of market abuse, in compliance with the requirements for persons performing professional transactions contained in the REMIT Guidelines (public document updated on the REMIT portal).