

Response by EuroPEX

to the

**Public Consultation by the Directorate General for Energy on
measures to ensure transparency and integrity of wholesale markets
in electricity and gas**

22 July 2010

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I. Introduction

EuroPEX welcomes the initiative by the Directorate General for Energy to strengthen the energy markets integrity and transparency and thanks for the opportunity to take part in the consultation.

According to the answers provided in this document, we have developed a proposal on how a regulatory architecture (e.g. responsibilities, information flows) for European Energy Markets could look like (annex to this document).

EuroPEX also takes part in the *Public Consultation by the Directorate General Internal Market and Services on “A Revision of the Market Abuse Directive (MAD)”* where we refer to our answers given in this document. We think that these two consultations are closely linked to each other and should be treated by all involved stakeholders in a highly harmonised way.

Although the title of your consultation comprises both integrity and transparency, the latter is not tackled in the consultation paper. Concerning transparency therefore, please find in the annex some comments by EuroPEX we already provided in reaction to the *Draft Discussion Paper on transparency and integrity of traded wholesale markets in electricity and gas served by the Commission*.

EuroPEX is looking forward to take further part in the consultation process and is open to any questions and discussions.

II. Answers to questions

1. Are there particular developments in relation to oversight of energy markets at a national, European or global level that we have not properly considered?

- (1) EuroPEX generally agrees with the outline by the Commission.
- (2) In particular EuroPEX clearly perceives the need for a tailor-made uniform legal framework for energy markets throughout Europe which includes the supervision of all market platforms as well as bilateral OTC trading.
- (3) EuroPEX is in line with the Commission when referred that the envisaged set of rules for energy markets should cover and apply the same principles for all instruments on all markets for energy and energy related products:

- a. Electricity, gas and emissions trading
 - b. Primary energy sources like oil and coal
 - c. Spot and derivative products
 - d. On Power/Energy Exchanges (PX) - regulated markets and multilateral trading facilities (MTF)-, as well as over-the-counter businesses (OTC)
- (4) Having in mind that covering all these instruments and markets is only achievable in the long term, EuroPEX prefers a step by step approach (segmentation) focusing first on a sound regulatory framework for gas and electricity. EuroPEX agrees that oil and coal markets have a significant global scope and an international consensus on regulation is needed. In that context it is important to note that CO2 trading (European Trading Scheme) is operated on a European level.
- (5) Although the title of the consultation comprises both integrity and transparency the latter is not tackled in this consultation paper. It is understood that ERGEG and ENTSO-E are assigned to prepare a comitology guideline on fundamental data transparency. Nevertheless in order to get the full picture (disclosure obligations serve as a basis for sector specific market abuse provisions) - it would be helpful if the EC could line out how to proceed, in particular concerning the following topics¹:
 - a. Pre-trade transparency
 - b. Post-trade transparency
 - c. Trading transparency
 - d. Record keeping
- (6) The consultation lacks a clear definition of what is meant by monitoring and in whose responsibility it should relate.
- (7) Usually monitoring comprises tasks of market surveillance by exchanges as data collection, data analysis, and reporting. Further market surveillance is responsible for investigations and initiating enforcement. In contrast to that a Central European Data Warehouse which we refer to in our answer is an entity which collects data relating energy market transactions from all Member States and gives the relevant authorities and regulators on European and national level access to it.
- (8) EuroPEX misses consideration concerning the monitoring of compliance with disclosure rules (e.g. that time limits for publication of outages are respected). This point is a crucial feature for the market abuse regime to be effective and to contribute to a well functioning market.

¹ Concerning transparency, please find in the annex the comments by EuroPEX to the Draft Discussion Paper on transparency and integrity of traded wholesale markets in electricity and gas served by the Commission.

- (9) The consultation lacks consideration regarding an effective sanctioning regime in case of non-complying with disclosure rules. This point is a crucial feature for the market abuse regime to be effective and to contribute to a well functioning market.
- (10) The consultation has not considered other actual consultations by the EC like “Review of the market abuse directive” and “Derivatives and Market infrastructure”. EuroPEX perceives the clear need that these processes are handled in a coordinated way.

2. Do you agree that the current Regulatory Framework should be updated to include clear rules governing energy market oversight? Please justify your reply.

- (11) EuroPEX is clearly in favor of setting up a new tailor-made regime for energy markets including rules governing energy markets oversight, as we see both increasing overlaps but as well loopholes in that field. The word “update” therefore doesn’t seem to be appropriate in this context.
- (12) The driving principle of such a tailor-made regime shall be that market oversight requirements are applicable in a harmonized manner to all market operators / market structures used for energy trading (whether regulated markets, MTFs, OTC), as opposed to the current situation where market oversight requirements are applicable in a differentiated manner according to the type of energy products (spot or derivative, standard or not, place/state where the products are traded).
- (13) Such a harmonized approach would avoid four regulatory shortfalls we currently face:
 - a. The same energy product is not subject to the same supervision requirements depending on the market place where it is traded: e.g. a standard derivative energy product is subject to official supervision requirements when traded via a regulated exchange (futures) but not when traded OTC (forwards).
 - b. In the same market place, one type of energy product is subject to official market supervision while another type of energy product is not: e.g. a derivative energy product traded on an MTF/exchanges is subject to supervision by the financial regulator under MiFID, while spot products traded on the same MTF/exchanges are not subject to such a supervision (as spot products fall out of the MiFID definition of financial products).
 - c. In the same market place, the same type of energy product is not subject to the same supervision requirements depending on its country of delivery: e.g. a spot energy exchange organising spot energy markets in different countries in Europe, but which applies national energy regulator is entitled

to supervise only the products to be delivered in one of these delivery zones.

- d. There is no EU-wide harmonised set of rules governing the minimum requirements for the market places itself.

(14) In addition, a tailor-made regime should regulate the organization of markets and coordination of market supervision at a European level. The designated Home-State Supervisory Body is then in charge of supervising:

- a. any energy market places located in the country within the competence of the supervisory body
- b. irrespective of the type of energy products traded on these different market places
- c. irrespective of the place for delivery of these products.

(15) A good national example of such an approach may be the German Exchange Act, which provides to the local Exchange a regulatory framework which entails supervision of any energy product traded on the exchange, irrespective of their type (spot or derivative) or place of delivery (national or international). The limit of this example being that the German Exchange Act does not apply to all market places (MTFs, OTC), and is applicable only for Exchanges based in Germany; however, a similar approach could be implemented at a European level, and made applicable to every types of market places for energy.

(16) This tailor-made regime should be complemented and provide a legal basis to the internal set of rules of market places, such as the ones in place in PXs like Nord Pool Spot, EEX, EPEX, Powernext and which include in particular code of conducts.

(17) EuroPEX is in favor of adopting approved principles from the financial sector in the new energy markets set of rules (e.g. equivalent to those in MAD).

(18) Although principles from MAD can be used as a crucial basis for energy regulation, it is important to note that financial sector regulation cannot be applied one- to-one in the energy sector.

(19) The main specificity to be taken into account for the application of MAD principles in the energy sector relates to the definition of insider information and its related scope, type and timing of disclosure requirements: market features specific to the energy markets (e.g. non-storability of some commodities, use of day-ahead auctions for the setting of the reference prices, trading of participants holding information impacting price formation) justify this adaptation of the MAD principles.

3. Do you agree that this update should ensure integrated/coordinated oversight between financial and commodity markets and across borders?

- (20) EuroPEX perceives monitoring and enforcement as being strongly connected. Both should be done on a national level, ideally by one Home-State Supervisory Body entitled to oversee energy markets as a whole (spot- and derivatives markets, all market places included) together with the market surveillances of the exchanges.
- (21) Should more than one Home-State Supervisory Bodies be designated, a legal framework should at least enable full coordination between these national bodies in charge of markets oversight, irrespective of their nature (e.g. financial or sectoral). Such a general cooperation framework could be part of the tailor-made regime for the energy markets supervision, referred to before.
- (22) EuroPEX agrees that cooperation between the different regulators (European, national, regional) is crucial. Any inconsistency coming from different regulatory and supervisory bodies especially at national level should be avoided.
- (23) Every possible conduct or trading behaviour should be considered in the same way regardless of the market, country or contract type.
- (24) In any case rules should be harmonized between physical and financial markets as well as regulated and non-regulated markets, due to their inherent logic and working.

4. Do you agree that the overlap of physical, and financial (derivative) markets, and the cross border nature of the market currently lead to sub-optimal oversight of energy markets?

- (25) Yes, it is important that beside a tailor-made set of rules there is a close coordination between the national regulatory authorities.
- (26) The characteristics of market misconduct should be coherent regardless the nature of the contract (physical or financial) or the market where it is traded.

5. Do you agree that definitions of market misconduct for gas and electricity markets should be consistent across EU? If not, why not?

- (27) Yes, they should be consistent across EU. To ensure a level playing field and the availability of efficient price signals, all market platforms (either regulated or OTC) should be subject to a uniform legal framework across Europe.

6. Do you agree that market misconduct should follow the MAD definitions? If not, why not?

- (28) MAD definitions can give orientation and provide a good basis for further definition work. It is though important to note that financial sector regulation cannot be applied one- to-one in the energy sector.

- (29) It is crucial to take into account the interactions between tradable physical and financial contracts since the former usually represents the underlying for the latter and the choice for market players to use physical or financial contracts should only depend on economic or investment reasons and not be driven by differences in the way they are regulated or monitored. Regarding the term “insider trading”, it is important to note that the definitions used in MAD have to be adjusted to the peculiarities of the electricity markets (especially the terms “issuer” and “price sensitive information” have to be defined).

- (30) We believe that there is a need for a market abuse framework for both physical and financial energy markets in order to detect market misconduct. It is our opinion that a market abuse framework should at least comprise physical products that serve as underlying products for derivatives products regulated by MAD and standardized physical contracts that may serve as close substitutes to commodities derivatives regulated by MAD. Having a market abuse framework comprising these products will be important for securing that market abuse in the physical markets does not spill over into the derivatives market.

- (31) The Market Abuse Directive (MAD) may serve as a good starting point when tailoring a market abuse framework for the physical markets. The physical and financial commodity markets for electricity and gas are closely related, and it will therefore be beneficial if the rules are harmonized where possible. However, the specificities of the physical markets require some adjustments to the regulation set out in MAD.

- (32) One example to illustrate this is the case of day-ahead auctions. Large market participants cannot be excluded from the auction even if they possess inside information, as their withdrawal from the auction may have a major impact on

the auction price which is not desirable. In Nord Pool Spot's market this has been handled by allowing the participant to place orders, but being prohibited from taking the inside information into account when placing their bids unless this information is made public to the market. Similar, the need for regulation of insider trading in electricity balancing markets differs from trading in other physical products with a different purpose and time horizon.

- (33) We support the alignment of the inside information definition for commodity derivatives with the general definition of the MAD directive. The general definition focuses on what we see as the essence, namely whether the information would be likely to have a significant effect on the price of a product. This is what determines whether the information may be used in trading or not, and should therefore also be one of the criteria when establishing if the information is inside information. The current definition though focuses on what the market expects to receive. What the market expects to receive may be difficult to determine in markets where the expectations as to the disclosure of information are developing. This definition may further exclude information that is likely to affect prices if made public, and it may also include information that is not likely to affect prices if made public. The current definition is therefore not optimal.

7. As the question, in the original format, seems to be unclear, we changed it to:

Do you agree that specificities of the physical energy markets should be taken into account through guidance rather than in legislation? If not, why not?

- (34) Whatever the method (guidance or legislative) is, regulation should be legally binding and at least legitimated by law.
- (35) The method should allow certain flexibility so that future developments of the markets (changes of existing laws and/or developments of energy markets e.g. integration of renewable energy) can be taken into account. However, such development should still be subject to a harmonized approach.

8. Do you agree that regular market monitoring is an essential function to detect market misconduct?

- (36) Yes, as timely as possible. For an effective market monitoring the aim should be to develop harmonized clear and complete rules and obligations, and as far as possible to align surveillance of other financial markets with that of the commodities markets in order to detect market misconduct (e.g. duty to disclose information). This is also related to transparency requirements.

- (37)** Implemented internet based platforms by PXs currently ensure pre-trade transparency of fundamentals that can influence the price formation and power balance in the short and longer time frame (e.g. via planned/unplanned outages for production, consumption and grid (interconnector) per individual unit and/or aggregated) as well as post-trade transparency (e.g. publication of information as close to real-time) and provide market surveillance. These existing solutions like exchanges' surveillance bodies or transparency platforms shall be taken into consideration though it doesn't seem to be efficient to merely duplicate existing practices.
- (38)** Please note in particular that market monitoring/market surveillance require legal basis to be coupled with enforcement (including sanctions) by the applicable body if market misconduct is detected. A tailor-made new regulatory regime for energy markets should provide for such an enforcement power to the applicable national body.
- (39)** EuroPEX believes that market monitoring should apply also to OTC markets. In particular, data collection should be performed by the relevant body responsible for the registering of transactions (e.g. Cleared OTC would be collected by PXs while non-cleared OTC could be reported directly to the Home-State Supervisory Body) while surveillance should be performed by the relevant body as defined by national regulation.
- (40)** Regulations should cover all trading venues (MTFs, regulated markets, OTC), spot and derivatives products. In order to effectively hinder market abuse it is important that the regulation applies as much as possible to the market regardless of execution venue. This will reduce incentives to circumvent the market abuse regulations.
- (41)** As the provided data are very sensitive, confidentiality of data transmission and format is important.
- (42)** A cost-benefit analysis as well as an impact assessment on data transmission for monitoring purposes should be carried out.

9. If yes, given the characteristics of wholesale energy markets, do you agree that market monitoring is best organised on EU level?

- (43) EuroPEX suggests that the fulfillment of pre and post-trade transparency requirements regarding orders and trades is carried out by PXs (for trades carried on through their systems) as they are a single point of contact.
- (44) EuroPEX perceives that both monitoring and enforcement are essential and need to be interrelated. As ACER focuses on the coordination of and between the energy regulatory bodies in the MS, monitoring and enforcement should be done on a national level, ideally by one national regulator for energy markets (spot-and derivatives markets) together with the market surveillances of the exchanges. Regulators should be entitled to share information with each other in accordance with existing standards.
- (45) Concerning the collection of data, EuroPEX proposes the establishment of a Central European Data Warehouse. This body would collect all relevant transaction data. The competent national regulators would then have access to it for the fulfillment of their supervisory tasks, especially in the case of cross border issues.
- (46) National regulators together with the surveillance bodies in place are best placed to perform supervisory tasks as market monitoring as well as enforcement for several reasons:
- a. They have in depth knowledge of the local markets, electricity systems and legislation;
 - b. They have long experience with detecting breaches of market abuse;
 - c. They have already access to the relevant data from each regulated market.
- (47) There shall be close cooperation between regulatory and surveillance bodies on national levels as already practiced today. In the upcoming legislation process existing (often voluntarily) and market based exchange rules should be included.
- (48) In order to guarantee harmonization and consistency between countries and markets, while respecting differences in national and sectoral legislation the following criteria should be managed at a European level.
- a. Criteria for market surveillance;
 - b. Management of market surveillance related to cross border issues;
 - c. Management of second level analysis related to supranational cases.

MiFID and MAD already specify these topics for financial markets. A similar framework should work for energy markets as well. It is extremely important for the level playing field that the criteria for surveillance are the same everywhere.

10. If yes, do you believe that ACER should be given the role of an EU level monitoring body for wholesale energy markets?

(49) No, please see question 8

11. Do you agree that the EU level monitoring body for energy markets should have a coordinating role to ensure effective application of EU level rules for energy markets? If not, why not?

(50) As stated above, monitoring and enforcement should be done on national levels.

(51) EuroPEX sees ACER in the role of coordinating between the energy regulatory bodies of the MS to the extent of its legal mandate. In that respect, ACER shall facilitate the cooperation between the energy regulatory bodies also in terms of market supervision when needed (in case of cross-border investigations for instance).

(52) In general, the framework of market supervision cooperation at the European level should also be adapted to the cases where the nature of the Home-State supervisory bodies differs from country to country - e.g., in some cases a financial authority is in charge of the national supervision of the energy market in a given country while in another country this mandate has been given to the national energy regulator. A legal framework should enable both regulatory bodies to cooperate for their tasks of energy markets supervision, irrespective of their nature. Such a general cooperation framework should be part of a tailor-made regime for the energy markets supervision.

12. In your view, would enforcement of market misconduct rules be best organised on national level or EU level?

(53) It is essential that rules governing enforcement are harmonised on EU-level in order to avoid that trading member's shift trading venues to safe harbours.

(54) The performance of enforcements together with monitoring should be organized on a national level.

a. If on national level, would national energy regulators or national financial regulators be better placed to enforce compliance?

- (55) Ideally, there should be only one central regulator in each Member State responsible for enforcing compliance and monitoring in Energy markets.
- (56) Member States decide which authority/regulator is best placed to fulfill this task.
- (57) Should more than one Home-State Supervisory Body be designated, a legal framework should at least enable full coordination between these national bodies in charge of markets oversight, irrespective of their nature (e.g. financial or sectoral). Such a general cooperation framework could be part of the tailor-made regime for the energy markets supervision.

b. If on European level, which institution would be best placed to enforce compliance?

- (58) Enforcing compliance as well as monitoring shall be done on a national level. National authorities in the different Member States should work together, according to the legal framework with the help of European bodies such as ACER which ensures cooperation.

13. Do you agree that the market monitoring body for energy markets should also be able to monitor EUA transaction?

- (59) As stated above, monitoring and enforcement should be done on national levels.
- (60) Monitoring of EUA-trading (contains both collecting data as well as analyzing data) though should be treated differently than in the electricity and gas markets. Compared to the electricity and gas markets there is only one single Emissions market in Europe which is not restricted by any physical constraints.
- (61) Consequently EuroPEX would support the establishment of a monitoring body on EU-level within a European framework as envisaged in the draft auctioning regulation by the EC.

14. Would monitoring of traded carbon markets be best organised on national or on EU level?

- (62) Please refer to question 13.

(63) The competent national authorities and market platforms (e.g. market surveillances of Energy exchanges) should be required to cooperate with the monitoring body in fulfilling its functions.

15. If on EU level, do you believe that ACER could be an appropriate monitoring body?

(64) No statement.

16. Do you agree that it is not appropriate, at least at present, to consider coal, oil and other commodities along with wholesale gas and electricity markets? If not, why not?

(65) Theoretically it seems to be appropriate to include coal and oil markets.

(66) Nevertheless, it seems to be a real challenge to do so as such markets are worldwide and outside the scope of national and European bodies. Taking these markets into consideration should therefore not lead to a delay in establishing a tailor made regulatory regime for gas and electricity markets.

17. Do you agree that it is appropriate to apply exemptions and *de minimis* levels? If not, why not?

(67) No statement

18. Do you agree that market data relating energy market transactions should be reported centrally? If not, why not?

(68) EuroPEX fully agrees with the implementation of a Central European Data Warehouse which will simplify processes. However, it must be ensured that all sensitive, i.e. individual party information is kept strictly confidential and also that this data only can be used for previously well specified purposes linked to market monitoring/surveillance.

(69) The central entity on a European level should collect data relating energy market transactions from all Member States and give the relevant authorities and regulators on European and national level access to it (one-stop-shop).

(70) Such a Central European Data Warehouse shall not though lead to an additional layer of reporting.

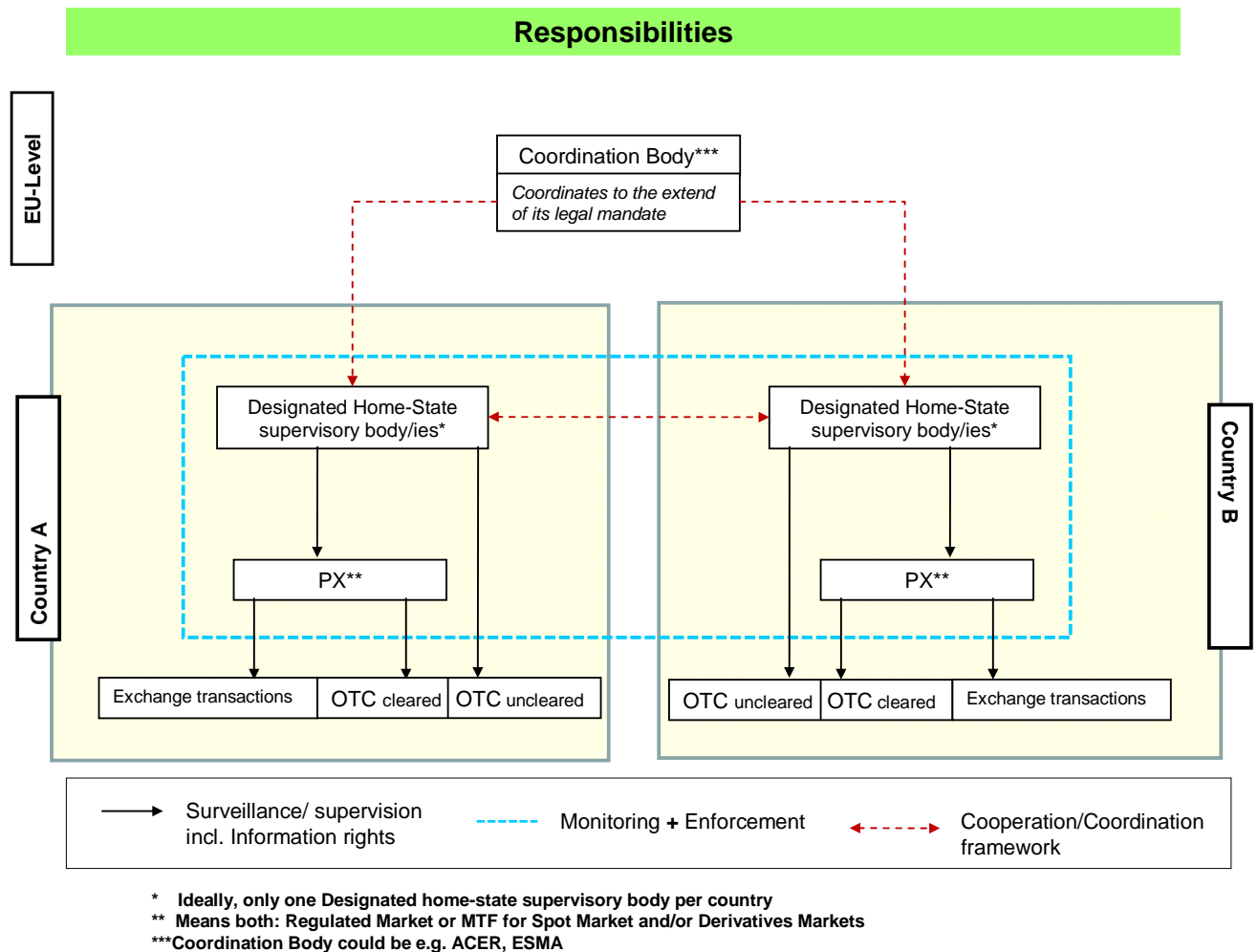
(71) Regarding a Central European Data Warehouse, exchanges are naturally able to provide trading data also on behalf of their trading participants as long as they are made legally obliged to do so. In that case appropriate time has to be given in advance to amend trading/clearing rulebooks to accommodate such data transmittal to a Central European Data Warehouse. However, an identical requirement should be placed on brokerage firms (for trades not-cleared via PXs) and individual companies that conduct bilateral/OTC trades above a given minimum (MW/MWh) threshold.

(72) Generally, data reporting should be driven by the principle of efficiency. An high amount of data is processed every day in energy markets, starting from market orders till fundamental information (e.g. production, consumption). Although all these data can potentially be used for market supervision, regular reporting of all market data doesn't seem to be appropriate and should therefore be limited to what is absolutely necessary. Additional data can then be asked on request when required for an in-depth investigation. The goal should be to find a balance between record-keeping measures and reporting obligations. So to avoid unnecessary burdens both for market participants as well as for regulatory bodies.

19. Do you agree the body with an oversight role requires full access to fundamental data relating to carbon?

(73) Yes, within the scope of the answer to question 18.

III. EuroPEX Proposal: Regulatory Architecture for European Energy Markets

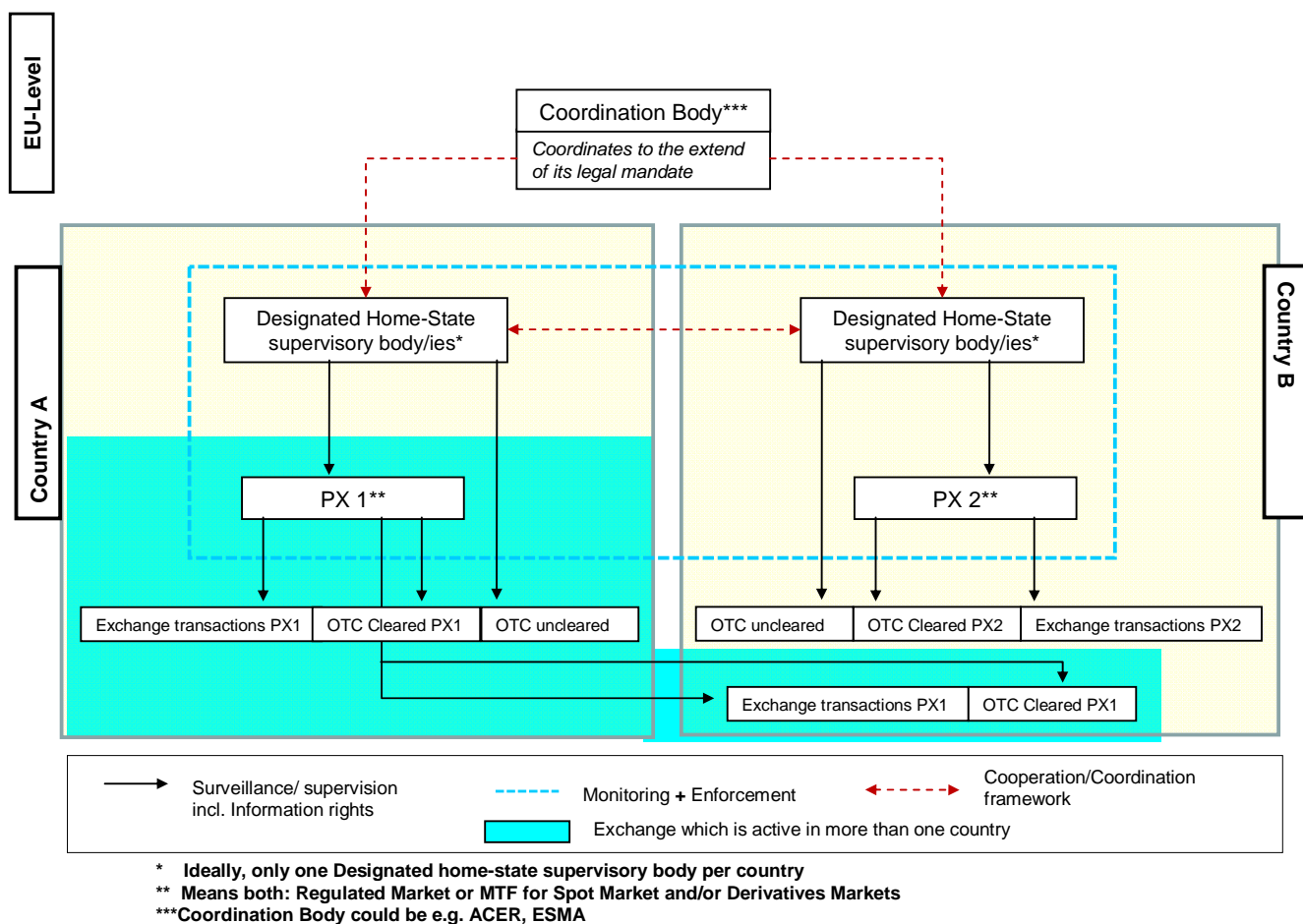


- Slide 1 „Responsibilities“:

The slide shows which entities on European as well as national level are responsible for

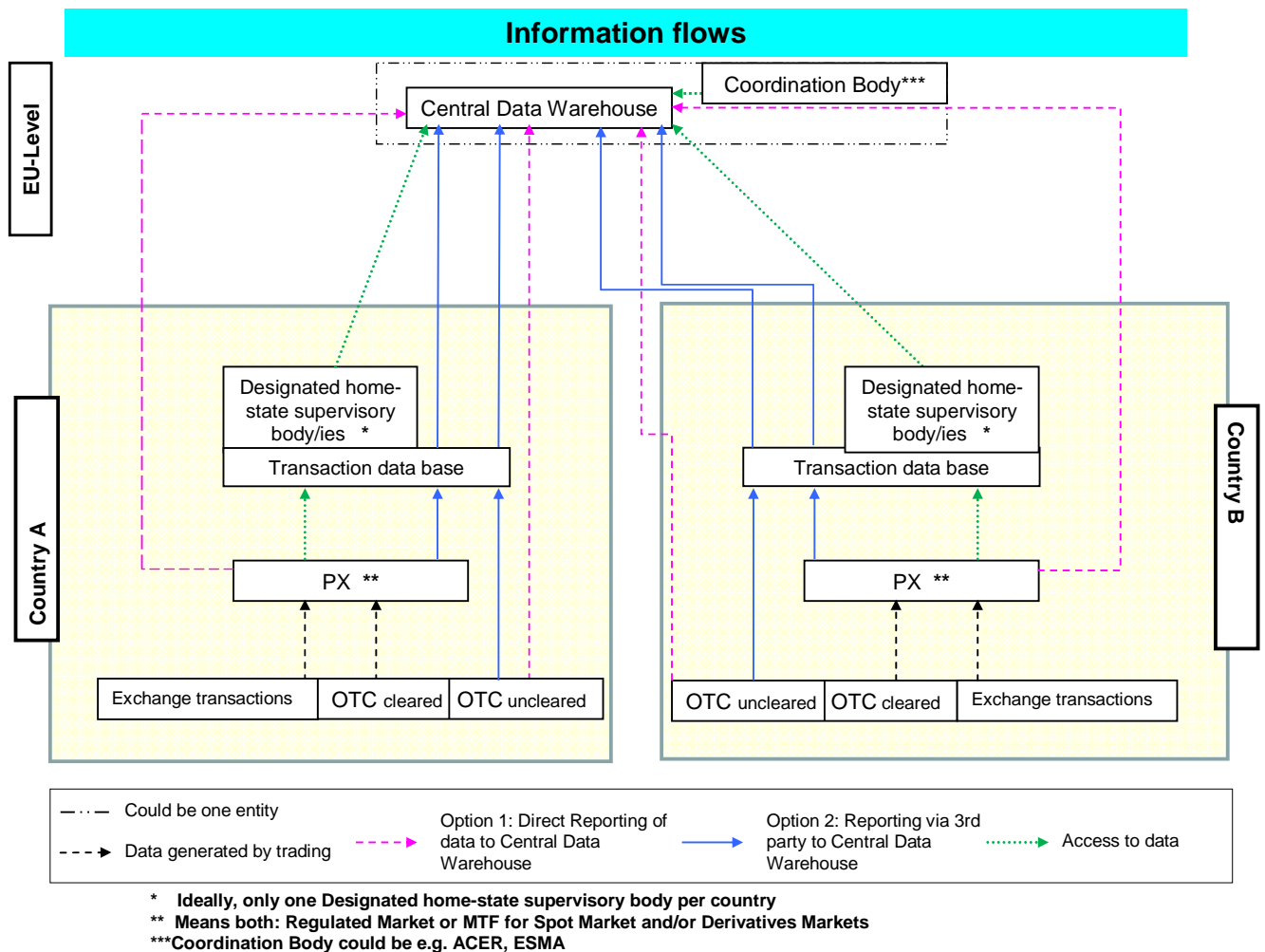
- surveillance/supervision - including the right for information
- monitoring and enforcement
- cooperation and coordination

Responsibilities: Case of a multi-national market operator



- Slide 2 „Responsibilities in the case of a multi-national market operator“:

The slide shows which entities on European as well as national level are responsible for exchanges which are operating markets in different countries. The designated Home-State supervisory body/ies should in this case be able to supervise all the markets of the exchange.



- Slide 3 „Information flows“:

The slide shows the different information flows which are already partly established today and which should accumulate in a Central European Data Warehouse in the most efficient way. While “option 1” foresees a direct reporting by the relevant stakeholders, “option 2” foresees reporting via a 3rd party to the Central Data Warehouse.

IV. Annex

Although the title of the consultation comprises both integrity as well as transparency the latter is not tackled in the consultation paper. It is understood that ERGEG and ENTSO-E are assigned to prepare a comitology guideline on fundamental data transparency. Due to the considerable experience by power exchanges in operating transparency platforms and enforcing rules linked to disclosure requirements, EuroPEX would really much welcome the opportunity to take active part in the linked consultation processes. In order to get the full picture (disclosure obligations serve as a basis for sector specific market abuse provisions) - it would be helpful if DG ENER also lines out in the context of this *Consultation on measures to ensure transparency and integrity of wholesale markets in electricity and gas* how she wants to proceed in particular concerning the following topics:

- a. Pre-trade transparency
- b. Post-trade transparency
- c. Trading transparency
- d. Record keeping

Concerning transparency please find in the following the comments by EuroPEX to the Draft Discussion Paper on transparency and integrity of traded wholesale markets in electricity and gas served by the Commission.

General Principles

- (74) Transparency is vital for energy markets by creating and strengthening trust to the market and the public as well as supporting the market supervision and regulatory authorities. Overall, transparency makes energy trading understandable and comprehensible.
- (75) EuroPEX calls for the general principle that certain market information should be made available to all market participants and the public in general in a timely, simultaneous and non-discriminatory manner.
- (76) Greater information availability improves participant's understanding of markets and their ability to predict future developments, thus reducing the uncertainty involved in market participation. It also reduces the information advantages that incumbents typically enjoy. Particularly, greater information availability and market transparency facilitate the monitoring of market developments not just by regulatory entities, but by a wider range of stakeholders.

(77) To prevent collusive behaviour the disclosure of information and transparency for the trading participants and the public and the monitoring by supervisory authorities should supplement each other. Transparency in terms of 'everybody knows everything about everybody' involves the risk of parallel bidding behaviour by trading participants as a result of co-ordinated arrangements and cause damage for the market in this way. Moreover, transparency based on sound judgement ensures that business secrets of market participants are kept in a non-discriminatory manner. Wherever the anonymity of those trading on the markets needs to be preserved, responsible authorities or PXs market surveillance should take over monitoring

(78) The main purposes of market transparency should be:

- a. To ensure that market prices reflect the true market value;
- b. To reduce possibilities that market participants possess information that might influence in the price formation, and thus reduce possibilities for any misuse of such information (to create an even level playing field).
In this respect market transparency would be an effective tool for preventing possible market abuse.

(79) EuroPEX believes that transparency information should be provided according to consistent minimum standards across all Member States with respect to:

- a. coverage – the minimum set of information which is made available in a Member State or control area should not depend on the structure of its electricity sector. Individual Member States should then be allowed to require additional information being made available, taking into account the specific factors which may affect market developments in each jurisdiction;
- b. level of detail – the information should be made available according to the same minimum standard of detail in all Member States, again irrespective of the structure of the electricity sector;
- c. definition – the information should be published according to common definitions in all Member States so as to facilitate its use by market participants and other interested parties across the EU;
- d. time resolution and updating frequency – similar information related to different Member States or control areas should be provided according to the same minimum standards of time resolution and updating frequency;
- e. format – the information should be made available in a format which makes it readily usable by IT systems.

(80) Given the importance of information availability and transparency, as illustrated in the previous points, EuroPEX believes that it is essential that when information is to be disclosed, it should be published, rather than being made

available on request, unless a strong case can be made in favor of disclosure on demand.

Transparency on fundamental data

- (81)** EuroPEX supports the objective to provide transparency on fundamentals that have a noticeable impact on prices' in order to create a more level playing field and thus enhance market trust by reducing the risk of insider trading and abuse of dominant positions.
- (82)** Initially, existing specifications, such as the transparency requirements of the Congestion Management Guidelines (CMG) and the Reports on Transparency for the Energy Regional Initiatives (ERI) should be implemented and assessed first taking into consideration already realized solutions. Otherwise there is the risk that the market participants in the expectation of new regulation slow down in their efforts to comply with the already existing rules.
- (83)** But it is before all crucial that integrity of the market transparency fundamental data is ensured by legally-binding measures on the direct issuers of these data, in order to secure the quality of their consolidation and publication processes.
- (84)** Bodies independent from the stakeholders, where such information is derived, are qualified to coordinate, support and publish transparency fundamental data.
- (85)** Depending on the regional legislation such bodies include power exchanges, which have the natural interest and competence to facilitate the accessibility of such information. PXs, being independent from market participants and having no direct commercial interest in the markets they operate cannot gain advantage from withholding information. In addition, their activities are internally supervised and typically subject to oversight by sectoral or financial regulatory entities. Even in those cases where PXs are owned collectively by market participants, governance and regulatory provisions are in place to ensure that PXs operate in a way which does not favour individual participants.

Post-trade transparency

- (86)** Post-trade transparency is already safeguarded by PXs today. In order to perceive the whole picture brokers and other trading platforms should be subject to similar obligations.