ACER

European Union Agency for the Cooperation of Energy Regulators

# Persons professionally arranging or executing transactions market surveillance

## Arrangements, systems and procedures for persons professionally arranging or executing transactions (PPAETs)

8 May 2025

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# Executive summary

Regulation (EU) 2024/1106[1], adopted by the European Parliament and Council on 11 April 2024, amends two key regulations: Regulation (EU) No 1227/2011 (commonly known as REMIT, which stands for Regulation on Wholesale Energy Market Integrity and Transparency) and Regulation (EU) No 2019/942 (establishment of ACER, the European Union Agency for the Cooperation of Energy Regulators). REMIT is a regulation that aims to ensure fair and transparent energy markets by preventing market manipulation and insider trading in wholesale energy markets. The revised regulation, which entered into force on 7 May 2024, introduces several new provisions and obligations.

One significant change was made to Article 15 of the revised REMIT, broadening the scope of obligations of persons professionally arranging or executing transactions (PPAETs), as well as defining new obligations for ACER in the fifth paragraph of Article 15. According to this provision, ACER shall publish, in cooperation with national regulatory authorities (NRAs), an annual report on the implementation of Article 15 ("Obligations of persons professionally arranging or executing transactions"), assessing the effectiveness of measures PPAETs have in place in to detect and notify breaches of REMIT.

This first report establishes the baseline for ACER's reporting obligation under Article 15(5)(a). It focuses on persons professionally arranging transactions (PPATs), which already had obligations under Article 15 before the REMIT revision. It takes stock of the existing systems, procedures and arrangements in place while the assessment of their effectiveness is left to the next report to be published in May 2026.

The findings in this report are largely based on data obtained via a survey that was sent to a list of 120 PPATs or potential PPATs, known to the Agency. ACER received 82 responses covering 84 entities, yielding a response rate of 70%. The PPATs were further categorised into four groups: energy exchanges, brokers, energy capacity platforms and transmission system operators (TSOs). Survey respondents cover about 95% of PPAT traded quantities in 2023, according to ACER data, while 90% of volumes are covered by just six PPATs. A statistical analysis was performed on the responses, including also a scored overall surveillance capability assessment. The overall score was formulated by scoring selected questions in the survey while attaching an equal weight for all three parts – arrangements, procedures and systems.

50% of survey participants achieved a moderate score while 29% received a good and 21% a low score. Above-average scores seem to correlate with longer period of establishment, size of PPAT and cross-commodity activity. Furthermore, exchanges scored better than TSOs. A significant difference in the level of "arrangements" across different broker was observed, pointing towards very different implementation levels across this category. Overall, the score for "Systems" was lower than for "Arrangements" and "Procedures".

The survey results point to the perception by the majority of PPATs that they:

- have nearly adequate staff and budget allocations to effectively carry out surveillance tasks; and
- have a formalised procedure for the reporting of suspicious transaction and order reports (STORs) - 85%.

However, the survey results lead, as a main conclusion of this report, to the need to reinforce and professionalise the PPATs surveillance function, taking into consideration that:

- around 30% of the PPATs did not provide a reply to the survey (mainly TSOs, brokers, and non-EU based PPATs);

[1] Regulation (EU) 2024/1106 of the European Parliament and of the Council of 11 April 2024', amending Regulations (EU) No 1227/2011 and (EU) No 2019/942 as regards improving the Union's protection against market manipulation on the wholesale energy market.

- only approximately one-third of the respondents have a separate surveillance unit or a similar structure;
- most surveillance staff are not exclusively focused on surveillance tasks;
- all responding PPATs confirmed that they have at least detection procedures in place, while 60% of the PPATs have clearly defined and formalised procedures for the full cycle of surveillance activities (detection, analysis, notification and deterrence);
- approximately in half of the PPATs with a separate surveillance unit or one embedded within other functions, the company management directly interferes in the work of the surveillance function;
- 32% of responding PPATs use a professional surveillance software system to detect suspicious orders and transactions (mostly energy exchanges and brokers), while 61% of PPATs report also the use of self-developed tailormade IT solutions;
- over half of the survey participants mentioned the need to improve detection procedures and analytical capabilities, highlighting the importance of more robust and accurate monitoring systems;
- 42% of the participants, expressed a desire to broaden the scope of behavioural coverage, signalling a focus on capturing a wider range of potentially suspicious activities. Approximately 20% of participants identified the need to expand market coverage and to refine notification procedures.

The final section of this report lists recommendations based on these results, to further promote PPATs compliance with Article 15 of REMIT. ACER encourages all PPATs to verify their surveillance capabilities by paying particular attention to the following situations reported in the survey and to take action to address them:

- No surveillance function in place.
- Employees are not declaring potential conflicts of interest.
- The "detect - analyse - notify - deter" procedures are not defined and formalised.
- No surveillance system in place.
- PPAT management can influence or block notifications (STORs) to be shared with ACER and the responsible NRAs.

# 1. Introduction

Regulation (EU) 2024/1106 of the European Parliament and of the Council of 11 April 2024 amending Regulations (EU) No 1227/2011 and (EU) No 2019/942 as regards improving the Union's protection against market manipulation on the wholesale energy market, which entered into force on 7 May 2024, brought several novelties and obligations.

The fifth paragraph of Article 15 of Regulation (EU) No 1227/2011 (REMIT) provides that the European Union Agency for the Cooperation of Energy Regulators (ACER) shall, in cooperation with national regulatory authorities, by 8 May 2025 and every year thereafter, issue and make public a report with aggregated information in compliance with applicable data protection law, excluding commercially sensitive information, on the implementation of this Article, in particular with regard to:

> (a) the arrangements, systems and procedures referred to in paragraph 3 of Article 15 and their effectiveness; and
>
> (b) the national regulatory authorities' analysis of suspicious transactions, response to poor quality reporting and non-reporting of suspicious transactions and related activities with regard to enforcement and penalties.

The present document covers point (a) above. This first report establishes the baseline of ACER's reporting obligation under Article 15(5)(a). It focuses on persons professionally arranging transactions (PPATs), which already had obligations under Article 15 of Regulation 1227/2011 before the revision that took effect on 7 May 2024.

Point (b) is covered in a separate document and aims to provide a qualitative and quantitative assessment on the quality of the suspicious transactions and order reports (STORs) notified to the relevant national regulatory authorities (NRAs) and ACER through the Agency's Notification Platform, as well as a comprehensive and in-depth statistical description of the STORs received.

The first report is due by 8 May 2025, and subsequent reports must be issued each year thereafter.

The report will focus on the arrangements, systems, and procedures referred to in the third paragraph of Article 15.

## 1.1. Structure of the Report

This report is structured as follows:

The remainder of section 1 explains the basic concepts, including the obligations of persons professionally arranging and executing transactions ('PPAETs') regarding market surveillance and REMIT.

Section 2 covers the duty to establish and maintain effective arrangements, systems and procedures by PPATs and persons professionally executing transactions ('PPETs').

Section 3 explains the methodology used in gathering the data, as well as the analysis used to obtain results.

Section 4 presents a comprehensive statistical analysis of the survey responses pertaining to Article 15(5)(a) of REMIT. First, an overview of key findings from the preliminary analysis is presented, followed by a more in-depth exploration of the data, which examines the underlying patterns, relationships, and statistical significance of the survey responses. Additionally, the analysis is expanded to include a surveillance capability assessment, evaluating scores across three main sections: Arrangements, Procedures and Systems. The objective of this analysis is to uncover meaningful insights that can guide further discussions and inform decision-making regarding Article 15(5)(a).

Section 5 gives structured recommendations, based on the results in section 4.

Finally, details regarding the scoring methodology for the surveillance capability assessment are provided in the Annex.

## 1.2. Background of the Report

### 1.2.1. Legal background

The purpose of this report is the fulfilment of the new legal obligations for ACER according to Article 15(5)(a) of REMIT: *"By 8 May 2025 and every year thereafter, the Agency shall, in cooperation with national regulatory authorities, issue and make public a report with aggregated information in compliance with applicable data protection law, excluding commercially sensitive information, on the implementation of this Article, in particular with regard to: the arrangements, systems and procedures*[2] *and their effectiveness."*[3]

REMIT established a sector-specific legal framework for identifying and penalizing insider trading and market manipulation in wholesale energy markets across Europe. The scope of REMIT was therefore specifically designed to accommodate the operational complexity of physical energy markets and specificities of the energy sector (electricity and natural gas) and to appropriately complement the market abuse legislation covering the financial sector.

The REMIT revision further aimed to align the scope of the regulation with evolving market dynamics. Key amendments include, amongst others, expanded scope of data reporting (encompassing electricity balancing markets, coupled markets, and algorithmic trading), enlarging the scope of REMIT's market abuse provisions to wholesale energy products that are also financial instruments, and supervision of notifying entities.

### 1.2.2. REMIT update context

The amendments to REMIT were adopted by the European Parliament on 29th of February 2024 and approved by the European Council on 18th March 2024. This was followed by the publication of the revised legislation in the Official Journal of the European Union (Regulation (EU) 2024/1106 amending Regulations (EU) No 1227/2011 and (EU) 2019/942 on 17th April 2024[4], thus enabling the entry into force on 7th May 2024, with varying application dates for certain provisions.

The amendments to REMIT were proposed by the European Commission (Commission) together with and as a part of a broader Electricity Market Design reform, including amendments to the Electricity Regulation (EU 2019/943)[5] as well as to the Electricity Directive (EU 2019/944)[6] with the political goals to boost renewables, better protect consumers and enhance industrial competitiveness.

The Commission motivated the proposal with recent political as well as market developments: "Since the summer of 2021, energy prices have seen unprecedented spikes and volatility and have had a

[2] Any person professionally arranging or executing transactions shall establish and maintain effective arrangements, systems and procedures to: (i) identify potential breaches of Article 3, 4 or 5; (ii) guarantee that their employees carrying out surveillance activities for the purpose of this Article are preserved from any conflict of interest and act in an independent manner.; (iii) detect and report suspicious orders and transactions.

[3] Article 15(5)(a) Regulation (EU) 2024/1106 of the European Parliament and of the Council of 11 April 2024.

[4] Regulation (EU) 2024/1106 of the European Parliament and of the Council of 17 April 2024 amending Regulations (EU) No 1227/2011 and (EU) 2019/942, OJ L, 2024/1106, 17.4.2024.

[5] Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), OJ L, 158, 14.6.2019, p.54-124.

[6] Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (recast), OJ L 158, 14.6.2019, p.125-199.

severe impact on EU households and the economy, especially following Russia's invasion of Ukraine that sparked an energy crisis in Europe"[7].

The goals are furthermore detailed as: "[…] to ensure competitive markets and transparent price-setting, ACER and NRAs will have enhanced ability to monitor energy market integrity and transparency. In particular, the updated REMIT will ensure better data quality as well as strengthen ACER's role in investigations of potential market abuse cases of cross-border nature. Overall, this will step up the protection of EU consumers and industry against any market abuse."

Sufficient competition and transparent price setting are not only political goals, but they are also the key pillars for the functioning of every market, including the European Energy Market. Supporting and securing these goals is therefore an imperative to all stakeholders, Market Participants and trading venues.

The revised REMIT brings a closer alignment of the EU rules on transparency and integrity of energy markets with those in the financial markets. The concept of PPAETs was previously not defined in either REMIT or the REMIT Implementing Regulation. The revised REMIT introduces for the first time such a definition under Article 2(8a), as well as new obligations for PPAETs under Article 15. As of the entry into force of the revised REMIT, PPAETs have an obligation under Article 15 paragraph 1 and 2 to notify ACER and the relevant NRAs (NRA of the Member State where participant involved in the potential breach is registered[8], and the NRA of the Member State where the wholesale energy product is to be delivered) about any potential breaches of Articles 3, 4 and 5 of REMIT.

## 1.3. Concept of PPAET

Article 2(8a) of REMIT provides a definition of the PPAET concept. According to that definition, a PPAET is a *"(…) a person professionally engaged in the reception and transmission of order for, or in the execution of transactions in, wholesale energy products".* This concept is also included in Recitals (12)[9] and (18)[10] of Regulation 2024/1106, Article 8(4) of REMIT; and Article 2(4) of Commission Implementing Regulation (EU) No 1348/2014.

Moreover, Articles 15(1) and 15(2) of REMIT distinguish between PPATs and PPETs under Article 16 of MAR[11] who also execute transactions in wholesale energy products that are not financial instruments. Consequently, the concepts of PPATs and PPETs under Article 15(2) (i.e. PPETs with obligations under Article 15), are addressed separately in the continuation of this report, in sections 1.3.1 and 1.3.2.

The overall classification of PPAETs is presented in Figure 1 below.

[7] European Commission, "Commission Proposes Reform on the EU Electricity Market Design to Boost Renewables, Better Protect Consumers and Enhance Industrial Competitiveness", press release, Strasbourg, March 14, 2023.

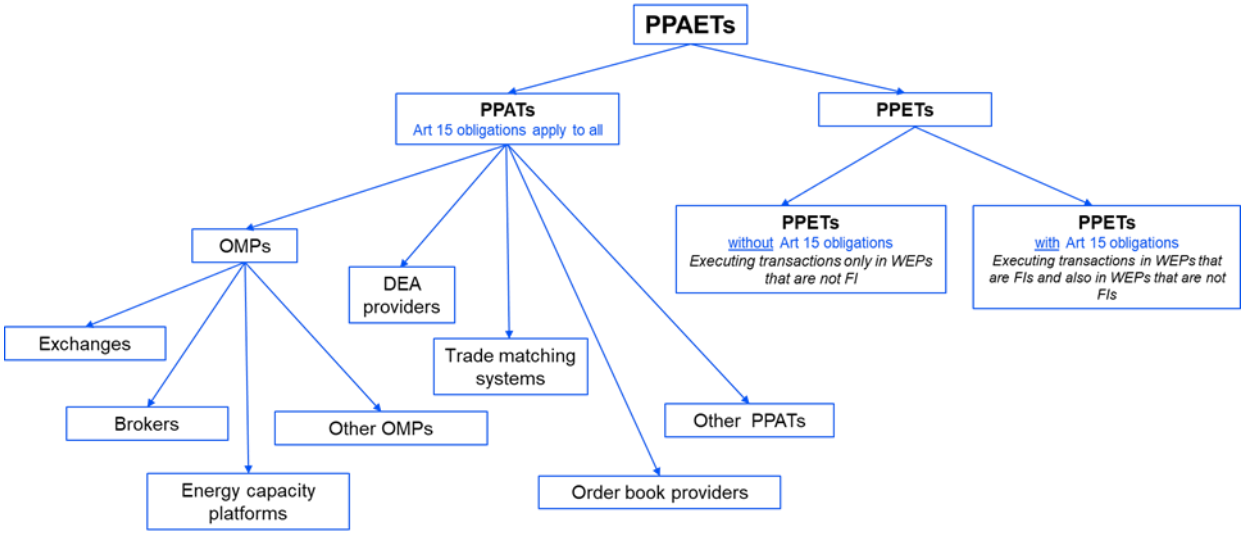
[8] Information on the registration of market participants can be found in the European Register of market participants made publicly available here: https://www.acer-remit.eu/portal/european-register.

[9] Recital 12: *"(…) order book providers should also be designated as persons professionally arranging transactions subject to the obligation to monitor and report suspected breaches of this Regulation".*

[10] Recital 18: *"Persons professionally arranging or executing transactions should have the obligation to report suspicious transactions in breach of Regulation (EU) No 1227/2011 with regard to insider trading and market manipulation and, in order to enhance the possibility of enforcement of such breaches, should also have the obligation to report suspicious orders and potential breaches of the obligation to publish inside information. Direct electronic access providers and order book providers are considered to be persons professionally arranging transactions.*

[11] Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation) and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/24/EC, 2003/125/EC and 2004/72/EC, OJ L 173, 12.6.2014, p.1-61.

Figure 1: An illustrated overview of entities referenced as PPAETs under REMIT[12]




### 1.3.1. The concept of PPAT

The concept of 'PPAT' is embedded in the broader concept of 'PPAET', which, under Article 2(8a) of REMIT, is defined as *"(…) a person professionally engaged in the reception and transmission of orders (…) in wholesale energy products."*.

In addition to the definition contained in Article 2(8a), the notion of PPAT also appears in other provisions of REMIT. For example, according to Article 8(4)(d) of REMIT, PPATs are responsible for the reporting of information for the purposes of Article 8(1), (1a) and (1)(b) of REMIT: *"For the purposes of paragraph 1, 1a and 1b information shall be provided by: (…) (d) an OMP [organised marketplace], a trade matching system or other persons professionally arranging or executing transactions"*.

PPATs that are expressly referred to in REMIT can be aggregated in the following categories: OMPs, Trade Matching Systems, Order Book Providers, Direct Electronic Access Providers (DEAs) and other PPATs.

For an entity to be considered a PPAT, ACER considers that it must fulfil the following three cumulative criteria:

- Be a 'person': defined as either a natural or legal person[13] according to Article 2(8a) of REMIT.
- Acting 'professionally': the literal analysis of the wording and the case law leads to the following interpretation: *"engaged in a specified activity as part of one's normal and regular paid occupation;"* and
- 'Arranging transactions': are activities, including the reception and transmission of orders, that aim to enable or assist third parties (third-party buying or selling) in a way that directly or indirectly brings about a particular wholesale energy transaction (i.e. has the effect that the transaction is concluded). This may entail among others, providing a facility in which third-party buying or selling interests in wholesale energy products are able to interact in a way that results in a transaction. Simply providing the means by which parties to a transaction (or a possible transaction) are able to communicate with each other is excluded from the concept of PPAT. If

[12] Open letter on the designation of representatives by non-EU market participants and on the new obligations of persons professionally arranging or executing transactions (PPAETs), according to the revised REMIT (https://www.acer.europa.eu/sites/default/files/REMIT/Guidance%20on%20REMIT%20Application/Open%20Letters%20on%20REMIT%20Policy/25092024_3rd_Open_Letter_Third_Countries_PPAETs.pdf).

[13] This includes also a natural or legal persons that are responsible for an entity or a system that arranges transactions.

a person makes arrangements that go beyond providing the means of communication, and adds value to what is provided, it will no longer be excluded and shall be recognised as a PPAT.

The main characteristic of a PPAT is its professional **intermediary role**, e.g. the reception and transmission of orders in wholesale energy products.

The following aspects should also be taken into consideration when evaluating whether a person is professionally arranging transactions:

- The arranging activity can comprise the whole trade lifecycle or be restricted to one or more parts of it.
- The number of PPATs involved in a transaction is irrelevant to determine whether an entity is a PPAT. There can be one or several PPATs involved for a transaction be concluded.
- The PPAT's legal form, ownership, the type of market it operates, the type of the wholesale energy product, the number of parties it represents and whether it directly enters or not into transactions are not relevant elements to determine whether an entity is a PPAT.

Aside from those entities already explicitly cited in REMIT, to clarify which additional entities may fall under the concept of PPATs and are thus subject to Articles 15(1) and 15(3) obligations, the existence of different cumulative elements should be assessed on a case-by-case basis. These elements are also further explained in ACER's 6.1 Edition of the REMIT Guidance[14].

### 1.3.2. The concept of PPET

Article 2(8a) of REMIT defines the concept of PPET', which is embedded in the concept of PPAET, as *"(…) a person professionally engaged in (…) the execution of transactions in wholesale energy products"*.

Under this provision, it is understood by the Agency that 'execution' should include trading on own account as well as execution of orders on behalf of a third party, either directly or in accordance with a discretionary mandate given by the third party.

It should be noted that not all PPETs have obligations under Article 15 of REMIT. Article 15(2) of REMIT only includes obligations on PPETs under Article 16 of MAR who also execute transactions in wholesale energy products that are not financial instruments.

To be subject to the obligations under Article 15(2) of REMIT, the PPET in question shall meet two cumulative criteria:

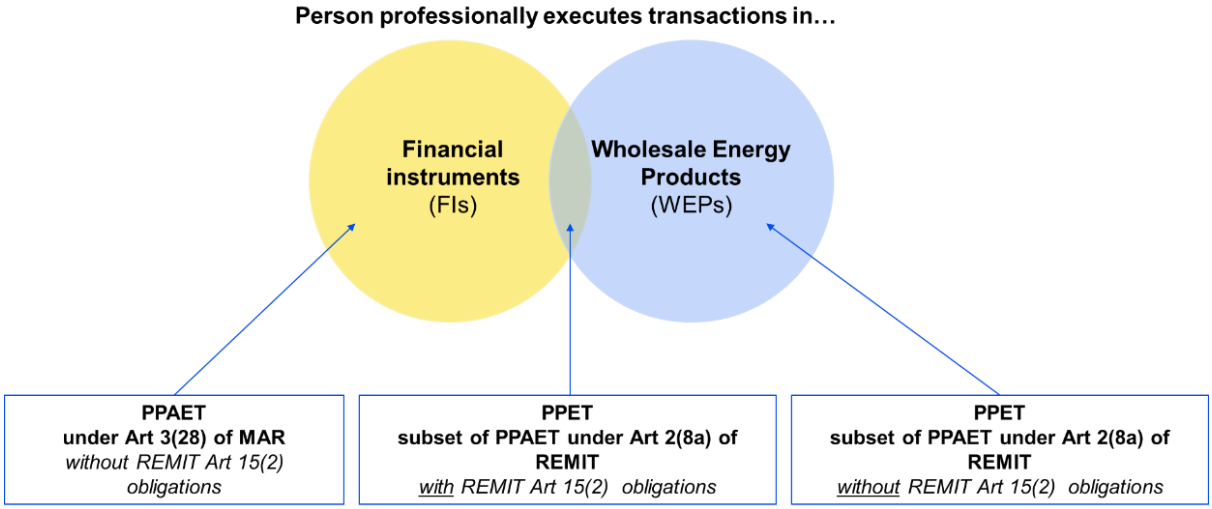
- It needs to be considered a PPAET under MAR (Regulation (EU) No 596/2014), and
- It needs to execute transactions in Wholesale Energy Products (WEPs) that are not financial instruments[15].

In summary, if a PPET executes transactions only in WEP that are not financial instruments (and is therefore not executing any transactions under MAR), it will not be subject to the obligations stemming from Article 15(2) of REMIT. The below figure illustrates the relation between financial instruments and wholesale energy products, and the different PPAET provisions under MAR and REMIT.

[14] https://www.acer.europa.eu/sites/default/files/documents/Other%20Documents/6.1st_Edition_ACER_Guidance.pdf.

[15] ACER Guidance on the application of Regulation (EU) No 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency, 6.1 Edition, December 2024.

Figure 2: PPETs with obligations under Article 15(2) of REMIT[16]




## 1.4. PPAET obligations under REMIT

In the context of this report the focus is on specific obligations of PPAETs based on the revised Article 15 of REMIT. According to this article, PPAETs are responsible for identifying and notifying ACER and the relevant NRAs about any potential breaches of insider trading (Article 3), publication of inside information (Article 4), or market manipulation (Article 5) of REMIT. More precisely, *"any person [PPAT/PPET], who reasonably suspects that an order to trade or a transaction, including any cancellation or modification thereof, whether placed on or outside an OMP, could breach Article 3, 4 or 5, shall notify the Agency and the relevant national regulatory authority without further delay and in any event no later than four weeks from the day on which that person becomes aware of the suspicious event."*.

The obligation for PPATs under Article 15(1) became applicable on 7 May 2024. However, obligations for PPETs under Article 15(2) applies from 8 November 2024 onwards.

Furthermore, Article 15(3) of REMIT obliges PPAETs to *"establish and maintain effective arrangements, systems and procedures to: (a) identify breaches of Article 3, 4 or 5; (b) guarantee that their employees carrying out surveillance activities for the purpose of this Article are preserved from any conflict of interest and act in an independent manner; (c) detect and report suspicious orders and transactions"*.

In general, it is also important to note the following regarding PPAET REMIT obligations:

- PPATs already had obligations under REMIT before the revision, so for them it is just a matter of a change in scope, while for PPETs the obligations are completely new.
- This scope extension for PPATs concerns:
    - wholesale energy products that are financial instruments (reflecting the changes in Article 1(2) of REMIT), in case they arrange transactions on these products;

[16] Open letter on the designation of representatives by non-EU market participants and on the new obligations of persons professionally arranging or executing transactions (PPAETs), according to the revised REMIT (https://www.acer.europa.eu/sites/default/files/REMIT/Guidance%20on%20REMIT%20Application/Open%20Letters%20on%20REMIT%20Policy/25092024_3rd_Open_Letter_Third_Countries_PPAETs.pdf.

- new products categorized as wholesale energy products (such as, contracts and derivatives relating to the storage of electricity or natural gas in the Union; contracts and derivatives for the supply of electricity which may result in delivery in the Union as a result of single day-ahead and intraday coupling reflecting the changes in Article 2(4)), in case they arrange transactions on these products.

- The REMIT revision extended the scope to Article 4, while Articles 3 and 5 were in scope (for PPATs) even before the REMIT revision.
- The REMIT revision was explicit regarding certain categories of PPATs, by explicitly mentioning them anew in either the core text itself or in the recitals – for example, DEA providers and Energy capacity platforms.
- Article 15 obligations for PPETs apply only to a subset of PPETs, which will be further explained in section 1.3.2.
- The REMIT revision introduced timelines for notification (*"[…] shall notify the Agency and the relevant national regulatory authority without further delay and in any event no later than four weeks from the day on which that person becomes aware of the suspicious event."*)

Both the 6.1 version of ACER's REMIT Guidance and ACER's "Open letter on the designation of representatives by non-EU market participants and on the new obligations of persons professionally arranging or executing transactions (PPAETs), according to the revised REMIT" address these obligations in further detail.

### *Box 1: ARTICLE 4 OBLIGATIONS*

Monitoring for potential breaches of Article 4 of REMIT ("Obligation to publish inside information") is a novelty introduced by the latest REMIT Revision.

Article 4 monitoring requires an active approach to detect possible breaches and cannot be performed as a mere side product of the monitoring obligations for Articles 3 and 5.

PPAETs should perform monitoring based on the information, that is available to them, including publicly available information. The main principle that should be kept in mind when scoping the monitoring is proportionality.

PPATs should focus the monitoring on Inside Information Platforms (IIPs), used by market participants whose orders or transactions the PPAT arranges, in particular if they are managed directly by the PPAT or by a legal person that is part of the PPAT's group. PPATs would thus focus on a targeted approach, monitoring their IIP, if existent, and the disclosure practices of their clients at the forefront of their activities. The actual approach also depends on the type of markets the PPAT arranges. For example, for Energy Exchanges or Brokers it is likely that the identified issues with disclosure of inside information would be linked to production devices and would likely also be in practice connected to Article 3 (or 5) potential breaches. For PPATs involved in cross-border activities, the proper disclosure of cross-border network elements related inside info will also be a focus area.

PPETs should instead focus on the information related to their own activities. This means that PPETs should first and foremost focus on their own trading and disclosure activities and be based on the information that is available to them, as well as the information that is publicly available. They should also report potential Article 4 breaches they may encounter during their activities on the market. For example, if a PPET trades on a certain market it may become aware about a potential problem in disclosure, even if this is not related to it directly or potentially not even to one of its counterparties. Such info may relate to various circumstances on the market.

ACER observes that PPAETs started to follow the above explained principles, which is also already reflected in the Notifications submitted to ACER and NRAs through the Notification Platform.

# 2. Scope

Since this is the first report related to Article 15(5)a of REMIT, the main goal is to establish a baseline and to assess the "state of play" regarding arrangements, systems and procedures employed according to REMIT by PPATs active on EU energy markets.

Since PPETs Article 15 obligations only entered into force in November 2024, this report concentrates on PPATs.

Article 15(5)(a) also mandates to evaluate the effectiveness of arrangements, systems and procedures that are put in place by PPAETs. This is to be understood in terms of delivering quality in the results or ability to produce the desired result. In general, the effectiveness of the market surveillance activity of a PPAET and its level of internal and external independence and integrity, depend on the organisational arrangements and procedures as well as systems in place. An important element of effectiveness is the timeliness of reporting. Assessing the effectiveness of the measures in place is not in scope of this first report, since a suitable method is still under development and the Agency has not yet received resources to cover for this additional task.

The following subsections provide context regarding expectations of adequate arrangements, systems and procedures.

## 2.1. Arrangements, Systems and Procedures

According to Article 15(3) of REMIT, PPATs under Article 15(1) and PPETs under Article 15(2) *"shall establish and maintain effective arrangements, systems and procedures to*

*(a) identify potential breaches of Article 3, 4 or 5;*

*(b) guarantee that their employees carrying out surveillance activities for the purpose of this Article are preserved from any conflict of interest and act in an independent manner;*

(c) *detect and report suspicious orders and transactions."*

The provisions of Article 15(3) of REMIT set out the responsibility for PPAETs not only to notify whenever they have reasonable grounds to suspect a potential breach, but also to proactively monitor the wholesale energy markets in which they are involved.

Arrangements and procedures in place shall establish the internal processes on how to determine whether an event is suspicious, how to notify a potential breach to ACER and the relevant NRA(s) if there is a reasonable suspicion of breach(es) of Articles 3, 4 or 5 of REMIT, as well as how to guarantee the independence and preservation from conflict of interest of surveillance personnel.

ACER and NRAs expect PPAETs' notifications to be sufficiently substantiated and meaningful. PPAETs should produce a timely and quality STOR, facilitating ACER and NRAs further review of the suspicious behaviour. ACER encourages PPAETs to also submit any relevant additional information which they may become aware of after they fulfil their notification obligations.

Finally, ACER expects alerts generated by systems to go through human screening, data quality control, and to be complemented with circumstantial information and confirmation before being submitted as STORs to ACER and the relevant NRA.

### 2.1.1. Duty for PPATs

The appropriate minimum arrangements that NRAs and ACER require from PPATs in order for them to properly perform their market surveillance tasks, involves a suitable governance structure, an organisational setup and a clear definition of the function.

## Arrangements

### a) Governance

The essential function of market surveillance is to create trust in markets by ensuring orderly trading, according to the applicable rules, ultimately leading to trustworthy market outcomes in terms of fair prices and allocated volumes. To generate trust, the market surveillance functions need to be independent of potential conflicts of interest with market participants, but also from potential short term commercial interest from trading venues or platforms.

It is recommended that staff engaged in market surveillance activities be relieved from their duties only upon the prior consent of the responsible NRA. Staff engaged in market surveillance activity should be able to freely decide on the subject and the methods of their assessment in coordination with the responsible NRAs and ACER. It constitutes good practice if the results of these assessments are shared with the management of the PPAT. The management should not influence nor change the results of the assessment nor block their notification according to Article 15 of REMIT. This is of utterly importance to create an independent surveillance function.

In the first place, the absence of conflict of interest must be reflected in the governance model of the PPAT considering potential conflicts of interest at individual and corporate level. Individual conflicts of interest may arise when a market surveillance team member has close contacts with market participants who trade on its platform. The market surveillance team member might be inclined not to internally report a suspicious event or notify a potential breach to the NRA(s) and the Agency for several reasons, including to avoid damaging its relationships and future career prospects with the market participants.

The existence and the nature of corporate conflicts are affected, among other things, by the structure of control, the governance model, as well as the nature of the business activity performed by the PPAT. To identify and to prevent or manage conflicts of interest, it is important to consider all the steps to be undertaken by the PPAT, from detecting a suspicious event to finally notifying a potential breach to the NRA(s).

### b) Organisational setup

A proper organization of the market surveillance activity is essential for its ability to detect market abuse. Precisely, this involves at least five dimensions:

- adequacy of resources;
- human resources policy;
- exclusive dedication to the surveillance of energy markets (referred to as market surveillance team);
- communication with other (internal) units and confidentiality.
- For each dimension the PPAT should be able to justify why its organisational setup is best suited for the tasks of the market surveillance team.

Concerning the adequacy of resources, the market surveillance activity requires availability of fundamental resources, which include human resources, analytical tools and unrestrained and direct access to data/information. The human resources policy refers to various internal and external factors, such as potential conflicts of interest at individual level, have the potential to influence the work of the market surveillance team. Moreover, the specificities of the market surveillance function require the identification of a dedicated team. Regardless of how the market surveillance team is organised, the team itself also needs to keep regular contact with other functions within the PPAT, to get access to the information needed to perform its activities. On top of that, to safeguard the integrity of the market surveillance team, the information collected by the market surveillance team for the purpose of investigating a suspicious event shall be considered confidential and systems that restrict the access to such information shall be implemented.

### c) Clear definition of the function

Finally, the lack of a clear definition of the market surveillance function may undermine the ability of the market surveillance team to perform its tasks, namely through the weakening of the trust in the function. Therefore, the market surveillance team should have a clear (written) function and be trusted by the PPAT management, other PPAT employees and members/customers.

Without a clear definition of the function and trust from the PPAT management, other PPAT employees and a certain authority towards PPAT members/customers, the market surveillance team can neither investigate suspicious events nor notify potential breaches of REMIT adequately.

## Systems and procedures

Systems and procedures are key to ensuring that the PPAT fulfils its obligations under Article 15(1) of REMIT. PPATs should have systems in place that allow them to detect potential breaches and monitor relevant markets, as well as to ensure streamlined reporting. PPATs' procedural arrangements should be documented, including any changes or updates to them. Documentation on the compliance of the PPAT with these procedural arrangements should also be elaborated. To identify potential breaches of Articles 3, 4 or 5 of REMIT, the PPAT shall have a documented market surveillance strategy. That strategy shall be designed based on a risk assessment. The market surveillance strategy shall define thresholds for investigating alerts and include processes in place to identify potential breaches. It should also prescribe actions to be performed by the monitoring team to further assess the suspicious events. The risk assessment shall include at least the identification of the different types of market abuse that may constitute Article 3, 4 or 5 breaches and a classification of the different forms of market abuse based on the expected risk of occurrence on the PPAT platform/operations.

Conflicts of interest can have the potential to affect the integrity and focus of the market surveillance team. Therefore, the market surveillance team within each PPAT should be covered by human resources policies safeguarding the independence and integrity of the market surveillance team members as well as other affected departments. The human resources policy implemented by the PPAT should focus on mitigating conflicts of interest throughout the organisation. Members of the market surveillance team should be given appropriate and continuous training and guidance on REMIT and the practical considerations for the application of Article 15.

Communication between the market surveillance team and anyone involved in a suspicious event/potential breach of REMIT should be carefully considered to avoid tipping off the company or person under suspicion. The market surveillance team should have and follow a policy setting the process for approaching members/customers and all communication in relation to a suspicious event/potential breach should be noted or recorded on file. In circumstances where contacts between market surveillance teams of different PPATs are envisaged, for example in potential cases of cross-market manipulation, internal policies should detail procedures accordingly.

## 2.1.2. Duty for PPETs

The revised REMIT introduced for the first time monitoring but also notification obligations for PPETs under Articles 15(2) and 15(3). PPETs under Article 15(2) already need to comply with obligations under Article 16(2) of MAR. According to Article 16(2) of MAR, PPETs ''establish and maintain effective arrangements, systems and procedures to detect and report suspicious orders and transactions (…)" and notify ''reasonable suspicions'' of ''insider trading, market manipulation or attempted insider dealing or market manipulation"[17].

[17] Article 16(2) Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse and repealing Directive 2003/6/EC of the European Parliament and of the Council and Commission Directives 2003/124/EC and 2004/72/EC, OJ L 173, 12.6.2014, p.1-61.

In addition to the already established processes and procedures under Article 16(2) of MAR, examples of arrangements, systems and procedures for PPETs under REMIT could include, but are not limited to the adoption of internal procedures and educational courses for staff on REMIT compliance, along with measures and systems to prevent and discover insider trading, market manipulation, and non-effective or non-timely disclosure of inside information[18]. It also includes procedures on how to conduct an effective assessment to determine a reasonable suspicion for potential breaches of Articles 3, 4, or 5 (the full decision-making process should be traceable and key decision points should be recorded; these provisions should cover also data storage), as well as internal handbooks and procedures on how to write adequate, complete and informative notifications. Finally, this also refers to internal procedures on how to submit a notification via the Notification Platform to ACER and to the relevant NRA(s).

ACER expects the monitoring activities of such PPETs to focus on reasonably suspicious breaches of Articles 3, 4, and 5 of REMIT, on behaviours observed (i) in the course of their trading activities and (ii) in relation to information that is available to the PPET. ACER acknowledges that such arrangements, systems and procedures should be reasonable and proportionate to the size and trading activities of the PPET.

[18] Including non-disclosure, incomplete disclosure, erroneous disclosure and disclosure that is not according to REMIT or the ACER Guidance.

# 3. Methodology

This section explains the methodology underlying the report. It details the survey structure, the data acquisition and cleaning procedures, as well as the scoring system, that was used further in the analysis.

## 3.1. Procedures

To collect the necessary information for the needs of this report a survey was conducted, limited to PPATs only. Since there is no official PPAT list (only an OMP list, which is a subset of PPATs), a dedicated list was compiled by ACER in collaboration with NRAs. The EU Survey tool[19] was used to collect the data.

The survey was distributed on 30 October 2024, with an initial closing date set for 14 November. However, a day before the deadline, the response rate was only 22%. To address the low reply rate, the closing date was extended by one week. Alongside this extension, targeted measures were implemented - non-responding PPATs received direct email reminders and were contacted by ACER and/or NRAs to encourage their participation.

The survey ultimately closed on 21 November. From the 120 PPATs which received the survey, ACER received 82 responses[20] by the final deadline, yielding a response rate of 70%.

After the survey closed, a plausibility check was done to assess potential mistakes in responses. The obtained data contained inconsistencies, including internal contradictions, and non-plausible data.

Particularly problematic areas included the classification of PPATs, reported trade quantities, and the estimated share of FTEs dedicated to surveillance tasks. As a result, data cleaning proved to be essential to secure the validity of any conclusions drawn.

Inconsistent responses were verified through direct outreach via email to survey participants. From all the PPATs who responded, 49 were contacted for additional clarifications. Data cleaning was performed manually. This process improved data accuracy addressed missing information, and enhanced consistency across the dataset. These efforts ensured a more reliable foundation for conducting a trustworthy analysis and deriving accurate results.

## 3.2. PPAT survey structure

In this section an overview of the key findings related to the questionnaire is provided (further details can be found in the Annex to this report).

The survey was divided into five parts:

- Key Information,
- Arrangements,
- Procedures,
- Systems and
- Assessment.

[19] https://ec.europa.eu/eusurvey/home/welcome

[20] The actual number of responses was 82, but in two cases after the data check it was found out that the response was related to 2 (connected) entities, therefore yielding a final response rate of 70% (84/120). Nevertheless, the analysis in section 4 is based on actual responses, i.e. 82.

**Key information**: This part covered contact details and some variables useful for segmentation purposes, such as traded quantities, Member State coverage, duration of operation and type of markets / commodities covered.

**Arrangements**: The "Arrangements" section contained questions on surveillance governance, surveillance staff, influence of management on the surveillance function, training / budget availability etc.

**Procedures**: The "Procedures" section contained questions on the implementation of the "detect - analyse - notify - deter" principles, STOR notification procedures, notification timelines estimates, auditing etc.

**Systems**: The "Systems" section contained mostly questions on the availability and type of surveillance software or systems used by the PPAT.

**Assessment**: The "Assessment" section allowed the PPAT to do a quick self-assessment regarding the adequacy of the implementation of market surveillance and related processes.

## 3.3. Scoring system for Surveillance Capability Assessment

The scoring is conducted exclusively on specific mandatory questions from the main three sections Arrangements, Procedures and Systems, with each section evaluated individually. The scored questions in the Arrangements section focus on the availability of sufficient resources, the qualifications and continuous training of surveillance staff, and the institutional independence within the organization. In the Procedures section, the questions address segregation from commercial interests and the implementation of established monitoring routines and processes. Lastly, the Systems section evaluates the availability and adequacy of designated monitoring tools, including considerations for their security.

The survey includes a total of 50 questions, of which are 37 mandatory. Among these mandatory questions, 27 are used for scoring purposes, with each question assigned a maximum of 5 points. Mandatory questions used for scoring purposes are divided into three sections, more precisely[21]:

- The Arrangements section comprised 12 scored questions (60 points possible in total)
- The Procedures section contained 8 scored questions (40 points possible in total).
- The Systems section had 7 scored questions (35 points possible in total).

The overall score was calculated as a weighted average of the results from all three sections, with equal weight assigned to each section. This approach ensured a balanced and comprehensive measure of performance across all areas.

[21] Details regarding the scoring methodology are available in the annex to this report.

# 4. Survey results and analysis

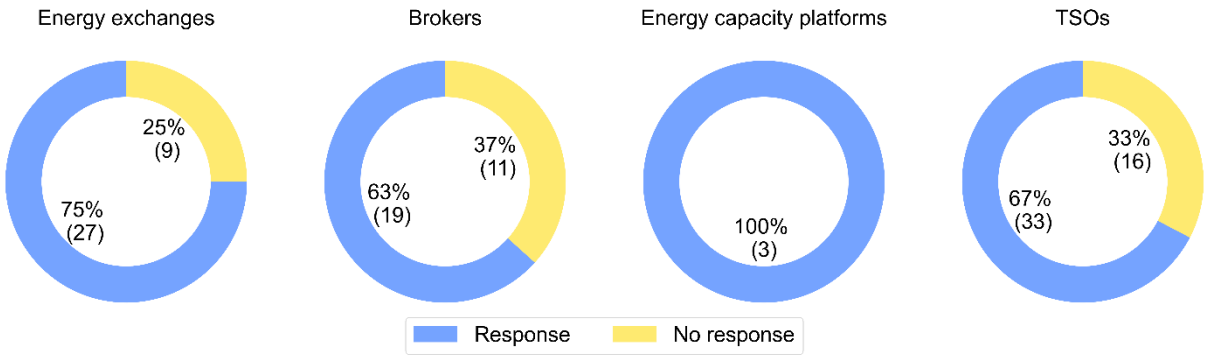
## 4.1. Response rate

As mentioned in the previous section, the overall response rate was 70%. For a better insight, the PPATs were further categorized into four groups: energy exchanges, brokers, energy capacity platforms, and TSOs.

Energy capacity platforms achieved the highest response rate at 100%. This group included only three PPATs[22]. Energy exchanges had a response rate of 75%, while TSOs had a response rate of 68%. Brokers exhibited the lowest response rate at 63%.

The overview of response rates by PPAT type is presented in Figure 3 below[23].

*Figure 3: Response rate by types of PPATs*




When interpreting the results presented in the following sections, it is important to consider potential biases, particularly non-response bias and reporting bias. Non-response bias may arise if the 30% of non-responding PPATs have systematically different characteristics. While reporting bias could occur if PPATs, aware of regulatory scrutiny, intentionally or unintentionally report higher levels or more favourable outcomes.

### 4.1.1. A closer look at non-responders

As already mentioned, non-responders are:

- mostly found within the TSO and Broker category;
- in terms of location, the PPATs based outside of the EU had the lowest response rate (out of 17 such entities, only 5 (i.e. 29%) submitted an answer);
- in terms of size, most non-responding TSOs were smaller ones, while for both exchanges and brokers, there are entities missing that cover a sizeable proportion of the market;
- there seems to be no specific pattern regarding commodities covered.

[22] One energy capacity platform (in addition to the three categorised) is operated by a TSO that also organises other activities in addition to energy capacity trading and is for this reason categorised as TSO (other OMP).

[23] Note about the format of Figures: The absolute numbers of participants are presented in brackets. Furthermore, the number of respondents, relevant for a particular question or figure, is detailed in the footnotes of the respective figure, denoted as "*n*".

It is also important to note that – considering the data reported to ACER in 2024 as traded on OMPs – the survey respondents cover slightly more than 95% of the traded quantities on the EU level. It needs to be noted that for some national markets this coverage may be significantly lower.

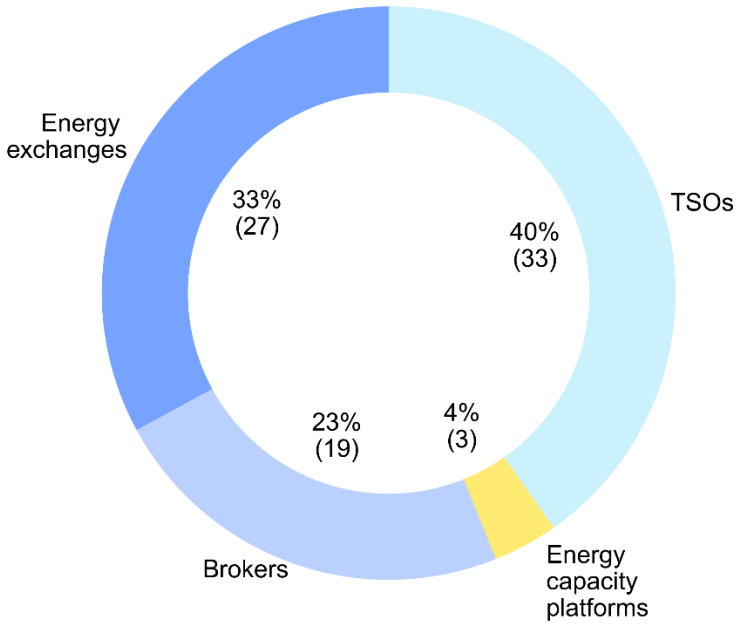
## 4.2. Key findings

The analysis presented in the following chapters is based on the collected responses. From this point onward, only 82 responses are considered, representing 100% of the survey respondents. For clarity, the number of responses collected for each question, denoted as *n*, is provided in the footnotes of each visualization.

### 4.2.1. An overview of responding PPATs

The largest group of PPATs consists of TSOs, accounting for approximately 40% of all participants. Energy exchanges form the second most common group, followed by brokers and energy capacity platforms. Additionally, as previously mentioned, three energy capacity platforms also took part in the survey, as shown in Figure 4.

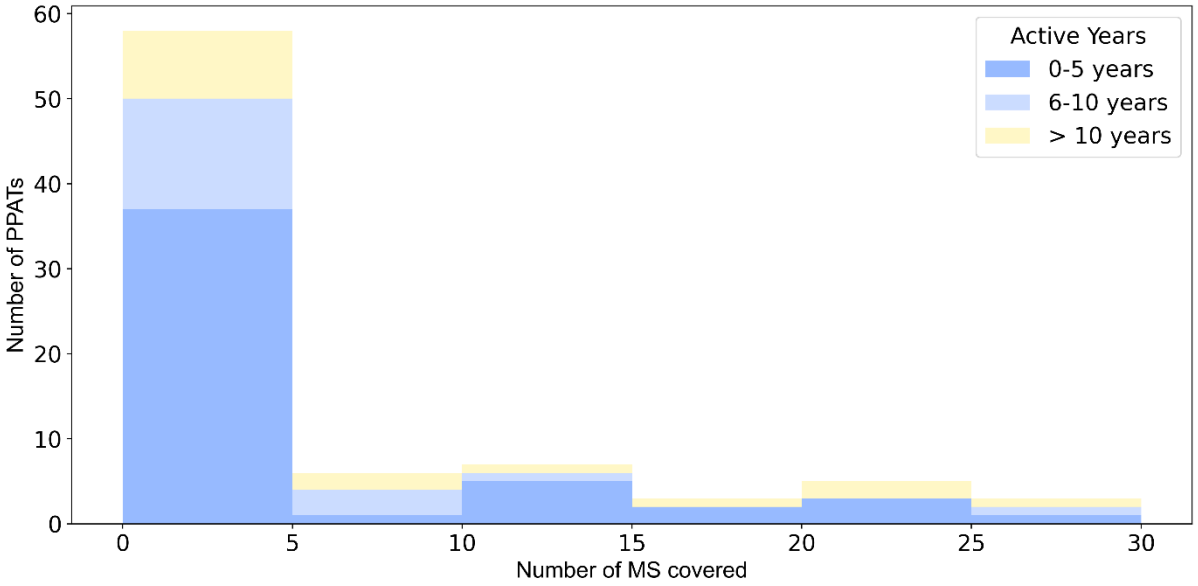
*Figure 4: Types of PPATs*




*Note: n = 82*

Nearly three-quarters of survey participants operate in markets covering fewer than five EU Member States in terms of delivery. In contrast, only two PPATs serve all 27 EU Member States. Most participants have been active as intermediaries in the market for over 10 years, with the longest-established PPAT being present for 35 years. The interplay of Member State coverage and length of operation is presented in Figure 5.

*Figure 5: Number of EU Member States covered by traded products in relation to years of activity as a market intermediary*

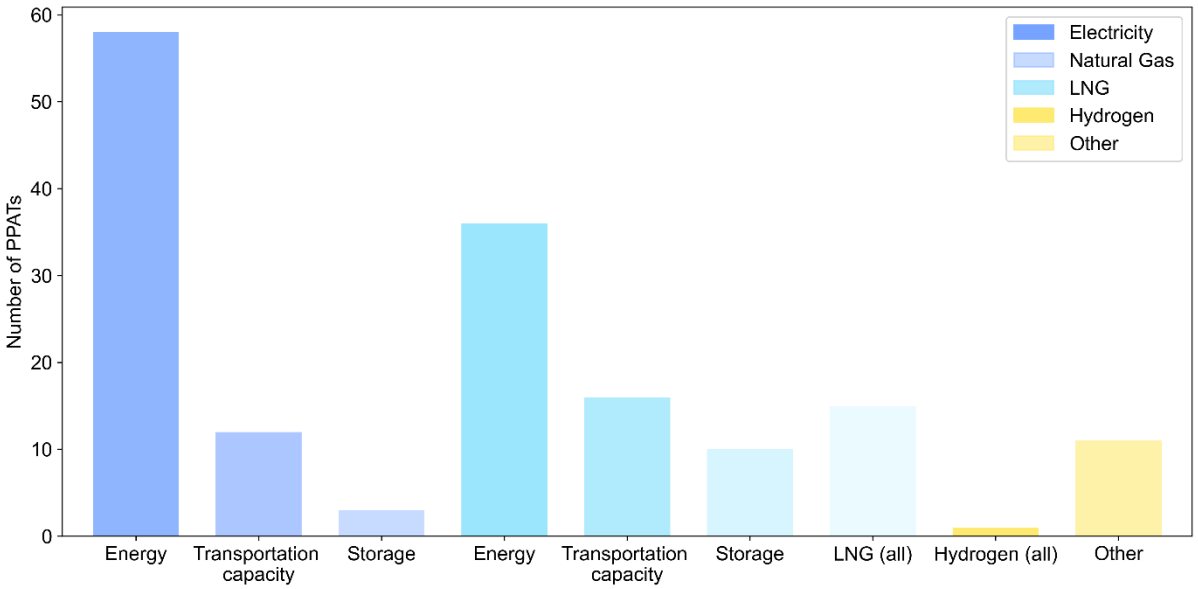



*Note: n = 82*

The majority of PPATs that participated in the survey are registered under German jurisdiction. Other countries with notable participation include France, Spain, Hungary, the UK, and the Netherlands, represented by a variety of PPAT types. The UK PPATs, however, only consisted of brokers. Other countries typically have only a single PPAT participating in the survey. Beside EU Member States, entities registered in Norway, UK and Montenegro took part in the survey.

A wide range of commodities are traded across the markets of various PPATs. Over 75% of all participants reported trading electricity, with the majority engaging in energy or transportation capacity, while a smaller proportion trading storage. A similar pattern was observed for natural gas, though it was reported by only about 50% of the participants. In this case, transportation capacity and storage were more commonly traded. Furthermore, 17% of PPATs reported trading LNG in various forms, including energy, transportation capacity, and storage. The category "Other" was used mostly by TSOs and one broker. Most likely commodities / products that are not is scope of REMIT were meant. Notably, only one PPAT was involved in trading hydrogen, as shown in Figure 6.

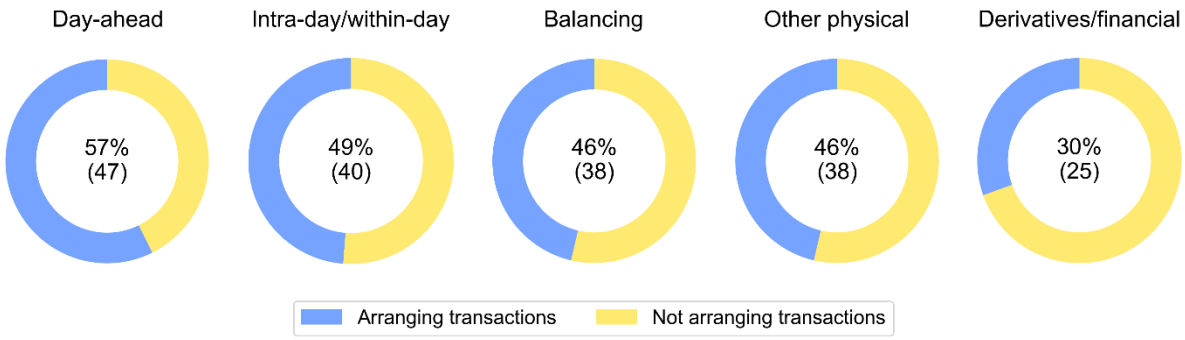
*Figure 6: Commodities traded*




*Note: n = 82*

PPATs participating in the survey facilitate transactions across a variety of wholesale energy markets, with many operating in multiple markets. Notably, 57% of PPATs arrange trading in day-ahead markets, while nearly half offer their services for intra-day/within-day, balancing, or other physical markets. The latter, physical markets, relates to specific products not covered by other categories, e.g. covered by brokers, or some national specifics. Additionally, one-third of the PPATs also arrange transactions in derivatives/financial markets, see Figure 7.

*Figure 7: Wholesale energy markets where PPATs arrange transactions*




*Note: n = 82*

Given the diverse range of PPATs participating in the survey, the total quantities traded under REMIT in 2023 exhibit significant variation. The analysis focuses exclusively on quantities arranged by PPATs classified as energy exchanges, and brokers, excluding TSOs and energy capacity platforms.

The reported quantities range widely, with the lowest at 0.06 TWh and the highest at 52,000 TWh. The PPAT who reported the highest value accounted for 55% of all traded quantities under REMIT in 2023. Notably, the largest three PPATs alone account for 75% of all traded quantities, largest five for 85%, and largest six account for 90%, highlighting the dominance of a small group of entities. It needs to be stressed that two responding PPATs were not active in 2023 and that, since the quantities are to be

used as a proxy for size, PPATs were asked to provide an aggregate figure, as they also use in their company yearly reports, for example. Therefore, they might also contain trading data for products that are not wholesale energy products under REMIT.

### 4.2.2. Arrangements, systems and procedures in place at PPATs

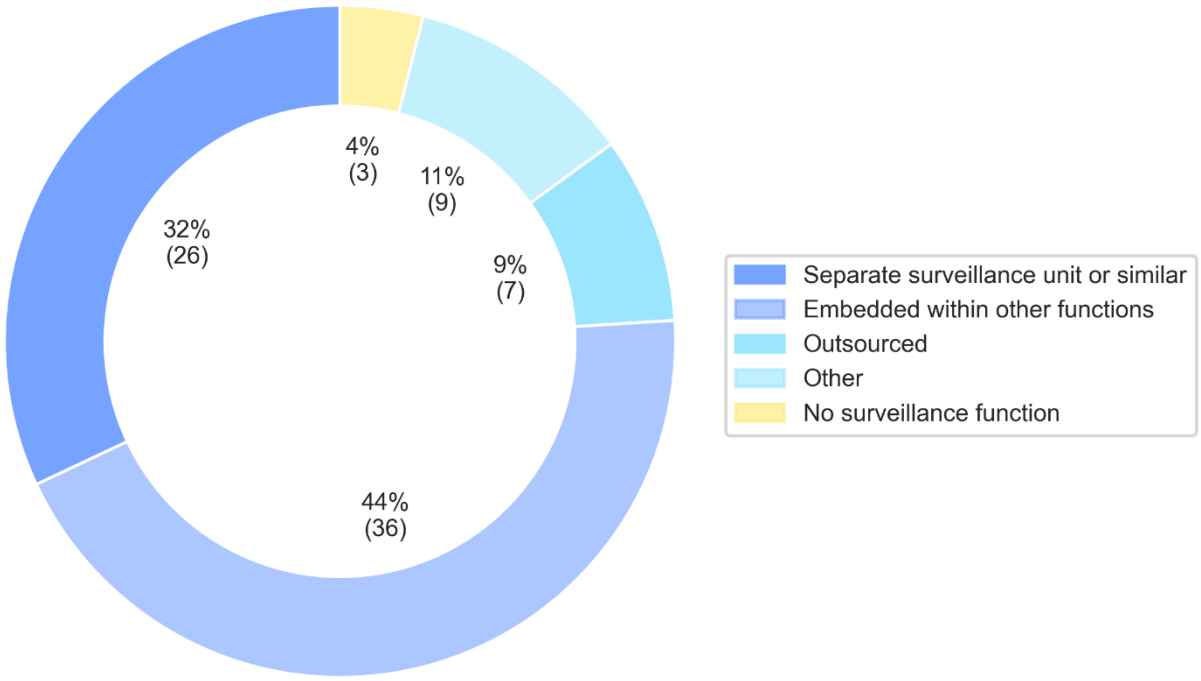
This section covers the main statistics on survey questions related to arrangements, systems and procedures that PPATs have in place to be able to effectively detect and notify potential breaches of Articles 3, 4 and 5 of REMIT.

#### Arrangements

The first main part of the survey offers detailed insights into how the surveillance function is structured and organized within PPATs. The survey specifically focuses on understanding the governance frameworks surrounding the surveillance function, including the roles and responsibilities of the surveillance staff. By examining how these functions are integrated within the broader organizational structure, the survey aims at highlighting best practices and potential gaps in the oversight mechanisms that govern market activities.

Approximately one-third of PPATs report having a separate surveillance unit or a similar structure. 45% of PPATs have the surveillance function embedded within other functions, many of them report that this function is covered by the Market Monitoring or Compliance departments. 20% have outsourced their surveillance function or arranged it differently, while 4% of PPATs do not have a formal surveillance function in place, as presented in Figure 8.

*Figure 8: Governance structure of surveillance function*

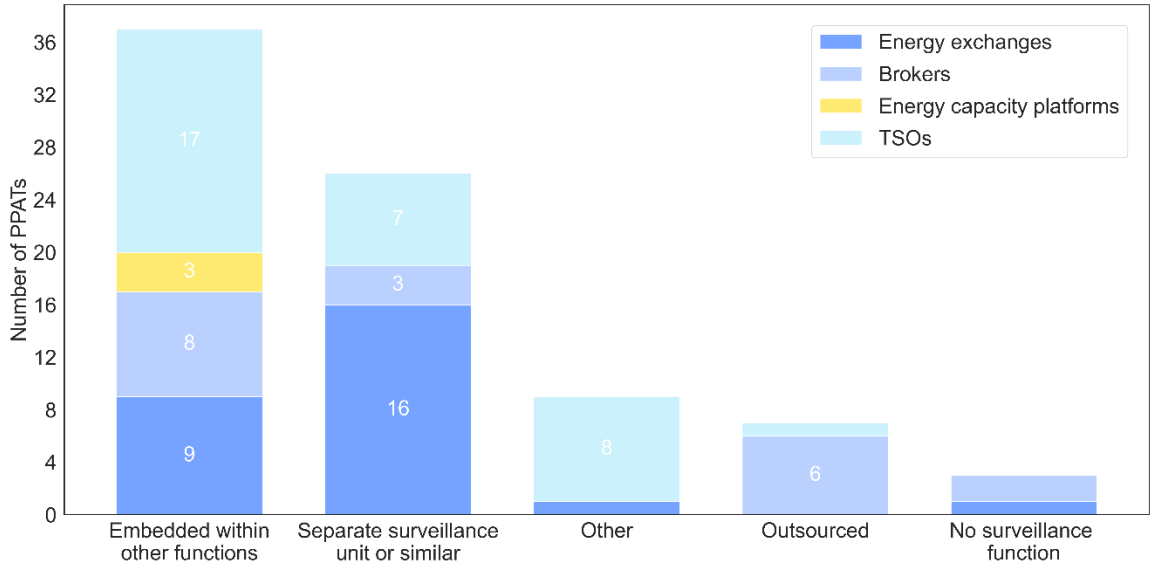



*Note: n = 82*

All energy exchanges that were not established recently report having a separate surveillance unit or a surveillance unit embedded within other functions. The majority of TSOs and 60% of brokers report the same. However, 30% of brokers indicated that their surveillance function is outsourced, but this can be attributed to the fact that several connected entities responded to the survey. Notably, all energy

capacity platforms reported having their surveillance function integrated within other functions, reflecting consistent answers within this group, see Figure 9.

*Figure 9: Governance structure of surveillance function by type of PPAT*



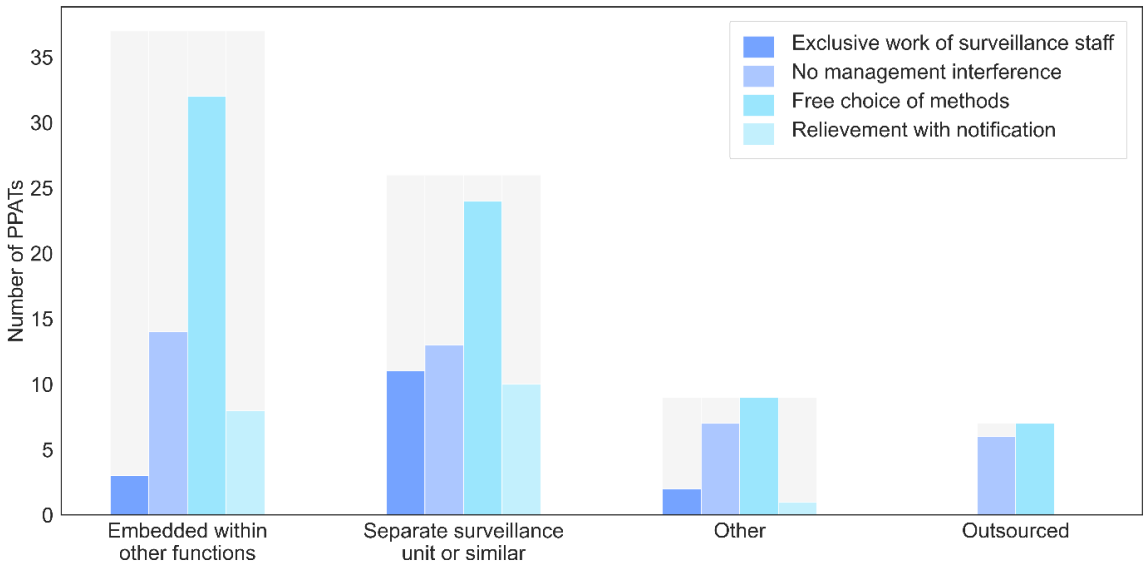

*Note: n = 82*

Most surveillance staff in PPATs do not work exclusively on surveillance tasks. However, among those PPATs with a separate surveillance unit or similar structure, nearly half have surveillance staff focus solely on surveillance duties. PPATs whose surveillance staff works exclusively on surveillance tasks are typically energy exchanges.

For PPATs with a separate surveillance unit or one embedded within other functions, approximately half reported that company management directly intervenes in the work of the surveillance function. In contrast, management influence is significantly lower, below 20%, in PPATs where the surveillance function is outsourced or structured differently.

Furthermore, most PPATs report that surveillance staff can be relieved of their duties without consent and without prior notification to the responsible National Regulatory Authority. In contrast to these direct possibilities of management intervention, the majority of PPATs indicated that surveillance staff have the autonomy to select methods for surveillance and set thresholds for detection tasks, see Figure 10.

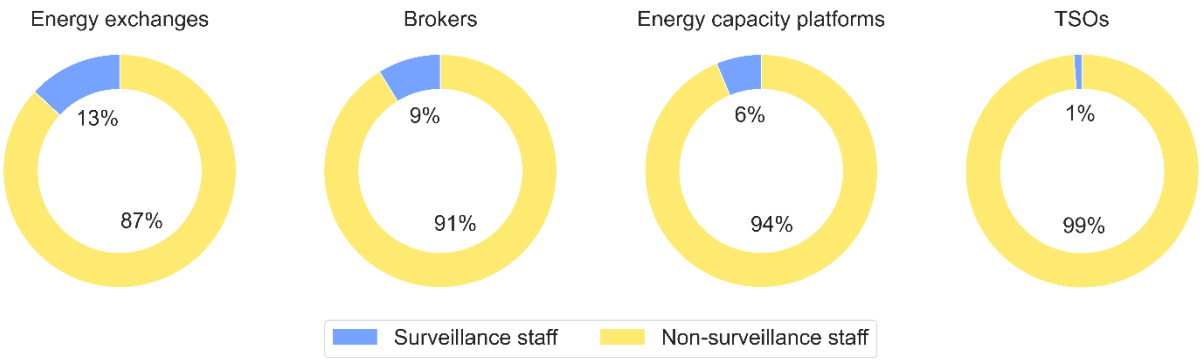
*Figure 10: Governance structure of surveillance function in relation to arrangements in place*




*Note: n = 72*

The survey also includes an optional question regarding the resources available to fulfil monitoring tasks. The majority of PPATs report having nearly adequate staff and budget allocations to effectively carry out surveillance tasks. The average approximate share of surveillance staff among all staff at a PPAT is 7%. The share of surveillance staff is notably higher among energy exchanges and brokers. On average, energy capacity platforms report a share of 6%, while TSOs report a lower share of just 1%. Figure 11 presents the details. The lower figure for TSOs is understandable given the type of company and extent of tasks beyond the scope of REMIT, which is also reflected in the scoring methodology. Yet the fact that the share for broker is notably lower than for exchanges is noticeable, as a more similar share could be expected. A possible partial explanation is the above average use of outsourcing, as mentioned previously.

*Figure 11: Average share of surveillance staff among all staff by PPAT types*

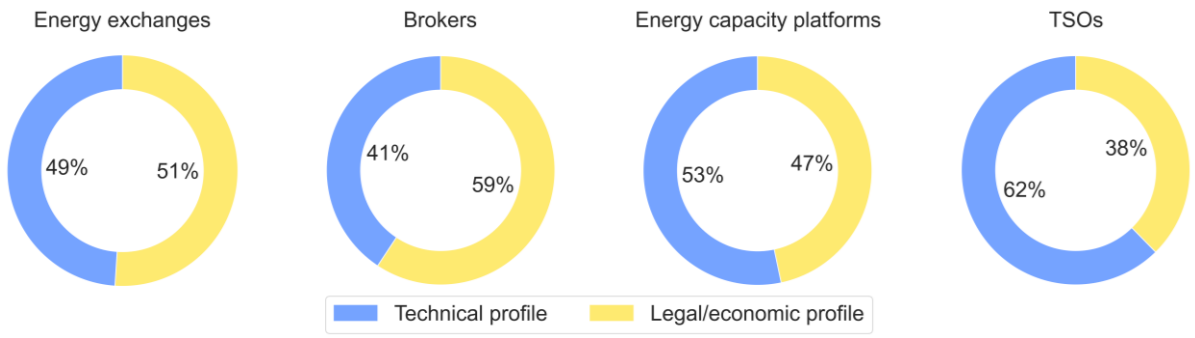



*Note: n = 70*

Approximately 54% of surveillance staff have a technical profile, including engineers, mathematicians, physicists, IT professionals, and others with similar backgrounds, while 46% possess a legal or economic profile. Energy exchanges, brokers, and energy capacity platforms exhibit a similar evenly distribution of technical and legal profile. In contrast, TSOs report a greater share of staff with a technical profile. In general, this speaks for a balanced distribution of technical vs. non-technical surveillance

staff, allowing it to approach complex trading situation from a holistic perspective. For details, see Figure 12.

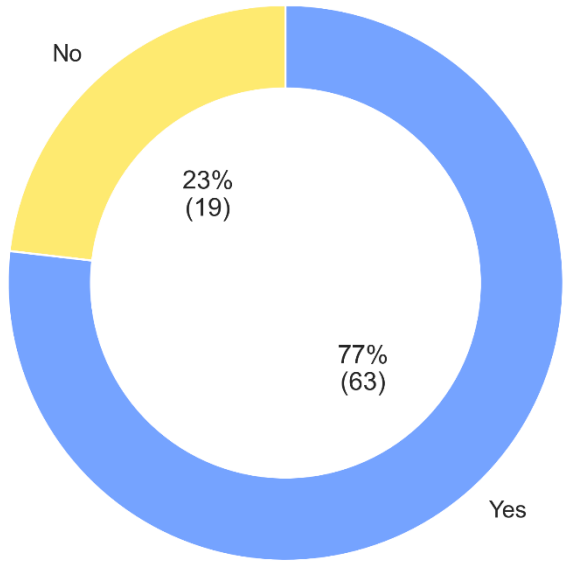
*Figure 12: Surveillance staff profile by PPAT types*




*Note: n = 70*

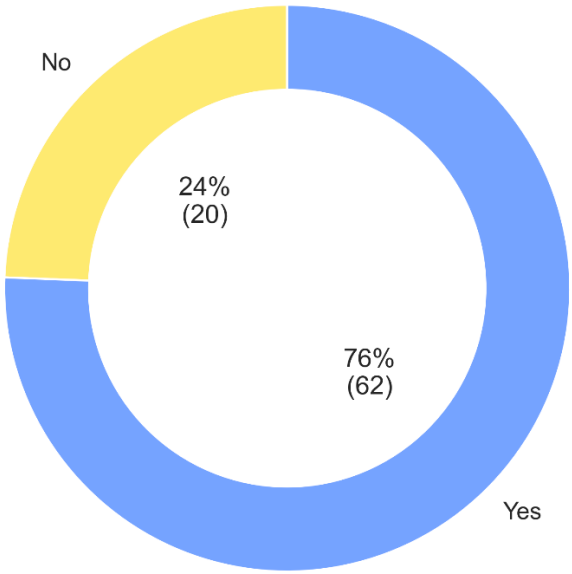
Additionally, the survey includes two questions that pertain to all employees, not just those in the surveillance function. The first question sought to determine whether employees disclose potential conflicts of interest, such as affiliations with companies active in wholesale energy markets. 77% of PPATs confirm that their employees do make such declarations (see Figure 13). The second question inquires about the presence of compliance officers within the company, where 76% percent of the PPATs report having compliance officers employed (see Figure 14).

*Figure 13: Employees declaring relevant interests*




*Note: n = 82*

*Figure 14: Compliance officers employed*



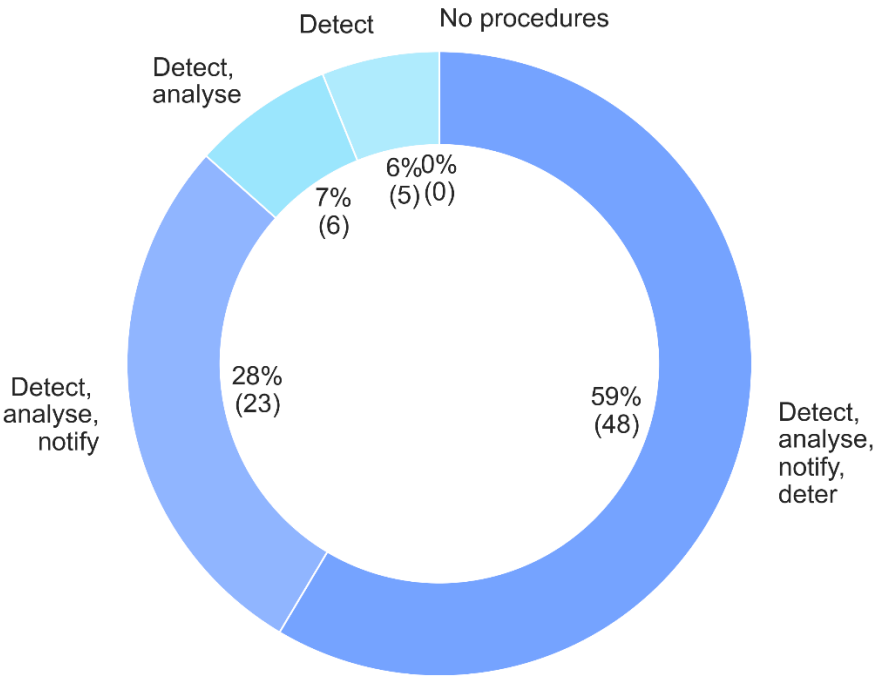

*Note: n = 82*

## Procedures

The second part of the survey focuses on the procedures in place within PPATs, with particular emphasis on identifying formally defined procedures. It also assesses the timeliness of these procedures, specifically evaluating how quickly PPATs can detect suspicious activities or events. This section aims to gain insights into the robustness of the monitoring systems and the responsiveness of PPATs when potential risks or irregularities arise.

Approximately 60% of PPATs report having all four components of the principle 'detect – analyse – notify – deter' clearly defined and formalized within their procedures. However, one-third of PPATs indicate that they have not formalized the final step, 'deter.' Additionally, only 11% of the participants have procedures in place solely for the detection and analysis stages, without formalized protocols for notification and deterrence. Thus, all PPATs report having at least one established procedure in place; none indicates the absence of procedures entirely, as can be seen in Figure 15.

*Figure 15: Procedures defined and formalised*

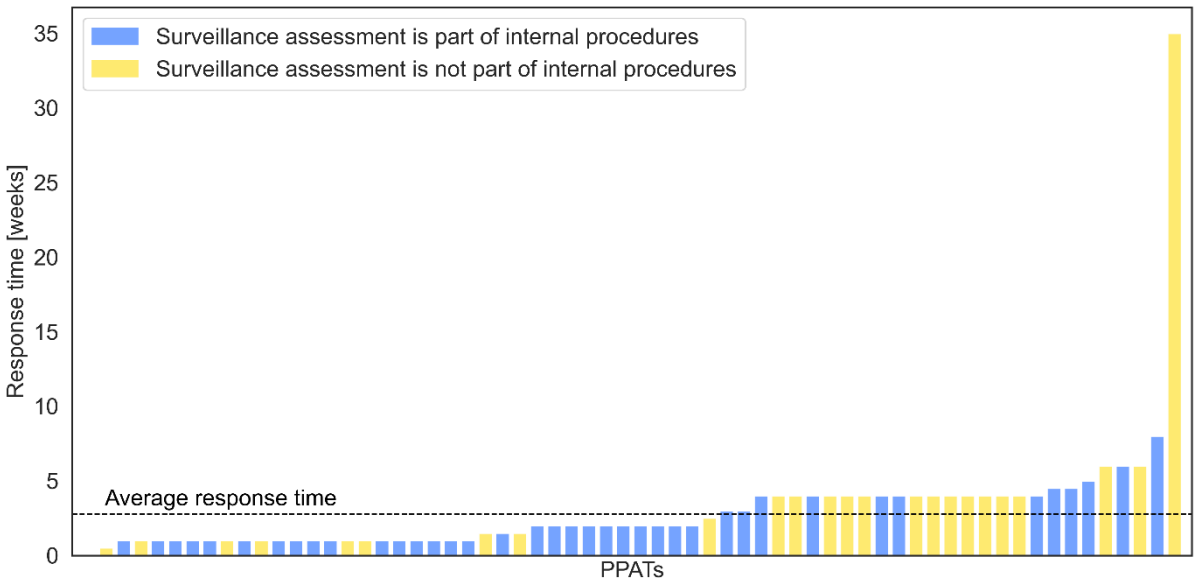



*Note: n = 82*

Among PPATs categorized as energy exchanges, approximately 90% have at least the first three components of the abovementioned principle defined. A similar trend is observed among TSOs, where 88% have formalized at least the first three parts of this principle. 84% of brokers report having all four components fully defined, demonstrating a comprehensive approach. In contrast, energy capacity platforms generally have only two or more components of the principle defined.

Additionally, the survey gathers information on the response time between the occurrence of an event and the detection of its suspicious nature. The average response time is three weeks. Notably, 60% of PPATs indicate that surveillance assessments are integrated into their internal company procedures, these PPATs report response times shorter than the average. One PPAT categorized under TSOs reported an average response time of 35 weeks, drawing attention to the other responses within this group of PPATs, as shown in Figure 16.

*Figure 16: Response time in relation to surveillance assessment being part of internal procedures*




*Note: n = 82*

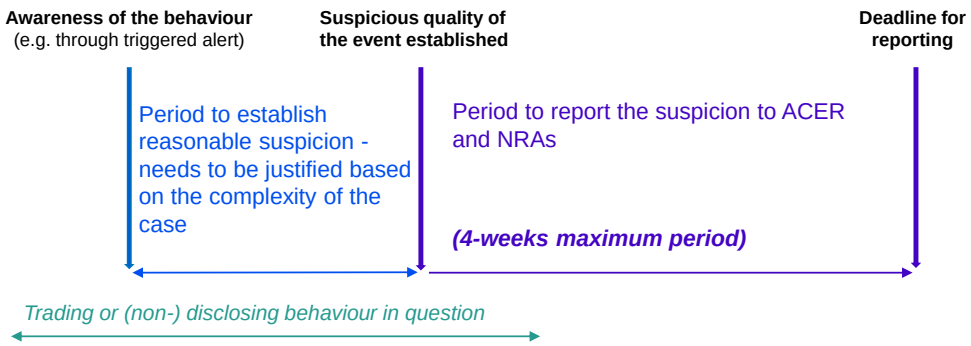
## *Box 2: DETECTION AND NOTIFICATION TIMING*

Article 15(1) of REMIT stipulates that notifications need to be submitted without further delay "and in any event no later than four weeks from the day on which that person becomes aware of the suspicious event" (see figure below, taken from the third REMIT ACER Open letter of 25/9/2024).

The question addressed to PPATs in the survey was on a different matter, namely on the "average time elapsed between the occurrence of the event and the detection of its suspicious nature". This relates to the 'Period to establish reasonable suspicion' (in blue in the figure below). They were asked to submit an estimate based on their experience.

The answers vary greatly and could also not be correlated sensibly to the type of operated market or other relevant circumstances. Therefore, this is certainly an area where further attention needs to be focused. As already pointed out in the open letter of 25/9/2024, contrary to the expected 4 weeks from the establishment of the suspicious nature to notification (STOR) submission, the time elapsed from the event (and then awareness of behaviour) can vary, but needs to be justified.

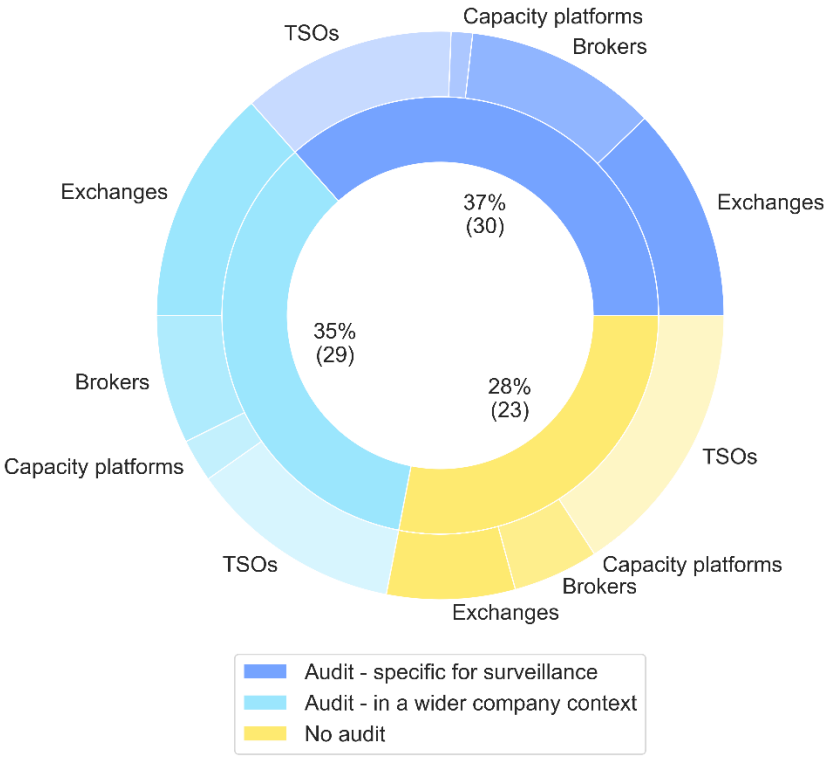
**Timeline for the detection and notification process**



The Procedures section also addresses the critical topic of auditing the surveillance setup. The findings revealed that 37% of PPATs report having their surveillance setup audited specifically for surveillance purposes, while 35% indicate it had been audited as part of a wider company audit. However, 28% of PPATs state they had never undergone any form of audit, as shown in Figure 17.

Notably, the majority of this latter group consists of PPATs operating in only a single EU Member State. However, when an audit is present, the distribution of PPAT types closely aligns with the overall distribution of PPAT types.

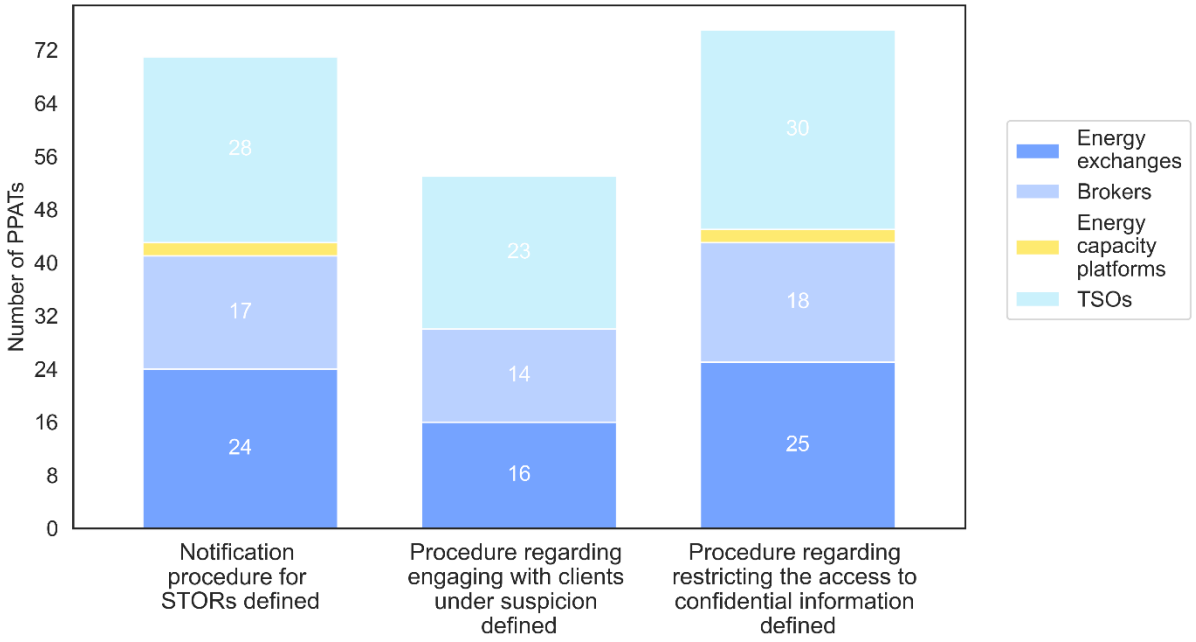
*Figure 17: Audit of the surveillance setup*




*Note: n = 82*

The survey also explores the specific procedures established by PPATs to ensure effective surveillance. Over 85% of PPATs report having a formalized procedure for STORs, typically documented internally and supported by detailed step-by-step work instructions. Additionally, 80% of PPATs confirm that company management is not able to influence or block the sharing of STORs with ACER and the responsible NRAs, ensuring the independence of the reporting process. Further findings reveal that 65% of PPATs have implemented policies to guide interactions with clients under suspicion, promoting transparency and accountability. Importantly, 90% of the PPATs have established robust procedures to restrict access to confidential information, safeguarding data security. These insights are illustrated in Figure 18.

*Figure 18: Procedures defined*




*Note: n = 82*

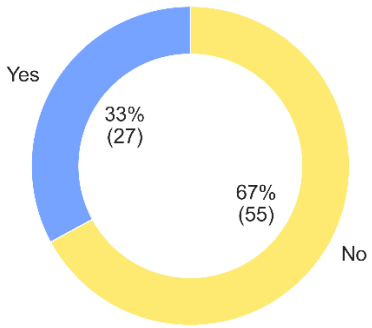
## Systems

The Systems section provides an examination of the software solutions used by PPATs to detect suspicious orders and transactions. This includes insights into how these systems function, the types of suspicious activities they are designed to identify, and the range of markets they monitor. Additionally, the survey investigates whether these systems are custom-built in-house or whether they were acquired from external providers. It needs to be mentioned that some markets might still not have dedicated professional software solutions available, which is mainly true for specific markets, such as balancing.

To detect suspicious orders and transactions only 33% of PPATs use a professional surveillance software system (see Figure 19). These are mostly energy exchanges and brokers. 61% of PPATs report also the use of self-developed tailormade IT solutions (see Figure 20). Considering those PPATs that use such IT solutions, the distribution of PPAT types closely aligns with the overall distribution of PPAT types. Additionally, 65% of PPATs report that those systems, professional and self-developed, cover all operated markets. Furthermore, 40% of PPATs have their surveillance systems certified through ISO or similar standards (see Figure 21).

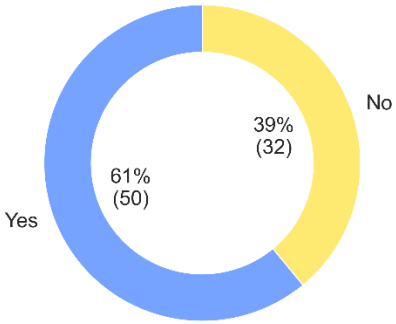
An analysis of surveillance systems across various PPAT types reveals notable differences. Most energy exchanges report having professional surveillance software systems, often complemented by self-developed solutions, reflecting a robust and comprehensive approach. Similarly, 85% of TSOs indicate the use of professional systems, typically integrated with self-developed tools for enhanced functionality. In contrast, only 56% of brokers report using professional systems, and few of them supplement these systems with self-developed solutions. Moreover, none of the energy capacity exchanges report having a professional surveillance system in place, with only one indicating the use of a self-developed IT solution.

*Figure 19: Professional surveillance software systems in place*



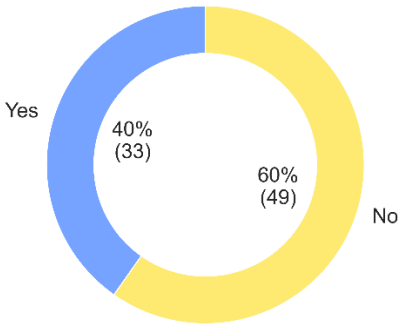

*Note: n = 82*

*Figure 20: Self-developed tailormade IT solutions in place*




*Note: n = 82*

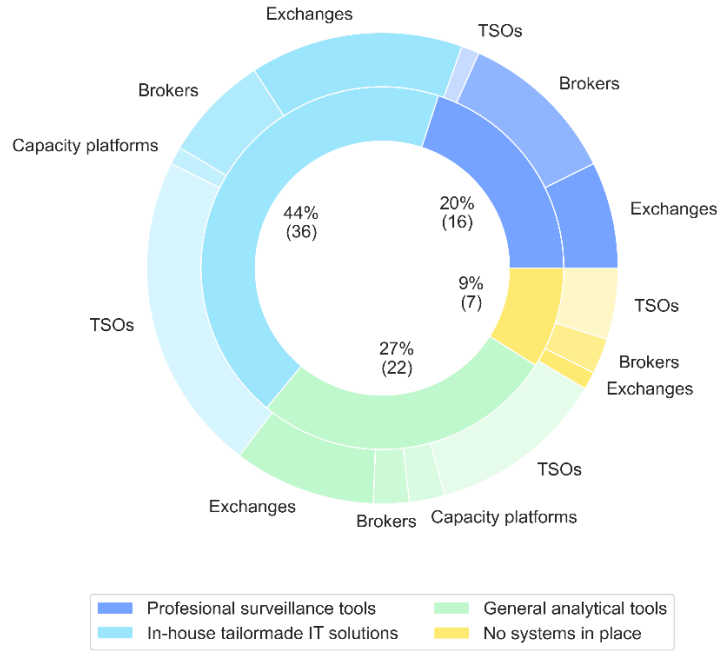
*Figure 21: Surveillance systems certified through ISO or similar standards*




*Note: n = 82*

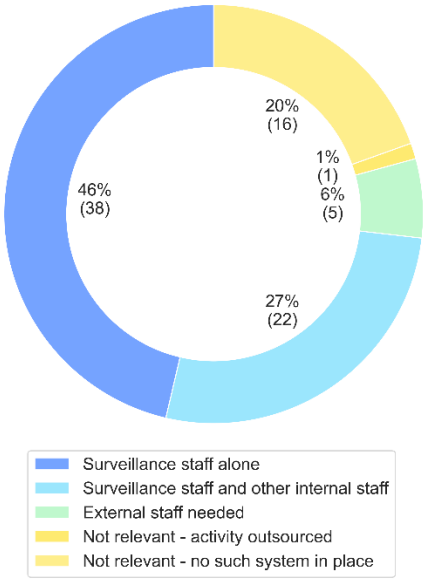
Moreover, almost half of PPATs report that surveillance work mostly relies on the in-house tailormade IT solutions. 27% report that the surveillance work relies mostly on general analytical tools, such as MS Office for example, while only 20% of them rely mostly on professional surveillance tools. 10% of PPATs do not have any surveillance systems in place at all, these are mostly PPATs covering only one EU Member State. For a detailed breakdown by types of PPATs see Figure 22.

*Figure 22: Systems surveillance relies most on*




*Note: n = 82*

*Figure 23: Change of surveillance parameters*



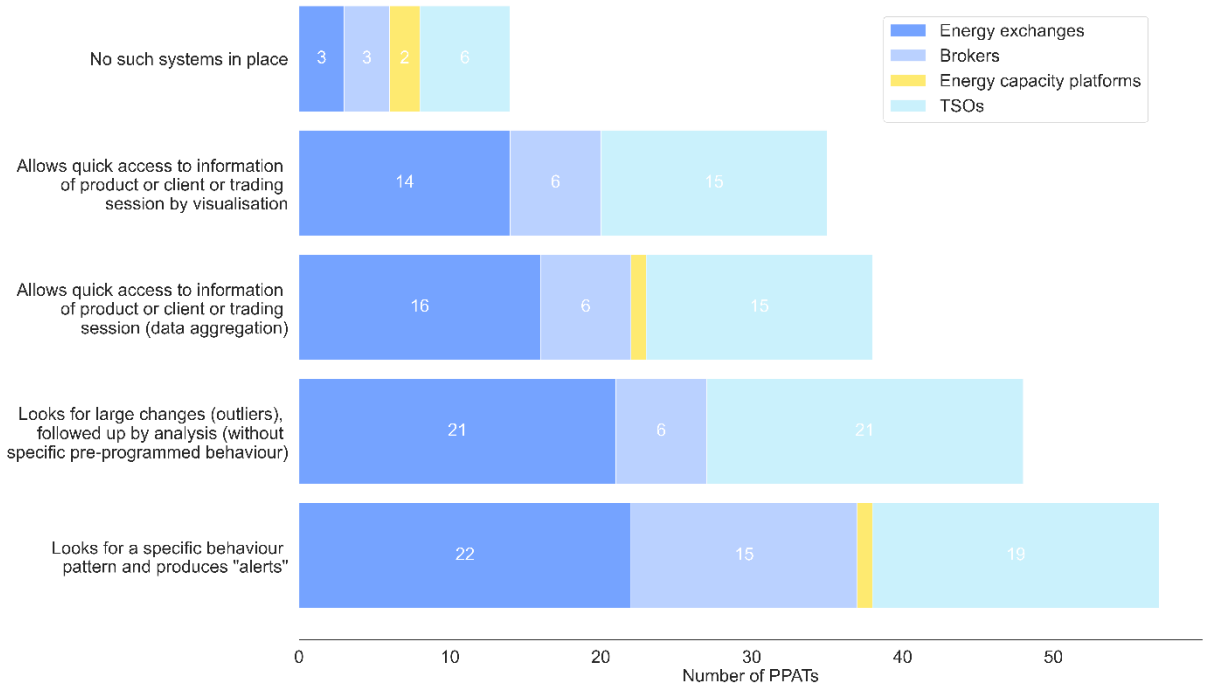

*Note: n = 82*

Parameters of surveillance systems can be changed by surveillance staff alone in 46% of PPATs and by surveillance staff and other internal staff in 27% of PPATs. External staff is needed to change the parameters in 6% of PPATs, as shown Figure 23. Most PPATs also provide brief descriptions of how the parameters for their surveillance systems are set. The majority report that the parameters are

determined based on a statistical analysis of market data and are regularly reviewed and updated to adapt to evolving market conditions and regulatory requirements.

The final question in the Procedures section aimed to gather insights into the general functionality of surveillance systems. The majority, nearly 70%, report that their surveillance systems are designed to identify specific behavioural patterns and generate alerts accordingly. Additionally, 60% stated that their systems include methods for detecting significant anomalies, such as outliers, ensuring robust monitoring capabilities. Furthermore, many PPATs highlight that their surveillance systems provide rapid access to comprehensive information about products, clients, or trading sessions, both in aggregated and visual formats. When considering the different types of PPATs, no significant differences are observed in their distribution, for a detailed breakdown refer to Figure 24.

*Figure 24: Work of surveillance systems in general*




*Note: n = 82*

## 4.2.3. PPATs' Self-Assessment

The final section of the survey focused on self-assessment, providing PPATs with a platform to critically evaluate their surveillance frameworks and identify areas requiring enhancement. Participants were encouraged to pinpoint specific operational conditions for which they believe need improvement. This section also aims to foster introspection about the overall effectiveness of their surveillance setup, helping participants recognize strengths and areas for growth. In addition to the structured self-assessment, PPATs were given the opportunity to offer supplementary comments.

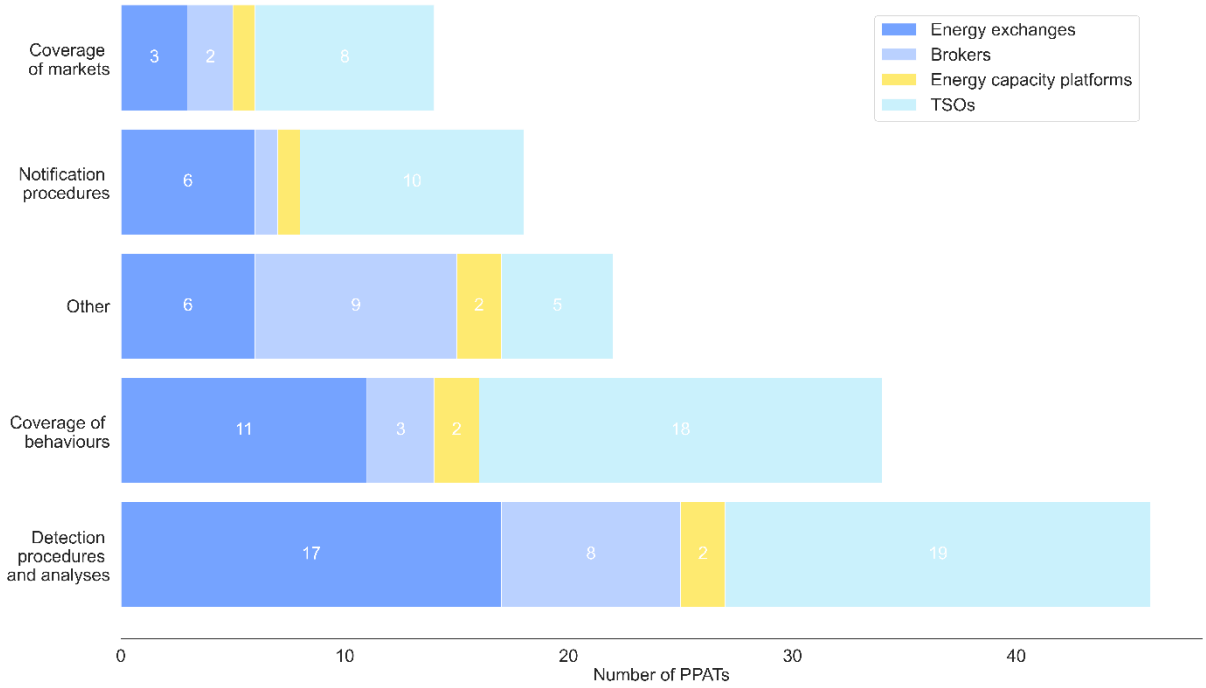
The results reveal a significant interest among PPATs in enhancing various aspects of their surveillance operations.

- Over half of the participants emphasized the need to improve detection procedures and analytical capabilities, highlighting the importance of more robust and accurate monitoring systems.
- 42% of respondents express a desire to broaden the scope of behavioural coverage, signalling a focus on capturing a wider range of potentially suspicious activities.

- Approximately 20% of participants identified the need to expand market coverage and to refine notification procedures.

Collectively, these findings highlight an important effort to strengthen core surveillance functions and adapt to evolving market dynamics. Further details can be found in Figure 25.

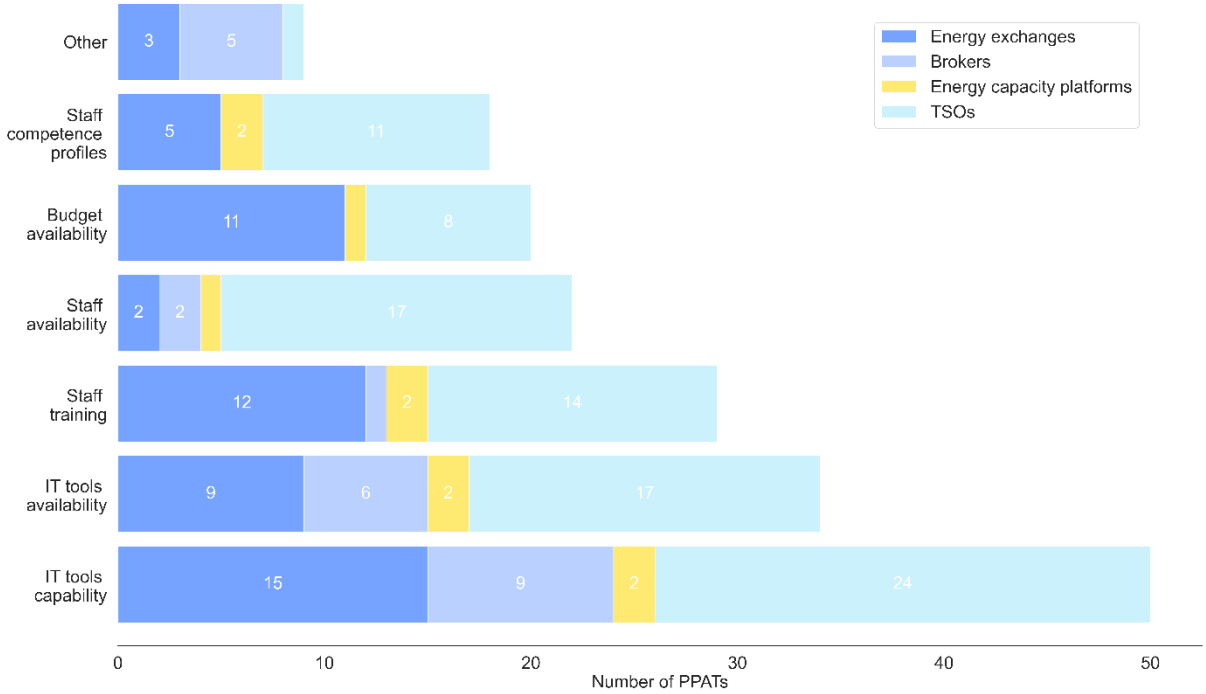
*Figure 25: Surveillance set-up elements wished to be improved*




*Note: n = 82*

Participants were also encouraged to identify specific surveillance conditions they want to enhance. A significant 60% of PPATs prioritize improving the capabilities of their IT tools. This emphasis is frequently paired with a desire to increase the availability of these tools, highlighting the critical role of reliable, efficient, and accessible technology in supporting effective surveillance operations, see Figure 26. In the comments section, it was noted that current surveillance tools are predominantly designed for monitoring spot products and are less equipped to handle derivatives. As derivative markets continue to evolve rapidly, adapting these tools to effectively oversee such products will become increasingly vital to maintaining robust surveillance standards.

*Figure 26: Surveillance conditions wished to be improved*



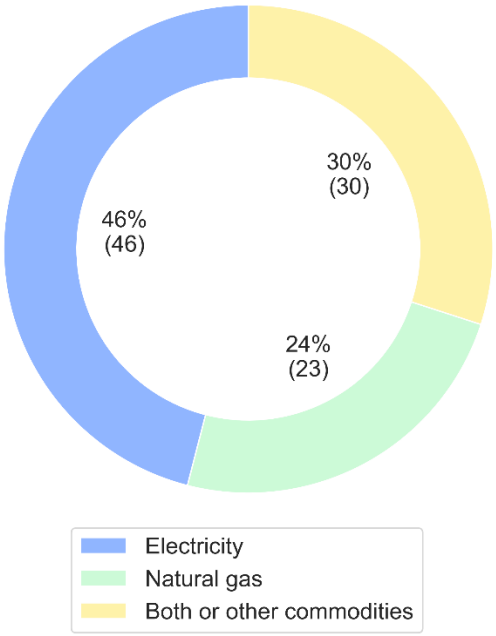

*Note: n = 82*

## 4.2.4. TSOs Specificities

Given their unique characteristics, TSOs warrant distinct consideration. As highlighted earlier, TSOs[24] represent the largest group of PPATs participating in the survey (33 - 40% of all respondents). Within this group, 46% of TSOs are active exclusively in electricity, 24% solely in gas, and the remainder operate in both (also because some responses were submitted as a group) or other commodity markets (see Figure 27).

Nearly 60% of TSOs arrange transactions exclusively on balancing markets, while, according to their responses, the others primarily engage in intra-day, day-ahead and other markets (primarily natural gas related). Electricity is the only commodity dealt with in derivatives markets by TSOs, as shown in Figure 28. The geographic scope of TSOs is naturally narrow – over 80% limit their coverage to a single Member State. Still, some state to operate in more than one, which is either due to some specifics or

*Figure 27: Commodities traded by TSOs*



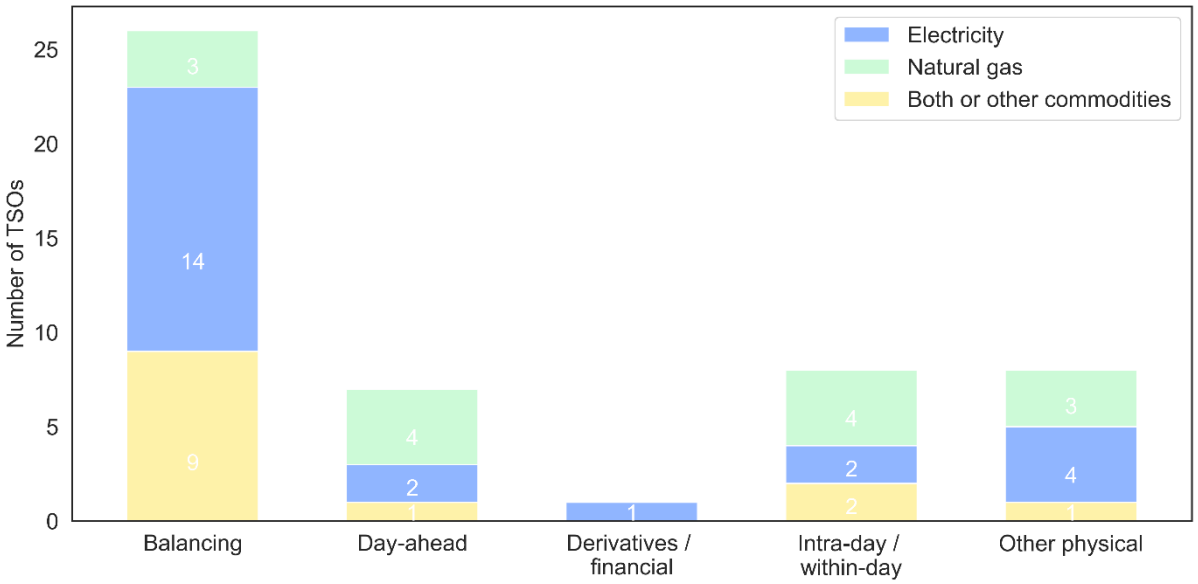

*Note: n = 33*

[24] Or entity performing TSO-like tasks

different understanding of respondents, what this coverage means.

Nevertheless, TSOs are generally well-established entities, with an average market presence of 17 years, reflecting their experience and integration into the energy markets.

*Figure 28: Wholesale energy markets where TSOs arrange transactions by commodities traded*




*Note: n = 33*

From an organizational perspective, almost half of the TSOs report having their surveillance functions embedded within other business functions. The majority of TSOs surveillance staff do not work exclusively on surveillance tasks, yet they possess the flexibility to adjust surveillance parameters independently as needed. On average, 1,5% of all employees (FTEs) works on surveillance tasks, which is connected to the fact that the majority of the TSOs' employees are not connected to any energy market operations, but to different tasks. This is markedly different in comparison to other types of PPATs, especially exchanges or brokers.

When examining their operational frameworks, 94% of TSOs report having at least the first three components of the 'detect – analyse – notify - deter' principle in place. However, only 13% of TSOs utilize professional surveillance software systems, relying predominantly on in-house tailormade solutions. This highlights a potential gap in adopting advanced tools, which could further strengthen their surveillance capabilities. At the same time, TSOs arrange trading on markets that are specific and might require further software development. Also, the duality of TSOs, showcasing their role as experienced market participants while also revealing some surveillance related challenges. This can also be explained by the fact that the PPAT "status" is relatively new to TSOs and similar entities, such as energy capacity platforms.

This is reflected by the fact that quite many TSO potentially misclassified themselves regarding the exact PPAT type. Out of 24 entities that potentially answered wrongly to the PPAT type question, 22 were TSOs. See Box 3 below for details.

In summary, TSO specifics regarding the PPAT role are the following:

- Relatively new to the role, at least formally;
- REMIT related tasks are usually marginal compared to other tasks; and
- The share of FTEs allocated to REMIT tasks is much lower.

***Box 3: WHAT KIND OF PPAT?***

After the last revision, REMIT is more specific regarding PPAT types. As shown also in Figure 1, PPATs can be divided in the following categories:

- Organised market places (OMPs), with the following subcategories – Exchanges, Brokers, Energy Capacity Platforms and Other OMPs;
- DEA providers;
- Order book providers;
- Trade matching systems; and
- Other PPATs.

An assessment was conducted where ACER categorised respondents based on available information. It needs to be stressed that this is a preliminary assessment and might change based on additional inputs and clarifications. For example, the PPAT status might change if an entity transfers (all) PPAT-relevant tasks to another entity.

Out of 82 responses, 24 (or 29.2%) could be construed to be misclassified, based on their response.

In one case, the response was "Other OMP", while ACER's preliminary assessment was "Broker". In all other cases the difference was between "Other OMP" and "Other PPAT".

One of such example is the classification of TSOs. According to the definition of OMPs in the Revised REMIT Regulation, TSOs generally qualify as "Other OMP" and not as "Other PPAT".

## 4.3. Surveillance capability analysis

In addition to the preliminary analysis presented in section 4.2, another objective of the report is to assess the surveillance capability in PPATs, specifically arrangements, systems, and procedures employed in the surveillance activities of the PPATs.

As stated in section 3.3, the scoring was conducted on specific questions from the main three sections Arrangements, Procedures and Systems, with each section evaluated individually. Details are available in the Annex.

The overall score was calculated as a weighted average of the results from all three sections, with equal weight assigned to each section. This approach ensured a balanced and comprehensive score.

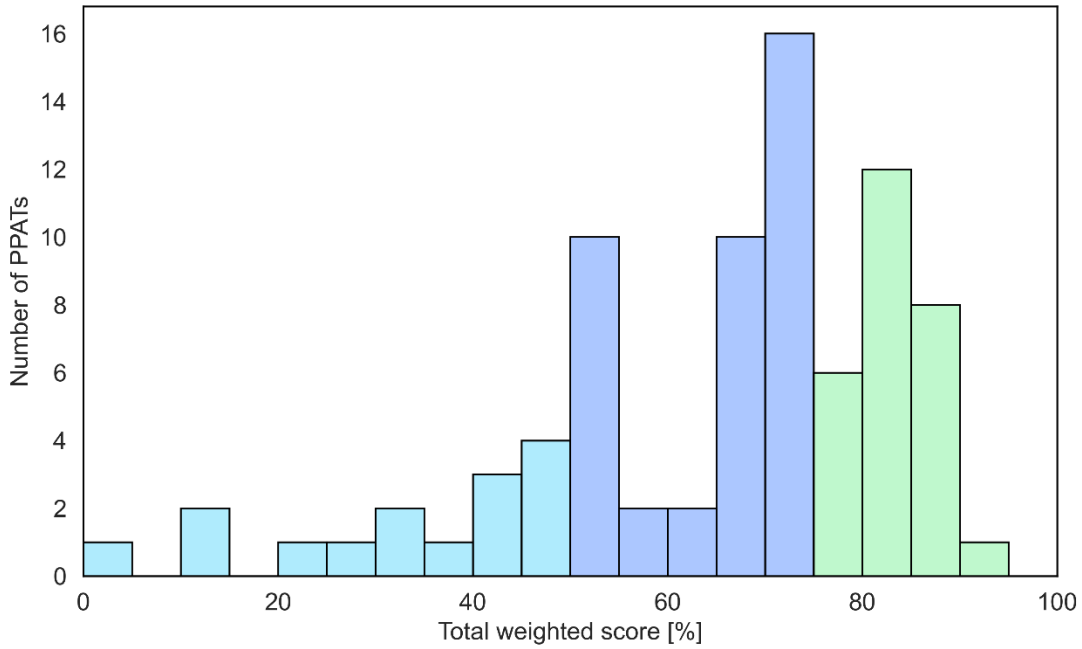
The average total weighted score across all respondents was 64%. The lowest score recorded was 2%, attributed to a PPAT that has not yet started operations. Excluding this, the minimum valid score was 12%, indicating that some participants met very few of the criteria. The highest score achieved was 92%, reflecting the strongest performance observed within the dataset.

The standard deviation of 19%p[25] reveals a relatively high degree of variability in the scores. The interquartile range was 26%p, indicating that the middle 50% of the scores fell within a 26%p range, showing a moderate level of consistency in the central scores but also reflecting the spread in the higher and lower scores. Overall, the distribution of scores suggests that most participants' scores are somewhat spread out, with a few outliers at both the lower and higher ends.

A more detailed view of the distribution of scores is presented in Figure 29.

[25] Percentage points

*Figure 29: Distribution of total weighted scores*



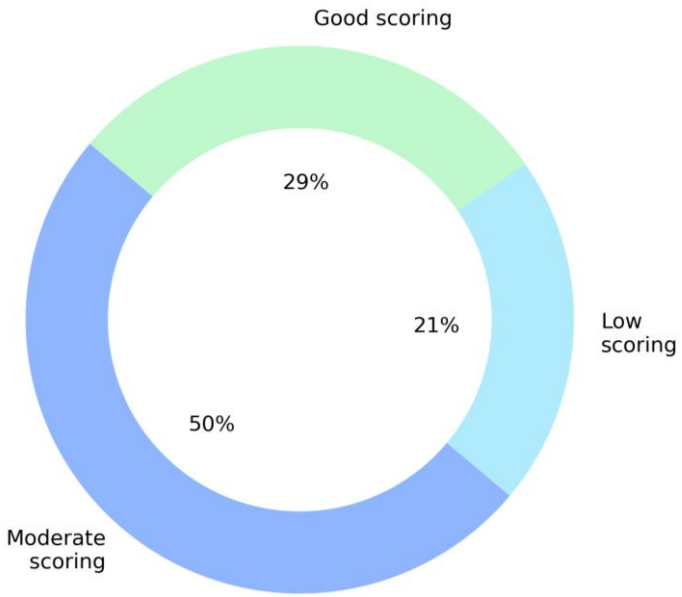

*Note: n = 82*

For illustration purposes PPATs can be categorized into three groups based on their scores:

- 50% or less – low scoring, substantial room for improvement,
- between 51% and 75% - moderate scoring, partial room for improvement,
- exceeding 75% - good scoring, room for improvement regarding less critical issues.

50% percent of participants achieved a moderate scoring, 29% achieved a good scoring, and approximately 21% of PPATs had a low scoring, as shown in Figure 30.

*Figure 30: Score results of the PPATs*

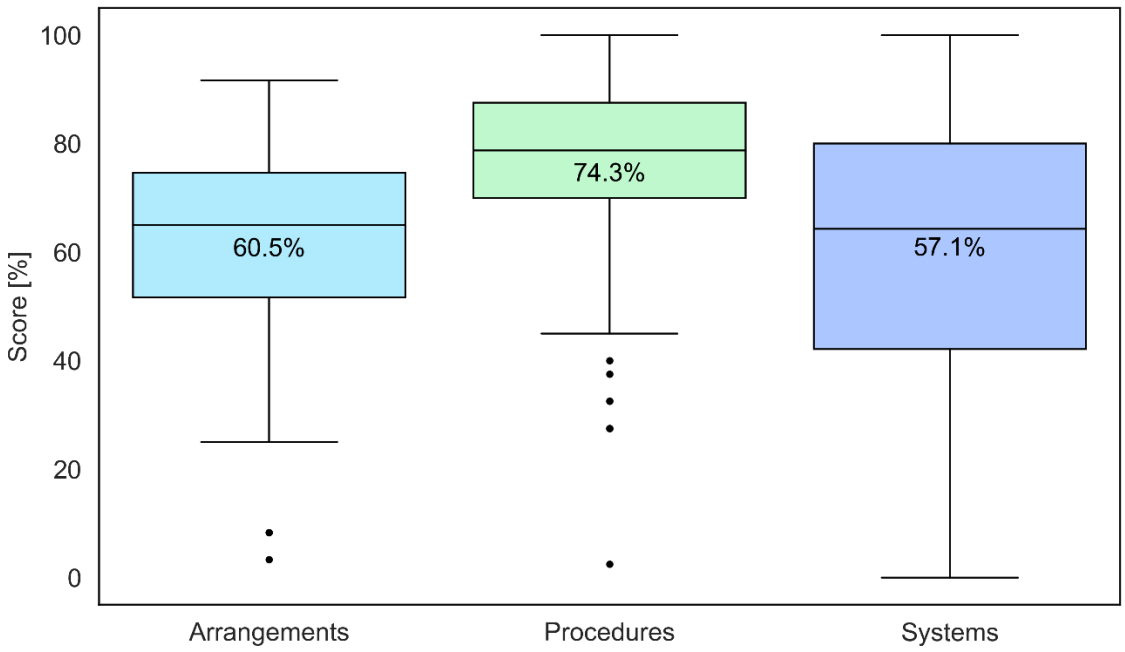



*Note: n = 82*

At the same time, it needs to be kept in mind that these ratings are a result of the methodology described in this report. An above average rating may in individual cases not necessarily and always be connected with the timely notification of high-quality STORs to the relevant recipients, which remains to be the target outcome of every surveillance procedure. Similarly, a low scoring might not necessarily mean delivery of low-quality STORs.

The analysis of the scores achieved for arrangements, systems and procedures in place reveals small differences in scores across the three areas. The area with the highest scoring was "Procedures", which achieved an average score of 74%. It is followed by the "Arrangements", with an average score of 61%, and "Systems" with 57%. The greatest variability in scores was observed in "Systems", as indicated by the higher spread of results, see box plot[26] in Figure 31.

*Figure 31: Scores according to section*




*Note: n = 82*

The scores were further analysed by categorising participants based on their type, market size (measured by traded quantities), years of operation as market intermediaries, and relevant commodities. The results for each group are presented in the following sections.

[26] A box plot is a graphical representation of a dataset that summarizes its distribution. The box represents the interquartile range, which contains the middle 50% of the data. The lower bar of the box indicates first quartile Q1, meaning that 25% of the data lies below this value. The bar in the middle of the box is the median value or Q2, representing the mid-point of the dataset. The bar at the top of the box indicates third quartile Q3, where 75% of the data lies below this value. Interquartile range is defined as IQR = Q3 – Q1. Furthermore, the box plot also contains whiskers, which extend from Q1 to minimum and from Q3 to maximum, excluding outliers. Outliers are represented by dots, these are values that are 1.5 x IQR below Q1 or above Q3. Additionally, the number displayed inside the box represents the mean or average score.

### 4.3.1. Scores by Type of PPAT

First, the scores were examined across different types of PPATs: energy exchanges, brokers, TSOs, and energy capacity platforms. A summary of the scores by PPAT type is provided in Table 1. The number in brackets next to the group represents the respondents for each type of PPAT. Next to each category, the number of PPATs in that specific category is indicated in brackets. A similar approach is used in all the following tables.

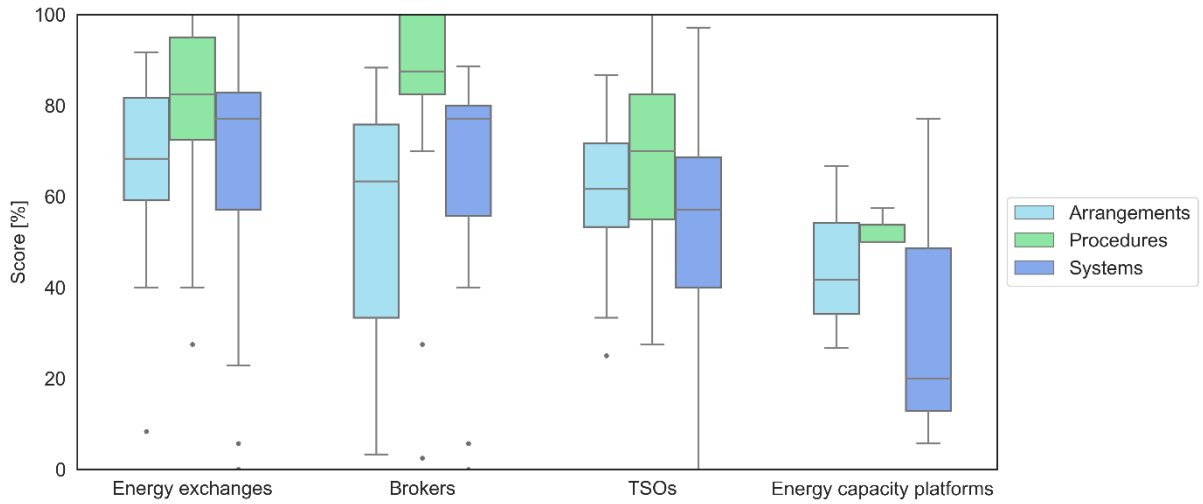
*Table 1: Average scores by type of PPAT*

| | Arrangements | Procedures | Systems | **Total** |
|---|---|---|---|---|
| Energy exchanges (27) | 67% | 78% | 66% | 70% |
| TSOs (33) | 60% | 68% | 50% | 59% |
| Brokers (19) | 54% | 83% | 61% | 66% |
| Energy capacity platforms (3) | 45% | 53% | 34% | 44% |

The highest scoring was observed among energy exchanges, with an average total score of 70%. The distribution of scores across different sections was relatively even. Brokers also had high scoring levels, with an average score of 66%. However, their scoring varied between sections. The Arrangements section received the lowest score among brokers, suggesting that there may be room for improvement in this area. On the other hand, brokers excelled in the Procedures section, achieving an average score of 83%.

Furthermore, TSOs had an average score of 59%, indicating moderate adherence to expected standards, at least as defined in this analysis. The lowest scoring was observed among energy capacity platforms, which achieved an average score of 44%. Notably, the biggest gap in their performance was observed in the Systems section, where they scored only one third of the possible points. Note that there are also entities that classify as TSOs but also, among others, offer capacity platforms but are considered under a different category. In addition to these observations, further details on the distribution of scores across all groups and sections are presented in Figure 32.

*Figure 32: Scores by type of PPATs across sections*




*Note: n = 82*

### 4.3.2. Scores by Size of PPAT

The analysis also examined the relationship between PPATs' size and scores, categorizing PPATs into three groups based on the total traded quantities they arranged in 2023 under REMIT. Due to the complexities involved in defining quantities arranged for TSOs and energy capacity platforms, they were excluded from this aspect of the analysis. The remaining PPATs, comprising energy exchanges and brokers, were divided into three size groups: small (trading less than 100 TWh), medium (trading between 100 TWh and 5,000 TWh), and large (trading 5,000 TWh or more)[27].

The results revealed a clear trend: medium and large-sized PPATs tend to have higher scores, suggesting that as the scale of operations increases, so does adherence to expected standards. This could reflect the greater resources and more established systems that larger PPATs can afford to dedicate to surveillance processes. Small-sized PPATs, on the other hand, had comparatively lower scores, possibly due to limited resources or less robust systems in place for meeting the expected standards. The number in brackets next to the group represents the respondents for each size. For further details on these findings, refer to Table 2.

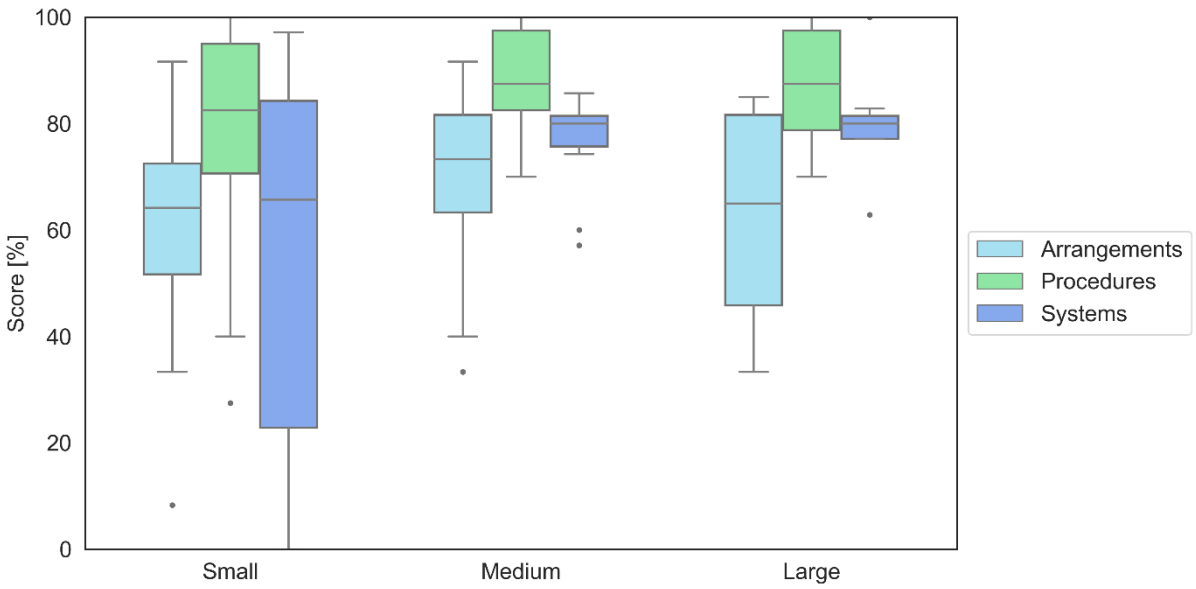
*Table 2: Average scores by size of PPAT*

| | Arrangements | Procedures | Systems | **Total** |
|---|---|---|---|---|
| Small (20) | 61% | 78% | 56% | 65% |
| Medium (15) | 69% | 89% | 76% | 78% |
| Large (7) | 63% | 87% | 80% | 77% |

The variability in scores over all sections revealed notable differences across PPATs' sizes. Medium and large PPATs exhibited lower variability, suggesting that these organizations tend to have more consistent performance across different sections. In contrast, small PPATs showed the highest variability, especially in the "Systems" section, indicating greater disparities in their adherence to expected standards, as illustrated in Figure 33.

[27] The numbers are based on answers in the survey and do not necessarily match exactly the trading quantities based on REMIT reporting.

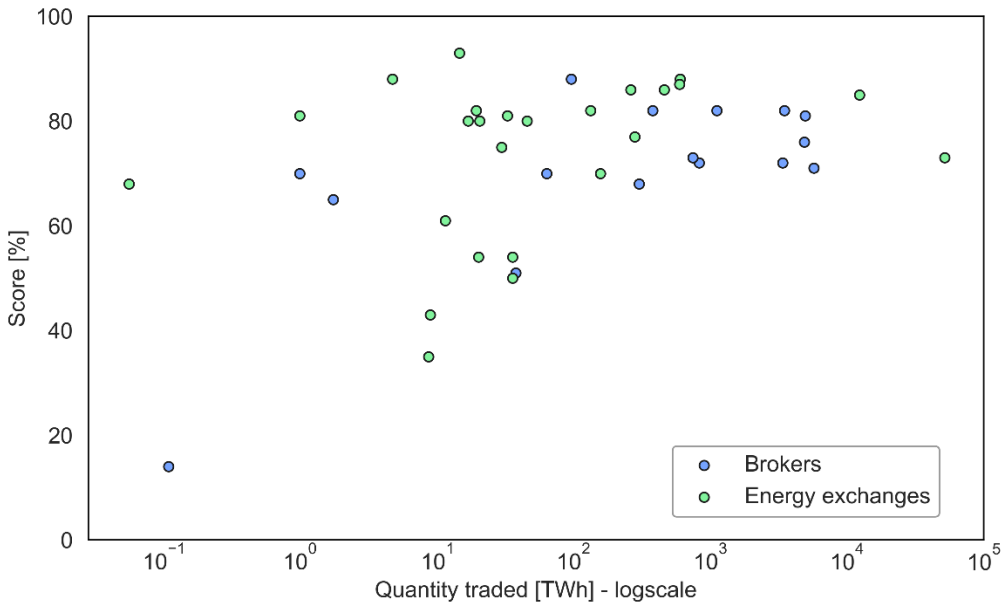
*Figure 33: Scores by sizes across sections*




*Note: n = 42*

The trend indicating a positive relationship between higher traded volumes and higher scores is observed across all types of PPATs. However, energy exchanges show greater variability in traded quantities, while brokers exhibit smaller variations. This relationship between traded quantities and scores achieved is visually illustrated in Figure 34.

*Figure 34: Scores by traded quantities for brokers and energy exchanges*




*Note: n = 42*

### 4.3.3. Scores by Active Years

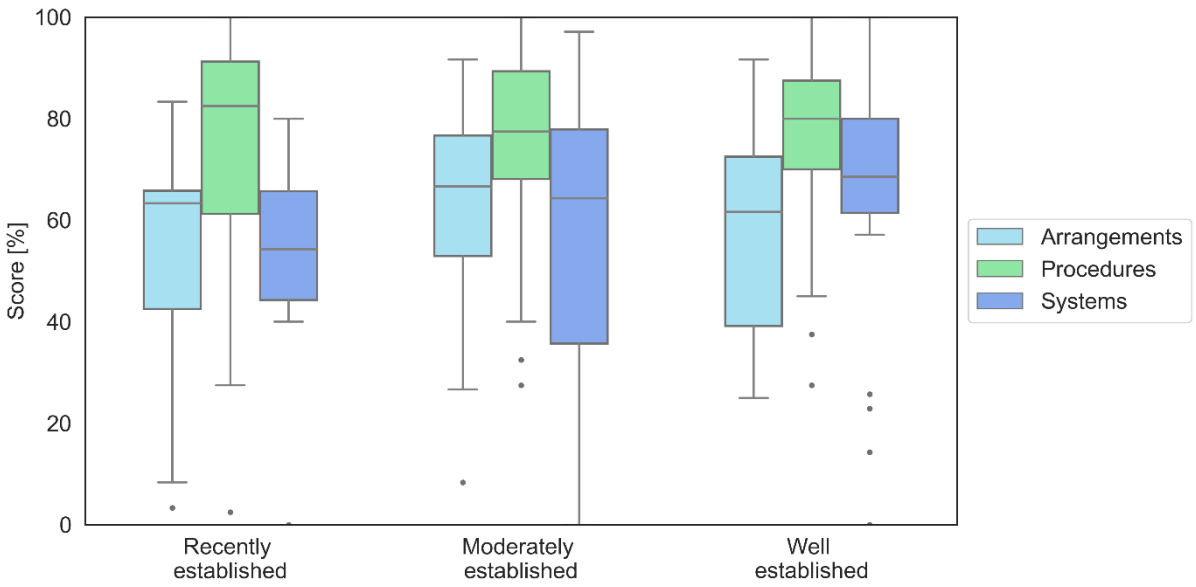
PPATs were grouped also based on their years of activity as market intermediaries: recently established (less than 5 years), moderately established (5 to 20 years), and well-established (more than 20 years). A similar trend to the one observed with PPATs' sizes emerged here, with longer-established companies achieving higher scores. Recently established PPATs had the lowest scores, while the differences between moderately and well-established groups were minimal, with total average scores of 64% and 66%, respectively. Table 3 presents the detailed numbers. The number in brackets next to the group represents the respondents categorised based on the establishment duration.

*Table 3: Average scores by active time as market intermediary*

| | Arrangements | Procedures | Systems | **Total** |
|---|---|---|---|---|
| Recently established (11) | 52% | 71% | 49% | 57% |
| Moderately established (44) | 63% | 75% | 55% | 64% |
| Well established (27) | 60% | 75% | 63% | 66% |

Similar patterns were observed in the variability of the results. As shown in Figure 35, well-established companies exhibited lower variability in their scores, indicating more consistent performance, while recently and moderately established companies showed higher variability, suggesting less uniformity in their results.

*Figure 35: Scores by active time as market intermediary across sections*




*Note: n = 82*

### 4.3.4. Scores by Commodities

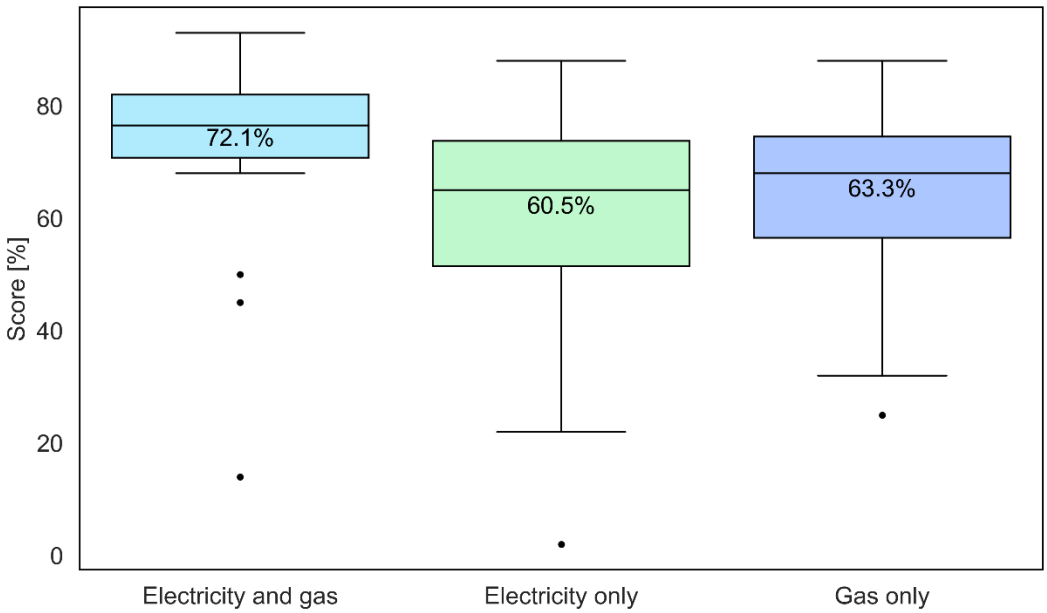
The analysis also examined whether there were statistically significant differences in the scores of PPATs arranging trading of different commodities. Here not only energy is considered, but also storage and transportation capacity. To explore this, PPATs were categorized into three groups: those involved in only electricity, only gas, and those involved in both. The number in brackets next to the group represents the respondents for each commodity type. One PPAT was excluded from this categorisation since it is not arranging trading of neither electricity nor gas. The findings showed that PPATs involved in both electricity and gas achieved higher scores across all three sections, with an average total score of 72%. In contrast, PPATs involved in only one type of commodity, either gas or electricity, had average scores of approximately 60%. These results are summarized in Table 4.

*Table 4: Average scores by commodity*

| | Arrangements | Procedures | Systems | **Total** |
|---|---|---|---|---|
| Electricity and gas (24) | 62% | 83% | 71% | 72% |
| Electricity only (38) | 60% | 71% | 50% | 60% |
| Gas only (19) | 62% | 73% | 55% | 63% |

The highest variability in scores was observed among PPATs involved in only gas. However, some outliers were also identified among electricity PPATs and those involved in both commodities. Figure 36 presents the details.

*Figure 36: Scores by commodity*




*Note: n = 81*

### 4.3.5. Scores cross-check with STORs

A cross-check was done also regarding the interplay between the final score and the number of STORs, submitted by the PPAT in 2023 and 2024 via ACER's Notification Platform. During these two years, 26 PPATs submitted at least one STOR. Two of these entities did not reply to the survey – but in general, it can be safely stated, that the response rate for PPATs that already submit STORs is highly above average (92% vs 70%). Results are presented in Table 5.

*Table 5: Average score and STOR submission*

| Number of STORs in 2023 and 2024 | Average score |
|---|---|
| No STORs | 63% |
| Less than 3 STORs | 63% |
| 3 or more STORs | 73% |

While there is no difference between PPATs that have not submitted STORs in the last two years and those, that sent less than 3, there is a marked difference when the number of STORs increases to at least 3. The difference is 10%p. Out of the 24 PPATs that submitted STORs and also replied to the survey, 14 PPATs submitted at least 3 STORs in 2023 and 2024 combined.

# 5. Conclusions and recommendations

The statistical analysis of survey responses provides valuable insights for future discussions on REMIT obligations of PPATs and market surveillance in general. However, with a 70% response rate, the findings may not fully represent the broader population of PPATs, so caution should be exercised when generalizing the results. As pointed out in section 4.1.1, the under-representation concerns mostly entities outside the EU, smaller entities and, in terms of categories, mostly TSOs and brokers.

The reported traded quantities in 2023 revealed significant market concentration, with 90% of all volumes covered by just six PPATs. These achieved above average scores, averaging 75.7%, compared to the overall average of 64%. Additionally, while most PPATs have established surveillance units, either as separate entities or integrated within broader structures, a few still lack formalized surveillance mechanisms. Besides, many surveillance staff work across multiple functions, not only related to surveillance.

Most PPATs report having adequate staffing levels and budgets for monitoring activities, but many desire improved IT tools. This indicates that while financial resources are generally sufficient, the existing surveillance tools may not be fully optimized to support surveillance activities.

The survey measured the surveillance capabilities of systems, arrangements, and procedures, with an average score of 64%. The area with the highest score "Procedures", where the average reached 74%, followed by "Arrangements" with 61% and "Systems" with 57%. In terms of overall rating, half of participants achieved a moderate scoring, 29% achieved a good scoring, and approximately 21% of PPATs had a low scoring.

Regarding PPAT types, energy exchanges had the highest scores, followed by brokers, TSOs, and cross border capacity exchanges. However, larger and longer established PPATs typically had higher scores, reflecting their greater resources for surveillance efforts. Additionally, those PPATs which trade both main commodities, electricity and natural gas, achieved higher scores than those trading only one commodity.

In summary, the survey provides insights into PPATs surveillance capability under REMIT, identifying strengths and areas for improvement. It highlights the need for continued development of surveillance systems, particularly IT tools optimization. Based on the survey results, ACER recommends the following priorities to PPATs:

<u>Arrangements</u>

1. PPATs **should focus on separating the surveillance function (internally or through outsourcing)**. Specialisation and professionalisation of staff and tools not only help to prevent potential conflicts of interest but also lead to better results in terms of surveillance capabilities.
2. Direct **intervention of the PPAT management into the surveillance function needs to be mitigated** through effective policies. It should be totally prevented for areas relating to choice of methods, freedom to investigate and especially freedom to notify authorities.
3. PPAT **HR policies need to be adapted to protect surveillance staff from potential conflicts of interest**. Only independent and well-functioning market surveillance can create trust among the market participants. Trust in the orderly functioning of trading is essential for the long-term success of any market venue. It is also advisable, that a **suitable mix of staff competences** is available to carry out monitoring work.

<u>Procedures</u>

1. **Targeted audits** of the surveillance functions should be performed more frequently, considering the surveillance specific needs of information and data security.

2. Although the **PPAT management** should be informed without delay about suspicious findings, it needs to be **excluded from any possibility to influence the notification process** to ACER and the responsible NRA(s).
3. **Procedures for client/customer interaction with surveillance are often under-developed** and need to be updated or improved.

Systems:

1. The **use of professional and certified systems to detect and notify suspicious behaviour is encouraged, if available for the specific needs of the PPAT**. General analytical tools may be insufficient to produce reliable surveillance coverage. A mixture of professional tools and tailor-made solutions is likely to achieve the best results in terms of surveillance capabilities. **Not having systems in place constitutes a breach of REMIT** and as such can't be tolerated. Nevertheless, it is expected that the evolution of systems is gradual and goes in parallel with other surveillance elements, in particular sufficient and well-trained staff.
2. The **coverage of existing surveillance systems needs to be expanded to cover all tradable products**. Only if this is achieved, manipulative behaviour across-products or asset classes can be detected in a sufficiently reliable manner.
3. Surveillance functions at PPATs **need to be more independent from other departments within the PPAT**, in order to flexibly adjust alert parameters, and to uphold deterrence through the effective protection of surveillance methods and thresholds.

Most of the above-mentioned recommendations seem to **overlap with the results of the self-evaluation concluded by the PPATs surveillance staff**: IT systems and tools are the greatest concern in terms of their availability, flexibility and capability to deal with the very specific requirements of energy markets.

ACER encourages all PPATs to verify their surveillance capabilities paying particular attention to the following situations reported in the survey:

- No surveillance function in place.
- Employees are not declaring potential conflicts of interest.
- The "detect - analyse - notify - deter" procedures are not defined and formalised.
- No surveillance system in place.
- PPAT management can influence content or block notifications (STORs) to be shared with ACER and the responsible NRAs.

In general, all PPATs that identify the situations listed above, should take immediate action to address them.

# ANNEX

This Annex contains further details on the scoring methodology (first Table), as well as all the questions on the survey with added scores for possible answers (second Table). The scoring methodology might be further developed in future reports.

## Scoring of the results of Survey on Article 15.5(a)

| Section number | Section name | Min possible score | Max possible score | Section weight | Scoring |
|---|---|---|---|---|---|
| 1 | Key info on respondents | 0 | 0 | 0 | Not scored |
| 2 | Arrangements (number of questions 12) | 0 | 60 | 0,33 | Availability of sufficient resources (max. points 20) – Q11, Q14, Q19, Q18<br>Qualification and continuous training of surveillance staff (max. points 15) – Q20, Q21, Q22<br>Institutional independence (max. points 25) – Q15, Q16, Q17, Q25, Q13 |
| 3 | Procedures (number of questions 8) | 0 | 40 | 0,33 | Segregation from commercial interests (max. points 15) – Q24, Q31, Q32<br>Established monitoring routines and processes (max. points 25) – Q26, Q28, Q33, Q34, Q36 |
| 4 | Systems (number of questions 7) | 0 | 35 | 0,33 | Availability of designated monitoring tools (max. points 20) – Q38, Q39, Q40, Q44<br>Adequacy of monitoring tools including security aspects (max. points 15) – Q41, Q43, Q45 |
| 5 | Assessment | 0 | 0 | 0 | Not scored |

Note: Scored questions that were left blank achieved a score of 0.

The score is computed for each PPAT with the following procedure:

1. For each section (2, 3, 4) the share of points is computed, i.e. the achieved score is divided by the maximum possible score.
2. This value is then multiplied by the section weight (NB: the weighing of the sections was purposefully kept the same for all three) and summed up into the total score for a particular PPAT. The score is expressed in percentages (%).

| Question number | Question text | Min possible score | Max possible score | Scoring |
|---|---|---|---|---|
| 1 | What is the full name of your entity/company? | 0 | 0 | Not scored |
| 2 | Please provide the full name and role of the person, responsible for filling out the questionnaire | 0 | 0 | Not scored |

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| 3 | Please provide the e-mail contact of the person, responsible for filling out the questionnaire | 0 | 0 | Not scored |
| 4 | How many EU Member States are covered by the market you operate, in terms of delivery? | 0 | 0 | Not scored |
| 5 | Which type of person professionally arranging transactions (PPAT) are you? | 0 | 0 | Not scored |
| 6 | Which energy commodities / products are traded on your market(s)? | 0 | 0 | Not scored |
| 7 | For what type(s) of wholesale energy markets do you arrange transactions? | 0 | 0 | Not scored |
| 8 | If you deal with more than one commodity / product, please explain which types of markets relate to which commodity / product. Please also provide other details, that might be relevant. | 0 | 0 | Not scored |
| 9 | How many years has the entity/company been active as an intermediary on the market? | 0 | 0 | Not scored |
| 10 | What were the total traded quantities in all your operated markets (that fall under REMIT) in 2023 (in TWh)? | 0 | 0 | Not scored |
| 11 | What is the governance structure of the surveillance function? | 0 | 5 | Five possible answers:<br>- no surveillance function: 0<br>- outsourced: 5<br>- embedded within other functions: 3<br>- separate surveillance unit or similar: 5<br>- other: 1 |
| 12 | Any further comments on the governance structure of the surveillance function? - If the governance structure was "other", please describe - If “outsourced”, please explain whether to an affiliated company (same group) or other - If you offer surveillance as a service, | 0 | 0 | Not scored |
| 13 | Does the legal set-up guarantee that surveillance staff is carrying out their duties only with proper market functioning in mind? | 0 | 0 | Slider (higher score – more points):<br>- no answer: 0<br>- 1: 0<br>- 2: 2<br>- 3: 3<br>- 4: 4<br>- yes (5): 5 |
| 14 | Is surveillance staff exclusively working on surveillance tasks? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 15 | Can the company management directly interfere in the work of the surveillance function? (e.g. changes in organisation, budget, work processes etc.) | 0 | 5 | Two possible answers:<br>- yes: 0<br>- no: 5 |
| 16 | Can surveillance staff be relieved of their duties without their consent and without previous notification to the responsible NRA? | 0 | 5 | Two possible answers:<br>- yes: 0<br>- no: 5 |

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| 17 | Can surveillance staff choose methods for surveillance and thresholds for the detection work? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 18 | Is there sufficient staff and budget available to fulfil monitoring tasks? | 0 | 0 | Slider (higher score – more points):<br>- no answer: 0<br>- no (1): 0<br>- 2: 2<br>- 3: 3<br>- 4: 4<br>- yes (5): 5 |
| 19 | What is the approximate share (percentage) of (Number of FTEs working on Monitoring/Surveillance tasks) / (Number of all FTEs working in the PPAT)? | 0 | 5 | Written answer scored differently based on PPAT's type.<br><br>Written answer for non-TSOs:<br>- [0%, 1%): 0<br>- [1%, 2%): 1<br>- [2%, 3%): 2<br>- [3%, 4%): 3<br>- [4%, 5%): 4<br>- 5% or more: 5<br><br>Written answer for TSOs:<br>- [0%, 0.1%]: 0<br>- (0.1%, 0.3%]: 1<br>- (0.3%, 0.5%]: 2<br>- (0.5%, 0.7%]: 3<br>- (0.7%, 0.9%]: 4<br>- more than 0.9%: 5 |
| 20 | What is the approximate share of Surveillance employees with a technical profile? | 0 | 5 | If technical<br>0%: 0<br>[1%, 10%]: 1<br>(10%, 30%]: 3<br>(30%, 70%]: 5<br>(70%, 90%]: 3<br>(90%, 100%]: 1 |
| 21 | What is the approximate share of Surveillance employees with a legal / economic profile? | 0 | 5 | If legal / economic<br>0%: 0<br>[1%, 10%]: 1<br>(10%, 30%]: 3<br>(30%, 70%]: 5<br>(70%, 90%]: 3<br>(90%, 100%]: 1 |
| 22 | Are Monitoring/Surveillance Team members given appropriate training (e.g. 5 days p.a.; in-house or outside trainings, conferences and similar) and guidance on REMIT and the practical considerations for the application of Article 15 of REMIT? | 0 | 0 | Multiple choice answers:<br>- no answer :0<br>- 1 day: 1<br>- 2 days: 2<br>- 3 days: 3<br>- 4 days: 4<br>- 5 days: 5 |
| 23 | Please briefly describe further the level or education / training as well as arrangements for training Surveillance staff | 0 | 0 | Not scored |
| 24 | Are employees declaring potential interests that they may have in companies active in the wholesale energy markets (e.g. shareholdings, close family relationships …) or other potential conflicts of interest? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 25 | Are there compliance officers employed at the company (PPAT)? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 26 | Relating to the "detect - analyse - notify - deter" principle, for which parts are procedures defined and formalised? | 0 | 5 | Multiple choice answers:<br>- 0 procedures: 0<br>- 1 procedure: 1<br>- 2 procedures: 2<br>- 3 procedures: 3<br>- 4 procedures: 5 |

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| 27 | Do you have any additional comments regarding the formal definition of "detect - analyse - notify - deter" procedures? | 0 | 0 | Not scored |
| 28 | Is the notification procedure for STORs (suspicious transactions and orders reports) defined / formalised? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 29 | How is the notification procedure for STORs formalised? | 0 | 0 | Not scored |
| 30 | From your past experience, what is your estimate (in weeks) of the average time elapsed between the occurrence of the event and the detection of its suspicious nature? | 0 | 5 | Not scored |
| 31 | Is surveillance assessment part of relevant company internal procedures, such as onboarding or the release of new tradable products? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 32 | Has the surveillance setup ever been audited (e.g. also in the context of a general company audit)? | 0 | 5 | Three possible answers:<br>- yes – specific for surveillance: 5<br>- yes – in a wider company audit context: 3<br>- no: 0 |
| 33 | Do you have a policy in place that defines how to engage with clients under suspicion? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 34 | Can the company management influence or block notifications (STORs) to be shared with ACER and the responsible NRAs (e.g. by requiring that the management needs to formally approve the STOR before it is sent)? | 0 | 5 | Two possible answers:<br>- yes: 0<br>- no: 5 |
| 35 | Do you have any further comments on the influence of company management on notification procedures (or the reason for absence thereof)? | 0 | 0 | Not scored |
| 36 | Does the surveillance team have adequate procedures and systems in place that restrict the access to confidential information and its know-how? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 37 | How do you assure data security, non-proliferation of sensitive information and segregation from commercial interests? | 0 | 0 | Not scored |
| 38 | Is there a professional surveillance software system in place in order to detect suspicious orders and transactions? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 39 | Are there any self-developed tailormade IT solutions in place helping to detect suspicious orders and transactions? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 40 | Which systems does surveillance work MOSTLY rely on? | 0 | 5 | Four possible answers:<br>- professional surveillance systems: 5<br>- in-house tailormade IT solutions: 4<br>- general analytical tools, such as MS Office: 2<br>- no systems in place: 0 |

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| 41 | Can surveillance systems parameters usually be changed by surveillance staff or does it need the involvement of others (internal/external)? | 0 | 5 | Five possible answers:<br>- surveillance staff alone: 5<br>- surveillance staff and other internal staff: 4<br>- external staff needed: 3<br>- not relevant – activity outsourced: 2<br>- not relevant – no such system in place: 0 |
| 42 | Please briefly describe how surveillance systems' parameter values are set and their values changed. Is the change statistically motivated? | 0 | 0 | Not scored |
| 43 | Are surveillance systems / procedures / information security certified through ISO or similar standards? | 0 | 5 | Two possible answers:<br>- yes: 5<br>- no: 0 |
| 44 | Which markets are covered by the professional surveillance system (and tailor-made IT solutions)? | 0 | 5 | Three possible answers:<br>- all operated markets: 5<br>- part of operated markets: 3<br>- no such system in place: 0 |
| 45 | How does the surveillance system work in general? | 0 | 5 | Multiple choice with five possible answers – points sum up:<br>- looks for a specific behaviour pattern and produces "alerts": 2<br>- looks for large changes (outliers), followed up by analysis (without specific pre-programmed behaviour): 1<br>- allows quick access to information of product or client or trading session (data aggregation): 1<br>- allows quick access to information of product or client or trading session by visualisation: 1<br>- no such system in place: 0 |
| 46 | Which elements would you like to improve in your surveillance set-up? | 0 | 0 | Not scored |
| 47 | Do you have any further comments on possible improvements of surveillance elements? If you selected "other", please briefly explain. | 0 | 0 | Not scored |
| 48 | Which surveillance conditions would you like to improve in your case? | 0 | 0 | Not scored |
| 49 | Do you have any further comments on possible improvements of surveillance conditions / capabilities? | 0 | 0 | Not scored |
| 50 | Do you have any other comments / clarifications regarding this survey? | 0 | 0 | Not scored |

The survey invitation was sent to the following entities (in alphabetical order), identified by ACER and the NRAs as PPAT or potential PPATs:

42 Financial Services, 50Hertz Transmission GmbH (50Herz), AB Amber Grid, AGCS Gas Clearing and Settlement AG, Altura Markets S.V., S.A., Amprion GmbH (Amprion), AS Augstsprieguma tīkls, Aurel BGC SAS, Austrian Power Grid AG (APG), Balkan Gas Hub EAD, BBL Company V.O.F., Braemar Securities Limited, BritNed, BSP d.o.o., Bulgarian Energy Trading Platform AD (BETP AD), BURSA ROMANA DE MARFURI SA ROMANIAN COMMODITIES EXCHANGE, C.N. Transelectrica S.A. (Transelectrica), Cavendish Markets B.V., CEEGEX Ltd., Central European Gas Hub AG, ČEPS a.s. (ČEPS), CME Europe Limited, Corretaje e Información Monetaria y de Divisas Sociedad de Valores SOCIEDAD ANONIMA, CIMD SV (OTF), Croatian Power Exchange Ltd., Cyprus Transmission System Operator (Cyprus TSO), EEX, EirGrid plc (EIRGRID), Electroenergien Sistemen Operator EAD (ESO), Elering AS, ELES, d.o.o., Elia System Operator SA (ELIA), Enagás Transporte, EnCoHub Oy, Energinet, ENGNSOL, Enmacc GmbH, Enterprise Commodity Services Limited, EPEX SPOT SE, ETPA B.V., eustream, a.s., Evolution Markets Limited, EXAA Abwicklungsstelle für Energieprodukte AG, FGSZ Kereskedési Platform Kft, FGSZ Zrt., Fingrid Oyj (Fingrid), Flow Brokers BV, Fluxys Belgium S.A., Gas Networks Ireland, Gasunie Transport Services B.V., GAZ-SYSTEM S.A., Gestore dei mercati energetici spa (GME), GFI EU, a trading name of Aurel BGC, GMG Europe BV, GNI UK, Griffin Markets

Europe SAS, Hellenic Gas Transmision System Operator S.A. (DESFA), HENEX SA, HOPS d.o.o. (HOPS), HPC SA, Hungarian Derivatives Energy Exchange (HUDEX), HUPX Ltd., ICAP Energy AS, ICE Endex Markets BV, ICE Futures Europe, Independent Bulgarian Energy Exchange, Independent Power Transmission Operator S.A.(IPTO), Interconnector (UK) Limited, JAO, JSC Conexus Baltic Grid, Litgrid AB, Marex SA, Marex Spectron Europe Limited, MAVIR Magyar Villamosenergia-ipari Átviteli Rendszerirányító Zártkörűen Működő Részvénytársaság (MAVIR), MEFF Sociedad Rectora del Mercado de Productos Derivados, S.A., MIBGAS, MIBGAS DERIVATIVES S.A., Nasdaq OMX Oslo ASA, Nasdaq Stockholm AB, NET4GAS, s.r.o., New York Mercantile Exchange, Inc. (NYMEX), Nord Pool AS, OKTE, a.s., OMIP - Pólo Português, S.G.M.R., S.A., OMI-Polo Español S.A. (OMIE), OPERATORUL PIETEI DE ENERGIE ELECTRICA SI DE GAZE NATURALE "OPCOM" SA, OTE, a.s., Ovovis GmbH, Plinacro, Plinovodi, d.o.o., Polskie Sieci Elektroenergetyczne S.A. (PSE S.A.), Power Deriva Oy, POWER EXCHANGE CENTRAL EUROPE, a.s., Power Sprinter GmbH, Premier Transmission Limited, PRISMA European Capacity Platform GmbH, PVM Oil Futures Ltd, Red Eléctrica de España S.A. (REE), Rede Eléctrica Nacional, S.A. (REN), REN - Gasodutos, S.A., Réseau de Transport d'Electricité (RTE), SEE CAO, SEMOpx, Shard Capital Partners LLP, Slovenská elektrizačná prenosová sústava, a.s. (SEPS), SPX, s.r.o., SVENSK KRAFTMÄKLING AB, Svenska Kraftnät, System Operator for Northern Ireland Ltd (SONI), TenneT TSO B.V., TenneT TSO GmbH (TenneT DE), Terna - Rete Elettrica Nazionale SpA (Terna), Towarowa Giełda Energii S.A., TP Icap (Europe) S.A, TP ICAP E&C Limited, Tradition Financial Services Espana Sociedad De Valores SA, TRANSGAZ S.A., TransnetBW GmbH (TransnetBW), TSAF OTC, Tullett Prebon (Europe) Limited, UAB GET Baltic.