

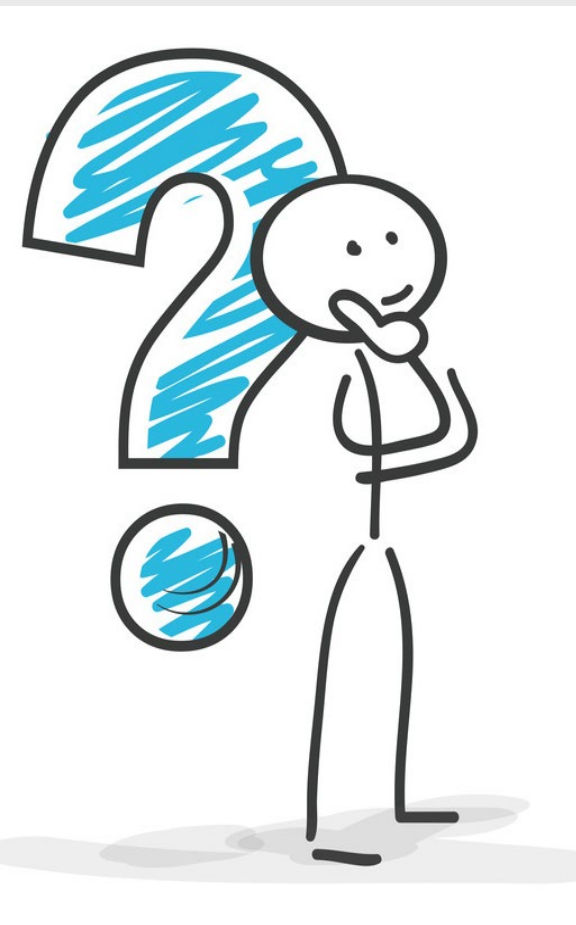
An in-depth insight into elements of REMIT

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Energy Community Secretariat

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A market we aiming for ...



Secure

Competitive

Sustainable

- Competitive market with **freedom of choice**
- **Clear and correct signals** for investments and use of resources
- Prices are set based on fair interplay between **supply and demand** reflecting market fundamentals
 - **Confidence** in this process is key
- **Level playing** field
 - Access to grid and market place
 - Access to information
- Attracts liquidity
- Market participants feel safe in taking **risks** that they can manage via market means

Risk we aim to manage ...



Effectively addressing market abuse!

- *Third package does not fully address market abuse and monitoring*
- *In the EU energy market – market abuse is addressed via **REMIT***
- *In the EU financial sector - market abuse is addressed via **MAR***

Framework around REMIT REGULATION (EU) No 1227/2011

REMIT - Level I

- Obligation to publish inside information
- Prohibition of market abuse (insider trading and market manipulation)
- Market Monitoring (registration of market participants / RRM_{sRegistered} Reporting Mechanism, data collection, PPAT_{persons professionally arranging transactions})
- Investigatory and enforcement powers to NRAs (penalties)
- Other articles about data protection & reliability

REMIT Implementing Regulation - Level II

- List of contracts and data to be reported
- Responsible parties and deadlines

REMIT guidance - Level III

- Guidance, recommendations, Q&A, RRM requirements, TRUM_{Transaction} Reporting User Manual etc.

Market integrity (4Ps)

Publication of inside information

Prohibition of insider trading

Prohibition of market manipulation

Providing data [to ACER] &
Monitoring

REMIT important definitions

Inside Information

- Precise nature
- Not made public
- Relates to wholesale energy products
- Likely to significantly affect the prices
- Required to be disclosed (3rd package, etc.)
- Capacity and use of facilities for production, storage, transmission of electricity and gas

Market participants

- Any person, including TSOs, entering into transactions (incl. placing orders) in 'wholesale energy markets':
- Trading companies, producers, shippers, wholesale consumers, final customers, TSOs, storage operators, LNG operators and investment firms
- REMIT registration

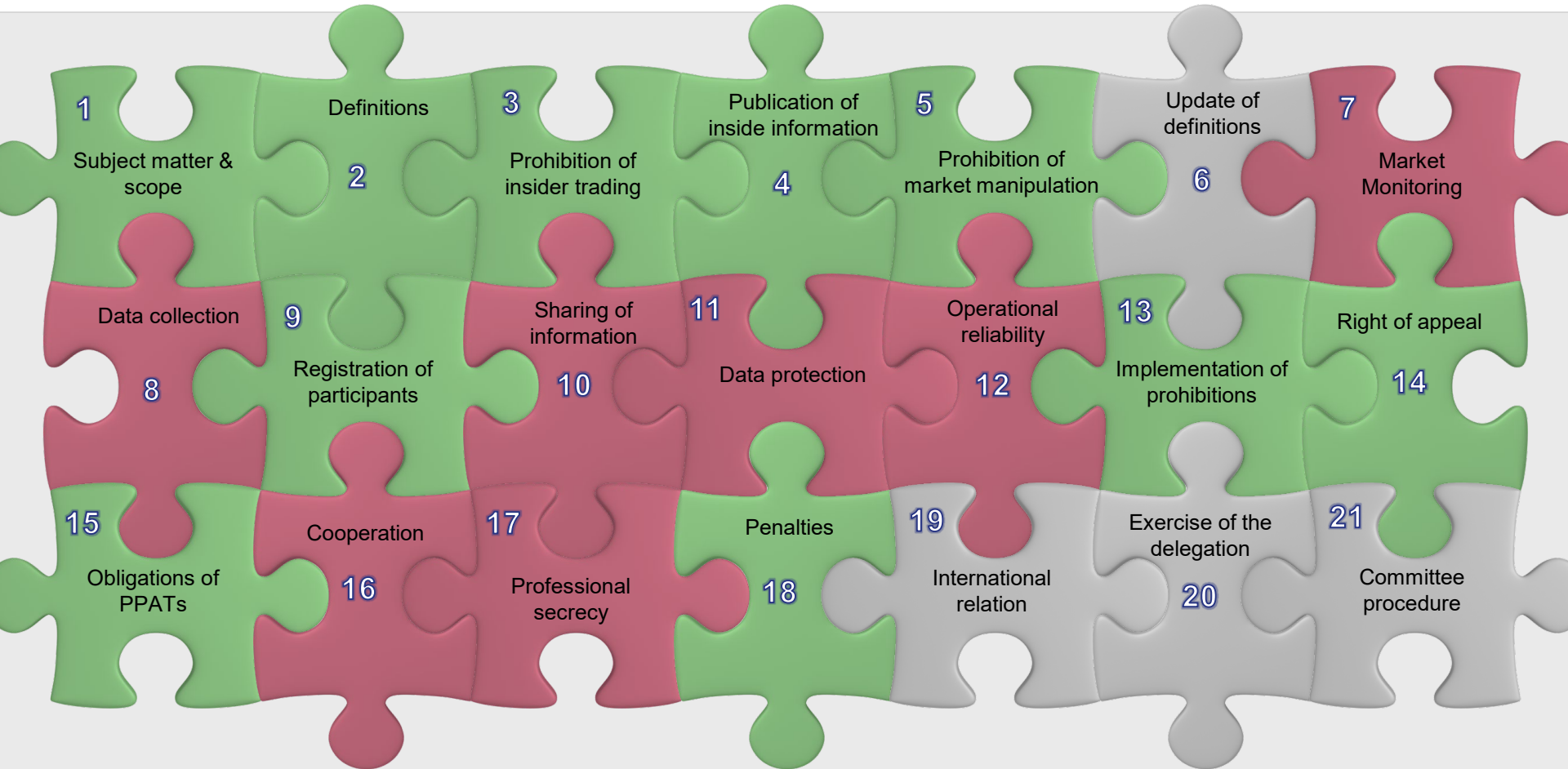
Wholesale energy products

- Contracts for supply of electricity or gas with delivery in EU
- Contracts relating to transport of electricity or gas in EU
- Derivatives of the above

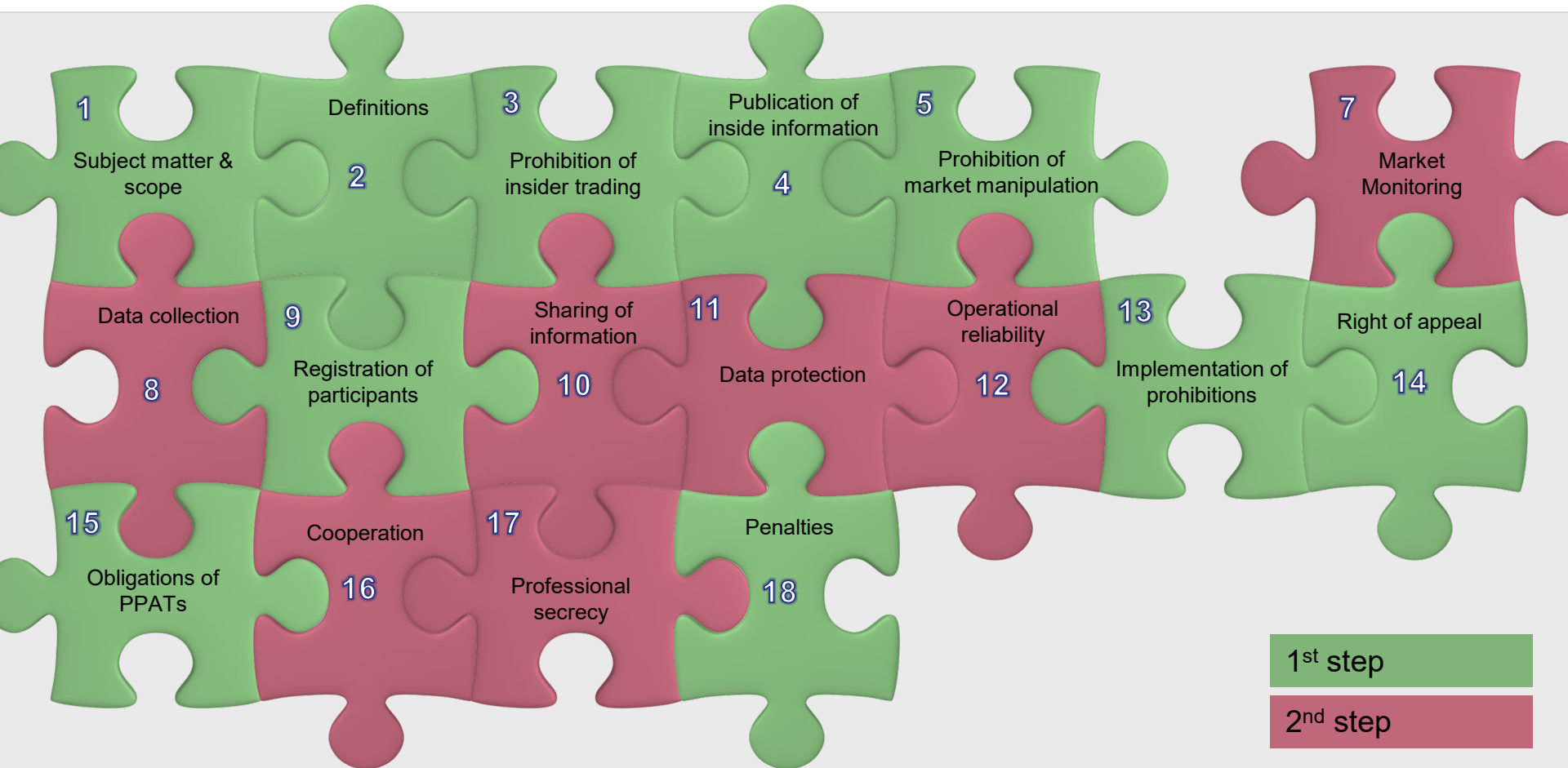
Wholesale energy market

- Markets within EU where energy products are traded:
- Balancing market, intra-day and day-ahead market
- Forward markets (contracts)
- Derivatives markets
- Markets for transportation capacities and related derivative markets

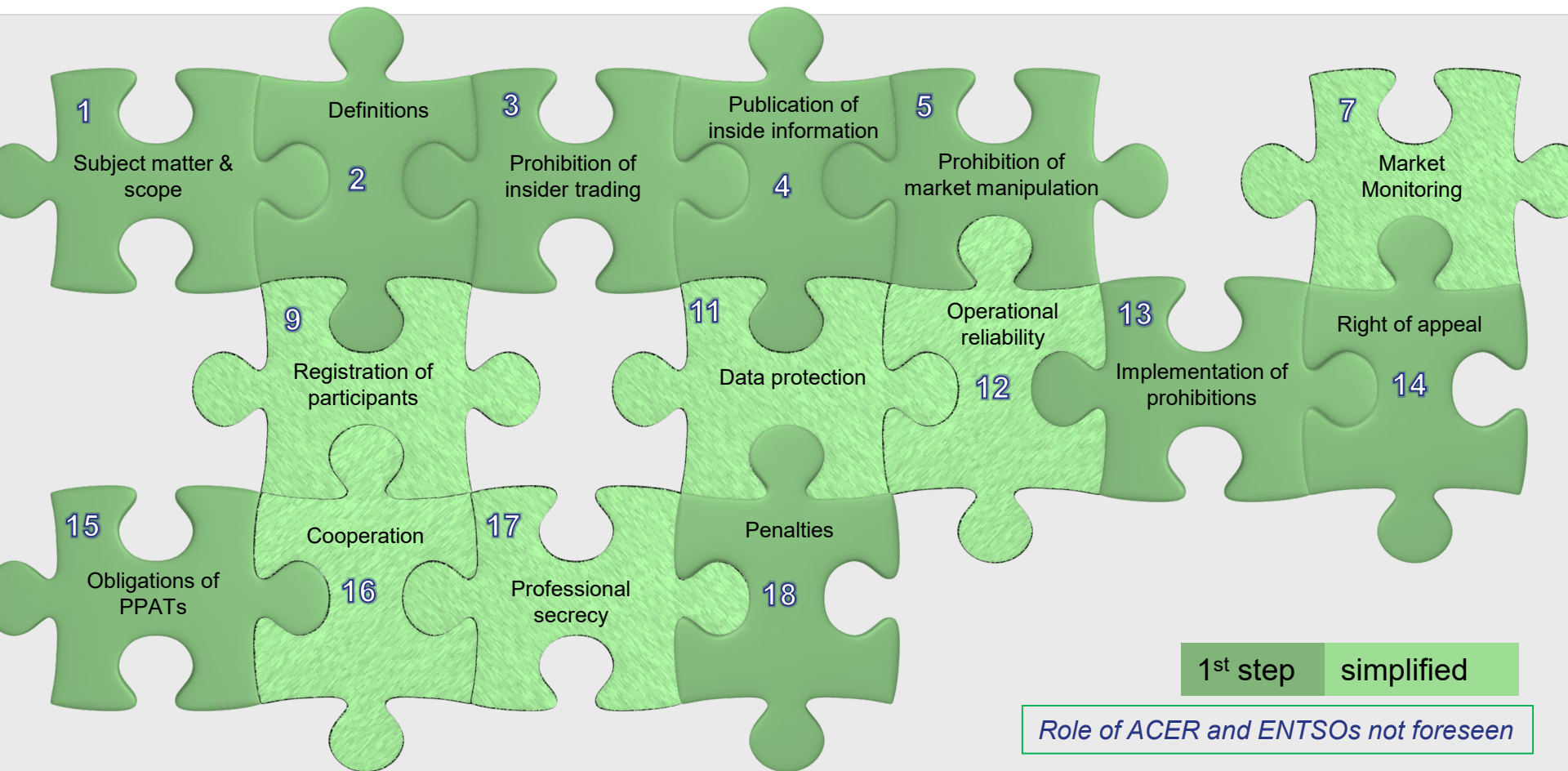
REMIT puzzle – starting point

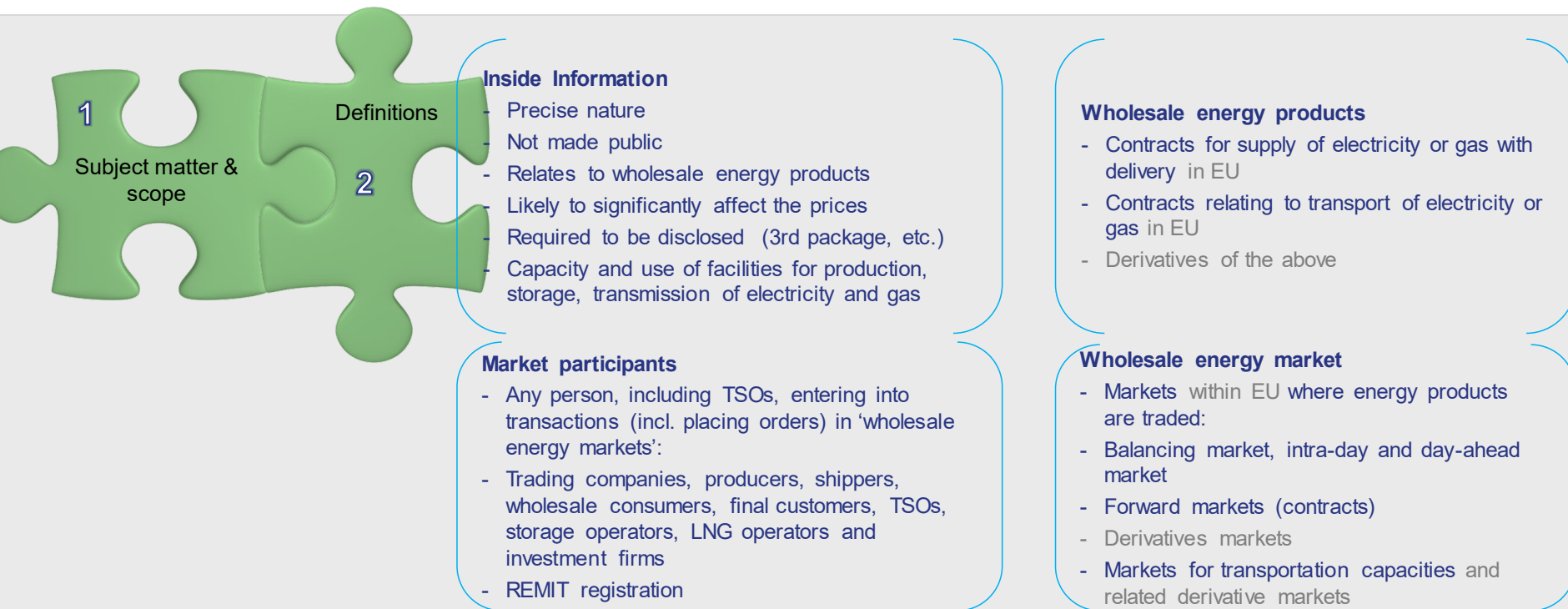


REMIT puzzle – Starting point for EnC



REMIT puzzle – light regime for EnC

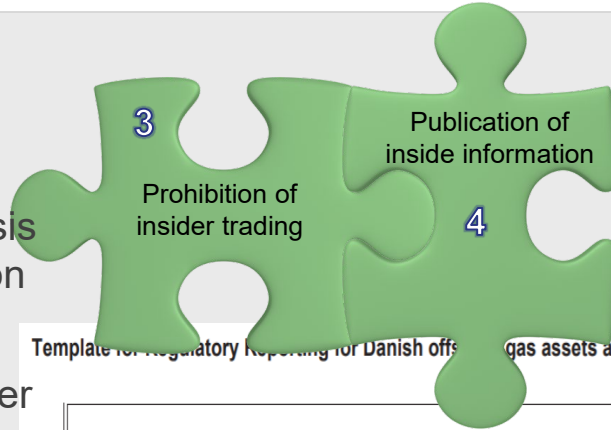




Prohibition of insider trading and transparency requirements

- prohibition of **insider trading**

1. trading on the basis of such information
2. disclosing such information to other persons
3. recommending or inducing others to trade on the basis of such information



Template for Regulatory Reporting for Danish offshore gas assets and storages facilities

Reference number	
Market:	
Message type:	
Company:	
Asset type affected:	
Asset unit affected:	
Starting time of capacity change (gas day):	
Ending time of capacity change (gas day):	
Duration uncertainty:	
Cause:	
Flow capacity influenced (MWh per gas day):	
Available capacity during outage or maintenance:	
Additional information:	

- publication of **inside information**

1. Effective and timely disclosure (web page)
2. Publication before acting/trading on it
3. Delayed publication to cover physical lost or due to critical infrastructure – reported to NRA

Prohibition of market manipulation

Prohibition market manipulation

1. false or misleading trade or order to trade
2. trades attempting to secure certain price level (artificial)
3. trades based on fictitious devices or deception
4. disseminating of false and misleading information



<https://documents.acer-remit.eu/guidance-on-remit-2/>

False/misleading transactions

Wash trades

Improper matched orders

Placing orders with no intention to execute them

Transactions with fictitious devices

Scalping

Pump and dump

Circular trading

Pre-arranged trading

Dissemination of false and misleading information

Spreading false/misleading information through the media

Other behaviour designed to spread false/misleading information

Price positioning

Marking the close

Market cornering

Cross-market manipulation

Actions to artificially move the prices

Market Monitoring

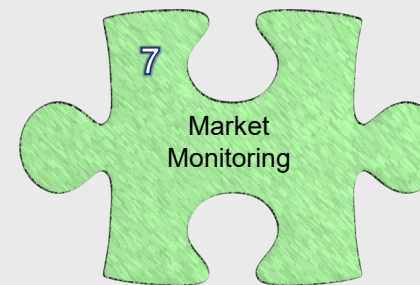
1. Requirement for NRAs to monitor behaviour of market participants in the market, trading activity and compliance

2. Article 8 is about trade data reporting – not part of the EnC REMIT

But, until full REMIT is transposed, NRAs can request data and information from market participants to perform such function

NRAs should develop means for market participants and other stakeholders to report suspicious behaviour – this is harmonised across the ECRB

3. Cooperation with Competition Authority and other relevant authorities (Financial Regulator) is required – through MoC
4. NRA should report to ECS on yearly basis regarding activities under this Regulation



Registration requirement

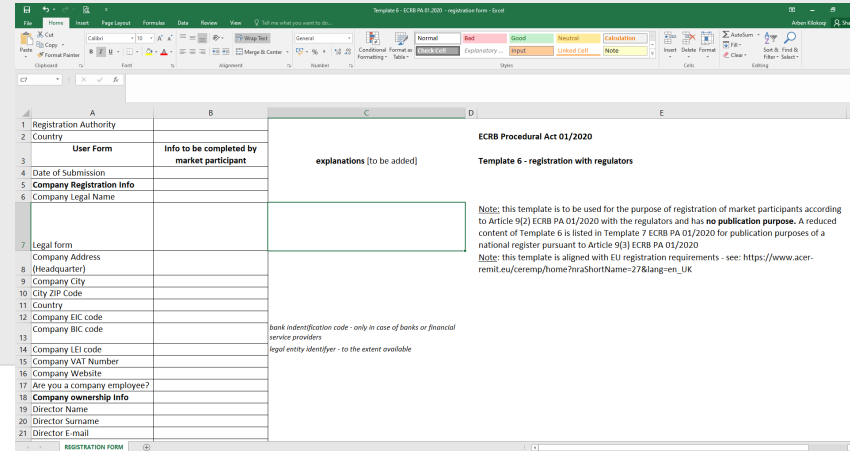
Registration of participants

1. In the absence of data reporting, registration is simplified
2. Details harmonised – ECRB
3. National register is maintained (6 months after transposition deadline)

... and details/link submitted to ECRB for centralised register



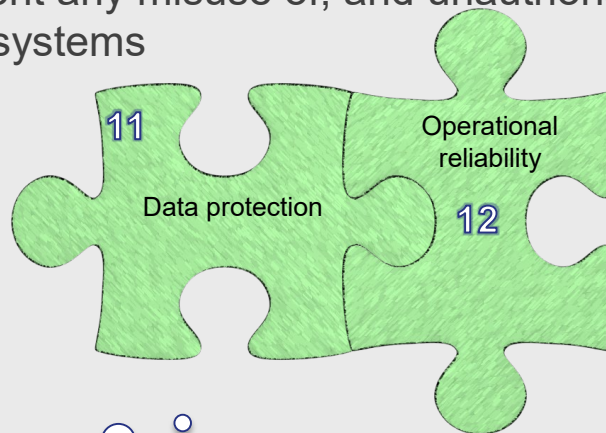
ECRB
template to
be used!



The screenshot shows a Microsoft Excel spreadsheet titled 'Template 6 - ECRB PA 01/2020 - registration form - board'. The spreadsheet is organized into columns A through E. Column A contains a list of registration details, including 'Registration Authority', 'Country', 'User Form', 'Info to be completed by market participant', 'Date of Submission', 'Company Registration Info', 'Company Legal Name', 'Legal form', 'Company Address', 'Company VAT Number', 'Company Website', 'Are you a company employee?', 'Company ownership info', 'Director Name', and 'Director E-mail'. Column B contains a list of registration details, including 'Company Address', 'Company VAT Number', 'Company Website', 'Are you a company employee?', 'Company ownership info', 'Director Name', and 'Director E-mail'. Column C contains a list of registration details, including 'Company Address', 'Company VAT Number', 'Company Website', 'Are you a company employee?', 'Company ownership info', 'Director Name', and 'Director E-mail'. Column D contains a list of registration details, including 'Company Address', 'Company VAT Number', 'Company Website', 'Are you a company employee?', 'Company ownership info', 'Director Name', and 'Director E-mail'. Column E contains a list of registration details, including 'Company Address', 'Company VAT Number', 'Company Website', 'Are you a company employee?', 'Company ownership info', 'Director Name', and 'Director E-mail'. The spreadsheet also includes a 'REGISTRATION FORM' section at the bottom.

Data protection and operational reliability

1. Preserving confidentiality and data and information
2. Undertake measures to prevent any misuse of, and unauthorised access to, the information maintained in its systems

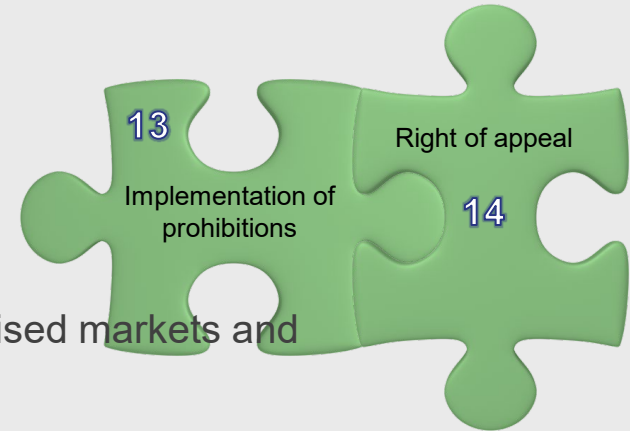


In particular important in case of data collection!

Enforcement powers of NRAs

Implementation of prohibitions

1. NRAs are required to ensure that the prohibitions are applied
2. CPs are required to ensure that NRAs have the enforcement powers
3. Those powers may be exercised:
 - (a) directly;
 - (b) in collaboration with other authorities; or
 - (c) by application to the competent judicial authorities
4. Investigatory powers may be exercised together with organised markets and other PPATs
5. ... they may include: data and info request, in-site inspections, require communication traffic, request court to freeze or sequester the assets, etc.



Right of appeal – CPs should ensure a suitable mechanism to appeal regulatory decisions

Obligations of PPATs

1. What are PPATs?

Effectively every intermediary that provides a platform for executing transactions, for matching orders to trade, etc. is considered Person Professionally Arranging in Transactions!

2. PPATs in wholesale energy products who reasonably suspects that a transaction/order to trade might breach Article 3 or 5 shall notify the NRA

3. PPATs in wholesale energy products shall establish and maintain effective arrangements and procedures to identify breaches of Article 3 or 5, i.e. surveillance system

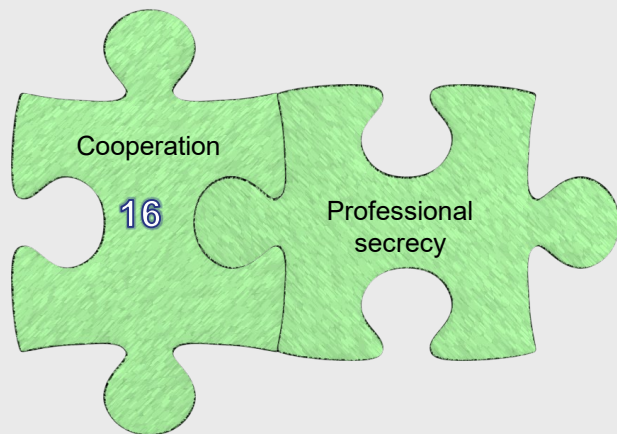
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Obligations of
PPATs

Cooperation at the national level and EnC level, including professional secrecy

1. At the EnC level, such cooperation is via ECRB – a structure detailing such cooperation is established under ECRB ... this is important, in particular when a potential breach has a **reach-out** to other markets in the Energy Community
2. National level: cooperation with other competent authority is required (competition authority, and financial regulatory authority)

Professional secrecy – in particular important when information and data are exchanged!



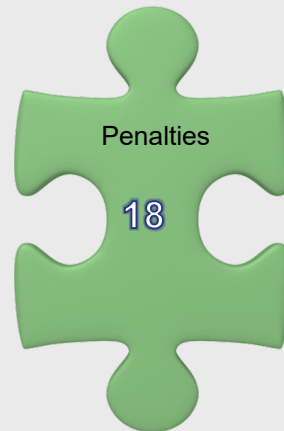
... overlaps exists – this is a fact!

Instead of focusing on drawing a thick lines, we focus on detailing such cooperation:

- MoC between all competent authorities

Penalties

1. CPs are required to put in place rules for penalty regime and ensure implementation.
2. Penalties must be effective, dissuasive and proportionate to the infringement
3. CPs should report to ECS once such regime is in place



UK case: Ofgem's powers

Ofgem is empowered for three stages:



- Investigations complex - learning by doing

Ofgem's enforcement powers

- REMIT has criminal offences for market manipulation and insider trading. The maximum sentence is up to 2 years in prison.
- Require people to produce evidence – offences if they destroy/alter or conceal
- Ofgem can apply to a Magistrates' court to obtain Search Warrants
 - Criteria applies to exercising force to gain entry but this is an option
- Criminal cases will utilise strict handling records for exhibits, searches and record keeping
- For a Criminal Prosecution, Ofgem will be required to provide sufficient evidence
 - Is there public interest and sufficient evidence to provide realistic prospect of conviction.

Penalties

- Financial penalty
- Restitution order
- Statement of non-compliance

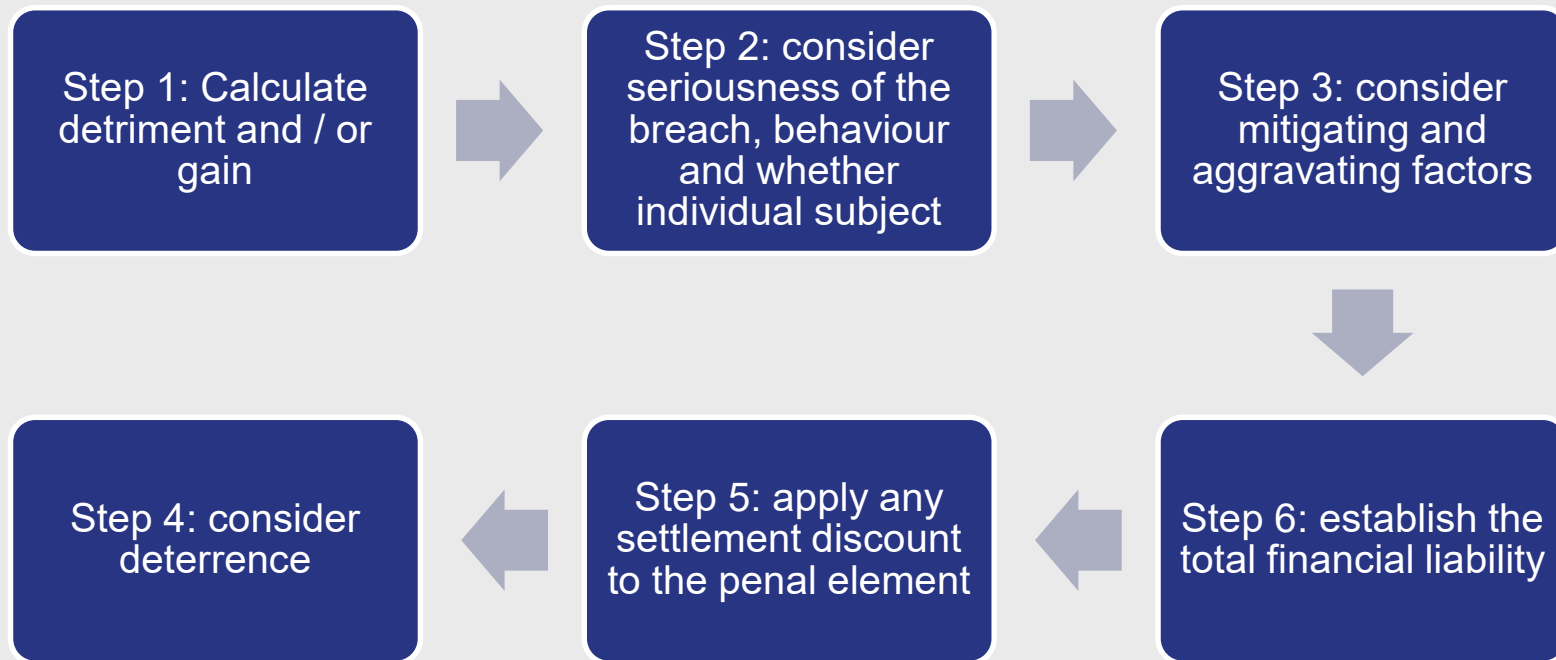
The Authority will consider the full circumstances of each case, for example:

- the seriousness of the suspected breach, including duration and frequency
- the behaviour and previous compliance history of the person
- any published guidance
- any action taken by the Authority or other regulatory authorities

For financial penalty and / or restitution, the total payable amount consists of two elements:

1. Removal of detriment and /or gain
2. Penal element

Process for calculating the total financial liability of the person in breach



Purpose:

- 1) establish the basis for coordination of NRAs in carrying out their tasks under the REMIT Regulation
- 2) define the process for cooperation via ECRB
- 3) harmonize the templates and formats used by the NRAs
- 4) outline the process for actions to be undertaken by ECRB, and
- 5) address confidentiality concerns in relation to data and information exchange

Roles:



7/REMIT

monitor national markets cooperation via ECRB at regional level

16.2/REMIT

report to ECRB suspected breaches of REMIT in another CP

16.1/REMIT

ECRB to facilitate cooperation and coordination

16.4/REMIT

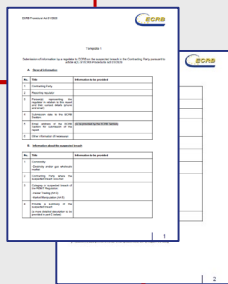
ECRB to assess such potential breach:

- request additional info form affected NRAs
- request NRA(s) to commence an investigation
- establish investigatory group of affected NRAs

ECRB cooperation (1)

Phase 1: communication

Template 1



3
weeks

Phase 2: next steps (3 weeks after Phase 1)



No
action

Propose to invite
establishment of
the investigation
group



Propose to
request to
NRA(s)
commencement
of investigation



Email to ECRB Section:

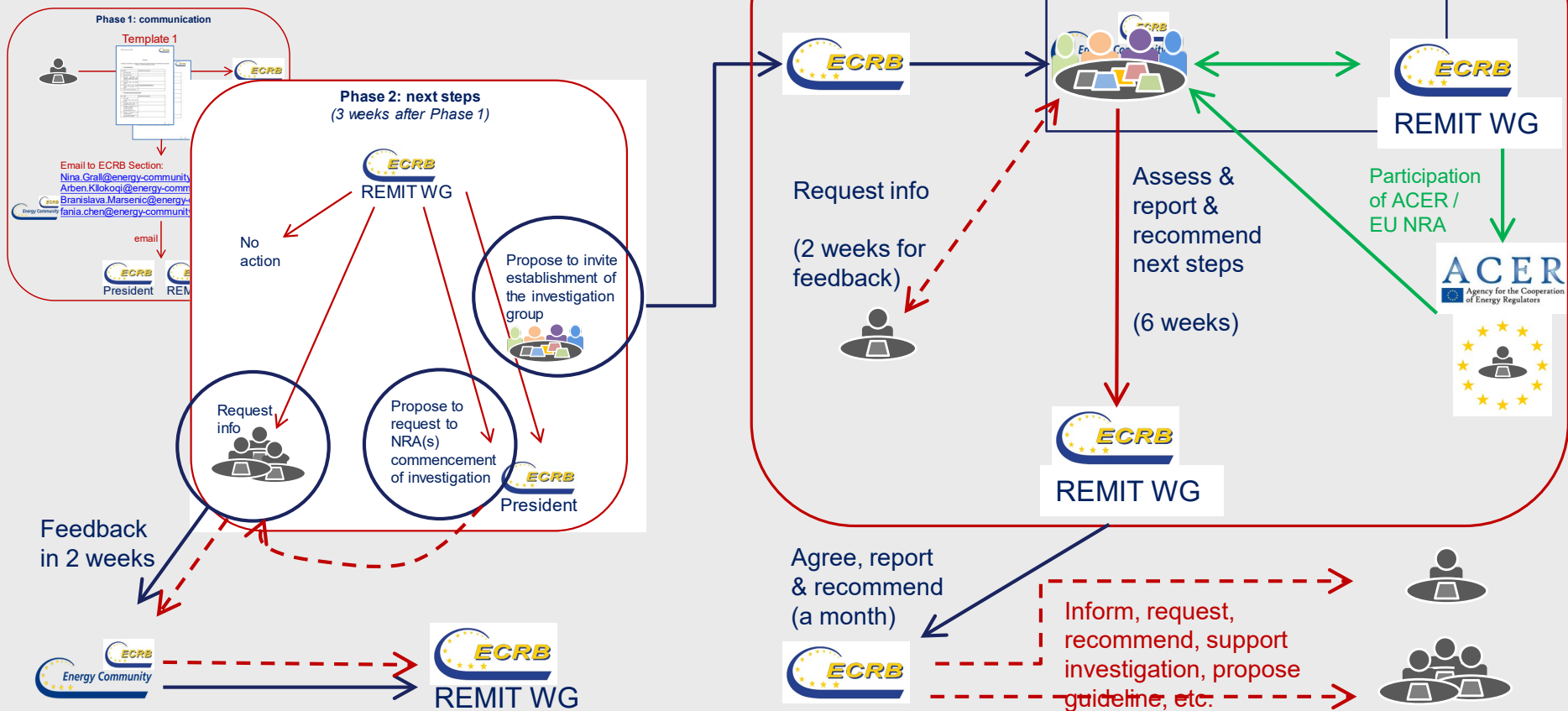
X
X
X
X



email



ECRB cooperation (2)



ECRB REMIT Procedural Act - other

- Confidentiality
- Templates for reporting breaches to NRAs and/or ECRB
- Templates for use of exemption and delay of inside information
 - Exemptions in line with Article 3.4 of REMIT shall be requested/notified to NRAs –T4
 - Delay of publication in line with Article 4.2 of REMIT shall be requested/notified to NRAs –T5
- Templates for registration
- **ECRB Regulatory Guidance**



*Thank you
for your attention!*

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