2017 discharge: Agency for the Cooperation of Energy Regulators (ACER)

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PURPOSE: presentation of the EU Court of Auditors' report on the annual accounts of the Agency for Cooperation of Energy Regulators for the year 2017, together with the Agency's reply.

CONTENT: the Court of Auditors carried out the audit on the annual accounts of the Agency for Cooperation of Energy Regulators (ACER).

In brief, the Agency's main task is to assist National Regulatory Authorities in exercising, at Union level, the regulatory tasks that they perform in the Member States and, where necessary, to coordinate their action. It was also given additional responsibilities, together with national regulatory authorities, regarding the monitoring of the European wholesale energy market.

Statement of assurance and reliability of the accounts

The Court considered that:

- the Agency's annual accounts present fairly, in all material respects, its financial position as at 31 December 2017 and the results of its operations and its cash flows for the year then ended, in accordance with the provisions of its Financial Regulation and the accounting rules adopted by the Commission's accounting officer;

- the transactions underlying the annual accounts for the year ended 31 December 2017 are legal and regular in all material respects.

The report also makes a series of observations on the budgetary and financial management of the Agency, accompanied by the latter's response. The main observations may be summarised as follows:

The Court's observations

Internal controls

In 2011, an additional task in the area of wholesale energy market monitoring (REMIT) was assigned to the Agency. In 2017, all the elements foreseen by the REMIT monitoring framework were in force for the first time. However, while initially a disaster data recovery site for REMIT was established in Maribor, Slovenia, this was moved in April 2017 to the Agency's main data centre in Ljubljana. Consequently, the backup data now is stored at the same location as the original data. This causes a considerable risk to business continuity in case of major disasters, as data might get lost irrevocably.

Financial management and performance

On 29 March 2017 the United Kingdom (UK) notified the European Council of its decision to withdraw from the European Union (Brexit). Unlike most of the other agencies, the Agency did not carry out a comprehensive analysis of the likely Brexit impact on its organisation, operations and accounts.

Agencies should introduce a single solution for the electronic exchange and storage of information with third parties participating in public procurement procedures (e-procurement). As the same requirement

exists for all EU Institutions, the Commission is developing a comprehensive IT solution covering all phases of public procurement procedures. The Commission launched tools for electronic invoicing (e-invoicing), for the electronic publication of documents related to contract notices (e-tendering) and for the electronic submission of tenders (e-submission). By the end of 2017, the Agency had not yet introduced any of these tools.

The Agency's replies

Internal controls

The Agency agreed that ever since the disaster data recovery sites was integrated into one single site to optimise and advance performance and address increasing space requirements in June 2017, business continuity can no longer be ensured. However, it has to be noted that the current situation, in which business continuity cannot be guaranteed, has been forced onto the Agency by the significant reduction in its budget over the last two years. The Agency has repeatedly alerted the Commission and the Budgetary Authority of the severe consequences of the budgetary limitations it faces, but without any result in terms of additional resources. The Agency will continue to assess the possibility to re-establish a disaster recovery site for the Agency's REMIT Information System (ARIS) but currently does not have the budget to do so in 2018. The re-establishment of the disaster recovery site would require the Agency to be provided with additional financial resources.

Financial management and performance

Given that the risks related to Brexit have been considered very low and limited, the possible impact of Brexit was only informally analysed by the management in 2017. In early 2018, the Agency conducted a comprehensive analysis on the impact of Brexit on its governance, operations and financial areas highlighting the impact and actions required.

The Agency is not yet using the Commission's IT solution for e-invoicing, e-tendering and e-submission. In the course of 2018, the Agency will start with e-tendering which will subsequently be extended with the use of e-submission and e-invoicing during the course of 2019.

Lastly, the Court of Auditors' report contained a summary of the Agency's key figures in 2017:

Budget

EUR 13 million.

Staff

91 including officials, temporary and contract staff and seconded national experts.