EFET Bye-Laws

The Bye-Laws are internal governance rules according to Article 11 of the EFET Statutes

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Preamble

WHEREAS EFET recognises the need to adapt its working structure in view of a larger and more diversified membership and changing requirements in the market, while preserving the consensual decision-making process which lies at the core of the EFET proven formula for success;

WHEREAS following the request of EFET Member Companies to conduct a review of governance initially in 2011 and again in 2019, these Bye-Laws combine and consolidate successful and established working principles and informal practices with changes recommended by the Board and the Secretariat, in order to enhance fairness, objectivity and transparency of the governance process within EFET;

WHEREAS in 2019 the Board resolved to implement an “EFET Fit for Future” programme and to establish an EFET Endowment, utilising financial reserves;

IT IS HEREBY RESOLVED to establish the governance of EFET on the following premises:

Bye-Laws:

1. Introduction

The European Federation of Energy Traders (EFET), established on 22 April 1999, is a foundation (“Stichting”) governed by Dutch law and registered in Amsterdam. The constitution of EFET is set out in the Statutes, which constitute part of the Foundation Act (“Oprichtingsakte”), executed in the obligatory form of a notarial deed.

These Bye-Laws shall constitute regulations within the meaning of Article 11 of the Statutes, which shall not be altered, amended or repealed except by resolution of the General Meeting upon referral of the Board. At no time shall these Bye-Laws override the Statutes, and in the event of conflict, the latter will prevail. The Bye-Laws shall be interpreted in accordance with the laws of the Netherlands.

In addition to the provisions in the Statutes, the Board, its Committees and Sub-Groups have developed an array of principles and informal practices, existing partly in writing, which together comprise constitutional rules. For example, such rules are found in the Mission Statement and Principles of Good Conduct, in Committee and Sub-Group Terms of Reference and in Board meeting Action and Decision lists. These rules are complemented by customary practices of the Board, the Secretary General or CEO, Committees and Sub-Groups. In the absence of such rules these Bye-Laws shall govern the work of the Board, of Committees, and of Sub-Groups. In the case of any conflict between such rules and these Bye-Laws, these Bye-Laws in their latest adopted version shall prevail, unless explicitly overridden by a later, recorded decision of the Board.

In the spirit of transparency and good governance, proposals and draft documents relating to governance reform are published in the members’ section of the Website.

2. Definitions of terms used in the Bye-Laws

Unless the context otherwise requires, terms and definitions set forth in Annex 1 of the Bye-

Laws shall apply to the construction of the Bye-Laws. References to one gender shall include the other.

3. Mission Statement and Description of Activities

We promote competition, transparency and open access in the European energy sector.

We build trust in power, gas and associated markets across Europe, so that they may underpin a sustainable, efficient and secure energy supply and enable the transition to a carbon neutral economy.

We do this by:

- Working to maintain the functionality and good design of European gas, electricity and associated markets for the benefit of the overall economy, society and end consumers.

- Developing and maintaining standard wholesale contracts and standardising related transaction and business processes.

- Elaborating and promoting wholesale market design improvements and taking policy initiatives, for discussion between traders, market operators and others in the energy value chain on the one hand and TSOs, regulators, policy makers, and legislators on the other.

4. Principles

The EFET Mission statement is underpinned by the EFET Core Principles for Energy Markets (set out in Annex 2), by EFET Principles of Good Conduct for Energy Trading as described in the following paragraph and further embodied in the "10 Pillars" (set out in Annex 6) and by our own Operational Principles (set out at Bye-Law 4.1 below).

Wholesale trading has a pivotal role in the energy value chain, bringing together in a competitive framework supply and demand in commodities, which are critical to the European economy and to European society. Traders therefore contribute to the proper functioning and sustainability of energy and related product markets across the continent. Companies affiliated to EFET must operate their energy trading business to the highest standards of probity, honesty and fair dealing. These standards should be applied throughout the commercial and support functions of the business. We expect such standards to be built around the “10 Pillars” (which constitute part of the Membership Application Form in Annex 6).

4.1 Operational Principles

a. Consensus is the main basis for decisions within all Committees and Sub-Groups. The process for reaching a consensus is described in Bye-Law 8.1 and is complemented by the provisions attached as Annex4;

b. EFET empowers talented and active Member Company representatives with good ideas to undertake activities within and on behalf of EFET, conceived to help fulfil the EFET Mission and promote EFET Principles;

c. EFET strives for a fair and balanced consideration of the interests of Member Companies, to the extent they are consistent with the Mission Statement, Description of Activities, Core Principles for Energy Markets and Principles for Good

Conduct of Energy Trading, whilst bearing in mind any limiting external circumstances or countervailing factors;

d. EFET supports result-oriented, non-bureaucratic methods and follows a common sense approach in decision-making;

e. EFET provides an open forum for discussion among our Member Companies, where respect for each other's opinions should prevail and a constructive attitude on the part of all involved should be maintained.

5. Membership

5.1 Categories of Member Companies

The following categories of membership shall exist in EFET:

5.1.1. Regular Member Companies

Regular Member Companies are entitled to a high level of involvement and enjoy the following rights:

1. To attend meetings of Committees and Sub-Groups, and receive information and documents related to their work;
2. To be involved in any decision-making process of Committees and Sub-Groups[1] where the Member Company is a regular participant;
3. To access the members' section of the Website;
4. To vote in Board elections;
5. To attend and be involved in any decision-making process at the annual General Meeting;
6. To acquire EFET legal opinions relating to EFET standard documentation (with the question of payment for such acquisition depending on their membership – or not – of the Legal Committee or their subscription – or not – to the Legal Module).

5.1.2 Associate Member Companies

Associate Member Companies are entitled to a lesser degree of involvement in EFET activities. Associate Member Companies mainly have access to information about EFET activities. Associate Member Companies enjoy the following rights:

1. To receive information about EFET actions and decisions and copies of Action and Decision Lists of the Committees and Sub-Groups, in which they have expressed an interest;
2. To be included in the cc mailing list of any Committee or Sub-Group, and to access electronic data and draft documents circulated by it, at the discretion of the Board in consultation with the Chair of the Committee or Sub-Group in question;

[1] With the exception of the Sub-Committees of the Board.

3. To access the members' section of the Website;
4. To acquire EFET legal opinions relating to the EFET Standard Master Contract (with the question of payment for such acquisition depending on their membership – or not – of the Legal Committee or their subscription – or not – to the Legal Module);
5. To attend the annual General Meeting, subject to not participating in any decision or vote, and to attend other EFET meetings as an occasional guest on the invitation of the Chair of a Committee or Sub-Group.

5.1.3 Subscriber Member Companies

Subscriber Member Companies are those who do not participate in EFET activities, but are granted access to EFET legal opinions. Subscriber Member Companies are only entitled to acquire legal opinions.

5.1.4 Honorary Members

Honorary Members may be appointed from among individual persons who support the aims of EFET and who have made an outstanding contribution to the work of EFET. A Board member or a Member Company may nominate to the Board an individual considered suitable to be appointed as an Honorary Member. The Board shall have the authority to appoint and remove an Honorary Member by a 2/3 majority. In the spirit of transparency, any such appointment should be notified at the latest to Member Companies at the next following General Meeting.

An Honorary Member may attend a regular or special meeting of any EFET Committee or Sub-Group only upon invitation, and if invited may participate in the discussion but shall be ineligible to vote. An Honorary Member shall not be liable to any membership fee.

5.1.5 Honorary President and Honorary Vice-Presidents

One Honorary President or one or more Honorary Vice-Presidents may be appointed from among individual persons whom the Board specially desires to honour in consideration of exceptional service rendered to EFET and/or of that person's furtherance of the Mission of EFET. Such appointment might be envisaged to allow the Board in addition to delegate specific representational functions. However, an Honorary President or Vice-President shall not enjoy any executive powers within EFET.

The Board shall have the authority to appoint and remove an Honorary President or Vice-President by a 2/3 majority. In the spirit of transparency, any such appointment should be notified at the latest to Member Companies at the next following General Meeting.

An Honorary President or Vice-President may attend a regular or special meeting of any EFET Committee or Sub-Group only upon invitation, and if invited may participate in the discussion but shall be ineligible to vote. An Honorary President or Vice-President shall not be liable to any membership fee.

5.2 Separate membership for members of a corporate group

For the avoidance of doubt, any subsidiary, affiliate or branch of a Regular or Associate Member Company engaged in wholesale energy market intermediation shall be required to apply separately for EFET membership at all times, unless all of the following three conditions are fulfilled:

1. The relevant market intermediation is carried out by two entities within the same group, one of which is a 100% owned subsidiary of the other, or both of which are 100% owned directly or indirectly by the ultimate parent company of that group;
2. The two entities are actively engaged in market intermediation in the same or directly contiguous territories; and
3. The two entities are engaged in trading the same range of commodities and products, rather than one or both of them being responsible separately for any part of the traded portfolio of the group.

5.3 Membership application and obligations

In line with the EFET Membership application process detailed in Annex 5, companies wishing to become Member Companies of EFET must submit a completed application form, currently the form set out in Annex 6, which sets out several undertakings. A candidate Member Company must declare that:

1. It actively supports the principles of an open energy market and competition throughout Europe;
2. It acts as a trader on own account on the European energy market and/or provides portfolio services to its customers;
3. It adheres to the Principles of Good Conduct;
4. It will actively support the work of EFET.

Companies wishing to become Member Companies of EFET may be required to pay a one-off registration fee to be determined by the Treasurer on a proposal made by the Secretary General or CEO.

5.4 Participation in Modules

Besides the membership categories referred to in Bye-Law 5.1 above, there are Modules, in which Member Companies can participate, and which give them the following additional rights and obligations, on payment of a Module subscription fee. There are currently two Modules, the Legal Module and the Regional Trial Membership Module.

5.4.1 Legal Module

The Legal Module consists of three categories of membership, namely full membership of the Legal Committee (LC), associate membership of the Legal Committee and subscription membership of the Legal Module.

Full membership of the Legal Committee:

- Grants unlimited access to the documentation on the legal pages of the Website, including all legal opinions commissioned and updated by EFET for most of the European Union jurisdictions and a number of other documents relevant for legal risk management;

- Entitles Full LC members (whether representatives or alternates) to attend and vote at any LC Committee or Sub-Group meetings, to participate in the formation and work of LC Sub-Groups at any time, and to make recommendations on current and future priorities for EFET legal activities;
- Obliges every Full LC member to regularly contribute to the activities of the LC, e.g. by taking at least one review of a legal opinion per year and/or participating in at least one Sub-Group per year; failure to contribute to the work of the Legal Committee on a continuous basis will result in a request to the company in question to become an Associate member of the LC.

Associate membership of the Legal Committee:

- Grants unlimited access to the documentation on the legal pages of the Website, including all legal opinions commissioned and updated by EFET for most of the European Union jurisdictions and a number of other documents relevant for legal risk management;
- Entitles Associate LC members to attend one LC meeting per year as a guest and to request participation in a LC Sub-Group meeting as a guest. Associate members have no voting rights;
- Entitles Associate LC members to remain on the mailing list of the LC.

Subscription membership of the Legal Module:

Subscription members are entitled to purchase the legal opinions made available to Full and Associate LC Members, but are excluded from all LC activities such as Committee and Sub-Group meetings, voting, correspondence and briefings.

5.4.2 Regional Trial Membership Module

Regional Trial Membership is typically limited to new applicants for Associate Member Company status. Existing Associate Member Companies could however be considered as eligible, provided their business model is mainly national.

A participant in such a Module must be an existing or become an Associate Member Company. Regional Trial Membership in conjunction with Associate Member Company status gives the relevant company the right to full participation with a right to vote in a national or regional Task Force (e.g. Italy, CEE/SEE) designated by the Board from time to time as the subject of a trial membership module but not in Committees or other Sub-Groups. Such Member Companies have no right to vote in a General Meeting.

Regional Trial Membership in combination with Associate Member Company status expires after three years. By the end of the third year of such participation in a designated national or regional Task Force, the relevant company must opt between Regular Member Company Status or Associate Member Company status, unless the Board at its entire discretion allows an extension.

5.4.3 Any other future Modules

Other Modules may be set up at the discretion of the Board for special project or programme cost-sharing reasons or for other designated purposes in line with the Mission Statement. The Board will determine the rights and obligations of membership of each Module.

5.5 Membership cancellation

5.5.1 A Member Company may cancel its annual membership by delivering a notice of cancellation by registered mail to the EFET registered office or by electronic mail to secretariat@efet.org (in the latter case subject to a read receipt being obtained). The cancellation shall take effect for the membership year subsequent to the date of receipt of the notice at the EFET office and all dues for the current year will still remain payable.

5.5.2 The Board are entitled to terminate the membership of any Member Company at any time and with immediate effect by Board resolution that it is in the best interests of EFET that such a membership be terminated.

5.5.3 The Board decision to terminate a membership is final. However the Board may only terminate the membership of a Member Company if the Member Company has been given at least 21 days' notice in writing of the Board meeting at which the resolution will be proposed and the reasons why it is proposed, and if the Member Company is permitted to send a representative to the meeting. The Board notice shall not be necessary for the purpose of Bye-Law 5.5.5.

5.5.4 As a preliminary measure, the Board may suspend a Member Company's membership, particularly in circumstances where the Board considers that further investigation or clarification is required.

5.5.5 Despite the generality of the foregoing, Member Companies should expect the following non-exhaustive list of circumstances to result in suspension and/or termination of membership:

a) Failure to pay annual membership fees;

b) Failure to observe the Principles of Good Conduct and/ or applicable anti-trust laws;

c) Repeated contravention of EFET Operational Principles;

d) Suspected or actual illegal, criminal or other activity which could bring the Member Company, and by association EFET, into disrepute;

e) Obstruction of, or failure to support, the work of EFET in line with the Core Principles for Energy Markets.

5.5.6 Unless otherwise determined by the Board, an expelled Member Company can reapply for EFET membership the following year provided the breaches which led to termination of membership have been rectified and such company continues to meet the qualifications for EFET membership. The Board shall consider any such application at a Board meeting before any action shall be taken on that application, and shall either grant or refuse the application.

5.6 Fees

5.6.1 The annual membership fees applicable to the different types of Member Company are set each year by the Board.

5.6.2 The fees for participation in the Modules referred to in Bye-Law 5.4 above are set annually by the Member Companies which are subscribers to the Modules, subject to approval by the Board.

5.6.3 Regardless of the membership category, the EFET membership will be automatically renewed for the following year unless a notification of membership termination is received at the EFET registered office by registered mail or by electronic mail to secretariat@efet.org (in the latter case subject to a read receipt being obtained) by the end of the financial year.

5.7 Referral of decisions to Regular Member Companies

The Board shall refer the following matters to a General Meeting of Regular Member Companies (or alternatively to an electronic vote of Regular Member Companies) to make a decision on:

1. Changes to the Core Principles for Energy Markets;

2. Changes to the Bye-Laws, excluding Annexes;

3. Changes to the Mission Statement and Description of Activities.

Regular Member Companies are entitled to challenge adoption of Board decisions in the aforementioned three areas for up to a period of one year maximum. The Board is not obliged to remove the relevant change. Rather the Board may decide either to suspend its operation for a year and bring it back to the next General Meeting amended, or bring it back to the following General Meeting unamended with a reasoned opinion as to why it is needed or advisable in the original form.

6. Board composition, role of Board members, elections and co- options

6.1 Composition and duties

6.1.1 Balanced representation

The objective of elections and co-options of persons as Board members is to achieve a composition of the Board which:

- Represents fairly the overall spread of Member Companies, both in terms of their geographical coverage and the range of energy products they trade;
- Amounts to a balanced team of constructive, consensus-oriented, wise and active individuals, with complementary skills and professional networks, varied trading business and energy sector experience, relevant market knowledge and a good understanding of EFET activities.

Balanced representation is our target and must be pursued. Balanced representation means a balance of experience in different types of energy trading business and between geographical markets from across the spectrum of the Member Companies, whilst considering the degree of maturity and liquidity of the wholesale market in a particular commodity, contract or region. A good balance also implies taking into consideration our desire for diversity and inclusivity.

Without prejudice to the provisions of Article 5 of the EFET Statutes, the total number of Board members shall consist of up to nineteen (19) Members to ensure reasonable representation of types of market participant:

- **eleven (11) voting Board members** representing Regular Member Companies and elected by the General Meeting;

- **up to eight (8) Board members co-opted by the Board** by virtue of the key positions they hold within the organisation and/or special expertise, including normally (unless they are already elected Board members) the Chair, the Secretary General or CEO, the Treasurer, the Chair of the Electricity Committee, the Chair of the Gas Committee, the Chair of the Legal Committee, and the Chair of EFET Deutschland as elected by EFET Deutschland Members.

The Board is free to co-opt Board members in either a voting or non-voting capacity, provided that co-opted Board members who are contracted to and remunerated by EFET in an executive capacity shall not be entitled to vote at meetings of the Board.

No Regular Member Company shall be entitled to be represented by more than one person on the Board at any one time, whether in an elected or co-opted capacity, unless foreseen by transitional arrangements as stipulated in Bye-Law 6.1.4.

6.1.2 Nominations and eligibility for appointment to the Board

All candidates standing for the Board shall meet the following requirements:

- Must be a natural person employed at senior management level in energy trading by a Regular Member Company in good standing, and any such person must be nominated with the consent of such a company;
- Must demonstrate personal contributions and specific accomplishments for EFET and/or the capacity to provide special skills and depth of experience to the Board.

Any person standing for election to the Board must submit the Elected Board member candidacy declaration (Annex 7), present themselves at the General Meeting (unless prevented by exceptional circumstances) and declare:

- that a consensus-based decision-making should be maintained;

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- that he/she will vote in the interest of EFET and all Member Companies;
- that he/she agrees with the Core Principles for Energy Markets;
- that he/she will comply with the Statutes and these Bye-Laws at all times in performing or exercising his/her functions.

To ensure balance and fair representation, every year the Secretary General or CEO shall invite nominations from among Regular Member Companies for candidates to fill vacant Board seats. The Board has a responsibility to consider nominations from Regular Member Companies and the discretion to recommend a replacement of any particular missing trading business type or missing geographical coverage.

6.1.3 Role of Board members and the Chair

Board members are expected to reach decisions in the best overall interest of EFET, rather than in the interest of their employers, bearing in mind the Core Principles for Energy Markets, the Principles of Good Conduct and other undertakings given by Member Companies, and to avoid conflicts of a personal or corporate nature.

Individual persons working for Regular Member Companies, not the Companies themselves, are eligible to be nominated for election. Those persons who are elected by the Regular Member Companies as Board members then serve on the Board in their individual capacity.

The Chair shall usually be chosen by the elected Board members from among their own number. However, if no elected Board member is willing to serve or none appears suitable, then the whole Board may decide on a co-option. In any case, the Chair of the Board provides leadership to the Board with prime responsibility for ensuring that it has agreed priorities, appropriate structures, processes and a productive culture. The Chair is assisted in these tasks by a Non-executive Vice Chair or Vice Chairs (if any is appointed), and by an Executive Vice Chair (if any is appointed.)

6.1.4 Transitional arrangements

Board membership shall be limited to one person per Regular Member Company, but in exceptional cases (e.g. in the event of an acquisition or merger, in deserving cases) the Board may decide to allow for transitional arrangements to ensure continuity of EFET management until the next regular Board elections.

6.2 Preparation of Board meetings

In order to ensure efficient meetings and in order to promote good governance across EFET, the Secretariat under the guidance of the Secretary General or CEO will provide the Board with the documents and reports mentioned in the agenda at least seven days ahead of the Board meeting. In exceptional circumstances, the Secretary General or CEO may exercise a discretion to circulate a paper or presentation later than that, if, for example, email exchanges necessitate a change to an already prepared document or report or owing to absence on leave or illness.

The Secretary General or CEO may permit attendance of Board members at a Board meeting entirely or partially by videoconference or teleconference.

6.3 Procedure and conditions for General Meetings and Board elections

6.3.1 General Meeting

The duties of the General Meeting shall be:

(i) To elect Board members;

(ii) To approve any changes in the Bye-Laws, excluding the Annexes, in accordance with Bye-Law 5.7;

(iii) To approve any changes to the Core Principles for Energy Markets in accordance with Annex 2[2];

(iv) To approve any changes to the Mission Statement and Description of Activities.

A Board election is held every year at a General Meeting. The date and venue of the General Meeting where any Board election takes place must be notified by electronic communication to Regular Member Companies at least three months in advance.

Subject to the qualification set out below, the following provisions shall apply to all General Meetings whether relating to the election of Board members or not. However, where the General Meeting relates to the election of Board members and the following

[2] If the General Meeting does not approve the proposed amendment(s) to the Bye-Laws , the Board would not be obliged to remove the relevant clause, rather to suspend its operation for a year and return to the General Meeting the following year with a reasoned opinion on why the proposed amendment(s) is/are needed or advisable.

provisions are inconsistent with the nomination and election procedures set out in Bye-Law 6.3.2, then the terms of such nomination and election procedures will prevail.

The Chair and the Secretary General or CEO may make whatever arrangements they consider appropriate to enable those attending a General Meeting to exercise their rights to speak or vote at it.

A quorum of forty per cent (40 %) of Regular Member Companies, represented in person or by videoconference link or by proxy, is required for a valid Meeting. In the case of both the Chair and the Secretary General or CEO determining that the Regular Member Companies present at the General Meeting are fairly represented, they shall have the discretion to reduce the quorum in that meeting to one third (1/3) of the Regular Member Companies. In exceptional cases, the Secretary General or CEO shall hold a follow-up ballot by electronic means if it is not possible to complete the election procedure at the General Meeting.

The Chair shall chair General Meetings if he or she is present. If he/she is not present within 10 minutes of the due time, the Board members present must appoint a Board member or delegate present to chair the Meeting as the first item.

Board members may attend and speak at General Meetings. The Chair of the General Meeting may permit other persons who are not delegates of Member Companies to attend and speak at a General Meeting as guests.

The Chair of the General Meeting may adjourn it if the Regular Member Companies present agree or it appears to the Chair that an adjournment is necessary for the orderly conduct of the Meeting. The Chair of the General Meeting must adjourn it if there is no quorum present. The Chair must specify the time and place to which the General Meeting is adjourned or permit the time and place to be fixed by the Board.

A resolution put to the vote of a General Meeting must be decided on a show of hands, unless a secret ballot is demanded by the Chair or two or more Regular Member Companies present. Secret ballots must be taken immediately in such a manner as the Chair of the Meeting directs. Any question about voting at a Meeting shall be referred to the Chair of the Meeting whose decision is final.

Any Regular Member Company is allowed to vote by proxy. The Regular Member Company may appoint its proxy as stipulated in Bye-Law 6.3.2. Unless a notice of the appointed proxy otherwise indicates, it must be treated as permission for the proxy to vote at his discretion at the Meeting and at any adjournment.

6.3.2 Right to vote

As set out in Bye-Law 5.1, only delegates of Regular Member Companies who attend a General Meeting convened for that purpose, or who nominate a proxy to vote on their behalf, are eligible to vote. Associate and Subscriber Member Companies have no voting rights.

Each Regular Member Company delegate attending the General Meeting where the election takes place has the right to one vote, which can be exercised, provided the membership fees of such Member Company have been settled in their entirety. Regular Member Companies unable to send a delegate to the relevant General Meeting, or wishing to attend by means of videoconference, may nominate a proxy by written notice to the Secretary General or CEO to cast their votes. Delinquent Member Companies shall not be eligible to vote or nominate a representative to stand for election.

Except as stated in Bye-Law 6.1.4, appointments of elected Board members are for two years and duly elected Board members will be eligible for two further terms of two years.

6.3.3 Elected Board members

Rotating Board seats

There will be rotating annual elections, in order that normally five or six elected Board members of the Board may stand for re-election each year (if they remain willing and eligible to serve).

The number of Board vacancies for elected members to be filled at each annual General Meeting is therefore five or six plus any casual vacancies that may have arisen due to other elected Board seats becoming vacant during the year preceding the relevant General Meeting.

Nomination process

(i) Ninety (90) calendar days prior to the annual Board election the Secretary General or CEO will solicit suggestions and nominations from all Regular Member Companies for persons who would be suitable for election into vacant Board seats.

(ii) The Board will consider the candidates suggested by electronic communication from Regular Member Companies to the Secretary General or CEO in the period of sixty (60) to thirty (30) calendar days before the election and take them into account when assembling a slate of candidates. Any person suggested for election must submit a duly completed member candidacy declaration form (Annex 7) to the Secretary General or CEO in the above period.

(iii) The Board will review all completed candidates' declaration forms to validate the declarations, and to verify the eligibility and assess the suitability of proposed candidates. The Board may present, by electronic communication, to Regular Member Companies a slate of recommended candidates for election including their biographical information. Any such slate must be communicated at least twenty five (25) calendar days prior to the General Meeting where the election is to take place, and should take into consideration both skills and experience according to Bye-Law 6.1.2 and the need for balanced, diverse representation according to Bye-Law 6.1.1.

(iv) The Regular Member Companies may nominate alternative candidates through the entire process described in these Bye-Laws, whose declaration forms may be submitted by electronic communication to the Secretary General or CEO no later than ten (10) working days in advance of the date of the General Meeting. Provided such alternative candidates meet eligibility requirements, they shall stand for election together with candidates already included in any slate presented by the Board.

Election procedure

The candidates who receive the most votes in the election at a General Meeting shall fill the vacant Board seats.

The Board members shall be elected according to the number of votes cast for them by the Regular Member Companies. Each Regular Member Company shall be entitled to cast as many votes as there are vacancies for elected Board members on that occasion. Any Regular Member Company is allowed to vote by proxy. The Regular Member Company must notify the Secretary General or CEO of its intention to vote by proxy and must ensure that the Secretary General or CEO receives a notice of the appointed proxy by either postal or electronic communication before the commencement of the General Meeting. The Regular Member Company may appoint the Chair of the General Meeting or any third party as its proxy.

The Chair of the General Meeting shall manage the election and report the results to the Member Companies. Voting by acclamation is accepted if the slate of candidates proposed by the Board is unopposed.

If the election is contested voting shall be held by a secret ballot. If two candidates tie for the lowest number of votes qualifying them to fill a vacant Board seat, then a second run-off ballot may be organised just between those two.

If an insufficient number of candidates are elected for any reason, or failing a quorum, the Secretary General or CEO has the discretion to arrange an electronic vote. In that case ballot papers are to be distributed by e-mail to all Regular Member Companies together with instructions to guide them through the voting process.

As soon as is feasible after the close of the election at the General Meeting and before the Board decides whom to co-opt, the continuing elected, newly elected and re-elected Board members will meet to verify that the election process was upheld and decide if they want to re-appoint the current Chair or appoint a new Chair of the Board from among their number. These members shall normally appoint the Chair of the Board by consensus but, if necessary, may do so by a majority vote. The continuing, and newly elected and re-elected Board members, acting in consultation with hitherto co-opted members, shall also have the discretion to re-appoint or appoint one or two Vice Chairs of the Board, one or both of whom may be an elected member or co-opted member in a non-executive capacity and one of whom may be a co-opted member in an executive capacity.

6.4 Co-options

The Board members elected by the Regular Member Companies may co-opt, by consensus or if necessary, a majority vote among them, up to eight (8) additional Board members. They should normally co-opt the following persons fulfilling essential functions in EFET: the Secretary General or CEO, the Treasurer, the Chair of the Electricity Committee, the Chair of the Gas Committee, the Chair of the Legal Committee, and the Chair of EFET Deutschland (unless any of the last four named persons already happens to be an elected Board member). They may also co-opt a Vice Chair to act in an executive capacity (if any is desired), a Vice Chair or Vice Chairs to act in a non-executive capacity (if any is desired), and Board members to provide specific areas of expertise otherwise not available from the elected Board, to broaden the diversity of Board membership or to represent important types of Member Company that are otherwise not represented on the Board.

A person co-opted to serve on the Board, whether in an executive (remunerated) capacity or not, need not necessarily work for a Member Company, but must be engaged in a commercial or professional activity of relevance to the Mission Statement and Description of Activities and suffer no conflict with any set of EFET Principles.

Voting by co-opted Board members

The Board is free to co-opt Board members in either a voting or non-voting capacity, provided that co-opted Board members who are contracted to and remunerated by EFET in an executive capacity shall not be entitled to vote at meetings of the Board.

6.5 Procedure and conditions for appointment of Principal Committee Chairs and for co-options

At the first Board meeting following the annual election by the General Meeting, the Board, including current co-opted members of it, will first proceed with reconfirmation of the existing or appointment of the new Chair of each of the Principal Committees, and then proceed with the co-option of Board members.

The Board shall appoint the Chair of each Committee in accordance with Bye-Law 8.1. For the avoidance of a conflict of interest, before the vote, any current Chair of a Principal Committee under consideration for chairmanship of the relevant Principal Committee may be required to leave the room until after the discussion of an individual's merits is concluded The elected Board members shall decide from time to time whom to co-opt to the Board and for which purposes, subject to the provisions of Bye-Law 6.4.

At the start of the first Board meeting following the annual election by the General Meeting, any existing co-opted Board member can declare himself available to be co-opted anew by the elected Board members. For the avoidance of doubt, any of the existing co-opted Board members shall participate in the appointment of the Chairs of the Principal Committees and co-option of Board members. The existing co-opted Board members shall exercise their voting rights in the course of such a Board meeting accordingly, except in case they are contracted to and remunerated by EFET.

Any existing co-opted Board member, who is not re-appointed, is not obliged to retire until the end of the first Board meeting following the annual election by the General Meeting. Any newly co-opted Board member shall not exercise his rights and responsibilities and shall serve in his capacity until the end of such Board meeting.

For the avoidance of a conflict of interest, before the vote, the Board member under consideration for a co-opted position will be required to leave the room until after the discussion of an individual's merits is concluded.

6.6 Duration of service of Board members

The normal and maximum duration of service of each Board member:

Elected Board members serve for a two year term, extendible by up to two further terms of the same length if approved by the Regular Member Companies at the General Meeting, after which a Board member must step down, subject to a former Board member being eligible to seek re-election after an interval of one year. A member appointed to fill a Board position as a result of a casual vacancy shall serve the remainder of the unexpired term of his or her predecessor and is eligible to stand for election for two further terms. In the case of a serving Chair whose maximum term of six consecutive years as an elected Board member has come to an end, the elected Board members may decide to co-opt him or her to chair the Board for one further year in an unelected capacity, instead of appointing a Chair from among their own number.

Co-opted Board members serve until the end of the first Board meeting following the annual election by General Meeting when they are available for co-option anew at such Board meeting. For the avoidance of doubt, no overall limit applies to the total duration of service of any individual co-opted Board member.

7 Committees, Principal Committees and Sub-Groups

7.1 Committees and Principal Committees

The Board has the authority to establish Committees, bodies to which Regular Member

Companies may appoint delegates and to which specific duties are delegated directly by the Board. The Committees are responsible for the broader areas of EFET work on a pan-European basis.

The Board appoints the Chair of each Committee taking into account the wishes of persons engaged in the work of the relevant Committee.

A Committee may be designated as a Principal Committee by the Board, in which case it is expected that the Chair of that Committee will normally be co-opted to the Board in accordance with Bye-Law 6.3.

The Principal Committees are currently the Electricity Committee, the Gas Committee and the Legal Committee.

The Electricity Committee’s mission is to identify obstacles to electricity trading throughout Europe and to propose solutions for removing those obstacles. Many activities in the pursuit of this mission involve advocating policy changes and modes of regulation likely to improve the efficient and harmonised functioning of European wholesale electricity markets.

The Gas Committee’s mission is to identify obstacles to gas trading throughout Europe and to propose solutions that will remove these obstacles and facilitate the functioning of the gas trading market. Many activities in the pursuit of this mission involve advocating policy changes and modes of regulation likely to improve the efficient and harmonised functioning of European wholesale gas markets.

The Legal Committee is one of the key standardisation arms of EFET tasked with coordinating EFET contract development, legal opinion procurement and similar activities intended to facilitate the trading of energy and energy-linked commodities.

Other work structures which at present bear status of a Committee (but not Principal Committee) are Market Supervision Committee and Business Process Optimisation Committee.

Market Supervision Committee (MSC) – a body of EFET, which main activities foresee the development of open, transparent, liquid and sustainable wholesale energy markets and related derivatives markets throughout Europe. MSC encourages probity, good risk management practices, responsible corporate governance, and proper accounting among energy traders for the purpose of enhancing these markets’ integrity and transparency.

Business Process Optimisation Committee (BPOC) – a body of EFET, which activities are focused on developing open IT standards for the energy trading industry, such as Deal Confirmation Matching, Broker Matching, Position Matching, eXRP etc. The role of the BPOC is to co-ordinate the resources of the Back Office specialists to deliver the agreed, prioritised business process improvements.

The Committees are intended to remain active over a long period of time and can delegate their work to different Sub-Groups, which they oversee. An important distinction is that Committees help determine the direction of EFET on a pan-European basis, while Sub-Groups are mainly more specialist, operational, regional and/ or national in nature.

7.2 Sub-Groups

The term ‘Sub-Groups’ shall jointly refer to and shall include Sub-Committees, Task Forces (TFs), Working Groups (WGs), and Project Groups, with the last mentioned normally being subordinate to a Committee, Sub-Committee, Task Force or Working Group.

7.2.1 Sub-Committees, Task Forces, Working Groups and Project Groups

The establishment of a Sub-Committee of the Board provides a means for the Board to pursue efficiently specific objectives. Board members are selected to serve on a Sub-Committee on the basis of their expertise, interest and/ or experience. A Sub-Committee may co-opt or invite to a meeting non-Board members from among Member Companies to aid in deliberations. Only the Board members present in a Sub-Committee meeting are empowered to take decisions by consensus. In case of disagreement, the matter under consideration should in effect be referred to the Board itself.

The Board may constitute an Oversight Sub-Committee and a Finance Sub-Committee in accordance with Annex 3 on Financial Governance, Annex 8 on an EFET Antitrust Compliance Policy, Annex 9 on an EFET Compliance Guideline and Annex 10 on the EFET Data Collection Policy.

The Oversight Sub-Committee shall have the following mandate:

- To support the Secretary General or CEO in his administrative duties in accordance with the EFET Statutes and the Bye-Laws;
- To promote good governance across EFET and ensure the Secretary General or CEO, co-opted Board members contracted to and remunerated by EFET, and persons working with them act in the best interests of EFET Member Companies- in co-operation with the Board, and the Secretary General or CEO;
- To inform the Board about its current activities and consult it about pending Actions and Decisions;
- To promote the transparency of internal procedures and work within EFET.

The Finance Sub-Committee shall have the following mandate:

- To oversee and provide support to the Secretary General or CEO and Treasurer in discharge of their management of EFET finances;
- To scrutinise the EFET Budget, Financial Statements and Accounts;
- To give recommendations to the Board on the level and incidence of membership fees with a view to ensuring financial stability while respecting the non-profit status of *the EFET Stichting*;
- To understand EFET financial risks and give to the Board recommendations on financial issues;
- To check the main investment decisions proposed by the Trustees of the EFET Endowment if the Board will not have appointed any separate Investment Sub-Committee.

In addition to the foregoing, the Board will establish a Grants Sub-Committee of the Board which will:

- Advise the Board on how much by way of income and capital gains may and should be taken from the EFET Endowment referred to in the following Bye-Law 7.6 annually for the purpose of making research and education grants;
- Recommend to the Board which such research and education grants should be made by EFET from time to time;
- Administer and oversee the disbursement of research and education grants in accordance with Bye-Law 7.6 below;
- Report to the Board from time to time the fruits of resulting research and education duly funded.

Furthermore, the Board may establish an Investment Sub-Committee to examine and approve asset purchases and sales proposed from time to time by the Trustees of the EFET Endowment, as established by a Settlement Deed dated 11 November 2020 and further described in Bye-Law 7.6 below. Alternatively, and by default in the absence of any Investment Sub-Committee, the Board may delegate such examination and approval to the Finance Sub-Committee.

Task Forces and Working Groups are set up for dealing with national and regional markets, specialised products, contracts and market design issues. A Project Group is a group established under the supervision of the relevant Committee, Task Force or Working Group for a defined period of time only, which ceases to exist as soon as its mission and objectives have been accomplished.

While the activities of these Sub-Groups are normally coordinated and overseen by the relevant Committee, the Board may also decide to set up a Sub-Committee, TF or WG, which reports directly to the Board.

If a Member Company wishes to set up a new Sub-Group, a proposal can be made to the Secretary General or CEO. When there is enough interest from other Member Companies in the proposed activity of the Sub-Group, Terms of Reference must be drawn up and referred either to the supervising Committee or to the Board, as appropriate. If any such Sub-Group is not to be supervised and guided by a Committee, formal approval by the Board of its Terms of Reference is required.

7.2.2 National and Regional Task Forces and Working Groups

EFET foresees organising Task Forces and Working Groups that operate at regional and national levels. EFET work can be performed equally across Europe, irrespective of geographical variations through the establishment of relevant Task Forces and Working Groups.

Responsibility for the activities and operation of national and regional Task Forces and Working Groups shall rest with the relevant Committee at all times. In the event that a dispute or contentious issue arises and consensus cannot be reached, the members of the national and/or regional Task Force or Working Group in question shall refer such dispute or issue to the relevant Committee and, if such Committee fails to resolve it, to the Board.

7.3 Derivation of powers of the Committees, Sub-Committees and Sub-Groups

All Committees and Sub-Committees take their powers from the Board[3]. The Board appoints the Chair of each such Committee or Sub-Committee and the members of the Committees/ Sub-Committees can appoint a Vice Chair or Vice Chairs.

The Board is responsible for the creation, composition, scope of activity and powers of each such Committee and, by extension (or exceptionally directly), Sub-Groups. Nonetheless, the Board is obliged actively to engage, in a transparent manner, delegates of Member Companies in relevant Committees or Sub-Groups in a dialogue about establishing such Committees or Sub-Groups and to consider the opinions and preferences of such delegates in a consultative process.

7.4 The relationship between the Committees and Sub-Groups and their relationship with the Board

Task Forces, Working Groups and Project Groups of Committees are subordinate and

[3] It follows that according to the Statutes the Board enjoys a discretion to wind up a Committee or change its Terms of Reference.

accountable to the Committees in the same way in which the Committees, any directly reporting Sub-Groups and the Sub-Committees are subordinate and accountable to the Board. (Exceptionally Sub-Groups may be given a direct reporting line to the Board.)

The role and the limits of the decision-making powers of a Task Force, Working Group, or Project Group is established through its adopted Terms of Reference, in so far as those terms are approved by, and govern their relationship with, the responsible Committee and /or the Board. (See further Bye-Law 8.2.)

The decision-making power of Committees and Sub-Groups shall cover any action or correspondence judged necessary to effect an approach to a national government, or governmental agency, or international public agency or institution (e.g. the European Commission, ACER, ESMA) including any official complaint or letter before action, which may lead to a formal institutional, arbitration or judicial process.

However, a decision to proceed with such official complaint or letter before action must be brought to the attention of the Board. The responsible Committee or Sub-Group Chair may ask for guidance from the Board, should he or she harbour concerns about so proceeding.

Any form of complaint or legal action necessitating payments to third party service providers from EFET funds shall require the consent of the Board or, in the case of use of a part of the Legal Committee budget, the consent of the Chair of the Legal Committee (provided he or she shall have verified such consent in line with the Terms of Reference and conventional governance of the Legal Committee). The consent can only be expected based on an estimated budget for pursuing the complaint or legal action.

Any step involving the actual commencement of court proceedings in the name of EFET must be referred to the Board. The Chair of the Legal Committee may prepare an opinion to support or qualify the request for such a step. The referral should be based on a consensus within the relevant Committee or Sub-Group that the step is required to achieve EFET objectives in the context of the legal or administrative process entailed. If the commencement of court proceedings entails increased payments to third party service providers, then the Secretary General or CEO and the Treasurer must be consulted, in addition to the Chair of the Legal Committee, prior to the referral to the Board.

7.5 Board oversight of national and regional Sub-Groups

The relevant Committees are primarily responsible for supervising and coordinating national and regional Sub-Groups subject to occasional review and enquiry by the Board. Day-to-day oversight of any issues that arise in a Sub-Group working on regional or national issues are dealt with by the Chair of the Sub-Group, and the Chair of the responsible Committee.

To facilitate periodic review and enquiry, the Board may appoint a member of the Board as a “Regional Sponsor” to provide support and peer review to Task Force or Working Group Chairs, Vice-Chairs and Secretaries and to report to the Board on the progress of regional issues.

7.6 EFET Endowment and a Grants Sub-Committee

The Board has resolved that some EFET cash reserves should be invested for the long-term benefit of EFET and our Mission. The vehicle for making such investments is the EFET Endowment. Portions of the income and capital gains from such investments shall be distributed through chosen academic institutions to support research papers and education projects, which a Grants Sub-Committee of the Board deems meritorious from time to time in keeping with the overall Mission.

To this end, the Board has established a bare trust fund governed by the law of England & Wales by execution of a Settlement Deed on 11th November 2019. The trust is to be called the “EFET Endowment”. Certain current and former members of the Board are appointed to act as Trustees of the trust. In addition, the Board may appoint an independent professional trustee. EFET enjoys under the Settlement Deed the absolute power of appointing new Trustees or removing a Trustee at any time and for any reason during the trust period, provided that there shall be a minimum of three Trustees in place at all times and that at least one of these three shall be a current member of the Board.
The terms of The EFET Endowment are such that the Board retains full control over the type of investments that the Trustees can make and any decisions to be taken regarding the withdrawal and distributions of trust assets.

To manage the use of funds available through The EFET Endowment for research and education purposes, the Board has further resolved to create a Grants Sub-Committee and has delegated to it the following specific powers for the time being:

1. To make suggestions from time to time, but no more than once per year, for the Board to draw money from The EFET Endowment to fund through academic institutions research papers and education projects, within the following maxima:

    a) the Board will ask the Trustees to remit to them annual income generated by investments up to a rate of 3% on total capital employed and in addition the proceeds of any annual capital gains between 10% -15%; except that

    b) in the year following any capital loss of more than 5% the Board will normally forego any remittance at all from the Trustees; and

2. To advise and propose to the Board the distribution of such withdrawn money to fund such research papers and education projects they deem meritorious in keeping with the overall EFET Mission.

The Board shall have power from time to time to add to or alter any tasks delegated to the Grants Sub-Committee in its absolute discretion. If it does so, these Bye-Laws shall be read as if such changes to the tasks were incorporated herein.

8 Decision-making practices in Committees and Sub-Groups

8.1 Consensus

EFET meetings shall be run on a consensus model. The desired culture and process for consensus to occur within EFET is described in Annex 4.

The Chairs (and Vice-Chairs, if applicable) of Committees and Sub-Groups shall be charged with responsibility to assess whether consensus can be achieved, taking into consideration the minority views and interests, and hold voting to resolve any urgent issues, where consensus cannot be found. Committees and other Sub-Groups are expected to strive for consensus at all times, and are requested to define voting rules as part of their Terms of Reference for any decisions which may not be reached by the consensus principle.

An important role for the Chairs of Committees and Sub-Groups is to judge when to foster a group decision quickly and when to wait in order to build greater consensus. The Chairs and the Committee or Sub-Group may however not be taken hostage by unreasonable participants in the meeting and should be able to move forward if there is a clear majority, after the parties have been heard and the arguments discussed, a fair solution has been proposed and a vote has taken place. Consensus does not mean that everybody has a veto right. With a simple majority voting it is about the numbers, while a consensus method focuses on the quality of the arguments and intelligent solutions.

8.2 Terms of Reference (ToR) and default rules for Committees and Sub-Groups

Each Committee and Sub-Group should have Terms of Reference (ToR). The Terms of Reference may include any additional rules adopted by the Committee or Sub-Group which go beyond the minimum requirements set out by default rules, provided these are reasonable, functional and consistent with the Core Principles for Energy Markets, the Statutes and the Bye-Laws.

In the absence of the approved Terms of Reference or further guidance from the Board or the relevant Committee, the indicative content of rules should be the following:

i. Aim or Mission Statement about objectives of a Committee or a Sub-Group;

ii. Short description with background information on the Committee or Sub-Group, also confirming that current and future rules of EFET will apply;

iii. The procedures for calling and conducting meetings, including any rules on participation (bearing in mind the EFET working principle that participation should generally be open to representatives of all Regular Member Companies);

iv. Voting procedures: the basic principle is consensus; simple decisions require a 51% majority vote; more complex and/or controversial decisions require a majority vote of 66%;

v. Action & Decision Lists; these Lists need to be made from each meeting. After approval of an Action & Decision List, in the subsequent meeting, this A&D List needs to be published in the members section of the Website;

vi. Additional working procedures: e.g. the ability of the Chair to invite guests, if required to meet the group's objectives. For potential Member Companies, guests can be invited to one meeting (twice if guests are different persons from same company).

ToR's and actual rules must be approved by the Board or by the relevant Committee Chair acting on behalf of the Board.

8.3 Dispute Resolution

The Chairs of Committees and of Sub-Groups should refer to the Board in a timely manner any pressing issue on which they fail to establish a consensus in the relevant Committee-or Sub-Group, and any decision which they feel may be inconsistent with the Core Principles for Energy Markets or with a published position of EFET.

Chairs, Vice-Chairs and Secretaries of all Sub-Groups are normally chosen by consensus within each group and approved by the relevant Committee or the Board. For example, the relevant Committee Chair must approve the Chair of any Sub-Group and in the case of disagreement about the leadership of a Sub-Group, may choose to refer that choice to the Board.

For decisions on questions of policy, regulation and market design, which fall to be taken in national and regional Task Forces, the aim should be to achieve a consensus in line with the Core Principles for Energy Markets. Whilst majority voting should be applied in the absence of consensus, the Chairs must exercise care when implementing the results of a vote.

Where a conflict arises in a Sub-Group on particularly sensitive issues, it is prudent to consult with the Committee or the Board before implementing a ‘close’ result. In any case, special interests (for example those of a regionally or nationally dominant market participant) should not be allowed to block a decision that is supported by the majority and is in line with the Core Principles for Energy Markets.

In the event of a dispute or disagreement between a Committee and the Board which cannot be resolved, the Board shall ask the Committee or the part of the Committee in dispute or disagreement to submit their reasoned opinion and supporting arguments in writing to the Board.

The Board will then consider these views and make its own determination and submit such determination with supporting reasons to the Committee, which shall be final and binding on the Committee.

If the Board does not materially accept the views submitted to it, the Board shall send two Board members to the next meeting of the Committee to present their determination so that the Committee fully understand the reasons for the determination.

Following such a Committee meeting the Board may but shall not be obliged to reconsider its decision.

9 Financial Governance

EFET practices with regard to internal financial governance are described in detail in Annex 3. Financial governance may change over time to allow the Treasurer, the Secretary General or CEO and the Finance Sub-Committee members to adapt their practices to changing circumstances.

10 Compliance with Antitrust Laws

Member Companies (whether current or prospective) confirm their long-standing commitment to fair and effective competition. Accordingly, each Member Company shall adhere to its antitrust compliance policy and shall counsel its representatives to act in a manner that does not violate any applicable state, federal or international antitrust laws and regulations. Each Member Company should, however, seek their own legal advice on any particular issues or concerns.

It is imperative that antitrust compliance policies of Member Companies shall apply to their activities, ensure proper conduct at all meetings, guide any information exchange and communications involving Member Companies participating in EFET work and activities.

EFET staff and persons contracted to EFET in an executive capacity shall be bound by internal EFET Antitrust Compliance Policy (Annex 8).

11 Bye-Laws binding

All Member Companies and their representatives are bound by the Statutes and the Bye-Laws in relation to participation as Member Companies in EFET work and activities and are expected to be familiar with the Statutes and the Bye-Laws.

Annex 1 - Definitions

Action and Decision List (A&D list) - a mandatory meeting document prepared by a designated Secretary which duly records the decisions made and the actions attributed in every meeting of the Board, a Committee or a Sub-Group.

Affiliates - the persons referred to as Affiliates ("Aangeslotene") in the Statutes who in these Bye-Laws are referred to as Regular Member Companies.

Annex - an annex to the Bye-Laws.

Associate Member Companies - Associate Member Companies of EFET with the rights and obligations set out in Bye-Law 5.1.2. They are referred to as Associates in [older versions of] the Membership Application Form. Associate Member Companies are not Affiliates, since they have no role in electing Board members, nor do they have any other status under the Statutes.

Business Process Optimisation Committee (BPOC) – a body of EFET, which activities are focused on developing open IT standards for the energy trading industry, such as: Deal Confirmation Matching, Broker Matching, Position Matching, eXRP etc. It does not have the status of a "Principle Committee".

Board - the body of EFET, which is responsible for the attainment of the Mission Statement and Description of Activities, and is vested with the power to manage EFET and regulate its operations including amending the Statutes. The Board is composed of up to 19 Board members, appointed in accordance with Bye-Law 6.3, either by means of election by Regular Member Companies in General Meeting or by co-option by the Board.

Board members - the duly elected members and duly co-opted members of the Board from time to time.

Bye-Laws - these Bye-Laws or any of them as amended from time to time, and a reference to any Bye-Law shall be construed accordingly.**Chair -** the duly appointed Chair of the Board (and normally Chair of a General Meeting) from time to time.

Committee – a body to which Regular Member Companies may appoint delegates and to which specific duties are delegated directly by the Board. Committees may be designated as Principal Committees by the Board, in which case it is expected that the Chair of that Committee will be normally co-opted to the Board. Each Committee may in turn delegate duties to a Sub-Group reporting to it.

Consensus - a cornerstone principle underlying the decision-making process and the overall functioning of EFET. The consensus process is described in Bye-Law 8.1 and Annex 4.

Core Principles for Energy Markets - the Core Principles for the functioning of energy markets adopted by EFET from time to time, derived from the Mission Statement and Description of Activities consisting currently of the Core Principles for Energy Markets set out in Annex 2.

Delinquent Member Company – a Member Company infringing these Bye-Laws or other EFET rules as provided for in the Annexes.

EFET - the foundation ("Stichting") known as "The European Federation of Energy Traders".

EFET Deutschland – EFET Deutschland (Verband Deutscher Energiehändler e.V.) being a separate organisation which shares the same objectives as EFET and works closely together with EFET in relation to the German energy market and shares some Member Companies.

Electricity Committee – one of the Principal Committees of EFET, which mission is to identify obstacles to electricity trading throughout Europe and to propose solutions for removing those obstacles. Many activities in the pursuit of this mission involve advocating policy changes and modes of regulation likely to improve the efficient and harmonised functioning of European wholesale electricity markets.

Endowment - is the EFET Endowment, an English bare trust controlled by EFET to be used for making investments to help fund EFET grants to chosen academic institutions, in support of research papers and education projects consistent with pursuit of the EFET Mission.

Executive Vice Chair – a member of the Board, if any, duly co-opted and appointed as a Vice Chair who is remunerated for discharging specified tasks allocated to him/ her by the Board and/ or overseeing specified functions within the Secretariat in consultation with the CEO.

Gas Committee – one of the Principal Committees of EFET, which mission is to identify obstacles to gas trading throughout Europe and to propose solutions that will remove these obstacles and facilitate the functioning of the gas trading market. Many activities in the pursuit of this mission involve advocating policy changes and modes of regulation likely to improve the efficient and harmonised functioning of European wholesale gas markets.

General Meeting - a meeting of the Regular Member Companies duly convened and held in accordance with Bye-Law 6.2 and the Statutes. General Meetings are held annually to appoint Board members, on which occasion Associate Member Companies are also invited.

Grants Sub-Committee – the Sub-Committee of the Board established to discharge the functions set out in Bye-Law 7.6.

Honorary Members - persons appointed as Honorary Members with the rights and obligations set out in Bye-Law 5.1.4.

Honorary President – a person appointed as an Honorary President with the rights and obligations set out in Bye-Law 5.1.5. There shall only be one Honorary President at any given time.

Honorary Vice-Presidents - persons appointed as Honorary Vice-President with the rights and obligations set out in Bye-Law 5.1.5.

Investment Sub-Committee – the Sub-Committee of the Board (if any) established pursuant to Bye-Law 7.2.1 to oversee investments by the Trustees of the EFET Endowment.

Legal Committee – a Principal Committee of EFET, one of its key standardisation arms tasked with coordinating EFET contract development, legal opinion procurement and similar activities intended to facilitate the trading of energy and energy-linked commodities.

Legal Module – the module established for Member Companies subscribing to services offered through the Legal Committee as referred to in Bye-Law 5.4 and in Annex 3.

Market Supervision Committee (MSC) – a body of EFET, which main activities foresee the development of open, transparent, liquid and sustainable wholesale energy markets and related derivatives markets throughout Europe. MSC encourages probity, good risk management practices, responsible corporate governance, and proper accounting among energy traders for the purpose of enhancing these markets' integrity and transparency. It does not have the status of a "Principle Committee".

Member Companies - currently means Regular Member Companies, Associate Member Companies and Subscriber Member Companies.

Membership Fees – the annual fees charged to various categories of Member Company as determined by the Board from time to time in accordance with Annex 3.

Modules - membership modules entitling Member Companies to additional rights as set out in Bye-Law 5.4. Currently there are two Modules, namely the Legal Module, and the Regional Trial Membership Module.

Non-executive Vice Chair - a member of the Board, if any, duly elected, or co-opted but not remunerated for any services to EFET, and appointed as a Vice Chair.

Officers – the Officers of EFET are deemed to be under these Bye-Laws the individuals having signatory power to bind the Stichting externally, i.e. the Chair, the Secretary (referred to in these Bye-Laws as the Secretary General or CEO) and the Treasurer, as more particularly described in the Statutes, or any other person with signatory power mandated by the Board from time to time.

Operational Principles – the Principles to be applied to the operation and management of EFET as set out in Bye-Law 4.1.

Participants - a term used in the earlier versions of the EFET Membership Application Form meaning Regular Member Companies.

Principal Committee - a Committee designated as such by the Board, currently there are three Principal Committees, namely the Electricity Committee, the Gas Committee and the Legal Committee. Each of the Principal Committees can further delegate specific duties to different Sub-Groups consisting of Task Forces, Working Groups and Project Groups. Additional Principal Committees can be established by the Board.

Principles – the Principles described in Bye-Law 4 namely the Core Principles, the Principles of Good Conduct and the Operational Principles.

Principles of Good Conduct for Energy Trading - the standards of conduct set out in Annex 6 and including ”The 10 Pillars”, to which Member Companies agree to adhere.

Project Group - a body to which a specific task or project is delegated by a Committee or a Sub-Group.

Regular Member Companies - full voting Regular Member Companies of EFET with the rights and obligations set out in Bye-Law 5.1. The persons referred to as Affiliates (“Aangeslotene”) in the Statutes shall continue to have that status conferred on them by the Statutes, but in these Bye-Laws shall be referred to as Regular Member Companies. Regular Member Companies were also referred to as Participants in older versions of the EFET Membership Application Form set out in Annex 6.

Secretary General or CEO - the duly appointed Secretary General or Chief Executive Officer of EFET from time to time. The Secretary General or CEO (whichever title is preferred by the Board) is referred to as the Secretary in the Statutes.

Statement of Activities – the statement of activities of EFET set out in Bye-Law 3.

Statutes - the constitutional document (“Statuten“) of EFET as contained in the Foundation Act (“Oprichtingsakte”) of EFET as a Foundation (“Stichting”) and as amended from time to time.

Sub-Group - a collective term for any Task Force, Working Group, Project Group or Sub-Committee to which specific duties are delegated by a Committee or by the Board.

Subscriber Member Companies - Subscriber Member Companies of EFET with the rights set out in Bye-Law 5.1.3.

Task Force or **TF** - a body to which a regional function or defined area of work is delegated by the Board or a Committee.

Terms of Reference - the terms of reference for a Committee or a Sub-Group determined in accordance with Bye-Law 8.2.

Treasurer - the duly appointed Treasurer of EFET responsible for discharging the functions set out in Annex 3 and answerable to the rest of the Board through the Finance Sub-Committee.

Vice Chair – a duly appointed Vice Chair (if any) of the Board from time to time, whether asked to act in a non-executive or executive capacity.

Website – the EFET website www.efet.org and/or such other websites as EFET may establish from time to time.

Working Group or **WG** - a body to which a defined area of work is delegated by the Board or a Committee (to be distinguished from the term working committees ("werkcommissies") used in the Statutes).

"10 Pillars" - The "10 Pillars" which form part of the Principles of Good Conduct for Energy Trading and are set out in the Membership Application Form (set out in Annex 6).

Annex 2 - Core Principles for Energy Markets

Short form version

Final July 2021

1) **Competition and market access**
   Wholesale markets in all energy commodities and related products (including forwards, futures and options) and services should be open to competition and intermediation. In addition, trade in energy commodities and related contracts and instruments across borders must be unimpeded by artificial barriers, whether tariff or non-tariff in character.

2) **Access to networks**
   The management, operation – and ideally the ownership - of electricity and gas transmission and distribution systems should be fully unbundled from other energy businesses. TSOs must not deny or restrict access to interconnected transmission systems nor between hubs except in the case of binding physical congestion.

3) **Wholesale energy markets and price formation**
   The key signal coming from the market is the price. Undistorted and transparent prices, emerging from a variety of types and duration of contract, give an accurate signal for production, storage or dispatch in the short term, and for investment and divestment in the long term. Regulators and exchanges should allow energy prices to reflect the true value of scarcity during times of system stress and high demand; similarly, when energy is in abundance, prices should be allowed to reflect the value of displacing production and the scope for increased consumption.

4) **Generation adequacy and capacity remuneration mechanisms**
   The energy only market should normally be left to answer inadequacies in capacity. Nonetheless, in a decarbonising economy, featuring greater penetration of renewable energy production and thus inherent intermittency, remuneration of standby capacity may be needed for a period, in order to supplement a weak or unreliable investment signal for peaking generation or storage assets conveyed by an energy only market.

5) **Transparency**
   TSOs or alternative aggregators of information must publish on an easily accessible electronic platform *ex ante,* granular data about the physical availability of production as well as transmission infrastructure. Real-time, disaggregated information on the use of assets and *ex post* data about rates of utilization should be published in download-able formats on a rolling basis.

6) **Freedom of choice of trading venue**
   Wholesale energy market participants should enjoy the freedom to choose how and where, particularly on which trading platforms, to post their bids and offers and execute their transactions

7) **Carbon pricing**
   The EU ETS, together with expedient, parallel but transitional carbon pricing schemes for newly added large sectors such as transport and heating, should play the central role in Europe's climate action policy. The carbon abatement signal given by the price of EU CO2 emission allowances can contribute incrementally to the transition to a net zero economy. Its contribution will be reinforced if the price is embedded in a new EU carbon border adjustment mechanism applying to imported power and energy intensive manufactured products, while the free allocation of allowances is phased out.

8) **Integration of renewable energy in wholesale markets**
   Financial support, where needed to help achieve volumetric renewable consumption targets, should be allocated to producers using competitive mechanisms. Support schemes should be of

limited duration, least distortive of price signals and made progressively open to participation across national borders. On the other hand, financial support, once granted, should not be changed retroactively. The design of support schemes should not involve operational privileges for renewable energy producers nor disincentivise their participation in energy markets, nor undermine the efficient functioning of markets.

9) **Technology neutrality and allocating system costs**
The European energy market design and the regulatory frameworks governing the wholesale electricity and gas markets should function independently of production technology used and technical specifications of energy carriers. Any production or switching incentives introduced to favour renewable or low carbon energy must be focused on the relevant policy goals of emission reduction, RES stimulation or energy efficiency, rather than penalising users of legacy assets.

10) **Flexibility and storage**
An efficient energy market should deliver the right mix of flexible capacity – whether capacity for production, demand, storage or conversion. Access to and use of energy storage and energy carrier conversion facilities should be commercially driven as far as practicable.

11) **System balancing**
Market participants should be able to adjust their portfolio positions as close as possible to real-time in electricity, or during the balancing period in gas. Balancing actions of electricity TSOs should be limited to the period closest to real-time, after the intraday gate closure; in the gas sector, balancing markets should enable TSOs to balance the system entirely through multilateral within-day and day-ahead markets.

12) **Market integrity**
The legislative and regulatory frameworks needed to underpin wholesale energy market integrity should reflect the particularities of commodity markets entailing physical delivery of energy on the one hand, and of markets in energy derivative contracts constituting financial instruments on the other. Specific rules within those frameworks should be proportionate to the limited commercial and systemic risks posed by trading in energy commodities.

13) **Standardization**
Standard contracts and standard IT protocols for the exchange of transaction data are crucial tools, developed by EFET, to facilitate open, liquid and transparent energy markets at the wholesale level, especially in relation to OTC transactions.

Annex 3 - Financial Governance

Draft **EFET Internal Controls:**			
Revision History			
Version	Date	Changes	Author of changes
Version 0.1	25/01/2006	Early draft with template	Bart Pycke + Jan H
Version 0.2	10/02/2006	Internal control	Jan van Aken
Version 0.3	21/08/2006	update	Jan van Aken
Version 0.4	21/08/2006	update	Bart Pycke
Version 0.5	11/09/2006	update	Suggestions Juan Alba
Version 1.0	28/08/2007	update	Jan van Aken
Version 1.1	07/11/2007	update	Jan van Aken
Version 1.2	08/11/2007	Update	Bart Pycke
Version 1.3	01/12/2009	Update	Jan van Aken
Version 1.4	12/09/2017	Update	Jan van Aken

Context and Overview

This Annex to the Bye-Laws provides information to EFET Board members and EFET staff on the internal controls under which EFET conducts our activities.

Details and Responsible Individuals

Annual Budget and Financial Control (see also Article 15 of the EFET Statutes):

- The EFET Annual Budget is established by the Secretary General or CEO and the Treasurer in joint responsibility.
- The Annual Budget of the Legal Committee (in the form of a Legal Module) is established by and the Chair of the Legal Committee.
- The Annual Budget of any other modules will also be established by the Secretary General or CEO and the Chair of the respective module.
- The Treasurer will report separately to the Board on the return on capital and the income earned within funds managed under the EFET Endowment and recommend the amounts to be utilised from such return and such income for the purposes of the Grants Sub-Committee.
- The budgets are presented annually to the EFET Board for approval. They will be sent to the EFET Board members at least seven days ahead of the EFET Board meeting.For the avoidance of doubt, persons co-opted to serve on the EFET Board in an executive (remunerated) capacity shall not have a say in approving the budget, nor in relation to any Board decisions affecting payments for their remunerated services, or the renewal of their service contracts (where applicable).

EFET Funds (see also Article 3 of EFET Statutes):

- Current categories of income: membership fees;
- contributions to specific modules;
- sales of legal opinions;
- voluntary (cost-sharing) contributions;
- investment income and bank interest received.

Membership Fees

The EFET membership fees are set by the Board on proposal from Treasurer and Secretary General or CEO in order to ensure to run EFET on a non-profit basis with sufficient funds for daily operations and contingencies.

Following categories of membership exist:

- Regular Member;
- Associate Member;
- Subscriber Member.

Any change of membership fees requires the approval of the Board.

EFET shall put effective control mechanisms in place in order to check that income is used in cautious commercial manner;

Detailed control is in place in order to check that payments are made within the limits and the purpose allocated in the budget. A detailed budget is drawn up by Secretary General or CEO, made available and discussed with the Treasurer ("4 eyes principle").

Other Revenue

From time to time, EFET receives revenue that is not directly coming from membership fees.

All sources of revenue should be reflected, and listed under separate accounts, explaining their nature in the Annual Budget to be approved by the Board;

Additional revenues are generated from:

- Legal Committee where Member Companies contribute by paying a yearly subscription fee in return for having access to legal opinions prepared by external counsels.
- Investment income and capital gains generated by the EFET Endowment.
- Some interest is received yearly from the EFET savings account and
- An additional, mostly small scale, revenue stream has been project based, where EFET acts as cost-sharing vehicle.

The funds of the Business Process Optimisation Committee will only be spent on projects related to the standardization of business processes throughout the industry, and other issues like training, in accordance with the budget.

The funds of the Legal Committee will only be spent on legal fees for legal opinions and legal work on standardisation of contractual documentation in according and with budget of the Legal Committee.

Moneys drawn from the EFET Endowment shall only be spent for the purposes set out in Bye-Law 7.6.

Personnel, Contractors, Consultants and Freelance Staff

EFET operates a virtual organisation with staff in Amsterdam, Brussels, London and Berlin.

EFET has no employees, but contracts with freelancers, partly operating through companies. This model increases flexibility and keeps cost lower than in case of employment and related tax and administrative burdens. Some of our freelance staff have contracts with EFET and with EFET-Deutschland, whereby in one case EFET acts as paying agent for EFET- Deutschland.

EFET Finance Committee

The Board may if it wishes establish a Finance Sub-Committee, as foreseen in Bye-Law 7.2.1 to advise the Board inter alia on matters related to staff remuneration and items with an important financial impact.

Office and Travel Expenses

Expenses

Any expenses which persons contracted to provide services to EFET on a regular or frequent basis in an executive, research or assistant capacity have reasonably incurred in the discharge of their duties shall be reimbursed to them at cost level upon presentation of bills and proofs of payment. Expense claims are to be presented within two months from the date when the expenses concerned were incurred.

Travel Expenses

Travel expenses which persons contracted to provide services to EFET on a regular or frequent basis in an executive, research or assistant capacity have reasonably incurred in the discharge of their duties shall be reimbursed to them at cost level upon presentation of bills and proofs of payment. Expense claims are to be presented within two months from the date when the expenses concerned were incurred.

Bank Account

EFET has two bank accounts at ABN/AMRO(one current account and one savings account), and two additional bank accounts at ING Bank (one current and one savings account). All bank transfers are done by bank transfers or electronic banking. The Secretary General or CEO has signatory power up to €15,000. For amounts above € 15,000, the signatures or electronic approval of the Secretary General or CEO and the Treasurer are required. For amounts to be transferred to Secretary General or CEO, there will be signature on related invoice/expense report from Treasurer. This is also being checked by the accountant.

For the description of payment and accounting procedures see section below.

Invoicing, payment and accounting

Invoicing

Secretariat to produce and send out the invoices for member fees. Invoicing is done via electronic data base. Registration of payment is also processed via this database, so that authorised persons can view database on-line to see who has been paid.

Payment

All received invoices are checked by Secretary General or CEO, in certain cases after consulting persons involved in placing the payment order. Following the approval, payments are being prepared by Secretariat and signed or electronically approved by Secretary General or CEO. Treasurer’s signature is required for payment orders above €15,000. Treasurer’s advance approval and signature are required in respect to remuneration of services rendered by Secretary General or CEO in advance. Accountant checks this.

Accounting

Each month the Secretariat will book all incoming and outgoing invoices based on bank statements. The accountant will check VAT issues, fill in all tax forms etc. and will produce annual accounts and supply all legally required financial information to the Chamber of Commerce. All payments related to EFET activities shall be effectuated via the EFET bank accounts.

Annex 4 - Consensus in EFET

What does it mean and how do we achieve it?

No ordinary industry association

EFET was founded by a group of like-minded senior executives in Western Europe, who in 1999 were in the process of initiating a continental wholesale power and gas business model from scratch within each of their companies. The essential mission of the new association was to pave the way, through external actions and internal standardization initiatives, for the establishment of a truly European wholesale market in energy. This demanded creative thinking, innovation, determination and a sense of shared purpose.

To this day the hallmark of EFET as an organisation remains our capability to be progressive, innovative, fast moving if necessary, and focused on our longer-term objectives. We are by nature not defensive, unlike many longer established industry groupings. Our vision, external actions and effectiveness seem to matter most to our member trading businesses, especially when it comes to our work on market design, energy policy and regulatory controls. Preservation of our core capability entails engendering a team spirit and a common will, not only in the Board and the Secretariat, but also in each Principal Committee and in each new Task Force or Working Group. Inspired leadership of a particular group will naturally aid this process.

Given that new Member Companies must sign up to the principles of an open market and competition throughout Europe, it is not difficult for every Member Company to identify clearly the direction of the association as a whole. Clarity is enhanced by a now very substantial corpus of published papers. These, taken together with the EFET Mission Statement and Description of Activities already form an excellent basis for natural *consensus* going forward.

Few market design, policy and regulatory issues referred to the Board

Virtually all our Committees, Task Forces, Working Groups and other groups (whether temporarily or permanently established) in fact succeed in achieving an internal *consensus* and thereby pursuing a common external agenda in the name of EFET. Perhaps this is not surprising, given that it is a habit of the Board, the Secretariat and the Committees to allow a Manager in a Member Company, who provides new ideas for improving, for example market accessibility, product standardisation or liquidity, to run with and develop that idea. He or she will be free to assemble a team of other company delegates interested in the topic, and together consensually realise the improvement. The success can be measured by the relatively few occasions when it became necessary for the Chair or the Secretary of a Committee to refer a serious difference of opinion to the Board.

<u>Using meetings to debate principles and direction, not a form of words</u>

It has become common practice amongst the delegates representing Member Companies on Committees, Task Forces and Working Groups to use meetings chiefly to debate matters of mutual concern and reach high-level agreement on an EFET approach. Once this is done, delegates typically determine internal work priorities and external communication opportunities jointly, establish between them a common understanding of an issue and then, with the guidance of the group chair and members of the secretariat, creating a set of objectives to be pursued by EFET in relation to that issue.

This way of working can be described as *consensus* building in action. The drafting of papers, presentations and letters supporting the pursuit of the objectives can then be tackled between meetings, with details of these materials being settled through e-mail exchanges or interim conference calls.

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Decisions emerge naturally, not through resolution of a confrontation

The working practices described above mean that misunderstanding and confrontation infrequently occur in EFET. If a *consensus* on priorities, opportunities, interpretation and objectives emerges before attitudes harden and conflicting texts are circulated, it is much easier to make a decision at a later stage, about e.g. a final draft paper or a position to be adopted in an external meeting, unanimously or by consent, rather than by a formal vote. Of course the method requires the disciplines of deploying good arguments to convince any sceptical members in a particular group, respecting special situations or sensitivities, and finding intelligent and smarter solutions.

The process of building *consensus* in principle on an issue at the outset, rather than at the last hurdle, also helps dissenting Member Companies decide earlier on a strategy for pushing their own interest or view independently or through another industry body. This has happened with various Member Companies on a number of occasions apparently without any long-term ill will being felt.

Annex 5 EFET Membership Application Process

Introduction to EFET Member Origination

The reasons to apply for EFET membership vary from information or regulatory intelligence, better leverage in the law-making process through joint advocacy, to educational needs, or networking through exchange with others, or simply visibility and recognition to be a member of the trading community (notably in Southern and Eastern Europe). Membership applications are mostly originated by EFET staff. At times, the potential applicant company has been occasionally attending EFET meetings as a guest, or is recommended to join by the Secretariat, or by any participating EFET member representative. Rarely, applicant companies approach the EFET Secretariat with a membership request, without previous contact with EFET groups, or EFET staff. The Board of EFET has asked for a description of the application process and parameters for decision making upon applications.

Regional Scope vs European Scope

The future scope for EFET activities of new EFET members are mostly driven by their corporate interest in certain EFET activities. Some memberships are limited to EFET Secretariat services only. For example, banks originated by the Legal Committee Secretariat mostly stay involved in activities of the Legal Committee (LC), or subgroups thereof, whereas these members have not shown up at any other EFET group meetings. Some EFET members only have limited regional interests and limit their support / attendance to certain regional groups (TF CEEE, TF CEE-G, TF Italy). EFET is catering for these needs by the regional membership category offered to Member Companies for a lower membership fee.

Applicable Rules for Membership (Section 5 of the EFET Bye-Laws)

Categories of Membership

Section 5 of the EFET Bye-Laws detail the different membership categories, but not the application process. Section 7 provides for an application (Section 5.3) in order to become EFET member, and details various types of membership, and rights and obligations associated with the respective EFET membership as follows: a) Regular membership (Section 5.1.1), b) Associate membership (Section 5.1.2), c) Subscribing membership (Section 5.1.3), as well as d) Honorary membership (Section 5.1.4). and membership termination (Section 5.3).

Qualification of an EFET Member

As far as the quality of a company to qualify as a Member Company is concerned, Bye-Law 5.3 provides for following parameters for membership. Any new applicant must declare that:

(1) It actively supports the principles of an open energy market and competition in Europe;
(2) It trades on own account in the European energy market, or provide portfolio services,
(3) It will adhere to the EFET Principles of Good Conduct, and finally
(4) It will actively support the work of EFET.

These declarations exclude the following type of companies:
1. Exchanges, brokers, or intermediaries as they typically do not trade on own account;
2. Companies without activities in the European wholesale energy market;
3. Companies, which do not support market opening;
4. Companies, which do not agree to adhere to the EFET Principles of Good Conduct for Energy Trading. Another condition for membership is that the EFET Board approves the new membership. The Board can also terminate a membership, as specified in Bye-Law 7.5.

Description of Process for Applications

1. First Contact

Normally, the EFET Secretariat establishes a first contact with potential applicant company. Following the first contact, applicant company receives the membership information pack, consisting of general information about available EFET memberships, respective application forms, associated fees, and the "10-Pillar Appendix", which Member Companies are bound to adhere to. Potential applicant companies are given basic information of the membership process, including the need of Board-approval for their application. The Secretariat sends the executed membership form to the New Member Officer. This role is currently fulfilled by Jan Haizmann.

2. Screening

The EFET New Member Officer fulfils the following standard tasks:

a) Contacts a new applicant company for a short interview to check their activities and motivation to join EFET;
b) Conducts an internet check (corporate website, internet search on management);
c) Runs a check as to whether the information given on application form is correct;
d) Checks whether the applicant company is a member of hubs/ exchanges/ trading platforms;
e) Checks trading status of the applicant company through the EFET network especially counterparties, with a view to revealing any criminal activity, sanctions applied, or other relevant information.

The results of the screening of the applicant company culminates in a recommendation by the EFET New Member Officer.

3. Recommendation

Based on his research, the New Member officer is drawing up a small description of the applicant company, its trading activities and its motivation to join EFET. This report is sent to the EFET Board one calendar week before any scheduled Board meeting and provides for a recommendation of the New Member Officer, on whether the screening has resulted in the applicant company being fit for membership, or not. Membership decisions always form part of any scheduled Board meeting. The New Member Officer introduces the discussion and takes note of the outcome of the discussion.

4. Discussion

The Board discusses every membership application on its own merits in the scheduled Board meeting. The discussion does rely on: - The report from the New Member Officer,

- Own research from the company compliance staff or own business intelligence.

After the discussion, each membership application is subject to a resolution of the Board acting in consensus. The Board resolution is minuted in the Board meeting action and decision list. The Board has discretion to:

(1) accept the application, or

(2) refuse the application, or

(3) make the acceptance of the membership applications subject to certain conditions.

These conditions can consist in the need of further information from the company, or further approvals from compliance departments. There is no limitation as far as the conditions are and the Board has requested additional information, or requested more time in order to give the application effect, or to postpone.

During this additional time as required by the Board decision, no communication is sent to the applicant. Upon fulfilment of the conditions, the applicant company is informed about the outcome of the process by the Secretariat.

5. Parameters for Discretion of the Board

The Board has requested to develop Guidance for admitting new applicants to EFET in order to provide for more clarity, non-discrimination and transparency in the admission process. The Guidance should on the one hand not be too prescriptive. On the other side the Guidance should provide for clear parameters for admission of new members by the Board.

6. Guidelines for Board Discretion

Following sets out more concrete parameters which are in line with the By-Laws for admission to EFET. Non-qualification as EFET Member company shall be assumed for example if:

a) The top-management, or its major shareholder or ultimate beneficiary of the applicant company have been knowingly convicted for any crime, such as fraud or embezzlement in the European Union/EEA.

b) Its senior management or ultimate beneficiary are known to be subject to criminal investigation in the EU, even if the critical circumstances relate to another entity, or activity, if the investigation is qualified to pose a reputational risk for EFET;

c) The applicant company has been repetitively sanctioned for market abuse, or any form of market manipulation, or has been found guilty of any consecutive breaches of law in the European Union/EEA before submission of the application for membership.

d) The applicant company, or its senior management, have been acting against the basic ideas as provided by the “10 pillars” and this evidence has become knowledge of any of Board members of EFET Secretariat.

e) The member company does not comply with EU sanction rules or has been involved in terror financing.

Any of these reasons to deny the membership only are reflected if the convictions concern commodities (such as power and gas trading, or CO2, or emissions) trading in the European Union/EEA. Convictions of group affiliates outside the EU/EEA do not need to be taken into account, exempt in cases of aforementioned 6. (b).

Any allegations against group affiliates of applicant Member Companies leading to convictions, and allegations involving group affiliates shall not necessarily infect the eligibility for EFET membership. In particular, large multinationals having a large geographic footprint and multiple activities in commodities other than gas and electricity should not be penalized, in the process of consideration of their affiliated trading entities when applying for EFET membership.

Business activities of other group affiliates, other than the applicant entity, shall be evaluated separately from the power and gas trading activities and shall not be considered by the EFET Board in exercising its discretion on each membership application, unless the affiliate has been convicted for money laundering or the financing of terrorism.

Annex 6 EFET Membership Application Form Template

to become **Regular member** of the European Federation of Energy Traders,
a foundation registered in Amsterdam with number 4114458

Name of the company

Address

Telephone number E-

mail address

Web site address VAT number

Contact Person E-mail :

Alternate Contact E-mail :

Your company is trading in the following European energy markets (geographical)/Of which exchanges are you a member ?

A B C

D E F

G H I

Your company trades the following commodities.

- ☐ power
- ☐ gas
- ☐ emissions/renewables
- ☐ coal
- ☐ weather
- ☐ derivatives
- ☐ oil
- ☐ other

Trading Operations are run as cost ◯ **centre/** ◯ **profit centre/** ◯ **seperate company (Please select what is applicable)**

I. The above-mentioned company herewith applies to become a member of EFET.
II. The company declares that it actively supports the principles of an open energy market and competition throughout Europe.
III. The company declares that it acts as a trader on the European energy market, which among others includes taking physical and/or financial positions for its own financial risk.
IV. The company adheres to the EFET principles of good conduct for energy trading (The "10 Pillars")
V. The company will actively support the work of EFET.

Name Date

Signature

Principles of Good Conduct for Energy Trading

Wholesale trading occupies a pivotal position in the energy value chain, as it brings supply and demand together in commodities that are critical to the European economy and to European society. As a consequence, a general responsibility on the part of traders to contribute to the proper functioning and sustainability of energy and related product markets across the continent is understood. It is our intention that companies affiliated to EFET should adhere in their energy trading business to the highest standards of probity, honesty and fair dealing. These standards should be applied throughout a trading unit's front, middle and back offices and professional or support functions. They must also fit seamlessly with any governance arrangements or ethical guidance in force in other corporate units or relevant affiliated companies. We expect such standards to be built around the "10 pillars" set out below.

All Member Companies engaged in trading in energy markets must adhere to 10 pillars of good conduct:

1. Respect free and fair competition as the basis for trading energy.
2. Not engage in any activities which would amount to market abuse, market manipulation or fraud, nor relay information known of strongly suspected to be false or misleading.
3. Deal with each other in accordance with established market practices and the standards expected of professional market counterparties.
4. Deal with customers fairly and with integrity and manage any conflicts of interest that may arise appropriately.
5. Organise their energy trading business effectively, respecting appropriate segregation of staff duties, and exercise diligent control over trading functions.
6. Establish effective risk management policies and control procedures governing the key risks managed by their energy trading functions.
7. Establish compliance policies setting out the company's procedures for fulfilling all legal and regulatory obligations and any related corporate governance rules relating to their energy trading functions.
8. Ensure that their traders are suitably qualified and properly supervised to carry out their duties, including where appropriate to have taken relevant industry examinations.
9. Prohibit their employees from giving or receiving bribes and from indulging in other corrupt behaviour in all circumstances; and establish policies governing gifts and hospitality, highlighting acceptable and unacceptable practices.
10. Maintain accounts related to trading transactions and risk books in accordance with relevant accounting standards, and respecting normal audit practices.

Annex 7 Elected Board member candidacy declaration

Declaration Form for:
Candidates seeking election by
Regular Member Companies to the EFET Board

Name
Position
Employing Company

Company holding regular EFET membership in the same corporate group (if different)

Address
Phone number
Email address

Hereby declare that:

- The company by which I am employed is a regular member company of EFET or is a company within a corporate group including such regular member company;
- The company and/or its controlling parent company and/or its relevant subsidiary and/or its relevant affiliate consents to my standing as a candidate in the next EFET Board election;
- I wish to stand for election;
- I agree with and promise to pursue to the best of my ability the Mission Statement and Description of Activities of EFET*;
- I undertake the promote the Core Principles for Energy Markets promulgated by EFET (as adapted from time to time by the Board)*;
- I recognise the importance of the Statement of Principles of Good Conduct for Energy Traders promulgated by EFET (as adapted from time to time by the Board)*;
- I agree with the concept of and promise to pursue to the best of my ability consensus based decision making as explained in EFET bye-laws*;
- I accept that if elected I will serve as a Board member in my individual, not a corporate, capacity and participate in Board meetings and Board decision making in the wider interest of EFET and all EFET Member Companies;
- I will comply with other provisions of the EFET Foundation Statutes and Bye-Laws*;

**** Please consult governance pages of EFET website for current versions***

My motivation for seeking election is :

I will/would bring the following experience and special skills to the EFET Board

Please sign and add a short biography as attachment

Signature * **Date:** **Place:**

I, , being a duly empowerd officer/ director of
which is a regular member company of

EFET is the controlling parent

of , which is a regular member company of

EFET is a company within the same corporate group ,

which is a regular member company of as EFET

***delete as appropriate**

Hereby confirm that does nominate

Signature * **Date:** **Place:**

Annex 8 EFET Antitrust Compliance Policy

Introduction

As a European industry federation representing wholesale energy traders, part of the EFET purpose is to promote the interests of its Member Companies and to facilitate their business development. This purpose should be pursued solely by legitimate means and through legally permissible activities. This document (which forms Annex 8 to the EFET Bye-Laws and is henceforth referred to as “the Policy”) explains how the EFET Board and the EFET Secretary General or CEO should ensure to the best of their ability that activities which are illegal according to antitrust laws taking effect in Europe are avoided.

EFET, in the same manner as most other bodies representing certain business interests, occasionally assists Member Companies in better understanding the market, legislative and regulatory constraints confronting them and offers them a structure for joint advocacy of opinions and positions to policymakers and other relevant decision- makers. In addition, and differing in this respect from other similar bodies, EFET offers Member Companies a service for the contractual standardization of wholesale energy transactions and a service for the electronic or IT standardization of their exchanges of transaction data when conducting energy sales or purchases.

The Board and the Secretary General or CEO of EFET should proceed with caution in carrying out the aforementioned roles and conducting, or procuring services for the conduct of related activities, in order to minimise the risk of any violation of antitrust laws. The present Policy sets out the principles which shall govern the roles and the activities of the Secretary General or CEO and of other persons contracted to provide services to EFET on a regular or frequent basis in an executive, research or assistant capacity, whether they be co-opted to the Board or not (all of which persons are henceforth referred to as “staff”).

EFET Member Companies, by assenting in General Meeting to the Bye-Laws, in particular Bye-Law 10 confirm their commitment without reservation to fair competition and to compliance with the Policy and all applicable antitrust laws. It is expected that Member Companies shall adhere to their own antitrust compliance policies and seek their own legal advice on any particular antitrust concerns, which may arise from time to time.

It should be kept in mind that acting through an industry body does not provide Member Companies with any special protection under antitrust laws. However, an industry body offers an open framework for developing a number of legitimate joint activities. Companies cannot do anything through an industry body that they could not do with each other individually.

EU Antitrust Laws

The most important antitrust provision relating to EFET activities is Article 101 of the Treaty on the Functioning of the European Union (the “TFEU”), which prohibits “all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market”. Article 102 TFEU prohibits "any abuse by one or more undertakings of a dominant position within the internal market or a substantial part of it". The national antitrust laws of most EU Member States differ only in detail from the EU prohibition. They generally prohibit restrictive agreements and concerted practices between two or more competitors, which cover prices or price elements, allocation of customers, allocation of geographic markets, quantities in production and supply or capacities. Certain potentially restrictive agreements between suppliers and customers (so-called ‘vertical agreements’), such as exclusive supply or purchase commitments, territorial limitations, agreements on resale prices and other limitation of sales to specified customers or classes of customers, may also be prohibited and/or restricted under the national antitrust rules in many EU Member States.

Compliance with Antitrust Laws

General Internal Rule

The EFET Board and staff shall comply with the internal rules set out in paragraphs 3.2 to 3.4 and paragraph 4 below. They shall ensure that EFET activities, as well as the content and conduct of Board, Committee and sub-group meetings, do not lead to any violations of applicable antitrust laws. In support of the Policy, the EFET Board, assisted by the Secretary General or CEO, shall review at least on an annual basis, new work streams (whether conducted by Committees or sub-groups) and activities and any significant changes in existing work streams, to ascertain the risk of antitrust violations. If there are any doubts regarding this, the Secretary General or CEO or the relevant committee Chair may refer the matter to external legal counsel for further review.

Restricted and/or Prohibited Discussion Topics

EU antitrust law in principle prohibits the exchange of commercially sensitive information, which competitors normally keep secret. It is impossible to provide an exhaustive list of objectionable discussion topics, as their competitive significance will often be dependent upon the context in which they are raised.

However, the EFET Board and staff should err on the side of prudence when evaluating the risk of transgression of antitrust rules. Therefore, in the normal course of EFET business, no commercial topics outside the scope of the EFET Mission Statement and related Description of Activities should be put on or added to the agenda of any meeting or gathering convened in the name of EFET, whether formal (e.g. a Committee or sub-group meeting) of informal. EFET meeting discussions shall be limited to agenda topics notified to relevant Member Companies in writing; minutes or a full Action and Decision List shall be provided to relevant Member Companies and such minutes or Action and Decision List shall record any matters, which may have arisen under the heading “any other business”.

In particular, EFET staff will not support or facilitate in any way agreements and concerted actions between competitors which have an anti-competitive object or effect, or which may facilitate market abuse, in particular agreements on:

i. Price fixing (including fixing of price components, etc.);
ii. Fixing of market relevant trading conditions;
iii. Costs and demand structure;
iv. Profits and profit margins;
v. Market sharing or allocation of customers and/or geographic territories;
vi. Investments and marketing plans;
vii. Credit conditions or any other terms or conditions of sale;
viii. Selection, rejection, or termination of customers or suppliers.

Notwithstanding items ii and vii in this sub-paragraph 3.2, the Legal Committee of EFET may confer upon and together determine (subject to approval by the Board if necessary) the content of standard terms in published EFET standard Master Agreements and related EFET standardized documentation and the Electricity and Gas Committees and their relevant sub-groups may discuss the optimal design for harmonised or unified European wholesale power, gas and related product markets (as determined by *inter alia* the European Commission, the EU Member States, national regulatory authorities, TSOs and energy exchanges from time to time).[3]

Exchange of Information

The activities of EFET may require the collection of information from Member Companies. The EFET Board and the staff shall ensure that such collection and exchange of information shall not lead to infringement of the Policy or a violation of antitrust laws.

In particular, the disclosure by Member Companies to the Board, to the staff or to each other of sensitive commercial information, which contains sufficient detail to identify specific Member Companies, suppliers, customers or transactions should be avoided. Such information will include data such as:

i. Individual company prices, price changes, terms of sales, etc.,
ii. Industry pricing policies, price levels, price changes, market relevant trading conditions, etc.,
iii. Price differentials, price mark-ups, discounts, allowances, credit terms,
iv. Costs of production or distribution, cost accounting formulas, methods of computing costs,
v. Individual company figures on costs of production and of sources of supply.

Market Studies

When conducting any market studies, surveys and similar activities involving the solicitation of commercial or market related information from Member Companies, the staff shall not share with any other member company an attribution of such information obtained from a specific member company.

In addition, sensitive commercial and market related information to be published must be released only in aggregated form, which does not directly or indirectly identify data obtained from any individual market participant and does not permit any such data to be deduced from the collated aggregate data. Consequently, any such information should always be collected from at least five different Member Companies.

Standardization

Part of the EFET Purpose relates to standardization and harmonisation of energy contracts and electronic data exchange via developing voluntary industry standard solutions to the repetitive aspects of wholesale energy transactions.

[3] See further paragraph 4 below.

In pursuing the benefits of the EFET contractual standards and electronic data exchange standards within the wholesale traded market and promoting the realization of similar benefits in other parts of the energy sector, the EFET Board and staff will ensure:

- To the best of their ability that standards development activities within EFET promote competition, benefit market participants on a non-discriminatory basis and represent solutions which best meet the contractual and technical objectives of the energy trading sector;
- That standards produced as the result of EFET activities are available for everyone on reasonable terms and any conditions pertaining to the use of such standards are made public;
- That (i) no member company is obliged to adopt any standard or is deprived of its legitimate options, (ii) no efforts are undertaken that are intended to prevent the development or industry acceptance of any product or services not conforming to any adopted standard and (iii) each member company preserves its freedom to conform to any standard or not.
- that standardization is pursued in a way that provides Member Companies with the opportunity to participate in the development and implementation of thestandards.

Common EFET Responsibility

If there is a perceived risk of or a doubt about a violation of antitrust laws arising from EFET activities or other incidence of non-compliance with the Policy, any Board member, any affected Member Company and any member of the staff should bring his/ its concerns first to the attention of the Secretary General or CEO. The Secretary General or CEO should then raise the suspected infringement or non-compliance issues in the Board and/or check the matter with external legal counsel as appropriate.

If the Secretary General or CEO is needed to assist with external legal counsel, he will strive for full observance of the Policy by the Board and the staff. He will bring to the attention of Member Companies guidance and advice about the Policy and measures being taken to ensure compliance with it. Furthermore, he will strive to ensure the Board and the staff are familiar with applicable antitrust laws and regulations.

The principles set out in the Policy are intended as guidelines only and not as rules which may be the subject of any liability or of any contractual claim.

Annex 9 EFET Compliance Guideline

Version 11 June 2018

Introduction

The European Federation of Energy Traders ("EFET" hereafter referred to also as "the Federation") has been established in order to represent the interests of energy trading companies active in the European electricity, gas and CO2-markets. The stated purpose and main objective of the Federation is to promote energy trading in open, transparent and liquid wholesale markets, unaffected by state borders or other barriers.

EFET Member Companies directly benefit from the combined sectoral expertise through their participation in various EFET Committees and Sub- Groups, and industry platform for information-sharing, alongside having their interests represented vis-à-vis European and national regulatory authorities. Apart from deepening the expertise of its Member Companies through frequent industry meetings, trainings, workshops and conferences, other EFET activities include developing contractual standards for OTC trading, data standards, as well as simplifying and standardising post-trade processes. EFET relies on the active co-operation of its Member Companies for most of the work undertaken. This includes agreeing on common policy positions in the context of new regulatory or statutory requirements affecting the traded wholesale energy markets.

Compliance with applicable legal requirements is the foundation of EFET work. EFET aims to ensure that information on relevant EFET activities is accessible in a non-discriminatory and transparent way, whilst confidentiality is respected where required.

What is the purpose of the EFET Compliance Guideline?

As a representative organisation of energy traders, EFET holds a particular responsibility vis-à-vis its Member Companies, political institutions and various government and non-governmental agencies. The success of the Federation as an industry body depends on its reputation as an organisation with high professional standards. For this reason, compliance with external and internal rules is a critical component of the daily EFET work in order to remain a trustworthy point of contact in the energy sector.

It is important for EFET to demonstrate the management of EFET Member Companies, our interlocutors in public institutions and other industry associations and the public outside EFET, that corporate compliance is an integral part of the EFET culture, designed to assist an organisation to meet its obligations and to reduce the risk of the organisation breaking the law.

This Compliance Guideline serves as an orientation aid for all those professionals involved in the activities of the EFET, namely the EFET staff, EFET Board Members, and EFET Member Companies' representatives in various Committees and Sub-Groups. It is intended to encourage behaviours that create and support compliance programs; behaviours that compromise compliance are not tolerated.

What does compliance mean in the context of EFET?

In the context of EFET activities the term "compliance" means adherence to the requirements of applicable laws and regulations affecting EFET, including governmental and regulatory ordinances, , transparency obligations, due diligence and confidentiality obligations, staff and Member Companies' contractual commitments, as well as EFET Statutes and Bye-Laws, the Antitrust Policy, established rules-of-procedure of the designated bodies of EFET, notably the Board, the annual General Meetings, and the Secretary General or CEO.

Who is affected by compliance?

1. The Member Companies' representatives active within Sub-Groups in EFET or on behalf of EFET have obligations with which they are bound to comply. The following policies and adopted practices should guide the decisions and actions of these Member Companies' representatives in performing their daily activities:

(a) The EFET Statutes[4];
(b) The Bye-Laws (v. November 2019);
(c) Mission Statement (Article 3, EFET Bye-Laws, v. November 2019),
(d) Core Principles for Energy Market (Annex 2, EFET Bye-Laws, v. November 2019)
(e) Principles of Good Conduct for Energy Trading (Annex 6, EFET Bye-Laws, v. November 2019),
(f) Antitrust Compliance Policy (Annex 8, EFET Bye-Laws, v. November 2019),
(g) EFET Data Collection Policy (Annex 10 EFET Bye-Laws, v. November 2019),

In carrying out their work, the representatives of -Member Companies must also observe the internal rules of the EFET Committees and Sub-Groups in which they participate (foreseen normally in the Terms of Reference (ToR) of a Committee or of a Sub-Group itself).

The Committees and the Sub-Groups develop such Terms of Reference on their own subject to approval by the Board, and their participants can modify by the ToRs over time, again subject to approval by the Board.

It is also to be noted that the selected Chair and a designated Secretary of each of the Sub-Groups are responsible for ensuring that the Terms of Reference and any other relevant EFET policies are observed at all times, that meetings are conducted with due process and that Action and Decision Lists from those meetings are compiled and implemented in a transparent and objective manner.

2. The elected Board members, the Chairs of the Committees, and the Secretary General or CEO and any other executives and/or employees representing Member Companies in the Board or the Committees are bound to comply with the EFET Statutes and Bye-Laws and to observe the present Guideline.

EFET aims to foster a culture of transparency in decision-making, to document decisions in an orderly fashion and to give Member Companies prompt access to relevant documents as foreseen in the Bye-Laws.

3. The representatives of EFET Member Companies are bound by certain duties of confidentiality and due process in the course of their participation in the EFET Sub-Groups, in decision-making and in external advocacy on behalf of EFET.

Each such representative attending EFET meetings must observe these duties, as well as their employers' relevant corporate governance rules, when participating in EFET internal discussions and when representing EFET externally. Particularly notable are:

(a) the duty of confidentiality in EFET internal processes, e.g. policy positions pursued by certain Member Companies, company secrets of individual Member Companies, any trading information covered by REMIT, internal differences or other internal confidential processes within EFET (votes, commercial information etc.);
(b) the duty to take a neutral standpoint in internal decision-making within EFET;

[4] http://efetMember Companies.org/Files/Documents/Governance/EFET%20Bye-Laws_Other%20Governance%Sub//EFET-Foundation-Statutes.pdf

(c) the duty to treat all member representatives without discrimination, to share information in an identical and transparent way;
(d) the duty to represent only agreed final EFET positions externally;
(e) the duty to only carry out press conferences following agreement by the Board and in co-operation with the EFET Communications Coordinator/Manager;
(f) the duty to constantly uphold -EFET internal rules and to make sure others do so as well; and
(g) the duty to avoid conflicts of interest and to disclose them to the Chair of the relevant EFET Sub-Group, (Principal) Committee or the Secretary General or CEO where necessary.

4. The EFET staff and co-opted members of the Board are similarly bound by certain duties of confidentiality and due process in the course of their participation in the EFET Committees and Sub-Groups, in the EFET decision-making and in the EFET external advocacy; particularly:
(a) Keeping high standards of professionalism notably in respect of confidentiality, transparency, and integrity, as Secretariat staff shall implement the EFET compliance culture through various groups;
(b) Respecting the EFET Statutes, the Bye-Laws, or any other internal rules, or external laws applicable to them;
(c) Respecting the terms of their contractual agreements at all times;
(d) Respecting a high degree of integrity about conflicting contractual arrangements outside their EFET work. This means that in case of an elevated conflict, the EFET staff member in question shall not engage into any external work with potential conflict of interest. In cases of doubt, the concerned EFET staff member should discuss any external engagement outside EFET with the Secretary General or CEO.

Who is responsible for compliance at EFET?

EFET does not have a dedicated compliance manager as the Federation's structure is decentralised, and a compliance officer would not be able to function effectively. This is why EFET operates as a decentralised industry group, which entrusts each Chair of the (Principal) Committee(s) and/or Sub-Group, in conjunction with the EFET staff, to manage any compliance issues in the respective work groups. Member Companies should notify in confidence the respective EFET Chair any concerns about possible compliance breaches by the EFET-staff or EFET Member Company representatives in the relevant Sub-Group or (Principal) Committee.

In cases of a compliance concern in respect of the Chair and/or Secretariat staff, EFET member representatives can contact the Secretary General or CEO. Upon such request, the EFET Secretary General or CEO may engage into an investigation, if the concerns are deemed serious on a case by case basis.

Should there be an investigation, the person called into question shall have the right to know about the substance of the concern, and available evidence. Secretariat staff-member, or Chair, should have the possibility to be heard by the Board. In the event the concern is found to be legitimate, the Board shall decide how to proceed with the evidence.

Furthermore, should any EFET member company representative suspect irregular behaviour through EFET-meetings or telephone conferences, every member company representative and Secretariat staff member are obliged to report this to the Chair of the meeting, and request to acknowledge his concern.

The Chair of a Committee or a Sub-Group, or the Secretary as the case may be, must report any Member Companies' concerns raised to the Secretary General or CEO. If the concern is about the Secretary General or CEO, the report should be directed to the Chair of the Board Oversight Committee. The Board shall decide about compliance relevant processes on a case by case basis and may refer them to the Oversight Committee as it deems fit.

The Secretary General or CEO shall bear responsibility for any compliance with external transparency registers.

EFET Core Principles for Energy Markets

The EFET Core Principles for Energy Markets are an integral part of the EFET Bye-Laws, intended to form the foundation for a European energy market design. Observation of these Principles should promote free and fair competition between all producers and suppliers of energy. EFET expects such Principles to be accepted by all bona fide participants in European power, gas and emissions markets, irrespective of their nationality, their business model and the location of their business.

Anti-trust law compliance

Anti-trust laws serve to protect competition, which represents an essential part of the free market. Competition is understood as competitive behaviour between different companies in order to win favour with their customers and suppliers. Functional competition leads to significant overall economic advantages, since the pressure of competition leads to better value prices and motivates companies to improve their products both qualitatively and innovatively. As such, the purpose of antitrust laws is to ensure that this competition is not restricted by competition-hampering practice by the companies taking part.

Since promoting healthy competition is a crucial part of EFET work, EFET has issued a separate Anti-Trust Compliance Policy in this respect, which is an integral part of the EFET Bye-Laws (v. November 2019) and is referenced as a reminder to Member Companies at EFET meetings from time to time.

Annex 10 EFET Data Collection Policy

1. Introduction

1.1 General remarks

Regular EFET Member Companies **("Members")** may task EFET from time to time with the collection of commercial data from its membership which EFET requires to make certain policy proposals on behalf of Members or to otherwise support or safeguard the interests of its membership vis-à-vis stakeholders in the energy market ("**Purpose**").

Any such data collection must be in compliance with all applicable law (including but not limited to competition and data protection law), and protect the commercial interests of the Member(s) who provided it. ("**Compliance Objective**").

Each EFET Member may decide at their own discretion whether they want to contribute any data to a collection or not. This document sets out the key elements of the Data Collection Policy adopted by EFET in order to ensure that commercial data collected by EFET is only used for the Purpose and that all related processes meet the Compliance Objective.

For the avoidance of doubt, both, "collecting" and "processing" shall be interpreted broadly and include anything that can be done with or in relation to data including obtaining, recording or holding the data and carrying out any operation on the data such as reading or reviewing or considering it, using it for a decision, organising or amending it, transmitting it, erasing it or disclosing it.

"Data" shall be interpreted broadly and include any and all information of whichever type or nature, irrespective of its content, shape, age or relevance.

1.2 Key Elements of the EFET Data Collection Policy

In a manner compatible with applicable data protection laws and commercial practice, this Data Collection Policy *inter alia* sets out:

- Obligations to keep collected data confidential (item 2);
- Measures taken to ensure confidentiality of collected data (item 3);
- Operation of the Data Collection Policy (item 4); and
- Specific obligations of EFET retained staff (item 5).

In order to exclude the possibility of any violation of this Data Collection Policy, EFET retained staff or service providers tasked with any activity related to the Purpose ("Relevant Individuals"), shall comply with all of the obligations set out herein at all times and such compliance shall be monitored. To this end, *inter alia*, this Data Collection Policy shall be distributed to all Relevant Individuals.

EFET "retained staff" is any individual having signed a Consulting Agreement with EFET for the provision of secretariat services on a regular or permanent basis. Relevant Individuals are any other individuals which are not EFET retained staff.

The practical implementation of the Data Collection Policy is operated by the acceptance of the representatives of participating Members.

Furthermore, data shall remain the property of the Member providing the data: the same applies to any attached copyright. In no case neither EFET nor any Relevant Individual shall acquire property of the data received; EFET and/or Relevant Individuals shall not be entitled to exploit the data beyond the specific purpose defined under 2.1 (i) below.

2. Obligation to keep collected data confidential

2.1 Data Collection and Analysis

Before the collecting or analysis of any data commences,

(i) the specific purpose for which data shall be collected and/or analysed and

(ii) a specific goal that shall be achieved with the collection and/or analysis of data shall be defined and laid down in writing and communicated to Members participating in the data sharing. Such purpose and goal shall be as detailed as possible (within reason), non-ambiguous and clear as to the objective. No data which is not directly necessary for the specific purpose and goal shall be collected and/or analysed by whichever means and any data collected and/or analysed in violation of these principle shall be permanently erased with immediate effect.

(iii) The collected and/or analysed data shall be monitored to verify whether it complies with the above requirements.

2.2 Keeping collected Data confidential

All data collected and/or analysed, regardless of whether it was collected and/or analysed in accordance with item 2.1 above or otherwise, shall be kept confidential at all times.

In particular - without limitation - such data and/or analysis shall at any given time, be accessible to a maximum of two persons appointed by EFET. Appointed persons shall be either EFET retained staff, or an appointed external counsel. No data or analysis shall be disclosed to any other persons.

None of the data analysis shall be used for any purpose except for the specific purpose according to item 2.1 above. It shall not be removed in physical, digital or any other form from dedicated EFET premises, servers etc. or reproduced. No person, Relevant Individual or not, shall retain any of the data or analysis from Members, or copies, or other reproductions thereof at any point in time.

All collected data and/or analysis shall be kept in anonymized form. All collected data and/or analysis shall be permanently deleted when (i) the goal according to 2.1 has been achieved or (ii) one year after the collection of data commenced, whichever occurs earliest. The Relevant Individuals or retained EFET staff responsible shall report on an annual basis to the Oversight Committee about the experience with Data Collection Policy.

3. Measures taken to ensure confidentiality of collected data

3.1 General

With a view to excluding the possibility of any disclosure of confidential data, it shall be ensured that the data collection activities of EFET are kept separate from other EFET activities. The data shall also be stored separately.

3.2 Independence of EFET retained staff and Relevant Individuals

All decisions related to data collection or data processing by EFET shall be taken independently from the Members. EFET shall have effective decision-making rights, independent of the Members, with respect to all assets, procedures, staff, rules and policies of whichever nature necessary to keep collected data confidential.

3.3 Independent use of economic resources

With regard to the activities foreseen in this data collection policy, EFET shall be free to manage and allocate the relevant economic resources in any way it sees fit for the purpose of implementing this Data Collection Policy. In doing so, EFET shall not be bound by any instructions from Members on how these resources shall be used. EFET has sufficient economic resources available to fulfil its obligations arising out of this Data Collection Policy.

All activities shall be supervised by the Oversight Committee; the Oversight Committee might escalate the issue to the EFET Board where necessary.

3.4 Compliance with applicable laws

All Relevant Individuals shall observe and comply with all applicable laws in connection to data collection and/or data processing at all times. Relevant Individuals in a data collection may determine that a particular national data protection law may be applicable. If no specific data protection law is chosen, the law applicable in The Netherlands shall apply to the data collection in question.

3.5 No exchange of collected data

EFET shall preserve the confidentiality of any data which it obtains in the course of its operations and prevent data about EFET Members from being disclosed. All Relevant Individuals shall therefore restrict the exchange of data to what is strictly necessary. In particular - but without limitation - there shall be no disclosure of commercially sensitive data between Relevant Individuals.

For the types of data that are to be handled with an increased level of care, see below.

In particular - but without limitation - EFET shall be responsible for ensuring that no commercially sensitive data relating to the affairs of a Member are disclosed, to any EFET retained staff or another Member, or externally.

The provisions of this item 3.5 shall not apply to the disclosure/exchange of data according to applicable statutory law explicitly requiring the disclosure/exchange of data. The EFET retained staff, or appointed external counsel (see item 4.1 below) shall be in charge of monitoring adherence to such specific terms.

To the extent that they are granted access to any relevant data while providing their services, external service providers and their staff shall be contractually bound to comply with the principles of confidentiality as set out in this Data Collection Policy.

For IT Systems, corresponding access permissions shall be defined and installed to prevent unauthorized access to relevant data and to monitor any and all access thereof.

For persons who are not members of the management of EFET or EFET retained staff, access to premises and IT-systems containing relevant data shall only be granted in accordance with this Data Collection Policy.

3.6 Further measures

EFET shall implement appropriate technical and organizational measures to protect the data and/or analysis against accidental or unlawful destruction or accidental loss, alteration, unauthorized disclosure or access, theft or copying in particular where the processing involves the transmission of data over a network, and against all other unlawful forms of processing.

All data collected must be for a defined Purpose. Data should be deleted from EFET records and archives once the purpose has been fulfilled or the relevance of the data collection has disappeared. The responsible EFET staff should record the complete deletion of data collected and communicate the deletion to the EFET group pursuing such data collection.

As a rule, the following data can be treated with an ordinary level of care:

- data that is strictly necessary for the daily operations of EFET and fulfilment of its main purposes;
- data already in the public domain;
- General industry knowledge; and
- Studies based on publicly available data.

All other data shall be handled with an increased level of care.

4. Operation of the Data Collection Policy

4.1 Appointed Staff Member or External Counsel

At the request of a Member or the EFET Board, compliance with this Data Collection Policy may be monitored by the appointed EFET retained staff member on a case by case basis. The EFET staff member appointed, or external counsel, as applied shall be responsible for the data collection being compliant with this Data Collection Policy.

All activities shall be supervised by the Oversight Committee and escalated to the EFET Board where necessary.

4.1.1 Tasks and rights

Subject to the scope of commercial data collected for the Purpose, the appointed EFET staff shall:

- ensure that the Data Collection Policy is brought to the attention of all Relevant Individuals of participating Members in view any process of data collection
- monitor the implementation of and adherence to the Data Collection Policy by Members
- review any report, note, correspondence or other information format containing directly or indirectly collected EFET Member data which is intended for dissemination among EFET Members or which is intended to be provided to stakeholders, to ensure that it complies with the Data Collection Policy and the Compliance Objective;
- issue recommendations on the Data Collection Policy and its implementation and review the effectiveness of the Data Collection Policy within the data collection at hand;
- ensure that the Data Collection Policy is updated as necessary, and after consultation with the EFET Legal Committee Chair.
- make sure that no commercially sensitive information should be provided to EFET before *the "non-disclosure agreements complementing the EFET staff agreements"* are implemented

The conditions governing the mandate and the employment conditions of the appointed staff member, or external counsel shall ensure that all the resources necessary for fulfilling his or her duties are provided to him/her.

4.1.2 Role of Secretary General or CEO and the Oversight Committee

The Secretary General or CEO shall have access to all relevant data and to the offices of EFET and to all the data necessary for the performance of his/her tasks, if concerns about the compliance with this Data Collection policy arise.

The Secretary General or CEO is dealing with complaints of EFET Members and shall consult with the Chair of the Legal Committee and the Oversight Committee on issues of concern for Member Companies. If issues of concern persist, the Secretary General or CEO may appoint external counsel, or the Chair of the Legal Committee to analyses the concern and report to the EFET Board.

4.1.3 The Secretary General or CEO

The Secretary General or CEO shall inform the Oversight Committee about possible concerns for Members and the measures taken to address those concerns; the Oversight Committee might escalate the issue to the EFET Board where necessary.

All Relevant Individuals shall actively support the Secretary General or CEO in performing his/her tasks, particularly when requested to provide data.

4.2 Awareness

The Data Collection Policy must be brought to the attention of all Relevant Individuals before commencing any data collection. Each Relevant Individual should be required to agree that he/she has read and understood this Data Collection Policy and shall abide with it.

Relevant Individuals shall confirm in writing that they have accepted the *"non-disclosure agreements complementing the EFET staff agreements"* before handling commercially sensitive information; the same applies to external counsel who shall confirm the existence of non-disclosure agreements in the underlying service agreements.

4.3 Control of Compliance

In order to ensure the effectiveness of this Data Collection Policy, compliance shall be monitored. This monitoring shall guarantee that the Data Collection Policy is functioning properly and shall facilitate the identification of those areas in which data is collected, analysed or processed or where such collection, analysing or processing is likely.

EFET shall, without limitation, (i) facilitate compliance with this Data Collection Policy; (ii) allow effective exercise of individuals' rights guaranteed in the policy; and (iii) consider and respond to complaints from individuals that EFET may not have complied with the Data Collection Policy.

Any Relevant Individual may rely upon this Data Collection Policy, the procedures laid out herein and/or exercise their rights provided for in this Data Collection Policy.

If any Relevant Individual becomes aware of the existence of any requirement under local law that would have a substantial adverse effect on its ability to comply with this Data Collection Policy they shall immediately inform the Data Secretary General or CEO in writing.

The appointed staff of EFET shall be responsible for compliance with this Data Collection Policy on a day-to-day basis.

Transgressions against the Data Collection Policy shall be brought to the attention of the Secretary General or CEO and the Oversight Committee immediately.

5. Specific obligations of Relevant Individuals

Relevant Individuals are expected to use their good judgement and follow best practices to comply with this Data Collection Policy. Without limitation, all Relevant Individuals shall ensure that in order to meet the objectives set out in this Data Collection Policy they:

- handle and maintain documents and data in a manner that will minimize the risk that they may be obtained by unauthorized persons;

- limit access to work areas and computers, for example, by ensuring that workstations are locked when unattended;
- report unusual activity to the appointed EFET staff member;
- refrain from discussing sensitive matters in non-private settings;
- do not grant uncontrolled access to the premises or systems of Members;
- do not disclose commercially sensitive data to any non-authorized persons;
- actively support the appointed EFET staff member or external counsel in performing his/her tasks; and
- familiarize themselves with this Data Collection Policy and participate in the training sessions provided
- *Sign "non-disclosure agreements complementing the EFET staff consulting agreements"* before handling collected data.

EFET will hold Relevant Individuals accountable for violations of this Data Protection Policy, and may exclude any persons who perform irregular activities infringing upon the rules of this Data Protection Policy from any further processes.

This Data Collection Policy shall be published on the EFET Member Pages on www.efet.org and may be amended from time to time in consultation with the Chair of the EFET Legal Committee.