

The background of the slide features a low-angle shot of a large solar panel array in the foreground, with a white wind turbine standing against a clear blue sky with some light clouds in the background.

EFET European Federation
of Energy Traders

**EFET Legal Committee Meeting
15 December 2023, Dusseldorf**

DAY 2: MEETING AGENDA

1. Overview of the developments in relation to financial regulations by Karl-Peter Horstmann, Chair of the Market Supervision Committee
2. Updated EMIR Risk Mitigation Techniques Agreement: progress report – Sonia Auguscik, EFET
3. Budget planning 2024:
 - General budget allocation to Legal Committee – Barbara Lempp, Treasurer of EFET
 - Preliminary allocation of the budget to the Legal Committee Working Groups – Sonia Auguscik, EFET
4. Potential Legal Committee working programme for 2024 – Michaela Duve & Sonia Auguscik, EFET
5. Update reports from the Legal Committee Working Groups (LNG & Natural Gas, Legal Opinions, PPA & Electricity, Hydrogen, Digitalisation) – by Michaela Duve, Sonia Auguscik and Aygul Adamson, EFET
6. Updates reports from Electricity and Gas Committees – by Lorenzo Biglia and Doug Wood, EFET
7. AOB, date and venue of the next Legal Committee meetings

1. Overview of the developments in relation to financial regulations

**Report by Karl-Peter Horstmann, Chair of
the Market Supervision Committee**

Overview of the developments in relation to financial regulations

- MiFID II/MiFIR developments, proposed changes and update on the lobbying efforts, EFET impact study;
- EMIR developments: proposed changes & lobbying efforts

2. Updated EMIR Risk Mitigation Techniques Agreement

Progress report by Sonia Auguscik, EFET



- **Modifications in §3 of the Election Sheet (counterparty status) to reflect Art. 10.1 of EMIR REFIT**
- Parties rely on that status declaration, to understand their own compliance requirements when trading OTC derivatives with their counterparties
- Updated §3 to cover all available elections:

FC exceeding the clearing threshold

Non-EU FC exceeding the clearing threshold

FC under the clearing threshold

Non-EU FC under the clearing threshold

NFC exceeding the clearing threshold

Non-EU NFC exceeding the clearing threshold

NFC under the clearing threshold

Non-EU NFC under the clearing threshold

Reporting challenges and legal considerations

Alignment with counterparty on reporting of complex derivatives (see ESMA guidelines, §265)

- Notional amount must be reported within one business day, which is a challenge for complex derivatives. The notional amount must be identical in the reports of both parties.
- **Would you like to address the alignment on reporting of complex derivatives in the EMIR RMTA?**

Reporting challenges and legal considerations

Alignment with counterparty on the Unique Transaction Identifier (UTI) generation and communication (see Art. 7, ITS)

- The UTI must be agreed by the parties and is needed for each individual transaction (and cannot be reused). The UTI must be identical in the reports of both parties.
- **Would you like to agree on the UTI generation and communication in the EMIR RMTA?**

Reporting challenges and legal considerations

Additional information required under EMIR REFIT (see Annex to ITS and RTS) currently not covered by the EMIR RMTA

- Corporate sector of the counterparty (NACE code, i.e., the statistical classification of economic activities).
- Reporting status of the counterparty (i.e., whether the counterparty is an entity responsible for reporting under EMIR).
- **Would you like to update the EMIR RMTA to incorporate this static data?**



- Options: for example, extended onboarding procedures, sending letters to counterparties containing a specific questionnaire, or contractually via EMIR RMTA
- Advantages of the EMIR RMTA: (i) clear contractual rules and agreed mechanisms, (ii) the amendments could be implemented swiftly via EDRS
- Consequences: missing or mismatched information resulting in rejection of submitted EMIR reports
- **Deadline for feedback: 29 December 2023**

3. Budget planning 2024: general budget allocation to Legal Committee 2024

Presentation by Barbara Lempp, Treasurer of EFET

The EFET budget: General remarks



Conservative approach in terms of estimation of member numbers, cost increase and the risk of emergency situations



Governance: Finance Sub-Committee (right to propose) + Board



Challenge: find the right balance between expenses and revenues due to common interest character of Dutch Stichting

EFET Finance Sub-Committee

Provide EFET Board oversight of EFET Finances

1

Advice to Treasurer

3

Act as financial experts during Board meetings

2

Provide scrutiny of the EFET Budget, Financial Statements and Accounts

4

Recommendations on EFET membership fees to retain financial stability

Members: András Hazlach, Maria Dolores Garcia Rodriguez, Rune Sonne Bundgaard-Jorgensen, Riccardo Rossi, Stanislav Kostka

Member numbers

Memberships	Figures 2023	Estimated numbers for 2024
Regular membership	89	100
Associate membership	35	47
Regional membership	4	3
Legal membership	65	69
Legal Opinion Module	10	11

Membership Fees

CATEGORY OF MEMBERSHIP	2024 FEES (EUROS)
Regular	25,000
Associate	9,000
Legal Committee	19,000
Legal Opinion Module – Members	14,000
Legal Opinion Module – Non-Members	40,000

The major cost pools

- **Staff costs**



- **Legal Committee Costs** (Legal Opinions & Legal Projects)



- **Communication costs** (including 25th anniversary)



- **Office costs** (including new website costs)



4. Budget planning 2024: preliminary allocation of the budget to the Legal Committee Working Groups

Presentation by Sonia Auguscik, EFET

I. Conferences & meetings	2023 Budget
Legal Committee meeting and hotel costs	€ 20 000,00
Legal Committee related travel costs	€ 20 000,00
Educational workshops	€ 10 000,00
TOTAL	€ 50 000,00

II. Legal Committee costs	2023 Budget
Legal opinion updates (combined gas and power)	€ 265 000,00
Legal opinion updates (MNA/CPMA)	€ 120 000,00
Sanctions related opinions	€ 100 000,00
New opinions, including green master for 2023	€ 70 000,00
Total for legal opinions alone	€ 555 000,00

WHOA advocacy support	€ 30 000,00
New product template (biogas)	€ 50 000,00
Extending/developing the PPA	€ 50 000,00
Contingency for legal crisis management	€ 80 000,00
External consultants	€ 0,00
Support to the credit and collateral group	€ 25 000,00
Legal support to MSC	€ 40 000,00
Total for other items (except legal opinions)	€ 275 000,00

TOTAL	€ 830 000,00
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TOTAL SECTIONS I + II	€ 880 000,00
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III. IT related costs	2023 Budget
EDRS IT Support	€ 15 000,00
TOTAL	€ 15 000,00

Budget structure 2023

Is it fit for purpose?

LEGAL COMMITTEE 2023 BUDGET TRACKING (IN EUR)

STATUS 15.12.2023

I. Conferences & meetings	2023 Budget	Spent	Allocated	Remaining	Status
Legal Committee meeting and hotel costs	€ 20 000,00	€ 10 687,64	€ 3 926,05	€ 5 386,31	Underspending
Legal Committee related travel costs	€ 20 000,00	€ 8 382,49	€ 2 865,92	€ 8 751,59	Underspending
TOTAL	€ 40 000,00	€ 19 070,13	€ 6 791,97	€ 14 137,90	Underspending
II. Legal Committee costs	2023 Budget	Spent	Allocated	Remaining	Status
Legal opinion updates (combined gas and power)	€ 265 000,00	€ 86 750,00	€ 178 250,00	€ 0,00	-
Legal opinion updates (MNA/CPMA)	€ 120 000,00	€ 0,00	€ 120 000,00	€ 0,00	-
Sanctions related opinions	€ 100 000,00	€ 0,00	€ 0,00	€ 100 000,00	Underspending
Other new legal opinions, including green master	€ 70 000,00	€ 20 000,00	€ 29 500,00	€ 20 500,00	Underspending
WHOI Insolvency reforms - advocacy support	€ 30 000,00	€ 13 605,01	€ 0,00	€ 16 394,99	Underspending
Educational workshops	€ 10 000,00	€ 2 600,00	€ 500,00	€ 6 900,00	Underspending
New product template (biogas)	€ 50 000,00	€ 11 000,00	€ 0,00	€ 39 000,00	Underspending
Extending/developing the PPA	€ 50 000,00	€ 8 555,70	€ 20 000,00	€ 21 444,30	Underspending
Contingency for legal crisis management	€ 80 000,00	€ 51 084,70	€ 0,00	€ 28 915,30	Underspending
External consultants	€ 0,00	€ 22 008,00	€ 10 000,00	-€ 32 008,00	Overspending
Support to the credit and collateral group	€ 25 000,00	€ 0,00	€ 15 000,00	€ 10 000,00	Underspending
Legal support to MSC	€ 40 000,00	€ 10 000,00	€ 0,00	€ 30 000,00	Underspending
TOTAL	€ 840 000,00	€ 225 603,41	€ 373 250,00	€ 241 146,59	Underspending
Budget 2024: the remaining budget from 2023 is to be used to create a fixed emergency reserve for 2024 in the amount of EUR 140 000.					

Total 2024 budget		€ 840 000,00
A. Budget carried forward from 2023		Allocated in 2023
As of 15 December 2023 - final number will be known only end of December 2023)		€ 380 000,00
B. Fixed emergency reserve (sanction & crisis management)		€ 140 000,00
C. Legal Committee Quarterly Meeting	Suggested amount:	€ 30 500,00
D. WG Biogas	Suggested amount:	€ 26 400,00
E. WG Cross Committee	Suggested amount:	€ 1 100,00
F. WG Digitalisation	Suggested amount:	€ 22 000,00
G. WG Hydrogen	Suggested amount:	€ 26 400,00
H. WG Legal Opinions	Suggested amount:	€ 500 500,00
I. WG LNG & Natural Gas	Suggested amount:	€ 22 000,00
J. PPA Standardisation & Electricity	Suggested amount:	€ 45 000,00
K. WG Templates Development and Maintenance	Suggested amount:	€ 165 000,00
L. IT without EFET EDRS	Suggested amount:	€ 1 100,00
Total so far:		€ 840 000,00
Open for allocation:		€ 0,00

Proposed new Legal Committee budget structure and initial allocation per Working Groups

Updated Terms of Reference (wording proposal for your comments):

“The LC Secretariat will (i) develop a proposal to allocate the LC budget to the Working Groups according to the expressed interest of the members and (ii) discuss and vote on this proposal at the LC Meeting in the fourth quarter of each year for the following year. Any reallocation of funds among the Working Groups requires the approval of the LC Members”.

5. Legal Committee working programme for 2024

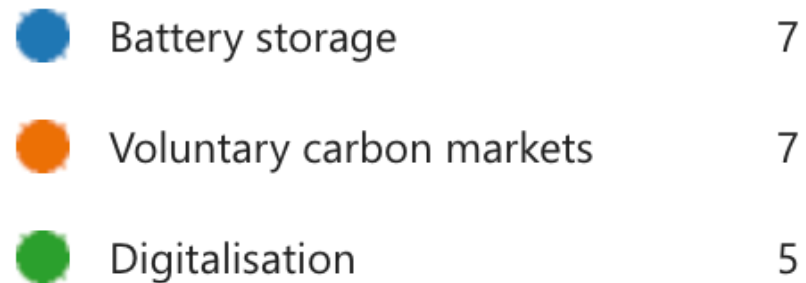
**Report by Michaela Duve & Sonia Auguscik,
EFET**

Survey Results

- multiple answers were possible -

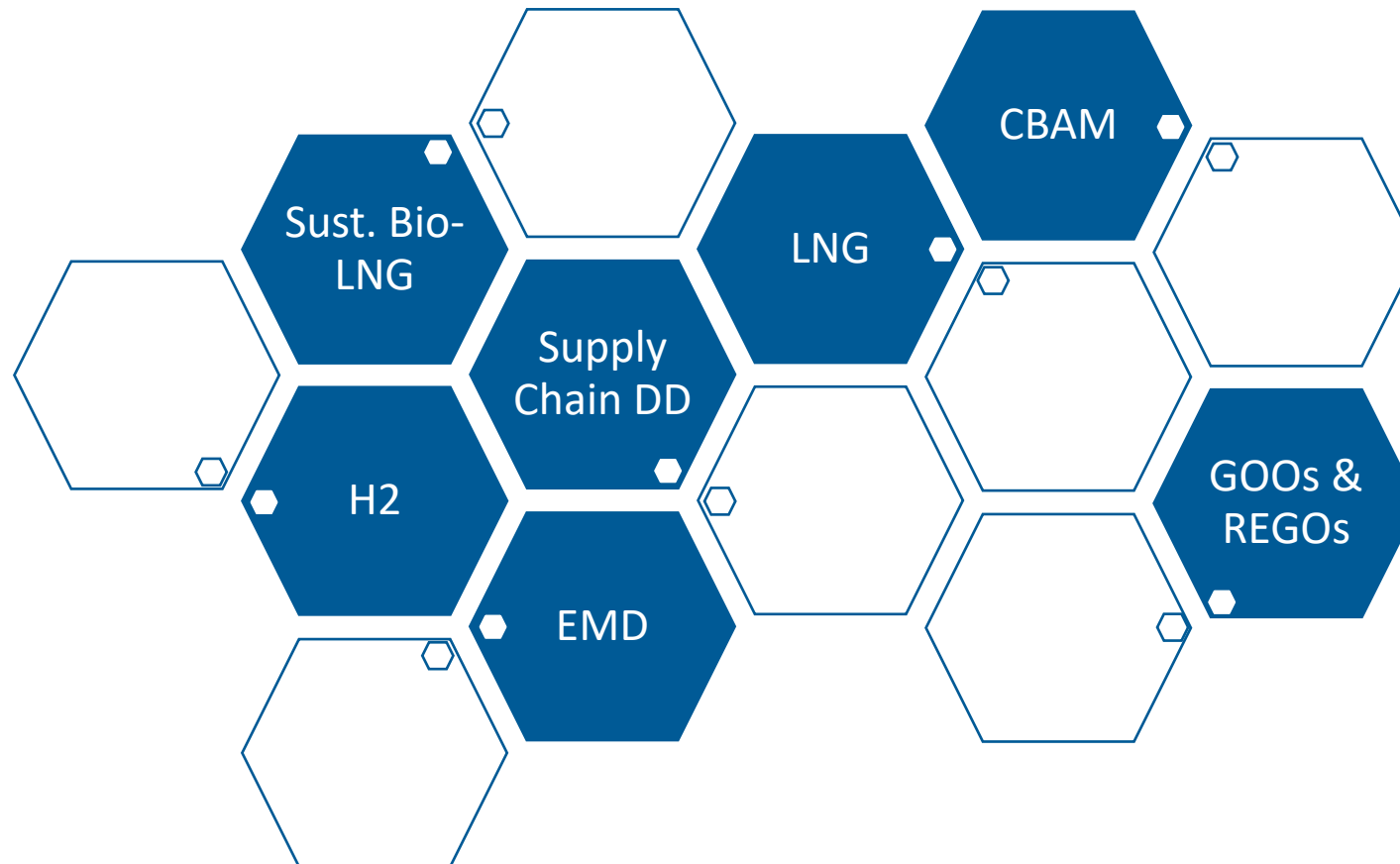
Survey Results

What should be the priority areas for our educational workshops?

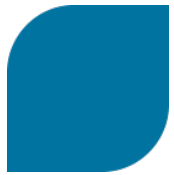


Survey Results

Do you have any additional ideas for educational workshops?



Suggestions to improve the workshops:



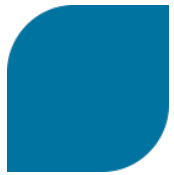
gather an overview on what participants already know and expect from the workshop



outline key points of the presentation beforehand



opportunity to submit questions in advance

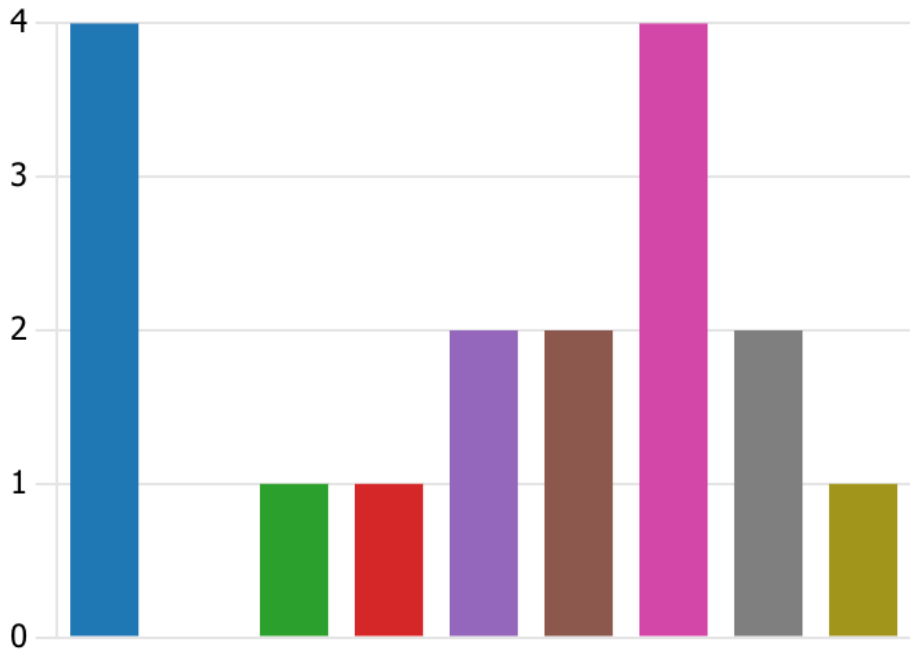


offer workshops for different levels of expertise (i.e. general introduction, in-depth-discussion of specific issues)

Survey Results: WG Templates Development Maintenance

What other existing EFET standards should the LC initiate a revision of in 2024?

Emissions Allowances Appendices	4
Individual Biomass Contract	0
Biogas Certificates Single Trade ...	1
Certificate Master Agreement	1
Virtual Gas Storage Individual C...	2
REMIT Reporting Agreement	2
Master Netting Agreement	4
Cross Product Payment Netting ...	2
Other	1



Additional Initiatives: REGO under EECS Appendix

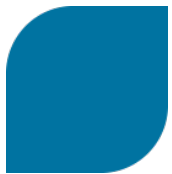
Survey Result: Biogas Working Group



Handling of certificates when international trading occurs (different registers)



Educational workshops



Standardisation would be fine depending on the regulatory level of certainty



Biogas agreement to cover physical biogas and certificates traded in NL and Germany

Survey Results: LNG & Nat Gas Working Group



Educational workshops



Standardisation, based on market developments



Follow-up on price cap regulation (trade restrictions)



Survey Results: WG Digitalisation



Follow-up on e-signatures



Information session on digital signatures, standardisation, internal processes, best practices

Brainstorming Session

Matters of interest for 2024

6. Update reports from the Legal Committee Working Groups

Reports by Michaela Duve, Sonia Auguscik and Aygul Adamson, EFET

Update reports from the Legal Committee Working Groups

- LNG & Natural Gas
- Legal Opinions
- PPA & Electricity
- Hydrogen
- Digitalisation

7. Follow-up report by the Electricity Committee on the electricity market design with particular focus on PPA

Report by Lorenzo Biglia, EFET

8. General update on the current issues with particular focus on MCM and AggregateEU

Report by Doug Wood, EFET

9. AOB, date and venue of the next Legal Committee meetings

Save-the-dates: 7 & 8 March 2024, Paris, hosted by Engie; and 25 & 26 June 2024, Amsterdam