**The procedure regarding the conduct for the participation to the market**

**1. Preamble**

(1) This procedure regarding the conduct for the participation to the market (hereinafter referred to as the “**Procedure**”) establishes the rules of conduct for the participants to the markets of energy (the “**Markets**”) organized and administrated by the Romanian Commodities Exchange, hereinafter referred to as “**BRM**”, based on the license of operator of the energy market, granted by decision of the ANRE President no. 491/2022.

(2) This Procedure is based on the fundamental principle of the need for a joint responsibility of BRM and of the Participants to the Markets with respect to a fair and transparent trading on the Markets organized and administrated by BRM.

(3) These rules have the purpose of consolidating the faith the market and the public have in the Markets, in their mechanisms to establish the prices and the character of reference of the trading prices.

**2. Scope**

**2.1. Scope**

(1) The procedure is applicable to the Markets and to BRM, to all the transactions and to all the participants to the Markets.

(2) The scope of this Procedure contains all the documents and the conduct, including such acts and conducts that are achieved outside the Markets and that could comprise the BRM’s integrity, the trading on the Markets and the market prices.

**2.2. Legal classification**

(1) This Procedure is part of the rules and regulations of BRM, applicable to the trading on the Markets, they are supplemented with the provisions of the regulations and/ or the procedures applicably to each Market.

(2) This Procedure does not discharge the participants to trading from complying with the legal and regulatory provisions applicable to them, including, but without any limitation to the provisions of Law no. 123/2012 on energy and natural gas, the secondary legislation issued by the National Energy Regulatory Authority (ANRE), of the (EU) Regulation no. 1227/2011 of the European Parliament and of the Council of 25 October 2011 on wholesale energy market integrity and transparency (REMIT), the relevant interdictions and norms of the criminal and fiscal legislation.

(3) In the application of this Procedure by BRM and its bodies, the discrepancies with the rules mentioned at par. (2) must be avoided and the interpretation must be harmonized; in case of a discrepancy, the provisions of a superior rank will prevail.

**3. Rules of conduct for the trading on the Markets**

**3.1. Integrity of Markets; the interdiction of transactions based on privileged information and of the manipulation in the prices**

(1) In order to protect the integrity of the Markets, especially in order to ensure freedom, a transparent and correct trading on the Markets, the following principles apply to the trading on the Markets:

1. The participants to trading comply with the applicable laws (especially REMIT), the regulations and/ or the procedures applicable to each Market, the usual commercial practices and the diligence applicable to certain professional participants to the market;
2. The participants do not repeatedly register over the last 12 months, payment incidents and/ or incidents of non—conformity at the level of minimum guarantees requested by the BRM platforms according to the regulations and/ or to the procedures that regulated each Market;
3. The participants do not repeatedly register payment incidents in the banking system in the last 30 days;
4. The participants to trading and the traders behave honestly when they trade on the Markets; and
5. When they trade on the Markets, the participants to trading take adequately into account the BRM’s interests and the interests of other participants to trading.

These principles must be complied with inclusively if they result in the loss of certain direct financial benefits. Likewise, the participants to trading will refrain from the assistance of third parties in the attempt to breach the principles mentioned before or to participate to shares that might jeopardize or prevent the good functioning of the Markets.

(2) It is especially prohibited to the participants to trading:

1. to purchase or to indirect or directly sell a product traded on the Markets, or to annul the existing orders by use of confidential information, commercially sensitive, with respect to the products traded on the Markets, in its own account or in the account of a third party, except for the case when the use of information is qualified under one of the exceptions from Art. 3 paragraphs 3 or 4 of REMIT;
2. to handle the exchange transactions on the Markets, especially all the actions that are prohibited, susceptible to give false or deceitful signals with respect to the trading prices;
3. to use the BRM Markets and its facilities for the purposes of committing new economic or fiscal crimes.

(3) The interdictions stipulated at par. 2 also include the attempt to engage in the prohibited conduct.

(4) By virtue of its obligation to manifest a preventive conduct, BRM can report to ANRE and to any other competent authorities any suspicions regarding the breach of the provisions of this Art. 3.1, will be able to annul the suspicious transactions and can impose temporary sanctions to the participants concerned, according to Art. 4, without triggering any liability towards the participants by reference to the final result of a potential investigation. An orientated guideline of the situations that are such breaches can be inquired at <https://documents.acer.europa.eu/en/remit/Documents/ACER_Guidance_on_REMIT_application_6th_Edition_Final.pdf>.

**3.2. Firm nature of transactions**

(1) BRM supervises and follows the method of closure of the agreements that include the obligations assumed under the conclusion of transactions on the Markets. Any transaction concluded by a participant as a result of the introduction of orders creates a firm obligation hereof to assume the transaction through the post-trading method applicable according to the regulations and/ or to the procedures regulating each Market.

(2) Without any prejudice to the provisions of Art. 4 of this Procedure based on which additional sanctions will be established, for the energy market for big consumers, organized based on the Regulation regarding the organized framework for the contracting of energy by big end consumers as approved by Order of ANRE’s President no. 65/2022, in case of the withdrawal of the initiating offer by the initiator of the order after its publication on BRM’s webpage, in case of the refusal to sign the agreement by one of the parties and/ or the refusal to correct the non-compliant agreement respectively, the participant will be retained the guarantee provided by the Procedure for the functioning of the energy market for the big end consumers organized by BRM, as penalty. The penalty amount is equally divided to all the participants, qualified respondents, in the selection stage, in case of the withdrawal of the initiating offer by the initiator of the order, the other party to the transaction respectively is granted, in case of the refusal to sign the agreement by one of the parties and/ or the refusal to correct the non-compliant agreement by one of the parties to the transaction. If both parties to the transactions are in default, the penalty amount will be equally distributed to the other participants that have introduced offers in the respective trading session.

**3.3. Possibility to annul the transactions**

(1) Without any prejudice to the provisions of Art. 3.1 par. 2 and 3.2, the participants part to the transaction can request the annulment of erroneous transactions, occurred as a result of a material error occurred at the filling in, by at least a participant, of the order introduction form, according to the procedure described in this Art. 3.3. For the avoidance of any doubt, the annulment of the transactions under this Art. 3.3 does not trigger the payment of penalties according to Art. 3.2. par. 2.

(2) The participant who invokes the material error has the obligation to notify BRM in writing, via email, in capacity of applicant participant, the erroneous transaction, within maximum 15 minutes from the conclusion of the erroneous transaction (expressed as hour/ minute), at the official email address of BRM : office@brm.ro and the email address energie.engros@brm.ro.

(3) The other participant party to the transaction confirms by 17.00 of the day when the transaction has been concluded, in writing, via email, his agreement with respect to the annulment of the transaction.

(4) BRM, after the analysis of the reason for annulment, approves, without unreasonably refusing the annulment of the transaction and it sends to the applicant participant, within maximum 24 hours from the annulment, the confirmation of the annulment of the transaction. BRM reserves the right to report to ANRE the incidents related to the annulled transactions.

(5) All annulled transactions will be published by BRM, without the disclosure of the parties participating at the transaction, but only of the elements of the transaction (ID of the transaction, transaction closing date, the product, the total quantity, the price and the grounds for the annulment).

**4. Sanctions**

(1) If the participants to trading breach the rules established under the regulations and/ or procedures applicable to each Party, including such of this Procedure, they do not respect the BRM’s decisions issued in the application of the documents mentioned before respectively, they can be suspended from trading by decision of BRM, in full or for certain Markets, over a period from 10 days to 6 months, starting with the date the guarantee was retained or the date of the penalty amount related to the respective breach, if it is applicable, or starting with the breach date, as the case may be. By the date when BRM takes the decision, the participants are temporarily suspended from trading on all Markets.

(2) The capacity of participant can be revoked in case of certain repeated suspensions, applied to par. 1 above.

(3) The procedure from par. 1 and 2 also applies in case the regulatory authorities or other public authorities apply a sanction for a participant to trading, as a result of an act or deed that breach the rules established under the regulations and/0r procedures applicable to each Market or through this Procedure.

(3) This provision does not exclude the sanctions that will be applied by the authorities participants to the Markets according to the law.

**5. The treatment of the submission, administration and resolution of contestations**

(1) The interested participant can submit a contestation, in writing, to BRM’s attention, against the result of a trading session to which the participant took part or against a trading decision taken according to Art. 4 above, within de 1 (one) day from the date of the trading decision, within 10 (ten) days respectively from the date of the sanctioning decision. The contestation does not suspend the transaction or the challenged decision.

(2) In case the result of a trading session is contested, BRM registers and communicates to the concerned participant the contestation submitted and requests from the concerned participant an opinion with respect to the resolution of the contestation submitted within 1 (one) day from the date the contestation has been accepted. The concerned participant has the obligation to submit to BRM within maximum 1 (one) day from the request the opinion on the contestation submitted. BRM formulates, together with the participant concerned, and sends to the contesting participant, within maximum 5 (five) days from the registration date thereof, an answer to the contestation and the adopted measures.

(3) In case of contesting a sanctioning decision, BRM sends to the contesting participant, within maximum 10 (ten) days from the registration date thereof, the answer to the contestation and the adopted measures.

(4) Any contestation will be resolved exclusively taking into account of the electronic registrations in BRM’s trading systems regarding the time stamp of the introduction, modification, annulment or execution of the participants’ orders, these registrations being fully opposable to the participants. BRM does not respond for any kind of display error and communication or delay in the communication between the participant and BRM’s IT systems, including, without any limitation to (i) the introduction of order in a system other than the trading system, (ii) errors caused by the interruption of feeding with energy, Internet connection errors, errors of the operation system, technical setbacks that can affect the functioning of the Internet connections and/ or of the IT equipment and/ or of the applications of the Internet provider and/ or the faulty functioning of the email, technical problems and/ or problems of high traffic on the Internet; (iii) errors caused by the incorrect use of the personal computer, errors of the operation system installed on the computer, errors due to the infection with a virus of the computer’s operating system, etc.).