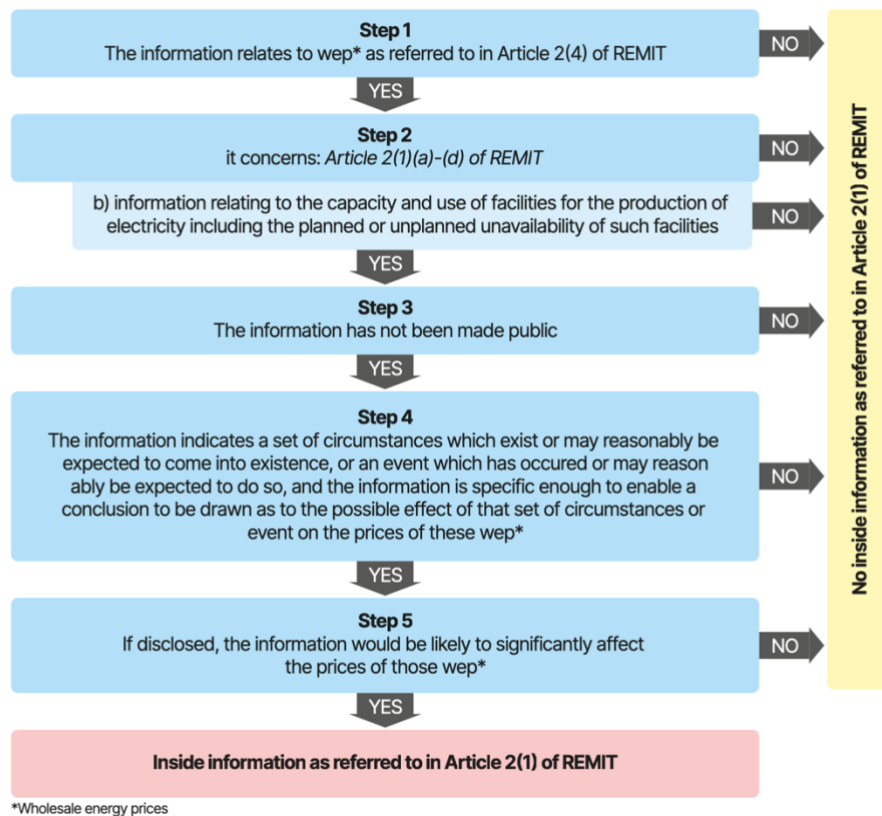


Figure 1: Flowchart on inside information



Source: ACM Public Decision¹.

🚧 Stop the press on your drafting of the Annual Training! 🚧 ACM Defines a threshold for material information under REMIT in the Netherlands (And ACER highlighted it). What does it mean for your current REMIT inside information policies and procedures?

In its latest REMIT Quarterly Report, ACER highlights the decision of ACM, the Dutch NRA for wholesale energy products, to fine PZEM for breach of inside information rules under REMIT.

In the decision imposing the fine, ACM decided that information on changes in available electricity capacity of between 50-100 MW was information that a reasonable market participant would use for its trading decisions and, therefore, material enough “likely to significantly affect prices”.

➡ Although [ACER’s latest Guidance Note](#) states that it “has to be performed by a market participant on a case-by-case basis”, this is a helpful yardstick for any assessment.

Anyone could think that this is only significant to the market in the Netherlands; however, even when the fines imposed were a not-so-big 150k total, in a world where ACER is regularly publishing how it is increasing its monitoring of market abuse in the Energy markets, it has featured it on the front page of its Quarterly Report. Companies everywhere should take note.

Until now, ACER and NRAs, in general, have been very vague on what could be material enough to “likely to significantly affect prices”. While ACER has not yet changed its position on the subject, by featuring this decision from ACM, it might be giving a signal to market participants.

The new threshold comes from the market interviews that ACM conducted and with a summary published in 2019, and ACM is taking such survey to heart and making it official policy. It was the traders themselves that suggested the values, after all...

Even when not operating in The Netherlands, Compliance and Legal departments in the EU should take good note and consider doing the same.

ACM’s decision also contains a helpful decision tree on what can be considered "inside information", as referred to in Article 2(1) of REMIT; companies should double-check that their decision trees are aligned.

If you want more information on REMIT and how to approach "inside information" within your organisation, don't hesitate to get in touch with us at info@sybiusconsulting.com.