



- Consultation response -

Europex feedback to Commission 2020 roadmap to fight money laundering and terrorism financing

Brussels, 11 March 2020 | Europex, the Association of European Energy Exchanges, welcomes the Commission's initiative to review the effectiveness of the existing framework to fight money laundering and financing terrorism. The roadmap sets out important policy objectives which are also relevant for keeping electricity, gas and emissions trading safe and free of fraudsters who in the past had been associated with money laundering and terrorism financing.

In order to continue deterring such behaviour in the future, we would like to use this opportunity to recall the importance of extending the derogation of the domestic reverse charge mechanism (DRCM) for electricity, gas and emissions allowances provided in Article 199a of the VAT Directive¹ beyond 30 June 2022. The domestic reverse charge mechanism is a vital tool to help prevent missing trader intra-community fraud (MTIC) in highly liquid energy and emissions markets in Europe. MTIC VAT fraud remains a persistent threat to the integrity and well-functioning of electricity, gas and emission allowance markets in Europe.²

The extension, as set out in the Commission's legislative proposal of 25 May 2018³, ensures that Member States can continue to apply the domestic reverse charge mechanism in specific sectors, including electricity, gas and emission allowances. The current derogation will automatically end on 30 June 2022, if no active measures are taken to prolong it. We would thus like to stress the importance of further extending such derogation by at least five years. A timely proposal for the adoption of the prolongation is essential to help tax administrations and businesses in the concerned Member States to continue with the current practice without a need to prepare for a possible change by 2022.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02006L0112-20200101>

² The significance of the threat and the importance of the derogation for the European energy sector have also been recognised in a report from the European Commission to the Council and the European Parliament on the effects of Articles 199a and 199b of Council Directive 2006/112/EC on combatting fraud which was published on 8 March 2018: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=COM%3A2018%3A0118%3AFIN>

³ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52018PC0298&from=EN>

Europex would equally like to highlight the importance of broadening the scope of the derogation to include Guarantees of Origin (GOs) within the range of products to which the DRCM can be applied⁴. Along with 17 other European energy associations⁵, we had proposed that GOs, which are very similar in nature to emission allowances, be mentioned specifically as being able to benefit from the derogation in Article 199a. This is already happening today in some Member States, namely Austria, Italy and Ireland – as well as in the UK in the current transition period. However, an explicit reference could help clarify the application.

In addition, we would like to remind that given that not all Member States are currently making use of the derogation, the decision on a prolongation should be used to call for a comprehensive application of Article 199a (a) (b) (f) across all Member States and equally for electricity, gas, emissions and guarantees of origin. In order to eradicate the possibility of VAT fraud under the current VAT system, it is important that the protective shield is applied comprehensively. Otherwise, the risk of fraud in non-protected markets will increase significantly and may again contribute to money laundering and terrorism financing.

About

Europex is a not-for-profit association of European energy exchanges with 29 members. It represents the interests of exchange-based wholesale electricity, gas and environmental markets, focuses on developments of the European regulatory framework for wholesale energy trading and provides a discussion platform at European level.

Contact

Europex – Association of European Energy Exchanges

Address: Rue Archimède 44, 1000 Brussels, Belgium

Phone: +32 2 512 34 10

Website: www.europex.org

Email: secretariat@europex.org

Twitter: @Europex_energy

⁴ As defined in Directive 2009/28/EC.

⁵ <https://www.europex.org/wp-content/plugins/download-attachments/includes/download.php?id=4612>