



– Consultation response –

## **Europex welcomes Commission proposal to continue protecting electricity, gas, emissions and GO trading from Missing Trader Intra-Community Fraud**

Brussels, 5 April 2022 | **Europex explicitly welcomes and fully supports the Commission’s legislative proposal to extend the derogation in Article 199a of the VAT Directive** allowing Member States to apply the domestic reverse charge mechanism (DRCM) to transactions in electricity, gas, emission allowances and Guarantees of Origin (GOs). We consider this extension to be essential for the integrity and safety of European energy, emissions and GO markets.

However, a longer extension would have been preferable beyond the proposed 3.5 years until the end of 2025 past the current sunset date of 30 June 2022. Indeed, a complete deletion of a sunset date would be most useful to avoid the need of regular extensions which require time and resources by both institutional as well as industry stakeholders. Please see our detailed comments below:

### **1. Prolonging the existing derogation is vital to prevent Missing Trader Intra-Community Fraud in energy and emissions markets in Europe**

The DRCM is a vital tool to help prevent Missing Trader Intra-Community (MTIC) fraud in high-volume, high-value energy, emissions and GO markets in Europe which constitute potentially lucrative targets for specialised and skilled VAT fraudsters. In recent years, there have been significant cases of MTIC fraud in Europe, amounting to several billion euros frauded from Exchequers across the region. In addition to the direct financial losses, this had a significant impact on the functioning and reputation of the concerned markets.

### **2. The derogation should be comprehensively applied by all Member States**

Where Member States are applying this derogation, it has proven to be an effective tool in the prevention of MTIC fraud. Currently, however, not all Member States make use of the derogation and not for all products. **To reduce the risk of fraud in unprotected markets, Article 199a should be applied across all Member States and in a comprehensive manner – for electricity, gas, emissions and guarantees of origin alike.** This will prevent fraud from shifting to markets in unprotected Member States and will ensure that trust is maintained in the integrity and safety of these markets as an essential part of the economic value chain in Europe.

### **3. Explicit mentioning of GOs issued for heating and cooling**

Europex would like to use this opportunity to call for an explicit extension of the derogation to also include GOs issued for heating and cooling. As part of the Clean Energy Package adopted in 2018, Article 19 of the recast of the Renewable Energy Directive (RED II) had been extended to also include Guarantees of Origin (GOs) for renewable gas (including hydrogen and others) as well as heating and cooling. However, Article 199a 1(f) of the VAT Directive currently only includes certificates for supply of natural gas and electricity and does not include these additional GOs.

## About

Europex is a not-for-profit association of European energy exchanges with 30 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

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