

## European electricity & gas sector strongly supports anti-VAT fraud measures proposed by the European Commission and the Irish Council Presidency

Since 2009, our nine European associations, comprising regulators, exchanges, brokers, clearing houses, gas and electricity transmission system operators, energy trading firms as well as gas and electricity utilities, have united to take action to combat VAT fraudsters' attempts to penetrate our markets, as previously mentioned in our [December 2011 Joint Statement](#). Despite the **coordinated action of EU energy stakeholders**, a **series of measures taken at the national level and our repeated warnings to the authorities**, fraudsters have meanwhile become more sophisticated, and signs of initial VAT fraud have been reported in the wholesale electricity and gas sector.

**Long term fiscal measures are now needed to eradicate the risk of VAT fraud in the gas and electricity sector to prevent significant VAT losses to Member States' Exchequers similar to those experienced in the CO<sub>2</sub> emissions trading markets in 2009<sup>i</sup>.** Hence, our associations met in March 2013 with the Irish Council Presidency to express our concerns and identify potential solutions. **The European Commission and the Irish Presidency of the Council of the European Union presented an [anti-VAT Fraud Package](#) which would equip EU countries with real armour against fraudsters including:**

- Reverse Charge Mechanism to be implemented at the discretion of each Member State and extended to include trading in those sectors which are / have been already the subject of derogation requests, such as electricity and gas. The Reverse Charge Mechanism moves the obligation for collecting VAT from the supplier to the recipient of the goods, thus removing the VAT fraud "opportunity" on these trades.
- Quick Reaction Mechanism allowing Member States to apply for a derogation from the Directive 2006/112/EC (Previously the Sixth VAT Directive) enabling them to rapidly implement fiscal measures to deal with the risk of unknown, sudden and massive fraud.

**We welcome the European Commission's and the Irish Council Presidency's resolve to push forward measures to combat VAT fraud. We encourage Member States to work towards reaching agreement on a proposal which could secure unanimous support.** The adoption of this package would remove the vulnerability to fraud faced by the wholesale electricity and gas markets, and would thus protect market integrity by permitting freedom of commerce and fair competition on behalf of European consumers.

This holds true for all industries exposed to fraudulent activities. Therefore, we **call out to other sectors threatened by VAT fraud to join forces to publicly support the proposed package, and strongly urge ALL Member States to act now to protect the safety and integrity of EU wholesale markets for the benefit of the final customer.**

Brussels, 25 March 2013

End.

## Notes for editors

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<sup>i</sup> Carousel Fraud, also known as Missing Trader Intra-Community Fraud (“MTIC”), follows three basic steps – buy without VAT, sell with VAT and disappear before paying VAT to the tax authorities. In 2009, carousel fraud extended to CO<sub>2</sub> Emissions trading. Legislative changes were implemented (Directive 2010/23/EU, March 2010) to combat fraud, but far too late: € 5 billion in VAT had been evaded in the period 2008-2009.

Following the fraud in CO<sub>2</sub> markets, it was identified that VAT fraud could also be perpetrated in gas and electricity wholesale markets. Therefore, individual measures have been taken by the wholesale electricity and gas sector at the national level to block or slow down the progress of VAT fraudsters

- Reinforcement of KYC at all levels
- Increased surveillance of transaction volumes
- Increased awareness of legitimate market participants
- Increased awareness of all actors in the industry of the threat

However the fraudsters have learned how to circumvent these defenses (which from the beginning the sector has insisted could not be bullet-proof) and frauds are occurring on wholesale electricity and gas markets.

In 2012, different Member States took action domestically in response to this risk:

- April 2012: France adopted the reverse charge mechanism for gas and electricity. April 2012: The Netherlands adopted a zero VAT rate on wholesale gas & electricity, in which suppliers will have the facility to opt to supply at a zero VAT rate, but only if they operate through a specially provided “VAT warehouse” scheme.
- June 2012: Germany requested to the commission to derogate from the VAT directive for wholesale gas & electricity.
- July 2012: Austria requested to the Commission to derogate from the VAT directive for wholesale gas & electricity.

At the end of 2012, the European Commission refused the derogation from the VAT Directive requested by France, Germany and Austria, stating that the existence of VAT fraud cases had not been evidenced. Additionally they stated that the application for a reverse charge would have “a considerable negative impact on other Member States” as “fraud in these types of goods and services can quickly move from one Member State to another”.

Now, the European Commission and the Irish Council Presidency are committed to fighting VAT fraud in all industries, and have proposed a viable anti-VAT fraud package to the ECOFIN Council in March 2013. The Irish Presidency plans to go before the Council of the EU again before June 2013 to deliberate this further.



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## Information on the nine associations:

### **About CEER** - The Council of European Energy Regulators

The Council of European Energy Regulators (CEER) is the voice of Europe's national regulators of electricity and gas at EU and international level. Through CEER, a non-for-profit association, the national regulators cooperate and exchange best practice. A key objective of the CEER is to facilitate the creation of a single, competitive, efficient and sustainable EU internal energy market that works in the public interest.

<http://www.energy-regulators.eu>

### **About EACH** - European association of CCP Clearing Houses

European central counterparty clearing houses (henceforth CCPs) formed EACH in 1991. EACH's participants are senior executives specialising in clearing and risk management from CCPs, both EU and non-EU. Increasingly, clearing activities are not restricted exclusively to exchange-traded business. EACH has an interest in ensuring that the evolving discussions on clearing and settlement in Europe and globally, are fully informed by the expertise and opinions of those responsible for providing central counterparty clearing services.

<http://www.eachorg.eu>

### **About EFET** - European Federation of Energy Traders

The European Federation of Energy Traders (EFET) promotes and facilitates European energy trading in open, transparent and liquid wholesale markets, unhindered by national borders or other undue obstacles. EFET currently represents more than 100 energy trading companies, active in over 27 European countries.

<http://www.efet.org>

### **About ENTSO-E** - The European Network of Transmission System Operators for Electricity

ENTSO-E is the European Network of Transmission System Operators for Electricity, representing 41 Transmission System Operators (TSOs) from 34 countries. TSOs are responsible for the bulk transmission of electric power on the main high voltage electric networks, one of the most important infrastructure backbones of Europe's service and industrial economy.

ENTSO-E's legal basis is Regulation (EC) 714/2009 on electricity cross-border exchanges, mandating it to draft network codes and non-binding community-wide ten-year network development plans; and to ensure the optimal management, coordinated operation and sound technical evolution of the European electricity transmission network.

<http://www.entsoe.eu>

### **About ENTSG** - The European Network of Transmission System Operators for Gas

ENTSG was founded on 1 December 2009 in line with Regulation (EC) 715/2009 (Regulation) and currently comprises 42 TSO Members and 3 Associated Partners from 25 EU countries, and 4 Observers from 4 non-EU countries. ENTSOG works to promote the completion and functioning of the internal market and cross-border trade for gas and to ensure the optimal management, coordinated operation and sound technical evolution of the European natural gas transmission network.

<http://www.entsog.eu>



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### **About Eurelectric - The Union of the Electricity Industry**

The Union of the Electricity Industry-EURELECTRIC is the sector association which represents the common interests of the electricity industry at pan-European level, plus its affiliates and associates on several other continents.

<http://www.eurelectric.org>

### **About Eurogas - The European Union of the natural gas industry**

Eurogas is an association representing about 50 companies and associations engaged in the wholesale, retail and distribution of gas in Europe. Eurogas provides data and information relevant to EU decision makers and opinion formers in making the right policy choices.

<http://www.eurogas.org>

### **About Europex - Association of European Energy Exchanges**

Europex is a not-for-profit association of European energy exchanges that represents the interests of the exchange-based wholesale markets for electrical energy, gas and environmental markets with regard to developments of the European regulatory framework for wholesale energy trading and provides a discussion platform on a European level.

<http://www.europex.org>

### **About LEBA - London Energy Brokers Association**

The London Energy Brokers' Association (LEBA) was formed in 2003 to represent the interests of London-based energy brokers. LEBA comprises 10 members, which together provide coverage for all key product groups in the energy sector: oil, gas, power, coal and emissions.

<http://www.leba.org.uk>



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