



Joint Statement on VAT fraud prevention in the electricity and gas sector

During 2008 and 2009, criminal organisations committed Value Added Tax (VAT) fraud within the EU, causing an enormous amount of damage to the CO₂ emissions market and resulting in financial losses for Member States of at least five billion euro (according to Europol sources). This fraudulent activity also damaged the integrity and reputation of the emissions market.

As a result of this experience, certain Member States have taken steps to safeguard the emissions market from such fraudulence and have implemented Council Directive 2010/23/EU, introducing a domestic reverse charge mechanism on the trading of emissions allowances, as a tool to combat VAT fraud.

With the opportunity for VAT fraud thus dramatically reduced in the emissions market, experts from European tax investigation offices have received clear signs that wholesale electricity and gas markets are now becoming targets of VAT fraudsters. Indeed, a few alleged fraud cases in electricity trading have recently been reported.

First measures have already been introduced in several Member States to detect and stop attempts by fraudsters to penetrate these markets. These measures were taken in coordination with law enforcement agencies and tax investigation units and, for the time being, have proved to be efficient in preventing VAT fraud.

In this joint statement, European energy regulators (CEER), clearing houses (EACH), energy trading firms (EFET), electricity transmission system operators (ENTSO-E), gas transmission system operators (ENTSOG), the electricity industry (Eurelectric), the gas industry (Eurogas), energy exchanges (Europex) and energy brokers (LEBA) reaffirm that we take very seriously the danger of VAT fraud for the functioning of Europe's gas and electricity markets.

Although the ultimate responsibility for tackling VAT fraud lies with the tax investigation authorities, in order to avoid the potential impairment of energy trading as a result of such fraud, we **the signatories hereby confirm our commitment to take action** within our respective competences and legal frameworks and to cooperate with other stakeholders at European and national level to minimise the threat of a spill-over of VAT fraud into electricity and gas trading in the short and medium term. Thus, we agreed upon a catalogue of general measures which can be adapted to each national jurisdiction, as appropriate and given the relevant legal structures and distribution of responsibilities, in order to combat VAT fraud in the energy markets.

This relates to the following priorities:

- Raising awareness of the potential threat of VAT fraud among market and industry stakeholders in each Member State;
- Maintaining a dialogue with law-enforcement agencies, tax authorities and financial intelligence units on the functioning of electricity and gas markets;
- Identifying and/or creating information channels and the legal environment at national level to inform competent authorities of suspicious behaviour;
- Ensuring that “Know your Customer” (KYC) procedures can deal appropriately with this new type of risk, in an effort to prevent VAT-fraudster from entering the market;
- Making full use of the registration scheme in the Regulation on Wholesale Energy Market Integrity and Transparency (REMIT) to help improve transparency on who is active in the market and to facilitate the detection of fraudsters (e.g. by requiring the mandatory declaration of the VAT identification number (VATIN) code in ENTSO-E’s Energy Identification Coding (EIC) coding scheme, a scheme for identifying market players which are active within the EU energy market); and;
- Reinforcing control measures at all levels of the trading chain to detect abnormal trading behaviour and report it to the relevant authorities.

We would therefore welcome proactive support from, law-enforcement agencies, tax investigation and financial intelligence units on this issue.

We would like to stress that VAT fraud is pre-eminently a tax issue and that the above-mentioned measures and other industry surveillance initiatives can serve as supporting instruments to tackling VAT fraud in general. **We therefore call upon national tax administrations and also the European Commission (DG TAXUD) to study potential long-term fiscal measures that could permanently remove the risk of VAT fraud from electricity and gas markets, where these are considered appropriate and necessary.** Such measures would need to be reliable and administratively manageable for market participants and would be most effective if they are prepared in advance, so that they may be implemented without delay should any fraudulent activity arise.

In conclusion, **we offer our support to help combat VAT fraud in Europe’s electricity and gas markets, including through the issues outlined above and within the ambit of our respective responsibilities.**

Brussels, 6th December 2011

End.



Notes

Background:

The 19th EU Electricity Regulatory Forum (Florence Forum) in December 2010 mandated the European energy regulators and ENTSO-E to present interim measures to address concerns about VAT-fraud in energy markets. This joint statement, endorsed by nine of the main energy stakeholders, is our commitment to take action within our respective areas, and collectively, to help combat VAT-fraud in Europe's electricity and gas markets. Moreover, it is a plea for a strong cooperation and a more proactive support from policy makers, law-enforcement agencies, tax investigators, financial intelligence units to join our efforts to mitigate the threat of VAT-fraud in the energy sector. This joint statement was presented, today in Florence, to the European Commission, EU Member State representatives and other participants of the 21th Florence Forum. It is the result of a strong collaborative cooperation between energy stakeholders at EU level.

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. CEER works closely with and supports the work of the Agency for the Cooperation of Energy Regulators (ACER).

<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. For more information: www.efet.org.

About ENTSO-E

The European Network of Transmission System Operators for Electricity speaks for all electricity TSOs in the EU and others connected to their networks, with one voice for all regions, and for all their technical and market issues.

<http://www.entsoe.eu>

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

The European Network of Transmission System Operators for Gas (ENTSG) 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>

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 the European Union of natural gas industry, composed of 52 members from 28 countries. The association objectives are to represent the interests of the European natural gas industry and to promote the development of natural gas in Europe.

<http://www.eurogas.org>

About Europex

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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