EUROPEAN UNION

THE EUROPEAN PARLIAMENT **THE COUNCIL**

Brussels, 7 May 2024
(OR. en)

2023/0077/A(COD) **PE-CONS 1/24**

ENER 10
ENV 26
CLIMA 16
COMPET 21
CONSOM 5
FISC 2
CODEC 27

LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject:	REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulations (EU) 2019/942 and (EU) 2019/943 as regards improving the Union's electricity market design

REGULATION (EU) 2024/…
OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of …

amending Regulations (EU) 2019/942 and (EU) 2019/943 as regards improving the Union's electricity market design

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 194(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee[1],

Having regard to the opinion of the Committee of the Regions[2],

Acting in accordance with the ordinary legislative procedure[3],

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1 OJ C 293, 18.8.2023, p. 112.
2 OJ C, C/2023/253, 26.10.2023, ELI: http://data.europa.eu/eli/C/2023/253/oj.
3 Position of the European Parliament of 11 April 2024 (not yet published in the Official Journal) and decision of the Council of …

Whereas:

(1) Very high prices and volatility in electricity markets have been observed since September 2021. As set out by the European Union Agency for the Cooperation of Energy Regulators (ACER) in its final assessment of the EU wholesale electricity market design of April 2022, this is mainly a consequence of the high price of gas, which is used as an input to generate electricity.

(2) The escalation of the Russian war of aggression against Ukraine, which is a Contracting Party of the Energy Community Treaty[4], and the related international sanctions since February 2022 have led to a gas crisis, have disrupted global energy markets, have exacerbated the problem of high gas prices, and have had a significant knock-on impact on electricity prices. The Russian war of aggression against Ukraine has also caused uncertainty on the supply of other commodities, such as hard coal and crude oil, used by power-generating installations. That uncertainty has resulted in a substantial additional increase in the volatility of electricity prices. The reduced availability of several nuclear reactors and the low hydropower output have further amplified the increase in electricity prices.

[4] OJ L 198, 22.7.2006, p. 18.

(3) As a response to that situation, the Commission, in its communication of 13 October 2021 on ‘Tackling rising energy prices: a toolbox for action and support’, proposed a toolbox of measures that the Union and its Member States may use to address the immediate impact of high energy prices on household customers and businesses, including income support, tax breaks, energy savings and storage measures and to strengthen resilience to future price shocks. In its communication of 8 March 2022 on ‘REPowerEU: Joint European Action for more affordable, secure and sustainable energy’, the Commission outlined a series of additional measures to strengthen the toolbox and to respond to rising energy prices. On 23 March 2022, the Commission also established a temporary State aid framework to allow certain subsidies to soften the impact of high energy prices.

(4) In its communication of 18 May 2022 the Commission presented its ‘REPowerEU plan’, which introduced additional measures focusing on energy savings, diversification of energy supplies, increased energy efficiency target and accelerated roll-out of renewable energy aiming to reduce the Union’s dependence on Russian fossil fuels, including a proposal to increase the Union’s 2030 target for gross final consumption of renewable energy to 45 %. Furthermore, the communication of the Commission of 18 May 2022 on ‘Short-Term Energy Market Interventions and Long-Term Improvements to the Electricity Market Design – a course for action’, in addition to setting out additional short-term measures to tackle high energy prices, identified potential areas for improving the electricity market design and announced the intention to assess those areas with a view to changing the legislative framework.

(5) In order to address, urgently, the energy price crisis and security concerns and to tackle the price hikes for citizens, the Union adopted several legal acts, including Regulation (EU) 2022/1032 of the European Parliament and of the Council[5], which established a strong gas storage regime and Council Regulation (EU) 2022/1369[6], which provided for effective demand reduction measures for gas and electricity, Council Regulation (EU) 2022/1854[7], which established price limiting regimes to avoid windfall profits in both gas and electricity markets, and Council Regulation (EU) 2022/2577[8], which established measures to accelerate the permit-granting procedures for renewable energy installations.

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5 Regulation (EU) 2022/1032 of the European Parliament and of the Council of 29 June 2022 amending Regulations (EU) 2017/1938 and (EC) No 715/2009 with regard to gas storage (OJ L 173, 30.6.2022, p. 17).

6 Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas (OJ L 206, 8.8.2022, p. 1).

7 Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices (OJ L 261 I, 7.10.2022, p. 1).

8 Council Regulation (EU) 2022/2577 of 22 December 2022 laying down a framework to accelerate the deployment of renewable energy (OJ L 335, 29.12.2022, p. 36).

(6) A well-integrated energy market, which builds on Regulations (EU) 2018/1999[9], (EU) 2019/942[10] and (EU) 2019/943[11] of the European Parliament and of the Council, and Directives (EU) 2018/2001[12], (EU) 2018/2002[13] and (EU) 2019/944[14] of the European Parliament and of the Council, together commonly referred to as the Clean energy for all Europeans package, adopted in 2018 and 2019 (the 'Clean Energy Package'), allows the Union to reap the economic benefits of a single energy market in all circumstances, ensuring security of supply and sustaining the decarbonisation process to achieve the Union's climate neutrality objective. Cross-border interconnectivity also ensures a safer, more reliable and efficient operation of power systems, and better resilience to short-term price shocks.

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9 Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

10 Regulation (EU) 2019/942 of the European Parliament and of the Council of 5 June 2019 establishing a European Union Agency for the Cooperation of Energy Regulators (OJ L 158, 14.6.2019, p. 22).

11 Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ L 158, 14.6.2019, p. 54).

12 Directive (EU) 2018/2001 of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources (OJ L 328, 21.12.2018, p. 82).

13 Directive (EU) 2018/2002 of the European Parliament and of the Council of 11 December 2018 amending Directive 2012/27/EU on energy efficiency (OJ L 328, 21.12.2018, p. 210).

14 Directive (EU) 2019/944 of the European Parliament and of the Council of 5 June 2019 on common rules for the internal market for electricity and amending Directive 2012/27/EU (OJ L 158, 14.6.2019, p. 125).

(7) Strengthening the internal energy market and achieving the climate and energy transition objectives require a substantial upgrade of the Union's electricity network to be able to host vast increases of renewable generation capacity, with weather-dependent variability in generation amounts and changing electricity flow patterns across the Union, and to be able to address new demand such as electric vehicles and heat pumps. Investment in grids, within and across borders, is crucial to the proper functioning of the internal electricity market, including security of supply. Such investment is necessary to integrate renewable energy and demand in a context where they are located further apart than in the past and, ultimately, to deliver on the Union climate and energy targets. Therefore, any reform of the Union's electricity market should contribute to a more integrated European electricity network, with a view to ensuring that each Member State reaches a level of electricity interconnectivity in accordance with the electricity interconnection target for 2030 of at least 15 % pursuant to Article 4, point (d)(1), of Regulation (EU) 2018/1999, that that interconnection capacity is used as much as possible for cross-border trade and that the Union's electricity network and connectivity infrastructure are built or upgraded, such as the Union projects of common interest established pursuant to Regulation (EU) 2022/869 of the European Parliament and of the Council[15]. Adequate connectivity should be provided to all Union citizens and undertakings as this can result in major opportunities for them to participate in the energy transition and the digital transformation of the Union. Special consideration should be given to the outermost regions referred to in Article 349 of the Treaty on the Functioning of the European Union (TFEU), which recognises their specific constraints and provides for the adoption of specific measures in their regard.

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15 Regulation (EU) 2022/869 of the European Parliament and of the Council of 30 May 2022 on guidelines for trans-European energy infrastructure, amending Regulations (EC) No 715/2009, (EU) 2019/942 and (EU) 2019/943 and Directives 2009/73/EC and (EU) 2019/944, and repealing Regulation (EU) No 347/2013 (OJ L 152, 3.6.2022, p. 45).

(8) The current electricity market design has, inter alia, helped the emergence of new and innovative products, services and measures on retail electricity markets, supporting energy efficiency and the uptake of renewable energy and enhancing choice to help consumers reduce their energy bills including through small-scale generation installations and emerging services for providing demand response. Building on and seizing the potential of the digitalisation of the energy system, such as active participation by consumers, is a key element of future electricity markets and systems in the Union. At the same time, there is a need to respect consumer choices and allow consumers to benefit from a variety of contractual offers, and to shield household customers from high prices during an energy crisis. Energy system integration is intended to be the planning and operation of the energy system as a whole, across multiple energy carriers, infrastructures and consumption sectors, by creating stronger links between them, in synergy with each other and supported by digitalisation with the objective of delivering secure, affordable, reliable and sustainable energy.

(9) In the context of the energy crisis, the current electricity market design has revealed a number of shortcomings and unexpected consequences linked to the impact of high and volatile fossil fuel prices on short-term electricity markets, which expose households and undertakings to significant price spikes and resulting effects on their electricity bills.

(10) A faster deployment of renewable energy and clean flexible technologies constitutes the most sustainable and cost-effective way of structurally reducing the demand for fossil fuels for electricity generation and enabling direct consumption of electricity through the electrification of energy demand and energy system integration. Due to their low operational costs, renewable sources can have a positive impact on electricity prices across the Union and reduce the consumption of fossil fuels.

(11) The changes to the electricity market design should ensure that the benefits from increasing renewable power deployment, and the energy transition as a whole, are brought to consumers, including the most vulnerable ones, and ultimately shield them from energy crises and avoid more household customers falling into an energy poverty trap. Those changes should mitigate the impact of high fossil fuel prices, in particular that of gas, on electricity prices, aiming to allow household customers and undertakings to reap the benefits of affordable and secure energy from sustainable renewable and low carbon sources in the longer term, as well as of energy efficient solutions in reducing overall energy costs, which may reduce the need for power grid and generation capacity expansion.

(12) The reform of the electricity market design aims to achieve affordable and competitive electricity prices for all consumers. As such, that reform should benefit not only household customers but also the competitiveness of the Union's industries by facilitating the investment in clean technology that they require to meet their net zero transition paths. The energy transition in the Union needs to be supported by a strong clean technology manufacturing basis. Those reforms will support the affordable electrification of industry and the Union's position as a global leader in terms of research and innovation in clean energy technologies.

(13) Well-functioning and efficient short-term markets are a key tool for the integration of renewable energy and flexibility sources into the electricity market and enable energy system integration in a cost-effective manner.

(14) Intraday markets are particularly important for the integration of variable renewable energy sources in the electricity system at the least cost as they give the possibility to market participants to trade shortages or surplus of electricity closer to the time of delivery. Since variable renewable energy generators are only able to accurately estimate their production close to the delivery time, it is crucial for them to maximise trading opportunities via access to a liquid market as close as possible to the time of delivery of the electricity. The gate closure time of the cross-zonal intraday market should therefore be shortened and set closer to real time in order to maximise the opportunities for market participants to trade shortages and surplus of electricity and contribute to better integrating variable renewable energy sources into the electricity system. Where that change creates security of supply risks and to allow for a cost-efficient transition to the shorter cross-zonal gate closure time, the transmission system operators should have the possibility to request a derogation, on the basis of an impact assessment and subject to approval by the regulatory authority concerned, in order to obtain an extension of the implementation timeline. That request should include an action plan with concrete steps towards the implementation of the new intraday cross-zonal gate closure time.

(15) It is therefore important for the intraday markets to adapt to the participation of variable renewable energy technologies such as solar and wind energy as well as to the participation of demand response and energy storage. The liquidity of the intraday markets should be improved with the sharing of the order books between market operators within a bidding zone, also when the cross-zonal capacities are set to zero or after the gate closure time of the intraday market. In order to ensure that order books are shared between nominated electricity market operators (NEMOs) in the day-ahead and intraday market coupling time frames, NEMOs should submit all orders for day-ahead and intraday products, and products with the same characteristics to the single day-ahead and intraday coupling and should not organise the trading of day-ahead or intraday products, or products with the same characteristics outside the single day-ahead and intraday coupling. To address the inherent risk of discrimination in the trading of day-ahead and intraday products inside and outside the single day-ahead and intraday coupling, and the consequent draining of liquidity in the Union's coupled electricity markets, that obligation should apply to NEMOs, to undertakings which directly or indirectly exercise control over a NEMO, and to undertakings which are directly or indirectly controlled by a NEMO. To improve the transparency on the markets, the market participants should provide, where applicable, information by generation units without prejudice to the presentation of bids in accordance with the relevant framework in each Member State.

(16) In addition, short-term electricity markets should ensure that small-scale flexibility service providers can participate by lowering the minimum bid size.

(17) To ensure the efficient integration of electricity generated from variable renewable energy sources and to reduce the need for fossil-fuel based electricity generation in situations of regional or Union-wide electricity price crisis, it should be possible for Member States to request system operators to propose the procurement of a peak-shaving product enabling additional demand response in order to contribute to decreasing consumption in the electricity system. The proposal for a peak-shaving product should be assessed by the regulatory authority concerned as regards achieving a reduction of electricity demand and a reduction of the impact on wholesale electricity price during peak hours. As the peak-shaving product aims to reduce and shift the electricity consumption and in order to avoid increasing of greenhouse gas emissions, the activation of the peak-shaving product should not imply starting fossil fuel-based generation located behind the metering point. As the peak-shaving product is intended to be applied only in limited situations of regional or Union-wide electricity price crisis, its procurement may take place up to one week ahead of releasing additional demand response capacities. System operators should be able to activate the peak-shaving product before or within the day-ahead market time frame. Alternatively, it should be possible for the peak-shaving product to be activated automatically based on a pre-defined electricity price. In order to verify volumes of reduction of electricity consumption, the system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak-shaving product, and should, after consulting market participants, develop a baseline methodology. That methodology should be approved by the regulatory authority concerned. ACER should assess the impact of using peak-shaving products on the Union electricity market, taking into account the need for peak-shaving products not to unduly distort the functioning of the electricity markets or to cause a redirection of demand response towards peak-shaving products, and should be able to issue recommendations to regulatory authorities to be taken into account in their assessment at national level. Furthermore, ACER should assess the impact of developing peak-shaving products on the Union electricity market under normal circumstances. On the basis of that assessment, the Commission should be able, where appropriate, to submit a legislative proposal to amend Regulation (EU) 2019/943 in order to introduce peak-shaving products outside electricity price crisis situations.

(18) In order to be able to actively participate in the electricity markets and to provide flexibility, consumers are progressively equipped with smart meters. However, in a number of Member States the roll-out of smart metering systems is still slow so it is imperative that Member States improve the conditions for the installation of smart metering systems, with the objective of reaching a full coverage as soon as possible. However, transmission system operators, distribution system operators and relevant market participants, including independent aggregators, should be able to use, upon the consent of the final customer, data from dedicated measurement devices, in accordance with Articles 23 and 24 of Directive (EU) 2019/944 and other relevant Union law, including data protection and privacy law, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council[16]. In addition, only in those cases where smart metering systems are not yet installed and in cases where smart metering systems do not provide for the sufficient level of data granularity, transmission system operators and distribution system operators, upon the consent of the final customer, should use data from dedicated measurement devices for the observability and settlement of flexibility services such as demand response and energy storage. Enabling the use of data from dedicated measurement devices for observability and settlement should facilitate the active participation of the final customers in the market and the development of their demand response. The use of data from those dedicated measurement devices should comply with quality requirements relating to the data.

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16 Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).

(19) This Regulation establishes a legal basis for the processing of personal data in accordance with Regulation (EU) 2016/679. Member States should ensure that all principles and obligations relating to processing of personal data laid down in Regulation (EU) 2016/679 are met, including on data minimisation. Where the objective of this Regulation can be achieved without the processing of personal data, data controllers should rely on anonymised and aggregated data.

(20) Consumers and suppliers need effective and efficient forward markets to cover their long-term price exposure and decrease their dependence on short-term prices. To ensure that energy customers across the Union are able to fully benefit from the advantages of integrated electricity markets and competition across the Union, the Commission should assess the impact of possible measures to improve the functioning of the Union's electricity forward markets such as the frequency of allocation, the maturity and the nature of long-term transmission rights, ways to strengthen the secondary market and the possible introduction of regional virtual hubs.

(21) The part of the assessment related to the possible introduction of regional virtual hubs should, inter alia, cover the implications regarding pre-existing intergovernmental agreements related to cross-border joint ownership of power plants. If introduced, regional virtual hubs would reflect the aggregated price of multiple bidding zones and provide a reference price, which should be used by market operators to offer forward hedging products. To that extent, regional virtual hubs should not be understood as entities arranging or executing transactions. The regional virtual hubs, by providing a reference price index, would enable the pooling of liquidity and provide additional hedging opportunities to market participants. In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission to further specify, where necessary, measures and tools on the design of the Union's electricity forward markets, including as regards the introduction of regional virtual hubs. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[17].

[17] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

(22) To enhance the possibilities of market participants for hedging, the role of the single allocation platform established in accordance with Commission Regulation (EU) 2016/1719[18] should be expanded. The single allocation platform should act as an entity offering allocation and facilitating the trading of financial long-term transmission rights on behalf of the transmission system operators between the different bidding zones and, where relevant, the regional virtual hubs.

(23) Network tariffs should incentivise transmission system operators and distribution system operators to use flexibility services through further developing innovative solutions to optimise the existing grid and to procure flexibility services, in particular demand response or energy storage. To that end, network tariffs should be designed to take into account the operational and capital expenditures of system operators or an efficient combination of both so that they can operate the electricity system cost-efficiently. The requirement for cost-reflectiveness should not restrict the opportunity to redistribute costs efficiently where locational- or time-variant network charges are applied. This would further contribute to integrating energy from renewable sources at the least cost for the electricity system and enable final customers to value their flexibility solutions. Regulatory authorities will play a central role in ensuring that sufficient investment is provided for the necessary grid development, expansion and reinforcement. Regulatory authorities should promote public acceptance and the use of anticipatory investment, encouraging the acceleration of grid development to meet the accelerated deployment of renewable generation, including, where appropriate, in designated renewables acceleration areas and smart electrified demand.

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[18] Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (OJ L 259, 27.9.2016, p. 42).

(24) Offshore renewable energy sources, such as offshore wind, ocean energy and floating photovoltaic, will play an instrumental role in building a power system largely based on renewable energy sources and in ensuring climate neutrality by 2050. There are, however, substantial obstacles to their wider and efficient deployment preventing the massive scale up needed to achieve those objectives. Similar obstacles could arise for other offshore technologies in the future. In order to reduce investment risk for offshore project developers, instruments such as power purchase agreements (PPAs) or two-way contracts for difference could be used to facilitate the development of offshore projects. For offshore hybrid projects connected to more than one market in an offshore bidding zone, there is an additional risk associated with the unique topographical situation related to market access. To reduce the risks for such projects, transmission system operators should compensate where, in the validated capacity calculation results, they either have not made available the capacity agreed in the connection agreements on the interconnector or have not made available the capacity on the critical network elements pursuant to the capacity calculation rules laid down in Article 16(8) of Regulation (EU) 2019/943, or both. Transmission system operators should pay no compensation if, in the validated capacity calculation results, they have made available the capacity of the interconnector at or above the connection agreement requirements as well as the capacity on critical network elements in accordance with the rules laid down in Article 16(8) of Regulation (EU) 2019/943. In the respective connection agreement with the offshore renewable electricity generation plant operator, transmission system operators should strive to give the total agreed capacity as firm, not flexible, and in line with the framework for connection agreements established in Directive (EU) 2019/944. Member States should be informed sufficiently in advance about the connection agreement. Compensation should be payable either if the available transmission capacities are reduced to the extent that the full amount of electricity generation that the offshore renewable electricity generation plant would have otherwise been able to export cannot be delivered to the surrounding markets, or where, despite being able to export, there is a corresponding price decrease in the offshore bidding zone due to capacity reductions as compared to without-capacity reductions, or both.

The compensation should be paid from congestion income. It should apply where one or more transmission system operators have not made sufficient capacity available to export the electricity generation capability on their respective interconnector up to the capacity agreed in the connection agreement, and should be provided by those transmission system operators. In the interest of regional fairness, if the insufficient capacity is due to other transmission system operators having not made available the capacity on their critical network elements, pursuant to the capacity calculation rules laid down in Article 16(8) of Regulation (EU) 2019/943, the costs of compensation should be shared proportionately between those transmission system operators in line with the polluter pays principle. In addition, any compensation not covered by that proportionate sharing may be divided between the relevant parties in the Member States involved in the offshore hybrid project as part of their cost sharing arrangements. That compensation should not result in overcompensation and is intended to balance the reduced revenues of offshore renewable electricity generation plant operators due to reduced access to interconnected markets. It should be related only to the production capability available to the market, which may be weather dependent and which excludes the outage and maintenance operations of the offshore project. The compensation in the case of a lack of access to the transmission network should not be interpreted as constituting priority dispatch and should be aligned with the principles of non-discrimination and maximisation of cross-border capacities for trade pursuant to Article 16(4) of Regulation (EU) 2019/943. Moreover, there should be no double-compensation for the same risk covered under that provision, for example if the risk is already covered under a contract for difference or another relevant support scheme. Details of that compensation mechanism and the methodology for the implementation to be developed including the conditions under which the measure may expire, such as the existence of sufficient demand within the offshore bidding zone, for example a large electrolyser, or direct access to a sufficient number of markets for the risk to disappear, are intended to be further elaborated in an implementing act including, where relevant, through amendments to Commission Regulation (EU) 2015/1222[19].

[19] Commission Regulation (EU) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management (OJ L 197, 25.7.2015, p. 24).

(25) In the day-ahead wholesale market, the power plants with lower marginal costs are dispatched first, but the price received by all market participants is set by the last power plant needed to cover the demand, which is the power plant with the highest marginal costs, when the markets clear. In that context, the energy crisis has shown that a surge in the price of gas and hard coal can lead to exceptional and lasting increases of the prices at which the gas and coal-fired generation facilities bid in the day-ahead wholesale market. That in turn has led to exceptionally high prices in the day-ahead market across the Union, as gas and coal-fired generation facilities are often the plants with the highest marginal costs needed to meet the demand for electricity.

(26) Given the role of the price in the day-ahead market as a reference for the price in other wholesale electricity markets, and the fact that all market participants receive the clearing price, the technologies with significantly lower marginal costs have consistently recorded high revenues.

(27) To reach the Union's decarbonisation targets and the objectives set out in the REPowerEU plan to become more energy independent, the Union needs to accelerate the deployment of renewable energy at a much faster pace. In view of the investment needs required to achieve those goals, the market should ensure that a long-term price signal is established.

(28) In that framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as PPAs. PPAs are bilateral purchase agreements between producers and buyers of electricity that are concluded on a voluntary basis and are based on market price conditions without regulatory interventions in price-setting. PPAs provide long-term price stability for the customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only few Member States have active PPA markets and buyers are typically limited to large companies, including because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment default from the buyer in those long-term agreements. Member States should take into consideration the need to create a dynamic PPA market when setting the policies to achieve the energy decarbonisation objectives laid down in their integrated national energy and climate plans. When designing measures directly affecting PPAs, Member States should respect possible legitimate expectations and take into account the effects of those measures on existing and future PPAs.

(29) In accordance with Directive (EU) 2018/2001, Member States are to assess the regulatory and administrative barriers to long-term renewables PPAs, and to remove unjustified barriers and disproportionate or discriminatory procedures or charges, and to promote the uptake of such agreements. In addition, Member States are to describe policies and measures facilitating the uptake of renewables PPAs in their integrated national energy and climate plans. Without prejudice to that obligation to report on the regulatory context affecting the PPA market, Member States should ensure that instruments to reduce the financial risks associated to the buyer defaulting on its long-term payment obligations in the framework of PPAs are accessible to customers that face entry barriers to the PPA market and that are not in financial difficulty. Member States should be able to decide to set up a guarantee scheme at market prices where private guarantees are not accessible or insufficiently accessible. Where a Member State sets up such a guarantee scheme, it should include provisions to avoid lowering the liquidity in the electricity markets, such as by using financial PPAs. Member States could decide to facilitate the aggregation of demand for PPAs from customers that individually face entry barriers to the PPA market, but they should, collectively, be able to provide an attractive offer for PPAs to producers. Member States should not provide support to PPAs for the purchase of electricity generated from fossil fuels. Member States should be able to limit themselves to supporting only guarantee schemes that support new renewable energy generation, in line with their decarbonisation policies, in particular where the market for renewables PPAs is not sufficiently developed. While the default approach should be non-discrimination between consumers, Member States could decide to target those instruments to specific categories of consumers, applying objective and non-discriminatory criteria. In that framework, Member States should ensure appropriate coordination, including with facilities provided at Union level, for example by the European Investment Bank (EIB).

(30) Member States have at their disposal several instruments to support the development of PPA markets when designing and allocating public support. Allowing renewable energy project developers participating in a public support tender to reserve a share of the generation for sale through a PPA would contribute to nurture and grow PPA markets. In addition, as part of those tenders' evaluation, Member States should endeavour to apply criteria to incentivise the access to the PPA market for actors that face entry barriers, such as small enterprises and medium-sized enterprises, giving preference to bidders presenting a signed PPA or a commitment to sign a PPA for part of the project's generation from one or several potential buyers that face difficulties to access the PPA market.

(31) To contribute to the transparency and development of PPA markets at Union and Member State level, ACER should publish an annual assessment on those markets, assess the need to develop and issue voluntary templates for PPAs and develop them if the assessment concludes there is such a need.

(32) Member States should pay particular attention to cross-border PPAs and remove unjustified barriers specifically related to them, allowing consumers in Member States with limited capacity to access power generated in other regions without discrimination.

(33) Where, based on the relevant assessment, the Commission concludes that Member States require support in the removal of barriers in PPA markets, it should be able to draw up specific guidance. The main focus of such guidance should be the removal of barriers preventing the expansion of PPA markets, including cross-border PPAs. Such barriers can take many forms, from regulatory barriers, in particular disproportionate or discriminatory procedures or charges, to the role of guarantees of origin or the treatment of PPAs in the access of potential offtakers to financing solutions.

(34) Regulation (EU) 2018/1999 provides for the use of the Union renewable energy financing mechanism as a tool to facilitate the achievement of the Union's binding target of renewable energy in 2030. Pursuant to Directive (EU) 2018/2001 as amended by Directive (EU) 2023/2413 of the European Parliament and of the Council[20], Member States are to collectively endeavour to increase the share of energy from renewable sources in the Union's gross final consumption of energy in 2030 to 45 % in addition to the binding Union target of 42,5 %. Therefore, the Commission should assess whether measures at Union level could contribute to the achievement of the additional 2,5 % share of energy from renewable sources in the Union's gross final consumption of energy, complementing national measures. In that context, the Commission should analyse the possibility to use the Union renewable energy financing mechanism to organise Union-level renewable energy auctions in line with the relevant regulatory framework.

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[20] Directive (EU) 2023/2413 of the European Parliament and of the Council of 18 October 2023 amending Directive (EU) 2018/2001, Regulation (EU) 2018/1999 and Directive 98/70/EC as regards the promotion of energy from renewable sources, and repealing Council Directive (EU) 2015/652 (OJ L, 2023/2413, 31.10.2023, ELI: http://data.europa.eu/eli/dir/2023/2413/oj).

(35) Where Member States decide to support publicly financed investment by direct price support schemes in new low carbon, non-fossil fuel power-generating facilities to achieve the Union's decarbonisation objectives, those schemes should be structured as two-way contracts for difference or equivalent schemes with the same effects such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. Whereas the obligation pursuant to this Regulation should apply only to support for investment in new power-generating facilities, Member States should be able to decide to grant support schemes in the form of two-way contracts for difference or equivalent schemes with the same effects also for new investment aiming to substantially repower existing power-generating facilities, or to substantially increase the capacity or prolonging the lifetime of such facilities.

(36) To ensure legal certainty and predictability, the obligation to structure direct support schemes by means of two-way contracts for difference or equivalent schemes with the same effects should apply only to contracts under direct price support schemes for investment in new power-generating facilities concluded on or after … [three years from the date of entry into force of this Regulation]. That transitional period should be five years for offshore hybrid assets connected to two or more bidding zones due to the complexity of such projects.

(37) The participation of market participants in direct price support schemes in the form of two-way contracts for difference or equivalent schemes with the same effects should be voluntary.

(38) The obligation to use two-way contracts for difference or equivalent schemes with the same effects is without prejudice to Article 6(1) of Directive (EU) 2018/2001.

(39) While Directive (EU) 2024/… of the European Parliament and of the Council[21+] amends Article 4(3), second subparagraph, of Directive (EU) 2018/2001, the other provisions of Article 4 of that Directive, which set out design principles for the support schemes for energy from renewable sources, remain applicable.

(40) Two-way contracts for difference or equivalent schemes with the same effects would ensure that revenues of producers stemming from new investment in electricity generation which benefit from public support become more independent from the volatile prices of fossil fuels-based generation which typically sets the price in the day-ahead market.

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21 Directive (EU) 2024/… of the European Parliament and of the Council of … amending Directives (EU) 2018/2001 and (EU) 2019/944 as regards improving the Union's electricity market design (OJ L, …, ELI: …).

\+ OJ: Please insert in the text the number of the Directive contained in document PE-CONS 2/24 (2023/0077B (COD)) and insert the number, date and OJ reference of that Directive in the footnote.

(41) Design principles as laid down in this Regulation should apply to direct price support schemes in the form of two-way contracts for difference or equivalent schemes with the same effects. In the assessment of such two-way contracts for difference or equivalent schemes with the same effects under State aid rules, the Commission should check compliance of those contracts or schemes with Union law which is intrinsically linked to State aid rules, such as the design principles for two-way contracts for difference or equivalent schemes with the same effects as laid down in this Regulation. The design of those two-way contracts for difference or equivalent schemes with the same effects should preserve the incentives for the power-generating facility to operate and participate efficiently in the electricity markets, in particular to reflect market circumstances. In its assessment, the Commission should ensure that the design of two-way contracts for difference or equivalent schemes with the same effects does not lead to undue distortions to competition and trade in the internal market. The Commission should, in particular, ensure that the distribution of revenues to undertakings does not distort the level playing field in the internal market in particular where no competitive bidding process can be applied. Two-way contracts for difference or equivalent schemes with the same effects could vary in duration and could include inter alia injection-based contracts for difference with one or several strike prices, a floor price, or capability or yardstick contracts for difference. The obligation to use two-way contracts for difference or equivalent schemes with the same effects does not apply to support schemes not directly linked to electricity generation, such as energy storage, and which do not use direct price support, such as investment aid in the form of upfront grants, tax measures or green certificates. To incentivise the counterparties to fulfil their contractual obligations, two-way contracts for difference or equivalent schemes with the same effects should include penalty clauses applicable in the case of undue unilateral early termination of the contract.

(42) However, to the extent that the limitation to set out direct price support schemes in the form of two-way contracts for difference or equivalent schemes with the same effects narrows down the types of direct price support schemes that Member States are able to adopt as regards renewable energy sources, it should be limited to low carbon, non-fossil fuel technologies, with low and stable operational costs and to technologies which typically do not provide flexibility to the electricity system, while excluding technologies that are at early stages of their market deployment. This is necessary to ensure that the economic viability of generation technologies with high marginal costs is not jeopardised and to maintain the incentives of the technologies which can offer flexibility to the electricity system to bid in the electricity market based on their opportunity costs. In addition, the limitation to set out direct price support schemes in the form of two-way contracts for difference or equivalent schemes with the same effects should not apply to emerging technologies for which other types of direct price support schemes may be better placed to incentivise their uptake. The limitation should be without prejudice to the possible exemption for small-scale renewables installations and demonstration projects pursuant to Directive (EU) 2018/2001 and consider the specificities of renewable energy communities in accordance with that Directive. In view of the need to provide regulatory certainty for the producers, the obligation for Member States to apply direct price support schemes for the production of electricity in the form of two-way contracts for difference or equivalent schemes with the same effects should apply only to investment in new power-generating facilities using the sources specified in this recital.

(43) Due to the upward limitation of the market revenues, direct price support schemes in the form of two-way contracts for difference or equivalent schemes with the same effects should provide an additional source of revenue for Member States in periods of high energy prices. To further mitigate the impact of high electricity prices on the energy bills of consumers, Member States should ensure that any revenues collected from producers subject to direct price support schemes in the form of two-way contracts for difference or equivalent schemes with the same effects, or the equivalent in financial value of those revenues, are passed on to final customers, including household customers, small enterprises and medium-sized enterprises and energy intensive undertakings. When distributing the revenues to household customers, Member States should in particular be able to favour vulnerable customers and customers affected by energy poverty. In light of the wider benefits for electricity customers resulting from investment in renewable energy, energy efficiency, and low carbon energy deployment, it should also be possible for Member States to use the revenues from two-way contract for difference or equivalent schemes with the same effects, or the equivalent in financial value of those revenues, to finance investment to reduce electricity costs for final customers and, including as regards specific economic activities such as investment in distribution grid development, renewable energy sources and electric vehicle charging infrastructure.

It should also be possible for Member States to use such revenues, or the equivalent in financial value of those revenues, to finance the costs of the direct price support schemes. The redistribution of revenues should be done in a way that ensures that customers are still to some extent exposed to the price signal, so that they reduce their consumption when the prices are high, or shift it to periods of lower prices, which are typically periods with a higher share of production of electricity from renewable energy sources. In particular, Member States should be able to consider the consumption in off-peak hours in order to preserve incentives to flexibility. Member States should ensure that the level playing field and competition between the different suppliers is not affected by the redistribution of revenues to the final electricity consumers. Those principles should not be compulsory for revenues generated by contracts under direct price support schemes concluded before the date of application of the obligation to use two-way contracts for difference or equivalent schemes with the same effects. It is possible for Member States to distribute revenues from two-way contracts for difference or equivalent schemes with the same effects without that distribution constituting a retail price regulation pursuant to Article 5 of Directive (EU) 2019/944.

(44) Furthermore, Member States should ensure that the direct price support schemes or equivalent schemes with the same effects, irrespective of their form, do not undermine the efficient, competitive and liquid functioning of the electricity markets, preserving the incentives of producers to react to market signals, including stop generating when electricity prices are below their operational costs, and of final customers to reduce consumption when electricity prices are high. Member States should ensure that support schemes do not constitute a barrier for the development of commercial contracts such as PPAs.

(45) Therefore, two-way contracts for difference or equivalent schemes with the same effects and PPAs play complementary roles in advancing the energy transition and bringing the benefits of renewable energy and low carbon energy to consumers. Subject to the requirements introduced by this Regulation, Member States should be free to decide which instruments they use to achieve their decarbonisation objectives. Through PPAs, private investors contribute to additional renewable energy and low carbon energy deployment while locking low and stable electricity prices over the long-term. Likewise, through two-way contracts for difference or equivalent schemes with the same effects, the same objective is achieved by public entities on behalf of consumers. Both instruments are necessary to achieve the Union's decarbonisation targets through renewable energy and low carbon energy deployment, while bringing forward the benefits of low-cost electricity generation for consumers.

(46) The accelerated deployment of renewable energy sources necessitates a growing availability of flexibility solutions to ensure their integration to the grid and to enable the electricity system and grid to adjust to the variability of electricity generation and consumption across different time horizons. In order to foster non-fossil flexibility, the regulatory authority or another authority or entity designated by a Member State should periodically assess the need for flexibility at national level in the electricity system on the basis of the input of transmission system operators and distribution system operators and a common European methodology that is subject to public consultation and approval by ACER. The assessment of the flexibility needs of the electricity system should take into account all existing and planned investment, including existing assets that are not yet connected to the grid, with regard to sources of flexibility such as flexible electricity generation, interconnectors, demand response, energy storage or the production of renewable fuels, because of the need to decarbonise the energy system. ACER should periodically assess the national reports and draw up a report at Union level providing recommendations on issues of cross-border relevance. On the basis of the national flexibility needs report, Member States should define an indicative national objective for non-fossil flexibility, including the respective specific contributions of both demand side response and energy storage to that objective, which should also be reflected in their integrated national energy and climate plans in accordance with Regulation (EU) 2018/1999. In light of those plans, the Commission should be able to draw up a Union strategy on flexibility with a particular focus on demand response and energy storage, which is consistent with the Union's 2030 targets for energy and climate and the 2050 climate-neutrality objective. The Commission should be able to issue a legislative proposal to accompany that Union strategy.

(47) To achieve the indicative national objective for non-fossil flexibility, including the respective specific contributions of demand response and energy storage, and where flexibility needs are not being addressed by the removal of market barriers and existing investment, Member States should be able to apply non-fossil flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility. Furthermore, Member States that already apply a capacity mechanism should consider to promote the participation of non-fossil flexibility such as demand response and energy storage by redesigning criteria or features without prejudice to the application of Article 22 of Regulation (EU) 2019/943. Member States that already apply a capacity mechanism should also be able to apply non-fossil flexibility support schemes if those schemes are necessary to achieve the indicative national objective for non-fossil flexibility, in particular while adapting their capacity mechanisms to further promote the participation of non-fossil flexibility such as demand response and energy storage. Those schemes should cover new investment in non-fossil flexibility, including investment in existing assets, including those aimed at further developing demand response flexibility.

(48) To support environmental protection objectives, the CO_2 emission limit, set out in Article 22(4) of Regulation (EU) 2019/943, should be seen as an upper limit. Therefore, Member States could set technical performance standards and CO_2 emission limits that restrict participation in capacity mechanisms to flexible, fossil-free technologies in full alignment with the communication of the Commission of 18 February 2022 on 'Guidelines on State aid for climate, environmental protection and energy' which encourage Member States to introduce green criteria in capacity mechanisms.

(49) As uncoordinated capacity mechanisms can have a significant impact on the internal electricity market, the Clean Energy Package introduced a comprehensive framework to better assess the need and improve the design of capacity mechanisms. Notwithstanding the necessity to limit distortions to competition and the internal market, together with an appropriate regulatory framework, capacity mechanisms can play an important role in ensuring resource adequacy, in particular during the transition towards a carbon-free system and for insufficiently interconnected energy systems. Therefore, while capacity mechanisms should no longer be considered to be measures of last resort, their necessity and design should be periodically assessed in light of the evolving regulatory framework and market circumstances. However, the procedure for the adoption of capacity mechanisms has proved to be complex. To address potential possibilities of streamlining and simplifying the process of applying for a capacity mechanism, and to ensure that adequacy concerns can be addressed by Member States in a timely manner while providing the necessary control to prevent harm for the internal market, the Commission should, by … [six months from the date of entry into force of this Regulation] submit a detailed report assessing such possibilities. In that context, the Commission should request that ACER amend the methodology for the European resource adequacy assessment in line with the applicable process, as appropriate. After consulting the Member States, the Commission should submit proposals with a view to, as appropriate, simplifying the process of assessing capacity mechanisms by … [nine months from the date of entry into force of this Regulation].

(50) The connection of new generation and demand installations to the grid, in particular renewable energy plants, often faces delays in grid connection procedures. One of the reasons for such delays is the lack of available grid capacity at the location chosen by the investor, which entails a need for grid extensions or reinforcements to connect the installations to the system in a safe manner. A new requirement for electricity system operators, both at transmission and distribution levels, to publish and update information on the capacity available for new connections in their areas of operation would give investors easier access to information of grid capacity availability within the system and thereby accelerate decision-making which, in turn, would accelerate the required deployment of renewable energy. That information should be updated on a regular basis, at least every month, by transmission system operators. Transmission system operators should also publish the criteria used to determine the available grid capacities, such as existing demand and generation capacities, the assumptions made for assessing the possible further integration of additional system users, the relevant information on possible energy curtailment, and the expectation of upcoming relevant network developments.

(51) Furthermore, to tackle the problem of lengthy reply times on requests for connection to the grid, transmission system operators should provide clear and transparent information to system users about the status and treatment of their connection requests. Transmission system operators should provide such information within three months of the date of submission of the request and should update it on a regular basis, at least quarterly.

(52) Since Estonia, Latvia and Lithuania are not yet synchronised with the Union electricity system, they face very specific challenges when organising balancing markets and the market-based procurement of ancillary services. While progress towards synchronisation is ongoing, one of the critical prerequisites for stable synchronous system operation is the availability of sufficient balancing capacity reserves for frequency regulation. However, being dependent on the Russian synchronous area for frequency management, the Baltic States were not yet in the position to develop their own functioning balancing market. The Russian war of aggression against Ukraine has substantially increased the risk for security of supply resulting from the absence of own balancing markets. Therefore, the requirements of Article 6(9), (10) and (11) of Regulation (EU) 2019/943 and of Article 41(2) of Commission Regulation (EU) 2017/2195[22], which are designed to apply to existing balancing markets, do not yet reflect the situation in Estonia, Latvia and Lithuania, in particular as the development of balancing market requires time and new investment in balancing capacity. Estonia, Latvia and Lithuania should therefore, by way of derogation from those requirements, be entitled to conclude longer-term financial contracts to procure balancing capacity for a transitional period.

(53) The transitional periods for Estonia, Latvia and Lithuania should be phased out as soon as possible after the synchronisation, and should be used to develop the appropriate market instruments that offer short-term balancing reserves and other indispensable ancillary services, and should be limited to the time necessary for that process.

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[22] Commission Regulation (EU) 2017/2195 of 23 November 2017 establishing a guideline on electricity balancing (OJ L 312, 28.11.2017, p. 6).

(54) It is intended for the Baltic States to be synchronised with the Continental Europe Synchronous Area by one double circuit line connecting Poland and Lithuania. Upon synchronisation, the capacity of that line will have to be, in large part, reserved for reliability margins in a case of unexpected outage in the Baltic System and resulting unintended deviations. Transmission system operators should continue offering maximum capacity for cross-border trading, compliant with operational security limits and considering possible contingencies in the Polish and Lithuanian systems, including those resulting from outages of high-voltage direct current lines or disconnection of the Baltic States from the Continental Europe Synchronous Area. The specific situation of that interconnection should be taken into consideration for the calculation of the total capacity and contingencies pursuant to Article 16(8) of Regulation (EU) 2019/943.

(55) Capacity mechanisms should be open to the participation of all resources that are capable of providing the required technical performance, which may include gas-fired power plants, provided they satisfy the emission limit set out in Article 22(4) of Regulation (EU) 2019/943 as well as any national emission threshold or other objective environmental criteria which Member States may wish to apply to speed up the transition away from fossil fuels.

(56) To support environmental protection objectives, Article 22(4) of Regulation (EU) 2019/943 sets out requirements regarding CO_2 emission limits for capacity mechanisms. However, during their transition to a carbon-free system and in the aftermath to the energy crisis, Member States applying capacity mechanisms which were approved before 4 July 2019, should be able, on an exceptional basis, and as a mechanism of last resort to derogate from that CO_2 emission limit for a limited period of time. Such a derogation should however be limited to existing generation capacity that started commercial production before 4 July 2019, namely before the date of entry into force of Regulation (EU) 2019/943. The request for a derogation should be accompanied by a report from the Member State concerned assessing the impact of the derogation on greenhouse gas emissions and on the energy transition. Such a report should also contain a plan with milestones to transition away from the participation of generation capacity that does not meet the CO_2 emission limits in capacity mechanisms. Upon the granting of a derogation, Member States should be allowed to organise procurement processes which still have to meet all the requirements of Chapter IV of Regulation (EU) 2019/943, except for those regarding CO_2 emission limits. Generation capacity that does not meet the CO_2 emission limits should not be procured for a period longer than one year and for a delivery period which does not exceed the duration of the derogation. The additional procurement process open to participation of generation capacity that does not meet the CO_2 emission limits should be preceded by a procurement process aiming to maximise the participation of capacity that meets the CO_2 emission limits, including by letting capacity prices rising high enough to incentivise investment in such capacity.

(57) The Commission should review this Regulation in order to ensure the resilience of the electricity market design in times of crisis and its ability to support the Union's decarbonisation objectives, further enhance market integration and promote the necessary infrastructure investment as well as the development of a PPA market. On the basis of such review, the Commission should submit a comprehensive report to the European Parliament and to the Council, accompanied by a legislative proposal, where appropriate. In that report, the Commission should assess, in particular, the effectiveness of the current structure and functioning of the short-term electricity markets, as well as their potential inefficiencies and possible remedies and tools to be applied in crisis or emergency situations and the suitability of Union legal and financing framework on distribution grids. That report should also cover the ability to achieve the Union's renewable and internal energy market objectives and the potential and viability of the establishment of one or several Union market platforms for PPAs.

(58) To the extent that any of the measures provided for in this Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU. The Commission is competent to assess the compatibility of State aid with the internal market.

(59) The measures provided for in this Regulation are without prejudice to the application of Regulations (EU) 2016/1011[23] and (EU) No 648/2012 of the European Parliament and of the Council[24] and of Directive 2014/65/EU of the European Parliament and of the Council[25].

(60) Regulations (EU) 2019/942 and (EU) 2019/943 should therefore be amended accordingly.

(61) Since the objective of this Regulation, namely to improve the design of the integrated electricity market, in particular to prevent unduly high electricity prices, cannot be sufficiently achieved by the Member States, but can rather be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective,

HAVE ADOPTED THIS REGULATION:

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[23] Regulation (EU) 2016/1011 of the European Parliament and of the Council of 8 June 2016 on indices used as benchmarks in financial instruments and financial contracts or to measure the performance of investment funds and amending Directives 2008/48/EC and 2014/17/EU and Regulation (EU) No 596/2014 (OJ L 171, 29.6.2016, p. 1).

[24] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

[25] Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

Article 1

Amendments to Regulation (EU) 2019/942

Regulation (EU) 2019/942 is amended as follows:

(1) Article 2 is amended as follows:

(a) the following point is inserted:

‘(aa) issue opinions and recommendations addressed to the single allocation platform established in accordance with Commission Regulation (EU) 2016/1719*;

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* Commission Regulation (EU) 2016/1719 of 26 September 2016 establishing a guideline on forward capacity allocation (OJ L 259, 27.9.2016, p. 42).’;

(b) point (d) is replaced by the following:

‘(d) issue individual decisions on the provision of information in accordance with Article 3(2), Article 7(2), point (b), and Article 8, point (c); on approving the methodologies, terms and conditions in accordance with Article 4(4), Article 5(2), (3) and (4); on bidding zones reviews as referred to in Article 5(7); on technical issues as referred to in Article 6(1); on arbitration between regulators in accordance with Article 6(10); related to regional coordination centres as referred to in Article 7(2), point (a); on approving and amending methodologies and calculations and technical specifications as referred to in Article 9(1); on approving and amending methodologies as referred to in Article 9(3); on exemptions as referred to in Article 10; on infrastructure as referred to in Article 11, point (d); on matters related to wholesale market integrity and transparency pursuant to Article 12; and on approving and amending the joint proposal from the ENTSO for Electricity and the EU DSO entity regarding the type of data and format and the methodology related to the analysis to be provided as regards the flexibility needs pursuant to Article 5(9).’;

(2) in Article 3(2), the following subparagraph is added:

‘This paragraph shall also apply to the single allocation platform established in accordance with Regulation (EU) 2016/1719.’;

(3) in Article 4, the following paragraph is added:

‘9. Paragraphs 6, 7 and 8 of this Article shall also apply to the single allocation platform established in accordance with Regulation (EU) 2016/1719.’;

(4) Article 5 is amended as follows:

(a) in paragraph 8, the following subparagraph is added:

‘ACER shall monitor the single allocation platform established in accordance with Regulation (EU) 2016/1719.’;

(b) the following paragraph is added:

‘9. ACER shall approve and where necessary amend the joint proposal from the ENTSO for Electricity and the EU DSO entity regarding the type of data and format and the methodology related to the analysis to be provided as regards the flexibility needs pursuant to Article 19e(6) of Regulation (EU) 2019/943.’;

(5) in Article 6, paragraph 9, is replaced by the following:

‘9. ACER shall submit opinions to the regulatory authority concerned and to the Commission pursuant to Article 8(1b) and Article 16(3) of Regulation (EU) 2019/943.’;

(6) Article 15 is amended as follows:

(a) in paragraph 4, the following subparagraph is added:

‘ACER shall issue a report on the impact of using peak-shaving products on the Union electricity market during a crisis following the assessment pursuant to Article 7a(7) of Regulation (EU) 2019/943 and a report on the impact of developing peak-shaving products on the Union electricity market under normal market circumstances following the assessment pursuant to Article 7a(8) of that Regulation.’;

(b) the following paragraph is added:

‘5. ACER shall issue a report pursuant to Article 19e(7) of Regulation (EU) 2019/943 analysing the national reports on the estimated flexibility needs and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authority or another authority or entity designated by a Member State.’.

Article 2

Amendments to Regulation (EU) 2019/943

Regulation (EU) 2019/943 is amended as follows:

(1) Article 1 is amended as follows:

(a) points (a) and (b) are replaced by the following:

‘(a) set the basis for an efficient achievement of the objectives of the Energy Union and the objective to achieve climate neutrality by 2050 at the latest, in particular the climate and energy framework for 2030 by enabling market signals to be delivered for increased efficiency, higher share of renewable energy, security of supply, flexibility, system integration through multiple energy carriers, sustainability, decarbonisation and innovation;

(b) set fundamental principles for well-functioning, integrated electricity markets, which allow all resource providers and electricity customers non-discriminatory market access, enable the development of forward electricity markets to allow suppliers and consumers to hedge or protect themselves against the risk of future volatility in electricity prices, empower and protect consumers, ensure competitiveness on the global market, enhance security of supply and flexibility through demand response, energy storage and other non-fossil flexibility solutions, ensure energy efficiency, facilitate aggregation of distributed demand and supply, and enable market and sectoral integration and market-based remuneration of electricity generated from renewable energy;’;

(b) the following points are added:

‘(e) support long-term investment in renewable energy generation, flexibility and grids to enable consumers to make their energy bills affordable and less dependent from fluctuations of short-term electricity market prices, in particular fossil fuel prices in the medium to long-term;

(f) lay down a framework for the adoption of measures to address electricity price crises.’;

(2) Article 2 is amended as follows:

(a) point (22) is replaced by the following:

‘(22) “capacity mechanism” means a measure to ensure the achievement of the necessary level of resource adequacy by remunerating resources for their availability, excluding measures relating to ancillary services or congestion management;’;

(b) the following points are added:

‘(72) “peak hour” means an hour where, on the basis of the forecasts of transmission system operators and, where applicable, NEMOs, the gross electricity consumption or the gross consumption of electricity generated from sources other than renewable sources or the day-ahead wholesale electricity price is expected to be the highest, taking cross-zonal exchanges into account;

(73) “peak shaving” means the ability of market participants to reduce electricity consumption from the grid at peak hours at the request of the system operator;

(74) “peak-shaving product” means a market-based product by means of which market participants can provide peak shaving to system operators;

(75) “regional virtual hub” means a non-physical region covering more than one bidding zone for which a reference price is set on the basis of a methodology;

(76) “two-way contract for difference” means a contract between a power-generating facility operator and a counterpart, usually a public entity, that provides both minimum remuneration protection and a limit to excess remuneration;

(77) “power purchase agreement” or “PPA” means a contract under which a natural or legal person agrees to purchase electricity from an electricity producer on a market basis;

(78) “dedicated measurement device” means a device linked to or embedded in an asset that provides demand response or flexibility services on the electricity market or to system operators;

(79) “flexibility” means the ability of an electricity system to adjust to the variability of generation and consumption patterns and to grid availability, across relevant market timeframes.’;

(3) Article 7 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Transmission system operators and NEMOs shall jointly organise the management of the integrated day-ahead and intraday markets in accordance with Regulation (EU) 2015/1222. Transmission system operators and NEMOs shall cooperate at Union level or, where more appropriate, at a regional level in order to maximise the efficiency and effectiveness of Union electricity day-ahead and intraday trading. The obligation to cooperate shall be without prejudice to the application of Union competition law. In their functions relating to electricity trading, transmission system operators and NEMOs shall be subject to regulatory oversight by the regulatory authorities pursuant to Article 59 of Directive (EU) 2019/944 and by ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942 and shall be subject to transparency obligations and effective supervision against market manipulation as laid down in the relevant provisions of Regulation (EU) No 1227/2011.’;

(b) paragraph 2 is amended as follows:

(i) point (c) is replaced by the following:

‘(c) maximise the opportunities for all market participants to participate in cross-zonal and intra-zonal trade in a non-discriminatory manner and as close as possible to real time across and within all bidding zones;

(ca) be organised in such a way as to ensure the sharing of liquidity between all NEMOs, at all times, both for cross-zonal and for intra-zonal trade. For the day-ahead market, from one hour before the gate closure time until the latest point in time where day-ahead trade is allowed, NEMOs shall submit all orders for day-ahead products and products with the same characteristics to the single day-ahead coupling on the one hand and shall not organise trading with day-ahead products or products with the same characteristics outside the single day-ahead coupling on the other. For the intraday market, from the single intraday coupling gate opening time until the latest point in time when intraday trading is allowed in a given bidding zone, NEMOs shall submit all orders for intraday products and products with same characteristics to the single intraday coupling on the one hand and shall not organise trading with intraday products or products with same characteristics outside the intraday coupling on the other. Those obligations shall apply to NEMOs, to undertakings which directly or indirectly exercise control over a NEMO, and to undertakings which are directly or indirectly controlled by a NEMO;';

(ii) point (f) is replaced by the following:

'(f) be transparent and, where applicable, provide information by generation units while at the same time protecting the confidentiality of commercially sensitive information and ensuring trading occurs in an anonymous manner;';

(4) the following articles are inserted:

‘*Article 7a*

Peak-shaving product

1. Where a regional or Union-wide electricity price crisis is declared in accordance with Article 66a of Directive (EU) 2019/944, Member States may request system operators to propose the procurement of peak-shaving products in order to achieve a reduction of electricity demand during peak hours. Such procurement shall be limited to the duration set out in the implementing decision adopted pursuant to Article 66a(1) of Directive (EU) 2019/944.

2. Where a request is made pursuant to paragraph 1, system operators shall, after consulting stakeholders, submit a proposal setting out the dimensioning and conditions for the procurement and activation of the peak-shaving product to the regulatory authority of the Member State concerned for its approval.

3. The regulatory authority concerned shall assess the proposal for a peak-shaving product referred to in paragraph 2 as regards achieving a reduction of electricity demand and the impact on wholesale electricity price during peak hours. That assessment shall take into account the need for the peak-shaving product not to unduly distort the functioning of the electricity markets, and not to cause a redirection of demand response services towards peak-shaving products. On the basis of that assessment, the regulatory authority may request the system operator to amend its proposal.

4. The proposal for a peak-shaving product referred to in paragraph 2 shall comply with the following requirements:

(a) the dimensioning of the peak-shaving product shall:

(i) be based on an analysis of the need for an additional service to ensure security of supply without endangering grid stability, of its impact on the market and of its expected costs and benefits;

(ii) take into account the forecast of demand, the forecast of electricity generated from renewable energy, the forecast of other sources of flexibility in the system, such as energy storage, and the wholesale price impact of the avoided dispatch; and

(iii) be limited to ensure that forecasted costs do not exceed the expected benefits of the peak-shaving product;

(b) the procurement of a peak-shaving product shall be based on objective, transparent, market-based and non-discriminatory criteria, shall be limited to demand response and shall not exclude participating assets from accessing other markets;

(c) the procurement of the peak-shaving product shall take place using competitive bidding, which can be continuous, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria and shall allow the effective participation of consumers, directly or through aggregation;

(d) the minimum bid size shall not be higher than 100 kW, including through aggregation;

(e) contracts for a peak-shaving product shall not be concluded more than a week before its activation;

(f) the activation of the peak-shaving product shall not reduce cross-zonal capacity;

(g) the activation of the peak-shaving product shall take place before or within the day-ahead market time frame and may be done on the basis of a pre-defined electricity price;

(h) the activation of the peak-shaving product shall not imply starting fossil fuel-based generation located behind the metering point, in order to avoid increasing greenhouse gas emissions.

5. The actual reduction of consumption resulting from the activation of a peak-shaving product shall be measured against a baseline, reflecting the expected electricity consumption without the activation of the peak-shaving product. Where a system operator procures a peak-shaving product, that operator shall develop a baseline methodology after consulting market participants, shall, where relevant, take into account the implementing acts adopted pursuant to Article 59(1), point (e), and shall submit it to the regulatory authority concerned for its approval.

6. The regulatory authority concerned shall approve the proposal of the system operators seeking to procure a peak-shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 5 or shall request the system operators to amend the proposal or the baseline methodology where that proposal or that methodology does not meet the requirements laid down in paragraphs 2, 4 and 5.

7. By six months after the end of a regional or Union-wide electricity price crisis as referred to in paragraph 1, ACER shall, after consulting stakeholders, assess the impact of using peak-shaving products on the Union electricity market. That assessment shall take into account the need for peak-shaving products not to unduly distort the functioning of the electricity markets, and not to cause a redirection of demand response services towards peak-shaving products. ACER may issue recommendations that regulatory authorities shall take into account in their assessment pursuant to paragraph 3.

8. By 30 June 2025, ACER shall, after consulting stakeholders, assess the impact of developing peak-shaving products on the Union electricity market under normal market circumstances. That assessment shall take into account the need for peak-shaving products not to unduly distort the functioning of the electricity markets, and not to cause a redirection of demand response services towards peak-shaving products. On the basis of that assessment, the Commission may submit a legislative proposal to amend this Regulation in order to introduce peak-shaving products outside regional or Union-wide electricity price crisis situations.

Article 7b

Dedicated measurement device

1. Without prejudice to Article 19 of Directive (EU) 2019/944, transmission system operators, distribution system operators and relevant market participants, including independent aggregators, may use, upon the consent of the final customer, data from dedicated measurement devices for the observability and settlement of demand response and flexibility services, including from energy storage facilities.

   For the purposes of this Article, the use of data from dedicated measurement devices shall comply with Articles 23 and 24 of Directive (EU) 2019/944 and other relevant Union law, including data protection and privacy law, in particular Regulation (EU) 2016/679 of the European Parliament and of the Council*. Where such data are used for research purposes, information shall be aggregated and anonymised.

2. Where a final customer does not have a smart meter installed or where the smart meter of a final customer does not deliver the necessary data to provide demand response or flexibility services, including through an independent aggregator, transmission system operators and distribution system operators shall accept the data from a dedicated measurement device, where available, for the settlement of demand response and flexibility services, including energy storage, and shall not discriminate against that final customer in their procurement of flexibility services. That obligation shall apply subject to compliance with the rules and requirements established by the Member States pursuant to paragraph 3.

3. Member States shall establish the rules and requirements for a dedicated measurement device data validation process to check and ensure the quality and consistency of the relevant data, and interoperability, in accordance with Articles 23 and 24 of Directive (EU) 2019/944 and other relevant Union law.

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* Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).';

(5) Article 8 is amended as follows:

(a) paragraph 1 is replaced by the following:

'1. NEMOs shall allow market participants to trade energy as close to real time as possible and at least up to the intraday cross-zonal gate closure time.
From 1 January 2026, the intraday cross-zonal gate closure time shall not be more than 30 minutes ahead of real time.

1a. The regulatory authority concerned may, at the request of the transmission system operator concerned, grant a derogation from the requirement laid down in paragraph 1 until 1 January 2029. The transmission system operator shall submit the request to the regulatory authority concerned. That request shall include:

(a) an impact assessment, taking into account feedback from NEMOs and market participants concerned, demonstrating the negative impact of such a measure on the security of supply in the national electricity system, cost-efficiency, including in relation to existing balancing platforms in accordance with Regulation (EU) 2017/2195, on the integration of renewable energy and on greenhouse gas emissions; and

(b) an action plan aiming to shorten the intraday cross-zonal gate closure time to 30 minutes ahead of real time by 1 January 2029.

1b. The regulatory authority may, at the request of the transmission system operator concerned, grant a further derogation from the requirement laid down in paragraph 1 by up to two-and-a-half years from the date of expiry of the period referred to in paragraph 1a. The transmission system operator concerned shall submit the request to the regulatory authority concerned, to the ENTSO for Electricity and to ACER by 30 June 2028. That request shall include:

(a) a new impact assessment, taking into account feedback from market participants and NEMOs, justifying the need for a further derogation, based on risks to the security of supply in the national electricity system, cost-efficiency, the integration of renewable energy, and greenhouse gas emissions; and

(b) a revised action plan to shorten the intraday cross-zonal gate closure time to 30 minutes ahead of real time by the date for which extension is requested and no later than the date requested for the derogation.

ACER shall issue an opinion about the cross-border impact of a further derogation within six months of receipt of a request for such a derogation. The regulatory authority concerned shall take that opinion into account before deciding upon a request for further derogation.

1c. By 1 December 2027, the Commission shall, after consulting NEMOs, ENTSO for Electricity, ACER and relevant stakeholders, submit a report to the European Parliament and to the Council assessing the impact of the implementation of the decreasing of the cross-zonal gate closure time established pursuant to this Article, the costs and benefits, the feasibility and practical solutions towards further decreasing it in order to allow market participants to trade energy as close to real time as possible. The report shall consider the impact on the electricity system security, the cost-efficiency, the benefits to the integration of renewable energy and to the reduction of greenhouse gas emissions.';

(b) paragraph 3 is replaced by the following:

'3. NEMOs shall provide products for trading in day-ahead and intraday markets which are sufficiently small in size, with minimum bid sizes of 100 kW or less, to allow for the effective participation of demand response, energy storage and small-scale renewables including direct participation by customers, as well as through aggregation.';

(6) Article 9 is replaced by the following:

‘*Article 9*

Forward markets

1. In accordance with Regulation (EU) 2016/1719, transmission system operators shall issue long-term transmission rights or have equivalent measures in place to allow market participants, including owners of power-generating facilities using renewable energy, to hedge price risks, unless an assessment of the forward market on the bidding zone borders performed by the competent regulatory authorities shows that there are sufficient hedging opportunities in the bidding zones concerned.

2. Long-term transmission rights shall be allocated, on a regular basis, in a transparent, market based and non-discriminatory manner through a single allocation platform. The frequency of allocation and the maturities of the long-term cross-zonal capacity shall support the efficient functioning of the Union’s forward markets.

3. The design of the Union’s forward markets shall comprise the necessary tools to improve the ability of market participants to hedge price risks in the internal electricity market.

4. By … [18 months from the date of entry into force of this amending Regulation], the Commission shall, after consulting relevant stakeholders, carry out an assessment of the impact of possible measures to achieve the objective referred to in paragraph 3. That impact assessment shall, inter alia, cover:

(a) possible changes to the frequency of allocation for long-term transmission rights;

(b) possible changes to the maturities of long-term transmission rights, in particular maturities extended up to at least three years;

(c) possible changes to the nature of long-term transmission rights;

(d) ways to strengthen the secondary market; and

(e) the possible introduction of regional virtual hubs for the forward markets.

5. As regards regional virtual hubs for the forward markets, the impact assessment carried out pursuant to paragraph 4 shall cover the following:

(a) the adequate geographical scope of the regional virtual hubs, including the bidding zones that would constitute those hubs and specific situations of bidding zones belonging to two or more virtual hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting regional virtual hubs;

(b) the level of electricity interconnectivity of Member States, in particular of those Member States below the electricity interconnection targets for 2020 and 2030 laid down in Article 4, point (d)(1), of Regulation (EU) 2018/1999 of the European Parliament and of the Council*;

(c) the methodology for the calculation of the reference prices for the regional virtual hubs for the forward markets, aiming to maximise the price correlation between the reference price and the prices of the bidding zones constituting a regional virtual hub;

(d) the possibility for bidding zones to form part of more than one regional virtual hub;

(e) the ways to maximise trading opportunities for hedging products referencing the regional virtual hubs for the forward markets as well as for long term transmission rights from bidding zones to regional virtual hubs;

(f) the ways to ensure that the single allocation platform referred to in paragraph 2 offers allocation and facilitates the trading of long-term transmission rights;

(g) the implications of pre-existing intergovernmental agreements and rights thereunder.

6. On the basis of the outcome of the impact assessment referred to in paragraph 4 of this Article, the Commission shall, by … [24 months from the date of entry into force of this amending Regulation], adopt an implementing act to further specify measures and tools to achieve the objectives referred to in in paragraph 3 of this Article and the precise features of those measures and tools. That implementing act shall be adopted in accordance with the examination procedure referred to Article 67(2).

7. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall act as an entity offering allocation and facilitating the trading of long-term transmission rights on behalf of transmission system operators. It shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council[**].

8. Where a competent regulatory authority considers that there are insufficient hedging opportunities available for market participants, it may, after consulting the competent authorities designated pursuant to Article 67 of Directive 2014/65/EU of the European Parliament and of the Council[***] where the forward markets concern financial instruments as defined in Article 4(1), point (15), of that Directive, require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward markets.

9. Subject to compliance with Union competition law and with Regulations (EU) No 648/2012**** and (EU) No 600/2014***** of the European Parliament and of the Council and Directive 2014/65/EU, market operators may develop forward hedging products, including long-term forward hedging products, to provide market participants, including owners of power-generating facilities using renewable energy sources, with appropriate possibilities for hedging financial risks against price fluctuations. Member States shall not require that such hedging activity may be limited to trades within a Member State or bidding zone.

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* Regulation (EU) 2018/1999 of the European Parliament and of the Council of 11 December 2018 on the Governance of the Energy Union and Climate Action, amending Regulations (EC) No 663/2009 and (EC) No 715/2009 of the European Parliament and of the Council, Directives 94/22/EC, 98/70/EC, 2009/31/EC, 2009/73/EC, 2010/31/EU, 2012/27/EU and 2013/30/EU of the European Parliament and of the Council, Council Directives 2009/119/EC and (EU) 2015/652 and repealing Regulation (EU) No 525/2013 of the European Parliament and of the Council (OJ L 328, 21.12.2018, p. 1).

** Directive (EU) 2017/1132 of the European Parliament and of the Council of 14 June 2017 relating to certain aspects of company law (OJ L 169, 30.6.2017, p. 46).

*** Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (OJ L 173, 12.6.2014, p. 349).

**** Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (OJ L 201, 27.7.2012, p. 1).

***** Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014, p. 84).';

(7) Article 18 is amended as follows:

(a) paragraphs 2 and 3 are replaced by the following:

‘2. Tariff methodologies shall:

(a) reflect the fixed costs of transmission system operators and distribution system operators and shall consider both capital and operational expenditure to provide appropriate incentives to transmission system operators and distribution system operators over both the short and long term including anticipatory investment, in order to increase efficiencies including energy efficiency;

(b) foster market integration, the integration of renewable energy and security of supply;

(c) support the use of flexibility services and enable the use of flexible connections;

(d) promote efficient and timely investment, including solutions to optimise the existing grid;

(e) facilitate energy storage, demand response and related research activities;

(f) contribute to the achievement of the objectives set out in the integrated national energy and climate plans, reduce the environmental impact and promote public acceptance; and

(g) facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection, in particular to develop the required infrastructure to reach the minimum electricity interconnection target for 2030 laid down in Article 4, point (d)(1), of Regulation (EU) 2018/1999.

3. Where appropriate, the level of the tariffs applied to producers or final customers, or to both shall provide locational investment signals at Union level, such as incentives via tariff structure to reduce re-dispatching and power grid reinforcement costs and take into account the amount of network losses and congestion caused, and investment costs for infrastructure.';

(b) paragraph 8 is replaced by the following:

'8. Transmission and distribution tariff methodologies shall provide incentives to transmission system operators and distribution system operators for the most cost-efficient operation and development of their networks including through the procurement of services. For that purpose, regulatory authorities shall recognise relevant costs as eligible, including costs related to anticipatory investment, shall include those costs in transmission and distribution tariffs, and shall, where appropriate, introduce performance targets in order to provide incentives to transmission system operators and distribution system operators to increase overall system efficiency in their networks, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems.';

(c) paragraph 9 is amended as follows:

(i) point (f) is replaced by the following:

‘(f) methods, to be determined after consulting relevant stakeholders, to ensure transparency in the setting and structure of tariffs, including anticipatory investment, that are in line with relevant Union and national energy objectives and taking into account the acceleration areas as established in accordance with Directive (EU) 2018/2001;’;

(ii) the following point is added:

‘(i) incentives for efficient investment in networks, including resources providing flexibility and flexible connection agreements.’;

(8) in Article 19, paragraph 2 is replaced by the following:

‘2. The following objectives shall have priority with the respect to the allocation of any revenues resulting from the allocation of cross-zonal capacity:

(a) guaranteeing the actual availability of the allocated capacity including firmness compensation;

(b) maintaining or increasing cross-zonal capacities through optimisation of the usage of existing interconnectors by means of coordinated remedial actions, where applicable, or covering costs resulting from network investment that is relevant to reducing interconnector congestion; or

(c) compensating offshore renewable electricity generation plant operators in an offshore bidding zone directly connected to two or more bidding zones where access to interconnected markets has been reduced in such a way that it results in the offshore renewable electricity generation plant operator not being able to export its electricity generation capability to the market and, where relevant, in a corresponding price decrease in the offshore bidding zone compared to without-capacity reductions.

The compensation referred to in point (c) of the first subparagraph shall apply where, in the validated capacity calculation results, one or more transmission system operators either have not made available the capacity agreed in connection agreements on the interconnector or have not made available the capacity on the critical network elements pursuant to the capacity calculation rules laid down in Article 16(8), or both. The transmission system operators which are responsible for the reduction of access to interconnected markets shall be responsible for the compensation to offshore renewable electricity generation plant operators. On an annual basis, that compensation shall not exceed the total congestion income generated on interconnectors between the bidding zones concerned.';

(9) the following chapter is inserted:

‘**Chapter IIIa**

Specific investment incentives to achieve the Union’s decarbonisation objectives

Article 19a

Power purchase agreements

1. Without prejudice to Directive (EU) 2018/2001, Member States shall promote the uptake of PPAs, including by removing unjustified barriers and disproportionate or discriminatory procedures or charges, with a view to providing price predictability and reaching the objectives set out in their integrated national energy and climate plans with respect to the decarbonisation dimension referred to in Article 4, point (a), of Regulation (EU) 2018/1999, including with respect to renewable energy, while preserving competitive and liquid electricity markets and cross-border trade.

2. When carrying out the review of this Regulation in accordance with Article 69(2), the Commission, after consulting relevant stakeholders, shall assess the potential and viability of one or several Union market platforms for PPAs, to be used on a voluntary basis, including the interaction of those potential platforms with other existing electricity market platforms and the pooling of demand for PPAs through aggregation.

3. Member States shall ensure, in a coordinated manner, that instruments, such as guarantee schemes at market prices, to reduce the financial risks associated to offtaker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and that are not in financial difficulty. Such instruments may include, inter alia, state-backed guarantee schemes at market prices, private guarantees, or facilities pooling demand for PPAs, in accordance with relevant Union law. To that end, Member States shall ensure appropriate coordination, including with relevant Union-level facilities.
Member States may determine the categories of customers that are targeted by those instruments, applying non-discriminatory criteria between and within the categories of customers.

4. Without prejudice to Articles 107 and 108 TFEU, if a guarantee scheme for PPAs is backed by the Member State, it shall include provisions to avoid lowering the liquidity in electricity markets and shall not provide support to the purchase of generation from fossil fuels. Member States may decide to limit those guarantee schemes to the exclusive support of the purchase of electricity from new renewable energy generation in accordance with the Member State's decarbonisation policies, including in particular where the market for renewables PPAs as defined in Article 2, point (17), of Directive (EU) 2018/2001 is not sufficiently developed.

5. Support schemes for electricity from renewable sources shall allow the participation of projects which reserve part of the electricity for sale through a renewable PPA or other market-based arrangements, provided that such participation does not negatively affect competition in the market, in particular where the two parties involved in that PPA are controlled by the same entity.

6. In the design of the support schemes referred to in paragraph 5, Member States shall endeavour to make use of evaluation criteria to incentivise bidders to facilitate the access of customers that face entry barriers to the PPA market, provided that this does not negatively affect competition in the market.

7. PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in the case of a change of bidding zone in accordance with Article 14.

8. PPAs shall specify the terms and conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in accordance with Union competition law.

9. Member States, when designing measures directly affecting PPAs, shall respect possible legitimate expectations and shall take into account the effect of those measures on existing and future PPAs.

10. By 31 January 2026 and every two years thereafter, the Commission shall assess whether barriers persist, and whether there is sufficient transparency, in the PPA markets. The Commission may draw up specific guidance on removal of barriers in the PPA markets, including disproportionate or discriminatory procedures or charges.

Article 19b

Voluntary templates for PPAs and monitoring of PPAs

1. ACER shall publish an annual assessment on the PPA market at Union and Member State level as part of its annual report published pursuant to Article 15(2) of Regulation (EU) 2019/942.

2. By … [three months from the date of entry into force of this amending Regulation], ACER shall assess, in close coordination with the relevant institutions and stakeholders, the need to develop and issue voluntary templates for PPAs, adapted to the needs of the different categories of counterparties.

   Where the assessment concludes that there is a need to develop and issue such voluntary templates for PPAs, ACER, together with the NEMOs, and after consulting the relevant stakeholders, shall develop such templates, taking into account the following:

   (a) the use of those contract templates shall be voluntary for the contracting parties;

(b) the contract templates shall, inter alia:

(i) offer a variety of contract durations;

(ii) provide a variety of price formulas;

(iii) consider the offtaker's load profile and the generator's generation profile.

Article 19c

Measures at Union level to contribute to the achievement of the additional share of energy from renewable sources

The Commission shall assess whether measures at Union level can contribute to the achievement of the Member States collective endeavour of an additional 2,5 % share of energy from renewable sources in the Union's gross final consumption of energy in 2030 pursuant to Directive (EU) 2018/2001, complementing national measures. The Commission shall analyse the possibility to use the Union renewable energy financing mechanism established pursuant to Article 33 of Regulation (EU) 2018/1999 to organise Union-level renewable energy auctions in line with the relevant regulatory framework.

Article 19d

Direct price support schemes in the form of two-way contracts for difference for investment

1. Direct price support schemes for investment in new power-generating facilities for the generation of electricity from the sources listed in paragraph 4 shall take the form of two-way contracts for difference or equivalent schemes with the same effects.

The first subparagraph shall apply to contracts under direct price support schemes for investment in new generation concluded on or after … [three years from the date of entry into force of this amending Regulation], or, in the case of offshore hybrid asset projects connected to two or more bidding zones, … [five years from the date of entry into force of this amending Regulation].

The participation of market participants in direct price support schemes in the form of two-way contracts for difference and in equivalent schemes with the same effects shall be voluntary.

2. All direct price support schemes in the form of two-way contracts for difference and equivalent schemes with the same effects shall be designed to:

(a) preserve incentives for the power-generating facility to operate and participate efficiently in the electricity markets, in particular to reflect market circumstances;

(b) prevent any distortive effect of the support scheme on the operation, dispatch and maintenance decisions of the power-generating facility or on bidding behaviour in day-ahead, intraday, ancillary services and balancing markets;

(c) ensure that the level of the minimum remuneration protection and of the upward limit to excess remuneration are aligned with the cost of the new investment and the market revenues, to guarantee the long-term economic viability of the power-generating facility while avoiding overcompensation;

(d) avoid undue distortions to competition and trade in the internal market, in particular by determining remuneration amounts through an open, clear, transparent and non-discriminatory competitive bidding process; where no such competitive bidding process can be conducted, two-way contracts for difference or equivalent schemes with the same effects, and the applicable strike prices, shall be designed to ensure that the distribution of revenues to undertakings does not create undue distortions to competition and trade in the internal market;

(e) avoid distortions to competition and trade in the internal market resulting from the distribution of revenues to undertakings;

(f) include penalty clauses applicable in the case of undue unilateral early termination of the contract.

3. In the assessment of two-way contracts for difference or equivalent schemes with the same effects under Articles 107 and 108 TFEU, the Commission shall ensure compliance with the design principles pursuant to paragraph 2.

4. Paragraph 1 shall apply to investment in new generation of electricity from the following sources:

(a) wind energy;

(b) solar energy;

(c) geothermal energy;

(d) hydropower without reservoir;

(e) nuclear energy.

5. Any revenues, or the equivalent in financial value of those revenues, arising from direct price support schemes in the form of two-way contracts for difference and equivalent schemes with the same effects referred to in paragraph 1 shall be distributed to final customers.

Notwithstanding the first subparagraph, the revenues, or the equivalent in financial value of those revenues, may also be used to finance the costs of the direct price support schemes or investment to reduce electricity costs for final customers.

The distribution of revenues to final customers shall be designed to maintain incentives to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers.

6. In accordance with Article 4(3), third subparagraph, of Directive (EU) 2018/2001, Member States may exempt small-scale renewables installations and demonstration projects from the obligation under paragraph 1 of this Article.

Article 19e

Assessment of flexibility needs

1. No later than one year after the approval by ACER of the methodology pursuant to paragraph 6, and every two years thereafter, the regulatory authority or another authority or entity designated by a Member State, shall adopt a report on the estimated flexibility needs for a period of at least the next 5 to 10 years at national level, in view of the need to cost effectively achieve security and reliability of supply and decarbonise the electricity system, taking into account the integration of variable renewable energy sources and the different sectors, as well as the interconnected nature of the electricity market, including interconnection targets and potential availability of cross-border flexibility.

   The report referred to in the first subparagraph shall:

   (a) be consistent with the European resource adequacy assessment and national resource adequacy assessments conducted pursuant to Articles 23 and 24;

   (b) be based on the data and analyses provided by the transmission system operators and distribution system operators of each Member State pursuant to paragraph 3 and using the common methodology pursuant to paragraph 4 and, where duly justified, additional data and analysis.

   Where the Member State has designated a transmission system operator or another entity for the purpose of adopting the report referred to in the first subparagraph, the regulatory authority shall approve or amend the report.

2. The report referred to in paragraph 1 shall at least:

(a) evaluate the different types of flexibility needs, at least on a seasonal, daily and hourly basis, to integrate electricity generated from renewable sources in the electricity system, inter alia, different assumptions in respect to electricity market prices, generation and demand;

(b) consider the potential of non-fossil flexibility resources such as demand response and energy storage, including aggregation and interconnection, to fulfil the flexibility needs, both at transmission and distribution levels;

(c) evaluate the barriers for flexibility in the market and propose relevant mitigation measures and incentives, including the removal of regulatory barriers and possible improvements to markets and system operation services or products;

(d) evaluate the contribution of digitalisation of electricity transmission and distribution networks; and

(e) take into account sources of flexibility that are expected to be available in other Member States.

3. The transmission system operators and distribution system operators of each Member State shall provide the data and analyses that are needed for the preparation of the report referred to in paragraph 1 to the regulatory authority or another authority or entity designated pursuant to paragraph 1. Where duly justified, the regulatory authority or another authority or entity designated pursuant to paragraph 1 may request the transmission system operators and distribution system operators concerned to provide additional input to the report, in addition to the requirements referred to in paragraph 4. The electricity transmission system operators or the electricity distribution system operators concerned shall, together with operators of natural gas systems and of hydrogen systems, coordinate the gathering of the relevant information where necessary for the purposes of this Article.

4. The ENTSO for Electricity and the EU DSO entity shall coordinate the work of transmission system operators and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 3. In particular, they shall:

   (a) define the type and format of data that transmission system operators and distribution system operators are to provide to the regulatory authorities or another authority or entity designated pursuant to paragraph 1;

   (b) develop a methodology for the analysis by transmission system operators and distribution system operators of the flexibility needs, taking into account at least:

      (i) all available sources of flexibility in a cost-efficient manner in the different timeframes, including in other Member States;

(ii) planned investment in interconnection and flexibility at transmission and distribution level; and

(iii) the need to decarbonise the electricity system in order to meet the Union's 2030 targets for energy and climate, as defined in Article 2, point (11), of Regulation (EU) 2018/1999, and its 2050 climate neutrality objective laid down in Article 2 of Regulation (EU) 2021/1119, in compliance with the Paris Agreement adopted under the United Nations Framework Convention on Climate Change*.

The methodology referred to in point (b) of the first subparagraph shall contain guiding criteria on how to assess the capability of the different sources of flexibility to cover the flexibility needs.

5. The ENTSO for Electricity and the EU DSO entity shall cooperate closely with each other as regards the coordination of transmission system operators and distribution system operators as regards the provision of data and analyses pursuant to paragraph 4.

6. By … [nine months from the date of entry into force of this amending Regulation], the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to a regulatory authority or another authority or entity designated pursuant to paragraph 1, and the methodology for the analysis of the flexibility needs referred to in paragraph 4. Within three months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the Electricity Coordination Group, the ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.

7. The regulatory authority or another authority or entity designated pursuant to paragraph 1, shall submit the reports referred to in paragraph 1 to the Commission and to ACER and shall publish them. Within 12 months of receipt of the reports, ACER shall issue a report analysing them and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authority or another authority or entity designated pursuant to paragraph 1, including recommendations on removing barriers to the entry of non-fossil flexibility resources.

Among the issues of cross-border relevance, ACER shall assess:

(a) how better to integrate the flexibility needs analysis referred to in paragraph 1 of this Article with the methodology for the European resource adequacy assessment in accordance with Article 23 and the methodology for the Union-wide ten year network development plan, ensuring consistency between them;

(b) the estimated flexibility needs in the electricity system at Union level and its projected economically available potential for a period of the next 5 to 10 years taking into account the national reports;

(c) the potential introduction of further measure to unleash flexibility potential in the electricity markets and system operation.

The results of the analysis referred to in the second subparagraph, point (a) may be taken into account in further revisions of the methodologies referred to in that point in accordance with the relevant Union legal acts.

The European Scientific Advisory Board on Climate Change may, on its own initiative, provide input to ACER on how to ensure compliance with the Union's 2030 targets for energy and climate and its 2050 climate neutrality objective.

8. ENTSO for Electricity shall update the Union-wide network development plan to include the results of the national reports of flexibility needs referred to in paragraph 1. Those reports shall be considered by transmission system operators and distribution system operators in their network development plans.

Article 19f

Indicative national objective for non-fossil flexibility

No later than six months after the submission of the report pursuant to Article 19e(1) of this Regulation, each Member State shall define, on the basis of that report, an indicative national objective for non-fossil flexibility, including the respective specific contributions of both demand response and energy storage to that objective. Member States may achieve that objective by realising the identified potential of non-fossil flexibility, via the removal of identified market barriers or via the non-fossil flexibility support schemes referred to in Article 19g of this Regulation. That indicative national objective, including the respective specific contributions of demand response and energy storage to that objective, as well as measures to achieve it shall also be reflected in Member States' integrated national energy and climate plans as regards the dimension 'Internal Energy Market' in accordance with Articles 3, 4 and 7 of Regulation (EU) 2018/1999 and in their integrated national energy and climate progress reports in accordance with Article 17 of that Regulation.
Member States may define provisional indicative national objectives until the report is adopted pursuant to Article 19e(1) of this Regulation.

Following the assessment carried out in accordance with Article 9 of Regulation (EU) 2018/1999, the Commission, after receiving the national indicative objective defined and communicated by the Member States in accordance with paragraph 1 of this Article, shall submit a report to the European Parliament and to the Council assessing the national reports.

On the basis of the conclusions of the report elaborated with the first information communicated by Member States, the Commission may draw up a Union strategy on flexibility, with a particular focus on demand response and energy storage, to facilitate their deployment, which is consistent with the Union's 2030 targets for energy and climate and the 2050 climate-neutrality objective. That Union strategy on flexibility may be accompanied, where appropriate, by a legislative proposal.

Article 19g
Non-fossil flexibility support schemes

1. Where investment in non-fossil flexibility is insufficient to achieve the indicative national objective or, where relevant, provisional indicative national objectives defined pursuant to Article 19f, Member States may apply non-fossil flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility without prejudice to Articles 12 and 13. Member States which apply a capacity mechanism shall consider to make the necessary adaptations in the design of the capacity mechanisms to promote the participation of non-fossil flexibility such as demand side response and energy storage, without prejudice to the possibility for those Member States to use the non-fossil flexibility support schemes referred to in this paragraph.

2. The possibility for Member States to apply non-fossil flexibility support measures pursuant to paragraph 1 of this Article shall not preclude Member States from addressing their indicative national objectives defined pursuant to Article 19f by other means.

Article 19h

Design principles for non-fossil flexibility support schemes

Non-fossil flexibility support schemes applied by Member States in accordance with Article 19g(1) shall:

(a) not go beyond what is necessary to achieve the indicative national objective, or where relevant the provisional indicative national objective, defined pursuant to Article 19f in a cost-effective manner;

(b) be limited to new investment in non-fossil flexibility resources such as demand side response and energy storage;

(c) endeavour to take into consideration locational criteria to ensure that investments in new capacity take place in optimal locations;

(d) not imply starting fossil fuel-based generation located behind the metering point;

(e) select capacity providers by means of an open, transparent, competitive, voluntary, non-discriminatory and cost-effective process;

(f) prevent undue distortions to the efficient functioning of electricity markets including preserving efficient operation incentives and price signals and the exposure to price variation and market risk;

(g) provide incentives for the integration in the electricity markets in a market-based and market-responsive way, while avoiding unnecessary distortions of electricity markets as well as taking into account possible system integration costs and grid congestion and stability;

(h) set out a minimum level of participation in the electricity markets in terms of activated energy, which takes into account the technical specificities of the asset delivering the flexibility;

(i) apply appropriate penalties to capacity providers which do not respect the minimum level of participation in the electricity markets referred to in point (h), or which do not follow efficient operation incentives and price signals referred to in point (f);

(j) promote the opening to the cross-border participation of those resources that are capable of providing the required technical performance, where a cost-benefit analysis is positive.

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* OJ L 282, 19.10.2016, p. 4.’;

(10) Article 21 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. Member States may, while implementing the measures referred to in Article 20(3) of this Regulation in accordance with Articles 107, 108 and 109 TFEU, introduce capacity mechanisms.’;

(b) paragraph 7 is deleted;

(c) paragraph 8 is replaced by the following:

‘8. Capacity mechanisms shall be approved by the Commission for no longer than 10 years. The amount of the committed capacities shall be reduced on the basis of the implementation plans referred to in Article 20(3). Member States shall continue to apply the implementation plan after the introduction of the capacity mechanism.’;

(11) in Article 22(1), point (a) is deleted;

(12) in Article 37(1), point (a) is replaced by the following:

‘(a) carrying out the coordinated capacity calculation in accordance with the methodologies developed pursuant to the forward capacity allocation guideline established by Regulation (EU) 2016/1719, the capacity allocation and congestion management guideline established by Regulation (EU) 2015/1222 and the electricity balancing guideline established by Regulation (EU) 2017/2195;’;

(13) in Article 50, the following paragraph is inserted:

‘4a. Transmission system operators shall publish in a transparent manner clear information on the capacity available for new connections in their areas of operation with high spatial granularity, respecting public security and data confidentiality, including the capacity under connection request and the possibility of flexible connection in congested areas. The publication shall include information on the criteria for the calculation of the available capacity for new connections. Transmission system operators shall update that information on a regular basis, at least every month.

Transmission system operators shall provide in a transparent manner clear information to system users about the status and treatment of their connection requests including, where relevant, information related to flexible connection agreements. They shall provide such information within three months of the submission of the request. Where the requested connection is neither granted nor permanently rejected, transmission system operators shall update that information on a regular basis, at least quarterly.’;

(14) in Article 57, the following paragraph is added:

‘3. Distribution system operators and transmission system operators shall cooperate with each other in publishing, in a consistent manner, consistent information on the capacity available for new connections in their respective areas of operation that provides sufficient granular visibility to developers of new energy projects and other potential network users.’;

(15) Article 59 is amended as follows:

(a) in paragraph 1, point (b) is replaced by the following:

‘(b) capacity-allocation and congestion- management rules pursuant to Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation and Article 6 of Directive (EU) 2019/944, including rules on day-ahead, intraday and forward capacity calculation methodologies and processes, grid models, bidding zone configuration, redispatching and countertrading, trading algorithms, single day-ahead and intraday coupling, different governance options, the firmness of allocated cross-zonal capacity, congestion income distribution, the details and specific features of the tools referred to in Article 9(3) of this Regulation by reference to the elements specified in paragraphs (4) and (5) thereof, the allocation and facilitation of trading of financial long-term transmission rights by the single allocation platform as well as the frequency, maturity and specific nature of such long-term transmission rights, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery, and methodology for compensating offshore renewable electricity plant operators for capacity reductions;’;

(b) in paragraph 2, point (a) is replaced by the following:

‘(a) network connection rules including rules on the connection of transmission-connected demand facilities, transmission-connected distribution facilities and distribution systems, connection of demand units used to provide demand response, requirements for grid connection of generators and other system users, requirements for high-voltage direct current grid connection, requirements for direct current-connected power park modules and remote-end high-voltage direct current converter stations, and operational notification procedures for grid connection;’;

(16) in Article 64, the following paragraphs are inserted:

‘2a. By way of derogation from Article 6(9), (10) and (11), Estonia, Latvia and Lithuania, may conclude financial contracts for balancing capacity up to five years before the start of the provision of the balancing capacity. The duration of such contracts shall not extend beyond eight years after Estonia, Latvia and Lithuania have joined the Continental Europe Synchronous Area.

The regulatory authorities of Estonia, Latvia and Lithuania may allow their transmission system operators to allocate cross-zonal capacity on a market-based process as set out in Article 41 of Regulation (EU) 2017/2195, without volume limitations until six months after the day on which the co-optimised allocation process is fully implemented and operational pursuant to Article 38(3) of that Regulation.

2b. By way of derogation from Article 22(4), point (b), Member States may request that generation capacity that started commercial production before 4 July 2019 and that emits more than 550 g of CO_2 of fossil fuel origin per kWh of electricity and more than 350 kg CO_2 of fossil fuel origin on average per year per installed kWe may, subject to compliance with Articles 107 and 108 TFEU, exceptionally be committed or receive payments or commitments for future payments after 1 July 2025 under a capacity mechanism approved by the Commission before 4 July 2019.

2c. The Commission shall assess the impact of the request referred to in paragraph 2b in terms of greenhouse gas emissions. The Commission may grant the derogation after assessing the report referred to in paragraph 2d, provided that the following conditions are fulfilled:

(a) the Member State has carried out, on or after 4 July 2019, a competitive bidding process pursuant to Article 22 and for a delivery period after 1 July 2025, which aims to maximise the participation of capacity providers which meet the requirements in Article 22(4);

(b) the amount of capacity offered in the competitive bidding process referred to in point (a) of this paragraph is not sufficient to address the adequacy concern as identified pursuant to Article 20(1) for the delivery period covered by that bidding process;

(c) the generation capacity that emits more than 550 g of CO_2 of fossil fuel origin per kWh of electricity is committed or receives payments or commitments for future payments for a period not exceeding one year, and for a delivery period which does not exceed the duration of the derogation, and is procured through an additional procurement process which complies with all requirements of Article 22 except for those laid down in paragraph 4, point (b) of that Article and only for the amount of capacity that is needed to solve the adequacy concern referred to in point (b) of this paragraph.

The derogation pursuant to this paragraph may be applied until 31 December 2028, provided that the conditions set out therein are complied with for the entire duration of the derogation.

2d. The request for the derogation referred to in paragraph 2b shall be accompanied by a report of the Member State which shall include:

(a) an assessment of the impact of the derogation in terms of greenhouse gas emissions, and on the transition towards renewable energy, increased flexibility, energy storage, electromobility and demand response;

(b) a plan with milestones to transition away from the participation of generation capacity referred to in paragraph 2b in capacity mechanisms by the date of the expiry of the derogation, including a plan to procure the necessary replacement capacity in line with the indicative national trajectory for the overall share of renewable energy and an assessment of the investment barriers causing the lack of sufficient bids in the competitive bidding procedure referred to in paragraph 2c, point (a).';

(17) Article 69 is amended as follows:

(a) paragraph 2 is replaced by the following:

‘2. By 30 June 2026, the Commission shall review this Regulation and shall submit a comprehensive report to the European Parliament and to the Council on the basis of that review, accompanied by a legislative proposal where appropriate.

The Commission’s report shall assess, inter alia:

(a) the effectiveness of the current structure and functioning of the short-term electricity markets, including in crisis or emergency situations, and, more generally, the potential inefficiencies concerning the internal electricity market and the different options for the introduction of possible remedies and tools to be applied in crisis or emergency situations in view of the experience at international level and of the evolution and new developments in the internal electricity market;

(b) the suitability of the current Union legal and financing framework on distribution grids to achieve the Union’s renewable and internal energy market objectives.

(c) in accordance with Article 19a, the potential and viability of the establishment of one or several Union market platforms for PPAs, to be used on a voluntary basis, including the interaction of those potential platforms with other existing electricity market platforms and the pooling of demand for PPAs through aggregation.';

(b) the following paragraph is added:

'3. By … [six months from the date of entry into force of this amending Regulation], the Commission shall submit to the European Parliament and to the Council a detailed report assessing possibilities of streamlining and simplifying the process of applying a capacity mechanism under Chapter IV, so as to ensure that adequacy concerns can be addressed by Member States in a timely manner. In that context, the Commission shall request that ACER amend the methodology for the European resource adequacy assessment referred to in Article 23 in accordance with Articles 23and 27, as appropriate.

By … [nine months from the date of entry into force of this amending Regulation], the Commission shall, after consultation with Member States, submit proposals with a view to simplifying the process of assessing capacity mechanisms as appropriate.';

(18) the following article is inserted:

‘*Article 69a*

Interaction with Union financial legal acts

This Regulation shall be without prejudice to the application of Regulations (EU) No 648/2012 and (EU) No 600/2014 and of Directive 2014/65/EU as regards activities of market participants or market operators involving financial instruments as defined in Article 4(1), point (15), of Directive 2014/65/EU.’;

(19) in Annex I, point 1.2 is replaced by the following:

‘1.2. Coordinated capacity calculation shall be performed for all allocation timeframes.’.

Article 3

Entry into force

This Regulation shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...

For the European Parliament	*For the Council*
The President	*The President*