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CONTRIBUTION

From:	General Secretariat of the Council
To:	Working Party on Energy
Subject:	Comments from HR LV EL LT NL IT ES CZ BE FI IE DK on EMD REV 2 (8918/23) - consolidated table

Delegations will find in the annex the consolidated version of the comments from HR LV EL LT NL IT ES CZ BE FI IE DK on the EMD REV 2 (ST 8918/23).

Electricity market design (ST 8918/23) // Presidency compromise text REV 2 Deadline: ***12 May 2023***

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

Presidency compromise text	Drafting Suggestions Comments
2023/0077 (COD) Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL	ES: (Comments): The comments and written suggestions by Spain reflected in this document are reffered to the amendments included in REV2 by the Presidency: art 9, art. 19a and art. 19b. However, on the other elements of this draft regulation Spain maintains the position reflected in the written comments already circulated. In addition, the comments and suggestions in this document are without prejudice of further ones that might be considered in view of the evolution of negotiations. BE: (Comments): General Comment We are still analysing the different elements but our first and preliminary conclusions are 1. We welcome and support in principle the proposal by the commission and in particular the underlying objectives

	• To accelerate energy investments which ensure flexibility, capacity, and Security of Supply. This flexibility will contribute to the integration of renewable energy. • To increase liquidity in the long term markets and to strengthen the opportunities for energy market participants to engage and hedge in the longer run (e.g. the different proposals on development of long term products and contracts, coupling of forward market over bidding zones, ..) • To allow all European consumers to benefit from affordable and competive electricity prices and bills • The framework for consumers to have the choice between affordable, stable and predictable prices and more dynamic prices that give the possibility for demand-side management. • However, we wonder how the interaction between all the old and new instruments (PPAs, CfDs, forward markets, flexibility schemes, auctions, zero-bid) will be managed and coordinated to work together cost-efficiently as supply of and demand for these products overlaps and the design may differ between Member States. 2. Belgium is already implementing several elements of the proposed market principles such as suppliers of last resort, two-sided CfDs and PPA's for some RES installations, protection measures for vulnerable consumers, energy sharing, etc. and wishes to strengthen them further. 3. Moreover, Belgium welcomes the recommendations on energy storage, and highlights it already applies them via different policy initiative It is important these national ongoing initiatives should not be delayed through this process, but on the contrary should benefit from some form of flexibility for early adopters. 4. We understand the need for speedy implementation of the proposals and stand ready to constructively cooperate with the Presidency to work on a swift adoption. However, where important transpositions are required, we should also allow MS for the necessary time to do so in qualitative way. There are many points that need to be clarified. We also underline the need to ensure consistency between the different new and existing texts, particularly in terms of concepts, vocabulary, and the continued implementation of the texts from 2019.

	5. Although we see the merits of the current proposals, we propose nevertheless to analyse whether adjustments and prolongation of some emergency measures that have been deployed in 2022 are needed in order to ensure security of supply and can give shelter to European citizens, undertakings, and public authorities from extreme prices. 6. Even though we understand the need to act swiftly and the fact that a deep reform of the electricity market is unachievable under such short timing.We encourage the Commission to make an assessment of alternative market systems for (short-term) markets, in which both advantages and drawbacks are properly analysed, to avoid alternative systems distorting price signals, thereby endangering the benefits achieved up until now and possibly increasing the overall cost of the energy transition. Next to this general first conclusions, Belgium wants to express a general scrurinity reservation as it is still still analysing the proposal. To conlude we have a general question on how the interaction between all the old and new instruments (PPAs, CfDs, forward markets, flexibility schemes) will be managed and coordinated to work together cost-efficiently as supply of and demand for these products overlaps and the design may differ between Member States
amending Regulations (EU) 2019/943 and (EU) 2019/942 as well as Directives (EU) 2018/2001 and (EU) 2019/944 to improve 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,	
Having regard to the opinion of the Committee	

of the Regions,	
Acting in accordance with the ordinary legislative procedure,	
Whereas:	
(1) Very high prices and volatility in electricity markets have been observed since September 2021. As set out by the European Agency for the Cooperation of Energy Regulators ('ACER') in its April 2022 assessment of EU wholesale electricity market design[1], this is mainly a consequence of the high price of gas, which is used as an input to generate electricity.	

[1] European Union Agency for the Cooperation of Energy Regulators, ACER's Final Assessment of the EU Wholesale Electricity Market Design, April 2022.

(2) The escalation of the Russian military aggression against Ukraine, a Contracting Party of the Energy Community, and related international sanctions since February 2022 have disrupted global energy markets, exacerbated the problem of high gas prices, and have had significant knock-on impacts on electricity prices. The Russian invasion of Ukraine has also caused uncertainty on the supply of other commodities, such as hard coal and crude oil, used by power-generating installations. This has resulted in substantial additional increases in the volatility of price levels of electricity.	
(3) In response to this situation, the Communication on Energy Prices presented by the Commission in October 2021 contained a toolbox of measures that the EU and its Member States may use to address the immediate impact of high energy prices on households and businesses (including income support, tax	

breaks, gas savings and storage measures) and to strengthen resilience against future price shocks. In its Communication of 8 March 2022 entitled 'REPowerEU: Joint European Action for more affordable, secure and sustainable energy'[2] 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 regime to allow certain subsidies to soften the impact of high energy prices.[3]	
(4) On 18 May 2022 the Commission presented the REPowerEU plan[4] that introduced additional measures focusing on energy savings,	

[2] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - REPowerEU: Joint European Action for more affordable, secure and sustainable energy, COM/2022/108 final

[3] Communication from the Commission Temporary Crisis Framework for State Aid measures to support the economy following the aggression against Ukraine by Russia C 131 I/01, C/2022/1890.

[4] Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee and the Committee of the Regions - REPowerEU Plan, COM(2022)230.

diversification of energy supplies and accelerated roll-out of renewable energy aiming at ending the Union's dependency on Russian fossil fuels, including a proposal to increase the Union's 2030 target for renewables to 45%. Furthermore, the Communication on Short-Term Energy Market Interventions and Long-Term Improvements to the Electricity Market Design[5], 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 these areas with a view to change the legislative framework.	

[5] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions - Short-Term Energy Market Interventions and Long Term Improvements to the Electricity Market Design – a course for action, COM(2022) 236 final.

(5) To address urgently the price crisis and security concerns and to tackle the price hikes for citizens, and based on a series of Commission proposals, the Union adopted a strong gas storage regime[6], effective demand reduction measures for gas and electricity[7], price limiting regimes to avoid windfall profits in both gas and electricity markets[8] and measures to accelerate the permit-granting procedures for renewable energy installations[9].	

[6] 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 (Text with EEA relevance), OJ L 173

[7] Council Regulation (EU) 2022/1369 of 5 August 2022 on coordinated demand-reduction measures for gas, OJ L 206 and Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, OJ L 261

[8] Council Regulation (EU) 2022/1854 of 6 October 2022 on an emergency intervention to address high energy prices, OJ L 261.

[9] 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.

(6) A well-integrated market which builds on the Clean Energy for all Europeans Package adopted in 2018 and 2019[10] should allow the Union to reap the economic benefits of a single energy market in normal market circumstances, ensuring security of supply and sustaining the decarbonisation process. Cross-border interconnectivity also ensures safer, more reliable and efficient operation of the power system.	
(7) The current electricity market design has also helped the emergence of new and	

[10] 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, OJ L 328, 21.12.2018, p. 1; 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 (recast), OJ L 328, 21.12.2018, p. 82; 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; 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 (recast), OJ L 158, 14.6.2019, p. 22; Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (recast), OJ L 158, 14.6.2019, p. 54; 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 (recast), OJ L 158, 14.6.2019, p. 125.

innovative products, services and measures on retail electricity markets, supporting energy efficiency and renewable energy uptake and enhancing choice so as to help consumers reduce their energy bills also 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, should be a key element of our future electricity markets and systems. At the same time, there is a need to respect consumer choices and allow consumers to benefit from a variety of contract offers.	
(8) In the context of the energy crisis, the current electricity market design has however also revealed a number of important shortcomings linked to the impact of high and volatile fossil fuel prices on short-term electricity markets, which expose households and companies to significant price spikes with	BE: (Drafting): In the context of the energy crisis, the current electricity market design has however also revealed a number of ~~important~~ shortcomings and unexpected consequences linked to the impact of high and volatile fossil fuel prices on short-term electricity markets, which expose

effects on their electricity bills.	households and companies to significant price spikes with effects on their electricity bills.
(9) 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 for direct consumption through electrification and energy system integration. Thanks to their low operational costs, renewable sources can positively impact electricity prices across the Union and reduce direct consumption of fossil fuels.	
(10) The changes to the electricity market design should ensure that the benefits from rising 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 households falling into energy poverty trap. These should mitigate the impact of high fossil fuel prices, notably that of gas, on electricity prices, aiming to allow households and companies to reap the benefits of affordable and secure energy from sustainable renewable and low carbon sources in the longer term.	
(11) The reform of the electricity market design should benefit not just household consumers but also the competitiveness of the Union's industries by facilitating their possibilities to make the clean tech investments 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. These 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.	

(12) Well-functioning and efficient short-term markets are a key tool for the integration of renewable energy and flexibility sources in the market and facilitate energy system integration in a cost-effective manner.	
(13) 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 have a maximum of trading opportunities via access to a liquid market as close as possible to the time of delivery of the electricity.	
(14) It is therefore important for the intraday markets to adapt to the participation of variable	

renewable energy technologies such as solar and wind as well as to the participation of demand ~~*side*~~ 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. Furthermore, the gate closure time of the intraday market should be set closer to the time of delivery to maximize the opportunities for market participants to trade shortages and surplus of electricity and contribute to better integrating variable renewables in the electricity system.	
(15) In addition, the short-term electricity markets should ensure that small-scale flexibility service providers can participate by lowering the minimum bid size.	

(16) 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 times when there is high demand for electricity combined with low levels of electricity generation from variable renewable energy sources, it should be possible for transmission system operators to design a peak shaving product enabling demand response to contribute to decreasing peaks of consumption in the electricity system at specific hours of the day. **In addition, the peak shaving product should contribute to ensuring security of supply.** The peak shaving product should contribute to maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher renewable electricity generation. As the peak shaving product aims to reduce and shift the electricity consumption, the scope of this product should be limited to demand ~~*side*~~	BE: (Drafting): [… The peak shaving product should contribute to maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher supply margin~~with higher renewable electricity generation~~. As the peak shaving product aims to reduce and shift the electricity consumption, the scope of this product should be limited to demand side response. […] IE: (Drafting): (16) 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 times when there is high demand for electricity combined with low levels of electricity generation from variable renewable energy sources, it should be possible for transmission system operators or distribution system operators to design a peak shaving product enabling demand response to contribute to decreasing peaks of consumption in the electricity system at specific hours of the day. **In addition, the peak shaving product should contribute to ensuring security of supply.** The peak shaving product should contribute to maximize the integration of electricity produced from renewable sources into the system by shifting the electricity consumption to moments of the day with higher renewable electricity generation. As the peak shaving product aims to reduce and shift the electricity consumption, the scope

response. The procurement of the peak shaving product should take place **on a short notice so as to avoid booking demand response capacities that could otherwise participate in wholesale electricity markets in normal conditions. Its activation should be limited in time to limit distortive effects on the electricity market. The procurement of the peak shaving product should in particular avoid any impact on the day-ahead price, and its activation should** ~~*in such a way that it does*~~ not overlap with the activation of balancing products which aim at maintaining the frequency of the electricity system stable. In order to verify volumes of activated demand reduction, the transmission system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak shaving product.	of this product should be limited to demand~~-*side*~~ response. The procurement of the peak shaving product should take place **on a short notice so as to avoid booking demand response capacities that could otherwise participate in wholesale electricity markets in normal conditions. Its activation should be limited in time to limit distortive effects on the electricity market. The procurement of the peak shaving product should in particular avoid any impact on the day-ahead price, and its activation should** ~~*in such a way that it does*~~ not overlap with the activation of balancing products which aim at maintaining the frequency of the electricity system stable. In order to verify volumes of activated demand reduction, the transmission system operator should use a baseline reflecting the expected electricity consumption without the activation of the peak shaving product. IE: (Comments): Price Review 5 Decision published by the Irish utility Regulatory Authority (CRU20154)). This Directive requires Member States to provide the necessary regulatory framework to allow and provide incentives to distribution system operators to procure flexibility services, including congestion management in their areas, in order to improve efficiencies in the operation and development of the distribution system. Peak shaving products are already a key part of implementing congestion management and the associated products. ACER-CEER position is that peak-shaving products should not occur for the following

	reasons - Peak shaving is not needed, because: 1. It does not provide much investment incentive in demand response – there is already a dedicated article for promoting investments in demand response Article 19e and 19f. 2. Peak shaving cannot be labelled as non-frequency ancillary service because the operational security of the system is not endangered without this peak shaving. 3. This article introduces a significant risk of market manipulation by TSOs, which by default should not impact market prices. 4. This article does not reduce electricity prices for most consumers in case of scarcity, because it reduces demand after the day ahead market. IE position is more balanced; we agree with some of the points above, but there may be uses for such a product for short term adequacy challenges (where a CRM response might be OTT), or to manage carbon intensity more actively, for example, a small increase in generation output might not be costly from an energy market perspective but quite emission intensive. Thus, we support the peak-shaving product, as an option for MS.
(17) In order to be able to actively participate in the electricity markets and to provide their flexibility, consumers are progressively equipped with smart metering systems. However, in a number of Member States the roll-out of smart metering systems is still slow. In those instances where smart metering systems are not yet installed and in instances where	IT: (Drafting): (17) In order to be able to actively participate in the electricity markets and to provide their flexibility, consumers are progressively equipped with smart metering systems. However, in a number of Member States the roll-out of smart metering systems is still slow. In those instances where smart metering systems are not yet installed and in instances where

smart metering systems do not provide for the sufficient level of data granularity, transmission and distribution system operators should be able to use data from dedicated **measurement**~~*metering*~~ devices for the observability and settlement of flexibility services such as demand response and energy storage. Enabling the use of data from dedicated **measurement**~~*metering*~~ devices for observability and settlement should facilitate the active participation of the consumers in the market and the development of their demand response. The use of data from these dedicated **measurement**~~*metering*~~ devices should be accompanied by quality requirements relating to the data.	smart metering systems do not provide for the sufficient level of data granularity, necessary for the development of advanced services to consumers, transmission and distribution system operators should be able to allow the use of data from dedicated measurement and use the data of these devices for the observability and settlement, where deemed appropriate, of flexibility these services such as demand response and energy storage. Enabling the use of data from dedicated measurementmetering devices for observability and settlement should facilitate the active participation of the consumers in the market and the development of their demand response. The use of data from these dedicated measurementmetering devices should be accompanied by quality requirements relating to the data. IT: (Comments): The amendment supports amendments to Article 7b, which seek to clarify the purpose and application of dedicated measurement devices, which should be considered separate from "fully fledged" meters which are used for metering and billing a single connection point (i.e. those relevant for the purposes of Article 4 in the Electricity Directive). In particular, it's essential that TSOs/DSOs are given the right and not the obligation to use such data, while taking into account instances where the roll-out of smart metering systems is still slow. The amendment also adds the right for consumers (or a third party) to use such devices in the absence of a smart metering system, for the purposes of participating in a range of advanced services (such as demand response). IE:

	(Drafting): (17) In order to be able to actively participate in the electricity markets and to provide their flexibility, consumers are progressively equipped with smart metering systems. However, in a number of Member States the roll-out of smart metering systems is still slow and these systems may not provide sufficient level of data granularity. ~~In those instances where smart metering systems are not yet installed and in instances where smart metering systems do not provide for the sufficient level of data granularity,~~ Therefore, in addition to the use of data from smart metering systems, including the cases where customers individually request a smart meter, transmission and distribution system operators should be able to use data from dedicated **measurement**~~metering~~ devices for the observability and settlement of flexibility services such as demand response and energy storage. Enabling the use of data from dedicated **measurement**~~metering~~ devices for observability and settlement should facilitate the active participation of the consumers in the market and the development of their demand response. The use of data from these dedicated **measurement**~~metering~~ devices should be accompanied by quality requirements relating to the data. IE: (Comments): We agree the text here should apply to DSOs and TSOs. System operators should be able to use data from dedicated metering devices in addition – and not only as an alternative - to the use of data from smart metering systems. This will allow consumers' assets to participate in the electricity market and provide flexibility services to system operators.

(18) This Regulation establishes a legal basis for processing of personal data in compliance with Article 6(1)(c) GDPR. Member States should ensure that all personal data protection principles and obligations laid down in the GDPR are met, including on data minimisation. Where the objective of this Directive can be achieved without processing of personal data, providers should rely on anonymised and aggregated data.	
(19) Consumers and suppliers need effective and efficient forward markets to cover their long-term price exposure and decrease the dependence on short-term prices. To ensure that energy customers all over the EU can fully benefit from the advantages of integrated electricity markets and competition across the Union, the functioning of the Union's electricity	CZ: (Drafting): (19) Consumers and suppliers need effective and efficient forward markets to cover their long-term price exposure and decrease the dependence on short-term prices. To ensure that energy customers all over the EU can fully benefit from the advantages of integrated electricity markets and competition across the Union, the functioning of the Union's electricity forward market should be improved via **coherent introduction and**

forward market should be improved via the establishment of regional virtual hubs with a view to overcome the existing market fragmentation and the low liquidity experienced in many bidding zones. Regional virtual hubs should cover multiple bidding zones while ensuring an adequate price correlation. Some bidding zones may not be covered by a **regional** virtual hub in terms of contributing to the hub reference price. However, market participants from these bidding zones should still be able to hedge through a hub.	**implementation of long-term financial transmission righs**. ~~the establishment of regional virtual hubs with a view to overcome the existing market fragmentation and the low liquidity experienced in many bidding zones. Regional virtual hubs should cover multiple bidding zones while ensuring an adequate price correlation. Some bidding zones may not be covered by a **regional** virtual hub in terms of contributing to the hub reference price. However, market participants from these bidding zones should still be able to hedge through a hub.~~ CZ: (Comments): In the first stage, we should start with implementation of long-term FTRs. Only once these prove insufficient, we should jointly progress with the potential introduction of regional virtual hub, once comprehensive impact assessment proves this solution to be the best option available.
(19b) To ensure uniform conditions for the implementation of this Regulation, the Commission should make use of the implementing powers conferred in accordance with Article 291 TFEU in Regulation (EU) 2019/943 to set out detailed rules on the design of the Union's electricity	IT: (Comments): We appreciate the improvement by asking an impact assessement by the Commission before adopting the implementing act. CZ:

forward market as regards the establishment of regional virtual hubs. Before adapting that implementing act, the Commisison should carry out an impact assessment.	(Drafting): **(19b) To ensure uniform conditions for the implementation of this Regulation, the Commission should make use of the implementing powers conferred in accordance with Article 291 TFEU in Regulation (EU) 2019/943 to set out detailed rules on the design of the Union's electricity forward market as regards the establishment of regional virtual hubs. Before adapting that implementing act, the Commisison should carry out an impact assessment. Moreover, this shall be done only after 2 years after implementation of long-term transmission rights into the practice, should the market liquidity and hedging options for market participants not improve substantially.** CZ: (Comments): We are of the opinion that in the first stage, purely long-term FTRs shall be introduced to increase market liquidity and hedging options. Only once this proves insufficient, EC shall carry out an impact assessment on how to further improve the sutiation and potentially introduce regional virtual hubs. At this stage we deem the wording quite premature.
(20) Virtual hubs should 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, virtual hubs should not	CZ: (Comments): We are not sure we need this point at this stage, following our comment on point (19b)

be understood as entities arranging or executing transactions. The regional virtual hubs, by providing a reference price index, should enable the pooling of liquidity and provide better hedging opportunities to market participants.	above. We prefer deletion.
(21) 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 should be expanded. The single allocation platform should offer trading of financial long-term transmission rights between the different bidding zones and the regional virtual hubs. The orders submitted by market participants for financial transmission rights **should**~~shall~~ be matched by a simultaneous allocation of long term cross zonal capacity. Such matching and allocation should be performed on a regular basis, to ensure enough liquidity and, hence, efficient hedging possibilities to market participants. The long-term transmission rights	HR: (Drafting): 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 should be expanded. The single allocation platform should offer trading of financial long-term transmission rights between the different bidding zones and the regional virtual hubs. The orders submitted by market participants for ~~financial~~ long term transmission rights **should**~~shall~~ be matched by a simultaneous allocation of long term cross zonal capacity. Such matching and allocation should be performed on a regular basis, to ensure enough liquidity and, hence, efficient hedging possibilities to market participants. The long-term transmission rights should be issued with frequent maturities (ranging from month ahead to at least three years ahead), in order to be aligned with the typical hedging time horizon of market participants. The single allocation platform should be subject to monitoring and enforcement to ensure that it performs its tasks properly.

should be issued with frequent maturities (ranging from month ahead to at least three years ahead), in order to be aligned with the typical hedging time horizon of market participants. The single allocation platform should be subject to monitoring and enforcement to ensure that it performs its tasks properly.	HR: (Comments): **It is highly necessary to keep physical long term transmission rights too** in order to incorporate existing interstate agreements or provide the security of supply in cases of insufficient short term and forward market liquidity available for market participants. Namely, **in those cases it is necessary to have a long term physical transmission frimness, which existing explicit capacity allocation guarantees**.
(22) Network tariffs should incentivise transmission 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 storage. For this purpose, network tariffs should be designed so as 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. This would further contribute to integrating renewables at the least cost for the electricity	

system and enable final customers to value their flexibility solutions.	
(23) 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 renewables 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. These obstacles include investment risks associated with the unique topographical situation of offshore hybrid projects connected to more than one market. In order to reduce investment risk for these offshore project developers and to ensure that the projects in an offshore bidding zone have full market access to the surrounding markets, transmission system operators should guarantee access of the	

offshore project to the capacity of the respective hybrid interconnector for all market time units. If the available transmission capacities are reduced to the extent that the full amount of electricity generation that the offshore project would have otherwise been able to export cannot be delivered to the market, the transmission system operator or operators responsible for the need to limit the capacity should, in future, be enabled to compensate the offshore project operator commensurately using congestion income. This compensation should only be related to the production capability available to the market, which may be weather dependent and excludes the outage and maintenance operations of the offshore project. The details, including the conditions under which the measure may expire, are intended to be defined in an implementing Regulation.	
(24) 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 plant needed to cover the demand, which is the plant with the highest marginal costs, when the markets clear. In this context, the energy crisis has shown that a surge in the price of gas and hard coal can translate into 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.	
(25) 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.	
(26) To reach the Union's decarbonisation targets and the objectives set out in REPowerEU to become more energy independent, the Union needs to accelerate the deployment of renewables at a much faster pace. In view of the investment needs required to achieve these goals, the market should ensure that a long-term price signal is established.	BE: (Comments): Could you please clarify what is meant by long-term price signal ? Does this include only PPAs ? We consider it is also important that this long term price signals can come from well interconntected long term forward markets.
(27) In this framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as power purchase agreements ('PPAs'). PPAs are bilateral purchase agreements between producers and buyers of electricity. They provide long-term price stability for the customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only a handful of Member States have active PPA markets and	IE: (Drafting): (27) In this framework, Member States should strive to create the right market conditions for long-term market-based instruments, such as power purchase agreements ('PPAs'). PPAs are bilateral purchase agreements between producers and buyers of electricity. They provide long-term price stability for ~~the~~a customer and the necessary certainty for the producer to take the investment decision. Nevertheless, only a handful of Member States have active PPA markets and buyers are typically limited to large companies~~, not least because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment~~

buyers are typically limited to large companies, not least because PPAs face a set of barriers, in particular the difficulty to cover the risk of payment default from the buyer in these 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 set out in their integrated national energy and climate plans.	~~default from the buyer in these 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 set out in their integrated national energy and climate plans and explore the importation of renewable electricity through PPAs from non EU third countries. IE: (Comments): IE: (Comments): Comments remain as per the previous iteration and IE would strongly urge a rewording of this provision so as not to unduly bias in favour of PPAs. Reading (27), where they use the term PPAs they must mean what would typically be called "Corporate PPAs" in Ireland. • IE welcomes the proposal on Power Purchase Agreements, however it is critical that such agreements provide for additionality, avoid greenwashing and do not increase costs to consumer segments who lack that capacity to contract through a PPA. PPAs should be encouraged and facilitated through policy ~~and/or in the design of CFD schemes~~

	where it is clear that they will lower overall costs to all consumers and provide a system benefit taking into account locational criteria/network reinforcements and flexibility needs required to support the renewable assets. PPAs policy should be developed in tandem with, but not part of CFD schemes to ensure they provide additional generation capacity above that secured under CFD schemes. PPAs provide long-term price stability for individual customers, whereas CFDs provide long-term price stability for all customers who cannot avail of the PPA market. No other cohort of customers is offered protection for the risk of payment default in the open market, it is unclear why a PPA who has secured more favourable pricing to begin with would be offered additional protections. A dynamic PPA market can be created through appropriate polcy, but it should not happen at the expense of CFD schemes or the consumer. Typically PPAs are paired with the most attractive, likely to be lower cost projects and as such the consumer is left to pay higher prices through non-PPA generators who typically carry a higher cost.
(28) According to Article 15(8) of Directive (EU) 2018/2001 of the European Parliament and of the Council, Member States are to assess the regulatory and administrative barriers to long-term renewables PPAs, and shall remove unjustified barriers to, and promote the uptake	NL: (Drafting): (28) According to Article 15(8) of Directive (EU) 2018/2001 of the European Parliament and of the Council, Member States are to assess the regulatory and administrative barriers to

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 companies that face entry barriers to the PPA market and are not in financial difficulty ~~in line with Articles 107 and 108 TFEU~~. Member States could decide to set up a guarantee scheme at market prices **if private guarantees are not accessible or insufficiently accessible**. **In that case,** Member States 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 barriers to**	long-term renewables PPAs, and shall remove unjustified barriers to, and 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~~ **promote** 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 companies that face entry barriers to the PPA market and are not in financial difficulty ~~in line with Articles 107 and 108 TFEU~~. Member States could decide to set up a guarantee scheme at market prices **if private guarantees are not accessible or insufficiently accessible**. **In that case,** Member States should include provisions to avoid lowering the liquidity in the electricity IT: (Comments): We appreciate the consideration of the need to facilitate the aggregation of demand for PPAs from customers that individually face barriers to entry to the PPA market. CZ: (Drafting): (28) According to Article 15(8) of Directive (EU) 2018/2001 of the European Parliament and of the Council, Member States are to assess the regulatory and administrative barriers to long-term renewables PPAs, and shall remove unjustified barriers to, and promote the

entry to the PPA market, but collectively may provide an attractive offer for PPAs to producers. Member States should not provide support to PPAs that purchase generation from fossil fuels. While the default approach should be non-discrimination between consumers, Member States could decide to target these instruments to specific categories of consumers, applying objective and non-discriminatory criteria. In this framework, Member States should take into account the potential role of ~~instruments~~ **facilities** provided at Union level, for instance by the European Investment Bank ('EIB').	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 companies that face entry barriers to the PPA market and are not in financial difficulty ~~in line with Articles 107 and 108 TFEU~~. Member States could decide to set up a guarantee scheme at market prices **if private guarantees are not accessible or insufficiently accessible**. **In that case,** Member States should include provisions to avoid lowering the liquidity in the electricity markets, such as by using financial PPAs. **Member States could decide to facilitate or remove barriers for the aggregation of demand for PPAs from customers that individually face barriers to entry to the PPA market, but collectively may provide an attractive offer for PPAs to producers.** Member States should not provide support to PPAs that purchase generation from fossil fuels. While the default approach should be non-discrimination between consumers, Member States could decide to target these instruments to specific categories of consumers, applying objective and non-discriminatory criteria. In this framework, Member States should take into account the potential role of ~~instruments~~ **facilities** provided at Union level, for instance by the European Investment Bank ('EIB'). CZ: (Comments):

	We are not sure that the highlighet text is needed as this should be a role of traditional market participants and aggregators provided on a commercial basis. What could be the value added of the state authorities interference? We are afraid that it might pose further market distortion. Unless well clarified, we would prefer erasing this new addition or amending the wording in order to allow for the market actors to act without direct involvement of the MS. IE: (Drafting): *"Without prejudice to that obligation to report on the regulatory context affecting the PPA market, Member* States ~~**should ensure that**~~**could offer** *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 companies that face entry barriers to the PPA market. Member States could decide to set up a guarantee scheme at market prices, if private guarantees are not accessible or insufficiently accessible. In that case, Member States 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 barriers to entry to the PPA market, but collectively may provide an attractive offer for PPAs to producers, **subject to compliance with appropriate MS regulations.** *Member States should not provide support to PPAs that purchase generation from fossil fuels. While the default approach should be non-discrimination between consumers.."*

	IE: (Comments): IE: (Comments): While the proposed changes are welcomed they are insufficient. Comments remain as per the previous iteration and IE would strongly urge a rewording of this provision so as not to unduly bias in favour of PPAs. IE: It is unclear how introduction of a guarantee scheme or provision of support to PPAs can be justified. PPAs are by their nature discriminatory as only a small cohort of consumers can avail of PPAs and their benefits. Where there is an event of default for a PPA project, they can either seek a new PPA or enter the open market. The risk premium would seem to be very limited. While policy should encourage the development of a PPA market, it should not be unduly biased towards PPAs.

(29) 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 these tender 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 and medium-sized enterprises ('SMEs'), giving preference to bidders presenting 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.	ES: (Drafting): (29) 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 these tender evaluation Member States ~~should~~ may endeavour to apply criteria to incentivise the access to the PPA market for actors that face entry barriers, such as small and medium-sized enterprises ('SMEs'), ~~giving preference to bidders presenting 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.~~ ES: (Comments): According to the amendments in Article 19a(4) of Regulation (EU) 2019/943.
(30) Where Member States decide to support	ES:

publicly financed new investments **by** ~~(~~"direct price support schemes"~~)~~ in low carbon, non-fossil fuel electricity generation to achieve the Union's decarbonisation objectives, those schemes should be structured by way of two-way contracts for difference such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. **To protect investment certainty, this obligation should apply to contracts under direct price support schemes for new investments in generation concluded as of one year after entry into force of this Regulation.** New investments for the generation of electricity should include investments in new power generating facilities, ~~investments aimed at repowering existing power generating facilities,~~ **and** investments aimed at **substantially repowering**~~extending~~ existing power generating facilities**, increasing their capacity** or ~~at~~ prolonging their lifetime.	(Drafting): (30) Where Member States decide to support publicly financed new investments **by** ~~(~~"direct price support schemes"~~)~~ in low carbon, non-fossil fuel electricity generation to achieve the Union's decarbonisation objectives, those schemes should be structured by way of two-way contracts for difference such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. **To protect investment certainty, this obligation should apply to contracts under direct price support schemes for new investments in generation concluded as of one year after entry into force of this Regulation.** New investments for the generation of electricity should include investments in new power generating facilities, ~~investments aimed at repowering existing power generating facilities,~~ **and** investments aimed at **substantially repowering**~~extending~~ existing power generating facilities**, increasing their capacity** or ~~at~~ prolonging their lifetime. Nevertheless, Member States that have a level of interconnectivity far below the interconnection targets for 2020 as referred in point (d)(1) of Article 4 of Regulation (EU) 2018/1999 may stablish also a two-way contract for difference at a regulated strike price for existing non-contestable technologies. Indeed, some technologies are non-contestable in several Member States and, in such cases, existing generators are in a position to obtain supra-competitive profits, as rents cannot be competed away by new entry. In such cases, the European legal framework should allow Member States to sign two-way contracts for differences with those generators at a regulated strike price. ES:

	(Comments): According to the amendments in Article 19b of Regulation (EU) 2019/943. CZ: (Drafting): (30) Where Member States decide to support publicly financed new investments **by** ~~(~~"direct price support schemes"~~)~~ in low carbon, non-fossil fuel electricity generation to achieve the Union's decarbonisation objectives, those schemes should be structured **–** **unless Member states justify other relevant and more suitable support tool -** by way of two-way contracts for difference such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. **To protect investment certainty, this obligation should apply to contracts under direct price support schemes for new investments in generation concluded as of one year after entry into force of this Regulation.** New investments for the generation of electricity should include investments in new power generating facilities, ~~investments aimed at repowering existing power generating facilities,~~ **and** investments aimed at **substantially repowering**~~extending~~ existing power generating facilities**, increasing their capacity** or ~~at~~ prolonging their lifetime. CZ: (Comments):

	Member States shall have bigger flexibility when choosing the options for support. We understand that bi-directional CfDs are preferred option, but shall the member State justify why it is not suitable for a concrete satiation, it shall be eligible to opt for different capacity renumeration tool (for example RAB). DK: (Drafting): (30) Where Member States decide to support publicly financed new investments **by** ~~(~~"direct price support schemes"~~)~~ in low carbon, non-fossil fuel electricity generation to achieve the Union's decarbonisation objectives, those schemes should be structured by way of two-way contracts for difference such as to include, in addition to a revenue guarantee, an upward limitation of the market revenues of the generation assets concerned. **To protect investment certainty, the first subparagraph shall not apply to contracts under direct price support schemes for new investments in generation,** ~~**concluded as of one year after the date of**~~ **where the tender is commenced earlier than three years after entry into force of this Regulation.** New investments for the generation of electricity should include investments in new power generating facilities, ~~investments aimed at repowering existing power generating facilities,~~ **and** investments aimed at **substantially repowering**~~extending~~ existing power generating facilities**, increasing their capacity** or ~~at~~ prolonging their lifetime. DK:

	(Comments): We thank the presidency for trying to meet our concerns regarding the potential effects on projects that are already being planned. Unfortunately, the proposal to exempt projects where contracts have been concluded will not be sufficient to address this, as the large scale projects we are planning are already very advanced in terms of administrative and political preparatory work and planning even though contracts are not yet concluded. We therefore propose to use the commencement of tenders instead, and we propose 3 years due to the timeline of our large scale projects.
(31) Such two-way contracts for difference would ensure that revenues of producers stemming from new investments 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.	

(32) However, to the extent that the limitation to set out direct price support schemes in the form of two-way contracts for difference narrows down the types of direct price support schemes that Member States can 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 should not apply to emerging technologies for which other types of	BE: (Comments): Can the COM clarify the first sentence We did understand that support for CAPEX investments is not covered by the regulation, would it be possible to clarify this explictely in the article or in a recital?

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 installations and demonstration projects pursuant to Article 4 (3) of (EU) 2018/2001 of the European Parliament and of the Council and consider the specificities of renewable energy communities in accordance with Article 22 (7) of that Directive.	
(33) In view of the need to provide regulatory certainty of 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 should apply only to new investments for the generation of electricity from the sources specified in the recital above.	
(34) Thanks to the upward limitation of the market revenues direct price support schemes in the form of two-way contracts for difference	IT:

should provide an additional source of revenues 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 the revenues collected from producers subject to direct price support schemes in the form of two-way contracts for difference are passed on to all final ~~electricity~~ customers, including households, SMEs and industrial **customers**~~consumers, based on their consumption~~. **When distributing the revenues to households, Member States should in particular be able to favour vulnerable customers. Where Member States decide to distribute revenues to undertakings, they should do so proportionally to the consumption of such undertakings. The part of the revenues that could be distributed to undertakings should not exceed the combined share of electricity consumption of all undertakings.** The redistribution of revenues	(Drafting): ATTENZIONE!!!! VINCOLI SULLE MODALITA' DI REDISTRIBUZIONE DELLE RENDITE BE: (Drafting): (34) Thanks to the upward limitation of the market revenues direct price support schemes in the form of two-way contracts for difference should provide an additional source of revenues 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 the revenues collected from producers subject to direct price support schemes in the form of two-way contracts for difference are passed on to all final electricity customers, including households, SMEs and industrial **customers**consumers, based on their consumption~~. **When distributing the revenues to households, Member States should in particular be able to favour vulnerable customers. ~~Where Member States decide to distribute revenues to undertakings, they should do so proportionally to the consumption of such undertakings. The part of the revenues that could be distributed to undertakings should not exceed the combined share of electricity consumption of all undertakings.~~** ~~The redistribution of revenues should be done in a way that ensures that consumers 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 RES production). 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.~~

should be done in a way that ensures that consumers 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 RES production). 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.	
(35) Furthermore, Member States should ensure that the direct price support schemes, 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.	
(36) Thus, two-way contracts for difference and power purchase agreements play complementary roles in advancing the energy transition and bringing the benefits of renewables and low carbon energy to consumers. Subject to the requirements set out in the present 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 and low carbon energy deployment while locking low and stable electricity prices over the long-term. Likewise, through two-way contracts for difference, 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 and	

low carbon energy deployment, while bringing forward the benefits of low-cost electricity generation for consumers.	
(37) The accelerated deployment of renewables 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. Regulatory authorities should periodically assess the need for flexibility in the electricity system based on the input of transmission and distribution system operators. The assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as flexible electricity generation, interconnectors, demand ~~*side*~~ response, energy storage or the production of renewable fuels, in view of the need to	IE: (Drafting): 37) The accelerated deployment of renewables 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. ~~Regulatory authorities~~ **Member States** should periodically assess the need for flexibility in the electricity system based on the input of transmission and distribution system operators. The assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as flexible electricity generation, interconnectors, demand side response, energy storage or the production of renewable fuels, in view of the need to decarbonise the energy system. On this basis, Member States should define a national objective for non-fossil flexibility such as demand side response and storage which should also be reflected in their integrated national energy and climate plans. IE:

decarbonise the energy system. On this basis, Member States should define a national objective for non-fossil flexibility such as demand ~~side~~ response and **energy** storage which should also be reflected in their integrated national energy and climate plans.	(Comments): (*Ensuring coherence with the amendment proposals in Article 19c on Assessment of Flexibility Needs).* To capture synergies and to ensure consistency with adequacy assessments the identification of competent authorities and entities for data collection development of the assessment and results should be done at national level based on existing roles and practices. DK: (Drafting): The accelerated deployment of renewables 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, contributing to the stability and reliability of the system and security of supply, as well as to the efficient operation of electricity networks, avoiding or postponing costly network expansions. In order to further these objectives national regulatory authorities or other competent entities designated by Member States should periodically assess the need for flexibility resources in the electricity system based on the input of transmission and distribution system operators. The assessment of the flexibility needs of the electricity system should take into account all existing and planned investments (including existing assets that are not yet connected to the grid) on sources of flexibility such as flexible electricity generation, interconnectors, demand ~~side~~ response, energy storage or the production of renewable fuels, in view of the need to decarbonise the energy system. On this basis, Member States should define an indicative national objective for nonfossil

	flexibility resources such as demand ~~side~~ response and **energy** storage which should also be reflected in their integrated national energy and climate plans. DK: (Comments): It is of key importance to Denmark that Member States should be able to appoint another competent entity than the regulatory authority to carry out the assessment of flexibility needs. This could be either another competent authority or – as we understand is the suggestion from some Member States – the TSO. The report on the assessment of flexibility needs is a report regarding the design of Member States energy systems with a focus on security of supply, decarbonisation and sector integration. Thus, it regards key issues of political character, which in Denmark are dealt with by the ministry or by an authority accountable to the minister, and thus ultimately under parliamentary control. Also, the task at hand is not a task which forms a natural part of the key tasks of a regulatory authority and which the regulatory authority do not have the relevant expertise for carrying out and thus would be equipped for. Even if the regulatory authority could use consultants it would still need to have the relevant expertise to oversee and assess the consultants' work and take the final responsibility for the report.

	In Denmark, the expertise lies with political accountable authorities, which is not the regulatory authority as proposed here. Finally, giving the regulatory authority the responsibility for the assessment would also mean an unneccessary duplication of tasks and inefficient use of resources.
(38) To achieve the national objective for non-fossil flexibility such as demand~~-*side*~~ response and **energy** storage investment needs, Member States can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. Member States that apply a capacity mechanism in line with the existing rules should promote the participation of non-fossil flexibility such as demand~~-*side*~~ response and **energy** storage by introducing additional criteria or features in the design.	IE: (Drafting): To **aid the achievement of** the national objective for non-fossil flexibility such as demand side response and storage investment needs, Member States ~~can design or redesign capacity mechanisms in order to create a green and flexible capacity mechanism. Member States that apply a capacity mechanism in line with the existing rules~~ should promote the participation of non-fossil flexibility such as demand ~~side~~ response and **energy** storage **in Capacity Mechanisms** ~~by introducing additional criteria or features in the design~~. **At the same time, capacity mechanisms retain the purpose of ensuring long-term adequacy and incentives to invest in all kinds of resources, ensuring technology neutrality. Additional solutions may also be applied to stimulate non-fossil flexibility.** IE: (Comments):

	The primary purpose of Capacity Mechanisms is to ensure adequacy, and depending on the needs of a given electricity system, it can be best achieved by adding different kinds of resources – both stable, non-flexible and flexible kinds. Flexibility must not be mistaken with adequacy, and long-term adequacy will not be achieved by flexibility alone: there is a fundamental difference between the short term unavailability of power in a given location of the grid and prolonged lack of capacity to cover demand in the whole system.
(39) To support environmental protection objectives the CO2 emissions' limit, set out in Article 22(4) of Regulation (EU) 2019/943 of the European Parliament and of the Council, should be seen as an upper limit. Therefore, Member States could set technical performance standards and CO2 emissions' limits that restrict participation in capacity mechanisms to flexible, fossil-free technologies in full alignment with the Guidelines on State aid for climate, environmental protection and energy[11] which	CZ: (Drafting): (39) To support environmental protection objectives the CO2 emissions' limit, set out in Article 22(4) of Regulation (EU) 2019/943 of the European Parliament and of the Council, should be seen as an upper limit. Therefore, Member States could set technical performance standards and CO2 emissions' limits that restrict participation in capacity mechanisms to flexible, fossil-free technologies in full alignment with the Guidelines on State aid for climate, environmental protection and energy[12] which encourage Member States to introduce green criteria in capacity mechanisms.

[11] Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).

[12] Communication from the Commission – Guidelines on State aid for climate, environmental protection and energy 2022 (OJ C 80, 18.2.2022, p. 1).

encourage Member States to introduce green criteria in capacity mechanisms.	CZ: (Comments): We call for technological neutrality here.
(40) In addition, if Member States do not apply a capacity mechanism or if the additional criteria or features in the design of their capacity mechanism are insufficient to achieve national objective for demand response and **energy** storage investment needs they could apply **non-fossil** flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand~~-side~~ response and **energy** storage.	CZ: (Drafting): (40) In addition, if Member States do not apply a capacity mechanism or if the additional criteria or features in the design of their capacity mechanism are insufficient to achieve national objective for demand response and **energy** storage investment needs they could apply **low-carbon** ~~**non-fossil**~~ flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand~~-side~~ response and **energy** storage. IE: (Drafting): 40) In addition, ~~if Member States do not apply a capacity mechanism or if the additional criteria or features in the design of their capacity mechanism are insufficient~~ to achieve national objective for demand response and storage investment needs **Member States** ~~they~~ could apply flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand side response and storage.

	IE: (Comments): Rewording is needed to have consistency with the position we express with respect to Art. 19e(2)
(41) The connection of new generation and demand installations, 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 implies the 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 grid capacity available in their areas of operation would contribute to decision-making by investors on the basis of information of grid capacity	

availability within the system and thus to the required acceleration in the deployment of renewable energy.	
(42) Furthermore, to tackle the problem of lengthy reply times on requests for connection to the grid, transmission and distribution system operators should provide clear and transparent information to system users about the status and treatment of their connection requests. Transmission and distribution system operators should ~~*endeavour to*~~ provide such information within a period of three months from the submission of the request.	
(43) During the energy crisis, consumers have been exposed to extremely volatile wholesale energy prices and had limited opportunities to engage in the energy market. Consequently, many households, have been facing difficulties when paying their bills. Vulnerable consumers and the energy poor are	

the hardest hit[13], but middle-income households have also been exposed to such difficulties. It is therefore important to update consumer rights and protections, allowing consumers to benefit from the energy transition, decouple their electricity bills from short term price movements on energy markets and rebalance the risk between suppliers and consumers.	
(44) Consumers should have access to a wide range of offers so that they can choose a contract according to their needs. However, suppliers have reduced their offers, fixed-price contracts have become scarce, and the choice of offers has become limited. Consumers should always have the possibility to opt for an affordable fixed price and fixed term contract and suppliers should not unilaterally modify the terms and conditions before such contract	

[13] Particular groups are more at risk of being affected by energy poverty or more susceptible to the adverse impacts of energy poverty, such as women, persons with disabilities, older persons, children, and persons with a minority racial or ethnic background.

expires. **This does not change the fact that dynamic price contracts remain essential and with an increasing penetration of renewable energy sources can help consumers to reduce their energy bills.**	
(45) When suppliers' do not ensure that their electricity portfolio is sufficiently hedged changes in wholesale electricity prices can leave them financially at risk and, result in their failure, passing on costs to consumers and other network users. Hence, it should be ensured that suppliers are appropriately hedged when offering fixed price contracts. An appropriate hedging strategy should take into account the suppliers' access to its own generation and its capitalisation as well as its exposure to changes in wholesale market prices. **The existence of appropriate hedging strategies can be ensured by general rules overseen without undertaking a specific review of the positions or strategies of individual suppliers.**	

(46) Consumers should be able to choose the supplier which offers them the price and service which best suits their needs. Advances in metering and sub-metering technology combined with information and communication technology mean that it is now technically possible to have multiple suppliers for a single premises. If they so wish, customers should be able to use these possibilities to choose a separate supplier notably for electricity to power appliances such as heat pumps or electric vehicles which have a particularly high consumption or which also have the capability to shift their electricity consumption automatically in response to price signals. **For this purpose, customers should be allowed to have more than one metering and billing point covered by the single connection point for their premises. The rules for the allocation of the associated costs should be determined at national level. Some smart**	IE: (Comments): Original comment Customers in Ireland have always had the ability to have more than one metering and billing point – however, they have had to pay for those additional connections. I think this is trying to get at the idea of one connection and meter point that allows the consumption to be allocated to different suppliers through sub-metering. This should be technically feasible in Ireland, but will require significant IT system changes and is likely to take a number of years to implement. **REV 2 Comment** **Clarifications in the drafting are helpful re. metering devices\measurement devices.**

metering systems may directly cover more than one metering point and therefore enable customers to have more than one electricity supply contract at the same time. Moreover, with fast-responding dedicated **measurement**~~*metering*~~ devices which are attached to or embedded in appliances with flexible, controllable loads, final customers can participate in other incentive-based demand response schemes that provide flexibility services on the electricity market and to transmission and distribution system operators. Overall, such arrangements should contribute to the increased uptake of demand response and to consumer empowerment allowing them to have more control over their energy use and bills, while providing to the electricity system additional flexibility in order to cope with demand and supply fluctuations.	
(47) Due to the increasing complexity of energy offers and different marketing practices,	

consumers have often difficulties to fully understand what they sign up to. In particular, there is a lack of clarity on how the price is set, the conditions for the renewal of the contract, the consequences of terminating a contract or the reasons for changing conditions by the supplier. Therefore, the key information on energy offers should be provided to consumers by suppliers or market participants engaged in aggregation in a short and easily understandable manner prior to signing the contract.	
(48) To ensure continuity of supply for consumers ~~*in*~~ **particular in** case**s** of supplier failure, Member States should ~~*be obliged to*~~ **implement a supplier-of-last-resort regime. Such a supplier of last resort** ~~*appoint suppliers of last resort which*~~ may be treated as the provider of universal service. **A** ~~*That*~~ supplier **of last resort** might be the sales division of a vertically integrated undertaking which also performs distribution -functions, provided that it	

meets the unbundling requirements of Article 35 of Directive (EU) 2019/944 of the European Parliament and of the Council. However, this does not imply an obligation of Member States to supply at a certain fixed minimum price.	
(49) Energy sharing can create resilience against the effects of high and volatile wholesale market prices on consumers' energy bills, empowers a wider group of consumers that do not otherwise have the option of becoming an active customer due to financial or spatial constraints, such as energy poor and vulnerable consumers, and leads to increased uptake of renewable energy by mobilising additional private capital investments and diversifying remuneration pathways. With the integration of appropriate price signals and storage facilities, electricity sharing can help lay the foundation to help tap into the flexibility potential of smaller consumers.	

(50) Active customers that own, lease or rent a storage or generation facility should have the right to share excess production at **a price or free of charge** and empower other consumers to become active, or to share the renewable energy generated or stored by jointly leased, rented or owned facilities, either directly or through a third-party facilitator. **Any payment for sharing of excess production for a price can either be settled directly between active customers or automated through a peer-to-peer trading platform.** Energy sharing arrangement are either based on private contractual agreement between active customers or organised through a legal entity. A legal entity that incorporates the criteria of a renewable energy community as defined in Directive (EU) 2018/2001 of the European Parliament and of the Council or a citizen energy community as defined in Directive (EU) 2019/944 of the European Parliament and of the Council can share with their members electricity	BE: (Comments): The link between the right to share renewable energy provided through this reform and the provisions already in force in the EMD directive and the RED directive regarding : - Renewable and non-renewable energy/electricity sharing through energy community → CEC (article 16 EMD) and REC (article 22 RED) - Renewable energy sharing within the same building as jointly acting renewables self-consumers (article 21, § 4 RED) - Peer-to-peer trading arrangement of renewable energy by self-consumer (article 21, § 2, a) RED) should be specify in this recital. Because the links are not clear and this reform brings confusion regarding those various concepts. IE: (Comments): **Original comment** I think the changes made are positive and provide clarity. In relation to the reference to “free of charge”, it should be clear that energy sharing makes use of the network and therefore, it is appropriate and fair that network charges may apply.

generated from facilities they have in full ownership. The protection and empowerment framework for energy sharing should pay particular attention to energy poor and vulnerable consumers.	
(51) Energy sharing operationalises the collective consumption of self-generated or stored electricity injected into the grid by more than one jointly acting active customers. Member States should put in place the appropriate IT infrastructure to allow for the administrative matching within a certain timeframe of consumption with self-generated or stored renewable energy for the purpose of calculating the energy component of the energy bill. The output of these facilities should be distributed among the aggregated consumer load profiles based on static, variable or dynamic calculation methods that can be pre-defined or agreed upon by the active customers. **Active customers engaged in energy sharing are**	BE: (Comments): The Member States should be allowed to impose to certain form of "energy/electricity sharing" to comply with the obligations of suppliers. It should not be specify in the directive. It should be a choice of the Member States. FI: (Comments): The rules for allocating the energy shared production between its different consumers must be defined by the Member States. IE: (Drafting): Energy sharing operationalises the collective consumption of self-generated or stored

financially responsible for imbalances they cause. This should be without prejudice to the possibility for active customers to delegate their balancing responsibilities to other market participants. ~~*. Sshall be shall*~~ **All consumer rights and obligations in this Directive apply to final customers involved in energy sharing schemes. However, households with an installed capacity up to 10.8 kW for single households and up to 50 kW for multi-apartment blocks should not be required to comply with the obligations of suppliers.**	electricity injected into the grid by more than one jointly acting active customers. Member States should put in place the appropriate IT infrastructure to allow for the administrative matching within a certain timeframe of consumption with self-generated or stored renewable energy for the purpose of calculating the energy component of the energy bill ***and taking it into consideration for the Balancing Responsible Party allocation process.*** ~~The output of these facilities should be distributed among the aggregated consumer load profiles based on static, variable or dynamic calculation methods that can be pre-defined or agreed upon by the active customers.~~ IE: (Comments): In order to perform the netting of the shared electricity with the total metered consumption within a time interval no longer than the imbalance settlement period, as mentioned in the new Art. 15a, paragraph 1(d) to the Electricity Directive (see below), the matching should be calculated based on measurements provided by (smart) meters and dedicated metering devices. **Original comment** Regarding the final sentence, it is important to recognize the definition of a consumer in other legislation, for example the Consumer Rights Act 2022: "consumer" means an individual acting for purposes that are wholly or mainly outside that individual's trade, business, craft or profession

	It is unclear how the requirements of a domestic customer (consumer) with capacity above 10.8kW would be required to take on responsibilities associated with a commercial entity.
(52) Vulnerable customers should be adequately protected from electricity disconnections and should, as well, not be put in a position that forces them to disconnect. The role of suppliers and all relevant national authorities to identify appropriate measures, in both the short and the long-term, which should be made available to vulnerable customers to manage their energy use and costs remain essential, including by means of close cooperation with social security systems.	
(53) Public interventions in price setting for the supply of electricity constitute, in principle, a market-distortive measure. Such interventions may therefore only be carried out as public service obligations and are subject to specific conditions. Under this Directive regulated prices are possible for energy poor and vulnerable	

households, including below costs, and, as a transition measure, for households and micro-enterprises. In times of crisis, when wholesale and retail electricity prices increase significantly, and this is having a negative impact on the wider economy, Member States should be allowed to extend, temporarily, the application of regulated prices also to SMEs. For both households and SMEs, Member States should be temporarily allowed to set regulated prices below costs as long as this does not create distortion between suppliers and suppliers are compensated for the costs of supplying below cost. However, it needs to be ensured that such price regulation is targeted and does not create incentives to increase consumption. Hence, such price regulation should be limited to 80% of median household consumption for households, and 70% of the previous year's consumption for SMEs. ~~*The Commission should determine when such an electricity price crisis exists and consequently when this possibility becomes*~~	

~~*applicable. The Commission should also specify the validity of that determination, during which the temporary extension of regulated prices applies, which may be for up to one year.*~~ ~~To the extent that any~~ **such** ~~of the measures envisaged by the present Regulation constitute State aid, the provisions concerning such measures are without prejudice to the application of Articles 107 and 108 TFEU.~~ **The Council, acting on a proposal from the Commission, should determine by means of an implementing decision when an Union-wide electricity price crisis exists. The decision should also specify the validity of that determination, during which the temporary extension of regulated prices applies, which may be for up to one year. Conferring implementing powers on the Council adequately takes into account the political nature of the decision to trigger the extended possibilities for public interventions in price setting for the supply of electricity, which requires a delicate balancing of**	

different policy considerations, as well as the horizontal implications of such a decision for Member States.	
(53a) To the extent that any of the measures envisaged by the present 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.	BE: (Comments): **Is this also applicable to article 19b paragraph 3?** **Does this also implies the potential impacts on the level playing field between (energy consuming) industries in the EU?**
(54) The measures envisaged by the present Regulation are also without prejudice to the application of Directive 2014/65/EU, Regulation (EU) 2016/1011 and Regulation (EU) 648/2012.	
(55) Regulation (EU) 2019/942 of the European Parliament and of the Council,	

Regulation (EU) 2019/943 of the European Parliament and of the Council, Directive (EU) 2019/944 of the European Parliament and of the Council and Directive (EU) 2018/2001 of the European Parliament and of the Council should be amended accordingly.	
(56) Since the objectives of this Regulation 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 those objectives.	
HAS ADOPTED THIS REGULATION:	
Article 1	

Amendments to Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity	
Regulation (EU) 2019/943 is amended as follows:	
	BE: (Drafting): [a0] point (a) is amended as follows: (a) set the basis for an efficient achievement of the objectives of the Energy Union and in particular the climate and energy framework for 2030 by enabling market signals to be delivered for increased efficiency, higher share of renewable energy sources, security of supply, flexibility, sustainability, decarbonisation and innovation; where needed complemented by efficient state aid procedures; BE: (Comments): We propose to maka slight adaption to art1 (a) of the existing regulation

	All objectives of article 1 refer to the market (or here "market signals"), whereas the Regulation also foresees rules for aid measures complementary to the market (adequacy through CRM's, and now also flexibility through flexibility support).
(1) Article 1 is amended as follows:	
[a] point (b) is replaced by the following:	
'(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 consumers, ensure competitiveness on the global market, enhance flexibility through demand response, energy storage and other non-fossil flexibility solutions, ensure energy efficiency, facilitate aggregation of distributed demand and supply, and enable	BE: (Drafting): '(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 consumers, ensure competitiveness on the global market, enhance flexibility and security of supply 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 suitable market-based remuneration of electricity generated from renewable sources

market and sectoral integration and market-based remuneration of electricity generated from renewable sources;'	
[b] the following point is added:	
'(e) support long-term investments in renewable energy generation and enable consumers' to make their energy bills less dependent **on**~~*from*~~ fluctuations of short-term electricity market prices, in particular fossil fuel prices in the medium to long-term.'	DK: (Drafting): '(e) support long-term investments in renewable energy generation and enable consumers' to ~~make~~ manage risks in their ~~energy~~ electricity bills ~~less dependent from~~ due to fluctuations of short-term electricity market, ~~in particular fossil fuel prices in the medium to long-term.'~~ DK: (Comments): It is important that the electricity regulation ensures market-friendly support of renewables and avoids schemes that distort short-term and long-term markets. For consumers it is important to handle their risks and not in any case make bills independent of short-term prices.

(2) In Article 2, the following points are added:	
'(72) 'peak hour' means an hour with the highest electricity consumption combined with a low level of electricity generated from renewable energy sources, taking cross-zonal exchanges into account;	FI: (Comments): Definition of peak hour should take into account the fact that peak hours for consumption and peak hours for the system are not necessarily the same. For this reason, the peak hours should be defined on the overall assessment of the system balance not just based on the sum of consumption and production of renewables. IE: (Drafting): '(72) 'peak hour' means an hour with the highest electricity consumption and\or a low level of electricity generated from renewable energy sources, taking cross-zonal exchanges into account; IE: (Comments): It would be helpful if we could consider a peak hour an hour with peak emissions also; this would allow the product to be used as a means of actively managing emission intensity on the system by the TSO.

(73) 'peak shaving' means the ability of market participants to reduce electricity consumption at peak hours determined by the transmission system operator;	BE: (Comments): Peak shaving is a general concept that is also used in other contexts and markets. For example when a consumers wants to lower his power peaks towards the DSO in order to pay a lower distribution tarif or to not exceed his connection capacity. In order to avoid confusion, we suggest to change or specify name of this definition.
(74) 'peak shaving product' means a market-based product through which market participants can provide peak shaving to the transmission system operators;	
(75) 'virtual hub' means a non-physical region covering more than one bidding zone for which an index price is set in application of a methodology;	

(76) 'two-way contract for difference' means a contract signed 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; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets and complies with the principles set out in Article 4(2) and Article 4(3), first and third subparagraphs, of Directive (EU) 2018/2001;	ES: (Drafting): (76) 'two-way contract for difference' means a contract signed 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; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets in a market-responsive way, so as to maximise the integration of electricity from renewable sources ~~and complies~~ in accordance with the principles set out in ~~Article 4(2) and Article 4(3), first and third subparagraphs, of~~ Directive (EU) 2018/2001; BE: (Comments): Could it be clearly explicated in a recital that this provisions on 'two-way contract for difference' is applicable to all generation sources?
(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) 'market revenue' means realised income an electricity producer receives in exchange for the sale and delivery of electricity in the Union, regardless of the contractual form in which such exchange takes place, and excluding any support granted by Member States;~~	BE: (Comments): Why was this definition deleted? Are there not also not other forms of income that can also be relevant? For example remuneration for the availibility of power generating capacity, storage or demand response ?
(79) 'dedicated **measurement**~~*metering*~~ device' means a device attached to or embedded in an asset that **provides**~~*sells*~~ demand response or flexibility services on the electricity market or to transmission and distribution system operators;	BE: (Comments): Is a 'dedicated measurement' different from a submeter? Is this only to be used for flexibility or demand response services? Or can this also be used as a metering device for a separate electricity contract e.g. for an EV (linked to the right to have more than one contract in article 4)? IE: (Drafting):

	'dedicated metering device' means a device attached to or embedded in an asset that ~~sells demand response or flexibility services on~~ ***participates in*** the electricity market ***or provides flexibility services*** to transmission and distribution system operators; IE: (Comments): Data from dedicated metering devices should allow consumers' assets to participate in the electricity market and provide flexibility services to system operators.
(80) 'flexibility' means the ability of an electricity system to adjust to the variability of generation and consumption patterns and grid availability, across relevant market timeframes.'	BE: (Comments): Can the com explain why she considers it nescessary to introduce a definitition since the term flexibility was already used in in the 2019/944 directive but it was not defined then? The focus in this directive was mostly on 'demand response' and which was defined in this directive. -what is the link between this notion and the notions of demand response and flexibility services/schemes used in the EMD Directive? What is the relation between this definition of 'flexibility' and the definition of 'demand response'? Is 'demand response' as defined in the 2019/944 directive a form of explicit

	flexibility? What is the scope of this definition? Can 'Flexibility be seen as as both implicit flexibility (e.g. ToU tariffs or dynamic price contracts) and explicit flexibility (e.g. balacing products like FCR/aFRR or congestion products from the DSO) which include flexible sources like demand respons, energy storage and flexibele production?
(3) Article 7 is amended as follows:	
[a] paragraph 1 is replaced by the following:	
'1. Transmission system operators and NEMOs, or an entity designated by them, 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	IT: (Drafting): 1. "Transmission system operators and NEMOs, ~~**or an entity designated by them**~~, 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

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 ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942.'	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 ACER pursuant to Articles 4 and 8 of Regulation (EU) 2019/942.' IT: (Comments): The provisionl, to be considered together with the one on art. 59, appears to violate the principle of proportionality as it's not functional to achieving the objectives of the market design revision under discussion. Those proposals appear to be meant to create a legal basis for a modification of the Capacity Allocation and Congestion Management Regulation – CACM (that's an implementing act as referred to in art 59), by which the operational management of Single Day Ahead Coupling (SDAC) and of Single Intraday Coupling (SIDC) can be performed by a "Single Legal Entity" (SLE); this possibility represents a significant reform in European governance of the electricity markets - of absolute strategic importance for each Member State – that would be, taking on board the amendement proposed by the Commission, through a decision by a technical body (Commission or ACER through the procedures of an implementing act) instead of passing through a legislative procedure as the relevance of the issue under discussion would require .

[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 way and as close as possible to real time across and within all bidding zones;	FI: (Comments): We support this qualitative requirement.
(ii) the following point (ca) is inserted:	
'(ca) be organised in such a way as to ensure the sharing of liquidity between all NEMOs, both for cross-zonal and for intra-zonal trade;'	FI: (Comments): We fully support this provision as it is important in creating a level playing field among the NEMOS.

(4) the following Articles 7a and 7b are inserted:	
‘Article 7a	BE: (Comments): Can the Commision explain what is the intention of this newly introduced product? Is this focussed on Securtiy of Supply or is the intention that this could also be usefull for congestion ? Can the COM give some more information how this procuct would interagate with existing products (as existing TSO products) ? Can the com give more information on how this would interage with the Security of Supply calibration? Can the com give some more information why she proposed to limit the use of this new product only to the TSO and not open it for the DSO?
Peak shaving product	FI: (Comments):

	The provision has changed to a good direction. Cost benefit analysis on peak shaving product is a good addition as well as clearer optionality to the use of the product is a positive development. The use of the peak shaving product should be a Member State decision in case the product is used for resource adequacy. Also, there should be more flexibility for contracting so that there could be a framework agreement for the procurement of such products.
1. Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours.	IE: (Drafting): Without prejudice to Article 40(5) and 40(6) of the Electricity Directive, transmission system operators or distribution system operators may procure peak shaving products in order to achieve a reduction of electricity demand during peak hours. IE: (Comments): Leaving a peak shaving product with the TSO only will result in limited liquidity in the flexibility markets and a decrease in the use of flexibility services. Flexibility services are a key component of meeting both Irelands and the EUs climate targets. Flexible services are a key aspect of Article 32 of EU Directive 2019/944 (and the subsequent Price Review 5 Decision published by the Irish utility Regulatory Authority (CRU20154)). This Directive requires Member States to provide the necessary regulatory framework to allow and provide incentives to distribution system operators to procure

	flexibility services, including congestion management in their areas, in order to improve efficiencies in the operation and development of the distribution system. Peak shaving products are already a key part of implementing congestion management and the associated products
2. Transmission system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements:	FI: (Comments): It should be clear what is the system need the product fulfils. Currently, the proposal refers to overall security of supply that is not a TSO task. Therefore the provision should be formulated so that the product fulfils a system need or the task. Other option is give the decision to and dimensioning to the MS. The procurement of the peak shaving product shall avoid any impact on the day-ahead, intraday or balancing market and this needs to be taken into consideration in the criteria. IE: (Drafting): Transmission system operators or distribution system operators seeking to procure a peak shaving product shall submit a proposal setting out the dimensioning and conditions for the procurement of the peak shaving product to the regulatory authority of the Member State concerned. The proposal of the transmission system operator shall comply with the following requirements:

	IE: (Comments): Leaving a peak shaving product with the TSO only will result in limited liquidity in the flexibility markets and a decrease in the use of flexibility services. Flexibility services are a key component of meeting both Irelands and the EUs climate targets. Flexible services are a key aspect of Article 32 of EU Directive 2019/944 (and the subsequent Price Review 5 Decision published by the Irish utility Regulatory Authority (CRU20154)). This Directive requires Member States to provide the necessary regulatory framework to allow and provide incentives to distribution system operators to procure flexibility services, including congestion management in their areas, in order to improve efficiencies in the operation and development of the distribution system. Peak shaving products are already a key part of implementing congestion management and the associated products
(a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account- ~~*a*~~ **cost and benefits** ~~*reliability standard*~~ **and** ~~*or*~~ objective and transparent grid stability criteria approved by the regulatory authority. The dimensioning shall take into account the	BE: (Drafting): […] The dimensioning shall take into account the forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system as well as the wholesale price impact of the avoidable dispatch of high marginal cost peak generating capacity . The dimensioning of the peak shaving product shall be limited to ensure that the expected benefits of the product do not exceed the forecasted

forecast of demand, the forecast of electricity generated from renewable energy sources and the forecast of other sources of flexibility in the system. The dimensioning of the peak shaving product shall be limited to ensure that ~~*the*~~ **forcasted costs do not** ex**ceed** ~~*pected*~~ **the expected** benefits of the product ~~*do not exceed the forecasted costs*~~*;*	costs; DK: (Drafting): (a) the dimensioning of the peak shaving product shall be based on an analysis of the need for an additional service to ensure security of supply. The analysis shall take into account- ~~*a*~~ **cost and benefits** ~~*reliability standard*~~ **and** ~~*or*~~ objective and transparent grid stability criteria approved by the regulatory authority or another competent authority designated by the Member State. DK: (Comments): In Denmark this competence is placed politically and techinchally with the Danish Energy Agency, and not the regulatory authority, as it is linked to ensure security of supply. DK emphasizes the need for MS to choose the authority which must approve the "grid stability criteria". It is still unclear what is defined by "grid stability criteria". It is DKs understanding that this is an energy- and grid technical assesment, with security of supply viewpoints
	FI:

	(Drafting): **(aa) procurement of the peak shaving product shall avoid negative impacts on the functioning of day-ahead, intraday or balancing market** FI: (Comments): New criterion to ensure that the procured capacity can offer to day-ahead markets and balancing markets in case it is not activated. Also, the process needs to be designed so that the market effect is take into account and mitigated.
(b) the procurement of a peak shaving product shall be based on objective, transparent, non-discriminatory criteria and be limited to demand response;	FI: (Drafting): (b) the procurement of a peak shaving product shall be based on objective, transparent, **and** non-discriminatory criteria ~~**and be limited to demand response**~~; FI: (Comments): This provision cannot be monitored behind the meter so we propose deleting it and widening the scope.

(c) the procurement of the peak shaving product shall take place using ~~*a*~~ competitive bidding ~~*process*~~, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;	BE: (Drafting): (c) the procurement of the peak shaving product shall take place using a continious competitive bidding process, with selection based on the lowest cost of meeting pre-defined technical and environmental criteria;
(d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;	BE: (Drafting): ~~(d) contracts for a peak shaving product shall not be concluded more than two days before its activation and the contracting period shall be no longer than one day;~~ BE: (Comments): This paragraph is too limiting. The development and investment in such products also requires secured longer term forward revenue streams. A daily product only will not incentivize investments sufficiently. Different products in different timeframes should be allowed (e.i. yearly, seasonal, monthly, weekly and daily) FI: (Drafting):

	d) **the contracting period for future availability shall be no longer than one year**; FI: (Comments): There should be more flexibility in the contracting e.g. in the form of a framework agreement from which the product could be activated. The product could be then be activated in case the bid in the day-ahead market did not pass.
(e) the activation of the peak shaving product shall not reduce cross-zonal capacity;	
(f) the activation of the peak shaving product shall take place after the closure of the day-ahead market and before the start of the balancing market;	IE: (Drafting): (f)the activation of the peak shaving product shall take place after the closure of the day-ahead market and **with sufficient lead time** before the ~~start~~ **closure** of the balancing **energy** market; IE: (Comments): The balancing market can consist of balancing capacity and balancing energy market. Impact of the peak-shaving product on the existing balancing capacity

	markets, which start in most cases with longer lead times (e.g., week ahead, in some cases even month or year ahead) and close for the most part before the day ahead market closure, should be avoided. Hence the focus should be on the balancing energy market only. With the proposed technical adjustment of the wording this is granted, and impact on established processes of the balancing energy markets can as well be limited.
(g) the peak shaving product shall not imply starting generation located behind the metering point.	BE: (Comments): How about storage? FI: (Drafting): **Delete**. FI: (Comments): At least in Finland there is requirement to measure generation units greater than 100 kVA. It is important to acgknowledge that generation is impossible to distinguish between demand reduction and generation below this threshold. Thus, in order to avoid very heavy administrative and technical burdens small scale generation has to be considered as demand response.

3. 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 transmission system operator decides to procure a peak shaving product in accordance with paragraph 1 it** ~~*Transmission system operators*~~ shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority.	BE: (Drafting): 3. The actual reduction of ~~consumption~~ offtake 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. [..] BE: (Comments): Consumption=/offtake with local production and storage We feel that an individual baseline may not be the best method to apply to smaller consumers or net users connected to the low voltage grid if they want to participate (optionally through aggregation) to this product. So alternative methodologies to individual baselining should be an option. IE: (Drafting): 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 transmission system operator or distribution system operator decides to procure a peak shaving product in accordance with paragraph 1 it** ~~*Transmission system operators*~~ shall develop a baseline methodology in consultation with market participants and submit it to the regulatory authority. IE: (Comments): Leaving a peak shaving product with the TSO only will result in limited liquidity in the flexibility markets and a decrease in the use of flexibility services. Flexibility services are a key component of meeting both Irelands and the EUs climate targets. Flexible services are a key aspect of Article 32 of EU Directive 2019/944 (and the subsequent Price Review 5 Decision published by the Irish utility Regulatory Authority (CRU20154)). This Directive requires Member States to provide the necessary regulatory framework to allow and provide incentives to distribution system operators to procure flexibility services, including congestion management in their areas, in order to improve efficiencies in the operation and development of the distribution system. Peak shaving products are already a key part of implementing congestion management and the associated products
4. Regulatory authorities shall approve the proposal of the transmission system operators	BE:

seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs.	(Comments): The regulator or the TSO should also asses whether the peak shaving product is necessary0 IE: (Drafting): Regulatory authorities shall approve the proposal of the transmission system operators or distibution system operators seeking to procure a peak shaving product and the baseline methodology submitted in accordance with paragraphs 2 and 3 or shall request the transmission system operators to amend the proposal where it does not meet the requirements set out in these paragraphs. IE: (Comments): As the DSO is responsible for metering, demand response and flexibility procurement in Ireland, we suggest that the DSO is not precluded from procuring peak shaving products or from developing the baseline methodology.
Article 7b	
Dedicated **measurement**~~*metering*~~ device	

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

1. *"~~Member States shall allow~~ ~~t~~**T**ransmission system operators and distribution system operators **may**~~to~~ use data from dedicated **measurement**~~metering~~ devices for the observability and settlement of demand response and flexibility services, including from storage systems.	BE: (Comments): Can the COM explain the intention of this new provision? Is the scope of the 'dedicated metering' device limited to flexibility services or can the data from these devices also be used for separate electricity contracts? The data process and qualifications will be similar to both purposes. What is the link between the 'dedicated metering device' and the (installed) smart meters? How should this be understood compared to the DSO's have a data validation process set up for the data from the smart meters (and sub meters) that can be used for flexibily services and different supply contracts? What is the difference between dedicated metering device and submeters in the framework of flexibility services ? Why it is necessary to have dedicated metering device if the customer has a smart meter

	installed? What is the difference between demand response and flexibility services in the context of this provision? Can the COM further explain it should be an obligation for the MS to allow TSO and DSO to use data from dedicated metering devices and not a faculty? FI: (Comments): We support this new formulation. Change proposed to Article 4 of the Directive is related to this requirement. It is important that metering arrangements shall treat all suppliers operating at a single connection point equally. This means that each metering and billing point must be its own separate electrical installation and be clearly separated from other metering and billing points. IE: (Drafting): 1. ~~Member States shall allow~~ Transmission system operators and distribution system operators **shall have access** to ~~use~~ data from dedicated metering devices for the observability and settlement of ~~demand response and~~ flexibility services, including from

	demand response and storage systems. 2. Member States shall establish requirements for ~~a~~ dedicated metering device**s and for** data validation process to check and ensure the quality of the respective data **taking into account the relevant Union legislation on measurement instruments. while facilitating interoperability**; 3. **Member States shall facilitate the access to data from dedicated metering devices for final customers and eligible parties, including transmission and distribution system operators**. IE: (Comments): We agree this clause should say "may" as methodologies based on analytics or deemed solutions may be more practicable. The proposed legislation should grant the right of access to data directly to the recipients of these rights and not in the form of a requirement for Member States to regulate these rights only in Member State legislation. It should also be noted that the provision is not proposed in a Directive but in a directly applicable Regulation which should directly establish the rights and obligations for the addressees. Lastly, paragraph 1 should be corrected as demand response is not a service per se. It is also important that requirements for dedicated metering devices take into account already existing regulations applicable to smart meters and facilitate interoperability, so to promote an efficient development across Europe. Also, the use of data from dedicated metering devices will be key for consumers to get access to services behind the meter, for TSO and DSO to enhance their observability of the electricity system, and to reduce the entry barriers for the

	participation of flexibility providers in markets and services. The data from these devices should be complementary to the use of data from smart meters, and should be easily accessible to consumers and eligible parties (e.g. aggregators), including TSOs and DSOs.
2. Member States shall establish requirements for a dedicated **measurement**~~*metering*~~ device data validation process to check and ensure the quality of the respective data.’;	BE: (Comments): EU or international standardisation for these meters should also required next to the data validation processes set up by the MS. Quid recital 18 minimizing data collection? IE: (Drafting): Where required, Member States ~~shall~~ may establish requirements for a dedicated **measurement**~~*metering*~~ device data validation process to check and ensure the quality of the respective data.’; IE:

	(Comments): Noting that clause 1. (above) is optional we suggest that this clause replaces "shall" with "may". If another methodology is implemented then dedicated measurement device data validation processes would not be required. However, if this is required it should be a function of the DSO to establish these processes.
(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. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.'	CZ: (Drafting): ~~**By 1 January 2028**~~ **As soon as possible/Without delays**~~,~~ the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.' CZ: (Comments): This is too ambitions, especially for pro-active TSOs participating in European projects on

	balancing energy sharing MARI and TERRE. They would have to substantially change their trading processes and strategies. We propose extending the deadline that would enable change of the 2017/2195 regulation and accompanying methodologies. Because of these uncertainities, we would preffer not to include precise deadline stated in the regulation 2019/943. BE: (Drafting): 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. By 1 January 2024 ~~2028~~, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.' BE: (Comments): 2028 is too late (5 years for a trading modality in a highly digitalized sector!?). Liquidity and maximizing the exchange of RES should be the main priority in order to protect EU energy market, housholds and industry against the historic fossil fuel price sensitivity. FI: (Comments): We support this amendmend. In Finland it has been successfully piloted maintaining ID-trading open until the start of the operational hour. Having the trading possible as close to

	real time as possible is important especially for the vRES-generators. IE: (Drafting): **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. ~~By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.'~~ By 1 January 2026 all TSOs shall perform a joint impact assessment of the Intraday cross-zonal gate closure time shortening on national system security, cost efficiency, RES integration and CO2 emissions. Based on such assessment, all TSOs may propose an amendment to the methodology derived from Art. 59 of EC Regulation 2015/1222. IE: (Comments): Introducing a mandatory EU-wide predefined timing on intraday gate closure time without any impact assessment on systems security and system-wide CO2 emissions is inadequate at this stage. This would have severe consequences for many TSOs in Europe, requiring a complete change in how they operate their systems and potentially compromising system security in their countries. Shorter Intraday Gate Closure Times could be introduced where necessary – provided this is compatible with operational constraints which also depend on the different balancing approaches by TSOs. Therefore EirGrid also propose to do an impact assessment by 1. January 2026.

	The outcome of this assessment will define if it is necessary to propose amendment via the Capacity Allocation and Congestion Management Guideline (CACM) 30-min intraday gate closure time means the balancing timeframe (where TSOs can take measures to ensure the balance and security of the system by activating reserves procured on the balancing marker) would start only 30 minutes before real time. As a consequence: — TSOs operation would be impacted by a shorter timeframe to secure the system balance when unforeseen events occur: reducing TSO's operational window to 30 min may require more reserves with short activation times (automatic and manual reserves) to correct system imbalance and solve intra-zonal congestions. — TSOs applying a proactive balancing approach would see a shortage of flexibility resources available: all units which take more than 20 minutes to be activated could no longer be used as balancing resources, reducing the leverages for TSOs to ensure stable system operation and safe energy delivery. — The Replacement Reserve product would have to be terminated (as it has a full activation time of 30 min), including the European reserve sharing platform TERRE, which was established in implementation of EU law and is successfully operating since 2020. — System operation costs could substantially increase for TSOs applying a proactive balancing approach, as moving away from the Replacement Reserve product to more expensive products with shorter activation time will increase balancing costs borne by all grid users. — CO2 emissions may also increase, as generation units able to provide balancing bids close to real time are in many countries mostly high emission thermal units We acknowledge how intraday trading closer to real time can facilitate the participation of RES (which have more reliable forecast the closer to real time, due to their weather dependency), especially where their participation in balancing services is still limited. In the future, shorter intraday gate closure times could be introduced where needed – subject to a thorough impact assessment, positive cost-benefit analysis, and compatibility with future operational constraints. **Further input** Intraday gate closure time (IDGCT) drafting is unchanged. It points to intraday as being of

	critical importance to renewables as their forecast risk is high until very short notice, and they therefore should have the opportunity to continue trading until as close to real time as possible. The text requires that the NEMOs make the IDGCT 30 minutes by 2028. This topic was negotiated at length between NRAs and ACER for the CEER-ACER position, but it appears that this wasn't taken on board at all (ACERs position was that the move to 30 minutes should be supported by a TSO analysis, and ACER decision, rather than assuming that 30 mins was beneficial no matter what. Moving to 30 minutes for markets that have a central dispatch system creates challenges, and in particular, creates a possible deadzone where trading can continue between market participants, but TSOs cannot include the outcome of those trades in their decision-making. This is quite inefficient obviously. The 30 minute gate closure time is probably helpful for small aggregators and storage operators too but as long as you are central dispatch, or use an integrated scheduling process, 30 mins is very hard to implement, or just doesn't make sense (as you end up ignoring the results of those trades). I expect that ACER-CEER will reiterate its position on this point. This position will be strongly supported by the Italians, Spanish, Polish and probably the French too. **CEER-ACER Justification** *The costs and benefits of shortening the intraday cross-zonal gate closure time are not obvious. Close to real time the system can be balanced either by market participants or 12 by the TSO. While market participants prefer to balance themselves close to real time, this may not be necessarily more efficient for the whole system as it depends whether TSOs have, in the last 30 minutes, enough reserves to balance the system. Therefore, these amendments aim to provide room for a proper review of its feasibility and cost benefit analysis by ENTSO-E and subject to such review, ACER would make a decision on the intraday cross-zonal gate closure time.* DK: (Drafting): **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. By 1 January 2028, the intraday cross-zonal gate closure time shall be at the earliest 30 minutes ahead of real time.' Implementation can be extended by 3 years, if it challenges security of supply. DK: (Comments): DK supports the aim of reducing gate-closure time but finds that it might require more time to implement the necessary system that ensure faster reaction. With shorter gate closure time, sufficient capacity must be ready to react in a shorter time frame as well.
	BE: (Comments): We would like to invite the PCY and the COM to add a an extra paragraph 1a to article 8 to ensure an better function of the market. This because we feel that the European Commission's proposal does not sufficiently create a level playing field between competing NEMOs, as it does not require NEMOs to share order books in the last 60 minutes before delivery, between the closure of the single intraday market and the physical delivery of power, in those Member States where such trading during this period of time is allowed. Under the current legislation, NEMOs do not operate the local markets referred to above, which are allowed in some Member States. These are operated by power exchanges. An undertaking can be both a NEMO and a power exchange, but under the current EU and national legislation it is only

	required to share its order books in those markets where it operates as a NEMO. This situation creates a barrier to entry to NEMOs wishing to enter these Member States, as: - Only the incumbent NEMO can offer access to all available liquidity from the start of the day ahead coupling through to physical delivery. - Not all market participants that also wish to participate in these local markets are willing or able to pay two or more sets of NEMO/Power Exchange fees to access liquid markets also in the last 60 minutes before delivery, and - Due to the ever-increasing penetration of intermittent renewable sources, trading in the last 60 minutes is becoming ever more important to avoid imbalances. In order to ensure the level playing field we feel that it is important to clearly clarify this also in current text proposal for review of the regulation.
(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 100kW or less, to allow for the effective participation of demand-side response, energy storage and small-scale renewables including direct participation by customers.'	
[6] Article 9 is replaced by the following:	

Article 9	
Forward markets	ES: (Comments): Changes are welcome in what refers to postpone the decision to a network code and to include a previous impact assessment is required. However, art. 9 could be further reinforced to take into account the specific situation of MS such as Spain, with a very low level of interconnectivity, among other aspects. See comments below. BE: (Comments): Belgium considers the actual stance of this article seems to be good compromise between the different preferencs. We understand that a lot of technical work is still needed but we feel that it is important that the co-legislators give a clear political signal and instructions to the institutions to continue to work on this. We welcome the explicit impact assessment which includes the involvemenet of all actors so that everyone can properly assess all impacts. o Good that role of LS has been clarified, Belgium could have agreed on a more stronger text (e.g. a delegated act in stead of an implementing act) as BE would have liked to have been more ambitious, but in the spirit of compromise we feel that this proposal by the PCY is very balanced and would strongly

	request not to weaken any further.
1. ~~By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:~~ **The design of the Union's forward market shall be based on regional virtual hubs supported by at least long-term transmission rights issued by TSOs, allowing price risk hedging across bidding zones.**	HR: (Drafting): ~~By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:~~ **The design of the Union's forward market shall be based on regional virtual hubs supported by at least long-term transmission rights issued by TSOs, allowing price risk and in special cases physical hedging across bidding zones.** LV: (Comments): In Latvia's view, it would be useful to include a reservation on the obligation to coordinate the creation of virtual platforms initially and submit them in the form of a proposal. The new wording does not sufficiently define the obligation to carry out an impact assessment for the implementation of proposals, as well as discussions on its improvement and proper coordination from the involved parties.

	NL: (Drafting): 1. ~~By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:~~ **The design of the Union's forward market ~~shall~~ may be based on regional virtual hubs supported by at least long-term transmission rights issued by TSOs, allowing price risk hedging across bidding zones.** NL: (Comments): The Netherlands suggests to have an additional go / no-go moment after the having the outcomes of an impact assessment. In order to facilitate this additional go / no-go moment it seems more appropriate to have this change shall to may. CZ: (Drafting): **The design of the Union's forward market shall be enhanced ~~based on regional virtual~~**

	~~hubs supported~~ by at least long-term transmission rights issued by TSOs, allowing price risk hedging across bidding zones. In the future, should long term FTRs prove insufficient, European Commision may propose creation of additional solutions, including virtual hubs based on positive outcome of impact assessment. CZ: (Comments): We propose starting with longer-term Financial Transmission Rights to boost market liquidity and facilitate hedging options for market participants and only once this proves to be insufficient, we would opt for implementing regional virtual hubs. FI: (Drafting): **The design of the Union's forward market may be based on regional virtual hubs supported by ~~at least~~ long-term transmission rights issued by TSOs or equivalent measures, allowing price risk hedging across bidding zones.** FI: (Comments): Finland calls for a better impact assessment for the basis for decision-making on virtual trading hubs. Even though the proposal seems to be based on the Nordic model on system price, the proposal redefines the reference price and the Commission has underlined the need to improve the price correlation on price area prices also in the Nordics. Thus, we

	propose having a gradual approach, where on the first phase the current LTTR market functioning is improved and after a sufficient analysis on the proposed changes to current model are conducted, a chose on the approach will be taken only then. Virtual Hubs should not be set as a target model without a proper impact assessment. Finland does not see how the proposal would improve price correlation in the Nordics. We also have hard time seeing how the proposal would enhance liquidity in the Nordics. IE: (Drafting): ~~**The design of the Union's forward market shall be based on regional virtual hubs supported by at least long-term transmission rights issued by TSOs, allowing price risk hedging across bidding zones.**~~ ~~By 1 December 2024 the ENTSO for Electricity shall submit to ACER, after having consulted ESMA, a proposal for the establishment of regional virtual hubs for the forward market. The proposal shall:~~ ~~**The design of the Union's forward market shall be based on regional virtual hubs supported by at least long-term transmission rights issued by TSOs, allowing price risk hedging across bidding zones.**~~ **Transmission system operators or single allocation platform on their behalf, shall support the forward market by issuing long-term transmission rights and may have additional measures in place to allow for market participants, to hedge price risks across bidding zones.** IE: (Comments): Virtual Hubs shouldn't be imposed as a target model for the whole of Europe. In the case of small markets like SEM VHs represent a very disruptive and uncertain approach. VHs are untested and have not been successfully adapted anywhere

	else in Europe. The implementation timeframes are long and costs are high. In addition, the opportunity costs mean that other initiatives which are more important for the island of Ireland may not be delivered in time to reach renewable goals. There are better alternatives including more frequent auctions, additional product offerings and a detailed impact assessment that would identify the implications for liquidity. The first amendment proposes to remove the legal deadline for submission of the methodology, since such legal deadline can only be established in the subsequently amended FCA Regulation. Two additional points (e) and (f) aim to provide further insight and comfort that are necessary before adopting the methodology and implementing the virtual hubs. If any feasibility and effectiveness concerns are identified this can be mitigated by the methodology and implementation plan. The addition also aims to provide sufficient time for market participants to adapt to the new model. DK: (Drafting): The design of the Union's forward market shall be based on regional virtual hubs supported by at least long-term transmission rights issued by TSOs, allowing price risk hedging across bidding zones and virtuel hubs is best suited based on an impact assessment on the forward markets.

	DK: (Comments): We would prefer, if the forward market was not narrowed down to only virtual hubs, as other designs could potentially be more efficient market designs, further the impact assessment should also investigate whether long-term transmissions rights should be used to support the virtual hubs or not. We therefore look forward to the impact assessment, that will provide a basis for discussion of the implementing act in the ECBC.
2. 24 months after [the entry into force of this Regulation] the Commission shall, after completing an impact assessment, adopt an implementing act in accordance with Article 59, that establishes the design referred to in paragraph 1. This implementing act shall in particular:	IT: (Comments): We appreciate that the implementing acts regulating this matter will be subject to an impact assessment by the Commission. CZ: (Comments):

	We welcome that the new tasks for the European Commission shall be complemented by full impact assessment, but it shall be performed only once usage of lon-term FTRs proves insufficient in praxis in icreasing market liquidity and hedging options for market participants. Hence, we would prefer omitting the following paragraphs as premature at this stage. IE: (Drafting): **~~24 months after [the entry into force of this Regulation] the Commission shall, after completing an impact assessment, adopt an implementing act in accordance with Article 59, that establishes the design referred to in paragraph 1. This implementing act shall in particular:~~** By 24 months after the adoption of this Regulation, all transmission system operators shall submit to ACER: **24 months after [the entry into force of this Regulation] the Commission shall, after completing an impact assessment, adopt an implementing act in accordance with Article 59, that establishes the design of regional virtual hubs supported by at least long-term transmission rights issued by TSOs or single allocation platform on their behalf ~~referred to in paragraph 1~~. This implementing act shall in particular:** a. **include a methodology to** define the geographical scope of the **regional** virtual hubs ~~for the forward market~~, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs; b. include a methodology for the calculation of the reference prices for the **regional** virtual hubs ~~for the forward market~~, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a **regional** virtual hub; such methodology shall be ~~applicable to all virtual hubs and~~ based on predefined objective criteria; **c.** include a definition of financial long-term transmission rights **between** ~~from~~ bidding zones **and**~~to~~ the **regional** virtual hubs ~~for the forward market~~**as ~~financial obligations~~ to enable market participants to**

	hedge their exposure to positive and negative price spreads, including as regards to volumes and maturities of up at least three years ahead; d. maximise the trading opportunities for hedging products referencing the **regional** virtual hubs for the forward market as well as for long term transmission rights from bidding zones to **regional** virtual hubs**; and**. e. **specify how the single allocation platform referred to in paragraph 3 shall offer allocation and facilitate trading of long-term transmission rights with frequency of allocation supporting efficient functioning of the forward market;** IE: (Comments): Virtual Hubs shouldn't be imposed as a target model for the whole of Europe. In the case of small markets like SEM VHs represent a very disruptive and uncertain approach. VHs are untested and have not been successfully adapted anywhere else in Europe. The implementation timeframes are long and costs are high. In addition, the opportunity costs mean that other initiatives which are more important for the island of Ireland may not be delivered in time to reach renewable goals. There are better alternatives including more frequent auctions, additional product offerings and a detailed impact assessment that would identify the implications for liquidity.
(a) **include a methodology to** define the geographical scope of the **regional** virtual hubs ~~for the forward market~~, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the	ES: (Drafting): (a) **include a methodology to** define the geographical scope of the **regional** virtual hubs ~~for the forward market~~, including the bidding zones constituting these hubs, aiming to

reference prices and the prices of the bidding zones constituting virtual hubs;	maximise the price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs. The aforementioned methodology shall duly take into account the level of interconnectivity of the those Member States below the interconnection targets set for 2020 and 2030 in Regulation (UE) 2018/1999 of the Governance of the Energy Union.; ES: (Comments): Spain has a scrutiny reservation on the impacts of art. 9, related to forward markets, which envisages virtual hubs and long term transmission rights to allow cross-border trade of financial products. For us, the main barrier to cross border trade is the lack of physical interconnection capacity, a critical issue that is not addressed in the Commission proposal. Virtual hubs should not hamper the price coupling nor the security of electricity supply in the Iberian peninsula. We are still assessing internally the impact of these provisions. In any case, a reference to ENTSO-E duly taking into account this circumstance when elaborating its methodology is needed. IE: (Drafting): a) **include a methodology to** ~~define the geographical scope of the~~ **regional** ~~virtual hubs for the forward market, including the bidding zones constituting these hubs, aiming to maximise the price correlation between the reference prices and the prices of the bidding~~

	~~zones constituting virtual hubs~~;1. An assessment of the possible implementation of practical solutions addressing market parties' hedging needs which shall consider but not be limited to the following: a) frequent auctions for at least monthly and yearly products; b) auctions with product maturities extended up to three years; c) development of a secondary market; d) adoption of products such as financial transmission rights obligations; e) process on full cost-recovery to handle any financial risks and losses arising from these additional measures ensured by the regulatory authority; f) timeline for implementation g) The appropriateness of regional coordination and decision making for alternative measures or exemptions to transmission system operators on borders where no long-term transmission rights are provided at the adoption time of this Proposal. 2. An assessment for the establishment of regional virtual hubs for the forward market which shall consider but not be limited to the following: b) impact of a virtual hub on at least the forward market, transmission system operators, market participants and end-consumers as well as relevant benefits and drawbacks compared to improvements made based on a) and b) points above. c) the geographical scope of the virtual hubs for the forward market, including the

	bidding zones constituting these hubs, and specific situations of bidding zones belonging to two or more virtual hubs, aiming to achieve high ~~maximise the~~ price correlation between the reference prices and the prices of the bidding zones constituting virtual hubs; d) the calculation of the reference prices for the virtual hubs for the forward market, aiming to achieve high ~~maximise the~~ correlations between the reference price and the prices of the bidding zones constituting a virtual hub; e) a definition of financial long-term transmission rights from bidding zones to the virtual hubs for the forward market; f) the maximisation of the trading opportunities for hedging products referencing the virtual hubs for the forward market as well as for long term transmission rights from bidding zones to virtual hubs. Based on the conclusions of the assessments, all transmission system operators shall propose amendments to existing Commission Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation, where relevant.
(b) include a methodology for the calculation of the reference prices for the **regional** virtual hubs ~~for the forward market~~, aiming to maximise the correlations between the	IE: (Drafting): ~~(b) include a methodology for the calculation of the reference prices for the~~ **~~regional~~**

reference price and the prices of the bidding zones constituting a **regional** virtual hub; such methodology shall be ~~applicable to all virtual hubs and~~ based on predefined objective criteria;	~~virtual hubs for the forward market, aiming to maximise the correlations between the reference price and the prices of the bidding zones constituting a~~ **regional** ~~virtual hub; such methodology shall be applicable to all virtual hubs and based on predefined objective criteria;~~
(c) include a definition of financial long-term transmission rights **between** ~~from~~ bidding zones **and**~~to~~ the **regional** virtual hubs ~~for the forward market~~**as financial obligations to enable market participants to hedge their exposure to positive and negative price spreads, including as regards to volumes and maturities**;	HR: (Drafting): (c) include a definition of ~~financial~~ long-term transmission rights **between** ~~from~~ bidding zones **and**~~to~~ the **regional** virtual hubs ~~for the forward market~~**as financial obligations to enable market participants to hedge their exposure to positive and negative price spreads, including as regards to volumes and maturities, and long-term transmission rights between bidding zones**; HR: (Comments): Regional virtual hubs **should include physical long-term transmission rights too** in order **to incorporate existing interstate agreements or provide the security of supply in cases of insufficient short term and forward market liquidity available for market participants.** Namely, in those cases it is **necessary to have a long term physical transmission frimness**, which existing explicit capacity allocation guarantees.

	IE: (Drafting): ~~(e) include a definition of financial long-term transmission rights~~ **~~between~~** ~~from bidding zones~~ **~~and~~**~~to the~~ **~~regional~~** ~~virtual hubs for the forward market~~**~~as financial obligations to enable market participants to hedge their exposure to positive and negative price spreads, including as regards to volumes and maturities~~**~~;~~
(d) maximise the trading opportunities for hedging products referencing the **regional** virtual hubs for the forward market as well as for long term transmission rights from bidding zones to **regional** virtual hubs**; and**~~.~~	HR: (Drafting): (d) maximise the trading opportunities for hedging products referencing the **regional** virtual hubs for the forward market as well as for long term transmission rights from bidding zones to **regional** virtual hubs and between bidding zones**; and**~~.~~ HR: (Comments): Depending on different specific situation in the real life on the electricity market and in the power system, sometimes it is difficult to preserve transmission capacity firmness even within regional virtual hubs. Therefore it is necessary to maximise the trading opportunities for hedging products between bidding zones too.

	LV: (Drafting): (d) if justified maximise the trading opportunities for hedging products referencing the **regional** virtual hubs for the forward market as well as for long term transmission rights from bidding zones to **regional** virtual hubs**; and**~~.~~ LV: (Comments): In Latvia's opinion, The impact of the guarantee/reservation of the long-term right of use of the available transmission system capacities for any of the participating parties in the Baltic region has not been sufficiently evaluated, taking into account that, in general, the actual volume of cross-border trade in the Baltic region is a very significant volume. For this reason, if defining the obligation as "maximise", it is desirable to preserve some freedom of action for the system operators, allowing derogations from this obligation under certain conditions. IE: (Drafting): ~~(d) maximise the trading opportunities for hedging products referencing the **regional** virtual hubs for the forward market as well as for long term transmission rights from bidding zones to **regional** virtual hubs**; and**.~~

(e) specify how the single allocation platform referred to in paragraph 3 shall offer allocation and facilitate trading of long-term transmission rights.	NL: (Drafting): A new clause to be added: (f) include an indicative implementation process leaving sufficient time to market participants to accommodate the new rules. IE: (Drafting): **~~(e)~~ (g) ~~specify~~ assess how the single allocation platform referred to in paragraph 3 ~~shall~~ could offer allocation and facilitate trading of long-term transmission rights.**
3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall act as an entity offering allocation and facilitating trading of long-term transmission rights on behalf of TSOs. 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.	LV: (Drafting): **3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 ~~shall~~ may act as an entity offering allocation and facilitating trading of long-term transmission rights on behalf of TSOs. 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.**

	LV: (Comments): Latvia would like to point out that up to this point, the practice that provides the right for a third party to trade transmission capacities on behalf of the TSO for a long period, has not been implemented in the Baltic States, and considering that the amount of the region's transmission capacities in comparison to domestic consumption and production is proportionally large, the use of long-term transmission capacities for the transfer of rights to a market operator has not been sufficiently evaluated from the perspective of the interests of the development of other services (for example, the development of balancing services). It should be taken into account that the activity of the balancing market in the Baltic States affects virtually the entire region at the same time. In essence, it should be assessed whether the reservation of transmission capacities on a long-term basis does not distort any of the market segments. IE: (Drafting): **3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall act as an entity offering allocation and facilitating trading of long-term transmission rights on behalf of TSOs. 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.** IE:

	(Comments): The single allocation platform itself is not an entity, it is operated by JAO. We do not support creation of the SAP as a standalone legal entity. According to Regulation (EU) 2016/1719 the Single Allocation Platform (SAP) means the European platform established by all TSOs for forward capacity allocation on their behalf – it has been meant as a central function, not a separate legal entity. As stated in All TSOs' proposal for the establishment of SAP, all TSOs examined several options when developing the SAP Proposal and concluded to appoint JAO, S.A., an existing entity owned by TSOs to operate the SAP on their behalf. This has been considered as the most efficient approach thanks to synergies with other JAO, S.A. activities in capacity allocation (non-EU border, shadow day-ahead auctions, intraday auctions, etc.) Since the suggested text is not based on an assessment on the efficiency and effectiveness over the current situation we believe that a less invasive and more effective solution is already in place. Further, the European Commission fails to prove that current governance framework does not allow efficient regulatory oversight of SAP performance. The proposal is also incomplete and inconsistent. From one side, the EC proposes a legal entity, on the other, TSOs remain fully responsible for the establishment of business processes and rules (Harmonized Allocation Rules, Requirements on SAP). Further, governance and foundation of such a legal entity is not clarified – e.g. who shall establish and own the entity, who shall manage it and to whom it shall report. Therefore, we suggest modifying the wording to clarify that the entity operating SAP is a legal entity, thus accountable for its performance.
~~2. Within six months of receipt of the proposal on the establishment of the regional~~	IE:

~~virtual hubs for the forward market, ACER shall evaluate it and either approve or amend it. In the latter case, ACER shall consult the ENTSO for Electricity before adopting the amendments. The adopted proposal shall be published on ACER's website.~~	(Drafting): The results of the assessments by all TSOs following the first and second subparagraphs of Article 9(1) shall be reflected by ACER and EC in any amendment, proposal for amendments, or non-binding framework guideline related to Commission Regulation (EU) 2016/1719 establishing a guideline on forward capacity allocation, in accordance with the procedures defined in Articles 59(1)(b), 60 and 61. After receiving the assessment for the establishment of regional virtual hubs for the forward market, ACER shall consult ESMA before proposing any amendment or non-binding framework guideline**.** IE: (Comments): In any upcoming proposal for amendment of the FCA Commission Regulation (EU) 2016/1719), the EC and ACER shall consider the results of the TSOs' assessments on: 1. Implementation of practical solutions based on the All TSOs' assessment; 2. Regional virtual hubs. ACER to consult with ESMA (European Securities and Markets Authority), and not All-TSOs nor ENTSO-E. ACER can hence properly take ESMA's comments into account without bearing the risk of not delivering the assessment and the proposal. From the EU law perspective, it is appropriate for institutions to be formally consulted by other institutions.

~~3. The single allocation platform established in accordance with Regulation (EU) 2016/1719 shall have a legal form as referred to in Annex II to Directive (EU) 2017/1132 of the European Parliament and of the Council.~~	
~~4. The single allocation platform shall:~~	
~~(a) offer trading of long-term transmission rights between each bidding zone and virtual hub; where a bidding zone is not part of a virtual hub it may issue financial long-term transmission rights to a virtual hub or to other bidding zones that are part of the same capacity calculation region;~~	
~~(b) allocate long-term cross-zonal capacity on a regular basis and in a transparent, market-based and non-discriminatory manner; the frequency of allocation of the long-term cross-~~	

~~zonal capacity shall support the efficient functioning of the forward market;~~	
~~(c) offer trading of financial transmission rights that shall allow holders of these financial transmission rights to remove exposure to positive and negative price spreads, and with frequent maturities of up to at least three years ahead.~~	
5. Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, to improve the liquidity of the forward market.	HR: (Drafting): 5. Where a relevant regulatory authority considers that there are insufficient hedging opportunities or insufficient short term and forward market liquidity available for market participants in its Member state, or need to secure energy supply or due to interstate agreement, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges or transmission system operators to implement additional measures, such as market-making activities, or physical long-term transmission rights allocation on borders which could mitigate the recognized obstacles to improve the liquidity

	of the forward market. HR: (Comments): Regional virtual hubs **should include physical long-term transmission rights too** in order **to incorporate existing interstate agreements or provide the security of supply in cases of insufficient short term and forward market liquidity available for market participants.** Namely, in those cases it is **necessary to have a long term physical transmission frimness**, which existing explicit capacity allocation guarantees. In those specific cases, it is essentially to remain physical inseparability of generation, transmission and consumption of end customers for generation plants situated in one Member State and having interstate agreements for physical transmission of half of entire generation of that specific generation plant to end customers in another Member State. Security of supply of end customers in both Member States is primary goal for this preserving physical transmission rights between two biding zones. LV: (Drafting): Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined

	under Article 4(1)(15), it may require power exchanges ~~or transmission system operators~~ to implement additional measures, such as market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to 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. LV: (Comments): Latvia's TSO along with other TSOs in general agrees that TSOs should not be part of this. FI: (Drafting): **Delete.** FI: (Comments): The TSOs should not have a role in supporting the financial market liquidity. Also, the

	NRAs do not have execution powers over power exchanges. Thus we propose to delete this paragraph. It's also a bit unclear what is the relationship with this proposal and the FCA provision on sufficient hedging opportunities. IE: (Drafting): Where a regulatory authority considers that there are insufficient hedging opportunities available for market participants, and after consultation of relevant financial market competent authorities in case the forward markets concern financial instruments as defined under Article 4(1)(15), it may require power exchanges ~~or transmission system operators~~ to implement additional measures, such as market-making activities, to improve the liquidity of the forward market. Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators shall be free to 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. IE: (Comments):

	TSOs are removed from the proposal as market making is not a core TSO task but typically a suitable role for players active the competitive markets.
6. -Subject to compliance with Union competition law and with Directive (EU) 2014/65 and Regulations (EU) 648/2012 and 600/2014, market operators **may**~~*shall be free to*~~ 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.	IE: (Drafting): 648/2012 and 600/2014, market operators **may**~~*shall be free to*~~ 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. **All market operators shall be free to offer trading of financial hedging products linked to regional virtual hubs as referred to in paragraph 2.**
	BE: (Drafting): 7. By 31. December 2023 all TSOs shall submit to ACER and ESMA, a proposal of implementation of improvements to the current auctioning of financial longterm

	transmission rights to be implemented by 1 January 2024. 1) The improvements shall consist of but not be limited to the following: a) Auctions for monthly, quarterly and yearly products; b) Product maturities up to three years; c) Development of a secondary market. Within three months of receipt of the proposal on improvements for the forward market, ACER and ESMA shall jointly evaluate it and either approve or amend it. The adopted proposal shall be published on ACER's website and is to be implemented by all TSOs within 3 months of the approval BE: (Comments): In complement to the elements of the request to the institutions to continue to work on virtual hub BE suggests a new paragraph to ensure swift implementation of already identified short-term measures to improve forward markets and auctioning of long-term transmission rights that will have a immediate effect while preparing and rolling out the virtual hubs. We consider it an important political signal from the reform that it gives a push to the improvement of forward markets alread immediately, and in parallel with increased focus on PPAs/CfDs.
(7) Article 18 is amended as follows:	
[a] paragraph 2 is replaced by the following:	

"2. Tariff methodologies shall 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 run, including anticipatory investments, in order to increase efficiencies, including energy efficiency, to foster market integration and security of supply, to support the use of flexibility services, efficient investments including solutions to optimise the existing grid and facilitate demand response and **energy storage,** related research activities, and to facilitate innovation in the interest of consumers in areas such as digitalisation, flexibility services and interconnection";	BE: (Comments): BE thanks the PCY fot the explicit inclusion of storage in this paragraph, we feel this is important. Did the commission consider to include also a provision in this article to ensure that the availability of firm financial transmission rights should be backed up with sufficient financial support for TSO's ? FI: (Comments): We support this proposal.
[b] paragraph 8 is replaced by the following:	

"8. Transmission and distribution tariff methodologies shall provide incentives to transmission 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, shall include those costs in transmission and distribution tariffs, and shall introduce performance targets in order to provide incentives to transmission and distribution system operators to increase efficiencies in their networks, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems."	IE: (Drafting): [b] paragraph 8 is replaced by the following: "8. Transmission and distribution tariff methodologies shall provide incentives to transmission 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, shall include those costs in transmission and distribution tariffs, and ~~shall~~ **may** introduce**, where applicable**, **appropriate** performance targets in order to provide incentives to transmission and distribution system operators to increase efficiencies **and quality and security of supply** in their network, including through energy efficiency, the use of flexibility services and the development of smart grids and intelligent metering systems, **in line with the characteristics of the given electricity system and climate policy objectives**." IE: (Comments): The establishment of KPIs based exclusively on efficiency would be too restrictive. The text should also encompass other aspects. Apart from that, NRAs should have flexibility to decide which tariff design is appropriate and fit for purpose. Since keeping track of such KPIs will require additional resources from both NRAs and TSOs, NRAs should decide if they see a benefit in introducing them or not, and they should be aligned with national features in any case.

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

[c] in paragraph 9, point (f) is replaced by the following:	
'(f) methods to ensure transparency in the setting and structure of tariffs, including anticipatory investments;'	
[d] in paragraph 9, the following point (i) is added:	
'(i) incentives for efficient investments in networks, including on flexibility resources and flexible connection agreements.'	BE: (Comments): In Belgium this concept is applied, but provides insufficient firm capacity to the grid to incentivize investments in generation and storage capacity. TSO's should receive incentives to provide and improve firm access, not to lower their responsibilities.
[8] in Article 19, paragraph 2 is amended as follows:	

[a] point (b) is replaced by the following:	
(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 investments that are relevant to reduce interconnector congestion; or	BE: (Drafting): (b) ~~maintaining or~~ maximising and 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 investments that are relevant to reduce interconnector congestion; or FI: (Drafting): **Delete.** FI: (Comments): We have dubios on this requirement and would delete. Congestion income should not be used for this purpose.
[b] the following point (c) is added:	IE:

	(Drafting): ~~[b] the following point (c) is added:~~
‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.’	CZ: (Drafting): ~~‘(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.’~~ CZ: (Comments): We consider this proposal to be breaching principles of the internal energy market, e.g. principles for fees for grid connection principles (art. 18 (1) of 2019/943 regulation), against cross-subsidies (art. 59 of 2019/944 durective), idependence of NRAs (art. 57 of 2019/944 directive). It does not represent a cost-effective tool addressing the problem, but rather an implicit and intransparent subsidy. Our fear is also that this measure will be financed by MS that will not be directly affected by the benefits.

	IE: (Drafting): ~~'(c) compensating offshore generation plant operators in an offshore bidding zone if access to interconnected markets has been reduced in such a way that one or more transmission system operators have not made enough capacity available on the interconnector or the critical network elements affecting the capacity of the interconnector, resulting in the offshore plant operator not being able to export its electricity generation capability to the market.'~~ IE: (Comments): Congestion income should not be used to finance support for offshore generators in hybrid projects nor any generation projects: this is not an effective support mechanism, would de facto be an implicit and non-transparent subsidy paid by consumers, and contradict internal markets principles. For generators in offshore hybrid projects with offshore bidding zones that do receive state support, we recommend available alternatives, such as well-designed Contracts for Difference (CfDs) decoupling remuneration from actual injection (see amendment proposals to article 19b on Direct price support mechanisms). The reasoning behind our proposed amendments is that it is not efficient to allocate the volume risk to individual project participants in hybrid projects, be it developers or TSOs, for whom the volume risk is outside of their control. Instead, volume risk is most efficiently allocated to Member States, as they are the ones best capable of managing this risk through: a) deciding whether or not offshore generation projects should be built as hybrid

	projects with transmission and generation capacity or as radially connected generation projects. b) making sure that the volume of offshore wind that is auctioned is in balance with grid capacities. c) incentivizing the TSO to address grid congestions through grid investments or through a more granular bidding zone structure reflecting the physical congestions. d) simplifying and speeding up licensing of new grid projects. Although the TSO of course also has room for point c), the other more important points are fully within the control of the Member States. DK: (Comments): In general we are positive towards this proposal. We find however that some elements should be clarified: It needs to be clarified if the TAG compensation is to be viewed as an obligatory measure, and how TAG compensation relates to the other priorities in article 19. Further, if the compensation exceeds congestion income on the hybrid interconnectors, it should be clarified whether there still is an obligation for the TSOs to compensate the full amount in such situations and finance the compensation payments otherwise, e.g. through tariffs.

[9] The following chapter IIIa is inserted:	
Chapter IIIa	
Specific investment incentives to achieve the Union's decarbonisation objectives	
Article 19a	
	BE: (Comments): We did in our previous written comments propose allow a market model in which a central counterparty sells back the volume contracted under CfDs to consumers or suppliers using a competitive "back-to-back". We thank the PCY for the different modifications and clarifications but we are not yet fully sure that this is fully possible under the actual text modification. We would either propose to include a paragraph in article 19a that clearly indicates that *Member States may provide in a regulatory framework which enables the sell back of the*

	volume contracted under CfDs to consumers or suppliers using a competitive "back-to-back" tender. Or explicitely include this possibility in article 19b
Power purchase agreements	NL: (Comments): PPA's could play an important role in the forward markets. In NL we already see that PPA's are an effective instrument for the developers of offshore windfarms to obtain the certainty they need for their investments. Moreover, the PPA's provide the off taker with certainty about its electricity cost for a longer period. BE: (Comments): • Why combination of support scheme and guarantee for PPA? Double support? • Why give preference to PPA's? In a support scheme we want the most cost efficient solution
1. **Without prejudice to Directive 2018/2001,** Member States shall ~~facilitate~~ **promote the uptake of** power purchase agreements ('PPAs')**, including by removing**	NL: (Drafting): 1. ~~**Without prejudice to Directive 2018/2001,**~~ Member States shall ~~facilitate~~ **promote**

unjustified barriers and disproportionate or discriminatory procedures or charges, with a view **to providing price predictability and**~~to~~ reaching the objectives set out in their integrated national energy and climate plan with respect to the ~~dimension~~ decarbonisation **dimension** referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets.	**the uptake of** power purchase agreements ('PPAs')**,** ~~**including by removing unjustified barriers and disproportionate or discriminatory procedures or charges,**~~ with a view **to providing price predictability and**~~to~~ reaching the objectives set out in their integrated national energy and climate plan with respect to the ~~dimension~~ decarbonisation **dimension** referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets. NL: (Comments): Why refer tot directive 2018/2001? It is not clear to us which barriers and disproportionate or discriminatory procedures or rates are meant. FI: (Comments): The provision has moved to a good direction. IE: (Drafting):

	Without prejudice to Directive 2018/2001, Member States shall ~~facilitate~~ **promote the uptake of** power purchase agreements ('PPAs')**,** ~~**including by removing unjustified barriers and disproportionate or discriminatory procedures or charges,**~~ with a view **to providing price predictability and**~~to~~ reaching the objectives set out in their integrated national energy and climate plan with respect to the ~~dimension~~ decarbonisation **dimension** referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets. **Without prejudice to Directive 2018/2001,** Member States shall ~~facilitate~~ ~~**promote the uptake of** power purchase agreements ('PPAs')~~**,** ~~**including by**~~ **remove**~~**ing**~~ **unjustified barriers and disproportionate or discriminatory procedures or charges,** with a view **to providing price predictability and**~~to~~ reaching the objectives set out in their integrated national energy and climate plan with respect to the ~~dimension~~ decarbonisation **dimension** referred to in point (a) of Article 4 of Regulation (EU) 2018/1999, while preserving competitive and liquid electricity markets. IE: (Comments): IE: (Comments): The added text implies that there are barriers and disproportionate procedures and charges. Procedures and charges are a matter for the Regulatory Authority and the System Operators and should not be biased in favour of PPAs. Power purchase agreements should incorporate granular matching of supply and demand

	and include support for flexibility and other technologies to avoid greenwashing and lower overall system costs. All PPAs should include requirements for community benefits and community engagement. CRU supports ACER-CEER position that the focus should be on the removal of barriers to the entry into of PPAs. It is still unclear how these clauses will impact on the Irish context as the various support schemes all mandate the entry into of PPAs. **This may in itself be a barrier to the entry into of PPAs by categories of customers who struggle to strike PPAs.**
2. Member States shall ensure that instruments ~~*such as guarantee schemes at market prices,*~~ to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty ~~in line with Articles 107 and 108 TFEU~~. **Such instruments may include, but are not limited to, state-backed guarantee schemes at market**	NL: (Drafting): 2. Member States shall ~~ensure~~ **promote** that instruments ~~*such as guarantee schemes at market prices,*~~ to reduce the financial risks associated to off-taker payment default in the framework of PPAs are in place and accessible to customers that face entry barriers to the PPA market and are not in financial difficulty ~~in line with Articles 107 and 108 TFEU~~. **Such instruments may include, but are not limited to, state-backed guarantee schemes at market prices, private guarantees, or facilities or facilities pooling demand for PPAs, in compliance with relevant Union law.** For this purpose, Member States **may**~~shall~~

prices, private guarantees, or facilities pooling demand for PPAs, in compliance with relevant Union law. For this purpose, Member States **may**~~shall~~ take into account **relevant** Union-level **facilities**~~instruments~~. Member States **may**~~shall~~ determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria.	take into account **relevant** Union-level **facilities**~~instruments~~. Member States **may**~~shall~~ determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria. NL: (Comments): We propose to use the word promote in the second paragraph as well (as in the first paragraph) The Netherlands is op the opinion that the government should only play a role in guarantees when the market cannot offer such guarantees itself. And, then only at market-based tariffs. IT: (Comments): We appreciate the consideration among the goals of the instruments that could be put in place to promote participation to PPAs, of the need to facilitate the aggregation of demand from customers that individually face barriers to entry to the PPA market but the term "facilities pooling demand" is not much clear. Would it also include the engagement of public entities that can promote and arrange aggregation of demand? FI:

	(Drafting): Member States **may choose to implement** instruments […] FI: (Comments): The additional legroom in this paragraph is welcomed but we would like to see the para 1 to be the general obligation and para 2 the additional option to reduce risks if needed. PPAs should be treated similarly to other hedging instruments without obligations to use certain instruments nor give financial support to to back them up. Also, the impact of the PPAs on financial markets should be better taken into consideration. The more volumes are hedged via PPAs the lower the volumes on the financial markets. IE: (Drafting): "Member States ~~shall ensure that~~ may choose to implement instruments" Member States ~~shall ensure that~~ may put in place the instruments ~~*such as guarantee schemes at market prices,*~~ to reduce the financial risks associated to off-taker payment default in the framework of PPAs ~~are in place~~ and make them accessible to customers that face entry barriers to the PPA market and are not in financial difficulty ~~in line with Articles 107 and 108 TFEU~~. **Such instruments may include, but are not limited to, state-backed guarantee schemes at market prices, private guarantees, or facilities pooling demand for PPAs, in compliance with relevant Union law. Alternatively, Member States may put in place such instruments to make forward hedging products referred to in Article 9(6) accessible to customers that**

	face entry barriers to the forward market. For this purpose, Member States **may**~~shall~~ take into account **relevant** Union-level **facilities**~~instruments~~. Member States **may**shall determine what categories of customers are targeted by these instruments, applying non-discriminatory criteria. IE: (Comments): IE: (Comments): Member State guarantee schemes or any form of intervention should be optional and not obligatory. PPAs are a standalone market which offer individual users a long term, reduced price contract for electricity. Any associated risk is a contractual matter between the generator and the offtaker and should not be guaranteed by the state / consumers.
3. **Without prejudice to Articles 107 and 108 TFEU, ~~I~~if a g~~G~~uarantee scheme~~s~~ for PPAs **is** backed by the Member State~~s~~ **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.	NL: (Drafting): 3. **Without prejudice to Articles 107 and 108 TFEU, ~~I~~if a possible g~~G~~uarantee scheme~~s~~ for PPAs **is** backed by the Member State~~s~~ **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

	IE: (Drafting): **Without prejudice to Articles 107 and 108 TFEU, ~~I~~if a g~~G~~**uarantee scheme~~s~~ for PPAs **is** backed by the Member State~~s~~ **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. Guarantees schemes for PPAs backed by the Members states shall not preclude the subjected generators from participating in balancing and ancillary services markets. IE: (Comments): It is essential to avoid any distortion or negative effect on liquidity in balancing and ancillary services markets. Guarantee schemes for PPAs should be designed in a way to keep incentivising generators to participate to these markets so to minimise costs for balancing the power system. DK: (Drafting): 3. **Without prejudice to Articles 107 and 108 TFEU, ~~I~~if a g~~G~~**uarantee scheme~~s~~ for PPAs **is** backed by the Member State~~s~~ **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. To this end, PPAs shall be financially settled.

	DK: (Comments): We find it necessary to avoid specific support for physically settled PPAs.
4. ~~*In the design of the*~~ **S**~~s~~upport schemes for electricity from renewable sources~~, *Member States*~~ shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements**.**	ES: (Drafting): 4. ~~*In the design of the*~~ **S**~~s~~upport schemes for electricity from renewable sources~~,~~ ~~*Member States*~~ shall allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements**,** provided that it does not negatively affect competition in any market, nor the overall efficiency of renewables deployment. IE: (Drafting): ~~*n the design of the*~~ **S**~~s~~upport schemes for electricity from renewable sources, ~~*Member States*~~ ~~shall~~ **may** allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements**.** DK: (Drafting):

	4. ~~In the design of the~~ Ssupport schemes for electricity from renewable sources~~,~~ ~~Member States shall~~ may allow the participation of projects which reserve part of the electricity for sale through a PPA or other market-based arrangements. DK: (Comments): It should be up to the member states to choose the role of PPA's regarding support schemes, as it should be avoided to create incentives which burdens the system for both producers and consumers
5. In the design of such support schemes Member States ~~*and*~~ **shall** endeavour to make use of evaluation criteria to incentivise **bidders to facilitate** the access ~~to the PPA market~~ **of**~~for~~ customers that face entry barriers **to the PPA market, provided this does not negatively affect competition in the market**. In particular, such evaluation criteria may give 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 entry barriers to the	ES: (Drafting): **5. In the design of such support schemes Member States** ~~*and*~~ ~~**shall**~~ may endeavour to make use of evaluation criteria to incentivise **bidders to facilitate** the access ~~to the PPA market~~ **of**~~for~~ customers that face entry barriers **to the PPA market, provided this does not negatively affect competition in the market**, nor increases the overall costs of renewable deployment. In particular, such evaluation criteria may give 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 entry barriers to the PPA market. ES:

PPA market.	(Comments): The design of CfDs should not prioritise those generators that have signed PPAs. That would introduce a market distortion that is not economically efficient, and gives advantage to vertically integrated companies when participating in the public support tender, as they have easier access to PPAs (moreover if the PPA should be signed before the construction of the facility). Therefore, this condition should be voluntary, and implemented case by case by Member States according to the national circumstances. FI: (Comments): This provision needs to be claried. It seems to say there is no need to incentivise bidders to facilitate access of customers in case it has a negative effect on competition? Who are the bidders in this scenario – the investors or the potential producers? IE: (Drafting): Suggest removal of the below text: ~~In particular, such evaluation criteria may give 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 entry barriers to the PPA market.~~ IE: (Comments): IE: (Comments): Projects which have a signed PPA or a commitment to sign a PPA are already at an advantage over other projects which are seeking to secure a CfD. PPAs and competitive CfD bidding processes are competing solutions to be pursued, therefore the choice between them should be left unrestricted to the generators, based on their business models and needs. Support Schemes should not be unduly biased towards projects which have in effect already secured a source of finance (at least in part) from a PPA. DK: (Drafting): **5.____ In the design of such support schemes Member States** ~~*and*~~ **~~shall~~ may** endeavour to make use of evaluation criteria to incentivise **bidders to facilitate** the access ~~to the PPA market~~ **of**~~for~~ customers that face entry barriers **to the PPA market, provided this does not negatively affect competition in the market**. In particular, such evaluation criteria may

	give 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 entry barriers to the PPA market. DK: (Comments): It is important that this does not become the main evaluation criteria, as it may undermine the most economic selection of bids in the public tenders.
6~~5~~. PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14.	FI: (Drafting): Delete. FI: (Comments): Should be left for commercial practises or to be taken part of support scheme conditions. IE: (Drafting): PPAs **subject to support schemes** shall specify the bidding zone of delivery and the responsibility for securing ~~**cross-zonal**~~ **financial** transmission rights ~~**in case of a change**~~ **to hedge the price risks between the**

	~~of~~ bidding zone in accordance with Article 14. DK: (Drafting): **6**~~5~~. PPAs shall specify the bidding zone of delivery and the responsibility for securing cross-zonal transmission rights in case of a change of bidding zone in accordance with Article 14. If the responsibility for securing cross-zonal transmission rights is not specified, the responsibility lies with the seller. DK: (Comments): Member States do not have direct influence on private contract design. It might be necessary to define a fallback clause that lays out what happens in case that the parties do not specifiy responsibility for securing transmission rights
7~~6~~. PPAs shall specify the conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in **compliance**~~accordance~~ with Union competition law.	FI: (Drafting): Delete. FI: (Comments):

	Member States should not give legislation on the content of the PPAs. This creates an additional counter party risk and should be left for commercial practise. IE: (Drafting): PPAs subject to support schemes shall specify the conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in **compliance** ~~accordance~~ with Union competition law. DK: (Drafting): **7**~~6~~. PPAs shall specify the conditions under which customers and producers may exit from PPAs, such as any applicable exit fees and notice periods, in **compliance**~~accordance~~ with Union competition law. If not specified, the exit fees shall be based on the forward market value of the remaining deliveries. If not specified, the notice period shall be [X] months. DK: (Comments): Member States do not have direct influence on private contract design. It might be necessary to define a fallback clause that lays out what happens in case that the parties do not specifiy responsibility for securing transmission rights

Article 19b	
Direct price support schemes for new investments in generation	ES: (Drafting): Direct price support schemes for new investments in generation and existing generation plants CZ: (Comments): We propose to add a definition of direct price support schemes. FI: (Comments): The use of CfDs should be voluntary and more flexibility to the redistribution of the surplus revenue is required. There is a fine line not going too far into the capacity market where no investment will happen with-out state support. The benefit of the provision relates to putting all new emission-free non-dispatchable power production capacity.

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

1. ~~1.~~ Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of ~~a~~ two-way contract**s** for differences~~.~~ New investments for the generation of electricity shall include investments in new power-generating facilities **or**~~,~~ investments aimed at **substantially:**	LV: (Drafting): If the Member State identifies the need to introduce a ~~D~~direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2, it may ~~shall~~ take the form of ~~a~~ two-way contract**s** for differences~~.~~ New investments for the generation of electricity shall include investments in new power-generating facilities **or**~~,~~ investments aimed at **substantially:** LV: (Comments): In the current situation, renewable projects prove to have a market basis due to high electricity prices. Therefore, any state funded support scheme should be considered carefully, especially taking into account the unique situation in Member State. LT: (Drafting): Direct price support schemes or orther forms of support for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of ~~a~~ two-way contract**s** for differences~~.~~ New investments for the generation of electricity shall

	include investments in new power-generating facilities **or**~~,~~ investments aimed at **substantially:** LT: (Comments): Member States should have flexibility when designing two-way contracts for difference, for xample with regards to prices, volumes, duration, so they can be adjusted to specific technologies and projects. It is also reasonable to allow Member States to grant other, similar forms of direct price support, which could achieve the same objectives. NL: (Drafting): **1.** ~~1.~~ Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 ~~shall~~ may take the form of ~~a~~ two-way contract**s** for difference~~s~~. New investments for the generation of electricity shall include investments in new power-generating facilities **or**~~,~~ investments aimed at **substantially:** NL: (Comments): • NL remains very critical on the mandatory use of two-way CfDs for direct price support schemes for new investments for the generation of electricity. The Netherlands is strongly in favour of making the use of two-way CfDs for direct price support schemes

	optional. This is one of the most important articles for the Netherlands in the upcoming reform. o The Netherlands is critical about the mandatory nature of this article and strongly suggests to make the use of two-way CfDs for direct price support scheme optional. o Firstly, NL see the risk that ill-designed two-way CfDs reduce the incentives for producers to contribute to system integration and limiting systems costs. As NL will move to a system that is primarily based on wind and solar, this is a strong concern. o Secondly, NL believes that the mandatory use of two-way CfDs will lead to a higher subsidy need for renewable energy projects, since the developers of projects might take into account the revenue limits into their bids for support schemes. o Thirdly, NL has been supporting renewable energy projects and other types of projects in a cost-efficient and successful manner via the SDE-scheme. NL sees various significant risks for this existing scheme in the mandatory nature of two-way CfDs, which could slow down the roll-out of various renewable energy projects. • Considering the use of two-way CfDs for repowering, increasing capacity and prolonging lifetime, we have the following remarks: o The Netherlands believes that clear and objective criteria are needed. The applications should only be possible where there is evidently significant investment or actual life extension. o We acknowledge that the addition of "substantially" is a (minor) step in the right direction. However, this still is not providing the comfort needed as "substantially" remains to be vague and intangible and thus does not differ that significantly from the previous proposal. o Therefore the Netherlands would like to have clarified how "substantially" is to be defined. Would this differ per technology? Is a percentage of the total investment cost or does it refer to specific investment?

	IT: (Comments): On CFD Support schemes for new investments in generation wind, solar, geothermal, hydropower, nuclear, it is proposed to request a derogation from the CFD obligation in the case of incentives concerning plants with a power size not exceeding a predetermined threshold to be agreed. CZ: (Drafting): Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 shall take the form of a two-way contracts for differences, **or, where appropriate, alternative form of that support scheme.** New investments for the generation of electricity shall include investments in new power-generating facilities or, investments aimed at substantially: CZ: (Comments): We still believe, that CfD should not be the only support scheme possible. The MS should have an option for broader portfolio of tools. BE:

	(Comments): We did understand that support for CAPEX investments is not covered by the regulation, would it be possible to clarify this explictely in the article or in a recital? Must two-way contracts be symmetrical or not? How to avoid that this CfD is a 'blanco cheque' – how to fix the 'strike price' FI: (Drafting): Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 **may** take the form of a two-way contract for differences. ~~New investments for the generation of electricity shall include investments in new power-generating facilities~~ **or**~~, investments aimed at~~ **substantially:** IE: (Drafting): **1.** ~~1.~~ Direct price support schemes for new investments for the generation of

	electricity from the sources listed in paragraph 2 shall take the form of ~~a~~ two-way contract**s** for difference~~s~~. New investments for the generation of electricity shall include investments in new power-generating facilities **or**~~,~~ investments aimed at **substantially:** 1a. Two-way contracts for difference for new investments shall not incentivize the subjected generators to deviate their dispatch or price bidding from normal market behavior in Day-Ahead, Intraday and Balancing timeframe in the absence of a support scheme. In particular, Member States shall not make the payments under the support scheme conditional on the actual injection of the generator. IE: (Comments): CfDs must be very carefully designed to avoid distortions in short-term and balancing markets or increases in system costs. It's essential that price signals of Day-ahead, Intraday and balancing markets drive the use of the most efficient resources in every location and at every moment in time (e.g. disincentivising production at times of negative prices). This can be achieved by decoupling the remuneration of the CfD from the output of the generator such as with Capability-based CfDs With new paragraph 1a clearer principles are introduced to specify further in what way distortion-free CfDs should manifest: no incentive to change dispatch/pricing with regards to normal market functioning and, more precisely, not necessarily making the payments under the support scheme conditional to injection, so to allow efficient models such as Capability-based CfDs or Financial Wind CfDs. DK: (Drafting):

	Direct price support schemes for new investments for the generation of electricity from the sources listed in paragraph 2 **~~shall~~ may** take the form of ~~a~~ two-way contract**s** for differences. New investments for the generation of electricity shall include investments in new power-generating facilities **or**~~,~~ investments aimed at **substantially:** DK: (Comments): We strongly disagree with the proposal to limit the choice of support scheme to two-way CfDs. Member States should be able to choose how to promote the establishment of new energy generation, since many different schemes could be relevant.
a) repowering existing power-generating facilities**:**~~,~~	FI: (Drafting): **Delete.** DK: (Drafting): ~~**a)** repowering existing power-generating facilities.~~ DK:

	(Comments): We do not want any application of CfDs on existing generation subject to existings support schemes irrespective of new investments. This should clearly appear from the text – see proposal here in the written comments in the new subparagraph to paragraph 1. We further find it unclear what "substantial" investments aimed at repowering entails, as this can still be interpreted too broadly.
b) increasing their capacity; or	FI: (Drafting): **Delete.** DK: (Drafting): ~~**b) increasing their capacity; or**~~
c) ~~investments aimed at extending existing power-generating facilities or at~~ prolonging their lifetime.	FI: (Drafting):

	Delete. DK: (Drafting): ~~**c)** investments aimed at extending existing power-generating facilities or at prolonging their lifetime~~.
The first subparagraph shall apply to contracts under direct price support schemes for new investments in generation concluded as of one year after the date of entry into force of this Regulation.	NL: (Drafting): ~~**The first subparagraph shall apply to contracts under direct price support schemes for new investments in generation concluded as of one years after the date of entry into force of this Regulation.**~~ NL: (Comments): The Netherlands is in favor of making the use of two-way CfDs for direct price support schemes optional. Therefore, we see no need to have this paragraph included. DK: (Drafting):

	The first subparagraph shall not apply to investments in existing power-generating facilities that are subject to existing support schemes. To protect investment certainty, the first subparagraph shall apply to contracts under direct price support schemes for new investments in generation, ~~concluded as of one year after the date of~~ where the tender is commenced later than three years after entry into force of this Regulation. *OR alternatively formulated as an exemption:* To protect investment certainty, the first subparagraph shall not apply to contracts under direct price support schemes for new investments in generation, ~~concluded as of one year after the date of~~ where the tender is commenced earlier than three years after entry into force of this Regulation. DK: (Comments): We thank the presidency for trying to meet our concerns regarding the potential effects on projects that are already being planned. Unfortunately, the proposal to exempt projects where contracts have been concluded will not be sufficient to address this, as the very large scale projects we are planning are already vastly advanced in terms of administrative and political preparatory work and planning even

	though contracts are not yet concluded. We therefore propose to use the commencement of tenders instead, and we propose 3 years due to the timeline of our large scale projects. We propose two possible ways to do this. It is important to avoid creating instability and potentially delay important new projects, where political decisions have already been made. Such projects are therefore already in the planning fase, which starts several years before the tender, depending on the size of the project. This includes analysis, dialogue with the industry, financing etc. An immediate requirement to use CfDs would change the pipeline of existing projects, and would result in changes and potentially jeopardise the possibility to reach our common 2030 target.
2. Paragraph 1 shall apply to new investments in generation of electricity from the following sources:	CZ: (Drafting): Paragraph 1 shall apply to new investments in generation of electricity from the ~~following~~ **low-carbon** sources**, meeting sustainability criteria**. CZ: (Comments):

	There are other low-carbon technologies that are not in the list (such as H2, biogas, biomass, CCS-equipped technologies), yet can make significant contribution to decarbonisation and provide vital sources for electricity grid management and they shall not be omitted. We should respect principle of technological neutrality. That is why we propose exclusing explicit list of technologies but rather setting clear eligibility criteria.
(a) wind energy;	CZ: (Drafting): ~~(a) wind energy;~~
(b) solar energy;	CZ: (Drafting): ~~(b) solar energy;~~
(c) geothermal energy;	CZ: (Drafting): ~~(c) geothermal energy;~~

(d) hydropower without reservoir;	CZ: (Drafting): ~~(d) hydropower without reservoir;~~
(e) nuclear energy;	CZ: (Drafting): ~~(e) nuclear energy;~~
3. Direct price support schemes in the form of two-way contracts for difference shall **ensure that**:	LV: (Drafting): **Revenues from the** direct price support schemes in the form of two-way contracts for difference **may** ~~**shall ensure that**~~: NL: (Comments): • Considering the redistribution we have the following remarks: o NL is of the opinion that MS should have national flexibility on how any

	collected revenues are used. For instance, those revenues could also be used for investment into the energy transition, e.g. investment in renewable energy projects on infrastructure investments. This proposal would seriously infringe on a Member State's right to self-determine how to spend its revenues. o Under the current proposal, the Netherlands also sees various risks. Firstly, a risk for the level-playing field between member states. Incentives could arise to design two-way CfDs in such a way that they support industrial policy goals instead of the needs of the European electricity system (flexibility). o Secondly, NL believes that redistribution of revenues could potentially discourage companies and consumers from saving of electricity at times of high electricity prices. Which in turn could lead to have an upward effect on the electricity prices. In times of scarcity this effect is highly undesirable. Thirdly, NL would like to express its' concerns about the implementation of redistribution. The fact that the proposal envisages that excess profits will be redistributed to end-users in proportion to consumption seems to suggest that this will have to be carried out (via energy bills) by energy suppliers which seems to be very complex and inefficient as it could involve additional costs due to complex settlements and require additional back office and admin. BE: (Comments): Who defines the 'strike price'. Is it the MS who sets up the support scheme? It should be the members states that decide to which groups (e.g. vulnerable consumers, low

	income groups, …) and how (e.g. subsidies for HP or PV, discount on energy bills, lump sum rebates, funding energy efficiency measures …) these revenues are distributed. The revenues that are distributed to undertakings should be subject to an approval under the state aid rules since these can have implications on the competition between industries of different EU countries. FI: (Comments): Mahdollinen yhteinen ehdotus tähän. IE: (Drafting): Direct price support schemes in the form of two-way contracts for difference shall **ensure that**: a. the **revenues collected and the costs paid are distributed to final customers according to a fair, transparent and non-discriminatory methodology;** ~~be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);~~ b. **to the extent that part of the revenues and the costs is distributed to undertakings, this distribution covers all undertakings in proportion to their share of consumption (same refund per MWh consumed). The part of the revenues that may be distributed to undertakings shall not exceed the combined share of electricity consumption of all undertakings;** c. ~~ensure that~~ the distribution of the revenues to final ~~electricity~~ customers is designed ~~so as not~~ to **maintain** ~~remove~~ the incentives ~~of consumers~~ to reduce their consumption or shift it to periods when electricity prices are low ~~and not to undermine competition between electricity suppliers.~~ **d. be designed so that they minimise their possible negative impact on the liquidity of forward market and on the scope for competition between electricity suppliers;** e. **be designed so that the revenues or costs settled with producers ensure that their generation incentives remain efficient. In particular, such settlement shall provide incentives to increase**

	production when prices are high and reduce production when prices are low; IE: (Comments): **Original Comment** The proposed amendment appears to only applies in a scenario where the market price is above the strike price, i.e., customers will be paid back on a MWh basis but when the market prices are below the strike price the customer pays support, as applicable, on a fix basis. This proposal seems unequitable, it also would reduce the incentive to decrease consumption, given how customers are being refunded based on usage. **REV 2 Comment** The CRU supports the general CEER-ACER position on these articles. Generally any changes to the nature of supports scheme design should forward trading, and Member States need flexibility in how to apply any such costs and revenues to their consumers. DK: (Drafting): ~~3. Direct price support schemes in the form of two-way contracts for difference shall~~ **~~ensure that~~**~~:~~

	DK: (Comments): MS' ability to use revenues as see fit should be respected. Therefore, we would like to see this part of the proposal deleted.
(a) **the revenues collected are distributed to final customers;** ~~be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);~~	LV: (Drafting): **~~the revenues collected are~~ be distributed to certain groups of final customers or to all final customers; or** ~~be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);~~ **be used to compensate the CfD counterparty for payments related to CfDs; or** **be used to finance investments in new renewable generation capacity.** LV: (Comments): Latvia could support the following proposal:

	NL: (Drafting): ~~(a) **the revenues collected are distributed to final customers;** be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);~~ NL: (Comments): See comments above. ES: (Drafting): (a) **the revenues collected are distributed to final customers**, in particular favouring vulnerable customers**;** ES: (Comments): Spain supports as the best solution for this provision the initial text as proposed by the Commission, that clearly states that a MS can distribute the revenues to all consumers. As a

	second alternative, the text proposed by the Presidency can be completed to enable that, in case a Member State decides to distribute the revenues from CfDs directly to final costumers, it shall be mandatory that the revenues apply to vulnerable costumers first. FI: (Drafting): **Delete.** FI: (Comments): There needs to be flexibility for Member States to use revenues as they see fit. IE: (Drafting): *the revenues are distributed to final customers based on the same methodology of collection* IE: (Comments): IE (Comments): Some consideration should be included as to how the revenues will be distributed.

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

	DK: (Drafting): ~~(a) **the revenues collected are distributed to final customers;** be designed so that the revenues collected when the market price is above the strike price are distributed to all final electricity customers based on their share of consumption (same cost / refund per MWh consumed);~~
	BE: (Comments):
(b) **to the extent that part of the revenues is distributed to undertakings, this distribution covers all undertakings in proportion to their share of consumption (same refund per MWh consumed). The part of the revenues that may be distributed to undertakings shall not exceed the combined share of electricity consumption of all undertakings;**	LV: (Drafting): ~~(b) **to the extent that part of the revenues is distributed to undertakings, this distribution covers all undertakings in proportion to their share of consumption (same refund per MWh consumed). The part of the revenues that may be distributed to undertakings shall not exceed the combined share of electricity consumption of all undertakings;**~~

	LT: (Comments): We support that the addition of a new paragraph 3(b) proposes the possibility to distribute CfD revenues to undertaikings and not only to final customers. However, there is still a gap how CfD revenues could offset the costs of government CfD payments. NL: (Drafting): ~~(b)~~ **~~to the extent that part of the revenues is distributed to undertakings, this distribution covers all undertakings in proportion to their share of consumption (same refund per MWh consumed). The part of the revenues that may be distributed to undertakings shall not exceed the combined share of electricity consumption of all undertakings;~~** NL: (Comments): See comments above. IT: (Comments):

	The new limitation on the distribution of the revenues is still under discussion. We reserve the right to submit later on specifi comments on this issue. BE: (Comments): Is the distribution of the revenues from CfD to undertaking covered by the state aid rules? The revenues that are distributed to undertakings should be subject to an approval under the state aid rules since these can have implications on the competition between industries of different EU countries. It should be the MS that decide to who and how the revenues are distributed to consumers (residential and professional or undertakings). A large consumer receive more revenues, but maybe has a lower price per MWh because of scale so there is a negative incentive for energy efficiency or lowering demand. What is the definition of 'an undertaking? Only companies (SMEs …) or also public bodies, schools, hospitals …? FI: (Drafting):

	b) be designed to preserve incentives for generators to operate and participate efficiently in the day-ahead, intraday, balancing and potential flexibility markets. FI: (Comments): Include incentives for generators to take into consideration the underlying short term markets. IE: (Drafting): (b) **to the extent that part of the revenues is distributed to undertakings, this distribution covers all undertakings in proportion to their share of consumption (same refund per MWh ~~consumed~~ or consumption). The part of the revenues that may be distributed to undertakings shall not exceed the combined share of electricity consumption of all undertakings;** IE: (Comments): The change in paragraph 3 to “for every MWh of consumption” rather than “consumed” may seem like a detail, but it is necessary to avoid strictly enforcing revenue distribution based on real measured consumption. More flexibility in

	determining the consumption metric should be allowed, otherwise, a flat MWh fee risks distortions on consumer flexibility. Moreover, Member States should be allowed to redistribute revenues of CfDs to consumers in the form of hedging tools so to offer the opportunity to limit risk exposure to price increases over longer periods, while preserving efficiency of forward and retail markets. DK: (Drafting): ~~(b) to the extent that part of the revenues is distributed to undertakings, this distribution covers all undertakings in proportion to their share of consumption (same refund per MWh consumed). The part of the revenues that may be distributed to undertakings shall not exceed the combined share of electricity consumption of all undertakings;~~
(c) ~~ensure that~~ the distribution of the revenues to final ~~electricity~~ customers is designed ~~so as not~~ to **maintain** ~~remove the~~ incentives ~~of consumers~~ to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers.~~;~~	NL: (Drafting): (a) ~~ensure that the~~ any distribution of the revenues to final ~~electricity~~ customers is designed ~~so as not~~ to **maintain** ~~remove the~~ incentives ~~of consumers~~ to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers.~~;~~undermine competition between electricity suppliers.~~;~~ IE: (Drafting):

	ACER shall monitor the implementation of direct price support schemes in all Member States and every two years issue a report on implementation and impact of price support schemes on competition and functioning of the internal electricity market. **5 years after entry into force of this Regulation the Commission shall adopt guidelines on further harmonisation of CfDs in accordance with Article 61, aiming to avoid their negative impacts on competition and functioning of the internal electricity market.** DK: (Drafting): ~~**(c)** ensure that the distribution of the revenues to final electricity customers is designed so as not to **maintain** remove the incentives of consumers to reduce their consumption or shift it to periods when electricity prices are low and not to undermine competition between electricity suppliers.;~~ DK: (Comments): It is not easy to design a scheme that fulfils both (b) (reduced price pr. MWh) and (c) preserve incentives. The goals are conflicting.
	ES:

	(Drafting): "4. Furthermore, Member States States that have a level of interconnectivity far below the interconnection targets for 2020 as referred in point (d)(1) of Article 4 of Regulation (EU) 2018/1999 may stablish a two-way contract for difference at a regulated price strike for existing non-contestable technologies. The duration of the two-way contract for difference contract will be set to match the remaining useful lifetime of the generation asset or any public concession to operate the asset. National competent authorities shall: (a) Identify non-contestable generation assets. (b) Determine the strike price of the contract for difference. Such strike price must allow non-contestable assets to recover a reasonable rate of return on investment." ES: (Comments): Some electricity generation technologies are non-contestable in several Member States and, in such cases, existing generators would be in a position to obtain supra-competitive profits, as rents cannot be competed away by new entrants. This is a market barrier and, in such cases, the European legal framework should allow Member States to design Contracts for Differences, CfDs, with those generators with a regulated strike price. In addition, for flexible generators the design of the CfD should include some pool price exposure, in order

	to incentivise them to produce during hours of high prices. In the context of high electricity prices due to emergency or crisis situations such as the ones already experienced in the European Union, these contracts could immediately reduce electricity prices for consumers and at the same time provide generators with regulatory certainty. We propose to reflect this in the text by adding a new paragraph 4 in article 19b of the Electricity Regulation 2019/943, and amending along the same lines article 19b (title and paragraph 3). The amendment in definition 2.76 is a technical adjustment to clarify that the principles in Directive 2018/2001 apply to any generating facility under a CfD according to the definition. In addition, we propose to amend point (a) of paragraph 3 of article 19b in order to allow sharing the cost of the CfDs among consumers. CfDs will produce a benefit when the market price is high and a cost when the market price is low, but the current proposal indicates only how to share the benefits. We propose to apply the same principle when it is a cost.
Article 19c	
Assessment of flexibility needs	FI: (Comments):

	Finland sees the flexibility measures presented in Article 19 c to f as a good way to promote flexibility and have a carve out from the capacity mechanism rules of the regulation. There is some room for improvement. There is the fear that the methodology will become as heavy as ERAA for capacity mechanisms and that may slow the use of flexibility significantly. This needs to be addressed somehow. For better usability of added flexibility, the system reliability should be added to the objectives. Therefore, the provisions should also cover behind meter dispatchable production such as gas turbines converted to emission free gases such as hydrogen. Such support should be limited to non-fossil flexibility without newness requirement.
1. By 1 January 2025 and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. **The report may take into account the European Resource Adequacy Assessment**	BE: (Drafting): By 1 January ~~2025~~ 2024 and every two years thereafter, the regulatory authority of each Member State shall […] **The report may take into account the European Resource Adequacy Assessment and national adequacy assessments pursuant to Article 20 of Regulation 2019/943.** ~~The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph 3*2* and using the methodology~~

and national adequacy assessments pursuant to Article 20 of Regulation 2019/943. The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph **3~~2~~** and using the methodology pursuant to paragraph **4~~3~~**.	~~pursuant to paragraph 4~~**~~3~~**~~.~~ BE: (Comments): We propose to delete the lats sentence as we feel that this is reduant. FI: (Drafting): 1. By 1 January **2026** and every two years thereafter, the regulatory authority of each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. **The report may take into account the European Resource Adequacy Assessment and national adequacy assessments pursuant to Article 20 of Regulation 2019/943.** The report shall be based on **European and national resource adequacy assessments, European and national network development plans and all other relevant studies.** FI:

	(Comments): There should be enough time to prepare the methodology and assess the flexibility need / potential. We should also avoid a very lengthy process seen with ERAA in setting capacity mechanisms to ensure swift integration of flexibility. IE: (Drafting): Within 18 months from the publication of the adopted proposal by ACER as per paragraph 6 and every two years thereafter, ~~the regulatory authority~~ a relevant body identified by ~~of~~ each Member State shall assess and draw up a report on the need for flexibility in the electricity system for a period ~~of at least 5 years~~ for a unique time horizon consistent with national and European scenario building activities, , in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. **The report may take into account the European Resource Adequacy Assessment and national adequacy assessments pursuant to Article 20 of Regulation 2019/943.** The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph **3**~~2~~ and using the methodology pursuant to paragraph **4**~~3~~. DK:

	(Drafting): 1. By 1 January ~~2025~~ 2026 or at the latest 2 years after finalisation of the methodology pursuant to paragraph 6 and every two years thereafter, the regulatory authority of each Member State or another competent entity designated by the Member State shall assess and draw up a report on the need for flexibility solutions in the electricity system for a period of at least 5 years, in view of the need to cost effectively achieve security of supply and decarbonise the power system, taking into account the integration of different sectors. **The report may take into account the European Resource Adequacy Assessment and national adequacy assessments pursuant to Article 20 of Regulation 2019/943.** The report shall be based on the data and analyses provided by the transmission and distribution system operators of that Member State pursuant to paragraph **3**~~*2*~~ and using the methodology pursuant to paragraph **4**~~*3*~~. DK: (Comments): It is central, that Member States are able to appoint another competent entity than the regulatory authority to carry out the assessment. This could be either another competent authority or – as we understand is the suggestion from some Member States – the TSO. The report on the assessment of flexibility needs is a report regarding the design of Member

	States energy systems with a focus on security of supply, decarbonisation and sector integration. Thus, it regards key issues of political character, which in Denmark are dealt with by the ministry or by an authority accountable to the minister, and thus ultimately under parliamentary control. Also, the task at hand is not a task which forms a natural part of the key tasks of a regulatory authority and which the regulatory authority has the relevant expertise for carrying out and thus would be equipped for. Even if the regulatory authority could use consultants it would stil need to have the relevant expertise to oversee and assess the consultants' work and take the final responsibility for the report. In Denmark, the exspertise lies with other authorities as mentioned, which are also politically accountable. Finally, giving the the regulatory authority the responsibility for the assessment would also mean an unneccessary duplication of tasks among different authorities and inefficient use of resources.
2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the	FI:

electricity system and consider, in particular, the potential of non-fossil flexibility such as demand ~~*side*~~ response and **energy** storage to fulfil this need, both at transmission and distribution levels. The report shall **include**~~*distinguish between*~~ seasonal, daily and hourly flexibility needs.	(Drafting): 2. The report shall include an evaluation of the need for flexibility to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility such as demand ~~side~~ response ~~and~~ **energy** storage and **dispatchable production capacity** to fulfil this need, both at transmission and distribution levels. The report shall **include**~~*distinguish between*~~ seasonal, daily and hourly flexibility needs **and take into account all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.** FI: (Comments): For level playing field for flexibility and for practical dispatchable production should be included. However, the inclusion should be explicit to avoid any confusion of the objective. A simple list of examples is not sufficient. IE: (Drafting): 2. The report shall include an evaluation of the different types of needs for flexibility to integrate electricity generated from renewable sources in the electricity system and provide guidance on how to assess the capability of the most suitable ~~consider, in particular, the potential of~~ non-fossil flexibility sources to cover the various needs such as demand ~~side~~

	response and **energy** storage to fulfil this need, both at transmission and distribution levels. The report shall **include**~~distinguish between~~ ~~seasonal, daily and hourly flexibility needs.~~ all relevant timeframes to be defined in the methodology. IE: (Comments): The assessment of flexibility needs must be separate from the identification of the most suitable flexibility sources to cover them. The scope of the national assessment and of the associated European methodology should be limited to the different types of flexibility needs. This will allow to best capture national specificities and needs while allowing a fast and timely implementation of the Regulation. The methodology may also include common non-binding guidance criteria on how to estimate the capabilities of different resources to cover those needs. The implementation of such approach should however take place at national level. DK: (Drafting): 2. The report shall include an evaluation of the need for flexibility resources to integrate electricity generated from renewable sources in the electricity system and consider, in particular, the potential of non-fossil flexibility resources such as demand~~ *side*~~ response and **energy** storage to fulfil this need, both at transmission and distribution levels. The report shall **include**~~distinguish between~~ seasonal, daily and hourly flexibility needs. DK:

	(Comments): Technical clarification.
3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation of the report referred to in paragraph 1 to the regulatory authority.	IE: (Drafting): 3. The transmission and distribution system operators of each Member State shall provide the data**, ~~and~~** analyses **and non-binding guidance criteria** needed for the preparation of the report referred to in paragraph 1 to the ~~regulatory authority~~ **identified relevant body**. DK: (Drafting): 3. The transmission and distribution system operators of each Member State shall provide the data and analyses needed for the preparation of the report referred to in paragraph 1 to the regulatory authority or the competent entity designated by the Member State for this task. DK: (Comments): See above.

4. The ENTSO for Electricity and the EU DSO entity shall coordinate transmission and distribution system operators as regards the data and analyses to be provided in accordance with paragraph 2. In particular, they shall:	FI: (Drafting): **Delete** FI: (Comments): We are afraid that setting up the methodology will be demanding and time consuming as we saw with ERAA methodology. Therefore, a simpler approach would be preferred. Using this approach would mean 2 years of methodology development, national process of at least 6 months and then the state aid approval that will take additional 2-3 years. We have somehat acute need for added flexibility starting around 2025 so there should be a way to cut the implementation time somehow. IE: (Drafting): 4. The ENTSO for Electricity ~~and~~ **in collaboration with** the EU DSO entity shall coordinate transmission and distribution system operators as regards the data**, ~~and~~** analyses **and non-binding guidance criteria** to be provided in accordance with paragraph 2. In particular, they shall: (a) define the type of data and format that transmission and distribution system operators shall provide to the ~~regulatory authorities~~ **identified relevant body, relying as much as**

	possible on existing national and European studies; (b) develop a **stepwise** methodology for the analysis by transmission and distribution system operators of the flexibility needs**;** ~~taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.~~ **(c) provide guiding non-binding criteria on how to assess the capability of the most suitable flexibility sources to cover the needs.** IE: (Comments): At European level, to ensure consistency with other system studies and to leverage on existing expertise, ENTSO-E should be responsible for the definition of the European flexibility needs assessment methodology and of the non-binding guidance criteria in cooperation with EU DSO Entity, building on the existing agreement between the Associations. To ensure consistency of results, the provided data should rely as much as possible on existing studies.
(a) define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities;	FI: (Drafting): **Delete**

	DK: (Drafting): (a) define the type of data and format that transmission and distribution system operators shall provide to the regulatory authorities or the competent entities designated by the Member States; DK: (Comments): See above.
(b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system.	FI: (Drafting): **Delete** FI: (Comments): It could be added to the national process set in para. 1 or 2 that the MS should take into account the all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system

	DK: (Drafting): (b) develop a methodology for the analysis by transmission and distribution system operators of the flexibility needs, taking into account at least all existing sources of flexibility and planned investments at interconnection, transmission and distribution level as well as the need to decarbonise the electricity system. The methodology shall allow for the analysis to take into account individual Member States' analytical reference scenarios and assumptions developed by the Member State for use in its energy planning and policy, such as, for example, targets for security of electricity supply and projections for the development of supply and demand in their electricity systems. DK: (Comments): The methodology should be designed, so national specificities can be taken into account in the analysis of the national TSO/DSOs that will be a basis for the assessment according to para. 1.

5. The ENTSO for Electricity and the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators.	FI: (Drafting): **Delete** IE: (Drafting): 5. The ENTSO for Electricity ~~and~~ **in cooperation with** the EU DSO entity shall closely cooperate with each other regarding the coordination of transmission and distribution system operators IE: (Comments): The re-scoped process of defining methodology and guidance criteria should be developed in a stepwise approach, providing for regular updates. This would allow to progressively assess more types of flexibility needs and to take into account technological and regulatory evolutions of the energy system.
6. By 1 March 2024, the ENTSO for Electricity and the EU DSO entity shall jointly submit to ACER a proposal regarding the type	BE:

of data and format to be submitted to regulatory authorities and the methodology referred to in paragraph 4~~3~~. 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 ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website.	(Drafting): Within 2 months after the adoption of this regulation~~By 1 March 2024~~, 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 regulatory authoritiesused] and the methodology referred to in paragraph 4~~3~~. Within ~~three~~ two months of receipt of the proposal, ACER shall either approve the proposal or amend it. In the latter case, ACER shall consult the ENTSO for Electricity and the EU DSO entity within a period of one month before adopting the amendments. The adopted proposal shall be published on ACER's website. FI: (Drafting): **Delete** IE: (Drafting): ~~By 1 March 2024~~ **After 18 months from the entry into force of the Regulation**, the ENTSO for Electricity ~~and~~ **in cooperation with** the EU DSO entity shall jointly submit to ACER a proposal regarding the type of data and format to be submitted to ~~regulatory Authorities~~ **the identified relevant body,** ~~and~~ the methodology **and the set of non-binding criteria** referred to in paragraph 4~~3~~. 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

	ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website **and then reviewed and possibly updated every 2 years**. DK: (Drafting): 6. By 1 March 2024, 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 regulatory authorities or the competent entities designated by the Member States and the methodology referred to in paragraph **4**~~3~~. 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 ENTSO for Electricity and the EU DSO entity before adopting the amendments. The adopted proposal shall be published on ACER's website. DK: (Comments): See above.
7. The regulatory authorities shall submit the reports referred to in paragraph 1 to ACER and publish them. Within 12 months of receipt	IE:

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 authorities.	(Drafting): 7. The ~~regulatory authorities~~ **identified relevant body in each Members State** shall submit the reports referred to in paragraph 1 to ACER and 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 authorities~~ **identified relevant bodies**. DK: (Drafting): 7. The regulatory authorities or the competent entities designated by the Member States shall submit the reports referred to in paragraph 1 to ACER and 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 authorities or the competent entities designated by the Member States. DK: (Comments): See above.
Article 19d	

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

Indicative national objective for demand ~~*side*~~ response and **energy** storage	
Based on the report of the regulatory authority pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand ~~*side*~~ response and **energy** storage. This indicative national objective 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 biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999.	BE: (Drafting): ~~Based on the report of the regulatory authority pursuant to Article 19c(1)~~, Eeach Member State shall define an indicative national objective for demand side response and **energy** storage. This indicative national objective 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 biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999. As soon as this is available, the report of the regulatory authority pursuant to Article 19c(1) will be taken into account when defining or amending this objective., BE: (Comments): Urgent action is needed to wind down the use of fossil capacities and to speed up DSR and storage while safeguarding security of supply. The definition of a national objective should not need to wait for the process of article 19c to be completed. A lot of data is already available, and the report of article 19c should not need

	to be the sole input either Storage limited to e-batteries, or also EV's or thermal storage,….? Indicative is important. DSM and storage are a means and no objective. IE: (Drafting): Based on the report of the identified relevant body ~~regulatory authority~~ pursuant to Article 19c(1), each Member State shall define an indicative national objective for demand~~-side~~ response and **energy** storage. This indicative national objective 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 biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999. IE: (Comments): Consistent with the respective amendment proposal in Article 19c. DK: (Drafting): Based on the report of the regulatory authority or another competent entity designated by

	the Member State pursuant to Article 19c(1), each Member State shall define an indicative national objective for non-fossil fuel flexibility resources such as demand ~~side~~ response and **energy** storage. This indicative national objective 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 biennial progress reports in accordance with Article 17 of Regulation (EU) 2018/1999. DK: (Comments): Regarding competent entity, see above. Regarding the objective, it is not clear why it should be limited to demand response and energy storage only.
Article 19e	BE: (Comments): How does this this monitoring obligation via the NECP links with the Governance Regulation (2018/1999)? What does the Commission concretely aim at with the notion of flexibility support scheme?

	Can paragraph 3 be also applicable if MS have a capacity mechanism in force ? It can be still relevant for DSO purposes. IE: (Comments): IE generally supports the Commission propospals on flexibility and less so the ACER-CEER position on this topic. Our view is that there should generally be an effort to avoid an ERAA-like process which has already proven to be difficult to implement. The ACER-CEER position risks delaying ongoing processes, and ultimately the meeting of our targets. The Italian, Spanish and Portuguese are likely to say similar things based on their NRAs' views.
Non-fossil ~~F~~flexibility support schemes	CZ: (Drafting): **Low carbon ~~Non-fossil~~ ~~F~~f**lexibility support schemes CZ: (Comments): We call for respecting technological neutrality.

Important: In order to guarantee that your comments appear accurately, please do not modify the table format by adding/removing/adjusting/merging/splitting cells and rows. This would hinder the consolidation of your comments.

1. **A** Member State~~s~~ which appli**es**~~y~~ a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility**,** such as demand-~~*side*~~ response and **energy** storage by introducing additional criteria or features in the design of the capacity mechanism.	EL: (Drafting): 1. A Member State which applies a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of fast ramping resources ~~non-fossil flexibility such as demand response and energy storage~~ by introducing additional criteria or features in the design of the capacity mechanism. EL: (Comments): **The EU has to safeguard any type of available flexible resources during the next decade or so, in order to achieve the ambitious energy and climate target toward 2030 and beyond. These targets foresee the dominance of intermittent RES in power generation (>70% in 2030). Huge amounts of flexibility will be needed for the TSOs to cope with such volumes of wind and solar electricity.** **However, the two types of flexibility included in EC's proposal are not going to be available at the scale needed, at least during the next decade. Specifically, according to the data provided by ENTSOE in the framework of ERAA 2023, there will be less than 30 GW of demand response capacity in EU in 2030. Moreover, several member states will have neglectable demand capacity. So, this type of flexible capacity cannot be considered as a pylon of flexibility for the next decade. Regarding batteries, the same source of data indicates some 220 GW in 2030. Of course, this figure should be considered as an upper limit due to a number of uncertainties related to batteries capacity development in EU in the next decade. Such uncertainties include capex, revenue streams and grid issues.** **At the same time, the very same compilation of data for the ERAA 2023 foresees more than 1.000 GW of intermittent wind and solar capacity. So, it is crystal clear that this gigantic source of intermittency cannot be regulated and balanced just by an uncertain amount of battery capacity.**

	Therefore, the power systems will be dependent on significant amounts of flexibility to be delivered by large hydro power plants and modern gas-fired units. The latter have specific emissions of less than 380 kg CO2/MWh, which is a figure not far from the average carbon intensity of the EU electricity mix and just a quarter of the carbon intensity of the lignite- fired units. Due to the increasing penetration of the RES into the EU's electricity mix during the next decade, the gas-fired units will only be able to sell a limited amount of energy. Thus, these units won't be able to secure economic viability just by selling energy. However, these units will constantly be needed by the TSOs in order to provide flexibility and security of supply. Therefore, a new stream of revenue should be available to these units. Such a stream should be market-based and could emerge from the participation of these units in a mechanism/market that rewards any available resource of fast ramping. CZ: (Drafting): 1. **A** Member State~~s~~ which appl**ies**~~y~~ a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility**,** such as demand ~~*side*~~ response and **energy** storage by introducing additional criteria or features in the design of the capacity mechanism. BE: (Drafting): 1. A Member States which appliesy a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility, such as demand side response and energy storage by introducing additional criteria or features in the design of the capacity mechanism, if this participation of non-fossil flexibility is not yet duly foreseen in the design of the capacity mechanism

	IE: (Drafting): **A** Member State~~s~~ which appl**ies**~~y~~ a capacity mechanism in accordance with Article 21 shall consider the promotion of the participation of non-fossil flexibility**,** such as demand~~-side~~ response and **energy** storage ~~by introducing additional criteria or features in the design of the capacity mechanism.~~in accordance with their expected contribution to addressing the adequacy concern. IE: (Comments): The primary purpose of Capacity Mechanisms is to ensure adequacy, and depending on the needs of a given electricity system, it can be best achieved by adding different kinds of resources – both stable, non-flexible and flexible kinds. Flexibility must not be mistaken with adequacy, and long-term adequacy will not be achieved by flexibility alone: there is a fundamental difference between the short term unavailability of power in a given location of the grid and prolonged lack of capacity to cover demand in the whole system. For the above reasons, it is not appropriate to discriminate Member States applying Capacity Mechanisms by imposing stricter criteria to be passed in order to apply support schemes for flexibility. DK: (Drafting): 1. **A** Member State~~s~~ which appl**ies**~~y~~ a capacity mechanism in accordance with Article

	21 shall consider the promotion of the participation of non-fossil flexibility resources, such as demand-~~side~~ response and **energy** storage by introducing additional criteria or features in the design of the capacity mechanism. DK: (Comments): Technical clarification.
2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and **energy** storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with **Article** 19d, Member States may apply **non-fossil** flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand-~~side~~ response and **energy** storage.	EL: (Drafting): 2. Where the measures introduced in accordance with paragraph 1 to promote the participation of fast ramping resources ~~non-fossil flexibility such as demand response and energy storage~~ in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with Article 19d, Member States may apply ~~non fossil~~ flexibility support schemes consisting of payments for the available capacity of fast ramping resources ~~non-fossil flexibility such as demand side response and energy storage~~. EL: (Comments): **See above comments**

	CZ: (Drafting): 2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and **energy** storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with **Article** 19d, Member States may apply **low carbon** ~~**non-fossil**~~ flexibility support schemes consisting of payments for the available capacity of ~~non-fossil~~ **low carbon** flexibility such as demand~~-side~~ response and **energy** storage. CZ: (Comments): We call for respecting technological neutrality. BE: (Drafting): ~~2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and~~ **~~energy~~** ~~storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with~~ **~~Article~~** ~~19d, Member States may apply~~ **~~non-fossil~~** ~~flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as~~

	~~demand side response and **energy** storage.~~ BE: (Comments): The process foreseen in the draft is too long: first establish a methodology, then draft a flexibility report, validate a national objective based on this report, introduce additional measures in the CRM and/or have a flexibility scheme approved under State Aid rules. And only then have a specific scheme organised, with new capacities online at best one year after their selection. In view of the war in Ukraine urgent action is needed. Furthermore, additional DSM and storage is a no regret in any case (climate objectives). I.e. no need to apply such strict criteria and such a lengthy process. Regardless of having a CRM in place or not, specific support measures for new DSR and storage can prove a rapid and cost-efficient answer to urgent flexibility and security of supply needs. IE: (Drafting): ~~Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility such as demand response and **energy** storage in capacity~~

	~~mechanisms are insufficient to~~ To achieve the flexibility needs identified in accordance with **Article** 19d, Member States which apply a capacity mechanism in accordance with Article 21 may also may apply **non-fossil** flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand~~-side~~ response and **energy** storage. DK: (Drafting): 2. Where the measures introduced in accordance with paragraph 1 to promote the participation of non-fossil flexibility ressources such as demand response and **energy** storage in capacity mechanisms are insufficient to achieve the flexibility needs identified in accordance with **Article** 19d, Member States may apply **non-fossil** flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand~~-side~~ response and **energy** storage. DK: (Comments): Technical clarification.
3. Member States which do not apply a capacity mechanism may apply **non-fossil**	EL:

flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand~~-*side*~~ response and **energy** storage.	(Drafting): ~~3.~~ Member States which do not apply a capacity mechanism may apply ~~non-fossil~~ flexibility support schemes consisting of payments for the available capacity of fast ramping resources ~~non-fossil flexibility such as demand-side response and energy storage~~ EL: (Comments): **See above comments** CZ: (Drafting): 3. Member States which do not apply a capacity mechanism may apply **low carbon** ~~**non-fossil**~~ flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand~~-*side*~~ response and **energy** storage. CZ: (Comments): We call for respecting technological neutrality. BE: (Drafting):

	3. Member States ~~which do not apply a capacity mechanism~~ may apply **non-fossil** flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility such as demand~~-side~~ response and **energy** storage. In case the Member State applies a market-wide capacity mechanism, their coherence will be ensured BE: (Comments): Can paragraph 3 also apllied if member states have a capacity mechanism (CRM) in place? Flexibility support schemes can still be nesscesary for demand response and storage for DSO purposes like congestion management, even if a capacity mechanism is in place. Are these support schemes also linked to the objectives for flexibility in article 19d? DK: (Drafting): 3. Member States which do not apply a capacity mechanism may apply **non-fossil** flexibility support schemes consisting of payments for the available capacity of non-fossil flexibility ressources such as demand~~-side~~ response and **energy** storage. DK: (Comments): Technical clarification.

Article 19f	BE: (Comments): Does this article imply that MS are not allowed anymore to support flexibility by fossil production installations? A different Flexibility support scheme for fossil flexibility is possible? eg: many CHP's have been installed to provide this flex. Idem for the potential (old) back-up generators, fossiel fueled…
Design principles for **non-fossil** flexibility support schemes	CZ: (Drafting): Design principles for **low carbon** ~~**non-fossil**~~ flexibility support schemes CZ: (Comments): We call for respecting technological neutrality.

Non-fossil ~~*F*~~**f**lexibility support schemes ~~*for non-fossil flexibility such as demand response and storage*~~ applied by Member States in accordance with Article 19e(2) and (3) shall:	EL: (Drafting): ~~Non-fossil~~ flexibility support scheme for fast ramping resources applied by Member States in accordance with Article 19e(2) and (3) shall: EL: (Comments): **See above comments** CZ: (Drafting): **Low carbon** ~~**non-fossil**~~ ~~*F*~~**f**lexibility support schemes ~~*for non-fossil flexibility such as demand response and storage*~~ applied by Member States in accordance with Article 19e(2) and (3) shall: CZ: (Comments): We call for respecting technological neutrality. DK:

	(Drafting): Without prejudice to the application of state aid rules, n**on-fossil** ~~f~~**f**lexibility support scheme**s** ~~for non-fossil flexibility such as demand response and storage~~ applied by Member States in accordance with Article 19e(2) and (3) shall: DK: (Comments): Technical clarification.
(a) not go beyond what is necessary to address the identified flexibility needs in a cost-effective manner;	
(b) be limited to new investments in non-fossil flexibility such as demand ~~*side*~~ response and **energy** storage;	EL: (Drafting): ~~b) be limited to new investments in non-fossil flexibility such as demand *side* response and **energy** storage;~~ EL:

	(Comments): **See above comments** CZ: (Drafting): (b) be limited to new investments in **low carbon** ~~non-fossil~~ flexibility such as demand ~~*side*~~ response and **energy** storage; CZ: (Comments): We call for respecting technological neutrality. FI: (Drafting): (b) be limited to new investments in non-fossil flexibility such as demand ~~side~~ response and **energy** storage **including fuel convertion from fossil to non-fossil fuels**; FI: (Comments): Similar to Article 19b, new investments should include investments to new technology to convert fossil fuel based dispatchable generation units to non-fossil based fuels and use

	existing back up generations for flexibility. DK: (Drafting): (b) be limited to new investments in non-fossil flexibility sources such as demand ~~side~~ response and **energy** storage; DK: (Comments): Technical clarification
(c) ~~*must*~~ not imply starting fossil fuel-based generation located behind the metering point;	EL: (Drafting): ~~(c) *must* not imply starting fossil fuel-based generation located behind the metering point;~~ EL: (Comments): **See above comments**

(d) select capacity providers by means of an open, transparent, competitive, non-discriminatory and cost-effective process;	
(e) prevent undue distortions to the efficient functioning of the electricity markets including preserving efficient operation incentives and price signals and the exposure to price variation and market risk;	BE: (Comments): Flexibility markets like balancing or congestion markets are not mentioned? Or are these seen as a part of the electricity markets?
(f) provide incentives for the integration in the electricity market 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 stability;	BE: (Comments): Flexibility markets like balancing or congestion markets are not mentioned? Or are these seen as a part of the electricity markets? IE: (Drafting): (f) provide locational incentives for the integration in the electricity market 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, grid congestions and grid stability; IE: (Comments): Flexibility needs may be highly location-specific, therefore also incentives shall be locational. A cross-border participation (or more generally: a participation of resources providing the service from a location that differs from the location where the flexibility needs originates) may be assessed but it is important to test whether an equivalent service can be provided.
(g) set out a minimum level of participation in the market in terms of activated energy, which takes into account the technical specificities of **the asset delivering the flexibility**~~*storage and demand response*~~*;*	BE: (Comments): This seems contrary to (e) and (f) isn't it?
(h) apply appropriate penalties to capacity providers which do not respect the minimum level of participation in the market referred to in point (g), or which do not follow efficient	BE: (Comments):

operation incentives and prices signals **referred to in point (e)**;	This seems contrary to (e) and (f). isn't it? Penalties should target availability, not activated energy
(i) be open to cross-border participation.';	IE: (Drafting): (i) be open to cross-border participation if an equivalent service can be provided from a location that differs from the location where the flexibility need originates.
(10) 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, the capacity allocation and congestion management guideline and the electricity balancing guideline adopted on the basis of Article 18(5) of	

Regulation (EC) No 714/2009;”;	
(11) Article 50 is amended as follows:	CZ: (Comments): There is a discrepancy between this obligation for TSOs (having it already withing the regulation) whereas DSOs have this obligation incorporated in directive 2019/944, e.g. subject to transposition into national legislation. We would like these obliogations to be alligned within the directive 2019/944
(a) the following paragraph 4a is added:	IE: (Drafting): ~~(a) the following paragraph 4a is added:~~
“4a. Transmission system operators shall publish in a clear and transparent manner, information on the capacity available for new connections in their respective areas of operation, including in congested areas if flexible energy storage connections can be	CZ: (Drafting): Transmission system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request ";

accommodated, and update that information regularly, at least quarterly.	**Published information is of indicative nature and it does not represent a legally binding right for connection capacity.** CZ: (Comments): The real availability of the connection capacity can be granted to the applicant onlůy based on detailed connection study based on concrete data by the applicant. IE: (Drafting): ~~"4a. Transmission system operators shall publish in a clear and transparent manner, information on the capacity available for new connections in their respective areas of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly.~~ IE: (Comments): The obligation to publish data on connection capacities is proposed inconsistently for TSOs and DSOs. For TSOs this obligation is proposed in Article 50 of Regulation 2019/943, for TSOs in Article 31 of Directive 2019/944. We consider this to be unsystematic. Thus, the implementation of the DSOs` requirement is only conditional on transposition into Member State legislation. For TSOs, this obligation is imposed by a directly applicable regulation with effect from the entry into force of the regulation. We therefore propose to set both requirements for TSOs and DSOs

	in the same way in Directive 2019/944.
Transmission system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request ";	
(12) in Article 57, the following paragraph 3 is added:	
"3. Distribution system operators and transmission system operators shall cooperate with each other in publishing information on the capacity available for new connections in their respective areas of operation in a consistent manner and giving sufficient granular visibility to developers of new energy projects and other potential network users.	

(13) in Article 59 (1), point (b) is replaced by the following:	
"(b), capacity-allocation and congestion-management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, 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 including the possibility of being operated by a single entity, the firmness of allocated cross-zonal capacity, congestion income distribution, **the regional virtual hubs for the forward market, the allocation and facilitation of trading** ~~the allocation~~ of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination	IE: (Drafting): "(b), capacity-allocation and congestion- management rules pursuant to Article 6 of Directive (EU) 2019/944 and Articles 7 to 10, 13 to 17, 19 and 35 to 37 of this Regulation, 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 ~~including the possibility of being operated by a single entity~~, the firmness of allocated cross-zonal capacity, congestion income distribution, **~~the regional virtual hubs for the forward market, the allocation and facilitation of trading~~** ~~the allocation~~ of financial long-term transmission rights by the single allocation platform, cross-zonal transmission risk hedging, nomination procedures, and capacity allocation and congestion management cost recovery;"; IE: (Comments): TSOs and Power Exchanges believe that assigning the operation of the day-ahead and intraday market coupling to a single entity would hinder – rather than speed-up

procedures, and capacity allocation and congestion management cost recovery;”;	– market integration. • Decentralised implementation of projects to regional level is not simply a legacy of the original start-up of the projects but is necessary to cope with national or regional TSOs pre-coupling or post-coupling processes. • Decentralised implementation is an effective way to streamline, parallelize and reduce the time and costs of the projects, whenever this is possible. Decentralised NEMOs operational auction MCO model has proven to be very resilient. • Centralisation will not reduce the interdependencies between projects which sometimes causes cascade effects • Centralisation will de facto necessitate increased resources to perform several implementation projects at the same time, or this will create a bottleneck at the level of the central entity. • Despite formal centralization, multiple entities would still be necessary to ensure operational security, dissipating any perceived benefit of centralization. • Centralisation would create new operational risks. A single MCO entity means a single point of failure, meaning any incident would have far-reaching consequences. • The comments earlier regarding Virtual Hubs apply here also. It is EirGrid’s position that VHs should not be referenced in any legislation in advance of an impact assessment process.
(14) The following Article 69a is added:	
Article 69a	

Interaction with Union financial legislation	
Nothing in this Regulation shall derogate from the provisions of Directive (EU) 2014/65, Regulation (EU) 648/2012 and Regulation (EU) 600/2014 when market participants or market operators engage in activities related to financial instruments in particular as defined under Article 4(1)(15) of Directive (EU) 2014/65.	
(15) in Annex I point 1.2 is replaced by the following:	
"1.2. Coordinated capacity calculation shall be performed for all allocation timeframes".	
Article 2	
Amendments to 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	
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 is amended as follows:	
(1) Article 2 is amended as follows:	
(a) points (8) and (49) **are** ~~*is*~~ replaced by the following:	
"(8) 'active customer' means a final customer, or a group of jointly acting final customers, who consumes or stores electricity generated within its premises located within confined boundaries or self-generated or shared electricity within other premises located within the same bidding zone, or who sells self-generated electricity or participates in flexibility	BE: (Comments): What is the link between these two following parts of the definition: "*shared electricity within other premises located within the same bidding zone* " and "*or who sells self-generated electricity*"? The possibility for an active customer to share electricity is not already included in the possibility for him to sells self-generated electricity? What is the

or energy efficiency schemes, provided that those activities do not constitute its primary commercial or professional activity.”;	link between these two activities? What is the link with the obligation to share renewable energy within the same building when it concerns jointly acting renewables self-consumers (art. 21, § 4 RED) ? What is here the difference between share and sell? We feel that a difference is needed between supplier activities and energy sharing in a community. Energy sharing for a price in a community with 10000 members within the same bidding zone is actually suppling. That should come with supplier rights and duties.
“(49) 'non-frequency ancillary service' means a service used by a transmission system operator or distribution system operator for steady state voltage control, fast reactive current injections, inertia for local grid stability, short-circuit current, black start capability, island operation capability and peak shaving;”	
(b) the following points are added:	

(15a) 'fixed term, fixed price electricity supply contract' means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price, while it may, within a fixed price, include a flexible element with for example peak and off peak price variations;	BE: (Drafting): (15a) 'fixed term, fixed price electricity supply contract' means an electricity supply contract between a supplier and a final customer that guarantees the same contractual conditions, including the price, while it may, within a fixed price, include a flexible element with for example peak and off peak price variations condition that the different prices shall be fixed during the whole duration of the electricity supply contract with exit fees and notice periods,; BE: (Comments): What does *within a fixed price, include a flexible element with for example peak and off peak price variations* mean? Is it a dynamic contract with a fixed price cap? Fixed price contract with time of use? E.g. 2 different fixed prices day/night? We suggest to specify or change the name of the definition in order to avoid confusion with a fixed price contract where there is one fixed price for a fixed period without flexibele elements. We suggest to add 2 elements in the definition

	- explicitely mention that exit fees and notice periods may be foreseen - explicitly mention that the flexible element that is mentioned in the definition can not be understood as flexible with regards to the future evolution of the price during the contract period as this would go against the principle of a fixed term, fixed price electricity supply contract is in fact to have a supply contract which guarantees the same price for the entire duration of the contract. [so that flexibility in this definition does refers to for example that there be a day/night price and not to possibility to adopt the price during the contract period] However we do think that a contract with combines a fixed price element and a dynamic price element or contracts with a fixed cap could be valuable, to stimulate flexibility. We suggest to specify or change the name of the definition in order to avoid confusion with a fixed price contract where there is one fixed price for a fixed period without flexibele elements. FI: (Comments): We support the wording of the original proposal. Wide definitions on fixed term contract is appreciated and no need to further limit it.
(10a) 'energy sharing' means the self-consumption by active customers of renewable	BE:

energy either:	(Comments): This definition does not seem to be coherent with the provisions already in force in the EMD directive and the RED directive. These two directives already legislate on energy sharing with regard to energy communities: - EMD Directive: electricity sharing between members of a citizen energy community (article 16, (3), e)) - RED Directive: renewable energy sharing between members of a renewable energy community (article 22, (2), b)) Nevertheless, this new definition does not seem to take into account this element. Furthermore, a CEC can share non-renewable electricity between its members (not only renewable energy). The RED directive also already legislates on renewable energy sharing by renewables self-consumers located in the same building (article 21, (4)). Moreover, what is the link with the possibility for renewable self-consumers and active customers to sell self-generated electricity including through peer-to-peer trading arrangements → see article 22 RED directive? The definition of energy sharing/electricity should be replaced by the following proposal: "*the shared consumption between active customers acting jointly or members of an energy community connected to the distribution system, over the same quarter-hour period, in whole or in part, of electricity produced by one or more generating facilities connected to the distribution system and injected to the distribution system*".

(a) generated or stored offsite or on sites between them by a facility they own, lease, rent in whole or in part; or	
(b) the right to which has been transferred to them by another active customer whether free of charge or for a price.	NL: (Drafting): (b) ~~the right to~~ which has been transferred to them by another active customer whether free of charge or for a price. NL: (Comments): textual adjustment BE: (Comments): Opening up energy sharing (free of charge or for a price) for all active consumers undermines the concept of energy communities and it should be ensured to have a level

	playing field for all participants, including the supplier and imbalance responsible party. We propose to maintain free- of-charge energy sharing and allow the sales of energy in the following cases: • Peer-to-peer trading • Selling in an apartment building or multifunctional building • Within an energy community (REC/ CEC)- where member states are allowed to impose restrictions themselves, such as the number of participants. *"free of charge or for a price",* can a member state decide when energy sharing is free or for a price or is it an universal right for the active customer? Difference for energy communities citizen/renewable/P2P? A difference is needed between supplier activities and energy sharing in a community. Energy sharing for a price in a community with 10000 members is actually suppling. That should come with supplier rights and duties. What is the link with the possibility for renewable self-consumers and active customers to sell self-generated electricity including through peer-to-peer trading arrangements → see articles 15 EMD directive and 22 RED directive?

	Could you explain the links between all of these above-mentioned activities and the new concept of energy sharing included in the proposal?
~~*(10b) 'peer-to-peer trading' of renewable energy means peer-to-peer trading as defined in point (18) of Article 2 of Directive (EU) 2018/2001.*~~	BE: (Drafting): (10b) 'peer-to-peer trading' of renewable energy means peer-to-peer trading as defined in point (18) of Article 2 of Directive (EU) 2018/2001. BE: (Comments): This definition should be conserved and references to this concept should be done in the provision regarding energy sharing.
(24a) 'supplier of last resort' means a supplier who is designated ~~*by a Member State*~~ to take over the supply of electricity to customers of a supplier which has ceased to operate;	

(2) Article 4 is replaced by the following:	
"Article 4	
Free choice of supplier	
Member States shall ensure that all customers are free to purchase electricity from the supplier of their choice**.** Member States shall ensure that all customers are free to have more than one electricity supply contract at the same time, and that for this purpose customers are entitled to have more than one metering and billing point covered by the single connection point for their premises."	BE: (Drafting): Member States shall ensure that all customers are free to purchase electricity from the supplier of their choice**.** Member States shall ensure that all customers are free to have more than one electricity supply contract at the same time, ~~and that for this purpose customers are entitled to have more than one metering and billing point covered by the single connection point for their premises~~ provided that the required connection and metering points are established~~.~~" BE: (Comments): Can the com further explain what is the added value of this proposal? As this is already

	foreseen for charging points in directive 2014/94? How can MS implement this when they are not technically ready yet? Ok with content but we need more time to put it in operation (from 1/1/2025?). Does a single connection with multiple metering and billing points implies that two connection points with an own meter and billing point (a parallel system) e.g. an EV with one connection point and the other household consumption on the other connection point in the same premises is no longer possible? Why did the Commission choose to transform the technical condition for having a right to multiple electricity supply ("*provided that the required connection and metering points are established*") to a new additional right ("*and that for this purpose customers are entitled to have more than one metering and billing point covered by the single connection point for their premises"*)? FI: (Drafting): Member States shall ensure that all customers are free to purchase electricity from the supplier of their choice. Member States shall ensure that all customers are free to have more than one electricity supply contract at the same time, and that for this purpose customers are

	entitled to have more than one metering and billing point covered by the single connection point for their premises. **Each metering point that is used for billing must be its own separate electrical installation and be clearly separated from other metering points.** FI: (Comments): All metering and billing points behind the single connection point must be clearly separate electrical installations (e.g. separate metering and billing points for electric car charging point or hot water boiler and the rest of the apartment/house). The change is needed in order to ensure that the same connection point does not have two competing contracts on the same electricity consumption. This is also a prerequisite to ensure electrical safety. Also, it should be avoided that loads that are codependent, such as heating of a building, would be divided into two different metering and billing points. IE: (Comments): This is problematic for Ireland – will be fraught with system and cost issues which potentially would not benefit the consumer. • Implementation of this will require significant changes to market rules, processes and IT systems. • This has the potential to further delay or complicate the roll-out of smart metering systems in member states, as well as cause confusion with consumers, if the benefits are not immediately obvious.

	A comprehensive review of the existing regulatory framework would likely be required to implement this proposed amendment
(3) Article 11 is amended as follows:	
(a) the title is replaced by the following:	
'Entitlement to a fixed term, fixed price and dynamic electricity price contract';	
(b) paragraph 1 is replaced by the following:	
1. Member States shall ensure that the national regulatory framework enables suppliers to offer fixed-term, fixed-price contracts and dynamic electricity price contracts. Member States shall ensure that final customers who have a smart meter installed can request to conclude a dynamic electricity price contract and that all final customers can request to conclude a fixed-	BE: (Drafting): 1. Member States shall ensure that the ~~national regulatory framework enables~~ suppliers ~~to~~ offer fixed-term, fixed-price contracts and dynamic electricity price contracts. […] FI: (Drafting):

term, fixed-price electricity price contract of a duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers.	1. Member States shall ensure that the national regulatory framework enables suppliers to offer fixed-term, fixed-price contracts and dynamic electricity price contracts. Member States shall ensure that **consumers** who have a smart meter installed can request to conclude a dynamic electricity price contract and that all final customers can request to conclude a fixed-term, fixed-price electricity price contract of a duration of at least one year, with at least one supplier and with every supplier that has more than 200 000 final customers. FI: (Comments): The scope of this provision should be consumers within the meaning of the consumer protection directive (2011/83/EU) as any natural person who, in contracts covered by this Directive, is acting for purposes which are outside his trade, business, craft or profession. IE: (Comments): • This should be a competitive matter for suppliers to offer and be determined by a) consumer desire for such a product, b) and the suppliers ability to deliver a competitive fixed price contract. The availability of these contracts will give certainty to consumers but may also create upward pressure on prices, due to increased costs for suppliers.

(c) the following paragraph 1a is inserted:	
1a. Prior to the conclusion or extension of any contract, final customers shall be provided with a summary of the key contractual conditions in a prominent manner and in concise and simple language. This summary shall include at least information on total price **and its breakdown**, promotions, additional services, discounts and ~~*include*~~ **set out** the rights referred to in points (a), (b), (d), (e) and (f) of Article 10(3). The Commission shall provide guidance in this regard.	BE: (Comments): We feel that the precontractual obligations defined in the new paragraph 1A seem to be repetitive with the precontractual conditions already defined in article 10 (3) of the EMD Directive. The provisions specified in article 10 of the Directive EMD must be applied irrespective of the type of electricity supply contract. FI: (Drafting): 1a. Prior to the conclusion or extension of any contract, **consumers** shall be provided with a summary of the key contractual conditions in a prominent manner and in concise and simple language. This summary shall include at least information on total price **and its breakdown**, promotions, additional services, discounts and ~~*include*~~ **set out** the rights referred to in points (a), (b), (d), (e) and (f) of Article 10(3). The Commission shall provide guidance in this regard.

	FI: (Comments): 1a must be limited to consumers. Large business customers typically make customized contracts, and such an obligation of a summary of the key contractual conditions does not apply to these contracts. The wording shall align with the Consumer Protection legislation, as different protection requirements apply to different customer segments.
(d) paragraph 2 is replaced by the following:	
2. Member States shall ensure that final customers are fully informed by the suppliers of the opportunities, costs and risks of **the respective types of** ~~*dynamic*~~ electricity ~~*price*~~ contracts, and shall ensure that suppliers are required to provide information to the final customers accordingly, including with regard to the need to have an adequate electricity meter installed. Regulatory authorities shall monitor the market developments and assess the risks that the new products and services may entail and deal with abusive practices.	BE: (Comments): the obligation regarding the need to have an adequate electricity meter installed (smart meter) is only applicable for dynamic price contract and not for fixed term, fixed price contract. The provision must be adapted accordingly.

(4) The following Articles are inserted:	
"Article 15a"	
Right to energy sharing	BE: (Comments): The link between the right to share renewable energy provided through this reform and the provisions already in force in the EMD directive and the RED directive regarding: - Renewable and non-renewable energy/electricity sharing through energy community → CEC (article 16 EMD) and REC (article 22 RED) - Renewable energy sharing within the same building as jointly acting renewables self-consumers (article 21, § 4 RED) - Peer-to-peer trading arrangement of renewable energy by self-consumer (article 21, § 2, a) RED) should be specify in [the] recital. Because the links are not clear and this reform brings confusion regarding those various concepts. The provisions regarding energy sharing should be rephrased as energy electricity since the

	EMD directive only concerns electricity. Can suppliers impose costs for active customers that participate in sharing? Should we understand Public body = local authority? If not why the distinction? Through the revision, the concept of energy sharing would be anchored in European regulations and would be extended to active customers and could also be offered at a cost price. These proposed changes, which would allow active customers regardless of number, constellation, ... to be able to do energy sharing, a level playing field must be taken into account with regard to market participants such as suppliers and balance managers, including with regard to rights and obligations. In addition, the question arises as to what use the concepts of the Citizens Energy Community (CEC) and the Renewable Energy Community (REC) would still have after the proposed changes. Currently, an REC or a CEC is the access to energy sharing for a group of active customers who want to share energy but are not in the same building.

	Also, the proposed changes are not entirely clear about the relationship between "energy sharing" and "peer-to-peer trading." The newly proposed EU provision appears to regard peer-to-peer trade as a form of energy sharing. This is a different starting point than in the EU directives so far: 'peer-to-peer trading' is only mentioned + defined in the REDII directive, as a form of sale. The '(inter)sharing' of self-generated electricity/renewable energy also occurs, apart from peer-to-peer trading, several times in the EMD Directive and the REDII Directive, in the articles relating to energy communities and self-consumers of renewable energy in the same building. In summary, there is a lot of overlap between the activities (peer-to-peer trading and energy sharing) and existing concepts of energy communities (CEC/REC). In addition, there is a lack of a clear long-term vision from the EU Commission on these activities and concepts. In addition, the EMD and REDII guidelines are not sufficiently aligned. Furthermore, the adjustments cause confusion among the target groups concerned about which concepts they can participate and which activities they can or cannot carry out. Under the current EMD and REDII framework, large companies can participate in energy communities and energy sharing. However, within the revision of these directives, this is no longer the case for energy sharing.

	We propose to keep the distinction between the concepts of 'energy sharing' and 'peer-to-peer trading' clear. In the Flemish Energy Decree this is currently clear, and textually logical: 'energy sharing' refers to the free exchange of energy in groups. While peer-to-peer trading is a sale between two active buyers. This is with a view to a level playing field with regard to market participants such as suppliers and balance managers, including with regard to rights and obligations. We also propose that 'energy sharing' and peer-to-peer trading, if this is done for a fee, should not be opened indefinitely, e.g. with a maximum number of participants. It seems appropriate that the Member States should be able to determine this themselves.
1. All households, small and medium sized enterprises and public bodies **shall** have the right to participate in energy sharing as active customers.	BE: (Drafting): **Either** ~~1. All households, small and medium sized enterprises and public bodies **shall** have the right to participate in energy sharing as active customers.~~ **Either**

	1. All households, small and medium sized and big enterprises and public bodies have the right to participate in energy sharing as active customers. BE: (Comments): Under the current provisions of Article 16 of the Electricity Market Directive (EMD), larger companies are allowed to participate in Citizen Energy Communities. However, this article excludes them from engaging in energy sharing. We propose to include larger companies and grant them the rights for energy sharing. Either Paragraph 1 of the new article 15A should be deleted. The RED and EMD directives provide for all final customers to become active customers when the perform certain activities and provided that those activities do not constitute their primary commercial or professional activity. In the reform the scope seems to be limited to household, SME and public bodies. But the link with the conditions already in force in the EMD directive is not specified; therefore the paragraph 1 should be deleted to avoid confusion. Either: Also big enterprises provided that those activities do not constitute its primary commercial or professional activity (cfr definition active customer)

2. ~~*(a)*~~ ——Active customers shall be entitled to share renewable energy between themselves based on private agreements or through a legal entity.	BE: (Drafting): 2. Active customers shall be entitled to share renewable ~~energy between themselves based on private agreements or through a legal entity.~~ electricity through peer-to-peer agreements in accordance with article 21 of Directive (EU) 2018/2001, as jointly-acting active customers in accordance with article 21 of Directive (EU) 2018/2001 or through an energy community in accordance with article 22 of the Directive (EU) 2018/2001 and article 16 of this Directive BE: (Comments): Paragraph 2 should specify the links with the provisions of the EMD and RED directives already in force regarding citizen energy communities (article 16 EMD) and renewable energy communities (article 22 RED); renewable energy sharing within the same building as jointly acting renewables self-consumers (article 21, § 4 RED) and peer-to-peer trading arrangement of renewable energy by self-consumer (article 21, § 2, a) RED).
3. ~~*(b)*~~ ——Active customers may use a third party that owns or manages for installation, operation, including metering and maintenance	BE: (Comments): Paragraph 3 seems to repeat article 15, (2), d) of EMD directive and 21, (5) of RED

a storage or renewable energy generation facility for the purpose of facilitating energy sharing, without that third party being considered an active customer.	directive. It either should be deleted or the link with those articles should be specified in this provision. Conflict with renewable energy community? In the renewable energy community the community needs to own the production facility Is metering not a task for the system operator when de data is needed for market processes?
4. ~~*(c)*~~ Member States shall ensure that active customers participating in energy sharing:	
(**a** ~~*d*~~) are entitled to have the shared electricity netted with their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges;	FI: (Drafting): (a) are entitled to have the shared electricity **subtracted from** ~~netted with~~ their total metered consumption within a time interval no longer than the imbalance settlement period and without prejudice to applicable taxes, levies and network charges; FI: (Comments): Netting is a vague term that can be interpreted in multiple ways.

	IE: (Comments): Is this implying Net metering? How does this compete with existing Article 15(2)(e) and 15(4)?
(b~~c~~) benefit from all consumer rights and obligations as final customers under this Directive, except in case of energy sharing between households with an installed capacity up to 10.8 kW **for single households [as specified in the reviewed Renewable Energy Directive 2021/557]** and up to 50 kW for multi-apartment blocks **[as specified in the recast Energy Peformance of Buildings Directive 2021/802]**~~*using peer-to-peer trading agreements;*~~	BE: (Comments): The following sentence should be deleted : "*However, households with an installed capacity up to 10.8 kW for single households and up to 50 kW for multi-apartment blocks should not be required to comply with the obligations of suppliers.*" The Member States should be allowed to impose to certain form of "energy/electricity sharing" to comply with the obligations of suppliers. It should not be specify in the directive. It should be a choice of the Member States. For instance, the Brussels Capital Region decided to impose to active customer who sells its electricity excess/surplus through peer-to-peer arrangements to various other active customers to comply with the obligations of suppliers. This is not the case, however, when the active customer sells its electricity excess only to another active customer.

	Why is an exception provided for P2P < 10.8 kVA or in apartments with production < 50 kVA? (50 kVA seems high by the way). These are bizarre boundaries, which are not used anywhere else. Does this mean no free choice of supplier in those cases? Which other rights and obligations are not applicable with these exceptions? Are networktariffs no longer applied for the electricity that is delivered through P2P? FI: (Drafting): (**b~~e~~**) benefit from all consumer rights and obligations as final customers under this Directive, except in case of energy sharing between households with an installed **generation** capacity up to 10.8 kW **for single households [as specified in the reviewed Renewable Energy Directive 2021/557]** and up to 50 kW for multi-apartment blocks **[as specified in the recast Energy Peformance of Buildings Directive -2021/802]**~~*using peer-to-peer trading agreements*~~*;* FI: (Comments): To avoid misunderstandings the capacity refers to generation capacity, not consumption.

(c~~f~~) have access to template contracts with fair and transparent terms and conditions for ~~*peer-to-peer trading*~~**energy sharing** agreements between households, and for agreements on leasing, renting or investing in storage and renewable energy generation facilities for the purpose of energy sharing; in case of conflicts arising over such agreements, final customers shall have access to out of court dispute settlement in accordance with Article 26;	NL: (Drafting): (c~~f~~) have access to template contracts with fair and transparent terms and conditions for ~~*peer-to-peer trading*~~**energy sharing** agreements between households~~, and for agreements on leasing, renting or investing in storage and renewable energy generation facilities for the purpose of energy sharing;~~ in case of conflicts arising over such agreements, final customers shall have access to out of court dispute settlement in accordance with Article 26; NL: (Comments): Deleted because this concerns a private agreement (not an agreement for the supply of energy) BE: (Drafting): **((c) have access to template contracts with fair and transparent terms and conditions;** **(d) have access to out of court dispute settlement in accordance with article 26;**

(**d~~g~~**) are not subject to unfair and discriminatory treatment by market participants or their balance responsible parties;	
(**e~~h~~**) are informed of the possibility for changes in bidding zones in accordance with Article 14 of Regulation (EU) 2019/943 and of the fact that the right to share energy is restricted to within one and the same bidding zone.	BE: (Comments): What if the bidding zones expand and become cross-border. We purpose to change the bidding zone to "within the same member state".
5. ~~*(i)*~~ Member States shall ensure that relevant transmission or distribution system operators or other designated bodies:	IE: (Drafting): (i) Member States shall ensure that relevant transmission or distribution system operators, ~~or other designated bodies~~ **unless the Member State decides to make another party responsible for data management**: IE: (Comments):

	New obligations should take into account different data management models. The text should be open to adapt to the roles of different agents in those models
(**a**~~*j*~~) monitor, collect, validate and communicate metering data related to the shared electricity with relevant final customers and market participants at least every month, and in accordance with Article 23;	BE: (Drafting): (**a**~~j~~) monitor, collect, validate and communicate metering data related to the shared electricity with relevant final customers ~~and market participants~~ at least every month, and in accordance with Article 23;
(**b**~~*k*~~) provide a relevant contact point to register energy sharing arrangements, receive information on relevant metering points, changes in location and participation, and, where applicable, validate calculation methods in a clear, transparent and timely manner**;** ~~.~~	
6~~*2*~~. Member States shall take appropriate and non-discriminatory measures to ensure that energy poor and vulnerable households can access energy sharing schemes. Those measures	NL: (Drafting): **6**~~2~~. Member States **may** ~~shall~~ take appropriate and non-discriminatory measures to

may include financial support measures or production allocation quota.	ensure that energy poor and vulnerable households can access energy sharing schemes. Those measures may include financial support measures or production allocation quota. NL: (Comments): The Netherlands does not want to pursue an income policy via electricity tariffs, let alone intervene in contracts between active customers. IE: (Comments): **IE fully supports the inclusion of this clause.**
"Article 18a	
Supplier risk management	
1. ~~*National*~~ Regulatory ~~A~~**a**uthorities**, or where a Member State has designated an alternative independent competent authority for that purpose, such designated competent**	BE: (Comments):

authorities,- shall ensure that suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets.	How can this be met/checked if not chosen for the use of power purchase agreements? What is included in appropriate hedging strategies to be implemented by suppliers? FI: (Drafting): **Member state may require its National Regulatory Authority, or where a Member State has designated an alternative independent competent authority for that purpose, such designated competent authorities,** to put in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets. FI: (Comments): This provision should be optional and within Member States discretion. Another option would be to limit the requirement to the solvency monitoring or revision. IE: (Drafting): National Regulatory Authorities shall evaluate the need for mandatory hedging strategies for suppliers. If deemed necessary, National Regulatory Authorities shall ensure that

	suppliers have in place and implement appropriate hedging strategies to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from shortterm markets. NRAs may use other measures to ensure appropriate risk management among suppliers IE: (Comments): We agree with the CEER-ACER position. Hedging and risk management strategies should be determined at a national level, according to what the NRA deems "appropriate" for different types of contracts, including the possibility that no hedging strategy is needed, according to national market conditions. In addition, NRAs may apply other supplier risk management tools (such as licensing requirement and guarantees) which serve the purpose of ensuring the financial responsibility of suppliers. These measures should also be recognised in Article 18a. Furthermore, it should be stressed that if NRAs are given this responsibility, additional resources could very well be needed.
2. Supplier hedging strategies may include the use of power purchase agreements. Where sufficiently developed markets for power purchase agreements exist which allow effective competition, Member States may require that a	FI: (Drafting): Supplier hedging strategies may include the use of power purchase agreements **or other hedging products**. Where sufficiently developed markets for power purchase agreements

share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law.	exist which allow effective competition, Member States may require that a share of suppliers' risk exposure to changes in wholesale electricity prices is covered using power purchase agreements for electricity generated from renewable energy sources matching the duration of their risk exposure on the consumer side, subject to compliance with Union competition law. FI: (Comments): The provision should treat all hedging products equally. If PPAs are used, they should indeed meet the requirements set in Article 19a (3) to have a basis for special treatment.
3. Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities."	BE: (Comments): What does it mean by : "*Member States shall endeavour to ensure the accessibility of hedging products for citizen energy communities and renewable energy communities*"? What is the objective of this provision ? FI: (Comments):

	The access to hedging products is possible for small players by using a service providers, is this sufficient?
(5) The following Articles **are**~~*XX is*~~ inserted:	
"Article 27a	BE: (Comments): What are the different BE actual implementations of this principle compliant with this new article?
Supplier of last resort	
1. Member States shall **implement a supplier of last resort regime to ensure continuity of supply** ~~*appoint suppliers of last resort*~~ at least for household customers. Suppliers of last resort shall be appointed in a fair, open, transparent and non-discriminatory	BE: (Drafting): […] That supplier might be the sales division of a vertically integrated undertaking which also performs distribution functions, provided that it meets the unbundling requirements of

procedure.	Article 35 of Directive (EU) 2019/944 of the European Parliament and of the Council BE: (Comments): What if a Member State cannot appointed a supplier of last resort in a fair, open, transparent and non-discriminatory procedure? What if there is zero offer from suppliers? What if the fair, open, transparent and non-discriminatory procedure doesn't lead to the selection of a supplier of last resort? We need a possibility for the member state to choose how to appoint a SOLR. This situation should be specified in the directive. FI: (Comments): This formulation is much better now than the original one.
2. Final customers who are transferred to suppliers of last resort shall not lose their rights as customers, in particular those rights laid down in Articles 4, 10, ~~*11*~~, 12, 14, 18 and 26.	BE: (Comments): We thank the PCY for the deletion of the reference to article 11 (Entitlement to a fixed and dynamic electricity price contract) in this paragraph, we feel this is important to keep it

	simple. What is the actual aim when making references to articles 4, 10, 12, 18 and 26 ? What are the obligations of the supplier of last resort in those cases? It should be clearly specified. Thirdly we where wondering if consumers that are transferred to a supplier of last restort continue to have the rights of article 13 (aggregation contract) and/or article 17 (demand response through aggregation)? Do they when they are at a SOLR still have the right to offier demand response or flexibility? (cf. article 13.2 that "Member States shall ensure that, where a final customer wishes to conclude an aggregation contract, the final customer is entitled to do so without the consent of the final customer's electricity undertakings"). Or is up to the MS to decide which other rights (next to articles 4, 10, 12, 14, 18 and 26) a final consumer must have when with a SOLR?
3. Member States shall ensure that suppliers of last resort promptly communicate the terms and conditions to transferred customers and ensure seamless continuity of service for those customers for at least 6 months.	

4. Member States shall ensure that final customers are provided with information and encouragement to switch to a market-based offer.	
5. Member States may require **a**~~*the*~~ supplier of last resort to supply electricity to household customers who do not receive market based offers. In such cases, the conditions set out in Article 5 shall apply."	BE: (Drafting): 5. Member States may require **a**~~the~~ supplier of last resort to supply electricity to household customers who do not receive market based offers. In such cases, the conditions set out in Article 5 shall apply. "This supplier can be different than the supplier of last resort provided in the precedent paragraphs". BE: (Comments): Supplier when consumer drops from commercial market? What is the concrete aim of this new provision? This "activity" could be exercised by another actor than the supplier of last resort, for instance, the DSO as a public service obligation?

Article 28a	
Protection from disconnections for vulnerable customers	BE: (Comments): What is the concrete aim of this new provision? Are the shemes that the different BE enetities do already have in place sufficient? (e.g. in Flanderes After a drop by the supplier → budget meter at DSO and if credit has been used up, an emergency credit can be used.)
Member States shall ensure that vulnerable customers are protected from electricity disconnections. This shall be provided as part of the concept of vulnerable customers pursuant to Article 28 (1) of this Directive and without prejudice to the measures set out in Article10(11).	IE: (Comments): **IE fully supports the inclusion of this clause.**
(6) in Article 27, paragraph 1 is replaced by the following:	

"1. Member States shall ensure that all household customers, and, where Member States consider it appropriate, small enterprises, enjoy universal service, namely the right to be supplied with electricity of a specified quality within their territory at competitive, easily and clearly comparable, transparent and non-discriminatory prices. To ensure the provision of universal service, Member States shall impose on distribution system operators an obligation to connect customers to their network under terms, conditions and tariffs set in accordance with the procedure laid down in Article 59(7). This Directive does not prevent Member States from strengthening the market position of the household customers and small and medium-sized non-household customers by promoting the possibilities for the voluntary aggregation of representation for that class of customers."	BE: (Comments): "terms and conditions' mean that a customer needs to have an offtake contract with a supplier?

(7) In Article 31, paragraph 3 is replaced by the following:	
"3. The distribution system operator shall provide system users with the information they need for efficient access to, including use of, the system. In particular, the distribution system operator shall publish in a clear and transparent manner information on the capacity available for new connections in its area of operation, including in congested areas if flexible energy storage connections can be accommodated, and update that information regularly, at least quarterly.	BE: (Comments): Granularity of the information on the capacity available for new connections to make it feasible for the dso?
Distribution system operators shall also provide clear and transparent information to system users about the status and treatment of their connection requests. They shall provide such information within a period of three months from the submission of the request."	

(8) Article 40 is amended as follows:	
[a] a new paragraph is added after paragraph 6:	
The requirements in paragraphs 5 and 6 shall not apply with regard to the peak shaving product procured in accordance with Article 7a of Regulation (EU) 2019/943.	
(9) Article 59 is amended as follows:	
[a] In paragraph 1, subparagraph (c) is replaced by the following:	
(c), in close coordination with the other regulatory authorities, ensuring the compliance of the single allocation platform established in accordance with Regulation (EU) 2016/1719, the ENTSO for Electricity and the EU DSO	

entity with their obligations under this Directive, Regulation (EU) 2019/943, the network codes and guidelines adopted pursuant to Articles 59, 60 and 61 of Regulation (EU) 2019/943, and other relevant Union law, including as regards cross-border issues, as well as with ACER's decisions, and jointly identifying non-compliance of the single allocation platform, the ENTSO for Electricity and the EU DSO entity with their respective obligations; where the regulatory authorities have not been able to reach an agreement within a period of four months after the start of consultations for the purpose of jointly identifying non-compliance, the matter shall be referred to the ACER for a decision, pursuant to Article 6(10) of Regulation (EU) 2019/942;	
[b] In paragraph 1, subparagraph (z) is replaced by the following:	

(z) ~~*The regulatory authority shall have the following duties*~~: monitoring the removal of unjustified obstacles to and restrictions on the development of consumption of self-generated electricity and citizen energy communities, including **obstacles and restrictions preventing** ~~*related to*~~ the connection of flexible distributed energy generation within a reasonable time ~~*in accordance with Article 58(d)*~~.	
[c] paragraph 4 is replaced by the following:	
4. The regulatory authority located in the Member State in which the single allocation platform, the ENTSO for Electricity or the EU DSO entity has its seat shall have the power to impose effective, proportionate and dissuasive penalties on those entities where they do not comply with their obligations under this Directive, Regulation (EU) 2019/943 or any	

relevant legally binding decisions of the regulatory authority or of ACER, or to propose that a competent court impose such penalties.	
(10) the following Article 66a is inserted	
"Article 66a	
Access to affordable energy during an electricity price crisis	BE: (Comments): Although enshrining conditions for declaring an price crisis – and hence price regulation – is welcomed, it seems that the conditions are too much based on the current crisis, in essence verry high. Above that there might be a need for differentiated treatment in terms of conditions for regional and EU wide emergency price regulation IE: (Comments): • This is a significant departure from the current policy and regulatory regime in Ireland. Retail prices are not and have not been regulated since 2011/2014.

	Depending on how this below cost regulated prices measure is financed there would be significant implications for suppliers' liquidity or Member States finances. In addition, as prices have not been regulated in Ireland for many years, implementing such a framework on a short term, emergency basis would be very challenging and potentially a retrograde step.
1. The **Council**~~*Commission*~~**, on a proposal from the Commission, by means of an implementing** ~~*may by*~~ decision**, may** declare a regional or Union-wide ~~-~~electricity price crisis, if the following conditions are met:	FI: (Comments): The two-step decision making process is a good change. DK: (Comments): We do not support the changes in REV1 in general, which is kept in REV2. It is central that conditions for declaring a price crisis are assessed by the Commission, and that strict conditions are maintained with at least the current thresholds, when the decision is put forward by the Commission and during the period of the declared price crisis.
(a) very high **average** prices in wholesale electricity markets at least two and a half times the average price during the previous 5 years which is expected to continue for at least 6	BE: (Comments):

months;	in which which price/product/market/country? Spot day ahead, baseload,… FI: (Comments): Using 5-year average prices as a reference threshold could lead to a situation where the threshold for energy price crisis is very low e.g., Finnish wholesale electricity price for a 5-year average period multiplied by 2,5 have been under 90 €/MWh on many occasions. Therefore, we believe that introducing a minimum threshold, but high enough (minimum 180 €/MWh as in the emergency measure package on inframarginal revenues (EU) 2022/1854) could be a good addition to maintain market participants and investors' confidence in the market. DK: (Comments): We would like to see the criteria further strengthened, and would strongly oppose lower thresholds than already set out. It is very important to maintain as a European measure, and not allow individual Member States to decide to implement such measures.
(b) sharp increases in electricity retail prices of at least 70% occur which are expected to continue for at least 6 months; and	BE: (Comments): Why different conditions for households than for enterprises?

	Why only small and medium sized enterprises? certain large (electro-intensive) companies more affected by high electricity prices Public entities?
(c) the wider economy is being negatively affected by the increases in electricity prices.	
2. The **decision**~~*Commission shall specify in its decision*~~ declaring a regional or Union-wide electricity price crisis **shall specify** the period of validity of that decision which may be for a period of up to one year.	DK: (Comments): It is important that a state of crisis is not maintained for longer than one year, before it is evaluated whether it is still justified. Ideally, we would prefer to have the time limit even shorter.
3. The Commission shall present a proposal for declaring a regional or Union-wide electricity price crisis, including the proposed period of validity of the decision, where it considers that the conditions in paragraph 1 are fulfilled.	DK: (Comments): The Commission must retain the competence to assess if the conditions are met and put forward the proposal based on the assessment.

4. The Council, acting by a qualified majority, may amend the Commission proposal.	
5~~*3*~~. Where the ~~*Commission*~~**Council** has adopted a decision pursuant to paragraph 1, Member States may**,** for the duration of the validity of that decision apply targeted public interventions in price setting for the supply of electricity to small and medium sized enterprises. Such public interventions shall:	
(a) be limited to at most 70% of the beneficiary's consumption during the same period of the previous year and retain an incentive for demand reduction;	
(b) comply with the conditions set out in Article 5(4) and (7);	BE: (Comments): Why is this not foreseen as for households?

(c) where relevant, comply with the conditions set out in Paragraph 4.	
6*4*. Where the **Council**~~*Commission*~~ has adopted a decision pursuant to paragraph 1, Member States may for the duration of the validity of that decision, by way of derogation from Article 5(7), point (c), when applying targeted public interventions in price setting for the supply of electricity pursuant to Article 5(6) or paragraph 3 of this Article, exceptionally and temporarily set a price for the supply of electricity which is below cost provided that the following conditions are fulfilled:	BE: (Comments): Why not more targeted, dedicated? Vulnerable customers?
(a) the price set for households only applies to at most 80% of median household consumption and retains an incentive for demand reduction;	BE: (Drafting): (a) the price set for households only applies to at most 80% of median household

	~~consumption~~ offtake and retains an incentive for demand reduction; BE: (Comments): Relevance of median household consumption? Incentive for a consumer with low offtake?
(b) there is no discrimination between suppliers;	
(c) suppliers are compensated for supplying below cost; and	BE: (Comments): How you MS ensure the necessary financing for this?
(d) all suppliers are eligible to provide offers for the price for the supply of electricity which is below cost on the same basis.	
(11) in Article 71, paragraph 1 is replaced by the following:	

‘1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 8 and 49, Articles 3 and 5, Article 6(2) and (3), Article 7(1), point (j) and (l) of Article 8(2), Article 9(2), Article 10(2) to (12), Article 11(3) and (4), Articles 12 to 24, Articles 26, 28 and 29, Article 31(1), (2) and (4) to (10; Articles 32 to 34 and 36, Article 38(2), Articles 40 and 42, point (d) of Article 46(2), Articles 51 and 54, Articles 57 to 58, Article 59(1) points (a), (b) and (d) to (y), Article 59(2) and (3), Article 59(5) to (10), Articles 61 to 63, points (1) to (3), (5)(b) and (6) of Article 70 and Annexes I and II by 31 December 2020. They shall immediately communicate the text of those provisions to the Commission.	
However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with:	

(a) point (5)(a) of Article 70 by 31 December 2019;	
(b) point (4) of Article 70 by 25 October 2020.	
Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 10a, 10b, 15a, 24a, Article 4, Article 11(1), (1a) and (2), Article15a, Article 18a, Article 27(1), Article 27a, Article 28a, Article 31(3), Article 40(7), Article 59(1) points (c) and (z), Article 59(4) and Article 66a by six months after entry into force of **[**this Regulation**]**.	BE: (Drafting): Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Article 2 points 10a, 10b, 15a, 24a, Article 4, Article 11(1), (1a) and (2), Article15a, Article 18a, Article 27(1), Article 27a, Article 28a, Article 31(3), Article 40(7), Article 59(1) points (c) and (z), Article 59(4) and Article 66a by ~~six~~ eighteen months after entry into force of [this Regulation].
When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in	

existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.'	
Article 3	
Amendment to Directive (EU) 2018/2001of the European Parliament and of the Council of 11 December 2018 on the promotion of the use of energy from renewable sources	
Directive (EU) 2018/2001 is amended as follows:	
(1) Article 4(3) is amended as follows:	
(a) the second subparagraph is replaced by the	

following:	
'To that end, with regard to direct price support schemes, support shall be granted in the form of a market premium, which could be, inter alia, sliding or fixed. Th**e first** ~~is~~ sentence shall not apply to support for electricity from the renewable sources listed in Article 19b(2) of Regulation (EU) 2019/94**3**, to which Article 19b(1) of that Regulation applies.'	BE: (Comments): Calls with investment support are not possible anymore?
(2) in Article 36, paragraph 1 is replaced by the following:	
'1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles 2 to 13, 15 to 31 and 37 and Annexes II, III and V to IX, by 30 June 2021. However, Member States shall bring into force the laws, regulations and administrative provisions necessary to comply	

with Article 4(3), second subparagraph, by [six months after entry into force of this Regulation].	
They shall immediately communicate the text of those measures to the Commission.	
When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. They shall also include a statement that references in existing laws, regulations and administrative provisions to the Directive repealed by this Directive shall be construed as references to this Directive. Member States shall determine how such reference is to be made and how that statement is to be formulated.'	
Article 4	

Amendments to 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	
Regulation (EU) 2019/942 is amended as follows:	
(1) Article 2 is amended as follows:	
(a) point (a) is replaced by the following:	
‘(a) issue opinions and recommendations addressed to transmission system operators, the ENTSO for Electricity, the ENTSO for Gas, the EU DSO Entity, the single allocation platform established in accordance with Regulation (EU) 2016/1719, regional coordination centres and nominated electricity market operators ~~, 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;'*~~	
(b) point (d) is replaced by the following:	
" (d) issue individual decisions on the provision	IE:

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, ~~on approving and amending proposals from the ENTSO for electricity related to the regional virtual hubs pursuant to Article 5(9)~~; and on	(Drafting): " (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, on approving and amending proposals from all transmission system operators on further improvements through practical solutions fit for market parties' hedging needs **on forward markets such as, but not limited to regional virtual hubs** ~~the ENTSO for electricity related to the regional virtual hubs~~ pursuant to Article 5(9)~~;~~ and on approving and amending proposals from the ENTSO for electricity and the EU DSO entity related to the methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 5(10). ";

approving and amending proposals from the ENTSO for electricity and the EU DSO entity related to the methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 5(10). ”;	
(2) in Article 3(2), the following fourth 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 9 is added:	
“9. Paragraphs 6, 7 and 8 shall also apply to the single allocation platform established in accordance with Regulation (EU) 2016/1719.”;	

(4) in Article 5(8), the following second subparagraph is added:”;	
ACER shall monitor the single allocation platform established in accordance with Regulation (EU) 2016/1719.	
~~(5) In Article 5, the following paragraph 9 is added:~~	
~~“9. ACER shall approve and where necessary amend the proposal from the ENTSO for electricity on the establishment of the regional virtual hubs for the forward market pursuant to Article 9(2) of Regulation (EU) 2019/943.”~~	IE: (Drafting): 5) In Article 5, the following paragraph 9 is added: “9. ACER shall approve and where necessary amend the proposal from all transmission system operators on further improvements through practical solutions fit for market parties’ hedging needs on forward markets such as, but not limited to regional virtual hubs, for the forward market pursuant to Article 9(2) of Regulation (EU) 2019/943.”

(6) In Article 5. the following paragraph 10 is added:	
"10. ACER shall approve and where necessary amend the joint proposal from the ENTSO for electricity and the EU DSO entity related to the methodology concerning the data and analysis to be provided as regards the flexibility needs pursuant to Article 19**ce**(**4**~~5~~) of Regulation (EU) 2019/943."	
(7) in Article 15, the following paragraph 5 is added:	
"5. ACER shall issue a report analysing the national assessments of the flexibility needs and providing recommendations on issues of cross-border relevance regarding the findings of the regulatory authorities pursuant to Article 19**ce**(**7**~~6~~) of Regulation (EU) 2019/943.";	

Article 5 Entry into force	
This Regulation shall enter into force on the [xxx] 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 Strasbourg,	
For the European Parliament For the Council	
The President The President	
	IE: (Drafting): _____Articles 20, 21, 22 and 26 *[Numbering as per EC Regulation 2019/943]*

	Before Article 1 (10), add the following points: (10) Article 20 is amended as follows : *3. Member States with identified resource adequacy concerns shall develop and publish an implementation plan with a timeline for adopting measures to eliminate any identified regulatory distortions or market failures as a part of the State aid process. When addressing resource adequacy concerns, the Member States shall in particular take into account the principles set out in Article 3 and shall consider:* ***a) introducing a capacity mechanism;*** *b) removing regulatory distortions; […]* (11) Article 21(1) is amended as follows: *To eliminate ~~residual~~ resource adequacy concerns, Member States may, ~~as a last resort while implementing the measures referred to in Article 20(3) of this Regulation in accordance with Article 107, 108 and 109 of the TFEU~~, introduce capacity mechanisms.* (12) Article 21(3) is amended as follows: *~~Member States shall assess whether a capacity mechanism in the form of strategic reserve is capable of addressing the resource adequacy concerns. Where this is not the case,~~ Member States may implement ~~a~~ different type**s** of capacity mechanism**s to address resource adequacy concerns**.* (13) Article 21(4) is amended as follows: *Member States ~~shall not~~ **may** introduce capacity mechanisms where ~~both~~ **either** the European resource adequacy assessment ~~and~~ **or** the national resource adequacy

	assessment, or in the absence of a national resource adequacy assessment, the European resource adequacy assessment have ~~not~~ identified a resource adequacy concern. (14) Article 21(5) is amended as follows: *Member States ~~shall not~~ **may** introduce capacity mechanisms ~~before~~ **in parallel to** the implementation plan as referred to in Article 20(3) ~~has received an opinion by the Commission as referred to in Article 20(5).~~* (15) Article 21(7) is deleted as follows: *~~When designing capacity mechanisms Member States shall include a provision allowing for an efficient administrative phase-out of the capacity mechanism where no new contracts are concluded under paragraph 6 during three consecutive years.~~* (16) Article 21(8) is deleted as follows: *~~Capacity mechanisms shall be temporary. They shall be approved by the Commission for no longer than 10 years. They shall be phased out or the amount of the committed capacities shall be reduced on the basis of the implementation plans referred to in Article 20. Member States shall continue to apply the implementation plan after the introduction of the capacity mechanism.~~* (17) Article 22(1) is amended as follows: *1. Any capacity mechanism shall:* *(a) ~~be temporary~~; […]* (18) Article 26 is amended as follows: *1. Capacity mechanisms other than strategic reserves and where technically feasible, strategic reserves shall be open to direct cross-border participation of capacity providers*

	located in another Member State **or of interconnectors**, IE: (Comments): As evidenced by the 2022 crisis, the need for Capacity Mechanisms to secure investment in flexible generation in most markets must be recognised. Considering Capacity Mechanisms as possible structural elements of national markets and in line with the EU target market design is crucial and the Regulation should facilitate Member States' introduction or amendment of Capacity Mechanisms. This implies that : - they should not be seen as last-resort measures anymore: they should fully be a part, by default, of the toolbox of a Member State has at its disposal to tackle adequacy issues (cf. articles 20 and 21(1)); - the Member State should be free to choose the type of Capacity Mechanism it wishes to implement (i.e. a Capacity Mechanism or a strategic reserve) since there is no one-size-fits-all solution when it comes to adequacy issues (cf. article 21(3)). - the cumulative and restrictive conditions for their introduction (namely demonstrating that a Capacity Mechanism is a best suited tool than a strategic reserve to solve adequacy issues, need to submit an implementation plan to the EC beforehand as a prerequisite, justifying its necessity when the ERAA findings contradict the NRAA, etc.) should be carefully reconsidered (cf. article 21(4) and (5)); - Member States should be able to introduce them without having to comply to “by default” requirements regarding their duration (cf. article 21(5) and (7); - the most cumbersome and time-consuming requirement, namely implement a full and direct cross-border participation, should be removed so as to allow for a quick

	and swift implementation, timing being key when it comes to adequacy issues: easier procedures such as indirect (interconnectors) participations should be allowed (cf. article 26); in any case, there are several other requirements (prescribed in particular in the State aid guidelines) for implementing a Capacity Mechanism in a way that it is not distortive for cross-zonal trade. Such measures would only help accelerating and facilitating the introduction or amendment of existing Capacity Mechanisms, without questioning the State Aid control conducted by the European Commission.
	End