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Nord Pool high level position paper on Reform of Electricity Market Design

Nord Pool AS is the leading European Power Exchange. Nord Pool is a designated Nominated Electricity Market Operator (NEMO) in 16 European countries, where it offers trading, clearing, settlement and associated services in the day-ahead and intraday power markets.

Nord Pool appreciates that the European Commission (EC) has worked well together with market participants and NEMOs during the crisis of the past year, and that it has resisted in its proposal for a revised Electricity Regulation, making fundamental changes to key elements of the markets such as the merit order. Nord Pool further agrees with the EC when the EC, in its proposal, underlines the particular importance of intraday markets for the integration of variable renewable energy sources in the electricity system, and appreciates that the EC's proposal will further improve the effectiveness and efficiency of the intraday markets by requesting that NEMOs also share their intra-zonal liquidity.

As a NEMO, Nord Pool's views are focused mainly on the following topics within the EC proposal, which are listed in order of priority for Nord Pool:

1. **Intra-zonal liquidity sharing** between NEMOs (shared order books) (Article 7, para. 2 (c) & (ca))
2. Legal basis to establish a **Single Legal Entity as Market Coupling Operator (MCO)** (Articles 7 & 59)
3. The **REMIT** amendment proposal (Article 2, para 20)
4. Establishment of **regulated Virtual Hubs** for the forward market and related reference price (Article 9); and
5. **Peak Shaving Products** (Article 7a)

Nord Pool's key inputs:

Intra-zonal liquidity sharing between NEMOs: Recitals 13 & 14; Article 7, para 2

Nord Pool urges Member States to RETAIN and REINFORCE this wording.

Nord Pool strongly supports the proposal to mandate **intra-zonal liquidity sharing** between NEMOs. It is of vital importance for the efficient and successful integration of renewable energy into European short-term electricity markets, that market participants have access to the combined market liquidity of all power exchanges operating in the intraday markets, **both for cross-zonal and for intra-zonal trade** until the moment of delivery.

However, Nord Pool is concerned that the wording proposed by the EC is **not sufficiently clear** that mandatory liquidity sharing must also apply to power exchanges (PXs) which operate intraday trading **after TSOs have stopped allocating cross-zonal capacities** and until physical delivery of the electricity is taking place. This is of relevance in **Germany/Luxembourg, Austria, France, Belgium**

and the Netherlands. Without an obligation on PXs to share market liquidity also *after* TSOs have stopped allocating cross-zonal capacities, there will not be a level playing field for PXs designated as NEMOs as envisaged by the CACM Regulation¹. The CACM Regulation states that no existing PX in a Member State (MS) should enjoy “*protection*” “*from economic disadvantages through competition*”, and that no PX designated as a NEMO is to “*benefit from unjustified economic advantages through participation in MCO functions*”.

Nord Pool therefore urges the EC and Member States to reinforce the wording proposed by the EC with the following amendment in Article 8, paragraph (1):

Amendment proposal:

Article 8 - Trade on day-ahead and intraday markets

1a (new) NEMOs and all power exchanges shall be obliged to submit all the orders for a given market time unit for single matching immediately after the orders have been received from market participants at all times when trading with intraday products is allowed by the responsible TSO within a bidding zone, irrespective of and also after the intraday cross-zonal gate closure time.

Legal basis to establish a Single Legal Entity as Market Coupling Operator (MCO)

Article 7 and Article 59

Nord Pool calls on Member States to DELETE this provision.

The discussion about the Electricity Market Reform has highlighted the benefits of the single day-ahead and intraday markets. These have demonstrated their efficiency and robustness during the COVID 19 and Ukrainian crisis. Neither ACER nor the EC have identified the current joint NEMO-TSO governance of the MCO function as an obstacle for the proper functioning of the EU Electricity Wholesale Market. Consequently, a fundamental change of the governance of the MCO function is unjustified and disproportionate and thus out of scope of the revision of the Electricity Regulation.

Setting up a separate legal entity to run the MCO function would divert the resources that are now dedicated to implementing day ahead and intraday projects that are key to the integration of renewable energy and the update of demand response to the establishment of the new entity. In addition, the proposed wording says nothing about who should (in the future) decide on whether such legal entity should be established or not, de facto delegating such decision to purely technical bodies

¹ [Commission Regulation \(EU\) 2015/1222 of 24 July 2015 establishing a guideline on capacity allocation and congestion management](#), a network code which regulates the day ahead and intraday coupled markets and the activities of the Nominated Electricity Market Operators (NEMOs).

(e.g. ACER or the EC), outside the control of Member States. Depending on the level of centralisation of its operational setup, such entity would also risk undermining the operational safety of the day ahead and intraday markets.

The REMIT amendments

REMIT: Extended definition of Organised Market Place (OMP), which includes Shared Order Book providers:

Recital 14; Article 2, para 20

Nord Pool calls on Member States to DELETE 'shared order book providers' from the definition of OMP.

Extending the definition of Organised Market Place risks doubling or even tripling the amount of data to be reported to ACER. There is currently no clarity on which entities will be seen as 'shared order book providers', as, to our knowledge, there are currently no such legal entities. Moreover, all orders and transactions from markets, where shared order books are relevant (SIDC and SDAC), are already reported to ACER. Double reporting requires significant investments, increases the costs of trading at an OMP, without providing additional benefits.

This should also be seen together with the extension of the overall reporting regime to OMPs (Article 8 paragraph 1a, also see the point below). If NEMOs will report the order book in their capacity as power exchanges, there is no benefit extending the provision to shared order book providers who presumably merely aggregate the data.

REMIT: Extension of data collection to OMPs

Article 8

Nord Pool calls on Member States to substantially AMEND this provision.

The extension in paragraph 1a effectively requires the data that is reported already on behalf of market participants to be reported again as data related to the order book of organised market place. This doubles the amount of data reported. In case shared order book providers are within the definition of OMP, the data reporting may be tripling.

We suggest two alternative options to significantly amend this definition to avoid the double-reporting:

- 1) The reporting regime shall remain as is, through market participants reporting, improved within the implementing regulation, paragraph 1a shall be removed, or
- 2) The data of market participants may be reported as an order book from OMP, but Article 8 is amended to remove the double reporting from individual market participants. Bilateral contracts should continue to be reported.

REMIT: Introducing an obligation for PPATs to monitor for Article 4 breaches
Article 15

Nord Pool calls on Member States to REMOVE the obligation to monitor for Article 4 breaches.

Article 15 would add a new obligation for Persons Professionally Arranging Transactions (PPATs) to monitor the disclosure of Inside Information (Article 4) which is not in line with the existing obligation to monitor orders/transactions (Articles 3 and 5). Inside information is not at all connected with transaction data and some PPATs do not have access to Inside Information Platforms (IIPs) to monitor such data. Further, this will increase the costs for trading at OMPs while the same monitoring is already done by NRAs, so the benefits are limited. The responsibility to monitor for Article 4 breaches should be removed from Article 15.

As an example, late disclosure of information by a market participant may constitute a breach of Article 4. The responsibility to detect it will lie on all PPATs active in the given bidding zone, on which a market participant may have traded (NEMOs, TSO(s), brokers) and on the NRA.

REMIT: An obligation for RRM to check transaction reports for completeness, identify omissions and obvious errors caused by market participants

Article 9a section 3 para 4

Nord Pool calls on Member States to DELETE the obligation to check transaction reports the errors caused by market participants

Article 9a introduces much stricter requirements within authorisation and supervision of Registered Reporting Mechanisms (RRMs), including introducing a new requirement to check transaction reports for completeness, omissions, and errors caused by market participants. This provision comes in addition to the responsibility to detect errors and omissions caused by the RRM itself.

Monitoring of the *contents* of the data reported by market participants goes beyond the role of RRM as reporting mechanisms. As the final ownership of the data reported is on market participants, they are also best placed to ensure that the contents are as intended. Given large variety of the contracts reported through the RRM and a large variety of market actors, it is impossible for RRM to meaningfully validate the contents of the data reported. The obligations to check transaction reports for errors caused by market participants shall be removed from RRM's responsibilities.

Establishment of regulated regional Virtual Hubs in the forward market

Article 9

Nord Pool calls on Member States and MEPs to substantially AMEND this proposal.

Nord Pool shares the EC objective of increasing liquidity in the forward market but considers that the EC proposal is flawed and will NOT deliver the intended benefits.

The main flaws of the proposal are:

The establishment of regulated regional Virtual Hubs will not create products that meet the forward hedging needs of the market participants in the electricity markets and, consequently, market participants will not make use of such products;

- 1) The proposal unnecessarily links the provision of LTTRs with a regulated regional Virtual Hub concept. Market participants call for the Electricity Regulation to impose an obligation on TSOs to issue more and longer-term LTTRs to allow them to enter into cross-border PPAs (in line with the current EC proposal). However, they see no need to impose a regulated regional Virtual Hub concept. Market Operators already today allow market participants to forward hedge across several bidding zones in regions where this is necessary, and market operators will respond to market participants need to do so in other regions as and when required. In other words, Virtual Hubs should and will emerge from the markets where and when there is a need, and should not be imposed by Regulation and designed by TSOs (ENTSO-E);
- 2) The EC proposal assigns exclusively to ENTSO-E the task of drafting a proposal on the underlying methodology (including the definition of the geographic composition of the virtual hubs and the definition of the relevant reference prices) – and to ACER the role of amending and approving it. The proposal gives no say to NEMOs and forward market operators (who have the expertise concerning the design of reference prices) and market participants (whose hedging needs will need to be met).

Instead of the current proposal, the EC should propose the following:

- TSOs should be required to issue LTTRs or other equivalent instruments to make sure that other long-term cross-zonal hedging products are made available to support the functioning of wholesale electricity markets in the form of financial transmission rights (FTRs) ideally with longer maturities, e.g. with a minimum 3 year horizon through frequent primary auctions.
- NRAs should consult market participants on a regular basis whether there are sufficient hedging opportunities in their respective Member State/bidding zone(s).

Peak shaving products Article 2 and Article 7a

Nord Pool calls on Member States and MEPs to substantially AMEND this proposal.

Nord Pool is concerned about TSOs' new role to design Peak Shaving Products, which are in direct competition with the competitive intraday markets. The activation of the Peak Shaving Product is supposed to take place after the closure of the day-ahead market and before the start of the balancing market (i.e. *during* the operation of the intraday markets). This risks draining liquidity from the competitive intraday markets (single intraday coupling/ SIDC) and undermines one of SIDC's main objectives, that of ensuring the most cost-efficient dispatch in a transparent manner.

In 2009, the Third Energy Package established as a **fundamental principle** in European electricity markets that **TSOs should be responsible for balancing the grids AFTER the closure of the short-term markets for trading electricity**. TSOs' actions should not interfere in or skew the free formation of prices in the short-term markets.

Otherwise, monopolistic TSOs would directly compete with competitive market participants and market operators.