

EFET welcomes the new Capital Markets and Financial Instruments Law in Ukraine

The European Federation of Energy Traders (EFET)¹ welcomes the adoption of the Draft Law of Ukraine No.2284 “On amendments to certain legislative acts of Ukraine regarding a simpler raising of investments and introducing new financial instruments” (hereafter the “FI Law”) by the Ukrainian Parliament.²

The FI Law provides for the development of a modern legislative environment in Ukraine, enabling the implementation of MifID II and EMIR in the country and respecting the REMIT carve out.

For the commodities market, the FI Law creates the framework for the establishment of an exchange with central clearing, regulated and unregulated platforms and effective collateralisation of exposures. Thanks to the FI Law close out netting concepts will become enforceable for derivative transactions in Ukraine and transactions performed under a Master Agreement. Apart from that, the FI Law allows the commodity trading sector to move away from prepayment practices.

“Over the last years, we have been working with the Ukrainian authorities, providing market participants’ input on the draft FI Law, and we are pleased that the FI Law was adopted by the Ukrainian Parliament. The introduction of close out netting in Ukraine is instrumental in reducing counterparty risk and protecting the commercial interests of commodity market participants in insolvency scenarios” said Jan Haizmann, Chair of the EFET Legal Committee.

“Thanks to the netting protection enabled by the FI Law, EFET Master Agreements can replace bespoke trading arrangements and sharply reduce legal basis risk for OTC trading companies in the country”, he added. EFET standard contracts, facilitating OTC transactions in energy as a commodity and in energy-related instruments, have become the predominant market standard for physically settled wholesale energy transactions in continental Europe.

Alongside the relevant changes to the financial market framework and infrastructure, the FI Law respects the REMIT carve out, which is crucial to pave the way for well-functioning, liquid and competitive gas and power markets in Ukraine.

We look forward to continuing our cooperation with the relevant stakeholders in order to ensure successful implementation of the FI Law.

¹ The European Federation of Energy Traders (EFET) promotes competition, transparency and open access in the European energy sector. We build trust in power and gas markets across Europe, so that they may underpin a sustainable and secure energy supply and enable the transition to a carbon neutral economy. We currently represent more than 100 energy trading companies, active in over 27 European countries. For more information: www.efet.org.

² See the official announcement of 19 June 2020 here: <https://www.rada.gov.ua/en/news/News/194502.html>