

Consequences of a Hard Brexit on gas balancing agreements / balance group status for UK firms

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The United Kingdom voted to leave the European Union by 30th March 2019. Until today, no Withdrawal Agreement has been agreed. Following the latest communication by political institutions on both sides, the industry has to prepare for a potential Hard Brexit. In such occurrence, Pownext is committed to help ensuring that its members will continue to have access to our markets after exit date.

In this regard, we hereby inform you on the following risk arising from the possibility of an Hard Brexit.

National regulation in some EU27 Member States only allows entities registered in the EU or EEA to hold a balancing agreement / have a balance group responsible status with the respective TSO/Market Area Manager (MAM). In the case of a Hard Brexit, UK based firms could therefore not be able anymore to hold a balancing agreement / have the balance group responsible status in the respective Member States anymore. Such limitation would affect both bilateral (OTC) and exchange trading for UK based entities.

In respect to your activity on our PEGAS markets, we identified this issue in the following EU Member States:

- The **Austrian** Regulation (*Austrian Gas Act, Art. 93 Para. 3*) requires the Balance Group Responsible Parties (BGRP) to be a registered entity in the EU, EEA or in a country with a respective bilateral agreement (e.g. Switzerland). Without the BGRP status, physical trading in the Austrian Market Area East (including entry-/ exit transportation capacity booking) will no longer be possible.
- The **French** energy law requires market participants to hold a license with the French Ministry for the Ecological and Solidarity-Based Transition (DGEC) to be able to acquire a Balancing agreement with the respective Transmission Service Operator (TSO). According to French national legislation (*Article L443 créé par ordonnance n 2011-504 du 9 Mai 2011 – Art.V*) this license can currently only be granted to market participants in France or in EU Member States.
- In the case of **Belgium**, a balancing agreement can also be obtained by non-EEA firms. However, the so-called "supply authorization" can only be issued by CREG to entities with a seat in the EU (*Article 4 of the Royal Decree of 2 April 2003*). This license is required for persons who intend to supply end-consumers in Belgium. Please carefully consider your situation.

We therefore recommend to get in touch with the respective national regulators and / or TSOs/MAMs as soon as possible for further clarification and possible solutions for each individual situation.

Potential options that market participants based in the UK should consider to be able to frictionless continue trading on the concerned PEGAS markets:

- Create or use an EU based entity that will hold the balancing agreement, which is then used by the UK entity via a third party agreement. In the case of Austria, this entity needs to obtain the Balance Group Responsible Party Status (for which a passive membership at the exchange is required).
- Create or use an existing EU entity that will be a fully-set up trading member which will hold the balancing agreements / Balance Group Responsible Party Status and the exchange membership;
- Find any other third party (not necessarily an affiliate) based in the EU that can provide access to its balancing agreements via a third party agreement. (In the case of Austria, the MAM can provide a list of companies that are offering this service of becoming a Balance Group Member.)

Your Powernext teams remain at your disposal for any questions and difficulties you might face in respect to Brexit.

We are looking forward to hear back from you on this topic and to exchange about any further developments.

Yours Sincerely,

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