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ENERGY PRICE CRISIS IN HUNGARY

EXITING RENEWABLE ENERGY SUPPORT SCHEMES IS AN OPTION FOR DEVELOPERS

INTRODUCTION

The unforeseen energy market conditions this year – in particular the dramatic increase of the electricity prices – have posed a significant challenge for producers participating in the KÁT (feed-in-tariff) and METÁR (premium support) support schemes. Regarding the KÁT system, the subsidised price is currently lower than the market price. The METÁR producers are subject to an oversubsidy fee due to the calculation system. These circumstances essentially **threaten the profitability of renewable energy projects**, forcing producers to consider exiting the support schemes in due time. Below, we have summarised the most important information about the exit options.

EXITING THE SUPPORT SCHEMES

The producers participating either in the KÁT or the METÁR scheme have the right to exit the respective support structures. Practically, it means the termination of the KÁT balance unit membership agreement and the premium support agreement. The main administrative tasks and rules are as follows.

If the member terminates its KÁT balance unit membership agreement by the end of this year, the member may subsequently re-enter such agreement within the validity period set out in the decision of the HEPURA. Even though the electricity sold outside the KÁT balance unit is not included in the agreed quota amount, the quota period is continuously decreasing during the sales outside the KÁT balance unit.

In accordance with the Commercial Code of the Hungarian Electricity Transmission System Operator (MAVIR), producers can change the balance unit on the "record day", i.e. the first day of every month at 12 am. The producers' new balance unit manager shall notify the transmission system operator of this no later than 12 pm on the 11th day of the previous month.

The KÁT balance unit membership agreement may be terminated by (i) ordinary termination or (ii) mutual agreement. In the case of termination, the request for termination

of the balance unit membership shall be attached in the so-called E-SZEM system of the transmission system operator.

The premium support agreement may also be terminated by (i) ordinary termination or (ii) mutual agreement. If the agreement is terminated by the end of this year, it may be re-concluded by the producer as long as the validity period in the HEPURA decision lasts. However, the quota period set out in the HEUPRA decision will not be suspended.

The following termination options are available under the relevant provisions of the KÁT balance unit membership agreement and the premium support agreement:

	KÁT balance unit membership agreement		Premium support agreement	
Termination of the agreement	Ordinary termination by the balance unit member	Mutual agreement	Ordinary termination by the producer	Mutual agreement
Termination period	at least 30 days	–	at least 30 days	–
Agreement termination date	Last day of the next month	Last day of the next month	Last day of the next month with 10 days' advance notice	Last day of next month with 10 days' advance notice

It is important to note that exiting the support schemes is not of a suspensory nature. Should future market developments justify participation in support schemes again, producers may re-enter the support schemes as described above. Given the different parameters of the support schemes, the possibility of exiting and returning must also be examined individually. It is important to take into consideration, among others, the type of the scheme, the remaining duration of the support period, as well as the individual business and economic targets of the producer.

THE ROBIN HOOD TAX

By exiting the support schemes, producers also have to bear in mind the consequence that they may become subject to *Act LXVII. of 2008*, i.e. they will be obliged to pay an income tax of energy suppliers (Robin Hood Tax). This tax shall be paid by the authorised producers under *Act LXXXVI. of 2007 on Electric Energy*. Regarding the Robin Hood Tax, the authorised producer status is limited: the (i) producers who sell the electricity under the feed-in-tariff system (KÁT); and (ii) the producers who receive premium support (METÁR) (including in both cases producers selling only part of their electricity produced from renewable energy sources or waste energy under the feed-in-tariff system, and producers receiving premium support) only have to pay the Robin Hood Tax if their generating capacity exceeds 50 MW installed capacity. Consequently, **the producers of a power plant with an installed capacity of less than 50 MW** – who have been exempted as a KÁT

or METÁR participant previously – **will also be obliged to pay the Robin Hood tax by exiting the support schemes.**

SUMMARY

Exiting the support schemes is a significant step for producers, but it involves serious risks. Strict adherence to the above procedural deadlines is crucial, as failure to meet them can trap the producers in the loss-making support schemes for months. Particular attention needs to be paid to the assessment of Robin Hood tax liability, as an unexpected income tax of 31% could permanently jeopardise the profitability of the projects. It is therefore essential to constantly monitor regulatory and market developments, with which our office is pleased to assist.

This memorandum is a general presentation of the options for exiting the KÁT and METÁR support schemes. If you require further detailed and comprehensive information and further information on the subject of this memorandum, including the expected market impact, the most important actions to take in the coming months, deadlines and other relevant issues, please contact our office using one of the contact details below.

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