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PROPOSAL

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

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To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

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energy efficiency

Delegations will find attached document COM(2016) 761 final - Annex .

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ANNEX 1

ANNEX

to the

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

amending Directive 2012/27/EU on energy efficiency

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ANNEX
to the
Proposal for a
DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL
amending Directive 2012/27/EU on energy efficiency

ANNEX

1. Annexes IV and V are amended as follows:

- (a) in Annex IV, footnote 3 is replaced by the following: ‘(3) Applicable when energy savings are calculated in primary energy terms using a bottom-up approach based on final energy consumption. For savings in kWh electricity Member States may apply a default coefficient of 2,0. Member States may apply a different coefficient provided they can justify it.’.
- (b) Annex V is replaced by the following:

‘Annex V

Common methods and principles for calculating the impact of energy efficiency obligation schemes or other policy measures under Articles 7(1) and (2), Articles 7a and 7b and Article 20(6):

1. Methods for calculating energy savings other than those arising from taxation measures for the purposes of Articles 7(1) and (2), Articles 7a and 7b and Article 20(6).

Obligated, participating or entrusted parties, or implementing public authorities, may use one or more of the following methods for calculating energy savings:

- (a) deemed savings, by reference to the results of previous independently monitored energy improvements in similar installations. The generic approach is termed ‘ex-ante’;
- (b) metered savings, whereby the savings from the installation of a measure, or package of measures, is determined by recording the actual reduction in energy use, taking due account of factors such as additionality, occupancy, production levels and the weather which may affect consumption. The generic approach is termed ‘ex-post’;
- (c) scaled savings, whereby engineering estimates of savings are used. This approach may only be used where establishing robust measured data for a specific installation is difficult or disproportionately expensive, e.g. replacing a compressor or electric motor with a different kWh rating than that for which independent information on savings has been measured, or where those estimates are carried out on the basis of nationally established methodologies and benchmarks by qualified or accredited

experts that are independent of the obligated, participating or entrusted parties involved;

- (d) surveyed savings, where consumers' response to advice, information campaigns, labelling or certification schemes or smart metering is determined. This approach may only be used for savings resulting from changes in consumer behaviour. It may not be used for savings resulting from the installation of physical measures.

2. In determining the energy savings for an energy efficiency measure for the purposes of Articles 7(1) and (2), Articles 7a and 7b and Article 20(6) the following principles apply:

- (a) the savings must be shown to be additional to those that would have occurred in any event without the activity of the obligated, participating or entrusted parties and/or implementing authorities. To determine what savings can be claimed as additional Member States shall establish a baseline that describes how energy consumption would evolve in the absence of the policy measure in question. The baseline shall reflect at least the following factors: energy consumption trends, changes in consumer behaviour, technological progress and changes caused by other measures implemented at national and EU level;
- (b) savings resulting from the implementation of mandatory Union legislation are considered as savings that would have occurred in any event without the activity of the obligated, participating or entrusted parties and/or implementing authorities, and thus may not be claimed under paragraph 1 of Article 7, except for savings related to the renovation of existing buildings provided the materiality criterion referred to in part 3(h) is ensured;
- (c) credit may only be given for savings exceeding the following levels:
 - (i) Union emission performance standards for new passenger cars and new light commercial vehicles following the implementation of Regulation (EC) No 443/2009 of the European Parliament and of the Council¹ and Regulation (EU) No 510/2011 of the European Parliament and of the Council²;
 - (ii) Union requirements relating to the removal from the market of certain energy related products following the implementation of implementing measures under Directive 2009/125/EC.
- (d) policies which aim at encouraging higher energy efficiency of products, equipment, buildings and building elements, processes or markets are permitted;
- (e) for policies that accelerate the uptake of more efficient products and vehicles, full credit may be claimed provided it is shown that the uptake

¹ Regulation (EC) No 443/2009 of the European Parliament and of the Council of 23 April 2009 setting emission performance standards for new passenger cars as part of the Community's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 140, 5.6.2009, p.1).

² Regulation (EU) No 510/2011 of the European Parliament and of the Council of 11 May 2011 setting emission performance standards for new light commercial vehicles as part of the Union's integrated approach to reduce CO₂ emissions from light-duty vehicles (OJ L 145, 31.5.2011, p.1).

takes place before the expiry of the average expected product or vehicle lifetime, or before the product or vehicle would usually be replaced, and savings are only claimed for the period until the expiry of the average expected lifetime of the product or vehicle to be replaced;

- (f) in promoting the uptake of energy efficiency measures, Member States shall ensure that quality standards for products, services and installation of measures are maintained or introduced where such standards do not exist;
 - (g) to account for climatic variations between regions, Member States may choose to adjust the savings to a standard value or to accord different energy savings in accordance with temperature variations between regions;
 - (h) the calculation of energy savings shall take into account the lifetime of measures. This may be done by counting the savings each individual action will achieve between its implementation date and 31 December 2020 or 31 December 2030 as appropriate. Alternatively, Member States may adopt another method that is estimated to achieve at least the same total quantity of savings. When using other methods, Member States shall ensure that the total amount of energy savings calculated using these other methods does not exceed the amount of energy savings that would have been the result of their calculation when counting the savings each individual action will achieve between its implementation date and 31 December 2020 or 31 December 2030 as appropriate. Member States shall describe in detail in their Integrated National Energy and Climate plans under the Energy Union Governance the other methods they have used and which provisions have been made to ensure they meet this binding calculation requirement.
3. Member States shall ensure that the following requirements for policy measures taken pursuant to Article 7b and Article 20(6) are met:
- (a) policy measures and individual actions produce verifiable end use energy savings;
 - (b) the responsibility of each participating party, entrusted party or implementing public authority, as relevant, must be clearly defined;
 - (c) the energy savings that are achieved or are to be achieved are determined in a transparent manner;
 - (d) the amount of energy savings required or to be achieved by the policy measure is expressed in either final or primary energy consumption, using the conversion factors set out in Annex IV;
 - (e) an annual report on the energy savings achieved by entrusted, participating parties and implementing authorities be provided and made publicly available as well as data on the annual trend of energy savings;
 - (f) monitoring of the results and taking appropriate measures if progress is not satisfactory;
 - (g) the savings from an individual action may not be claimed by more than one party;

- (h) the activities of the participating party, entrusted party or implementing public authority are shown to have caused the achievement of the claimed savings.

For policy measures taken pursuant to point (e) of Article 7(2) Member States may use the calculation methodology established under Directive 2010/31/EU as far as this is in line with the requirements of Article 7 of this Directive and this Annex.

- 4. In determining the energy saving from taxation related policy measures introduced under Article 7b, the following principles shall apply:
 - (a) credit shall only be given for energy savings from taxation measures exceeding the minimum levels of taxation applicable to fuels as required in Council Directive 2003/96/EC³ or in Council Directive 2006/112/EC⁴;
 - (b) price elasticities for the calculation of the impact of the (energy) taxation measures must represent the responsiveness of energy demand to price changes, and shall be estimated on the basis of recent and representative official data sources;
 - (c) the energy savings from accompanying taxation policy instruments, including fiscal incentives or payment to a fund, shall be accounted separately.
- 5. Notification of methodology

Member States shall in accordance with the future legislative proposal on Energy Union Governance notify to the Commission their proposed detailed methodology for the operation of the energy efficiency obligation schemes and alternative measures referred to in Articles 7a and 7b and Article 20(6). Except in the case of taxes, such notification shall include details of:

- (a) the level of the energy savings requirement or expected savings to be achieved over the whole period from 1 January 2021 to 31 December 2030;
- (b) the obligated, participating or entrusted parties, or implementing public authorities;
- (c) target sectors;
- (d) policy measures and individual actions foreseen by the policy measure, including the expected total cumulative amount of savings per each measure;
- (e) the duration of the obligation period for the energy efficiency obligation scheme;
- (f) the actions foreseen by the policy measure;

³ Council Directive 2003/96/EC of 27 October 2003 restructuring the Community framework for the taxation of energy products and electricity (OJ L 283, 31.10.2003, p. 51).

⁴ Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ L 347, 11.12.2006, p. 1).

- (g) the calculation methodology, including how additionality and causality have been determined and which methodologies and benchmarks are used for deemed and scaled savings;
- (h) the lifetimes of measures and how they are calculated or what they are based upon;
- (i) the approach taken to address climatic variations within the Member State;
- (j) the monitoring and verification systems for measures under Articles 7a and 7b and how the independence of these from the obligated, participating or entrusted parties is ensured;
- (k) in the case of taxes, the notification shall include details of:
 - (i) target sectors and segment of taxpayers;
 - (ii) implementing public authority;
 - (iii) expected savings to be achieved;
 - (iv) duration of the taxation measure; and
 - (v) calculation methodology, including which price elasticities are used and how they have been established.’;

2. Annex VII is amended as follows:

(a) the title is replaced by the following:

‘Minimum requirements for billing and billing information based on actual consumption of gas’;

(b) the following Annex VIIa is inserted:

Annex VIIa

Minimum requirements for billing and consumption information based on actual consumption of heating, cooling and hot water

1. Billing based on actual consumption

In order to enable final users to regulate their own energy consumption, billing shall take place on the basis of actual consumption at least once per year.

2. Minimum frequency of billing or consumption information

As of [Please insert here ...the entry into force] where remotely readable meters or cost allocators have been installed, billing or consumption information based on actual consumption shall be made available at least quarterly upon request or where final customers have opted to receive electronic billing, or else twice yearly.

As of 1 January 2022, where remotely readable meters or cost allocators have been installed, billing or consumption information shall be made available at least monthly. Heating and cooling may be exempted from this outside the heating/cooling seasons.

3. Minimum information contained in the bill based on actual consumption

Member States shall ensure that the following information is made available to final users in clear and understandable terms in or with their bills:

- (a) current actual prices and actual consumption of energy;
- (b) information on the fuel mix used, including for final users supplied by district heating or district cooling;
- (c) comparisons of the final users current energy consumption with consumption for the same period in the previous year, in graphic form, climate corrected for heating and cooling;
- (d) contact information for final customers' organisations, energy agencies or similar bodies, including website addresses, from which information may be obtained on available energy efficiency improvement measures, comparative end-user profiles and objective technical specifications for energy-using equipment.

In addition, Member States shall ensure that comparisons with an average normalised or benchmarked final user in the same user category are made available to final users in clear and understandable terms, in, with or signposted to within, their bills.'