

Energy & Resources Industry News

A new regulation for granting of licenses and authorizations in the energy sector brings some changes to obtaining a trading license and allows legal entities from the European Union member states conduct energy supply and trading activities in Romania without prior license from the Regulatory Authority for Energy.

The new Regulation contains provisions regarding the licensing of trading activity, in accordance with the recent modifications of the Electricity and Natural Gas Law No. 123/2012 introducing the notion of trader. The Regulation was published in the Official Gazette and entered into force on March 17, 2015 by the Order issued by the President of the Regulatory Authority for Energy no. 12/2015 approving the Regulation for granting licenses and authorizations in the energy sector ("Order 12/2015").

According to the provisions of the Regulation, in order to obtain a trading license, the applicant must submit a request to the Regulatory Authority for Energy ("RAE") to which the applicant will attach, aside from the general documentation provided by the Regulation, a presentation of the organizational framework and human resources necessary for performing that activity.

This presentation will contain information regarding (i) the location of the headquarters of the economic operator requesting the license, where the activity of the energy trader is to take place, and (ii) a sheet regarding the staff – the staff structure for each specialization attesting the qualification of the designated staff for the activity for which the license is requested.

Also as a result of the Regulation, along with the application request the applicant will enclose documents attesting the fact that the applicant has available the minimum amount of EUR 500,000, at the exchange rate of the National Bank of Romania applicable at the date of the request, and will notify in writing the estimated turnover to be achieved from the activities for which the license is requested, in the year the license is granted.

Another major amendment brought to the Regulation regards the conditions in which the legal entities from the European Union member states may conduct energy supply and energy trading activities in Romania without having previously obtained a license from the RAE.

Thus, unlike the previous regulation, in order to provide these two types of activities in Romania, the legal entities resident in the European Union member states will have to meet only the following two conditions: (i) the foreign legal entity will have to own a valid license or other similar document for the respective activity, issued by the competent authority of the member state, and (ii) to provide a sworn declaration that it will observe the Romanian technical and commercial norms applicable for these activities.

The Regulation no longer contains the condition that an agreement must exist (and is in force) between the Romanian state and the European Union member state in which the legal entity is registered as owning a license regarding the mutual recognition of the validity of the licenses granted for conducting commercial activities in the energy sector on national territory.

Other important amendments brought by this recent enactment regarding the general framework for obtaining authorizations and licenses in the energy sector include:

- The amendment of the authorization or license for extending its validity will have to be requested at least 60 days before its expiry date (previously the time limit was 30 days before the expiry date of the authorization or license).
- The repeated breach of payment obligations as responsible party on the balancing market or the repeated failure to pay the cogeneration contribution, in accordance with the RAE's regulation, ascertained by the RAE at the request of the support scheme administrator, as well as the repeated breach by energy suppliers of the obligations to acquire green certificates, according to the RAE's regulation, ascertained by the RAE at the request of the Environmental Fund Administration, will lead to the suspension of the authorization or license and not to their withdrawal, as the previous regulation had stipulated.

Order 12/2015 repeals the previous Order issued by the President of the Regulatory Authority for Energy no.48/2013 approving the Regulation for the granting of licenses and authorizations in the energy sector and adopts another regulation in this field (the "Regulation").



For further questions regarding the amendments, or if you require our assistance in assessing your potential exposure, please do not hesitate to contact us.

Maria-Silvia Axinescu

Attorney-at-law
+40 21 207 54 28

Georgiana Singurel

Attorney-at-law
+40 21 207 52 86

For further information please contact us at:
Romania@deloittece.com or visit the web page
www.deloitte.com/ro/tax-alerts

This Alert is provided as a guide only and should not be construed as advice. Professional tax/legal advice should be sought before acting upon any of the points raised in this document.

This publication contains general information only, and none of Deloitte Touche Tohmatsu Limited, any of its member firms or any of the foregoing's affiliates (collectively the "Deloitte Network") are, by means of this publication, rendering accounting, business, financial, investment, legal, tax, or other professional advice or services. This publication is not a substitute for such professional advice or services, nor should it be used as a basis for any decision or action that may affect your finances or your business. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser. No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this publication.

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee, and its network of member firms, each of which is a legally separate and independent entity. Please see www.deloitte.com/ro/about for a detailed description of the legal structure of Deloitte Touche Tohmatsu Limited and its member firms.

Deloitte provides audit, tax, consulting, and financial advisory services to public and private clients spanning multiple industries. With a globally connected network of member firms in more than 150 countries, Deloitte brings world-class capabilities and high-quality service to clients, delivering the insights they need to address their most complex business challenges. Deloitte has in the region of 200,000 professionals, all committed to becoming the standard of excellence.

Reff & Associates SCA is an independent law firm member of Bucharest Bar and represents Deloitte Legal in Romania. Deloitte Legal means the legal practices of Deloitte Touche Tohmatsu Limited member firms or their affiliates that provide legal services. Visit the global Deloitte Legal website <http://www.deloitte.com/deloittelegal> to see which services Deloitte Legal offers in a particular country.