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ENI S.p.A. response to public consultation no. 2024-08 of 3 July 2024 relating to a prudential regulation proposal that could be applied to electricity and natural gas suppliers

30 September 2024

Eni welcomes the opportunity to provide our views to CRE's consultation of 3 July 2024 related to a prudential regulation proposal that could be applied to electricity and natural gas suppliers.

First of all, we would like to clarify that Eni S.p.A. is an international company with activities not only covering the French energy market, but also worldwide markets. In France, it acts through its Eni S.p.A. French Branch and Eni Gas & Power France s.a. (EGPF), supplying natural gas to industrial consumers, and electricity and natural gas to residential and SME customers respectively. We highlight that the following view is related to the business and activities performed by Eni S.p.A. French Branch solely, and kindly remind that EGPF will submit its own view separately.

Eni has concerns with regards to the scope of application of the measures proposed for the following reasons:

- We understand that CRE's current proposals to impose obligations to both electricity and natural gas suppliers in France stem from the implementation at national level of the Directive (EU) 2024/1711, regarding the improvement of the Union's electricity market design (EMD) and amending Directive (EU) 2019/944, under which supplier hedging obligations are foreseen as optional possibilities and concern exclusively the power market, with no requirement for an extension to the natural gas sector (or an extension to the gas directive) at all.
- We strongly believe that the natural gas market should not be in the scope of the proposed regulation. Measures taken for the electricity sector do not necessarily achieve the same intended goals when applying them to the gas sector and may even entail unintended consequences as both energy vectors are quite different.

The measures proposed do not seem to be proportionate. In particular,

- Irrespectively of whether there should be an extension to natural gas, Paragraph 1 of Article 18a of the above-mentioned Directive relating to *Supplier risk management* stipulates that (electricity) suppliers:

*"(a) have in place and implement **appropriate** hedging strategies, to limit the risk of changes in wholesale electricity supply to the economic viability of their contracts with customers, while maintaining liquidity on and price signals from short-term markets;
(b) take all **reasonable** steps to limit their risk of supply failure."*



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- Therefore, CRE should not fix in advance a standard level of appropriateness or a minimum "one-size-fits-all" hedging level if the aim is to reasonably limit risks. We deem that CRE should perform an evaluation based on the information that suppliers provide and assess whether their hedging strategy is appropriate, instead of imposing on them how or what to hedge.
- This evaluation should consider each supplier separately: its overall physical and financial portfolio, its company group composition (if applicable), its financial capability and robustness, the possibility of internal nettings in order to limit risk exposure (due to the company being active in different businesses/commodities and on different national/international markets), etc.
- CRE should not implement even more "a priori" constraints that prevent or narrow down the suppliers' liberty to define their own appropriate and reasonable hedging strategies. Indeed, the measures that CRE is proposing could potentially have negative consequences, as - for example - overhedging may also occur and, at times of high market prices, overhedging may lead to problems in suppliers' portfolios and deteriorate their own financial stability (as it happened to some suppliers during the period of increasing margin calls experienced during 2022).
- Moreover, CRE may ask for financial information, but should not impose an "a priori" obligation which goes beyond what the Directive actually requires in terms of appropriateness (and extending an obligation on power to gas).
- CRE should not define beforehand what is reasonable, imposing measures on all suppliers. Referring to the recital (18) of the Directive, which states that ***"An appropriate hedging strategy should take into account the suppliers' access to its own generation and its capitalisation as well as its exposure to changes in wholesale market prices, the size of the supplier or the market structure. The existence of appropriate hedging strategies can be ensured by general rules overseen without undertaking a specific review of the positions or strategies of individual suppliers. Stress tests and reporting requirements on suppliers could be tools by which to assess supplier hedging strategies."***, CRE's proposal to impose a hedging obligation to all suppliers surpasses this requirement.

To achieve reasonable and proportionate measures, Eni believes that:

- CRE's proposal of principles should instead adopt another order of priority. We think it is essential to first assess the supplier' dimension, financial stability, and the exposure which the French supply business creates in the supplier's global portfolio compared to its overall financial stability.
- Furthermore, the assessment should be done considering, where applicable, the belonging of the supplier to a company group. The consulted proposals seem to overlook large international companies that are active on other markets, other segments in the value chain such as upstream production or trading, and perhaps other businesses. They often manage a global portfolio and exposures that go well beyond their supply business in France, using means and hedges to ensure global de-risking, and hence not necessarily isolating the French market when performing hedging activities for their business in France.



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- Imposing obligations that may potentially lead to additional arbitrary and even excessive hedging activities would imply unnecessary extra costs and deoptimizations, that are eventually passed on to the end consumers.
- Further, in the above-described framework, every supplier should be allowed to independently define its risk management activities, including hedging, taking into account its dimension and financial stability, as well as the uncertainties in terms of consumption of its customers and any risks linked to its supply portfolio. Imposing top-down and "one-size-fits-all" obligations runs the risk of not capturing the specific features of each supplier and its portfolio and resulting in undesired effects, ineffective or even counterproductive.
- Similarly, imposing obligations in terms of internal governance/organisation might not consider the global portfolio and global risk management of these companies.

To conclude, considering the above-mentioned points, we strongly believe that natural gas suppliers should be excluded from this prudential regulation that CRE wants to implement.

If, however, natural gas suppliers were to be included, the framework for prudential regulation should (as explicitly stated in the recitals of the EMD):

- 1) set general rules and principles for appropriate hedging strategies without imposing specific "a priori" and/or "one-size-fits-all" obligations on suppliers, and
- 2) where deemed strictly necessary, design appropriate stress tests and reporting requirements in order to assess each supplier's financial health and hedging strategies separately, providing an exemption from any specific new obligation to suppliers with a robust financial stability and resilience (e.g. by demonstrating a third-party rating).