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Legal Alert

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Material amendments to the Offshore Wind Act

The Polish parliament has advanced legislation revising the offshore wind framework through amendments to the Offshore Wind Act and Offshore Location Act , while introducing Renewables Acceleration Areas (“**OPRO**”) under the RES Act (“**Amendment**”). Having been adopted by both the Sejm and the Senate, the Amendment now awaits the President’s signature.

The overarching aim of the proposed changes is to eliminate administrative and regulatory barriers, align Polish legislation with the Renewable Energy Directive (“**RED III**”), and fulfil reform milestones under the Polish Recovery and Resilience Plan (“**KPO**”). The Amendment will have a tangible impact on the permitting, financing, and execution of RES investments in Poland.

The most significant changes are as follows:

A. Key amendments regarding OWF

1. **Sale of electricity during commissioning phase**
The Amendment allows the sale of energy within the day-ahead, intraday, and balancing markets during the technological commissioning (before issuance of the concession) up to 12 months following the ION but without right to the CfD settlements. This would clarify on the commissioning power sale which was not sufficiently clear under the hitherto regulation.

2. **Auction participation for phase no. I OWFs**
OWFs incentivized within the phase No. I of the support system will be allowed to participate in auctions (phase No. II) with respect to the unused capacity. Moreover, participants in phase No. II will also be allowed to submit two separate auction bids for two OWFs located within the same area outlined in Annex 2 of the Offshore Wind Act, provided the OWFs have separate power outputs.

3. **Sharing offshore substations**
The Amendment will allow multiple OWFs to share the same offshore substation or power output facilities. In such cases, cables connecting the turbines to the substation may run through the area of another participating OWF that shares the substation. However, metering systems must be implemented to track energy production from each farm and the investment state aid granted to such offshore substation shall be deducted (pro rata to generation) from the relevant strike price guaranteed under the CfD.

4. **Coverage of negative balance during redispatch**
Following the recent changes – during market-based redispatching, when the TSO does not guarantee full power output, the investor can cover the negative balance via the Settlement Operator. This will compensate for any production reductions resulting from redispatching as long as the settlement price for redispatching is not equal to the price specified in the bid for energy reduction.

5. **Micro-relocations of foundations**
The new provisions allow for the relocation of offshore wind turbine foundations or substations within a radius of up to 50 meters (without having to change the permits obtained), subject to notification to the competent maritime office director.

6. **Clarifications on investment phasing**
The Amendment introduces a more favorable calculation method for the adjusted price that forms the basis for negative balance payments. This adjusted price will be calculated on a pro-rata basis, which provides financial benefits for investors implementing phased development of OWFs.

7. **Preliminary certificate**
The President of ERO will be entitled to issue a preliminary auction admission certificate, provided that the environmental decision is delivered before the auction takes place. This solution will accelerate the process of obtaining auction admission certificates.

8. **Limits in indexation of support obtained in phase No. II**
   The Amendment states that if the inflation target is exceeded, the indexation adjustment for investors from phase No. II will be limited to the state inflation target level (this may shift part of the inflation / cost of capital risk to the investor).

9. **Extension of permit validity**
   The duration of a key permits for OWFs and offshore cables (OLLs and cable location permits) will be extended to 30 years from the date on which the concession for OWF became final.

10. **Extension for design compliance certificate**
   The deadline for obtaining a certificate of design compliance will be extended to before the start of construction, rather than prior to notification of the start date (which will allow changes to the construction project to be made without multiple revision to the certificate).

11. **Changes in safety zones**
   The Amendment changes safety zones, applying them separately to each OWF component, with a minimum distance of 150 meters.

12. **Action in 2026**
   The new provisions aim to enable the conduct of an intervention auction in 2026 for the capacity originally scheduled for the 2025 auction, in the event that the 2025 auction does not take place due to an insufficient number of admission certificates or remains unresolved because fewer than three valid bids were submitted.

B. Designation of Renewables Acceleration Areas (OPRO)

1. **Mapping RES potential**
   Two public digital maps will be created to locate OPRO plans:

   - RES potential maps, showing where renewable resources can be used effectively and indicating the availability of the necessary infrastructure, including networks and energy storage facilities; and
   - Nature-sensitivity maps, identifying areas exposed to the adverse effects of RES installations.

   This solution should increase the predictability and transparency of the investment process by helping investors identify locations with both high RES potential and suitable infrastructure, while avoiding areas sensitive to environmental impacts. As a result, it might reduce regulatory risks, potential conflicts, and delays in project development.

2. **Simplified environmental assessment within OPRO**
   Within an OPRO, RES projects that are consistent with the plan and the prescribed mitigation measures will require a notification, instead of a full project-level environmental decision (“**ED**”). The investor will submit a notification and, unless an objection is issued within 45 days (for installations with a capacity of 150 kW or more), the project will proceed without the need for an ED.

3. **Shortened timelines where ED is still required**
   If the authority objects and requires an ED (e.g., due to possible transboundary effects or conflict with the OPRO plan), the procedure within OPRO will have to be completed within 6 months from the date of filing the objection. In particularly justified cases, this period may be extended, but not beyond a total of 12 months, in line with RED III.

4. **Solidarity fee exemption for direct lines within OPRO**
   The Amendment provides an exemption from the solidarity fee (the transmission and distribution charge) for electricity delivered to energy-intense user via direct lines from RES installations located within OPRO to eligible industrial consumers.

At this stage, after passing the Sejm and the Senate with broad cross-party support, the Amendment is not expected to face a presidential veto.

Should you have any questions to the above, please do not hesitate to contact us.

Contact us!

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