

# Survey in view of a possible 3rd revision of the Temporary Crisis Framework

Fields marked with \* are mandatory.

## Introduction

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The European industry's competitiveness is currently facing a double challenge.

First, Russia's unprovoked and unjustified military aggression against Ukraine led to a significant increase in energy prices. To respond to this challenge, the REPowerEU Plan sets a path out of the crisis by making the EU economy more energy-efficient, accelerating the roll-out of renewable energy (including through faster regulatory permitting procedures) and diversifying Europe's energy supplies.

Second, the U.S. Inflation Reduction Act provides generous incentives for setting up production of clean technologies in the U.S., in some cases in a discriminatory manner including against European players.

Those challenges are putting at risk the competitiveness of the European industrial base and may require targeted public support by Member States, in addition to the possibilities already available.

In this context, the Commission services would like to seek the view of Member States whether further provisions are necessary in the Temporary Crisis Framework for State aid measures to support the green transition that will help the EU industries to accelerate their investments in promising technologies in Europe to the benefit of EU citizens.

The Commission services seek the view of Member States especially on the following three issues: How to support and further simplify the granting of aid for the roll-out of renewable energy, including wind, solar and renewable hydrogen; How to support and further simplify the granting of aid to decarbonise the production processes of industry; Whether it is necessary to support productive investments in strategic sectors for the green transition, for example wind, solar, heat pumps, clean hydrogen, electric vehicles and batteries, and relevant critical raw materials. In addition, whether simplified means such as schemes to grant support to businesses via tax credits should be included in the toolbox, while maintaining differentiated incentives for investments in assisted regions for cohesion purposes.

The deadline to submit the answers to the survey is 20 December 2022 (close of business). Please submit one consolidated contribution per Member State. Considering that EUSurvey allows up to 5,000 characters per cell, we encourage you to summarise your contribution in the questionnaire and if necessary to upload a file with a longer contribution.

The information collected is for the Commission's use. The results of the analysis may be used in official statements.

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## Identification of the respondent

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\* EU member states

- AT - Austria
- EFTA - Authority
- BE - Belgium
- BG - Bulgaria
- HR - Croatia
- CY - Cyprus
- CZ - Czechia
- DK - Denmark
- EE - Estonia
- FI - Finland
- FR - France
- DE - Germany
- EL - Greece
- HU - Hungary
- IE - Ireland
- IT - Italy
- LV - Latvia
- LT - Lithuania
- LU - Luxembourg
- MT - Malta
- NL - Netherlands
- NO - Norway
- PL - Poland
- PT - Portugal
- RO - Romania
- SK - Slovak Republic
- SI - Slovenia
- ES - Spain
- SE - Sweden

\* First name

NL - Interdepartementaal Staatssteun Overleg

\* Surname

NL - Interdepartementaal Staatssteun Overleg

\* Organisation name

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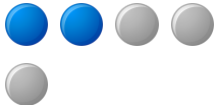
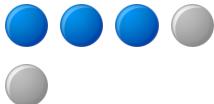
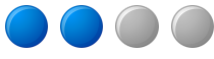
## Questions on section 2.5 of the Temporary Crisis Framework (TCF) – Accelerating the roll-out of renewable energy

\* Q1 In your view, what are the main obstacles to a quick and cost-effective rollout of renewable energy, storage and renewable heat in the context of the REPowerEU plan and the current energy crisis?

The main obstacles are:

- Slow licensing and permitting for projects;
- Relevant technology, production and transport facilities for renewable energy and storage are still in development;
- Available energy infrastructure (shortfalls in grid capacity, including measures to deal with the fluctuations inherent in renewable energy production);
- Shortage of skilled staff and materials.

Q2 How do you rate the impact of the following factors on the rollout of renewable energy, storage and renewable heat relevant for REPowerEU? (1 no impact, 5 high impact)

Permitting procedures requirements (e.g. related to environmental protection)	
Disruptions in the supply chains or delays in the completion of projects in the supply chains	
Delays due to national judicial proceedings	
Acceptance of projects by local population and general public	
Difficult access to finance	
Requirements under State aid rules for accessing public support	
	

Lack of sufficient public support	<input type="radio"/>
Other (please specify)	<input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/> <input type="radio"/>

\* Please provide evidence/justification if you give a high ranking to “Requirements under State aid rules for accessing public support” and/or “Lack of sufficient public support”.

/

Other, please specify:

A specific issue in the Netherlands for the energy transition is spatial planning, due to area and population density and as a consequence long and uncertain permitting procedures

\* Q3 Do you consider section 2.5 of the TCF to be a good and swift basis for setting up schemes to accelerate the rollout of renewable energy, storage and renewable heat relevant for REPowerEU, while preserving the level playing field in the Single Market?

- Yes
- No

If not, please explain why.

The Dutch authorities are of the opinion that the regular State aid frameworks should be fit for purpose. The CEEAG and the GBER are the appropriate instruments in this regard. Please see, for example, the Dutch response on the ongoing targeted revision of the GBER for targeted revisions to further the energy transition. The State aid rules for the production of green H2 by electricity from the net should be widened as long as a positive effect on green house gasses occurs. This effect could be calculated taken the electricity mix into account. This would deliver a major simplification. Additionally, the revision of the Renewable Energy Directive (RED) is still unclear with regard to stimulating hydrogen. Member States are already waiting 2 years for further clarification. This is another important bottle-neck. There should be a structural and simultaneous connection between the State aid rules and revision of RED through which maximum transparency on State aid rules could be achieved when applying the State aid frameworks

That said, improvements are possible regarding section 2.5 as long as it deals with targeted and temporary aid. For example, the proposed timelines could be extended, since these timelines are too short for effective national implementation. Please see the response to Q9 as well.

\* Q4 Do you think that in the context of the current energy crisis, further simplifications to the requirements set out in section 2.5 of the TCF for aid to accelerate the rollout of renewable energy, storage and renewable heat relevant for REPowerEU, while ensuring a fair and equal treatment of Member States, technologies and projects, are necessary?

- Yes
- No

If yes, please explain which changes should be introduced in your view.

Please see the response to Q7 for our comments with regard to the requirements of a competitive bidding procedure.

\* Q5 Do you consider that the scope of the section should be extended to additional renewable technologies not directly covered by the REPowerEU Communication (*i.e.*, ambient energy, tide, wave and other ocean energy, hydropower, biomass, landfill gas and sewage treatment plant gas)?

- Yes  
 No

\* If yes, which technologies should also be covered? Please explain.

According to the Dutch authorities, it is important that there is a clear link to the purpose of the Temporary Crisis Framework. If not, the regular State aid frameworks are the appropriate instrument.

\* Q6 In order to ensure proportionality, section 2.5 of the TCF generally requires aid to be granted through competitive bidding procedures. How do you consider your experience in allocating the aid for the roll-out of renewable energy, storage and renewable heat through competitive bidding processes?

- Positive  
 Negative

\* If your experience is negative what are the main factors leading to delays or complexities

EU Member States should have sufficient flexibility in designing competitive bidding procedures. And additionally, other instruments should be possible as well. Fiscal measures or aid schemes open to all may - subject to proper conditions- also be desirable to achieve certain targets. Although we support the standard of using competitive bidding procedures in order to minimize distortion to the level playing field, EU member should have sufficient flexibility.

\* Q7 Do you consider that, in order to accelerate the rollout of renewable energy, storage and renewable heat relevant for REPowerEU in the context of the current energy crisis, Member States should be given the possibility to grant aid in ways others than competitive bidding?

- Yes  
 No

If so, for which type of projects? Please explain.

EU Member States should have sufficient flexibility in designing competitive bidding procedures. And additionally, other instruments should be possible as well. Fiscal measures or aid schemes open to all may also be desirable to achieve certain targets. In certain cases, for example when only a few companies provide a certain activity/ technology, it should also be possible to provide ad hoc aid under certain proper conditions. This is important for projects on renewable energy, circularity and hydrogen production. This is also important with regard to the proposed Articles 36a and 36b (green mobility) of the draft targeted revision of the GBER.

For how long would it be necessary and proportionate to provide for such additional possibilities? Please explain.

The Dutch authorities are of the opinion that the regular State aid frameworks should be fit for purpose. The CEEAG and the GBER are the appropriate instruments, but are too limited in this regard. The Temporary Crisis Framework is temporary and should be focused on the specific (temporary) purpose. So preference that additional possibilities should be catered for in regular state aid guidelines, not in the TCF

\* Q8 How would you propose to ensure the proportionality of aid in the absence of competitive bidding procedures?

Proportionality can, for example, also be ensured by a (lower) maximum aid intensity, a funding gap approach and/ or limiting the WACC that is used. Overcompensation can also be avoided by monitoring the results of the investment on a yearly basis and use of claw back mechanisms.

\* In particular, in case of administratively set remunerations, how would you avoid the risk of overcompensation that has occurred in the past and ensure that tax payers get the best value for money? Please explain.

Please see the response above. In certain cases, for example, a more general aid measure such as a aid scheme of fiscal measure may be more effective than a competitive bidding procedure.

\* Q9 Installations supported under section 2.5 of the TCF are required to be completed and be in operation within 30 months after the date of granting of the aid or 36 months after the date of granting of the aid for offshore wind and renewable hydrogen installations. Do you consider that these deadlines should be modified? Please explain why and how.

The deadlines should be pushed back/extended by another 12 months (so to a maximum of 42 months and 48 months respectively) to allow Member States and partners to deal with unforeseen hick-ups in permitting, the actual building and installation and/or resistance from local populations.

According to the Dutch authorities, the risks for disturbances of the level playing field within the EU by such extensions are limited considering the normal turn-around of such projects (3 to 4 years) and the broad necessity to ensure sufficient investments in renewable energy production.

The same applies for the requirements under section 2.6.

\* Q10 The current TCF requires either two-way contracts for difference or claw-back mechanisms to address excessive windfall profits. Would you see any alternative instruments for minimising the risk of windfall profits?

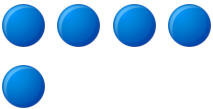
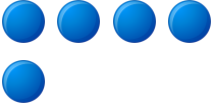

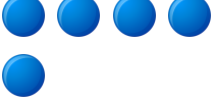
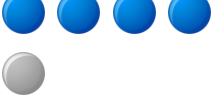
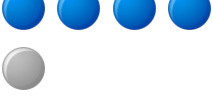
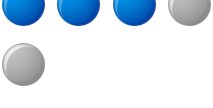

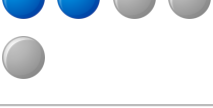

The Dutch authorities do not see directly any alternative instruments for minimising the risk of windfall profits. However, since this is not excluded, a slightly more flexible wording could be used so as not to make such methods necessarily impossible in the event the effectiveness of an alternative instrument is demonstrated.

\* Q11 In your view, what are the main obstacles to a quick and cost-effective rollout of measures for the decarbonisation of industrial production processes and the improvement of the energy efficiency of industrial processes in the context of the REPowerEU plan and the current energy crisis?

Please see the response to Q1. In addition the following can be mentioned:

- Lack of financial possibilities for certain companies (especially SME's) to make the necessary investments due to the current market situation.
- Lack of willingness on part of bigger and/or multinational companies to make the necessary (long-term) investments in the EU, because of the longer-term high energy prices and other factors negatively influencing the investment climate of the EU (slow permitting, lack of technical personnel, cheaper production options available elsewhere in the world).
- Complicated and long State aid rules and procedures.

Q12 How do you rate the impact of the following factors for a quick and cost-effective rollout of measures for the decarbonisation of industrial production processes and the improvement of the energy efficiency of industrial processes? (1 no impact, 5 high impact)

Permitting requirements procedures (e.g. related to environmental protection)	
Disruptions in the supply chains or delays in the completion of projects in the supply chain	
Delays due to national judicial proceedings	
Lack of specialised labour force	
Necessary technologies not available (or immature)	
Lack of renewable energy supplies	
Difficult access to finance	
Requirements under State aid rules for accessing public support	
Lack of sufficient public support	
	

Other (please specify)



Please provide evidence/justification if you give a high ranking to “Requirements under State aid rules for accessing public support” and/or “Lack of sufficient public support”.

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Other, please specify.

A specific issue in the Netherlands for the energy transition is spatial planning, due to area and population density and as a consequence long and uncertain permitting procedures

\* Q13 Do you consider section 2.6 of the TCF to provide a good basis for the swift setting up of aid schemes to accelerate the decarbonisation of industrial production processes through electrification and/or the use of renewable and electricity-based hydrogen and/or the improvement of the energy efficiency of industrial processes?

- Yes
- No

If not, please explain why.

Please see the response to Q3.

\* Q14 Do you consider that in the context of the current energy crisis, section 2.6 of the TCF should be further simplified or revised?

- Yes
- No

If yes, please specify the changes which in your view should be introduced.

The Dutch authorities are of the opinion that the regular State aid frameworks should be fit for purpose. The CEEAG and the GBER are the appropriate instruments in this regard. Please see, for example, the Dutch response on the ongoing targeted revision of the GBER. That said, improvements are possible regarding section 2.6 as long as it deals with targeted and temporary aid.

For how long would it be necessary and proportionate to provide for such further simplifications? Please explain.

According to the Dutch authorities, it is important that there is a clear link to the purpose of the Temporary Crisis Framework. If not, the regular State aid frameworks are the appropriate instrument.

\* Q15 In your view, would the alternative computation of the maximum aid amount as a (capped) percentage of the investment costs facilitate the implementation of the aid scheme (by contrast to defining the eligible costs as the difference between the costs of the aided project and the cost savings or additional revenues)?

- Yes
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No

If yes, please provide any available data which would give an indication as to the appropriate level of aid intensity.

According to the Dutch authorities it is important to avoid possible overcompensation due to the importance of the level playing field. Besides the implementation of the new Regulation on foreign subsidies is of great importance.

\* Q16 In your view, would an increase in aid intensity for undertakings active in sectors which are deemed to be in genuine risk of relocation or carbon leakage be appropriate and/or useful?

- Yes  
 No

If yes, which sectors do you consider to be most at risk of relocation? Please explain.

There are other instruments available for addressing concerns with carbon leakage, such as Carbon Border Adjustment Mechanism and aid possibilities based on ETS guidelines. Relocation outside the EU is not in itself a reason to provide additional aid. If there is a risk of strategic dependencies there might be a need for increased aid intensity. Please see the response to Q19.

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## Questions regarding potential additional tools in the Temporary Crisis Framework (TCF) to further support the green transition and global competitiveness of EU industries

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\* Q17 Which sectors would you define as strategic for the green transition of the EU (g., wind, solar, heat pumps, clean hydrogen, electric vehicles and batteries and relevant critical raw materials, other)? Please explain.

Please note that the answers in this section reflect the preliminary view of the Dutch authorities. The short reaction period of the survey stands in the way of careful considerations in the context of the current economic and geopolitical developments.

The Dutch authorities agree that the EU is facing a competitive challenge. We need to find the proper policy mix to boost accelerate the energy transition, reduce strategic dependencies and remain attractive for investments. Time is of the essence to prevent further negative effects.

However, in the discussion on global competitiveness of the EU it is necessary to take a broad view on trade policy instruments, regulating markets and elevating value chains instead of a focus solely on State aid. We should use the complete toolbox of policy instruments in a coherent and integral way.

If companies from third countries are actively favored and supported by their countries of origin this undermines support for a strict State Aid regime on the Single Market, harms the level playing field on the Single Market and reduces opportunities for industries to become more sustainable or innovative. The EU will continue to benefit from an open and attractive business and investment climate. Modernization of trade policy instruments and trade agreements that focus on an effective subsidy regime is necessary.

However, current State aid rules do not always provide adequate possibilities to enable disruptions and innovations in strategically important sectors and critical value chains. Fit for purpose State aid rules should be part of a long term policy strategy for these sectors and value chains. State Aid rules should prevent disruption of the level playing field as much as possible. Therefore, Temporary crisis frameworks must be targeted and temporary.

Although the sectors mentioned above are of great importance there is no clear problem analysis substantiating that if these sectors are not supported within the EU (via extra State aid possibilities) the strategic autonomy or global competitiveness of EU industries is at immediate risk.

\* Q18 Do you consider that the State aid rules are adequate to facilitate investments in strategic sectors for the green transition of the EU (g., wind, solar, heat pumps, clean hydrogen, electric vehicles and batteries and relevant critical raw materials)?

- Yes  
 No

Q19 If you answered no, do you consider necessary to allow under the Temporary Crisis Framework investment aid in strategic sectors for the green transition?

- Yes  
 No

If yes, for which sector and using which aid instrument?

The Dutch authorities are of the opinion that the regular State aid frameworks should be fit for purpose. Before adjusting or broaden state aid possibilities in these sectors we thus call on the Commission to provide an analysis and a long-term integral strategy for the relevant sectors (the strategy and policy instruments that were used in the case of hydrogen can serve as a good example).

State aid with the motive of protecting strategic industries should in our view only be allowed if strict conditions are met, such as:

- 1) Said activity is not profitable and is not expected to be profitable in the future without State aid (exceptions possible);
- 2) Said activity is of 'strategic relevance'; and
- 3) Said activity cannot be produced profitably within the EEA, imported from a trusted trade partner or from a diversified portfolio of suppliers.

The Dutch authorities see the development of an European Assessment framework as a worthwhile pursuit to allow for the protection of strategic activity which meets these conditions. EU coordination is important to prevent a subsidy race between EU Member States.

Q20 For how long would it be necessary and proportionate to provide for such further possibility in the TCF? Please explain.

The Dutch authorities consider that using the Temporary Crisis Framework for such possibilities would not be proportionate and cannot be justified based on the information and problem analysis now available. The Dutch authorities ask the Commission to consider whether targeted reform of regular State aid frameworks could be used to address this issue if justified by an adequate problem analysis. Considering the fact that the

TCF is a temporary framework, currently set to expire 31 December 2023, it would not be a suitable framework for a more long-term issue like the global competitiveness of the EU and strategic dependencies.

Q21 Under which conditions such aid should be allowed in the TCF in order to limit the risk of fragmentation of the Single Market and to limit the distortion of competition?

State Aid rules should prevent disruption of the level playing field as much as possible. Therefore, Temporary crisis frameworks must be targeted and temporary. It is important that there is a clear link to the purpose of the Temporary Crisis Framework. If not, the regular State aid frameworks are the appropriate instrument. In this context, it is also important to clarify the conditions for exit strategy for crisis aid measures in a timely manner. See also response to Q19.

Q22 Should such aid be limited to:

- Assisted areas
- Individual projects which are of major innovative nature or constitute an important added value in the sector concerned? If yes, please provide any available data which would give an indication as to the typical size of projects which would need support.
- Specific parts of the value chain? If yes, which ones?

Please, explain

Aid should not be limited to assisted areas or specific parts of value chain as this might prove to be ineffective or cause unwanted effects. If the European Commission would introduce possibilities for such aid and has addressed the concerns the Dutch authorities have (see response to previous questions), the Dutch authorities could support aid for individual projects which are of major innovative nature or constitute an important added value in the sector concerned.

\* Q23 How to identify those investments that need aid to reach the green transition objective?

The Dutch authorities consider it important to conduct a proper analysis before proceeding to adjust aid frameworks. According to the Dutch authorities, it is most appropriate to make any adjustments in the regular State aid frameworks. Temporary crisis frameworks must be targeted and temporary.

A proper analysis includes, among other things, also a public consultation in order to include insights from industry and other stakeholders. It is also important here to use expert insights to identify the most likely efficient green technologies and products that are now at risk of being underfunded, for example because of high market risks, along with the necessary costs and benefits (both social and economic). It is also important to involve financiers in order to guarantee an optimal mix of public and private financing.

Moreover, the Dutch authorities refer to the Dutch responses to consultations on the regular State aid framework, such as the ongoing targeted review of the GBER. Regarding environmental aid, the Dutch authorities argued, among other things, a broader consideration of positive (indirect) environmental gains and more possibilities for circular economy projects.

\* Q24 Should the aid be subject to a requirement to decarbonise their production processes?

- Yes

No

\* Q25 How to ensure that the aid is limited to the minimum necessary (g. limited to specific aid intensities and absolute amounts, funding gap)?

Temporary crisis frameworks must be targeted and temporary.

In general, it is proper to impose such a requirement. However, scaling up certain technologies might not always be possible if conditioned on direct emission reductions. For example, large environmental gains can be reached by supporting circular economy projects such as replacing fossil feedstocks with biobased feedstock. This will not necessarily decarbonize the production process of the beneficiary but will reach significant overall emissions reduction (and reduce the need for fossil feedstock (gas or oil)).

\* Q26 In your view, would the alternative computation of the maximum aid amount as a (capped) percentage of the investment costs facilitate the implementation of the aid scheme (by contrast to defining the eligible costs as the difference between the costs of the aided project and the cost savings or additional revenues)?

Yes

No

If yes, please provide any available data which would give an indication as to the appropriate level of aid intensity.

According to the Dutch authorities it is important to avoid possible overcompensation due to the importance of the level playing field.

\* Q27 Do you have examples where the availability of public support in third country jurisdictions has led or will lead to the relocation of investments in strategic sectors for the green transition of the EU?

Yes

No

If so, please provide the examples and explain which are the main factors that were/will be relevant for the investment decision.

Please find below some weblinks to examples of companies who have decided to invest or are considering investing in the United States instead of the EU as a consequence of the IRA:

- Chemix multinational Solvay: <https://www.tijd.be/ondernemen/chemie/solvay-nieuwe-fabrieken-komen-in-de-vs-niet-in-europa/10429388.html>

- Chemic company OCI: <https://energeia.nl/energeia-artikel/40103427/oci-investeert-verder-in-blauwe-ammoniak>

EcoProBM and POSCO Chemical (Batteries): <https://www.teslarati.com/electric-vehicle-battery-makers-south-korea-united-states-inflation-reduction-act/>

- Northvolt: <https://www.nrc.nl/nieuws/2022/11/22/joe-bidens-klimaatwet-betekent-handelsoorlog-tegen-europa-a4149093>

- Tesla: <https://fd.nl/bedrijfsleven/1451817/gelokt-door-subsidies-biden-herschikt-tesla-de-duitse-batterijproductie>

- Deal between VDL and Rivian: <https://fd.nl/bedrijfsleven/1457304/vdl-nedcar-tot-twee-keer-dicht-bij-deal-met-amerikaanse-autofabrikant-rivian>

\* Q28 In addition to the existing tools available for investments in assisted areas, do you consider it necessary to allow under the Temporary Crisis Framework additional support for greenfield investments in sectors strategic for the green transition and for which public support in third country jurisdictions has led or will lead to the relocation (as indicated in the previous question)?

- Yes
- No

Q29 How to identify those investments that need aid to reach the green transition objective?

We must protect and strengthen our attractive investment climate. This is currently under pressure in light of high energy prices and third country actions. Broadening State aid rules do not seem the silver bullet to address these issues. Therefore proper analysis and integral reaction to address issues. The Dutch authorities consider it important to conduct a proper analysis before proceeding to adjust aid frameworks. According to the Dutch authorities, it is most appropriate to make any adjustments in the regular State aid frameworks. Temporary crisis frameworks must be targeted and temporary. In addition, a global subsidy race must be avoided.

Q30 Should this possibility be limited to:

- Assisted areas?
- Individual projects which are of major innovative nature or constitute an important added value in the sector concerned?
- Specific parts of the value chain? If yes, which ones?

Please, explain

Please see the response to Q22.

Q31 Do you consider that calculating the aid amount on the basis of the funding gap methodology would be an effective way to ensure that the aid is limited to the minimum necessary, while taking into account the support offered by alternative locations outside the EEA?

- Yes
- No

Please, explain

The Dutch authorities consider it important to conduct a proper analysis before proceeding to adjust aid frameworks. If at an EU level it is decided that a technology or product needs to be developed and/or produced in the EU instead of (only) elsewhere) because of strategic dependencies and the State aid frameworks should provide for this, the Dutch authorities would consider that a funding gap method will lead to the minimum amount of aid necessary to bridge the funding gap created by market uncertainties and support offered in non-EU locations. The situation outside the EEA could provide the counterfactual situation. Private investment decisions from that point onward can be based on other factors, such as offset market, availability of qualified personnel et cetera.

## Contact

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