

# Contracts for Difference (CfDs)

New rules for the promotion of renewable energies in the  
European Union

World Wind Energy Association - Legal Workshop  
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# EU electricity market design reform

## Decarbonisation

### Market integration of RES

- Promotion of PPA (Art. 19a, 19b EMD Regulation)
- „CfD-Obligation“ (Art. 19d EMD Regulation)
- EU measures as a contribution to RES targets (Art. 19c EMD Regulation)

### Grids

- Tariff methods can also take into account RES integration, flexibility and NECPs (Art. 18 EMD Regulation)
- Enabling locational investment signals (Art. 18 EMD Regulation)
- Planning and expansion: more information obligations for grid operators (Art. 50, 57 EMD Regulation)

## Flexibility and security of supply

### Flexibility

- Assessment of flexibility requirements by MS for the next 5-10 years, national targets (Art. 19e, 19f EMD Regulation)
- Non-fossil flexibility support schemes (Art. 19g, 19h EMD Regulation)

### Capacity mechanisms

- No longer considered a temporary measure of last resort (Art. 21, 22 EMD Regulation)
- Exemption Rules for CO2 limits for existing mechanisms (Art. 64 EMD Regulation)

## Protection against highly volatile prices

### General

- Energy Sharing outside of energy communities (Art. 15a EMD Directive)
- Protection rules for vulnerable households
- Hedging obligations for suppliers (Art. 18a EMD Directive)

### Crisis provisions

- Peak shaving products for system operators (Art. 7a EMD Regulation)
- Regulated prices in the event of a crisis (Art. 66a EMD Directive)



# Overview of requirements for CfDs

## RED: Market premium requirement will be replaced by CfDs

### Previous Rule for RES Promotion (Art. 4 (3) RED)

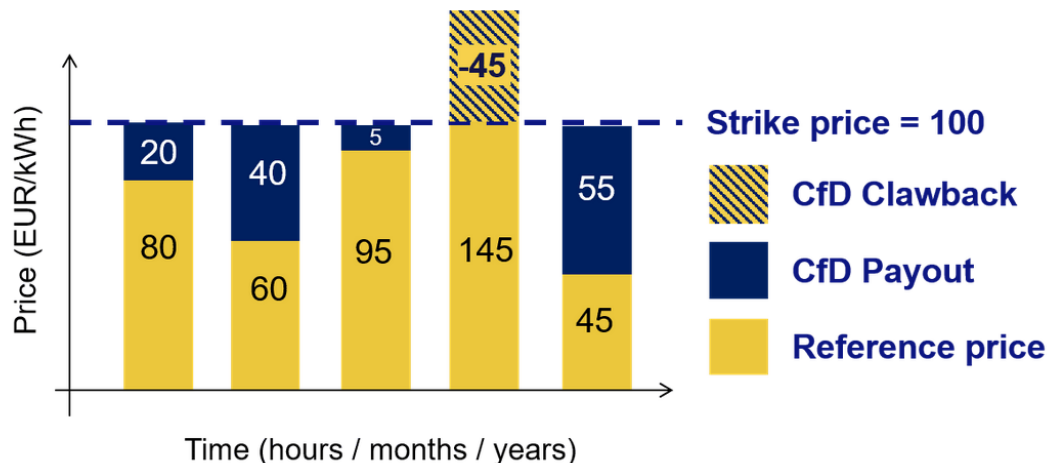
- „Support schemes [...] shall be designed so as to **maximise the integration of electricity from renewable sources** in the electricity market and to ensure that renewable energy producer are responding to market price signals and **maximise their market revenues.**“
- „To that end, with regard to direct price support schemes, support **shall be granted in the form of a market premium**, which could be, inter alia, sliding or fixed“.

### Electricity Market Design Reform

- Addition: „The second subparagraph of this paragraph shall not apply to support for electricity from the sources listed in Article 19d(4) of Regulation (EU) 2019/943, to which Article 19d(1) of that Regulation applies.“
- Art. 19d (4), (1) EMD Regulation: „Direct price support schemes for investments in new power-generating facilities [...] **shall take the form of two-way contracts for difference** or equivalent schemes with the same effects.“

## What is a CfD?

- ▶ Financial instrument for price hedging
- ▶ Reform objective: Introduction to stabilise income for producers and consumers
- ▶ Equivalent systems are possible, but must have the same effects!



Quelle: Kitzing, FSR Webinar 26.06.2024, <https://fsr.eu.eu/wp-content/uploads/2024/06/FSR-Insights-June-24-Kitzing-CfDs.pdf>

## Art. 2 No. 76 EMD (new):

### **‘two-way contract for difference’**

means a contract signed between a power generating facility operator and a counterpart, **usually a public entity, that provides both minimum remuneration protection and a limit to excess remuneration**; the contract is designed to preserve incentives for the generating facility to operate and participate efficiently in the electricity markets and complies with the principles set out in Article 4(2) and Article 4(3), first and third subparagraphs, of Directive (EU) 2018/2001;

## Who and what is affected?

### Scope of application

- Direct price support schemes (Art. 19d (1) EMD Regulation)
- Not mandatory for investment aid
- Distinction between investment aid and operating aid depends on design and purpose of the disbursements, transitions can be fluid and depend on the individual case

### Technologies

- low carbon, non-fossil fuel technologies, with low and stable operational costs and technologies which typically do not provide flexibility to the electricity system
- = Wind, solar, geothermal energy, hydro without reservoir and nuclear energy (Art. 19d (4) EMD Regulation)

### Project type

- New power-generating facilities

### Options for exemption

- Special provision for RES communities possible
- Small-scale installations under 400 kW (from 2026: under 200 kW)
- Demonstration projects

# Design Principles for CfDs

## Producer side

### Incentives for efficient market participation

- Prevent distortive effects on operation, dispatch and maintenance decisions
- Prevent distortive effects on bidding behaviour in day-ahead, intraday, ancillary services and balancing markets

### Level of remuneration

- Aligned with costs of investment and market revenues
- Penalty clauses in case of undue unilateral early termination of the contract

### Award procedure

- Generally through competitive bidding process (exceptions possible as before, state aid rules apply)

## Use of revenue

### Distribution to final customers

- Principle: repayments should reduce costs for final customers (e.g. distribution based on consumption)
- Differentiation possible, provided it is not discriminatory (e.g. special considerations for vulnerable customers possible)

### Broadly defined exemption options

- Financing costs of support scheme
- Investments to reduce electricity costs (Rec. 43)
  - Expansion of distribution grid
  - RES
  - Charging infrastructure for electric vehicles
  - ...?



# Relevance for promotion in Germany and outlook



## What adjustments are needed and when?

- ▶ In principle: Regulation enters into force 20 days after publication in the Official Journal and immediately applies
- ▶ Transitional period: CfD-requirements must be complied with by DE within three years (17 July 2027)
  - Support for wind, solar, geothermal and hydropower without reservoir must be provided via CfD or equivalent measure
  - No need for a change of system in the feed-in tariff in accordance with § 21 EEG: Exemptions for small-scale installations continue to be possible (under EU law even up to 400 kW at present and 200 kW from 2026 (Art. 5 EMD Regulation))
  - Longer deadline for offshore hybrid projects connected to two or more bidding zones: 17 July 2029
- ▶ However: EEG 2023 only approved until the end of 2026

## Current discussion on the reform of support in Germany

- ▶ Budget agreement of 5 July 2024
  - *The expansion of new RES is to be switched to investment cost support (separate capacity mechanism), in particular to allow price signals to have a distortion-free effect. To this end, this and other instruments will be quickly tested in the market under the “Reallabore-Gesetz“. (own translation)*
- ▶ Paper on options for the „Electricity market design of the future“ from 2 August 2024 by the Federal Ministry of Economy and Climate (BMWK)
  - Contains options for a redesign of the electricity market design, including options for a new investment framework for RES
  - Written consultation until 6 September 2024

## Options discussed:

	Market premium with revenue cap	CfD based on production	Capability-based CfD	„Financial CfD“
	Production dependent		Production independent	
What is it?	Current scheme + clawback mechanism	Payment based on the asset-specific generation	Payments based on specific asset production potential	Payments independent of asset production
Political Preference	Implementation unlikely	Implementation unlikely	Further review announced	Further review announced, preferred option („corresponds to recent government announcement“)



So far: economic considerations about the Pros and Cons of each option without direct connection to new EU legal framework, e.g. no information about planned use of revenue

## Conclusion & Outlook

- ▶ EMD reform comes at a time of intense debate about the future of RES support in Germany
  - New provisions only concern the ‘how’ of support, not the ‘whether’
  - Large scope of MS discretion in the specific design
  - Other instruments not considered direct price support schemes are not affected by the CfD obligation (e.g. investment subsidies), but this does not mean that they cannot contain a clawback mechanism
    - Unclear: Application of Art. 19d EMD Regulation to capacity payments?
  - State aid law to be observed regardless (if support is state aid)
- ▶ Reform is considered an interim reform, further adjustments likely (revision clause: review by 30 June 2026)



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23. und 24. Oktober 2024

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