

# Client Alert

January 2014

## European Commission Releases Guidelines on Fracking

On January 22, the European Commission published a non-binding recommendation on shale drilling and hydraulic fracturing. The recommendation's main objective is to provide guidance to those Member States that are committed to fracking or are considering allowing it. For those Member States that are opposed to the practice the guidelines do not change anything.

The Commission recommends that Member States require that operators conduct ex-ante environmental impact assessment (EIA) before granting permits for fracking operations. The objective of this requirement is to "prevent, manage and reduce the impacts on and risks for human health and the environment".

Importantly, the Commission advises Member States to ensure that operators provide sufficient financial guarantees to cover liability for potential environmental damage. In addition, the Commission recommendation sets forth proposed requirements regarding the following:

- The monitoring of methane emissions.
- Restricted drilling in seismic and flood-prone areas.
- The tracing of water flows.
- The monitoring, by operators, of (i) the volume of water used and pressure applied for hydraulic fracturing, (ii) the composition of fracturing fluid, and (iii) fluids that may appear on the surface as a result of the fracking process.
- The registration of chemicals used in fracking operations and identification of their relevant use as "hydraulic fracturing", in accordance with the REACH Regulation.

In response to earlier plans for binding rules on fracking, the oil and gas industry and countries such as Poland and the UK had expressed concerns. The publication of the recommendation, however, does not preclude the Commission from proposing binding legislation in the future.

Compliance by the Member States with the recommendation will be verified with "scorecards", which Member States should use to indicate which of the recommendations are implemented. Based on this feedback, in July 2015, the Commission will review the implementation of its recommendations. If the results are unsatisfactory, the Commission may decide to propose legislation.

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