



## LOW CARBON CONTRACTS COMPANY

### **Guidance on: EII excluded electricity – “relevant arrangements”**

**Date issued: 10 August 2015**

#### Introduction

1. This guidance note is published by Low Carbon Contracts Company Ltd. (“LCCC”) in its capacity as the designated CFD Counterparty pursuant to the Contracts for Difference (Counterparty Designation) Order 2014<sup>1</sup>. This note discusses “relevant arrangements” which are defined in the Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015<sup>2</sup> (“the Regulations”), as arrangements which will “enable the provision of information about the amount of electricity measured by meters in respect of which EII certificates are in force”. The Regulations do not prescribe what those arrangements are to be but when they are approved by the LCCC in accordance with regulations 7(2) and 7(5), these relevant arrangements will apply to licensed electricity suppliers (“Suppliers”).
2. Those with a particular interest in this guidance are likely to include Suppliers in Great Britain (“GB”); and certain industrial users of electricity, i.e. Electricity Intensive Industries (“EII”).
3. In summary, the relevant arrangements enable LCCC to identify the volume of electricity being supplied to an EII performing certain electricity intensive processes or “specified activities”. This, in turn, enables LCCC to exempt the percentage of the volume of electricity, which is EII excluded electricity, supplied to the EII from the calculation of the Supplier’s payment that would have been due under the Contracts for Difference (Electricity Supplier Obligations) Regulations 2014<sup>3</sup> (“ESO Regulations”), i.e. the Supplier Obligation levy and the Operational Costs levy.
4. In accordance with regulation 13(2) of the Regulations, an EII certificate may not be issued before 1 October 2015. Moreover, in accordance with regulations 8(1) and (2) of the Regulations, a person is only entitled to an EII certificate if, amongst other things, the Secretary of State for Department of Business and Skills (“BIS”) is “satisfied that the issuing of such a certificate would not breach the law relating to state aid.” The Secretary of State will not therefore issue an EII certificate if the EII excluded electricity scheme has not received State Aid clearance from the European Commission.
5. This guidance note has been published ahead of State Aid clearance being granted. Should Government policy and the regulations on which this guidance is based change, e.g. as a condition of State Aid clearance, LCCC may publish revised guidance.

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<sup>1</sup> <http://www.legislation.gov.uk/uksi/2014/1709/contents/made>

<sup>2</sup> <http://www.legislation.gov.uk/uksi/2015/721/contents/made>

<sup>3</sup> <http://www.legislation.gov.uk/uksi/2014/2014/contents/made>



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6. The guidance does not supersede or replace the provisions of the Contracts for Difference (“CFD”) or associated regulations and does not constitute legal or investment advice and should not be relied upon as doing so.
7. BIS also intends to publish guidance on EII excluded electricity following State Aid clearance. The guidance will be available on the BIS website: <https://www.gov.uk/energy-intensive-industries-compensation-for-carbon-leakage>

### Contents

8. The guidance note is divided into the following sections:
  - [Background](#);
  - [Overview of the EII excluded electricity process](#);
  - [Relevant Arrangements](#);
  - [Review of Relevant Arrangements](#);
  - [Suggested reading](#); and
  - [Contact information](#).

### Background

9. In the Autumn Statement 2011, the Chancellor announced the Government’s intention to reduce the impact of Government policy on the cost of electricity for the most electricity intensive industries that are at risk of ‘carbon leakage’<sup>4</sup>. This included the costs of supporting low-carbon renewable deployment through the Renewables Obligation (“RO”), small-scale Feed-in Tariff (“FIT”), and Contracts for Difference (“CFDs”).
10. The Department of Energy and Climate Change (“DECC”) and BIS published subsequently a series of consultations seeking stakeholder views on implementing this policy. The Government response<sup>5</sup> to the final set of consultations on the implementation of exemptions from CFD costs for EIIs was published on 19 January 2015 and sets out the policy decisions taken following consultation. The Government, in parallel, made the Regulations<sup>6</sup> and changes to the Balancing and Settlement Code<sup>7</sup>.
11. This guidance does not seek to replicate the content of the Government’s response; including the policy decisions taken with respect to EII excluded electricity. The government response is available on the Government’s website: <https://www.gov.uk/government/consultations/emr-changes-to-the-cfd-supplier-obligation>.

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<sup>4</sup> Carbon leakage refers to the increase in emissions resulting from the relocation of production, driven by increasing costs of production associated with the carbon price and related policies.

<sup>5</sup> <https://www.gov.uk/government/consultations/emr-changes-to-the-cfd-supplier-obligation>

<sup>6</sup> <http://www.legislation.gov.uk/uksi/2015/721/contents/made>

<sup>7</sup> BSC changes relating to EII Excluded Electricity are available on the following page: <https://www.elexon.co.uk/ord/ord006-electricity-market-reform-energy-intensive-industries/> and the Release page is <https://www.elexon.co.uk/release/june-2015-release/>



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### Overview of the EII excluded electricity process

12. This section provides an overview of the EII excluded electricity process. For further information on the process, please see the [suggested reading](#) section of this document.

- i. A person, in the course of business, who uses electricity for a “specified activity”, listed in the Schedule to the Regulations, may apply for an EII certificate in respect of the electricity meter which measures the supply of electricity used for the specified activity. The application must be sent to BIS and contain the information listed in regulation 10 of the Regulations, e.g. evidence of the proportion of electricity measured by the meter used for a specified activity.
- ii. BIS will issue an EII certificate to an applicant if, using the information contained within an application, the ‘tests’ in regulation 8 are met. The EII certificate must specify the proportion of electricity measured by the meter which constitutes EII excluded electricity.
- iii. In accordance with regulation 13 of the Regulations, an EII certificate will come into force on the day after the day on which it is issued or, where there is already an EII certificate in force in relation to that meter, on 1 April in the financial year following the one in which the certificate is issued. EII certificates will be valid from the date they come into force until the end of the financial year in which that date falls. This means that if an EII certificate is issued on 1 October 2015 (the earliest date that a certificate may be issued, subject to State Aid clearance) it will be valid for six months only. Similarly, if an EII certificate is issued on 1 January 2016, the certificate will be valid for three months only.
- iv. On receipt of an EII certificate, the EII itself is responsible for notifying its Supplier that it possesses an EII certificate. Having been notified, the Supplier must ensure the relevant arrangements are in place for the EII exemption to be applied.
- v. There are different arrangements, i.e. ‘relevant arrangements’ for Suppliers to follow depending on whether the meter which measures the supply of electricity used for a specified activity is registered in Supplier Meter Registration Service (“SMRS”)<sup>8</sup> or Central Meter Registration Service (“CMRS”)<sup>9</sup>. The approved [relevant arrangements](#) are outlined below.

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<sup>8</sup> “SMRS” means the service provided or to be provided by a Licensed Distribution System Operator for the registration of Metering Systems at Boundary Points on its Distribution System(s) and its Associated Distribution System(s) (if any), in accordance with the Master Registration Agreement.

<sup>9</sup> “CMRS” means the service for registration of data relating to CVA Metering Systems maintained (for the purposes of the Balancing and Settlement Code) by the Central Data Collection Agent.



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- vi. EMR Settlement Limited<sup>10</sup> (“EMRS”), acting on behalf of LCCC, will receive the relevant metered data via Half-Hourly Data Aggregators (“HHDA”), in the case of meters registered in SMRS, or via the BSC Company in the case of meters registered in CMRS.
- vii. EMRS, on behalf of LCCC, will use this metered data to exclude any exempt electricity when calculating Suppliers’ market shares for the purpose of determining their liabilities under the Supplier Obligation and Operational Costs levies as set out in the ESO regulations. The effect of this calculation is that the Supplier, having submitted data in respect of a meter associated with an EII certificate, will only be liable for amounts on that proportion of electricity which is not considered exempt supply. In order to comply with European Commission guidelines on State Aid for environmental protection and energy, a Supplier’s exemption from their liabilities under the ESO regulations is limited to 85% of the electricity used with respect to the meter which measures the supply of electricity used for the specified activity.
- viii. The Government’s expectation is that “competitive market conditions will ensure that suppliers pass on the value of the exemption”<sup>11</sup> to EIIs through their electricity bills.

### **Relevant arrangements**

- 13. In accordance with regulation 7(2) of the Regulations, LCCC (as the designated CFD counterparty) must, by 30 September 2015, approve the arrangements (‘relevant arrangements’) which it considers will enable the provision of information to it about the amount of electricity measured by meters in respect of which EII certificates are in force. This section sets out the relevant arrangements approved by LCCC to date.
- 14. The Balancing and Settlement Code (“BSC”) provides two different systems in which Suppliers can register meters. The Regulations make provision for this (regulations 10(2)(b)(i) and (ii)) and the relevant arrangements depend upon which of the following registration systems has been used to register the meter to which the EII certificate relates.

#### *Central Meter Registration Service (“CMRS”) registered meters*

- 15. CMRS is typically used for transmission-connected sites (although the BSC Panel does have the power to allow it to be used for a distribution-connected site).
- 16. Suppliers with EII customers with meters registered in CMRS must provide their EII customer with the details the customer requires for its EII application, such as BM Unit Identification Number, Metering System Identifier (“MSID”) and historic metered data.

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<sup>10</sup> EMR Settlement Ltd (“EMRS”) is a wholly owned subsidiary of ELEXON Ltd and is the EMR Settlement Services Provider. EMRS delivers settlement services on behalf of LCCC for Contracts for Difference and on behalf of the Electricity Settlements Company Limited for the Capacity Market. For more information see: <https://emrsettlement.co.uk/>

<sup>11</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/370825/Supplier\\_Obligation\\_Consultation\\_September\\_FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/370825/Supplier_Obligation_Consultation_September_FINAL.pdf)



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17. Suppliers are also required by the BSC to register BM Units and allocate the relevant meters to those BM Units to allow metered volumes associated with its customers to be accurately captured. Suppliers must comply with the BSC, including the new paragraph 3.1.2A in section K.
18. The BM Unit registration process and Central Volume Allocation (“CVA”) Metering System allocation process remain unchanged. The BSC was amended<sup>12</sup>, however, with respect to the changes made by the Regulations to ensure that CVA BM Units capture metered volumes of meters with an EII certificate separately to those that do not have an EII certificate. For example, if a BM Unit contained two meters; one meter had an EII certificate and one did not, the Supplier would be required to register a new BM Unit and allocate one of the two meters to the new BM Unit. Suppliers may need to move meters that are not eligible to a different BM Unit. The Supplier may consequently be required to update its EMR Aggregation Rules for CFD (“Aggregation Rules”), and any Metered Volume Reallocation Notifications (“MVRN”) that are in place.
19. Suppliers with meters registered in CMRS do not need to notify LCCC or EMRS that they have a customer with an EII certificate, although they may be contacted by EMRS to confirm and discuss the metering set-up and Aggregation Rules. Discussions related to EII excluded electricity, which fall under the metering and Aggregation Rules area, need to be conducted by an ‘authorised person’<sup>13</sup> on behalf of the Supplier. Please see the EMRS Authorisations guidance<sup>14</sup> for more information on EMRS authorised persons.

### *Supplier Meter Registration Service (“SMRS”) registered meters*

20. SMRS is typically used for distribution-connected sites. Suppliers with EII customers with meters registered in SMRS must provide the EII customer with the details the customer requires for its EII application, such as MSID and historic metered data.
21. When notified by the EII customer that it holds a valid EII certificate, the Supplier must instruct its HHDA to send Half Hourly (distribution loss adjusted) metered data to EMRS, in accordance with BSC section S, paragraph 2.10.1 and BSCP503 section 3.6. The Supplier must do this within 30 days of the date of notification or by the effective date on the EII certificate, whichever is the later.
22. Once the HHDA has confirmed it will submit the metered data (equivalent to [D0355](#) data items) to EMRS, the Supplier must notify EMRS of the confirmation details from the HHDA (i.e. that the HHDA will submit the metered data), to comply with BSCP503 3.6.5. More information on complying with this can be found in the BSC FAQs document called [‘FAQS: HHDA Metering Solution for EMR’](#) (under the ‘Supplier and Supplier Agents’ section).

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<sup>12</sup> See footnote 7 and [ORD006](#) for further information.

<sup>13</sup> An Authorised Person is someone recognised by EMRS to act on behalf of their Party. This provides Parties with a framework to enable the delegation of certain activities to appropriate persons within their organisation, in line with their own governance and controls.

<sup>14</sup> See <https://emrsettlement.co.uk/publications/guidance/>



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23. Where a Supplier gains a customer with an EII certificate, they must comply with the timings in BSCP503 3.6.1, i.e. they must ensure relevant arrangements are in place within 30 days of the supply commencement date. When a Supplier loses a customer with an EII certificate; the EII certificate expires; or the certificate is revoked, the Supplier must comply with the timings in BSCP503 3.6.1, i.e. the Supplier must instruct its HHDA to stop sending HH metered data to EMRS within 30 days of notification.
24. Suppliers may also wish to note that they may be contacted by EMRS to confirm and agree Aggregation Rules. See paragraph 19 above for reference to further information on discussions relating to the Aggregation Rules.

*When does the exemption apply from?*

25. In accordance with regulation 13(2) of the Regulations, an EII certificate may not be issued before 1 October 2015 (subject to State Aid clearance). An EII certificate will come into force on the day after the day on which it is issued or, where there is already a certificate in force in relation to that meter, on 1 April in the financial year following the one in which the certificate is issued. EII certificates will be valid from the date they come into force until the end of the financial year in which that date falls. This means that if an EII certificate is issued on 1 October 2015 (the earliest date that a certificate may be issued, subject to State aid clearance) it will be valid for six months only. Similarly, if an EII certificate is issued on 1 January 2016, the certificate will be valid for three months only.
26. Suppliers are not able to 'backdate' or claim the exemption retrospectively. The exemption can only be claimed by the EII's supplier on electricity supplied to an EII if, at the time of supply, a valid certificate is in force and 'relevant arrangements' are in place to enable the LCCC to identify the volume of electricity supplied to the EII.
27. For meters registered in CMRS, the exemption is applied from the date the relevant BM Unit is compliant with the BSC, or the day the EII certificate came into force, whichever is the later.
28. For meters registered in SMRS, the exemption is applied from the day the HHDA accepts its Supplier's instruction (the date the D0355 is sent), or the day the EII certificate came into force, whichever is the later.

*How do EII excluded electricity volumes get excluded from a Supplier's chargeable demand?*

29. A Supplier's CFD payments are based partly on the volumes of electricity supplied to its customers, i.e. their market share.<sup>15</sup> In the case of meters registered in CMRS the volumes are recorded by BSC Settlement Metering Systems. In the case of meters registered in SMRS, the Metering System volumes are read by data collectors, validated and aggregated and sent by data providers to EMRS for use in EMR settlement via metered entities.

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<sup>15</sup> In addition to their market share, Suppliers' payments, with respect to the Supplier Obligation levy, are also based on the size of CFD payments. Suppliers' liabilities to pay under the ESO regulations also include the Operational Costs levy.



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30. To determine Suppliers' CFD chargeable demand, metered data is required from two types of data providers:

- In the case of meters registered in CMRS, BSCCo via BM Units in the SAA-I042; and
- In the case of meters registered in SMRS, HHDAs via MPAN level data in the D0357.

31. Once EMRS identifies a BM Unit or MPAN as subject to an EII certificate, it will exclude the relevant proportion from the supplier's total chargeable demand by updating its EMR aggregation rules. For example:

- An EII certificate is issued for an EII registered in CMRS with the BM Unit ID T\_\_ASUPP01 and an 85% exemption<sup>16</sup>. The aggregation rule would be updated so that only 15% of the demand in T\_\_ASUPP01 (rather than 100% as previously) was included in the Supplier's chargeable demand.
- An EII certificate is issued for an EII registered in SMRS with the MPAN 1234567891234 and an 85% exemption. The aggregation rule would be updated to subtract 85% of the demand in MPAN 1234567891234 from the Supplier's chargeable demand. Here the volume is subtracted, as 100% of that MPAN volume has already been aggregated and included within the Supplier's Base BM Unit.

32. More details on EMR aggregation rules can be found in '[WP25 – EMR Aggregation Rules](#)', and more information on the provision of metered data for EMR settlement can be found in '[Guidance on the Provision of Metered Data to EMR Settlement](#)'.

### Review of Relevant Arrangements

33. In accordance with regulation 7(3) of the Regulations, LCCC, must keep the relevant arrangements under review<sup>17</sup>. Owing to the novel nature of the EII excluded electricity scheme, LCCC intends to monitor the effectiveness of the relevant arrangements from the outset, i.e. with respect to the initial tranche of EII certificates issued.

34. LCCC welcomes feedback on the whether the relevant arrangements are appropriate in enabling the provision of information about the amount of electricity measured by meters in respect of which EII certificates are in force. Comments should be sent to: [info@lowcarboncontracts.uk](mailto:info@lowcarboncontracts.uk)

### Suggested reading

35. We recommend that those with a particular interest in this guidance should also familiarise themselves with the following:

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<sup>16</sup> See paragraph 12(vii).

<sup>17</sup> In accordance with regulations 7(3)(a) and (b) of the Regulations, LCCC may, respectively, (a) approve alternative relevant arrangements; or (b) withdraw approval for relevant arrangements (subject to regulations 7(3)(b)(i) and (ii).



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- The Electricity Supplier Obligations (Amendment & Excluded Electricity) Regulations 2015: <http://www.legislation.gov.uk/uksi/2015/721/contents/made>
- Government response to Changes to the CFD supplier obligation and Electricity Intensive Industries exemption from CFD costs: <https://www.gov.uk/government/consultations/emr-changes-to-the-cfd-supplier-obligation>
- DECC's Supplier Obligation webpage (which includes links to, e.g. consultations on modifications to the BSC relating to EII excluded electricity: <https://www.gov.uk/government/collections/electricity-market-reform-cfd-supplier-obligation>
- BIS's EII webpage: <https://www.gov.uk/energy-intensive-industries-compensation-for-carbon-leakage>
- Elexon's EII webpage: <https://www.elexon.co.uk/ord/ord006-electricity-market-reform-energy-intensive-industries/>

### Contact information

36. Any queries in relation to this guidance should be sent to: [info@lowcarboncontracts.uk](mailto:info@lowcarboncontracts.uk)
37. Relevant contact information for BIS and EMRS can be found on their respective webpages on EIIs, the links to which are included in the section above.

- ENDS -