

Response to open letter on proposed changes to the process for presenting GoOs to Ofgem after the removal of CCL exemption for renewables from 1 August 2015

On 29 October 2015, we published a draft process guidance document, 'Guidance for Organisations on presenting Guarantees of Origin (GoOs) for use in GB Fuel Mix Disclosure (FMD) and Feed-in Tariff (FIT) annual levelisation' for consultation. We wanted stakeholders' views on our proposed new process following the removal of CCL exemption for renewables from 1 August 2015. The consultation period ended on 8 January 2016. We reviewed all responses and have updated the guidance document accordingly. The final version of the guidance document is published alongside this.

The consultation period

During the consultation period, we hosted two stakeholder engagement events to discuss the proposals. On 30 November, we held a workshop with GB electricity suppliers. On 7 December, we held a webinar with overseas agents.

We would like to thank everyone who provided feedback through those stakeholder engagement events. We also received 14 written responses on the draft guidance. The non-confidential responses are published alongside this document. We have summarised them below, and responded to each one.

The changes made to the guidance document were not just as a result of the written responses. They also took into account the feedback we received through workshops and ad hoc queries. In addition we consulted with audit and ISAE 3000 professionals when finalising the guidance.

Stakeholder feedback has led to a number of changes in the guidance. We are confident that the final guidance and decision takes account of the points raised during the consultation process. In order to fully understand the changes, please read through the guidance in full.

Summary of responses

1. Some respondents said Ofgem should outline the standards we require for the audit.

Our response:

Taking account of standards used on other renewable schemes we administer, we have integrated the auditing assurance standard ISAE 3000 into the guidance.

2. Some respondents commented that it was unfair to reject all GoOs with a weak or unsatisfactory report. Others suggested there should either be an appeals process for rejected GoOs or an opportunity for suppliers to provide further evidence.

Our response:

We are integrating ISAE 3000 standards, with the auditor providing 'limited assurance' for the audit as this term is defined by ISAE 3000.

In a limited assurance engagement, the risk is reduced to an acceptable level where the auditor's opinion is expressed negatively, eg: "Based on our work described in this report, nothing has come to our attention that causes us to believe that the supplier has not complied with the relevant legislation when submitting their GoO request." If the auditor is unable to give us this level of assurance, we will discuss the matter directly with suppliers and try to resolve any problems we find.

As with our other administrative duties, stakeholders can raise concerns and complaints through the standard Ofgem processes and so we do not feel an additional appeals process is required.

3. Many respondents were concerned that the documents needed to evidence proof of supply are commercially sensitive and confidential. They said there shouldn't be a requirement to pass this information along the supply chain. In addition, some said that providing evidence for the full contractual chain would favour larger suppliers, and could potentially distort the market.

Our response:

Our proposed solution is to reduce the scope of the checks the auditor has to do on proof of supply. They will now only be required to check the last two parties in the chain, namely the supplier presenting the GoOs, and the previous trading party. If the previous party is overseas, then the auditor should also check the associated proof of GB supply evidence. If the previous party is in GB, they should check this party's standard contract to ensure they also contain the necessary clauses for proof of supply. We also ask them to give us the name of the party so that we can undertake our own checks if we need to.

The sampling methodology has also been updated to state that, if a supplier has transacted directly with overseas parties, the auditor should check a percentage of these and not focus exclusively on intra-GB trades.

We have also amended the information declaration the supplier signs in line with this.

We consider this addresses supplier concerns around commercial sensitivity.

4. There was a clear desire from the majority of respondents for us to provide a list of acceptable evidence types for proof of GB supply.

Our response:

We have compiled a list of acceptable evidence for proof of supply and added it as a schedule to the guidance document. This list is not exhaustive, rather it gives some examples of evidence we have accepted in the past, or would accept in principle, providing all necessary conditions were met. As our experience of the process increases we may update the list.

5. It was noted that the information declaration doesn't currently include the sentence "to the best of our knowledge and belief", making the declaration absolute which is not standard practice.

Our response:

We have now added "to the best of our knowledge and belief" to the information declaration.

6. Stakeholders raised a number of points on areas of the guidance that they wanted clarifying. We have clarified each below and addressed in the guidance when appropriate.

a) Whether the process extends to non-EU GoOs for FITs

Our response:

This was already addressed in our guidance, but we have added further references which you can find in sections 1.1, 4.4, 5.4 and 5.18. For reference, the process does extend to non-EU GoOs for FITs for the 2015/16 period.

b) Whether, in the absence of LECs for non-EU countries, we require suppliers to provide non-EU GoOs as evidence of overseas renewable electricity to be deducted from suppliers' market share calculations for FIT levelisation

Our response:

We do require that, in the absence of LECs, suppliers provide GoOs from non-EU countries for electricity generated on or after 1 August 2015. This is only relevant for the 2015/16 compliance period.

c) What "independent from company management" in the context of an auditor means

Our response:

Applying the ISAE 3000 standard to the audit process precludes internal audit functions. The auditor must be independent, which typically means a third party who is not formally part of the organisation's structure and is contracted to complete the audit report.

d) Whether market coupling is allowed on the continent

Our response:

Details on our proof of supply requirements are in section 3. We are interested in the trade between the overseas party and the GB party. We accept that before that point, the electricity may have been traded via market coupling.

We are currently consulting on whether our decision to allow implicit trading linking non-GB markets with GB for LECs is applicable to GoOs presented for use in FMD and/or FIT.

e) Whether we accept GoOs from non-EU countries (eg Iceland, Lichtenstein and Norway) for Fuel Mix Disclosure (FMD)

Our response:

We don't recognise Non-EU GoOs for the purpose of FMD. Any electricity associated with non-EU GoOs should be presented to DECC to be taken into account for a supplier's fuel mix. It's important to note that GoOs cannot be used for GB FMD without proof of supply to GB. This means there has to be a path for the electricity to flow between the country of generation and GB, such as with Norway and Lichtenstein. However, in the example of Iceland, there is no interconnector to other countries, so there can be no proof of supply to GB, so these cannot be used in GB FMD.

f) Whether there should be evidence that the supplier supplied electricity to an end user or whether the evidence is just to prove supply to GB

Our response:

The statutory requirements are to evidence that the electricity represented by the GoO has been supplied to GB. So we do not expect the party importing the GoO and electricity into GB to necessarily be the supplier presenting the GoO to us for use in FMD and/or FIT. See section 3.8 and 3.14 in the guidance.

g) Whether there is a requirement for there to be monthly balancing for GoOs and electricity for FMD or FIT

Our response:

FMD and FIT compliance is annual. For FMD, GoO recognition is performed on an annual basis to assess how much overseas renewable electricity is supplied to (and can be disclosed to) end consumers in the previous financial year (for FMD). This is also used to validate suppliers' market share calculations for that year for use in FIT levelisation. For both these purposes, the requirements are to balance GoOs and the electricity on an annual compliance basis and not a monthly one.

Proof of GB supply of GoOs is monthly. However, the legislation¹ requires that, when a supplier presents a GoO for recognition for use in GB FMD, it holds "evidence that the electricity referred to in the guarantee of origin ... has been supplied in Great Britain" (section 1.6). Since GoOs are issued on a monthly basis, and that the month of generation

¹ See guidance document for full references.

is the information in the GoO itself, we would expect the evidence of GB supply for the GoO to refer to cross-border trades occurring in the same month that the electricity referred to in the GoO was generated.

h) Details on what fraud and error prevention measures we want auditors to review.

Our response:

The details on fraud and error prevention measures are clearly set out in the assurance standard ISAE 3000. Please refer to sections 6 and 7 of the guidance.

7. One respondent said it had taken our proposal to an auditor, and that the auditor was concerned about sections 2.11. – 2.20 of the guidance.

Our response:

We think that integrating ISAE 3000 replaces these sections with ones that most auditors would be familiar and comfortable with. In addition, we expect that the new reduced scope for the audit process (limited to the last two parties in the contractual chain), along with the amended information declaration, will reduce these concerns.

We also discussed these changes with some large auditors and they agreed the changes would reduce concerns.

8. A number of respondents made the point that unexpected process and policy changes have a greater impact on smaller suppliers.

Our response:

It's important to note that due to the closure of the Climate Change Levy scheme, we have had to change our GoO recognition process for FMD. We have a statutory duty to assess supplier claims relating to imports of renewable electricity from the EU for FMD. We hope that by reducing the audit scope, amending the declaration, providing a list of acceptable proof of supply evidence, and integrating ISAE 3000 standards, we are reducing the burden on all suppliers, including small ones. In addition, the requirement to hold LECs as well has been removed for post 1 August 2015 generation.

9. Some suppliers mentioned that this will increase their scheme administration costs.

Our response:

We hope that by reducing the audit scope, amending the declaration, providing a list of acceptable proof of supply evidence and integrating ISAE 3000 standards, that we are reducing the cost burden on all suppliers, while administering our statutory duties as best we can.

10. Some respondents mentioned that they felt Ofgem should do the audit assurance and one respondent suggested we submit a central audit process for tender and allow industry to share the costs.

Our response:

As with the previous process for presenting GoOs, we feel the onus should be on the supplier to provide the information required, which in this case includes an independent audit. This is consistent with other processes such as RO sustainability reports and we feel that suppliers are best placed to appoint their own auditor.

We would be interested in investigating the possibility of a central audit process further. However, we do not believe it would be possible to implement something of this scale in time for 2015/16 FMD. We need to take account of how the process runs the first time and work with participants further.

11. Some respondents mentioned that the GoO recognition process would be simplified if Great Britain joined AIB, and was able to transfer GoOs using the Hub.

Our response:

We are aware of this possibility and are investigating it. However, this is not a viable solution for 2015/16 FMD and FIT levelisations, as the process can typically take up to two years.

12. Some respondents mentioned they were worried about the timescales for hiring an auditor and providing a report by 1 July, and one suggested providing the report after the deadline.

Our response:

The deadline of 12pm 1 July is set in legislation, and we can't change it. This is therefore the time by which we should receive all GoO requests along with the signed declaration and audit report. This gives market participants three months after the end of the compliance period (31 March) to ensure the necessary information and evidence are in place for that compliance period.

13. One respondent suggested the 5% sample for checking GoOs was too high and that we should apply test protocols instead.

Our response:

A number of other respondents stated they were happy with the sampling size and so we will be keeping to our suggestion. However, we have reduced the checks required by the auditor and integrated ISAE 3000, which should make the process simpler.

14. Some respondents mentioned that we need a process for exporting REGOs to other countries.

Our response:

Although this is important, it is not relevant to this consultation as we are focusing on recognising imports of electricity for FMD and FIT. We are looking at this and will address it separately.

15. One respondent felt it wasn't clear whether the process was for issuing GoOs or dealing with GoO requests for FMD and FIT.

Our response:

The process is solely for the processing of GoO requests for the purposes of FMD and FIT. It has no link to the process we have for issuing REGOs (GB term for GoOs), and details of this are in the REGO Guidance for generators and suppliers.

16. Some respondents requested clarity on whether the total number of GoOs presented should match the quantity of supplied volume sought for FIT exemption on a compliance year basis, or monthly basis.

Our response:

This question is around the process of FIT levelisation, therefore please see the updated FIT guidance².

17. Some respondents doubted whether internal audit functions could be considered independent.

Our response:

As a result of applying the ISAE 3000 standard to the audit process, internal audit functions are precluded. The auditor must be independent, which typically means a third party who is not formally part of the organisation's structure and is contracted to complete the audit report.

It is possible for an internal audit function to compile the required information and write up a report, but the assurance and report must be signed off by an independent auditor.

18. Some respondents were concerned that each supplier sourcing an independent auditor will lead to different standards of reporting and evidencing. This could make auditors who don't know this topic well err on the side of caution.

Our response:

We have now integrated the ISAE 3000 assurance standard which should prevent different standards of reporting. In addition, we have provided a list of acceptable evidence for proof

² <https://www.ofgem.gov.uk/publications-and-updates/feed-tariff-guidance-licensed-electricity-suppliers-version-8>

of supply, and will hold training sessions for auditors so they can ask us questions before providing assurance for suppliers.

19. Some respondents wanted clarification on whether implicit trading was acceptable as evidence of proof of supply when presenting GoOs.

Our response:

After careful consideration and a consultation specifically on market coupling and levy exemption certificates (LECs), we are minded to apply our decision to allow unconstrained implicit trading across coupled markets for LECs under the CCL scheme, to GoO recognition under the FMD scheme, feeding into similar determinations under the FIT scheme. However, we are currently consulting on this point.

We are also currently consulting on what is acceptable to evidence proof of supply to GB under implicit trading. This consultation is due to close 8 March 2016. Depending on its outcome, we intend to add an appendix to this guidance outlining acceptable evidence to demonstrate proof of supply to GB under implicit trading.