



Department for
Business, Energy
& Industrial Strategy

ELECTRICITY INTENSIVE INDUSTRIES: RELIEF FROM THE INDIRECT COSTS OF RENEWABLE ENERGY SCHEMES

Widening eligibility

Closing date: 07 September 2018

June 2018



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General information

Why we are consulting

This consultation seeks views on whether to widen the scope of eligibility for energy intensive industries (EIIs) for exemption from a proportion of the indirect costs of the renewable electricity support schemes – Contracts for Difference (CfD), Renewables Obligation (RO) and, if introduced, small-scale Feed-In Tariffs (FIT). We are also consulting on two additional issues, relating to: (a) redistribution of money recovered from over-exempted EIIs; and (b) improving operation of the exemption schemes.

Consultation details

Issued: 22 June 2018

Respond by: 07 September 2018

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Consultation reference: Electricity Intensive Industries: Relief from the indirect costs of renewable energy schemes - Widening eligibility

Audiences:

We are seeking views from a wide range of audiences, including energy intensive industries (whether currently benefitting or not benefitting from the exemption schemes), other electricity consumers, trade bodies, consumer associations, the devolved administrations and other interested parties.

Territorial extent:

In respect of the options for widening eligibility for the RO exemption, this consultation covers England and Wales with a parallel consultation taking place in

Scotland. In respect of the options for widening eligibility for the CfD exemption (and FIT exemption if appropriate), this consultation relates to Great Britain.

How to respond

Please respond to the Consultation Questions via the online survey available through the link below. You can also email or send your responses by post. Please see details below. **Respond online at:**

<https://beisgovuk.citizenspace.com/im/widening-eligibility-for-eii-industries>

or

Email to: energyintensiveindustries@beis.gov.uk

Write to:

Department for Business, Energy and Industrial Strategy
Energy Intensive Industries
Orchard 1, 4th Floor
1 Victoria Street
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When responding, please state whether you are responding as an individual or representing the views of an organisation.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We will process your personal data in accordance with all applicable UK and EU data protection laws. See our [privacy policy](#).

We will summarise all responses and publish this summary on <https://www.gov.uk/government/consultations/widening-eligibility-for-renewable-electricity-cost-relief-schemes>.

The summary will include a list of names or organisations that responded, but not people's personal names, addresses or other contact details.

Quality assurance

This consultation has been carried out in accordance with the government's [consultation principles](#).

If you have any complaints about the way this consultation has been conducted, please email: beis.bru@beis.gov.uk.

EXECUTIVE SUMMARY

1. This consultation document seeks views on whether to widen the scope of eligibility for energy intensive industries (EIs) for exemption from a proportion of the indirect costs of the renewable electricity support schemes – Contracts for Difference (CfD), Renewables Obligation (RO) and, if introduced, small-scale Feed-In Tariffs (FIT). We are also consulting on two additional issues, relating to:
 - redistribution of money recovered from over-exempted EIs; and
 - improving operation of the exemption schemes.

Widening eligibility for EI exemption schemes

2. The Government set out a commitment in the Industrial Strategy White Paper to “consult on widening eligibility for the exemption schemes for energy-intensive industries to address potential intra-sectoral competitive distortions, taking into consideration the impact on consumer bills”. Thus, the consultation seeks evidence of intra-sectoral distortions and proposes a “Do Nothing” option in the absence of such evidence.
3. Subject to evidence that the current business-level test of 20% electricity intensity is causing or could cause significant competitive distortions, the consultation sets out, in Chapter 3, options for lowering the current threshold from 20% to:
 - a) 17% electricity intensity
 - b) 15% electricity intensity or
 - c) 10% electricity intensity.
4. The bill impacts of these alternative lower eligibility thresholds are set out in the Impact Assessment published with this consultation document. We are also proposing to assess any new information provided by a sector that can demonstrate that the sector satisfies the trade and electricity intensity criteria and should be added to the eligible sector list.
5. While lowering the electricity intensity threshold would enable more EIs to benefit from relief, it would also add further costs onto the electricity bills of non-eligible consumers, including households. To mitigate the redistribution impact of a lower threshold and therefore minimise costs to other consumers, we have set out options, in Chapter 4, to reduce aid intensity (the amount of

exemption that a company receives) for ELLs with lower levels of electricity intensity to:

- a) 50% for businesses with electricity intensity at or above 17 and below 20%
 - b) 50% for businesses with electricity intensity at or above 15 and below 20%
 - c) 35% for businesses with electricity intensity at or above 10 and below 15%
6. Under all the above scenarios, aid intensity would remain at 85% for businesses with electricity intensity at or above 20%. This is to give businesses that are eligible under the current electricity intensity threshold to receive relief at 85% aid intensity the certainty of continuing to do so.

Redistribution of recovered money from over-exempted ELLs

7. EU State aid law requires that the value of any over-exemption of ELLs be recovered. We previously consulted on options to redistribute any amount recovered back to consumers via the electricity suppliers. However, the options available would not guarantee that any over-exemption is fully redistributed to the correct consumers and would require new legislation and processes that would involve additional complexity and administrative burden. We have concluded that this would not currently be justified given our assessment that the impact of redistributing the value of over-exemption to consumers would be to decrease the average household electricity bill by a small amount (less than 10p a year). We are therefore consulting (see chapter 6) on an alternative proposal to recover the value of any over-exemption without redistribution of this value back to consumers.

Improving operation of the exemption schemes

8. As set out in chapter 7, we are consulting on proposed changes to the Regulations on the CfD exemption, which we consider will improve operation of the ELL exemption schemes. The changes relate to:
- how quickly an existing business opening a new meter may receive the exemption for that meter;
 - how quickly the level of exemption may be adjusted for i) a business that starts to share a meter or stops sharing a meter with another business and ii) a business that starts or stops making an ineligible product using electricity from an exempted meter;
 - the expiry date for ELL certificates;
 - the timing of quarterly reports from businesses.

9. In respect of the above issues, we have asked several questions in the consultation document. We are interested in views particularly from EILs, other businesses and trade associations, and consumers and consumer groups.
10. Consultation responses are requested by 7 September 2018.

1. INTRODUCTION

- 1.1. This chapter sets out the background to the current renewable electricity relief schemes for energy intensive industries (EIs) and why we are consulting on the options for widening the scope of eligibility for the schemes. The schemes provide relief to eligible EIs from a proportion of the indirect costs of the UK's low-carbon and renewable electricity support policies, namely Contracts for Difference (CfD), Renewables Obligation (RO) and small-scale Feed-in Tariffs (FIT).
- 1.2. This consultation covers only options for widening the scope of eligibility for the CfD and RO exemption schemes. We have not yet published a decision on the implementation of the FIT exemption scheme. If the FIT exemption is introduced, we propose that eligibility arrangements for the FIT exemption will be brought into line with the arrangements for the CfD and RO exemption schemes. We do not propose to widen eligibility for the current FIT compensation scheme.
- 1.3. In respect of the options for widening eligibility for the RO exemption, this consultation relates to England and Wales. However, the Scottish Government has indicated it would consult separately on the RO in Scotland, and we propose to coordinate with them with a view to achieving a consistent policy at a GB level in respect of the RO. This consultation does not relate to Northern Ireland where there is no RO exemption in place.
- 1.4. In respect of the options for widening eligibility for the CfD exemption (and FIT exemption if appropriate), this consultation relates to Great Britain (the CfD and FIT schemes are not available in Northern Ireland).
- 1.5. The consultation also covers proposals relating to redistributing any recovered over-exemptions from the indirect costs of the renewable electricity support schemes and for improving operation of the relief schemes.
- 1.6. Following this consultation, we will consider the arguments and evidence provided before deciding on whether changes are needed and, if so, what changes will be made. Any decision to take forward a change will

be subject to state aid requirements¹ and Parliamentary approval of any necessary legislation.

Why renewable electricity relief for EIs?

- 1.7. The CfD, RO and FIT schemes are domestic energy and climate change policies designed to encourage investment in low carbon and renewable electricity generation to enable the UK to meet its ambitious and legally-binding decarbonisation targets. The RO was introduced in 2002 in Great Britain to incentivise the deployment of large-scale renewable electricity. Similarly, in 2010, the Government launched the FIT scheme to encourage uptake of a range of small-scale renewable and low-carbon electricity generation technologies. More recently, in 2015, the CfD was introduced as a key mechanism of the Electricity Market Reform (EMR) programme to give greater certainty and stability of revenues to electricity generators with a view to spurring greater investments in low-carbon and renewable electricity generation.
- 1.8. The costs of funding these low-carbon and renewable support schemes are recovered through obligations and levies on electricity suppliers. These costs are ultimately passed on to consumers in higher electricity bills.
- 1.9. The resulting increase in electricity prices partly accounts for the UK's relatively high industrial electricity costs compared with those in other EU member states². This cost differential risks putting businesses which are particularly exposed to those costs at a significant competitive disadvantage.
- 1.10. Without Government support, the high business electricity costs could adversely affect investment decisions in industries that play a significant role in the UK economy. The EI sectors that are eligible for BEIS relief schemes account for around £30bn in Gross Value Added (2% of the UK economy) and around £115bn turnover; they employ around 230,000

¹ On 23 June 2016, the EU referendum took place and the people of the United Kingdom voted to leave the European Union. Until exit negotiations are concluded, the UK remains a full member of the European Union and all the rights and obligations of EU membership remain in force. During this period the Government will continue to negotiate, implement and apply EU legislation. The outcome of these negotiations will determine what arrangements apply in relation to EU legislation in future once the UK has left the EU.

² UK extra-large industrial users' electricity prices are the highest in the EU15, 77% higher than the EU15 median (Eurostat, season 1 2017 data).

workers, often in deprived regions, and support other businesses through the supply chain.³

- 1.11. As set out in the Industrial Strategy White Paper⁴, published last year, the Government recognises the need to tackle business energy costs and to help alleviate the impacts of high electricity prices on electricity intensive industries. As a result, in recent years, Government has acted to mitigate the cumulative impact of energy and climate change policies on energy costs for the most electricity-intensive businesses. The current renewable relief schemes for ELLs are set out below.

Current renewable electricity relief schemes for ELLs

- 1.12. Alongside the introduction of the Energy Bill 2012, the previous Government announced its intention to exempt ELLs from additional costs arising from the CfD scheme. Subsequently, in Budget 2014, the Chancellor announced that the Government would compensate certain ELLs for a proportion of the indirect costs of the RO and FIT schemes.
- 1.13. We consulted on the eligibility criteria for both the CfD exemption and the RO-FIT compensation schemes between July and October 2014 and received state aid approval from the European Commission for the schemes in December 2015. The compensation scheme was opened to applications in January 2016, and, since then, eligible ELLs have been receiving compensation for a proportion of the indirect costs of the RO and FIT schemes.
- 1.14. The operation of the CfD exemption was, however, still subject to Parliamentary approval of The Electricity Supplier Obligations (Amendment and Excluded Electricity) (Amendment) Regulations 2017. The Regulations were subsequently approved⁵, and came into force on 31 October 2017. Eligible ELLs have been issued certificates to allow electricity suppliers to exempt them from a proportion of the indirect costs of the CfD scheme.

Switching from compensation to exemption schemes for RO and FIT costs

- 1.15. The Spending Review 2015 set out the Government's intention to move from a system of compensation to that of exemption for the indirect cost

³ BEIS internal analysis using ONS Annual Business Survey 2015; encompasses those sectors that are eligible for the RO, FIT and CfD relief schemes and/or the schemes providing relief from the indirect costs of the EU Emissions Trading Scheme and UK Carbon Price Support Mechanism.

⁴ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf

⁵ https://www.legislation.gov.uk/ukdsi/2017/9780111157015/pdfs/ukdsi_9780111157015_en.pdf

of the RO and FIT. Compared with compensation, an exemption scheme would provide greater certainty and more accurate and faster support.

- 1.16. We received state aid approval for the RO exemption in June 2017, and the implementing secondary legislation⁶ was approved by Parliament and came into force in December 2017. A revised 2018/19 obligation level was published on 18 December 2017⁷, and, consequently, the RO exemption came into effect in GB from 1 April 2018.

The position on FITs exemption

- 1.17. Unlike the CfD and RO exemption schemes for which we have received state aid approvals, state aid considerations for the FIT exemption scheme were more complex to resolve, which means we have not yet moved from the current compensation to an exemption scheme.
- 1.18. The Government has consulted on exempting EITs from the indirect costs of the FIT scheme. We have not yet published a decision on the implementation of the FIT scheme. If the FIT exemption is introduced, we propose that eligibility arrangements for the FIT exemption will be brought into line with the arrangements for the CfD and RO exemption schemes. We do not, however, propose to apply such lower eligibility threshold to the FIT compensation scheme.

Why are we considering options to widen eligibility for the exemption schemes?

- 1.19. Government has provided relief from high electricity costs to a significant number of EITs. In 2017, 152 businesses received RO compensation and 149 received FIT compensation⁸. However, some businesses in energy intensive sectors are not being provided relief because they do not meet the current eligibility threshold of 20% electricity intensity. This raises the question whether the 20% eligibility threshold is too high and, thus, whether it risks creating competitive distortions within the energy intensive industrial sectors of the economy.
- 1.20. The aim of this consultation is, therefore, to seek views and evidence from a wide-range of stakeholders on (a) whether the current eligibility threshold poses the risk of competitive distortions and, if so, (b) which of the options set out in the consultation would best address such

⁶ <http://www.legislation.gov.uk/ukdsi/2017/9780111159170/contents>

⁷ <https://www.gov.uk/Government/publications/renewables-obligation-level-calculations-201819>

⁸ The FIT scheme does not extend to Northern Ireland, and thus businesses which only have installations based in Northern Ireland do not receive FIT compensation.

distortions taking into account the need to minimise the cost for non-eligible electricity consumers, such as households and other businesses.

- 1.21. For context, the next chapter explains why the current eligibility threshold was introduced, and the issues arising from it.

2. ISSUES ARISING FROM THE CURRENT ELIGIBILITY CRITERIA

State Aid Guidelines on eligibility

- 2.1. The European Commission allows state aid to be given to sectors that “are exposed to a risk to their competitive position due to the costs resulting from the funding of support to energy from renewable sources as a function of their electro-intensity and their exposure to international trade”⁹. This enables us to provide relief to eligible EILs from the indirect costs of the UK’s renewable support schemes. Sectors that are eligible for such aid are listed in Annex 3 of the Commission’s Energy and Environmental Aid Guidelines (EEAG)¹⁰.
- 2.2. In addition, recognising that certain sectors might be heterogeneous in terms of electro-intensity, the Commission allows Member States to grant the aid to any business that does not belong to a sector listed in Annex 3 but that has an electro-intensity of at least 20% and belongs to a sector with a trade intensity of at least 4% at EU level.¹¹ The sectors that meet this alternative eligibility test are listed in Annex 5 of the EEAG.

Difference between treatment of businesses in Annex 3 and those in Annex 5 sectors

- 2.3. To be eligible to receive aid for the indirect costs of renewable policies, a business that belongs to a sector listed in Annex 5 of the EEAG must have an electricity intensity at 20% or higher. The 20% electricity intensity requirement does not apply to businesses that belong to the sectors listed in Annex 3 (though a Member State may introduce a minimum electricity intensity threshold for businesses in the Annex 3 sectors in order to target the aid at those most at risk).
- 2.4. The different approach in the EEAG to sectors listed in Annex 3 and those listed in Annex 5 has implications for this consultation. Specifically, it means that if, following the consultation, a lower than 20% electricity intensity threshold is introduced for the exemption schemes, such lower threshold can only apply to businesses manufacturing products that

⁹ See para 185 of the Guidelines on State aid for environmental protection and energy 2014-2020 [http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52014XC0628\(01\)&from=EN](http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52014XC0628(01)&from=EN)

¹⁰ EC’s guidelines on State Aid for Environmental Protection and Energy 2014-2020: <http://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52014XC0628%2801%29>

¹¹ See para 186 of the EEAG.

belong to sectors listed in Annex 3 of the EEAG, whilst a 20% electricity intensity threshold must continue to apply to businesses manufacturing products that belong to sectors listed in Annex 5. Therefore, references in this consultation to reducing the 20% electricity intensity threshold should be read as only applying to businesses manufacturing products that belong to sectors listed in Annex 3 of the EEAG.

UK-specific filters: the sector and business level tests

- 2.5. Although the EEAG does not require any further eligibility test to be applied to businesses belonging to the sectors listed in Annex 3 and Annex 5, we proposed in our consultation on eligibility for the CfD, RO and FIT relief schemes in July 2014, and in our subsequent application to the Commission for state aid approval in October 2014, to reduce the number of sectors and businesses eligible under both annexes, in order to target the aid at the EILs most at risk, that is, those that are put at a significant competitive disadvantage due to funding support for energy from renewable sources. To that end, we applied additional filters in the UK: the sector-level and business-level tests.

The sector-level test

- 2.6. The sector-level test targets the aid at the most electricity and trade intensive sectors. It takes the sectors listed in Annex 3 and Annex 5 of the EEAG as a starting point, and then applies a requirement that the sectors must have a trade intensity of at least 4% and electricity intensity of at least 7%, using UK-specific data, to pass the test. Given this, the sector-level test, some sectors listed in Annex 3 and Annex 5 of the EEAG are not eligible for the renewable electricity relief in the UK.

The business-level test

- 2.7. The basic premise of the business-level test is that within an eligible sector (that is, those that have passed the sector-level test), there will be some products which are relatively less electricity-intensive to manufacture; therefore, their manufacturers are likely to be less exposed to electricity price increases.
- 2.8. The business-level test thus assesses whether a business is highly electricity intensive. To pass this test, and be eligible for support, a

business's electricity costs must be at 20% or higher of its Gross Value Added (GVA)¹².

Original proposals for additional eligibility test to avoid competitive distortion

- 2.9. The sector and business level tests, however, posed the risk that some businesses which manufacture eligible electricity intensive products may fail the eligibility test due to their structure. For example, a business may manufacture other non-energy intensive products, which bring down its overall electricity intensity. This could lead to distortions within sectors where one business receives relief, whilst another making the same product does not.
- 2.10. To address the identified risk of competitive distortions, we previously considered proposals for 'direct competitors' to be eligible to receive relief. The proposals we previously considered are summarised below:
- i. that a business may also be treated as eligible if it could demonstrate that:
 - (a) It only fails the test because of the inclusion of significant costs which do not relate to the manufacture of the eligible product, or
 - (b) The eligible product concerned typically meets the test – i.e. most of the businesses operating in the market and who are manufacturing the same product in the UK pass the test and are eligible for compensation.
 - ii. that if businesses in the same sectors are direct competitors, i.e. producing the same product, we would provide relief to all the businesses, even if any of them fails the 20% electro-intensity test, provided the average electricity intensity of all the direct competitors is 20% or higher. If a business fails the 20% electricity-intensity test but is not directly competing with other businesses, i.e. producing the same products, it would not benefit from the average test, that is, it would not be eligible for relief.
- 2.11. Following engagement with the European Commission on the requirements of the EEAG, we concluded that these proposals could not

¹² GVA is defined as earnings before interest, taxes, depreciation and amortisation (EBITDA), excluding items which are "extraordinary", and staff costs including employers' pension and national insurance contributions as well as arrangements where employees are paid indirectly.

be implemented, and this consultation paper therefore sets out alternative options.

Consideration of alternative options

2.12. The Government is keen to gather any evidence of competitive distortions that may have arisen from the current eligibility criteria for the renewable electricity relief schemes, and to explore alternative options for addressing any such distortions. To this end, the Government made a commitment in the Industrial Strategy White Paper, to “consult on widening eligibility for the exemption schemes for energy-intensive industries to address potential intra-sectoral competitive distortions, taking into consideration the impact on consumer bills.”¹³

¹³ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/664563/industrial-strategy-white-paper-web-ready-version.pdf, page 160.

3. THE OPTIONS FOR NEW ELIGIBILITY CRITERIA

Introduction

- 3.1. This chapter invites evidence of any competitive distortions that may have arisen from the current eligibility criteria. Subject to decisions following this consultation, it sets out options for widening the scope of eligibility for the renewable electricity exemption schemes for energy-intensive industries to reduce costs for certain EIs that are currently excluded from the relief schemes.
- 3.2. Furthermore, subject to the outcome of this consultation, any decision to lower the current eligibility threshold would require changes to the CfD and RO legislation, and we intend to align any changes to the RO with the RO cycle so they won't come into effect before the 2020/21 obligation year. The potential timing for this is set out in Chapter 9.

The two-stage test

- 3.3. The options set out in this chapter do not change the principle of a two-stage test for determining eligibility, namely the sector- and business-level tests as explained in paragraphs 2.5 to 2.8. To ensure that support is targeted at those most at risk, we will retain the two tests.

Adding new sectors to the eligible sector list

- 3.4. The sectors that have passed the sector-level test, based on our original evaluation of the relevant data, are listed in secondary legislation¹⁴. We do not propose to review the sector-level test methodology or reassess eligible EI sectors. This is to continue to provide certainty to the sectors that are currently eligible for relief. We recognise, as well, that there is no published data available that would enable us to re-assess the eligibility of the existing sectors. However, we accept the possibility that a sector deemed ineligible, based on the original evaluation, may be able to provide information that was not originally considered that shows that it passes the sector-level test.
- 3.5. In the Government response to the original consultation on eligibility for the renewable electricity relief schemes, we said that we would consider

¹⁴ https://www.legislation.gov.uk/ukdsi/2017/9780111157015/pdfs/ukdsi_9780111157015_en.pdf

information received by sectors that failed the sector filter test (perhaps because of old data)¹⁵.

- 3.6. One sector recently approached us and indicated that they have data that demonstrates that they satisfy the trade and electricity intensity criteria and should be added to the eligible sector list. **We will assess any new information provided and if satisfied that the sectors pass the test and are listed as eligible in the EEAG, we propose to amend the relevant legislation to add those sectors, and any other sector in that situation, to the eligible sector list.**
- 3.7. **Any currently excluded sectors seeking to be considered for inclusion in the eligible sector list should provide the following information for the most recent three years for which data is available, not earlier than 2010, 2011 and 2012:**
- Electricity consumption by sector (MWh)
 - Gross Value Added for sector (£'000s, nominal)
 - Value of sector exports from the UK (£'000s, nominal)
 - Value of sector imports into the UK (£'000s, nominal)

Business-level test

- 3.8. To address some of the issues around the current eligibility criteria, we set out options to lower the current electricity intensity threshold (which is 20% electricity intensity). We believe that we could lower the current electricity intensity threshold and remain in line with the EEAG, provided we apply the new (lower) threshold uniformly to all EIs manufacturing products that belong to sectors listed in Annex 3 of the EEAG. The following are the options we have considered.

Option 1: “Do Nothing” – Maintaining current 20% electricity intensity threshold

- 3.9. Some ineligible EIs have raised concerns about the competitive distortions potentially caused by the 20% electricity intensity threshold and suggested lowering the threshold. For instance, in response to the consultation on implementing the RO and FIT exemption schemes, some respondents argued that the 20% electricity intensity threshold created competitive distortions, allowing eligible businesses that pass

¹⁵ https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/395809/bis-15-31-electricity-intensive-industries-relief-from-the-indirect-costs-of-renewables-Government-response-to-the-public-consultation.pdf, para 14, p.5

the test to gain financial advantage over their direct competitors that do not qualify¹⁶.

- 3.10. We invite evidence about the existence and extent of any competitive distortions. In the absence of such evidence, Option 1 is to “Do Nothing”, i.e. maintain the current 20% electricity intensity threshold.

Consultation Questions

1. Should the level of eligibility threshold for the exemption schemes be maintained at 20% electricity intensity? If yes, please explain why. If no, please provide evidence of the existence and extent of any competitive distortions that would suggest that the current electricity intensity threshold should be changed.
(We invite businesses to provide company-specific data, in confidence, using the tables in Chapter 5).

Option 2: Lowering the current electricity intensity threshold

- 3.11. Subject to evidence that the current 20% electricity intensity threshold is causing or could cause significant competitive distortions, the Government has considered options that could reduce any distortions to create a more level playing field for EILs. These options are to lower the current electricity intensity threshold.
- 3.12. However, the question of the appropriate level to set the eligibility threshold is not straightforward, given the potential trade-offs. While lowering the electricity intensity threshold for EILs would enable more businesses to benefit from the relief, it would also add further costs onto the electricity bills of non-eligible consumers, including households.
- 3.13. The Government’s intention is to minimise the cost of energy for all consumers. We have taken steps to do this, for example, by cutting subsidies for renewable electricity and driving investment in energy efficiency. We are also taking steps to ensure that those least able to pay are protected through our work on fuel poverty. The Government has also introduced the Domestic Gas and Electricity (Tariff Cap) Bill in Parliament to limit increases in domestic electricity prices. Whilst we recognise that widening eligibility for the EIL exemptions would add costs

¹⁶https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/631071/EIL_RO_exemption-Government_Response-FINALV3.pdf

for other consumers, this would be in the context of the wider measures described above to reduce energy costs for all consumers.

- 3.14. Given the competing objectives of supporting the competitiveness of EILs and minimising bills for all consumers, this consultation seeks views on an approach to lower the eligibility threshold in a way that manages the cost to other consumers. Chapter 4 sets out options for managing the cost to other consumers if we decide, following consultation, to lower the electricity intensity threshold.
- 3.15. We have considered three options for lowering the current 20% electricity intensity threshold. The three options are 17%, 15% and 10%. 17% would match the threshold that was applied in Germany. 10% would be a level below which we consider businesses are less likely to face significant competitive pressures from electricity price increases. 15% would be an intermediate option. Each option would add, to varying levels, further costs to other electricity consumers, both consumers that are not eligible for the exemption and EILs that are eligible under the current 20% threshold (as they are only exempt from up to 85% of the policy costs resulting from the financing of renewable electricity deployment).
- 3.16. The options are set out below, with estimates of their impacts on businesses that would become eligible at the new threshold and on other electricity consumers. These estimates assume that the FIT exemption is introduced and that the wider eligibility criteria would apply to CfD, RO and FIT exemption schemes.

Option 2A: 17%

- Impact on businesses that would become eligible (between 17% and 20% electricity intensity): This option would bring a limited number of currently ineligible EILs into scope, reducing a representative business's electricity bill by £2.8m per year on average.
- Impact on other electricity consumers: This proposal would add around:
 - £1 to the annual average household bill (compared to the current eligibility criteria)
 - £100 for a representative small business user's¹⁷ annual average bill

¹⁷ An illustrative small business energy user has an assumed electricity consumption of 260MWh per year.

- £3,000 for a representative medium business user's annual average bill
- £5,000 for a representative currently eligible EII's annual average bill
- £30,000 for a representative large business user's annual average bill

Option 2B: 15%

- Impact on businesses that would become eligible (between 15% and 20% electricity intensity): This option could lead to a significant increase in the additional number of businesses exempted from the indirect costs of the renewables support schemes, although several businesses in some sectors would still be ineligible. This reduces a representative business's electricity bill by £2.8m per year on average.
- Impact on other electricity consumers: This proposal would add around:
 - £2 to the annual average household bill (compared to the current eligibility criteria)
 - £100 for a representative small business user's annual average bill
 - £6,000 for a representative medium business user's annual average bill
 - £8,000 for a representative currently eligible EII's annual average bill
 - £50,000 for a representative large business user's annual average bill

Option 2C: 10%

- Impact on businesses that would become eligible (between 10% and 20% electricity intensity): At this threshold, the exemption schemes would benefit many more businesses than currently. This reduces a representative business's electricity bill by £2.8m per year on average.
- Impact on other electricity consumers: This proposal would add around:
 - £4 to the annual average household bill (compared to the current eligibility criteria)
 - £300 for a representative small business user's annual average bill

- £12,000 for a representative medium business user's annual average bill
- £17,000 for a representative currently eligible EII's annual average bill
- £110,000 for a representative large business user's annual average bill

Options below 10%

3.17. We do not propose options below an electricity intensity threshold of 10%. At a 10% electricity intensity threshold, some businesses would not be eligible for relief schemes. However, the energy price differential between the UK and other countries has a less significant impact on the competitiveness of businesses with lower levels of electricity intensity. We consider businesses with electricity costs at below 10% of their GVA are less likely to face significant competitive pressures from electricity price increases.

Consultation Questions

2. If the current 20% electricity intensity threshold is lowered, should it be set at 17%, 15% or 10%? Please provide any explanation or information available to support your view.
3. Do you agree with our proposal not to include options below 10% electricity intensity in the consideration of a lower eligibility threshold for exemption schemes? Please provide any explanation or information available to support your view.

4. MITIGATING THE REDISTRIBUTIVE IMPACT OF LOWER ELIGIBILITY THRESHOLDS

Introduction

- 4.1. The Government's commitment in the Industrial Strategy White Paper to consult on widening eligibility for the exemption schemes for energy intensive industries specifically adds that that this should "take into consideration the impact on consumer bills". This is consistent with the policy objective to keep the cost of electricity as low as possible for both business and domestic consumers. The **Cost of Energy Review**,¹⁸ carried out by Professor Dieter Helm CBE, looked specifically at how to achieve this. Professor Helm submitted his report on 25 October 2017, and, as stated in the Industrial Strategy White Paper, the Government is considering the review's findings with a view to taking "further action to reduce costs where appropriate".¹⁹
- 4.2. Therefore, consistent with the policy objective to minimise both household and business energy costs, we have considered how we could widen the scope of eligibility for the exemption schemes whilst reducing the impact of doing so on electricity bills for other consumers. This chapter sets out proposals for how the right balance could be struck between supporting EIs and managing the costs for other consumers.

Redistributive impact of widening eligibility for the exemption schemes

- 4.3. Exempting additional EIs from the indirect costs of the CfD, RO (and potentially FIT) means that, under the schemes' current arrangements, the costs would be spread among those consumers not eligible for the exemption (including households and non-eligible businesses), as well as currently eligible businesses (who are only exempt from up to 85% of the policy costs resulting from the financing of renewable electricity deployment). Thus, while the exemption will reduce the electricity bills for newly eligible EIs, it will increase electricity bills for other consumers.
- 4.4. Although the Government has taken action and continues to act to reduce consumer bills, some consultation respondents from the previous consultations on the implementation of the exemption schemes expressed concerns about the redistributive impacts of the relief schemes upon domestic consumers and SMEs.

¹⁸https://www.gov.uk/Government/uploads/system/uploads/attachment_data/file/654902/Cost_of_Energy_Review.pdf

¹⁹ Industrial Strategy White Paper, page 147

4.5. We estimate that the current eligibility threshold (at 20% electricity intensity) will increase average electricity bills for different consumers as set out in the table below. Lowering the electricity intensity threshold for EIs would add further costs (on top of the costs of the exemption at the existing 20% electricity intensity threshold) onto the electricity bills of non-newly eligible consumers.

4.6. The table below shows the total bill impacts of each of the three proposed options for lowering the current eligibility threshold. These are the bill impacts assuming that all eligible businesses receive 85% aid intensity. These estimates also assume that the FIT exemption is introduced and that the wider eligibility criteria would apply to CfD, RO and FIT exemption schemes.

Table 1: Estimates of bill impacts on households, small, medium and large energy users²⁰, annual average 2019 – 2025, and bill impacts as a percentage of overall electricity bill²¹.

Eligibility threshold	Impact on households	Impact on small energy users	Impact on medium energy users	Impact on large non-exempt users	Impact on large currently exempt users
Current: 20%	£4	£300	£11,000	£100,000	£2.8m
17%	£5 (0.2%)	£400 (0.2%)	£14,000 (0.2%)	£130,000 (0.3%)	£2.8m (0.1%)
15%	£6 (0.3%)	£400 (0.4%)	£17,000 (0.4%)	£150,000 (0.5%)	£2.8m (0.1%)
10%	£8 (0.7%)	£600 (0.8%)	£23,000 (0.9%)	£210,000 (1%)	£2.8m (0.2%)

²⁰ See the attached Impact Assessment for more details of the bill impacts

²¹ The monetary values in the table represent the total bill impacts of the scheme under the different thresholds, rather than additional impact of moving from the 20% eligibility threshold to a lower threshold. The percentages in brackets represent the additional impact of moving from the current threshold to a lower threshold.

Mitigating impacts on electricity bills through lower aid intensity

- 4.7. A key objective of the proposals set out in this consultation is to strike the right balance between supporting EIs and managing the cost impact on other consumers. We have considered an option for achieving this, as set out below.
- 4.8. If, following this consultation, the eligibility threshold is reduced from the current 20% electricity intensity, EIs with lower levels of electricity intensity could receive a lower level of aid intensity, ie there could be two or more 'tiers' of electricity intensity / aid intensity. There are many ways in which this could be structured. We have set out a possible structure below, for the three electricity intensity thresholds considered in chapter 3. This structure has been chosen so that option 2B with tiering would, we estimate, increase other consumers' bills by the same amount as option 2A without tiering, and option 2C with tiering would, we estimate, increase other consumers' bills by the same amount as option 2B without tiering.

Option 2A with tiering: 17%

- Aid intensity remains at 85% for businesses with electricity intensity at or above 20%
- Aid intensity falls to 50% for businesses with electricity intensity at or above 17 but below 20%

Option 2B with tiering: 15%

- Aid intensity remains at 85% for businesses with electricity intensity at or above 20%
- Aid intensity falls to 50% for businesses with electricity intensity at or above 15 but below 20%

Option 2C with tiering: 10%

- Aid intensity remains at 85% for businesses with electricity intensity at or above 20%
- Aid intensity falls to 50% for businesses with electricity intensity at or above 15 but below 20%
- Aid intensity falls to 35% for businesses with electricity intensity at or above 10 but below 15%

- 4.9. Under all scenarios, aid intensity would remain at 85% for businesses with electricity intensity at or above 20%. Businesses that are eligible

under the current electricity intensity threshold to receive relief at 85% aid intensity will have the certainty of continuing to do so.

- 4.10. The table below shows the total bill impacts of each of the three proposed tiering options for lowering the current eligibility threshold.

Table 2: Estimates of electricity bill impacts on households, small, medium and large energy users²², annual average 2019 - 2025²³.

Option	Households	Small energy users	Medium energy users	Large non-exempt users	Large currently exempt users
Current: 20%	£4	£300	£11,000	£100,000	-£2.8m
Option 2A	£5 (0.1%)	£400 (0.1%)	£13,000 (0.2%)	£120,000 (0.2%)	-£2.8m (Close to 0%)
Option 2B	£5 (0.2%)	£400 (0.2%)	£14,000 (0.3%)	£130,000 (0.3%)	-£2.8m (0.1%)
Option 2C	£6 (0.3%)	£400 (0.4%)	£17,000 (0.4%)	£160,000 (0.5%)	-£2.8m (0.2%)

- 4.11. The option of reducing aid intensity for businesses with lower electricity intensity has the advantage of enabling a greater number of businesses to benefit from the exemption whilst limiting the impact on other bill payers.
- 4.12. However, this option could continue to give rise to competitive distortions between EIs, since EIs whose electricity intensity just puts them into a lower tier would receive a lower level of aid than EIs whose electricity intensity just qualifies them for a higher tier. In addition, the added complexity of introducing tiers would increase administrative burden on the Government and delivery partners. It could also create complexity in setting the Renewable Obligation as it makes the calculation of “EI excluded electricity” (ie. the amount of electricity likely to be supplied to

²² See the attached Impact Assessment for more details of the bill impacts

²³ The monetary values in the table represent the total bill impacts of the scheme under the different thresholds, rather than additional impact of moving from the 20% eligibility threshold to a lower threshold. The percentages in brackets represent the additional impact of moving from the current threshold to a lower threshold.

eligible ELLs during an obligation period), which is factored into the obligation setting calculation, more challenging.

Consultation Questions

4. Should the aid intensity be reduced for ELLs in a lower tier of electricity intensity to manage costs for other consumers? Please provide any explanation or information to support your view.
5. If the aid intensity is reduced for ELLs in a lower tier of electricity intensity, do you agree with the structure set out in paragraph 4.8? If no, please explain what structure you would prefer.
6. Do you have any other suggestions for achieving the right balance between supporting ELLs and managing the cost to other consumers? If so, please tell us.

5. IMPACT ASSESSMENT AND EVIDENCE OF COMPETITIVE DISTORTIONS

- 5.1. This chapter seeks evidence about competitive distortions and the draft impact assessment to better inform decisions on this matter following the consultation.

Evidence on competitive distortions

- 5.2. As stated under the “Do Nothing” option (paragraph 3.8 to 3.10), we invite evidence about the existence and extent of any competitive distortions that could justify changing the current electricity intensity threshold.
- 5.3. Given this, we invite businesses to populate Table 2 below for each Prodcom code that they produce and answer the question on turnover directly below Table 2. Also, please complete Table 3 so that your electricity intensity can be calculated. We understand that this information will be commercially sensitive, so it will be protected, used only for the purposes of this consultation and not released outside Government, unless Government considers that it is legally required to release or disclose such information.

Table 2: Evidence on competitive distortion

Prodcom codes of products you produce which are in direct competition with companies receiving EII relief	Companies you compete with for this product in the UK market	The volume of production in your last financial year (tonnes)	The value of production in your last financial year (£ nominal)
[Please complete for each product]			

Consultation Question

7. What was your company turnover in your last financial year?

Table 3: Electricity intensity (calculated as electricity consumption per £ of Gross Value Added, averaged over the business's last three financial year)

Business's financial year start date	Business's financial year end date	Total business earnings before interest, tax, depreciation and amortisation: EBITDA (£ nominal)	Total staff costs including pension contributions (£ nominal)	Total Business Electricity Consumption Including Grid and Non-Grid Sources over Financial Year (MWh)
[Please complete for each of the last three financial years. These should match records published on Companies House, if applicable.]				

Consultation Questions

8. What was your average electricity intensity in the last three financial years?
9. Are there any other competitive issues that ineligible businesses face from eligible EIs? If any, please explain

Draft Impact Assessment

- 5.4. A draft IA has been published alongside this consultation document. The IA provides estimates of the benefits and costs of each of the proposed options for lowering the current eligibility threshold for the exemption schemes.
- 5.5. In calculating the impacts of each option, we employed the following methodology:

- A. We estimated the total electricity consumption for the sectors in Annex 3 eligible for the relief schemes.
- B. We estimated the total electricity consumption for currently ineligible businesses in these sectors. This was calculated by subtracting the electricity consumption of businesses currently in the scheme operating in Annex 3 sectors from the total electricity consumption of Annex 3 sectors.
- C. We assume this electricity consumption is distributed equally between businesses with electricity intensity from 0% to 19%. From this, we calculated the total electricity consumption of newly eligible businesses at the different electricity intensity thresholds proposed.
- D. We estimated and removed non-grid electricity consumption from the newly eligible businesses and applied the aid intensity percentage. This gave us the amount of additional electricity that will be exempted from RO, CfD, and (assuming a FIT exemption is introduced) FIT costs.
- E. Using estimates of total electricity consumption and the cost of the schemes, we calculated the impact of lowering the eligibility thresholds on electricity prices and bills for various bill payers.

Consultation Questions

- 10. Do you have evidence which would help us to improve the estimated impact of each of the options for a lower electricity intensity threshold? If so, please provide the evidence.
- 11. Do you have any other comments on the Impact Assessment?

6. RECOVERY OF MONEY FROM OVER-EXEMPTED EIIS

Introduction

- 6.1. We are required by law to recover any over-exemption of EIIs from the indirect cost of the UK's renewable energy support policies. An over-exemption may occur, for example, if an EII certificate is revoked, or where some of the EII's electricity has been incorrectly identified as EII excluded electricity, i.e. not eligible to be considered for the purpose of the aid scheme. Under the terms of our approved State aid notification we are required to put in place an ex post monitoring mechanism to ensure that any over-payment of aid under the exemption scheme will be repaid.
- 6.2. The Government [consulted](#), in July 2016, on two options to recover any over-exemptions from eligible EIIs and redistribute the amount recovered back to suppliers (who we anticipate would pass on the savings to consumers):
- Option 1: Recovery and redistribution of over exemption by means of separate adjustments to supplier liability under each of the 3 schemes (CfD, RO and FIT).
 - Option 2: Recovery of over exemption from the EII, and redistribution of recovered funds through adjustments to supplier liability under the CfD scheme.

Table 4: Analysis of options

	Option 1	Option 2
Advantages	<p>Consistent with overall approach of the exemption schemes, where the exemption is given to the supplier, who is responsible for the relationship with the energy intensive business.</p> <p>Compatible with existing reconciliation / levelisation mechanisms for CfD and FIT schemes with relatively limited changes required.</p>	<p>An energy intensive business which receives an over-exemption will be directly required to repay it.</p> <p>More transparent and less complex to administer, with consistent approach across all three schemes.</p>

		Should have less of an impact on consumer bills, as less uncertainty.
Disadvantages	<p>Creates uncertainty for suppliers about whether their liabilities will change retrospectively (because of an EII customer having been over-exempted), which could lead to suppliers pricing in an extra risk premium to all customer bills.</p> <p>Exposes the supplier of an exempt EII to a 'credit risk', as the supplier would be liable if the EII is over-exempted and the supplier is unable to recover the funds from the EII. Suppliers could require credit cover from EIIs against this risk, increasing costs.</p> <p>For the RO scheme:</p> <ul style="list-style-type: none"> - Represents a significant change to the way the scheme currently operates and requires complex legislative changes. - No guarantee that the supplier will be required to repay the correct amount (because the value of a ROC changes in each obligation year). - Value of the over-exemption will not be fully redistributed to other consumers (because the RO scheme allows suppliers to choose between presenting ROCs and making payments to the buy-out fund). 	<p>Recovered over-payments are redistributed to suppliers based on market share over a different time-period, so arguably different suppliers / consumers are benefiting.</p> <p>Potential fiscal impact if the funds flow through the Consolidated Fund.</p>

Responses to the Consultation

Of those respondents who expressed a preference on the two options, there was a very strong preference for option 2, as this was deemed less complex, would expose electricity suppliers to less risk and would impose fewer administrative burdens compared to option 1.

- 6.3. The Government response to the consultation published in March 2017 set out that “[A]lthough we consulted on a mechanism for the recovery and redistribution of over-exemption to EIs [...], this is a complex issue and we are still considering our options. Government will respond to these questions at a later date. In the interim, recovery, but not redistribution, will be possible under generally applicable law”.

Alternative Option

- 6.4. We have further analysed the potential state aid we may need to recover from over-exempted EIs, based on the amount we have recovered under the EI compensation schemes for the indirect emission cost due to the EU ETS and the carbon price support mechanism. Our assessment is that the amount to be recovered from over-exempted EIs will be a very small proportion of the total value of the exemption. We estimate the potential upper-bound to be 2% of the total value of the exemption. The impact of redistributing this level of over-exemption (if it occurred) to consumers would be to decrease the average household electricity bill by less than 10p a year.
- 6.5. We have also further assessed the likely efficacy of the two options and the legislation and administrative arrangements that would be needed to introduce them. Neither option would guarantee that any over-exemption is fully redistributed to the correct consumers. In addition, both options would require new legislation and processes that would introduce additional complexity and administrative burden. We have concluded that this would not currently be justified given our assessment that the value of any over-exemption is likely to be relatively small. We therefore now propose to recover the value of any over-exemption without redistribution of this value back to suppliers of other consumers.
- 6.6. In this proposal, as currently, BEIS would recover the value of any over-exemption from an individual company based on generally applicable law, without the need for any new legislation specific to the EI exemption schemes. Any over-exempted EI will be required to pay the value of the over-exemption to BEIS.

Consultation Question

12. Do you agree with the proposal not to redistribute the value of recovered over-exemptions back to suppliers of other consumers (who could pass on the savings to consumers)? Please set out your reasons.

7. IMPROVING OPERATION OF THE EXEMPTION SCHEMES

Introduction

7.1. This chapter sets out four proposed changes to the Regulations on the CfD exemption,²⁴ which we consider will improve operation of the EII exemption schemes. The changes relate to:

- how quickly an existing business opening a new meter may receive the exemption for that meter;
- how quickly the level of exemption may be adjusted for i) a business that starts to share a meter or stops sharing a meter with another business and ii) a business that starts or stops making an ineligible product using electricity from an exempted meter;
- the expiry date for EII certificates;
- the timing of quarterly reports from businesses.

Opening a new meter

Current situation

7.2. Regulation 11(2) specifies that the exemption proportion for a particular meter is based on data for that meter in the preceding calendar year.²⁵ This fits with an annual cycle of EII relief, in which a business applies to renew its existing EII certificate after 31 December, with data for the preceding calendar year. BEIS then uses the data in that application to calculate updated exemption proportions for the business's meters which are set out in the next EII certificate issued to the business.

Issues arising

7.3. Regulation 11(2) means that an existing business²⁶ that opens a new meter will not be able to receive the exemption for that meter until the following calendar year (ie when there is data available for the meter in the preceding calendar year). This has the following implications:

²⁴ The Electricity Supplier Obligations (Amendment and Excluded Electricity) (Amendment) Regulations 2017 <http://www.legislation.gov.uk/ukxi/2017/1051/contents/made>

²⁵ This only applies for an existing business that is not a 'new business' as defined in the Regulations. The Regulations set out a different period for a 'new business' recognising that it may not have data available for the preceding calendar year.

²⁶ We use the term 'existing business' to mean a business that is not a 'new business' as defined in the Regulations.

- existing businesses who open a new meter may have to wait different amounts of time before receiving an exemption for the new meter, depending on when in the calendar year the meter was opened;
- a business could be waiting up to a year for the exemption if it opens a new meter in January;
- a business could receive the exemption based on a very short period of data, which may not be representative of use over a longer period, if it opens a new meter in December.

Proposal

- 7.4. We propose to amend the Regulations, subject to Parliamentary approval, so that existing businesses that open a new meter, and that meet the eligibility criteria, are treated equally. Given that some meters are shared by more than one business and/or are used for both eligible and ineligible products, we consider that it is necessary for a period of data to be available for a new meter before an exemption certificate can be issued. We consider a reasonable period to be three months.
- 7.5. We propose that, where a meter is not in use for the entire preceding calendar year, the exemption proportion on the EII certificate will be based on the period of at least three months prior to the application throughout which the meter was in use. This would mean that if, for example, an existing business opened a new meter at the start of January, it could apply for an exemption for that meter at the start of April (assuming it had three months of data available by that point), and if a business opened a new meter at the start of December it could apply at the start of the following March (based on the same assumption).
- 7.6. We propose that the exemption proportion on the EII certificate would be reviewed on receipt of each quarterly report until it was based on a total of at least 12 months of available data. We propose to do the same for new businesses that apply for a certificate with less than 12 months of data, ie we would review the exemption proportion on the EII certificate on receipt of each quarterly report until it was based on a total of at least 12 months of available data.
- 7.7. This would mean changing existing requirements for quarterly reports by adding in a new obligation for businesses with new meters (including new businesses) to provide an update on the proportion of electricity

going through their meter which they use for a “specified activity” (i.e. producing an eligible product).

- 7.8. As is the case now, failure to provide a quarterly report would be a basis on which the Secretary of State could revoke the EII certificate. In addition, we propose to add new provisions allowing the Secretary of State to revoke the EII certificate where a business with a new meter sends its quarterly report to the Secretary of State as required but fails to provide new or sufficient new information on the proportion of electricity going through their meter which they use for a specified activity, without reasonable excuse.

Consultation Question

13. Do you agree with the proposal that, where a meter is not in use for the entire preceding calendar year, the exemption proportion on the EII certificate should be based on the period of at least three months prior to application throughout which the meter was in use? If not, please explain why.

14. Do you agree with the proposal that, where a meter is not in use for the entire preceding calendar year, the exemption proportion should be reviewed on receipt of each quarterly report until it is based on a total of at least 12 months of available data? If not, please explain why.

Changes to meter-sharing

Current situation

- 7.9. As described in the previous section, Regulation 11(2) sets out that the exemption proportion for a particular meter is based on data for the meter in the preceding calendar year. The proportion is based on data for the whole of the previous calendar year, even if there has been a change during the year in meter-sharing arrangements or in the manufacture of ineligible products using electricity from the meter, eg if the business started to share its meter or stopped sharing its meter with another business or if the business started or stopped making an ineligible product using electricity from the meter.

Issues arising

- 7.10. The current arrangements benefit from simplicity as the same calculation is applied to all meters, regardless of changes to their use, which minimises the administrative burden and the risk of error or inconsistency in carrying out the calculation to determine the exemption

proportion. However, where there has been a change in meter-sharing or meter-use arrangements, the exemption proportion on the certificate may not reflect the current situation.

Proposal

- 7.11. We propose to amend the Regulations, subject to Parliamentary approval, so that, where a business has started to share a meter or stopped sharing a meter, the exemption proportion on the original EII certificate will be based on the period of at least three months since the change in meter-sharing arrangement. Likewise, we propose to amend the Regulations, subject to Parliamentary approval, so that, where a business has started or stopped making an ineligible product using electricity from the meter, the exemption proportion will be based on the period of at least three months since the change in meter use.
- 7.12. Where one of the changes in paragraph 7.9 occurs for a meter for which an EII certificate has already been issued, we propose to issue a notice amending the exemption proportion on the EII certificate once three months of data is available. This will not affect the expiry date of the existing EII certificate, only the exemption proportion set out in it.
- 7.13. As set out in the previous section, we propose that the exemption proportion on the EII certificate would be reviewed on receipt of each quarterly report until it was based on a total of 12 months of available data.
- 7.14. Implementing this arrangement would involve businesses providing additional information to BEIS, specifically:
 - If applicable, an application would need to include the proportion of electricity from the meter used for a 'specified activity' (ie producing an eligible product) by the business in the period since starting to share a meter or stopping sharing a meter or starting/stopping making an ineligible product using electricity from the meter;
 - the business would need to notify BEIS if it started making an ineligible product using electricity from an exempted meter;
 - the business would also be able to notify BEIS if it stopped sharing electricity from an exempted meter or if it stopped making an ineligible product so that the exemption proportion on the EII certificate could be amended (although we do not propose to require

the business to notify BEIS in these circumstances since it is only the business that stands to lose out if it does not notify);

- the requirements for quarterly reports would be amended such that businesses that have started sharing a meter or making an ineligible product must provide an update on the proportion of electricity going through the meter that is used for a specified activity. We propose that the new provisions described in paragraph 7.8 would apply in this context too.

7.15. We have considered whether we could make additional changes to the Regulations in the following circumstances:

- when the users of a shared meter remain the same, but the business increases or decreases the proportion of electricity that it uses in respect of that meter;
- when the ineligible product made using electricity from a meter remains the same, but the business increases or decreases the proportion of electricity that is used for the eligible product in respect of that meter.

7.16. In both these circumstances, the provisions in the current Regulations mean that the exemption proportion on the EII certificate typically lags around a year behind the current situation as the proportion is based on data from the preceding calendar year. It may be possible to amend the Regulations so that the exemption proportion is adjusted more quickly in response to the circumstances set out in paragraph 7.13. However, doing so would increase data collection and reporting burdens on business and administrative costs for BEIS. In addition, the circumstances in paragraph 7.13 are likely to involve continuous change rather than a discrete, well defined event and we would need to set out what level of change should trigger an adjustment of the exemption proportion, which would increase complexity in the scheme. We therefore do not propose to make any changes to how the exemption currently operates in the case of the circumstances set out in paragraph

Consultation Question

15. Do you agree with the proposal that, where a business starts to share a meter or stops sharing a meter, the exemption proportion on the EII

certificate should be based on the period of at least three months since the change in meter-sharing arrangement? If not, please explain why.

16. Do you agree with the proposal that, where a business starts or stops making an ineligible product using electricity from a meter, the exemption proportion on the EII certificate should be based on the period of at least three months since the change in meter use? If not, please explain why.

Expiry date for certificates

Current situation

7.17. Regulation 13(3) sets out the expiry date for an EII certificate. This is generally the end of March or, where this would result in the certificate expiring after 6 months or less, the end of the following March.²⁷

Issues arising

7.18. The current expiry date allows a period totalling three months (between 1 January and 31 March) for the business to apply to renew its existing EII certificate and BEIS to calculate the new exemption proportion for each meter and issue a new certificate. In cases that are complex or where the business does not apply until late on in the three-month period, there is a risk that BEIS may not have sufficient time to issue the new certificate before the current certificate expires. This risk is significantly increased after the issue of five certificates, at which point BEIS must not only calculate the new exemption proportion(s) but also re-assess the eligibility of the EII before issuing the certificate.

Proposal

7.19. We propose to amend the Regulations, subject to Parliamentary approval, so that, for existing businesses, certificates expire at the end of June or, where this would result in the certificate expiring after 6 months or less, the end of the following June.

Consultation Question

17. Do you agree with the proposal that, for existing businesses, certificates should expire at the end of June or, where this would result in the certificate expiring after 6 months or less, the end of the following June? If not, please explain why.

²⁷ This only applies for an existing business that is not a 'new business' as defined in the Regulations. The Regulations set out a different expiry date for a certificate issued to a 'new business'.

Timing of quarterly reports

Current situation

- 7.20. Regulation 12(4) specifies that businesses must report to BEIS on the last working day in the months of March, June, September and December on whether they are still carrying out the 'specified activity' (ie making the eligible product) to which the certificate relates.

Issues arising

- 7.21. The timing of quarterly reports set out in the Regulations does not align with the timing of reports for the equivalent Feed-in Tariff (FIT) compensation scheme for EIs. We also consider that it does not provide sufficient flexibility for businesses to align reporting with their internal processes which would minimise administrative burdens and make compliance easier.

Proposal

- 7.22. We propose to amend the Regulations, subject to Parliamentary approval, so that businesses must report to BEIS before the last working day in the months of March, June, September and December on whether they are still carrying out the 'specified activity' to which the certificate relates. They would then be able to report on any date in each quarter month, as they do currently for the EI compensation schemes. Our scheme guidance and forms will be designed so that businesses may use the same form to provide their quarterly report for both the FIT compensation scheme and the CfD/RO exemption at the same time.

Consultation Question

18. Do you agree with the proposal that businesses must report to BEIS before the last working day in the months of March, June, September and December on whether they are still carrying out the 'specified activity' (ie making the eligible product) to which the certificate relates? If not, please explain why.

8. CATALOGUE OF CONSULTATION QUESTIONS

1. Should the level of eligibility threshold for the exemption schemes be maintained at 20% electricity intensity? If yes, please explain why. If no, please provide evidence of the existence and extent of any competitive distortions that would suggest that the current electricity intensity threshold should be changed.
2. If the current 20% electricity intensity threshold is lowered, should it be set at 17%, 15% or 10%? Please provide any explanation or information available to support your view.
3. Do you agree with our proposal not to include options below 10% electricity intensity in the consideration of a lower eligibility threshold for exemption schemes? Please provide any explanation or information available to support your view.
4. Should the aid intensity be reduced for EIs in a lower tier of electricity intensity in order to manage costs for other consumers? Please provide any explanation or information to support your view.
5. If the aid intensity is reduced for EIs in a lower tier of electricity intensity, do you agree with the structure set out in paragraph 4.8. If no, please explain what structure you would prefer.
6. Do you have any other suggestions for achieving the right balance between supporting EIs and managing the cost to other consumers? If so, please tell us.
7. What was your company turnover in your last financial year?
8. What was your average electricity intensity in the last three financial years?
9. Are there any other competitive issues that ineligible businesses face from eligible EIs? If any, please explain
10. Do you have evidence which would help us to improve the estimated impact of each of the options for a lower electricity intensity threshold? If so, please provide the evidence.
11. Do you have any other comments on the Impact Assessment?
12. Do you agree with the proposal not to redistribute the value of recovered over-exemptions back to suppliers of other consumers (who could pass on the savings to consumers)? Please set out your reasons.
13. Do you agree with the proposal that, where a meter is not in use for the entire preceding calendar year, the exemption proportion on the EI certificate should be

based on the period of at least three months prior to application throughout which the meter was in use? If not, please explain why.

14. Do you agree with the proposal that, where a meter is not in use for the entire preceding calendar year, the exemption proportion should be reviewed on receipt of each quarterly report until it is based on a total of at least 12 months of available data? If not, please explain why.

15. Do you agree with the proposal that, where a business starts to share a meter or stops sharing a meter, the exemption proportion on the EII certificate should be based on the period of at least three months since the change in meter-sharing arrangement? If not, please explain why.

16. Do you agree with the proposal that, where a business starts or stops making an ineligible product using electricity from a meter, the exemption proportion on the EII certificate should be based on the period of at least three months since the change in meter use? If not, please explain why.

17. Do you agree with the proposal that, for existing businesses, certificates should expire at the end of June or, where this would result in the certificate expiring after 6 months or less, the end of the following June? If not, please explain why.

18. Do you agree with the proposal that businesses must report to BEIS before the last working day in the months of March, June, September and December on whether they are still carrying out the 'specified activity' (ie making the eligible product) to which the certificate relates? If not, please explain why.

9. TIMING OF ANY CHANGES

- 9.1. Any decisions to change the exemption schemes following this consultation will need to meet State aid requirements and will be subject to parliamentary approval.
- 9.2. For the CfD exemption, we currently consider that subject to any relevant approvals, any wider eligibility criteria could not be introduced before 1 April 2019.
- 9.3. For the RO exemption, we consider that, subject to any relevant approvals, any wider eligibility criteria could not be introduced before 1 April 2020, in time for the start of the 2020/21 RO obligation period. The longer lead in time for widening eligibility for the RO exemption, compared with the CfD exemption, reflects that the renewables obligation level must be published six months before the start of an RO obligation period and must take into account an estimate of the volume of EII excluded electricity for the obligation period. The Scottish Government have responsibility for setting the renewables obligation in Scotland. In respect of the RO exemption, the proposals in this consultation relate to England and Wales. We propose to coordinate with the Scottish Government with a view to achieving a consistent policy at a GB level.
- 9.4. If the FIT exemption is introduced, decisions on timing for any new eligibility criteria would be determined in the light of publication of our decision on the implementation of the exemption.

10. NEXT STEPS

- 10.1. Following the close of the consultation period, we will carefully consider the consultation responses and the evidence received.
- 10.2. The response to the consultation will take the form of decisions made in light of the consultation, a summary of the views expressed and reasons given for decisions finally taken.
- 10.3. This document will be published on the GOV.UK website with paper copies available on request. The summary will include a list of names or organisations that responded but not people's personal names, addresses or other contact details.