Annex A – draft note for publication providing further information on scope

1. At Budget 2014 the government announced that companies benefiting from Renewables Obligation Certificates (ROCs) and/or the Renewable Heat Incentive (RHI) scheme will be excluded from the seed enterprise investment scheme (SEIS), enterprise investment scheme (EIS) and venture capital trusts (VCTs). This change ensures the venture capital schemes continue to support smaller and growing businesses in a targeted and effective way.

2. This note provides more detail on the announced change.

Timetable

3. This change applies to future investment and will take effect from Royal Assent of the Finance Bill 2014. Specifically, the change will apply in the case of EIS and SEIS in respect of shares issued on or after Royal Assent of the Finance Bill 2014, and in the case of VCT, in respect of investments made by a VCT on or after Royal Assent of the Finance Bill 2014.

4. Legislation will be published during the passage of the Finance Bill 2014. A tax information and impact note (TIIN) will be published alongside legislation.

Venture capital schemes: list of excluded activities

5. Legislation for the venture capital schemes will be introduced to amend the list of excluded activities within the tax-advantaged venture capital schemes, so that companies benefitting from ROCs and/or the RHI scheme will no longer qualify for investment under SEIS, EIS or VCTs. The change will apply to both British and Northern Ireland ROCs and RHI schemes.

6. The government intends the legislation to follow an approach that is very similar to that taken when Feed-in-Tariffs (FiTs) were excluded from the venture capital schemes in 2012. This means that several methods of production of energy, and several types of company will not be excluded by the legislation. A company whose trade involves generating or exporting energy and which benefits from ROCs or which participates in the RHI scheme can still qualify if it involves one of the methods of production set out below or is undertaken by one of those types of company set out below. The following paragraphs give more details.

Methods of energy production not excluded by the legislation

7. Following the 2012 consultation on the exclusion of companies benefitting from FiTs, the government recognised that some types of renewable energy generation are associated with more risk than others, for example if the technology is less proven or the upfront costs are high. With this in mind, methods of energy production where the energy is generated by anaerobic digestion or hydroelectric power were not excluded by the legislation. The government intends to maintain

this approach, for electricity generation given that evidence does not currently suggest that the market has changed. Where the same technologies can be used to produce heat, these will also not be excluded by the legislation.

8. The government intends that the definition of 'anaerobic digestion' as previously set out in legislation for FiTs will be applies to ROCs/RHIs, and that 'hydroelectric power' will not be specifically defined by legislation, but retain the ordinary meaning of energy derived from flowing water. This can be from rivers or man-made installations.

Types of company not excluded by the legislation

9. The government has introduced Social Investment Tax Relief (SITR) to encourage investors to support social enterprises. At Budget 2014 the government announced that the rate of income tax relief for SITR will be 30% of investments made on or after 6 April 2014. Eligible organisations will be able to receive up to €344,827 of tax-advantaged investment over 3 years under the scheme. The government recognises that this investment cap may be insufficiently large to provide for companies setting up to generate renewable energy.

10. Therefore the following types of company are not excluded by legislation, irrespective of the means by which energy is produced: community interest companies, community benefit societies or Northern Irish industrial and provident societies. Co-operative societies, which are not eligible for SITR, will also be exempt. The government will consider this approach further in connection with the consultation on the next stage of the SITR scheme.

Consultation on a more general exclusion

11. At Budget 2014 the government announced a consultation on the venture capital schemes planned for this summer 2014. This evidence gathering exercise seeks to consider a number of policies, including exploring options for venture capital reliefs to apply where investments are in the form of convertible loans.

12. The government is concerned about the growing use of contrived structures to allow investment in low-risk activities that benefit from income guarantees via government subsidies. The policy landscape, especially for government subsidies for energy is changing, particularly with the introduction of the Contracts for Difference scheme later this year.

13. The government will therefore consult with stakeholders on a more general change to exclude investment in certain low-risk activities that benefit from income guarantees via government subsidies. A consultation is planned for publication in summer, and will invite stakeholders' views on a number of issues.