

Single Electricity Market

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| Final REcommendation ReportMod\_03\_12: *Alignment of TSC with revised VAT arrangements*13 June 2012 |

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Document History

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| **Version** | **Date** | **Author** | **Comment** |
| 0.4 | 07 June 2012 | Modifications Committee Secretariat | Issued to Modifications Committee for review and approval |
| 1.0 | 13 June 2012 | Modifications Committee Secretariat | Issued to Regulatory Authorities for final decision |

Reference Documents

|  |
| --- |
| **Document Name** |
| [Trading and Settlement Code](http://semopub/MarketDevelopment/MarketRules/TSC.doc) |
| [Agreed Procedure 4](http://semopub/MarketDevelopment/MarketRules/AP04.docx) |
| [Agreed Procedure 9](http://semopub/MarketDevelopment/MarketRules/AP09.docx) |
| [Mod\_03\_12](http://semopub/MarketDevelopment/ModificationDocuments/Mod_03_12%20Alignment%20of%20%20TSC%20with%20revised%20VAT%20arrangements.docx) Alignment of TSC with revised VAT Arrangements |
| [Mod\_03\_12\_v2](http://semopub/MarketDevelopment/ModificationDocuments/Mod_03_12_v2.docx) Alignment of TSC with revised VAT Arrangements |
| [Addendum](http://semopub/MarketDevelopment/ModificationDocuments/20120521%20Addendum%20to%20Joint%20Statement.doc) |
| Meeting 42 [Presentation Slides](http://semopub/MarketDevelopment/ModificationDocuments/Meeting%2042%20Slides.ppt) |

Table of Contents

[1 MODIFICATIONS COMMITTEE RECOMMENDATION 3](#_Toc327347094)

[**Recommended for approval – Unanimous Vote** 3](#_Toc327347095)

[2 DEVELOPMENT PROCESS 3](#_Toc327347096)

[**Background Developments - HMRC and SEMO** 3](#_Toc327347097)

[3 PURPOSE OF PROPOSED MODIFICATION (version 2 of proposal) 5](#_Toc327347098)

[**3A** **Justification for Modification** 5](#_Toc327347099)

[**3B** **Impact of not Implementing a Solution** 5](#_Toc327347100)

[**3c** **Impact on Code Objectives** 6](#_Toc327347101)

[4 Assessment of Alternatives 6](#_Toc327347102)

[5 Working Group And/Or Consultation 6](#_Toc327347103)

[6 Impact on other Codes/Documents 7](#_Toc327347104)

[7 Impact on Systems and Resources 7](#_Toc327347105)

[8 MODIFICATION COMMITTEE VIEWS 7](#_Toc327347106)

[**MeetiNG 40 – 31 January 2012** 7](#_Toc327347107)

[**Meeting 41 – 27 March 2012** 7](#_Toc327347108)

[**Meeting 42 – 29 May 2012** 8](#_Toc327347109)

[**SEMO View** 9](#_Toc327347110)

[9 Proposed legal drafting 9](#_Toc327347111)

[10 LEGAL REVIEW 9](#_Toc327347112)

[11 IMPLEMENTATION TIMESCALE 9](#_Toc327347113)

[Appendix 1: Modification proposal 10](#_Toc327347114)

[**Mod\_03\_12\_v2 Alignment of TSC with Revised VAT Arrangements** 10](#_Toc327347115)

# 1 MODIFICATIONS COMMITTEE RECOMMENDATION

## Recommended for approval – Unanimous Vote

|  |
| --- |
| **Mod\_03\_12\_v2 Recommended for Approval** |
| Brian Mongan | Generator Alternate | Approve |
| Derek Scully | Generator Alternate | Approve |
| Emeka Chukwureh | Supplier Alternate | Approve |
| Jill Murray | Supplier Member | Approve |
| Mary Doorly | Generator Alternate | Approve |
| Niamh Quinn | Generator Member | Approve |
| Sean Doolin | Supplier Alternate | Approve |
| William Steele | Supplier Member | Approve |

# 2 DEVELOPMENT PROCESS

The proposal was raised by SEMO on 17th January 2012 and presented at Meeting 40 of the Modifications Committee on 31st January 2012. The proposal was put forward as a result of the inability of some Interconnector Units (Generators) to join the market because of the requirement in the current VAT Agreement to have a VAT number in the Jurisdiction of the unit. Where a company is established in a Jurisdiction other than that of where the Generator Unit is, that company is not entitled to a VAT number in the Unit Jurisdiction.

The change is deemed necessary by the VAT Authorities in order to satisfy EU VAT legislation requirements where the Participant company is established outside the jurisdiction of the unit At the start of the market it was not anticipated that companies would register units in jurisdictions outside of where they were established and on that basis the existing VAT Agreement complied with VAT law and no issues arose until 2011. The original version of the proposal set out an explaination of the issue and highlighted the need for a change to the existing VAT Agreement. The proposal outlined the sections of the market rules likely to be affected by the change. It also included the removal of the concept of Blended VAT Rate.

An update was provided by SEMO at Meeting 41 advising that discussions were on-going with the VAT Authorities. A second version of the proposal was presented at Meeting 42 of the Modifications Committee on 29th May 2012 where it was voted on.

## Background Developments - HMRC and SEMO

The issues with the VAT Agreement (which was issued jointly by both VAT Authorities) arose in mid 2011 when an ROI company who wished to join SEM as an Interconnector Unit (Generator) trading on Moyle was unable to get a VAT registration in NI due to the place of establishment rules and therefore could not join SEM due to the requirement to have a VAT number in the jurisdiction of the unit.

The SEM systems reflected the VAT agreement, however this was preventing certain companies from joining SEM.

It was clear that a revision was required to the VAT Agreement to reflect the broader interest in joining SEM and to reflect the correct VAT law associated with this. This would also require systems and Code changes. SEMO expressed to the VAT Authorities the need to allow these companies join the SEM in advance of the implementation of these changes and explained the process involved in making Code and systems changes and the timelines involved.

SEMO entered into discussions with both HMRC and Revenue through Deloitte to work out an interim solution based on all the options available. It took considerable time and effort to convince the VAT Authorities that an interim solution needed to be in place for such a considerable length of time (in the region of 18 months). Originally they were only willing to offer the interim solution for 9 months at the longest. However, SEMO was able to explain the timelines that were necessary to implement such a systems change and the associated scheduled releases of the Central Market System software and corresponding cut off dates. The VAT Authorities agreed in December 2011, as an interim measure to issue a VAT number on a case by case basis to the affected parties until April 2013, the date that was communicated as the earliest date in which a change to the CMS could be implemented. At this time the VAT Authorities made it clear that this interim solution required significant allowances to be made by them, it was longer than they were comfortable with and that they were approving it on the basis that they would not be willing to extend this date for any reason.

In the meantime SEMO have worked through Deloitte to agree what the enduring solution in relation to these Generators should reflect with regard to adherence to VAT legislation

SEMO prepared a set of examples detailing the calculations based on the different places of establishment that could arise for generators, the flows going both ways on the interconnectors, cross border flows going North to South and South to North and the subsequent effects on Suppliers. These examples were very detailed and required considerable discussions between the VAT Authorities, Deloitte and SEMO to ensure that they reflected the VAT treatment, considered all the flows possible in the market and that these flows were understood by all. This process took a number of months to conclude.

SEMO received confirmation on April 12th from HMRC acting on behalf of both VAT Authorities that they approved the calculations put forward by SEMO for the treatment of these Generators and the resulting impact on Suppliers (which were the basis for the system assessment requested from ABB). The systems solution was explored to see if other methods could be found to incorporate the calculations as signed off by the VAT Authorities, it was found that the calculations are complex and therefore incorporating all the direction of flows on Interconnectors, direction of flows between  North and South and the place of establishment of each Generator relative to their Unit is very complex. Therefore the solution proposed by the vendor is believed to be the optimal solution. . See section 7 of this report for further detail on the impact on the CMS.

In addition to gaining agreement on the VAT calculations, changes to the VAT Agreement were also required to be issued by the VAT Authorities. A draft of the proposed changes to the VAT Agreement was issued to the VAT Authorities in early January to reflect the required changes which were in accordance with the calculations. HMRC (on behalf of both VAT Authorities) saw the calculations as their initial priority and so reverted advising that given the time constraints in relation to the submission of a Modification Proposal to the May Meeting and also the deadline in relation to the inclusion of changes to the April 2013 CMS release (June 22nd) there was not sufficient time to issue an updated VAT Agreement and so they would issue an addendum to reflect the changes required. They were conscious that the wording of the original VAT Agreement had taken considerable time to gain consensus on and that the precise wording had been discussed at length and so did not want to completely replace the agreement.

SEMO received a draft of the addendum on April 12th from HMRC and noted that the addendum stated that the way VAT is to be applied to both Generators and Suppliers will be governed by the place of establishment of the Participant. Up to that point there had been no discussions in relation to the place of establishment of Suppliers and this was not reflected in the calculations submitted by SEMO to the VAT Authorities. The Impact Assessment put forward to the vendor by SEMO did not account for this additional change. SEMO advised the VAT Authorities that in order to change the systems to reflect similar treatment of Suppliers, it would require additional change to VAT calculations and assessment by the vendor which would result in an increased cost and due to the additional work required for assessment and delivery of an approved Modification Proposal, the aim of April 2013 could not be reached if this was included.

SEMO through Deloitte explained that it would be better to delay the April 2013 release so that the Supplier change could be evaluated and the systems impact assessed and so an overall systems change reflecting changes to both Generators and Suppliers be implemented. This would be more cost effective and also would have less of an effect on other system changes than are required.

The VAT Authorities stated that the change to Generators MUST be implemented as part of the April 2013 release regardless of cost as VAT legislation specifies the rules in relation to place of establishment and the SEM systems have been given a date of April 2013 to comply with these rules. The interim solution will expire on that date and this date is not negotiable.

They have also stated that while they are including the place of establishment rules for Suppliers as part of the VAT Agreement Addendum, they understand that this will not be implemented as part of the April 2013 IT Release but that for supplier units it will be implemented sometime after this from a date to be agreed.

They also requested that Deloitte would provide “firm proposals” on behalf of SEMO that the changes would be made in accordance with these dates.

# 3 PURPOSE OF PROPOSED MODIFICATION (version 2 of proposal)

## 3A Justification for Modification

The current requirements are not valid for participants whose companies are established in a jurisdiction other than where the unit is registered as highlighted by the inability of an interconnector unit to register in SEM. This is a barrier to joining the SEM and the current market rules do not reflect EU VAT law.

## 3B Impact of not Implementing a Solution

This Modification Proposal is required to allow open competition in the Market, allowing companies established outside the Jurisdiction of the Generator Unit to register in SEM. This will facilitate increased trade on the Interconnectors.

The VAT Agreement Addendum has been issued by the VAT Authorities with a separate mail specifiying that the necessary accounting changes are to be effective for Generators by 1 May 2013. From this date the VAT Agreement Addendum for Generators is effective and therefore states that VAT will be applied in accordance with the place of establishment rules. If SEM has not implemented the required system changes by that date then SEM will not be able to apply those rules to Generators in the market and this could result in the instigation of legal proceedings by the VAT authorities. Also, any Participant who was issued with a temporary VAT registration will have their VAT registration withdrawn, SEM will no longer be able to invoice these Participants in accordance with VAT law and the interim solution will no longer provide a mechanism to allow these Participants to trade in SEM. SEMO has no legal basis to prevent these Participants trading in SEM but without the implementation of this modification will not have the systems in place to apply the VAT rules correctly. SEMO has agreed with the VAT authorities that the earliest that the necessary changes to the Central Market Systems can come into effect is as part of the April 2013 IT Release. An interim arrangement with the VAT authorities will be in place until April 2013.

**Implications of not making VAT Changes:**

* If the system change for Generators was not implemented by April 2013, those who have received a temporary VAT number would have their VAT registration withdrawn.
* Any new participants in the category could no longer join SEM. This has significant implications for the SEM market as our rules may prevent participants joining the market and this may be open to legal challenge.
* The VAT Authorities could carry out a VAT compliance check on SEMO. If we were not to implement the system changes, this could have both legal and financial implications.
* The VAT Authorities have insisted that the enduring solution for Generators must be in place by April 2013 and that they will not consider extending the existing interim solution.

##  3c Impact on Code Objectives

The proposal furthers the following Code Objectives:

1.3.1 to facilitate the efficient discharge by the Market Operator of the obligations imposed upon it by its Market Operator Licences and

1.3.6 to ensure no undue discrimination between persons who are parties to the Code.

# 4 Assessment of Alternatives

Two versions of the proposal were put forward, the first an explaination of the issue and the second contained detailed legal drafting accompanied by an addendum to the VAT Agreement.

A number of options were considered and discussed with the VAT Authorities prior to Meeting 42. It came to light that changes were required for all Generators not only Interconnector Units. The VAT Authorities also requested that SEMO amend the rules to facilitate Suppliers in the market. SEMO noted that the Impact Assessment delivered by the vendor did not incorporate a change to facilitate Suppliers and a new Impact Assessment would be required to asses the system changes that would take additional time.

SEMO considered a manual workaround but discovered it is not possible due to the complexity of the invoicing system that is absorbed in the Central Market System. There are a number of variables that need to be considered including the place of establishment of the Participant, the location and currency of the unit, the interconnector flows, energy flows between ROI and NI and this requires considerable system calculations in order to calculate the invoice amounts and associated VAT.

Examples of where the VAT calculations occur include:

* SEMO’s credit system imports invoices in order to determine Credit Risk Exposure (this includes VAT amounts).
* SEMO’s Finance system imports invoices so that invoice payments can be processed and accounting ledgers updated accordingly.
* Participants download Invoices from a webservice which is fed directly from SEMO’s Invoicing system.

# 5 Working Group And/Or Consultation

N/A

# 6 Impact on other Codes/Documents

An addendum to the SEM VAT Agreement is associated with this proposal.

# 7 Impact on Systems and Resources

The proposal will require a change to the CMS at a cost of €715,580 (excluding testing). The systems solution was explored to see if other methods could be found to incorporate the calculations as signed off by the VAT Authorities, it was found that the calculations are complex and therefore incorporating all the direction of flows on Interconnectors, direction of flows between  North and South and the place of establishment of each Generator relative to their Unit is very complex. Therefore the solution proposed by the vendor is the believed to be the optimal solution.

The below points are a summary of deliverables for the vendor:

* Changes to MPI to allow SEMO to distinguish between PT VAT Jurisdiction and unit physical jurisdiction
* Change to MI-STL interface to pass new registration changes to Settlements
* Perform new calculations to determine the proportion of generation in each jurisdiction that is due to ROI/UK/EU/Non-EU Participants
* Create new charge types for new split invoice amounts
* Update Billing and Invoicing Calculations
* Amend Invoice format to cater for new charge types
* Addition of new variables to reports to allow participants to verify calculations
* Updates to the Credit system to ensure Unit Currency is used rather than PT currency
* Unit Test
* Integration Test
* Document Updates
* Defect resolution
* Project Management
* Release Management

# 8 MODIFICATION COMMITTEE VIEWS

## MeetiNG 40 – 31 January 2012

SEMO Member outlined proposal. The modification is required to allow open competition in the market and allow companies established outside the jurisdiction of the Interconnector Unit to register in SEM. This will allow increased trade on the interconnectors. If it is not implemented, the current rules are limiting those who can join the SEM by requiring a VAT number from companies who are not entitled to one, and so prevent them from joining the SEM. SEMO have agreed with the VAT authorities that the systems will be amended by April 2013 so that these companies can be accommodated.

Supplier Member queried as to the deadline of approval for the proposal. SEMO Alternate clarified that as the cut-off date for the April 2013 CMS Release is 22 June 2012, the proposal must be approved at or by the May Modifications Committee Meeting.

## Meeting 41 – 27 March 2012

MO Alternate advised that it is necessary to modify VAT in the SEM in order to align with EU requirements. MO Alternate further advised that due to the extensive nature of the CMS changes required, the Impact Assessment came back at a cost of €611,000 (excluding testing). MO Alternate advised that it is SEMO’s intention to have the alternative version submitted for Meeting 42 on 29 May and to also provide more information in terms of final design to the systems and the VAT agreement. Chair queried as to which release the proposal will be included in if recommended for approval at Meeting 42. MO Alternate clarified that if recommended for approval at Meeting 42 and subsequently approved by the SEM Committee by the 22 June cut-off date, it will be included in the April 2013 release.

## Meeting 42 – 29 May 2012

Proposer presented slides outlining the background to the original proposal and an overview of version 2 of the proposal. Proposer advised that the VAT Agreement Addendum was issued by HMRC on behalf of both VAT Authorities on 21st May 2012. Proposer advised that the wording in the Addendum requires that Suppliers are also treated for VAT based on the Participants place of establishment. It is possible for a Supplier to be established outside the jurisdiction of the unit. However Suppliers are still entitled to a VAT number in the unit jurisdiction, as they have transactions with consumers within the jurisdiction of the unit, therefore an interim solution like the one in place for Generators is not required for Suppliers. Proposer advised that SEMO IT had indicated that at this stage it would not be possible to implement the changes on the Supplier side in April 2013. Proposer stressed the fact that the VAT Authorities have insisted that the enduring solution for Generators must be in place by April 2013 and that they will not consider extending the existing interim solution.

Chair queried as to whether there is a possibility that a second Modifications Proposal on this issue would be raised in the future in order to address the issue of Suppliers. Proposer advised that the VAT Agreement Addendum states that place of establishment of the Participant must apply to both Generators and Suppliers and reiterated that the VAT authorities are insistent that the necessary accounting changes which impact on Generator Units must be included in the April 2013 release.

Chair queried as to whether incorporating both changes together and postponing the proposal is possible?

Proposer advised that this had been discussed, reiterating that the VAT Authorities are adamant that the Generator change must occur and that the workaround will be withdrawn in April 2013. Proposer advised that the VAT Authorities are of the view that the issue for Suppliers is less urgent than the issue for Generators. Proposer emphasised that the VAT Authorities will consider this matter and that as per the addendum; a date in the future will be agreed as to when the Supplier change will become effective.

SEMO Alternate advised that the proposal also removes Blended VAT from the rules.

Chair advised that in order for the proposal to reach the April 2013 CMS release deadline, it was necessary to approve the proposal at Meeting 42. Supplier Member stated that the Modifications Committee have little option but to approve the Modification Proposal.

RA Member advised that the RAs have an issue regarding the cost that will be incurred by the proposal, (€715,580 + testing). RA Member expressed the view that it was not an ideal position for the Modifications Committee to be in, to make a decision on such a significant change to the system. RA Member advised that the SEM Committee Meeting (where Mod\_03\_12 will be discussed) will take place on 28th June, four days after the CMS April 2012 cut-off date. RA Member further advised that the RAs appreciate the considerable amount of work that has been done on the proposal and hope as much information as possible on cost can be provided in the FRR. RA Member further advised that it will be necessary to include detail on the negotiations that took place between SEMO, Deloitte and HRMC which have resulted in the current situation. RA Member advised that the SEM Committee need to be fully aware of the consequences if the SEMC were not to approve the proposal. The SEM Committee will also require further information on the implications for Suppliers of not being included in the April 2013 Release. RA Member expressed the view that it would have been more efficient to have included changes for Suppliers and Generators together and reiterated that the primary concern for the RAs is the level of cost incurred by implementing the proposal.

Chair queried as to when the Supplier issue will be dealt with. Proposer was not in a position to advise of a time where this would occur, however stated that to date, the VAT Authorities have been considerate of SEMO’s timelines. Proposer advised that SEMO will work with the VAT Authorities to see when the change for Suppliers can be implemented.

## SEMO View

The consequence of not achieving the April 2013 deadline is that the interim solution will cease with the result that Participants who had been issued with temporary VAT numbers will no longer have a VAT number in the market and the CMS will no longer be able to apply VAT correctly to Participants. SEMO will be in breach of VAT law. SEMO would no longer be able to issue correct invoices to Generator Participants with the result that Participants would no longer be able to trade in the market. It would also affect Generator Participants who may wish to join the market.

Deloittes have also issued a letter for the purpose of this FRR to provide further detail the VAT issues which have arisen in relation to the treatment of non-established Generators and Suppliers trading on the SEM.

# 9 Proposed legal drafting

As set out in Mod\_03\_12\_v2, see appendix 1 of this report.

# 10 LEGAL REVIEW

Complete

# 11 IMPLEMENTATION TIMESCALE

It is proposed that this Modification Proposal be implemented no later than the April 2013 CMS Release as indicated as the required date by the VAT Authorities. It is proposed that this change is made on a Settlement Day basis.

# Appendix 1: Modification proposal

## Mod\_03\_12\_v2 Alignment of TSC with Revised VAT Arrangements

|  |
| --- |
| **MODIFICATION PROPOSAL FORM** |
| **Proposer***(Company)* | **Date of receipt***(assigned by Secretariat)* | **Type of Proposal***(delete as appropriate)* | **Modification Proposal ID***(assigned by Secretariat)* |
| **SEMO** | **15 May 2012** | **Standard** | **Mod\_03\_12\_v2** |
| **Contact Details for Modification Proposal Originator** |
| **Name** | **Telephone number** | **Email address** |
| **Nuala Dunne** | **01 2370326** | **Nuala.dunne@sem-o.com** |
| **Modification Proposal Title** |
| **Alignment of TSC with revised VAT arrangements** |
| **Documents affected***(delete as appropriate)* | **Section(s) Affected** | **Version number of T&SC or AP used in Drafting** |
| **T&SC****AP** | **T&SC Section 6, Glossary, AP4, AP9 and AP15** | **v10** |
| **Explanation of Proposed Change***(mandatory by originator)* |
| The provisions in the Code (V10) and SEM VAT Agreement (agreed by VAT authorities in both jurisdictions) require that all units must be VAT registered in the Jurisdiction that the Unit is registered.A number of parties are interested in registering as Interconnector Units in SEM (on Moyle and East West Interconnectors) but not necessarily in the place where their company is established. In accordance with EU VAT legislation, a company established in a jurisdiction other than that of where their Interconnector Unit is registered is not required to be VAT registered in the jurisdiction of the Interconnector Unit.This Modification Proposal aims to amend the Market Rules to remove the requirement for companies to become VAT registered in two jurisdictions in order to participate in SEM as Generator Units. These provisions apply to Interconnector Units as they are considered Generator Units for the purposes of the Code.The proposal also removes the concept of the Blended Rate. This no longer applies in the SEM following the implementation of the Cross Border VAT in the SEM systems. A number of other non-material clarifications are included. In order to implement the changes, an amendment to the existing VAT Agreement is necessary. The VAT Authorities have, following discussions with the Market Operator, amended the existing VAT Agreement to include an Addendum that satisfies the EU VAT legislation requirements. A change to the Central Market Systems is also necessary. The vendor has delivered an Impact Assessment at the request of the Market Operator. The VAT authorities were advised that the earliest date in which the changes can be implemented in the Market Rules and the CMS is April 2013. |
| **Legal Drafting Change***(Clearly show proposed code change using* ***tracked*** *changes, if proposer fails to identify changes, please indicate best estimate of potential changes)* |
| T&SC**MANAGEMENT OF TAXES AND VAT*** 1. The following paragraphs deal with the treatment of VAT for the purposes of the Code and are prepared subject to and in accordance with the terms of the joint letter from Her Majesty’s Revenue and Customs and the Revenue Commissioners (together referred to as the “Revenue Authorities”) entitled “Statement of Agreed Treatment of VAT under the SEM” (the “VAT Agreement”) as may be amended from time to time.
	2. Notwithstanding the terms of the VAT Agreement all Participants shall indemnify and keep indemnified the Market Operator, its officers, employees and agents against any liability which the Market Operator may incur as a result of the failure of any Participant to pay or account for any VAT due on any Invoice or Self Billing Invoice (or Debit Note where applicable).
	3. If any Participant shall fail properly to pay or account for any amount of VAT payable or receivable by it, that Participant shall indemnify and keep indemnified each non-defaulting Participant (on an after tax basis, but taking account of any tax relief available to the relevant Participant, as the case may be) against any liability which such non-defaulting Participant or Participants shall incur consequently.
	4. All Invoices and Self Billing Invoices (and Debit Notes where applicable) shall include VAT at the appropriate rate for the Participant concerned. Pursuant to the VAT Agreement, Participants shall be entitled to make their VAT returns based on the Invoices and Self Billing Invoices (and Debit Notes)..
	5. Pursuant to the VAT Agreement, the Market Operator shall prepare Invoices, Self Billing Invoices and, when appropriate Debit Notes including VAT applied at the appropriate rate based upon the Currency Zone of the Generator Units or Supplier Units of the Participant concerned ).
	6.
	7. For the avoidance of doubt, Participants receiving Invoices shall pay the invoiced sum, by the Invoice Due Date and the Market Operator shall pay to Participants in receipt of Self Billing Invoices, the sum concerned including applicable VAT by the Self Billing Invoice Due Date, subject only to any deduction or off-set as provided for in the Code
	8. Any difference between the VAT paid by the Market Operator and the VAT received by the Market Operator in any Settlement Period shall be treated as a component of the Balancing Cost.
	9. The Market Operator shall retain records of all amounts of VAT included in all Self Billing Invoices and all Invoices together with records of all amounts of electricity deemed to be subject to a Cross Border Supply and actually subject to a Cross Border Supply and shall, upon request, make such information available to the Revenue Authorities and shall cooperate in any investigation by either Revenue Authority relating to the settlement of the Pool or any aspect of it.

**T&SC Glossary**

|  |  |
| --- | --- |
| **Blended Rate** | means as defined in the VAT Agreement. |

**AP4 Appendix 2**1. Business Data Contained in Each Element

**Application Data**

| **APPLICATION DATA** |
| --- |
| Screen Name | Comment | Mandatory / Optional |
| Represent Party | Name of the Party that is represented by the registering Participant. | Optional |
| VAT jurisdiction | ROI or NI.Place of establishment for VAT purposes: IE, UK, Other EU, Non-EU | Mandatory |
| VAT number | VAT identification number (VATIN) | Mandatory (EU only);Optional (Non-EU) |
| VAT Status | VAT Exempt (1) or Non-Exempt (0), for each jurisdiction | Mandatory |
| Notification Comment | Used by the Market Operator and Participant to exchange notes with respect to that registration data. | Optional |

**Agreed Procedure 9** 1. **Calculation Of VAT For Required Credit Cover**

As per section 6 of the Code, the Required Credit Cover for each Participant shall include an amount in respect of VAT. This amount shall be calculated as follows.* For published Invoices and Self Billing Invoices that are included in the Actual Supplier Exposure and Actual Generator Exposure, the amount of VAT as calculated on the Invoice will be included in the VAT amount of the Required Credit Cover. This applies to Invoices and Self Billing Invoices issued in respect of Trading Charges and Payments, Capacity Charges and Payments and Variable Market Operator Charges.
* For published Settlement Statements that have not been included in any Invoices or Self Billing Invoices, an amount in respect of VAT will be calculated for all the payments and charges in accordance with the rules as set out in the VAT Agreement. This amount will be included in the VAT amount of the Required Credit Cover. This applies to Settlement Statements issued in respect of Trading Charges and Payments, Capacity Charges and Payments and Variable Market Operator Charges.
* For the amounts calculated in respect of Undefined Potential Exposure amounts, an amount in respect of VAT will be calculated. The VAT will be calculated in accordance with the rules as set out in the VAT Agreement except where the VAT is in relation to amounts calculated in respect of Trading Charges and Variable Market Operator Charges in a Currency Zone where different VAT rates apply to these charges. In this circumstance a future VAT rate which will be based on an average of the VAT rates applicable in the relevant Currency Zone will be applied.

The future VAT rate will be published on the Market Operator Website.**Agreed Procedure 15****The Jurisdiction in which a Unit is registered by the Participant will determine the VAT and Currency of its Settlement Statements and invoices in respect of that Unit. Intentionally Blank.****2.3.2.5 VAT**VAT is applied to Participants through the invoicing system according to the VAT Agreement and the charge type. VAT will apply to Trading Payments, Trading Charges, Capacity Payments, Capacity Charges and Market Operator Charges. VAT will not be applied to Interest or Settlement Reallocations amounts. **APPENDIX 1: Definitions and Abbreviations****Definitions**

| **Billing Period Currency Cost** | As defined in the Code |
| --- | --- |
| **Blended Rate** | As defined in the Code |
| **Capacity Charge** | **As defined in the Code** |

 |
| **Modification Proposal Justification***(Clearly state the reason for the Modification)* |
| The current requirements are not valid for participants whose companies exist in a jurisdiction other than where the interconnector unit is registered. This is a barrier to joining the SEM and the current market rules do not reflect EU VAT law.  |
| **Code Objectives Furthered***(State the Code Objectives the Proposal furthers, see Section 1.3 of T&SC for Code Objectives)* |
| 1. to facilitate the efficient discharge by the Market Operator of the obligations imposed upon it by its Market Operator Licences;
2. to ensure no undue discrimination between persons who are parties to the Code;
 |
| **Implication of not implementing the Modification Proposal***(State the possible outcomes should the Modification Proposal not be implemented)* |
| This Modification Proposal is required to allow open competition in the Market, allowing companies established outside the Jurisdiction of the Interconnector Unit to register in SEM. This will facilitate increased trade on the Interconnectors. If this proposal is not implemented, the rules will discriminate against those who, in accordance with EU VAT legislation, should be allowed to join the SEM regardless of where a Unit is registered. The rules will continue to stipulate that a company must become VAT registered in the jurisdiction in which the Unit is registered, when in fact, the company may not be entitled to a VAT registration number for the Jurisdiction. This could prevent companies from joining the SEM. SEMO have agreed with the VAT authorities that the earliest that the necessary changes to the Central Market Systems can come into effect is April 2013. An interim arrangement with the VAT authorities will be in place until April 2013.  |
| **Working Group***(State if Working Group considered necessary to develop proposal)* | **Impacts***(Indicate the impacts on systems, resources, processes and/or procedures)* |
| N/A | VAT Agreement, Central Market Systems |
| ***Please return this form to Secretariat by email to*** ***modifications@sem-o.com*** |
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