



**Modification of the Trading & Settlement
Code to Implement I-SEM**

Information Paper

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SEM-15-060

1. IMPLEMENTATION OF I-SEM MARKET RULES

1.1 Legislative Background

The Single Electricity Market (SEM) is governed by the SEM Committee through a combination of licence requirements and industry codes, all ultimately underpinned by legislation in Ireland and Northern Ireland¹. The core of the SEM rules and obligations are set out in the Trading and Settlement (TSC or ‘the Code’). The TSC is a multilateral contract which, subject to De Minimis levels, all parties holding electricity licences and engaging in the trade of electricity on the island of Ireland are required to comply with². The TSC was designated by the CER and UR in June 2007 after which time it became subject to the modification process established under its own terms.

As the rules that govern the SEM are not compatible with the European Union’s Electricity Target Model, the Governments of Northern Ireland and Ireland have tasked the SEM Committee with developing new market arrangements for the all-island wholesale electricity markets, known as the Integrated Single Electricity Market (I-SEM) to be completed by the end of 2017³. The SEM Committee issued its decision on the High Level Design of the I-SEM in September 2014 and has since been developing the detailed design with stakeholders through the I-SEM Project.

To ensure that the I-SEM is provided for in legislation in Northern Ireland and Ireland, the Department of Enterprise, Trade and Investment (DETI) in Northern Ireland and the Department of Communications, Energy and Natural Resources (DCENR) in Ireland have initiated the process to amend the SEM legislation in Northern Ireland and Ireland respectively to provide for the I-SEM.

Furthermore, the European Commission Regulation on Capacity Allocation and Congestion Management Guidelines entered into force on 25 July 2015. The CACM Regulation is binding in its entirety across all EU Member States from its date of application of 14 August 2015⁴. Article 82 of the CACM Regulation requires that Ireland and Northern Ireland *‘shall implement preparatory transitional arrangements. Those transitional arrangements shall: (a) facilitate the transition to full implementation of and full compliance with this Regulation, and include all*

¹The TSC was established for the SEM in Northern Ireland pursuant to section 23 of the Northern Ireland (Miscellaneous Provisions) Act 2006 and the Electricity (Single Wholesale Market) (Northern Ireland) Order 2007, and in Ireland pursuant to section 9BA(1) of the Electricity Regulation Act 1999 (Ireland) and as designated pursuant to regulations made under section 9BA(2)(a) of the Electricity Regulation Act 1999 (Ireland).

² While all licences in Northern Ireland and Ireland are required to be parties to the TSC, not all parties to the TSC are licenced entities.

³The Departments endorsed the SEM Committee’s Recommendations on Next Steps in the Implementation of the European Target Model in the SEM in March 2013.

See: http://www.allislandproject.org/en/TS_Current_Consultations.aspx?article=5dc5e905-db0a-4cde-b3bb-5cf9b1873559&mode=author

⁴ See: http://eur-lex.europa.eu/legal_content/EN/TXT/PDF/?uri=CELEX:32015R1222&from=EN

necessary preparatory measures for full implementation of and full compliance with this Regulation, by 31 December 2017’;

1.2 Modification of the Trading and Settlement Code

In this context of transitioning from SEM to I-SEM set out above, the SEM Committee is due to publish a number of Decision Papers on the I-SEM Detailed Design in the coming months regarding the Energy Trading Arrangements, Capacity Remuneration Mechanism and Governance and Licensing work-streams⁵ which will move these areas of the project from design to implementation phase.

In order to progress the I-SEM from detailed design to implementation so to prepare for the full implementation of the CACM Regulation by December 2017 and to develop the detailed market rules for the new energy and capacity market arrangements, the SEM Trading and Settlement Code will require modification or replacement.

The RAs are proposing to initiate the process for modifying the TSC by raising a modification to the TSC Modifications Committee to implement the I-SEM trading and settlement rules through the establishment of TSC Working Groups chaired by the RAs and with membership from market participations, SEMO and the TSOs who will be charged with developing the detailed market rules through the completion of Final Recommendation Report that will be submitted to the SEM Committee for approval. Annex 1, as attached outlines the process which will be followed.

Trading and Settlement Code Modifications Committee Procedure

The Trading and Settlement Code sets out the provisions of the Modification Process (as per paragraphs 2.148 to 2.236 of the Code).

This process is initiated by the raising of a Modification Proposal through which the proposer seeks to make changes to the Code. All such Modification Proposals are required to set out the way it will better facilitate the Code Objectives (as per paragraph 1.3 of the Code) and to include some legal drafting of proposed changes to the Code.

Section 2.192 of the TSC allows the Modifications Committee 6 months to consider a Modifications Proposal brought forward by the RAs; after which the Modifications Committee must submit a Final Recommendation Report (FRR) to the RAs. Where the Modifications Committee does not make a determination within 6 months, the RAs must either make a binding decision or extend the

⁵ See recent I-SEM Quarterly plan:
http://www.allislandproject.org/en/wholesale_overview.aspx?article=375d0858-d3fa-49b3-91f1-ead057903bed&mode=author

applicable time-limit for the Modifications Committee.

We expect that there will be need to extend the time-line in the case of the I-SEM Modification given the complexity of the detailed market rules to be developed. It is likely that the Modifications process for the I-SEM Modification would last up to one year for the development of each detailed legal drafting.

In addition we expect that licence changes in Ireland and Northern Ireland and updating regulations in Ireland will be progressed in 2016 to ensure that the revised TSC is consistent with the legislative and licences arrangements⁶.

We anticipate this process to follow the timelines set out in the TSC for RA Modifications with high level timelines are as follows:

Planned TSC Milestone	Date
RAs raise Modification to the TSC	1 October 2015
Modifications Committee Considers Modification and establishes I-SEM Working Groups	14 October 2015
First Meeting of I-SEM Modifications Committee Working Group	End October 2015
Voting of Modifications Committee	September 2016
Submission of Final Recommendation Report to RAs	October 2016
SEM Committee Decision on I-SEM Final Recommendation Report	December 2016

We are of the view that in using the Modifications Committee process, the I-SEM detailed market rules can be developed in a manner that would facilitate participation from a wide range of stakeholders and ensure effective industry involvement in the developing of legal, business and technical rules. While conscious of the risk for delay of I-SEM implementation through delays in developing detailed legal rules and the concomitant procurement of systems to deliver these rules, the RAs are also aware of the risks of developing market rules without effective involvement of market participants through the tried and tested process of the Modifications Committee.

We also believe that that the Modifications Process has proved an effective means of delivering market changes to date, such as the implementation of the Intra Day

⁶ See S.I. 406 of 2007 in Ireland: <http://www.irishstatutebook.ie/2007/en/si/0406.html>

Modification to bring the SEM in line with EU rules on congestion management and capacity allocation (as set out in Regulation 714/2009) or similar processes in GB where major modifications to the BETTA market are made through Ofgem's Significant Code Review process⁷.

The RAs, in conjunction with SEMO, will develop a Terms of Reference for the Working Groups to be established including a process for nomination of expert members. We ask that market participants provide adequate resources and expertise to these working groups to ensure that the requisite knowledge and skills are available to develop the detailed market rules.

We also ask that representatives of the Modifications Committee ensure that they are sufficiently briefed on the I-SEM Project and that in establishing the Working Groups they provide that they are fit for purpose and adequate resources are provided for the development of the I-SEM detailed market rules. The RAs will consider whether they should make further nominations to the Modifications Committee to ensure that it is adequately representative.

1.3 Alternative Approaches

An alternative approach considered by the RAs to modify the TSC involved the RAs developing a set of market rules through a Rules Liaison Group process with the setting up of working groups similar to those established under the Modifications Committee but without any formal structure or voting. The output of these groups would be a set of market rules that the SEM Committee would then replace or amend the TSC with.

In consideration of whether this approach could be used, we are of the view that it would be more practicable and provide for greater stakeholder engagement to use the TSC Modifications Process so as to allow smooth transitioning from the SEM to the I-SEM.

1.4 Next Steps

The RAs welcome the views of market participants on our plans to develop the detailed market of the I-SEM through the TSC Modifications Committee process.

Responses should be sent by 12.00 on 18 September 2015 in electronic format to both:

Elaine Gallagher at CER (egallagher@cer.ie) and Leigh Greer at UR (Leigh.Greer@uregni.gov.uk)

⁷ For the SEM Intra Day Modification Process see:
<http://www.sem-o.com/MarketDevelopment/Pages/Modifications%20Projects.aspx?Stage=Active>
For the Ofgem Significant Code Review Process see:
<https://www.ofgem.gov.uk/ofgem-publications/61740/guidanceinitiating-and-conducting-scrsfinal-draft110810.pdf>

Following consideration of stakeholders' views, our planned next steps are:

- Providing no objections are raised with the process outlined in this paper, the RAs will raise a Modification on 1 October 2015 for discussion at the 14 October 2015 Modifications Committee, with indication that working groups will be set up and Committee members are encouraged to think about who will be nominated to take part in those working groups.
- Development of Terms of Reference for Working Group as part of the Modification.
- Further engagement will take place with both DETI and DCENR to progress legislative changes in both jurisdictions.
- The development of specific licence changes to implement I-SEM

ANNEX 1: TRADING & SETTLEMENT CODE MODIFICATION PROCESS IN PREPARATION FOR IMPLEMENTATION OF I-SEM

The below sets out our intended process for developing Modifications to the Trading and Settlement Code to implement the I-SEM. It is noted that the outcome of the process would be given legal effect via a combination of licence modifications in both jurisdictions and a Statutory Instrument in Ireland. The content of the modifications to the TSC will be worked up in parallel with the licence modifications.

References below to terms which have a specific meaning or definition under the TSC shall be interpreted to have (as much as practicable) the same meaning or definition under this process. For example, the Modifications Committee under this process will be composed of the same members but will be acting upon the request of the Regulatory Authorities to facilitate the delivery of the I-SEM project. The Modifications Committee will be acting in a preparatory mode for implementation of I-SEM.

In light of the complexity and resource intensity of this project to implement I-SEM we would ask the voting members of the Modifications Committee to consider this, when appointing members to the Modifications Committee and voting for chair and vice chair positions.

The following steps are envisaged for the raising of the Modification for the implementation of I-SEM:

1. Modification Proposal is put forward by the Regulatory Authorities to the Modifications Committee Secretariat.
 - Modification Proposal (using Modification Proposal form) must be received two weeks in advance of a Modification meeting.
2. Based on terms of reference and timelines agreed with the RAs, the Modifications Committee will determine what further work is required and over what time period (following a similar procedure to that set out in the Agreed Procedure under the TSC):
 - Terms of Reference for Working Group drafted and published by Secretariat in advance of Working Group meeting;
 - Secretariat appoints a chair which may be the chair of the Modifications Committee, one of the RAs or another;

- Composition of Working Group determined (Need not be comprised of Modifications Committee Members alone.);
 - Secretariat to compile timeline for each Working Group topic.
 - Modifications Committee to consult on such aspects of the Modification Proposal and invite representations from such persons as it considers appropriate;
 - Working Group reports/ recommendation to feed back to Modifications Committee;
 - RAs to provide support and assistance to facilitate the work of the Modifications Committee.
 - Legal drafting to be completed. Voting cannot take place until legal drafting is complete.
3. Recommendation on Modification Proposal is returned to Modifications Committee.
- Modifications Committee vote on the Proposal taking into account recommendation of Working Group and
 - Final Recommendation Report drafted and to include:
 - Determination of the Modifications Committee as to whether or not Proposal should be adopted;
 - The reasons for the determination;
 - A draft of the text of the Modification Proposal;
 - Dissenting opinions of the Committee;
 - A copy of the Market Operator's opinion and each System Operator's opinion on the Modification;
 - Views of any respondents submitted during the consultation process including the views on any persons invited to give opinions;
 - An assessment of the anticipated impact of the Modification Proposal including in relation to the delivery of the I-SEM project, the TSC, any Legal Requirements, any other codes or any other relevant matter;
 - An assessment of alternative Proposals if any;

- A draft of the specific changes proposed;
 - Proposed timescales for implementation;
4. If the Modifications Committee is unable to make a determination within the timelines agreed with the RAs at the outset, the matter shall be referred to the RAs. In such event, the RAs shall formulate the terms of the proposed Modification or shall extend the applicable time-limit for the Modifications Committee for such period as they consider reasonable in all circumstances.
 5. If the Modifications Committee rejects the Proposal, then this decision will form part of the Final Recommendation Report sent to the RAs. The RAs can either:
 - Accept the recommendation of the Committee
 - Reject the recommendation of the Committee
 - Direct the Modifications Committee that further work is required in respect of the Modification Proposal concerned in the Final Recommendation Report extending the 8 month timeframe if necessary.
 6. The RAs will have the final decision as to the terms of the Modification that it will propose to incorporate into the updated TSC pursuant to the licence modification process and applicable legislation.