



The Defaulting Party and Failing Supplier Process

This guidance explains what happens when a Party Defaults under Section H of the Balancing and Settlement Code (BSC) – a '**Section H Default**'. After this, we'll move on to the two possible outcomes for a defaulting Party: a **Trade Sale** and **Supplier of Last Resort (SoLR)**.

Further information can be found in [Section H](#) and [Section K](#) of the BSC and in the following guidance notes:

- [Credit Default](#)
- [Credit Cover](#)

If you have any questions about the **Failing Supplier** process and/or the **Section H Default** process, you can email the **BSC Service Desk** (bscservicedesk@cqi.com) or call **0370 010 6950**.

All failing Suppliers or administrators of failing Suppliers are advised to contact us as early as possible.

Capitalised terms in this guidance - when they are not defined - have the same meaning as in the **BSC**.

Defaulting Parties

A Party may be in Default of the BSC for a number of reasons. The full list is in [Section H](#) of the Code, but the reasons include:

- Credit Default – the Party does not have enough credit lodged to cover its indebtedness;
- Payment default – the Party is unable or refuses to pay charges;
- The appointment of an administrator, receiver or liquidator; or
- A Party informing us that it cannot pay its debts.

The Trade Sale process only arises if a Party becomes insolvent. **The Supplier of Last Resort (SoLR)** process occurs when the Authority (Ofgem) has revoked a Supplier's Supply Licence and appointed a **SoLR** to take over their customers.

What are Trade Sales and Suppliers of Last Resort?

When a Supplier exits the market it will usually arrange to transfer its customers to another Supplier, so there's no disruption to the customer. However, occasionally a Supplier - known as a "[failing Supplier](#)" - may exit the market in a more unplanned or urgent way due to serious financial difficulties.

The Failing Supplier process can be found in Section K of the BSC, and Defaults are detailed in Section H

Two separate situations can occur when a Supplier is "[failing](#)".

- 1) **Trade Sale**
The Trade Sale process will only arise if a Supplier becomes insolvent and wishes to transfer its customers to a replacement Supplier. In normal, non-default circumstances, the Supplier would use the [Change of CVA Primary BM Unit Lead Party \(CoPBLP\) and Supplier ID Transfer Process](#).
- 2) **Supplier of Last Resort ("SoLR")**
SoLR occurs when the Authority revokes a failing Supplier's Supply Licence and appoints a SoLR to take over its customers. Where a Party has not been able to transfer its customer base beforehand, the Authority can appoint a Supplier of Last Resort so a failed Supplier's customers will continue to take their supply from a licensed Supplier.

See: [Change of CVA Primary BM Unit Lead Party \(CoPBLP\) and Supplier ID Transfer Process](#)

What is ELEXON's role?

ELEXON can become aware of the risk of a Party Defaulting or a Supplier failing in different ways, such as:

- repeated Credit Default issues;
- repeated payment default issues;
- notification from Ofgem;
- market intelligence;
- the media, or
- from the Party directly.

Once we're aware of an issue, we monitor the situation carefully and will identify when a Section H Default occurs. At this point we'll notify the BSC Panel and arrange a Panel meeting. This can be held in addition to the normal monthly meeting.

ELEXON gathers as much relevant information as possible about the Defaulting Party and presents it to the BSC Panel. The information provided by ELEXON will include:

- the extent of any Credit Default;
- the amount of Credit Cover the Defaulting Party has in place;
- the length of time any Credit Cover will be available to meet the cost of any Trading Charges;
- information about the Defaulting Party's payment status;
- its operating patterns;
- the extent of any Trading Charges which are about to fall due;
- the exposure of other Parties; and
- other relevant market intelligence available.

After the Panel meeting, we will continue to monitor the situation of the Defaulting Party, and will keep the Panel informed.

What is the role of the BSC Panel?

When a Default occurs, the Panel will meet to discuss it – sometimes at short notice. ELEXON informs the Defaulting Party or the administrator of the Panel meeting, and they can make representations to the Panel.

The Panel has a duty of care to protect other Parties from the Default and will try to minimise the potential debt. It will consider information that we provide and consider the impact on the contracted counter Parties, and on the Defaulting Party.

For instance, it may not be in the interests of the industry as a whole, or individual counter Parties, to stop the Defaulting Party from trading immediately. A short period of time may be necessary for counter-parties to make alternative arrangements to sell their energy, and allowing trading to continue reduces overall exposure for other Parties. The Panel will provide support to the rest of the industry.

After the Panel has considered the case, it **may** take one or more of these steps, detailed in Section H3.2 of the BSC. It may apply these resolutions in part or completely, effective from the Settlement Period it chooses. The Panel may:

- **notify** other Parties of the Default;
- **suspend** the Party's right to submit contracts and/or disapply existing contracts. The Panel may only disapply contracts that place the Party in further debt;
- **suspend** the Party's right to be allocated Metered Volumes to its Interconnector BM Units;
- **suspend** the Party's right to submit Bid-Offer Pairs. We will consult with NGENSO on this action;
- **suspend** the Party's right to submit Replacement Reserve Bid Data. We will consult with NGENSO on this action;
- **suspend** the Party's right to register further Metering Systems and BM Units;

- **suspend** the Party's right to vote in BSC Panel elections and/or the right to receive reports and data. We can provide reports where appropriate;
- **require** the Defaulting Party to de-energise Apparatus associated with their BM Units. The Authority will approve these actions; and/or
- **expel** the Defaulting Party from the BSC.

If the Supplier has insufficient contracted volumes of electricity to meet the demands of its customers, the Defaulting Supplier needs to pay imbalance settlement charges for these volumes. If the Defaulting Supplier fails to pay, other Parties each pay a share of these charges. This process is covered later in the document.

The Panel cannot stop a Supplier's payment liabilities escalating. This may happen when the Supplier continues to trade and/or its customers continue to consume energy before they are transferred to an alternative Supplier.

How is the Failing Supplier managed?

A failing Supplier's BM Units can be transferred to another Supplier as part of a Trade Sale or through the SolR process. Both achieve the same result through different methods.

The Failing Supplier process can be found in Section K of the BSC.

What is a Trade Sale?

When a Supplier becomes insolvent, it can voluntarily transfer some, or all, of its portfolio to another Supplier. This 'Trade Sale' is faster than the standard Supplier transfer process.

The transfer date can't be earlier than the Settlement Day agreed with us and it can't be later than the day after we receive notice of the transfer (the Appointment Day). The Replacement Supplier and the failing Supplier can agree an earlier transfer date with us. The transfer takes effect from 00:00 hours on the transfer date unless we agree otherwise.

During a gap between the transfer date and the Appointment Day, we treat:

- the failing Supplier BM Units and their contracts as if they belong to the Replacement Supplier;
- data flows from the failing Supplier's BM Units as if they apply to the BM Units for the Replacement Supplier.

A Trade Sale can't go ahead until we receive a notice of Trade Sale. The failing Supplier and the Replacement Supplier must sign this notice. If more than one Replacement Supplier is involved, each Party must give us a separate notice.

More about the notice of a Trade Sale can be found in BSC Section K

What happens when a Supplier of Last Resort is appointed?

The Supplier of Last Resort (SoLR) process can only go ahead after the Authority revokes the failing Supplier's Supply Licence and appoints a SoLR. The Party is usually in administration before the SoLR process begins, but it may have been in Default for a while by this time.

The Authority must give at least 24 hours' notice that it intends to revoke a Supply Licence. The effective date and time of the appointment (the Appointment Day) of a SoLR usually coincides with when the Supply Licence is revoked, so the new Supplier can take responsibility for the failing Supplier's customers immediately.

Ofgem's guidance document explains how and why a **Supplier of Last Resort** is appointed.

What is the Replacement Supplier responsible for?

The Replacement Supplier isn't responsible for issues that arise before the transfer. The failing Supplier's contracts don't apply to the Replacement Supplier beyond the transfer date. Some counter-parties may be exposed so we'll try to contact all counter-parties before the transfer is effective. Unless the SoLR has prepared for the transfer, it won't have contracted for its new customers, so it will be short in the market and have to pay imbalance prices.

The failing Supplier must decide how to deal with the contracts it has already submitted. The Replacement Supplier may take over some contracts and they must be informed of this. The Replacement Supplier will need to authorise submitting these contracts, which may take up to one working day before they become effective.

Section K of the BSC lists the contracts the Replacement Supplier may take over

The Replacement Supplier becomes:

- responsible for the BM Units' Exports and Imports;
- the Registrant for all Metering Systems associated with those BM Units; and
- liable for all charges and benefits relating to the Metering Systems

How is Energy Indebtedness affected?

The Replacement Supplier has a grace period of 14 days after the Appointment Day during which they are exempt from Credit Default and should set up appropriate credit cover. We'll work closely with the Replacement Supplier to support this.

The grace period when the Replacement Supplier is exempt from Credit Default is stated in BSC Section M

How does the Data Transfer Network manage this?

The Data Transfer Network (DTN) only has one address for a Supplier ID and cannot send files for two sets of Settlement Days to different addresses. The Failing Supplier and Replacement Supplier must cooperate to supply this data and reconfigure the network address for the Supplier ID if they need to.

More information about how the Data Transfer Network handles this is in BSC Section K

What about the money Defaulting Parties owe?

Trading Charges are the costs relating to imbalance and system operation and are covered in **Section T** of the BSC. BSCCo Charges are collected to recover the costs of ELEXON and are covered in **Section D** of the BSC. The Funding Shares are also detailed in Section D.

First the Defaulting Party's Credit Cover offsets the debt. If Trading Charges remain after this, we try to recover the outstanding debt from the Defaulting Party or its administrator. The same happens for any BSCCo Charges – except BSCCo Charges can't be offset against Credit Cover.

Other Parties pay any outstanding Trading Charges in proportion to their Annual Funding Shares through the usual invoices. We will distribute charges recovered from the Defaulting Party or its administrator to those Parties that contributed towards the initial shortfall.

As with Trading Charges, we recover BSCCo Charges using the Default Funding Shares. This debt is usually significantly less than the Trading Charges debt.

What should I do if I have questions?

The **Failing Supplier** process is complex. This guidance is for information only and is not a definitive explanation. The Code takes precedence over this guidance. If you may be affected by a Default, contact the **BSC Service Desk** (bscservicedesk@cgi.com) or call **0370 010 6950** as soon as possible.

Useful References:

- [Balancing and Settlement Code \(BSC\)](#)
- [Credit Cover](#)
- [Credit Default](#)
- [Change of CVA BM Unit Lead Party \(CoBLP\) and Supplier ID Transfer Process](#)
- [Ofgem's guidance document](#) explains how and why a Supplier of Last Resort is appointed.

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