

DETERMINING TRADING PARTY GROUPS

Guidance Note

Public

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Determining Trading Party Groups

Purpose

This note provides a high level explanation of a trading party group. Its purpose is to assist Trading Parties to determine whether they are part of a Trading Party Group as defined in the Balancing and Settlement Code (BSC) so that they can accurately declare this information to Elexon when requested to do so for the purposes of the election of Industry Panel Members to the BSC Panel.

Any questions regarding the content of this note should initially be directed to your Company Secretary. Further questions may be directed to Elliott Harper, Head of Governance Services and Election Co-ordinator on +44 (0) 20 7380 4302, 07538 838 848 or panelections@elexon.co.uk.

Background

Trading Parties elect Industry Panel Members in accordance with Annex B-2 of the BSC. Panel Members must act impartially and not be representative of any one Party or class of Parties. With the exception of the Panel Chairman, they are appointed for a period of two years.

Pursuant to paragraph 3.1.2 of Annex B-2 of the BSC, each Trading Party may submit a voting paper for each Energy Account that it holds (i.e. a Production account and a Consumption account). However, in some cases, Trading Parties may be affiliated with one another and so be treated as a trading party group by the BSC. Under paragraph 3.1.3 of Annex B-2, only one Trading Party in a trading party group can submit voting papers in Industry Panel Member elections.

A Trading Party's Company Secretary will be in the best position to determine whether that Party is in a trading party group.

What is a Trading Party Group?

Trading Party Group is defined in BSC Section X as:

"means a Trading Party and every Affiliate of that Trading Party (and if it has no Affiliate, only that Trading Party)".

Affiliate is defined in Section X as:

"in relation to any Party, any holding company of that Party, any subsidiary of that Party or any subsidiary of a holding company of that Party, in each case within the meaning of section 1159 of the Companies Act 2006, but subject to Section X2.2.7 in relation to the Transmission Company".

This means that a Trading Party will constitute a trading party group with any other Trading Parties who are:

- A subsidiary of that Trading Party
- A holding (parent) company of that Trading Party; or
- A company which is a subsidiary of the same holding company as that Trading Party.

The current Trading Party Groups can be found here: <https://www.elexon.com/documents/about/elexon-board/voting-share-register/>

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Further information on Subsidiaries and Holding Companies

Section 1159 of the Companies Act 2006 defines subsidiary company and holding company as follows:

Subsidiary Company

A company is deemed to be a subsidiary of another company if either:

- that other company holds a majority of the voting rights in it; or
- that other company is a member¹ of it and has the right to appoint or remove a majority of its board of directors; or
- that other company is a member of it and controls alone, pursuant to an agreement with other members, a majority of the voting rights in it; or
- the first company is a subsidiary of any company which is itself a subsidiary of that other company.

In this section of the Companies Act 2006, the term “company” includes any corporate body.

A company is a wholly owned subsidiary of another company if it has no members except that other (and the other’s wholly owned subsidiaries or persons) acting on behalf of them.

Holding company

A company is another company’s holding company if the other is its subsidiary.

A company is also an Affiliate of another company for the purposes of the Code if they are both subsidiaries of the same holding (or parent) company.

References in section 1159 of the Companies Act 2006 to the voting rights in a company, are to the rights conferred on shareholders in respect of their shares or, in the case of a company not having a share capital, on members to vote at general meetings of the company on all, or substantially all, matters.

The reference in section 1159 to the right to appoint or remove a majority of the board of directors is to the right to appoint or remove directors holding a majority of the voting rights at meetings of the board on all, or substantially all, matters.

¹Members of a company are either the subscribers to a company’s memorandum, or all other persons who agree to become members, and whose names are entered on the register of members. Members are entitled to hold shares in a company, or if the company holds no share capital, to vote at a general meeting of the company.

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Need more information?

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