

EMR – Panel Update

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| Meeting Name | BSC Panel |
| Meeting Date | 10 April 2014 |
| Purpose of paper | For Information |
| Summary | This paper is the Panel's monthly update on ELEXON's appointment as the Settlement Agent for both Contracts for Difference (CfDs) and for the Capacity Market (CM). |

1. In this paper the terms BSCCo and Elexon Ltd have the same meaning. The terms EMRCo, EMR subsidiary, EMR Settlement Ltd and EMRS have the same meaning.

2. Engagement

DECC/Counterparty

- 2.1 As reported at the last Panel meeting engagement with the Counterparty/DECC continues in the following areas:
- Development of the contract between our EMR subsidiary and the Counterparty;
 - Governance – we continue to hold weekly catch-up meetings;
 - Agreement of the Counterparty's involvement in our Service Provider BAFO process;
 - Draft Code and Licence changes;
 - Counterparty's IT systems and interface with the Settlement Agents systems;
 - Attending CM and CfD Business Design Authority forums (change management).

Panel/Industry

- 2.2 **Code and Licence changes:** DECC's Code and Licence change consultation closed on 13 February 2014. We understand that DECC received 14 consultation responses. DECC has declined to share the consultation responses stating that it must formulate its own views on the responses and determine whether further changes are necessary. However, DECC has shared a summary of the areas that they believe need to be addressed in further drafting. DECC will attend the April Panel meeting to share their proposed approach to addressing the consultation responses.
- 2.3 In addition to the changes to the BSC document, consequential changes are required to a number of BSC Configurable Items (BSC Procedures and design documents). We published the impacted documents for review and comment on 28 March 2014 and they are available from the ELEXON website¹. DECC has determined that the Configurable Item changes are to be "directed" by the Secretary of State (SoS). It is expected that DECC will launch their consultation shortly.

3. Governance

- 3.1 **Establishing a contract with the Counterparty:** As mentioned at the last Panel meeting we continue to work with the Counterparty and their lawyers (Slaughter and May) to develop the contractual and structural arrangements for the provision of EMR services and we have exchanged a number of iterations of the draft contract.

¹ <http://www.elexon.co.uk/release/june-2014-release/>

- 3.2 **2014/15 Grant:** The EMR Service Provider's costs are a key input into the 2014/15 Grant. However, as the service provider procurement has not yet concluded it has not been possible to finalise the 14/15 Grant. As a result, we have effectively agreed a one month extension (covering April 14) to the existing Grant. The service provider procurement will conclude during April and this will enable the 14/15 Grant to be finalised.
- 3.3 **Establishing the EMR subsidiary:** Following the agreement of the ELEXON Board the incorporation of the subsidiary company is progressing. The board will comprise the Chairman and one NED from ELEXON Ltd (David Rigney has agreed to be the NED) plus the CEO and CFO. The EMR subsidiary's Articles will contain a list of reserved matters and these are set out in Appendix 1.

4. Service provider procurement

- 4.1 An update on the service provider procurement is contained in Attachment 1 - 223/08(a) which is confidential.

5. Requirements' certainty

- 5.1 As mentioned at the last Panel DECC's secondary legislation consultation concluded on 24 December 2013. Despite calls from all stakeholder's DECC has declined to make public its proposed policy preferences which it has stated will not be shared with stakeholders ahead of DECC's formal response which we believe will be published in early June.

6. Changes to BSC Systems and processes

- 6.1 Implementation of the BSC System changes is included within the scope of the June Release. The release is progressing according to plan.

7. Financial Regulations

- 7.1 There is no further update on when DECC propose to take this matter to the FCA. We continue to maintain the pressure on DECC to bring this issue to a conclusion. It is a condition in the contract between the EMR subsidiary and DECC that this is resolved before the services begin, plus a termination right for the EMR subsidiary if the FCA's position ever changes.

8. Recommendation

- 8.1 The BSC Panel is invited to:

a) **Note** the EMR update.

Attachments

Attachment A: EMR Confidential attachment 223/07(a)

Appendices:

Appendix 1 – List of Reserved Matters

For more information, please contact:

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Appendix 1 – List of Reserved Matters

In this list of Reserved Matters, the “Company” means the ELEXON EMR subsidiary, namely EMR Settlement Ltd and the “Business” means the business of EMR settlement.

1. Permitting the registration of any person as a member of the Company.
2. Increasing the amount of the Company’s issued share capital, granting any option or other interest (in the form of convertible securities or in any other form) over or in its share capital, redeeming or purchasing any of its own shares or effecting any other reorganisation of its share capital.
3. Entering into any borrowing or lending (including creating or granting encumbrances or any other security over the Company).
4. Changing the nature of the Business of the Company or commencing any new business by the Company which is not ancillary or incidental to the Business.
5. Forming any subsidiary or acquiring shares, interests, debt instruments or any form of security in any other company or business undertaking or participating in any partnership, joint venture (incorporated or not) or any other form of legal person.
6. Amalgamating or merging with any other company or business undertaking.
7. Participating in any bid or tender either in relation to the Business or any new business by the Company which is not ancillary or incidental to the Business.
8. Entering into varying or extending any arrangements, contracts or transactions which are material in the nature of the Business.
9. Giving notice of suspension or termination of any arrangements, contracts or transactions which are material in the nature of the Business, materially supplementing or varying any such arrangements, contracts or transactions, or assigning or novating such arrangements, contracts or transactions.
10. Instituting, settling or compromising any legal proceedings (other than debt recovery proceedings in the ordinary course of business) instituted or threatened against the Company or submitting to arbitration or alternative dispute resolution any dispute involving the Company.
11. Any matter which would, if approved, cause ELEXON to be in breach of its obligations under the Code, the Transmission Licence or any applicable law or regulation.
12. Any matter which would, if approved, cause National Grid to be in breach of its obligations under the Transmission Licence.
13. Making any agreement with any revenue or tax authorities which might have any impact whatsoever on ELEXON’s tax arrangements.
14. Fixing, agreeing or varying the remuneration (or any other benefits) of the directors of the Company.