



**Single Electricity Market
(SEM)**

Intermediary Arrangements in the SEM

**Decision Paper
SEM-20-063
15 September 2020**

EXECUTIVE SUMMARY

On 26 May 2020, the SEM Committee published a Consultation which asked a series of questions on changes to the Intermediary arrangements under the TSC, primarily to consider an expansion of the eligibility criteria for applicants. The Consultation proposed to allow a broader subset of market participants to apply to be represented by an Intermediary where they do not wish to accede to the Trading and Settlement and Capacity Market Codes. This could involve new renewable units which may be dispatchable and/or controllable and newer categories of market participants such as DSUs and Batteries. The Consultation also considered that there could be value to allowing suppliers, or a certain subset of suppliers, to have access to Intermediary arrangements.

The Consultation also raised a question on the significance of Intermediary arrangements in the context of the ex-ante markets. This looked at whether the concept of Intermediary arrangements should be extended to the day-ahead and intraday market timeframes in order to allow for aggregated trades from portfolios in the ex-ante markets to be associated with units in the balancing market timeframe, where a Participant wishes to have the same entity setup between these market timeframes and nominate an Intermediary to trade on their behalf in the ex-ante and Balancing markets.

12 responses were received to the Consultation. Having considered these responses, the SEM Committee is making the following decisions:

Eligibility Criteria

The eligibility criteria for Intermediary arrangements have been expanded to include a number of technology types. Criterion C has been amended from:

- C. Where a Generator Unit is non-controllable and non-dispatchable for the whole of its output and is contracted to a Supplier that is a Party to the TSC

to:

- C. Where a Wind Power Unit, a Pumped Storage Unit, a Battery Storage Unit, a Demand Side Unit or a Solar Power Unit is contracted to a Supplier that is Party to the TSC

Suppliers in Intermediary Arrangements

Suppliers can now take part in Intermediary arrangements. The following criterion has been added to the eligibility criteria:

- E. Where a Supplier that is not contracted to the TSC is contracted to a Supplier that is Party to the TSC.

Future Technologies

When there is a request to partake in an Intermediary arrangement from a technology type that does not fall under Intermediary arrangements criteria, a mandatory notification will be published on the SEM Committee website inviting responses. Interested parties will be given a four-week period to respond to this notification before a decision is made whether to amend the eligibility criteria to facilitate a prospective new technology type.

Quarterly Report on Intermediary Arrangements

A quarterly report will be published setting out the details of the current Intermediary arrangements in place in the SEM.

Application to Ex-ante Markets

The SEM Committee will not be applying Intermediary arrangements to the ex-ante markets as part of this decision paper.

Corporate PPAs and Intermediaries

No changes will be made to Intermediary arrangements under this topic as most Consultation respondents did not feel that current market arrangements in the SEM hindered facilitation of corporate PPAs.

Form of Authority

The Form of Authority will be amended to remove reference to SEM-17-025.

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1. Introduction

1.1 Background

In the SEM, the role of an Intermediary is to act on behalf of a Generator owner in relation to specific Generator Units under the Trading and Settlement Code (TSC), which involves taking on their rights and responsibilities under the Code.

Intermediary arrangements were put in place in Version 1.0 of the TSC in 2006. The initial criteria for registration as an Intermediary were set out in the SEM Committee's Decision Paper on the 'Criteria for Approval of Intermediary Applications under the TSC in 2007 (SEM-07-029).

Before the revised market arrangements went live in October 2018, the SEM Committee consulted on Modifications to these arrangements and in SEM-17-025 set out a number of decisions in relation to the transition of Intermediary arrangements to the new market and the eligibility criteria that would apply. This Consultation and following Decisions mainly focused on the mechanism for transitioning RA Intermediary consents to the new market and the eligibility criteria for any new Intermediary applications.

It was noted in SEM-17-025 that the areas addressed in the Decision only dealt with the short-term issues associated with transitioning to a new market and that the wider approach to Intermediary arrangements might need to be reconsidered in future. As a result of this determination, the RAs published a Consultation Paper in June 2020 (SEM-20-033) which considered the wider concept of Intermediaries in the SEM and the eligibility criteria for applications to act as Intermediaries. It also considered wider EU Legislation which has come into force since the last Decision on Intermediary Arrangements in the SEM and addressed the issues raised by respondents to SEM-17-025 in a range of areas.

This Decision Paper is being provided to summarise the responses received from that Consultation and to issue Decisions in relation to updated Intermediary arrangements with regards to the subject matter raised in SEM-20-033.

2. Summary of Proposals in the Consultation Paper

2.1 Q1 – Eligibility Criteria

The existing eligibility criteria for consideration of Intermediary applications are as follows (once any of these criteria is met a Unit is eligible to apply to be represented by an Intermediary);

- A. Where a party's participation in a bilateral agreement is under a PSO contract then the use of an Intermediary will be permitted for the duration of that contract;
- B. Where a Generator Unit has Priority Dispatch for the whole of its output and is contracted to a Supplier that is a Party to the TSC;
- C. Where a Generator Unit is non-controllable and non-dispatchable for the whole of its output and is contracted to a Supplier that is a Party to the TSC; or
- D. Where a Generator Unit is contracted to a Supplier that is a Party to the TSC and the following criteria are satisfied:
 - The Generator Unit has been allocated to a support-scheme, where the requirements of the scheme are such that in order to access payments an Intermediary must be appointed to receive the support-scheme payments and where no alternative method of receiving support-scheme payments in the SEM exists;
 - The generator's Maximum Export Capacity is less than 100MW; and
 - Subject to applicable licence conditions, the Intermediary appointed will only act on behalf of a generator in the SEM with which it has a related undertaking or affiliate as set out in the relevant jurisdictional Generation Licences.

The Regulatory Authorities (RAs) proposed revising criterion C above, to allow for a broader range of market participant categories to apply to take part in such arrangements. The application of these arrangements based on a certain subset of Generator Units would provide for the following revised criteria which would not be limited by involvement in a support scheme;

- Where a Wind Power Unit, a Pumped Storage Unit, a Battery Storage Unit, a Demand Side Unit or a Solar Power Unit with a Registered Capacity of less than 100MW is contracted to a Supplier that is Party to the TSC.

2.2 Q2 – Suppliers in Intermediary Arrangements

The RAs also considered that there could be value to allowing suppliers, or a certain subset of suppliers, to have access to Intermediary arrangements. This would allow a third party to act on their behalf in the wholesale market, given their participation in the ex-ante and balancing markets. The RAs also proposed to add an additional criterion to allow Suppliers to contract with a Supplier Unit that is Party to the TSC to trade on their behalf and considered whether this should be open to all suppliers or only to those below a certain market share threshold. There is no distinction within the TSC between different Suppliers based on their customer numbers or consumption, but an appropriate basis could be 10% of market share overall in terms of customer numbers in all market segments.

2.3 Q3 – Future Technologies

The SEM Committee has consulted a number of times on the eligibility criteria and the RAs proposed as part of the Consultation that a mechanism should be put in place to allow for RA approved changes to these criteria as new technologies or structures develop without the need for a Consultation process, as long as these do not impact on any of the RAs' key concerns.

The RAs proposed that an additional criterion could be added to the Trading and Settlement Code to allow for specific registrations to be approved once they meet the SEM Committee's specific objectives in this area. This could serve to remove barriers to the participation of new technologies in the electricity market. Following the Consultation, the RAs proposed to raise a Modification to the TSC to provide for changes to these eligibility criteria where evidence is provided by potential new applicant types that their eligibility will not lead to a market power issue and such Intermediaries will be compliant with their obligations in the SEM.

2.4 Q4 – Quarterly Report on Intermediary Arrangements

Given the range of Intermediary arrangements currently in place and the potential for any broadened criteria to increase this number, the RAs also proposed to publish a quarterly report with details of the current Intermediary arrangements in place, setting out a list of Intermediaries and the generator units they are acting on behalf of. Where there are any

changes to these published arrangements participants would be required to notify the RAs and SEMO.

2.5 Q5 – Application to Ex-ante Markets

The RAs considered whether the concept of Intermediary arrangements should be extended to the day-ahead and intraday market timeframes in order to allow for aggregated trades from portfolios in the ex-ante markets to be associated with units in the balancing market timeframe, where a Participant wishes to have the same entity setup between these market timeframes and nominate an Intermediary to trade on their behalf in the ex-ante and Balancing markets. This could better reflect the link between trades and participation in the different market timeframes.

This would involve any Intermediaries for such units taking on their roles and responsibilities under the SEMOpX Rules and Operating Procedures (or the applicable Rules for any NEMO operating in the SEM) and would involve a change to the Form of Authority and a new registration process between SEMO and SEMOpX.

2.6 Q6 – Corporate PPAs and Intermediaries

Corporate Power Purchase Agreements (PPAs) generally involve a long-term contract between a business and a generator to purchase electricity with a fixed price for a certain period. The RAs considered the interaction between Intermediary arrangements and corporate PPAs and whether any barriers exist under the current arrangements in order to facilitate corporate PPAs in the renewables sector. In many cases, businesses see PPAs as a way to decarbonise their electricity supply and ensure cost certainty in the long term.

2.7 Q7 – Form of Authority

To enact changes to Intermediary Arrangements, it was noted in the Consultation that the Form of Authority (FoA) for appointment of an Intermediary was thought to have needed amendments.. The FoA an agreement where the Licensed Generator appoints and authorises the Intermediary to register the Units as Generator Units for the purposes of participation in the Balancing Market under the TSC and the Intermediary accepts such appointment. The

purpose of the FoA is to provide evidence that both parties to the Intermediary arrangement understand and have agreed to the detail of the arrangement.

3. Summary of Responses

12 responses were received from:

- Bord Gáis Energy (BGE)
- Brookfield Renewable
- Captured Carbon Limited
- CGN Europe Energy Ireland Limited
- Energy Storage Ireland
- Erova Energy
- ESB Generation and Trading (ESB G&T)
- Low Carbon Storage Ireland Limited
- RWE Renewables Ireland
- SEMO
- SSE
- Statkraft Markets GmbH

These responses are summarised below, and all non-confidential responses have been published with this Decision Paper.

3.1 Q1 – Eligibility Criteria

Consultation Question 1: The RAs propose to revise Part C of the eligibility criteria to allow for a broader range of market participant categories to apply and also to provide for renewable units which may be dispatchable and/or controllable to take part in such arrangements. The revised criterion would be; where a Wind Power Unit, a Pumped Storage Unit, a Battery Storage Unit, a Demand Side Unit or a Solar Power Unit with a Registered Capacity of less than 100MW is contracted to a Supplier that is Party to the TSC.

While answers from respondents were varied, there was an overall agreement with the proposal to revise the eligibility criteria to allow for a broader range of Participants to apply for Intermediary arrangements.

There was some opposition to the proposed Registered Capacity limit of 100MW. SSE stated that the threshold could be an issue when considering the facilitation of corporate PPAs. ESB Generation and Trading commented that if market power considerations were the reason that the proposed limit was set, there are already a number of mitigation measures in the market to address these concerns (e.g. unit based bidding, Bidding Code of Practice and mandatory bidding in the Balancing Market). They were also concerned that

this limit could have unnecessary and negative implications on Participants in the future that are no longer under a PSO arrangement.

Some respondents opined that there should be no limit on the type of technology that can partake in Intermediary arrangements.

3.2 Q2 – Suppliers in Intermediary Arrangements

Consultation Question 2: The RAs propose to allow Suppliers to take part in Intermediary arrangements. Do you agree with this proposal and do you have a view on whether this should be available to all suppliers or only to those below a certain threshold of market share?

Bord Gáis Energy, Brookfield Renewable, Captured Carbon Limited, Energy Storage Ireland, Erova Energy, ESB Generation and Trading, Low Carbon Storage and Statkraft Markets all supported the proposal to allow Suppliers to take part in Intermediary arrangements.

Regarding the 10% market share that was proposed in the Consultation, Brookfield Renewable believed that the threshold should be 10% of total market share, rather than 10% of a specific market segment. Captured Carbon Limited did not deem the proposed limit as necessary, as suppliers do not submit commercial offer data or other data to the market. SSE commented that the concept of market share does not correspond with the definition of a Supplier Unit versus a small supplier.

Erova, while supporting the proposal, sought clarification from on whether the SEM Committee intend to allow a third party be Intermediary for a supplier who itself has Intermediary agreements in place with generators.

3.3 Q3 – Future Technologies

Consultation Question 3: The RAs propose that an additional criterion is added to the Trading and Settlement Code to allow for specific registrations to be approved once they meet the SEM Committee's specific objectives in this area. A Modification to the Trading

and Settlement Code would be raised following this Consultation to provide for this change. Do you agree with this proposal?

There was broad agreement amongst respondents with this proposal, with two respondents agreeing that a Modification to the TSC being the appropriate mechanism, and others asking for any decision related to this question to be expedited.

SEMO accepted that the emergence over time of new technologies may create a perceived need to 'future-proof' the market rules, but were of the view that a firm set of criteria should be prescribed setting out the standards that any new technology should meet.

ESB Generation and Trading and Bord Gáis Energy did not agree with the proposal, with ESB Generation and Trading commenting that removing barriers to the participation of new technologies in the electricity market would be a more efficient approach than creating exemption processes in the TSC. BGE instead proposed an additional eligibility criterion that would require a mandatory notification to the market of a request by an entity that wishes to use Intermediary arrangements but doesn't fall into any other categories. As part of this, they suggest that a reasonable window for comment would be allowed before a decision on such a request is made.

3.4 Q4 – Quarterly Report on Intermediary Arrangements

Consultation Question 4: The RAs propose to publish a quarterly report on the SEM Committee website setting out the details of the current Intermediary arrangements in place in the SEM. Participants involved in these arrangements would be required to notify the RAs and SEMO of any changes to these. Do you agree with this proposal?

There was broad support from respondents for the publication of a quarterly report on the SEM Committee website setting out the details of the current Intermediary arrangements in place in the SEM. One respondent stressed that any prospective report "*does not undermine commercially sensitive or confidential data*".

On the proposal to require Participants involved in these arrangements to notify the RAs and SEMO of any changes to their Intermediary arrangements, SEMO commented that this

promotes transparency and facilitates the efficient operation of the market by the Market Operator.

Captured Carbon Limited, while not objecting to the proposal of issuing a quarterly report, felt that the obligation to report on Intermediary arrangements would be more efficiently handled by SEMO, who have access to all necessary data through the registration process.

ESB Generation and Trading responded that there was no justification or objective for the collection and publication of data, this would impose an administrative burden on both the RAs and Participants and that value of the information and how it can be used needs to be identified.

3.5 Q5 – Application to Ex-ante Markets

Consultation Question 5: What is your view on the potential added value of the application of Intermediary Arrangements in the Ex-Ante Markets?

Most respondents did not support the suggestion of applying Intermediary arrangements in the ex-ante markets, while some were of the opinion that this type of arrangement could already take place. CGN Europe commented that: *“it is possible for a third party to register to trade in the ex-ante market on behalf of a market unit registered to a different party.”*

Low Carbon Storage commented that *“existing arrangements for enabling third-party trading in the ex-ante markets already provides sufficient flexibility for market participants.”*

Both SEMO and ESB Generation and Trading noted that there was some crossover between this issue and SEM-20-042 (Consultation Paper on Aggregation).

Brookfield Energy supported the proposal, stating that it would facilitate improved efficiency in each market timeframe.

Bord Gáis Energy also supported the proposal, subject to *“retaining the principles of unit based bidding and settlement such that Intermediary volumes are not ‘pooled’ or netted; not permitting the Intermediary to be seen as a “unit” itself, rather it is the representative of a unit; ensuring Intermediary arrangements do not impact market transparency and liquidity – all new units’ volumes traded via an Intermediary must be seen in “gross” in the market*

whether de minimus or not; the use of the same Intermediary across all markets for transparency, regulatory oversight and ease of information flow reasons.”

3.6 Q6 – Corporate PPAs and Intermediaries

Consultation Question 6: Are there limitations to the current arrangements which could be revised to better facilitate corporate PPAs?

The vast majority of respondents were of the view that there was nothing in the current arrangements that could be revised to facilitate corporate PPAs. Brookfield Renewable stated that the broadening of eligibility criteria discussed in Question 1 would help facilitation.

Statkraft Markets GmbH commented that *“integration of corporate PPAs would be better facilitated by a forward trade volume notification process or by meter volume reallocation process than through Intermediary arrangements. This would facilitate the aggregation of demand and generation required to deliver a physical corporate PPA, whilst not restricting the demand customers long term choice of supplier.”*

3.7 Q7 – Form of Authority

Consultation Question 7: Are there further changes to the FoA that the Regulatory Authorities consider?

Most respondents suggested no changes to the Form of Authority. SSE commented that in the context of the COVID-19 pandemic, use of electronic signatures or other process improvements to facilitate the current remote working and social distancing approaches, would be welcome.

Captured Carbon Limited suggested that any reference to the most recent decision taken on Intermediary arrangements be removed from the Form of Authority, so that the document does not need to be amended every time that a decision related to intermediaries is made.

Bord Gáis Energy, in the context of their support for the proposal to apply Intermediary arrangements in the ex-ante markets, stated that the current FoA *“could add the option of*

appointing the same Intermediary that is representing the unit in the balancing market and/or capacity market, to also represent that unit in the ex-ante markets. It is critical in our view at present that the same Intermediary represent a unit across ex-ante, balancing and capacity markets (where so decided by the relevant unit) such that volumes traded through an Intermediary can be easily traced/assigned to the relevant unit for transparency and settlement purposes across the various markets.”

4. SEM Committee Response and Decision

4.1 Q1 – Eligibility Criteria

Having taken into account the response to SEM-20-033, the SEM Committee has decided to amend the eligibility criteria for Intermediary arrangements set out in SEM-17-025, in particular criterion C, to state the following:

- Where a Wind Power Unit, a Pumped Storage Unit, a Battery Storage Unit, a Demand Side Unit or a Solar Power Unit is contracted to a Supplier that is Party to the TSC.

The SEM Committee have made the decision not to include a Registered Capacity limit of 100MW as initially proposed, and instead will continue to monitor Intermediary arrangements closely to identify any potential market power issues. This will be done through existing processes and will be aided by a new quarterly report on these arrangements, proposed in Question 4 of the Consultation.

4.2 Q2 – Suppliers in Intermediary Arrangements

On foot of the responses to the Consultation, the SEM Committee has made the decision to allow Suppliers to take part in Intermediary arrangements. A market share limit is not being implemented, instead any cases of Suppliers entering into Intermediary arrangements will be monitored closely to alleviate market power concerns.

The SEM Committee will not allow a third party be Intermediary for a supplier who itself has Intermediary agreements in place with generators.

Following this decision paper, the eligibility criteria for the consideration of Intermediary applications in SEM will be:

- A. Where a party's participation in a bilateral agreement is under a PSO contract then the use of an Intermediary will be permitted for the duration of that contract;
- B. Where a Generator Unit has Priority Dispatch for the whole of its output and is contracted to a Supplier that is a Party to the TSC;

- C. Where a Wind Power Unit, a Pumped Storage Unit, a Battery Storage Unit, a Demand Side Unit or a Solar Power Unit is contracted to a Supplier that is Party to the TSC;
- D. Where a Generator Unit is contracted to a Supplier that is a Party to the TSC and the following criteria are satisfied:
- The Generator Unit has been allocated to a support-scheme, where the requirements of the scheme are such that in order to access payments an Intermediary must be appointed to receive the support-scheme payments and where no alternative method of receiving support-scheme payments in the SEM exists; and
 - Subject to applicable licence conditions, the Intermediary appointed will only act on behalf of a generator in the SEM with which it has a related undertaking or affiliate as set out in the relevant jurisdictional Generation Licences; or
- E. Where a Supplier is contracted to a Supplier that is Party to the TSC.

4.3 Q3 – Future Technologies

When there is a request to partake in an Intermediary arrangement from a technology type that does not fall under Intermediary arrangements criteria, a mandatory notification will be published on the SEM Committee website inviting responses. Interested parties will be given a four-week period to respond to this notification before a decision is made whether to amend the eligibility criteria to facilitate a prospective new technology type. This decision deviates from the proposal in the Consultation paper, as having taken the responses into account the SEM Committee sees merit in seeking opinions from industry in the event of a new technology looking to be part of an Intermediary arrangement.

4.4 Q4 – Quarterly Report on Intermediary Arrangements

Given the support for this proposal by respondents, a quarterly report will be published setting out the details of the current Intermediary arrangements in place in the SEM. This report will be a useful monitoring tool for the RAs and Market Operator and will also facilitate market access by displaying to new entrants which entities are offering Intermediary arrangements. Cognisant of potential confidentiality issues, the RAs will engage with SEMO following this decision to discuss the details and format of the report.

In the event that a market power issue is identified, changes to the eligibility criteria for Intermediary arrangements may need to be considered to remedy the situation.

4.5 Q5 – Application to Ex-ante Markets

Taking into account the responses to this question in the SEM-20-033 Consultation, the SEM Committee will not be applying Intermediary arrangements to the ex-ante markets as part of this decision paper. This issue has significant crossover with SEM-20-042 (Consultation Paper on Aggregation) and would be better considered under that topic, or as the focus of a separate Consultation paper in future.

4.6 Q6 – Corporate PPAs and Intermediaries

The vast majority of respondents felt that current market arrangements in the SEM did not hinder facilitation of corporate PPAs. The SEM Committee agrees with this assessment and will be making no changes in relation to this question.

4.7 Q7 – Form of Authority

The last Form of Authority (SEM-17-025a) contained a reference to SEM-17-025, the previous decision on Intermediary arrangements:

“2. The Licensed Generator and the Intermediary are parties to a contract (“the Contract”) which satisfies criteria for appointment of an Intermediary pursuant to Regulatory Authorities’

Decision Paper SEM/17/025. The Licensed Generator wishes to appoint the Intermediary to act as the Participant in respect of the Units under (i) the Trading and Settlement Code, and (ii) the Capacity Market Code, and the Intermediary wishes to accept such appointment, in accordance with the following terms.”

This text will be amended to remove this reference and now read as the following:

“2. The Licensed Generator and the Intermediary are parties to a contract (“the Contract”) which satisfies criteria for appointment of an Intermediary pursuant to the Regulatory Authorities’ latest Decision Paper concerning Intermediary arrangements. The Licensed Generator wishes to appoint the Intermediary to act as the Participant in respect of the Units under (i) the Trading and Settlement Code, and (ii) the Capacity Market Code, and the Intermediary wishes to accept such appointment, in accordance with the following terms.”

5. Conclusions and Next Steps

A new version of the Form of Authority has been published in conjunction with this decision paper.

The RAs will update the standard application form for regulatory consents to reflect this decision and publish on the RAs' websites in the coming weeks. This form should be used for all new Intermediary applications under the Trading and Settlement Code.

In the absence of changes to the agreement, Intermediaries do not need to submit a new Form of Authority or consent form for existing arrangements as a result of the decisions in this paper.