



EMR Consultation Response Document (Part 1 of 7)

Responses to the formal Consultation Questions

Name of reviewer

ELEXON Ltd.

Name of document being reviewed

EMR Consultation on Proposals for Implementation, DECC, October 2013
– Response to the formal consultation Questions

Question No	Question Subject Matter	Question	Answer
CFD 1	Investment Contracts	Do you agree with the approach outlined in section 3.2.1.2 of this document to treat Investment Contracts as CfDs once they have been transferred to the CfD Counterparty in order to allow the counterparty to administer and fund these contracts in the same way as CfDs?	<p>The relationship between an Investment Contract Counterparty (if different from the enduring Counterparty) and the settlement agent (if payments are required) needs to be explored further.</p> <p>We note that paragraph 106 states that Schedule 2 of the Energy Bill allows the Secretary of State to fund Investment Contracts (either by direct payment or by collecting money from suppliers) if the enduring EMR regime is delayed significantly or does not come into force at all and may create an Investment Contract Counterparty. Although paragraph 107 states that the Government does not expect to have to make regulations under this Schedule 2, we note that if it does, and there is a requirement for ELEXON to be the settlement agent, then the enabling arrangements would need to be put in place.</p> <p>From our own settlement administration perspective, we therefore support the overall approach to treat Investment Contracts as CfDs through transferring to the CfD Counterparty and administered and funded in the same way as CfDs as this means the arrangements being developed for the enduring CfD regime will be suitable for Investment Contracts without planning for a different regime (systems and enabling legal documentation).</p>



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CFD8	Allocation Process	Do you have any further comments on any aspects of the design of the allocation process set out in this section (you may wish to refer back to the detail of the allocation process set out in the August Allocation Methodology)?	We have some comments on the draft Contracts for Difference (Allocation) Regulations 2014 – please see separate attachment on this.
CFD9	Contract Management	Do you have views on any aspect of the proposals set out in this section?	<p>1) In many places in the EMR consultation document reference is made to the ability of Counterparty or Secretary of State to make minor modifications to the terms of the standard CfD. We note that if such modifications are made, they either need to be consistent with the existing capability of the CfD settlement systems, which will have been agreed previously with DECC and/or the Counterparty, or alternatively time is permitted to amend those systems (if required) before payments become due under the modified contract.</p> <p>We therefore anticipate that any modifications proposed that might impact settlements, including metering arrangements, would be advised to the settlement agent so that it can provide information on the impact to the Counterparty or Secretary of State as appropriate.</p> <p>And for that reason we also strongly support the Government’s proposed approach set out in Chapter 3, paragraph 187 to consult on any revisions to the standard CfD terms. However, if there are “minor” modifications as set out in paragraph 189, the settlement agent should still be consulted by the Counterparty. Typically, under the BSC, ELEXON allows its service</p>



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			<p>providers 10 working days to provide an impact assessment on the costs and timescale to implement a change to BSC systems. For that reason, we agree that the average 20 Working Days for the Counterparty to agree “minor” changes that impact the standard settlement arrangements for CfDs is probably appropriate as the Counterparty should have sight of the costs to it from a settlement perspective of the changes.</p> <p>There are further examples of the potential for non-standard CfD terms mentioned in Chapter 3, paragraphs 76, 87, Table 3.3, 104 (Investment Contracts), the Summary on page 76, paragraphs 186 to 191 and the summary on page 132.</p> <p>2) From section 3.2.3.3, we note that amendments can be made to live CfDs that will impact payments due under those CfDs. We will need to make sure that arrangements are in place to communicate any such amendments to the settlement agent/processes and what payment rules are in place in the case of any dispute on an amendment.</p>
CFD14	Reconciliation	Do you agree with the described approach to levy reconciliation? If not, why and what alternatives can you suggest?	We don't believe this is set out in the current draft Contracts for Difference (Supplier Obligation) Regulations 2014, but is there any circumstance in which the levy rate can be varied during the year? If so, we would need the Regulations to specify which rate to use in settlement reconciliations that take place before the reconciliation rates are set according to draft Regulation 10(1).



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CFD18	Reserve Fund	Do you have any comments on the approach to determining market share for payment of the reserve fund?	Paragraph 254 states that new entrant suppliers will have their contribution to the reserve fund based on their first month's supply data. However, the draft Contracts for Difference (Supplier Obligation) Regulations 2014 do not appear to follow the same approach for new entrant suppliers as the reference month appears to be November in all cases.
CFD19	Reserve Fund	Do you have any comments on the timings outlined for notification of the amount of money required for the reserve fund?	Paragraph 254 states that new entrant suppliers will have their contribution to the reserve fund based on their first month's supply data. However, the timing of when this payment must be made is not specified – sufficient time must be allowed to determine that first month's supply data following that month, e.g. if the data to be used is BSC SF data, such data will not be available until the second half of the following month.
CFD20	Reconciliation	Do you have any comments on the frequency of reserve fund reconciliation?	Paragraph 257 states that any annual reconciliation refunds will be made as credit notes against future fixed rate payments. To us, this implies that payments will not be explicitly returned to a supplier but rather will be used to offset against future daily debts. Is this what is intended?
CFD26	Collateral	Do you have any comments on the amount of time necessary to size collateral requirements?	<p>It is not clear how the 21 day collateral period changes when bank holidays are involved (paragraph 270) and the draft Contracts for Difference (Supplier Obligation) Regulations 2014, in particular Regulation 15(1) does not pick up this point.</p> <p>Maintaining a 21 day collateral period regardless of bank holidays will increase</p>



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			risk of exposure to unpaid charges for a short period after bank holidays however this maintains a stable collateral calculation without temporary spikes in the collateral requirement. Spikes require collateral adjustments and would therefore incur additional processing costs.
CFD27	Collateral	Do you have any comments on the length of the late payment rectification period?	The late payment rectification period is unclear. Is the collateral used immediately on non-payment being identified?
CFD28	Collateral	Do you have any comments on the form of collateral, such as cash or a letter of credit as proposed?	<p>For practical reasons because Letters of Credit have to be presented physically to the issuing bank for payment, Letters of Credit must be available for payment at a London branch of the issuing bank. (This also means that Letters of Credit from banks that don't have a London branch will not be accepted.)</p> <p>Also, to make a claim on a Letter of Credit it has to be signed in accordance with the approved bank mandate, so if the settlement agent is making a claim for payment to be made into another's bank account we need to explore with you what are the required practical arrangements to enable the encashment.</p> <p>See also our accompanying comments on the draft Contracts for Difference (Supplier Obligation) Regulations 2014.</p>
CFD29	Collateral	Do you have any comments on the proposed credit rating requirements for letters of credit?	Yes, see our accompanying comments on the draft Contracts for Difference (Supplier Obligation) Regulations 2014, in particular Regulation 14(4).
CFD30	Collateral	Do you have any comments on the	Yes, see our accompanying comments on the draft Contracts for Difference



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		process for monitoring and enforcing credit requirements?	<p>(Supplier Obligation) Regulations 2014.</p> <p>Also, a further resolution option for increasing credit is noted in paragraph 278 for which 'outstanding amounts due' can be paid to resolve the collateral required. However, paying outstanding amounts due may not be sufficient because it is not consistent with the 21 day collateral period calculation which may be requiring additional credit irrespective of whether any payments are owing.</p>
CFD32	Collateral	Do you have any questions or comments on regulations 14 (Collateral) and 15 (Calculation of a supplier's collateral requirement)?	Yes, see our accompanying comments on the draft Contracts for Difference (Supplier Obligation) Regulations 2014.
CFD33	Collateral	Do you have any comments on the concept of an insolvency reserve fund; if not what alternatives would you recommend to manage the associated risk?	<p>Given that usage of the insolvency reserve fund triggers mutualisation to replenish it (paragraph 290), and that the defaulting supplier's portion of the insolvency reserve fund is used first, a possible alternative approach could be to increase the usual collateral required of each supplier by the amount that would have been required for the insolvency reserve requirement and then go straight into mutualisation if this is insufficient.</p> <p>This would also clearly allow the suppliers to use one Letter of Credit for all the credit requirements. However, if the insolvency reserve fund is implemented, it would still be worth exploring whether it is feasible to use one Letter of Credit for both usual collateral and insolvency reserve collateral.</p>



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CFD35	Insolvency Reserve Fund	Do you have any comments on the most appropriate means of funding the insolvency reserve fund?	<p>1) We note that if the insolvency reserve fund is funded by letters of credit which is not replaced by cash, then there are circumstances in which <u>every</u> non-defaulting supplier's letter of credit would need to be called upon concurrently and possibly multiple times, i.e. on consecutive days. The practicality of this would need to be assessed, e.g. visiting multiple bank branches to request payment, and also the impact on the electricity sector's credit rating. We do have strong concerns about the practicalities of this process.</p> <p>2) We note that a redetermination of collateral for the reserve fund will occur on a new supplier entering the market or an existing supplier exiting the market all the insolvency reserve requirements will be recalculated. We have several observations on this both from practicality and accuracy viewpoints:</p> <p>a) A new supplier will have zero metered volume on market entry and will grow over time. Their first month's data will not be a very accurate assessment and should be revised, say quarterly.</p> <p>b) An existing supplier exiting the market will have zero metered volume for new settlement days and will have reconciliation charges only, this will continue for 14 months until the last BSC RF Settlement Run is completed for their last day of trading. It is planned for (248) reconciliation payments after the end of the levy year to be made through the reserve fund balance and reconciled at the end of the year.</p>



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			<p>c) Each time a supplier enters/exits, the fund will be re determined for remaining suppliers. Frequent changes to the reserve fund requirement will result in administration costs, particularly with changes to Letters of Credit.</p> <p>d) For all the above reasons we suggest that the insolvency reserve fund shares are re-determined on a scheduled quarterly basis only, and that the amount due from an exiting supplier needs to be considered further in respect of reconciliation payments.</p>
CFD36	Insolvency Reserve Fund	Do you have any comments on the minimum credit requirements for letters of credit used to fund the insolvency reserve fund?	We note that the issuing banks do not have to have the same credit rating as for Letters of Credit required under the BSC. We do not have a view on this, but merely note it.
CFD37	Insolvency Reserve Fund	Do you have any comments on the length of notice period given to a non-defaulting supplier to replace a letter of credit with cash before it is called by the counterparty?	We note that suppliers with Insolvency Reserve Fund Letters of Credit have 24 hours' notice to pay cash into the reserve fund before the Letter of Credit is claimed. Taking an example of a Friday afternoon, 4pm, the 24 hours will expire Saturday at 4pm. The supplier is unlikely to have sufficient business hours to take any action.
CFD38	Insolvency Reserve Fund	Do you have any questions or comments on regulations 16	Yes, see our accompanying comments on the draft Contracts for Difference



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		(Insolvency reserve collateral), 17 (Calculation of a supplier's insolvency reserve requirement) and 18 (Repayment of insolvency reserve collateral)?	(Supplier Obligation) Regulations 2014.
CFD39	Mutualisation	Do you have any comments on the concept of mutualisation, if not what alternative mechanism would you propose to ensure the insolvency reserve fund remains adequately funded?	Paragraph 292 states that mutualisation will end when an enduring solution for the defaulting party is found. We suggest that mutualisation will continue after any solution is found - because it will continue in respect of days, e.g. through continuing reconciliations, which occurred before the solution was implemented. For example, the Supplier of Last Resort is not responsible for any debts incurred in respect of days before its day of appointment or any reconciliation amounts due in respect of those days.
CFD43	Mutualisation	Do you any questions or comments on regulation 16 (Insolvency reserve collateral)?	Yes, see our accompanying comments on the draft Contracts for Difference (Supplier Obligation) Regulations 2014.
CFD44	Arrangements for dealing with non-payment	Do you have any comments on the proposed timescales for notifying and reporting payment default to Ofgem?	Payments are made on working days. Paragraph 298 states that a payment default will be registered with Ofgem within 2 calendar days. So, for example if a default occurs on the Thursday before Easter, Ofgem will be notified by Saturday and a formal report is made to Ofgem is made at a further 5 calendar days i.e. by the following Thursday. However in this period there will have only been three working days. A working day reporting requirement may be more suitable to



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			align with the payment calendar.
CFD46	Arrangements for dealing with non-payment	Do you have any questions or comments on regulation 19 (Enforcement of requirements)?	Yes, see our accompanying comments on the draft Contracts for Difference (Supplier Obligation) Regulations 2014.
CFD53	Implementing the payment model	Do you have views on any aspect of the proposals set out in this section 3.4?	When is the CfD Counterparty Framework Document to be published? As it contains information relevant to ELEXON, we will be interested in what it contains.
CM13	Eligibility and pre-qualification	Do you think the level and type of collateral requirements for new build plants are appropriate?	<p>There are a significant number of collateral types for new build collateral which will each require a separate process to review, monitor and associated administration costs.</p> <p>In 2014, due to the shortened timescales for pre-qualification, we believe that acceptable forms of collateral for new build plants should be limited to cash and letters of credit.</p>
CM15	Eligibility and pre-qualification	Do you have any further comments on aspects of the design described in this sub-section?	<p>It is unclear who is responsible for monitoring the ownership and legal structure of capacity providers.</p> <p>CMRS registration is a potentially arbitrary criterion allocating to a different penalty regime. For example a supplier registering an embedded power station is able to choose SMRS or CMRS registration. This ability to choose potentially impacts participation in the capacity market as CMRS or non-CMRS CMU's are exposed to differing penalty rates.</p>



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CM16	Eligibility and pre-qualification	Do you have any comments on Chapter 3 of Part 4 and Parts 6 and 9 of the regulations and Chapters 2, 3, 4, 10 and 12 of the Capacity Market Rules for implementing proposals for eligibility and pre-qualification?	<p>Yes, see our accompanying comments on: the draft Electricity Capacity Regulations 2014; and also on the consultation draft of the Capacity Market Rules.</p> <p>Two particular comments we would highlight:</p> <ol style="list-style-type: none"> 1) Rule 4.3.2 requires BSCCo to verify whether Existing Generating CMUs delivered their De-Rated Capacity in accordance with rule 3.6.1. BSCCo is unable to deliver this obligation as it is currently written as it will not be able to verify the capacity of the large number of CMUs that are expected to pre-qualify within the time permitted. This role requires specialist metering skills and from past experience it seems it will be very difficult to recruit sufficient numbers of metering specialists to satisfy this short spike in activity. To carry out this obligation we estimate needing months rather than days. Furthermore, this obligation (rule 4.3.2) should not be placed on BSCCo as BSCCo does not receive metered volumes for type 3 non-CMRS registered CMUs and thus cannot easily carry out this obligation for all Existing Generating CMUs. The obligation should be placed on the Settlement Agent. 2) The proposed CM design relies on BM Unit data (such as BM Unit Metered Volumes and FPNs) to calculate payments for all type 1 and type 2 CMUs. This design is not feasible unless it is possible to match up CMUs and BMUs (preferably with minimum need for re-registration of existing BM Units). The current definition of Generating CMU is not well-aligned with



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			the BM Unit definition, and we believe it should be revised in order to make it as easy as possible for Parties to make registrations in which each CMU corresponds to one (or possibly more than one) BM Unit. In particular the requirement to export onto the transmission or distribution system and the requirement for a single meter are not consistent with the BSC definition of BM Unit.
CM29	Auction frequency, format and agreement lengths	Do you have any comments on Part 3 and chapters 1, 2, 3 and 4 in Part 4 the regulations and Chapters 4, 5, 6 and 7 and Schedule 1 of the Capacity Market Rules for implementing proposals for auction format and frequency	Yes, see our accompanying comments on the consultation draft of the Capacity Market Rules.
CM31	Secondary Market	Do you have any further comments on aspects of the design described in this sub-section?	Are capacity payments made to the original agreement holder or to the transferee?
CM32	Secondary Market	Do you have any comments on Chapters 7 and 9 of the Capacity Market Rules for implementing proposals for secondary trading?	Yes, see our accompanying comments on the consultation draft of the Capacity Market Rules.



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CM36	Delivery	Do you agree with the proposal that penalty caps should be determined at the portfolio level? If so, do you agree with the approach for determining portfolio structure?	Is the capacity provider responsible for submitting the portfolio identity initially, and for keeping it updated on an on-going basis? If no, who is responsible? If yes, is anybody responsible for independently checking and monitoring individual CMU compliance with the portfolio rules on an on-going basis? If checking and monitoring is required, this should be tested for feasibility and practicality.
CM39	Delivery	What are your views on the proposals for identifying and spot testing participants' ability to deliver when needed?	There are some detailed interactions between the capacity providers, suppliers, Settlement Body/Agent and National Grid required here which need to be specified, e.g. to whom do the DSR capacity providers provide nominations? When are penalties applied and from what exact time point are capacity payments forfeited or reinstated, what is the subsequent year reduction and under what circumstances would it cease to apply? How are the excess monies resulting from forfeited or reduced payments to capacity providers reflected in the supplier obligation payments or supplier residual if at all?
CM40	Delivery	Do you think the proposed treatment of 'force majeure' events is appropriate and offers value for money to consumers?	<p>The three bullet point situations set out in paragraph 523 in which the obligation will be suspended will require National Grid, BSCCo, and the relevant TO or DNO to inform the Settlement Body/Agent of this in a timely manner so that penalties are not incorrectly applied in these scenarios.</p> <p>In addition, we note that under the BSC Section G the market is not necessarily suspended in all contingency circumstances, e.g. in the case of a Partial Shutdown or Fuel Security. Do these more complex situations need to be taken into account in the Capacity Market arrangements?</p>



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CM41	Delivery	Do you have any further comments on aspects of the design described in this sub-section?	<p>Paragraph 513. The decision on whether a capacity provider has met its obligation will be based on “the delivery of energy or provision of a balancing service”. Our understanding is that compliance with the obligation is measured solely on delivery of energy, or have we misread and the intent is simply that the obligation changes in relation to certain types of System Operator instruction?</p> <p>Box 4.16. If the warning remains in force until midnight, does National Grid issue an explicit instruction to cancel it from midnight? This will be important for settlement, as the Settlement Agent/Body will either receive the cancellation or will automatically cancel the instruction in the settlement systems.</p> <p>Paragraph 526. System Buy Price can change under the BSC in subsequent reconciliation runs if original data necessary for imbalance pricing was missing or incorrect. Will the Capacity Market payments be reconciled to take account of this?</p> <p>Paragraph 536. If used, the requirement to comply with the obligations under the BSC needs to be made more specific in our view, because there are many and varied obligations under the BSC that would not seem relevant. For example if a Party had not paid its monthly BSC Party fee to ELEXON, would this stop over-delivery payments and for what period? We need to define what specific failures we need to capture here and what period they apply for? Also, any relevant failure to comply with the BSC or Grid Code would need to be notified to the Settlement Body/Settlement Agent.</p> <p>Paragraph 537. We note that the over-delivery rate will be capped at the</p>



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			<p>prevailing Capacity Market penalty rate. This seems appropriate, but allows for the possibility of excess penalty monies not being allocated in a given stress event? Presumably they are returned to suppliers as the penalty residual supplier amounts.</p> <p>Is a stress event that extends over a month end, e.g. beyond midnight on 30 September, actually defined as two separate "stress events" for these payment purposes?</p> <p>Paragraph 541 of the consultation document states that capacity payments will be forfeited if a spot test is failed. Will forfeited capacity payments due to failed spot tests be returned to suppliers? If so, then when?</p>
CM42	Delivery	Do you have any comments on Chapters 7, 9, 11, 13 and 14 of the Capacity Market Rules for implementing the proposed obligations and penalties?	Yes, see our accompanying comments on the consultation draft of the Capacity Market Rules.
CM43	Specific procedures for DSR participation	Do you agree that the specific rules for DSR (i.e. the proposals on bid bonds, eligibility, baselining, metering) are justified and provide DSR with a reasonable opportunity to participate? Are any other features needed (and if so why?)	Paragraph 567 outlines the acceptable forms of credit. It is important that the credit provided is of sufficient quality, e.g. the insurance policy must be acceptable and pay out to the Settlement Body under the correct circumstances and in a timely manner; and that letters of credit are from an acceptable issuing body of sufficient credit standing. This means that the quality of the credit provided must be checked both on initial receipt and in some cases on an ongoing basis to ensure it remains of sufficient quality.



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			<p>Paragraph 578. Not only must the DSR provider declare during pre-qualification how the metering will be carried out, it is essential that the metering proposed is checked by the Settlement Body/Agent to ensure that it meets the requirements to monitor its performance to establish a baseline, and during tests and stress events.</p> <p>Paragraphs 584 & 585. The baselining requirements effectively mean that metered data must be available to the Settlement Body/agent for every half hour from at least one year before the delivery year and the baseline will change and be different for every half hour in the delivery year itself.</p> <p>However, paragraph 592 outlines transitional arrangements that mean that the baseline may be calculated from a subset of half hours, e.g. peak hours and days. If limited to peak days, it is not clear how the baseline would be calculated and this needs to be spelt out in more detail.</p> <p>The requirements for establishing the baseline also mean that paragraph 582 regarding STOR metering is not correct as data requirements will be needed not only during tests and during times of system stress but for all periods before the stress event and tests to establish the baseline.</p> <p>Paragraph 582 means that the metering requirements extend beyond the Capacity Market Unit (CMU) and that site meters that are not part of the CMU also need to be monitored.</p>



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CM46	Specific procedures for DSR participation	Do you have any further comments on aspects of the design described in this section?	<p>If the settlement agent is to be involved in the capability demonstration described in paragraph 560 of the consultation document then systems and processes to support the four metering options in section 4.3.1.5 Metering DSR will need to be in place. In particular for providers following route a in paragraph 574 of the consultation document these processes are potentially needed even before pre-qualification. If they are not in place then there will need to be an agreed workaround.</p> <p>Will there be a monitoring of baseline manipulation and if manipulation has been detected what happens to the capacity payments?</p>
CM47	Specific procedures for DSR participation	Do you have any comments on Chapters 3, 4 and 5 in Part 4 of the regulations and Chapters 3, 4 and 10 of the Capacity Rules on the eligibility and pre-qualification arrangements for DSR?	<p>Yes, see our accompanying comments on the consultation drafts of: the Electricity Capacity Regulations 2014; and the Capacity Market Rules.</p> <p>Three particular comments we would highlight:</p> <ol style="list-style-type: none"> 1) Similar to our answer to CM16, we wish to highlight that the Settlement Agent/Body will not be able to deliver the obligation in 13.2.9 of verifying data and calculating CDR CMU capacity if the time permitted is similar length i.e. during pre-qualification. This role requires specialist metering skills and from past experience it seems it will be very difficult to recruit sufficient numbers of metering specialists to satisfy this short spike in activity. To carry out this obligation we estimate needing months rather than days. 2) In 2014 due to the shortened timescales for pre-qualification acceptable



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			<p>forms of bid bonds should be limited to cash and letters of credit.</p> <p>3) Section 4.3 of Schedule 3 Baseline methodology states that if the Settlement Body/Agent suspects any Baseline Manipulation, it must notify the Authority providing details of its suspicions. The Settlement Agent will need more information to carry out this obligation including criteria to monitor against and timescales.</p>
CM52	DSR transitional arrangements	Do you have any comments on Chapter 5 in Part 4 of the regulations and Chapter 10 of the Capacity Market Rules on the transitional arrangements	How will the settlement agent be notified of the simulated stress events explained in rules 10.4.3(b) and the tests explained in paragraph 602 of the consultation document?
CM55	Payment model: calculating charges and payments	Do you believe that any contribution from DSR CMUs should be excluded from suppliers' market share calculations, and if so what is the best method of doing this?	If it is required to add back in active DSR response, there would only be a dual benefit if a stress event is coincident with a Triad period and so the settlement agent would already be required to calculate the DSR response which could be added back to the supplier demand. The difficulty under certain metering options could be identifying which supplier to allocate that DSR response.
CM56	Payment model: calculating charges and payments	Do you have any comments on Chapters 5, 6 and 7 of the payment regulations covering calculating charges and payments?	Yes, see our accompanying comments on the consultation draft of the Electricity Capacity (Payment) Regulations 2014.



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CM57	Payment model: Data systems and data collection	Do you have any comments on the data to be collected for the purposes of Capacity Market settlement (including whether all appropriate data flows been captured accurately)?	There are no major data flows missing however we are in process of confirming the detailed methods of delivery, frequency, etc. from the System Operator and the Delivery body. For example, the Frozen Physical Notifications are defined in the draft Capacity Market Rules 1.1 as either the FPN or PN which is current at the time of Capacity Market Warning. This information will need to be provided by National Grid as BSCCo won't be able to determine which FPN/PN spot values had been received as at the time of the warning. The Settlement Agent and Grid will need to agree who performs the integration of spot values to Settlement Period values.
CM58	Payment model: Data systems and data collection	Do you have any comments on Chapter 4 of the payment regulations on the provision of data?	Yes, see our accompanying comments on the consultation draft of the Electricity Capacity (Payment) Regulations 2014.
CM62	Payment model: invoicing, banking and payment 1	Do you have any comments on the differences between payment timings proposed within the Capacity Market and those proposed for CfDs?	We would prefer that the payment year for the settlement body costs recovered through the Operational Levy be moved from the Capacity Market year to the financial year to align with the CfD Operational Levy which is collected based on financial years. This would also mean that the consultation timelines could be aligned.
CM63	Payment model: invoicing, banking and payment 1	Do you have any comments on Chapters 6 and 7 of the payment regulations regarding invoicing, banking and payment?	Yes, see our accompanying comments on the consultation draft of the Electricity Capacity (Payment) Regulations 2014.



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CM65	Payment model: invoicing, banking and payment 2	Do you agree with the form of credit cover being cash or a letter of collateral, if not what alternatives would you recommend?	For practical reasons because Letters of Credit have to be presented physically to the issuing bank for payment, Letters of Credit must be available for payment at a London branch of the issuing bank. (This also means that Letters of Credit from banks that don't have a London branch will not be accepted.)
CM68	Payment model: invoicing, banking and payment 2	Do you have any comments on Chapters 5 and 8 of the payment regulations with regards collateral requirements?	Yes, see our accompanying comments on the consultation draft of the Electricity Capacity (Payment) Regulations 2014.
CM70	Payment model: settlement disputes	Do you have any comments on Chapter 10 of the payment regulations on settlement dispute resolution?	Yes, see our accompanying comments on the consultation draft of the Electricity Capacity (Payment) Regulations 2014.
CM72	Payment model: reconciliation	Do you have any comments on Chapter 11 of the payment regulations on reconciliation?	Yes, see our accompanying comments on the consultation draft of the Electricity Capacity (Payment) Regulations 2014.
CM73	Payment model: governance	Do you have any comments on the proposed governance	When is the Settlement Body Framework Document to be published? As it contains information relevant to ELEXON, we will be interested in what it contains.



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		arrangements for the Capacity Market Settlement Body and settlement agent?	
CM81	Nature of a capacity agreement	<p>Do you consider the proposed provisions relating to termination of a capacity agreement to be appropriate and a proportionate balance between ensuring that capacity is delivered and affording appropriate safeguards to investors?</p> <ul style="list-style-type: none">• Do you consider the timescales and appeal process relating to termination to be appropriate?	<p>The last bullet point of paragraph 724 requires that a CMU that has previously opted out has its generation monitored during the year of opt out. The detail of this needs to be developed to ensure that it is feasible.</p> <p>If there is an appeal process on-going during the 60 day notice period then should we assume that the settlement agent will invoice suppliers as though the agreement will still be in force, in case the appeal is upheld? We could assume that by the time the settlement agent makes the capacity payments it will know the outcome of the appeal and so withhold capacity payments if necessary. And then refund the suppliers.</p>