

CIRCULAR

TYPE & NUMBER EMR Circular 169

Date 15 November 2018

Purpose For information

Suspension of the Capacity Market

On behalf of [Electricity Settlements Company](#) (ESC), EMRS would like to inform **Suppliers** that today the General Court of the Court of Justice of the European Union found in favour of Tempus Energy, against the European Commission, annulling the Commission's State aid approval for the UK Capacity Market. The judgment has the effect of suspending State aid approval for the Capacity Market.

[BEIS](#) have released a statement on their website about the judgment and what it means, which you can find here on the [Electricity Market Reform: Capacity Market](#) webpage.

This circular includes Frequently Asked Questions (FAQs) to support **Suppliers**. We'll work with ESC to continue to provide further updates as the situation becomes clearer. The [Delivery Body](#) has communicated to all **Applicants** and **Capacity Providers** on behalf of all Delivery Partners this decision '[Advice for capacity agreement holders and capacity market applicants](#)'. This communication is available in [latest news](#) on the Delivery Body website.

What does this judgment mean for the UK Capacity Market?

The Capacity Market will immediately enter a 'standstill period' which prevents the UK Government and its delivery organisations from holding any Capacity Auctions, making any Capacity Payments under existing agreements, or undertaking any other action which could be seen as granting State aid.

How will this ruling impact Suppliers?

During the suspension no payments will be made to Capacity Providers. The Capacity Market Supplier Charge will not be collected during the standstill period. Contributions already made by Suppliers towards the 2018/19 Delivery Year for Capacity Payments that ESC is holding and not paid out will be returned. All Supplier Credit Cover provided to the ESC under regulation 28 of the [Electricity Capacity \(Supplier Payment etc.\) Regulations 2014](#) will be returned. Suppliers' liabilities for the Settlement Costs Levy will remain and this levy will continue to be collected.

How and when will my Capacity Market Supplier Charges made towards the 2018/19 Delivery Year be returned?

EMRS will issue credit notes to Suppliers for the October and November 2018 Capacity Market Supplier Charges in early December 2018. EMRS will confirm the exact dates shortly.

What will happen to payments made towards the 2016/17 and 2017/18 Delivery Years?

Suppliers' liabilities for the Capacity Market Supplier Charges and Settlement Costs Levy payments for these years will remain and the reconciliation process will continue for these Delivery Years as per the [EMRS Settlement Calendar](#). The final credit note for the **2016/17 Delivery Year** will be issued on **18 November 2018** with payment on **25 November 2018**.

CIRCULAR

How do I request the return of my Credit Cover?

Please follow the procedure in [WP45 – Supplier CM Credit Cover](#) to request the return of Credit Cover detailed on page 16 (Section 4.6) and refer to Appendix 3 – Example request to return Credit Cover. Please [email](#) the EMRS Service Desk with your request to return Credit Cover.

What happens to the Settlement Costs Levy for the 2018/19 Financial Year?

The Settlement Costs Levy which funds ESC will continue to be charged monthly. Any funds not used to cover ESC's costs in exercising its functions under the [Electricity Capacity \(Supplier Payment etc.\) Regulations 2014](#) will be returned back to Suppliers following the end of the 2018/19 Financial Year in the normal way.

What are the timescales for the European Commission carrying out a further state aid investigation?

BEIS is evaluating the decision and will issue further guidance in due course. Please refer to the BEIS website for further information.

More information

If you have any questions about this circular, please email contact@emrsettlement.co.uk or call 020 7380 4333.