



Framework for NEMO Regulation from October 2019

Consultation Paper

SEM-19-003

28 January 2019

Contents

Executive Summary	3
1. Background	4
2. Relevant Legislation	5
3. Initial Designation Process	5
Responsibilities of SEMOpx.....	6
4. Initial Regulatory Framework	6
Licence Modifications	6
Price Regulation	6
NEMO Regulation through the Trading and Settlement Code	7
5. Proposed Process for Re-designation	8
Application for re-designation from SEMOpx.....	8
Application for designation from another party.....	9
Timing of designation in 2019.....	10
6. Proposed Regulatory Framework	11
SEMOpx successfully applies for re-designation	11
Arrangements for Multiple NEMOs	13
7. Summary of Proposals	15
Annex 1 – Designation criteria	17

Executive Summary

The purpose of this Consultation Paper is to outline options for a framework for future regulation of NEMOs in Ireland and Northern Ireland during the next phase of regulation from 3 October 2019.

It is envisaged that this proposed regulatory framework will apply in any of the following cases;

1. SEMOpx¹ seeks re-designation as a NEMO for Ireland and Northern Ireland;
2. Another party is designated for Ireland and Northern Ireland as a SEM NEMO; or,
3. Any additional NEMO seeks to operate in the SEM on the basis that they have been designated in another Member State.

This paper aims to present interested stakeholders with a number of options under each of these cases, however the RAs' preferred approach is outlined in this paper.

The first part of this paper looks at the background to the initial NEMO designation for the Single Electricity Market (SEM) and the legal and regulatory context under the EU Guideline on Capacity Allocation and Congestion Management 2015/1222. The regulatory framework applied to the current designated NEMO in the SEM, SEMOpx, between 2015 and 2019 is then discussed. This includes the licensing of the NEMO through modified Market Operator licences, NEMO regulation through the Trading and Settlement Code and the application of revenue regulation to SEMOpx.

The second part of this paper sets out proposals for the process for re-designation under the scenario of SEMOpx applying to keep its designation and potential applications from other NEMOs. The proposed regulatory framework for the next phase of designation along with the rationale for a limited three-year period of designation is then set out.

A number of options for this regulatory framework, particularly in relation to whether price regulation should continue to apply and in what format, are presented with a request for feedback from interested stakeholders. Consideration is also given to how this should apply if other NEMOs offer day ahead and intraday trading services in the SEM in future.

The final part of this paper provides a summary of the potential options discussed in this paper and sets out a proposed timeline for the re-designation process and implementation of proposals in relation to price regulation.

The Regulatory Authorities have considered the issues raised by the re-designation process and the implementation of multi-NEMO arrangements in some detail and are of the view that options presented in this area are constrained by a range of factors. Respondents comments are however invited on all proposals and where possible a range of options have been presented. Responses to the proposals outlined in this paper are invited from interested stakeholders until **11 March 2019** and can be submitted to gkelly@cru.ie and Ian.McClelland@uregni.gov.uk.

¹ SEMOpx is the Contractual Joint Venture between SONI Limited and EirGrid Plc to deliver NEMO services to the all-island market

1. Background

The Commission Regulation (EU) 2015/1222 establishing a Guideline on Capacity Allocation and Congestion Management (CACM) entered into force on 14 August 2015. The CACM Network Code requires that a Nominated Electricity Market Operator (NEMO) is designated as responsible for Day Ahead (DA) and Intra-Day (ID) Market Coupling in each national or regional bidding zone.

The core NEMO functions are receiving orders from market participants, having overall responsibility for matching and allocating orders in accordance with the single day-ahead coupling and single intraday coupling results, publishing prices and settling and clearing the contracts resulting from the trades according to relevant participant agreements and regulations. The detailed roles and responsibilities of NEMOs are set out in Article 7 of the CACM Regulation.

The RAs (the Commission for Regulation of Utilities and the Utility Regulator) were each required to designate a NEMO to carry out the functions of the NEMO in 2015, within four months of the entry into force of the CACM Regulation. Under CACM, both EirGrid and SONI were each designated as NEMO for Ireland and Northern Ireland respectively, and were tasked, through the contractual joint venture of SEMOpx, to deliver NEMO services across the all-island bidding zone.

CACM sets out that NEMOs shall be designated for an initial term of four years. On this basis, the governance arrangements around the initial designation were developed for an interim four-year period while the I-SEM was still in a design phase. These governance arrangements included a requirement that at least 12 months prior to the expiry of the initial term of designation, the designated NEMO should confirm whether it wishes to continue to be designated in Ireland and Northern Ireland.

This four-year designation period ends on 3 October 2019. On this basis, SEMOpx should have notified the RAs of its intention or otherwise to submit an application for re-designation by 3 October 2018. However, it was agreed between the RAs that a number of areas of the regulatory framework for NEMOs need to be clarified before proceeding with applications for re-designation. This includes the timing of re-designation and regulation of one or more NEMOs in the Single Electricity Market. This paper sets out a number of proposals in relation to these areas.

In considering the regulatory framework and timeline for re-designation, it is important to note that there have been significant changes since the governance arrangements for the designated NEMO were initially developed in 2015. Firstly, the date for the Go-Live of the revised SEM arrangements, was revised to 1 October 2018, which means that while SEMOpx will be operational for a period of one year before the initial four-year designation period ends.

In addition, a set of arrangements are being put in place for more than one NEMO to operate in the SEM bidding zone. It is anticipated that the technical elements allowing for multi-NEMO Arrangements across the EU will be in place in early 2019. The RAs have no visibility on when, or if, other NEMOs will seek to offer trading services in the SEM bidding zone once these arrangements are live

Cost recovery arrangements have been put in place for the overall implementation costs of I-SEM, including the set-up costs of SEMOpx, which will be recovered via the TSOs and depreciated over a five-year period. A price control has also been put in place for SEMOpx, which runs until the end of the initial designation period in October 2019. This will be considered further in Section 6.

2. Relevant Legislation

Market coupling is the key element of the European target model, which aims to create an integrated EU electricity market. Day-Ahead market coupling determines prices simultaneously in all relevant bidding zones. This is based on marginal pricing and optimises the use of transmission capacity by implicitly allocating it within this process. Intraday market coupling is in contrast based on continuous trading (possibly completed by intraday auctions) but also implicitly allocates transmission capacity and therefore coupling all relevant markets.

Nominated Electricity Market Operators (NEMOs) are defined under the CACM Regulation as entities 'designated by the competent authority to perform tasks related to single day-ahead or single intraday coupling'. The CACM Regulation requires designated NEMOs to establish and operate single day ahead and intraday coupling in coordination with TSOs and other NEMOs. It also sets out a governance framework for NEMOs.

In addition, CACM requires that designating authorities must determine whether candidates meet the criteria set out in Article 6 of the Regulation. Designating authorities must apply these criteria regardless of whether one or more NEMOs are appointed and avoid discrimination between applicants. Article 6 of CACM states that an applicant shall only be designated as a NEMO if it complies with all ten listed requirements. These are outlined in Annex 1 of this paper along with the RAs' interpretation of these criteria as they were applied for the initial designation assessment.

3. Initial Designation Process

As part of the initial designation process in 2015, an application was submitted by SONI Ltd in Northern Ireland and EirGrid plc. in Ireland, seeking designation as a NEMO in Northern Ireland and Ireland respectively. The NEMO Designation process for Ireland and Northern Ireland was carried out with close cooperation between the RAs.

The RAs conducted an assessment of whether SONI and EirGrid's applications met the designation criteria set out in Article 6 of the CACM Regulation (outlined in Section 2 of this paper). This was based on analysis of the applications, additional information requests and assessment meetings. The RAs also considered how the interests of consumers in Ireland and Northern Ireland could be best served by applications for the NEMO role and the synergies and conflicts of interest associated with the Market Operator and TSO roles in the Single Electricity Market.

CACM provides that a NEMO that is designated in one Member State shall have the right to offer day ahead and intra-day trading services in another Member State. On 2 October 2015 the CRU designated EirGrid as the Designated NEMO for Ireland under Article 4 of CACM and the UR designated SONI as the Designated NEMO for Northern Ireland.

This designation was conditional upon continued compliance with the NEMO designation criteria, however it was noted that any designated NEMO was responsible for ensuring continued compliance with the designation criteria and wider obligations and requirements set out in CACM and under EU, Irish and Northern Irish law.

Responsibilities of SEMOpx

As the designated NEMO, SEMOpx is responsible for registration of market participants, market systems operation (excluding running EUPHEMIA), settlement, credit risk management, managing currency risk, and providing access to market data. Implementation of the Intraday Market (IDM) is also operated by SEMOpx, with the same responsibilities for registration, market operation, settlement and credit risk management as in the Day Ahead Market (DAM).

These responsibilities are provided under specific conditions of the SONI Market Operator and EirGrid Market Operator licences and SEMOpx operates as a joint venture of SONI Ltd. and EirGrid plc.

4. Initial Regulatory Framework

As part of the initial NEMO designation process, the RAs considered the changes required to the regulatory and licence framework to ensure adequate governance of NEMOs in the Single Electricity Market. These can be divided into three main areas;

- (a) Licence Modifications.
- (b) Revenue Principles applied to SEMOpx
- (c) NEMO Regulation through the Trading and Settlement Code

Licence Modifications

In the absence of legislation providing for NEMO activities as a specific licensable activity, the licensing of NEMOs (designated in Ireland and Northern Ireland) through modified Market Operator licences was considered a robust approach to allow for the most effective regulatory oversight of the designated NEMOs. As stated in SEM-16-053, if NEMO regulation was based exclusively on compliance with CACM, it would mean that the only route for the RAs to take in the case of non-compliance would be a revocation of a designation. The RAs did not view this option as reasonable, proportionate or transparent, especially with only one NEMO operating in each jurisdiction.

Modifications to the MO licences were consulted on in 2017. Several conditions of the Market Operator licences have now come into effect which include provisions for the RAs to approve the SEMOpx Market Rules and any modifications to these. The content of this licence condition was drafted so that the 'NEMO Exchange Rules' were submitted to the RAs for approval. The reason for the requirement to approve NEMO Exchange Rules was to ensure that SEM-specific requirements were dealt within the Rules and to ensure regulatory oversight of the NEMOs' interaction with the Trading and Settlement Code.

The licence condition also made provision for an overall revenue control being placed on SEMOpx during the time in which the designation is in effect and approval of SEMOpx's statement of charges, with the possibility of this requirement being removed under a direction from each respective RA.

Price Regulation

The revenue principles to apply to SEMOpx for the initial designation period were consulted on in the context of SEMOpx being the only NEMO in the SEM. While the RAs confirmed that a National Legal Monopoly does not exist in Ireland or Northern Ireland and followed the NEMO designation process outlined in Article 6 of CACM, the consultation (SEM-17-018) considered the fact that SEMOpx was a de-facto monopoly business, with no certainty that another NEMO would enter the market and the importance of the day ahead and intraday markets to market participants. On this basis, it was decided

that revenue regulation would apply to SEMOpx for the initial designation period, with the framework to apply after this period to be further consulted on. This is an element of this paper.

A price control was applied to SEMOpx from May 2018 until October 2019, i.e. until the end of the initial designation period. The principles to apply to this price control were outlined in SEM-17-044. These decisions pertained only to the period of designation, without prejudice to any regulatory decisions that may need to be considered after the initial period of designation.

SEMOpx has an allowed revenue with efficiently incurred costs being approved by the SEM Committee, to be recovered via customers of SEMOpx. A mechanism applies for any over or under recovery of costs between forecast and actual costs, and options for its treatment at the end of the initial designation period were discussed in SEM-17-096. There are a number of potential scenarios which will affect how a k-factor is applied to SEMOpx at the end of the first price control period. If SEMOpx continues to operate in the SEM under a revenue regulated regime, a correction factor for any over or under recovery would be applied to SEMOpx. If SEMOpx continues to operate without a revenue regulated regime or exits the market, any application of a correction factor would need to ensure that there is no negative impact on competition. It is worth noting that as the licence conditions pertaining to the NEMO are within the Market Operator Licences, one option in either scenario would be to apply any correction factor to SEMO.

While the set-up costs for SEMOpx are provided for as part of overall I-SEM implementation costs via the TSOs price controls, any approved incremental Capex will be placed on SEMOpx's asset base, referred to as their Regulatory Asset Base. For the period of this price control, a number of key performance indicators have been set out but they are not tied to an operating expenditure allowance. This was in part due to the short timeframe for finalising the decision and also given the short time period for this price control.

As part of the licence conditions and revenue regulation, the RAs also had a role in approving the tariffs for SEMOpx to apply for the initial designation period. This involved ensuring that SEMOpx tariffs were equitable and enable participation from a broad range of stakeholders.

Currently, SEMOpx tariffs involve three elements;

- Once off Entry Fee: This fee is a once off joining fee payable by each exchange member.
- Annual Fee: This is an annual fee for participation in the day ahead and intraday markets for each Exchange Member.
- Per/MWh fee: The fee per MWh is the same in the Day-Ahead and Intraday Markets.

[NEMO Regulation through the Trading and Settlement Code](#)

The third part of the current regulatory framework concerns the Trading and Settlement Code. This Code provides the rules by which the market and its participants can operate, setting out the detailed rules and procedures concerning the sale and purchase of wholesale electricity in the balancing market timeframe.

Under Section B.8 of this Code, there is an obligation on all NEMOs operating in the SEM to be party to the Trading and Settlement Code. This means that NEMOs party to the Code must comply with the requirements of the Code. This applies to both NEMOs designated in Northern Ireland and the Republic of Ireland and NEMOs designated in other Member States wishing to offer trading services in the SEM.

The reasons for requiring a NEMO to be a party to the Trading and Settlement Code include the management of contract notification to the SEMO for the purpose of imbalance settlement in the first instance, but also issues such as data sharing and publication and the management of adequate collateralisation in the balancing market.

5. Proposed Process for Re-designation

Under Article 4(2) of CACM, NEMOs are designated for an initial term of four years and Member States should allow applications for designation at least annually. As per Article 4(4) of CACM, there should be no discrimination by the RAs between non-domestic and domestic applicants for designation.

This section outlines the RAs' proposals under two scenarios;

1. An application for re-designation is received from SEMOpx.
2. An application for designation is received from one or more additional parties.

Application for re-designation from SEMOpx

Under the initial regulatory framework, EirGrid and SONI as the designated NEMOs are required to confirm before the expiry of the initial designation term of four years if they wish to continue to be designated in Ireland and in Northern Ireland, and submit evidence demonstrating how EirGrid and SONI continue to comply with the designation criteria. If submitted, this evidence will be assessed by the RAs to ensure compliance with CACM who will then publish a decision to extend the NEMO designation in both Ireland and Northern Ireland before the expiry date on 3 October 2019. Any subsequent designation will be conditional on the NEMO being compliant with the criteria of Article 6.

CACM does not set out how long any term of designation should endure beyond the first four-year period, although the RAs' initial paper setting out the regulatory framework for NEMO regulation (SEM-16-053) envisaged any designation beyond this date being for an ongoing or enduring basis. Designation could therefore be applied on an ongoing basis from 2019, but a process would need to be put in place on this basis for a designated NEMO to exit the market should it wish to do so. This is the first option under consideration by the RAs.

Currently, the Market Operator licences in Northern Ireland and the Republic of Ireland have been modified to include specific obligations in relation to the performance by the respective licensees of NEMO activities. The effect of these conditions is that SEMOpx is required to provide NEMO services for as long as its designation remains in effect. This means that if designation is applied to SEMOpx on an enduring basis, a process for a designated NEMO to notify the RAs that it wishes to exit the market may need to be developed, giving particular consideration to the licence conditions imposed on SEMOpx. This would be separate to the process for revocation of a designation as outlined in Article 4 of CACM, as this only contemplates revocation in cases of non-compliance with the requirements of Article 6.

The RAs have previously discussed the case of a designated NEMO, designated on an enduring basis, wishing to cease operation in SEM-15-073. It was stated that a NEMO should be able to request or otherwise agree in writing with the CRU and UR for its designation to be terminated, rather than the designation remaining in perpetuity. The RAs stated that it may be necessary to allow for a reasonable

period of time before this might take effect, to take into account the requirements of the wholesale market and consumer interests. An alternative to this would be to apply the designation for a limited time period, which is also proposed as an option in this paper.

In summary, the potential issue with the application of the next term of designation on an enduring basis is that a process would need to be put in place for the designated NEMO to request or agree in writing for its designation to cease to be effective. Once in place and noting that timelines would be set out for this process, the designated NEMO could potentially request this at any time, which could lead to uncertainty for market participants. In addition, if a price control was in effect during this time the process for cost recovery and treatment of any k-factor would need to be addressed.

The second option being considered by the RAs is the application of designation on a time-limited basis. If the designation was time-limited, at the end of a set period SEMOpx would have the option to choose whether or not to apply for re-designation, which would also be on a time-limited basis. For the duration of their designation, the RAs and market participants would have certainty that a designated NEMO would be in place, which is important given the exclusive route to the Day-ahead and Intraday markets provided by NEMOs operating in the SEM.

Section 6 of this paper discusses the ongoing regulatory framework to be applied to SEMOpx should its designation continue, including the continued application of a price control if SEMOpx remains the only operational NEMO in the SEM. This idea of a time-limited designation period is linked to this proposal as if a time-limited designation was put in place, this could apply for the same period as any price control. On this basis, the RAs propose that under this second option, the designation period from October 2019 lasts for three years.

[Application for designation from another party](#)

Applications for designation from alternative parties to SEMOpx will also be considered by the RAs in 2019. For any applications received, the CRU and UR will assess whether the NEMO candidate meets the criteria set out in Article 6, noting current limitations concerning the operation of multi-NEMO arrangements. As per the process followed for the assessment of SEMOpx's designation, a NEMO which meets the designation criteria and is capable of providing day ahead and intraday services in the SEM would be technically designated for each jurisdiction. Under CACM, the designation criteria set out in Article 6 apply regardless of whether one or more NEMOs are appointed. This means that more than one NEMO can be designated in a Member State, however the technical development of multi-NEMO arrangements needs to be finalised in order to facilitate this.

Under Article 4(5) of CACM, a NEMO designated in one Member State shall have the right to offer day-ahead and intraday trading services with delivery in another Member State, without the need for designation. A designated NEMO must notify the designating authority of another Member State if it proposes to perform single day-ahead or intraday coupling in that Member State two months before commencing operation.

On 17 January 2017, a second NEMO demonstrated its intention to offer services for single day-ahead and single intraday coupling in the new integrated single electricity market. This NEMO has already been designated in another Member State on this basis would not need to be designated through the process outlined in this chapter. Articles 45 and 57 of CACM require the TSO(s) operating in a relevant bidding zone to develop a proposal regarding cross-zonal capacity allocation and other necessary arrangements in Bidding Zones where more than one NEMO is designated and/or offers trading

services. Arrangements are required to allow the matching of market participants' orders and also to enable interconnector capacity to be accessible to both NEMOs in the bidding zone.

In accordance with Article 45 and Article 57 of CACM, the TSOs submitted a proposal to the CRU and UR regarding cross-zonal capacity allocation and arrangements for bidding zones with more than one operating NEMO. A consultation based on a number of different models proposed by the TSOs (EirGrid and SONI) for the implementation of a multi-NEMO approach was opened on 21 September 2017, with a decision to approve the TSO's recommended arrangement for I-SEM published by each Regulatory Authority on 14 May 2018. The RAs understand that the pan-European solution to facilitate this will be implemented across all bidding zone borders between Q1 and Q2 2019.

Timing of designation in 2019

The timing of the designation process in 2019 also needs to be considered. The RAs propose that applications for 2019, for designation from 3 October 2019, will be accepted from interested parties until 5 April 2019.

This will allow sufficient time for consideration of applicant's compliance with the requirements of Article 6, and further implementation of a revised regulatory framework before October 2019. Given the timelines involved, the RAs intend to publish a notice in tandem with this consultation paper concerning the date for receipt of designation applications. Applicants should take note of the proposals outlined in this Consultation Paper in completing their application.

Consultation Question 1:

The RAs invite feedback on whether the next term of designation should be time limited and for how long.

Option 1: The RAs are considering whether the next term of designation (from October 2019) will apply on an enduring basis. If this option is put in place, a process for any designated NEMO to terminate its designation would need to be developed.

Option 2: A time-limited designation could be applied from October 2019. At the end of this period, the designated NEMO would have the option to re-apply for the next term of designation. This is currently the RAs' preferred option as it would provide certainty to market participants for this period and could align with the application of a price control. A period of three years is proposed by the RAs for designation from October 2019.

It is proposed that applications for designation from interested parties will be accepted until 5 April 2019.

6. Proposed Regulatory Framework

Section 4 of this paper describes the regulatory framework which applied during the initial designation period for SEMOpx. This involved a number of licence modifications, NEMO regulation through the Trading and Settlement Code and revenue regulation of SEMOpx.

As per Section 5, this section outlines the RAs' proposals and options being considered for the regulatory framework to apply to one or more NEMOs in the SEM under the following scenarios;

1. SEMOpx² seeks re-designation as a NEMO for Ireland and Northern Ireland;
2. SEMOpx does not seek re-designation and another party is designated for Ireland and Northern Ireland as a SEM NEMO; or,
3. Any additional NEMO seeks to operate in the SEM on the basis that they have been designated in another Member State.

SEMOpx successfully applies for re-designation

As of the date of publication of this paper, the circumstances which led the RAs to put in place licence conditions and an associated regulatory framework which goes beyond the requirements of CACM on SEMOpx have not changed. As discussed in SEM-17-044, at the time of the initial designation granted to SEMOpx, no other parties applied for NEMO designation in either or both of the SEM jurisdictions. To date, no other NEMOs have become operational in the SEM and the RAs do not currently have any indication that this will occur in either the short or long term.

Application of a price control

The RAs have the same concern regarding the cost efficiency of NEMO services as outlined in SEM-17-044, as the SEM market is uniquely dependent on day ahead and intraday services as the exclusive routes to an ex ante market position for participants i.e. there is no bilateral trading permitted in the SEM.

CACM also supports the oversight of cost efficiency of NEMOs by the RAs. In particular, Article 76 (3) provides that NEMOs are only permitted to recover costs (over and above borne by the TSOs) by means of fees or other appropriate mechanisms only if the costs are "reasonable and proportionate".

On this basis, there is still a clear rationale for licence conditions and an associated price control being applied to SEMOpx in the absence of any competition. The RAs propose to apply a price control from October 2019 should SEMOpx successfully re-apply for designation. The form of price control which may apply is further discussed under the 'revenue regime' section of this chapter. It is proposed that this revenue control would apply for an interim period regardless of whether another NEMO enters the SEM during this time. The length of such a price control is discussed under the 'timing' section of this paper but it is proposed that this would be applied for a three-year period.

One alternative to this would involve a price control ceasing to apply to SEMOpx at the end of the initial designation period, with SEMOpx setting its own fees. If more than one NEMO enters the market on this basis, fees could be adjusted based on competitive pressures. Another option would be to

² SEMOpx is the Contractual Joint Venture between SONI Limited and EirGrid Plc to deliver NEMO services to the all-island market

cease the application of a revenue control if more than once NEMO entered the market and reached a certain threshold of market share.

If a revenue control does not continue to apply to SEMOpx, either at the end of the initial designation period or if NEMO competition developed within this three year period, any over or under recovery during the period of revenue regulation would need to be adjusted through an alternative mechanism to the SEMOpx price control. This needs to ensure that there is no distortion to a level playing field for NEMO competition in the SEM. Such a correction factor could be attributed to the SEMO price control in this instance given that the NEMO licence conditions sit under the Market Operator licence.

The RAs welcome comments from interested stakeholders on the proposal to continue to apply a price control to SEMOpx, along with the alternative of ceasing price regulation for the next designation period or when sufficient competition develops. If another party is designated instead of SEMOpx, the RAs would have the same concerns in terms of oversight of cost efficiency and only one NEMO potentially operating in the SEM. Consideration of what form of regulation would apply to another NEMO in this case would be considered carefully by the RAs, given the licence conditions which apply to SEMOpx at present.

Consultation Question 2:

Option 1: In the event that SEMOpx successfully applies for re-designation and no other NEMO is operational at that point in time, it is proposed that a price control would apply to SEMOpx from October 2019. Such a revenue control would apply for an interim period of three years regardless of whether another NEMO enters the SEM and competition arises in the market during this time. This is the RAs' preferred option at present.

Option 2: Should SEMOpx successfully re-apply for designation, a revenue control could apply for an interim period of three years. However, if more than one NEMO entered the market and reached a certain threshold of market share, revenue regulation would cease.

Option 3: Alternatively, a price control could cease to apply to SEMOpx at the end of the initial designation period, with SEMOpx setting its own fees if designated. If more than one NEMO enters the market on this basis, fees could be adjusted based on competitive pressures.

Responses from interested stakeholders are invited on this proposal.

Timing

If a price control continues to apply to SEMOpx, it is the RAs' view that this should be put in place for a limited period of time to account for any changes that may be required should additional NEMOs become operational in the SEM. It is also proposed that this is linked to the next period of designation, which as discussed is proposed to apply on a time-limited rather than enduring basis.

If a second price control is applied to SEMOpx, a three-year period is proposed, to align with the timing of the SEMO price control.

Consultation Question 3:

If a price control continues to apply to SEMOpx (should SEMOpx successfully re-apply for designation), it is proposed that this is applied for a three-year period, linked to a time-limited designation period. Responses from interested stakeholders are invited on this proposal.

Revenue Regime

The details of SEMOpx's current price control can be found in SEM-17-096 but are briefly described here. The current revenue model for SEMOpx is based on an allowed revenue approach, with the efficient costs associated with SEMOpx being underwritten. Any over or under recovery of costs will be corrected through a k-factor mechanism, although the details of how this will be applied depend on whether SEMOpx continues to operate at the end of the designation period.

A target revenue approach was also previously considered for SEMOpx. In contrast to the allowed revenue approach as currently applied, under a target revenue approach the RAs would have a role in the approval of costs and tariffs, but these would be set by SEMOpx with no guarantee of their revenue. If SEMOpx did not recover its target revenue, no correction factor would be applied by the RAs. SEMOpx tariffs would be approved within a certain range, with a cap and floor applied. This approach was not followed for the first price control applied to SEMOpx as the RAs were concerned that tariffs were developed on such a basis to allow all market participants to trade in the ex-ante markets.

At the time of the first price control, SEMOpx highlighted the risks faced by the business and the limitations of applying a WACC-RAB model under the allowed revenue approach with SEMOpx having a limited opening Regulatory Asset Base.

The RAs recognise that should a price control apply to SEMOpx from October 2019, consideration will need to be given to some form of margin or remuneration to apply to SEMOpx in the absence of a sufficient RAB to earn a return, in a consistent way with other parts of the licencees' activities as Market Operator. The RAs invite comments and stakeholder responses on this issue.

Consultation Question 4:

The RAs are reconsidering the potential revenue model to apply to SEMOpx from October 2019, along with form of remuneration that should apply to SEMOpx. While this would be considered in more detail as part of the Draft Determination and Final Determination papers for any further price control applied to SEMOpx, comments on the form of remuneration SEMOpx should receive under an allowed revenue approach are invited.

Arrangements for Multiple NEMOs

Regardless of the approach taken to the next price control, once multi-NEMO arrangements are in place, any regulatory framework will need to cater for more than one operational NEMO in the market. This paper has previously noted that there is currently no competition between NEMOs in the SEM, and that the RAs have no visibility over when, or if, competition will develop. The RAs view this as an important area of regulation given the exclusive route NEMOs can provide to trading in the day ahead and intraday markets in the SEM for market participants. As noted previously in this paper, implementation of arrangements to facilitate multiple operational NEMOs will need to be completed to facilitate this.

Under Article 5(3) of CACM, the European Commission was required to report on the development of single day-ahead and intraday coupling in Member States, with a particular emphasis on the development of competition between NEMOs. This report found that the majority of Member States have decided to apply a competitive NEMO model and the number of power exchanges active in other Member States has increased. However, the report also noted that NEMO competition has not yet shown its full effect in Member States, with implementation of CACM ongoing at the time of publication. The SEM is an example of a bidding zone where NEMO competition has not yet started. It is on this basis that the RAs are setting out proposals for a number of regulatory arrangements to apply from October 2019 for a limited time period.

The aim of the proposals set out in this paper is to manage the current circumstances in the SEM in such a way that the designated NEMO's costs are efficiently incurred in the absence of any competition, while allowing for a level playing field for potential new market entrants. It is on this basis that a three-year designation period and price control has been proposed for SEMOpx should they successfully apply for designation from October 2019.

As discussed previously, the RAs' preferred option would be to apply this regulatory framework during this period, regardless of any market entry, in order to give certainty to market participants while allowing for other NEMOs considering offering day ahead and intraday services in the SEM clarity on the regulatory arrangements that would apply. For any new market entrants, the RAs would adhere to the requirements of the CACM Regulation in terms of ensuring regulatory compliance of designated NEMOs. In addition, all NEMOs operating in the SEM would be equally required to be party to the Trading and Settlement Code.

Towards the end of this three-year period, the possibility of a transition to a regulatory model based on competition could then be considered. At its most limited level, regulation would simply align with the requirements of CACM, versus the current regulatory regime (which includes licence conditions, revenue regulation, approval of charges and approval of the Exchange Rules).

This assessment would be based on parameters including the number of operational NEMOs in the SEM, the market share of each NEMO and the traded volumes in the day ahead, intraday and balancing markets. This transition would at all times aim to comply with the requirements of CACM and ensure a level playing field for competitive NEMOs.

Consultation Question 5:

Consultation Question 1 indicated the RAs' preferred approach of applying designation from October 2019 on a time-limited basis, while Consultation Question 2 set out the RAs' preferred option whereby a revenue control, if applied to SEMOpx, would apply for an interim period of three years regardless of whether another NEMO enters the SEM and competition arises in the market during this time.

The RAs' preferred approach regarding Consultation Questions 1 and 2 will need to be considered in the context of this final proposal, as previous proposals discussed in the Consultation Paper are summarised together here in a proposed overall approach.

Based on this, feedback is requested from interested stakeholders on the overall proposal to apply revenue regulation to SEMOpx from October 2019 for a three-year period, should SEMOpx successfully apply for re-designation. It is further proposed that revenue regulation will continue to apply to SEMOpx from October 2019 for a three-year period, to be aligned to a designation period

of three years. The RAs' final proposal is that these arrangements would not change regardless of whether another NEMO enters the market during this three-year period or not.

7. Summary of Proposals

The proposals outlined in this paper in terms of the regulatory framework under a number of different scenarios are set out in Table 1 below. Responses to these proposals are invited from interested stakeholders until **11 March 2019** and can be submitted to gkelly@cru.ie and Ian.McClelland@uregni.gov.uk.

	SEMOpX seeks re-designation as NEMO for Ireland and Northern Ireland	SEMOpX does not seek re-designation and another party is designated for Ireland and Northern Ireland as a SEM NEMO	Any additional NEMO seeks to operate in the SEM on the basis that they have been designated in another Member State.
Licence Conditions	This paper does not propose any modifications to the NEMO licence conditions in the MO licence.	These licence conditions do not apply to other NEMOs.	These licence conditions do not apply to other NEMOs.
Requirement to become party to the Trading and Settlement Code	This paper does not propose any modifications to the requirement for NEMOs operating in the SEM to become party to the Trading and Settlement Code.	This applies to all NEMOs operating in the SEM.	This applies to all NEMOs operating in the SEM.
Application deadline for designation in 2019	It is proposed that the deadline for application for designation from 3 October 2019 is the 5 April 2019.	It is proposed that the deadline for application for designation from 3 October 2019 is 5 April 2019.	Under Article 4(5) of CACM, a NEMO designated in one Member State shall have the right to offer day-ahead and intraday trading services with delivery in another Member State, without the need for designation.
Designation Period	It is proposed that designation is awarded on a time-limited basis of three years.	It is proposed that designation is awarded on a time-limited basis of three years.	Any NEMO 'passporting' into the SEM to offer day ahead and intraday services could do so as long as they remain designated in another Member State.
Application of Revenue Regulation	Should SEMOpX successfully seek re-designation and at this point is the only operational NEMO in the SEM, it is proposed that a revenue control is applied for a three-	In the event that another NEMO is designated the regulatory framework would need to be considered by the RAs.	If a revenue control is applied to SEMOpX for a three-year period, it is proposed that this would not change during this period regardless of

	<p>year period. The RAs are cognisant that a form of appropriate remuneration will be required.</p>		<p>whether other NEMOs designated in another Member State enter the market. The RAs would then reconsider the application of revenue regulation at the end of this three-year period.</p>
--	---	--	---

Table 1

Annex 1 – Designation criteria

- **Article 6.1 (a):** *It has contracted or contracts adequate resources for common, coordinated and compliant operation of single day-ahead coupling and/or single intraday coupling, including the resources necessary to fulfil the NEMO functions, financial resources, the necessary information technology, technical infrastructure and operational procedures or it shall provide proof that it is able to make these resources available within a reasonable preparatory period before taking up its tasks in accordance with Article 7.*

Under this requirement, applicants for NEMO designation must provide evidence of financial resources, information technology, technical infrastructure and operational procedures to demonstrate capability to carry out the NEMO functions. Evidence of how the single day ahead and intraday coupling will be operated (either externally or outsourced) should be provided.

- **Article 6.1 (b):** *It shall be able to ensure that market participants have open access to information regarding the NEMO tasks in accordance with Article 7.*

Applicants must provide evidence that they have the capability to publish and make available to market participants in Ireland and Northern Ireland all relevant information for the day ahead intraday market set out in CACM Article 7.

- **Article 6.1 (c):** *It shall be cost-efficient with respect to single day-ahead and intraday coupling and shall in their internal accounting keep separate accounts for MCO functions and other activities in order to prevent cross-subsidisation.*

Evidence that applicants can ensure cost effective solutions for the implementation of the day ahead and intraday market operation functions. A breakdown of costs between NEMO activities, MCO activities and other costs should be available.

Under Article 6.1 (c), as the competent authorities for the designation of NEMOs in Ireland and Northern Ireland, this suggests that at a minimum the RAs hold a responsibility to review the costs associated with the establishment of NEMO functions for the I-SEM bidding zone.

- **Article 6.1 (d):** *It shall have an adequate level of business separation from other market participants.*

There should be an adequate level of business separation between the NEMO functions and any other functions and applicants should provide details of their corporate structure. In the case of SEMOpx, business separation between the NEMO functions and TSOs is required.

- **Article 6.1 (e):** *If designated as a national legal monopoly for day-ahead and intraday trading services in a Member State, it shall not use the fees in Article 5(1) to finance its day-ahead or intraday activities in a Member State other than the one where these fees are collected.*

Where applicable, applications must include evidence that they have separate accounts for any services provided as a national legal monopoly for day ahead and intraday to prevent cross-subsidisation.

Member States have discretion regarding the determination of whether the functions of the NEMO are in a competitive market or in a monopoly environment. Article 6.1 (e) is not relevant here, as in the invitation for NEMO applications for I-SEM (SEM-15-033n) published on 13 May 2015, the Regulatory Authorities indicated that Ireland and Northern Ireland did not intend to invoke Article 5 of the Regulation, meaning that a national legal monopoly has not been declared in either Ireland or Northern Ireland.

- **Article 6.1 (f):** *It shall be able to treat all market participants in a non-discriminatory way.*

All market participants should be treated in a non-discriminatory way, with market participants being informed and consulted on the management of day ahead and intraday market coupling.

- **Article 6.1 (g):** *It shall be subject to appropriate market surveillance arrangements.*

Evidence of training and monitoring procedures or capability to put such procedures in place to identify and report on any potential market abuse consistent with Regulation (EC) 1227(2011) on REMIT is required.

- **Article 6.1 (h):** *It shall have in place appropriate transparency and confidentiality agreements with market participants and the TSOs.*

Evidence of implementation of appropriate transparency and confidentiality agreements relation to market information with market participants and TSOs is required.

- **Article 6.1 (i):** *It shall be able to provide the necessary clearing and settlement services.*

Under this requirement, evidence is required of the ability to provide (or contract an entity to provide) adequate capitalisation and financial security and satisfactory guarantees for settlements necessary to clear and settle exchange of energy resulting from single day ahead and/or intraday coupling. Evidence of technical, operational and contractual arrangements to clear and settle exchange of energy resulting from single day ahead and intraday coupling is required.

- **Article 6.1 (j):** *It shall be able to put in place the necessary communication systems and routines for coordinating with the TSOs of the Member State.*

Under this requirement, evidence of communication and technical systems and agreements is required for coordination with the TSOs and the Moyle and East-West interconnectors.