

From: Moore, Stephen
To: ["Hutchinson, Peter"](#); [Harris, Michael](#)
Cc: [McCutcheon, Joanne](#); [Ryan, Damien](#); [Stewart, Susan](#); [Carr, Paul](#)
Subject: RE: RHI Regulations - Need for EU Consideration?
Date: 26 June 2012 12:23:00
Attachments: [OTOP.png](#)
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Peter

I don't think this regulation has anything to do with State aids, nor can I explain why the GB regulations went through this process or provide advice on what you should do.

However, from past experience, I don't think that having State aid cover 'automatically' exempts you from this regulation's requirements.

That said, surely this Directive shouldn't apply to any of the UK RHI schemes? This Directive seems to be trying to prevent Member States using 'technical standards' as a way of protecting their indigenous industries - in effect the EC is preventing MS using certain technical standards as a trade barrier. Given the nature of the RHI schemes, I would be questioning whether the Directive is even applicable to RHI.

Michael

Given that the NIRO / FITs is not that different to RHI - Any thoughts, advice to Peter etc.

Stephen

Stephen Moore

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From: Hutchinson, Peter [<mailto:Peter.Hutchinson@detini.gsi.gov.uk>]
Sent: 26 June 2012 11:26
To: Moore, Stephen
Cc: McCutcheon, Joanne; Ryan, Damien; Stewart, Susan
Subject: RHI Regulations - Need for EU Consideration?

Stephen,

We have been speaking to Ofgem legal advisors today about the proposed RHI regulations and they queried whether or our regulations had been notified to the European Commission in accordance with Directive 98/34/EC. The corresponding GB regulations went through this process and include the following wording in their Regs Explanatory Note.

“A draft of these Regulations was notified to the European Commission in accordance with Directive 98/34/EC of the European Parliament and of the Council laying down a procedure for the provision of information in the field of technical standards and regulations (OJ L 204, 21.7.1998, p. 37) as amended by Directive 98/48/EC (OJ L 217, 5.8.1998, p. 18).”

I would be grateful for your view on this, firstly on whether this is necessary and secondly on whether this requirement has already been fulfilled through the State Aid process or is further action required? We submitted our draft regulations along with our State Aid notification so the Commission has seen them and had the opportunity to comment, does this then fulfil this requirement.

Grateful if you would consider and advise on necessary action. We aware that if we need a separate notification on the legislation then the Commission require a minimum 3 months standstill period, this would still allow our legislation to be enacted in October 2012 (within timescale) however we would need to move quickly.

Thanks in advance,

Peter

Peter Hutchinson

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