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Subject: Economy proposal on RHI
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Attachments: [RHI DfE proposal.docx](#)

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As requested, I've attached a summary of the DfE proposal as we understand it – based on the conversations with DfE officials earlier today. We have heard nothing back since we raised the issues highlighted in the attached note (foremost being the legal robustness).

The regularity point is covered in paragraph 3. The key observation / question that remains however is the last sentence

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Proposal As an interim measure, all non-domestic medium biomass installations are immediately placed onto the post November 2015 scheme for a twelve month period while there is a more detailed assessment of, and consultation on, the future parameters of the scheme.

DoF has only today received a verbal notification of the above proposal. DfE officials are currently seeking legal advice and working up a business case.

On the face of it, this proposal has the clear advantage of significantly reducing the overall cost of the non-domestic RHI scheme in 2017/18 and improving the value for money of the public sector investment. As an interim measure, it should be relatively straightforward to demonstrate that this proposal offers improved value for money when compared against the existing pre-November 2015, non-tiered tariff.

DoF officials have not had the opportunity to consider this proposal in any detail; however as an initial reaction we have flagged the following points which should be considered as part of the business case process.

1. Legal advice will be required on the proposal to ensure
 - a) It can be implemented as proposed,
 - b) It is implemented in such a way to allow further amendment, or the permanent implementation of the post-November tiered tariff, at the end of the 12 month period, and
 - c) The risk that this proposal could trigger legal action which would halt all actions to reduce the cost of the scheme is understood and mitigated as far as possible.
2. While there will not be sufficient time to seek and obtain State Aid approval, there should be some assurance that the proposals will be acceptable to the Commission.
3. The cost and benefit figures contained within the business case must be robust and be able to withstand scrutiny. There must be clarity that the post-November scheme is delivering a reasonable incentive which is in line with the intention set out within the October 2015 addendum.
4. While it is accepted that a tiered tariff significantly reduces the incentive to game the scheme there must be comfort that, in tandem, DfE are talking action to improve the administrative oversight of the scheme.

DoF approval of the business case for this amendment to the scheme will be required. While we would not wish to delay the implementation of a proposal to reduce the cost of the scheme, this is a complex issue with a significant legal dimension and therefore it is important that the business case is submitted to DoF as soon as possible to allow sufficient scrutiny.

DfE should prepare defensive lines on why this interim fix was not proposed as soon as the significant overspend became apparent.