Bioenergy Team
Department of Energy and Climate Change
4th Floor, Area A
3 Whitehall Place
London
SW1A 2AW

30 November 2012

Dear Sir/Madam

Consultation on biomass electricity and combined heat & power plants

We appreciate the opportunity to comment on the proposals to enhance the sustainability criteria for solid biomass under the Renewables Obligation.

Our response to the consultation in the prescribed format is set out in Appendix 1 to this letter. We have provided a more detailed response, with examples and recommendations, in Appendix 2. Our aim is to enhance clarity in relation to assurance aspects of the regulation, in particular the application of ISAE 3000 and how we feel this standard should be reflected in the legislation and in any additional guidance that may be published to assist the obligated generators and/or assurance practitioners.

Given this primary purpose, where we feel some of the consultation questions are directed towards other stakeholders, particularly questions of commercial importance to obligated generators, then we have respectfully declined to respond to those questions.

In respect of our stated aim we wish to highlight the following points:

1. **Application of ISAE 3000** – while we support the recommendation that the assurance work be performed in accordance with this standard, the biomass assurance requirements, as drafted, do not currently satisfy the International Audit and Assurance Standards Board's (IAASB) acceptance tests for assurance (refer Appendix 2). Without sufficient consideration at the drafting stage, there is a risk that the "assurance" delivered in relation to the proposed legislation may not conform with ISAE 3000, may lead to an expectation gap between the assurance provider and the regulator and/or administrator and may undermine the intent of the legislation.

2. **Consultation with the ICAEW** - in providing our detailed response we have made reference to the IAASB's ISAE 3000 and the International Framework for Assurance Engagements as well as the "Assurance Sourcebook" produced by the Institute of Chartered Accountants of England and Wales (ICAEW) http://www.icaew.com/assurancesourcebook which provides practical guidance in the implementation and application of the IAASB's pronouncements, including ISAE 3000. We strongly recommend that you also consult with the ICAEW directly in order to determine how best ISAE 3000 can help meet the needs of stakeholders in addressing the new regulation.

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3. **Inappropriate/inconsistent terminology** - terminology used should be consistent with terminology used in ISAE 3000 and the International Framework for Assurance Engagements. This will facilitate understanding and consistency of approach. It should also significantly reduce the risk that terms used are interpreted differently or inappropriately.

4. **Further clarity needed as to respective responsibilities** - the IAASB's International Framework for Assurance Engagements requires that the roles of the responsible party (here, the obligated party) and the practitioner (the independent assurance practitioner) be clearly delineated at the outset. As currently drafted, the consultation creates confusion around these responsibilities. In particular, we feel that the management of obligated generators should be required to make an assertion or representation that the subject matter information is fairly stated in conformance with the criteria. This will emphasise the requirement for the management of obligated generators, as the responsible party, to perform their own evaluation of the supporting evidence to determine if it is sufficient and appropriate.

5. **Inconsistent application of ISAE 3000** - while mandating ISAE 3000 sets a benchmark that should help ensure consistent rigour and interpretation is applied by different assurance providers, our experience with bioliquid and biofuel reporting is that assurance providers other than accounting firms (i.e. those who are less familiar with the IAASB's pronouncements) may need further guidance to help understand what providing assurance in accordance with ISAE 3000 means for them in practical terms. In particular, we feel this would be beneficial in relation to ethical, quality control and independence requirements. We provide further background and examples in Appendix 2.

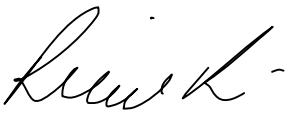
6. **Adequacy of systems and controls** - in order for the assurance practitioner to "*consider whether systems used to produce the relevant sustainability information are likely to produce information which is reasonably accurate and reliable and whether there are controls in place to help protect against material misstatements*" he/she would need to know what level of work was expected – whether (i) consideration of controls in order to form a conclusion over the data (similar to auditing standard ISA 315) or (ii) a full assurance conclusion with regard to relevant controls assurance standards (such as the IAASB's ISAE 3402, designed for assurance over controls at a service organisation). We consider these options further in Appendix 2.

7. **Criteria not 'suitable'** - to be deemed suitable (one of the IAASB acceptance tests for assurance) criteria need to relevant, complete, reliable, neutral and understandable. We believe the biomass assessment criteria should be clearly defined in a guidance document for obligated generators and assurance practitioners, requiring only very limited clarification at an obligated generator level where necessary. Anything else reduces comparability and clarity.

In Appendix 2, we have provided our suggestions for alternative approaches which should enable you to enhance your confidence in information reported by obligated generators whilst also allowing assurance practitioners to conform with ISAE 3000. We also direct you to the relevant Framework, Standard or Guidance that supports our suggestions. We have provided examples of where the current proposed approach may cause undesirable outcomes (which includes examples of undesirable outcomes we have observed in similar circumstances, e.g. bioliquids reporting and assurance).

We would welcome the opportunity discuss our views with you. If you have any questions in connection with this response, please contact Richard Porter on 020 721 31158 or Helen Slinger on 0113 289 4108.

Yours faithfully



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Consultation on biomass electricity and combined heat & power plants – ensuring sustainability and affordability

Part A: Sustainability Criteria - closing 30th November

Please use the table below as a template to respond to the consultation. It will help us to record and take account of your views.

Also, please provide evidence for your answers where possible.

PERSONAL DETAILS
Respondent Name: PricewaterhouseCoopers, LLP. Please direct any questions to Richard Porter, contact details below. Email Address: richard.j.porter@uk.pwc.com Contact Address: 1 Embankment Place, London, WC2N 6RH Contact Telephone: 020 7213 1158 Organisation Name: PricewaterhouseCoopers LLP Would you like this response to remain confidential? No (Delete as appropriate) If yes, please state your reasons:

Mandatory linkage of criteria with ROC support	
Q1.	**Do you agree power and CHP plants using solid biomass or biogas feedstocks, of 1MWe or above, should be required to meet the sustainability criteria from October 2013 in order to receive ROC support?** Agree Comments and Evidence: For biomass to be a successful alternative to fossil fuels then it needs to be credible as a sustainable solution. Therefore, if ROC support is provided for non-sustainable biomass it does not make environmental or commercial sense.
Grandfathering, stability of system and long-term GHG trajectory	
Q2.	**Do you agree that subject to EU or international requirements the sustainability criteria for solid biomass and biogas should be** **i. fixed to 1 April 2020, and**

	ii. follow the planned GHG emissions trajectories to 2020 set out above for (a) new dedicated biomass, (b) existing dedicated biomass and (c) other biomass plants ? Agree Comments and Evidence: Investors in renewable energy need a clear regulatory pathway to allow them to make appropriate commercial and investment decisions.
Q3.	**Do you have data you would be willing to share on the potential improvements or changes to different elements of the GHG lifecycle for bioenergy to support setting the tighter target to apply from 1 April 2020 to 31 March 2025 for each of the 3 trajectories?** **We are particularly interested in data on:** • **Transport (e.g. GHG emissions associated with ship size/capacity);** • **Harvesting and processing technologies for feedstocks (e.g. more energy efficient pelletisation);** • **Energy used in producing feedstocks (e.g. change fossil to biomass CHP);** • **Innovation in feedstock types/performance (e.g. non-intensively produced algae, increased yields from energy crops);** • **Fertiliser use;** • **Generation efficiencies at power plant, and** • **Other.** Please enclose this data with your response. No response – we have no data to provide
Sustainable Forest Management, Land Criteria and role of voluntary & government schemes	
Q4.	**Do you agree that wood when used for a solid or a gaseous fuel, should be required to meet the UK Government's public procurement policy for wood, and that this should replace the land criteria for solid and gaseous biomass in the particular case of wood?** No response Comments and Evidence:
Q5.	**Do you agree that energy crops which have been assessed as meeting the Energy Crops Scheme for England, or its equivalent, should be deemed to meet the land criteria for solid and gaseous biomass?** Agree Comments and Evidence: Given that land has to be defined as low

	productivity agricultural land to be eligible for the Energy Crops Scheme then this seems a fair and pragmatic approach.
Q6.	**Do you agree that (i) generators using energy crops for solid or gaseous fuel should be required to provide detail on the previous use of the land and (ii) generators using virgin wood for solid and gaseous fuel should be required to provide detail on quality and species?** No response Comments and Evidence:
Land Use Change	
Q7.	**Do you agree that the introduction of sustainable forest management criteria based on the UK Government's public procurement policy for wood will help address the key land use change issues of:** **i. sustainable harvest rates and carbon stocks;** **ii. deforestation;** **iii. biodiversity, and** **iv. social concerns?** Agree Comments and Evidence: In order to be defensible as a sustainable energy source, we feel it is appropriate to widen the definition of sustainable biomass from just the land and GHG criteria. That said, whilst it makes sense to base these criteria on a pre-existing policy we believe that the UK Government's public procurement policy for wood will need to be appropriately adapted for the energy sector.
Reporting to Ofgem - Independent verification and mass balance approach	
Q8.	**Do you agree with our proposed changes to the article 54 profiling report, and the circumstances in which it must be provided?** Agree Comments and Evidence: We agree in concept, but believe it needs to be explicitly clear which aspects of the integrated template are required to be within the subject matter for assurance (see section 6 in appendix 2 where we have considered this. From our attendance at Ofgem's Workshop for auditors – 'Lessons learnt from the first bioliquid audit reporting year' we had understood that all the contents of the integrated template were to be included in the subject matter for assurance (for bioliquids). Assuming the concept is the same for biomass, if the template were to be voluntary, then it would seem to overcomplicate the link from the assurance opinion to the subject matter data. In our view, we believe the template should be mandatory for the following reasons:

	• it provides a consistent reporting approach for all operators that is easily recognisable and easy for all parties (operators, assurance practitioners and Ofgem) to focus on data of interest; and • it facilitates easy reference and therefore clarity of understanding for those reading the assurance opinion that the subject matter is the whole of the integrated data table rather than the subject matter data being in differing formats and perhaps spread through different sections of the operators' reports. We envisage this integrated template being in a similar format to that required for reporting under the Renewable Transport Fuel Obligation, we refer you to the illustrative C&S reporting data table in RTFO Guidance Part Two: Carbon and Sustainability Guidance.
Q9.	**Do you agree with our approach to:** **i. Allow the use of a mass balance approach for the purpose of demonstrating compliance with the sustainability criteria for solid and gaseous biomass, except where that biomass is woodfuel using category B evidence to demonstrate meeting the UK Government public procurement policy for wood, and** **ii. Require biomass power plants of 1MWe and above to provide a sustainability audit report from an independent verifier, operating to ISAE 3000 standard or equivalent?** i. Disagree Comments and Evidence: We agree that the use of a mass balance approach is appropriate for Category A, but also believe it should also be appropriate for Category B. This is because some schemes that classify as Category A, e.g. FSC, allow the use of mass balance (e.g. under the FSC credit system) and therefore would not necessarily be physically segregating Category A stock from Category B or non-sustainable stock. ii. Agree Comments and Evidence: We agree that operators of biomass power plants of 1MWe and above should be required to obtain assurance under ISAE 3000 over their sustainability reporting to Ofgem. We believe there are a number of benefits of using ISAE 3000, e.g. internationally agreed principles supported by best practice guidance (such as the Assurance Sourcebook considered further in Appendix 2) which draws on years of practitioners' experience. However, we have a number of observations from our involvement in providing assurance for operators of bioliquid power plants that we bring to your attention in Appendix 2. Based on our experience to date we believe that if these issues go unresolved then there is a significant risk that the formal linkage between assured sustainability data and ROCs may be undermined and

	could cause a detrimental impact on stakeholder view of "sustainable biomass".
UK Biomass & Biogas Carbon Calculator (The B2C2 tool) & Default values	
Q10.	**Do you agree that that power plants of 1MWe or above should use:** **i. the greenhouse gas lifecycle tool provided by the UK Government and available from the Ofgem website or an alternative lifecycle tool that an independent verifier operating to ISAE 3000 standard, or equivalent, has confirmed is compliant with the recommendations made by European Commission** , and **ii. use actual rather than standard inputs for those elements that the GHG lifecycle result is most sensitive to, namely: (a) fertiliser use, (b) type and amount of energy used in processing and (c) transport distances?** i. Agree Comments and Evidence: We agree that both the UK Government tool and alternate lifecycle tools should be permissible. However, in relation to alternative tools, when operating under ISAE 3000, it is not appropriate for assurance practitioners to "confirm" compliance with the EC's recommendations. See Appendix 2, sections 5 and 6 for further consideration of subject matter information and criteria. ii. Disagree Comments and Evidence: We believe the standard input values should be set at a sufficiently prudent level so that understatement of GHG intensity cannot occur through their use. In this way, operators will be encouraged to use actual data to bring down the GHG intensity if it breaches the GHG intensity limits permitted. If, using (sufficiently prudent) standard input values, the GHG intensity is within the permitted limits then there is no need for the operator to source actual data.
Q11.	**Do you agree that only power plants below 1MWe,will be able to choose to use high-level default values covering whole feedstock lifecycles as specified within the Renewables Obligation, and are therefore not required to use a GHG modelling tool?** No response Comments and Evidence:
Anaerobic Digestion	
Q12.	**Do you agree that the use of animal manure and animal slurry should be exempt from the GHG emissions and land criteria for solid**

	biomass and biogas and exempt from the requirement to report on the mass/volume used? - *If you consider other specific types of non-waste biomass also offer low risks and high benefits and should be considered exempt, please provide reasons for your answer.* No response Comments and Evidence:
Definitions and Clarification	
Q13.	**Do you agree with our proposals for clarification and consistency across the renewables incentives?** No response Comments and Evidence:
Q14.	**Do you agree that solid biomass pellets may contain up to 2% by weight of another solid biomass material for the purpose of binding, without needing to report separately on the sustainability of the binding additive in order to be eligible for ROCs on 100% of the resulting biomass generation from the pellet?** No response Comments and Evidence:

Please submit your response to biomass@decc.gsi.gov.uk by **30th November.**

Appendix 2 – Further consideration of the application of ISAE 3000

As highlighted in our introductory letter and the main body of our consultation response (Appendix 1), we have a number of observations we wanted to bring to your attention in relation to the proposed assurance aspects of the legislation.

We have provided our suggestions for alternative approaches which should enable you to enhance your confidence in information reported by obligated generators whilst also allowing assurance practitioners to conform with ISAE 3000. We also direct you to the relevant Framework, Standard or Guidance that supports our suggestions and have provided observations and examples of where the current proposed approach may cause undesirable outcomes.

1. Application of ISAE 3000

In its drafted form, we believe compliance with the proposed legislation does not lend itself easily to conformance with ISAE 3000. Without sufficient consideration at the drafting stage, there is a risk that the "assurance" may lead to an expectation gap between the assurance provider and the regulator and/or administrator and may undermine the intent of the legislation. We believe that with an appropriate legislative structure and improved guidance for obligated generators and assurance practitioners that it is possible to:

- effectively reduce the risk of unidentified/unintended non-conformance with the legislation;
- meet the information needs of the regulator and the administrator; and
- achieve the above whilst also facilitating straightforward conformance with ISAE 3000 by both the obligated generator and the assurance provider.

In order to best articulate our view, we have included below our understanding of the regulator and administrator's needs and our view on how, using the structure of ISAE 3000, we believe those needs could be met. In presenting this we have drawn on our experience of:

- PwC as a network of firms providing audit and non-financial assurance to a diverse range of clients and our participation with standard setting bodies including our board position on the International Audit and Assurance Standards Board (IAASB), the international standards setter for assurance and auditing and the body responsible for writing both ISAE 3000 and the International Framework for Assurance Engagements;
- providing ISAE 3000 assurance over bioliquids in line with the Renewables Obligation Order 2009 (as amended) and Ofgem's Renewables Obligation: Sustainability criteria for bioliquids, Reference 182/11 published in December 2011, including attendance at the "workshop for auditors" hosted by Ofgem in relation to bioliquids assurance;
- providing ISAE 3000 assurance over biofuels in line with the Renewable Transport Fuel Obligation (RTFO) since the obligation came into effect in 2008, including attendance at verifiers' workshops hosted by the Department for Transport (and formerly the Renewable Fuels Agency); and
- supporting obligated generators using biomass for electricity generation to prepare for the proposed legislation.

Appendix 2 – Further consideration of the application of ISAE 3000

In accordance with guidance laid out at the European level, we understand the level of enhanced confidence required over the above has been determined as limited assurance and the assurance report will be deemed to have been prepared to an adequate standard if it complies with the International Standard on Assurance Engagements 3000.

As there is no assurance framework specifically designed for biomass reporting we support the use of ISAE 3000, the IAASB's standard for assurance over information other than financial statements. However, we note that the bioliquids guidance refers to the "2010 edition" of the standard. Please note that there is no "2010 edition" – the current edition was issued in 2008 and there is an Exposure Draft which is due to be replace it in 2013.

We understand that DECC and Ofgem look to the provision of independent assurance over regulatory reporting to provide them with enhanced confidence in the reported content through an independent assessment of:

- the conformance of the reported information with the legislative requirements;
- that controls around the data are appropriately designed with the intention of reporting accurate data and reducing the risk of fraud and error in the reported information (including through the use of sampling techniques); and
- that sufficient and appropriate evidence exists to support the reported information.

The wording used in paragraph 10.14 of the consultation which describes these needs, does not describe clear criteria for assurance therefore is subject to interpretation. We explore these observations further below.

We note that the proposed wording for biomass lends itself more easily to ISAE 3000 than the equivalent paragraph (3.9) in the bioliquids guidance (Ref: 182/11) and the corresponding extracts of the Renewables Obligation from which the bioliquids requirements are drawn. Therefore, we feel that there are significant advantages to amending the legislative wording for bioliquids concurrently with incorporating the new biomass requirements.

2. Consultation with the ICAEW

In providing our detailed response below we have made reference to the IAASB's ISAE 3000 and the International Framework for Assurance Engagements as well as the "Assurance Sourcebook" produced by the Institute of Chartered Accountants of England and Wales (ICAEW) http://www.icaew.com/assurancesourcebook which provides practical guidance in the implementation and application of the IAASB's pronouncements.

As the ICAEW are a body independent of us as practitioners but whom also hold a board position on the IAASB and are recognised as a leading authority on external audit and other assurance services, we strongly recommend that you consult with the ICAEW directly in order to determine how best ISAE 3000 can help meet the needs of stakeholders in addressing the regulation.

3. Inappropriate/inconsistent terminology

Terminology used should be consistent with terminology used in ISAE 3000 and the International Framework for Assurance Engagements. This includes the appropriate use of the following defined terms:

- assurance

Appendix 2 – Further consideration of the application of ISAE 3000

- assurance engagement
- practitioner
- responsible party
- independent
- assertion
- subject matter information
- criteria
- assurance report
- limitations
- conclusion
- qualifications/ qualified conclusions

This allows the practitioner to interpret the requirements in accordance with the recognised and defined terminology used in ISAE 3000. It facilitates understandability in that it significantly reduces the risk of the terms used being interpreted differently or inappropriately.

There are several terms used in the biomass consultation and in the bioliquids guidance (Ref: 182/11) that we believe may lead to inconsistent or inappropriate interpretation. For example:

- "audit", "auditors" and "audit report" – for accountants, an 'audit' is defined as assurance over financial statements, so this term can confuse when used out of context.
- "sustainability audit report" – the use of this term causes significant confusion around which aspects of regulatory reporting should be prepared by the obligated generator (this should be the subject matter information, as it is not appropriate for an assurance practitioner to both compile and assure the same information) and which by an independent assurance practitioner (the assurance report and conclusion therein).
- "verifier", "verification" – the term verification means different things to different people, from simple testing to some sort of guarantee that the information is correct. The term is likely to give rise to expectation gaps as to what comfort should be derived from a particular conclusion and for this reason we recommend that the word 'assurance' is substituted, where assurance is read in the context of ISAE 3000.

We identified that some of the concerns above transpired to be legitimate concerns during our attendance at the workshop for bioliquid auditors hosted by Ofgem on 11 October 2012. For example:

- one verifier described their understanding of the "subject matter information" as the "pile of data" they were presented with and that their role as verifier was to "rationalise it" and put it in an appropriate reporting format. This appears more akin to compilation than assurance;
- some opinions included "qualifications" which conversely to ISAE 3000 did not impact the overriding "clean" opinion provided, i.e. to use ISAE 3000 terminology the conclusion was in fact unqualified and the "qualifications" were relevant matters of governance interest for the obligated generator; and
- the criteria against which assurance would be provided were varied and included i) no defined criteria; and ii) RTFO guidance.

4. <u>Further clarity needed as to respective responsibilities</u>

The obligated generator is and remains solely responsible for its regulatory return to Ofgem. Under ISAE 3000 it

is the 'responsible party', and needs to evidence this responsibility by taking formal ownership of the information submitted. In practical terms this means that management are responsible for:

i) the compilation of the monthly reporting to Ofgem and the aggregation of that data into an annual report and ensuring it discloses matters relevant to the intended users of the annual report;
ii) ensuring that the criteria are relevant and appropriate (if these are not explicitly defined by DECC/Ofgem);
iii) designing, documenting, implementing and maintaining internal controls relevant to the preparation and presentation of the required data in accordance with the criteria, to ensure that is free from material misstatement, whether due to fraud or error;
iv) selecting and applying appropriate policies, and making estimates that are reasonable in the circumstances;
v) assessing whether they are in possession of sufficient and appropriate evidence to support the subject matter information in the annual report in accordance with the criteria, and retention of that evidence; and
vi) providing an explicit assertion within the annual report that the information contained therein is prepared in accordance with the criteria.

The independent assurance practitioner is and remains solely responsible for performing the assurance engagement in accordance with ISAE 3000, forming independent conclusions as to the matters included in generator's reports based on the available evidence. They do not prepare any of the evidence or any part of the obligated generator's regulatory report save for their assurance report, however the assurance report should always have the obligated generator's annual report appended to it so that the subject matter information and criteria can be directly referenced (e.g. "Table A on page 3") from the assurance report and it is clear to the user what has been assessed and against what benchmark in order to reach the assurance conclusion.

This allows for clarity as to who is responsible for what in terms of the submitted report. It also enables Ofgem to fulfil its obligations as administrator of the legislation.

Compilation and assurance of reported information

The above approach mitigates the risk that the independent assurance practitioner both compiles and provides assurance over the reported information, in breach of independence rules. As we identified in section 3 above, there are suggestions that this may be a problem.

Obtaining and assessing evidence up the supply chain

The above approach mitigates the issues caused by the current wording in paragraph 7.7 of the bioliquids guidance (and similar wording in chapter 7 of the current biomass guidance, Ref 184/11):

"*There is no requirement to pass physical evidence (such as copies of invoices etc.) from farms, processors or other suppliers along the supply chain. The party who generates the land use, GHG and/or mass balance data, retains the evidence. In verifying the data held by an operator of a generating station, the verifier may expect to work back up the supply chain to the source data using the mass balance records.*"

We agree that it not always appropriate for evidence to be passed down the supply chain given the commercial sensitivities involved. However the responsible party (here the management of the obligated generator) are solely responsible for the content and preparation of the subject matter information (here, the annual report) therefore they will have needed to have satisfied themselves that they can have confidence in the reported data. This confidence is based on supporting evidence. Moreover, the obligated generator is the only party subject to Ofgem's regulation and must be in a position to support all statement made to Ofgem, including ensuring they

have sufficient evidence to support the data in the annual report. It is not appropriate for the obligated generator to defer to the work of the practitioner to explain data that management has reported to Ofgem. They must be in a position to take ownership, their report must be able to stand alone before any assurance is applied to it.

In short – management prepares its report and makes its statements based on relevant supporting evidence. The practitioner assesses that evidence to consider whether management's statements are supportable. If management does not have the evidence, it is not for the practitioner to find it elsewhere. If it is not present, management must find it or the assurance report will be qualified for lack of evidence.

The practitioner obtains a written representation from the responsible party stating that they have performed an evaluation of the subject matter against the criteria (here, the relevant parts of the Renewables Obligation) and that all relevant matters have been identified and reported/communicated. Clearly, if the reporting party does not have access to information further up the supply chain they are not in a position to be able to make this assertion and hence the matters cannot be reported nor assurance provided over that report. In these circumstances, in order to make their representation, it is necessary for management to determine how best they can obtain the necessary evidence to support the data they report. For example, this may be by appointing a separate practitioner to perform "agreed-upon procedures" up the supply chain or assurance over a supplier declaration where that supplier has visibility up their own supply chain.

In our view, if an independent assurance practitioner obtains and assesses evidence that management does not have access to, this impacts the practitioner's independence and undermines the intent of the obligation. We demonstrate this by way of an illustrative example:

> *An obligated generator receives and relies upon a declaration from their supplier that the feedstock conforms to the land criteria. The obligated generator does not obtain any additional evidence to support this declaration and they include a statement of conformance in their monthly reporting to Ofgem. When they compile their annual report and engage an assurance practitioner, the assurance practitioner picks a sample of feedstock consignments and requests evidence from the obligated generator to support the sustainability characteristics reported for those consignments. They are provided with declarations and contact the supplier directly to see what evidence they have to support the declaration. The assurance practitioner assesses this evidence and reports back to the obligated generator whether or not they are satisfied with the evidence. Let's assume here that they are satisfied with the evidence to support their sample. Our observations with this scenario are:*
>
> i. *a supplier declaration is implied by Ofgem to be insufficient evidence in isolation (through their referencing the readers of their guidance back to the RTFO guidance where this statement is explicitly made) – we agree with this conclusion;*
> ii. *the obligated generator is now reliant on the assurance practitioner's view that the evidence in the supply chain is sufficient and have not made their own assessment, indeed, as they have only supplier declarations to support all of their reporting across multiple suppliers and multiple feedstocks the only confidence they have over the sufficiency and appropriateness of evidence in the supply chain is that provided to them by the assurance practitioner;*
> iii. *in submitting their assurance report to Ofgem, the assurance practitioner's independence is in question because they are the only source of evidence that the obligated generator has to support the sustainability claims. Certainly, they have not so much as made an independent assessment of the evidence as <u>the only</u> assessment of the evidence at the obligated generator's level; and*
> iv. *by its very nature, the size of the sample to support a limited assurance conclusion is likely to be small and therefore we feel it would be of concern to the regulator that only a small sample of evidence is subject to any scrutiny of sufficiency and appropriateness and that the party obligated under the legislation is not performing any of this assessment themselves.*

In summary, the obligated generator is using the practitioner as a source of evidence over the control

environment. The practitioner ends up with a self-review threat to their independence. Also, the evidence only supports controls in respect of the sample tested.

During our attendance at the workshop for bioliquid auditors it was evident that the above practice was commonplace, which in our view is inappropriate.

5. Inconsistent application of ISAE 3000

The following requirements must be met (per the IAASB) before accepting an assurance engagement:

- an expectation that relevant ethical requirements, such as independence and professional competence will be satisfied;
- a rational purpose for the engagement;
- the engagement exhibits all of the following five elements:
  - three-party relationship involving the practitioner, a responsible party, and intended users;
  - an *appropriate* subject matter;
  - *suitable* criteria exist and such criteria will be available to intended users;
  - the practitioner will have access to sufficient appropriate evidence to support the conclusion; and
  - a conclusion, in the form appropriate to the engagement, is to be contained in a written report.

We are concerned that the biomass consultation (and the bioliquid guidance already in place) give insufficient clarity over a number of these areas.

Ethical and quality control requirements

ISAE 3000 requires "*The practitioner should comply with the requirements of Parts A and B of the IFAC Code of Ethics for Professional Accountants*" and "*The practitioner should implement quality control procedures that are applicable to the individual engagement*." It also provides guidance on how this may be achieved. For accountants, guidance consistent with this is laid out in the ICAEW Assurance Sourcebook, "*All assurance engagements are subject to relevant ethical requirements, including those pertaining to independence, contained in Parts A and B of the Code of Ethics for Professional Accountants issued by the International Ethics Standards Board for Accountants (IESBA). The fundamental ethical principles that apply to all services that professional accountants in public practice are: integrity, objectivity, professional competence and due care, confidentiality, professional behaviour and technical standards. Equally, the International Standard on Quality Control 1 (ISQC1) will apply to all services that the practitioner provides.*" For non-accountants providing assurance under ISAE 3000 it is essential that the independent assurance practitioners also comply with the same fundamental ethical principles and appropriate standards of quality control.

We understand that it is the intent of the regulator and administrator to permit any party to provide assurance so long as their work is performed in conformance with ISAE 3000. For practitioners who audit financial statements these ethical obligations will have been embedded into their business models for some time and subject to checking by their audit regulators (the AQRT and QAD). For other practitioners, it can be a time consuming and expensive process to go through for the first time and Ofgem may want to consider how such practitioners demonstrate their compliance with the requirements.

Three–party relationship

It is worth being explicit as to the three parties in relation to biomass reporting – the obligated generator is the responsible party, the independent practitioner provides the assurance and Ofgem is the user of the report.

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Subject matter and criteria

These have been considered in more detail in sections 6 and 7 below.

Sufficient appropriate evidence

Our primary observation around sufficient appropriate evidence has been presented above in 4 in relation to access to evidence up the supply chain.

In addition, we feel there would be real value in further guidance on what is considered sufficient and appropriate evidence. One productive way to do this may involve a roundtable discussion between Ofgem, obligated generators and independent assurance practitioners. If obligated generators need to amend their supply contracts in order to ensure they receive information plus supporting evidence from their supply chain, the more advance notice they have, the better. This would facilitate buy in from the industry and consistent and appropriate interpretation of evidence by all parties. One area where we feel this would be of particular value would be around evidence to support the claims of categorisation of wastes and residues.

Assurance report

We have commented on the terminology "sustainability audit report" in 3 above.

Also, from our attendance at the bioliquids workshop for auditors, we understand that there is debate around whether or not to introduce a standard template for assurance reports, similar in form to that used for EU ETS. In our view this is unnecessary because the required contents of an assurance report are prescribed within ISAE 3000, with additional guidance in section 4.5 of the ICAEW's Sourcebook, particularly in relation to qualifications. Furthermore, we feel a template similar in format to that used in EU ETS would be a backward step as it would introduce aspects not relevant for ISAE 3000 and may not meet all the requirements of ISAE 3000. We see value in being specific as to subject matter, approved criteria and expected form of conclusion, but beyond that there is little point creating a prescribed template.

In section 8 below, we have provided example wording for an assurance opinion in relation to the subject matter and criteria.

6. Adequacy of systems and controls

We understand the subject matter information would be:

- the tabular presentation of the profiling reports with additional columns to include the land criteria, GHG criteria and new requirements for wood procurement, wood quality and energy crops (for reference we will call this "Table A"); and
- a table detailing in which months ROC claims were submitted (for reference we will call this "Table B").

We understand that Ofgem wants enhanced confidence in Table A (and perhaps Table B) through an independent assessment as to whether controls around the data are appropriately designed to report data accurately and reduce the risk of fraud and error in the reported information (including through the use of sampling techniques). Paragraph 10.14 of the consultation requires the assurance practitioner to "*consider whether the systems used to produce the relevant sustainability information are likely to produce information which is reasonably accurate and reliable and whether there are controls in place to help protect against material misstatements due to fraud or error*" and "*consider the frequency and methodology of the sampling*".

There are two main ways to approach this. The first, and the one we recommend, is that the practitioner considers controls as a route to their conclusion over the reported biomass data (there is useful material in

auditing standard ISA 315 as to what this means in practice). The other, more onerous option is to require the practitioner to perform sufficient work over controls in order to form a separate conclusion over the design effectiveness of those controls in relation to stated control objectives. This is specialist work and our concern is that it will lead to vastly different approaches between different practitioners.

If the second, more onerous option is chosen, the most relevant comparison points for controls reporting (and assurance thereon) which are compatible with ISAE 3000 are:

- ISAE 3402 - *Assurance Reports on Controls at a Service Organisation* issued by the IAASB and
- AAF 01/06 - *Assurance reports on internal controls of service organisations made available to third parties* issued by ICEAW.

The salient principles are:

- management prepare a description of their processes, control objectives relating to those processes and the controls they have in place to achieve those control objectives (and we recommend that these control objectives are consistent between obligated generators and hence referred to in the guidance – refer section 7 below);
- management then make an explicit assertion of their responsibility to establish appropriate internal controls and that they have designed and implemented effective internal controls;
- the assurance practitioner performs procedures sufficient to express a conclusion on the description and on the design of the controls in relation to the control objectives stated in that description.

In this case, the subject matter would also include the description of their processes and the controls they have in place to achieve the control objectives. The control objectives would constitute the criteria.

Whilst the very nature of fraud (particularly collusive fraud) means that it is unlikely that any system of controls is impenetrable, having the correct structure in place means that if the evidence is available, the practitioner should be able to make an informed consideration of the relevant controls.

While most accountants are familiar with these assurance frameworks, we feel it worth bringing to your attention that during discussions at Ofgem's bioliquid workshop for auditors we asked an open question as to what other ways people in the room had found to address these specific requirements of the RO whilst conforming to ISAE 3000 (note that the wording in the bioliquids requirements is for assurance practitioners to "confirm" measures have been taken to prevent fraud and error). We asked this with the aim of understanding how others had addressed this (we had previously received feedback from Ofgem that we were the only assurance practitioner to follow the approach described above). No other approaches were forthcoming. For this reason, we feel there is a great deal of value in a roundtable discussion (see also section 5 above) to ensure consistency of approach and to achieve the right balance in assurance as well as reporting. We believe that the work that is expected to be performed and conclusions reported should be comparable between different practitioners.

7. Criteria not 'suitable'

The criteria would be made up as follows:

- the relevant extracts of the RO (revised) e.g. currently this would be most of Article 54;
- to the extent that the relevant details are not translated into the revised RO:
  i. additional criteria in relation to the UK Government's public procurement policy for wood;

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ii. the definition of energy crops as set out in the Government Response to the RO Banding Review;
iii. the definition of virgin wood feedstock and of the applicable terms for wood quality;
iv. definitions for wastes and residues both in concept and for specific materials;
v. definitions for general profiling data, e.g. the form of the biomass and fuel reference;
vi. additional clarifications, as appropriate e.g. rules for mass balance, requirements for presentation of information; and
vii. clarification over the deemed point of combustion.

- the control objectives as described in section 6 above (if a separate conclusion over controls is required).

Ideally the criteria would be clearly defined in a guidance document for obligated generators and assurance practitioners requiring only very limited clarification at an obligated generator level, e.g. the deemed point of combustion per their Fuel Measurement and Sampling (FMS) procedures.

As noted in section 5 above, in order to accept an assurance engagement the assessment criteria need to be 'suitable'. The criteria are used by the responsible party in order to ensure their reported information is correctly prepared. Suitable criteria as set out in the IAASB Assurance Framework exhibit the following characteristics:

- relevance: relevant criteria contribute to conclusions that assist decision making by the intended users of the assurance report.
- completeness: criteria are sufficiently complete when relevant factors that could affect the conclusions in the context of the engagement circumstances are not omitted. Complete criteria include, where relevant, benchmarks for presentation and disclosure.
- reliability: reliable criteria allow reasonably consistent evaluation or measurement of the subject matter including, where relevant, presentation and disclosure, when used in similar circumstances by similarly qualified practitioners.
- neutrality: neutral criteria contribute to conclusions that are free from bias.
- understandability: understandable criteria contribute to conclusions that are clear, comprehensive, and not subject to significantly different interpretations.

<u>Inadequately defined criteria</u>

The criteria are currently not well defined in the biomass consultation and similarly were not well defined in the bioliquid guidance. Our understanding is that this led to obligated generators developing a variety of criteria many of which did not meet Ofgem's requirements.

Instead of well defined criteria, the consultation includes the following requirements in paragraph 10.14:

1. to consider whether the systems used to produce the relevant sustainability information are likely to produce information which is reasonably accurate and reliable and whether there are controls in place to help protect against material misstatements due to fraud or error;
2. to consider the frequency and methodology of the sampling;
3. to consider the robustness of the data; and
4. for the assurance report to state whether anything has come to the attention of the person preparing the report to indicate that the relevant sustainability information is not accurate.

We would regard these as guiding principles for planning an assurance engagement rather than criteria for assessing the reported subject matter.

The approach for 1 and 2 are considered above under section 6 and examples of the corresponding criteria for controls are included below. Point 3 is addressed under ISAE 3000 in that the "robustness of the data" or more

correctly, "sufficiency and appropriateness of evidence to support the data" is considered in order to assess if the data is prepared in accordance with the criteria.

Similarly, 4 is addressed under ISAE 3000 in that "accurate" is effectively saying that the subject matter information appropriately reflects the underlying subject matter and that it has been prepared in accordance with the criteria. This is what an assurance conclusion addresses and for a limited assurance conclusion it would be in the form "Based on our procedures, in all material respects, (except for…) nothing has come to our attention to indicate that the subject matter information has not been prepared in accordance with the criteria".

Although, the above demonstrates how the guiding principles are addressed under ISAE 3000, as currently drafted, the requirements potentially introduce more confusion than they do clarity.

In our view, the criteria for the controls are the control objectives defined by management. To facilitate consistency, DECC can maintain control by prescribing what the control objectives should aim to achieve, allowing management to develop specific controls to meet specific situations. Some potential examples of control objectives include:

1. Controls are in place at the procurement stage to ensure candidate feedstocks are assessed to be sustainable in line with Renewables Obligation requirements.
2. Controls are in place to ensure that the data and evidence required to demonstrate sustainability requirements have been met are obtained from suppliers.
3. Controls are in place to ensure that there is a clear chain of custody of the biomass back to its source.
4. Controls are in place to ensure that in-house mass balance is managed appropriately.
5. Controls are in place to ensure accurate recording of mass at the deemed point of combustion.

Management then set out what controls are in place to address each control objective and the practitioner tests those controls and considers whether they do in fact address the objective.

8. Illustrative assurance reports

We believe that some illustrative examples of unqualified and qualified opinions should be included in the supporting guidance. We have included below suggested forms of unqualified and qualified limited assurance conclusions – note that these are based on the assumption that Ofgem requires a consideration of controls as a route to an assurance conclusion over the data, rather than a standalone assurance conclusion over controls. Refer point 6 above for further detail.

Unqualified

"Based on the results of our work, in all material respects nothing has come to our attention that causes us to believe that Tables A and B are not fairly stated in accordance with the criteria."

Qualified

"Basis for qualified conclusion

[describe]

Qualified conclusion

Based on the results of our work, *except for the effects of the matter described in the Basis for Qualified*

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Conclusion paragraph, in all material respects nothing has come to our attention that causes us to believe that Tables A and B are not fairly stated in accordance with the criteria."

Having illustrative example conclusions should help facilitate a consistent approach and appropriate presentation of conclusions.

The bioliquids guidance currently includes examples of limited assurance opinions in relation to the subject matter data. However, there is currently no suggested wording for the conclusion in relation to controls, which we believe should be included if Ofgem decides to adopt a requirement for standalone assurance conclusions over the control environment.