

# THE BIOFUELS OBLIGATION SCHEME

## GUIDANCE NOTE

*on Reporting, Verification and Auditing of Information  
to be Maintained by BOS account holders and Provided to NORA  
under Regulations 6 and 7 of the Sustainability Regulations (SI 33 of 2012)*

Revised July 2015

## *The Biofuels Obligation Scheme*

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# 1 Introduction

## Background

- 1.1 This Guidance Note was first issued following the Discussion Forum on Verification and Auditing held on 6th February 2014.
- 1.2 In December 2014, the Computershare platform on which BOS account holders were able view their accounts was closed down and all transactions were transferred to the BOSOS. This required the BOSOS to be upgraded and this change was recorded in 457-X0139.
- 1.3 Also, in December 2014, in cooperation with the corresponding authority in the UK<sup>1</sup>, NORA arranged for the release of the UK & Ireland Carbon Calculator which makes specific provision for the operation of the BOS. This version of the Carbon Calculator has a specific BOS interface. Guidance on using the BOS version of the Carbon Calculator is provided in 457-X0138.
- 1.4 In July 2015, the BOS Team issued a revised version of 457-X0066 the *BOS Application and Sustainability Procedure*. The purpose of that revision was to bring 457-X0066 up-to-date in the context of the developments and changes within the Biofuels Obligation Scheme since 2013, including those referred to at § 1.1 to § 1.4.
- 1.5 Throughout this document the term *Regulations* is used when reference is made to SI 33 of 2012 – The Sustainability Regulations.

## Purpose and Scope

- 1.6 This Guidance Note is primarily intended to clarify the requirements for the reporting, verification and auditing of information relating to the sustainability of biofuels:
  1. The data and information that must be submitted to NORA, and independently verified, when an application for BOS Certificates is being made;
  2. the requirement for independent verification as specified in Regulation 6 (3) of SI 33 of 2012;
  3. the information that may need to be submitted on an annual basis, at the end of the obligation period; and
  4. the requirement for an independent audit of data as specified in Regulation 7 (2).
- 1.7 This Note also illustrates how, under certain circumstances – which are essentially within the control of the BOS account holder – it may not be necessary to provide

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<sup>1</sup>The Renewable Transport Fuels Order Unit of the Department for Transport (RTFO Unit).

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any information to NORA at the end of an obligation period and consequently no need for the independent audit that is referred to in item 4 above.

- 1.8 The BOS process for reporting, verifying & auditing data and information relating to the carbon and sustainability criteria of the RED is illustrated schematically in Figure 1 and Figure 2 at the end of this Note.

## **2 Obligation to Maintain Records and Report to NORA**

- 2.1 The requirement to maintain and report on information related to the carbon & sustainability criteria comes from Article 18.3 of the RED, the second paragraph of which is presented below:

*The information referred to in the first subparagraph shall include in particular information on compliance with the sustainability criteria set out in Article 17(2) to (5), appropriate and relevant information on measures taken for soil, water and air protection, the restoration of degraded land, the avoidance of excessive water consumption in areas where water is scarce and appropriate and relevant information concerning measures taken in order to take into account the issues referred to in the second subparagraph of Article 17(7).*

- 2.2 The *Sustainability Regulations* (SI 33/2012) transpose this requirement into National Law. Regulation 6 specifies, in detail, the information that is to be provided to NORA while Regulation 7 obliges the BOS account holder to hold this information and to have it audited. In the following sections, those items of information that will automatically be included when a BOS account holder makes a monthly/quarterly application for BOS Certificates will be teased out, as will those that may be reported on an annual basis only.

### **3 Information to be Reported with an Application for BOS Certificates**

- 3.1 The items of information mentioned at Regulation 6 (1) (a), (b), (c), (e) & (f) are all necessary inputs to the Carbon Calculator. Consequently, whenever a BOS account holder makes an application for BOS Certificates, throughout the year, it will **automatically** provide this information to NORA and this will be reflected in the CSV File which is part of its BOS Sustainability Statement<sup>2</sup>. These items are listed below:
- (a) whether the greenhouse gas emissions savings required under Article 17(2) of the Directive is being carried out through:
    - (i) the use of default values,
    - (ii) a combination of disaggregated default values and actual calculations, or
    - (iii) solely through the use of actual calculations;
  - (b) the type of raw material from which the product is made;
  - (c) the place of origin of the raw material;
  - (d) See footnote<sup>3</sup>
  - (e) whether the bonus referred to in Annex V, part C, points 7 and 8 of the RED has been used in the greenhouse gas calculation for the consignment;
  - (f) whether the factor for emissions savings from soil carbon accumulation via improved agricultural management referred to in Annex V, part C, point 1 of the RED has been used in the greenhouse gas calculation for the consignment.
- 3.2 If the Sustainability Statement (CSV file) is accurate and the Independent Verification Report that accompanies the application is complete, then the obligation to have the information mentioned under Regulation 6 (1) (a), (b), (c), (e) & (f) independently verified **will be fulfilled**<sup>4</sup>. It is important to note that Regulation 6 (2) confirms that the information mentioned at Regulation 6 (1) (f) does not apply where biofuel has been produced from waste and residues.
- 3.3 The BOS account holder is also required to provide some of the items of information mentioned at Regulation 6 (1) (i), (ii), (iii) & (iv) when making its Application for BOS certificates<sup>5</sup>.
- 3.4 The items mentioned at Regulation 6 (1) (i) refer to the BOS Application and Sustainability Procedure (ref.457-X0060). When an application is submitted through the BOS Online System and the independently verified BOS Sustainability Statement is uploaded, the requirements of Regulation 6 (1) (i) will be automatically met<sup>6</sup>.
- 3.5 The items mentioned at Regulation 6 (1) (ii), (iii) and (iv) refer to bilateral/multilateral agreements, voluntary agreements and the national schemes of EU Member States. Unless a BOS account holder has used the Carbon Calculator to modify or create a

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<sup>2</sup> If an account holder is reporting default values for carbon intensity, many of the items listed will not be relevant to its application. In this case, the Carbon Calculator will not require an input of data that is not relevant.

<sup>3</sup> Note that the information mentioned at Regulation 6 (1) (d) has been deliberately omitted for now. This item is covered below.

<sup>4</sup> Independent verification is required under Regulation 6 (2).

<sup>5</sup> The number of statements that will have to be provided will depend on how and from where the biofuel was sourced.

<sup>6</sup> Except where there are errors or omissions.

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new fuel chain and it has calculated actual values for carbon intensity – instead of using the default values from Annex V of the RED – then it will already have entered at least one of the items of information mentioned at Regulation 6 (1) (ii), (iii) & (iv) into the Carbon Calculator and this will be reflected in the Sustainability Statement<sup>7</sup>. Here again, provided the Independent Verification Report and the Sustainability Statement are accurate and complete, then the obligation to have this information verified independently will also have been met.

- 3.6 The flow of data and information referred to in § 3.1 to § 3.5 above is represented by the GREEN route in Figure 1 which is included at the end of this Guidance Note.

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<sup>7</sup> This will be the case for the great majority, if not all, BOS account holders. Any BOS account holder that uses full-chain data for the carbon intensity of its biofuel and/ or undertakes an independent audit of compliance with the carbon & sustainability criteria of the RED – which implies that it is not disposing of biofuel that is covered by a voluntary scheme – would have to provide a more detailed input to the Carbon Calculator together with independent verification of its calculations.

## **4 Information that may be Reported Annually**

4.1 This is information which is **not** essential when making an application for BOS Certificates. It is not a required input to the Carbon Calculator. However, Member States are required to collect this information and to report it in an aggregated format to the European Commission. This is sometimes referred to as Additional Sustainability Information and it is described in Regulation 6 (1) (d) of the Sustainability Regulations.

4.2 Regulation 6 (1) (d) requires details of measures taken for:

- i. soil, water and air protection,
- ii. the restoration of degraded land,
- iii. the avoidance of excessive water consumption in areas where water is scarce, and
- iv. dealing with the issues referred to in the second subparagraph of Article 17(7) of the RED;

The issues referred to in the second subparagraph of Article 17.7 of the RED are the following Conventions under the International Labour Organisation (ILO):

- Convention concerning Forced or Compulsory Labour (No 29),
  - Convention concerning Freedom of Association and Protection of the Right to Organise (No 87),
  - Convention concerning the Application of the Principles of the Right to Organise and to Bargain Collectively (No 98),
  - Convention concerning Equal Remuneration of Men and Women Workers for Work of Equal Value (No 100),
  - Convention concerning the Abolition of Forced Labour (No 105),
  - Convention concerning Discrimination in Respect of Employment and Occupation (No 111),
  - Convention concerning Minimum Age for Admission to Employment (No 138),
  - Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No 182).
- and
- the Cartagena Protocol on Biosafety,
  - the Convention on International Trade in Endangered Species of Wild Fauna and Flora.

4.3 None of the items of information listed at sub paragraphs (1) (d) (i), (ii), (iii) or (iv) of Regulation 6 are a necessary input to the Carbon Calculator and they are not, therefore, required in the Sustainability Statements. Consequently, unless a BOS account holder chooses to report this information with its monthly or quarterly applications for BOS Certificates (see the ORANGE route in Figure 1), it must report this information annually and to have this information independently audited to ISAE 3000.

4.4 For example, if the BOS account holder sources biofuel consignments that are covered by a voluntary scheme and the scope of this scheme covers all of the items listed under Regulation 6 (1) (d) (see § 4.2 above), it might decide to instruct its verifier to include a declaration to this effect in the Independent Verification Report for that month or quarter. Then, at the year end, if every consignment of biofuel which the BOS account holder disposed of during the obligation period had been verified in this



way, there would be no further need to report this information to NORA. This approach is represented by the ORANGE route in Figure 1.

- 4.5 It is necessary to report information **only if it is relevant to any disposal of biofuel within the obligation period**. In this regard, it should be noted that Regulation 6 (2) confirms that the requirement to provide information mentioned at Regulation 6 (1) (d) (i) and 6 (1) (f) does not apply to biofuel that has been produced from waste and residues.

## **5 The Annual Information Report**

- 5.1 Regulation 7 (1) of Si 33/2012 requires that a BOS account holder '*... shall maintain records of sustainability criteria related data for each disposal of biofuel*'. Regulation 7 (2) requires that a BOS account holder that has made a disposal of biofuel '*...shall arrange for an independent audit of the data referred to in paragraph (1) and [of] the information [that is] submitted to the Agency under these Regulations on an annual basis*'. This implies that the BOS account holder **may** provide some of the information it holds to NORA on an annual basis.
- 5.2 In future, any such information provided annually will be referred to as the Annual Information Report.
- 5.3 An Annual Information Report will only be required whenever any one or more of the following circumstances applies:
- a) Where some or all of the information mentioned in Regulation 6 (1) (d) has not already been supplied and independently verified, for all consignments, throughout the obligation period; this is sometimes referred to as Additional Sustainability Information;
  - b) Where the Independent Verification Reports provided to NORA during the obligation period have not complied with Regulation 7 (3) in respect of **all** of the information provided;
  - c) Where a BOS account holder wishes to amend or correct data or information that was submitted to NORA as part of an application for BOS Certificates during the obligation period. This could include any data or information that was included in an Application Form, a Sustainability Statement or in an Independent Verification Report.
- 5.4 If any of the circumstances mentioned at § 5.3 apply, the BOS account holder must prepare an Annual Information Report and provide it to NORA. Regulation 7 (2) stipulates that this report must be independently audited (see § 6). This implies that the BOS account holder is following the RED route that is illustrated in Figure 1.
- 5.5 If none of the circumstances mentioned at § 5.3 apply, then the requirement for an Annual Information Report does not arise and it is sufficient for the account holder to write to NORA stating this. This communication must be issued to NORA by the date specified at Regulation 7 (4).

## **6 Auditing the Annual Information Report**

- 6.1 Section 6 applies only if there is a requirement to provide an Annual Information Report to NORA (see RED route in Figure 1).
- 6.2 Under Regulation 7 (2), the BOS account holder must arrange for an independent audit of the data and information that it is required to hold; this requirement refers to the data and information listed under Regulation 6. The standard for the audit is set out in ISAE 3000 (limited assurance).
- 6.3 It is illustrated in Figure 2 that the requirement for annual auditing which is specified in Regulation 7 (2) and the independent verification that is carried out on a monthly/quarterly basis, as required under Regulation 6 (3) are both part of the same process. For this reason the audit referred to in Regulation 7 (2) will, in future, be referred to as the Annual Independent Verification Assessment (AIVA) and the output will be referred to as the Annual Independent Verification Assessment Report (AIVA Report)
- 6.4 If it is not necessary to provide an Annual Information Report (see § 5.1), then the need for an AIVA Report does not arise. This is because all of the required information would already have been provided to NORA at the time of the monthly or quarterly applications and it would have been independently verified at that stage.
- 6.5 A BOS account holder that is required to prepare an Annual Information Report must send this report to NORA, together with the AIVA Report, by the date specified at Regulation 7 (4).

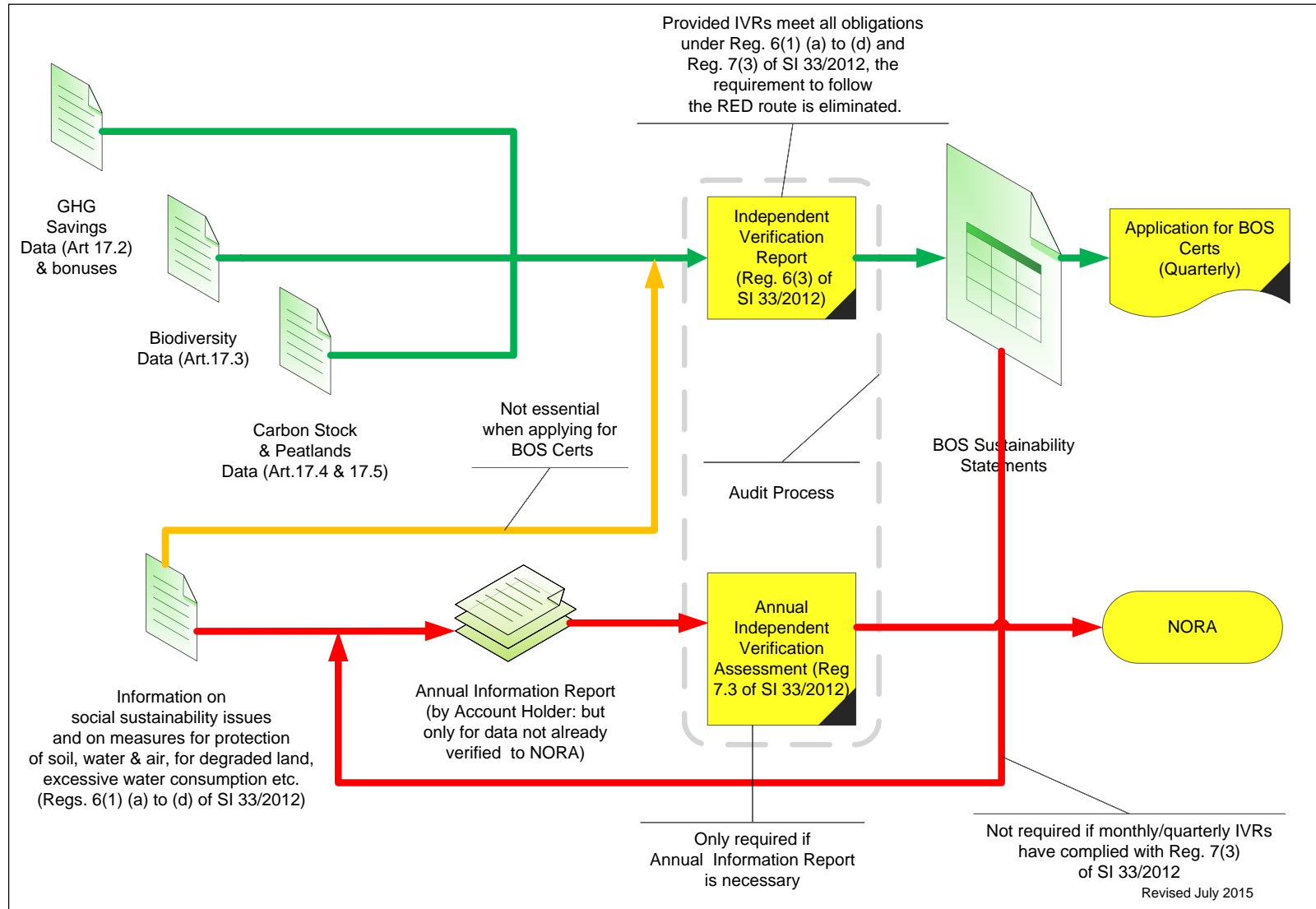
## **7 Summary**

- 7.1 In order to provide sufficient information to enable the BOS Team to assess an application for BOS Certificates, BOS account holders should follow the GREEN route.
- 7.2 To avoid having to return an independently audited Annual Information Report, the ORANGE and the GREEN routes should be simultaneously followed every month or quarter. Note that this may not be possible for every BOS account holder (see § 5.3).
- 7.3 If any of the circumstances in sub-paragraphs (a), (b) or (c) of § 5.3 apply, the RED route **must** be followed at the end of the obligation period.

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Figure 1 Reporting and Verification of Data & Information



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Figure 2 The Audit Process

