

Compliance Statement

TC Barrow OFTO Limited

Prepared pursuant to Amended Standard Condition E12 - C2 of the Offshore Electricity Transmission Licence and the consent issued by the Gas and Electricity Markets Authority under paragraphs 4(b)(i) and 4(b)(ii) of Amended Standard Condition E12 – C2 of the Offshore Electricity Transmission Licence treated as granted to TC Barrow OFTO Limited (registered with number 07384547) whose registered office is at Two London Bridge, London, SE1 9RA.

8 November 2013

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1. Introduction

1.1 This Compliance Statement (“Statement”) has been prepared to secure compliance with paragraphs 1, 2 and 4 of Amended Standard Condition E12 - C2 of the Offshore Electricity Transmission Licence held by TC Barrow OFTO Limited (“TCBOW”).

1.2 The purpose of this statement is to describe the practices, procedures and systems which TCBOW has adopted (or intends to adopt) to secure compliance with its obligations under:

- Amended Standard Condition E12 - C1 (Conduct of the Transmission business)
- Standard Condition E6 (Prohibition of Cross -subsidiaries); and
- Standard Condition E7 (Restriction on Activity and Financial Ring Fencing)

of its electricity Offshore Electricity Transmission Licence (together, “the Conditions”).

1.3 As required by paragraph 4 of Amended Standard Condition E12 – C2, this statement sets out in particular how TCBOW shall:

A) maintain appropriate managerial and operational independence in undertaking its activities under its licence, from any associated businesses;

B) except in so far as the Authority consents to TCBOW not doing so, TCBOW shall secure that:

(i) no business of TCBOW (or of any affiliate or related undertaking of TCBOW), other than the transmission business or any external transmission activities, may have access to:

(aa) premises or parts of premises occupied by persons engaged in, or engaged in respect of, the management or operation of the transmission business or any external transmission activities;

(bb) systems for the recording, processing or storage of data to which persons engaged in, or engaged in respect of, the management or operation of the national electricity transmission business or any external transmission activities also have access;

(cc) equipment, facilities or property employed for the management or operation of the transmission business or any external transmission activities;

(dd) or the services of persons who are (whether or not as their principal occupation) engaged in, or in respect of, the management or operation of the transmission business or any external transmission activities.

(ii) it can and does, insofar as it is legally possible, prevent any person who has ceased to be engaged in, or in respect of, the management or operation of the transmission business from being engaged in, or in respect of, the activities of any other business of TCBOW (or of any affiliate or related undertaking of TCBOW) until the expiry of an appropriate time from the date on which he ceased to be engaged by the transmission business.

- 1.4 As required by paragraph 7 of Amended Standard Condition E12 – C2, TCBOW shall revise the statement when circumstances change in the event that the statement no longer secures compliance with the requirements of paragraph 1.

2. Consents

- 2.1 With regard to section 1.3 B above, the Authority has issued consent under paragraphs 4(b)(i)(aa) to 4(b)(i)(dd) and 4(b)(ii) of amended standard condition E12-C2 (Separation and Independence of the Transmission Business) of the offshore transmission licence granted under section 6 of the Electricity Act 1989 to TC Barrow OFTO Limited whereby the affiliates and related undertakings of the Licensee, specified below, may
- (i) use or have access to:
 - (aa) Premises or parts of premises occupied by TCBOW;
 - (bb) Systems of TCBOW for the recording, processing or storage of data;
 - (cc) Equipment, facilities and property employed by TCBOW; and
 - (dd) Services of persons who are engaged by TCBOW, for the purpose of management or operation of the transmission business; and
 - (ii) to enable any person who ceases to be engaged in the management or operation of the transmission business to be engaged in, or in respect of, the activities of the affiliates and related undertakings specified below. Insofar as is legally possible the consent removes the requirement to wait an appropriate amount of time before persons can be engaged in the activities of affiliates/related undertakings.
- 2.2 For the purpose of the above the Authority’s consent is provided in respect of International Public Partnerships Limited and its affiliates (“IPP”). Consent is also given in respect of Amber Infrastructure Group Holdings Limited and its affiliates (“Amber”). TCBOW’s corporate structure is set out in section 3.12.
- 2.3 A copy of the published consent can be found at [Consent under amended standard condition E12-C2](#).
- 2.4 Such consent shall cease to have effect if IPP or Amber or any of their affiliates or related undertakings were to become authorised under the Electricity Act 1989 to generate, supply, distribute or coordinate or direct the flow of electricity. In such circumstances TCBOW shall notify the Authority of any such change.

3. Separation and Independence of the Transmission Business (Amended Standard Condition E12-C2)

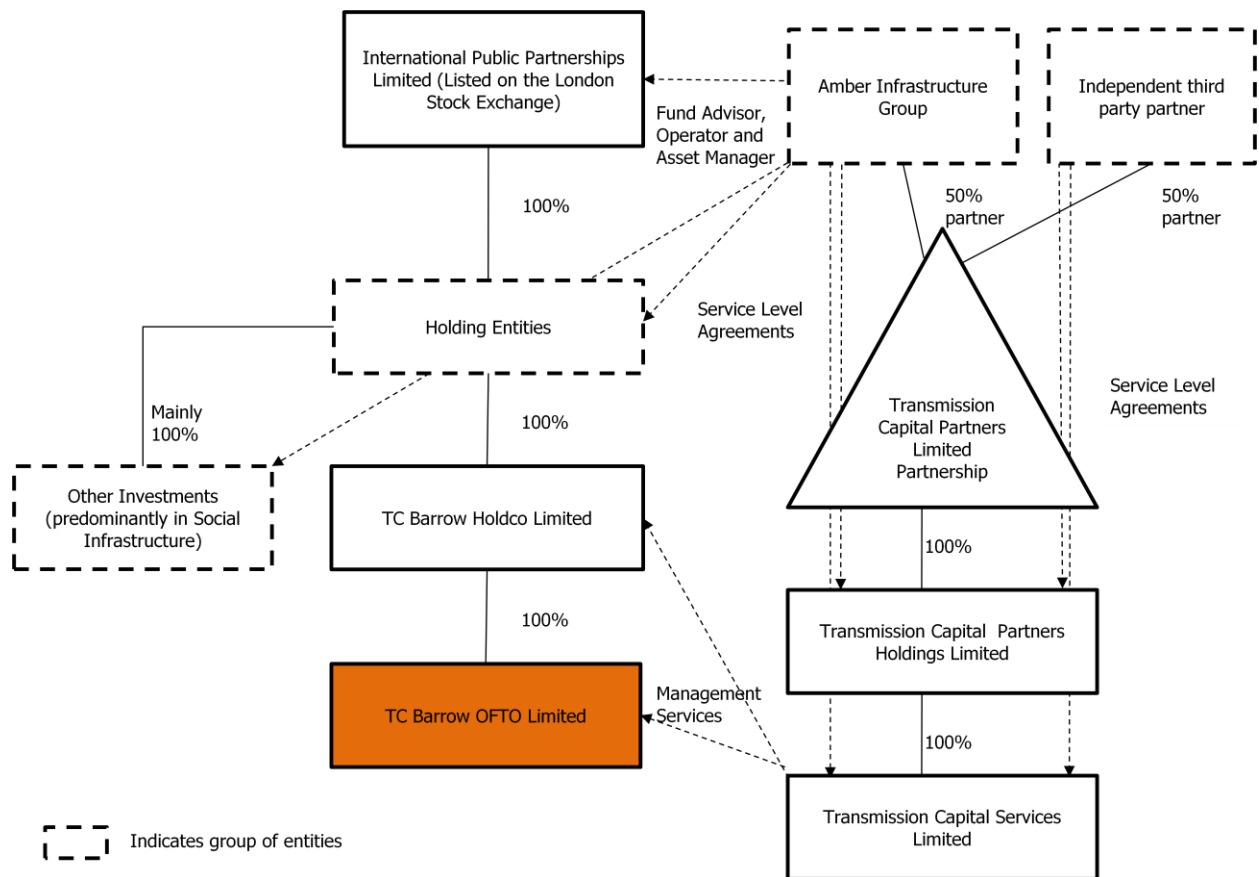
Managerial and operational independence

- 3.1 TCBOW has put in place an organisational and governance structure and Code of Conduct to ensure that Amended Standard Condition E1-C1 (Conduct of the code Transmission business) is not breached through inappropriate managerial decisions, as set out below. The code of conduct forms part of this compliance statement and is attached as Appendix 1.
- 3.2 The only business TCBOW will ever be engaged in is activities under its transmission licence. TCBOW is a special purpose company and therefore the significant majority of its activities are governed by contracts and long-term debt funding requirements established at financial close. Such business activities are monitored by the TCBOW board and the lending entity that would require formal consultation before a significant change to the business would be allowed.

Organisational structure

- 3.3 TCBOW is a wholly owned subsidiary of ultimate parent, International Public Partnerships Limited (IPP), a listed infrastructure fund which invests in financially ring-fenced infrastructure project special purpose entities.
- 3.4 Companies within the Amber Infrastructure group act as fund advisor and operator to IPP providing a range of corporate and financial services to IPP, a number of IPP's investment entities and to Transmission Capital Services Limited (TCS).
- 3.5 TCS, an indirectly wholly owned subsidiary of Transmission Capital Partners Limited Partnership, a partnership in which members of the Amber Infrastructure Group Holdings Limited group of entities hold an indirect 50% interest, will be the Principal Contractor of TCBOW for all management services including asset management and financial management. IPP, Amber, TCS nor any of their affiliates or related undertakings currently own, manage or operate any electricity supply, generation or distribution businesses.
- 3.6 In addition, where Authority consent has been obtained, TCS is also the Principal Contractor of all other OFTO Licensees under the common ownership of ultimate parent, International Public Partnerships Limited (IPP).
- 3.7 The structure results in separation of the ownership of TCBOW (held underneath a listed infrastructure fund) from the day to day management undertaken by TCS through a separately owned joint venture partnership between Amber and a third party partner as illustrated in the structure chart below.

Figure 1 Key corporate structure entities



Compliance governance structure

- 3.8 TCBO is a separate legally incorporated company with its own board of directors and separate ring-fenced statutory financial statements. TCS and IPP are separate legal entities with their own boards of directors.
- 3.9 The TCBO board is comprised of three board members. Whilst individuals are able to sit across TCBO and other affiliated entities, none of the affiliates are involved in electricity generation, supply or distribution businesses.
- 3.10 TCS is the only affiliated entity that provides services to TCBO after licence grant and has entirely separate board members to those of TCBO. No director holds office in both TCS and TCBO. One of the TCBO board members is also a board member of Transmission Capital Partners Holdings Limited, although that board also includes a further three directors which enables greater independence of board decisions from those of TCBO.
- 3.11 In accordance with company law and the TCBO licence, the directors are required to act in accordance with their fiduciary duties in relation to the relevant board and therefore take decisions as a director of a legally incorporated company whose sole business is the business in respect of which board he or she is a member.

- 3.12 The non-executive board of International Public Partnerships Limited is independent of Amber and TCS with four of the five board members being entirely independent and the fifth member, who is also a director of a number of entities within the Amber group of companies (although not TCS) is required to be re-elected by the International Public Partnership Limited shareholders on an annual basis.
- 3.13 TCBOB has established a compliance committee that includes among its members the TCBOB director responsible for compliance and such persons from TCBOB's business as are responsible for the management of regulatory issues related to the licence. The director responsible for compliance in accordance with amended standard condition E12 – C4 (4) will assume day to day responsibility for maintaining appropriate managerial and operational independence of TCBOB, including ensuring all employees comply with the code of conduct in Appendix 1. This director is not a member of the TCS board.
- 3.14 An independent Compliance Officer has been appointed by TCBOB to perform the duties and tasks as considered appropriate including those as set out in paragraph 7 of Amended Standard Condition E12 – C4 (covering advising, monitoring, investigating and reporting on compliance matters). The Compliance Officer shall report quarterly to the Compliance Committee and annually to the TCBOB Board of Directors. The Compliance Officer is not engaged in the management or operation of TCBOB's transmission system or the activities of any associated business.

Confidential Information

- 3.15 Access to IT systems used by the transmission business is restricted to appropriate authorised users. This protocol extends to any affiliate providing services to TCS under any SLA. Procedures are in place to provide that authorisation is removed when a member of staff leaves or changes their job. Active monitoring of authorised users takes place on a regular basis and follow up action is taken when this is needed.
- 3.16 Operational systems used to manage the transmission business are separate from those used to manage other businesses, largely due to the use of independent third party O&M contractors.
- 3.17 A number of non-operational systems are standard across TCBOB and Amber Group e.g. financial reporting. For these systems protection measures have been put in place to ensure financial information is accurately recorded within the accounts of TCBOB distinct from other entities (such as segregation of input and review processes and statutory and regulatory audits of the financial results of TCBOB). Access is restricted to TCBOB financial information to those persons directly or indirectly involved in the transmission business.
- 3.18 All relevant staff are required to respect confidential information. The code of conduct to be issued to all relevant staff sets out the licence restrictions on the transfer of confidential information. Breaches of the code will be subject to company disciplinary procedures as appropriate and will be reported to the Authority.

Use of premises, systems, equipment, facilities, property and personnel employed by TCBOW

- 3.19 As highlighted above, given the nature of IPP as an infrastructure investment fund and Amber as fund advisor and operator with no UK electricity generation, supply or distribution business activities, the Authority has given consent in respect of IPP and Amber and their affiliates to have access to the use of equipment, facilities, property and personnel employed by TCBOW. The consent removes the requirement to wait an appropriate amount of time before persons can be engaged in the activities of affiliates/related undertakings. Such consent shall cease to have effect if IPP or Amber or any of their affiliates or related undertakings were to become authorised under the Electricity Act 1989 to generate, supply, distribute or coordinate or direct the flow of electricity. In such circumstances TCBOW shall notify the Authority of any such change.
- 3.20 Certain central functions, provided by TCS to TCBOW including finance is sub-contracted by TCS to Amber. Asset management functions provided by TCS to TCBOW are sub-contracted to Amber's joint venture partner in Transmission Capital Partners Limited Partnership. The consent mentioned above is deemed to apply to each of these sub-contractors as affiliated entities of Amber.
- 3.21 Both partners ensure financial and asset performance information is recorded separately in relation to the licensee from any other affiliate entity. This is achieved through delegated responsibility for data capture and recording of results to assigned individuals and the use of separate ledgers for TCBOW within a shared IPP financial accounting system. The financial results and operational performance are reviewed on at least a quarterly and monthly basis respectively by TCS (acting as service provider) and quarterly by the TCBOW board. Independent external auditors undertake both an annual statutory audit of TCBOW's financial statements and a non-statutory audit of TCBOW's regulatory accounts. On an annual basis certain financial and operational performance is reported to the Authority and certain agreed upon procedures are undertaken by the auditors in relation to the accuracy of information reported.
- 3.22 The provision and payment for such service functions are defined within contractual arrangements which prohibit cross subsidies between TCBOW, affiliates or related undertakings.
- 3.23 To ensure information pertaining to TCBOW is not made available to staff or agents of any affiliate or related undertaking in a preferential or discriminatory way, by employees or agents of any affiliate or related undertaking, the following measures have been implemented:
- The rules of client confidentiality are incorporated within employment contracts and applied;
 - The Code of Conduct is in place making it a disciplinary offence to share information about TCBOW businesses in an unfairly preferential or discriminatory way as set out in Appendix 1.

Note: as long as TCBOW and its affiliates do not become authorised under the Electricity Act 1989 to generate, supply, distribute or coordinate or direct the flow of electricity it is not anticipated that circumstances would arise that could enable information pertaining to TCBOW to be used in a preferential or discriminatory way.

- 3.24 As mentioned above, the Authority has given consent in respect of IPP and Amber and their affiliates to enable any person who ceases to be engaged in the management or operation of the transmission business, to be engaged in, or in respect of, the activities of their affiliates or related undertakings. Insofar as is legally possible the consent removes the requirement to wait an appropriate amount of time before persons can be engaged in the activities of affiliates/related undertakings. Such consent shall cease to have effect if IPP or Amber or any of their affiliates or related undertakings were to become authorised under the Electricity Act 1989 to generate, supply, distribute or coordinate or direct the flow of electricity. In such circumstances TCBOW shall notify the Authority of any such change.
- 3.25 Amended Standard Condition E12-C2(5) requires the establishment of separate boards of directors for the transmission business and for any associated business. TCBOW’s proposed method of compliance with this amended standard condition is set out in paragraph 3.8 – 3.12 above.
- 3.26 Amended Standard Condition E12-C2(6) requires that each member of such boards of directors or executives for associated businesses who is also a director of TCBOW shall fulfil their role in relation to the taking of such decisions as if he or she were a director of a legally incorporated company whose sole business is the business in respect of which the board he or she is a member of has been established. TCBOW’s proposed method of compliance with this amended standard condition is set out in paragraph 3.9 – 3.11 above.

4. Conduct of the Transmission Business (Amended Standard Condition E12-C1)

Amended Standard Condition E12 – C1 (1)

4.1 In accordance with Amended Standard Condition E12 – C1 (1), TCBOW shall conduct its transmission business in the manner best calculated to secure that, in complying with its obligations under the licence:

- a) TCBOW;
- b) any affiliate or related undertaking of TCBOW including, for the avoidance of doubt:
 - i. any affiliate or related undertaking that intends to participate in a competitive tender exercise to be appointed as an offshore transmission owner; or
 - ii. any affiliate or related undertaking participating in a competitive tender exercise to be appointed as an offshore transmission owner;

that is a subsidiary of, or is controlled by the ultimate controller of, TCBOW;

- c) any user of the national electricity transmission system (“NETS”); or
- d) any other transmission licensee;

obtains no unfair commercial advantage including, in particular, any such advantage from a preferential or discriminatory arrangement, being, in the case of such an advantage accruing to TCBOW, one in connection with a business other than its transmission business.

TCBOW

- 4.2 TCBOW has implemented processes to ensure that its staff (and those of its affiliates and related undertakings (including its Principal Contractor, TCS)) shall conduct its transmission business in the manner best calculated to secure that it complies with these licence condition E12 – C1 (1) obligations as set out in Appendix 1.

Affiliates and Related Undertakings

- 4.3 Transmission Capital Services (TCS) is the only affiliated business providing services to TCBOW after licence grant. TCS was established to manage and operate transmission businesses on behalf of transmission licensees. Its directors and staff have no involvement with the management or operation of any businesses that are authorised under the Electricity Act 1989 to generate, supply, distribute or coordinate or direct the flow of electricity. Two of the four TCS directors are entirely independent of TCBOW and Amber and whilst TCS is affiliated to TCBOW it is not under common ownership – it is therefore not envisaged that an unfair commercial advantage should arise, however in order to mitigate any potential risk, the following arrangements have been put in place:
- 4.3.1 TCS provides services to TCBOW in accordance with a managed services agreement on arm's length commercial terms. This agreement sets out the services to be provided in return for fixed and performance related fees. The pricing of the managed service agreement was established at financial close and formed part of the costing included within the Transmission Capital Partners tender submission for the Barrow OFTO. The performance fees payable to TCS from TCBOW are based solely on the performance of TCBOW independently from any associated business. Regular reviews are undertaken by the TCBOW board through the compliance committee to ensure compliance with the terms of this agreement.
- 4.3.2 As afforded by the consent obtained in paragraph 2.3, TCS is also the Principal Contractor of all other OFTO Licensees under the common ownership of ultimate parent, IPP, with the provision of services contracted under separate management services agreements for each OFTO Licensee.
- 4.3.3 Certain Amber entities provide financial advisory and management services in relation to TCBOW to TCS under fixed price Service Level Agreements (SLAs). These have been established at financial close and are intended to remain in place for the duration of the licensee's revenue term.
- 4.3.4 Certain Amber entities also provide financial advisory and management services in relation to all other OFTO Licensees held under the common ownership of ultimate parent IPP, each under entirely separate fixed price Service Level Agreements (SLAs).

- 4.3.5 In relation to any future services to be provided to the licensee that vary from those established through the managed services agreement and SLAs established at financial close, the Code of Conduct set out in Appendix 1 shall apply to all TCBOW, TCS and Amber staff, and where necessary staff of affiliates which prohibit those staff from taking decisions which would unduly discriminate, provide unfair commercial advantage or preferential arrangements. This code of conduct forms part of this compliance statement. In particular the code of conduct requires TCBOW Board approval for any such services to be provided by an affiliate entity to TCBOW. Board approval shall only be granted where the board can be assured that such arrangements do not unduly discriminate; provide unfair commercial advantage or preferential arrangements. Where members of the board are conflicted, the approval process shall also be reviewed by the independent compliance officer.
- 4.3.6 The TCBOW Board, through the compliance committee and compliance officer, monitor TCS's compliance with its contractual compliance obligations to TCBOW including the underlying compliance obligations in the license.

Any User of NETS or other Transmission Licensee

- 4.4 The directors are required at all times to act in accordance with their fiduciary duties to TCBOW; in accordance with the requirements of company law, and the Licence. The directors, in fulfilling their obligations to TCBOW must discharge their duties and take all decisions in the best interests of the company and in doing so the licence conditions will be complied with ensuring that no unfair commercial advantage is obtained.
- 4.5 The directors receive support and training to ensure that they understand their obligations to TCBOW, and the relevant licence obligations with which they and TCBOW have to comply. The importance of business separation has been explained and reinforced to the directors and they have and will continue to be provided with regular reports on compliance each quarter. Discussions have been held and will continue to be held with the directors of the Licensee regarding the importance of compliance with the obligations of the licence generally and in respect of business separation in particular.
- 4.6 Processes to ensure that all other persons involved in the management or operation of TCBOW's transmission business conduct the transmission business in the manner best calculated to secure that TCBOW complies with the licence conditions covered by this Statement. These processes include requiring all such persons to comply with the code of conduct set out in Appendix 1.

Amended Standard Condition E12 – C1 (2)

- 4.7 In accordance with Amended Standard Condition E12 – C1 (2), TCBOW shall secure and procure separate premises, equipment, systems for recording and storing data, facilities, staff, and property from:-
- those owned by the transmission licensee that, holds the co-ordination licence, and is responsible for co-ordinating and directing the flow of electricity onto or over the national electricity transmission system; and
 - those owned by any associated business of the licensee that is authorised to generate or supply electricity.
- 4.8 TCBOW is not related to or an affiliate of the transmission licensee that, holds the co-ordination licence, and is responsible for co-ordinating and directing the flow of electricity onto or over the national electricity transmission system; or any licensee that is authorised to generate or supply electricity. The requirements of Amended Standard Condition E12 – C1 (2) are therefore not relevant to TCBOW's business.

5. Prohibition of cross-subsidies (Standard Condition E6)

- 5.1 Licence condition E6 (1) procures that the transmission business shall not give any cross-subsidy to, or receive any cross-subsidy from, any other business of the licensee or of an affiliate or related undertaking of the licensee. TCBOW's business is structured so that it shall not give any cross-subsidy to, or receive any cross-subsidy from, any other affiliate or related undertaking.
- 5.2 TCBOW primarily operates and maintains its transmission system through a series of contractual arrangements with independent third parties, and TCS as noted in paragraph 3.5 above. The nature of these arrangements means that costs incurred are negotiated on arm's length commercial terms.
- 5.3 TCBOW contracts directly with the independent third parties but such contracts are administered by TCS. The contractual arrangements minimise the risk of cross subsidisation as there is a separation of ownership from those entities contracted to operate the transmission system.
- 5.4 The governance and compliance procedures outlined in this statement (including the Code of Conduct set out in Appendix 1) that will or are intended to be adopted by TCBOW give the board of directors of TCBOW reasonable assurance that they will be able to comply with this licence obligation.

6. Restriction on Activity and Financial Ring Fencing (Standard Condition E7)

- 6.1 TCBOW as the transmission licensee shall not conduct any business or carry on any activity other than the transmission business.
- 6.2 The principal exceptions to the paragraph above, relate to: the conduct of de minimis business (as defined in Standard Condition E7) whether carried out by TCBOW or a subsidiary created for that purpose; investments acquired in the normal course of TCBOW's treasury activities; investment in subsidiaries that have the sole purpose of carrying out financing activities; investment in entities that carry out the transmission business of the Licensee; and any other business activity to which the Authority has given its consent.
- 6.3 In accordance with standard condition E7 TCBOW is ring fenced from IPP and its affiliates and related undertakings. TCBOW is a special purpose company financed through non-recourse project finance, held as a separate legal entity within the IPP investment fund structure. The financial performance of TCBOW is not dependent upon the financial performance of IPP or other group entities.
- 6.4 TCS, in its capacity as provider of management services, is not permitted to enter into any business arrangement other than that of the transmission business without obtaining the permission of the directors.
- 6.5 The project finance agreement restricts TCBOW from acquiring shares or other investments other than investments acquired in the usual and ordinary course of TCBOW's treasury management operations, which includes investments in sterling denominated debt securities, term deposits, certificates of deposits, and other categories of investment agreed with the lender.
- 6.6 The directors are aware of the general prohibition relating to non-transmission business (subject to the exceptions described in paragraph 6.2) and would not permit the licensee to engage in any prohibited activity.
- 6.7 The Compliance Officer shall report quarterly to the Compliance Committee and annually to the TCBOW Board of Directors on TCBOW's compliance with the licence conditions. In the event of any non compliance the compliance officer would bring the attention of such activity to the directors ensuring that the appropriate remedial action would be taken.

7. Other information

Code of Conduct

- 7.1 TCBOW has put in place a Code of Conduct to drive appropriate staff behaviour and reinforce business separation as set out in this compliance statement. The Code of Conduct is part of this statement and is attached in Appendix 1. The Code of Conduct includes guidance on:
- Information sharing restrictions;
 - Conduct of employees to ensure no unfair commercial advantage is given to any relevant offshore transmission interest over that of any other offshore transmission owner;
 - Procedures relating to any new commercial arrangements with affiliates or third parties;
 - Procedures for reporting regulatory compliance;
 - Procedures for TCS reporting in line with its contractual obligations under the managed services agreement; and
 - Procedures relating to no cross subsidies
- 7.2 The Code of Conduct provides that any deliberate breach of the rules will be treated by TCBOW as a disciplinary offence. The Code of Conduct forms part of this Compliance Statement.
- 7.3 All employees engaged in activities related to the licensee’s transmission business are made aware of the Code of Conduct and are required to provide written confirmation of their awareness and compliance with it. This is reviewed annually by the compliance officer.

Further information

Requests for hard copies of this statement or enquiries in relation to this statement should be addressed to:

Michael Gregory
Director
TC Barrow OFTO Limited
Two London Bridge
London
SE1 9RA

Appendix 1 - Code of Conduct

The purpose of this Code of Conduct is to ensure employees are aware and comply with the obligations of the transmission licences granted to OFTO Licensees (an up to date list of all such licensees can be found on the Amber Policies section of the server or on request to any of the directors of business), as amended by the consent issued by the Authority under paragraphs 4(b)(i) and 4(b)(ii) of amended standard condition E12-C2 (Separation and Independence of the Transmission Business) of said licence, in relation to certain compliance matters, to the extent set out below.

For the purposes of the TC Barrow OFTO Limited (TCBOW) Compliance Statement, the relevant OFTO licensee is TCBOW (“The Licensee”)

All relevant employees are required to confirm their acceptance and compliance with this Code of Conduct on an annual basis, including employees of affiliated entities to The Licensee as described below.

1. Who must abide by the code?

1.1 All employees working within TC Barrow OFTO Limited (TCBOW), or employees of its affiliates and related undertakings involved in any activities in relation to any wholly owned subsidiaries of International Public Partnerships Limited (“IPP”) granted a transmission licence by Ofgem.

1.2 For this purpose affiliates and related undertakings includes IPP and its subsidiaries.

1.3 Together with any other related businesses of those groups that may provide services for the purpose of the management and operation of the transmission business. A list of Amber and International Public Partnerships Limited group companies can be found in the most recent statutory accounts for each of these groups.

2. What requirements must employees abide by and where can these be found?

- The Licensee transmission licence
 - Standard Licence Condition E6: Prohibition of Cross-Subsidies
 - Standard Licence Condition E7: Restriction on Activity and Financial Ring Fencing
 - Amended Standard Licence Condition E12 - C1: Conduct of the Transmission Business
 - Licence Condition B9: Indebtedness
- S105 Utilities Act: General restrictions on disclosure of information
- Management Services Agreement (MSA) for the Licensee

3. What are the consequences of breaching these requirements?

3.1 Failure to comply could result in adverse consequences for the Licensee, including:

- Financial penalty
- Criminal prosecution

- Liability payments to a third party for breach of a contract
- Investigations and other enforcement action by Ofgem
- Additional and more onerous Licence conditions, and
- Serious damage to the company's reputation.

3.2 Breach of this Code of Conduct will be treated as a disciplinary matter and will be reported to the Authority.

4. What should I do if I discover a breach?

4.1 Any breach of the Code of Conduct by those employed by undertakings listed in section 1 above whether deliberate or unintentional, must be immediately reported to a member of the Compliance Committee of the Licensee.

5. General Rules

5.1 Confidential information

5.1.1 Any information relating to or deriving from the management or operation of the transmission business is to be treated as confidential and not disclosed except where The Licensee and affiliates are permitted to disclose confidential information by virtue of:

- i) Any requirement of a competent authority where competent authority includes the, Secretary of State, OFGEM and the Compliance Officer;
- ii) Conditions of the OFTO licence granted to the Licensee;
- iii) Any other requirements of law;
- iv) The rules of the Electricity Arbitration Association or of any judicial or other arbitral process or tribunal of competent jurisdiction;
- v) Information being provided by or relating to any person who has notified The Licensee that it need not be treated as confidential;
- vi) Where information, not being provided by or relating to any person other than the Licensee, is placed in the public domain or where such information is required for assisting the holder of a co-ordination licence (e.g. NGET), to prepare for and plan and develop the operation of the national electricity transmission system.

5.1.2 Here "transmission business" means the authorised businesses of the Licensee or any affiliate or related undertakings, in the planning or development or construction or operation or maintenance of a transmission system.

5.1.3 It is therefore permissible to share information between the transmission businesses of the Licensee, or any affiliate or related undertakings, with an authorised transmission business, for the purpose of the efficient planning or development or construction or operation or maintenance of the Licensee's transmission system.

5.2 Employees of the Licensee and its affiliates must not:

- 5.2.1 Provide information that is commercially confidential to the Licensee to any affiliate or any third party, except:
- i. to the extent that such information is required for the affiliate or third party to perform an activity under the terms of a contract which supports the management or operation of the transmission business licensed to the Licensee provided the use of such information does not confer an unfair commercial advantage as set out above and where the provision of such information is governed by suitable confidentiality restrictions; or
 - ii. to personnel of any holder of a transmission licence engaged in the external transmission activities of that transmission licence holder, to the extent necessary for the performance by such personnel of those external transmission activities, and the use by such personnel of that information for that purpose provided the use of such information does not confer an unfair commercial advantage as set out above and where the provision of such information is governed by suitable confidentiality restrictions; or
 - iii. to personnel engaged in the planning or development or construction or operation or maintenance or tendering of an external transmission system provided the use of such information does not confer an unfair commercial advantage as set out above and where the provision of such information is governed by suitable confidentiality restrictions.
- 5.2.2 Provide or receive any cross subsidy to or from the licensee or any affiliate or related undertaking of the licensee whether by means of direct or indirect financial assistance, or non cost-reflective charges for services, use of facilities or otherwise.
- 5.2.3 Enter into any new commercial agreement between the Licensee and an affiliate after financial close unless it is on arms length basis, normal commercial terms as approved through the related party contract authorisation process by the Licensee’s Board.

5.3 Employees of the Licensee and its affiliates and related undertakings must:

- 5.3.1 Ensure that adequate records are maintained in respect of all new services provided to the Licensee by affiliates since financial close so as to demonstrate the procedures followed to ensure such arrangements do not confer an unfair commercial advantage as set out above.
- 5.3.2 Ensure that the reporting requirements as specified or implied by the terms of the managed services agreement are communicated in a timely manner, including:
- i. Immediate notification of any actual or potential regulatory breaches; and

- ii. In the manner, detail and frequency as agreed following implementation of the managed services agreement.

5.3.3 Ensure that the cost of services under any new joint contracts entered into with an affiliate or a third party with the Licensee and any other transmission business is fairly allocated to the Licensee and each of the transmission businesses such that there is no cross subsidy given to any transmission business.

6. Further Guidance/Advice

If you need further guidance in the first instance speak to your line manager or the Licensee's Compliance Director.