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The Electricity Supplier Obligations (Excluded Electricity) (Amendment) Regulations 2019

I write following the debate held on Wednesday 23rd October in the House of Lords on the Electricity Supplier Obligations (Excluded Electricity) (Amendment) Regulations 2019.

You asked whether the provision that excludes businesses in distress, referred to as 'undertakings in difficulty' in the Electricity Supplier Obligations (Excluded Electricity) (Amendment) Regulations 2019, has been applied to any company in the past.

By way of background, there are State aid requirements in relation to 'undertakings in difficulty' (UIDs). As set out in the European Commission's Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty (the UID Guidelines)¹ "an undertaking is considered to be in difficulty when, without intervention by the State, it will almost certainly be condemned to going out of business in the short or medium term."

To implement the State aid requirements, an applicant is not eligible for the energy intensive industry exemption schemes if it is a UID at the point when its eligibility is assessed against the 20% electricity intensity test. So far, we have not excluded any company from the energy intensive industry exemption schemes on grounds of being an undertaking in difficulty.

A copy of this letter will be placed in the Libraries of the House.

Lord Duncan of Springbank

¹ https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=uriserv:OJ.C_2014.249.01.0001.01.ENG