



Portuguese Guarantees of Origin

IN A NUTSHELL



MACEDO VITORINO & ASSOCIADOS
Sociedade de Advogados, RL

What are Guarantees of Origin (GOs)

1. Definition and background

A GO is an electronic document that proves the final electricity purchaser that a certain amount or percentage of the electricity supplied originates from green sources. Each GO has a nominal value of 1 MWh, which means that for each unit of energy produced and expressed in MWh only one GO may be assigned. GOs are valid for a period of 12 months as of the production of the energy unit they relate and expire after their use.

Although the GO system is being implemented in all European Union Member States to foster use of energy from renewable sources, in Portugal, despite its early planning (since 2012), the GOs system took some time to be established and the first Portuguese GO was only issued in June 2020.

The entity in charge of issuing and monitoring the GOs (*Entidade Emissora das Garantias de Origem* – “EEGO”) and of managing the GO system is REN, S.A. (“REN”), which is also the concessionaire of the Portuguese transmission grid.

Decree-Law no. 141/2010, of December 31 and the EEGO Procedure Manual made available by REN (“EEGO Procedure Manual”) set out the rules applicable to EEGO and to the system of issuing and monitoring of the GOs (“EEGO System”), which is conducted through an online platform.

2. Are electricity producers obliged to register before the EEGO System?

Pursuant to the notice published by Direção-Geral de Energia e Geologia (“DGEG”) on 13 May 2020, registration with the EEGO System is mandatory in the following cases:

- a) Installations for production of electricity from renewable energy sources and energy producers of heating and cooling from renewable sources with installed capacity above 5 MW;
- b) High efficiency cogeneration installations; and
- c) Efficient cogeneration installations subject to special remuneration regime.

3. What is the deadline for registration with the EEGO System?

Producers subject to the obligation to register before the EEGO System shall apply for registration and request the issue of the relevant GOs until December 31 2020.

Nevertheless, small production units (i.e., units producing up to 1 MW from renewable sources) and units of production for self-consumption are excluded until December 31 2021. Failure to comply with the register of the production facilities constitute an administrative offence which may result in the application of fines.

Registration with the EGGO System

4. How can producers register with the EGGO System?

Producers of electricity wishing to obtain Portuguese GOs are required to:

- a) File an application through the online platform (<https://eego.ren.pt/>), which includes filling in forms, providing corporate documents and disclosing one or two contact persons for purposes of the EGGO System;
- b) Upon approval of the application, execute a membership agreement with REN ("EGGO Membership Agreement"); and
- c) Register of the production facilities.

Upon approval of the application, access credentials to the online platform are granted to the entity to be used throughout the process. The registration of a new entity with the EGGO System has a cost of €1,000 (one thousand euros).

Regardless of the date of execution of the EGGO Membership Agreement, it is considered that the agreement shall enter into force no later than 5 (five) business days after receipt of the complete application and respective approval by REN.

5. Which production facilities can be registered in the EGGO System?

Registration of production facilities is performed at the online platform of the EGGO System, by submitting an application disclosing information on the specifications of the production facility, which shall be assessed by REN. According to the EGGO Procedure Manual, only the following production facilities may be registered in the EGGO System:

- a) Facilities with an operating license (*licença de exploração*), or equivalent document granted by DGEG, to produce electricity from renewable energy sources;
- b) Facilities with license or prior notice granted by DGEG for the generation of energy for heating and cooling from renewable energy sources;
- c) Facilities with operating license granted by DGEG for producing simultaneously, in an integrated process, thermal energy and electricity and/or mechanical power and where thermal energy production satisfies a demand for heat or cold which is justifiable in economic terms; and
- d) Facilities belonging to the Electrical System of Mainland Portugal.

Relevant rights and duties

6. What are the main rights arising from the EGGO Membership Agreement?

Producers are entitled to register their production facilities with the EEGO System and to request the issue, transfer and cancellation of GO's through the online platform.

7. And what are the main duties?

EGGO System members are subject to comply, namely, with the following main duties:

- a) Comply with the EEGO Procedure Manual (including those resulting from changes after the date of entry into force of the agreement);
- b) Install and maintain, at the own expense of the producer, the systems and interfaces required for participating in the EEGO System;
- c) Communicate in a timely manner to REN all information requested in the EEGO Procedure Manual;
- d) Notify REN of any changes to the elements identified in the registration process or of any other information that has been requested by REN as part of such process;

- a) Perform the payments due under the EGGO Membership Agreement within the established deadlines; and

- a) Confidentiality obligations regarding the EGGO Membership Agreement and information exchanged throughout its execution.

8. Are there sanctions in case of default?

Failure to comply with any of the above provisions constitutes ground for suspension of the EEGO System member, without prejudice to the application of fines resulting from the administrative offences for breach of the provisions of the GO system.

In the event of a default situation, EEGO will notify the EEGO System member to repair the situation counted as from the date of the notification.

In addition, the EGGO Membership Agreement may be subject to termination in case the events that gave rise to the suspension are not remedied within the period granted by REN. The termination of the EGGO Membership Agreement entails the exclusion from the EEGO System of all production facilities registered by the relevant participant.

Issue and trade of GOs

9. How are GOs issued?

Upon concluding the registration process with the EEGO System, the producer may request the issuing of GOs.

Producers must submit a production statement in the online platform of the EEGO System (except for electricity generation facilities from renewable sources that use only 1 (one) fuel, where, whenever possible, production statements will be generated automatically by telemetering values).

Upon reception of a valid and complete production statement, REN should register the GOs in the account of the registered producer in the EEGO System within 5 business days. It should be noted that production statements may be subject to periodic and random checks performed by EEGO directly or through external auditors.

Requests for the issuing of GOs must be submitted no later than 3 months after the end of the productions 'reference period.

The issuing of GOs is subject to the payment of a fee of €0.037/MWh to EEGO.

10. How are Portuguese GOs traded?

Producers may negotiate and transfer their GOs to other entities, including other producers and suppliers of energy through the EEGO's System. The request for transfer of a GO is submitted in the online platform of the EEGO System by the registered participant. Upon the issuing of a transfer order, REN shall remove the GO from the seller's account and:

- a) If the buyer is registered in the EEGO System, transfer the GO to the buyer within 5 days and give the buyer notice of the transfer;
- b) If the buyer is registered with a foreign entity equivalent to REN, notify the relevant entity and, after confirmation of the success of the transfer, confirm the seller the completion of the transaction;

The administrative fee for concluding a GO transfer is €0.010/MWh.

Producers covered by special remuneration schemes or investment incentives are not granted the right of transfer of their issued GOs, since payment due to producers is subject to confirmation of delivery to DGEG of all issued GOs for each reference period.



ABOUT US

Our Energy Group

In today's competitive global market, Macedo Vitorino & Associados can provide a comprehensive advice to domestic and foreign clients in all legal aspects required for the implementing and development of energy infrastructures, energy markets and sector regulation, with a special focus on renewable energy.

Since the incorporation of the firm in 1996 we have been involved in several high-profile transactions in all of the firm's fields of practice, including banking and finance, capital markets, corporate and M&A, corporate restructurings, among others.

We are ranked by The European Legal 500 in most of its practice areas, including Banking, Capital Markets, Project Finance, Corporate and M&A, Tax, Telecoms and Litigation.

Our firm is also mentioned by IFLR 1000 in Project Finance, Corporate Finance and Mergers and Acquisitions and by Chambers and Partners in Banking, Corporate and M&A, TMT, Dispute Resolution and Restructuring and Insolvency.

The multidisciplinary and integrated character of our energy group allows us to efficiently solve the legal issues of our clients, in particular:

- Public and environmental licensing
- Licensing and regulation
- Funding and development of projects
- Energy derivatives
- Green certificates
- PPA
- O&M Agreements
- EPC Agreements

If you want to find out more about Macedo Vitorino & Associados please visit our website at www.macedovitorino.com



Rua do Alecrim 26E | 1200-018 Lisboa | Portugal
Tel.: (351)21 324 19 00 | Fax: (351)21 324 19 29
www.macedovitorino.com