



## CAPIEL Position Paper – WEEE Scope

### 1. Purpose of this paper

The purpose of this CAPIEL paper is to help manufacturers to determine whether or not the products they place on the market fall within the scope of the recast WEEE Directive (2012/19/EU), sometimes known as WEEE 2.

This paper should be read in conjunction with the text of the WEEE Directive and relevant guidance issued by the European Commission<sup>1</sup> and industry associations.

### 2. CAPIEL Products

CAPIEL is the European Coordinating Committee for the National Associations of Manufacturers of Low Voltage Switchgear and Controlgear equipment for industrial and tertiary markets.

Members of national associations represented by CAPIEL include small, medium and large-sized companies that in total directly employ more than 100 000 people in Europe.

CAPIEL promotes and represents the common professional interests of its members in all areas of its competence. Essential association affairs are in the fields of standardization, legislation and common promotion

The main products covered are the following:

- *Contactors*
- *Circuit-breakers*
- *Control devices ( switches, ...)*
- *Push buttons*
- *Fuses*
- *Motor starter*
- *Panels*
- *Cam switches*
- *Switch disconnectors*
- *Time relays*

Many CAPIEL products are sold to Original Equipment Manufacturers (OEMs), panel builders or System Integrators (SIs), and they are intended to be assembled or incorporated into a finished EEE (e.g. machines, control panels) or installations.

Some products may be sold for direct use by end users (e.g. SIs or end customers) or as spare parts.

---

<sup>1</sup> "Frequently Asked Questions on Directive 2012/19/EU on Waste Electrical and Electronic Equipment (WEEE)" available at: <http://ec.europa.eu/environment/waste/weee/pdf/FAQ%20on%20the%20new%20WEEE%20Directive.pdf>

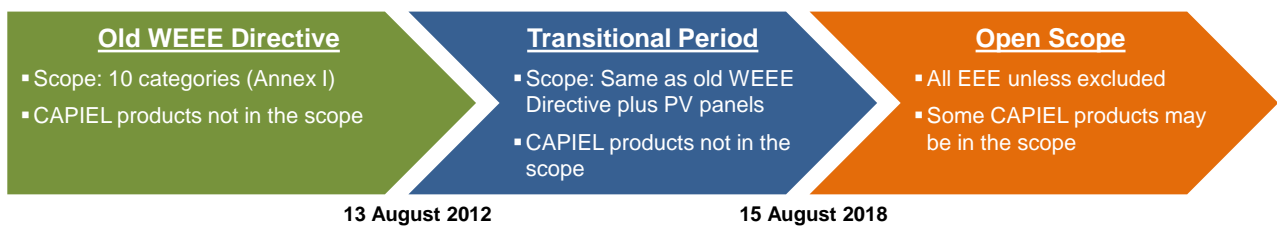
### 3. WEEE scope principles

The new WEEE Directive (2012/19/EU) entered into force on 13 August 2012. Member States were required to transpose it into national law by 14 February 2014, at the same date the old WEEE Directive (2002/96/EC) was repealed.

It applies to specific categories of Electrical and Electronic Equipment (EEE). EEE means “equipment which is dependent on electric currents or electromagnetic fields in order to work properly and equipment for the generation, transfer and measurement of such currents and fields and designed for use with a voltage rating not exceeding 1 000 volts for alternating current and 1 500 volts for direct current”.

Regarding the scope, the new WEEE Directive will be applied in 2 stages:

- From 13 August 2012 to 14 August 2018 (transitional period) the new WEEE Directive applies to the same 10 product categories (see Annex I of Directive 2012/19/EU) as the old WEEE Directive, but with the addition of PV panels. As these 10 product categories do not include switchgear and controlgear equipment, CAPIEL products were not in the scope of the old WEEE Directive and are therefore also not in the scope of the new WEEE Directive during this transitional period.
- After the transitional period (from 15 August 2018 onwards), the WEEE Directive will be extended to all EEE unless explicitly excluded (“open scope”). As a consequence, some CAPIEL products may be affected by the new Directive.



Some types of equipment are excluded from the scope, in particular:

“Equipment which is specifically designed and installed as part of another type of equipment that is excluded from or does not fall within the scope of this Directive, which can fulfil its function only if it is part of that equipment” (ref. Article 2(3)(b) of Directive 2012/19/EU).

Furthermore, both “large-scale fixed installations” and “large-scale stationary industrial tools” are EEE that are excluded from the scope and are therefore examples of “another type of equipment that is excluded” that are referenced above. See also the detailed definition in the Annex “Definition of LSFI and LSSIT”.

A number of factors therefore determine whether or not a particular CAPIEL product is in or out of the scope. These factors include the nature of the product itself and where it is intended to be used. Section 4 of this paper considers these factors and, when read in conjunction with the WEEE Directive itself, helps determine whether the WEEE Directive applies to CAPIEL products that are being “placed on the market” during the “open scope” phase.

## 4. Applicability to CAPIEL products during the “open scope” phase

### 4.1. Components

Q3.6 of the WEEE FAQ states:

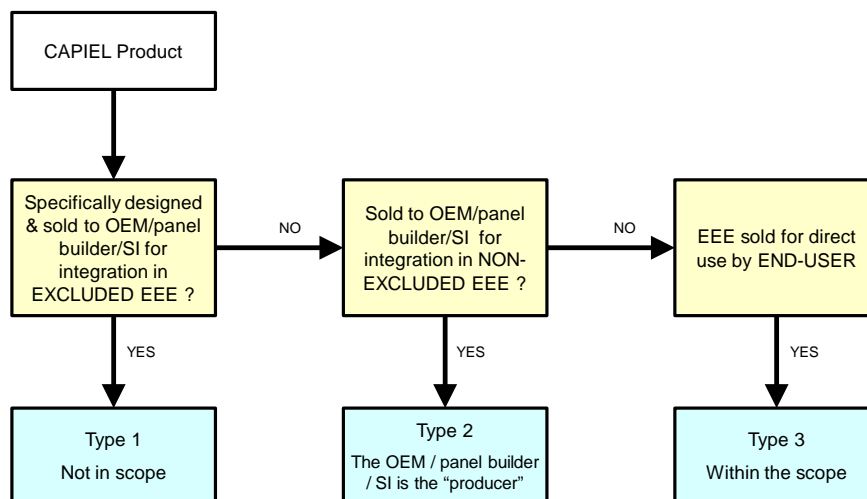
“Components cover the range of items that, when assembled, enable an EEE to work properly. Components placed on the market separately in order to be used to manufacture and/or repair an EEE fall outside the scope of the Directive unless they have an independent function themselves.”

Certain types of CAPIEL product are components that have no independent function and are therefore outside the scope of the Directive. However, any EEE that is covered by Annex I or III of the WEEE Directive is not a component – see 4.2 below.

### 4.2. EEE

For CAPIEL products that are not components, there are 3 scenarios that can be used in conjunction with the following figure to determine the requirements that apply to an individual product and its producer:

- i. Check if scenario 1 applies – if YES, then the product is Type 1.
- ii. Otherwise, check if scenario 2 applies – if YES, then the product is Type 2.
- iii. Otherwise, the product is Type 3.



#### Scenario 1: Products sold to OEM’s/panel builders/SI’s for application in EEE that is itself outside the scope of WEEE

According to the definition of LSFI and LSSIT (see Annex), most CAPIEL products are not LSFI or LSSIT themselves<sup>2</sup>.

However, they are commonly integrated in LSFI or LSSIT and can therefore benefit from the exclusion given in Article 2(3)(b) when they are specifically produced to be used for LSFI and/or LSSIT and can only be used for that equipment, provided the following conditions are also met:

- they are installed as an integral part of the LSFI and/or LSSIT;
- they are tailor made (i.e. designed to meet the needs of a specific application in the LSFI and/or LSSIT that they are part of);
- they can fulfil their function only if they are part of the LSFI or LSSIT.

<sup>2</sup> Some large switchboards / motor control centres may meet the definition for large-scale fixed installations.

Some CAPIEL products can be considered “specifically designed” because they are only intended for use in excluded applications due to their characteristics and installation requirements.

Note: CAPIEL believes that “specifically designed” should be interpreted to mean any EEE that is only intended for use in excluded applications. In other words, the EEE does not have to be unique to one individual application.

EEE meeting all of the aforementioned criteria are out of the scope of the WEEE Directive, and there are no obligations for the producer.

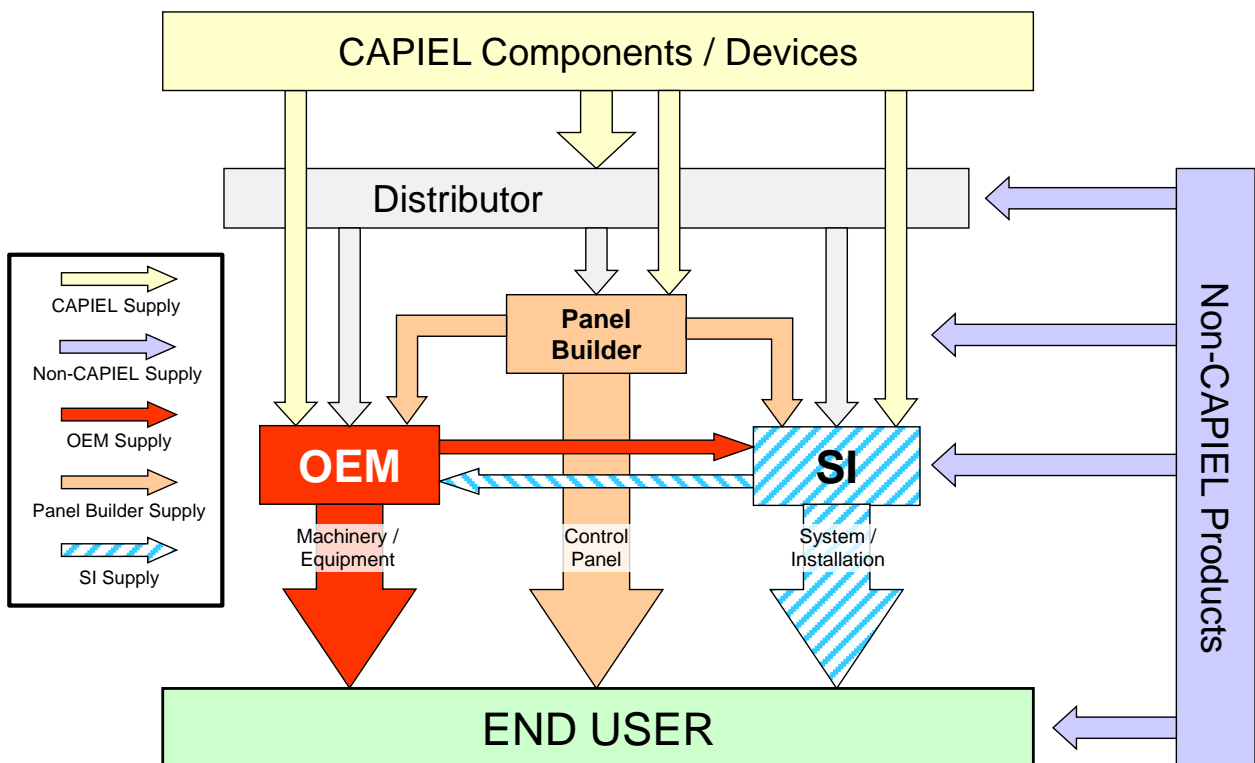
In the case of an EEE not meeting all of the aforementioned criteria, this exclusion does not apply. If a particular EEE can be used in both excluded and in scope equipment, it would be in scope unless it can be demonstrated (e.g. with sales documents, installation instructions, marketing literature, etc.) that it is only intended to be installed in excluded equipment.

**Scenario 2: Products sold to OEM’s/panel builders/SI’s for incorporation in an application in EEE that is itself within the scope of WEEE**

Most CAPIEL products (unlike household equipment such as a television, dishwasher, etc.) need to be professionally installed, integrated with other equipment from different manufacturers, and then configured in order to perform a specific function.

As shown in the figure below, these CAPIEL products that are integrated in other equipment are components/devices that are supplied to:

- Original Equipment Manufacturers (OEM's) for incorporation into machinery / equipment;
- Panel builders for incorporation into control panels;
- System Integrators (SI's) for incorporation into control systems / installations;



The obligations arising from the WEEE Directive then fall upon the “producer” which is defined in Article 3(f) as meaning:

“any natural or legal person who, irrespective of the selling technique used, including distance communication within the meaning of Directive 97/7/EC of the European Parliament and of the Council of 20 May 1997 on the protection of consumers in respect of distance contracts:

- i) is established in a Member State and manufactures EEE under his own name or trademark, or has EEE designed or manufactured and markets it under his name or trademark within the territory of that Member State;
- ii) is established in a Member State and resells within the territory of that Member State, under his own name or trademark, equipment produced by other suppliers, a reseller not being regarded as the ‘producer’ if the brand of the producer appears on the equipment, as provided for in point (i);
- iii) is established in a Member State and places on the market of that Member State, on a professional basis, EEE from a third country or from another Member State; or
- iv) sells EEE by means of distance communication directly to private households or to users other than private households in a Member State, and is established in another Member State or in a third country.”

The OEM, panel builder, or System Integrator who supplies the final machinery / equipment / control panel / control system / installation to the end user is therefore the “producer”.

This approach is also consistent with the need to ensure that accurate data is available – not only for the B2B WEEE that is collected, but also for the B2B EEE that is placed on the market. This latter requirement means that any double (or even triple) counting of B2B EEE needs to be eliminated. To achieve this objective, each B2B EEE must only have one “producer” who is liable for the obligations that arise. If the CAPIEL product manufacturer was also considered to be a producer, this would then result in double counting, and the Member State would then be disadvantaged because they would have to collect additional WEEE in order to satisfy the mandatory minimum collection rate.

### **Scenario 3: Products sold for direct use by the end user**

This is the case for some products (such as motor starters) intended for direct use by end users (e.g. SI’s or end customers). As a consequence, these CAPIEL products are sold for direct use by end users as finished EEE and fall within the scope of the WEEE Directive.

## **5. Conclusions**

Certain types of CAPIEL product can be considered as being components, and are outside the scope of the Directive. However, any EEE that is covered by Annex I or III of the WEEE Directive is not a component and should be assessed using the criteria described in 4.2 above. If the CAPIEL product is:

- Type 1, then it is outside the scope of the WEEE Directive.
- Type 2, then the OEM, panel builder, or System Integrator who supplies the final machinery / equipment / control panel / control system / installation to the end user is the “producer”. There are no obligations for the manufacturer of the CAPIEL product.
- Type 3, then the CAPIEL product is within the scope of the WEEE Directive and the CAPIEL product manufacturer must comply with the obligations set out in the national legislation that implements the WEEE Directive.

In each case, the CAPIEL manufacturer shall make the final decision regarding the IN or OUT status based on their business scenario and fulfil any associated requirements.

## **Annex: Definition of LSF and LSSIT**

### **Large-scale fixed installation (LSFI)**

Article 3(1)(c) of the WEEE Directive defines LSF as meaning “a large-size combination of several types of apparatus and, where applicable, other devices, which:

- (i) are assembled, installed and de-installed by professionals;
- (ii) are intended to be used permanently as part of a building or a structure at a pre-defined and dedicated location; and
- (iii) can only be replaced by the same specifically designed equipment”

### **Large-scale stationary industrial tool (LSSIT)**

Article 3(1)(b) of the WEEE Directive defines LSSIT as meaning “a large size assembly of machines, equipment, and/or components, functioning together for a specific application, permanently installed and de-installed by professionals at a given place, and used and maintained by professionals in an industrial manufacturing facility or research and development facility”.