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MP186 ‘Section D Review (2020): further enhancements’

Annex B

Legal text – version 1.0

About this document

This document contains the clean changes to SEC Section D ‘Modification Process’ that would be required to deliver this Modification Proposal.

These changes have been drafted against Section D version 8.0.

D MODIFICATION PROCESS

D1. RAISING DRAFT PROPOSALS

Modifications

- D1.1 This Code may only be varied in accordance with the provisions of this Section D.
- D1.2 Each variation of this Code must commence with a proposal made in accordance with the provisions of this Section D1 (Raising Draft Proposals) or a direction under Section D11 (Significant Code Reviews and Authority-Led Variations).
- D1.3 A Draft Proposal may be raised to identify and assess an issue with this Code and determine whether a variation to this Code is required to resolve it, subject to the provisions of Section D4 (Development Stage).
- D1.4 A Draft Proposal may be converted to and subsequently progressed as a Modification Proposal to develop and assess a variation to this Code to resolve the identified issue once the Panel has agreed it should be progressed further in accordance with Sections D4.5 and D4.6 (Consideration by the Change Sub-Committee).

Persons Entitled to Submit Draft Proposals

- D1.5 A Draft Proposal may be submitted by any of the following persons (the **Proposer**):
- (a) a Party;
 - (b) Citizens Advice or Citizens Advice Scotland;
 - (c) any person or body that may from time to time be designated in writing by the Authority for the purpose of this Section D1.5;
 - (d) the Authority or the DCC acting at the direction of the Authority, but in each case only in respect of variations to this Code which are in respect of a Significant Code Review;
 - (e) the Panel (where all Panel Members at the relevant meeting vote unanimously in favour of doing so), but only in respect of variations to this Code which are intended to give effect to:
 - (i) recommendations contained in a report published by the Panel pursuant to Section C2.3(i) (Panel Duties);
 - (ii) recommendations contained in a report published by the Code Administrator pursuant to Section C7.2(c) (Code Administrator); and/or
 - (iii) Fast-Track Modifications (as described in Section D2.8 (Fast-Track Modifications));
 - (f) the Security Sub-Committee in accordance with Section G7.23 (Modifications);
 - (g) the SMKI PMA in accordance with Section L1.19 (Modification of the SMKI SEC Documents and the S1SPKM SEC Documents by the SMKI PMA); and/or
 - (h) the REC Code Manager and/or the Code Administrator where a Consequential Change to this Code has been identified.

Form of the Draft Proposal

- D1.6 The Proposer must submit a Draft Proposal to the Code Administrator.

D1.7 The Code Administrator shall publish a prescribed form for submitting a Draft Proposal on the Website, which shall require, as a minimum:

- (a) the name of the Proposer;
- (b) the name and contact details of the individual who will act as a principal point of contact in relation to the proposal;
- (c) a description in sufficient detail of the issue the Draft Proposal is intended to address and the impacts that will arise if this issue is not addressed;
- (d) a description of how the issue relates to this Code;
- (e) where able to, a description in sufficient detail of the proposed variation to this Code should the Draft Proposal become a Modification Proposal;
- (f) a statement of the reasons why the Proposer believes that this Code would, if the proposed variation were made, better facilitate the achievement of the SEC Objectives than if that variation were not made;
- (g) a statement of whether the Proposer considers, in the light of any guidance on the topic issued by the Authority from time to time, that the Modification Proposal should be treated as an Urgent Proposal (and, if so, its reasons for so considering); and
- (h) a statement of whether or not the Modification Proposal is intended to be a Fast-Track Modification.

Publication of the Draft Proposal

D1.8 Within 5 Working Days after receiving each Draft Proposal from a Proposer, the Code Administrator shall confirm if there is any additional information it reasonably needs (and shall provide a description of such required additional information) to publish the Draft Proposal on the Website or shall otherwise confirm that the Draft Proposal has been accepted and subsequently publish it on the Website. The Proposer, whenever possible, shall provide any information so requested (where it has such information), or shall otherwise co-ordinate efforts to obtain such information.

D1.9 Where additional information is requested, the Code Administrator shall, within 2 Working Days after receiving such additional information, confirm if there is still more additional information it reasonably needs (and provide a description of such required additional information) to publish the Draft Proposal on the Website or shall otherwise confirm that the submission of a Draft Proposal has been accepted and subsequently publish it on the Website.

Invalid Draft Proposals

D1.10 The Code Administrator shall refuse (and may only refuse) to accept the submission of a Draft Proposal that is not submitted:

- (a) by a person entitled to submit Draft Proposals in accordance with Section D1.5 (Persons Entitled to Submit Draft Proposals); and/or
- (b) in the form, and containing the content, required by Section D1.7 (Form of the Draft Proposal).

D1.11 Where the Code Administrator refuses to accept the submission of a Draft Proposal, it shall notify the Panel and the Proposer of that refusal as soon as is reasonably practicable, setting out the grounds for such refusal.

D1.12 Where the Panel is notified that the Code Administrator has refused to accept the submission of a Draft Proposal, the Panel may instruct the Code Administrator to accept the submission of that proposal (and Section D4.1 (Initial Comment by the Code Administrator) shall apply as if the Code Administrator had not refused to accept the Draft Proposal).

D2. MODIFICATION PATHS

General

- D2.1 Each Modification Proposal raised under Section D1 (Raising Draft Proposals) will follow one of four modification paths (as described in this Section D2). The modification path to be followed in respect of a Modification Proposal will depend upon the nature of the variation proposed in the Modification Proposal. Authority-Led Variations follow a different process, as described in Section D11 (Significant Code Reviews and Authority-Led Variations).
- D2.2 The Panel's determination (whether under Section D6.7(b) or subsequently) of whether a Modification Proposal is a Self-Governance Modification shall be conclusive unless and until any contrary determination is made by the Authority in accordance with Section D2.9 (Authority Determination of Modification Path).
- D2.3 Where the Panel raises a Fast-Track Modification, such Modification Proposal shall be treated as a Fast-Track Modification unless and until any contrary determination is made by the Authority in accordance with Section D2.10 (Authority Determination of Modification Path).

Authority-Initiated Modifications

- D2.4 A Draft Proposal submitted pursuant to Section D1.5(d), by either the Authority or the DCC at the direction of the Authority, shall have the status of an Authority-Initiated Modification.
- D2.5 The DCC shall submit a Draft Proposal in respect of any variations arising out of a Significant Code Review that the DCC is directed to submit by the Authority.

Authority-Determined Modifications

- D2.6 Unless it is an Authority-Initiated Modification, a Modification Proposal that proposes variations to this Code that satisfy one or more of the following criteria shall have the status of an Authority-Determined Modification:
- (a) the variations are likely to have a material effect on existing or future Energy Consumers;
 - (b) the variations are likely to have a material effect on competition in the Supply of Energy or Commercial Activities connected with the Supply of Energy;
 - (c) the variations are likely to have a material effect on the environment, on access to or privacy of Data, on security of the Supply of Energy, and/or on the security of Systems and/or Smart Metering Systems;
 - (d) the variations are likely to have a material effect on the arrangements set out in Section C (Governance) or this Section D; and/or
 - (e) the variations are likely to unduly discriminate in their effects between one Party (or class of Parties) and another Party (or class of Parties).

Self-Governance Modifications

- D2.7 A Modification Proposal that is not an Authority-Initiated Modification, an Authority-Determined Modification or a Fast Track Modification shall have the status of a Self-Governance Modification.

Fast-Track Modifications

- D2.8 A Modification Proposal submitted to correct typographical errors or other minor factual inaccuracies or inconsistencies in this Code that do not constitute material changes may be given the status of a Fast-Track Modification.

Authority Determination of Modification Path

D2.9 This Section D2.9 applies in respect of each Modification Proposal that the Panel has determined to be an Authority-Determined Modification or a Self-Governance Modification. The Authority may:

- (a) at its own initiation, or on the application of a Party or Citizens Advice or Citizens Advice Scotland; and
- (b) having consulted with the Panel,

determine that the Modification Proposal should properly (in accordance with this Section D2) be considered (in the case of an Authority-Determined Modification) to be a Self-Governance Modification or be considered (in the case of a Self-Governance Modification) to be an Authority-Determined Modification. Any such determination shall be final and binding for the purposes of this Code.

D2.10 This Section D2.10 applies in respect of each Modification Proposal raised by the Panel as a Fast-Track Modification. The Authority may:

- (a) at its own initiation, or on the application of a Party or Citizens Advice or Citizens Advice Scotland; and
- (b) having consulted with the Panel,

determine that the Fast-Track Modification should properly (in accordance with this Section D2) be considered to be a Self-Governance Modification or an Authority-Determined Modification. Any such determination shall be final and binding for the purposes of this Code.

D3. THE CHANGE SUB-COMMITTEE

Establishment of the Change Sub-Committee

D3.1 The Panel shall establish a Sub-Committee as described in this Section D3, to be known as the Change Sub-Committee.

D3.2 Save as expressly set out in this Section D3, the Change Sub-Committee shall be subject to the provisions concerning Sub-Committees set out in Section C6 (Sub-Committees).

Duties of the Change Sub-Committee

D3.3 The Change Sub-Committee shall undertake the duties required of it by this Section D.

D4. DEVELOPMENT STAGE

Initial Comment by the Code Administrator

D4.1 Unless the Code Administrator has refused to accept the submission of the Draft Proposal under Section D1.10 (Invalid Draft Proposals), the Code Administrator shall, within the time period reasonably necessary to allow the Change Sub-Committee to comply with the time periods set out in Section D4.3 or the Panel to comply with the time periods set out in Section D4.9, submit to the Change Sub-Committee or the Panel:

- (a) each Draft Proposal; and
- (b) the Code Administrator's written views on the matters that the Change Sub-Committee is to consider under Section D4.5 or the Panel is to consider under Section D4.9.

Consideration by the Change Sub-Committee

- D4.2 Each Party shall be free to make written representations from time to time regarding each Draft Proposal. Such representations should be made to the Code Administrator in the first instance and the Code Administrator shall bring such representations to the attention of the Change Sub-Committee.
- D4.3 Subject to Section D4.9, the Change Sub-Committee shall consider each new Draft Proposal and the accompanying documents referred to in Section D4.1 at the next Change Sub-Committee meeting occurring more than 6 Working Days after the Code Administrator has accepted and published the Draft Proposal in accordance with Section D1.8 or D1.9 (Publication of the Draft Proposals).
- D4.4 The Change Sub-Committee may not refuse an Authority-Initiated Modification. Otherwise, the Change Sub-Committee may choose to refuse a Draft Proposal if that Draft Proposal has substantively the same effect as another Draft Proposal or Modification Proposal which was submitted by a Proposer on an earlier date and which:
- (a) has not been refused, approved, rejected or withdrawn pursuant to this Section D at the time of the Change Sub-Committee's decision under this Section D4.4; or
 - (b) was refused or rejected pursuant to this Section D on a date falling within the period of two months immediately preceding the time of the Change Sub-Committee's decision under this Section D4.4.
- D4.5 In considering each Draft Proposal, the Change Sub-Committee shall:
- (a) provide views and comments to the Proposer on the scope of their Draft Proposal and any potential solution(s) and draft legal text put forward, and support the development of the Draft Proposal;
 - (b) at its discretion, seek the views and input of the DCC and/or other Parties on the Draft Proposal; and
 - (c) determine whether the Draft Proposal:
 - (i) should remain as a Draft Proposal for further work and analysis to clarify the areas set out in Section D4.6; or
 - (ii) whether the Draft Proposal should be converted to and further progressed as a Modification Proposal.
- D4.6 In determining whether a Draft Proposal should be progressed as a Modification Proposal, the Change Sub-Committee shall ensure that the Draft Proposal:
- (a) defines the issue or business problem that the Draft Proposal seeks to address;
 - (b) describes the nature and scale of the impact that will arise if the issue is not resolved;
 - (c) describes how a variation to this Code is required to address this issue and the relevant parts of this Code that are likely to be impacted; and
 - (d) provides an indicative view of the proposed variation to this Code to address this issue and the likely scale of the impact and/or cost arising from this variation.

Consideration by the Panel

- D4.7 Where the Change Sub-Committee determines that a Draft Proposal should be progressed as a Modification Proposal or at its own initiation, the Panel shall determine whether the Draft Proposal should be converted to and further progressed as a Modification Proposal or whether the Draft Proposal should be returned to the Change Sub-Committee for further work and analysis to clarify the areas set out in Section D4.6. Where the Panel determines that the Draft Proposal should be converted to and further progressed as a Modification Proposal, it shall subsequently determine:

- (a) in the case of Fast-Track Modifications, whether the Modification Proposal should be approved as a Fast-Track Modification (and such approval shall require the unanimous approval of all the Panel Members present at the relevant meeting, otherwise the Modification Proposal shall be progressed as though it is not a Fast-Track Modification);
 - (b) whether, in accordance with Section D4.12 (Determining whether the Refinement Stage should be followed), it is necessary for the Modification Proposal to go through the Refinement Stage, or whether it can progress straight to the Report Stage;
 - (c) the timetable to apply in respect of the Modification Proposal, in accordance with the criteria set out in Section D4.13 (Timetable); and
 - (d) whether the Modification Proposal should be considered together with any other current Modification Proposal(s) (whether because they complement or contradict one another or for any other reason), in which case the Modification Proposals in question shall be considered by the same Working Group.
- D4.8 The Secretariat shall, as soon as reasonably practicable following the Change Sub-Committee's determination under Section D4.5 or the Panel's determination under Section D4.7 in respect of each Draft Proposal or Modification Proposal, confirm that determination to the Proposer and update the Modification Register.

Urgent Proposals

- D4.9 Where a Proposer has expressed a Draft Proposal to be urgent and/or where the Change Sub-Committee considers a Draft Proposal or Modification Proposal to be urgent, the Panel shall, within 5 Working Days, recommend to the Authority:
- (a) whether the Modification Proposal should be treated as an Urgent Proposal; and
 - (b) the timetable that should be set by the Authority if the Modification Proposal is to be treated as an Urgent Proposal.
- D4.10 A Modification Proposal shall only be an Urgent Proposal where the Authority directs the Panel to treat the Modification Proposal as an Urgent Proposal (whether following a referral by the Panel pursuant to Section D4.9, or at the Authority's own initiation).
- D4.11 An Urgent Proposal shall be progressed:
- (a) in accordance with any timetable specified by the Authority from time to time, and the Panel shall not be entitled to vary such timetable without the Authority's approval; and
 - (b) subject to any deviations from the procedure set out in this Section D as the Authority may direct (having consulted with the Panel).

Determining whether the Refinement Stage should be followed

- D4.12 The Panel shall determine whether each Modification Proposal must undergo the Refinement Stage, or whether it can progress straight to the Report Stage. The Panel shall ensure that the following Modification Proposals are subject to the Refinement Stage:
- (a) those submitted by the Panel (other than Fast-Track Modifications);
 - (b) those that the Panel considers are likely to have an impact on the ability of the DCC to discharge its duties and comply with its obligations under the Relevant Instruments;

- (c) those that the Panel considers are likely to require changes to DCC Systems, User Systems and/or Smart Metering Systems, and/or testing as part of implementation; or
- (d) any other Modification Proposals, unless the Panel considers them to be clearly expressed and concerned solely with:
 - (i) insubstantial or trivial changes that are unlikely to be controversial (including typographical errors and incorrect cross-references); and/or
 - (ii) giving effect to variations that are mandated by the Relevant Instruments in circumstances where there is little or no discretion as to how they are to be given effect.

Timetable

D4.13 The Panel shall determine the timetable to be followed in respect of each Draft Proposal and Modification Proposal. In particular, the Panel shall:

- (a) in the case of Authority-Initiated Modifications, determine a timetable consistent with any relevant timetable issued by the Authority;
- (b) in the case of Urgent Proposals, determine a timetable that is (or amend the existing timetable so that it becomes) consistent with any relevant timetable issued by the Authority; and
- (c) (subject to Sections D4.13(a) and (b)) specify the date by which the Modification Report is to be finalised, being as soon as reasonably practicable after the Panel's decision in respect of such timetable (having regard to the complexity, importance and urgency of the Modification Proposal).

D4.14 The Panel may, whether at its own initiation or on the application of another person, determine amendments to the timetable applying from time to time to each Draft Proposal and Modification Proposal; provided that any such amendment is consistent with Section D4.13. The Secretariat shall, as soon as reasonably practicable following any Panel determination under this Section D4.14, confirm that determination to the Proposer and update the Modification Register.

D4.15 The Panel, the Code Administrator, the Secretariat, any relevant Working Group, the Change Board and Parties shall each (insofar as within its reasonable control) complete any and all of the respective tasks assigned to them in respect of a Draft Proposal or Modification Proposal in accordance with the timetable applying to that Draft Proposal or Modification Proposal from time to time (including as provided for in Section D11.4).

D4.16 In determining or amending a timetable under Sections D4.13 and D4.14, the Panel may specify a time period for delivery of a DCC Impact Assessment that differs from the standard time period set out in Section D5.8 (Analysis by the DCC). Without limitation, the Panel may specify a different time period in respect of Urgent DCC Impact Assessments.

D5. REFINEMENT STAGE

Application of this Section

- D5.1 This Section D5 sets out the Refinement Stage. This Section D5 only applies in respect of a Modification Proposal where it is determined that the Modification Proposal is to be subject to the Refinement Stage in accordance with Section D4.12 (Determining whether the Refinement Stage should be followed). The Refinement Stage never applies to Fast-Track Modifications.
- D5.2 Each Party shall be free to make written representations from time to time regarding each Modification Proposal which is following the Refinement Stage. Such representations should be made to the Code

Administrator in the first instance and the Code Administrator shall bring such representations to the attention of the relevant Working Group.

Purpose of the Refinement Stage

D5.3 The purpose of the Refinement Stage is to:

- (a) consider and (to the extent necessary) clarify the likely effects of the Modification Proposal, including to identify the Parties, Party Categories, Energy Consumers and other persons likely to be affected by the Modification Proposal;
- (b) evaluate and (to the extent necessary) develop and refine the proposed variation to this Code set out under the Modification Proposal;
- (c) evaluate and (to the extent necessary) recommend a proposed implementation timetable of the Modification Proposal including (where relevant) so as to ensure consistency with the SEC Release Management Policy (provided that the proposed implementation timetable of an Authority-Initiated Modification cannot be so amended);
- (d) consider (to the extent the Working Group considers necessary) the impact which the Modification Proposal would have, if approved, on the matters referred to in Section D5.8; and
- (e) consider whether the DCC should, as part of the proposal's implementation (if the Modification Proposal is approved), be required to undertake testing of the DCC Total System and/or provide testing services.

Establishment of a Working Group

D5.4 Where this Section D5 applies to a Modification Proposal, the Panel shall establish a group of persons (known as a Working Group) for the purposes set out in Section D5.3 and D5.6. Such Working Groups shall be formed and operate in accordance with terms of reference as agreed by the Panel and published on the Website (known as the Working Group Terms of Reference). The Panel shall consult with Parties before it makes any changes to the Working Group Terms of Reference.

D5.5 Except to the extent inconsistent with this Section D5, the provisions of Section C6 (Sub-Committees) shall apply in respect of each Working Group as if that Working Group was a Sub-Committee.

The role of the Working Group

D5.6 During the Refinement Stage, the Working Group shall:

- (a) provide a sounding board to the Proposer;
- (b) assist in developing, refining and reviewing proposed solutions to the issue;
- (c) review the business requirements and proposed solution options, and put forward alternative options for consideration;
- (d) review DCC Impact Assessment responses including the Modification Proposal implementation costs and the costs to complete a DCC Full Impact Assessment;
- (e) assess the lead time to deliver the proposed variation and recommend the potential implementation approach and targeted SEC Release;
- (f) provide input to any cost-benefit analysis and the business case for the Modification Proposal;
- (g) review consultation responses and ensure the points raised have been answered;

- (h) consider whether, if the Modification Proposal is approved, this Code would better facilitate the achievement of the SEC Objectives than if the Modification Proposal was rejected;
- (i) consider whether it is likely that there would be a material impact on Energy Consumers as a result of the Modification Proposal being approved, and (if so) assessing such impact; and
- (j) consider whether it is likely that there would be a material impact on Greenhouse Gas Emissions as a result of the Modification Proposal being approved, and (if so) assessing such impact (which assessment shall be conducted in accordance with any guidance on the evaluation of Greenhouse Gas Emissions issued by the Authority from time to time); and
- (k) consider whether, if the Modification Proposal is approved, changes are likely to be required to other Energy Codes as a result.

Input from Sub-Committees

D5.7 During the Refinement Stage, the Code Administrator shall (to the extent the Working Group considers necessary):

- (a) seek the Technical Architecture and Business Architecture Sub-Committee's views of the impact which the Modification Proposal would have, if approved, on the DCC Systems and Smart Metering Systems; provided that such views shall always be sought:
 - (i) in respect of proposals to modify the Technical Code Specifications; and/or
 - (ii) where the Technical Architecture and Business Architecture Sub-Committee has notified the Working Group that the Technical Architecture and Business Architecture Sub-Committee wishes to express a view;
- (b) seek the Security Sub-Committee's views on the Modification Proposal; provided that such views shall always be sought:
 - (i) in respect of proposals to modify the Security Obligations and Assurance Arrangements; and/or
 - (ii) where the Security Sub-Committee has notified the Working Group that the Security Sub-Committee wishes to express a view;
- (c) seek the SMKI PMA's views on the Modification Proposal; provided that such views shall always be sought:
 - (i) in respect of proposals to modify the SMKI SEC Documents and the DCCKI SEC Documents; and/or
 - (ii) where the SMKI PMA has notified the Working Group that the SMKI PMA wishes to express a view; and/or
- (d) seek the Alt HAN Forum's views on the Modification Proposal; provided that such views shall always be sought:
 - (i) in respect of proposals to modify Section Z (The Alt HAN Arrangements);
 - (ii) in respect of proposals to modify any SEC Subsidiary Document which relates to Section Z (The Alt HAN Arrangements);
 - (iii) in respect of proposals to modify Section K (Charging Methodology) which are likely to affect the Alt HAN Charges; and/or

- (iv) where the Alt HAN Forum (or a Forum Sub-Group acting on its behalf) has notified the Code Administrator that the Alt HAN Forum wishes to express a view.

Analysis by the DCC

- D5.8 Each Working Group for a Modification Proposal shall consider whether one or more DCC Impact Assessments should be undertaken in respect of the Modification Proposal. At the request from time to time of the Code Administrator on behalf of a Working Group for a Modification Proposal, the DCC shall prepare a DCC Preliminary Impact Assessment and/or a DCC Full Impact Assessment for one or more (in whole or in part) of the following areas for analysis, for the Proposed Solution and each Alternative Solution, as determined by the Working Group:
- (a) whether the DCC should, as part of the proposal's implementation (if that Modification Proposal were to be approved), be required to undertake testing of the DCC Total System and/or provide testing services; and (if so) the DCC's proposals for the scope, phases, timetable and participants for such testing (or, to the extent it is not yet reasonably practicable to determine such matters, its proposals for the process pursuant to which such matters should be developed);
 - (b) how the ability of the DCC to discharge its duties and comply with its obligations under the Relevant Instruments would be affected if that Modification Proposal were to be approved;
 - (c) the extent to which changes would be required to DCC Systems if the Modification Proposal were to be approved;
 - (d) the DCC's best estimate of the likely lead time it would require to implement the Modification Proposal if it were approved; and
 - (e) the DCC's best estimate of the likely implementation and operating costs associated with the changes that would be required to DCC Systems if the Modification Proposal were to be approved, and any consequential impact on the Charges.
- D5.9 Within 5 Working Days (unless otherwise agreed with the Panel) after receiving notice from the Code Administrator of the requirement for a DCC Impact Assessment, the DCC shall confirm if there is any additional information it reasonably needs (and shall provide a description of such required additional information) to complete the DCC Impact Assessment, or shall otherwise confirm that the request for a DCC Impact Assessment has been accepted. The Code Administrator, within 5 Working Days (unless otherwise agreed with the Panel), shall provide any information so requested (where it has such information), or shall otherwise co-ordinate efforts to obtain such information from the Working Group.
- D5.10 Where additional information is requested in accordance with Section D5.9 or this D5.10, the DCC shall, within 5 Working Days after receiving such additional information, confirm if there is still more additional information it reasonably needs (and provide a description of such required additional information) to complete the DCC Impact Assessment, or shall otherwise confirm that the request for a DCC Impact Assessment has been accepted.
- D5.11 The DCC shall complete each DCC Impact Assessment and present it to the Code Administrator within 25 Working Days (for DCC Preliminary Impact Assessments) or 40 Working Days (for DCC Full Impact Assessments) measured in each case from acceptance by the DCC under Section D5.9 or D5.10, subject to amendments to the timetable made by the Panel under Section D4.13 (Timetable) or agreed in accordance with Section D5.12.
- D5.12 Where after accepting a DCC Impact Assessment request under D5.9 or D5.10, the DCC considers at any time that it will not be able to complete that DCC Impact Assessment within the time period required by Section D5.11, the DCC may apply to the Code Administrator for a time extension to complete the DCC Impact Assessment. The DCC shall provide the Code Administrator with the reasons in respect of any such request, and shall propose a revised timescale for delivery with an explanation of how it is to be achieved.

D5.13 Following a request from the DCC for a time extension to complete a DCC Impact Assessment:

- (a) the Code Administrator shall, within 1 Working Day of receiving the DCC's request, determine whether to approve or reject the request, and will inform the Panel of its decision; and
- (b) the Panel may, at its next meeting, determine whether to reverse the decision of the Code Administrator.

D5.14 Prior to requesting a DCC Full Impact Assessment, the Code Administrator shall refer the Modification Proposal to the Panel for it to determine whether a DCC Full Impact Assessment should be requested. The Working Group shall not request a DCC Full Impact Assessment unless the Panel has determined that it shall be requested. Where the Panel determines that a DCC Full Impact Assessment should not be requested, the Panel shall specify the further work it believes is required in order for it to reconsider whether a DCC Full Impact Assessment should be requested.

D5.15 In considering whether the approval of a Modification Proposal would better facilitate the achievement of the SEC Objectives than the rejection of the Modification Proposal, the Working Group shall have regard to any and all DCC Impact Assessments provided by the DCC.

Refinement Consultation

D5.16 Each Working Group established pursuant to this Section D5 in respect of a Modification Proposal shall consider any representations made to it by Parties from time to time regarding the subject-matter of the Modification Proposal.

D5.17 Each Working Group established pursuant to this Section D5 in respect of a Modification Proposal shall undertake at least one formal consultation in respect of the Modification Proposal seeking views on the matters set out in Section D5.6. The Working Group shall consult with the Parties, Citizens Advice or Citizens Advice Scotland and (where appropriate) any interested third parties (including, where relevant, Energy Consumers and/or those who represent or advise Energy Consumers).

D5.18 For each consultation issued under Section D5.17, the Code Administrator shall:

- (a) invite consultation responses in accordance with the timetable determined by the Working Group; and
- (b) collate the responses received during the consultation and publish those responses that are not marked as confidential on the Website.

D5.19 Each consultation issued under Section D5.17 shall allow for each Party that wishes to respond to the consultation to respond by way of a form that provides for a response to the questions set out by the Working Group. Each Party's response will only be validly given if made on the forms provided and received on or before the deadline for responses.

Proposed Solutions

D5.20 The Proposer shall have full ownership of the Proposed Solution to a Modification Proposal and may direct changes to this variation at any time during the Refinement Stage as long as any revised solution continues to achieve the purpose of the Modification Proposal.

Alternative Solutions

D5.21 Any of the persons set out in Section D1.5(a), (b) or (c) (Persons Entitled to Submit Draft Proposals) may raise one or more Alternative Solution(s) where they consider that there is more than one variation to this Code that could achieve the purpose of the Modification Proposal (and that each such variation would, if made, better facilitate the achievement of the SEC Objectives than either the Proposed Solution or if no variation was made). Any such person shall have full ownership of the Alternative Solution(s) raised and may

direct changes to such variation(s) at any time during the Refinement Stage as long as any revised solution continues to achieve the purpose of the Modification Proposal.

D5.22 The Proposer or any Party that believes that the proposer of any Alternative Solution is causing undue delay or frustration to the progression of the associated Modification Proposal may refer the matter to the Panel. The Panel shall determine whether the Alternative Solution should be refused, and shall seek and take into account the views of the Working Group or any Sub-Committee when making its determination.

D5.23 References in this Section D to a Modification Proposal shall (except where the context otherwise requires) be deemed to include reference to the Proposed Solution and any Alternative Solution(s) raised in accordance with Section D5.21.

D6. REPORT STAGE

Modification Report

D6.1 The Code Administrator shall, in respect of each Modification Proposal, prepare a written report on the proposal (known as a Modification Report).

D6.2 The Code Administrator shall prepare the Modification Report for each Modification Proposal:

- (a) where the Refinement Stage has been followed, in consultation with the relevant Working Group; and
- (b) in any case, on the basis of the Modification Proposal and in consultation with the Proposer.

D6.3 The Modification Report for each Modification Proposal shall, as a minimum:

- (a) specify the issue the proposed variation is aiming to resolve;
- (b) specify and clearly define the Proposed Solution and any Alternative Solution(s);
- (c) set out the legal text of the proposed variation to this Code (and, where applicable, set out the legal text of the Proposed Solution and each Alternative Solution);
- (d) specify the likely effects of the proposed variation on the DCC, the Code Administrator and SEC Parties if it is implemented, including which Party Categories are likely to be affected by the Modification Proposal;
- (e) specify the estimated implementation costs if the proposed variation is approved, including a breakdown of DCC implementation costs, Code Administrator implementation costs and any Party implementation costs;
- (f) specify the proposed implementation timetable (including the proposed implementation date);
- (g) specify any cost-benefit analysis and business case assessment carried out for the proposed variation;
- (h) specify why (in the opinion of the Proposer) the approval of the Modification Proposal will better facilitate the achievement of the SEC Objectives than if the Modification Proposal was rejected;
- (i) specify whether it is likely that there would be a material impact on Energy Consumers as a result of the Modification Proposal being approved, and (if so) assessing such impact;
- (j) specify whether, if the Modification Proposal is approved, changes are likely to be necessary to other Energy Codes, and whether changes have been proposed in respect of the affected Energy Codes;
- (k) specify whether it is likely that there would be a material impact on Greenhouse Gas Emissions as a result of the Modification Proposal being approved, and (if so) assessing such impact (which assessment shall

be conducted in accordance with any guidance on the evaluation of Greenhouse Gas Emissions issued by the Authority from time to time); and

- (l) where the Modification Proposal was subject to the Refinement Stage:
 - (i) specify whether, if the Modification Proposal is approved, the implementation of the Modification Proposal is likely to require changes to DCC Systems, User Systems and/or Smart Metering Systems; and (if so) the likely development, capital and operating costs associated with such changes and any consequential impact on the Charges;
 - (ii) specify whether, if the Modification Proposal is approved, the DCC is to be required, as part of the Modification Proposal's implementation, to undertake testing of the DCC Total System and/or provide testing services; and (if so) how such testing is dealt with in the Modification Proposal;
 - (iii) include the non-confidential responses received to any consultation issued in accordance with Section D5.17 (Refinement Consultation) in respect of the Modification Proposal and the Code Administrator and/or the Working Group's responses to these;
 - (iv) include a summary of any views provided by the Technical Architecture and Business Architecture Sub-Committee, the Security Sub-Committee, the SMKI PMA or the Alt HAN Forum in respect of the Modification Proposal pursuant to Section D5.7 (Input from Sub-Committees); and
 - (v) include a summary and copies of any and all DCC Impact Assessments provided by the DCC pursuant to Section D5.8 (Analysis by the DCC).

Consideration of the Modification Report

- D6.4 Upon completion of the Modification Report, the Code Administrator will place such report on the agenda for the next meeting of the Panel.
- D6.5 The Panel shall consider each Modification Report and shall determine whether to:
 - (a) return the Modification Report back to the Code Administrator for further clarification or analysis (in which case, the Panel shall determine the timetable and terms of reference of such further analysis, including whether any relevant Working Group will need to be consulted); or
 - (b) allow the Modification Report to proceed to the Report Stage and be issued for Modification Report Consultation.
- D6.6 The Panel shall not make any statement regarding whether it believes the Modification Proposal should be successful.
- D6.7 Where the Panel determines that a Modification Report is to proceed to the Modification Report Consultation, the Panel shall:
 - (a) approve the Modification Report;
 - (b) determine whether the Modification Proposal should proceed as an Authority-Determined Modification or a Self-Governance Modification;
 - (c) determine the implementation approach for the Modification Proposal, if approved, in accordance with the SEC Release Management Policy; and
 - (d) determine the timetable for the Modification Report Consultation, including the period for which the consultation is to remain open.

Modification Report Consultation

- D6.8 Where the Panel determines that a Modification Report is to proceed to the Modification Report Consultation, the Code Administrator shall arrange for a consultation seeking the views of Parties on the Modification Report (known as a Modification Report Consultation). The Code Administrator shall:
- (a) invite consultation responses in accordance with the timetable determined by the Panel and in the form referred to in Section D6.9;
 - (b) collate the responses received during the consultation, and publish those responses that are not marked as confidential on the Website; and
 - (c) place the Modification Report on the agenda for the next meeting of the Change Board following the collation of such consultation responses.
- D6.9 Each Modification Report Consultation shall allow for each Party that wishes to respond to the consultation to respond by way of a form that provides for a response in one of the following manners (where applicable, in respect of the Proposed Solution Proposal and the Alternative Solution(s) separately):
- (a) 'neutral' where the Party considers that it and its Party Category are unlikely to be affected by the Modification Proposal or where the Party wishes to abstain from providing a view;
 - (b) 'approve' where the Party considers that making the variation would better facilitate the achievement of the SEC Objectives than if the variation was rejected; or
 - (c) 'reject' where the Party considers that not making the variation would better facilitate the achievement of the SEC Objectives than if the variation was approved,
- and which prompts the Party to give a reason for its response by reference to the SEC Objectives.
- D6.10 Each Party's response to a Modification Report Consultation will only be validly given if made on the forms provided and received on or before the deadline for responses.

D7. THE CHANGE BOARD AND THE CHANGE BOARD VOTE

Establishment of the Change Board

- D7.1 The Panel shall establish a Sub-Committee as described in this Section D7, to be known as the Change Board. Save as expressly set out in this Section D7, the Change Board shall be subject to the provisions concerning Sub-Committees set out in Section C6 (Sub-Committees).

Function of the Change Board

- D7.2 The function of the Change Board shall be to decide whether to approve each Modification Proposal and each Authority-Led Variation, as further described in this Section D7.
- D7.3 The effect of the Change Board decision shall:
- (a) in the case of Authority-Initiated Modifications, Authority-Determined Modifications and Authority-Led Variations, be to recommend to the Authority that the variation be approved or rejected; or
 - (b) in the case of Self-Governance Modifications, be to approve or reject the variation.

Membership of the Change Board

- D7.4 The following persons shall serve on the Change Board (each being a Change Board Member):

- (a) one person nominated jointly by Citizens Advice and Citizens Advice Scotland;
 - (b) one person appointed by each of the Voting Groups within the Party Category representing the Large Supplier Parties;
 - (c) three persons appointed by the Party Category representing the Small Supplier Parties;
 - (d) three persons appointed by the Party Categories representing the Electricity Network Parties and the Gas Network Parties collectively; and
 - (e) three persons appointed by the Party Category representing the Other SEC Parties.
- D7.5 Each Voting Group, Party Category or Party Categories (as applicable) referred to in each sub-section of Section D7.4 shall nominate its appointee(s) to serve as Change Board Member(s) to the Secretariat. Each Change Board Member shall serve for a term of two years and shall be capable of being reappointed at the end of that term. The relevant Voting Group, Party Category or Party Categories may (on notice to the Secretariat) establish a rota whereby more than one person shares the office of Change Board Member.
- D7.6 It shall be for the Parties within the relevant Party Category or Party Categories (as applicable) referred to in each sub-section of Section D7.4 to determine how they agree between themselves on the identity of each person to be appointed as a Change Board Member on their behalf. In the event that the Parties within such Party Category or Party Categories cannot so agree, the Secretariat shall seek the preference of the Parties within the relevant Party Category or Party Categories (as applicable) and the person preferred by the majority of those Parties that express a preference (on a one-vote-per-Voting Group basis) shall be appointed as a Change Board Member. In the absence of a majority preference, the Secretariat shall determine the Elected Member by drawing lots, to be witnessed by the Change Board chair.
- D7.7 The Panel shall only be entitled to remove a Change Board Member from office where such Change Board Member is repeatedly absent from meetings to an extent that frustrates the proceedings of the Change Board. The Voting Group by which a Change Board Member was appointed pursuant to Section D7.4(b) shall be entitled to remove that Change Board Member by notice in writing to the Secretariat. The Party Category or Party Categories (as applicable) referred to in each other sub-section of Section D7.4 shall be entitled to remove the Change Board Member appointed by them from office by notice in writing to the Secretariat; provided that the majority of the Parties within the relevant Party Category or Party Categories (as applicable) must approve such removal.

Duties of Change Board Members

- D7.8 The Consumer Member serving on the Change Board will, when acting as a Change Board Member, act in a manner consistent with the statutory functions of Citizens Advice or Citizens Advice Scotland. Each other Change Board Member will act in the interests of the Voting Group, Party Category or Party Categories (as applicable) by which the Change Board Member was appointed.
- D7.9 In giving effect to their duties under Section D7.8, each Change Board Member (other than the Consumer Member) shall:
- (a) be guided (but not bound) by the responses to the Modification Report Consultation given by Parties within the Voting Group, Party Category, or Party Categories (as applicable) by which such Change Board Member was appointed;
 - (b) seek to clarify with the relevant Party any responses to the Modification Report Consultation that are not clear to the Change Board Member, or which the Change Board Member considers to be based on a misunderstanding of the facts;
 - (c) seek to act in the best interests of the majority, whilst representing the minority view (and, where a majority is not significant, the Change Board Member should consider whether abstention from the vote best represents the interests of the Change Board Member's constituents); and

D7.10 The confirmation to be given by each Change Board Member to SECCo in accordance with Section C6.9 (Member Confirmation) shall refer to Section D7.8 in place of Section C6.8.

Proceedings of the Change Board

D7.11 The Code Administrator shall chair the Change Board meetings. The chair shall have no vote (casting or otherwise).

D7.12 The quorum for Change Board meetings shall be:

- (a) at least three persons appointed by the Large Supplier Parties;
- (b) at least one person appointed by the Small Supplier Parties;
- (c) at least two persons appointed by the Electricity Network Parties and Gas Network Parties collectively; and
- (d) at least one person appointed by the Other SEC Parties,

provided that fewer (or no) appointees from a Party Category shall be required where that Party Category has not appointed that many (or any) Change Board Members.

D7.13 In addition to those persons referred to in Section C5.13, representatives of the DCC shall be entitled to attend and speak (but not vote) at each meeting of the Change Board.

The Change Board Vote

D7.14 In respect of each Modification Report referred to the Change Board, the Change Board shall vote:

- (a) other than for Authority-Led Variations, whether to determine that the Modification Report should be returned to the Code Administrator for further clarification or analysis; and if not
- (b) whether to approve the correction of any non-material typographical errors or other minor factual inaccuracies or inconsistencies within the legal text that do not change the intention of the Modification Proposal identified following the Modification Report Consultation; and
- (c) whether to approve the Proposed Solution or any Alternative Solution set out in the Modification Report (on the basis that the Change Board may only approve one of them).

D7.15 A vote referred to in Section D7.14 shall take the form of a vote by:

- (a) the Consumer Member serving on the Change Board;
- (b) the Change Board Members appointed by the Voting Groups within the Party Category representing the Large Supplier Parties (whose collective vote shall be determined in accordance Section D7.16);
- (c) the Change Board Members appointed by the Party Category representing the Small Supplier Parties (whose collective vote shall be determined in accordance with Section D7.16);
- (d) the Change Board Members appointed by the Party Categories representing Electricity Network Parties and the Gas Network Parties (collectively) (whose collective vote shall be determined in accordance with Section D7.16); and
- (e) the Change Board Members appointed by the Party Category representing the Other SEC Parties (whose collective vote shall be determined in accordance with Section D7.16),

and a vote pursuant to Section D7.14 shall only be successfully passed if the majority of the votes cast in accordance with this Section D7.15 are cast in favour. For the avoidance of doubt: an abstention shall be treated as if no vote was cast; where there are no Change Board Members present from within the categories referred to in each of Sections D7.15(a) to (e) they shall be deemed to have abstained; and a tie amongst the votes cast shall not be a vote in favour.

D7.16 Each of the collective votes by Change Board Members referred to in Section D7.15(b) to (e) shall be determined by a vote among the relevant Change Board Members, such vote to be undertaken on the basis:

- (a) of one vote per Change Board Member; and
- (b) that the majority of those Change Board Members that are present must vote in favour in order for the collective vote to be considered a vote in favour (and, for the avoidance of doubt, a tie amongst the votes cast shall not be a vote in favour).

D7.17 In casting their vote, each Change Board Member must record the reason for their vote, and where voting on whether or not to approve a variation must explain whether the making of the variation would better facilitate the achievement of the SEC Objectives than if the variation was rejected.

Communicating the Change Board Vote

D7.18 Following the vote of the Change Board in respect of each Modification Report, the Code Administrator shall update the Modification Register to include the outcome of the vote and the reasons given by the Change Board Members pursuant to Section D7.17.

D7.19 Where the outcome of the Change Board vote is to determine that the Modification Report should be returned for further clarification or analysis (as referred to in Section D7.14(a)), the Code Administrator shall update the Modification Report to include such clarification or analysis, and may, or where directed by the Panel shall, consult with the relevant Working Group in doing so, and this shall be returned to the Panel at the next suitable meeting pursuant to Section D6.4 (Consideration of the Modification Report).

D7.20 Where the Change Board votes on whether to approve a variation set out in a Modification Report (as referred to in Section D7.14(c)), the Code Administrator shall communicate the outcome of that vote to the Authority, the Change Sub-Committee and the Panel, and shall send copies of the following to the Authority:

- (a) the Modification Report;
- (b) the Modification Report Consultation and the responses received in respect of the same; and
- (c) the outcome of the Change Board vote, including the reasons given by the Change Board Members pursuant to Section D7.17.

D8. MODIFICATION PROPOSAL DECISION

Authority-Initiated Modifications and Authority-Determined Modifications

D8.1 An Authority-Initiated Modification or an Authority-Determined Modification shall only be approved where the Authority determines that the Modification Proposal shall be approved (which determination shall, without prejudice to section 173 of the Energy Act 2004, be final and binding for the purposes of this Code). In making such determination, the Authority will have regard to:

- (a) its objectives and statutory duties under the Electricity Act and the Gas Act;
- (b) whether or not the approval of the variation would better facilitate the achievement of the SEC Objectives than if the variation was rejected;

- (c) the decision of the Change Board in respect of the Modification Proposal, which shall be considered to constitute a recommendation by the Parties as to whether or not to approve the Modification Proposal; and
- (d) such other matters as the Authority considers appropriate.

D8.2 Where the Authority considers that it is unable to form an opinion in relation to a Modification Proposal submitted to it, then it may issue a direction to the Panel specifying any additional steps that the Authority requires in order to form such an opinion (including drafting or amending the proposed legal text, revising the proposed implementation timetable, and/or revising or providing additional analysis and/or information). Where the Authority issues a direction to the Panel pursuant to this Section D8.2:

- (a) the decision of the Change Board in respect of the Modification Proposal shall be null and void;
- (b) the Code Administrator shall seek to address the matters raised by the Authority and may, or where directed by the Panel shall, consult with the relevant Working Group (or establish a Working Group) to consider the matters raised by the Authority, and prepare a revised Modification Report which will be presented to the Panel in accordance with Section D6.4 (Consideration of the Modification Report);
- (c) the Panel shall revise the timetable applying to the Modification Proposal; and
- (d) the Secretariat shall update the Modification Register to record the status of the Modification Proposal.

Self-Governance Modifications

D8.3 A Self-Governance Modification shall be approved where the Change Board votes to approve the Modification Proposal, subject to the following:

- (a) any Party that disagrees with the decision of the Change Board, may (within 10 Working Days following the publication of that decision) refer the matter to the Panel, and the Panel shall determine whether the Modification Proposal should be rejected or approved;
- (b) any Party that disagrees with the decision of the Panel pursuant to Section D8.3(a), may (within 10 Working Days following the publication of that decision) refer the matter to the Authority, and the Authority shall determine whether the Modification Proposal should be rejected or approved in accordance with Section D8.1 (which determination shall, without prejudice to section 173 of the Energy Act 2004, be final and binding for the purposes of this Code); and
- (c) accordingly, where the consequence of the Panel's or the Authority's determination is that the Modification Proposal is to be rejected (where it has previously been approved) the Modification Proposal shall be cancelled and not implemented (or, if already implemented, shall be reversed).

Fast-Track Modifications

D8.4 In the case of a Fast-Track Modification, any decision of the Panel under Section D4.7 (Consideration by the Panel) to approve the Modification Proposal shall be final, subject to the following:

- (a) any Party that disagrees with the Modification Proposal being approved as a Fast-Track Modification, may (within 15 Working Days following the publication of that decision) object to the decision; and
- (b) where an objection is received, the Panel's decision on the Modification Proposal shall be cancelled and the Modification Proposal shall be returned to the Panel at its next meeting. The Panel shall then revise its determination under Section D4.7, and shall progress the Modification Proposal on the basis that it is not a Fast-Track Modification.

Approval of Cross-Code Changes

D8.5 Where Section D12 (Lead Code and Consequential Changes) applies to a Modification Proposal, then this Section D8 is subject to Section D12.3 (Lead Code) or Section D12.4 (Consequential Change).

D9. AUTHORITY DETERMINATION ON DISPUTES

Referral of Disputes to the Authority

D9.1 Where:

- (a) the Panel does not reverse the Code Administrator's rejection of a Draft Proposal pursuant to Section D1.12 (Invalid Draft Proposals);
- (b) the Change Sub-Committee determines under Section D4.5(c) (Consideration by the Change Sub-Committee) or the Panel determines under Section D4.7 (Consideration by the Panel) that a Draft Proposal should not be progressed as a Modification Proposal;
- (c) the Panel determines that the Modification Proposal is an Authority-Initiated Modification, an Authority-Determined Modification or a Self-Governance Modification where such determination differs from any view expressed by the Proposer; and/or
- (d) the Panel determines a timetable (or an amendment to the timetable) in respect of the Modification Proposal which the Proposer considers inconsistent with the requirements of Section D4.13 (Timetable),

then the Proposer may refer the matter to the Authority for determination in accordance with Section D9.2.

D9.2 The Proposer may only refer a matter to the Authority pursuant to Section D9.2 where such referral is made within 10 Working Days of the Proposer being notified by the Secretariat of the relevant matter. The Proposer shall send to the Panel a copy of any referral made pursuant to this Section D9.2.

D9.3 Where the Authority, after having consulted with the Panel, considers that the Panel's or the Change Sub-Committee's decision that is the subject of a matter referred to the Authority by a Proposer in accordance with Section D9.2 was made otherwise than in accordance with this Section D, then the Authority may determine the matter. Any such determination shall be final and binding for the purposes of this Code.

D10. WITHDRAWAL OF A PROPOSAL

Right to Withdraw

D10.1 Subject to Section D10.2, the Proposer for a Draft Proposal may withdraw the Draft Proposal on notice to the Secretariat at any time before it become a Modification Proposal. Subject to Section D10.2, the Proposer for a Modification Proposal may withdraw the Modification Proposal on notice to the Secretariat at any time prior to the decision of the Change Board under Section D7.14 (The Change Board Vote) in respect of that Modification Proposal.

D10.2 In the case of Authority-Initiated Modifications, the Proposer may only withdraw the Draft Proposal or the Modification Proposal where the Proposer provides evidence that the Authority has given its consent to such withdrawal. The Proposer may not withdraw a Modification Proposal following any direction by the Authority to the Panel pursuant to Section D11.15 (Send-Back Process).

D10.3 As soon as is reasonably practicable after receiving any notice in accordance with Section D10.1, the Secretariat shall notify the Parties that the Proposer has withdrawn its support and shall update the Modification Register accordingly.

Adoption of Withdrawn Proposals

- D10.4 Where, within 10 Working Days of the Secretariat sending notice under Section D10.3, the Secretariat receives notice from a Party that it is prepared to adopt the Draft Proposal or the Modification Proposal, such Party shall (for all purposes in respect of this Code) be deemed thereafter to be the Proposer for the Draft Proposal or the Modification Proposal (and, where the Secretariat receives more than one such notice, the first such notice shall have priority over the others).
- D10.5 Where Section D10.4 applies, the Draft Proposal or the Modification Proposal shall not be withdrawn, and the Secretariat shall notify the Parties and update the Modification Register.

Withdrawn Proposals

- D10.6 Subject to Section D10.5, a Draft Proposal or a Modification Proposal that has been withdrawn in accordance with Section D10.1 shall cease to be subject to the process set out in this Section D.

D11. SIGNIFICANT CODE REVIEWS AND AUTHORITY-LED VARIATIONS

Authority Power to Develop a Proposed Variation

- D11.1 The Authority may commence a Significant Code Review Phase by issuing a direction under this Section D11.1, or may issue a direction under this Section D11.1 at any time during a Significant Code Review Phase. The Authority's direction under this Section D11.1 will set out the scope and/or subject matter of the Significant Code Review.
- D11.2 The Authority may develop a proposed variation to this Code in respect of a Significant Code Review, in accordance with the procedures set out in this Section D11.

Authority Determination in respect of Significant Code Reviews

- D11.3 During a Significant Code Review Phase:

- (a) the Panel shall report to the Authority on whether or not the Panel considers that any Draft Proposal or Modification Proposal on which the Change Board had not voted prior to the commencement of the Significant Code Review (whether submitted before or after the commencement of the Significant Code Review) falls within the scope of the Significant Code Review;
- (b) the Panel may (subject to Section D4.13 (Timetable)) suspend the progress of any Draft Proposal or Modification Proposal that the Panel considers to fall within the scope of that Significant Code Review;
- (c) the Authority may direct the Panel to suspend the progress of any Draft Proposal or Modification Proposal that the Authority considers to fall within the scope of that Significant Code Review (and the Panel shall comply with such directions); and
- (d) the Authority may direct the Panel to cease the suspension of any Draft Proposal or Modification Proposal that has been suspended pursuant to this Section D11.3 (and the Panel shall comply with such directions). Any and all suspensions pursuant to this Section D11.3 shall automatically cease at the end of the Significant Code Review Phase.

- D11.4 The commencement and cessation of suspensions in respect of a Modification Proposal pursuant to Section D11.3 shall have the effect of modifying the timetable applying to that Modification Proposal.

Significant Code Review: Backstop Direction

- D11.5 Where one or more Draft Proposal or Modification Proposals that are Authority-Initiated Modifications have been raised, the Authority may issue a direction under this Section D11.5 that requires the withdrawal of

those Draft Proposal or Modification Proposals, including any connected Alternative Solutions. Where the Authority so directs:

- (a) the Significant Code Review Phase shall re-commence; and
- (b) the Proposer for each such Modification Proposal shall be deemed to have withdrawn the Draft Proposal(s) or Modification Proposal(s), and Sections D10.4 and D10.5 (Adoption of Withdrawn Proposals) shall not apply to the withdrawn Draft Proposal(s) or Modification Proposal(s).

Authority-Led Consultation

D11.6 The Authority will, in such manner as it considers appropriate, consult on the merits of the proposed Authority-Led Variation with the Parties, Citizens Advice, Citizens Advice Scotland, and any other persons whose interests are materially affected by this Code.

Authority-Led Modification Report

D11.7 The Authority may submit its proposed Authority-Led Variation to the Code Administrator, together with such supplemental information as the Authority considers appropriate.

D11.8 Upon receipt of the Authority's proposal under Section D11.7, the Code Administrator shall prepare a written report on the proposal (known as an Authority-Led Modification Report). The Authority-Led Modification Report must be consistent with the information provided by the Authority under Section D11.7, and shall:

- (a) be delivered to the Panel; and
- (b) contain the contents set out in Section D6.3 (Modification Report).

D11.9 Upon completion of the Authority-Led Modification Report, the Code Administrator will place such report on the agenda for the next meeting of the Panel, which shall refer the report to the Change Board. Following the Panel's referral of the report, but prior to the Change Board vote, the Code Administrator shall, at the direction of the Authority, arrange for a consultation seeking the views of Parties on the report. Any consultation will be subject to the provisions of Sections D6.8, D6.9 and D6.10 (Modification Report Consultation) except that the timetable referred to in Section D6.8(a) shall be subject to any direction by the Authority.

Change Board and Change Board Decision

D11.10 In respect of each Authority-Led Modification Report referred to the Change Board, the Change Board shall vote whether to approve the Authority-Led Variation.

D11.11 Each vote as referred to in Section D11.10 shall take the form of a vote in accordance with Sections D7.14 to D7.17 (The Change Board Vote). The Authority's Significant Code Review conclusions document and/or the Authority's proposal submitted in accordance with Section D11.7 shall not fetter the procedures or voting rights referred to in Section D7 (Change Board and Change Board Vote).

D11.12 Following the vote of the Change Board in respect of the Authority-Led Variation, the Code Administrator shall communicate the outcome of the Change Board vote to the Authority, the Change Sub-Committee and the Panel, and shall send copies of the following to the Authority:

- (a) the Authority-Led Modification Report;
- (b) the consultation and the responses received in respect of the same; and
- (c) the outcome of the Change Board vote, including the reasons given by the Change Board Members pursuant to Section D7.17 (The Change Board Vote).

Authority Decision

D11.13 An Authority-Led Variation shall be approved only where the Authority determines that the proposed variation shall be approved (which determination shall, without prejudice to section 173 of the Energy Act 2004, be final and binding for the purposes of this Code). In making such determination, the Authority will have regard to:

- (a) its objectives and statutory duties under the Electricity Act and the Gas Act;
- (b) whether or not the approval of the variation would better facilitate the achievement of the SEC Objectives than if the variation was rejected;
- (c) the decision of the Change Board in respect of the variation, which shall be considered to constitute a recommendation by the Parties as to whether or not to approve the variation; and
- (d) such other matters as the Authority considers appropriate.

Send-Back Process

D11.14 Where the Authority considers that it is unable to form an opinion in relation to a proposed Authority-Led Variation, then it may issue a direction to the Panel specifying any additional steps that the Authority requires in order to form such an opinion. Where the Authority issues a direction to the Panel pursuant to this Section D11.15:

- (a) the decision of the Change Board in respect of the variation shall be null and void;
- (b) the Code Administrator shall seek to address the matters raised by the Authority, and shall (where necessary) have an updated Authority-Led Modification Report produced; and
- (c) the Secretariat shall update the Modification Register to record the status of the proposed variation.

Implementation

D11.15 Where an Authority-Led Variation has been approved in accordance with Section D11.14, Section D13 (Implementation) shall apply.

D12. LEAD CODE AND CONSEQUENTIAL CHANGES

Cross Code Steering Group

D12.1 The Panel shall from time to time nominate to the REC Code Manager one or more individuals to represent the Panel on the Cross Code Steering Group. The Panel shall ensure that each of the nominated individuals has the appropriate skills, knowledge and experience to participate in accordance with the Cross Code Steering Group's terms of reference.

D12.2 The Panel may discharge the requirements of Section D12.1 by ensuring the Code Administrator provides appropriate representatives.

Lead Code

D12.3 Where the Cross Code Steering Group determines that this Code is to be used as the Lead Code, the Code Administrator shall:

- (a) progress the Lead Code Modification in accordance with this Code;

- (b) coordinate with the other affected Energy Codes so that they can progress a Consequential Change under their Energy Code in parallel with the process under this Code;
- (c) publish a timetable setting out the proposed progression of the Lead Code Modification and any associated Consequential Changes; and
- (d) notwithstanding Section D8 (Modification Proposal Decision), the Modification Proposal under this Code shall only be approved if both:
 - (i) the Modification Proposal is approved in accordance with this Code; and
 - (ii) the associated Consequential Changes under the other Energy Codes are all approved in accordance with those other Energy Codes.

Consequential Change

D12.4 Where the Cross Code Steering Group determines that another Energy Code is the Lead Code for a Modification Proposal, then the Code Administrator shall progress the relevant Consequential Change to this Code in accordance with this Section D, but subject to the following:

- (a) the Code Administrator shall progress the Draft Proposal or Modification Proposal to the timetable determined under the Lead Code;
- (b) if the Lead Code Modification under the Lead Code is withdrawn or rejected prior to a Change Board determination, then the Code Administrator shall Withdraw the Consequential Change in accordance with Section D10 (Withdrawal of a Proposal) except that Sections D10.4 and D10.5 (Adoption of Withdrawn Proposals) shall not apply; and
- (c) notwithstanding Section D8 (Modification Proposal Decision), the Modification Proposal under this Code shall only be approved if both:
 - (i) the Modification Proposal is approved in accordance with this Code; and
 - (ii) the variation to the Lead Code is approved in accordance with the Lead Code.

Appeal to the Authority

D12.5 The Panel or the Change Sub-Committee may appeal the determination of any associated Consequential Change to the Authority where:

- (a) this Code is the Lead Code;
- (b) the Lead Code Modification is approved;
- (c) one or more associated Consequential Changes are not approved; and
- (d) such an appeal is raised within 30 Working Days of a determination on the Lead Code Modification or relevant Consequential Change.

D12.6 Where another Energy Code is the Lead Code, any determination under this Code on an associated Consequential Change may be sent to the Authority for appeal within 30 Working Days of such a determination on request of the Lead Code (in which case the approval or rejection of the Consequential Change shall be determined by the Authority as if Section D8.1 (Authority-Initiated Modifications and Authority-Determined Modifications) applied).

Energy Market Data

D12.7 Where a Modification Proposal is progressed in relation to an Energy Market Message and/or an Energy Market Data Item defined within the Energy Market Data Specification, the relevant Energy Market Meta Data Owner shall be defined as the Lead Code.

D12.8 The Code Administrator shall ensure that the meta data for all relevant Energy Market Messages and Energy Market Data Items utilised under this Code are defined within the Energy Market Data Specification administered in accordance with the REC Change Management Schedule.

D13. IMPLEMENTATION

General

D13.1 Once a Modification Proposal has been approved in accordance with Section D8 (Modification Proposal Decision) or an Authority-Led Variation has been approved in accordance with Section D11.14 (Authority Decision), the Panel shall ensure that this Code is varied in accordance with the Modification Proposal or Authority-Led Variation, as set out in this Section D13. Authority-Led Variations are to be treated as Authority-Initiated Modifications for the purposes of this Section D13 (and references to Modification Proposals shall be interpreted accordingly).

Implementation

D13.2 The Panel shall (to the extent necessary), after a Modification Proposal has been approved:

- (a) determine what actions are required in order to ensure that the approved variation to this Code is made in accordance with the approved implementation timetable; and
- (b) set a timetable for the completion of each of those actions.

D13.3 It shall be the duty of the Panel to ensure that the actions which are required to secure that an approved variation to this Code is made in accordance with the approved implementation timetable are taken.

D13.4 Each Party shall co-operate with the Panel to the extent required to ensure that such variation is made with effect from such date.

Subsequent Amendment to Implementation Timetable

D13.5 Where, having regard to representations received from the Code Administrator or from any Party, the Panel considers that it is not reasonably practicable to make the approved variation to this Code in accordance with the approved implementation timetable:

- (a) the Panel may request the Authority to direct that a new implementation timetable be substituted for the first such timetable; and
- (b) where the Authority makes such a direction following a request by the Panel, the implementation timetable directed by the Authority shall have effect in substitution for the first such timetable, and the requirements of this Section D13 shall be defined by relation to that later date.

D13.6 Without prejudice to the generality of Section D13.5, the Panel shall make a request to the Authority under that Section where:

- (a) the decision of the Authority to approve the relevant Modification Proposal is subject to an appeal pursuant to section 173 of the Energy Act 2004 or is challenged by judicial review; and

- (b) the Panel considers that it is appropriate in the circumstances for the timetable to be delayed given such appeal or challenge.

SEC Release Management Policy

D13.7 The implementation of an approved Modification Proposal will take place as part of a SEC Release. The Panel shall ensure that the implementation of a SEC Release is undertaken in accordance with a policy determined by the Panel (known as the SEC Release Management Policy).

D13.8 The Panel shall ensure that the SEC Release Management Policy:

- (a) includes a mechanism for allocating Modification Proposals into SEC Releases;
- (b) defines a mechanism by which the Panel shall co-ordinate and oversee the content;
- (c) defines a mechanism by which notice is to be given to Users prior to the implementation of a SEC Release;
- (d) defines a mechanism by which the Panel shall review the main components of the forecast and actual costs of a SEC Release and, if requested by the Authority, how the Panel shall provide a report on this to the Authority; and
- (e) defines a mechanism by which the Panel shall determine that the SEC Release shall be put into live operation.

D13.9 The Code Administrator shall make the SEC Release Management Policy available to the DCC and Users on the Website. The Panel shall consult with the DCC and Users before it makes any changes to the SEC Release Management Policy.

D13.10 The DCC shall co-operate with the Panel in planning and implementing SEC Releases in accordance with the SEC Release Management Policy and shall provide any information reasonably requested by the Panel for this purpose.

D13.11 The Panel may appoint, or require the DCC to appoint, an external auditor to monitor the DCC's implementation process, plans and progress in support of a SEC Release, and shall approve any such external auditor's terms of reference. The DCC must co-operate with any external auditor that is appointed, including (but not limited to) allowing access to such records, test results, test laboratories and test witnessing as the external auditor may reasonably require.

SEC Release Implementation Document

D13.12 The Code Administrator shall develop and publish a SEC Release Implementation Document for each SEC Release in accordance with the SEC Release Management Policy.

D13.13 The Code Administrator shall ensure that each SEC Release Implementation Document:

- (a) defines the content of the SEC Release;
- (b) defines the timescales associated with implementing the content of the SEC Release, including timescales for the commencement and completion of DCC and User testing phases;
- (c) defines how the DCC shall report progress towards readiness;
- (d) defines the testing that will be undertaken by the DCC for the SEC Release;
- (e) defines the required User testing and how the DCC shall support Users to test the changes that make up the SEC Release; and

- (f) defines the SEC Release go-live criteria that shall be agreed by the Panel in accordance with the SEC Release Management Policy.

D13.14 The DCC shall provide any information reasonably requested by the Panel that is required for inclusion in the SEC Release Implementation Document for a SEC Release.

D13.15 The Panel shall approve the SEC Release Implementation Document and any subsequent amendments.

D13.16 The DCC shall be required to undertake the implementation and testing activities for a SEC Release as set out in the relevant SEC Release Implementation Document once approved by the Panel.

D13.17 Any Party that wishes to appeal the Panel's approval of the SEC Release Implementation Document may do so within 10 Working Days following the publication of the decision to approve. Any appeal referred to the Authority, must specify the reasons for the appeal. The Authority shall determine what action to take with the appeal (which determination shall, without prejudice to section 173 of the Energy Act 2004, be final and binding for the purposes of this Code).

SEC Release Testing Approach Document

D13.18 The DCC, on request of the Panel, shall produce a document setting out how the requirements of Sections D13.13(d) and (e) will be satisfied (known as the SEC Release Testing Approach Document). A SEC Release Testing Approach Document shall be considered as part of the SEC Release Implementation Document for the relevant SEC Release.

D13.19 The DCC shall ensure that each SEC Release Testing Approach Document:

- (a) defines the testing objectives, including the assurance to be achieved;
- (b) defines the testing strategy that will be followed; and
- (c) sets out the consequences of the testing strategy, including costs and risks in business terms.

D13.20 The DCC shall prepare and consult upon each SEC Release Testing Approach Document and any subsequent amendments. The Panel shall review each SEC Release Testing Approach Document and any subsequent amendments.

D14. REPORTING

Modification Register

D14.1 The Secretariat shall establish and from time to time maintain a register (known as the Modification Register) of all current and past Draft Proposals and Modification Proposals.

D14.2 The Modification Register shall contain, in respect of each Draft Proposal submitted pursuant to Section D1 (Raising Draft Proposals) and Modification Proposal subsequently progressed pursuant to Section D4 (Development Stage):

- (a) a unique reference number by which the Draft Proposal or Modification Proposal can be identified;
- (b) a brief summary of the Modification Proposal and its purpose and effect;
- (c) the stage of the process set out in this Section D that the Draft Proposal or Modification Proposal has reached;
- (d) whether the proposal has been approved as a Fast-Track Modification;

- (e) following the Panel's determination, whether the proposal is a Self-Governance Modification;
- (f) whether the Authority has determined the Modification Proposal to be an Urgent Proposal;
- (g) once it has been made, the approval decision of the Panel (in the case of Fast-Track Modifications) or of the Change Board (in the case of all other Modification Proposals);
- (h) once it has been made, the approval decision of the Authority (except for Fast-Track Modifications and Self-Governance Modifications); and
- (i) such other matters relating to the Draft Proposal or Modification Proposal as the Panel may reasonably determine from time to time.

D14.3 The Secretariat shall ensure that the Modification Register is updated at regular intervals so that the information it contains in relation to each Draft Proposal and Modification Proposal is, so far as is reasonably practicable, accurate and up-to-date.

D14.4 The Secretariat shall ensure that the Modification Register is published on the Website at least once every month.

Reporting on DCC Impact Assessments

D14.5 The DCC shall report to the Panel each month on the status of all DCC Impact Assessments which are ongoing or that have been completed since the last such report. The DCC shall include in each such report any additional details reasonably requested by the Panel since the last such report.

D14.6 Such reports shall include details of whether the required timescales for completion of the DCC Impact Assessments are likely to be (or have been) met. Where there is any delay, the DCC shall set out a clear explanation of the reasons for such delay, the likely delivery timescales, and the actions being taken by the DCC to minimise the delay.

Code Performance Measures

D14.7 Each of the following performance measures constitute a Code Performance Measure (to which the following Target Service Level and Minimum Service Level will apply, measured over the following Performance Measurement Period):

No.	Code Performance Measure	Performance Measurement Period	Target Service Level	Minimum Service Level
9	Out of the DCC Impact Assessments required to be completed during the Performance Measurement Period, how many were completed within the required timescales.	Monthly	100%	100%