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MP280 'CPA Scheme transition to SSC'

Annex A

Legal text – version 1.0

About this document

This document contains the redlined changes to the SEC that would be required to deliver this Modification Proposal.

SEC Smart Energy Code

Section G 'Security'

These changes have been redlined against Section G version 25.0.

Amend Section G13 as follows:

G13. <u>**The CPA Scheme Operator**</u>

Procurement of the CPA Scheme Operator

G13.1 The Security Sub-Committee, subject to the approval of the Panel, shall procure the provision of services in relation to the operation of the CPA Scheme:

(a) of the scope specified in Section G13.3;

(b) from a person who:

(i) is suitably qualified in accordance with Section G13.4; and

(ii) is suitably independent in accordance with Section G13.5,

and that person is referred to in this Section G13 as the "**CPA Scheme Operator**".

G13.2 The Security Sub-Committee may appoint more than one person to carry out the functions of the CPA Scheme Operator.

Scope of CPA Scheme Operator Services

G13.3 The services specified in this Section G13.3 (the "**CPA Scheme Operator Services**") are services in accordance with which the CPA Scheme Operator shall:

(a) develop a standard form of contract – which shall require to be approved by the Security Sub-Committee (and following such approval shall be known as the "**CPA Test Lab Framework Agreement**") – to be entered into by each CPA Test Lab in relation to the performance of its functions for the purposes of the CPA Scheme, and which shall in particular:

(i) require that the CPA Test Lab comply with all applicable provisions of the CPA Policies and Procedures (as amended from time to time), including in particular those which:

(A) set out the criteria to be satisfied in order to perform the functions of a CPA Test Lab for the purposes of the CPA Scheme; and

(B) describe the procedures to be applied in evaluating whether a Device Model should be issued with a CPA Certificate; and

(ii) constitute an agreement under which the CPA Scheme Operator shall be entitled, on behalf of any Manufacturer, to receive services provided by the CPA Test Lab for the purposes of evaluating whether any Device Model should be issued with a CPA Certificate;

(b) develop a standard form of contract – which shall require to be approved by the Security Sub-Committee (and following such approval shall be known as the "**CPA Manufacturer Standard Agreement**") – to be entered into by any Manufacturer seeking to obtain and maintain a CPA Certificate in relation to a Device Model, and which shall in particular provide that the Manufacturer:

(i) must comply with all applicable provisions of the CPA Policies and Procedures (as amended from time to time); and

(ii) may obtain the services of a CPA Test Lab for the purposes of the CPA Scheme only via the CPA Scheme Operator, under and in accordance with terms specified in the agreement;

(c) enter into the CPA Test Lab Framework Agreement and CPA Manufacturer Standard Agreement with relevant CPA Test Labs and Manufacturers;

(d) issue CPA Certificates to Manufacturers in relation to Device Models which have been successfully demonstrated to satisfy the requirements of the CPA Security Characteristics;

(e) renew, suspend, withdraw or cancel CPA Certificates in such circumstances as may from time to time be described in the CPA Policies and Procedures;

(f) carry out such evaluation (and related) functions as may from time to time be set out in the CPA Policies and Procedures, or which it is otherwise requested by the Security Sub-Committee to carry out, which may include in particular:

(i) assessing, and from time to time reviewing, whether a Test Lab which wishes to perform the functions of a CPA Test Lab meets the criteria specified for that purpose in the CPA Policies and Procedures;

(ii) where a Test Lab does not meet the criteria specified in the CPA Policies and Procedures for performing the functions of a CPA Test Lab, advising on the reasons for the failure and the changes or additional evidence that would be needed in order for it to meet those criteria;

(iii) responding to technical enquiries from Manufacturers and CPA Test Labs in relation to the evaluation process for Device Models in respect of which a CPA Certificate is being (or is proposed to be) sought (the "**evaluation process**");

(iv) reviewing and approving the proposed testing regime in respect of any Device Model for which a CPA Certificate is being sought;

(v) reviewing the results of tests carried out by a CPA Test Lab in relation to a Device Model for which a CPA Certificate is being sought, in order to:

(A) determine whether a CPA Certificate should be issued in respect of that Device Model; and

(B) where a Device Model has not satisfied the requirements for the issue of a CPA Certificate, advising on the reasons for the failure and the changes or additional evidence that would be needed in order for it to be issued with a CPA Certificate;

(vi) liaising with, and providing information and support to, CPA Test Labs and Manufacturers in relation to the evaluation process; and

(vii) providing such information and advice to the Security Sub-Committee as may be requested from time to time;

(g) oversee the interactions between Manufacturers and CPA Test Labs in relation to the evaluation process;

(h) provide information, advice and support to any Test Lab which wishes to perform the functions of a CPA Test Lab for the purposes of the CPA Scheme;

(i) attend meetings of the Security Sub-Committee whenever requested to do so by the Security Sub-Committee Chair for the purpose of providing advice and information, and otherwise delivering such reports or presentations, as may be requested;

(j) provide such written reports, advice and information to the Security Sub-Committee, in relation to the operation of the CPA Scheme and the provision of the CPA Scheme Operator Services, as it may from time to time request;

(k) provide such other support and assistance to the Security Sub-Committee as it may from time to time request; and

(l) undertake such other activities, and do so at such times and in such manner, as may be further provided for in this Section G13.

Suitably Qualified Person

G13.4 The CPA Scheme Operator shall be treated as suitably qualified in accordance with this Section G13.4 only if it satisfies such requirements as to its qualifications as the Security Sub-Committee may from time to time determine for the purposes of the process of procuring services in relation to the operation of the CPA Scheme.

Independence Requirement

G13.5 Section G13.5 shall apply on the basis that the CPA Scheme Operator will be treated as suitably independent either~~The CPA Scheme Operator shall be treated as suitably independent in accordance with this Section G13.5 only if it satisfies~~:

(a) if it satisfies the requirements of Sections G13.7 and G13.8~~the requirements specified in Section G13.7~~; ~~and~~or

(b) if it partly satisfies the requirements of Sections G13.7 and G13.8 and also satisfies such other requirements and complies with such arrangements as the Security Sub-Committee may require in order to deal with the consequences of Sections G13.7 and G13.8 not applying in full.~~the requirements specified in Section G13.8~~.

G13.6 For the purposes of Sections G13.7 and G13.8:

(a) a "**Relevant Person**" means any of the following:

(i) the DCC;

(ii) a DCC User;

(iii) the owner or operator of any Test Lab which performs the functions of a CPA Test Lab for the purposes of the CPA Scheme;

(iv) the Manufacturer of any Device which requires a CPA Certificate;

(b) a "**Relevant Service Provider**" means any service provider to a Relevant Person from which that Relevant Person acquires capability for a purpose related to the CPA Scheme.

G13.7 The requirements specified in this Section G13.7 are that:

(a) no Relevant Person or any of its subsidiaries, and no Relevant Service Provider or any of its subsidiaries, holds or acquires any investment by way of shares, securities or other financial rights or interests in the CPA Scheme Operator;

(b) no director of any Relevant Person, and no director of any Relevant Service Provider, is or becomes a director or employee of, or holds or acquires any investment by way of shares, securities or other financial rights or interests in, the CPA Scheme Operator; and

(c) the CPA Scheme Operator does not hold or acquire a participating interest (as defined in section 421A of the Financial Services and Markets Act 2000) in any Relevant Person or any Relevant Service Provider,

(but for these purposes references to a Relevant Service Provider shall not include the CPA Scheme Operator where it acts in that capacity).

G13.8 The requirements specified in this Section G13.8 are that the CPA Scheme Operator is able to demonstrate to the satisfaction of the Security Sub-Committee that it:

(a) has in place arrangements to ensure that it will at all times act independently of any commercial relationship that it has, has had, or may in future have with a Relevant Person or Relevant Service Provider (and for these purposes a 'commercial relationship' shall include a relationship established by virtue of the CPA Scheme Operator itself being a Relevant Service Provider to any Relevant Person); and

(b) satisfies such other requirements as to its independence as the Security Sub-Committee may from time to time determine for the purposes of the process of procuring services in relation to the operation of the CPA Scheme.

Compliance of the CPA Scheme Operator

G13.9 The Security Sub-Committee shall be responsible for ensuring that the CPA Scheme Operator provides the CPA Scheme Operator Services, and carries out its functions as such, in accordance with the provisions of this Section G13.

G14. The CPA Transition Approach Document

Overview

G14.1 The **CPA Transition Approach Document** is to be developed by the Secretary of State and incorporated into this Code pursuant to Part G of Condition 22 of the DCC Licence and Section X5 (Incorporation of Certain Documents into this Code).

Purpose of the CPA Transition Approach Document

G14.2 The purpose of the CPA Transition Approach Document is to:

(a) provide that the Revised CPA Arrangements shall not have full effect immediately;

(b) enable the gradual implementation of and transition to the Revised CPA Arrangements; and

(c) provide for additional and/or varied provisions to apply for a transitional period to manage the interactions between the Revised CPA Arrangements and the previous arrangements for the CPA Scheme.

Content of the CPA Transition Approach Document

G14.3 The CPA Transition Approach Document may include, without limitation, some or all of the following:

(a) a modification process which enables the Security Sub-Committee to modify the CPA Transition Approach Document;

(b) rights and/or obligations of the DCC and other Parties designed to facilitate or achieve the purposes of the CPA Transition Approach Document which are either additional to or vary other rights and/or obligations set out in this Code;

(c) variations to the powers and/or duties of the Panel, the Security Sub-Committee and/or any other Sub-Committee designed to facilitate or achieve the purposes of the CPA Transition Approach Document which are either additional to or vary other powers and/or duties set out in this Code;

(d) variations to the processes by which CPA Testing is administered, managed and/or operated, which may include variations to the requirements which apply to CPA Test Labs and/or Manufacturers;

(e) mechanisms for completion or in-flight transfer of Device Models that are undergoing testing as part of the arrangements for the CPA Scheme which existed prior to the Revised CPA Arrangements;

(f) pre-conditions that may need to apply prior to some or all of the Revised CPA Arrangements coming into effect;

(g) variations in the arrangements for issuing of CPA Certificates, and/or the addition or removal of Device Models to or from the Certified Products List;

(h) limitations and/or variations to the rights and/or obligations of the Parties to apply for a transitional period prior to the full implementation of the Revised CPA Arrangements;

(i) provision for the referral and determination of disputes in respect of the CPA Transition Approach Document, which may include interim or final determinations by the Secretary of State, the Authority, the Security Sub-Committee, the Panel or any other person specified by the Secretary of State; and

(j)

Definitions

G14.4 For the purposes of this Section G14:

Revised CPA Arrangements	means the modifications made to this Code, including in particular the addition to this Code of Section G13 (The CPA Scheme Operator), in order to incorporate into this Code provisions for the administration and governance of the CPA Scheme.