Smart Energy Code

This document is classified as **White** in accordance with the Panel Information Policy. Information can be shared with the public, and any members may publish the information, subject to copyright.

Stage 03: Final Modification Report

What stage is this document in the process?

01 Initial Assessment
02 Refinement Process
03 Modification Report
04 Decision

SECMP0050:

Section D Review: Moving the Working Group Terms of Reference to a separate document

SECAS Contact:

Name:
Harry Jones

Number:
020 7081 3345

Email:
SEC.Change@gemserv.com

Summary

This modification seeks to remove the detail on how SEC Modification Working Groups are formed and operate from the SEC and replace it with a Panel-owned ‘Working Group Terms of Reference’ document.

Working Group Conclusions

✓

- The Working Group **unanimously** believe that SECMP0050 should be **approved.**

Impacts

!

- There are no impacts on SEC Parties identified
- There are no impacts on Data Communications Company (DCC) Central Systems and/or Party interfacing systems

Content

About this Document

This document is the Final Modification Report (FMR) for SECMP0050. This document provides detailed information on the issue, solution(s), impacts, costs, industry consultation as well as Working Group and Panel discussions and conclusions on the modification.

This document has four attachments:

- Attachment A contains the approved legal text changes to support this modification;
- Attachment B contains the approved Working Group Terms of Reference;
- Attachment C contains the full Working Group Consultation (WGC) responses; and
- Attachment D contains the full Modification Report Consultation (MRC) responses.

The Change Board will consider this modification at its meeting on 22nd August 2018, where it will determine whether SECMP0050 should be approved.

1. Summary

What is the issue?

The SEC Section D Review carried out by SECAS at the beginning of 2018 identified that it would be beneficial to remove the details of how Working Groups operate from the SEC itself and instead cover this in a separate Panel-owned document that the SEC references.

What is the Proposed Solution?

This modification proposes to make changes to SEC Section D to remove the details of how Working Groups are formed and operate. Instead, the SEC will mandate the Panel prepares and maintains a 'Working Group Terms of Reference' document that will contain this detail. The separate document will increase the flexibility of formulating Working Groups by having an accessible and easily amendable Terms of Reference document.

Impacts – Proposed Solution

Party

There are no impacts on SEC Parties anticipated.

System

There are no impacts on DCC Central Systems or Party interfacing systems identified.

Implementation Costs

The total estimated implementation cost to deliver SECMP0050 is approximately £1,200. This total cost consists of SEC Administration effort.

Implementation Date

SECAS recommends an implementation date of:

- 1st November 2018, if a decision to approve is made by 28th September 2018.

Working Group's views

The Working Group believe **unanimously** that SECMP0050 better facilitates the SEC Objectives. The Working Group therefore believe that this Modification Proposal should be **approved**.

2. What is the issue?

Background

In January 2018, the Panel requested SECAS carry out a full review of SEC Section D 'Modification Process', and to capture any proposals for how to improve the efficiency of how change is progressed or delivered.

The SECAS review consisted of a workshop held in February 2018 to discuss areas of the process, and an industry consultation issued in March 2018 on potential straw man solutions. The Panel, the Change Board, Ofgem and BEIS were also consulted on the proposed straw man solutions.

This modification, along with SECMP0049 'Section D Review: Amendments to the Modification Process' and SECMP0051 'Section D Review: Amendments to the Fast Track Modification process', was raised to progress the outcomes of the review.

What is the issue?

SEC Section D6 'Refinement Process' contains sections detailing how a Working Group is set up and how it operates during the Refinement Process. Notably, SEC Sections D6.2-D6.7 'Establishment of a Working Group' goes into detail of a Working Group's membership, quorum and what the obligations of Working Group are. As these details are documented in the SEC itself, there is little scope for the Panel to allow flexibility that may be required in some circumstances.

For example, the SEC currently requires a Working Group to be formed of at least five individuals who each have relevant experience and expertise in relation to the subject matter of the Modification Proposal and whose backgrounds are broadly representative of the persons likely to be affected by the Modification Proposal if it is approved. In the event that SECAS cannot find enough interested industry participants to fulfil this requirement, the modification cannot progress further through the Refinement Process. This is because this minimum membership is a SEC requirement, with no ability for the Panel to be flexible for this specific Working Group.

The Panel has also granted greater flexibility around other elements for Working Groups, for example by allowing Working Groups to complete proceedings by correspondence in circumstances where there is no benefit in convening a full meeting. There is currently no central place where these agreements have been captured, which can hinder transparency and consistency between Working Groups.

The Section D Review recommended that the details of how Working Groups are formed and operate are removed from the SEC and placed into a Panel-owned 'Working Group Terms of Reference' document. This modification was raised to take this proposal forward.

3. Proposed Solution

Solution

This modification seeks to remove the details in SEC Section D6 regarding a Working Group's establishment, membership and operation from the SEC. Instead, it would mandate the Panel to establish a 'Working Group Terms of Reference' document that would provide full details of how Working Groups operate. All Working Groups established under Section D would adhere to these Terms of Reference.

The Working Group Terms of Reference document would contain a flexibility clause that would allow the Panel to direct variations for specific Working Groups to cater for any specific circumstances that may arise. However, it is expected that the vast majority of Working Groups would adhere to the 'standard' terms of reference. It would also allow for the Panel to append or reference specific instructions to each Working Group, such as the questions it wants the Working Group to answer in the Modification Report.

The details of the new Terms of Reference do not need to be specifically drafted under this modification, but the Proposer considered it pragmatic that the Working Group prepares a draft for the Panel's consideration. If this modification was approved, the Panel would then be able to approve the Terms of Reference document as part of the implementation of this modification. The Working Group has prepared a first draft of the document, with the intention that the Panel consults upon this in parallel with the Modification Report Consultation. The Panel can then take these comments into consideration when it approves the document.

Draft legal text

The proposed legal text changes to SEC Sections A, D and G are provided in the Attachment A document.

4. Impacts

The following section sets out the impacts associated with the implementation of SECMP0050.

SEC Party impacts

There are no impacts on Parties anticipated to implement this modification

Central System impacts

There are no system impacts anticipated.

SEC and Subsidiary Document impacts

This modification will require changes to SEC Sections A ‘Definitions and Interpretation’, D ‘Modification Process’ and G ‘Security’.

Impacts on other industry codes

This modification will not have any impacts on other industry codes.

Greenhouse Gas Emission impacts

This modification will not have any impacts on Greenhouse Gas Emissions.

5. Costs

Estimated Implementation costs

The total estimated implementation cost to delivery SECMP0050 is approximately £**1,200**.

SEC costs

The estimated SEC implementation cost is detailed in the table below:

SECAS implementation costs		
Implementation Activity	**Effort (man days)**	**Cost**
Application of approved changes to the SEC. Publication of new version of the SEC on the SEC Website and issuance to SEC Parties. Review and updated any impacted SEC guidance materials. Panel approval and subsequent publishing the Working Group Terms of Reference document.	Two	£1,200[1]

[1] SEC man day effort based on a blended rate of £600 per day.

6. Implementation

Recommended implementation date

The Panel has agreed an implementation date for SECMP0050 of:

- 1st November 2018, if a decision to approve is made by 28th September 2018.

The November 2018 SEC Release is the earliest SEC Release that this modification could be implemented in. The lead time for this modification allows for the Panel to sign off the terms of reference document at its October 2018 meeting should the modification be approved. To facilitate this, the draft document will be consulted upon as part of the Modification Report Consultation.

7. Working Group Discussions

Terms of Reference

The Working Group have considered and answered the questions put forward in the SECMP0050 Terms of Reference (ToR). A summary of their discussions and conclusions are detailed below.

Q1: Are the existing rules for how Working Groups are formed and operate fit for purpose?

The Working Group's discussions agreed with the proposal that there is a desire to change how Working Groups operate. The Working Group showed a clear demand for greater flexibility to pragmatically solve issues with Working Groups, for instance increased options to progress ahead with a Working Group with the members who are available rather than having to delay progress waiting for full meetings. Members noted that Modifications that were a lower priority may not attract significant attention from the wider industry, and increased flexibility in how such modifications are able to be progressed should exist.

The Working Group discussed a concern that, while the minimum membership for a Working Group would remain five members, these could all come from the same organisation. Members felt that the terms of reference document should clarify that the five members should come from different organisations, to ensure sufficient diversity in membership.

Members considered whether the amendments to the SEC should include flexibility around whether Working Groups should consult the industry. SEC Section D6.13 currently requires a Working Group to consult the industry at least once. The legal text issued in the Working Group Consultation proposed that the Panel could have the option to direct a Working Group that it did not need to consult. However, following comments received from respondents, the Working Group felt that the existing requirements for every Working Group to consult at least once should remain unchanged, as they could not see a scenario where a Working Group wouldn't need to consult, and therefore removed the change to SEC Section D6.13 from the legal text.

Q2: What should be contained in the terms of reference document?

As part of its assessment the Working Group developed a draft terms of reference document, which can be found in Attachment B. In considering this document, the Working Group believed it would be beneficial if it could cover what a Working Group is expected to complete as part of its work. This would allow Working Groups to be reminded of what it is they are there to do. Areas identified included the need for a Working Group to undertake a cost-benefit analysis for each modification for inclusion in the Modification Report. Members also believed it would be beneficial to note that Working Groups should give full consideration to any alternative solutions that would deliver the intent of the modification.

The Working Group also agreed that the document should allow for any specific instructions to a Working Group, such as any questions the Panel wants answered in the Modification Report, to be covered, potentially via an appendix to the base document.

Q3: How would Parties be able to propose changes to the terms of reference?

The Working Group noted that currently, if a Party wanted to make a change to the rules around Working Groups, they could raise a Modification Proposal to amend Section D. Under the proposed process, this route would no longer apply. Members noted that Parties could still propose changes to the terms of reference to the Panel via SECAS or their Panel representative, and the Panel could consider whether to progress any changes in response to this. The Working Group was therefore satisfied that Parties would still be able to feed views into the terms of reference document, but requested a line to clarify this was included in the terms of reference document.

The Working Group also believed that the Panel should consult on any changes to the terms of reference document before it signs off those changes, which is a similar approach taken to other Panel-owned documents such as the Panel Release Management Policy. The Panel would be expected to give due regard to any responses received to that consultation when subsequently approving the updates to the terms of reference document. The Working Group was clear that any such consultation would only apply if the Panel wanted to update the base document, as those changes would then apply to all Working Groups. No consultation would be undertaken for any specific variations that the Panel agreed for a particular Working Group, as this would reduce efficiency in the process.

8. Working Group Conclusions

The Working Group's initial **unanimous** view is that SECMP0050 better facilitates General SEC Objective (g) and should be **approved**.

The Working Group initially **unanimously** recommends an implementation date of:

- 1st November 2018, if a decision to approve is made by 28th September 2018.

The Working Group's initial view is that the draft legal text changes in Attachment A deliver the intention of the Modification Proposal.

Benefits and drawbacks of SECMP0050

The Proposer and the Working Group have identified the following benefits and drawbacks related to SECMP0050:

Benefits

Members believe that greater flexibility will make it easier for Working Groups to be organized. As an example, this change would allow a modification that has only attracted four members from across Parties to progress faster by allowing the Panel to subsequently direct that four members is sufficient for that Working Group (noting the complexity and impacts of the proposed solution). Therefore, future Working Groups should encounter less barriers to being formed. This in turn should reduce the timeline for any such future modifications and thereby realise greater efficiency in the process.

A Working Group member highlighted that removing the details from the SEC itself would then allow the Terms of Reference to be set out in increased detail and in plain English, which would not usually be possible in legal text. This would make the Working Group Terms of Reference a more useful document overall than the existing format, due to people being able to engage with it to a greater degree.

Editing the Terms of Reference in future will be an easier process, as the Terms of Reference would be a separate document outside the SEC. By doing this, it will allow any further adjustments to the Terms of Reference to take place without having to raise and progress a modification. This achieves greater efficiency by allowing the same outcome as currently but in a shorter timescale and with less administration effort.

Drawbacks

The Working Group believed that the current quorum of five members should be retained in the terms of reference document, but that the Panel would then have the flexibility to reduce this. There were concerns that sufficiently diverse representation would be lost if the number of Working Group members was reduced from five members. However, members believed the terms of reference should state that members should come from different organisations, to ensure sufficient diversity in membership.

Members also noted that this would create an additional document that the Panel would be required to maintain. Changes to this document would also sit outside of the Modifications Process, making the process less clear, although the Working Group was satisfied that Parties could still submit proposed changes to the Panel for consideration.

Views against the General SEC Objectives

Objective (g)[2]

The unanimous view of the Working Group is that this modification better facilitates SEC Objective (g). This is because the flexibility around Working Groups would be increased and therefore help deliver greater efficiency when consulting the wider industry. Additionally, future updates to the general terms would be possible without being initiated through the modification process, which again delivers greater efficiency. Finally, the new Terms of Reference document proposed would be presented in increased detail, thereby delivering greater transparency in implementing the SEC.

For the avoidance of doubt, the Working Group believes that SECMP0050 is neutral against all other SEC Objectives.

[2] Facilitate the efficient and transparent administration and implementation of this Code

9. Panel discussions & conclusions

Panel discussions

The Panel did not raise any comments on this modification.

Panel conclusions

The Panel **unanimously** agree that due process has been followed and that SECMP0050 should progress to Modification Report Consultation.

The Panel also agreed that SECMP0050 is a Path 3: Self-Governance Modification Proposal and that the draft legal text changes to the SEC deliver the intention of the modification.

Appendix 2: Glossary

The table below provides definitions of the terms used in this document.

Acronym	Definition
DCC	Data and Communications Company
DMR	Draft Modification Report
FMR	Final Modification Report
MRC	Modification Report Consultation
SEC	Smart Energy Code
WGC	Working Group Consultation