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<b>Paper Reference:</b>	<b>SECCB_25x_0401_01</b>
<b>Action:</b>	<b>For Decision</b>

## SECMP0068 Change Board vote

### 1. Purpose

[SECMP0068 'Alt HAN Company third party rights to enable external financing arrangements'](#) has undergone Modification Report Consultation and is now being presented to the Change Board for vote. The Change Board is invited to recommend whether SECMP0068 should be approved or rejected by the Authority.

This paper provides a high-level summary of the key points. Full details can be found in the Modification Report in Appendix A and the responses received to the Modification Report Consultation in Appendix B.

### 2. Summary of the proposal

#### What is the issue?

In preparation for the Alt HAN Technology Solutions roll-out, high costs of technology solutions contracted via AltHANCo will be incurred over a short period. The pass-through of these costs in-year to Energy Suppliers will not be the most appropriate funding mechanism. This is because Suppliers will be burdened with high upfront costs for Alt HAN, which will not necessarily reflect the level of benefit that current and future Suppliers will receive from Alt HAN solutions as market share changes over time.

Following direction from the Alt HAN Forum (a Forum established under SEC Section Z and consisting of all Relevant Supplier Parties), AltHANCo is investigating possible financing routes to spread and reduce in-year costs for Energy Suppliers. Currently, the preferred financing model is an assignment of receivables model where AltHANCo would assign its right to receive income for the financed costs from the DCC directly to a funder. The need for AltHANCo to be given enforceable rights to receive payments from the DCC under the SEC would be required for all financing options.

The key issue for this financing arrangement is the ability to assign rights to receive income to the funder, to provide the necessary comfort that their revenue stream is secure. As AltHANCo is not a party to the SEC, it does not currently have an enforceable contractual right to receive payment of the AltHANCo costs from the DCC, and therefore by extension it cannot assign these rights. However, DCC are obligated to pay AltHANCo under its licence, as per SEC Section Z4.7, or for Relevant Suppliers to pay as per SEC Section Z4.11. It is not clear how AltHANCo would enforce its purported rights, since it is not a Party to the SEC and there is no reference to AltHANCo in the Third-Party Rights clause (Section M11.5(b)), through which other Third Parties (such as Communication Hub Lenders and SECCo) are permitted to enforce their rights.

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As a result, it is not currently possible for funders to take an assignment of the right to the income received from the DCC, as they would have no ability to enforce that right. AlthANCo would be unable to pursue its preferred financing model as funders will not lend without a SEC Modification to give AlthANCo enforceable rights under the SEC and the ability to assign these rights. BEIS has confirmed that the policy intent was for AlthANCo to be able to finance, but the current SEC drafting does not support this intent.

### What is the Proposed Solution?

The proposed solution is to give AlthANCo Third Party Rights to enable it to enforce and assign its rights to receive payments from the DCC. It has been agreed in principle by the Forum that AlthANCo should be given Third Party Rights to enable it to enforce its rights under Section Z4 and shall be entitled to assign the benefit of these rights.

This is the preferred solution, as it is less complex than other options considered, creates assignable and enforceable rights for AlthANCo against the DCC and (with Ofgem consent) licensed suppliers, limits AlthANCo exposure to other SEC obligations and will not bind AlthANCo to the prohibition on assignment of rights (Section M11.8). It also represents a similar approach to that used elsewhere in the Smart Meter programme as the DCC has previously used this structure for its financing activities.

## 3. Modification Report Consultation responses

Five responses were received to the Modification Report Consultation, three Large Suppliers, one Small Supplier and the DCC. All respondents supported approval of the Modification, most specifically citing rational for objectives (d) and (h) as set out by the Proposer. The DCC commented on the legal text, particularly the 'Limitation of Liabilities'. The full responses can be found in Appendix B.

## 4. Next steps

### Self-Governance

The Panel has determined that SECMP0068 should be submitted for Authority determination. The Change Board's vote will therefore form a recommendation to the Authority, who will make the final decision.

### Implementation approach

The Panel has agreed the following implementation approach of:

- One Working Day following approval.

## 5. Recommendations

The Change Board is requested to:

- **AGREE** that SECMP0068 should proceed to vote;
- **RECOMMEND** to the Authority whether SECMP0068 should be **APPROVED** or **REJECTED**; and

- **PROVIDE** rationale for this recommendation against the General SEC Objectives.

**Joe Hehir**

**SECAS Team**

**24 December 2018**

**Attachments**

- **Appendix A:** SECMP0068 Modification Report
  - **Annex A:** SECMP0068 Legal Text
- **Appendix B:** SECMP0068 Modification Report Consultation responses