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<b>Paper Reference:</b>	<b>SECCB_28_2703_01</b>
<b>Action:</b>	<b>For Decision</b>

## SECMP0069 Change Board vote

### 1. Purpose

[SECMP0069 'EU Exit Changes'](#) has undergone Modification Report Consultation and is now being presented to the Change Board for vote. The Change Board is invited to determine whether SECMP0069 should be approved or rejected under Self-Governance.

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?

On 23 June 2016 the United Kingdom (UK) voted to leave the European Union (EU). Following the UK Government triggering Article 50 of the Lisbon Treaty, the date of the UK's exit from the EU was set at 29 March 2019. Ofgem have requested all Code Administrators prepare the Modifications and legal text changes needed in the event that the UK leaves the European Union in a 'No Deal' scenario.

Work has been undertaken to identify all European references within the SEC and establish what changes will be needed if European Law no longer applies to the UK. These changes will be required on 'Exit Day' which is currently set at 29 March 2019, but will also be required in the event that the UK leaves the EU at a date, not yet set, in the future following a Withdrawal Agreement and/or a Transitional Period. This modification seeks to implement these changes.

No impact is anticipated on any SEC Parties to implement these changes, and costs will be limited to SECAS time and effort in implementing the changes to the SEC. This modification is targeted for implementation on the date the UK leaves the EU, or as soon as possible thereafter.

#### What is the Proposed Solution?

SECMP0069 seeks to update the SEC for the changes needed when the UK leaves the EU. All changes identified are non-material in nature, either by removing references to EU bodies from the SEC or clarifying the directives that would or would not apply following the UK's exit from the EU.

### 3. Modification Report Consultation responses

Four responses were received to the Modification Report Consultation, and the full responses received can be found in Appendix B.

All four respondents (three Large Suppliers and one Small Supplier) believed SECMP0069 should be approved as the proposed solution better facilitates SEC Objective (g)<sup>1</sup>, by allowing any references in the SEC to EU Law to be removed or changed to bring the SEC in line with UK Law.

We also received comments from an additional party who noted SEC Section I1.7(g), which we had identified during our analysis as not needing to be amended under SECMP0069. They stated:

*“It may be helpful to note that Ofgem has carried out an analysis of the corresponding section of the DCC Licence and consulted on proposed amendments to cover the event of a no-deal scenario. The relevant proposed change for [Licence Condition] 8.4 is – “(e) data processed by the Licensee for the purposes of the Authorised Business is not held outside the United Kingdom and/or the European Economic Area”. A similar approach may be appropriate for the SEC and would align it with the proposed text for the DCC Licence.”*

We have reviewed this change and believe it would be appropriate to incorporate this change into the modification, so that Section I1.7(g) would read:

- “not transfer or Process that Personal Data outside the United Kingdom and/or the European Economic Area”.

### 4. Next steps

#### Determination approach

The Panel has determined that SECMP0069 is a Self-Governance Modification. The Change Board's vote will therefore form a decision on the modification.

This decision will subject to a 10 Working Day objection period where Parties can refer the decision to the Panel. If no objection is received, the Change Board's decision will be final.

#### Implementation approach

The Panel has agreed the following implementation approach of:

- **UK EU Exit Day** (as determined by the UK Government) if a decision to approve is received no later than one Working Day before this date; or
- **One Working Day following decision** if a decision to approve is received on or after the UK EU Exit Date.

If a decision is made under Self-Governance, the modification would be implemented no earlier than the first Working Day after the referral period ends.

This will allow us to implement the changes on 29 March 2019 or as soon as possible thereafter, if the UK leaves with no deal on this date. Alternatively, if the UK government reaches an agreement for the UK to exit the EU on a later date the changes will take effect on that alternative date.

<sup>1</sup> To facilitate the efficient and transparent administration and implementation of this Code.

## 5. Recommendations

The Change Board is requested to:

- **AGREE** that SECMP0069 should proceed to vote;
- **DETERMINE** whether SECMP0069 should be **APPROVED** or **REJECTED** under Self-Governance; and
- **PROVIDE** rationale for this decision against the General SEC Objectives.

Leah Langdon

SECAS Team

20 March 2019

### Attachments

- **Appendix A:** SECMP0069 Modification Report
  - **Annex A:** SECMP0069 Legal Text
  - **Annex B:** SECMP0069 EU references within the SEC
- **Appendix B:** SECMP0069 Modification Report Consultation responses