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.

Paper Reference:	**SECP_72_1309_17**
Action:	**For Discussion**

Power to raise modifications

1. Purpose

As part of our ongoing review of the SEC modifications framework, we have been exploring the provisions relating to who can raise SEC modifications. This paper sets out our thoughts on this matter and our proposed way forward for the Panel's consideration.

2. Current provisions

SEC Section D1.3 allows the following to raise Draft Proposals (which initiate the Modifications Process):

- Parties (including the DCC);
- Citizens Advice and Citizens Advice Scotland;
- Anyone specifically designated by the Authority;
- The Authority, but only to ensure compliance with European regulations or following a Significant Code Review (SCR); and
- The Panel in specific circumstances (see below).

The SEC also allows the Security Sub-Committee (SSC) (Section G7.20) and the Smart Metering Key Infrastructure (SMKI) Policy Management Authority (PMA) (Section L1.19) to raise Draft Proposals where they relate to their remits or documents.

The specific circumstances under which the Panel can raise a Draft Proposal are:

- following a review carried out by the Panel at the request of the Authority (Section C2.3(i)), to progress any consequential changes required;
- following a recommendation from SECAS that the SEC is inconsistent with the Code Administration Code of Practice (CACoP) (Section C7.2(c)), to resolve this inconsistency;
- to progress a Fast-Track Modification to resolve any non-material typographical errors or other minor factual inaccuracies or inconsistencies within the SEC; and
- to progress any consequential changes required to the SEC as a result of changes under other Codes.

There are no provisions for SECAS to raise a Draft Proposal. This is consistent with several other Codes and is based on Code Administrators not being able to raise changes to the provisions that govern their functions. We do highlight though that DCC, whose functions are subject to SEC governance, are able to raise modifications.

3. Rationale for proposal

We believe the constraints placed on the Panel act as a blocker to the efficient progression of changes. DP076 'Pursuing Non-Payment in Events of Default' and DP079 'Provisions for withdrawing modifications' were recently proposed or endorsed by the Panel. However, due to the constraints in Section D1.3(e), the Panel were not able to raise these proposals themselves. Instead, we had to seek a SEC Party to do so on the Panel's behalf.

The joint BEIS/Ofgem consultation on Reforming the Energy Industry Codes proposes that Code Managers should have greater responsibility for "identifying, proposing and developing changes". The ability for Code Managers to have these powers would make it more efficient to implement changes required to deliver strategic goals. Given this direction of travel, we believe we should review the powers that SECAS have to raise modifications.

We believe that allowing one or both bodies wider powers to submit Draft Proposals would allow beneficial changes identified by the Panel or by SECAS to be raised and progressed quicker. This would improve efficiency by allowing these changes to be developed and decided upon sooner.

The final decision on whether any proposal should be approved or rejected sits with the Change Board and the Authority. We believe this would provide a suitable check and balance, preventing the Panel from acting as 'judge, jury and executioner' on any changes they proposed. Furthermore, if SECAS were to persistently raise changes that are not seen as beneficial, we would expect the SECCo Board to intervene and instruct SECAS to cease.

4. Proposed way forward

We believe a Draft Proposal should be raised to debate this issue more widely with the industry. If there is support for implementing a solution, the Draft Proposal can be converted to a Modification Proposal to develop the required changes to SEC Section D.

Neither SECAS nor the Panel would be able to raise such a Draft Proposal. We will therefore seek a Party to raise a Draft Proposal on our behalf.

5. Recommendations

The Panel are requested to:

- **NOTE** the considerations raised in this paper; and
- **ENDORSE** the progression of a Draft Proposal to debate this issue further.

David Kemp

SECAS Team

6 September 2019