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Paper Reference:	SECP_61_1210_11
Action:	For Decision

Modification Send Back: SECMP0049

1. Purpose

The Authority has determined that [SECMP0049 'Section D Review: Amendments to the Modification Process'](#) should be returned to the Panel in order to resolve issues with the proposed legal text.

This paper sets out the basis of the Authority's decision and the next steps for this modification. A copy of the Final Modification Report and its attachments are attached to this paper.

2. Authority decision to send back SECMP0049

The SECMP0049 Final Modification Report and legal text were submitted for Authority decision on 24th August 2018, following a recommendation from the Change Board that the Alternative Solution should be approved.

The legal text included changes that amended the names of the modification 'paths' contained in SEC Section A. As part of its consideration of the modification, the Authority (BEIS) expressed concerns that these would result in a conflict with the Electricity and Gas Appeals (Designation and Exclusion) Order 2014. The proposed change to the SEC would extend the rights of SEC Parties to appeal decisions of the Authority, and this is not provided for in the 2014 Order made by Parliament. The Authority did not believe, from the content of the Final Modification Report, that a change to the appeal process was one of the objectives of the Modification Proposal. On this basis, they were not able to form an opinion on this Modification and consequently sent it back. The Authority's send-back direction can be found in Attachment B.

3. Next steps

In accordance with SEC Section D9.3 (as varied by Section X2.3), the Panel is required to prepare a revised Modification Report to consider the matters raised by the Authority. The original vote of the Change Board is also nullified by this direction.

We note that the Authority's concern relates to a change in the legal text that is not part of the core solution. As part of the proposed changes to SEC Section D, SECMP0049 proposes to rename the 'paths' in order to align these to the terminology used under other industry Codes, a change supported by the Proposer and a majority of the Working Group. In order to resolve the issue raised by the Authority, we propose to reinsert the original path names into SEC Section A and define these as having the same meaning as the revised terms, thus ensuring the link with the 2014 Order is retained. We have consulted with the SEC Lawyers, who have confirmed this approach would resolve

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the issue highlighted. We do not believe there is anything else the Working Group needs to consider as part of this send-back.

As such, we consider that it would be beneficial to submit the Modification Report with the revised legal text directly to a second Modification Report Consultation to confirm and consult on the updated contents before a new Change Board vote is performed. The updated Modification Report and legal text are attached to this paper.

Progression timetable

We recommend that SECMP0049 follows the following timetable:

Activity	Date
Panel considers Send-Back request	12 Oct 18
Second Modification Report Consultation	16 Oct 18 – 06 Nov 18
Change Board vote	21 Nov 18

We highlight that this revised timetable means that it is no longer possible to include SECMP0049 in the November 2018 SEC Release, and that the February 2019 SEC Release would now be the earliest release that this modification could be included in. We have updated the Modification Report accordingly.

4. Recommendations

The Panel is requested to:

- **AGREE** that SECMP0049 remains a Path 2: Authority Determined Modification Proposal;
- **AGREE** the revised legal text delivers the intention of the modification;
- **AGREE** the revised implementation approach; and
- **AGREE** to submit SECMP0049 directly to the Report Phase for a second Modification Report Consultation.

Nikki Olomo

SECAS Team

5 October 2018