

**DRAFT LEGAL TEXT FOR PROPOSED MODIFICATION P368**

This CP proposes changes to BSC Section Z 'Performance Assurance' sections 5.1, 5.2, 5.4, 5.5 and 5.6. Section 5.6A has also been added.

We have redlined these changes against Version 6.0.

We have also included an additional Housekeeping change to sections 5.2.1.

Amend section 5.1 as follows:

**5.1 Settlement Risks, Performance Assurance Parties, SVA Performance Assurance Objectives and Annual Performance Assurance Timetable**

5.1.1 For the purposes of the Code:

- (a) a "**Settlement Risk**" is a risk of any failure or error in a step or process required under the Code (including in each case a risk which has materialised as an actual failure or an error) for the purpose of effecting Settlement or otherwise required in connection with Settlement in accordance with the provisions of the Code;
- (b) references to the significance of a Settlement Risk are to be construed in terms of both the probability of the failure or error (referred to in paragraph 5.1.1(a)) and its impact on Settlement;
- (c) a "**Performance Assurance Party**" is a Supplier, Meter Operator Agent, Data Collector, Data Aggregator, Meter Administrator, Licensed Distribution System Operator and/or a Registrant;
- (d) a Settlement Risk is "**material**" to a Performance Assurance Party where:
  - (i) there is a risk that the Performance Assurance Party may, by failing (in whole or part) to perform any obligation under the Code or any Code Subsidiary Document, cause or contribute to the occurrence of such Settlement Risk; and
  - (ii) the significance of the Settlement Risk is of a level which the Performance Assurance Board determines (in its opinion) to be material; and
- (e) a "**within-period revision**" means a revision by the Performance Assurance Board of:

(i) the Risk Evaluation Methodology;

(i) the Risk Evaluation Register; or

(ii) the Risk Operating Plan,

as applicable in relation to a Performance Assurance Operating Period after such methodology, register or plan has been adopted for such Performance Assurance Operating Period;

5.1.2 A Settlement Risk may be material to a Performance Assurance Party by reason of factors or circumstances:

- (a) relating to Performance Assurance Parties of a class to which the Performance Assurance Party belongs ("**class materiality**"); or
- (b) relating to the Performance Assurance Party individually ("**individual materiality**").

5.1.3 All Settlement Risks which affect Central Volume Allocation shall be deemed to be significant in terms of both probability of failure and impact on Settlement.

5.1.4 In the context of Supplier Volume Allocation:

- (a) the Performance Assurance Board when performing the PAB Functions under this Section Z; and
- (b) the Panel when approving the Risk Evaluation Register pursuant to paragraph 5.5.4, approving the Risk Operating Plan pursuant to paragraph 5.6.3 or hearing Risk Management Determination Appeals pursuant to paragraph 6.3,

shall have regard to the following (so far as consistent with the provisions of the Code) save where to do so would, in the opinion of the Performance Assurance Board or Panel as applicable, substantially prejudice the interests of all Performance Assurance Parties collectively or a class of Performance Assurance Parties collectively:

- (i) the efficient, equitable and accurate allocation of energy between Suppliers resulting from the aggregated consumption of Metering Systems for which each Supplier is responsible; and
- (ii) the efficient, accurate and co-ordinated transfer of Metering Systems data by Performance Assurance Parties between Suppliers and Supplier Agents.

*Amend section 5.2 as follows:*

## **5.2 Annual Performance Assurance Timetable**

5.2.1 **[Housekeeping]** The Panel shall establish and may from time to time revise an annual timetable ("**Annual Performance Assurance Timetable**") for the carrying out in relation to each Performance Assurance Operating Period of the procedures in paragraphs 5.4 to 5.76.

5.2.2 The Annual Performance Assurance Timetable shall be published on the BSCCo website.

*Amend section 5.4 as follows:*

## **5.4 Risk Evaluation Methodology**

5.4.1 The Performance Assurance Board shall establish and maintain a methodology (the "**Risk Evaluation Methodology**") for:

- (a) identifying risks which are Settlement Risks;
- (b) evaluating risks which have been identified as Settlement Risks; and
- (c) assessing the materiality of such Settlement Risks in relation to Performance Assurance Parties.

5.4.2 The Performance Assurance Board shall establish the initial Risk Evaluation Methodology, and thereafter ~~on an annual basis~~ review and update the Risk Evaluation Methodology in accordance with paragraph 5.4.3; and may on an ad-hoc basis revise the Risk Evaluation Methodology in accordance with paragraph 5.4.5.

5.4.3 The Performance Assurance Board shall, in accordance with the Annual Performance Assurance Timetable:

- (a) submit a draft of the proposed Risk Evaluation Methodology to all Performance Assurance Parties and other interested persons;
- (b) after considering comments received from Performance Assurance Parties and other interested persons, make such changes (if any) to the proposed Risk Evaluation Methodology which are (in its opinion) appropriate; and
- (c) approve and adopt the Risk Evaluation Methodology,

and (subject to paragraph 5.6A.2) references to the Risk Evaluation Methodology are to such methodology as so approved and adopted or revised by the Performance Assurance Board pursuant to paragraph 5.4.5.

5.4.4 The Performance Assurance Board shall publish the Risk Evaluation Methodology (and any within-period revision of it) on the BSCCo website.

5.4.5 The procedures in paragraph 5.4.3 shall apply in relation to a proposed within-period revision of the Risk Evaluation Methodology, except that if the Performance Assurance Board considers that the revision is not significant it need not provide a draft of the proposed revised Risk Evaluation Methodology to Performance Assurance Parties and other interested persons.

*Amend section 5.5 as follows:*

## **5.5 Risk Evaluation Register**

5.5.1 The Performance Assurance Board shall:

- (a) identify and evaluate risks which are Settlement Risks, by applying the Risk Evaluation Methodology; and
- (b) prepare and maintain a document (the "**Risk Evaluation Register**") setting out Settlement Risks, and the significance of each such Settlement Risk.

5.5.2 The Risk Evaluation Register will identify and evaluate Settlement Risks generically (and/or by references to classes of Performance Assurance Party) rather than by reference to particular Performance Assurance Parties.

5.5.3 The Performance Assurance Board shall establish the initial Risk Evaluation Register, and thereafter ~~on an annual basis~~ review and update the Risk Evaluation Register, in accordance with paragraph 5.5.4; and may on an ad-hoc basis revise the Risk Evaluation Register in accordance with paragraph 5.5.5.

5.5.4 The Performance Assurance Board shall, ~~after the approval and adoption of the Risk Evaluation Methodology,~~ in accordance with the Annual Performance Assurance Timetable:

- (a) submit a draft of the proposed Risk Evaluation Register to all Performance Assurance Parties and other interested persons;
- (b) after considering any comments (including suggestions as to what may constitute a Settlement Risk) received from any Performance Assurance Parties

and other interested persons, prepare and submit to the Panel for its approval a final proposed Risk Evaluation Register;

- (c) make such changes (if any) to the proposed Risk Evaluation Register as the Panel may direct; and
- (d) adopt the Risk Evaluation Register as so changed and approved by the Panel,

and (subject to paragraph 5.6A.2) references to the Risk Evaluation Register are to such register as so approved and adopted or revised pursuant to paragraph 5.5.5.

5.5.5 ~~Where (The Performance Assurance Board may on an ad hoc basis proposes a within-period revision of the Risk Evaluation Register in relation to a Performance Assurance Operating Period, after it has been adopted under paragraph 5.5.4 where the Performance Assurance Board:~~

~~(a), \_\_\_\_\_ identifies a further Settlement Risk or changes its definition or evaluation of an existing Settlement Risk, the approval of the Panel shall not be required for such within-period revisions, and, subject to paragraph (b), the Performance Assurance Board shall:~~

~~(i) \_\_\_\_\_ submit a draft of the proposed Risk Evaluation Register to all Performance Assurance Parties and other interested persons;~~

~~(ii) \_\_\_\_\_ after considering comments received from Performance Assurance Parties and other interested persons, make such changes (if any) to the proposed Risk Evaluation Register which are (in its opinion) appropriate; and~~

~~(iii) \_\_\_\_\_ approve and adopt the Risk Evaluation Register; and~~

~~(b) \_\_\_\_\_ if the Performance Assurance Board considers that the revision is not significant it need not provide a draft of the proposed Risk Evaluation Register to Performance Assurance Parties and other interested persons.~~

5.5.6 ~~Not used. The procedures in paragraph 5.5.4 shall apply in relation to a proposed within-period revision of the Risk Evaluation Register, except that if the Performance Assurance Board considers that the revision is not significant it need not provide a draft of the proposed revised Risk Evaluation Register to Performance Assurance Parties and other interested persons.~~

5.5.7 The Performance Assurance Board shall publish the Risk Evaluation Register (and any within-period revision of it) on the BSCCo website.

*Amend section 5.6 as follows:*

## **5.6 Risk Operating Plan**

5.6.1 The Performance Assurance Board shall:

(a) determine what Performance Assurance Technique(s) it considers should be applied in relation to each Settlement Risk identified in the Risk Evaluation Register; and

(b) prepare a plan (the "**Risk Operating Plan**") setting out:

- (i) such Settlement Risks and the Performance Assurance Technique(s) that it has determined should be applied to each such Settlement Risk; and
- (ii) the estimated overall cost to BSCCo of implementing such Performance Assurance Technique(s) in the current Performance Assurance Operating Period.

5.6.2 The Performance Assurance Board shall establish the initial Risk Operating Plan, and thereafter ~~shall on an annual basis~~review and update the Risk Operating Plan. –in accordance with paragraph 5.6.3 and may on a within-period basis review and update the Risk Operating Plan in accordance with paragraph 5.6.4.

5.6.3 The Performance Assurance Board shall, ~~after the approval and adoption of the Risk Evaluation Register,~~ in accordance with the Annual Performance Assurance Timetable:

- (a) publish the proposed Risk Operating Plan on the BSCCo website so that any Performance Assurance Parties and other interested persons may comment on it;
- (b) submit the proposed Risk Operating Plan to the Panel for its approval together with any comments received from Performance Assurance Parties and other interested persons;
- (c) make such changes (if any) to the proposed Risk Operating Plan as the Panel may direct; and
- (d) adopt the Risk Operating Plan as so changed and approved by the Panel,

and references to the Risk Operating Plan are to such plan as so approved and adopted or revised pursuant to paragraph 5.6.4.

5.6.4 Where the Performance Assurance Board ~~makes proposes~~ a within-period revision ~~of the Risk Evaluation Register, the Performance Assurance Board shall determine and make such corresponding revisions (if any) of the Risk Operating Plan as it considers appropriate, and;~~

- (a) the approval of the Panel shall not be required for such within-period revisions, and, subject to paragraph (b), the Performance Assurance Board shall:
  - (i) submit a draft of the proposed Risk Operating Plan to all Performance Assurance Parties and other interested persons;
  - (ii) after considering comments received from Performance Assurance Parties and other interested persons, make such changes (if any) to the proposed Risk Operating Plan which are (in its opinion) appropriate; and
  - (iii) approve and adopt the Risk Operating Plan; and
- (b) if the Performance Assurance Board considers that the revision is not significant it need not provide a draft of the proposed Risk Operating Plan to Performance Assurance Parties and other interested persons.

- 5.6.5 The Performance Assurance Board shall publish the Risk Operating Plan (and any within-period revision of it) on the BSCCo website.

*Insert section 5.6A as follows:*

**5.6A Simultaneous review of Risk Evaluation Methodology, Risk Evaluation Register and Risk Operating Plan**

**5.6A.1 For the avoidance of doubt:**

- (a) the Annual Performance Assurance Timetable may provide, in relation to a Performance Assurance Operating Period, that any of the Risk Evaluation Methodology, Risk Evaluation Register and Risk Operating Plan are to be reviewed and updated in conjunction with either or both of the other such documents; and
- (b) the Performance Assurance Board may propose (and subsequently make) a within-period revision to any of the Risk Evaluation Methodology, Risk Evaluation Register and Risk Operating Plan in conjunction with either or both of the other such documents.

**5.6A.2 Notwithstanding any other provision of the Code:**

- (a) where the Performance Assurance Board:
  - (i) reviews and updates the Risk Evaluation Register in conjunction with the Risk Evaluation Methodology, in accordance with the Annual Performance Assurance Timetable; or
  - (ii) proposes a within-period revision to the Risk Evaluation Register in conjunction with a within-period revision to the Risk Evaluation Methodology.

the proposed Risk Evaluation Register shall be drafted as if the proposed Risk Evaluation Methodology had already been approved and adopted by the Performance Assurance Board; and

- (b) where the Performance Assurance Board:
  - (i) reviews and updates the Risk Operating Plan in conjunction with the Risk Evaluation Register, in accordance with the Annual Performance Assurance Timetable; or
  - (ii) proposes a within-period revision to the Risk Operating Plan in conjunction with a within-period revision to the Risk Evaluation Register.

the proposed Risk Operating Plan shall be drafted as if the proposed Risk Evaluation Register had already been adopted by the Performance Assurance Board.