**DRAFT LEGAL TEXT FOR PROPOSED MODIFICATION P332**

**SECTION J: PARTY AGENTS AND QUALIFICATION UNDER THE CODE (V15.0)**

1. GENERAL

**1.2 Obligation to use Party Agents**

*Insert new paragraph 1.2.9:*

1.2.9 In relation to a Metering System, in respect of which an SVA Data Collector has been appointed and is registered under the SMRS, and the Supplier that is the Registrant of such Metering System:

(a) paragraph 1.2.5(a) shall apply to such Supplier in respect of such Party Agents and Metering System, and the Supplier shall comply with paragraph 1.2.5(a) including by procuring compliance with the letter agreement executed by that Party Agent as required by paragraph 3.3.6A;

(b) each Party acknowledges and agrees that:

(i) pursuant to paragraph (a) and, notwithstanding the letter agreement required by paragraph 3.3.6A, the Registrant of the relevant Metering System shall remain fully responsible for procuring the compliance of Party Agents in respect of that Metering System; and

(ii) accordingly BSCCo shall not be required under the Code to exercise or enforce any rights under the letter agreement or procure the compliance of a Party Agent with such letter agreement on behalf of the Registrant or on behalf of Parties generally;

(iii) BSCCo shall not be responsible for the act, breach, omission, neglect and failure of any Party Agent that has, for the time being, failed to execute the letter agreement required by paragraph 3.3.6A.

**3. QUALIFICATION PROCESS**

**3.3 Qualification Process**

3.3.6 The Applicant’s application to Qualify shall not be accepted or considered until the Applicant has agreed to be bound by and to comply with the Code and has executed, in the case of a Party, the Framework Agreement and, in the case of any other Applicant, letter agreement(s) in the form and content satisfactory to the Performance Assurance Board.

*Insert new paragraphs 3.3.6A and B:*

3.3.6A In the case of an Applicant that is seeking Qualification as an SVA Data Collector, such letter agreement (or one of such letter agreements) shall:

(a) oblige the Applicant to perform the functions of SVA Data Collector in respect of Metering Systems in respect of which it is appointed;

(a) give effect to the principle that the Registrant of such Metering Systems should have the benefit of and be able enforce such letter agreement and shall include an express provision to that effect; and

(b) accordingly, shall not contain provisions which would restrict the application of the Contracts (Rights of Third Parties) Act 1999 in relation to the relevant terms of the letter agreement.

3.3.6B Each Qualified SVA Data Collector shall be required to submit an executed letter agreement as required under paragraph 3.3.6A within 6 months of the Relevant Implementation Date of Approved Modification P332. In relation to any failure by an SVA Data Collector to execute such letter agreement, and without prejudice to the rights of the Performance Assurance Board to apply Performance Assurance Techniques in respect thereof, such failure shall constitute a failure to comply with a requirement pursuant to paragraph 3.4.2.