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ASSURANCE DECISIONS FOR R0137 AND R0155

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FOR DECISION 	Two significant changes could bring about major improvements in non-domestic energy markets. This paper explains their context, presenting three options for performance assurance over each of them. The Code Manager proposes recommended options, alongside relevant benefits. The Code Manager recommends an approach with preventive controls and associated assurance for R0137, with regular sample checking being undertaken for R0155. We wish to **DISCUSS** the options presented and **AGREE** a preferred option.

1 BACKGROUND

RECCo's forward work plan establishes the key priorities for RECCo as a business. These include corporate activities, commercial activities such as reviewing contracts before they expire and activities to improve retail markets for consumers and market participants. Some of these improvement activities result in REC changes that then require other organisations to meet specific standards.

RECCo have worked on two changes intended to improve consumer protections in the non-domestic energy market. These are:

- R0137 is a change which builds on the currently optional Third Party Intermediary (TPI) Code of Conduct, making it mandatory for Suppliers to use accredited TPIs. It also establishes an accreditation scheme, and role for the PAB. The Code of Conduct exists to protect consumers from poor practice and covers six principles:
    - Transparency and Accuracy
    - Transparent TPI Pricing and Product Information
    - Treating Customer Fairly
    - Clear Route for Dispute Processes
    - Appropriate Data Protection Arrangements
    - Training, Governance and Compliance.
- R0155 is a change that seeks to establish better evidentiary standards when there is a Change of Tenancy (CoT), also referred to as Change of Occupier (CoO). This seeks to establish clear rules that allow the new occupier of a premises to enter a new energy supply contract without being responsible for others' debt, whilst also protecting Suppliers from fraudulent claims that breach contract by falsifying documentation. This need was identified through performance assurance activity, through whistleblowing by energy brokers and identified in Ofgem's review of the non-domestic market.

These are significant changes that establish complex new requirements, with R0137 also placing potentially thousands of organisations in the scope of the REC. These changes will not achieve the benefits intended for consumers unless there are mechanisms to assure that the obligations they bring in are followed. Not doing so also creates competitive disadvantages for those that follow the rules.

1.1 ROLE OF THE PAB

Assuring these obligations is complex, and the costs and benefits of assurance need to be balanced. The PAB sets the policy, approach and risk appetite for REC Performance Assurance and we therefore set out the assurance options in this paper for decision prior to including a recommended option in our change impact assessment. For each of the Change proposals, the Code Manager invites the PAB to discuss the options and make a decision on the Code Manager's recommendation.

In addition, since this is the first time the Code Manager has taken this approach to significant changes, we would welcome any suggestions to enhance this approach and paper.

2 REC CHANGE PROPOSALS

2.1 R0137 - INTRODUCING THIRD PARTY INTERMEDIARY (ENERGY BROKER) ASSURANCE AND ACCREDITATION

This impact assessment covers only one element of assurance – assuring that Suppliers only use accredited TPIs. PAB will separately be responsible for accreditation schemes which RECCo will procure.

Assurance Options	Option 1: Limited Assurance	Option 2: Built-in Process Controls and Monitoring	Option 3: Regular sample checking
Description of the Option	Suppliers will be able to easily identify the accredited TPIs, if the PAB considers the risks associated with compliance to be low the Code Manager would then focus on gaining assurance that Suppliers have adapted to this new requirement. This would take the form of a one off implementation test, for example 6 months after implementation. This would involve the Code Manager requesting evidence from all non-domestic Suppliers that they have updated procedures to only work with accredited TPIs. If this demonstrates substantial compliance then this process would not be repeated.	Similar to the appointment of MEMs, we could update CSS flows so that a Supplier needs to pick an accredited TPI from a pre-defined list, preventing the selection of a non-accredited TPI. This would need a change to CSS systems and processes, including maintaining the accredited TPI list. Suppliers directly contract with non-domestic customers, so this would need an option of 'no TPI'. The Code Manager would be provided with updated CSS reports that included details of the TPIs used by supplier. Monitoring would be included in our monthly processes – for example assessing the rate of objections by TPI, following up on higher rates of objection which could identify instances of non-compliance and investigated anomalous behaviour (such as no use of TPIs at all). This would need to cover both 'no TPI' and specific TPIs. We would agree a threshold with the PAB on what is considered a high rate needing investigation. The Code Manager could also sample check a small number of these records to source data periodically, to verify suppliers are recording this data correctly.	Should the PAB consider it a higher risk an enduring assurance process may be appropriate. This would involve sample checking non domestic switches to identify those which were intermediated by a TPI. This option would not consider additional data flows, with the visible assurance activity in part designed to remind organisations of the importance of these activities.
Benefits of the option	Low impact on Suppliers. This could also be well publicised to encourage compliance prior to the assessment.	This provides information to assess both Supplier and TPI compliance.	This option spreads the cost, and also is highly visible, encouraging compliance.

Assurance Options	Option 1: Limited Assurance	Option 2: Built-in Process Controls and Monitoring	Option 3: Regular sample checking
		This option is an 'invest to save' approach where costs prior to go live are higher to save costs in the following years. The approach is well aligned with the broader REC digitalisation principles and data-driven Performance Assurance approach.	
Concerns with the option	If compliance levels reduce in future years this would not be identified. This could create a commercial advantage for non-accredited TPIs.	Changes to CSS have often been costly and take time to implement. We could alternatively ask for this information directly from Suppliers, e.g. by updating the 1431 PARC report where Suppliers provide information on switches.	This does not follow the PAF principle of sourcing from central data first.
Effort Required	Moderate	Lower ongoing assurance effort, with investment up front in technology costs	High
Impacted Products	Risk Register, PAOP, Risk Determinations	REC legal text, CSS technical design, potentially supplier's CSS interfaces, Risk Register, PAOP, Risk Determinations	Risk Register, PAOP, Risk Determinations

There are some broader elements that we will also include in our impact assessment, including facilitating a disputes process and processes to maintain a register of TPIs.

2.2 R0155 - CHANGE OF TENANCY: EVIDENTIARY STANDARDS AND TIMESCALES

This change updates processes for a CoT with and without a switch. We consider the process for CoT with a switch to be the key process to assure because customers prevented from entering into a contract with the organisation that currently supplies their premises are likely to try and switch. This impact assessment focuses on assuring the obligations on Suppliers, although should R0137 be implemented we can also consider the performance of TPIs.

Assurance Options	Option 1: Limited Assurance	Option 2: Continuous monitoring / PATs	Option 3: Regular sample checking
Description of the Option	Suppliers currently operate this process. If the PAB considers this low risk then the Code Manager would focus on how Suppliers are adapting to the changes in standards. The Code Manager would conduct a one off implementation test to assess if the implementation has been effective.	As a process of continuous monitoring, we will assess the volume of switches with a CoO flag and assess the acceptance ratio. In the events where we see a high objection rate, we will apply existing Performance Assurance Techniques (PATs). We would agree a threshold with the PAB on what is considered a high rate needing investigation. Should the associated TPI be identified in CSS (to deliver the benefits of R0137) then we would also be able to identify TPIs that have high objection rates, so could be attempting to submit false information to break contracts. This may lead to specific PATs being applied to TPIs, ultimately resulting in them having accreditation removed if appropriate.	For the Suppliers who use the CoO flag, we would obtain backing evidence on a sample basis to assess if the process has been followed in line with the obligation. The frequency of the sample check will be determined within the PAOP, with the sample selected based on analysis of CoO flagged switches. For the sample check, we will need the following. 1. For the selected sample, the evidence received. 2. Date of the receipt of evidence 3. Evidence of communication of the determination of outcome to the Party including the timestamp on when this was actioned.
Benefits of the option	Low impact on Suppliers. This could also be well publicised to encourage compliance prior to the assessment.	This uses pre-existing information, and is low impact for organisations that are using objections in line with market averages. Assessing both TPI and Supplier performance protects legitimate organisations in both categories.	This approach can be adjusted over time. This provides better assurance of the timeliness of resolution, which really matters to affected consumers, particularly those paying high deemed contracts unable to switch.

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Assurance Options	Option 1: Limited Assurance	Option 2: Continuous monitoring / PATs	Option 3: Regular sample checking
Concerns with the option	We would not have ongoing information on compliance, in an area that could be very significant to affected consumers.	This is a less detailed option that is likely to identify systemic issues at Parties, but provides less assurance coverage.	Assessing CoT evidence is complex and time consuming, both for Suppliers and assurance teams.
Effort Required	Moderate	Minor	High
Impacted Products	Risk Register, PAOP, Risk Determinations	Risk Register, PAOP, Risk Determinations	Risk Register, PAOP, Risk Determinations

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2.3 RECOMMENDED OPTION

Based on our assessment of the risks we recommend that:

Change	Recommended option	Rationale
R0137 - introducing Third Party Intermediary (energy broker) assurance and accreditation	Option 2: Built-in Process Controls and Monitoring	Given the very high number of TPIs, we consider it important that Suppliers get regular reminders of their requirement to use accredited TPIs, but consider it proportionate to only follow up on behaviour outside of the norm. We consider the ability to track the performance of TPIs to be a significant benefit, and consider it equally important to protect Suppliers from inappropriate behaviour of TPIs as vice versa.
R0155 - Change of Tenancy: evidentiary standards and timescales	Option 3: Regular sample checking	Given the direct consumer harm we think it is worth providing detailed assurance of this with high coverage. This will also act as an incentive to rapidly resolve these matters retaining appropriate evidence.

In each of these instances we consider these new requirements would be incremental activity, not directly displace pre-planned activity, although they could be funded through reductions in other activity.

2.4 NEXT STEPS

Having obtained PAB's input we will complete the following:

- Feedback on any changes to the solution design that are required, including securing impact assessments and costings from the CSS provider if appropriate. We would also need to consider if an interim solution is required due to the MHHS change freeze preventing CSS improvements.
- Develop a detailed impact assessment as part of the change process. We think that in both cases this will include communicating the assurance approach before any consultation, so respondents are fully aware of the assurance approach.
- Agree detailed costing and contract changes with RECCo.
- Update associate documents, such as the Risk Register.
- Fully brief the affected organisations prior to implementation.

2.5 ASKS OF THE PAB

We wish to **DISCUSS** the options presented and **AGREE** a preferred option.