



## **MODIFICATION REPORT for Modification Proposal P146**

### **New Participation Category to the BSC – Clearing House**

**Prepared by: ELEXON on behalf of the BSC Panel**

<b>Date of issue:</b>	15 March 2004	<b>Document reference:</b>	P146RR
<b>Reason for issue:</b>	For Authority decision	<b>Issue/Version number:</b>	Final/1.0

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#### **RECOMMENDATIONS**

Having considered and taken into due account the contents of this report, the Balancing and Settlement Code Panel recommends that:

- **Proposed Modification P146 should not be made;**
- **Alternative Modification P146 should be made;**
- **The Implementation Date for the Proposed Modification P146 (in the event that the Authority determines that the Proposed Modification should be made) should be 23 February 2005 if an Authority decision is received on or before 22 June 2004, or 29 June 2005 if an Authority decision is received after 22 June 2004 but on or before 28 October 2004;**
- **The Implementation Date for the Alternative Modification P146 should be 3 November 2004 if an Authority decision is received on or before 27 July 2004, or 23 February 2005 if an Authority decision is received after 27 July 2004 but on or before 16 November 2004.**

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<sup>1</sup> The current version of the Balancing and Settlement Code (the 'Code') can be found at [www.elexon.co.uk/ta/bsc/el\\_docs/bsc\\_code.html](http://www.elexon.co.uk/ta/bsc/el_docs/bsc_code.html)

## CONTENTS TABLE

<b>Recommendations .....</b>	<b>1</b>
<b>Summary of impacted parties and documents .....</b>	<b>3</b>
<b>1 Description of Proposed Modification and assessment against the Applicable BSC Objectives .....</b>	<b>4</b>
1.1 Modification Proposal .....	4
1.2 Proposed Modification .....	8
1.3 Issues raised by the Proposed Modification .....	11
1.4 SSMG's assessment of whether the Proposed Modification would better facilitate the Applicable BSC Objectives .....	12
1.5 Alternative Modification .....	14
1.6 Issues raised by the Alternative Modification .....	15
1.7 SSMG's assessment of whether the Alternative Modification would better facilitate the Applicable BSC Objectives .....	16
1.8 Governance and regulatory framework assessment .....	17
<b>2 Costs .....</b>	<b>17</b>
2.1 Costs of progressing P146 through the Modification Procedures .....	17
2.2 Implementation costs - Proposed Modification .....	18
2.3 Implementation costs - Alternative Modification .....	19
<b>3 Rationale for Panel's recommendations .....</b>	<b>20</b>
<b>4 Impact on BSC Systems and Parties .....</b>	<b>21</b>
4.1 BSCCo .....	21
4.2 BSC Systems .....	22
4.3 Parties and Party Agents .....	22
<b>5 Impact on Code and documentation .....</b>	<b>22</b>
5.1 Balancing and Settlement Code .....	22
5.2 Code Subsidiary Documents .....	23
5.3 Configurable Items .....	23
5.4 BSCCo Memorandum and Articles of Association .....	24
5.5 Impact on Core Industry Documents and supporting arrangements .....	24
<b>6 Summary of consultation responses .....</b>	<b>24</b>
6.1 Respondents' views regarding provisional recommendations .....	24
6.2 Respondents' views regarding draft legal text .....	25
6.3 Respondents' views regarding proposed Implementation Dates .....	25
6.4 Further comments of respondents .....	26
6.5 Comments and views of the Panel .....	26
<b>7 Summary of Transmission Company analysis .....</b>	<b>26</b>
<b>8 Summary of external advice .....</b>	<b>26</b>
<b>9 Implementation approach .....</b>	<b>26</b>
<b>10 Document control .....</b>	<b>27</b>
10.1 Authorities .....	27
10.2 References .....	27
<b>Annex 1 Legal text .....</b>	<b>29</b>
<b>Annex 2 Modification Group details .....</b>	<b>29</b>
<b>Annex 3 BSC Agent impact assessment response .....</b>	<b>29</b>
<b>Annex 4 Party, Party Agent and Core Industry Document Owner impact assessment responses .....</b>	<b>29</b>
<b>Annex 5 Consultation responses .....</b>	<b>29</b>
<b>Annex 6 Clarification of costs .....</b>	<b>29</b>

### SUMMARY OF IMPACTED PARTIES AND DOCUMENTS

The following parties/documents have been identified as impacted by the implementation of the Proposed Modification P146 and/or the Alternative Modification P146.

Parties	Sections of the BSC	Code Subsidiary Documents
Suppliers <input type="checkbox"/>	A <input checked="" type="checkbox"/>	BSC Procedures <input checked="" type="checkbox"/>
Generators <input type="checkbox"/>	B <input type="checkbox"/>	Codes of Practice <input type="checkbox"/>
Licence Exemptable Generators <input type="checkbox"/>	C <input type="checkbox"/>	BSC Service Descriptions <input checked="" type="checkbox"/>
Transmission Company <input type="checkbox"/>	D <input checked="" type="checkbox"/>	Service Lines <input type="checkbox"/>
Interconnector <input type="checkbox"/>	E <input type="checkbox"/>	Data Catalogues <input type="checkbox"/>
Distribution System Operators <input type="checkbox"/>	F <input type="checkbox"/>	Communication Requirements Document <input checked="" type="checkbox"/>
Clearing Houses <input checked="" type="checkbox"/>	G <input type="checkbox"/>	Reporting Catalogue <input checked="" type="checkbox"/>
<b>Party Agents</b>		
Data Aggregators <input type="checkbox"/>	H <input type="checkbox"/>	MIDS <input type="checkbox"/>
Data Collectors <input type="checkbox"/>	J <input type="checkbox"/>	<b>Core Industry Documents</b>
Meter Operator Agents <input type="checkbox"/>	K <input checked="" type="checkbox"/>	Grid Code <input type="checkbox"/>
ECVNA <input type="checkbox"/>	L <input type="checkbox"/>	Supplemental Agreements <input type="checkbox"/>
MVRNA <input type="checkbox"/>	M <input checked="" type="checkbox"/>	Ancillary Services Agreements <input type="checkbox"/>
<b>BSC Agents</b>		
SAA <input type="checkbox"/>	N <input type="checkbox"/>	Master Registration Agreement <input type="checkbox"/>
FAA <input type="checkbox"/>	O <input type="checkbox"/>	Data Transfer Services Agreement <input type="checkbox"/>
BMRA <input type="checkbox"/>	P <input checked="" type="checkbox"/>	British Grid Systems Agreement <input type="checkbox"/>
ECVAA <input checked="" type="checkbox"/>	Q <input type="checkbox"/>	Use of Interconnector Agreement <input type="checkbox"/>
CDCA <input type="checkbox"/>	R <input type="checkbox"/>	Settlement Agreement for Scotland <input type="checkbox"/>
TAA <input type="checkbox"/>	S <input type="checkbox"/>	Distribution Codes <input type="checkbox"/>
CRA <input checked="" type="checkbox"/>	T <input type="checkbox"/>	Distribution Use of System Agreements <input type="checkbox"/>
Teleswitch Agent <input type="checkbox"/>	U <input type="checkbox"/>	Distribution Connection Agreements <input type="checkbox"/>
SVAA <input type="checkbox"/>	V <input type="checkbox"/>	<b>BSCCo</b>
BSC Auditor <input type="checkbox"/>	W <input type="checkbox"/>	Internal Working Procedures <input checked="" type="checkbox"/>
Profile Administrator <input type="checkbox"/>	X <input checked="" type="checkbox"/>	<b>Other Documents</b>
Certification Agent <input type="checkbox"/>		Transmission Licence <input type="checkbox"/>
MIDP <input type="checkbox"/>		
TLFA <input type="checkbox"/>		
<b>Other Agents</b>		
SMRA <input type="checkbox"/>		
Data Transmission Provider <input type="checkbox"/>		

# **1 DESCRIPTION OF PROPOSED MODIFICATION AND ASSESSMENT AGAINST THE APPLICABLE BSC OBJECTIVES**

Modification Proposal P146 ('P146', Reference 1) was raised by OM London Exchange Ltd ('the Proposer') on 3 November 2003.

## **1.1 Modification Proposal**

### **1.1.1 Issue/defect which Modification Proposal seeks to address**

Currently, organisations which operate as Clearing Houses in the electricity market are required to register as Trading Parties under the Balancing and Settlement Code ('the Code'), since they hold Energy Accounts in order to act as the central counterparty and notifier to trades between their members.<sup>2</sup> P146 argues that this requirement represents a defect in the Code through a failure to recognise that Clearing Houses operate a different market position to other BSC Trading Parties. The Proposer of P146 states that Clearing Houses are subject to their own regulatory requirements, do not hold gross positions in power contracts,<sup>3</sup> and do not seek to profit from price changes. P146 argues that membership of a Clearing House allows BSC Parties to trade at the 'best price' available without concerns over the credit-worthiness of their counterparties, because each Clearing House takes responsibility for the credit risk and performance of the contracts they clear.

P146 therefore suggests that the Code should seek to recognise, facilitate and enhance the role of Clearing Houses since such organisations increase the efficiency and transparency (and therefore the competitiveness) of the sale and purchase of electricity. The Proposer believes that P146 would better facilitate Applicable Objective (c):

'promoting effective competition in the generation and supply of electricity, and (so far as consistent therewith) promoting such competition in the sale and purchase of electricity'.

Specifically, P146 seeks to amend the Code to create a new participation category of 'Clearing House', mitigate the risk to Clearing Houses of their counterparties entering Credit Default, and correct a perceived discrimination in the Notified Volume Charges applied to Clearing Houses.

### **1.1.2 Solution proposed by P146**

The three components of the Modification Proposal are outlined in more detail below.

#### **(a) New category of 'Clearing House'**

P146 seeks to introduce a new category of 'Clearing House' into Section A of the Code. Within this category Clearing Houses would be able to submit Energy Contract Volume Notifications (ECVNs or 'notifications') for their cleared trades in the role of an Energy Contract Volume Notification Agent (ECVNA) as currently, but would not be authorised to act in any other participation capacity.<sup>4</sup> However, those Parties registering as Clearing Houses would receive two unique benefits as described in (b) and (c) below.

#### **(b) Notification of potential Credit Defaults from the ECVA to Clearing Houses**

The Modification Proposal argues that the Code's inability to facilitate the operation of Clearing Houses is manifest in the inability of the Energy Contract Volume Aggregation Agent (ECVAA) to supply information to such organisations in the event of the potential Credit Defaults of their members. By

<sup>2</sup> Annex X-1 of the Code currently defines a Trading Party as 'a Party, other than the Transmission Company, which holds Energy Accounts'.

<sup>3</sup> The Proposer argues that Clearing Houses always seek to hold an aggregate contract volume of zero (hereafter referred to as a 'net' position of zero).

<sup>4</sup> This would not constrain the ability of such Parties to act as Market Index Data Providers (MIDPs) under the Code, since MIDPs represent a service provider role rather than a participation capacity.

acting as the central counterparty to their members' trades and guaranteeing delivery, the Clearing House bears the non-delivery risk normally involved in a bilateral trade between Parties. P146 argues that, as clearing facilitates competition by removing this exposure for Parties, the Code should act to protect Clearing Houses from such risks in return. Specifically, P146 seeks to mitigate the potential imbalance risk to a Clearing House of any of its members becoming unable to deliver part of a cleared trade due to having been placed in Credit Default under the Code and thereby having triggered notification rejections. The Modification Proposal therefore seeks to add a Code obligation, within the Section M Credit Default process, for the ECVA to provide warning to a Clearing House of any members in breach of their Credit Cover Percentage. This provision would be applied to any Parties for whom the Clearing House was authorised to submit ECVNs.

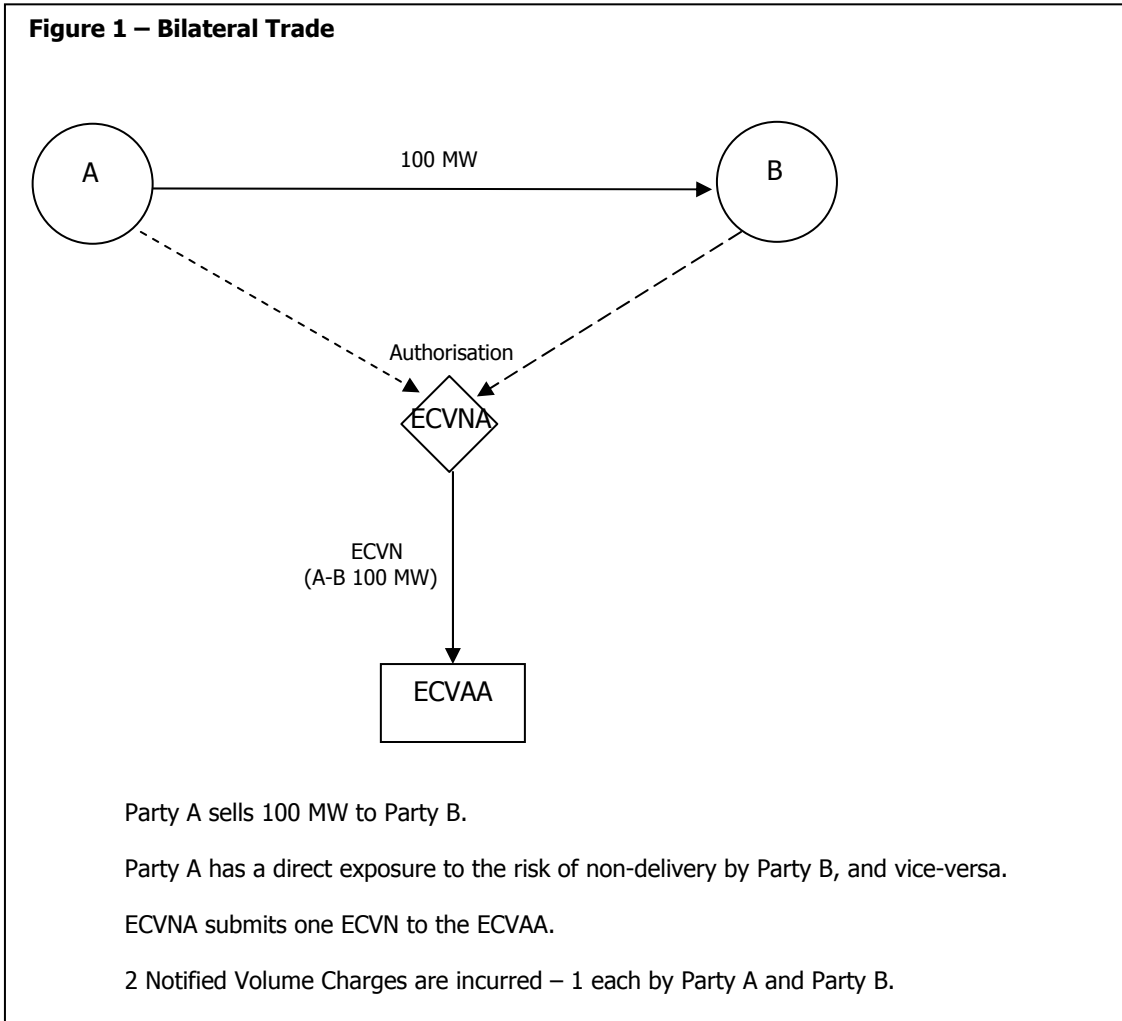
**(c) Single Notified Volume Charge for Clearing Houses**

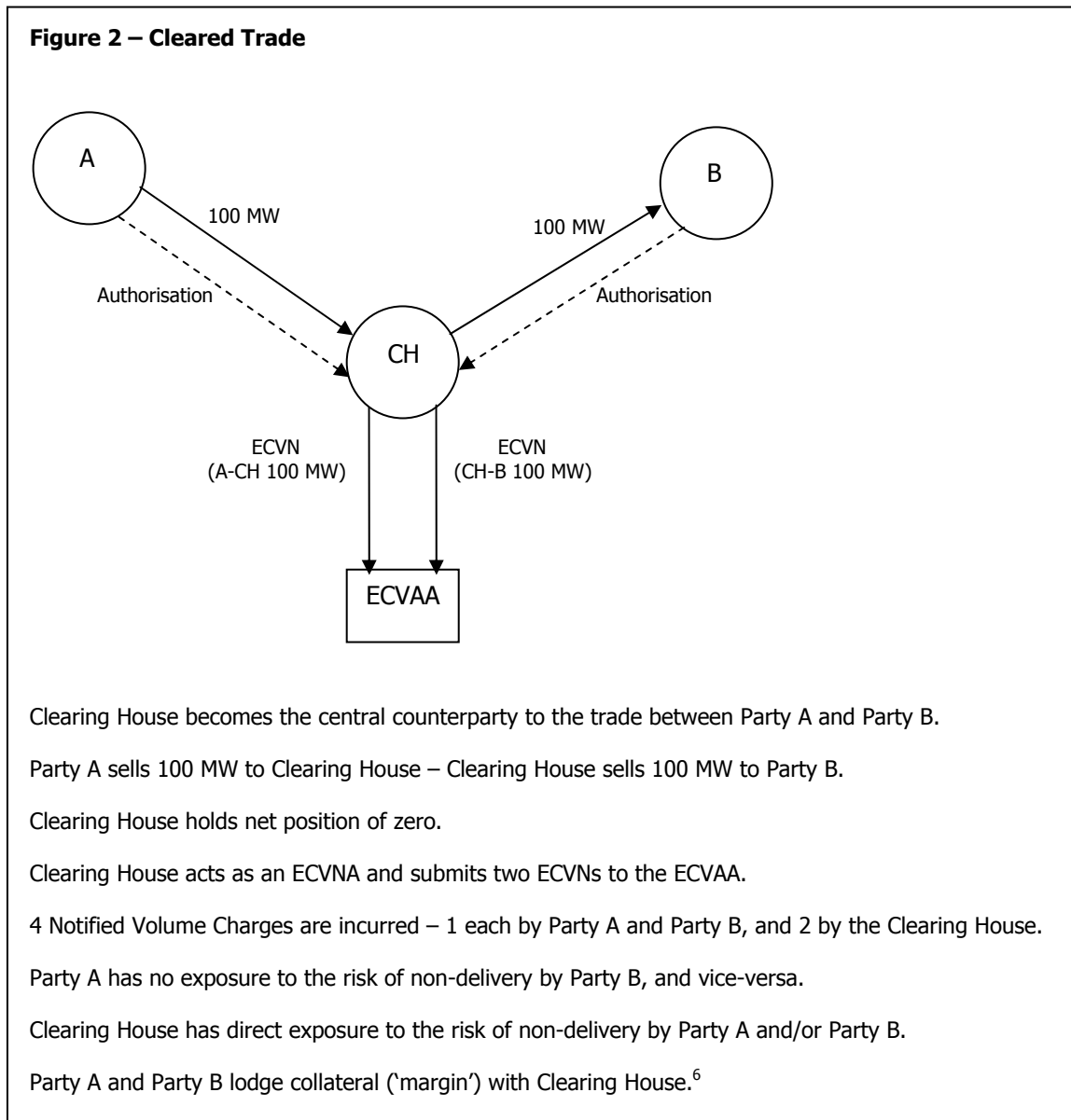
P146 states that another area in which the Code fails to recognise the role of Clearing Houses is in the charging schedule applied to notified energy volumes. The Proposer argues that the Notified Volume Charge, which is currently applied to all Trading Parties by total notified energy volume, discriminates against Clearing Houses. By acting as the central notifying counterparty to all their cleared positions ('the buyer to every seller and the seller to every buyer'), Clearing Houses submit two notifications for the actual volume traded – an equal and opposite buy for every sell.<sup>5</sup> Such Parties therefore receive twice the level of notification charges due to this 'doubling' of ECVNs. The Modification Proposal therefore seeks to amend Section D, Annex D-3 of the Code so that those Parties registered within the new capacity of Clearing House would only be charged once per traded volume, although Clearing Houses would continue to notify the volume twice as the central counterparty. The Proposer argues that this should be achieved by invoicing Clearing Houses for Notified Volume Charges relating to positive energy volumes only.

Figures 1 and 2 on the following pages outline the differences between a bilateral and a cleared trade.

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<sup>5</sup> For example, where a Clearing House notified a trade of 100 MW from Party A to Party B with itself as the central counterparty the Clearing House would be charged for the total notified energy volume of 200 MW (see Figure 2).





### 1.1.3 Process followed to date

The P146 Initial Written Assessment (Reference 2) was presented to the Panel at its meeting of 11 November 2003, where the Panel determined that the Modification should be submitted to a three-month Assessment Procedure by the Settlement Standing Modification Group (SSMG) supplemented with expertise from the Governance Standing Modification Group and non-physical traders.

The SSMG met four times during the Assessment Procedure to consider P146: on 18 November 2003, 2 December 2003, 16 December 2003 and 13 January 2004. An Assessment Consultation was issued and impact assessments commissioned from the BSC Agent, BSC Parties, Party Agents, Core Industry Document Owners and BSCCo. The SSMG also developed an Alternative Modification, as outlined in Section 1.5 below. The P146 Assessment Report (Reference 3) was presented to the Panel at its meeting of 12 February 2004, where the Panel agreed the SSMG's recommendations that P146 proceed

<sup>6</sup> This collateral is in addition to the Credit Cover required to be lodged by Party A and Party B in accordance with the Code.

to the Report Phase with a provisional recommendation that the Proposed Modification should not be made and that the Alternative Modification should be made.

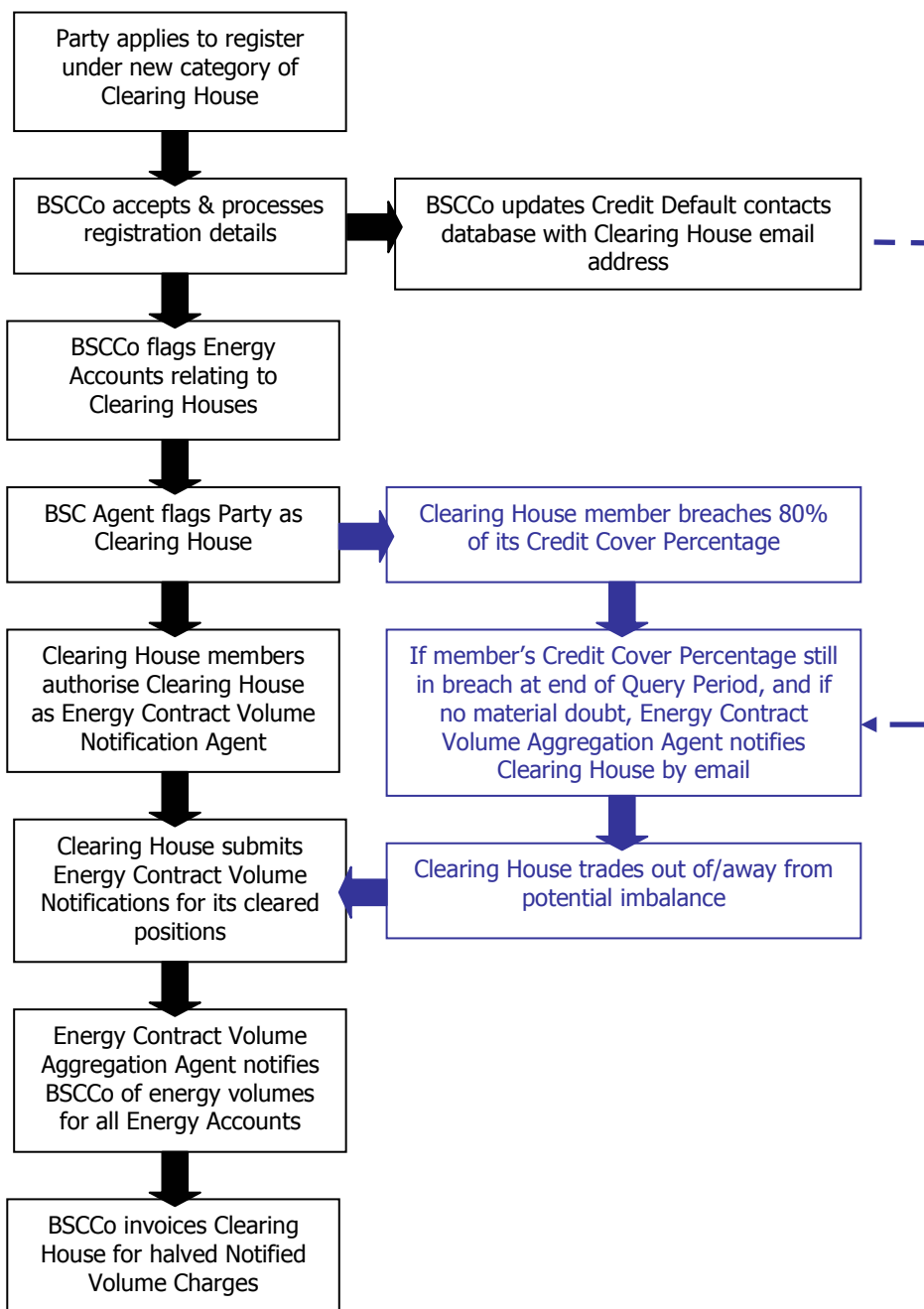
A summary of the responses received to the P146 Report Consultation can be found in Section 6, with full responses attached as Annex 5. The Panel considered the P146 draft Modification Report (Reference 4) and the consultation responses at its meeting of 11 March 2004, and by majority agreed that the final Modification Report should contain the recommendation that the Proposed Modification should not be made and that the Alternative Modification should be made.

Legal text has been provided in respect of the Alternative Modification, and is attached as Annex 1. At the Panel meeting of 12 February 2004, the Authority confirmed that no legal text would be required for the Proposed Modification.

## 1.2 Proposed Modification

Figure 3 below provides a high-level overview of the semi-manual solution developed by the SSMG to support the Proposed Modification.

**Figure 3 – Overview of Proposed Modification**



Summaries of the new processes which would result from the implementation of this semi-manual solution are given below.

### **1.2.1 New category of 'Clearing House'**

- The new Code category of Clearing House would be created as a sub-category of the current Trading Party participation capacity.
- Within this sub-category, Clearing House Parties would continue to hold the same rights and obligations as Trading Parties, subject to the following criteria:
  - The registering Party must hold one of the following types of recognition status from the Financial Services Authority (FSA) under the Financial Services and Markets Act 2000 (FSMA): Recognised Clearing House (RCH) or Recognised Investment Exchange (RIE);
  - If a RIE, the Party must provide a central counterparty clearing service within the electricity market as part of its business activities;
  - The Party shall not seek to trade or hold gross positions in electricity contracts, but shall seek to hold a net position of zero at all times;
  - The Party may not hold BM Units; and
  - The Party must operate independently from any Party trading or holding gross positions under the Code, or which holds BM Units.
- Organisations wishing to register within the new category would be required to undertake a self-certification Market Entry process, by providing BSCCo with evidence of their status as a RCH or RIE and by completing a signed undertaking to meet the above entry criteria.
- As part of its registration details, each Clearing House Party would provide BSCCo with an e-mail address to be used by the ECVAA to notify the Clearing House of the potential Credit Defaults of its members.
- BSCCo would notify the Central Registration Agent (CRA) of each new Clearing House Party, and add the e-mail address to be used for Credit Default notifications to that Party to the Credit Default contacts database.
- The CRA would add a new market role code to the Party ID of each Party registering within the new category, which would be transferred to the ECVAA using existing registration flows.
- Each Clearing House Party would be obliged to notify BSCCo if, at any time, it became aware of any reason why it could no longer comply with the entry criteria for Clearing Houses. No formal monitoring to enforce Clearing Houses' compliance with the criteria would be undertaken by BSCCo.

### **1.2.2 Notification of potential Credit Defaults**

- Upon a Party breaching 80% of its Credit Cover Percentage, the ECVAA would run a system search to identify if the Party concerned had any ECVNA Authorisations with a Clearing House.
- The ECVAA would advise BSCCo of any such authorisations as an addition to the current process for informing BSCCo of the breach.
- Where the Party's redetermined Credit Cover Percentage remained above 80% at the end of a Query Period, BSCCo would instruct the ECVAA to notify the relevant Clearing House providing that:

- Material doubt had not been queried by the end of the Query Period; or
- Material doubt had been queried and declined by the end of the Query Period.

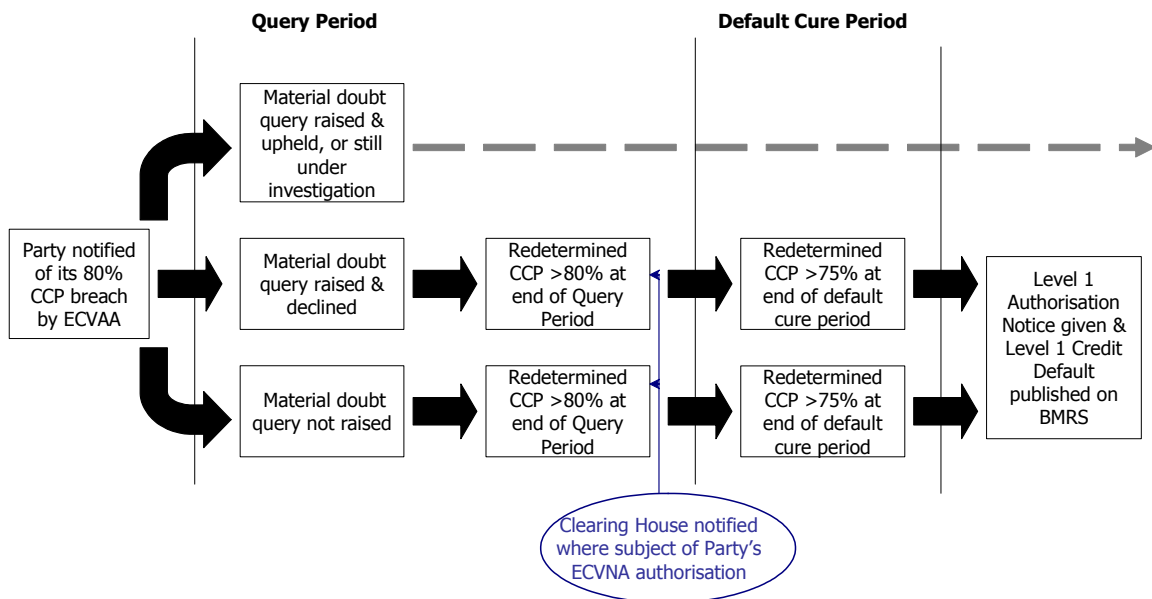
Where material doubt had been queried and upheld, or was still being investigated at the end of the Query Period, BSCCo would instruct the ECVAA not to notify the Clearing House. This instruction would be an addition to the current process whereby the ECVAA notifies BSCCo of a Party's redetermined Credit Cover Percentage at the end of a Query Period.

- If instructed to provide notification to a Clearing House, the ECVAA would generate and send an e-mail to the address contained in the Credit Default contacts database.
- The e-mail notification would provide a Clearing House with the following information:
  - The name of the Party in breach for which the Clearing House held an ECVNA Authorisation; and
  - Notification that the Party concerned was still in breach of its Credit Cover Percentage at the end of a Query Period.

The exact percentage of the Party's breach (or whether it represented a Level 1 or Level 2 breach) would not be notified.

Figure 4 shows the relationship between the proposed notification to Clearing Houses and the existing Level 1 Credit Default process.

**Figure 4 – Timetable of Level 1 Credit Default provisions**



**1.2.3 Single Notified Volume Charge for Clearing Houses**

BSCCo would halve the Notified Volume Charges to be invoiced to each Party registered as a Clearing House under the Code. No Central Systems changes would be required as part of this new process.

### 1.3 Issues raised by the Proposed Modification

The following represents a summary of the SSMG's discussions regarding the issues raised by the Proposed Modification:

- The SSMG's clarification of the proposed participation category, and agreement to establish 'Clearing House' as a sub-category of Trading Party;
- The SSMG's clarification of the definition of 'Clearing House', and the differences between a 'power exchange' and a 'clearing house';
- The SSMG's clarification of Clearing Houses' regulation by the FSA, examination of the difference in regulation between RCHs/RIEs (such as The London Clearing House (LCH) and OM London) and authorised firms (such as APX Amsterdam Power Exchange (UK) Limited (APX)), and consideration of the vires in referencing external financial legislation;
- The SSMG's discussion of various options relating to the Code entry criteria for Clearing Houses under P146, agreement to restrict the Proposed Modification to RCHs/RIEs only in order to safeguard Credit Default information, and agreement of additional BSC-specific entry criteria;
- The SSMG's clarification that under P146 Clearing Houses would receive early notification of potential Level 1 Credit Defaults at the end of the Query Period, before actual Credit Defaults occurred and were notified to the rest of the market;
- The SSMG's addition of the provision that Clearing Houses would not receive notifications of any potential Credit Defaults where material doubt was being investigated at the end of the Query Period;
- The SSMG's clarification of the interaction between P146 and Modification Proposal P142 'Minor Refinement to Allow a Level 2 Default Cure Period in Defined Circumstances' ('P142'), and that if P142 and P146 were both implemented Clearing Houses would also receive early notification regarding some potential Level 2 Credit Defaults;
- The SSMG's clarification of the credit information to be provided to Clearing Houses, and agreement that the exact percentage of a Party's breach of its Credit Cover (or whether it represented a Level 1 or Level 2 breach) should remain confidential to BSCCo, the ECVA and the Party concerned;
- The SSMG's development of a semi-manual solution for providing Credit Default notifications to Clearing Houses, and agreement that this represented the most cost-effective implementation option;
- The SSMG's development of a new manual charging mechanism for Clearing Houses, agreement that halving Notified Volume Charges would have the same effect as charging for positive volumes only, and agreement that this represented the most cost-effective approach; and
- The SSMG's discussion of the materiality of halved notification charges for Clearing Houses under the Proposed Modification, recognition that a restriction to RCHs and RIEs would exclude APX (and OM London after its acquisition by APX by mid-2004), recognition that LCH does not currently offer a clearing and notifying service in the UK electricity market, and agreement that it was therefore not possible to fully explore the materiality of the Proposed Modification.

These issues are discussed fully in the Assessment Report and are therefore not covered further here.

## **1.4 SSMG's assessment of whether the Proposed Modification would better facilitate the Applicable BSC Objectives**

This section represents a summary of the SSMG's assessment of the Proposed Modification against the Applicable BSC Objectives. The SSMG, in undertaking this assessment, took account of the views expressed by respondents to the Assessment Consultation (see P146 Assessment Report for the SSMG's discussion of these responses).

### **SSMG majority view against Proposed Modification**

The majority of the SSMG (with the exception of the Proposer) concluded that the Proposed Modification P146 would not better facilitate the Applicable BSC Objectives, since its provisions for Clearing Houses to receive warning of members' potential Credit Defaults would have a negative impact on competition and Applicable Objective (c).

The following arguments were expressed in support of this view:

- That Code provisions to mitigate the risk to Clearing Houses of their counterparties' potential Credit Defaults would provide such organisations with a commercial advantage, since all Parties are exposed to such risks;
- That providing Clearing Houses with notification of potential Credit Defaults would also be inconsistent with the rationale behind the default cure period, which is intended to provide Parties with a last opportunity to resolve their breach of Credit Cover before entering Credit Default (and thereby triggering the associated consequences);
- That providing information regarding a Party's breach of Credit Cover to any organisation other than the ECVA and BSCCo could adversely impact that Party's reputation, and that an important part of the rationale for the default cure period is to allow Parties a last chance to avoid public identification as being in Credit Default (shown by Parties' support for P142);
- That the FSMA requires RCHs and RIEs to share information regarding their own defaults with other recognised bodies and the FSA, and that such sharing of information regarding a Party's potential Credit Default could have a further negative impact on its reputation;
- That a Clearing House's priority would be to its own operations, and that the Proposed Modification might worsen a Party's potential Credit Default if the Clearing House chose to trade away from that Party or place the Party in default under its own rulebook;
- That any action of the Clearing House which worsened the position of the Party in breach could also negatively impact the positions of the Party's other counterparties – and that the benefit of the Proposed Modification to Clearing Houses would therefore be achieved at the expense of other BSC Parties, who would not be privy to such information;
- Conversely, that a Clearing House would gain a commercial advantage where it offered the Party an opportunity to trade out of its potential Credit Default with the Clearing House;
- That, since the Party would have been notified by the ECVA and contacted by BSCCo when it breached its Credit Cover Percentage, there would be little additional benefit in a Clearing House being able to discuss the situation with the Party at the end of the Query Period – and that this could create the potential for the Clearing House to advise the Party in the Clearing House's own interest;
- That, since the provisions contained no time-limit on ECVNA Authorisations, the Clearing House could receive notification of potential Credit Defaults by Parties with whom the Clearing House was not trading (or intending to trade) at the time of the breach; and

- That the number of occasions where Clearing Houses would receive notifications of members' potential Credit Defaults would be too few to justify the cost to industry of implementing the Proposed Modification.

In summary, the majority view of the SSMG was that it would not be appropriate to introduce a Code obligation for the ECVAAs to provide Clearing Houses with Credit Default information – since this would create a conflict of interest between the Clearing House and the Code – and that this was therefore a matter to be pursued by the Clearing House outside the Code through its own contracts with members. These members considered that although Parties might not have out-of-hours resources, they would have the full 24-hour Query Period in which to notify the Clearing House of their breach if required to do so by their contract with the Clearing House.

### **SSMG's minority view in support of Proposed Modification**

In contrast, the minority view of the Proposer was that the Credit Default provisions of the Proposed Modification P146 would better facilitate competition and Applicable Objective (c). In addition to the rationale expressed in the Modification Proposal, the Proposer put forward the following arguments in support of this view:

- That the margin lodged by a member with a Clearing House is not necessarily sufficient to cover the risk of the Clearing House being exposed to imbalance charges in the event of that member's Credit Default, and that Credit Defaults therefore represent a real risk to the sustainability of a Clearing House's operations;
- That although Parties in breach of their Credit Cover Percentage are informally advised by BSCCo to notify their counterparties if there is a risk to their trades, this is not a formal (or enforceable) Code obligation;
- That imposing such an obligation on members through a Clearing House's own contracts might not be sufficient, since breaches could occur outside working hours and the Party concerned might not be resourced to provide prompt notification to the Clearing House;
- That the Proposed Modification would provide Clearing Houses with an opportunity to contact the Party in breach in order to help resolve its potential Credit Default;
- That the Proposed Modification would therefore enable Clearing Houses to offer a market route by which members could resolve their potential Credit Defaults, and could thereby facilitate competition; and
- That Clearing Houses would only seek to trade away from a Party as a last resort.

The SSMG also noted BSCCo's advice that the primary function of the current Code participation capacities is to reflect the different activities that each kind of Party carries out under the Code, in order that the necessary registration requirements and system qualifications can be appropriately identified. Rights, obligations, accruals and liabilities then flow from the items each Party has to register (e.g. Energy Accounts, BM Units) in order to carry out its activities under the Code. If the distinctiveness of Clearing Houses results from activities or a status outside the Code, P146 might therefore set a precedent of rights and obligations resulting directly from a Code capacity. However, the SSMG considered that the introduction of a new 'Clearing House' subset of Trading Party was neutral with regard to the Applicable BSC Objectives.

The view of the SSMG was split regarding the merits of halving Notified Volume Charges for Clearing Houses. However, the majority of the Group supported the development of an Alternative which removed the Credit Default provisions of the Proposed Modification and therefore consisted of the new participation category and charging aspects of P146. The SSMG's discussions regarding the merits of this Alternative are outlined below.

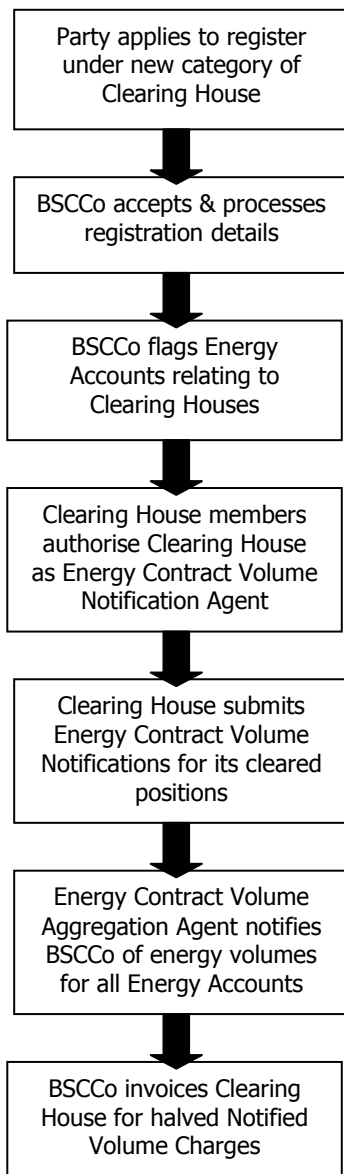
## 1.5 Alternative Modification

The differences between the Proposed and Alternative Modifications, as developed by the SSMG, are as follows:

- The Alternative Modification removes the Credit Default provisions of the Proposed Modification, and therefore consists only of the new 'Clearing House' participation category and halved Notified Volume Charges;\*
- The entry criteria for Clearing Houses under the Alternative Modification includes FSA- authorised firms in addition to RCHs and RIEs; and
- The Alternative Modification does not require changes to any BSC Systems and would therefore be implemented by BSCCo as a fully manual solution.

Figure 5 below provides a high-level overview of the manual solution developed by the SSMG to support the Alternative Modification.

**Figure 5 – Overview of Alternative Modification**



\*The SSMG noted that the Alternative Modification would not preclude a Clearing House from placing its own obligation on members, outside of the Code, to notify the Clearing House of their breaches of Credit Cover Percentage.

Summaries of the new processes which would result from the implementation of this manual solution are given below.

### **1.5.1 New category of 'Clearing House'**

- The new Code category of Clearing House would be created as a sub-category of the current Trading Party participation capacity.
- Within this sub-category, Clearing House Parties would continue to hold the same rights and obligations as Trading Parties, subject to the following criteria:
  - The registering Party be either a recognised body or an authorised firm under the FSMA;
  - The Party must provide a central counterparty clearing service as part of its business activities;
  - The Party shall not seek to trade or hold gross positions in electricity contracts, but shall seek to hold a net position of zero at all times;
  - The Party may not hold BM Units; and
  - The Party must operate independently from any Party trading or holding gross positions under the Code, or which holds BM Units.
- Organisations wishing to register within this new category would be required to undertake a self-certification Market Entry process, by providing BSCCo with evidence of their status as a recognised body or authorised firm and by completing a signed undertaking to meet the above entry criteria.
- Each Clearing House Party would be obliged to notify BSCCo if, at any time, it became aware of any reason why it could no longer comply with the entry criteria for Clearing Houses. No formal monitoring to enforce Clearing Houses' compliance with the criteria would be undertaken by BSCCo.

### **1.5.2 Single Notified Volume Charge for Clearing Houses**

BSCCo would halve the Notified Volume Charges to be invoiced to each Party registered as a Clearing House under the Code.

## **1.6 Issues raised by the Alternative Modification**

The following represents a summary of the SSMG's discussions regarding the issues raised by the Alternative Modification:

- The SSMG's consideration of the appropriate Code entry criteria for Clearing Houses under the Alternative Modification, and agreement that (since the Credit Default provisions had been removed) the Alternative should include FSA-regulated authorised firms such as APX in addition to recognised bodies;
- The SSMG's discussion of the materiality of halved Notified Volume Charges for Clearing Houses under the Alternative Modification, calculation of a combined cost-saving for APX and OM London Exchange of £19,000 per annum (based on historic payments of Notified Volume Charges), and discussion of how these reduced charges would be recovered via Parties' Main Funding Shares; and

- The SSMG's consideration of legal advice regarding whether the Alternative Modification fully addresses the defect identified by P146, and the SSMG's majority agreement that the Alternative represents a valid Alternative Modification under F2.6 of the Code and should be progressed.

These issues are discussed fully within the Assessment Report and are therefore not covered further here.

## **1.7 SSMG's assessment of whether the Alternative Modification would better facilitate the Applicable BSC Objectives**

This section represents a summary of the SSMG's assessment of the Alternative Modification against the Applicable BSC Objectives. The SSMG, in undertaking this assessment, took account of the views expressed by respondents to the Assessment Consultation (see P146 Assessment Report for the SSMG's discussion of these responses).

### **SSMG's majority view in support of Alternative Modification**

The majority of the SSMG concluded that the Alternative Modification P146 would, as compared with the current Code arrangements and against the Proposed Modification, better facilitate achievement of the Applicable BSC Objectives in relation to the defect identified by the Modification Proposal. These members agreed that the Alternative Modification would better facilitate competition and Applicable Objective (c), and expressed the following arguments in support of this view:

- That Clearing Houses facilitate competition, and that the current application of Notified Volume Charges represents a cross-subsidy which discriminates against Clearing Houses and acts as a barrier to their operations;
- That halving Notified Volume Charges for Clearing Houses would therefore correct this discrimination and provide a 'level playing field' between Clearing Houses and other Trading Parties;
- That the incremental cost of processing Clearing Houses' 'extra' ECVNs is not material, and that if charges were halved for Clearing Houses BSCCo would continue to receive three out of four of the Notified Volume Charges currently incurred by a cleared trade (see Figure 2);
- That even if P146 resulted in an increased number of Clearing Houses, or increased trade for existing Clearing Houses, BSCCo would not 'lose' any Notified Volume Charges resulting from Parties' switching from bilateral to cleared trades but would in effect gain an 'extra' charge since the Clearing House and both its counterparties would continue to pay one charge each (see Figures 1 and 2);
- That there is potential for the cost-saving to Clearing Houses resulting from halved Notified Volume Charges to be passed on to their members, and that this would facilitate use of Clearing Houses and thereby competition through a mutually-beneficial arrangement between the interests of the Code and of Clearing Houses; and
- That the fact that the fees charged to Clearing House members lie outside the Code could not be used as an argument *against* P146.

### **SSMG's minority view against Alternative Modification**

A minority of the SSMG considered that the Alternative Modification P146, as compared with the Proposed Modification and against the current Code arrangements, would not better facilitate achievement of the Applicable BSC Objectives in relation to the defect identified by the Modification Proposal. These members argued that the Alternative Modification would have a negative impact on Applicable Objective (c), and put forward the following arguments in support of this view:

- That Clearing Houses make a commercial decision to act as a central counterparty to trades and, moreover, that they are not currently discriminated against since they recover their costs through their own charges to members;
- That any cost-savings for Clearing Houses from halved Notified Volume Charges would be recovered via Parties' Main Funding Shares, and that this would effectively create a cross-subsidy for Clearing Houses (who, since they are not physical traders, do not pay Main Funding Shares);
- That the current arrangements – whereby those Parties wishing to gain the benefit of using a Clearing House cover the cost resulting from the additional notified volume – is more appropriate than P146's proposal to recover the additional volume cost from all Parties;
- That if a large number of Parties registered as Clearing Houses under the Code, P146 could require a greater figure to be recovered via Parties' Main Funding Shares (since the ratio of Notified Volume Charges to ECVNs would decrease);
- That the cost of a Clearing House ECVN is no different to that of an ECVN submitted by any other Party, and that both the Proposed and Alternative Modifications would therefore create a conflict between the intention of the Code's charging schedule and the commercial interests of Clearing Houses;
- Moreover, that if P146 incentivised Parties to switch from bilateral to cleared trades, the level of received Notified Volume Charges might no longer cover the ECVAAs' costs in processing ECVNs (since although 2 extra ECVNs could be submitted for the cleared trade, only 1 extra Notified Volume Charge would be incurred – see Figures 1 and 2);
- That the Modification Proposal makes no reference to passing on any cost-savings to Clearing House members, and that this could therefore not be used as an argument in favour of P146 since the fees charged to Clearing House members lie outside the Code; and
- In summary, that the benefit to Clearing Houses of both the Proposed and Alternative Modifications would be achieved at the expense of other BSC Parties.

## 1.8 Governance and regulatory framework assessment

P146 may introduce a regulatory precedent by referencing financial legislation as a Code qualification criteria (see P146 Assessment Report for further details).

## 2 COSTS<sup>7</sup>

### 2.1 Costs of progressing P146 through the Modification Procedures

#### PROGRESSING MODIFICATION PROPOSAL

<b>Demand Led Cost</b>	£0
<b>ELEXON Resource</b>	60 man days (equating to approximately £11,700)

<sup>7</sup> Clarification of the meanings of the cost terms in this section can be found in Annex 6.

## 2.2 Implementation costs - Proposed Modification

### IMPLEMENTATION COSTS – Proposed Modification P146

		Stand Alone Cost	P146 (Proposed) Incremental Cost	Tolerance
<b>Service Provider Cost</b>				
	Change Specific Cost	£26,758	£26,758	+/-0%
	Release Cost	£257,021		+/-0%
	Incremental Release Cost	£3,540	£3,540	+/-0%
	<b>Total Service Provider Cost</b>	<b>£287,319</b>	<b>£30,298</b>	<b>+/-0%</b>
<b>Implementation Cost</b>				
	External Audit	£23,000	£2,500	+/-25%
	Design Clarifications	£14,000	£1,500	+/-100%
	Additional Resource Costs	£0	£0	N/A
	Additional Testing and Audit Support Costs	£40,000		+/-25%
<b>Total Demand Led Implementation Cost</b>		<b>£364,319</b>	<b>£34,298</b>	<b>+/-8%</b>

<b>ELEXON Implementation Resource Cost</b>		393 man days £157,200	203 man days £81,200	+/-5%
<b>Total Implementation Cost</b>		<b>£521,519</b>	<b>£115,498</b>	<b>+/-7%</b>

### ONGOING SUPPORT AND MAINTENANCE COSTS – Proposed Modification P146

		Stand Alone Cost	P146 (Proposed) Incremental Cost	Tolerance
	Service Provider Operation Cost	£0 per annum	£0 per annum	N/A
	Service Provider Maintenance Cost	£2,680 per annum	£2,680 per annum	+/-0%
	ELEXON Operational Cost	£1,200 per annum	£1,200 per annum	+/-25%

## 2.3 Implementation costs - Alternative Modification

### IMPLEMENTATION COSTS – Alternative Modification P146

		Stand Alone Cost	P146 (Alternative) Incremental Cost	Tolerance
<b>Service Provider Cost</b>	Change Specific Cost	N/A	N/A	N/A
	Release Cost	N/A	N/A	N/A
	Incremental Release Cost	N/A	N/A	N/A
	<b>Total Service Provider Cost</b>	N/A	N/A	N/A
<b>Implementation Cost</b>	External Audit	N/A	N/A	N/A
	Design Clarifications	N/A	N/A	N/A
	Additional Resource Costs	N/A	N/A	N/A
	Additional Testing and Audit Support Costs	N/A	N/A	N/A
<b>Total Demand Led Implementation Cost</b>	N/A	N/A	N/A	

<b>ELEXON Implementation Resource Cost</b>	142 man days £56,800	62 man days £24,800	+/-5%
<b>Total Implementation Cost</b>	£56,800	£24,800	+/-5%

### ONGOING SUPPORT AND MAINTENANCE COSTS – Alternative Modification

	Stand Alone Cost	P146 (Alternative) Incremental Cost	Tolerance
Service Provider Operation Cost	N/A	N/A	N/A
Service Provider Maintenance Cost	N/A	N/A	N/A
ELEXON Operational Cost	£2,400 per annum	£2,400 per annum	+/-25%

### **3 RATIONALE FOR PANEL'S RECOMMENDATIONS**

#### **Provisional Panel recommendations**

The Panel considered the P146 Assessment Report at its meeting of 12 February 2004, and agreed the provisional recommendation that the Proposed Modification should not be made and that the Alternative Modification should be made.

The Panel's views regarding the merits of the Proposed and Alternative Modifications against the Applicable BSC Objectives are summarised below.

#### **Panel view of Proposed Modification**

The Panel unanimously agreed with the majority view of the SSMG and consultation respondents that the Proposed Modification would not better facilitate any of the Applicable BSC Objectives but would have a negative impact upon the current Credit Default arrangements, competition and Objective (c). The Panel agreed that notification of members' potential Credit Defaults could be pursued by Clearing Houses outside the Code, through their own contracts with members.

#### **Panel view of scope and validity of Alternative Modification**

The Panel noted that BSCCo's legal advice had questioned whether an Alternative which removed the Credit Default provisions of the Proposed Modification would fully address the defect identified by P146, and thus constitute a valid Alternative Modification in accordance with F2.6 of the Code.<sup>8</sup>

However, the Panel noted that the SSMG had considered this advice and had agreed to progress the Alternative Modification. The Panel also noted that the legal interpretation could be considered by the Authority as part of its decision letter in respect of P146. One Panel Member commented that the Alternative Modification could be viewed as addressing the Credit Default aspect of P146 through the SSMG's agreement that lack of Credit Default information did not represent a defect in the Code, but could be pursued by Clearing Houses outside the Code through their contracts with members.

#### **Panel view of Alternative Modification**

The majority of Panel Members agreed that the Alternative Modification would remove a current discrimination in the Notified Volume Charge applied to Clearing Houses, might result in corresponding cost-savings for members, and would therefore better facilitate competition and Objective (c).

A Panel Member expressed disappointment at the lack of consultation responses received from smaller market participants, and considered that such smaller players were potentially most likely to benefit from P146 if cost-savings for Clearing Houses were passed on to members. This Panel Member noted that the view of the SSMG had been divided over whether P146 would result in increased use of Clearing Houses, since any passing on of Clearing Houses' cost-savings to their members lay outside the scope of the Modification Proposal and the Code. The Panel Member also noted that some members of the SSMG had considered that the credit barriers to small Parties of trading through a Clearing House might be less than those involved in a bilateral trade (due to the advantage of being able to net trades across counterparties and minimise collateral), but that Clearing Houses' own credit arrangements lie outside of the Code.

A minority of Panel Members were unpersuaded by the arguments that the Alternative would better facilitate the Applicable BSC Objectives, and therefore argued that the Alternative should not be made. These members noted that the views of the SSMG and respondents to the Assessment Consultation had been split regarding the merits of the Alternative, were unconvinced that the current Notified Volume Charge acts as a barrier to the operation or use of clearing services, and noted that cost-savings for Clearing House members could not be guaranteed as a result of P146. One Panel Member

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<sup>8</sup> Further detail regarding the SSMG's discussion of this issue can be found in the P146 Assessment Report.

agreed with the minority view of the SSMG and respondents that halved Notified Volume Charges for Clearing Houses would create a cross-subsidy for Clearing Houses via other Trading Parties' Main Funding Shares, and would result in increased costs to non-Clearing House members. This Panel member also expressed concern regarding the legal view that removing the Credit Default provisions of P146 might not constitute a valid Alternative Modification. Another member stated that they could not see how P146 would lead to increased use of Clearing Houses.

Some Panel Members noted that arrangements for Clearing Houses appeared to lie at the edge of BSC jurisdiction, and queried whether P146 could create a conflict in vires between the FSA and Ofgem. The Panel noted that any concerns over the jurisdiction of P146 could be highlighted by Ofgem to the FSA through an existing concordat between the two regulators, and as part of the Authority's decision letter in respect of P146.

### **Final Panel recommendations**

The provisional recommendations of the Panel were consulted on as part of the P146 draft Modification Report. At its meeting of 11 March 2004 the Panel considered the report and the responses received to the consultation (see Section 5). The arguments of Panel members at this meeting reiterated the views expressed during its earlier consideration of the Assessment Report on 12 February 2004, and are summarised below:

- The Panel unanimously agreed that the Proposed Modification would not better facilitate the Applicable BSC Objectives and should not be made;
- A majority of Panel members agreed that the Alternative Modification would better facilitate Applicable Objective (c) and should be made; and
- A minority of Panel members remained unpersuaded that the Alternative Modification would better facilitate the Applicable BSC Objectives, and therefore argued that the Alternative should not be made.

By majority, the Panel therefore agreed a final recommendation to the Authority that the Proposed Modification should not be made and that the Alternative Modification should be made.

## **4 IMPACT ON BSC SYSTEMS AND PARTIES**

During the Assessment Procedure for P146, an assessment was undertaken in respect of BSC Systems and Parties. The following have been identified as impacted by the Proposed and/or the Alternative Modification.

### **4.1 BSCCo**

The following provides a summary of these BSCCo areas of business impacted by P146. For further details regarding the required effort, please refer to the P146 Assessment Report. A summary of the effort required by BSCCo to support the implementation of the Proposed and Alternative Modifications can be found in Section 2.

#### **Proposed Modification**

- Market Entry/Exit software, processes and documentation (including BSC Website);
- Credit Default management processes and documentation;
- Invoicing processes and documentation; and
- CVA Programme implementation effort, plus supporting Systems Assurance.

### **Alternative Modification**

- Market Entry/Exit software, processes and documentation (including BSC Website);
- Invoicing processes and documentation; and
- CVA Programme implementation effort, plus supporting Systems Assurance.

## **4.2 BSC Systems**

### **Proposed Modification**

The Proposed Modification would require changes to the CRA and ECVAAs BSC Systems and processes in order to enable the ECVAAs to notify a Clearing House of the potential Credit Default of any Party for whom the Clearing House held an ECVAAs Authorisation.

For more detail regarding these changes, please refer to the P146 Assessment Report. The BSC Agent implementation and operational costs are outlined in Section 2.

### **Alternative Modification**

No BSC Systems changes are required to support the Alternative Modification.

## **4.3 Parties and Party Agents**

Two 'no impact' responses were received to the Detailed Level Impact Assessment for P146. No impact upon Parties or Party Agents was identified during the Assessment Procedure. For full copies of the responses received, please refer to the P146 Assessment Report.

## **5 IMPACT ON CODE AND DOCUMENTATION**

### **5.1 Balancing and Settlement Code**

#### **Proposed Modification**

The Proposed Modification P146 would impact the following Code Sections:

- Section A 'Parties and Participation';
- Section D 'BSC Cost Recovery and Participation Charges', Annex D-3 'Specified BSC Charges';
- Section K 'Classification and Registration of Metering Systems and BM Units';
- Section M 'Credit Cover and Credit Default';
- Section P 'Energy Contract Volumes and Metered Volume Reallocations'; and
- Annex X-1 'General Glossary'.

No legal text has been provided in respect of the Proposed Modification. More detail regarding the Code changes which would be required to implement the Proposed Modification can be found in the P146 Assessment Report.

#### **Alternative Modification**

The Alternative Modification P146 would impact the following Code Sections:

- Section A;
- Section D, Annex D-3;

- Section K;
- Section P; and
- Annex X-1.

Legal text for the Alternative Modification is attached as Annex 1.

## **5.2 Code Subsidiary Documents**

### **Proposed Modification**

The Proposed Modification P146 would impact the following Code Subsidiary Documents:

- BSCP65 'Registration of Parties and Exit Procedures';
- ECVAA Service Description;
- Reporting Catalogue;
- Potential changes to the proposed new qualification BSCP being progressed via CP502; and
- Communications Requirements Document.

### **Alternative Modification**

The Alternative Modification P146 would impact the following Code Subsidiary Documents:

- BSCP65; and
- Potential changes to the proposed new qualification BSCP being progressed via CP502.

More detail regarding the Code Subsidiary Document changes which would be required to support the Proposed and Alternative Modifications can be found in the P146 Assessment Report.

## **5.3 Configurable Items**

### **Proposed Modification**

The Proposed Modification P146 would impact the following Configurable Items:

- IDD Part 1;
- CRA Manual System Specification;
- CRA Operational Services Manual;
- CRA Local Working Instructions;
- ECVAA User Requirements Specification;
- ECVAA System Specification;
- ECVAA Design Specification; and
- ECVAA Local Working Instructions.

More detail regarding the impacts of the Proposed Modification upon these Configurable Items can be found in the P146 Assessment Report.

### **Alternative Modification**

No configurable items are impacted by the Alternative Modification.

## 5.4 BSCCo Memorandum and Articles of Association

No impact identified.

## 5.5 Impact on Core Industry Documents and supporting arrangements

No impact identified.

## 6 SUMMARY OF CONSULTATION RESPONSES

	Consultation question	Yes	No	No comment
1	Do you agree with the Panel's views on P146 and the provisional recommendation to the Authority contained in the draft Modification Report that the Proposed Modification P146 should not be made and that the Alternative Modification P146 should be made?	Proposed Modification:		
		6 (37)	1 (2)	1 (1)
		Alternative Modification:		
		4 (19)	3 (20)	1 (1)
2	Do you agree with the Panel's view that the legal text provided in the draft Modification Report for the Alternative Modification correctly addresses the defect or issue identified in the Modification Proposal?	5 (24)	0	3 (16)
3	Do you agree with the Panel's provisional recommendations concerning the Implementation Dates for the Proposed and Alternative Modifications?	6 (25)	0	2 (15)
4	Are there any further comments on P146 that you wish to make?	1 (6)	5 (32)	2 (2)

Eight responses (representing 40 BSC Parties) were received to the consultation regarding the P146 draft Modification Report. These responses represented the same Parties who provided responses to the P146 Assessment Consultation, and all but two respondents were members of the SSMG.

No new arguments were expressed in the responses to the draft Modification Report, and the views of respondents therefore reflected those expressed by the SSMG and the Assessment Consultation responses. However, one respondent (1 Party) whose Assessment Consultation response stated that they were undecided regarding the merits of the Alternative Modification expressed the view in their response to the draft Modification Report that the Alternative should not be made. This reflected the respondent's final recommendation regarding the Alternative as a member of the SSMG.

The responses received to the P146 draft Modification Report are briefly summarised below. Full copies of the responses are attached as Annex 5.

### 6.1 Respondents' views regarding provisional recommendations

#### Proposed Modification

Six respondents (37 Parties) agreed with the Panel's provisional recommendation that the Proposed Modification should not be made. Three of these respondents (9 Parties) provided specific arguments

against the Proposed Modification – stating that provision of Credit Default information to Clearing Houses would be inappropriate and would not better facilitate competition.

One respondent (representing the Proposer and one other Party) disagreed with the Panel's recommendation that the Proposed Modification should not be made, and believed that the Proposed Modification would (as compared with the Alternative) better facilitate Applicable Objective (c).

One respondent had no comment.

### **Alternative Modification**

Four respondents (19 Parties) agreed with the Panel's provisional recommendation that the Alternative Modification should be made:

- Two of these respondents (11 Parties) considered that the Alternative Modification would encourage use of clearing services in the market through reduced charges.
- One respondent (6 Parties) believed that halved Notified Volume Charges for Clearing Houses would only help the liquidity of the market if there was a corresponding reduction in Clearing Houses' own charges to members. However, this respondent considered that if the Alternative Modification could potentially result in a reduction in such charges, then the Alternative could better facilitate competition.
- One respondent (representing the Proposer and one other Party) expressed support for the Alternative in the absence of legal text for the Proposed Modification, although this respondent believed that the Proposed Modification would better facilitate Applicable Objective (c).

Three respondents (20 Parties) disagreed with the Panel's recommendation and did not believe that the Alternative Modifications should be made:

- One respondent (5 Parties) agreed with the arguments against the Alternative Modification which were expressed by a minority of the SSMG, and therefore believed that the Alternative should not be made.
- One respondent (14 Parties) did not believe Clearing Houses to be currently discriminated against through Notified Volume Charges, considered that the Alternative Modification would introduce a cross-subsidy for Clearing Houses, and noted that corresponding cost-reductions for Clearing House members could not be guaranteed.
- One respondent (1 Party) was unconvinced that the Alternative would achieve increased use of Clearing Houses – stating that cost-savings for members could not be guaranteed, and that there are other financial obligations involved in using a Clearing House.

One respondent (1 Party) had no comment.

## **6.2 Respondents' views regarding draft legal text**

Five respondents (24 Parties) agreed that the legal text addressed the defect identified by the Modification Proposal.

One respondent (14 Parties) stated their answer as 'not applicable', since this respondent did not support the recommendation that the Alternative Modification be made.

Two respondents (2 Parties) had no comment.

## **6.3 Respondents' views regarding proposed Implementation Dates**

Six respondents (25 Parties) supported the proposed Implementation Dates.

One respondent (14 Parties) stated their answer as 'not applicable', since this respondent did not believe that either of the Proposed or Alternative Modifications should be made.

One respondent (1 Party) had no comment.

#### **6.4 Further comments of respondents**

One respondent (6 Parties) made the further comment that, by widening the entry criteria for Clearing Houses to include FSA-authorized firms, the Alternative Modification could allow a large number of organisations (particularly non-physical and financial traders) to apply. This argument was previously discussed by the SSMG as part of its consideration of the appropriate entry criteria under P146, where those SSMG members who supported the Alternative Modification agreed that this risk would not be material. Further details regarding this issue can be found in Section 1.6.1 of the P146 Assessment Report.

#### **6.5 Comments and views of the Panel**

At its meeting on 11 March 2004, the Panel noted the responses received to the consultation regarding the P146 draft Modification Report. The Panel noted that these responses reiterated earlier views expressed by the SSMG and Assessment Consultation respondents, and therefore that the draft Report responses contained no new arguments.

One Panel member noted that the views of respondents to the draft Report had been split regarding whether the Alternative Modification would better facilitate the Applicable BSC Objectives, with a slight majority supporting the Panel's provisional recommendation that the Alternative should be made. This member, who stated that they had remained unconvinced by the arguments expressed in favour of the Alternative throughout the Modification Process for P146, considered that without the Proposer's qualified support the responses would have been evenly split for and against the Alternative Modification.

Another Panel member stated that they were sympathetic to the view of a minority of respondents that the Alternative would alter the intention of ECVN-cost-reflectivity behind the existing Notified Volume Charge, and would therefore effectively result in a cross-subsidy for Clearing Houses.

The Panel made no other specific comments regarding the consultation responses. More detail regarding the Panel's views in respect of P146 is contained in Section 3.

### **7 SUMMARY OF TRANSMISSION COMPANY ANALYSIS**

A Transmission Company Analysis and Impact Assessment was commissioned during the Assessment Procedure for P146. No impact was identified upon the Transmission Company as a result of the Proposed or Alternative Modifications.

### **8 SUMMARY OF EXTERNAL ADVICE**

None commissioned.

### **9 IMPLEMENTATION APPROACH**

The SSMG and the Panel agreed that:

- The Proposed Modification requires changes to Central Systems and should be implemented as part of a wider Systems Release as the most cost-effective and efficient approach, since it avoids incurring the full costs of a stand-alone Release.

- The Alternative Modification, although requiring no Central Systems changes, incurs BSCP amendments and should therefore also be implemented as part of a wider Release on the same cost and efficiency grounds.
- This approach is consistent with BSCCo's Release Strategy.

The SSMG and the Panel noted that:

- The full scope of the June 2004 Release has now been fixed.
- The scope of the system changes required for the November 04 Release will be fixed in April 2004, with the result that the first Release which could potentially incorporate the Proposed Modification would be February 2005.
- However, the Alternative Modification requires no Central Systems changes and could be considered for inclusion in the November 2004 Release.

The SSMG and the Panel therefore agreed the following Implementation Dates:

#### Proposed Modification

- 23 February 2005 if an Authority decision is received on or before 22 June 2004; or
- 29 June 2005 if an Authority decision is received after 22 June 2004 but on or before 28 October 2004.

#### Alternative Modification

- 3 November 2004 if an Authority decision is received on or before 27 July 2004; or
- 23 February 2005 if an Authority decision is received after 27 July 2004 but on or before 16 November 2004.

## 10 DOCUMENT CONTROL

### 10.1 Authorities

Version	Date	Author	Reviewer	Change Reference
0.1	18/02/04	Kathryn Coffin	Change Delivery	Peer review
0.2	20/02/04	Change Delivery	Interested parties	For consultation
0.3	02/03/04	Kathryn Coffin	Change Delivery	Technical review
0.4	03/04/04	Kathryn Coffin	Change Delivery	Quality review
0.5	05/03/04	Change Delivery	BSC Panel	Panel review & approval
1.0	15/03/04	BSC Panel		For Authority Decision

### 10.2 References

Ref	Document	Owner	Issue date	Version
1	Modification Proposal P146 'New Participation Category to the BSC – Clearing House' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P146/p146.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P146/p146.pdf</a> )	BSCCo	03/11/03	1.0
2	Initial Written Assessment for Modification Proposal P146 'New Participation Category to the BSC – Clearing House' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P146/P146_IWA.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P146/P146_IWA.pdf</a> )	BSCCo	07/11/03	1.0

Ref	Document	Owner	Issue date	Version
3	Assessment Report for Modification Proposal P146 'New Participation Category to the BSC – Clearing House' ( <a href="http://www.elexon.co.uk/docs/ta/modifications/modsprops/P146/P146AR10.pdf">http://www.elexon.co.uk/docs/ta/modifications/modsprops/P146/P146AR10.pdf</a> )	BSCCo	06/02/04	1.0
4	Draft Modification Report for Modification Proposal P146 'New Participation Category to the BSC – Clearing House' ( <a href="http://www.elexon.co.uk/docs/ta/panel/papers/74_006a.pdf">http://www.elexon.co.uk/docs/ta/panel/papers/74_006a.pdf</a> )	BSCCo	05/03/04	0.5

## **ANNEX 1 LEGAL TEXT**

No legal text has been provided for the Proposed Modification.

Legal text for the Alternative Modification is included as Annex 1A, and is attached as a separate document.

## **ANNEX 2 MODIFICATION GROUP DETAILS**

For details of the membership and Terms of Reference of the SSMG in assessing P146, please refer to the P146 Assessment Report.

## **ANNEX 3 BSC AGENT IMPACT ASSESSMENT RESPONSE**

Please refer to the P146 Assessment Report for a full copy of the BSC Agent impact assessment.

## **ANNEX 4 PARTY, PARTY AGENT AND CORE INDUSTRY DOCUMENT OWNER IMPACT ASSESSMENT RESPONSES**

No impact identified - see P146 Assessment Report for full responses.

## **ANNEX 5 CONSULTATION RESPONSES**

Copies of the responses received to the consultation regarding the P146 draft Modification Report are included as Annex 5A, and are attached as a separate document. For copies of the responses received to the P146 Assessment Consultation, please refer to the P146 Assessment Report.

## **ANNEX 6 CLARIFICATION OF COSTS**

There are several different types of costs relating to the implementation of Modification Proposals. ELEXON implements the majority of Approved Modifications under its CVA or SVA Release Programmes. These Programmes incur a base overhead which is broadly stable whatever the content of the Release. On top of this each Approved Modification incurs an incremental implementation cost. In order to give Stakeholders a feel for the estimated cost of implementing an Approved Modification the templates shown in Attachment 1 have three columns:

- **Stand Alone Cost** – the cost of delivering the Modification as a stand alone project outside of a CVA or SVA Release, or the cost of a CVA or SVA Release with no other changes included in the Release scope. This is the estimated maximum cost that could be attributed to any one Modification implementation.
- **Incremental Cost** - the cost of adding that Modification Proposal to the scope of an existing release. This cost would also represent the potential saving if the Modification Proposal was to be removed from the scope of a release before development had started.
- **Tolerance** – the predicted limits of how certain the cost estimates included in the template are. The tolerance will be dependent on the complexity and certainty of the solution and the time allowed for the provision of an impact assessment by the Service Provider(s).

The cost breakdowns are shown below:

<b>PROGRESSING MODIFICATION PROPOSAL</b>	
<b>Demand Led Cost</b>	This is the third party cost of progressing a Modification Proposal through the Modification Procedures in accordance with Section F of the Code. Service Provider Impact Assessments are covered by a contractual charge and so the Demand Led cost will typically be zero unless external Legal assistance or external consultancy is required.
<b>ELEXON Resource</b>	This is the ELEXON Resource requirement to progress the Modification Proposal through the Modification Procedures. This is estimated using a standard formula based on the length of the Modification Procedure.

<b>SERVICE PROVIDER<sup>9</sup> COSTS</b>	
<b>Change Specific Cost</b>	Cost of the Service Provider(s) Systems development and other activities relating specifically to the Modification Proposal.
<b>Release Cost</b>	Fixed cost associated with the development of the Service Provider(s) Systems as part of a release. This cost encompasses all the activities that would be undertaken regardless of the number or complexity of changes in the scope of a release. These activities include Project Management, the production of testing and deployment specifications and reports and various other standard release activities.
<b>Incremental Release Cost</b>	Additional costs on top of base Release Costs for delivering the specific Modification Proposal. For instance, the production of a Test Strategy and Test Report requires a certain amount of effort regardless of the number of changes to be tested, but the addition of a specific Modification Proposal may increase the scope of the Test Strategy and Test Report and hence incur additional costs.

<b>IMPLEMENTATION COSTS</b>	
<b>External Audit</b>	Allowance for the cost of external audit of the delivery of the release. For CVA BSC Systems Releases this is typically estimated as 8% of the total Service Provider Costs, with a tolerance of +/- 20%. At present the SVA Programme does not use an external auditor, so there is no External Audit cost associated with an SVA BSC Systems Release.
<b>Design Clarifications</b>	Allowance to cover the potential cost of making any amendments to the proposed solution to clarify any ambiguities identified during implementation. This is typically estimated as 5% of the total Service Provider Costs, with a tolerance of +/- 100%.
<b>Additional Resource Costs</b>	Any short-term resource requirements in addition to the ELEXON resource available. For CVA BSC Systems Releases, this is typically only necessary if the proposed solution for a Modification Proposal would require more

<sup>9</sup> A Service Provider can be a BSC Agent or a non-BSC Agent, which provides a service or software as part of the BSC and BSC Agent Systems. The Service Provider cost will be the sum of the costs for all Service Providers who are impacted by the release.

	<p>extensive testing than normal, procurements or 'in-house' development.</p> <p>For SVA BSC Systems Releases, this will include the management and operation of the Acceptance Testing and the associated testing environment.</p> <p>This cost relates solely to the short-term employment of contract staff to assist in the implementation of the release.</p>
<b>Additional Testing and Audit Support Costs</b>	<p>Allowance for external assistance from the Service Provider(s) with testing, test environment and audit activities. Includes such activities as the creation of test environments and the operation of the Participant Test Service (PTS). For CVA BSC Systems Releases, this is typically estimated as £40k per release with a tolerance of +/-25%. For SVA BSC Systems Releases this is estimated on a Modification Proposal basis.</p>

### TOTAL DEMAND LED IMPLEMENTATION COSTS

This is calculated as the sum of the total Service Provider(s) Cost and the total Implementation Cost. The tolerance associated with the Total Demand Led Implementation Cost is calculated as the weighted average of the individual Service Provider(s) Costs and Implementation Costs tolerances. This tolerance will be rounded to the nearest 5%.

### ELEXON IMPLEMENTATION RESOURCE COSTS

Cost quoted in man days multiplied by project average daily rate, which represents the resources utilised by ELEXON in supporting the implementation of the release. This cost is typically funded from the "ELEXON Operational" budget using existing staff, but there may be instances where the total resources required to deliver a release exceeds the level of available ELEXON resources, in which case additional Demand Led Resources will be required.

The ELEXON Implementation Resource Cost will typically have a tolerance of +/- 5% associated with it.

### ONGOING SUPPORT AND MAINTENANCE COSTS

<b>ELEXON Operational Cost</b>	Cost, in man days per annum multiplied by project average daily rate, of operating the revised systems and processes post implementation.
<b>Service Provider Operation Cost</b>	Cost in £ per annum payable to the Service Provider(s) to cover staffing requirements, software or hardware licensing fees, communications charges or any hardware storage fees associated with the ongoing operation of the revised systems and processes.
<b>Service Provider Maintenance Cost</b>	Cost quoted in £ per annum payable to the Service Provider(s) to cover the maintenance of the amended BSC Systems.