

Proposed variation:	<b>CR033 – Amending Independent Audit of Compliance to Align to the Audit Service</b>		
Decision:	The Authority <sup>1</sup> has decided to approve CR033		
Target audience:	SMICoP Governance Board, SMICoP Members, all interested parties		
Date of publication:	03/06/2016	Implementation Date:	27/06/16

**Authority decision on proposed Change Request CR033, “amending independent audit of compliance to align to the audit service”, produced under Section B2 of the Smart Meter Installation Code of Practice (“SMICoP”)**

**Background to the Change Request**

The SMICoP provides for three compliance monitoring tools to ensure Members adhere to the code. These tools include an Independent Audit of Compliance. Section B3.3 of the SMICoP sets out the requirement for an independent audit to be commissioned on all SMICoP Members to provide assurance that processes and compliance are in place. The scope and activities of the audit are defined by the SMICoP Governance Board (“SGB”), and the audit is expected to be conducted early in the mass roll-out of smart metering.

The SMICoP Auditor Working Group was set up in 2015 and tasked with developing the tender documentation for the Independent Auditor Service. Whilst doing so, the Group agreed the specification of the audit service, including details of the end-to-end process, and agreed these would later be reflected in the SMICoP. The tender documentation was finalised in December 2015 and the changes required to the SMICoP were subsequently raised.

Change Request 033 (“CR033”) proposed to update the Independent Audit of Compliance Clause in the SMICoP to align its audit process with the end-to-end audit service defined by the SMICoP Auditor Working Group. CR033 seeks to clarify when an audit is required, develop timescales for the audit process, and provide a framework for corrective action(s), where warranted.

**The Change Request**

CR033 was raised by E.On on 26 January 2016 for a decision by the SMICoP Governance Board (“SGB”). Due to the extent of amendments required to the drafting, the SGB agreed that CR033 should be reissued to the Change Advisory Group (“CAG”) members for further consideration on 3 March 2016 with responses due on 17 March 2016. All parties unanimously accepted the proposal, implementation date and technique, but submitted further amendments to the legal text. Based upon the responses received, the SGB agreed a number of amendments to the legal text.

The Final Change Report (“FCR”) for CR033 was issued to Ofgem on 22 April 2016.<sup>i</sup> Parties had two weeks to make representations to us about the request, after which we had until 7 June 2016 to make a decision.

The change request seeks to update the SMICoP’s Independent Audit of Compliance Clause in order to align it to the enduring audit service as proposed by the SMICoP Auditor Working Group. To achieve this objective, CR033 proposed to redraft Section B

<sup>1</sup> The terms ‘the Authority’, ‘Ofgem’ and ‘we’ are used interchangeably in this document. Ofgem is the Office of the Gas and Electricity Markets Authority.

3.3 of the Code, amending all subsections. The Change Request includes detailed timescales for the audit process, clarity on audit scope and audit report content, and provides a framework for corrective action(s) in the event that non-compliances are identified in a Members' final audit report. CR033 also defines a minimum threshold of at least 10,000 electricity and/or gas Domestic and/or Micro Business Customers before an independent audit is required and defined the term "Code Auditor" to mean the entity procured by SMICoP Ltd. to independently audit SMICoP Members in accordance with Clause 3.3.

The drafting of the proposed amendments can be found at Annex 1.

### **The SGB Recommendation**

On 20 April 2016, the SGB voted unanimously to accept Version 0.11 of the legal text, implementation date and technique for CR033.

### **Our decision**

We have concluded that implementation of CR033 would have a broadly neutral impact on the achievement of the SMICoP Objectives. However it would clarify the governance structures of the code and improve transparency on the actions and processes suppliers take to ensure they act in a manner that achieves the SMICoP objectives. As such, we have decided to approve CR033.

We have considered the issues raised by CR033, the details set out in the FCR, and the votes of the SGB to accept the FCR for CR033. We have considered the Change Advisory Group's responses and comments, which are in Appendix B attached to the FCR. We also considered these factors in light of whether CR033 would better facilitate the achievements of the objectives set out in Standard Conditions 41.2 and 42.1 of the Electricity Supply Licence and Standard Licence Conditions 35.2 and 36.1 of the Gas Supply Licence ("SMICoP Objectives").

All Suppliers with at least 10,000 customers are responsible for declaring that they are ready to be audited either within six months of self-certification, or, if they have not self-certified by September 2016, once they have installed 1500 Smart Metering Systems. In either, Suppliers must use all reasonable endeavours to ensure their audit is completed within six months of its initiation.

Paragraph 3.3.8.1 requires those suppliers with self-certification in place by 1 September 2016 to use "all reasonable endeavours" to have their audit completed by February 2017. We take this to mean the last day in February for the purpose of future enforcement (ie within 6 months of audit initiation). Given this timeframe, we note that the process outlined in diagram 3.3.6 places a tight timeline (approximately 5 months) on relevant suppliers and the Code Auditor to complete the audits within the deadline.

While paragraph 3.3.4 provides the option to stagger the audits over time to ensure workload is manageable for the Code Auditor, this could prove difficult given that many audits will likely be initiated at approximately the same time and could each take approximately 5 months to complete. As such there is a risk that some suppliers will miss the deadline. Since the terms of the Code are not absolute [if a supplier fails to meet the timelines, provided they can demonstrate that they used all reasonable endeavours to meet the timelines, then they wouldn't necessarily be in breach of the Code.

There are several references in the legal text (eg paragraph 3.3.8.4) that place requirements on the Code Auditor. We note that it is unlikely the Code Auditor will be a party to the code and therefore these requirements are unenforceable against them. We expect that any contract for performance agreed with the Code Auditor should reflect the levels of expected performance set out in the Code.

In coming to our decision we have also considered our wider statutory duties, including particularly our principal objective to protect the interests of existing and future energy consumers.

## **Reasons for our decision**

### Consideration against the SMICoP objectives

We have considered the impact of CR033 against each of the SMICoP objectives, which are listed below.

**Objective (a): the licensee and any Representative provides and maintains a standard of service which helps to ensure that Domestic Customers' experience of the installation of Smart Metering Systems at their premises meets their reasonable expectations**

**Objective (b): all activities undertaken by the licensee and any Representative in relation to the installation of Smart Metering Systems are conducted in a fair, transparent, appropriate and professional manner**

**Objective (c): Domestic Customers are given information about, and during, the installation of Smart Metering Systems which:**

**(i) is complete and accurate;**

**(ii) does not mislead them; and**

**(iii) informs them about the benefits of Smart Metering Systems and about what to expect in relation to the installation process;**

**Objective (d): Domestic Customers are not subject to unwelcome Marketing during any visit to their premises for the purposes of installing Smart Metering Systems.**

We have considered CR033 against each of the objectives listed above. CR033 relates to when and the process by which Members will be audited for compliance with the SMICoP and its impacts on all of the objectives listed above. As one of the three compliance and monitoring tools that the SMICoP provides, it is important that the audit process, including audit initiation, timelines for deliverables from the Member(s) being audited and the Code Auditor, and a framework for corrective action are clearly defined. Audits are central to our compliance monitoring and indirectly are important for consumers since they should incentivise compliance with the SMICoP and aid in identifying poor practices. This is vital for us to be able to ensure that consumers are protected during the whole of their installation process.

The proposed wording changes in CR033 are helpful for both Members and potential Members in setting out more clearly when they are expected to initiate an audit and

respond to audit findings. The proposed wording also helps clarify when the Code Administrator, Supplier and Code Auditor should expect each stage of the audit to be complete, allowing for them to follow up with the relevant party if a deadline is not met.

It is most likely that these governance changes will not create any direct change in the consumers' installation experience. However, clarifying the governance structures of the code may allow for greater transparency for us to understand suppliers' processes and ensure that they are acting in a manner that does achieve the SMICoP objectives.

#### Consideration against our principal objective

We also considered the impact of CR033 against our principal objective to general duties. Our principal objective is to protect the interests of existing and future energy consumers.

Alongside other techniques, Independent Audits are central to our compliance monitoring and indirectly are important for consumers since they should incentivise compliance with the SMICoP and aid in identifying poor practices. We agree that specifying a clear framework for the audit process can help all parties. These improvements should create a more coherent process for ensuring consumer interests are protected throughout the installation. We are satisfied that the proposed legal text achieves these aims.

We reserve the right to request that the code administrator send us copies of all Suppliers' audit reports and to follow up with suppliers to seek explanation for any instances of non-compliance, seek swift rectification and use our enforcement powers if appropriate. We will use the audit reports as one of several tools to monitor the effectiveness of suppliers' rollouts and are not obliged to accept the auditor's opinion, or to act on it in isolation.

#### **Decision notice**

In accordance with Section 2.7.5.1 of Section B to the SMICoP, we hereby approve CR033.

Yours faithfully,

**Rob Salter-Church**

**Partner, Consumers & Competition**

Signed on behalf of the Authority and authorised for that purpose

<sup>i</sup> To read the change request in full, please visit

<http://www.smicop.co.uk/SitePages/Log.aspx#InplviewHash6f1c2ba7-87d2-47ab-b343-ab74e92fbd47=>