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## **SCHEDULE 4**

### Performance Assurance Schedule

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Version: 1.1

Effective Date:

15 January 2021

Status: Neither Mandatory nor Optional – this Schedule sets out matters to be administered by Performance Assurance Board, supported by the Code Manager

Note: This version of the Performance Assurance Schedule is intended only to facilitate to establishment of the Performance Assurance Framework, including the Performance Assurance Board. The Performance Assurance Techniques and others arrangements set out in this schedule will not apply to REC Parties until April 2021, when elements of this schedule may be substantively revised in light of input from the Performance Assurance Board and Code Manager, both of which will be appointed shortly after this version of the schedule is given effect as part of REC v1.1.

## *Change History*

Version Number	Implementation Date	Reason for Change
0.1	N/A	Initial Draft
1.1	15 January 2021	REC v1.1

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## **1 Introduction**

- 1.1 The REC has been developed in a manner intended to provide robust assurance of all of the business critical processes and services which it governs. This will be provided through a Performance Assurance Framework (PAF) underpinned by a comprehensive Risk Register and associated mitigation. This Schedule defines the governance and associated processes to support the PAF.
- 1.2 This Schedule should, where appropriate, be read in conjunction with the Entry Assessment Schedule, which defines the process for new market entrants and those who have made a material change to their Systems or processes. Following successful completion of the Entry Assessment requirements, REC Parties shall be required to comply with the PAF.
- 1.3 The key objectives for the PAF are to ensure that Consumers have a positive experience when engaging in the retail energy market; and that REC Parties act in a manner that is not detrimental to the effective competition between Energy Suppliers and their agents.

## **2 Performance Assurance Board**

- 2.1 The RECCo Board shall establish a sub-committee with delegated authority to act as and perform the functions of the Performance Assurance Board (PAB). The PAB shall oversee the PAF and is responsible for the Risk Register and associated Performance Assurance Methodology (which explains the process used for rating the risks, the proposed governance of the PAF and the key performance assurance techniques that shall be used to monitor performance and incentivise compliance on an on-going basis).
- 2.2 The RECCo Board shall delegate relevant decision-making powers to the PAB and shall not prescribe the manner in which the proceedings and business of the committee are to be conducted. Any costs incurred or paid by the PAB, shall be considered RECCo costs.
- 2.2 The initial composition of the PAB shall be determined by the Authority, and thereafter in accordance with a methodology to be established by the RECCo Board.

## **3 Functions of the PAB**

- 3.1 The PAB shall have the functions and responsibilities assigned to it under the Code, including its Terms of Reference, and as may be delegated to it by the RECCo Board from time to time. .
- 3.2 The PAB shall have reasonable access to Parties' data for monitoring purposes. Where possible, this data shall be procured from central sources, rather than requiring Parties to provide ad hoc reports.
- 3.3 The functions of the PAB are to:
  - (a) establish of a Risk Register and Performance Assurance Methodology;
  - (b) make determinations in relation to revisions to the Risk Register;
  - (c) monitor compliance through various reports and/or analysis;
  - (d) make determinations in relation to the application of Performance Assurance Techniques in order to mitigate the risks to other Parties and/or Service Providers that may result from non-compliance;

- (e) make determinations in relation to REC Breaches in accordance with the Breach and Default process;
  - (f) consider escalations where a party is failing to comply with their corrective action plan;
  - (g) assess whether any change to the REC or any subsidiary document would better facilitate any activity of the PAB and/or further mitigate any of the risks identified on its Risk Register and instruct the Code Manager accordingly; and
  - (h) deliver other activities as may be set out in this Code or that the RECCo Board may delegate to it from time to time.
- 3.4 The PAB shall have the right at any time and from time to time to delegate or procure the delegation of all or any part of the day-to-day administration of its functions.
- 3.5 The PAB shall develop, implement and amend working practices and procedures as it considers necessary for its proper performance of its functions, provided that there is no conflict with the provisions in the REC. Should any conflict arise, the REC shall take precedence over any working practices or procedures.

## 4 The role of the Code Manager

- 4.1 The Code Manager shall perform all functions associated with the day-to-day administration of the PAB and the PAF which are assigned to them under contract with RECCo and/or delegated to them, and shall be deemed to have delegated authority from the PAB for these purposes.
- 4.2 In addition, the Code Manager shall:
- (a) maintain the Risk Register and Performance Assurance Methodology on behalf of the PAB, assessing the ongoing applicability of the Risk Register and highlighting where new risks should be added, current risks amended or deleted;
  - (b) assess Performance Data, service provider Key Performance Indicators (KPIs) and self-assessment declarations in order to provide a recommendation to the PAB in relation to Party and service provider compliance;
  - (c) monitor agreed corrective action plans to ensure activities focus on addressing the root cause of issues, are delivered in a timely manner, and issues are escalated to the PAB where necessary; and
  - (d) make recommendations to the PAB on changes to the Risk Register, Performance Assurance Methodology or the Code itself;
  - (e) prepare and maintain a list of Performance Assurance Techniques and how these are used to mitigate (by detecting or preventing the occurrence, or correcting the effects, of) Retail Risks;
  - (f) prepare individual Risk Management Determinations for REC Parties where the PAB determines that a Performance Assurance Technique should be applied to a REC Party or REC Service Provider and deliver assurance activities in accordance with these determinations;

- (g) prepare an Annual Performance Assurance Report;
- (h) manage correspondence and communication with parties involved in the PAF.

4.3 The Code Manager shall keep confidential all information that it receives in its role under paragraph 4.

## **5 Indemnity**

5.1 The RECCo shall indemnify and keep indemnified each member of the PAB for any costs (including legal costs), charges, expenses, damages or liabilities incurred or suffered by him in acting as a member or, or performing the functions of, the PAB.

5.2 Where the Code Manager provides advice to the PAB or undertakes work at the request of, or on behalf of, the PAB, it shall be indemnified for any costs (including legal costs), charges, expenses, damages or liabilities incurred or suffered by it in providing such advice or undertaking such work.

## **6 Proceedings of the PAB**

6.1 Unless otherwise stated, the proceedings of the PAB shall be held in accordance with PAB Terms of Reference. The quorum for a meeting of the PAB shall be [5] of its members present in person (including teleconference) or via alternates.

6.2 Where PAB meetings are held to discuss the Risk Register or such other business as may appropriately involve REC Parties and REC Service Providers and no confidential information is to be considered, the meeting shall be held in open session. Minutes of any open PAB meetings shall be published on the REC website.

6.3 Where closed meetings are convened, meeting notices need only be given to members of the PAB members and other attendees permitted in accordance with the Terms of Reference or specifically at the invitation of the PAB Chair. Minutes of closed PAB meetings shall be confidential and only provided to those persons entitled to attend the relevant meeting, however highlight reports shall be published on the REC website. Where a REC Party or REC Service Provider attends part of a meeting they shall be provided with an extract of the minutes for the part of the meeting they attended, and will be invited to comment upon and/or accept the accuracy of the minutes.

6.4 A PAB member shall not participate in the consideration of any matter relating to his employer, or an Affiliate of his employer and shall not be counted when determining whether a quorum is present at a meeting of the PAB convened to consider that matter.

A PAB member shall not disclose to his employer or any Affiliate of his employer confidential information which he has received in his capacity as a member of the PAB unless required to do so by any Legal Requirement, in any of which events the PAB member shall first give written notice of the required disclosure to the PAB.

6.5 Any decision of the PAB may be appealed by any party that is materially affected by that decision, which for the avoidance of doubt may include a consumer representative.

6.6 Appeals against PAB decisions will be determined by the RECCo Board, whose decision on whether uphold or overturn the PAB decision shall be final.

6.7 The RECCo Board may allow an appeal where it has been demonstrated to its satisfaction that a decision made by the PAB, or its failure to make a decision on a matter duly put to it:

- a) is incompatible with the functions and responsibilities assigned to it by the REC, the RECCo Board or these Terms of Reference; or,
  - b) will cause the Party or REC Service Provider to be in breach of the REC or other legal requirement.
- 6.8 Matters of non-compliance which are serious, systemic and/or which the PAB does not reasonably consider it has the ability to address, or has made reasonable efforts to address including escalation of the matter through its established procedures without success, may be referred to the Authority together with such information as the PAB considers relevant and/or the Authority may subsequently request.
- 6.9 In the event that the Authority refers the matter back to the PAB, the PAB shall use reasonable endeavours to comply with any direction, instruction or guidance as may be included in the referral.

## **7 Performance Assurance Procedures**

### **Performance Assurance Methodology**

- 7.1 The Code Manager shall prepare and (to the extent that it would not compromise the aims and effectiveness of the PAF) publish a methodology (the "Performance Assurance Methodology") for:
- (a) Identifying and evaluating risks which are Retail Risks;
  - (b) assessing the materiality of Retail Risks in relation to REC Parties and Consumers;
  - (c) applying Performance Assurance Techniques to mitigate Retail Risks.
- 7.2 The Code Manager shall review the Performance Assurance Methodology at least annually to ensure it remains applicable.
- 7.3 Where the Code Manager considers that a change to the Performance Assurance Methodology would further the aims of the PAF and/or further facilitate the objectives of the REC, it shall:
- (a) issue a draft of the Performance Assurance Methodology for consultation to REC Parties and such other stakeholders as it considers appropriate;
  - (b) consider any comments received during that consultation and make any amendments to the draft that it considers appropriate in light of those comments;
  - (c) present the draft Performance Assurance Methodology (including any amendments following consultation) to the PAB for approval.
- 7.4 In the event that the PAB does not approve the draft Performance Assurance Methodology, it shall give the Code Manager clear instructions on what further steps and or revisions may be required in order to achieve its approval, including whether or not a further consultation should be undertaken before the draft is resubmitted.

## **Risk Register**

- 7.5 The Code Manager shall:
- (a) identify and evaluate Retail Risks, by applying the Performance Assurance Methodology; and
  - (b) prepare, maintain and publish a document (the "Risk Register") setting out Retail Risks, and the significance of each such Retail Risk.
- 7.6 The Code Manager shall
- (a) issue the draft of the Risk Register to REC Parties and other interested parties for consultation;
  - (b) consider any comments received during that consultation and make any amendments to the draft that it considers appropriate in light of those comments; and
  - (c) present the draft Risk Register (including any amendments following consultation) to the PAB for approval.
- 7.7 The Code Manager shall review the Risk Register on an annual basis. Changes to the Risk Register may be proposed either following the annual review or on an ad-hoc basis, in accordance with the same process as set out for revisions to the Performance Assurance Methodology.

## **Performance Assurance Operating Plan**

- 7.8 On an annual basis, the Code Manager shall prepare a plan (the "**Performance Assurance Operating Plan**") setting out the Performance Assurance Technique(s) it considers should be applied in relation to each Retail Risk identified in the Risk Register, together with the forecast cost (whether to RECCo and/or to the Party/Service Provider) of implementing each relevant technique.
- 7.9 The Code Manager shall present the draft Performance Assurance Operating Plan to the PAB for approval.
- 7.10 Once approved, the Code Manager shall review the Performance Assurance Operating Plan at least annually. Changes may also be proposed to the Performance Assurance Operating Plan on an ad-hoc basis, for example to reflect changes to the Code that may require additional assurance provisions to be in place, in accordance with the process set out in the Performance Assurance Methodology.
- 7.11 Where the PAB approves a within-period revision of the Risk Register, the Code Manager shall consider whether corresponding revisions are required to the Performance Assurance Operating Plan. If the Code Manager determines that changes are required, then it shall present a revised Performance Assurance Operating Plan to the PAB for approval.

## **Risk Management**

- 7.12 The Code Manager shall, in relation to each REC Party, determine (in accordance with the Performance Assurance Methodology) which Retail Risks in the Risk Register are material (based on class materiality and individual materiality), and the Performance Assurance



Techniques to be applied (and the manner in which they are to be applied) in relation to each such party in respect of each such Retail Risk (a "Risk Management Determination").

- 7.13 Having made an initial Risk Management Determination for each REC Party in accordance with Paragraph 7.12, the Code Manager shall:
- (a) notify each REC Party and REC Service Provider of the Risk Management Determination (and any revised Risk Management Determination) made for it; and
  - (b) thereafter on an ad-hoc basis revise the Risk Management Determination for each REC Party and REC Service Provider where the PAB amends the applicable Performance Assurance Techniques.
- 7.14 Where the PAB approves a within-period revision of the Performance Assurance Operating Plan, the Code Manager shall consider whether to make a revised Risk Management Determination for each REC Party.
- 7.15 Where the REC Party or REC Service Provider consider that:
- (a) the Code Manager has given undue weight to the risk or likelihood of occurrence in its Risk Management Determination;
  - (b) there is a relevant change in the circumstances; or
  - (c) it becomes aware of circumstances of which it was not previously aware in relation to its Risk Management Determination,
- the REC Party may request that the Code Manager make a revised Risk Management Determination. The Code Manager shall consider the request and determine (in its discretion) whether or not a revised Risk Management Determination is justified and should be made.
- 7.16 Where the Code Manager becomes aware of a change in the circumstances of a REC Party or REC Service Provider, or of circumstances which the Code Manager was not previously aware in relation to the Risk Management Determination of a REC Party or REC Service Provider, the Code Manager shall be entitled to make a revised Risk Management Determination as it considers appropriate.
- 7.17 Where a REC Party or REC Service Provider disagrees with the contents of a Risk Management Determination which applies to it, and either cannot come to an agreement with the Code Manager on a suitable revision to it, either the REC Party/REC Service Provider or the Code Manager may refer the matter to the PAB for determination. In such circumstances, the REC Party or REC Service Provider shall be informed of the PAB meeting at which the matter is to be determined and shall be entitled to submit representations to the PAB and/or attend that the PAB meeting for that item of business only. .
- 7.18 The Performance Assurance Technique(s) to be applied (in accordance with a Risk Management Determination) in respect of any Retail Risk shall be techniques specified as applicable to such risk in the Performance Assurance Operating Plan; but the techniques to be applied (and the manner and extent to which they are to be applied) to individual REC Parties of the same class may vary to reflect individual materiality of Retail Risks.

#### **Administering and Implementation of Performance Assurance Techniques**

- 7.19 The Code Manager shall apply and implement Performance Assurance Techniques in accordance with the Performance Assurance Operating Plan and each Risk Management Determination.

## **Annual Performance Assurance Report**

- 7.20 The Code Manager shall prepare an annual report on performance assurance (the "Annual Performance Assurance Report") which shall set out the following information in respect of the previous financial year:
- (a) the results of the risk evaluation and risk assurance procedures, in particular, the extent to which the application of Performance Assurance Techniques mitigated the Retail Risks in the Risk Register;
  - (b) the actual costs to RECCo and, as far as practicable, to REC Parties and REC Service Providers of implementing the Performance Assurance Techniques and a comparison against the estimated costs set out in the PAF Operating Plan for the previous year and an explanation of any differences;
  - (c) any recommendations to modify existing Performance Assurance Techniques or establish new Performance Assurance Techniques; and
  - (d) the benefits (including any cost savings) of any modifications to Performance Assurance Techniques.
- 7.21 The Annual Performance Assurance Report shall be published on the REC website.

## **Change Proposal Recommendations**

- 7.22 The PAB may, at any time, request that the Code Manager raise a Change Proposal to the Code or any subsidiary document in order to:
- (a) remedy any error, ambiguity, inconsistency or deficiency which emerges as a result of the exercise of the PAB's functions;
  - (b) remove obligations that are overly onerous or prescriptive and do not impact the Consumer experience;
  - (c) introduce or enhance controls for key risk; or
  - (d) establish a new Performance Assurance Technique or modify an existing Performance Assurance Technique.
- 7.23 Where the Code Manager receives such a request from the PAB and considers that the intent of the proposal could be better fulfilled through alternative means, including through an alternative change to the Code or any subsidiary document, the Code Manager shall make such recommendation to the PAB. This may include any revisions to the request which would allow the PAB's intent to be fulfilled whilst negating any impact upon the Code Manager's contract with RECCo.
- 7.24 Once the PAB has determined, including taking into consideration any recommendation of the Code Manager, to progress modification to the Code or a subsidiary document, the Code Manager shall raise that Change Proposal and inform the Change Panel accordingly.

## **8 Performance Assurance Techniques**

- 8.1 The PAB shall prepare and may from time to time amend a list of provisions of the REC and/or processes established pursuant to provisions of the REC, which the PAB considers should be

available as a toolkit for the PAB and/or the Code Manager to draw upon upon in order to mitigate any one or more of the Retail Risks identified within the Risk Register.

- 8.2 For the purpose of the REC a “**Performance Assurance Technique**” is the implementation of any provision for the time being set out in the list established by the PAB under this Schedule and set out in [**Annex B**].
- 8.3 The list of Performance Assurance Techniques (and any amendments to such list) shall be published on the RECCo website.

## 9 Sandbox

- 9.1 The PAB shall establish a procedure whereby a current or prospective REC Party may apply for the temporary derogation from any requirement in the REC for the purpose of trialling a new product, service or business model. The form of derogation may include a full derogation from the relevant provision or the setting to zero of any liability payment that would otherwise apply to the REC Party.
- 9.2 In their capacity as PAB Secretariat, the Code Manager shall, in respect of any Sandbox Application received, add it to the Sandbox Register and prepare a written report (the "**Sandbox Report**") containing the information listed at paragraph [9.4].
- 9.3 The Code Manager shall not be required to conduct an evaluation of a Sandbox Application or submit a draft Sandbox Report to the PAB until the Sandbox Applicant has provided all the information that the Code Manager reasonably requires in order to conduct such evaluation and prepare a Sandbox Report.
- 9.4 The Sandbox Report shall:
- (a) be addressed and delivered to the PAB;
  - (b) specify the identity of the Sandbox Applicant;
  - (c) specify the Party or Parties seeking the derogation (if not the Sandbox Applicant);
  - (d) set out the requested derogation from the REC;
  - (e) set out the reason for the derogation;
  - (f) as far as possible, identify any impact on Parties including applicable costs (if any);
  - (g) state the period of the requested derogation (for which the maximum shall be no longer than two years from the PAB's approval of such derogation);
  - (h) state the reason(s) why the derogation better facilitates the REC Objectives than requiring compliance with the relevant provision(s) of the REC;
  - (i) make recommendations as to any conditions which the PAB may wish to attach to the derigation; and,
  - (j) set out a reporting plan, which shall include key milestones and/or dates by which the Sandbox Applicant will report on the progress of the trial to the Code Manager and/or the Code Manager report on progress to the PAB, as the case may be .
- 9.5 Following receipt of a Sandbox Report, the PAB shall either:

- (a) identify any additional work or significant amendment to the Sandbox Report that the PAB reasonably requires in order to make a determination on it; or,
  - (b) give an indicative view on whether or not it is minded to agree to the derogation request and what if any conditions it proposes to attach to that derogation, and instruct the Code Manager to invite representations from REC Parties, the Authority and other interested stakeholders in respect to the Sandbox Application within [10 Working Days] of receipt of the Sandbox Report.
- 9.6 Where representations are made in accordance with paragraph [9.5(b)], the Code Manager shall, as soon as reasonably practicable after receipt thereof, and unless such representations or objections have been marked as confidential, publish those representations or objections on the RECCo website.
- 9.7 Following the end of the period referred to in paragraph [9.5(b)], the Code Manager shall, having regard to the representations received, make a recommendation to the PAB as to whether it should accept or reject the Sandbox Application, including any revision to the conditions it considers appropriate.
- 9.8 Upon receipt of the recommendation from the Code Manager under paragraph [9.7], the PAB shall consider any representations received under paragraph [9.5(b)], together with the recommendation of the Code Manager and either:
  - (a) determine whether to accept or reject the Sandbox Application; or
  - (b) direct the Code Manager to undertake additional analysis to address any new issues that have arisen as a result of the representations or otherwise.
- 9.9 Any additional analysis directed under paragraph[9.8(b)] should be limited to the impacts that may arise from the granting of the derogation request, as would ordinarily be within scope of a Sandbox Report as set out in paragraph [9.4], and should not cause the PAB determination to be delayed by any more than [one month].
- 9.10 Following receipt from the Code Manager of a report setting out the results of any further analysis directed under paragraph 9.8(b), the PAB shall determine whether to accept or reject the Sandbox application taking into account:
  - (a) the representations received under paragraph [9.5(b)];
  - (b) the recommendation of the Code Manager under paragraph [9.7]; and
  - (c) the report setting out the results of the further analysis directed under paragraph [9.8(b)].
- 9.11 In making a determination pursuant to paragraph [9.8] or [9.10], the PAB may follow such procedure, and have regard to such matters in addition to those specified those paragraphs, as it considers appropriate.
- 9.12 The Code Manager shall, as soon as is reasonably practicable after the determination of the PAB under paragraph [9.8(a)] or [9.10], notify the Sandbox Applicant and shall ensure that the Sandbox Register is updated so as to indicate the decision made in relation to the Sandbox Application.

- 9.13 The PAB may, from time to time and as it sees fit, resolve to retract any derogation, or to amend or add to the conditions applicable to that derogation.
- 9.14 Upon completion of the derogation period the Code Manager shall submit a trial evaluation report to the PAB including:
- (a) any lessons learnt from the application process and reporting that could be applied to any future Sandbox Application;
  - (b) an evaluation of the impacts and cost, if any, that the [trial] had on RECCo, REC Parties and/or REC processes;
  - (c) an assessment of whether the trial had a positive or negative impact on the achievement of the REC Objectives; and,
  - (d) a recommendation on whether the derogation provided to the Sandbox Applicant should be extended to other current or prospective REC Parties and whether this should appropriately be done through an enduring change to the REC rules and procedures.
- 9.15 The PAB shall consider the content of the Code Manager report and, subject to any revision that the Code Manager may agree to make as a result of discussions, shall:
- (a) confirm which if any of the recommendations in the report it determines should be taken forward and given effect;
  - (b) confirm which, if any, of the recommendations it does not agree with and the reasons why;
  - (c) instruct the Code Manager to include the PAB's views made pursuant to paragraphs [9.15(a) and (b)] above in the trial evaluation report and to publish that report on the RECCo website within [10] days of the instruction being received; and
  - (d) where applicable, instruct the Code Manager to raise the appropriate REC change proposal(s) on behalf of the PAB, to give effect to its determination under paragraph [9.15(a)].

## **10 Provision of data**

- 10.1 REC Parties shall individually and jointly procure that the PAB is provided with such data as the PAB may from time to time reasonably request for the purposes of fulfilling its objectives. The requested data shall be provided in accordance with the format, frequency and timescales from time to time defined by the PAB.
- 10.2 Failure to provide data which that PAB has reasonably requested may in and of itself

## Annex A: Performance Assurance Techniques

[To be populated by the PAB and Code Manager]

## Annex B: Performance Levels and Performance Charges

### 1 Introduction

- 1.1 This Annex B forms part of the Performance Assurance Schedule.
- 1.2 Each Party acknowledges and confirms that each of the charges set out in the Menu of Performance Charges represents a genuine pre-estimate of the loss likely to be suffered by other Parties and/or energy consumers as a whole, as a result of a failure by a Party to meet the applicable Performance Level and is reasonable in all the circumstances.
- 1.3 Each of the Parties further acknowledges and confirms that the charges set out in the Menu of Performance Charges constitute the sole remedy of a Party in respect of any claim for damages for any losses arising from any failure by a Party to meet the applicable Performance Level.
- 1.4 Nothing in this Paragraph 1 shall be construed so as to limit the ability of the PAB, whether of its own volition or at the request of another Party, to apply any other form of remedy in respect of a Party's failure to meet a defined Performance Level.

### 2 Performance Levels

- 2.1 Each Party shall, without prejudice to its other obligations pursuant to this Schedule and elsewhere, comply with the Performance Levels set out in the Menu of Performance Charges.
- 2.2 Each Party acknowledges that the Performance Levels represent the minimum requirements to be achieved.
- 2.3 The Menu of Performance Charges shall have the effect of determining the charges payable by a Party in respect of any failure to comply with the Performance Levels [including the maximum amount payable by a Party under the [Limitation of Liability]].
- 2.4 The charges specified in the Menu of Performance Charges are cumulative and unless otherwise stated, not mutually exclusive of one another.
- 2.5 The charges specified in the Menu of Performance Charges shall apply from the date(s) specified, being no earlier than [1 April 2021].
- 2.6 The provisions of this Schedule shall continue to apply in the event that Performance Assurance Reports are temporarily unavailable to the PAB, and Parties shall remain liable to pay Performance Charges that the PAB is temporarily unable to determine.
- 2.7 Each Party acknowledges that once the PAB is able to properly determine the level of Performance Charges that would have been applicable had the Performance Reporting been available, the Party shall be liable to pay those charges as if they were deemed to be immediately due for payment, unless otherwise stated by the PAB.
- 2.8 The PAB shall determine whether a Party has failed to comply with any of the Performance Levels required of the Code and what, if any, Performance Charge is payable as soon as reasonable possible following receipt by the PAB of the relevant Performance Report(s).
- 2.9 The PAB shall make its determination on the basis of the information provided to it in the Performance Reports and any additional evidence as may be provide by the Code Manager, including any adjustment made by the Code Manager as may be appropriate to reflect the specific circumstances.

- 2.10 The circumstances referred to in [paragraph 2.9 of this Annex B] may include but not be limited to:
- (a) any relevant derogation that may have applied to the Party during the period for which the Performance Charges are to be determined;
  - (b) any new evidence that may have been provided by the Party and accepted by the Code Manager as indicating the existence of genuine extenuating circumstances occurring during the period for which the Performance Charges are to be determined;
  - (c) whether the Party has recently and/or historically failed to meet the Performance Level(s) that are the subject of PAB determination.
- 2.11 As soon as practicable following a determination pursuant to [paragraph 2.9 of this Annex B] the Code Manager shall notify each Party of the amount (if any) due from it, with a clear indication as to which reporting period or periods of failure to comply with Performance Levels the charge(s) relate to.
- 2.12 The Code Manager shall ensure that the relevant charge(s) is included in the Party's RECCo invoice for the following [month/quarter] unless a different period of recovery has been agreed with the PAB, or the RECCo invoice is due to be issued in less than [five] days, in which case the Performance Charge may be carried over to the following invoice.
- 2.13 The PAB shall have discretion to instruct the Code Manager to suspend a Performance Charge if:
- (a) it applies to a Performance Level that the Party has failed to meet for the first time, and is otherwise compliant with other Performance Levels;
  - (b) if the PAB accepts that the Party made reasonable efforts to remedy the situation during the relevant period, but was nonetheless unable to improve performance to the required level; or
  - (c) the PAB otherwise believes that suspension of the Performance Charge pending a further period of remedial action shall better facilitate the REC objectives than immediate application of the charge.
- 2.14 In the event that the PAB determines to suspend a Performance Charge it shall notify the Code Manager and Party of any conditions that it attaches to that suspension and the period in which it expects such conditions to be fulfilled.
- 2.15 If, prior to or upon completion of the period referred to in [paragraph 2.14] the Code Manager informs the PAB that the conditions of any charge suspension have been fulfilled, the PAB may instruct the Code Manager to quash the charge, otherwise it shall become due for payment in the next available invoice pursuant to [paragraph 2.12].
- 2.16 The Code Manager shall keep a record of all Performance Charges applied and the Performance Levels to which they related, for inclusion in the following Annual Performance Assurance Report.
- 2.17 All Performance Charges are exclusive of VAT, which shall be added to such charges when included in the RECCo invoice to Parties, if applicable;



2.18 In the event of any [dispute] regarding charges under this Schedule, no Party shall withhold payment of the invoiced amount pending resolution of that [dispute].

## Menu of Performance Charges

[Where the PAB determines that a liability or incentives charge would act as an appropriate PAT to apply to any given Risk or SLA, it will prior to those charges coming into effect consult with relevant REC Parties and REC Services Providers to ensure that the potential application of those charges, together with actions necessary to avoid their application and/or escalation are fully understood and agreed.

Each REC Party and REC Service Provider who has entered into an agreement with RECCo pursuant to this Code hereby acknowledges and agrees that the provisions of this Schedule, being duly consulted upon and determined by the Authority, or as the case may be, by the PAB.

Table to be inserted/populated by the PAB]

Service	Level	Charge	Period
e.g. producing IA reports	With [x] days as set out in CM schedule	£x/ day late	quarterly

## Annex X: Definitions

These definitions have been included on the annex to this Schedule for the purposes of this consultation, but shall in due course be set out in Schedule [1]: interpretation.

We also expect that when the REC is fully web enabled, that such defined terms would be readily accessible via a suitable pop up or other device to prevent the reader having to swap between documents.

- Annual Performance Assurance Report: [to be added]
- Breach: [to be added]
- **Corrective action plan:** is a document describing how a specific situation which is considered detrimental to the objectives of the REC will be changed to better meet those objectives; this may take the form of specific and timebound PAT imposed by the PAB, or a more general and informal undertaking given by the REC Party or REC Service Provider.
- **Industry Code:** [to be added – not currently a defined term but may help clarify scope of Cross-Code working provisions]
- **Legal Requirement:** means any Act of Parliament, regulation, licence, [Industry Code] or Directive.
- **Menu of Performance Charges:** means the table of charges set out in [Annex B] of [the Performance Assurance Schedule];
- **Performance Data:** means the data utilised by the Code Manager to assess Market Participant performance under the Code. This may include Performance Assurance Reports as defined in the Technical Specification or any other data that the Code Manager has access to for this purpose.
- **Performance Assurance Board:** means the sub-committee of the RECCo Board established for the purposes of, and with delegated authority to, oversee the Performance Assurance Framework.
- **Performance Assurance Framework:** means [any document, process or arrangement established for the purposes of, or in relation to, the monitoring and assurance of roles and

obligations undertaken by REC Parties or service providers to REC Parties pursuant to this Code].

- **Performance Assurance Operating Plan:** means the document prepared by the Code manager pursuant to Paragraph [6.6]
- Performance Assurance Methodology
- **Performance Assurance Technique:** means the implementation of any provision for the time being set out in the list established by the PAB under the Performance Assurance Schedule and set out in [Annex B]
- Retail Risk – means a risk of any failure or error in a step or process required under the REC (including in each case a risk which has materialised as an actual failure or an error).
- **Risk Management Determination:** means the decision point when the Code Manager and/or the PAB decides to apply a PAT to mitigate a Retail Risk presented by a REC Party or REC Service Provider.
- Risk Register:
- **Sandbox Applicant:** means the applicant who has made a Sandbox Application and whose identity is set out in the relevant Sandbox Application.
- **Sandbox Application:** means a written request for a derogation, made by the Sandbox Applicant to the PAB, consistent with the procedures operated by the Authority from time to time whereby prospective energy innovators can seek temporary relief from certain industry rules.
- **Sandbox Register:** means a register for the purposes of assisting the PAB in the operation and recording of Sandbox Applications from initial requests made by a Sandbox Applicant through to completion of successful Sandbox Applications.
- **Sandbox Report:** is a report compiled by the Code Manager pursuant to paragraph [9.2] of the Performance Assurance Schedule in order to inform the PAB's determination whether to accept or reject the Sandbox Application.