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## Wholesale Retail Code Change Proposal – Ref CPW023

<b>Modification proposal</b>	Wholesale Retail Code Change Proposal - CPW023 - Market Entry and Market Re-assurance
<b>Decision</b>	Ofwat has decided to approve this change proposal
<b>Publication date</b>	5 March 2018
<b>Implementation date</b>	12 March 2018

### Background

Code Subsidiary Document 0001 (Market Entry Assurance (MEA) and Market Re-assurance) (CSD0001) sets out the process by which applicants and trading parties are required to provide assurance as to their capability to operate in the market. The MEA process must be completed by organisations who are seeking to gain initial entry to the market. The Market Re-assurance process must be completed by an existing trading party following a material change to its operations that may impact its ability to meet ongoing market requirements or as part of a Performance Rectification Plan.

The MEA and Market Re-assurance processes were both established prior to the market opening and are strictly defined. These strict definitions relate to the steps of each process, the documentation required and timescales for completion of individual tasks provided for within the processes.

The current MEA and Market Re-assurance processes run by MOSL are a continuation of those which were established before the opening of the retail market. MOSL conducted a review of the processes and learnings which have been taken from experiences since market opening. Improvements to the processes have now been identified and as such, CPW023 has been proposed. This proposal seeks to make amendments to CSD0001 to address identified inefficiencies and provide additional clarification in a number of areas.

## The issue

It is considered that elements of the Market Entry Assurance and Market Re-assurance processes are not sufficiently clear or are inefficient, which could result in barriers to entry for some applicants.

Applicants experience unnecessary delays when completing the MEA and Market Re-assurance processes due to existing inefficiencies. An example of this is the delay experienced by applicants due to the interaction between Ofwat's licencing process and the MEA process. MOSL are required to wait for Ofwat to be minded to grant a licence before progressing the MEA process past the first stage. It is considered that it would be more efficient to run these processes concurrently.

The Panel recommendation report highlights that the MEA and Market Re-assurance processes are strictly defined which does not allow flexibility for applicants to tailor the process to their individual circumstances. For example, applicants seeking to change from using the High Volume Interface to using the Low Volume Interface, where the risk to the market is in fact decreasing, are still required to complete the enhanced Market Re-assurance process.

There are elements of CSD0001 which have caused confusion for applicants completing the MEA and Market Re-assurance processes. It is considered that clarification is required in relation to a number of issues, including the following:

- The division of the Applicant Information Return into two stages;
- The Business Solution Assessment could be interpreted as a review undertaken directly by the Market Operator of capability including all business processes;
- The obligation on the Market Operator to structure MEA and Market Re-assurance testing and create test specifications for each applicant or trading party; and
- The CSD0001 currently states that MOSL should offer a total of three days of training to applicants, which MOSL considers to be restrictive.

## The modification proposal<sup>1</sup>

The proposal, raised by the Market Operator, is to amend the Market Codes to:

- Alter the Applicant Information Return to enable applicants to submit all required information in one single stage;
- Clarify the structure of the Business Solution Assessment to be a review of the applicant's assessment of its business capability conducted by the Market Operator;
- Alter the structure of the MEA Testing documents to make clear that the applicant holds the responsibility of tailoring the test scripts and end points for its specific operating model;
- Align the MEA and Ofwat licence processes to enable both to perform similar level reviews at the same time;
- A number of housekeeping amendments for improved clarity<sup>2</sup>; and
- A number of small changes to grammatical errors or incorrect naming in the document.

## Industry consultation and assessment

A consultation was issued on 3 November 2017 and closed on 1 December 2017. There were 14 respondents to this consultation, nine wholesalers and five retailers.

Consultation responses were mostly positive and in favour of CPW023. The majority of respondents agreed with the suggested drafting, although some amendments were made following consideration of consultation responses. It was agreed by the majority of respondents that the proposed change better delivers against the Objectives and Principles of the Market Arrangements Code and Wholesale Retail Code, including reducing barriers to entry for new applicants.

Only one respondent identified a potential significant risk to individual organisations or the market in relation to CPW023. This was that the use of self-assessment for the Business Solution Assessment could be open to interpretation and as such, it was suggested that guidelines are key. MOSL has previously considered and published the assessment criteria used to approve submissions. Further, it has included guidance within submission forms as to the information requirements and how the forms should be completed. MOSL will only consider submissions to be satisfactorily completed where they meet the published assessment criteria. Some

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<sup>1</sup> The proposal and accompanying documentation is available on the MOSL website at <https://www.mosl.co.uk/market-codes/change#scroll-track-a-change>

<sup>2</sup> The housekeeping amendments can be viewed in the CSD0001 Market Entry and Re-assurance drafting document, which is located in the CPW023 recommendation folder, accessible [here](#).

updates will also be made to the guidance and website to reflect the changes to CSD0001.

## **Panel recommendation**

During its meeting on 30 January 2018, the Panel considered responses to the industry consultation and the changes proposed to CPW023 as a result of that consultation. It recommended, by unanimous decision, that Ofwat approve change proposal CPW023, as amended, following the consultation.

## **Our decision**

We have carefully considered the issues raised by the modification proposal and supporting documentation provided in the Panel's recommendation report. We have concluded that the implementation of CPW023 will better facilitate the principles and objectives of the WRC detailed in Schedule 1 Part 1 Objectives, Principles and Definitions and approving the code modification will be consistent with our statutory duties. It is agreed that the changes will have a positive impact on the Objectives and Principles of Efficiency, Proportionality and Barriers to Entry.

## **Reasons for our decision**

We have set out below our view on which of the applicable code principles we consider are better facilitated by the code modification proposal.

### **Efficiency**

Clearly highlighting that it is the applicant who has responsibility for completing the Business Solution Assessment reduces a significant resource requirement for MOSL. As such, this change could result in a decrease in delays experienced by trading parties and applicants going through the MEA or Market Re-assurance process.

### **Proportionality**

The ability to tailor the processes to applicant's individual requirements will ensure that a disproportionate burden is not placed on smaller applicants.

### **Barriers to Entry**

By implementing change proposal CPW023, it is considered that undue delays to entering the market could be decreased. An example of this is that applicants will now be able to complete the MEA process alongside Ofwat's licencing process.

## **Decision notice**

In accordance with paragraph 7.2.8 of the Market Arrangements Code, Ofwat approves this change proposal.

**Emma Kelso**  
**Senior Director, Customers and Casework**