

MARKET ARRANGEMENTS CODE CHANGE PROPOSAL

Change Proposal Reference <i>(To be completed by the Panel Secretary)</i>	CPM007	Version No	1.0
Type of Change Proposal:	Code Change Proposal		
Submission Date	5 th December 2017		
Title: of Market Arrangements Code Change Proposal	GDPR and Data Protection Provisions Update		
Summary: of Market Arrangements Code Change Proposal <i>(40 to 50 Words Maximum)</i>	This change introduces new provisions to the Market Codes to facilitate the industry's compliance with the GDPR when it is introduced in April 2018.		
General Details of the Proposer			
Name of Proposer	Helyn Mensah		
Capacity (on behalf of a Trading Party, as a Panel Member, as the Customer Representative or the Market Operator).	Panel Member		
Contact Email	Panel.secretariat@mosl.co.uk		
Telephone Number	07948466731		
The Proposer recommends that this Change Proposal should: <i>(delete as appropriate)</i>	Proceed to Assessment		
	Proceed to Consultation		
	Proceed to Recommendation		
Is the change Urgent (Yes/No)? If yes, please provide reason for urgency (if applicable)	No		

Related Documents

Reference of any associated Code Panel Market Arrangements Code Change Proposal

CPW029 – GDPR and Data Protection Provisions Update

Documents Accompanying Form

The Initial Written Assessment has a number of attachments:

- [Attachment 1a/b](#): MAC and WRC Change Proposals
- [Attachment 2](#): Legal Drafting for CPM007
- [Attachment 3](#): Legal Drafting for CPW029
- [Attachment 4](#): List of Personal Data Items from CSD 0301 (*Data Catalogue*) and Operational Terms bilateral forms
- [Attachment 5](#): GDPR Article 30 (*Records of Processing*)
- [Attachment 6](#): Consultation Responses
- [Attachment 7](#): GDPR Issues Committee Recommendation Report

Market Arrangements Code Change Proposal Details

Description of the issue or defect which this Market Arrangements Code Change Proposal seeks to address, as required under the Market Arrangements Code Section 7.1.2(b).

The General Data Protection Regulation (GDPR) will come into effect on 25th May 2018. At this point all UK industries must be compliant with a new standard of data protection set by the European Union (EU) in the regulation.

The Panel commissioned a GDPR Issues Committee (Committee) to assess the Market Codes against the Data Protection Act 1998 (DPA) and the coming GDPR and determine what changes would be needed, if any, to provide for industry compliance.

In developing potential changes to the codes, the Committee agreed that:

- The solution should not only cover the data contained within the CMOS, but also data that is shared between Trading Parties under the provisions of the WRC to the extent necessary to enable compliance.
- The solution should provide mutual assurance to Trading Parties that data shared between one another will be managed in accordance with the GDPR.
- The solution should not inadvertently hinder the compliance of, or place undue costs on, any class of Trading Party.
- The agreed solution should be developed with a “light touch” approach to avoid over-prescriptiveness and with proportionality in mind.
- The agreed solution should allow companies to make individual decisions based on their own considered assessment of the appropriate level of risk, exposure and impact that they may face without prejudicing data in CMOS.
- The solution should avoid repetition of items that are already covered in other sections of the MAC or WRC.

Description of the Market Arrangements Code Change Proposal, its nature and purpose and how it is consistent with the Market Arrangements Code Principles and required under the Market Arrangements Code Section 7.1.2(c)

The solution developed by the Committee seeks to make changes in the following areas:

1. Additional definitions in the MAC to reflect drafting changes;
2. A re-drafted Section 15 of the MAC setting out key obligations; and
3. A new Schedule 13 for the MAC containing detailed provisions for data protection, including processes for Trading Parties and the Market Operator to address any Data Subject requests.

Principles

Description of the principles affected by the Change Proposal on the items below (if applicable) as detailed under Schedule 1 Market Arrangements Code Principles and Definitions

Principles	Affected (Y/N)	Description
Efficiency	Y	The Committee believes that establishing a consistent set of requirements across TPs is the most efficient way to meet the GDPR requirement rather than parties developing independent approaches to meeting the GDPR in respect of Market Personal Data.
Proportionality	Y	The provisions are developed with a light touch approach, in order to allow for Trading Parties of all sizes to comply in a proportionate way. The flexibility in the provisions does not place undue burdens on smaller Retailers.
Transparency	Y	This change helps communicate to Trading Parties the requirements placed on them by GDPR, and the standards they are expected to work at when communicating bilaterally.
Barriers to entry	N	No effect on this principle.
Non-discrimination	N	No effect on this principle.
Customer participation	Y	One of the objectives of the GDPR is to give customers control of their own data, which this change is helping to facilitate through new data subject rights processes.

Seamless markets	N	No effect on this principle.
No limit on upstream competition	N	No effect on this principle.
Description of any consultation carried out in advance of the Market Arrangements Code Change Proposal being made (if any), as required under the Market Arrangements Code Sections 7.1.2(f).		
<p>Prior to the raising of this Change Proposal, the GDPR Issues Committee conducted an industry consultation requesting information from Trading Parties on the proposed change contained within this proposal. There was a total of 17 respondents from 10 Wholesalers, 6 Retailers and 1 other organisation.</p> <p>The detailed summary of the consultation responses can be found in attachment 3 of this Change Proposal, and the verbatim responses received can be found in attachment 4.</p>		
Further Information		
<p>Assessment on this change has been conducted by the GDPR Issues Committee across a series of meetings, of which the content is available on the MOSL website. To review materials presented and worked on by the Committee please follow this link: https://www.mosl.co.uk/panel/panel-committees/gdpr-issues-committee</p>		

Key	
	To be completed by the Market Operator
	To be completed by the Proposer