

WHOLESALE-RETAIL CODE CHANGE PROPOSAL/ CHARGING CHANGE PROPOSAL

Change Proposal Reference <i>(To be completed by the Panel Secretary)</i>	CPW029	Version No	1.0
Type of Change Proposal: <i>(delete as appropriate)</i>	Change Proposal		
	Charging Change Proposal		
Submission Date	5 th December 2017		
Title: of Change Proposal/Charging Change Proposal	GDPR and Data Protection Provisions Update		
Summary: of Change Proposal/Charging 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 (to submit Change Proposals and Charging Change Proposals – on behalf of a Party, as a Panel member, as the customer representative, or the Market Operator or on behalf of the Authority; or Charging Change Proposals – on behalf of a Wholesaler).	Panel Member		
Contact Email	Panel.secretariat@mosl.co.uk		
Telephone Number	07948466731		
The Proposer recommends that this Change Proposal/Charging Change Proposal should initially: <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 Change Proposal/ Charging Change Proposal

CPM007 – 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

Change Proposal/ Charging Change Proposal Details

Description of (i) the issue or defect which this Change Proposal seeks to address, or (ii) the modified or new charging method or charging structure required pursuant to this Charging Change Proposal, as required under the Market Arrangements Code Section 6.2.1(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 Change Proposal/ Charging Change Proposal, its nature and purpose and (for Change Proposals only) how it is consistent with the Principles and falls within the Objectives noted below, as required under the Market Arrangements Code Section 6.2.1(c).

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

1. A simplified part K of the Wholesale Retail Code (WRC) removing duplicated references to data protection (which will be reflected in a separate WRC Change Proposal);
2. Red lined drafting for CSD 0301, and bilateral Operational Forms, which indicates that some data fields may contain Personal Data.
3. Additional definitions included in the WRC to reflect drafting changes.

Principles and Objectives

Description of the principles and objectives affected by the Change Proposal on the items below (if applicable) as detailed in Part A of Schedule 1 Part 1: Objectives 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.
Simplicity, cost-effectiveness and security	Y	This change helps to ensure mutual assurance between Trading Parties by requiring them to operate to a similar standard of data security and

		protection. This alignment from the industry should ensure efficient operation with data protection related processes is efficient in future.
Barriers to entry	N	
Non-discrimination	N	
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.
Customer contact	N	
Seamless markets	N	
No limit on upstream competition	N	
Business Terms Objectives	N	
Operational Terms Objectives	N	
Market Terms Objectives	N	
Description of the impact of the Change Proposal/ Charging Change Proposal on the following items, as required under the Market Arrangements Code Sections 6.2.1 (f), (g) and (h).		
Configured Item	Impacted (Y/N)	Description
Schedule 1: Terms and Conditions of a Wholesale Contract	N	
Wholesale-Retail Code, Schedule 1 Part 1 (Objectives, Definitions and Principles)	Y	Additional definitions included to reflect the update drafting.
Wholesale-Retail Code, Schedule 1 Part 2 (Business Terms)	Y	Amended Section K in line with additions to the MAC detailed in the linked MAC Change Proposal.
Wholesale-Retail Code, Schedule 1 Part 3 (Operational Terms)	N	
Wholesale-Retail Code, Schedule 1 Part 4 (Market Terms)	N	

Wholesale-Retail Code, Schedule 1 Part 5 (CSDs)	Y	Drafting in CSD 0301 amended to indicate fields that may contain Personal Data.
Wholesale-Retail Code, Schedule 1 Part 6 (Operational Forms)	Y	Forms amended to indicate when fields may contain Personal Data.
Appointment	N	
Licence	N	
Any other industry code, agreement or document (e.g. the Wholesale Contract or the MOSL Articles) (please specify)	N	
Central Market Operating System	Y	The Committee recognised that this change would not drive specific system changes, but still wanted to note the potential impacts the forms introduced may have on Trading Party and Market Operator systems given that many are stored electronically.
Trading Party systems which interface with Central Systems and other relevant Trading Party systems/ business processes.	Y	
Scottish Core Industry Documents	N	

Further Information

Description of any discussions on the topic of the Change Proposal/ Charging Change Proposal at the User Forum (as relevant) or otherwise relevant discussions with parties, as required under the Market Arrangements Code Section 6.2.1(i).

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.

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.

Further Comments

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>

Key

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