

# WHOLESALE-RETAIL CODE CHANGE PROPOSAL/ CHARGING CHANGE PROPOSAL

For use by the Panel

<b>Change Proposal Reference</b> <i>(To be completed by the Panel Secretary)</i>	<b>CPW019</b>	Version No	<b>1.0</b>
<b>Submission:</b> <i>(delete as appropriate)</i>	Change Proposal		
	<del>Charging Change Proposal</del>		
<b>Title:</b> of Change Proposal/Charging Change Proposal	Alternative Credit		
<b>Summary:</b> of Change Proposal/Charging Change Proposal <i>(no more than two sentences)</i>	This Change Proposal seeks to address the issues of matching the use of insurance as part of the credit terms arrangements. Creating a template that is acceptable to all Wholesalers and defining the insurance cover required so that it is proportionate and is not a barrier to entry by creating discrimination among Retailers and promote effective competition between Retailers.		
<b>Status of the Change Proposal/Charging Change Proposal</b> <i>(To be completed by the Panel Secretary)</i>			
First Time Published	26/06/2017	Rejected	
Assessment		OFWAT - Further Information required	
Consultation		OFWAT - Approved	
Recommendation		OFWAT - Rejected	
Further Information Required		Approved and Implemented	
<b>General Details of the Proposer</b>			
Name of Proposer	Lord Rupert Redesdale		
Capacity (for Change Proposals – on behalf of a Party, as a Panel member, as the customer representative or on behalf of MOSL or the Authority; for Charging Change Proposals – on behalf of a Wholesaler).	The Water Retail Company (TWRC) - Retailer		
Contact Email; Tel/Mob.	<a href="mailto:rupert@thewaterretailcompany.co.uk">rupert@thewaterretailcompany.co.uk</a> 07880600133		
The Proposer recommends that this Change Proposal/Charging Change Proposal should:	<del>Proceed to Assessment</del>		
	Proceed to Consultation		

<i>(delete as appropriate)</i>	<del>Proceed to Recommendation</del>
Rationale for recommendation and any reason for urgency	<p>TWRC has opted for post payment using a surety bond backed by insurance. OFWAT has stated that insurance can be used and must be accepted by the wholesaler. Whilst most wholesalers have accepted this option they have several issues that will need to be addressed. The surety bond and the templates recommended do not match actual insurance practice. The level of cover and indemnity against all eventualities is not sharing risk. The alternatives suggested would add disproportionate cost to the retailer and therefore effect competition by new entrants in the market-place. The level of administration needed to create bespoke credit terms for every customer would create disproportionate administration costs to wholesalers and retailers.</p> <p>A final settlement on trade credit terms needs to be agreed by either the 18<sup>th</sup> or 24<sup>th</sup> of July 2017 depending on the different interpretation of the timescale of the code set out by different Wholesalers. If no agreement is reached then TWRC will be in dispute with the relevant Wholesaler and if this affects the provision of service to a large multi-site customer. This customer has stated that the contract will be terminated and another Retailer will be appointed. Therefore, a code change that will give confidence to all parties will need to be in place by the 24<sup>th</sup> July 2017.</p>
<b>Related Documents</b>	
Reference of any associated Panel Change Proposal/ Charging Change Proposal	N/A
Documents Accompanying Form	Attachment A: Legal Drafting
<b>Change Proposal/ Charging Change Proposal Details</b>	
Description of (i) The enhancement, 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 Deregulation of the non-domestic water retail market was designed to introduce competition in the sector which in turn would drive down prices and produce better customer service. The Water Retail Company obtained a licence from Ofwat in February 2011. In March 2017, it signed the Wholesale-Retail Contract with all wholesalers which gave the company a number of obligations in return for the ability to buy water from the wholesaler.	

One of the conditions of the marketplace is that the water retailers must supply Eligible Credit Support for 50 days at an appropriate level. In the consultation response issued by Ofwat, it was stated that a Surety Bond backed by insurance was a financial instrument that could be used and must be accepted by the water companies.

TWRC opted for a post-payment method of payment backed by a surety bond using insurance. The code provides that a Surety Bond should be substantially in the form of the template included in the code (Schedule 2D), it must also meet the Key Terms set out in this schedule. However, the experience of TWRC is that insurance products that meet all the Key Terms required of Surety Bonds under the code are unavailable. The code provisions should be clarified in order to provide clarity and certainty to Retailers and Wholesalers of the appropriateness of insurance as a form of Eligible Credit.

Insurance is a cost effective and proportionate method of reducing risk whilst removing the added administrative and financial burden associated with agreeing bespoke credit arrangements that will cost more to arrange and administer by both parties than is proportionate to the value of many contracts especially in the SME sector.

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 is a code change that would deal with the concerns of the Wholesaler whilst recognising that there needs to be a degree of shared risk between the Wholesaler and the Retailer. A change in the code would need to address two areas.

- 1. Creation of a subset of Schedule 3 that reflects the way insurance works in practice.** The codes credit terms are based on key terms that do not match the requirements of an insurance based solution. Changing the key terms to reflect the actual provisions and practices of insurance will need to be put in place. Changing the key terms would meet the concerns of the Wholesalers which include the need under the present template for a written signature from the guarantor or third party which will not be supplied by the insurance company. The lack of a signature will not stop pay-out by the insurance company, however to insist on a signature that will mean a change in the normal practices of the insurance industry is unreasonable. The insurance can only be triggered by the policyholder although there could be a signed agreement from the retailer that it would trigger insurance to make sure it fulfils its contractual obligations.
- 2. Coverage by insurance.** Insurance used to cover credit risk will cover the event of the retailer not paying the wholesaler. The insurable event, the retailer failing or being unable to pay the wholesaler will mean the retailer triggering the insurance to pay the water invoice as required by the terms of their retail licence. The credit terms are arranged with the provision that retailers will be paid at the end of the fifty days by the credit terms being invoked. Insurance will pay within 1 and 4 days and in most cases, would be able to pay the water invoice at the point the bill became liable to be paid. Insurance therefore by reducing the period that the wholesaler is owed outstanding credit will reduce the risk to the Wholesaler.

**The policy.** Insurance to meet credit term arrangements should be arranged for all clients naming the customer and the sites in any wholesale area. The relevant wholesaler should be the named beneficiary of the insurable event, namely the failure to pay the water bill for up to 50 days. The insurance cover should be update to reflect any change in the

customer base and the retailer will need to supply to the wholesaler copies of the insurance evidence that the insurance premiums have been paid and copies of the insured parties at any time on request.

Insurance premiums will be required to cover 90% of the eligible risk. The retailer will still be liable for the outstanding monies however it is either not possible or punitively expensive to insure against 100% of risk and to make this a requirement would be unreasonable.

## Principles and Objectives

Principles	Affected (Y/N)	Description
Efficiency	y	Credit Terms that not based on a clear policy that creates excessive administration will be detrimental to the efficiency of the market.
Proportionality	y	Insurance should be an option for all. Requiring only prepayment will give advantage to larger companies
Transparency	y	Provision of insurance documents will allow retailers to show simply they have at any time appropriate credit risk cover
Simplicity, cost-effectiveness and security	y	Insurance is the most cost effective means of mitigating the risk then credit terms have been designed to protect against
Barriers to entry	y	Only offering prepayment is a barrier to entry to new entrants especially SMEs
Non- discrimination	y	Having a clear agreement on the format and requirements for insurance would allow companies of all sizes to meet their obligation to meet credit term provision
Customer participation	n	
Customer contact	n	
Seamless markets	y	It would allow the quick and efficient transfer of customers without the major cost of administrating bespoke credit solutions for each customer
No limit on upstream competition	n	

Business Terms Objectives	y	Cost effective and proportionate means of meeting licenced obligations
Operational Terms Objectives	y	Reduced administration
Market Terms Objectives	y	Insurance will allow all companies to compete fairly without credit terms creating differential cost of business
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(e), (f) and (g).		
Configured Item	Impacted (Y/N)	Description
Wholesale-Retail Code, Part 1 (Objectives, Definitions and Principles)		
Wholesale-Retail Code, Part 2 (Business Terms)	Schedule 3: Alternative Credit	Part B added into the Alternative Eligible Credit Support. This section is applicable to insurance back surety bonds which do not constitute Eligible Credit Support only.
Wholesale-Retail Code, Part 3 (Operational Terms)		
Wholesale-Retail Code, Part 4 (Market Terms)		
Wholesale-Retail Code, Part 5 (CSDs)		
Wholesale-Retail Code, Part 6 (Operational Forms)		
Appointment		
Licence		
Any other industry code, agreement or document (e.g. the Wholesale Contract or the MOSL Articles) (please specify)		
Central System		
Trading Party systems which interface with Central Systems		

and other relevant Trading Party systems/ business processes.		
Scottish Core Industry Documents		
<b>Impact Assessment</b>		
General Comment Consideration of the timing of adoption and implementation of the change may be relevant.	Change is urgent	
<b>Cost/Benefit Estimate</b>		
Financial Benefit Estimate (Low: < £10K, Medium: £10K To £100K, High : > £100K)	High	
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(h).		
<b>Further Comments</b>		