



Minutes of TDC Meeting 33

12 February 2020 | 10:30 – 12:00 | Teleconference

Status of the Minutes: Final

MEMBERS PRESENT

Name	Role
John Vinson	Chair
Wendy Monk	Committee Member (Retailer)
Martin Mavin	Committee Member (Wholesaler)
Paul Stelfox	Committee Member (Wholesaler)
Dylan Freeman	Committee Member (Wholesaler)
Emma Taylor	Alternate Committee Member (Retailer)
Julian Tranter	Committee Member (Wholesaler)
Peter Strain	Committee Member (Retailer)
Tom Daborn	MOSL (Presenter)
Miles Robinson	MOSL (Observer)
Charles Unvala	MOSL (Presenter)

MEMBERS ABSENT

Name	Role
Neil Pendle	Committee Member (Retailer)
Patrick McCart	Committee Member (Retailer)
Cleo Acraman	Committee Member (Retailer)



1. Welcome and Introductions

PURPOSE: FOR INFORMATION

- 1.1. The Chair welcomed members to the Trading Disputes Committee (TDC) meeting.
- 1.2. With all members welcomed the Chair proceeded with the meeting.

2. Outstanding actions and review of previous meeting minutes

PURPOSE: FOR DECISION

- 2.1. MOSL began with a review of the previous meeting's minutes and asked Members for comments.
- 2.2. Two members commented that the list of attendees was inaccurate and needed to be amended to reflect their own attendance and absence respectively.
- 2.3. MOSL took this as an action to correct the minutes as requested.

Action 33_01

- 2.4. With no further comments from members, MOSL moved on to the outstanding actions.
- 2.5. Action 31_03: MOSL advised that a paper had been produced and circulated on the Credit Committee's position on Section 9.7.2 of the Business Terms, with discussion taking place under the corresponding agenda item. There were no comments from members and the action was closed.
- 2.6. Action 31_04: MOSL confirmed that a Sharepoint site had been set up and circulated for all TDC related documents. There were no comments from members and the action was closed.
- 2.7. Action 32_01: MOSL confirmed that the minutes of TDC meeting 31 had been amended in line with the Chair's request. There were no comments from members so amendment was taken as approved and the action was closed.
- 2.8. Action 32_02: MOSL advised that a second draft of the paper on the unified disputes process had been produced and circulated to members, with discussion taking place under the corresponding agenda item. There were no comments from members and the action was closed.
- 2.9. The Chair reiterated the benefit of the TDC Sharepoint site to proceedings and encouraged all members to use the site going forwards.
- 2.9. With no additional comments from the TDC, the chair moved onto the next agenda item.

3. Update on new and open trading disputes

PURPOSE: FOR INFORMATION

- 3.1. MOSL confirmed that there were currently no active trading disputes open.
- 3.2. With no additional comments from the TDC, the chair moved onto the next agenda item.



4. Credit Committee position on Section 9.7.2 of the Business Terms

PURPOSE: FOR DECISION

- 4.1. MOSL presented the paper on the Credit Committee position on Section 9.7.2 of the Business Terms, looking for members to agree to endorse the proposed approach outlined in the paper.
- 4.2. One member raised concern that allowing a Trading Party to dispute a Credit Support Notice could have a significant monetary impact and was fundamentally different to disputing any invoice or part thereof. An action was recorded for MOSL to take this concern to the Credit Committee for clarity as to what is and is not payable in these instances.

Action 33_02

- 4.3. Further concerns were raised around whether the suggestions would work in reality, with more complex issues possibly taking a longer time to resolve by the Committee. Members agreed that the Committee would have the ability to bring in an expert in these instances to aid with making a determination.
- 4.4. The Chair confirmed that members endorsed the proposal from the Credit Committee, and that the two Committees would work collaboratively to resolve any points of concern or clarity.
- 4.5. Concerns were raised over the request from the CC for TDC to consider a “fast-track” approach to credit disputes. The TDC agreed to consider the matter at its next meeting.
- 4.6. With no additional comments from the TDC, the Chair moved onto the next agenda item.

5. Unified Disputes Paper and Committee

PURPOSE: FOR DECISION

- 5.1. MOSL presented the paper on the unified disputes process, and confirmed it was looking for members to agree to endorse the concept outlined in the paper. MOSL thanked members for the comments it had received so far, and these were shared with the Committee as points of discussion.
- 5.2. A member raised a question as to whether disputes of differing subject matters would be dealt with under different timelines. MOSL clarified that the current proposal was for a singular process which had the flexibility to resolve disputes of any nature or timeframe, but that this would not be prescriptive based on the type of dispute. MOSL asked members for their views on this approach. Several members voiced their agreement with this singular approach, with an emphasis on having a flexible process.
- 5.3. One member commented that while the inclusion of a Committee stage for all dispute types is of benefit, there may be some instances where it may not be right for the Committee to make a determination or it may be unable to. The member asked whether the Committee therefore needed to have the ability to decline to make a determination. The Chair asked members for feedback on this point. Several members commented that the Committee should be able to



bring in expertise from outside of the Committee when it sees fit in order to aid with making a determination. There was also broad agreement with the Committee being able to decline to make a determination.

- 5.4. One member raised a question as to whether the financial impact of a dispute was under the Committee's remit, and so whether it would be able to make a determination on any compensation that was due between disputing parties. Other members responded that the Committee should not encompass this aspect of disputes into its decision, which should focus solely on the issue and the rectification thereof.
- 5.5. Another member commented on the need for an expedited process to allow for urgent resolution. MOSL responded that this need was incorporated into the current proposal. Disputing parties would have the ability to requests escalation to the Committee as soon as they wished to once the Dispute had been initially validated.
- 5.6. The question was raised by another member as to whether there needed to be a limit on the number of times that the timeframe for a Dispute could be extended. The consensus from members was that as long as both parties were in agreement, it could be extended indefinitely. It was further added that if no engagement had been received from either party, the Dispute could be closed in order to prevent a large administrative workload on MOSL having to chase for repeated updates. MOSL added that the automation functionality within the Kissflow workflow management system would help to mitigate the resource cost on MOSL.
- 5.7. Another member questioned the role of the Committee in monitoring Disputes once a resolution had been agreed. MOSL confirmed that the Dispute would only stop being listed as a Dispute once both disputing parties had agreed that all actions required had been completed to resolution.
- 5.8. One member raised a question as to who had the right to escalate the Dispute to the Committee under the proposed process. MOSL responded that any of the disputing parties, or MOSL had the ability to escalate a Dispute to the Committee. A member responded that this could be better drafted by giving the Committee the right to discuss any Dispute as it saw appropriate. The Chair asked for this point to be recorded in any future drafting of the proposal.
- 5.9. Another member commented that the decision of the Committee needed to be deemed final and binding to give the process the teeth that it needed to avoid disputing parties from "gaming" the process and sending Disputes to Arbitration if the Committee did not reach the determination that was favoured. MOSL responded that the current process does contain a 20 business-day time window following Committee determination. Beyond this time window, disputing parties were no longer able to refer the Dispute to Arbitration and the Committee's determination was deemed to be final and binding. The Chair requested this question be recorded for any possible consultation required during the Change Proposal process.
- 5.10 A question was raised as to the origin of the figures included for the cost of the TDC. MOSL responded that these were calculated from annual figures provided to Panel by MOSL and that they would review these figures for the next TDC meeting. Members and the Chair



commented that these figures were necessary at this stage and would be discussed under the Change Proposal process.

- 5.11. One member questioned whether it was necessary to include Trading Party escalation stages within the proposed process, similar to those seen in the Non-Trading and Market Arrangements Code Disputes processes. Several members responded that this escalation should be optional for each Trading Party and was included in the proposed process.
- 5.12. Another member raised a question regarding the indemnity that the Committee would have in relation to making determinations on Market Operator Disputes. The Chair recorded an action for MOSL to provide clarity on this question for the next TDC meeting.

Action 33_03

- 5.13. A member questioned whether the query stage of the process was still included in the proposal. MOSL confirmed that the agreement from members at the previous TDC meeting was for this stage to be removed from the proposal to allow for greater flexibility.
- 5.14. The Chair confirmed that the Committee approved the proposed concept, taking the questions and considerations previously raised from Members.
- 5.15. MOSL added that it was seeking a Member to raise the Change Proposal and work collaboratively with MOSL. The Chair responded that the discussion with a Member would be taken offline and would be confirmed to MOSL subsequently. An action was recorded for the Chair to discuss this and confirm with MOSL.

Action 33_04

- 5.16. The Chair confirmed that no discussion needed to take place on the timeline at the current TDC meeting as this would be discussed once the Change Proposal had been raised for discussion at the March TDC meeting.
- 5.17. With no additional comments from Members, the Chair moved on to the next agenda item.

6. Any other Business (AOB)

PURPOSE: FOR INFORMATION

- 6.1. MOSL reminded members that a face to face session would be planned for the upcoming TDC meeting in March.
- 6.2. No additional items raised from TDC members.
- 6.3. With no additional comments, the Chair closed the meeting.

Actions:

Action 33_01: MOSL to correct the minutes of TDC Meeting 32



Action 33_02: MOSL to confirm with Credit Committee what is deemed to be payable in Disputes regarding Credit Support Notices

Action 33_03: MOSL to provide clarity on the indemnity that the Disputes Committee would have in relation to making a determination on Market Operator related Disputes

Action 33_04: The Chair to discuss the raising of the Change Proposal with TDC Members offline and confirm to MOSL

The next TDC meeting is scheduled for: **18 March 2020, 10:30 – 14:30**