

# MARKET ARRANGEMENTS CODE CHANGE PROPOSAL

<b>Change Proposal Reference</b> <i>(To be completed by the Panel Secretary)</i>	<b>CPM010</b>	Version No	<b>1.0</b>
<b>Type of Change Proposal:</b>	Code Change Proposal		
<b>Submission Date</b>	13 <sup>th</sup> March 2018		
<b>Title:</b> of Market Arrangements Code Change Proposal	Amendments to the Retailer Board Nomination Process		
<b>Summary:</b> of Market Arrangements Code Change Proposal <i>(40 to 50 Words Maximum)</i>	This Market Arrangements Code (MAC) Change proposal sets out to add an additional class of membership for Associated Retailer Members (which will be afforded full voting rights).		
<b>General Details of the Proposer</b>			
<b>Name of Proposer</b>	Roland George		
Capacity (on behalf of a Trading Party, as a Panel Member, as the Customer Representative or the Market Operator).	The Market Operator		
<b>Contact Email M</b>	Roland.George@mosl.co.uk		
<b>Telephone Number</b>	0208 616 7444		
The Proposer recommends that this Change Proposal should: <i>(delete as appropriate)</i>	<del>Proceed to Assessment</del>		
	<del>Proceed to Consultation</del>		
	Proceed to Recommendation (subject to the concomitant changes being made to MOSL's Articles of Association)		
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

N/A

Documents Accompanying Form

- Initial Written Assessment Report
- Proposed MAC Legal Drafting

## 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).

### **BACKGROUND**

MOSL's Members adopted revised Articles of Association (which took effect from 1st April 2017). In contrast to the previous MOSL Articles of Association, which prevented companies "associated" with Undertaker members from being Members completely, the revised Articles of Association included a new, non-voting membership class.

However, it was noted in June 2017 that there was a discrepancy between the Articles of Association and the MAC regarding the process for nominating and electing a Retailer Director. Section 4 of the MAC provides that although the Retailer Director can only be an employee of an Unassociated Retailer Member, each Retailer Member can nominate, and vote in the process for appointing the Retailer Director to the Board of MOSL. This is because the definition of Retailer Member in the MAC (which is used in Section 4) makes no distinction between the two classes of Members for these purposes.

Aside from this voting discrepancy, the procedure for appointing a Retailer Director in the MAC and Articles of Association is identical.

Further to the discrepancy of the Articles of Association and the MAC, the MOSL Board initiated a consultation process on to seek the views of MOSL's members on the various options to resolve this conflict. The responses from members, collated in a Board discussion paper indicated a clear preference for Option D – which was to create a 'separate class of membership for Associated Retailer Members' which, was consistent with the MOSL's Board's recommendation at its September 2017 meeting.

To ensure consistency between the MAC and the Articles, the proposed amendments to the MAC correspond to those proposed in relation to the Articles. In particular, amendments have been made to Section 4 of the MAC (attached) along with corresponding changes to the definitions.

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)

### **PROPOSAL**

The proposed Change Proposal seeks to make amendments to the MAC to establish (as per 'Option D' set out in the consultation issued by MOSL in October 2017) that there shall be three classes of membership within MOSL – (1) Wholesaler Members, (2) Associated Retailer Members

and (3) Unassociated Retailer Members, with all three classes of membership having equal voting rights and any resolution would require approval from each individual class of members. In addition to this, the Board shall include an Associated Retailer Director- to be nominated by the Associated Retailer Members. The same changes will be reflected in MOSL's Articles of Association.

To ensure consistency between the MAC and the Articles, the proposed amendments to the MAC correspond to those proposed in relation to the Articles. In particular, amendments have been made to Section 4 of the MAC (attached) along with corresponding changes to the definitions. The changes can be summarised as follows:

- A separate third class of membership will be created for Associated Retailer Members, who could be afforded full voting rights in MOSL, and not just limit these rights to voting in the Retailer Director nomination process.
- MOSL will create three classes of membership (Wholesaler, Unassociated Retailer and Associated Retailer).
- Each membership class will have equal voting rights and any members' resolution will require approval from each individual class of Member.
- An additionally elected Board position will be created for an Associated Retailer (and voted for by the associated retailers). This ensures that MOSL's membership composition is in line with both MOSL's funding mechanism and the composition of the Panel.

## 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	YES	This proposed change will ensure the efficient discharge by the Retailer of its obligations.
Proportionality	YES	The amendment makes the simplest change to the Market Arrangements Code.
Transparency	YES	The proposed change will be readily accessible to existing and prospective Retailers.
Barriers to entry	YES	The change ensures that the rights of new entrants Retailer Members will be clearer.

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).

A Consultation was issued on the 25<sup>th</sup> October 2017 to MOSL's Members.

Further Information

N/A

<b>Key</b>	
	To be completed by the Market Operator
	To be completed by the Proposer