

Minutes of the Disputes Committee Meeting Two

9th December 2020 | 10:30 – 13:30 | Via MS Teams

Status of Minutes: FINAL

MEMBERS PRESENT

Member	Abbreviation	Role
Elsa Wye	EW	Chair
Neil Pendle	NP	Committee Member (Retailer)
Peter Strain	PS	Committee Member (Retailer)
Wendy Monk	WM	Committee Member (Retailer)
Patrick McCart	PM	Committee Member (Retailer)
Paul Stelfox	PS	Committee Member (Wholesaler)
Martin Mavin	MM	Committee Member (Wholesaler)
Matthew Rix	MR	Committee Member (Wholesaler)
Julian Trantor	JT	Committee Member (Wholesaler)
Markus Lloyd	ML	MOSL
Ivy Mandinyenya	IM	MOSL
Joe Smith	JS	MOSL (Presenter)
Ethan Fleming	EF	MOSL (Secretariat)

1. Welcome and Introductions

- 1.1. Apologies had been received from Dylan Freeman.

2. Minutes of the Previous Meeting

- 2.1. There had been no comments received on the minutes of the previous meeting.
- 2.2. The minutes of the previous meeting were approved as an accurate record.

3. Review of Outstanding Actions

- 3.1. MOSL presented the following actions to be closed: A01_01, A01_02, A01_03, A01_04, A01_05, A01_06.
- 3.2. The remaining actions were not due for completion until the first quarter of 2021.

4. Detailed Process for Managing Disputes in line with 17.2.1

- 4.1. ML reported that section 17.2.1, of the Code, if interpreted in a literal sense required a party to inform the other party that the matter was a formal Dispute before any further action was taken. Once it had been formally notified it could be escalated to the MO. Currently disputes were being raised directly to the MO via Kissflow which triggered the validation process without requiring parties to give a formal Dispute notification to the other party first. A Trading Party had reported that they interpreted the relevant section in the Code as that before entering it onto Kissflow MOSL should ensure the other party had been made aware that a formal Dispute existed. MOSL viewed that the Kissflow notification was adequate to code requirements.

- 4.2. To assist with clarity, MOSL had implemented an interim process that did not require codification, when a dispute was received on Kissflow MOSL would manually notify both parties. Parties did not need to agree that there was a dispute but just to be notified. The informal guidance document would be updated to reflect this.
- 4.3. A member noted that the business terms appeared to be in conflict with the market terms in this instance and a notification function could be added to Kissflow before a formal dispute was raised. Otherwise they would support a code change to ensure it was clear to all parties.
- 4.4. A member noted that they viewed this as an operational issue that did not require a code change. Several other members supported this and that they did not view this as a large issue that a substantial amount of resource should be used to address.
- 4.5. Members supported continuing to set the expectation that TP's should communicate, engage in bilateral discussion and where possible, resolve any issues before escalation to a dispute. It appeared unusual that a party would raise a dispute where the other party was not aware.
- 4.6. IM reported that a housekeeping change was in process following the implementation of CPW092 which could include removal of 17.2.2 from the business terms and amendment of 17.2.1. This was currently being examined by MOSL's legal team.
- 4.7. A member asked that the committee formally note their objection to a formal pre-dispute process.
- 4.8. MOSL would update the committee on resolving this issue at the next meeting.

ACTION:02_01

5. Strawman Report

- 5.1. JS presented the report and invited the DC to comment on the format of the report to inform future presentations. The detailed report would only contain validated disputes. As a minimum MOSL proposed updating this on paper day with it available on SharePoint between meetings.
- 5.2. A member suggested updating the report once a dispute had been validated to ensure the data was as up to date as possible.
- 5.3. An additional column would be included as to if the dispute was resolved or escalated and if there was a large number of disputes an executive summary showing key movements or new cases to note be produced

ACTION:02_02

6. Historic Disputes

- 6.1. JS reported that following the last DC meeting the Trading Parties involved in the seven historic disputes had been contact for an update.
COD0049-54
- 6.2. These disputes had only received a response from one party, they viewed they had undertaken all actions that they could to resolve. There was a need to ensure that the SPIDs were updated to reflect those that had now changed ownership. These disputes were first raised in November 2018.
- 6.3. The committee agreed that MOSL should contact the party that had not responded and notify them that if a response was not received in ten business days the disputes would be closed. If a response was received it should dictate if the dispute was resolved and therefore closed, withdrawn or it would be migrated to the new process with the timescales restarting.
COD0060
- 6.4. One party wished it to migrate to the new process with the other party viewing it did not need migrating as discussions were ongoing with expected resolution February/March 2021.

- 6.5. The committee agreed that the dispute should be migrated into the new procedure with the process beginning at day zero. Parties could then apply for extensions to allow discussions to continue if appropriate.

COD0061

- 6.6. This dispute was previously raised as missing from reports. MOSL had discussed this with the raiser who had asked for it to be placed "on hold". As this was not possible, they had accepted that the dispute should be closed whilst the parties continued pre-dispute discussions.

7. New Disputes

- 7.1. JS presented the new disputes which had been validated and published. No disputes had currently been elevated to the DC and as such there were no decisions required by the committee. A forecast calendar had been produced as to when items may be elevated to the committee over the next quarter.

- 7.2. The DC requested that the forecast calendar be included on the website.

ACTION:02_03

- 7.3. Members asked that future reports include if the disputes were trading or non-trading.

ACTION:02_04

- 7.4. A member asked what should be expected if disputes were elevated to the committee. MOSL confirmed that the information would be extracted from Kissflow to form a paper in time for the committee paper day. This would include a detailed report and a summary.

8. Any Other Business

- 8.1. A member asked if the disputes should be ranked according to size or value to inform priorities and if priority should be given to larger disputes. A large dispute could be of considerable cash flow impact to a TP and the member viewed that as the process was established there was likely to be a large volume of disputes.

- 8.2. MOSL confirmed that although they had SPID volumes, they would need to seek value information from TP's or make an assumption based on consumption of the SPIDs. Currently resources were adequate for the disputes received and prioritisation was not required.

- 8.3. Several members expressed concern that prioritising disputes according to size could be to the detriment of smaller TP's. Disputes may be of a lesser value overall but could be of a considerable impact to smaller TP's.

- 8.4. If there was a large volume of disputes the DC could meet more often or TP's could use the urgent dispute process. The new process should also help to avoid extended disputes. The DC would keep the process and timescales under review in case this proved to be an issue.

- 8.5. The Chair ended the meeting wishing all attendees a Happy Christmas and the meeting was closed.