



Minutes of TDC Meeting 32

15 January 2019 | 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) |
| Michelle Burns | Alternate Committee Member (Retailer) |
| Peter Strain | Committee Member (Retailer) |
| Emma Taylor | Alternate Committee Member (Retailer) |
| Julian Tranter | Committee Member (Wholesaler) |
| Patrick McCart | Committee Member (Retailer) |
| Neil Pendle | Committee Member (Retailer) |
| Tom Daborn | MOSL (Presenter) |
| Miles Robinson | MOSL (Observer) |
| Hannah Allardice | Meeting Secretary (MOSL) |

MEMBERS ABSENT

| Name | Role |
|----------------|-------------------------------|
| Joseph Fortune | Committee Member (Retailer) |
| Cleo Acraman | Committee Member (Retailer) |
| Dylan Freeman | Committee Member (Wholesaler) |



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. Following the review of the previous meeting's minutes, The Chair requested MOSL to update the title of Director of Market Design to Chair of the Credit Committee on section 2.7. Committee members had no additional comments. MOSL to make update TDC 31 minutes to reflect the Chairs request.

Action 32_01

- 2.2. Action 31_01: MOSL were actioned to amend section 2.9. within TDC 30 minutes. It was agreed between MOSL and the TDC member to remove the last sentence for clarity. MOSL asked if members had any remarks before MOSL uploaded the minutes to the website. The committee did not have any additional comments, amendment approved.
- 2.3. Action 31_02: MOSL submitted the unified disputes paper to members on the 3 January 2020. MOSL thanked members who had already provided constructive comments and are currently in the process of implementing the feedback ready for February TDC meeting.
- 2.4. Action 31_03: The Chairs from both the TDC and the Credit Committee were to arrange a meeting, in relation to Section 9.7.2 of the Business Terms. Both Chairs were looking to arrange a meeting for the following week. The Chair asked members to provide an insight on the discussions held around this Section offline.
- 2.5. Action 31_04: MOSL had spoken with their Digital Team and are in the process of creating a SharePoint folder for the TDC materials. MOSL added that members would be updated once this had been completed.
- 2.6. 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. Unified disputes paper

PURPOSE: FOR INFORMATION

- 4.1. MOSL stated they had received many constructive comments following the circulation of the Unified Disputes Paper, and that further comments from members were welcomed. With the



feedback received, MOSL would look to incorporate these comments into a second draft of the paper to be submitted and discussed at TDC Meeting 33.

- 4.2. A member commented that developing a simplified approach would be beneficial, due to trading parties currently facing various forms of disputes, costs and processes associated with the formalisation of a dispute. Another member agreed with the prospect of a singular process to produce a quicker outcome for resolving disputes. Other members noted that the paper should be looking to outline an approach that reflects the efficiency and effectiveness of the process. It was also noted that there should be some flexibility to the approach in order to avoid unnecessary escalations, where trading parties were close to a resolution. Another member asked whether MOSL had asked trading parties if they believed the escalation process was required and/or useful. MOSL noted that no feedback had been received from trading parties on that subject but did clarify that trading parties will have the opportunity to provide feedback during the consultation stage of the change proposal process. MOSL did note they were aware flexibility was required, as noted in the previous discussions over the trading disputes process. To provide this, the process allows trading parties to request timeframe extensions if required, which had also been implemented in the guidance document for trading disputes. This step would be incorporated into the Unified Disputes process to continue this flexible approach.
- 4.3. A member asked if MOSL had a set timeline for response to queries. MOSL confirmed that the current codified SLA to respond to queries was 10 business days. For disputes queries, MOSL will follow the same set timeframe. MOSL asked the committee whether queries should be a codified part of the unified disputes process. One member expressed the view that codifying the query process was unnecessary and should not be included in the unified disputes process. A number of members agreed with these comments. Another member added that the process should be focused on the resolution aspect of all disputes.
- 4.4. Members also noted that there was a lack of clarity in relation to what was classified as a dispute, referencing Section 9.7.2 of the Business Terms where the concept of a dispute could have broad meaning for various trading parties. The proposal would need to capture all references to disputes referenced within the code.
- 4.5. A committee member asked the TDC whether MO disputes should also be involved within the process. They were aware that there would be some issues around conflict of interest, as MOSL is also responsible for organising the TDC information as secretariat. Some members believed that MO disputes should be involved within the unified process, as all disputes should follow the same process. In addition, it would fit into the MOSL plan presented by their CEO to increase transparency with trading parties. Currently the MO disputes process had no external figure to monitor the issue. The process allowed MOSL to police themselves on the matter. Another member did note that the Panels role was to oversee MOSL and hold them to account with any issues. MOSL took an action to include the MO disputes within the next draft of the paper.



4.6. On the future of the TDC, MOSL presented two options to members:

- Option one: Disband the TDC and replace with a new Disputes Committee
- Option two: Expand the remit and Terms of Reference of the TDC to include MAC/Non-Trading and MO disputes.

Members agreed that option two was the most logical choice. A member did state that to establish clarity on the Disputes Committee responsibilities, a section should be added to cover their remit over disputes. This would need to be added due to the wider commercial nature of non-trading disputes. It would be necessary for trading parties to know their options when resolving disputes as some way still look to arbitration as a path to resolution. MOSL confirmed that trading parties would still have the ability to escalate their disputes to arbitration, if they did not agree with the committee decision.

4.7. The Chair asked members whether they had any insight in relation to Section 9.7.2 of the Business Terms and the changes to this Section which were being discussed by the Credit Committee. A member who is also part of the Credit Committee stated that monitoring these types of disputes would be beneficial to obtain information of what types of disputes were in the market. Due to the nature of these disputes, the Credit Committee required more insight to avoid unforeseen impacts and avoid any change accidentally resulting as a deterrent to the market. To provide context, MOSL commented that the current state of Section 9.7.2 of the Business Terms meant that retailers could withhold invoices and the reference to disputes was not formalised. Due to the informalisation, MOSL has no oversight of withheld invoices and the disagreements surrounding this. MOSL asked the committee whether they believed the action to withhold invoices should be formalised. The committee requested that more information was provided prior to confirming any decision. The point was also raised that, since the Credit Committee was also overseeing this section of change then the two committees should look to keep the items separate. Though it was agreed that greater visibility was required over these types of disputes. A MOSL member will be attending the next Credit Committee meeting to ensure the TDC views were brought across.

4.8. With no additional comments from the TDC, the Chair moved onto the next agenda item.

5. Any other Business (AOB)

PURPOSE: FOR INFORMATION

- 5.1. MOSL reminded members that a face to face session will be planned for March 2020.
- 5.2. No additional items raised from TDC members.
- 5.3. With no additional comments, the Chair closed the meeting.

Actions:

A32_01 Update TDC 30 draft minutes and action log with corrections.

A32_02 MOSL to produce second draft of Unified Disputes Paper and circulate to members.

The next TDC meeting is scheduled for: **12 February 2020, 10:30 – 12:30, teleconference**