

To: Members and directors of MOSL

Cc: BDO LLP

5 July 2024

Dear Member

## NOTICE OF ANNUAL GENERAL MEETING

Notice is hereby given that the Annual General Meeting (AGM) of Market Operator Services Limited (MOSL or the Company) will be held by videoconference on Monday, 22 July 2024 at 3pm (the Annual General Meeting) to transact the following business:

To consider, and if deemed fit, to pass the following resolutions, proposed as ordinary and special resolutions, respectively. Further information on the resolutions is provided in the Explanatory Notes on pages 3 to 7.

### ORDINARY RESOLUTIONS FOR CONSIDERATION AND ADOPTION

1. Ordinary resolution one – to receive and adopt the Annual Report and Financial Statements and the Auditor's Report for the financial year ended 31 March 2024.

***'Resolved that the Annual Report and Financial Statements, and the Auditor's Report, for the financial year ended 31 March 2024 be are hereby adopted.'***

2. Ordinary resolution two – to reappoint BDO LLP (Binder, Dijker, and Otte Limited Liability Partnership) as the Company's auditor until the conclusion of the next Annual General Meeting of the Company and to authorise the Audit and Risk Committee to determine the auditor's remuneration

***'Resolved that the reappointment of BDO LLP (Binder, Dijker, and Otte Limited Liability Partnership) as the Company's auditor until the conclusion of the next Annual General Meeting of the Company, and that the Audit and Risk Committee is authorised to determine the auditor's remuneration, be and is hereby approved.'***

### SPECIAL RESOLUTIONS TO AMEND THE ARTICLES OF ASSOCIATION FOR CONSIDERATION AND ADOPTION

1. Special resolution one – to merge the retailer membership categories

***'Resolved that the associated retailer and unassociated retailer categories be merged.'***

2. Special resolution two – to introduce a selection process for member nominated directors

***'Resolved that the appointment of member nominated directors be amended to include a selection process.'***

3. Special resolution three – to increase the number of wholesaler directors appointed to the Board to two

***'Resolved that the number of wholesaler directors on the Board be increased to two.'***

4. Special resolution four – to amend the quorum requirement for general meetings to be at least fifty percent (50%) of all members entitled to vote

***'Resolved that the quorum at any general meeting be at least fifty percent (50%) in (number) of all members (entitled to vote).'***

5. Special resolution five – to introduce a requirement to review the membership categories  
***'Resolved that the addition of clause 7.8, detailed in the notice, requiring a review of the classes of membership every three years be included in the Articles of Association to ensure that these remain aligned with the licensing conditions.'***

#### **VIRTUAL GENERAL MEETING AND PROXY VOTING**

If you wish to attend the AGM you may do so virtually via Microsoft Teams, a link will be emailed to you on request. There will be a short Q&A on the resolutions.

You do not need to attend the AGM to vote. You can use the electronic proxy form using the voting details in the email sent to you by Mi-Voice to indicate to the Chair of the meeting how to vote on your behalf. Your vote will be counted and added to the total votes cast on the day. You may still attend the video conference and ask questions, having cast your vote by proxy. Members are kindly requested to complete their voting on the electronic proxy form by no later than 2 pm on Monday, 22 July 2024.

By order of the Board

A handwritten signature in black ink, appearing to read 'A.R. Johnson', with a stylized flourish at the end.

**Andrew Johnson**

Company Secretary, and Head of Legal and Governance  
07948 466745 [company.secretary@mosl.co.uk](mailto:company.secretary@mosl.co.uk).

## **EXPLANATORY NOTES TO THE RESOLUTIONS**

You are requested to consider the following resolutions, which will be proposed as ordinary and special resolutions, respectively.

### **ORDINARY RESOLUTION ONE – TO RECEIVE AND ADOPT THE ANNUAL REPORT AND FINANCIAL STATEMENTS AND THE AUDITORS’ REPORT FOR THE FINANCIAL YEAR ENDED 31 MARCH 2024**

The Annual Report and Financial Statements set out MOSL’s income, expenditure and financial position for the year ended 31 March 2024.

Please follow this [link](#) to access the Annual Report and Financial Statements 31 March 2024.

### **ORDINARY RESOLUTION TWO – TO REAPPOINT BDO LLP AS THE COMPANY’S AUDITOR UNTIL THE CONCLUSION OF THE NEXT ANNUAL GENERAL MEETING OF THE COMPANY AND TO AUTHORISE THE AUDIT AND RISK COMMITTEE TO DETERMINE THE AUDITORS’ REMUNERATION**

Under section 485(4) of the Companies Act 2006 (“the Act”), the Company is required to appoint an auditor at each general meeting at which accounts are laid before members. The current appointment of BDO LLP as the Company’s auditor will end at the conclusion of the 2024 AGM. On the recommendation of the Audit and Risk Committee, the Board proposed that BDO LLP be reappointed as the Company’s auditor. BDO have indicated their willingness to stand for reappointment.

Resolution 2 also proposes that the Audit and Risk Committee be authorised to determine the remuneration of the auditor. Section 492(1) of the Act requires the auditor’s remuneration to be fixed by ordinary resolution of the members or in such manner as the members may, by ordinary resolution, determine. In practice the Audit and Risk Committee considers and approves audit fees on behalf of the Board and members. Details of the remuneration paid to the auditor for the year ended 31 March 2024 are set out on page 65 of the Financial Statements.

### **SPECIAL RESOLUTION ONE – TO MERGE THE RETAILER MEMBERSHIP CATEGORIES**

The membership categories defined in the Articles of Association reflect the historic establishment of retailers at market opening. In addition, there is a disconnect between the arrangements for the Strategic Panel, which no longer differentiates between the retailer categories, and the Articles of Association, which still recognise two categories of retailer.

It is proposed that the two retailer member categories be merged, resulting in two categories of membership; retailer members and wholesaler members.

#### *Amendments to the Articles of Association*

- *Deletion of the definitions and the use of the terms ‘Associated Retailer’, ‘Unassociated Retailer’, ‘Associated Retailer Director’, ‘Unassociated Retailer Director’, ‘Associated Retailer Member’, and ‘Unassociated Retailer Member’*
- *Addition of definitions for Retailer Director, and Retailer Member as:  
“Retailer Director” has the meaning given in the Market Rules;*

*"Retailer Member" has the meaning given in article 7.6.2;*

- *Clause 7.6.2 'Retailer Members  
Retailer membership of the company shall be open to Retailers (such members to be known as "Retailer Members").'*
- *Clause 7.7 'Each of (i) Wholesaler Members, and (ii) Retailer Members shall constitute separate classes of membership for the purposes of voting and for the purposes of class rights as set out in these articles. The Wholesaler Members and the Retailer Members shall have voting rights in the company.'*

## **SPECIAL RESOLUTION TWO – TO INTRODUCE A SELECTION PROCESS FOR MEMBER NOMINATED DIRECTORS**

The proposed approach to selecting retailer and wholesaler directors be amended. In the event of a member nominated vacancy, trading parties will be requested to submit nominations, which nominations will be considered by a selection committee. This revision in approach is aligned with that of the Strategic Panel, and with best practice to ensure that the optimal balance of skills and experience on the Board is retained.

### *Amendments to the Articles of Association*

- *Deletion of the Nomination Meeting definition*
- *Deletion of the Nominations Secretary definition, and replacement of all references with 'company secretary'*
- *Clause 12.3 'The company secretary shall fix the date of the Nomination Committee meeting for the selection and appointment of the Wholesaler Director/s and/or Retailer Directors in consultation with the Nomination Committee when a vacancy in either the Wholesaler Director or Retailer Director category arises.'*
- *Clause 12.4 'The Company Secretary shall give each member eligible to nominate candidates for consideration not less than thirty (30) Business Days' notice in writing of the date of the Nomination Committee meeting in relation to that member's class of membership, and of their right to nominate an individual to serve as a director within their relevant class of member.'*
- *Clause 12.5 'Each member of the relevant class shall be entitled, by notice to the company secretary given no later than fifteen (15) Business Days before the stated commencement time of the relevant Nomination Committee meeting, to nominate one (1) individual to be: in the case of a Wholesaler Member, one of the Wholesaler Directors; and in the case of a Retailer Member, one of the Retailer Directors. Such nominated individual shall be employed by a Wholesaler Member, or a Retailer Member (as appropriate) and shall be an industry representative with the requisite skills and experience to fulfil the role and to be involved in the delivery of the objects set out in article 4 and such nomination shall contain the name, address and details of the relevant skills and experience of the nominated individual. For any such proposal to be valid it shall be required to be in writing and shall be required to be accompanied by a written statement from the nominated individual stating that he/she is aware of the proposal and would be prepared to serve as a Wholesaler Director or as a Retailer Director (as appropriate) if appointed.'*
- *Clause 12.6 'Meetings of the Nomination Committee for the purpose of selecting and appointing Wholesaler Directors or Retailer Directors shall be attended by all members of the Nomination Committee'.*
  - 12.6.1 The Company Secretary shall circulate to each member of the Nomination Committee a list of the names of all individuals nominated to serve as Wholesaler Directors/s or Retailer Director/s (as appropriate) together with the written statements setting out their skills, experience, and any potential conflicts no later than five (5) Business Days before the stated commencement time for the Nomination Committee;*
  - 12.6.2 Each member of the Nomination Committee shall return a list of the nominated individuals which the member considers to be suitable to hold the post of Wholesaler Director or Retailer Director (as appropriate) to the company secretary by email no later than two (2) Business Days in advance of the stated commencement time for the Nomination Committee meeting;*
  - 12.6.3 Subject to all members of the Nomination Committee being satisfied that the individuals nominated are employed by the Wholesaler members or Retailer members*

- (as appropriate) and have the requisite skills and experience, the members of the Nomination Committee shall discuss and agree the candidates to progress to the next stage, and thereafter undertake a selection process (which may include scheduling interviews with the nominated individuals), and reconvene the Nomination Committee meeting to deliberate on the outcome of the selection process and reach an agreement on the Wholesaler Director/s or Retailer Director/s to be appointed (as appropriate);*
- 12.6.4 *In the event that the appointed number of Wholesaler Directors or Retailer Directors is less than the required number per article 12.2.1 or 12.2.2 (as appropriate) the nomination and selection process shall be repeated at such intervals as may be set by the Nomination Committee;*
- 12.6.5 *The appointment of Wholesaler Directors and Retailer Directors shall be for a period of thirty-six (36) months unless he/she resigns or is removed from office, and for the avoidance of doubt, the relevant members may nominate the same individual as nominated or appointed for the preceding period of appointment provided that that individual does not exceed two consecutive terms of thirty-six (36) months.*
- 12.6.6 *A Nomination Committee meeting may be convened in person, or by video or teleconference between relevant members who are not all in one place but who are able to speak to each of the others and to be heard by the others simultaneously.*
- *Deletion of clauses 12.6.7, 12.6.8, 12.7, 12.8 and 12.9*
  - *Amendment to clause 12.10, now renumbered to 12.7 'Where a director nominated by the Wholesaler Members, or by the Retailer Members ceases to be a director by reason of resignation or removal (including under article 13 of the Act), the Wholesaler Members, or the Retailer Members (as appropriate) shall be entitled to nominate replacement directors (such nominations to include the name, address, date of birth and relevant skills and experience of such nominee) in accordance with articles 12.4 and 12.5.*
  - *Deletion of clause 12.14 in line with the corresponding Code Change proposal to remove the duplication between the Market Rules and the Articles of Association*

### **SPECIAL RESOLUTION THREE – TO INCREASE THE NUMBER OF WHOLESALER DIRECTORS APPOINTED TO THE BOARD TO TWO**

Aligned with the market share and the number of retailer directors appointed to the Board, it is proposed that the number of wholesaler directors be increased to two.

#### *Amendments to the Articles of Association*

- *Clause 12. 1 'The maximum number of directors shall be 10.'*
- *Clause 12.2.1 'Two (2) directors nominated by the Wholesaler Members in accordance with the provisions of articles 12.3 to 12.7 (such director to be an employee of a Wholesaler Member) (the "Wholesaler Directors");*
- *Clause 12.2.2 'Two (2) directors nominated by the Retailer Members\* in accordance with the provisions of articles 12.3 to 12.7 (such director to be an employee of a Retailer Member) (the "Retailer Directors")\*;*
- *Deletion of clause 12.2.3 and renumbering of subsequent clauses*
- *Clause 26.2 'The quorum for directors' meetings may be fixed from time to time by a unanimous decision of the directors and, unless otherwise fixed at any other number, shall be two independent directors (of which one may be the independent chairperson), one Retailer Director, and one Wholesaler Director.'*

\*if resolution one was to fail, the existing clause 12.2.2 and 12.2.3 would be retained

### **SPECIAL RESOLUTION FOUR – TO AMEND THE QUORUM REQUIREMENT FOR GENERAL MEETINGS TO BE AT LEAST FIFTY PERCENT (50%) OF ALL MEMBERS (ENTITLED TO VOTE)**

The current quorum requirements for conducting business at a general meeting is unusually high at two-thirds of each category of member. It is proposed that the quorum to transact business be reduced to fifty-percent of all members to attend a meeting, in person or by proxy. Under section 282 of the Act, a simple majority is required to pass an ordinary resolution and 75% to pass a special resolution, however, to afford members additional protection, it is proposed that these minimum thresholds are applied per category, i.e. 50% of both retailers and wholesalers would need to support an ordinary resolution for it pass, and 75% of both retailers and wholesalers would need to support a special resolution for it to pass.



#### *Amendments to the Articles of Association*

- *Clause 35.2 'There must be present at any general meeting at least fifty percent (50%) (in number) of all members (entitled to vote) (present in person or by proxy or representative) to constitute a quorum however for so long as the membership of the company is less than four then the quorum shall be such number of members as are admitted to membership at that time and where there are less than two members of either membership class then the quorum shall comprise any member of such class plus two members of the other membership class.'*
- *Clause 39.2 'Any resolution put to the vote of a general meeting on a show of hands or on a poll must be approved: (i) in the case of a resolution proposed as an ordinary resolution, by a simple majority of the Wholesaler Members, and by a simple majority of the Retailer Members\*, in each case of those members of that class present at the meeting; and (ii) in the case of a resolution proposed as a special resolution by at least 75 per cent of the Wholesaler Members, and by at least 75 per cent of the Retailer Members, in each case of those members of that class present and entitled to vote at the meeting.'*

\*If resolution one fails, then this would be a simple majority of the Unassociated Retailers and a simple majority of the Associated Retailers.

### **SPECIAL RESOLUTION FIVE – TO INTRODUCE A REQUIREMENT TO REVIEW THE MEMBERSHIP CATEGORIES**

Recognising that the composition of the market has changed since market opening and may continue to evolve in the future, it is proposed that a formal requirement is introduced for MOSL to consult on and review the membership structure at least every three years.

#### *Amendments to the Articles of Association*

- *Addition of clause 7.8 'The classes of membership detailed in article 7.6 shall be reviewed at least every three (3) years to ensure that these remain aligned with the licensing conditions of members and proportionate with the relative numbers and voting influence of each class of member.'; and the renumbering of the subsequent clauses*

These special resolutions, to amend the Articles of Association, are proposed subject to the approval and implementation of the Code Change Proposal CPM059 'MAC and MOSL Articles Duplication'. If the resolutions are approved by the members, then the revised Articles of Association shall be held in abeyance, until the approval by Ofwat and implementation of CPM059, expected to be by 6 December 2024, at which point they shall be deemed in effect and the Company Secretary will file the special resolutions with Companies House. If CPM059 is not approved and implemented, and by no later than 30 March 2025, then the special resolutions will be deemed null and void.

### **RECOMMENDATION**

The directors consider that each of the resolutions is in the best interests of the Company and the members as a whole and, accordingly, recommend the resolution to members.

### **ENTITLEMENT TO ATTEND AND VOTE AT THE GENERAL MEETING**

Only members entered on the Company's register of members as of 22 July 2024 are entitled to attend the Annual General Meeting and vote on the resolution.

Dormant members are entitled to attend and speak at the Annual General Meeting but will not count towards the meeting quorum and will not be entitled to vote.

A member entitled to attend and vote at the Annual General Meeting is entitled to appoint a proxy to exercise all or any of his rights to attend, speak and vote at the Annual General Meeting. A proxy need not be a member.