MOSL Market Operator Compliance Q3 2020/21

Meeting Name:	**Market Performance Committee**
Paper Number:	MPC46_07
Meeting Date:	28 January 2021
Purpose of Paper:	Provide an update on MOSLs compliance to Market Codes over Q3 2020/21
Classification:	Public
Synopsis:	An overview of the compliance of MOSL to Market Codes in Q3 2020/21 and where non compliances are identified the actions to resolve these

RECOMMENDATION:	The MPC is invited to: • Note this paper

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1 Background

Paragraph 6.1.1 of the Code Subsidiary Document 0002 stipulates:

> *The Market Operator shall monitor its compliance with its obligations set out in the Wholesale-Retail Code, CSDs and any other relevant legal requirements or policies and shall provide a report to the Panel, at such frequency and in such format as agreed by the Panel from time to time, setting out the extent to which it is meeting or failing to meet such obligations, evidenced with appropriate metrics.*

This paper is the report required by this obligation.

2 Overview

In this quarter MOSL have identified that we were non-compliant with nine of our obligations. This is an increase of two from the previous quarter.

2.1 New non-compliances

The two new non-compliances relate to:

- One dispute (DIS00030) was published one day late
- MOSL failed to publish ten credit arrangements on its website since June 2020. All credit arrangements have now been published.

2.2 Resolved non-compliances

There were no resolved non compliances this quarter.

2.3 Non-compliances by Market Impact

Status	High	Medium	Low	Total
Compliant	255	425	462	1,142
Non-compliant	3	2	4	9
Total	**258**	**427**	**466**	**1,151**

2.4 Historical comparison

Status	Q4 2019/20	Q1 2020/21	Q2 2020/21	Q3 2020/21
Compliant	1,138	1,143	1,143	1,142
Non-compliant	7	7	7	9
Total	**1,145**	**1,150**	**1,150**	**1,151**

There has been an increase of one obligation this quarter.

2.5 Market impact

There were three non-compliance rated as high, two as medium and 4 as low. These fall within the following areas:

Principle	High	Medium	Low	Total
Market Operation	1	1	1	3
Market Assurance	-	-	1	1
Market Improvement	-	-	-	-
Governance & Support Services	2	1	2	5
Total	**3**	**2**	**4**	**9**

3 Detailed Findings

Market Impact	Principle & Service	No	Details	Action Plan
High	Market operation – Dispute management	1	**Publishing Disputes** One Dispute (DIS0030) was published late by MOSL. This occurred in November 2020 and the document was published one day late.	• All actions complete • A review to establish why this occurred took place, this was a human error that has been resolved with guidance provided to staff to ensure they follow the documented procedure.
High	Governance & support services – Market continuity	2	**Escrow requirements** The requirements for escrow cascades down from the market codes to the CGI contract, which imposes an obligation on CGI to deposit into escrow and keep fully up-to-date the Source Code Materials. The revised solution for escrow deposits was contractually agreed with CGI. However, after review by MOSL's CIO, the cost of this deposit did not realise the benefit that the code is trying to achieve. As the market code requires the escrow deposit to maintain "up-to-date" CMOS data. MOSL will never be compliant with these obligations as any escrow submission is periodic and therefore, compromises the ability to be submitted in near real-time. As part of the MOSLs Digital Strategy, CMOS will be rehosted in Microsoft Azure, which will achieve the requirement of up-to-date data being stored.	• Source Code for CMOS is stored with an Escrow provider. • MOSL believe that the Escrow agreement for data storage is an insufficient control due to the timeframe between deposits (monthly). • This obligation will remain non-compliant, until the rehosting of CMOS within Microsoft Azure has been complete, which is expected in 2022/23. When the market codes will be amended to reflect the rehosting situation.

Market Impact	Principle & Service	No	Details	Action Plan
Medium	Market operation – Registration, switching and financial settlement	1	**Allocation of the costs of capital expenditure between current and future trading parties** MOSL are required to allocate the costs of capital expenditure equitably as between current and future Undertaker Wholesale Businesses and Retailer Businesses. During a review of his code obligations MOSL's Interim Finance Director identified that the method used by MOSL is not in line with the code, however, MOSL have been using an agreed method since market opening. Following identification this was notified to MOSL's Board and discussions are currently taking place as to how this will be resolved moving forward. It is should be noted that the cost of capital expenditure has been allocated in the same manner as operating expenditure.	• Post market opening MOSL has had a relatively low level of capital expenditure (£615k in 2019-20) It would therefore be neither appropriate nor proportionate to have a system to allocate such expenditure across multiple years. • However, this will be kept review and should capital expenditure rise to a material amount The board will review and if necessary consult with the panel.

Market Impact	Principle & Service	No	Details	Action Plan
Medium	Governance & support services – Secretariat	1	**Publication of credit agreements** MOSL is obliged by Schedule 2B of the Wholesale Contract Schedule 1, Part 2: Business Terms to publish Guarantee Details and Declaration of Assurance on its website within five business days following provision by retailers. Since June 2020, following a handover of responsibilities within MOSL, this had not occurred. In November 2020 MOSL identified that it had not published these and rectified the situation.	• All actions complete. • All credit agreements have now been published. • A review of the handover of responsibilities has occurred to ensure all other activities were covered.
Low	Market operation – Dispute management	1	**Query handling** The code requires MOSL log all permitted enquiries raised by the Trading Parties.	• MOSL is confident that all enquires are dealt with, however is unable to confirm that is logging all enquiries as there are multiple methods in which trading parties are permitted to contact MOSL. • To resolve the potential risk that MOSL misses an enquiry it is implement a Channel Management strategy which is within its three year business plan and is expected to be in place within 2021/22.

Market Impact	Principle & Service	No	Details	Action Plan
Low	Market assurance – Compliance & audit	1	**Market Audit into Retailers who have participated in "Payment Deferral – Medium Term Measures"** MOSL are required to instruct the Market Auditor to conduct an audit into the above within one month after the commencement of the Payment Deferral Period. This audit has now commenced; however, it did not start within the timeframe stipulated as audit work on vacant was prioritised first.	• Audit has now commenced, however, this finding will remain open until the end of the year 2020/21 for transparency.
Low	Governance & support services – Market continuity	2	**Business Continuity Management Systems (BCMS)** MOSL is obliged to publish the following on its website: • Making all relevant elements of the BCMS available to trading parties • Establishing a rolling annual BCMS maintenance schedule available to all trading parties.	• Both of these documents are currently under review and will be published following a Management Review scheduled for March 2021.

4 Recommendation

The MPC is invited to:

- **Note** this paper.