

## Modification Proposal

**MP No: P185**

*(mandatory by BSCCo)*

### **Title of Modification Proposal** *(mandatory by proposer):*

Redrafting of BSC Sections U and W in relation to clauses pertaining to the processing and rectification of Trading Queries/Disputes.

**Submission Date** *(mandatory by proposer):* 14 January 2005

### **Description of Proposed Modification** *(mandatory by proposer):*

This Modification seeks to redraft areas of Sections U and W in order to remedy any perceived deficiencies and improve conciseness. Such redrafting is recommended by the Trading Disputes Committee (TDC), in accordance with legal advice provided to that Committee, and with Sections W 2.2.1, W 5.3.1 and W 5.3.2 of the Code.

### **Description of Issue or Defect that Modification Proposal Seeks to Address** *(mandatory by proposer):*

The following specific areas have been identified by the TDC as requiring redrafting. It should be noted that further exploration of these matters under the Modification Procedures may, in drafting terms, lead to consequential changes to other areas of the Code and/or of BSCP11.

**U 2.2.3 (i):** Where an Extra-Settlement Determination (ESD) is performed between Timetabled Reconciliation Settlement Runs, Code Section U 2.2.3 (i) allows for the ESD to be "unwound" at the time of the next Run. The implicit assumption is that the error initially rectified via an ESD would, as a result of that Run, be corrected via the normal Settlement process. The TDC believes consideration should be given to making this position expressly clear.

**W 4.1.1/4.2.1:** W 4.1.1 lists the rectification options available to the TDC following resolution of a Trading Dispute, and is prefixed with the words "...the TDC may determine..." Arguably this provision should read "...the TDC shall determine..." as, subject to Section W 4.1.1 A, no other options are available to the TDC.<sup>1</sup>

W 4.2.1 sets out two specific options available to the TDC following resolution of a Trading Dispute: to recommend rectification via ESD and/or Post-Final Settlement Run where the Final Reconciliation (RF) Run has occurred; or to perform an ESD between Timetabled Reconciliation Settlement Runs. This clause is prefixed with the words "...the TDC shall recommend...", implying that the TDC must choose one or the other, when in fact the TDC has a further option, which is to recommend that no rectification occurs (see W 4.1.1 (c) (i)).<sup>2</sup>

As a drafting exercise, it is recommended that the provisions in W 4.1.1 and W 4.2.1 be collapsed so as to list all rectification issues open to the TDC under one clause, with a view to removing any perceived duplication or ambiguity, and any further "may/shall" deliberations.

**W 3.4.3/W 3.4.4/W 3.4.5:** These clauses outline the decision-making process of the TDC in respect of Trading Disputes. As a drafting exercise, it is recommended that these provisions be collapsed to say that the TDC will determine:

<sup>1</sup> At its meeting of 11 November 2004 the Panel agreed to remove this proposed change from the scope of Modification P179 on grounds that it did not constitute a manifest error or minor inconsistency which could be raised on the recommendation of ELEXON and should, if necessary, be progressed as a Modification in its own right.

<sup>2</sup> It should be noted that under Modification P179 it is proposed that the "shall" be changed to a "may" as it is considered to be a manifest error. To the extent that the change proposed under P179 may not fully address the issue affecting W4.2.1 described above, it is recommended by the TDC that those matters outstanding be addressed under this Modification Proposal.

## Modification Proposal

**MP No: P185**

*(mandatory by BSCCo)*

- whether a Trading Query is timely (or discretion should be exercised under W 3.2.3); and
- if so, whether a settlement error has occurred and, where appropriate, what changes are appropriate to correct that settlement error.

**Impact on Code** *(optional by proposer):*

Sections U and W.

**Impact on Core Industry Documents** *(optional by proposer):*

Modification of the Code may necessitate changes to BSCP11.

**Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties** *(optional by proposer):*

None.

**Impact on other Configurable Items** *(optional by proposer):*

None.

**Justification for Proposed Modification with Reference to Applicable BSC Objectives** *(mandatory by proposer):*

The TDC believes that this Modification would better facilitate Applicable BSC Objective (d) in “promoting efficiency in the implementation and administration of the balancing and settlement arrangements”, by remedying any perceived deficiencies in, and improving the conciseness of, the drafting of the Code.

**Details of Proposer:**

**Name:**

**Organisation:** BSC Panel

**Telephone Number:**

**Email Address:**

**Details of Proposer’s Representative:**

**Name:** Modification Secretary

**Organisation:** ELEXON

**Telephone Number:** 020 7380 4100

**Email Address:** chris.rowell@elexon.co.uk

## Modification Proposal

**MP No: P185**

*(mandatory by BSCCo)*

### Details of Representative's Alternate:

**Name:** Disputes Secretary

**Organisation:** ELEXON

**Telephone Number:** 020 7380 4150

**Email Address:** christina.ryan@elexon.co.uk/gareth.forrester@elexon.co.uk

**Attachments: NO**

**If Yes, Title and No. of Pages of Each Attachment:**