

P248 – PROPOSED DRAFT LEGAL TEXT

SECTION G: CONTINGENCIES (Version 8)

Amend paragraph 3.3.6 to read as follows:

3.3.6 Where the Lead Party has submitted a claim in accordance with paragraph 3.3.1, subject to the provisions of the Code:

- (a) the Lead Party shall be entitled to be paid by the BSC Clearer the net sum, for all relevant BM Units and relevant Settlement Periods, of the black start compensation amounts, together with compound interest calculated by applying~~at~~ the Base Rate on a daily basis on each compensation amount from (and including) the Initial Payment Date for the relevant Settlement Period to (but not including) the date (if later) when such payment is made;
- (b) for the avoidance of doubt, if the net sum for a Lead Party, of the black start compensation amounts, for all relevant BM Units and relevant Settlement Periods is a negative sum, the Lead Party shall not be liable to pay for that sum;
- (c) each Trading Party (including the Lead Party) shall be liable to pay to the BSC Clearer its Black Start Reallocation Proportion of the net amount payable to the Lead Party under paragraph (a);
- (d) the amounts of the entitlements and liabilities under paragraphs (a) and (c) shall be Ad-hoc Trading Charges for the purposes of Section N6.9; and
- (e) BSCCo shall give such instructions to the FAA as are necessary to give effect to the payment of such Ad-hoc Trading Charges.

Insert new paragraph 3.3.6A to read as follows:

3.3.6A The Implementation Date for the application of compound interest pursuant to paragraph 3.3.6(a) shall be the Go-live Date.

SECTION N: CLEARING, INVOICING & PAYMENT (Version 11)

Amend paragraph 6.6.2 to read as follows:

6.6.2 In the case of an Initial Settlement Run only, if the Postponed Payment Date falls more than one week after the original Payment Date:

- (a) each BSC Debtor shall pay to the BSC Clearer; and
- (b) each BSC Creditor shall receive from the BSC Clearer

(but subject to paragraphs 2.4 to 2.7 (inclusive)) interest calculated on a compound basis in accordance with paragraph 6.6.2A.

Insert new paragraph 6.6.2A to read as follows:

6.6.2A For the purposes of paragraph 6.6.2, interest shall be calculated at the Base Rate on the amount shown in the Advice Note for each day in respect of the period from (and including)

the originally scheduled Payment Date to (but ~~not in~~cluding) the Postponed Payment Date by applying the Base Rate:

- (a) as prevailing at 00:00 hours on the relevant day on a daily compounded basis up to (but not including) the Advice Note Date for the Postponed Payment Date; and
- (b) as prevailing at 00:00 on the Advice Note Date for the Postponed Payment Date on a daily compounded basis up to (but not including) the Postponed Payment Date.

Insert new paragraph 6.6.2B to read as follows:

6.6.2B The Implementation Date for the application of compound interest pursuant to paragraphs 6.6.2 and 6.6.2A shall be the Go-live Date.

Amend paragraph 7.1.2 to read as follows:

7.1.2 Each Advice Note shall set out in respect of each Notification Date in the Advice Note Period:

- (a) in relation to Initial Settlement Runs:
 - (i) an amount in respect of each of the items set out in paragraph 6.1.3 (b) or paragraph 6.1.4 (as the case may be);
 - (ii) the Trading Charges Amount; and
 - (iii) if the Payment Date is a Postponed Payment Date, any interest pursuant to paragraph 6.6.2;
- (b) in relation to Reconciliation Settlement Runs,
 - (i) the Reconciliation Charge;
 - (ii) the Reconciliation Charge excluding ~~the amount in lieu of~~ interest and any withholdings on account of taxation;
 - (iii) the ~~amount in lieu of~~ interest included in the Reconciliation Charge pursuant to paragraph 6.4.2;
 - (iv) the amount of any withholdings on account of taxation; and
 - (v) the Trading Charges Amounts in respect of which the FAA has calculated there to be a Reconciliation Charge due;
- (c) any amount due pursuant to paragraph 4.6.3;
- (d) the amount of any Ad-hoc Trading Charge due pursuant to paragraph 6.9;
- (e) any amount set off pursuant to paragraph 2.6;
- (f) any amount due pursuant to paragraph 9.6.4;
- (g) the aggregate amount which is to be paid by that Payment Party to the BSC Clearer or to that Payment Party by the BSC Clearer on the relevant Payment Date over the Advice Note Period; and

- (h) the amount of VAT in respect of the total amount payable or total amount receivable.

9.1 General

Amend paragraph 9.1.1 to read as follows:

9.1.1 For the purposes of this Section N:

- (a) an "**Amount in Default**" is all or any part of any amount due and payable from a BSC Debtor to the BSC Clearer which is not remitted to the Collection Account by 23.59 hours on the relevant Payment Date and, at any time thereafter, together with interest payable by that Non-paying BSC Debtor pursuant to paragraph 9.4 and less any amounts paid or recovered (as defined in paragraph 9.3.1) in respect thereof at that time;
- (b) a "**Drawing**" is a drawing on the Credit Facility by the FAA on behalf of the BSC Clearer and includes interest and banking charges charged to the BSC Clearer by the BSC Banker from time to time;
- (c) the "**Default Interest Rate**", in relation to an Amount in Default, is the Base Rate ~~at the Affected Date~~ plus 2 per cent per annum;
- (d) the "VAT Element" means, in respect of any payment, part of that payment equal to the VAT that is chargeable on the taxable supply or deemed taxable supply for which the payment constitutes the consideration; and
- (e) the "VAT Exclusive Element" means, in respect of any payment, part of that payment equal to that payment less the VAT Element of that payment.

Amend paragraph 9.2.3 to read as follows:

9.2.3 For the purposes of this paragraph 9, the amount of the reduction pursuant to paragraph 9.2.2(d) plus interest at the Default Interest Rate from time to time in respect of each Shortfall Creditor is a "**Shortfall Amount**".

9.4 Interest

Amend paragraph 9.4.1 to read as follows:

9.4.1 Each Non-paying BSC Debtor shall pay to the account of the BSC Clearer interest from time to time (after as well as before judgment) calculated on a compound basis ~~at~~by applying the prevailing Default Interest Rate on a daily basis to the part of the Amount in Default (as compounded) not covered by a Drawing from the due date up to (but not including) the day of its payment or recovery from the Non-paying Debtor.

Insert new paragraph 9.4.2 to read as follows:

9.4.2 The Implementation Date for the application of compound interest pursuant to paragraph 9.4.1 shall be the Go-live Date.

Amend paragraph 9.5.2 as follows:

9.5.2 Where this paragraph 9.5.2 applies, the FAA shall, on behalf of the BSC Clearer, not later than the close of business on D+1 act in accordance with the following provisions (or whichever of them shall apply) in the order in which they appear:

- (a) debit the Reserve Account with a sum being the lesser of the Amount in Default (including interest at the Default Interest Rate) and that Non-paying BSC Debtor's Cash Cover and credit the Settlement Accounts (and the ledger accounts) of the Shortfall Creditors with that sum, in proportion to their respective Shortfall Amounts; and
- (b) if, after the application of paragraph (a), there remains any Shortfall Amounts:
 - (i) make a call under the Non-paying BSC Debtor's Letter of Credit in a sum not exceeding the lesser of the Amount in Default (including interest due pursuant to paragraph 9.4) and the available amount of such Letter(s) of Credit; and
 - (ii) cause the proceeds of such call to be paid forthwith into the Reserve Account.

Amend paragraph 9.6.5 as follows:

9.6.5 The amounts are:

- (a) for each Payment Party, the Default Share Amount; and
- (b) for each Shortfall Creditor:
 - (i) the VAT Exclusive Element of the outstanding Shortfall Amount (including interest applied at the Default Interest Rate for each day on a compounded basis from and including the Affected Date to, but excluding, the Default Payment Date (as defined below)); and
 - (ii) the difference between the amounts under paragraph (a) and paragraph (b)(i).

SECTION Q: BALANCING MECHANISM ACTIVITIES (Version 20)

Amend paragraph 7.6.5 to read as follows:

7.6.5 Where the Lead Party has submitted a claim in accordance with paragraph 7.6.1, subject to the provisions of the Code:

- (a) the Lead Party shall be entitled to be paid by the BSC Clearer the error compensation amount, together with compound interest calculated by applying~~at~~ the Base Rate on a daily basis on the error compensation amount from the Initial Payment Date for the relevant Settlement Period to (but not including) the date (if later) when such payment is made;
- (b) in the case of a Manifest Error (on the part of the Transmission Company) in an Acceptance, the Transmission Company shall be liable to pay to the BSC Clearer an amount equal to the amount payable to the Lead Party under paragraph (a);
- (c) in the case of a Manifest Error (on the part of the Lead Party) in a Bid/Offer Pair, each Trading Party (including the Lead Party) shall be liable to pay to the BSC Clearer its Party Daily Reallocation Proportion (for the Settlement Day which included the relevant Settlement Period) of the amount payable to the Lead Party under paragraph (a); and

- (d) the amounts of the entitlements and liabilities under paragraphs (a) to (c) shall be Ad-hoc Trading Charges for the purposes of Section N6.9.

Insert new paragraph 7.6.6 to read as follows:

7.6.6 The Implementation Date for the application of compound interest pursuant to paragraph 7.6.5(a) shall be the Go-live Date.

8.3 Compensation entitlements

Amend paragraph 8.3.1 to read as follows:

- 8.3.1 Where a Party has submitted a claim for compensation in accordance with paragraph 8.2:
- (a) that Party and any relevant Subsidiary Party shall be informed of the Panel's determination under paragraph 8.2.4;
 - (b) that Party shall be entitled to be paid by the BSC Clearer the amount (if any) determined in accordance with paragraph 8.2.4, together with compound interest calculated at the Base Rate on such amount on a daily basis from the Initial Payment Date for the Settlement Period in which the outage compensation period ended to (but not including) the date (if later) when such payment is made;
 - (c) the Transmission Company shall be liable to pay to the BSC Clearer an amount equal to the amount payable under paragraph (a);
 - (d) such entitlements and liabilities shall be Ad-hoc Trading Charges for the purposes of Section N6.9; and
 - (e) BSCCo shall give such instructions to the FAA as are necessary to give effect to the payment of such Ad-hoc Trading Charges.

Insert new paragraph 8.3.2 to read as follows:

8.3.2 The Implementation Date for the application of compound interest pursuant to paragraph 8.3.1(b) shall be the Go-live Date.

SECTION U: PROVISIONS RELATING TO SETTLEMENT (Version 11)

Amend paragraph 2.2.3 to read as follows:

- 2.2.3 Where an Extra-Settlement Determination is to be carried out:
- (a) there shall be determined amounts
 - (i) by reference to the differences between the amounts of Trading Charges determined pursuant to the Extra-Settlement Determination and such amounts as determined in the Settlement Run (for the relevant Settlement Day) preceding such Extra-Settlement Determination, or
 - (ii) otherwise by way of adjustment and apportionment in respect of Trading Charges as the Panel shall determine

which each Trading Party and the Transmission Company shall be entitled to be paid by or liable to pay to the BSC Clearer;

- (b) such entitlements and liabilities shall be Ad-Hoc Trading Charges for the purposes of Section N6.9;
- (c) the Panel shall determine the method by which Trading Charges, or adjustment and apportionment in respect thereof, are to be determined;
- (d) each Party and each BSC Agent shall comply with the reasonable requests of the Panel in connection with such method of determination;
- (e) such determination may be made on such estimated or approximate basis as the Panel may decide is appropriate in the circumstances (having regard, without limitation, to whether any further Timetabled Reconciliation Settlement Run in relation to the relevant Settlement Day is to take place after the Extra-Settlement Determination);
- (f) without prejudice to the generality of paragraph (e), subject to paragraph (g), unless the Final Reconciliation Settlement Run and related Final Reconciliation Volume Allocation Run for the relevant Settlement Day have already taken place, such determination may (where appropriate in the Panel's opinion) be made so that:
 - (i) extra-settlement amount(s), so far as being amounts payable to Trading Parties or the Transmission Company, are determined and payable only as to a proportion (the "**interim proportion**") of the amounts that would be payable on the basis of an exact determination of the relevant Trading Charge(s) in accordance with the Code; and
 - (ii) extra settlement amounts so far as relating to Daily Party residual Settlement Cashflow payable by Trading ~~parties~~**Parties**, are determined for and payable by or to some Trading Parties only (each an "**included**" Trading Party)

where "**extra-settlement amounts**" means the amounts payable pursuant to paragraph (b) by way of Ad-Hoc Trading Charges pursuant to an Extra-Settlement Determination;

- (g) where a determination is made in accordance with paragraph (f)–, so far as relating to Daily Party Residual Settlement Cashflow:
 - (i) the interim proportion shall be determined (for the relevant Extra-Settlement Determination) by the Panel;
 - (ii) the included Trading Parties shall be selected as follows, unless the Panel decides that there are exceptional circumstances which justify a different method of selection:
 - (1) all Trading Parties shall be ranked in order of the magnitude of RCRC_p payable to them in respect of the relevant Settlement Day, largest first;
 - (2) the Trading Parties to be included shall be selected in the order ranked, until such Trading Parties have been selected that:

$$\sum^{ps} RCRC_p = IP * \sum^p RCRC_p$$

where:

$RCRC_p$ is the Daily Party Residual Settlement Cashflow for a Trading Party for the relevant Settlement Day as determined under the Settlement Run preceding the Extra-Settlement Determination;

IP is the interim proportion;

\sum^{ps} is the sum over all selected Trading Parties;

\sum^p is the sum over all Trading Parties;

- (h) each Party shall be bound by the Extra-Settlement Determination, but without prejudice to paragraph 2.6.1; and
- (i) where a relevant Settlement Run in relation to a Settlement Day is carried out after an Extra-Settlement Determination has been carried out in relation to that day:
 - (i) each Trading Party and the Transmission Company shall be entitled to be paid by or liable to pay to the BSC Clearer, on or as near as practicable to the Payment Date in respect of such Settlement Run, an amount calculated as:
 - (1) an amount equal and opposite to the extra settlement amount paid by or to such Party, plus
 - (2) ~~an amount in lieu of interest on calculated by applying the Base Rate to~~ the amount in paragraph (1) ~~in respect of the period from the date when payment of such extra settlement amount was due to the Payment Date in respect of such Settlement Run~~ calculated on a compound basis in accordance with paragraph 2.2.3A; and
 - (ii) such entitlements and liabilities shall be Ad-Hoc Trading Charges for the purposes of Section N6.9.

A relevant Settlement Run for the purposes of this paragraph 2.2.3(i) is a Settlement Run (or, where relevant, the first Settlement Run) in which the settlement error in respect of which the Extra – Settlement Determination was carried out has been corrected.

Insert new paragraph 2.2.3A to read as follows:

2.2.3A For the purposes of paragraph 2.2.3(i), interest shall be calculated in respect of the period from (and including) the date when payment of the extra-settlement amount was due to (but not including) the Payment Date in respect of the relevant Settlement Run carried out after the Extra-Settlement Determination by applying the Base Rate:

- (a) as prevailing at 00:00 hours on the relevant day on a daily compounded basis up to (but not including) the Advice Note Date for the payment of the relevant Settlement Run; and

(b) as prevailing at 00:00 on the Advice Note Date for the payment of the relevant Settlement Run on a daily compounded basis up to (but not including) the Payment Date.

Insert new paragraph 2.2.3B to read as follows:

2.2.3B The Implementation Date for the application of compound interest pursuant to paragraphs 2.2.3(i) and 2.2.3A shall be the Go-live Date.

ANNEX X-1: GENERAL GLOSSARY (Version 44)

Delete the definition of “Default Interest Rate” in the General Glossary as follows:

~~**"Default Interest Rate":** means a rate of interest determined as the Base Rate plus 2 percentage points per annum;~~

Amend the definition of “Default Rate” in the General Glossary to read as follows:

"Default Interest Rate": has the meaning given to that term in Section N9.1;