

Modification Proposal – F76/01	MP No: <i>(mandatory by BSCCo)</i>
Title of Modification Proposal <i>(mandatory by originator):</i> New Participation Category to the BSC – Clearing House	
Submission Date <i>(mandatory by originator):</i> 03 November 2003	
<p>Description of Proposed Modification <i>(mandatory by originator)</i></p> <p>A new Participation Category of a “Clearing House” will be established under Section A of the BSC. A Party operating as a Clearing House shall hold Energy Accounts, and will be able to submit Energy Contract Notifications for these accounts.</p> <p>To be eligible to act as a Clearing House, a Party should be appropriately licensed and regulated by their national regulatory authority as a clearing house, and shall not intend to hold a net position in their Energy accounts at any point. A party acting as a Clearing House shall continue to be able to act as an Energy Contract Volume Notification Agent (ECVNA), but shall not be able to act in any other Participation Capacity under the BSC.</p> <p>Section M of the BSC shall be amended to so that a Clearing House shall be informed by ECVAAs should a Trading Party for whom the Clearing House has submitted notifications be in Level 1 or Level 2 Credit Default.</p> <p>Annex D-3 of Section D of the BSC, defining the BSC Cost Charges shall be amended to reflect the notification procedure Clearing Houses use to notify cleared positions to ECVAAs. Accordingly, Annex D-3 shall be amended so that the Notified Volume Charge applicable to Clearing Houses shall be determined on the basis of positive energy volumes, rather than the total energy volume, notified for the Energy Accounts held by parties acting as Clearing Houses. This amendment will have the effect that Clearing Houses will be charged a single notification fee for each MWh position they clear, as opposed to the current notification fee structure, under which Clearing Houses are effectively charged two notification fees for each MWh position they clear.</p>	

Modification Proposal – F76/01	MP No: <i>(mandatory by BSCCo)</i>
<p>Description of Issue or Defect that Modification Proposal Seeks to Address <i>(mandatory by originator)</i></p> <p>The BSC does not recognise the role played by Clearing Houses in the energy market. By requiring entities that act as Clearing Houses to participate in the BSC as “Trading Parties”, the BSC fails to appropriately regulate and facilitate the development and operation of clearing services active in the UK power market. Clearing Houses operate a different business model from other parties acting as Trading Parties and will not, as part of their routine activities, trade or hold positions in power contracts. Clearing Houses will not seek to profit from price changes in the market. Additionally, Clearing Houses will be subject to regulatory requirements regarding their market neutrality, capital adequacy, commercial confidentiality and operational robustness. Accordingly, as Clearing Houses act in a different manner to other bodies that actively trade and hold UK power positions, it is inappropriate that that Clearing Houses be required to act as Trading Parties under the Code. The BSC can be contrasted in this aspect to the equivalent document for the UK gas industry, the Network Code, which specifically provides for the role of clearing operations.</p> <p>This inability to facilitate the operation of clearing organisations is manifest in the inability of the ECVAA to supply information to the Clearing House in the event of one of the Clearing House’s counterparties going into Credit Default under the BSC. Clearing Houses act to guarantee the performance of the contracts they clear, and this function will typically include taking responsibility for the delivery of such contracts. Accordingly, any impediment to a Clearing House’s ability to notify the position held by one of their counterparties presents a substantial risk to the operational integrity of the Clearing House. Furthermore, amending the BSC to enable active communication and between the ECVAA and a Clearing House in the occurrence of a Credit Default, will enhance the Clearing House’s ability to resolve and regulate the situation appropriately, allowing for a more efficient market solution to resolve many Credit Default situations.</p> <p>Another area in which the BSC’s failure to recognise the role of Clearing Houses is in the charging schedule applied to the submission of Energy Contract Notifications. Clearing Houses act as the central counterparty to all positions they clear, and so will submit Energy Contract Notifications on the basis that they are the “buyer to every seller and the seller to every buyer”. Accordingly, for every position cleared, the Clearing House will submit two separate Energy Contract Notifications. Because of this ‘doubling’ of the level of notifications, under the Code’s current charging system Clearing Houses will pay twice the level of notification fees as paid by other entities acting as Trading Parties. This discriminates against the operation of clearing activities in the UK power market.</p>	

Modification Proposal – F76/01	MP No: <i>(mandatory by BSCCo)</i>
<p>Impact on Code <i>(optional by Originator)</i></p> <p>Insertion of a new Participation Capacity of “Clearing House” in Section A of the Code. BSC Signatories wishing to act as Clearing Houses shall provide clearing services as one of their core business activities and shall be required to be licensed and regulated to act as a Clearing House by the appropriate regulatory authority in the state in which the Clearing House is based.</p> <p>Amend Section M of the Code, to the effect that a Clearing House shall be informed by ECVAA should a Trading Party for whom that Clearing House is authorised to submit notifications is in Credit Default. In the event of the counterparty be in Level 1 Credit Default, the ECVAA will inform the Clearing House of the Default at the end of the Query Period, subject to the ECVAA determining that the Credit Default shall stand. In the event of the counterparty being in Level 2 Credit Default, the ECVAA will inform the Clearing House with immediate effect. All communication between the ECVAA and the Clearing House with regard to a Level 1 or Level 2 Credit Default shall be by way of e-mail to an e-mail address that the Clearing House has specified for such purpose. The communication shall specify which Trading Party is in default and whether the Trading Party is in Level 1 or Level 2 Credit Default.</p> <p>The Clearing House shall treat all information from the ECVAA with regard to a Credit Default as entirely confidential in all regards, with the exception of the Clearing House being able to discuss the resolution of the Credit Default with the Trading Party involved.</p> <p>Amendment of Annex D-3 of Section D of the Code, to the effect that Notified Volume Charges are determined for Clearing Houses on the basis of the positive volumes notified for the Clearing House’s Energy Account. Negative energy values notified for the Clearing Houses’ Energy Account shall not be subject to Notified Volume Charges.</p>	
<p>Impact on Core Industry Documents <i>(optional by Originator)</i></p>	

Modification Proposal – F76/01	MP No: <i>(mandatory by BSCCo)</i>
Impact on BSC Systems and Other Relevant Systems and Processes Used by Parties <i>(optional by originator)</i>	
Impact on other Configurable Items <i>(optional by originator)</i>	
<p>Justification for Proposed Modification with Reference to Applicable BSC Objectives <i>(mandatory by originator)</i></p> <p>The relevant Applicable BSC Objective with regard to this modification is the “promoting of effective competition in the generation and supply of electricity, and (so far as consistent therewithin) promoting competition in the sale and purchase of electricity”.</p> <p>Credit issues are exerting, and will continue to exert, a considerable negative impact on the UK power market. The processes of price discovery and of the matching of buyers with sellers are distorted by credit concerns held by market participants as to the credit-worthiness of their potential counterparts.</p> <p>Clearing Houses act to minimise these concerns, and allow market participants to trade at the ‘best price’ available in the market. This increases the efficiency and transparency, and therefore the competitiveness, of the sale and purchase of electricity. Accordingly, the Code should seek to facilitate and enhance the role of Clearing Houses in the UK market. To do this, the Code must be able to distinguish between Trading Parties and Clearing Houses, in order to govern the activities of both parties in the most appropriate manner. It is important that the Code reflects the regulated nature of Clearing Houses, and the obligations and restrictions on the activities of Clearing House that such regulation involves. By modifying the Code to formally recognise the role of Clearing Houses, and to amend the Credit Default procedures and the notification charging structure to reflect the role and operation of Clearing Houses, this modification will assist in the development of a mature, competitive UK power market.</p>	

Modification Proposal – F76/01		MP No: <i>(mandatory by BSCCo)</i>
Details of Proposer:		
<i>Name</i>	Ben Mitchell	
<i>Organisation</i>	OM London Exchange Ltd	
<i>Telephone Number</i>	020 7065 8912	
<i>Email Address</i>	ben.mitchell@om.com	
Details of Proposer's Representative:		
<i>Name</i>	Ben Mitchell	
<i>Organisation</i>	OM London Exchange Ltd	
<i>Telephone Number</i>	020 7065 8912	
<i>Email Address</i>	ben.mitchell@om.com	
Details of Representative's Alternate:		
<i>Name</i>	Lisa Ashford	
<i>Organisation</i>	OM London Exchange Ltd	
<i>Telephone Number</i>	020 7065 8202	
<i>Email Address</i>	lisa.ashford@om.com	

Modification Proposal – F76/01	MP No: <i>(mandatory by BSCCo)</i>
Attachments: No <i>(delete as appropriate) (mandatory by originator)</i> If Yes, Title and No. of Pages of Each Attachment:	