

Draft Modification Report
Expand Definition of Restricted User to include other Licenced Parties
Modification Reference Number 0528

Version 2.0

This Draft Modification Report is made pursuant to Rule 8.9 of the Modification Rules and follows the format required under Rule 8.9.3.

1. The Modification Proposal

That the definition of Restricted User contained in Section V2.5.1 of the Network Code be expanded to also include other Clearing Houses licenced by the Financial Services Authority or licenced under the Financial Services Act.

2. Transco's Opinion

This Modification Proposal would permit admittance to the Network Code of an additional type of Clearing House body recognised by the Financial Services Authority (FSA) to register trade nominations, onto Transco systems, that have arisen from an independent markets clearing activities.

The FSA recognises two types of body that may offer clearing facilities appropriate for admittance as a Restricted User under section V of the Network Code. The first is a Recognised Clearing House (RCH) which is already provided for under section V and the second is a Recognised Investment Exchange (RIE). Although the two are distinct (but very similar) types of body under the FSA and the Financial Services & Markets Act (FSMA) it appears that the current provisions of the Network Code would not permit an RIE to be admitted as a Restricted User.

Transco has no reason to object to the proposed addition of RIEs to section V2.5.1, since RIEs and RCHs may be viewed as materially equivalent. In respect of the FSA there is considerable overlap between a RCH and RIE in regard to the recognition requirements and both must meet and maintain their recognised status.

Under FSA the RIE is obliged to ensure that satisfactory arrangements are made for securing the timely discharge of the rights and liabilities of the parties to transactions effected on the exchange. The FSA accepts that an RIE may satisfy this requirement either by making its own arrangements for clearing transactions or by appointing a RCH to do so. Where an exchange conducts its own clearing arrangements it will be subject to FSA supervision equivalent in that respect to the FSA supervision of RCHs.

Transco would suggest that facilitation of this proposal may be achieved by modifying section V2.5.1 of the Network Code to admit a body which is declared by Order of the Secretary Of State to be a RIE for the purposes of the FSA.

3. Extent to which the proposed modification would better facilitate the relevant objectives

The Proposer does not state how the Proposal would better facilitate the relevant objectives.

**4. The implications for Transco of implementing the Modification Proposal , including
a) implications for the operation of the System:**

Transco does not anticipate any such implications.

b) development and capital cost and operating cost implications:

Transco does not anticipate any such implications.

c) extent to which it is appropriate for Transco to recover the costs, and proposal for the most appropriate way for Transco to recover the costs:

Transco anticipates that the implementation of this modification proposal would not lead to an increase in costs.

d) analysis of the consequences (if any) this proposal would have on price regulation:

Transco does not anticipate any such consequences.

5. The consequence of implementing the Modification Proposal on the level of contractual risk to Transco under the Network Code as modified by the Modification Proposal

Transco is unaware of any such consequences.

6. The development implications and other implications for computer systems of Transco and related computer systems of Users

Transco does not anticipate any such consequences

7. The implications of implementing the Modification Proposal for Users

Transco does not anticipate any such implications.

8. The implications of implementing the Modification Proposal for Terminal Operators, Consumers, Connected System Operators, Suppliers, producers and, any Non-Network Code Party

Transco is unaware of any such implications.

9. Consequences on the legislative and regulatory obligations and contractual relationships of Transco and each User and Non-Network Code Party of implementing the Modification Proposal

Transco is unaware of any such consequences.

10. Analysis of any advantages or disadvantages of implementation of the Modification Proposal

Advantages:

Implementation may increase the number of independent Market Operators offering secure and cleared services. This may benefit market participant by reducing risk from counterparty default.

Implementation may encourage the development of third-party markets for additional products available within the gas industry.

Disadvantages:

Where an existing independent Market Operator appoints an RIE to clear it's market, therefore providing an additional service, costs to the Market Participant may increase.

11. Summary of the Representations (to the extent that the import of those representations are not reflected elsewhere in the Modification Report)

Representations are now sought.

12. The extent to which the implementation is required to enable Transco to facilitate compliance with safety or other legislation

Transco is unaware of any such requirements.

13. The extent to which the implementation is required having regard to any proposed change in the methodology established under Standard Condition 4(5) or the statement furnished by Transco under Standard Condition 4(1) of the Licence

Transco is unaware of any such requirements.

14. Programme of works required as a consequence of implementing the Modification Proposal

Transco does not anticipate that a program of works will be required for the implementation of this Modification Proposal.

15. Proposed implementation timetable (including timetable for any necessary information systems changes)

If Ofgem direct implementation, Transco recommends that this should take immediate effect.

16. Recommendation concerning the implementation of the Modification Proposal

Transco's opinion is neutral in respect of any such recommendation to implement this Modification Proposal.

17. Text

Section V:

Paragraph 2.5

Amended to read:-

2.5 Restricted User

2.5.1 A person which is for the time being either:

(i) {designated by the Director for the purposes of standard condition 7.4A of the Transco Licence}, or

(ii) a body which is declared by an Order of the Secretary of State to be a Recognised Clearing House for the purposes of the Financial Services Act 1986 (as amended), or

(iii) a body which is declared by an Order of the Secretary of State to be a Recognised Investment Exchange for the purposes of the Financial Services Act 1986 (as amended) and which makes its own arrangements for clearing transactions effected on its exchange,

may be admitted as a User for the purposes only of making Trade Nominations pursuant to Section C6."

Representations are now sought in respect of this Draft Report and prior to Transco finalising the Report

Signed for and on behalf of Transco.

Signature:

Tim Davis
Head of Regulation NT&T

Date: