

Additional proposed amendments to Market Rules and Charter

13 November 2015

Privileged and Confidential – Subject to Legal Advice

Introduction

1. From 16 October, GDT sought public feedback on proposed Rule changes to strengthen GDT's governance by enabling the establishment of a GDT Oversight Board.
2. We received no written feedback and one verbal submission during the two week public consultation period that followed this date.
3. We now propose three additional amendments to the Oversight Board Charter and to the Market Rules, each explained in this paper.
4. The existing GDT Advisory Board have been consulted on these additional amendments.

Amendments to the Charter and Market Rules

Size of the future Oversight Board

5. We propose to reduce the size of the Oversight Board to a maximum of four members of each of the Seller Group and Bidder Group following the conclusion of the term of appointment of the Initial members (i.e. in two years' time).
6. This will reduce the maximum size of the Oversight Board from 14 members to 12 members.
7. This change follows valid concerns that a 14 member Oversight Board may be too large and unwieldy to function effectively.
8. The proposed amendment to the Clause 2.1 of the Charter is as follows:

2. APPOINTMENT OF MEMBERS

2.1 **Membership and Appointment:** The Oversight Board will be comprised of the following Members:

- (a) up to five Members that are Sellers, appointed by [GlobalDairyTradeGDT](#) in accordance with Appendix One;
- (b) up to five Members that are Bidders, appointed by [GlobalDairyTradeGDT](#) in accordance with Appendix Two;
- (c) up to three Members that are representatives of the parties that operate, or participate in, the Relevant Financial Markets, appointed from time to time by [GlobalDairyTradeGDT](#), having regard to the guidelines for appointment set out in Appendix Three; and

(d) the Chairperson appointed in accordance with clause 7.

~~(d) provided that following the term of appointment of the Initial Members (as listed on the Information Website), the size of each of the Seller Group and Bidder Group will be reduced to up to a maximum of four Members and the process set out in Appendix One and Appendix Two to appoint the fifth member of each such group will be ignored.-~~

Convening of the Rulings Panel prior to the appointment of the Chairperson

9. If there is a complaint raised prior to the appointment of the Chairperson or the Chairperson is conflicted, we propose that the Rulings Panel may be convened with three members appointed (as opposed to two) as per Appendix Four.
10. This minor amendment allows for participants to raise formal complaints and the Rulings Panel to convene in the instance where no Chairperson has been appointed by the time the new rules come into effect.
11. The proposed amendment to the Clause 11.1 of the Charter is as follows:

11. RULINGS PANEL

11.1 Establishment:

- (a) Subject to clause 11.1(b), the Chairperson shall be responsible for convening a Rulings Panel (in accordance with Appendix Four) from time to time for the purpose of hearing and determining any complaints referred to him or her by GlobalDairyTradeGDT under Rule B3.3 ("**Complaint**"), unless he or she reasonably considers that the Complaint is vexatious, frivolous, or is, in substance, a dispute to which Rule A2.5 applies.
- (b) Upon the referral of a Complaint to him or her by GlobalDairyTrade, the Chairperson will, unless it reasonably considers that the Complaint is vexatious, frivolous, or is, in substance, a dispute to which Rule A2.5 applies, take steps to convene a Rulings Panel in accordance with Appendix Four. If either the Chairperson is conflicted in relation to a Complaint or there is no Chairperson currently appointed to the Oversight Board, the Rulings Panels may be convened in relation to a Complaint in accordance with the process set out in Appendix Four, provided that the Oversight Board is satisfied that the Complaint is not vexatious, frivolous, or, in substance, a dispute to which Rule A2.5 applies.

12. The proposed amendment to Clause 3 of Appendix Four of the Charter is as follows:

3. In order to convene a Rulings Panel, ~~the Chairperson shall:~~
 - (a) The Chairperson shall confirm to GlobalDairyTradeGDT that he or she has no conflict of interest in relation to the Complaint and is otherwise available to hear the Complaint. If that confirmation is provided to the satisfaction of GlobalDairyTradeGDT, the Chairperson shall be appointed as Chairperson of the Rulings Panel. If that confirmation is not provided or if there is no Chairperson currently appointed (excluding any alternate Chairperson appointed to chair an Oversight Board meeting in accordance with clause 7.6 of the Charter), then three persons shall be appointed under sub clauses (b) to (d) instead of two.

13. The proposed amendment to Market Rule B3.3 is as follows:

3.3 Complaints disclosed to chairperson of the Oversight Board

GlobalDairyTradeGDT will, as soon as reasonably practicable, disclose each valid complaint lodged to the chairperson of the Oversight Board (subject to any redactions necessary to comply with clause 14 of the Charter or compliance advice it has received). The chairperson of the Oversight Board will deal with any such complaints referred to him or her in accordance with the Charter, including, if necessary, by convening a Rulings Panel to determine the complaint. If the chairperson is conflicted in relation to a complaint or there is no chairperson currently appointed to the Oversight Board, the Rulings Panel may be convened in accordance with the process otherwise set out in the Charter, subject to any provisions therein.

Affiliated Sellers / Bidders

14. We propose that affiliated Sellers / Bidders cannot be Members of the Oversight Board concurrently.
15. This change prevents situations where an affiliate of an existing Oversight Board member could also become a member, thus doubling their effective voting weight and creating potential bias in the Board.
16. The proposed amendment to Clause f of Appendix One of the Charter is as follows:
 - f. In no circumstances may a Seller be appointed to, or serve as a Member of, the Oversight Board concurrently with any Affiliate of that Seller, regardless of which Member Group that Affiliate belong to.
17. The proposed amendment to Clause f of Appendix Two of the Charter is as follows:
 - f. In no circumstances may a Bidder be appointed to, or serve as a Member of, the Oversight Board concurrently with any Affiliate of that Bidder, regardless of which Member Group that Affiliate belongs to.

Submissions

18. GDT invites written submissions from any interested party on the proposed additional amendments to either the GDT Market Rules or the Oversight Board Charter.
19. Submissions can be made in writing to help@globaldairytrade.info with "Submission on proposed Oversight Board changes" as the subject line.
20. Submissions close on 20 November 2015. Consultation on submissions received will be completed by 25 November 2015.
21. If adopted, the new rules and Charter are expected to be published and become effective in December 2015.