

Final Modification Report

CMP351: Financial Securities – Timescales for Provision of Cash Deposit into Escrow

Overview: The purpose of this Modification is to change the timescales by which Cash Deposits need to be provided to National Grid ESO through the bi-annual financial securities process.

Modification process & timetable



Have 5 minutes? Read our [Executive summary](#)

Have 20 minutes? Read the full Final Modification Report

Have 30 minutes? Read the full Final Modification Report and annexes

Status summary: This Report has been submitted to the Authority for them to decide whether this change should happen.

Panel Recommendation: The Panel has recommended unanimously that the Proposer's solution is implemented.

This modification is expected to have a:

Low impact on National Grid ESO fulfilling its obligation to ensure Developers are providing the correct level of security against commitments under Construction Agreements.

Governance route	The CUSC Panel by unanimously agreed that this modification should follow the standard governance route and proceed to Code Administrator Consultation.	
Who can I talk to about the change?	<p>Proposer: Mark Pearce NeuConnect Britain Limited mark.pearce@neuconnect.eu Phone: 07979 708 604</p>	<p>Code Administrator: Ren Walker lurrentia.walker@nationalgrideso.com Phone: 07976 940 855</p>

Executive Summary

This Modification seeks to change the timescales by which Cash Deposits need to be provided to National Grid ESO through the bi-annual financial securities process.

At the CUSC Panel on 25 September 2020, the Panel requested further explanation on 2 areas:

- Firstly, clarifying who provides security in the form of cash. National Grid ESO confirmed that typically cash security would be provided by smaller parties or larger parties providing a top up to existing security; and
- Secondly, during Panel's assessment of the CMP351 proposal, consideration was given as to whether the period for all forms of Security could be reduced from 45 days to 21 days. National Grid ESO confirmed that shortening the timescales for Documentary forms of credit (e.g. Parent Company Guarantee or Letter of Credit) would not allow National Grid ESO to carry out the Event of Default and Cancellation process before expiry of the Security form.

What is the issue?

The Proposer believes that the prevailing CUSC provisions inadvertently differentiate between CUSC Parties providing documentary financial instruments and those providing cash deposits. They believe that, if the change is not made, CUSC Parties providing cash as a form of Security are unduly being disadvantaged.

What is the solution and when will it come into effect?

Proposers solution:

The Proposer's solution is to relax the timescales for cash deposits for Financial Securities from 45 calendar days to 21 calendar days.

Implementation date:

This modification will need to be implemented by 15 February 2021 to be effective for the next Securities period.

Panel Recommendation

The Panel has recommended unanimously that the Proposer's solution is implemented.

What is the impact if this change is made?

The Proposer believes that Consumer interests remain protected insofar as the proposed timescales respect the necessity for National Grid ESO to manage Connection Agreements efficiently and effectively whilst ensuring those Parties affected to not be unduly burdened with providing Financial Security sooner than is absolutely necessary.

Interactions

This modification has no interactions with other modifications or wider industry works.

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What is the issue?

Financial Securities can be provided in the form of a Letter of Credit (LoC), Parent Company Guarantee/Company Guarantee (PCG / CG), Performance Bond (PB) or a Cash Deposit.

Documentary forms of Security (LoC, PCG/CG and PB) typically have a commencement and expiry date whilst a Cash Deposit is held in a National Grid ESO managed Escrow Account and has no such defined timeframes. To enable National Grid ESO to manage exposure it is necessary to require CUSC Parties to put in place revised Securities 45 calendar days prior to the start of the next Security Period.

Documentary forms of Security can be pre-dated to the commencement of the next Security Period whilst cash deposits are effective from the date they are provided. CUSC Parties providing cash deposits are therefore over securing for a period of 45 days prior to the start of the next Security Period.

What is the solution?

Proposer's solution:

The Proposer's solution is to relax the timescales for cash deposits for Financial Securities from 45 calendar days to 21 calendar days. In their view, this addresses and balances this inadvertent disparity between CUSC Parties and National Grid ESO's obligations to the wider industry.

A timescale of 21 calendar days prior to the start of the Security Period is more appropriate for Cash Deposits. This timeframe allows National Grid ESO to issue its first and subsequent Event of Default Letters after which Termination of the Construction Agreement and associated Bilateral Connection Agreement can be notified to the CUSC Party concerned and to the respective Transmission Owner to cease further works associated with that project.

This will encourage competition by not inadvertently penalising Parties wishing to provide cash as a means of Security into an account managed and controlled by National Grid ESO.

Legal text

The legal text for this change can be found in Annex 2.

What is the impact of this change?

The modification will have a positive impact for those Parties with a Construction Agreement providing financial securities under the bi-annual securities process by means of a cash deposit into a National Grid ESO managed Escrow Account.

The modification will have little or no impact of National Grid ESO fulfilling its obligation to ensure Developers are providing the correct level of security against commitments under Construction Agreements.

Code Administrator Consultation Summary

The Code Administrator Consultation was issued on the 22 October 2020 closed on 12 November 2020 and received 3 responses. A summary of the responses can be found in the table below, and the full responses can be found in Annex 3.

Code Administrator Consultation summary

Question

Do you believe that the CMP351 Original Proposal better facilitates the Applicable CUSC Objectives?	All three respondents stated that the change would better facilitate the Applicable CUSC Objectives. 2 respondents believed that the reduced time period (21 days rather than 45 days) for providing cash securities is a suitable compromise between the needs of developers and National Grid ESO being able to carry out their Event of Default and the cancellation process.
Do you support the proposed implementation approach?	All respondents support the proposed implementation approach.
Do you have any other comments?	Yes – the full responses can be found in Annex 3.

Legal text issues raised in the consultation

No legal text issues were raised in the Code Administrator Consultation.

Panel Recommendation Vote

The CUSC Panel met on 24 November 2020 to carry out their recommendation vote.

They assessed whether a change should be made to the CUSC by assessing the proposed change and any alternatives against the code objectives. The full vote can be found below.

Vote 1: Does the Original facilitate the objectives better than the Baseline (the current CUSC arrangements)?

Panel Member: Andy Pace

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Neutral	Yes
Voting Statement					
We believe the reduction in the timescales for the provision of cash deposits into escrow to be beneficial to competition as it places Parties who place security via cash deposits on a more equal footing with those Parties who do not post cash. This modification therefore better meets CUSC applicable objective (b) by improving competition.					

Panel Member: Cem Suleyman

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Yes	Yes
Voting Statement					
I agree that CMP351 better facilitates the Applicable CUSC Objectives for the same reasons as provided by the Proposer.					

Panel Member: Garth Graham

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Yes	Yes
Voting Statement					
This proposal, by changing the Security Period timescales to 21 calendar days in advance for cash deposits, will improve the situation for smaller parties and new entrant and this, therefore, better facilitates Applicable Objective (b). It also improves the efficiency of the					

implementation and administration of the CUSC arrangements and, therefore, it better facilitates Applicable Objective (d). In terms of Applicable Objectives (a) and (c) the proposal is neutral. The best option (when compared with the Baseline) is the Original.

Panel Member: Grace March

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Yes	Yes

Voting Statement

This Modification adjusts the timescales for different security methods to better reflect the period covered. It therefore removes an inefficiency from the CUSC due to different security methods and removes any distortion between Users with different security methods.

Panel Member: Joe Dunn

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Yes	Yes

Voting Statement

I agree with the Proposer's assessment against the ACOs in that ACO (d) will be improved by addressing an existing inefficiency of an unnecessarily long period of cash posting which cannot be forward dated. As such, and versus alternative security arrangements which can be forward dated, a reduction in the timescale will help level the resulting comparison between parties thereby improving competition, i.e. ACO (b). The proposal is neutral to ACO (a) and (c).

Panel Member: Jon Wisdom

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Yes	Yes

Voting Statement

This modification has a positive impact in respect of CUSC Applicable Objectives B and D as it reduces the opportunity cost to industry of providing cash security under the User Commitment methodology - i.e. the cash security can be provided later meaning participants can use the cash longer for other purposes. This is achieved with no impact on consumers

or NGESO as the value of security to be provided is unchanged and there is no additional risk of default that NGESO would need to manage.

For completeness, this modification has no impact on CUSC Applicable Objectives A and C.

Panel Member: Mark Duffield

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Yes	Yes

Voting Statement

By easing the requirements on the provision of cash securities to 21 Calendar Days from the existing 45 calendar days this reduces the inherent over-securitisation through a cash security highlighted in the amendment proposal. This means this will lessen the impact on those CUSC parties who rely on cash securitisation over alternative securities and therefore better facilitate both CUSC objectives (b) and (d).

Panel Member: Paul Jones

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Neutral	Yes

Voting Statement

This should provide a small improvement to competition by removing a 3 week period of unnecessary cashflow for participants who need or want to cover securities using cash. There appears to be no particular increased default risk as a consequence.

Panel Member: Paul Mott

	Better facilitates ACO (a)?	Better facilitates ACO (b)?	Better facilitates ACO (c)?	Better facilitates ACO (d)?	Overall (Y/N)
Original	Neutral	Yes	Neutral	Neutral	Yes

Voting Statement

A timescale of 21 calendar days prior to the start of the Security Period is sufficient for Cash Deposits as they are then under ESO's control, and that this allows ESO time to issue its first and subsequent Event of Default Letters if that were ever appropriate and necessary. It has been explained why this advance lodge period reduction can't be applied to other

instruments such as letters of credit. Making the change CMP351 will encourage competition, better facilitating CAO(b), by not putting Parties wishing to provide cash at an unnecessary disadvantage.

Vote 2 – Which option is the best?

Panel Member	BEST Option?
Andy Pace	Original
Cem Suleyman	Original
Garth Graham	Original
Grace March	Original
Joe Dunn	Original
Jon Wisdom	Original
Mark Duffield	Original
Paul Jones	Original
Paul Mott	Original

Panel conclusion

The Panel, unanimously recommended that the Proposer's solution should be implemented.

When will this change take place?

Implementation date:

This modification will need to be implemented by 15 February 2021 to be effective for the next Securities period.

Date decision required by:

A decision is needed from the Authority sufficiently ahead of 15 February 2021, to allow for the Modification to be implemented and be effective for the April – September 2021 Security Period.

Implementation approach:

There are no system changes required to implement this modification. Changes are only required in CUSC, Section 15 'User Commitment Methodology'.

Acronyms, key terms and reference material

Acronym / key term	Meaning
Baseline	The code/standard as it is currently
LoC	Letter of Credit
PCG / CG	Parent Company Guarantee / Company Guarantee
PB	Performance Bond

Reference material:

None

Annexes

Annex	Information
Annex 1	CMP351 Proposal Form
Annex 2	Legal Text
Annex 3	Code Administrator Consultation Responses