

# LETTER OF CREDIT TEMPLATE UPDATES

<b>MEETING NAME</b>	Panel Meeting
<b>Paper number</b>	301/12
<b>Date of meeting</b>	9 April 2020
<b>Purpose of paper</b>	Decision
<b>Classification</b>	Public
<b>Summary</b>	This paper seeks Panel approval of the Balancing and Settlement Code's ("BSC") Form of Letter of Credit, as set out in Annex's M-1 to M-3 of Section M to be updated to allow Letters of Credit to be signed, and be presented for claim electronically.

## 1. Introduction

- 1.1. To lodge Credit with the Funds Administration Agent (FAA), Parties have three options. They can either lodge by cash, Letter of Credit ("LoC") or by an Approved Insurance product ("AIP").
- 1.2. The BSC defines a Letter of Credit as follows: "means an unconditional, irrevocable standby letter of credit substantially in the form set out in Annexes M-1, M-2 or M3 (or such other form as the Panel may approve) in sterling in favour of the BSC Clearer by any United Kingdom clearing bank(s) or any other bank(s) which has (have) a long term debt rating of not less than single A by Standard & Poor's Corporation, Moody's Investors Service, Inc., Fitch Ratings Limited or such other bank(s) as the Panel may approve, and which shall be available for payment at a United Kingdom branch of the issuing bank. A single A by Standard & Poor's Corporation or Fitch Ratings Limited shall satisfy these requirements if appended with a '+' or '-'. A single A by Moody's Investors Service, Inc. shall satisfy these requirements if appended with a '1', '2' or '3'";

## 2. Current Issues

- 2.1. In light of the current Coronavirus (Covid-19) pandemic, many businesses are currently working remotely and do not have access to provide wet signatures on documents. RWE KL Ltd have raised this issue and asked if they could raise a LoC by way of electronic signature provided by their bankers and we foresee this to be raised by other BSC Parties in the coming weeks. The current templates as set out in Annex M1 – M3 do not provide enough assurance that this is currently acceptable.
- 2.2. A further issue identified in the current templates relates to claims made under the LoC, which can only be issued in person at the counters of a particular branch in the UK, whilst the accompanying claim documentation must have two authorised "wet" signatures, which must in turn be countersigned by our relationship director at Barclays. Given the current working arrangements, obtaining these signatures and having to present a claim to the banks in person will prove extremely challenging, and will undoubtedly cause delays to the process, and in turn receipt of funds should a claim be necessary.
- 2.3. Whilst we are unable to make changes to the existing LoC's, making changes to these templates now, will give any BSC Party providing a LoC in the future or replacing an existing one due to expire, the option of issuing such LoC electronically and thereby more efficiently and reduce the administrative burden on the BSC Clearer to have to make claims in person, if necessary, whilst giving the industry the financial security it needs.
- 2.4. Nearly 40% of all LoC's held are due to expire in the next six months.

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## 3. Proposals

- 3.1. Update the Form of Letter of Credit in Annex M-1, M-2 and M-3 to allow the Letter of Credit to be signed either manually or electronically.
- 3.2. Update the Form of Letter of Credit in Annex M-1, M-2 and M-3 to allow the Letter of Credit to be presented to the issuing bank either in person at its counters or electronically via email. This is a process currently being used in the industry at present within the EMR arrangements.
- 3.3. Update the Form of Letter of Credit in Annex M-1, M-2 and M-3 to allow the Letter of Credit claim documentation to be signed either manually or electronically.
- 3.4. Update the Form of Letter of Credit in Annex M-1, M-2 and M-3 to allow the Letter of Credit remove the need for claim documentation to be countersigned by our bankers. This is a process currently being used in the industry at present within the EMR arrangements, and our bankers Barclays have confirmed they are only required to countersign the documents if it explicitly states so in the Letter of Credit.

## 4. Recommendations

- 4.1. We invite you to:
  - a) **APPROVE** Letter of Credits can be signed electronically;
  - b) **APPROVE** Letter of Credits can be claimed electronically;
  - c) **APPROVE** Letter of Credit claim documentation can be signed electronically; and
  - d) **APPROVE** Letter of Credit claim documentation no longer needs a countersignature from our bankers.

## Appendices

Appendix 1 – Draft proposal of ANNEX M-1

Appendix 2 – Letter of Credit statistics

### For more information, please contact:

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## Appendix 1 Draft proposal of Annex M-1

### ANNEX M-1

#### Form of Letter of Credit (UCP 500)

To: ELEXON Clear Limited (the "BSC Clearer")

At the request of [name of Imbalance Party] (the "applicant") we have opened in favour of the BSC Clearer our irrevocable Letter of Credit Number ( ) for £[ ] (amount in words).

This Letter of Credit is available against sight drafts issued by the BSC Clearer accompanied by a statement issued and signed either electronically or manually by the BSC Clearer stating either:

(a) that the applicant has failed to pay to BSC Clearer the amount you are claiming under the terms of the Balancing and Settlement Code (as modified from time to time, the "Code");

or

(b) that the amount of the Letter of Credit has become payable pursuant to the Code by reason of the Letter of Credit not being extended or replaced in accordance with the requirements of the Code or that we have ceased to have the credit rating required under the Code.

Payments under this Letter of Credit shall be effected immediately to [insert relevant account details].

Partial drawings are allowed hereunder.

Claims under this Letter of Credit shall be made at the counters of [insert details of the branch of the issuing/advising/confirming bank] or by email to (insert email address).

This Letter of Credit expires on [ ].

We waive any right to set off against any amount payable hereunder any claims we may have against you.

Any sight draft and statement to be issued by the BSC Clearer for the purposes of this Letter of Credit may be signed by [insert name of FAA] (the "FAA") on behalf of the BSC Clearer.

Any demand hereunder must comply with all the above requirements and signatures (on behalf of the BSC Clearer or the FAA).

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits 1993

Revision, ICC Publication No. 500 (UCP500) published by the International Chamber of Commerce.

We undertake that drafts and documents presented under the terms of this Letter of Credit which are a complying presentation will be honoured upon presentation.

This Letter of Credit shall be governed by and construed in accordance with English law.

For and on behalf of [ ] Bank [Plc] (signed manually or electronically)

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## ANNEX M-2

### Form of Letter of Credit (UCP 600)

To: ELEXON Clear Limited (the "BSC Clearer")

At the request of [name of Imbalance Party] (the "applicant") we have opened in favour of the BSC Clearer our irrevocable Letter of Credit Number ( ) for £[ ] (amount in words).

This Letter of Credit is available against sight drafts issued by the BSC Clearer accompanied by a statement issued and signed either electronically or manually by the BSC Clearer stating either:

(a) that the applicant has failed to pay to BSC Clearer the amount you are claiming under the terms of the Balancing and Settlement Code (as modified from time to time, the "Code");

or

(b) that the amount of the Letter of Credit has become payable pursuant to the Code by reason of the Letter of Credit not being extended or replaced in accordance with the requirements of the Code or that we have ceased to have the credit rating required under the Code.

Payments under this Letter of Credit shall be effected immediately to [insert relevant account details].

Partial drawings are allowed hereunder.

Claims under this Letter of Credit shall be made at the counters of [insert details of the branch of the issuing/advising/confirming bank] or by email to (insert email address).

This Letter of Credit expires on [ ].

We waive any right to set off against any amount payable hereunder any claims we may have against you.

Any sight draft and statement to be issued by the BSC Clearer for the purpose of this Letter of Credit may be signed by [insert name of FAA] (the "FAA") on behalf of the BSC Clearer.

Any demand hereunder must comply with all the above requirements and signatures (on behalf of the BSC Clearer or the FAA).

This Letter of Credit is subject to the Uniform Customs and Practice for Documentary Credits 2007 Revision, ICC Publication No. 600 (UCP600) published by the International Chamber of Commerce.

We undertake that drafts and documents presented under the terms of this Letter of Credit which are a complying presentation will be honoured upon presentation.

This Letter of Credit shall be governed by and construed in accordance with English law.

For and on behalf of [ ] Bank [Plc] (signed manually or electronically)

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## ANNEX M-3

### Form of Letter of Credit (ISP98)

To: ELEXON Clear Limited (the "BSC Clearer")

At the request of [name of Imbalance Party] (the "applicant") we have opened in favour of the BSC Clearer our irrevocable Letter of Credit Number ( ) for £[ ] (amount in words).

This Letter of Credit is available against sight drafts issued by the BSC Clearer accompanied by a statement and signed either electronically or manually issued by the BSC Clearer stating either:

(a) that the applicant has failed to pay to BSC Clearer the amount you are claiming under the terms of the Balancing and Settlement Code (as modified from time to time, the "Code");

or

(b) that the amount of the Letter of Credit has become payable pursuant to the Code by reason of the Letter of Credit not being extended or replaced in accordance with the requirements of the Code or that we have ceased to have the credit rating required under the Code.

Payments under this Letter of Credit shall be effected immediately to [insert relevant account details].

Partial drawings are allowed hereunder.

Claims under this Letter of Credit shall be made at the counters of [insert details of the branch of the issuing/advising/confirming bank] [insert exact location within the building] at [insert time] to [insert person to whom the Letter of Credit should be presented] by [insert medium of presentation i.e. delivery of paper documents] or by email to (insert email address).

This Letter of Credit expires on [ ].

We waive any right to set off against any amount payable hereunder any claims we may have against you.

Any sight draft and statement to be issued by the BSC Clearer for the purpose of this Letter of Credit may be signed by [insert name of FAA] (the "FAA") on behalf of the BSC Clearer.

Any demand hereunder must comply with all the above requirements and signatures (on behalf of the BSC Clearer or the FAA).

This Letter of Credit is subject to International Standby Practices 1998 (ISP98) published by the International Chamber of Commerce.

We undertake that drafts and documents presented under the terms of this Letter of Credit which are a complying presentation will be honoured upon presentation.

This Letter of Credit shall be governed by and construed in accordance with English law.

For and on behalf of [ ] Bank [Plc] (signed manually or electronically)

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### Appendix 2 Letter of Credit Statistics

	Qty	Value (£m)
All LoC's	83	371
LoC's due to expire in next six months	30	146