

**Domestic gas and electricity
suppliers, consumer
organisations, and other
interested stakeholders**

Email: RetailFinancialResilience@ofgem.gov.uk

Date: 26 August 2022

Dear Stakeholders,

**Decision on Statutory Consultation: Credit Balances – Strengthening existing
Direct Debit rules**

1.1 As part of our Supplier Licensing Review, we consulted on proposals aimed at tackling the issues we identified at the time concerning customer credit balances (CCBs)¹. Alongside the main proposals we published then, we also consulted on strengthening existing supply licence condition (SLC) 27.15.² In June this year, we issued a statutory consultation which followed up on our original proposal to strengthen SLC 27.15.³ The letter we are publishing today **confirms our decision to proceed with our proposals and amend SLC 27.15 accordingly.**

1.2 SLC 27.15 currently places the following obligation on suppliers:

"Save where a clear and express Principal Term of the relevant Domestic Supply Contract provide otherwise, the licensee must take all reasonable steps to ensure that the fixed amount of the regular direct debit payment is based on the best and most current information available (or which reasonably ought to be available) to the licensee, including information as to the quantity of electricity/gas which the licensee reasonably estimates has been or will be supplied under the relevant Domestic Supply Contract."

¹ [Supplier Licensing Review: reducing credit balance mutualisation | Ofgem](#)

² The gas and electricity supply licences can be found here: [Licences and licence conditions | Ofgem](#). SLC 27.15 is identical for both gas and electricity, bar their respective terminology.

³ Statutory consultation: [Strengthening fixed direct debit rules](#)

- 1.3 In our consultation last year and the following statutory consultation we issued in June this year, we noted our view that the current drafting of SLC 27.15 allows suppliers to accrue excessive CCBs, which does not align with the intent of the licence. This can occur in circumstances including where fixed Direct Debits (DDs) are over-estimated.⁴ This is because the current SLC only requires suppliers to set DDs using the best and most current information *unless the terms and conditions of the contract provide otherwise*, and SLC 27.15 only requires the licensee to take “all reasonable steps” to meet their obligation. We consulted on strengthening the condition by removing these components and therefore making the obligation absolute.
- 1.4 We explained that making this change would mean that domestic customers could expect their fixed DDs to be based on the best and most current information available in all cases, thereby reducing the likelihood of some suppliers accruing excessive CCBs for some of their domestic customers. We also noted how making this change would remove subjectivity and make our expectations clearer.

Overview of consultation responses

- 1.5 We received thirteen responses to our statutory consultation. There was broad support for the intent of changes designed to reduce the build-up of excessive CCBs. However, suppliers sought clarity on the policy intent and the implications the change could have on how they set fixed DDs. In the following section we comment on the key issues raised by stakeholders, including drawing on illustrative examples from non-confidential responses.
- 1.6 The key issue raised by suppliers was whether the changes would mean that fixed DDs would need to be reset every time they received a new piece of information. They noted that this would not necessarily align with consumers’ preferences and would be unnecessarily costly and onerous where it involved making minor changes to the DD amount. In this context, several respondents sought clarity on what constitutes “best and most current information” as referenced in the current SLC text.
- 1.7 Five respondents proposed new or alternative SLC wording. One suggestion was that the SLCs should require suppliers to review DDs on a ‘regular basis at reasonable intervals.’ Two other respondents requested SLC wording changes to require quarterly or ‘on-demand’ DD reviews. Two respondents suggested an amendment requiring

⁴ Please see paragraph 2.14 to 2.17 from page 18 of the Supplier Licensing Review, linked in footnote 1
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licensees ensure customers have paid for the energy they have used, with minimal credit or debit balance remaining after 12 months.

Our decision

- 1.8 We continue to believe that suppliers should not be able to use their terms and conditions or an all reasonable steps test to effectively derogate themselves from the requirement to set fixed DDs based on the best and most current available information, which SLC 27.15 currently permits.
- 1.9 We remain of the view that strengthening the existing requirements will help reduce the scope for excessive CCB accrual. This will in turn help tackle the poor business practices that excessive CCB accrual helps to facilitate. Recent market failures and the poor practices concerning the use of CCBs that they have exposed serve to further support the need for a strengthening of the rules in this area.
- 1.10 In addition, we have accounted for the initial findings of our ongoing Market Compliance Review into DD setting in reaching our decision. The initial findings found that the majority of suppliers subject to a review had either no or minor procedural weaknesses, while five had moderate or severe weaknesses. All those with weaknesses have been asked to provide remedial action plans and deliver improvements at pace. The weaknesses identified included for example some suppliers potentially not taking account of all relevant factors when setting DDs. The changes we are making via this decision help further reinforce our expectation that all suppliers must account for all relevant information when setting DDs, in all cases.⁵
- 1.11 For clarity and in response to the concerns raised by suppliers, basing the amount of the fixed DD payment on the best and most current information available does not mean that suppliers need to automatically reset customers' fixed DDs every time they receive a new piece of information. For example, we do not anticipate a supplier needing to reset a DD where a new meter reading reports a minimal change in consumption compared to previous readings now, and the modification we are making will not change this.
- 1.12 Instead, new information should feed into a broader picture of an individual customer's consumption, circumstances and preferences and suppliers should

⁵ More information concerning our ongoing Market Compliance Review into DD setting can be found on our website [here](#).

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reassess a customer's fixed DD when they receive information that is likely to have a material impact on the DD amount. Where any reassessment determines that a change to a DD would be immaterial, suppliers should use their discretion when deciding whether a change is necessary.

- 1.13 Suppliers should continue to have regard to existing obligations and account for a range of relevant data when considering what constitutes both the best and the most current information. This includes for example accounting for data such as meter readings, and information provided by consumers and third parties about their circumstances and preferences.

Impact Assessment

- 1.14 Under the Utilities Act 2005 (Section 5A), we are required to conduct an impact assessment or publish a statement explaining why we do not think one is necessary, where we are proposing to do anything in connection with carrying out our functions and where that proposal is "important". Our guidance on impact assessments explains that a proposal is "important" for several reasons. In line with that guidance, this proposal would be considered "important" if it were to have a significant impact on suppliers. The guidance also explains that "significant impact" may include where implementing the proposal would have significant costs for industry participants.
- 1.15 As explained in our statutory consultation, these changes will not have any impact on licensees who already use the best and most current information available to them to set fixed DDs in all cases. We continue to envisage that this change will have a limited impact on those that do not currently set fixed DDs using the best and most current information available to them in all cases. This is because we anticipate it being straight forward for these suppliers to apply the approaches and use the same data sets (including estimation where necessary) they currently use for some of their customers to their entire customer base.
- 1.16 As such, we have not conducted an impact assessment on this occasion.

Next Steps

- 1.17 Having taken account of consultation responses, we are now proceeding with the change we previously consulted on. The modifications will take effect 56 days after the publication of this decision.

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Yours sincerely,

Cathryn Scott

Regulatory Director – Enforcement and Emerging Issues

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