

Feedback Form

Enforcement Modernization – May 22, 2026

Feedback Provided by:

Name: Brittany Ashby

Title: Senior Regulatory Affairs Advisor

Organization: Electricity Distributors Association

Email: [REDACTED]

Date: June 15, 2026

To promote transparency, feedback submitted will be posted on the Enforcement Modernization engagement page unless otherwise requested by the sender.

- Yes – there is confidential information, do not post**
- No – comfortable to publish to the IESO web page**

Following the May 22, 2026, Enforcement Modernization engagement webinar, the Independent Electricity System Operator (IESO) is seeking feedback from stakeholders on the items discussed. The presentation and recording can be accessed from the [Enforcement Modernization](#) page.

Note: The IESO will accept additional materials where it may be required to support your rationale provided below. When sending additional materials, please indicate if they are confidential.

Please submit feedback to engagement@ieso.ca by June 15, 2026.

MACD Proposal #1 - Internal Compliance Programs

Item: Do you have any feedback on MACD's design proposal on Internal Compliance Programs?

EDA Feedback:

ICP Requirements:

Internal compliance is a priority for EDA members and is taken seriously by electricity distributors. We appreciate the flexibility built into the proposed ICP requirements and support a self-reporting and certification approach that recognizes the diversity of market participants, including MPs and LDCs with varying sizes, complexity, governance structures, and risk profiles. This approach is consistent with the principles set out in the 2013 IESO MACD Statement of Approach (SOA), which fully recognizes that "**one size does not fit all.**"

EDA also supports MACD's stated commitment to **maintaining a non-prescriptive approach that does not dictate the design of an ICP or prescribe required program elements.** As observed in the current SOA, market participants should retain the flexibility to develop compliance programs that reflect their individual circumstances while remaining accountable for compliance outcomes.

Updated "SOA" and "quality":

EDA supports requiring MPs to maintain an ICP. However, EDA does not support MACD assessing the "quality" of those programs unless it first demonstrates a clear need for such oversight and establishes transparent, objective assessment criteria.

Assessing ICP quality would represent a significant departure from the current 2013 SOA, which provides high-level, non-binding guidance and expressly avoids evaluating the scope, design, comprehensiveness, effectiveness, or quality of an ICP. **Before introducing this new oversight function, MACD should clearly identify the problem it is seeking to address, demonstrate why the existing framework is insufficient, and explain how quality assessments would improve compliance outcomes, reduce Market Rule breaches, or otherwise enhance the effectiveness of the compliance framework.**

EDA is concerned that, absent transparent and auditable criteria, assessments of ICP quality could create regulatory uncertainty and lead to inconsistent outcomes across market participants. Without clear guardrails, MACD risks moving beyond overseeing compliance with the Market Rules into evaluating internal management, governance, staffing, and resource-allocation decisions that should remain the responsibility of market participants and their governing bodies.

Decisions regarding the level of resources devoted to compliance should remain the responsibility of each market participant and its governing body, reflecting its size, complexity, and risk profile.

EDA is not aware of evidence demonstrating that the current framework is ineffective or that compliance outcomes have deteriorated to a degree that would justify this expanded oversight and does not feel that MACD has supported this proposal with that evidence. To the contrary, published compliance and enforcement data on the IESO website appear to show a declining trend in sanctions and settlements under the existing framework.

Should MACD proceed with this proposal, any assessment framework must be clearly defined, transparent, documented, and proportionate to the market participant's size, complexity, and risk profile. MACD should consult on and publish any proposed updates to the SOA, together with the

methodology and criteria for assessing ICP quality, before implementation. Market participants should have a meaningful opportunity to review and provide feedback on the complete framework, including how quality assessments would be conducted and incorporated into enforcement and penalty determinations.

Compliance Implementation Period

EDA questions the rationale for a uniform six-month implementation period. A uniform six-month implementation period is inconsistent with MACD's stated recognition that 'one size does not fit all.' Organizations vary significantly in size, complexity, resources, and readiness. **Rather than prescribing an arbitrary and fixed timeline, MACD should allow market participants to establish reasonable implementation schedules based on their individual circumstances if the intention is in good faith through self-declaration and governance.** Consideration should be given to extending implementation timelines for existing market participants, where warranted, and to establishing clear expectations for new market entrants. The objective should be meaningful compliance with outcomes, not compliance with an arbitrary deadline.

Proposal 1 Summary:

EDA recommends that MACD maintain the current approach under the 2013 SOA and refrain from introducing ICP quality assessments unless it can demonstrate that the existing framework is inadequate and has consulted stakeholders on a transparent, objective, and clearly defined assessment methodology.

EDA supports strengthening internal compliance programs and can support a requirement for market participants to maintain an ICP. However, any expansion of MACD's oversight role must be evidence-based, proportionate, and developed through meaningful stakeholder consultation. The proposal, as currently drafted, does not meet that threshold.

MACD Proposal #2 - Removal of Ring-fencing Language

Item: Do you have any feedback on MACD's design proposal on the Removal of Ring-fencing Language?

EDA Feedback:

EDA supports maintaining an independent, credible, and transparent compliance enforcement function. **However, EDA does not support Proposal 2.**

MACD states in both its proposal and presentation that this amendment merely codifies existing governance arrangements and does not introduce substantive changes. However, it has not been explained why the long-standing ring-fencing provisions in Market Manual 2.6, section 1.3.1, should be removed. These provisions provide a clear and visible safeguard of MACD's operational independence and have played an important role in maintaining stakeholder confidence in the integrity of the enforcement process.

The proposal identifies no deficiency in the current framework and does not explain how removing the existing ring-fencing language would improve independence, accountability, transparency, or stakeholder confidence. **In the absence of such justification, EDA believes the existing protections should remain in place.** While the proposal confirms several existing safeguards, it

does not include the draft Market Rule language that would replace the existing provisions. As a result, stakeholders cannot assess whether the proposed codification would provide protections equivalent to the existing ring-fencing framework. Replacing specific operational safeguards with broader statements of independence risks reducing transparency regarding the separation between MACD and the IESO.

EDA is specifically concerned that a key protection appears to have been removed entirely. Section 1.3.1 currently states that MACD "enforces compliance against both market participants **and the IESO**, operating in a ring-fenced structure within the IESO with its files **and investigative information accessible only to MACD staff members.**" The proposal does not clearly preserve this principle. As drafted, it appears to remove explicit recognition that MACD's enforcement authority extends to the IESO itself. MACD should clarify whether any change is intended and, if not, retain language expressly confirming its authority to independently investigate and enforce compliance against the IESO.

EDA is also seeking greater clarity regarding the practical implications of the proposal. MACD will continue to rely on shared corporate services, including Human Resources, Information Technology, and Procurement, yet the proposal, and current revenue requirement application provides limited information regarding the controls, information barriers, governance measures, and cost allocation arrangements that will preserve operational independence. EDA seeks clarification on the Enforcement Framework Modernization proposal regarding:

- controls and safeguards governing access to investigative files and enforcement information, including by non-MACD personnel;
- safeguards applicable to shared corporate services;
- the distinction between administrative reporting to the CEO and functional accountability to the Board;
- how MACD's independence will be maintained in matters involving the IESO; and
- whether related governance instruments, including the October 15, 2019 Delegation of Enforcement Authorities Letter, will be updated.

EDA further notes that recent 2025 internal audit findings disclosed in the IESO's 2026, 2027, and 2028 Revenue Requirement Application (Exhibit G, Tab1, Schedule1, Attachment 11), which **identified weaknesses in MACD's case management and access controls, including issues related to tracking enforcement activities and managing access within the IESO** to enforcement information. While corrective actions are underway, these findings demonstrate that MACD's independence depends not only on governance structures but also on effective controls over information access, records management, and enforcement processes.

EDA therefore believes these safeguards should be maintained and demonstrated before existing ring-fencing provisions are removed.

Audit Report Subject Area & Objective	Recommendations	Management Response	Status
<p>Enforce Compliance Orders (MACD Process) The scope and objective of this review was to assess the design and operating effectiveness of controls related to the IESO's Market Assessment and Compliance Division's (MACD) process for issuing and enforcing Compliance Orders resulting from non-compliance of Market Rules.</p>	<p>1. A Standardized Mechanism to Track Compliance Orders Does Not Exist Management should consider implementing a tool that can be used to maintain and track case files including compliance orders. It should be determined if a database of resolved compliance orders can also be stored within the tool for easy reference in the future to assist with decision making. Moreover, the tool would allow MACD to better track performance using Key Performance Indicators (KPI's) and provide an audit trail to track activity.</p> <p>2. Access to Mailbox Not Removed for Transferred Out Non-MACD IESO Employees and Consistent Periodical Access Review Not Performed The following controls should be implemented to help ensure only authorized access are permitted to MACD Mailbox:</p> <ul style="list-style-type: none"> Access for transferred out staff should be removed in a timely manner. Periodical access review should be performed for MACD Mailbox to ensure only authorized people have access to the Mailbox. 	<p>1. MACD accepts and supports this recommendation and notes that the risk was rated as "Medium" given the limited scope of this audit (it would have been rated higher if the audit included additional enforcement processes and time period). This recommendation aligns with MACD's efforts over the past 10 years to have the MACD Enforcement Case Management Tool (ECMT) project approved by the IESO Project Portfolio Management Team (PPMT). This project has been proposed annually since the 2016 Business Plan. However, it has not yet received PPMT approval to proceed due to it being deprioritized to accommodate other IESO projects, despite MACD having the funding to acquire this tool. MACD is currently requesting that PPMT advance this project into the 2025 portfolio. Business requirements for the ECMT were previously drafted. MACD is currently working with Procurement to undertake informal market research in order to gather information that will inform an updated business requirement specification and supporting business case.</p> <p>2. MACD accepts and agrees with this recommendation and has already taken action to remove access for staff that have transferred out of MACD. Going forward, MACD will include removal of access for</p>	<p>1. Due Q2-2027 2. Complete</p>

Given these findings, EDA encourages MACD and the IESO to provide evidence that removing the ring-fencing language will not alter existing arrangements relating to shared services, cost allocation methodologies, data management and data warehouse initiatives, access controls, or the segregation of enforcement information. **If any of these arrangements are expected to change, stakeholders should be provided with a clear explanation of the associated safeguards and an opportunity to review and comment on the proposed governance changes.**

EDA recommends retaining the existing ring-fencing provisions, including explicit protections for the segregation of investigative files and information, independent enforcement decision-making, and the separation of compliance enforcement activities from other IESO functions.

Until MACD demonstrates both why these provisions are no longer necessary and how stakeholder confidence and operational independence will be maintained or enhanced without them, EDA cannot support Proposal 2 to remove Ring-Fencing Language.

MACD Proposal #3 - Information Gathering Powers

Item: Do you have any feedback on MACD's design proposal on Information Gathering Powers?

EDA Feedback:

EDA supports effective market monitoring and enforcement. However, **MACD has not demonstrated that its existing information-gathering powers are insufficient or identified a specific enforcement gap that would justify the expanded authorities**

proposed in Proposal 3. Although characterized as a clarification, the proposal could materially expand MACD's powers, depending on how the final is drafted, by permitting information requests to any person, including non-market participants, authorizing interviews of former employees and contractors, and codifying the ability to draw adverse inferences from non-compliance.

EDA does not support codifying adverse inference authority. A failure to provide information may arise for legitimate reasons unrelated to non-compliance, including record retention limitations, legal restrictions, confidentiality obligations, or an inability to access the requested information.

Enforcement findings should be based on evidence, not assumptions.

Before proceeding, **MACD should clearly identify the enforcement challenges these powers are intended to address and provide concrete examples demonstrating how the proposed authorities would improve the effectiveness or efficiency of investigations.** EDA notes that even regulators with broad statutory information-gathering powers, such as the Canada Revenue Agency, operate within defined legislative limits, time periods and procedural safeguards.

Comparable safeguards should accompany any expansion of MACD's authority.

If adopted, the expanded powers should be subject to clear procedural safeguards. MACD should define key terms such as "any person," "information," and "at any time"; establish objective criteria for when requests are reasonable and necessary; and publish guidance describing the types of information, records, and categories of persons that may commonly be the subject of requests. Such guidance would improve transparency and predictability while preserving MACD's discretion to seek additional information where warranted.

Nothing prevents MACD from publishing clearer non-binding guidance today identifying the types of information, records, and categories of people that may commonly be the subject of information requests. Such guidance would improve transparency and predictability, reduce unnecessary burden, and help Market Participants understand compliance expectations while preserving MACD's discretion to seek additional information where warranted, and without changing their powers.

Market Participants should have a clear process to seek clarification of, object to, or request extensions for information requests that are unclear, overly broad, unduly burdensome, privileged, or otherwise inappropriate. Information requests should be targeted, proportionate, and limited to specific enforcement matters rather than becoming a form of ongoing regulatory reporting.

EDA also recommends explicit protections for confidential, commercially sensitive, privileged, and other protected information. Because the proposal would permit MACD to obtain information from former employees, contractors, and other third parties who are not subject to the same obligations, oversight, sanctions, or accountability as Market Participants, **information obtained from such sources should be subject to appropriate reliability and procedural fairness safeguards**, including an opportunity for affected Market Participants to review and respond to evidence relied upon by MACD.

Finally, **any expanded information-gathering authority should be subject to reasonable limitation periods aligned with applicable enforcement deadlines and coordinated with existing regulatory reporting requirements to avoid duplication and unnecessary burden.**

Given the broader objective of improving regulatory efficiency and reducing red tape, Market Participants should not be required to provide the same information through multiple overlapping processes when it is already available to the IESO or MACD.

MACD Proposal #4 - Information Sharing

Item: Do you have any feedback on MACD's design proposal on Information Sharing?

EDA Feedback:

EDA does not support Proposal 4 as currently proposed. While effective market monitoring and enforcement may require access to confidential information, MACD has not demonstrated that the existing confidentiality framework impedes its ability to investigate, monitor, or enforce compliance, **nor has it provided evidence that current disclosure restrictions have hindered its enforcement mandate.**

Before expanding MACD's authority to disclose confidential information, the IESO should identify the specific examples of enforcement gaps the proposal is intended to address, explain why existing authorities are insufficient, and provide stakeholders with the proposed disclosure parameters and safeguards for review.

Market monitoring regimes generally limit disclosure of participant information to defined regulatory, legal, and enforcement purposes. **Any expansion of disclosure authority should therefore be supported by a clear evidentiary basis and accompanied by appropriate safeguards, including necessity and proportionality requirements, minimal disclosure standards, confidentiality protections, oversight mechanisms, and transparency regarding the scope and rationale for disclosures.**

EDA is concerned that broader disclosure authority could expose Market Participants to unnecessary reputational, commercial, and legal harm, particularly where the information relates to ongoing investigations, preliminary findings, or unproven allegations. At a minimum, affected Market Participants should receive notice and an opportunity to object before confidential information is disclosed to another Market Participant, except where disclosure is required by law or demonstrably necessary to address an urgent risk.

Until a clear need for the amendment is established and appropriate safeguards are defined in the Market Rules, EDA does not support Proposal 4.

MACD Proposal #5 - Investigation Process

Item: Do you have any feedback on MACD's design proposal on the Investigation Process?

EDA Feedback:

EDA supports efforts to improve the efficiency, effectiveness, and clarity of MACD's investigation processes and the objective of reducing unnecessary regulatory burden. However, **Proposal 5 lacks sufficient detail to assess its impacts and raises significant procedural fairness concerns. Efficiency gains should not come at the expense of due process or discourage Market Participants from exercising their rights to challenge enforcement actions.**

EDA is particularly concerned by the proposal's suggestion that a Market Participant who disputes a specified penalty could ultimately face a higher penalty. Participants should not be exposed to greater sanctions simply for exercising a procedural right. Such an approach risks discouraging legitimate challenges and is inconsistent with principles of procedural fairness. If a specified penalty regime is adopted, EDA recommends a no-reprisal safeguard under which a disputed specified penalty cannot be increased above the original specified amount.

EDA is also concerned that MACD proposes separate processes for "complex" and "less complex" matters without establishing clear classification or eligibility criteria.

Transparent, published criteria are necessary to ensure consistency, predictability, accountability, and certainty regarding when procedural rights may apply.

While streamlined processes may be appropriate for straightforward administrative contraventions, many compliance matters require context and explanation and should not proceed through a process with reduced procedural safeguards. **EDA is concerned that the proposed specified penalty process could permit breach determinations before Market Participants have had a meaningful opportunity to provide context, explain operational circumstances, or correct misunderstandings.** Penalty amounts and eligibility criteria should be clearly defined and publicly available, and Market Participants should have the right to elect the full enforcement process. Meaningful opportunities to be heard should be preserved, particularly where financial penalties or reputational consequences may result.

EDA also recommends safeguards requiring confirmation that the applicable requirement was in force, applies to the Market Participant, and is supported by the available facts before enforcement action is initiated. **Market Participants should be able to request reasonable extensions where additional time is needed to gather records, consult personnel, or respond to complex factual issues. Reasonable limitation periods and service standards for investigations should also be established.**

For more complex matters, **EDA does not support reducing opportunities for engagement during investigations.** Early discussions can clarify issues, narrow information requests, and improve efficiency, particularly for LDCs where matters may involve operational events, multiple facilities, or historical activities.

EDA further questions the removal of good-faith negotiations and mediation. Requiring parties to rely primarily on arbitration may increase costs and discourage legitimate disputes, particularly where arbitration costs approach or exceed the penalty at issue.

EDA is also concerned that expanded investigative processes could result in duplicative information requests or reviews where similar matters are already subject to OEB oversight or reporting requirements. Greater coordination between regulatory bodies would improve efficiency, reduce administrative burden, and support the objective of reducing regulatory red tape without compromising compliance outcomes.

Until MACD provides additional detail regarding matter classification, the operation of the specified penalty regime, and the applicable procedural safeguards, EDA does not

support the specified penalty and simplified investigation components of Proposal 5 as currently drafted.

MACD Proposal #6 - Sanctions

Item: Do you have any feedback on MACD's design proposal on Sanctions?

EDA Feedback:

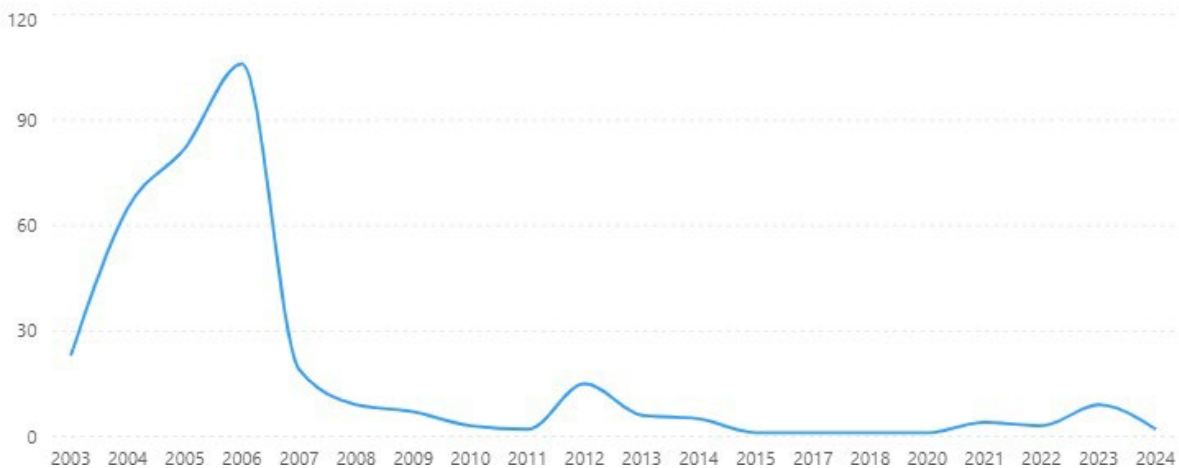
EDA does not support Proposal 6 as currently proposed. While EDA supports a sanctioning framework that is clear, proportionate, transparent, and effective, **MACD has not demonstrated that the existing framework is failing to achieve its compliance objectives or that current penalty levels are insufficient to deter misconduct.**

MACD has not provided stakeholders with supporting reports, evaluations, or evidence demonstrating deficiencies in the current enforcement framework. While Professor Daly's presentation provided a useful overview of administrative law principles and regulatory best practices, it did not include an assessment of the performance of Ontario's existing enforcement regime or empirical evidence demonstrating a need for expanded sanction authority. Accordingly, EDA reviewed MACD's published enforcement record to assess the need for the proposed changes and align with Professor Daly's spoken principles.

The publicly available enforcement record suggests the current framework is functioning effectively. Enforcement actions peaked during the market's early years and have remained consistently low for more than a decade, while MACD has continued to achieve compliance outcomes through monetary penalties, negotiated settlements, corrective actions, and remediation where appropriate. Based on the entire set of publicly available enforcement decisions and settlements on MACD/IESO's website, **MACD has not provided evidence of a growing compliance problem or an enforcement gap that warrants materially expanded sanction authority.**

Published enforcement actions over time

Enforcement actions peaked in the early market years and declined substantially thereafter.



Source: IESO MACD Published [Enforcement Sanctions](#), compiled by EDA from publicly available enforcement decisions and [Negotiated settlements](#).

Before increasing penalty limits, MACD should demonstrate that existing sanctions are insufficient to deter non-compliance, constrain enforcement outcomes, or prevent participants from retaining benefits obtained through a breach.

EDA is particularly concerned that the proposal does not adequately distinguish between deliberate misconduct and the types of compliance issues most commonly encountered by distributors. Public enforcement records indicate that many distributor-related matters are technical or administrative in nature, particularly in areas such as metering, and often arise from equipment failures, maintenance activities, data issues, or process errors rather than intentional wrongdoing. In these circumstances, remediation, correction, and true-ups are generally more effective and proportionate responses than significantly higher financial penalties.

EDA also questions whether the proposed increase in sanction authority is proportionate to the risks presented by distributor compliance matters. As regulated utilities, LDCs are focused on providing safe and reliable service and are not typically positioned to derive significant economic benefits from the technical compliance issues that have historically resulted in enforcement action. Sanction frameworks designed to deter market manipulation or economic misconduct should not disproportionately penalize technical or administrative errors where little or no economic gain exists.

EDA is also concerned that sanctioning factor 3(c) "Compliance history (this may include a Market Participant's self-reports, prior breaches, including for similar conduct sanctioned by other regulators in other jurisdictions, recency and frequency of past non-compliance, patterns of behaviour)"; would permit MACD to rely on prior breaches sanctioned by other regulators or "pseudo-regulators" when assessing penalties. This raises concerns regarding proportionality, regulatory coordination, and the potential for duplicative penalties arising from the same underlying conduct. As EDA questioned during the stakeholder consultation, it remains unclear how MACD will ensure that expanded enforcement and information-gathering powers are exercised proportionately and sanctions coordinated with existing oversight by the Ontario Energy Board and other regulators. Without clear safeguards, Market Participants may face overlapping regulatory consequences, increased compliance costs, and unnecessary resources and administrative burden. **EDA therefore recommends excluding matters that have already been addressed by another regulator or, at a minimum, clearly setting out when, how, and under what circumstances such matters may be considered and coordinated.**

Similarly, **EDA is concerned that urgent orders may be issued without notice, with the affected participant's only recourse being an application to MACD itself to vary or rescind the order within ten days.** A decision-maker reviewing its own order is not an independent procedural safeguard. The proposal should include an independent review or appeal mechanism.

MACD also relies heavily on comparisons to other jurisdictions but **has not provided the benchmarking analysis, methodology, or supporting evidence** necessary for stakeholders to assess the relevance of those comparisons or the appropriateness of the proposed penalty ranges. Before any increase in sanction authority is considered, MACD should publish the underlying analysis

and explain how the proposed framework aligns with Ontario's market structure, compliance history, and enforcement objectives.

EDA further seeks clarification regarding several aspects of the proposed framework. MACD has not explained how penalties based on the benefit received or harm caused would be assessed, quantified, or attributed in practice. **The proposal provides limited guidance regarding how matters will be classified within the proposed low, medium, and high penalty tiers.** Clear, objective criteria are necessary to ensure consistency, predictability, and proportionality.

EDA is also concerned with the proposed ability for MACD to consider "such other matters as MACD considers appropriate" when determining sanctions. Broad discretionary factors reduce regulatory certainty and increase the risk of inconsistent outcomes. Sanctioning factors should be clearly defined, objective, and transparent.

EDA recommends that any revised sanction framework includes a two-year limitation period for the commencement of enforcement actions, including matters arising from audits. A clear limitation period would enhance **procedural fairness, regulatory certainty, and timely** enforcement by ensuring matters are addressed while relevant evidence remains readily accessible and dependable. **EDA further recommends that any revised sanctions apply prospectively only.** Applying enhanced sanctions to past conduct or newly defined terms would be inconsistent with principles of fairness, legal certainty, and reasonable stakeholder expectations.

Finally, **EDA requests confirmation that any revised sanction amounts will apply only to non-compliance occurring after the amendments come into force and will not be applied retroactively.**

Summary Proposal #6:

In EDA's view, expanding sanction authority is not justified based on the current record. MACD has not demonstrated a clear enforcement gap or provided evidence that existing sanctions are insufficient to deter non-compliance or achieve compliance objectives. Any revisions should therefore be **evidence-based, proportionate, prospective in application, and supported by robust procedural safeguards**, including clear sanctioning criteria, transparent decision-making, independent review mechanisms, and reasonable limitation periods.

MACD Proposal #7 - Publication of Enforcement Outputs

Item: Do you have any feedback on MACD's design proposal on the Publication of Enforcement Outputs?

EDA Feedback:

EDA supports transparency in market oversight and recognizes that publication of enforcement outcomes can promote market confidence and provide useful guidance to market participants. However, **MACD has not demonstrated that the current publication framework is failing to achieve its compliance or deterrence objectives.** Before expanding publication requirements, **MACD should identify the specific enforcement gap being addressed, explain why existing disclosure practices are insufficient, and provide evidence that the proposed changes are necessary to improve compliance outcomes.**

EDA is also concerned that **MACD has not provided the benchmarking analysis referenced in support of this proposal**, nor has it demonstrated that the publication practices adopted by comparator regulators are appropriate for Ontario's electricity market.

EDA does not support the proposed publication of all final enforcement outputs, including Notices and Letters of Non-Compliance. Public disclosure of minor or administrative compliance matters may result in disproportionate reputational harm where there is no market harm, reliability impact, or intentional misconduct. **Publication decisions should be guided by clear, objective criteria that consider the seriousness of the breach, its market impact, and the public interest.**

EDA is further concerned by the broad discretion proposed for publication, redaction, and withholding decisions. While the proposal states that redactions will be "targeted and limited," it provides no formal role for affected participants. **The Market Rules should establish transparent publication and redaction criteria and provide participants with a codified right to review and challenge proposed disclosures before publication.** Appropriate safeguards are also required to protect commercially sensitive, confidential, and security-related information. Investigations involve unproven allegations, and publication before a final determination risks unnecessary reputational harm and undermines procedural fairness.

If the proposal proceeds, **MACD should provide greater clarity regarding publication timelines, retention periods, redaction standards, and participant review rights.** Publication practices should also be designed to avoid discouraging self-reporting, cooperation, and prompt remediation for minor compliance issues.

While EDA supports transparency, **any expansion of publication authority should be evidence-based, proportionate, and accompanied by appropriate safeguards to protect fairness, confidentiality, and due process.**

MACD Proposal #8 - Settlements/Dispute Resolution Process

Item: Do you have any feedback on MACD's design proposal on the Settlements/Dispute Resolution Process?

EDA Feedback:

EDA supports efforts to improve the efficiency and timeliness of MACD's dispute resolution process. However, **MACD has not demonstrated that the current framework is causing material delays or other issues that justify reducing procedural protections available to Market Participants. EDA's position remains that Good Faith Negotiation (GFN), and at a minimum optional mediation, should be available in all dispute streams, including specified and simplified matters.**

EDA supports timely resolution of disputes but does not support achieving efficiency by materially reducing procedural rights. Any reforms to the dispute resolution framework should improve timeliness while preserving meaningful opportunities for Market Participants to understand, assess, and challenge enforcement determinations.

EDA's primary concern is the proposal to reduce the period for disputing an enforcement determination from two years to 20 business days. While EDA acknowledges that the current period

may be longer than necessary, **a 20-business-day timeline would significantly limit a Market Participant's ability to meaningfully exercise its dispute rights.** Enforcement determinations can involve complex factual records, technical and operational issues, legal analysis, financial impacts, and consultation with external advisors, all of which require adequate time to assess and respond.

MACD has not explained how the 20-business-day period was selected or demonstrated that the existing two-year period has created inefficiencies warranting such a significant reduction. Before curtailing a fundamental procedural protection, MACD should clearly identify the problem being addressed and explain why a less restrictive alternative would not achieve the same objective.

EDA is concerned that the rationale for the shortened timeline is inconsistent with other proposed reforms. MACD argues that Market Participants have multiple opportunities to engage during an investigation; however, Proposal 5 would eliminate access to GFN and mediation for specified and simplified matters. In some cases, matters may proceed directly to an enforcement determination with little or no prior opportunity for engagement, while simplified matters expressly provide for no meeting. This presupposes the outcomes before the procedure and undermines fairness in principle.

Further, **a two-year limitation period is consistent with broader Ontario legal principles, including the general two-year limitation period established under Ontario's Limitations Act, 2002, which reflects a longstanding balance between procedural fairness and regulatory certainty.** It is also consistent with the realities of utility regulation, where matters frequently require review of historical records, transactions, and evidence over extended periods. **Maintaining a two-year dispute period would also be more consistent with the timeframes commonly applied by the Ontario Energy Board and other Ontario regulators when addressing complex regulatory matters. Ontario continues to recognize a two-year period as the default benchmark for balancing fairness, certainty, and timely resolution of disputes.**

EDA is further concerned that MACD would retain the ability to commence enforcement matters at any time while significantly reducing the period available to Market Participants to challenge an enforcement determination. **This creates an imbalance between MACD's enforcement authority and a participant's ability to exercise its procedural rights.**

EDA is concerned that MACD proposes to shorten the period available to Market Participants to dispute an enforcement determination while simultaneously proposing no limitation period on MACD's ability to initiate enforcement matters. If the objective is the timely resolution of disputes, consideration should also be given to reasonable limitations on the initiation of enforcement proceedings.

Accordingly, EDA recommends retaining the current two-year dispute period unless and until MACD demonstrates a need for change and the impacts of the related procedural reforms have been fully assessed. At a minimum, **any revised dispute period should provide Market Participants with a reasonable opportunity to review the determination, obtain expert advice, and prepare a meaningful response.** This approach is also more consistent with the limitation periods generally applied by Ontario regulators.

Finally, EDA is concerned that mandatory publication of settlements may undermine the very incentive to settle that MACD seeks to encourage, as participants may be less willing to resolve matters voluntarily if settlement automatically results in public disclosure.

While EDA supports streamlining the dispute resolution process, efficiency should not come at the expense of procedural fairness, access to justice, and meaningful dispute rights.

MACD Proposal #9 - MACD Service Standards

Item: Do you have any feedback on MACD's design proposal on MACD Service Standards?

EDA Feedback:

EDA's concern is not the frequency of updates or the establishment of administrative service standards. Rather, EDA is concerned with the absence of meaningful and enforceable time limits governing the initiation, investigation, and resolution of enforcement matters.

Market Participants should not remain subject to indefinite regulatory scrutiny and uncertainty. Reasonable limitation periods are necessary to ensure that compliance issues are identified, investigated, and resolved within a predictable timeframe, while evidence, records, and personnel remain available.

While EDA supports greater certainty and timeliness in enforcement processes, the proposed service standards do not provide the certainty sought by stakeholders. The standards are expressly described as performance targets and do not limit MACD's ability to extend timelines where required.

EDA is also concerned that the proposed standards focus primarily on administrative activities, such as acknowledgements and status updates, and are absent from the timelines for the initiation, completion, or resolution of enforcement matters.

EDA therefore recommends that MACD establish formal limitation periods for both the initiation and resolution of enforcement actions, including audit-related matters, subject to limited exceptions for fraud, concealment, or other extraordinary circumstances.

EDA also supports defined and procedurally fair timelines for key stages of investigations and enforcement proceedings to promote timely resolution.

Service standards may be useful performance metrics, but they do not create enforceable rights or procedural certainty. Limitation periods do.

If MACD's objective is timely and efficient enforcement, enforceable time limits, not administrative service standards, are the appropriate mechanism.

General Comments/Feedback

Item: Do you have any additional feedback not addressed above related to the proposed design to modernize enforcement to support the efficiency, effectiveness, and clarity of the enforcement regime?

EDA Feedback:

EDA supports efforts to improve the efficiency, effectiveness, and transparency of Ontario's compliance and enforcement framework. However, MACD has not demonstrated a clear enforcement, compliance, or resourcing gap that warrants the significant expansion of investigative powers, compliance obligations, disclosure authorities, sanctioning tools, and enforcement processes contemplated in Proposals 1 through 9. Before implementing these changes, MACD should identify the specific deficiencies in the current framework, provide evidence that existing authorities are insufficient, and explain why any identified issues cannot be addressed through targeted improvements to existing processes.

EDA's position is that Proposals 2 through 7 should be evaluated as an integrated package rather than as standalone initiatives. Collectively, these proposals represent a material expansion of MACD's investigative, disclosure, enforcement, and sanctioning authority and should therefore be supported by appropriate governance safeguards, procedural protections, transparency measures, and evidence demonstrating the need for expanded authority.

As Market Participants ultimately fund MACD's activities through the IESO cost recovery framework, any expansion of authority should be supported by a transparent business case that identifies implementation costs, ongoing resource requirements, expected benefits, measurable success criteria, and a clear assessment of costs and benefits. Stakeholders should be able to evaluate whether the proposed reforms will improve market outcomes cost-effectively and whether the resulting compliance burden is proportionate to the risks being addressed.

EDA was encouraged by MACD's response during consultation to our question regarding the resource implications of expanding its investigative and compliance powers. MACD indicated that it is seeking to minimize participant burden by streamlining certain processes and balancing new requirements with efficiencies elsewhere in the framework. However, MACD has not provided a clear assessment of the implementation costs, resource requirements, or downstream impacts associated with the proposed changes. While some proposals may improve administrative efficiency within MACD, expansions to investigative authorities, information-gathering powers, compliance obligations, and enforcement activities will inevitably require additional time, resources, and expertise from Market Participants, including LDCs.

EDA therefore encourages MACD to provide greater transparency regarding both its anticipated internal resource requirements and the expected compliance costs for Market Participants. Without this analysis, stakeholders cannot determine whether the cumulative effect of the proposals will achieve MACD's stated objective of balancing new obligations with corresponding efficiencies, or whether the proposals will instead shift additional compliance and resourcing burdens onto Market Participants.

EDA further submits that any enhanced compliance and enforcement framework should be proportionate, risk-based, and appropriately calibrated to the size, role, and risk profile of different classes of Market Participants. Distributors are already subject to extensive regulatory reporting, audit, and compliance requirements, and MACD should avoid creating duplicative obligations where equivalent information, oversight, or compliance mechanisms already exist through the Ontario Energy Board framework. **Leveraging existing regulatory processes, where appropriate, would improve efficiency and reduce unnecessary administrative and compliance costs.**

Finally, EDA's position is that any material expansion of MACD's investigative or enforcement authority must be accompanied by robust procedural safeguards, transparency measures, and accountability mechanisms. Clear rules, objective decision-making criteria, defined limitation periods, and effective oversight are essential to maintaining confidence in the fairness, independence, and proportionality of Ontario's enforcement regime.

References

1. IESO Market Manual 2.6 – Market Assessment and Compliance Division (including Section 1.3.1).
2. IESO MACD Statement of Approach (2013).
3. IESO Board Delegation of Enforcement Authorities Letter (October 15, 2019).
4. IESO Revenue Requirement Application EB-2026-0142, Exhibit G, Tab 1, Schedule 1, Attachment 11 (Internal Audit Findings).
5. IESO MACD Published Enforcement Actions.
6. IESO MACD Published Negotiated Settlements.
7. Ontario Limitations Act, 2002.