

Market Rule Amendment Proposal Form

Part 1 - Market Rule Information

Identification No.:	MR-00480-R00
Subject:	Enforcement
Title:	Administration, Supervision, Enforcement
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Deletion <input checked="" type="checkbox"/> Addition
Chapter:	3
Appendix:	N/A
Sections:	2, 5 and 6
Sub-sections proposed for amending:	2.2.14, 2.5.1A4AA, 2.5.1A.4C, 2.5.3C, 5.3.1.5B, 6.2.3.1, 6.2.4.2, 6.2.4.3, 6.6.6, 6.6.6A.1, 6.6.6A.3, 6.6.10A, 6.6.10A.1, 6.6.10A.1A, and 6.7.1.
Current Market Rules Baseline:	Baseline 50.0

Part 2 - Proposal History

Version	Reason for Issuing	Version Date
1.0	Issued for Stakeholder Review	November 7, 2023

Approved Amendment Publication Date:

Approved Amendment Effective Date:

Part 3 - Explanation for Proposed Amendment

Provide a brief description that includes some or all of the following points:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

Summary

The Market Assessment and Compliance Division (MACD) of the IESO, which carries out enforcement action under the Market Rules, is proposing amendments to Chapter 3 of the Market Rules to modernize and enhance the clarity of these Market Rules related to enforcement, confidentiality and dispute resolution. In summary, these changes include an increase to certain penalties, a new exemption to the confidentiality provisions in line with other exemptions related to enforcement, changes providing more detail around MACD practices as well as some minor changes and corrections of punctuation.

Background

Since market opening, MACD has gained substantial experience in enforcing the market rules. It brings this experience into this initiative to modernize and clarify targeted rules. The objective is to deter market participants from breaching the market rules, improving the processes around determining where such breaches have occurred and finally resolving matters efficiently.

These changes aim to support one of the IESO's strategic objectives, ensuring cost-effective reliability by way of effective rule enforcement.

Discussion

These changes touch on a number of areas within Chapter 3, including the Dispute Resolution process, the confidentiality provisions and the enforcement provisions. We address these in turn, as they appear in the order they appear in Chapter 3 (the text of these changes as well as minor changes not discussed appear in Part 4, below).

Chapter 3

2.2.14 - We are adding italics to a defined term.

2.5.1A4AA -Inserting timeline to file a notice of dispute regarding a MACD order or decision.

2.5.1A.4C - Including a reference to section 2.5.1A.4AA.

2.5.3C - Specifying how good faith negotiations can end in the Dispute Resolution Process for MACD decisions.

5.3.1.5B - Allowing the disclosure of confidential information for the purposes of enforcing the *Market Rules*.

6.2.3.1 - Removing wording as to when a breach must be remedied (moving this wording to 6.2.4.2, where it makes more sense, since no breach is established in 6.2.3.1).

6.2.4.2 - Adding wording from 6.2.3.1 regarding when a breach must be remedied. A breach is established in this section and the action to remedy the breach can be considered.

6.2.4.3 - Clarification of "information".

6.6.6 - Increasing the maximum amounts in the lower penalty table to allow for greater deterrence.

6.6.6A.1 - We are adding italics to a defined terms.

6.6.6A.3 -Removing the Board's role in determining the higher penalty table. MACD is better placed to make this determination.

6.6.10A - Clarification of the language.

6.6.10A.1 - Clarification of the language.

6.6.10A.1A - Clarification of the language.

6.7.1 - Inserting a comma.

Part 4 - Proposed Amendment

Chapter 4

2.2.1 Subject to sections 2.2.3 and 3.8 and to section 8.8.1 of Chapter 2, the dispute resolution regime provided for in this section 2 shall apply to:

2.2.1.4 a *reviewable decision*;

.....
2.5.1A Subject to section 2.5.1B, a *notice of dispute* shall be served:

2.5.1A.1 in the case of an application referred to in section 2.2.1.3, within 20 *business days* of the date of receipt of notice by the *generator* or *electricity storage participant* of rejection by the *IESO* of the *outage* in respect of which compensation is claimed pursuant to section 6.7.5 of Chapter 5;

2.5.1A.2 in the case of a dispute that involves a *reviewable decision* referred to in section 5.3.9 of Chapter 6, within 20 *business days* of the date of receipt by the *metering service provider* of notice of the revocation of its registration by the *IESO*;

2.5.1A.3 in the case of a dispute referred to in section 6C.1.5 of Chapter 10, within 20 *business days* of the *market participant* receiving the relevant *settlement statement* with the adjustments specified in accordance with section 6C of Chapter 10;

2.5.1A.4 in the case of a dispute referred to in section 6.10.1 of Chapter 9, except for those matters identified in section 6.8.12.4 of Chapter 9, within the time specified in section 6.10.2.3 of Chapter 9;

2.5.1A.4A in the case of a dispute referred to in section 2.1A.6A of Chapter 9, within 20 *business days* of the date of receipt of the first *invoice* that reflects the apportionment that is the subject-matter of the dispute;

2.5.1A.4AA in the case of a dispute involving a determination, an order or both issued by the IESO pursuant to section 6.2.7, within 20 business days of the date of receipt of the determination or order or both;

2.5.1A.4B in the case of a dispute referred to in section 10.4.8 of Chapter 6, within 20 *business days* of:

(a) the IESO notifying the market participant of the the IESO's determination if the IESO concludes pursuant to section 10.4.5.1 of Chapter 6 that no further action is required; or

(b) receipt of the settlement statement on which the adjustment is reflected if the IESO concludes an adjustment is required pursuant to section 10.4.5.2 of Chapter 6;

2.5.1A.4C in the case of a dispute involving an order, direction, instruction or decision of the *IESO*, including a matter referred to in section 6.8.12.4 of Chapter 9 that involves an order, direction, instruction or decision of the *IESO* relating to a compliance and enforcement action described in section 6 of Chapter 3, issued on or after January 1, 2004 not otherwise addressed by subsections 2.5.1A.1 to 2.5.1A.4AA, within two years of the date of receipt of the order, direction, instruction or decision;

2.5.1A.4D in the case where the *market participant* contests the *notice of intention* under section 6.2B.3, within the timelines set out in section 6.2B.3 and the *response to the notice of intention* shall be deemed to constitute the *notice of dispute*;

2.5.1A.4E in the case of a dispute involving one or more orders referred to in section 6.2B.15, within the timelines set out in section 6.2B.16;

2.5.1A.4F 2.5.1A.4F in the case of a dispute referred to in section 7.6.5 of Chapter 7, within 20 *business days* of:

(a) the *IESO* notifying the *market participant* of its determination if the *IESO* determines pursuant to section 7.6.3.2 of Chapter 7 that the *market participant* is not entitled to compensation; or

(b) the receipt of the *settlement statement* on which the compensation is reflected if the *IESO* determines pursuant to section 7.6.3.2 of Chapter 7 that the *market participant* is entitled to compensation;

2.5.1A.4G in the case of matters referred to in section 6.8.12.4 of Chapter 9, except for a compliance and enforcement action described in section 6 of Chapter 3, within 20 *business days* of the *market participant* receiving the relevant *settlement statement* with the adjustments specified in accordance with the relevant provision; and

2.5.1A.5 in all other cases, within the applicable limitation period set out in the *Limitations Act, 2002*.

2.5.3C The good faith negotiations shall continue until either party notifies the other party that it is terminating such negotiations, specifying the effective date of termination.
In the event that a dispute is not settled through good faith negotiations, a party may file with the *secretary*, on written notice served on each other party, a copy of the *notice of dispute*, together with proof of service of the *notice of dispute* on each other party. The *notice of dispute* shall be accompanied by a summary of the *notice of dispute* for *publication* in accordance with section 2.9.2.1.

5.3 Exceptions

5.3.1 Unless prohibited by *applicable law* or by the provisions of these *market rules* other than this section 5, nothing in sections 5.2, 5.4 or section 5.5.1A of Chapter 5 shall prevent:

5.3.1.5B the disclosure of confidential information by the IESO for the purpose of enforcing the market rules;

6.2.3 If the *IESO* considers, on its own initiative or upon receipt of written information from any person, that a *market participant* may have breached or may be breaching the *market rules* and that, in the circumstances and if the breach is established, it would be appropriate that a sanction or sanctions be imposed on that *market participant*, the *IESO* shall notify the *market participant* of:

6.2.3.1 details of the alleged breach; ~~and of the time within which the breach must be remedied;~~

6.2.3.2 details of the evidence on the basis of which the *IESO* considers that the *market participant* may have breached or may be breaching the *market rules*;

6.2.3.3 details of the sanctions which may be imposed if the breach is established;

- 6.2.3.4 the time within which the *market participant* may make written representations in response to the allegations; and
 - 6.2.3.5 the right of the *market participant* to request a meeting with the *IESO* to discuss the matter.
- 6.2.4 Following expiry of the time noted in section 6.2.3.4, and after consideration of any representations made by the *market participant* pursuant to that section, the *IESO* may:
- 6.2.4.1 determine that the *market participant* has not breached the *market rules*;
 - 6.2.4.2 subject to section 6.2.5, determine that the *market participant* is in breach of the *market rules* and determine the time by which the breach must be remedied;
 - 6.2.4.3 request that the *market participant* provide further information in relation to the alleged breach, including via the production of records, responses to written inquiries and interviews; or
 - 6.2.4.4 conduct such further investigation into the matter as the *IESO* determines appropriate.

6.6.6 Where the *IESO* has determined, based on the determinations made under section 6.6.2, that the applicable sanction is the imposition of a financial penalty, the *IESO* shall, subject to section 6.6.6A, consider the factors listed in section 6.6.7 and impose a financial penalty on the *market participant* within the ranges set out in the following table.

Level of Non-Compliance	Range of Sanctions
L1	Non-compliance letter or u Up to \$25,000.00
L2	Non-compliance letter or u Up to \$504,000.00
L3	Non-compliance letter or u Up to \$756,000.00
L4	\$1,000.00 to \$100,000.00

6.6.6A The *IESO* may impose on a *market participant* a financial penalty in excess of the amount otherwise provided for in section 6.6.6 and no greater than \$1,000,000 per occurrence, where:

- 6.6.6A.1 the *market participant* has breached a *market rule* while a declaration that the *IESO-controlled grid* is in an *emergency operating state* or a *high-risk operating state* was in effect;

- 6.6.6A.2 the *market participant* breached a *market rule* while a declaration that *market operations* have been suspended was in effect;
- 6.6.6A.3 ~~the IESO Board determines that~~ the impact of the *market participant's* breach of a *market rule* on either the *IESO-administered markets* or the *reliability* of the *integrated power system* is particularly severe; or
- 6.6.6A.4 the rate of recurrence of non-compliance by the *market participant* with the *market rules* is of such frequency or duration as to warrant the imposition of a higher financial penalty.

.....

6.6.10A In respect of a breach of section 7.5.8A of Chapter 7, the *IESO* may do one or more of the following:

6.6.10A.1 issue a letter of non-compliance;

6.6.10A.1A ~~or~~ impose a financial penalty upon the *market participant* pursuant to sections 6.6.2.3, and 6.6.6; ~~and~~

6.6.10A.2 adjust *settlement amounts* paid or payable to a *registered market participant* such as *transmission rights* payments, congestion management *settlement* credits or other *settlement amounts* that the *registered market participant* received or avoided due to an act or omission or a course of conduct of either the *registered market participant* alone or the *registered market participant* by agreement or arrangement with one or more other *market participants* that led to the breach of section 7.5.8A of Chapter 7.

.....

6.7 Officers and Agents

6.7.1 If any director, officer, employee, partner or agent of a *market participant* does any act or refrains from doing any act which if done or omitted to be done, as the case may be, by a *market participant* would constitute a breach of the *market rules*, such act or omission shall be deemed for the purposes of this section 6 to be the act or omission of the *market participant*.