



## Market Rule Amendment Written Submission

Please complete all four sections of this form and submit the completed form by email or fax to the following:

Email Address: [Rule.Amendments@theIMO.com](mailto:Rule.Amendments@theIMO.com)

Fax No.: (416) 506-2847 Attention: Market Rules Group

**Subject: *Market Rule Written Submission***

All information submitted in this process will be used by the *IMO* solely in support of its obligations under the "Electricity Act, 1998", the "Ontario Energy Board Act, 1998", the "Market Rules" and associated policies, standards and procedures and its licence. All submitted information will be assigned the confidentiality classification of "public" upon receipt. You should be aware that the *IMO* will *publish* this *amendment submission* if the Technical Panel determines it warrants consideration and may invite public comment.

Terms and acronyms used in this Form that are italicized have the meanings ascribed thereto in Chapter 11 of the "Market Rules".

### **PART 1 –SUBMITTER’S INFORMATION**

Please enter your organization and contact information in full

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<sup>1</sup> This field is restricted to a maximum of 12 characters and does not allow any spaces or underscore.

**PART 2 – MARKET RULE AMENDMENT REFERENCE**

<b>Type of Rule Amendment being commented on</b> (please indicate with X): <input checked="" type="checkbox"/> <i>Amendment Submission</i> ___ Proposed Rule Amendment ___ Recommended Rule Amendment
<b>MR-00029-Q00</b>
<b>Date relevant <i>Amendment Submission</i>, Proposed or Recommended Rule Amendment posted for comment:</b>

**PART 3 – COMMENTS ON RULE AMENDMENT**

Provide your comments.

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In the IMO's 'Description of the Issue' in amendment submission MR-00029-Q00, the IMO is recommending additional flexibility in their ability to impose (or *not* impose) sanctions on market participants that are found to have breached market rules. Where the flexibility sought by IMO provides the ability to forego formal sanctions for minor, inadvertent, and/or quickly-remedied breaches, Mirant supports the changes. However, where IMO seeks to remove specificity from Appendix 3.1 regarding breaches for which financial penalties may be imposed, and to replace that specificity with a 'basket clause' providing broad discretion to IMO to impose financial penalties "for any breach for which a specific sanction is not prescribed by the Market Rules," Mirant strongly objects. In addition to not adopting the proposed change, Mirant recommends considering elimination of Section 6.6.12 of Chapter 3, which provides an extraordinary, and unchecked, degree of authority for IMO to impose financial penalties for market rule breaches.

Under the Market Rules, the IMO has an extraordinary degree of discretion and latitude regarding the imposition of sanctions. In the table in Section 6.6.6 of Chapter 3 that prescribes the penalties associated with different levels of non-compliance, IMO may choose penalties from a broad range of possible dollar amounts, with only subjective guidance, in the form of Section 6.6.7, a list of parameters the IMO should weigh in determining the appropriate amount of the penalty. In Section 6.6.8 and 6.6.9, which spell out the generally-applicable formula-based penalty for market rule breaches, Section 6.6.9 provides that the amount C referred to Section 6.6.8 shall be based on an appropriate market clearing price or contracted price, multiplied by a factor "determined by the IMO". Other than the guidance provided by Section 6.6.7 and additional discretion to impose larger penalties pursuant to Section 6.6.13, the IMO is not limited in the amount of penalty that can be imposed. Similarly, Section 6.6.10A, which provides a slightly different formula for sanctions related to scheduling by boundary entities, contains a factor, A, which is to be "determined by the officers of the IMO . . ."

Appendix 3.1 currently contains a lengthy listing of market rule provisions and the associated right of IMO to impose penalties for breach of those provisions. As described above, even the references to Sections 6.6.5 and 6.6.6 provide a significant amount of discretion to the IMO, and the formula-based penalties provide virtually unlimited discretion in the amount of the penalty, but at least the listing provides some certainty as to which rule provisions might subject a market participant to sanction in the event of a breach. What IMO is seeking, and what is already provided by Section 6.6.12 of Chapter 6, is complete discretion to impose a financial penalty, in virtually any amount, for virtually any breach of any market rule. To function efficiently, markets depend on transparency, especially with regard to the actions of the system operator, and with regard to participant understanding of cause and effect. The proposed rule change to Appendix 3.1 would reduce that transparency and would erode market participants' confidence in the uniform and non-discriminatory administration of the markets by the IMO. Similarly, Section 6.6.12 should be eliminated so that only identified market rule breaches may be subject to financial penalties.

In addition to the excessive degree of discretion afforded the IMO in its ability to impose financial penalties, the concept of financial penalties in addition to adverse market consequences for inefficient behavior should be re-examined. An efficient market should provide real economic disincentives for improper actions, without the need for administrative penalties. To the extent that existing market rules allow market participants to act in ways that are inefficient or anti-competitive without suffering consequences in the markets, the underlying rules themselves should be modified rather than layering on further distortions in the form of administratively-imposed financial penalties.

**PART 4 – EXTERNAL CONSULTATION MEETING**

If you believe that a special meeting of stakeholders would be necessary/desirable to discuss the issues raised by the rule amendment, please complete the following information:

External Stakeholdering meeting necessary/desirable (please indicate with X):

Reason(s) why you believe a meeting is necessary/desirable: