



## Market Rule Amendment Proposal

### PART 1 – MARKET RULE INFORMATION

<b>Identification No.:</b> MR-00217-R00
<b>Subject:</b> Administration
<b>Title:</b> Market Rule Amendments to Support IMO Board Process for Hearings – Information Confidentiality
<b>Nature of proposal</b> (please indicate with X): <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Deletion <input type="checkbox"/> Addition
<b>Chapter:</b> 3 <span style="float: right;"><b>Appendix:</b></span>
<b>Sections:</b> 5
<b>Sub-sections proposed for amending:</b> 5.3.1.5A (new) and 5.3.3

### PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Submitted to Technical Panel	February 18, 2003
2.0	Published for stakeholder review and comment	February 25, 2003
3.0	Submitted to Technical Panel for vote	March 11, 2003
4.0	Recommended for IMO Board approval	March 19, 2003
5.0	Approved by IMO Board	March 28, 2003

**Approved Amendment *Publication* Date: 3 April 2003**

**Approved Amendment *Effective* Date: 4 June 2003**

**PART 3 – EXPLANATION FOR PROPOSED AMENDMENT**

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IMO-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 *IMO-administered markets*.

It is proposed to amend the Market Rules to permit the IMO or the IMO Board (including committees) to use or disclose confidential information during deliberations when a market participant is being suspended, terminated or disconnected or when holding a show cause hearing. It is also proposed that the IMO Board “commence” rather than “conduct” a show cause hearing within 7 days of the request for such a hearing as 7 days does not provide the IMO Board with enough time to conduct a hearing (please refer to MR-00217-R01).

At its meeting on December 13, 2002 the IMO Board approved the Board process governing hearings. These hearings would be held at the request of a market participant. In approving the process, the IMO Board identified difficulties with using the current market rules.

The IMO Board identified that the IMO or the IMO Board (including committees) may need to use or disclose confidential information when it is suspending, terminating, or disconnecting a market participant or holding a show cause hearing, but that the market rules do not currently permit this. The ability to use or disclose this information will allow the IMO or the IMO Board (including committees) to ensure that market participants are afforded a full and fair hearing.

The IMO Board also identified that, under the existing market rules (ch 3, s. 6.3.7C), where a market participant has requested a hearing to “show cause” why a suspension order or disconnection order (or both) should not be issued, the IMO Board (or a committee thereof) must, within 7 days of the receipt of such a request, conduct a “show cause” hearing. However, this means that a hearing must be completed within the 7-day time frame. In almost all circumstances, this will not be achievable since show cause hearings may last many days depending on the volume of material submitted or the complexity of the hearing. It is entirely likely that the hearings cannot be completed in a 7 day time frame.

Accordingly, the following amendments are proposed:

- Add a new provision, section 5.3.1.5A, to chapter 3 that extends the provision regarding the permitted disclosure, use or reproduction of confidential information to include: “the issuance of suspension, termination or disconnection orders in respect of one or more market participants and any show cause hearings in respect thereof under section 6.3, 6.4 or 6.5, the revocation of the registration in respect of one or more metering service providers and any show cause hearings in respect thereof under chapter 6, section 5.3”.
- In chapter 3, section 5.3.3, include a reference to the proposed provision in section 5.3.1.5A. Section 5.3.3 states that prior to disclosing confidential information, the person affected by the request or demand to disclose confidential information must be notified. It is appropriate that this section apply where confidential information is disclosed for the purpose of suspension, termination, disconnection or hearings.

In chapter 3, section 6.3.7C change the obligation for the IMO Board to “commence” rather than “conduct” a show cause hearing within 7 business days of the request (please refer to MR-00217-R01).

**PART 4 – PROPOSED AMENDMENT**

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**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:

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5.3.1.5A if required by the *IMO Board* or a committee established by the *IMO Board*, the disclosure, use or reproduction of *confidential information* if required in connection with the issuance of suspension, termination or disconnection orders in respect of one or more *market participants* and any show cause hearings in respect thereof under section 6.3, 6.4 or 6.5, the revocation of the registration in respect of one or more *metering service providers* and any show cause hearings in respect thereof under section 5.3 of chapter 6;

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5.3.3 Prior to making any disclosure pursuant to section 5.3.1.4, ~~or 5.3.1.5,~~ or 5.3.1.5A, a person being requested or demanded to disclose the *confidential information* shall advise the person affected by the request or demand as soon as reasonably practicable so as where possible to permit the affected person to challenge such request or demand or seek terms and conditions in respect of any such disclosure.

**PART 5 – IMO BOARD COMMENTS**






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## Market Rule Amendment Proposal

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### PART 1 – MARKET RULE INFORMATION

<b>Identification No.: MR-00217-R01</b>	
<b>Subject: Administration</b>	
<b>Title: Market Rule Amendments to Support IMO Board Process for Hearings – Timing of Show Cause Hearings</b>	
<b>Nature of proposal</b> (please indicate with X): <input checked="" type="checkbox"/> <b>Alteration</b> <input type="checkbox"/> <b>Deletion</b> <input type="checkbox"/> <b>Addition</b>	
<b>Chapter: 3</b>	<b>Appendix:</b>
<b>Sections: 6.3</b>	
<b>Sub-sections proposed for amending: 6.3.7C</b>	

### PART 2 – PROPOSAL HISTORY - REFER TO MR-00217-R00

Version	Reason for Issuing	Version Date

**Approved Amendment *Publication Date*: 1 April 2003**

**Approved Amendment *Effective Date*: 4 June 2003**

**PART 3 – EXPLANATION FOR PROPOSED AMENDMENT**

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IMO-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 *IMO-administered markets*.

**Refer to MR-00217-R00**

**PART 4 – PROPOSED AMENDMENT**

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**6.3 Suspension Orders and Disconnection Orders**

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6.3.7C Where the *market participant* has requested a hearing pursuant to section 6.3.7A, the *IMO Board* or a committee of the *IMO Board* established for that purpose shall, within 7 days of the date of receipt of such request, ~~conduct~~**commence** a hearing providing the *market participant* with a reasonable opportunity to show cause as to why the *suspension order*, the *disconnection order* or both should not be issued against it. In such case, the *IMO* shall not issue either the *suspension order* or the *disconnection order* until such hearing has been held.

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**PART 5 – IMO BOARD COMMENTS**