



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00254-R00		
Subject:	Settlement Accounts		
Title:	Allocation of IMO Adjustment Account		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	9	Appendix:	
Sections:	6.18		
Sub-sections proposed for amending:	6.18.6.3		

PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	For Technical Panel Review and Posting	28 Jan 04
2.0	Submitted for IMO Board Approval	3 Feb 04
3.0	Revised and re-submitted for IMO Board Approval	5 Mar 04
4.0	Approved by IMO Board	26 Mar 04
Approved Amendment Publication Date:	29 Mar 2004	
Approved Amendment Effective Date:	20 Apr 2004	

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*.

Summary

Rule amendments are proposed that allow the IMO Board to allocate excess funds in the IMO adjustment account to special projects rather than to reduce the IMO administration charge. These amendments are initiated as a result of an IMO Board decision regarding the allocation of these funds, and a concern that the current arrangements tying penalty imposition to fee reduction is inappropriate.

Background and Discussion

The current market rules (Chapter 9 section 6.18.6) require the IMO to open and maintain an “IMO adjustment account” as one of the market settlement accounts. This account is to “receive and disburse payments related to penalties, damages, fines and payment adjustments arising from resolved settlement disputes, and to reimburse the *IMO* for any associated costs or expenses”. The IMO is currently obligated to use any excess amounts in that account to “reduce the IMO-administration charge in the following year.”

The provision regarding the use of the excess funds could be seen as an incentive for the IMO to increase penalty revenue in order to keep the IMO-administration charge low. The existence of such an incentive, even if never acted upon, is not appropriate as it could reduce market participant confidence in IMO motives with respect to compliance activities and penalties.

At its meeting in December 2003, the IMO Board approved changing the allocation of excess funds in the IMO-adjustment account such that these excess funds would be used for special projects or initiatives. These special projects or initiatives would include those aimed at addressing impediments to evolving and improving the market, or aimed at reducing charges to market participants. The IMO Board also approved proceeding with market rule amendments to achieve this. The proposed treatment is similar to that of the Ontario Securities Commission in of respect of penalties.

Consistent with these IMO Board decisions, section 6.18.6.3 of chapter 9 is to be revised such that:

- The IMO Board would review the allocation of any excess funds in the IMO adjustment account on an annual basis. This will allow the IMO Board to allocate the funds to address issues that may arise as the market evolves and circumstances change.
- Any excess funds would be allocated by the IMO Board to special projects or to special initiatives that will reduce charges to market participants. This will allow the IMO Board to allocate funds to address singular issues in the market e.g. customer and public education about the electricity market. This provision also removes any incentive for the IMO to increase penalty revenue in order to keep the IMO-administration charge low.

PART 4 – PROPOSED AMENDMENT

6.18 Settlement Accounts

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6.18.6 The *IMO* shall open and maintain the *IMO adjustment account*, which *account* shall operate as follows:

6.18.6.1 the *IMO adjustment account* shall be a single bank account established to receive and disburse payments related to penalties, damages, fines and payment adjustments arising from resolved *settlement* disputes, and to reimburse the *IMO* for any associated costs or expenses;

6.18.6.2 any amounts paid into the *IMO adjustment account* by *market participants* shall first be applied to reimburse the *IMO* in respect of any costs or expenses described in section 6.18.6.1 which it has or will incur. Any remaining amount shall be credited to the *IMO adjustment account*; and

6.18.6.3 the *IMO* Board shall review, at least annually, the allocation of any credit balance of the *IMO adjustment account*, and may:

a) establish an amount to be retained in the *IMO adjustment account*;

b. direct that some or all of the credit balance be applied to special education projects or initiatives; and/or

c. direct that some or all of the balance be used to reduce the *IMO administration charge* in the following year.

~~if the credit balance of the *IMO adjustment account* exceeds an amount specified by the *IMO Board*, such excess shall be used to reduce the *IMO administration charge* in the following year.~~

PART 5 – IMO BOARD COMMENTS

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