



Statement of Approach

Self-Reporting Potential Market Rule Breaches



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1. Introduction

A “self-report” occurs when a market participant, on its own initiative, reports a potential market rule breach or reliability standard violation to the IESO.¹ Self-reports are voluntary, but benefit the market participant should MACD find that a breach did occur. Financial sanctions will usually be lower compared to what they would have been if the matter was discovered without a self-report. Further information on what constitutes a good self-report, and how MACD will consider it during the sanction assessment process, can be found in the next section of this document.

This Statement of Approach (SOA) discusses what a self-report is and how providing one can benefit the reporting market participant. Specifically, this SOA provides compliance and enforcement guidance regarding sections 6.6.3 and 6.6.7.6 of Market Rules Chapter 3, Administration, Supervision, Enforcement. The information provided will also highlight for market participants the importance of including self-reporting as a part of their Internal Compliance Programs (ICPs).²

Consistent with the overall objective of ensuring the proper functioning of the IESO-administered markets and the reliability of the IESO-controlled grid, market participants are encouraged to strive for compliance with all market rule obligations applicable to them. To better facilitate achieving compliance, market participants should implement an ICP. An ICP includes all of the processes, people, infrastructure, technology and organizational activities required to achieve compliance with the market rules. Self-reporting potential market rule breaches should be standard practice within a sound ICP.

¹ For the remainder of this document, where a breach or violation of the market rules is referred to, please assume that this includes breaches and violations of reliability standards unless stated otherwise.

² For more information on Internal Compliance Programs: [Internal Compliance Programs \(ieso.ca\)](https://ieso.ca)

2. Reporting Potential Market Rule Breaches

Reports by market participants about their own potential non-compliance with the market rules (i.e., self-reports) contribute to the effective implementation of the market rules and reliability standards and assist MACD in fulfilling its mandate. As the market rules expressly contemplate, and as discussed more below in the section 'Reduced Sanctions', MACD considers self-reports when determining the level of non-compliance should a breach be identified. This, in turn, is an important ingredient in the determination of the correct sanction to apply, including the amount of any financial penalty. Further, self-reporting to the IESO may demonstrate that a market participant adheres to its own ICP, the presence and quality of which are also considered when setting a financial penalty.³

Self-reports are evaluated on a case-by-case basis to determine if they satisfy market rule requirements. Generally, however, to receive the most credit, a self-report should adhere to the following principles:

i. Reports are ideally made directly to MACD

Market participants can report directly to MACD concerning a potential market rule breach by submitting a self-report using the Non-Compliance Event Reporting (NCER) Tool accessible through [Online IESO](#) or by completing an NCER form and emailing it to MACD@ieso.ca. To self-report their possible non-compliance with NERC reliability standards, market participants may use the Reliability Compliance Tool, which is also available through [Online IESO](#).⁴ Reporting directly to MACD is considered a best practice. An ICP can be of assistance in that a comprehensive ICP enables a robust compliance posture by reflecting a full understanding of IESO functions and roles, including an appreciation of the distinct role of MACD in conducting market rule enforcement.

MACD will consider whether reports made to other IESO groups or individual IESO employees are acceptable self-reports on a case-by-case basis. In general, however, disclosing potential breaches to a non-MACD IESO contact would not be seen as the same quality of self-report as one made directly to MACD unless there was a clear and documented expectation that the IESO contact would subsequently refer the matter to MACD.

It is important to clarify that the Notice of Disagreement (NOD) process does not evaluate compliance. Rather the NOD process allows market participants to identify and resolve settlement errors and/or omissions. Market participants should self-report to MACD if they suspect that they may have breached any market rules.

³ Market Rules, Chapter 3, s 6.6.7.13

⁴ See [How to Report or Self-Report Instances of Non-Compliance \(ieso.ca\)](#)

ii. Report should be timely

A timely report is one made as soon as possible after the market participant should reasonably have become aware of a potential market rule breach. When assessing the timeliness of a self-report MACD considers the time which passed between the discovery of the potential breach by the market participant and the filing of the self-report. Importantly, MACD will consider a delay in reporting as justified if it can be substantiated that it was required to allow the market participant to focus on taking actions necessary to ensure the reliability of the IESO-controlled grid by mitigating and/or remediating the impact of their potential breach. A strong ICP will include mechanisms that help market participants ensure that they recognize and report potential market rule breaches in a timely manner.

iii. Market participant's own initiative

Submission of a self-report is not required under the market rules. It is a wholly voluntary act. As such, the rules indicate that the report must be made on the market participant's "own initiative." The application of a market participant's own initiative is most clearly demonstrated when the report is made directly to MACD. However, MACD may also consider this to have happened in some cases where the market participant reported the potential non-compliance to another IESO business unit. As well, if an initial self-report was made to an IESO department other than MACD, and this IESO group prompted the market participant to also report to MACD, MACD would consider such a report to be at the market participant's "own initiative." However, MACD will not ordinarily consider a self-report to be at the participant's "own initiative" if another IESO group was responsible for prompting a market participant's initial submission of a self-report. Again, an ICP can serve the important role of ensuring that a market participant understands when a self-report should be filed, precluding this latter possibility.

iv. Content should be as complete and accurate as possible

Ideally, a self-report should contain enough information to enable MACD to decide whether or not to launch an investigation to determine if a breach has occurred. At its most complete, depending on the issue involved, a self-report can even negate the requirement for an investigation, allowing MACD to move directly to the determination as to whether a market rules breach has occurred or is occurring.

In all cases, regardless of the way it was submitted, the report must be true and as complete and accurate as possible at the time it is submitted. It should contain the full factual circumstances of the potentially non-compliant activity including, as required by the market rules, the reasons for non-compliance, if any exist. Additional information that is helpful in a self-report, includes:

- A listing of the market rule(s), market manual(s) and reliability standard(s) that may have been breached and why the market participant believes they apply in this situation;
- A description, to the extent possible, of the actual or potential impact of the non-compliance on the IESO-controlled grid or IESO-administered markets. The impacts should be described on both a qualitative and quantitative basis where possible.

An explanation of how the non-compliance will be remedied, along with the timeline for those steps, does not need to be part of the initial self-report, but must be provided within a time period acceptable to MACD.

Reduced Sanctions

If MACD finds that a market rule has been breached, it can impose a number of possible sanctions.⁵ If MACD determines that a non-compliance letter or a financial penalty is warranted, it evaluates the level of non-compliance as per market rules section 6.6.3⁶ and the frequency and duration with which the market participant was in breach of the market rules as per section 6.6.4 in order to decide on the actual sanction to apply. If MACD imposes a financial penalty, the market rules establish an appropriate amount associated with each level of non-compliance.⁷ The level of non-compliance arrived at is partially influenced by whether or not the market participant self-reported. A market participant that makes a self-report will usually receive the benefit of financial penalties that are less severe than they otherwise would have been.⁸

Non-Compliance Levels

Market Rules Chapter 3, sections 6.6.3.1 through 6.6.3.4 establish four non-compliance levels. These levels are distinguishable from each other by the extent of the breach and by criteria related to self-reporting. The basic characteristics of the levels are as follows:

- Level L1: The market participant partially breached a market rule and self-reported on its own initiative in a timely manner indicating the reasons for the non-compliance. The market participant also provided information to MACD on how and by when it planned to remedy the non-compliance either with the initial self-report or in a timely manner thereafter.
- Level L2: The market participant wholly breached a market rule and self-reported on its own initiative in a timely manner indicating the reasons for the non-compliance. The market participant also provided information to MACD on how and by when it planned to remedy the non-compliance either with the initial self-report or in a timely manner thereafter.
- Level L3: The market participant breached a market rule in whole or in part and did not self-report on a timely basis. However, when requested by the IESO, it did provide within a specified time the reasons for the non-compliance and how and by when it planned to remedy the non-compliance.

⁵ For example, *Market Rules*, Chapter 3, ss 6.2.7.4 and 6.2.7.5.

⁶ See later in this Statement of Approach in the section "APPENDIX: Market Rules Explained in this Statement of Approach"

⁷ *Market Rules*, Chapter 3, ss 6.6.2.4 and 6.6.6.

⁸ In some circumstances, MACD may impose higher financial sanctions where the rate of recurrence of the non-compliance justifies it (*Market Rules*, Chapter 3, s 6.6.6A.4) or the IESO Board of Directors determines that the breach's impact on the IESO-controlled grid or IESO-administered markets is particularly severe (*Market Rules*, Chapter 3, s 6.6.6A.3).

- Level L4: The market participant breached a market rule in whole or in part and did not self-report on a timely basis. When requested by the IESO, it did not provide within a specified time the reasons for the non-compliance, nor did it provide information on how and by when it planned to remedy the non-compliance.

These elements are summarized as follows:

Level	Breached Rule in Part, in Whole, or Either	Timely Complete Self-Report	Complete Information Provided on Time Upon IESO Request
L1	Part	Yes	N/A
L2	Whole	Yes	N/A
L3	Either	No	Yes
L4	Either	No	No

MACD may assign an appropriate non-compliance level to the breach if the market participant’s conduct does not fall completely within an established non-compliance level. MACD may also assign an appropriate non-compliance level if the market participant proposes an unreasonable manner or time in which the non-compliance will be remedied.⁹

Letters of Non-Compliance

MACD may impose a letter of non-compliance instead of a financial penalty if the level is determined to be L1, L2 or L3. If it is determined that such a letter is appropriate, MACD will consider the market participant’s self-reporting when drafting the letter.

Range of Financial Penalties

A financial penalty could result from any of the non-compliance levels. Market rules sections 6.6.6 and 6.6.6B of Chapter 3 establish ranges for financial penalties. Section 6.6.7 sets out the factors that MACD must consider when determining the amount of a financial penalty. Among the considerations is “whether the market participant disclosed the matter to the IESO on its own or whether it was prompted to do so.”¹⁰

⁹ *Market Rules*, Chapter 3, s 6.6.2A.

¹⁰ *Market Rules*, Chapter 3, s 6.6.7.6.



3. Summary

Self-reporting possible breaches of market rules and reliability standards should be a fundamental part of a market participant's Internal Compliance Program. A self-report occurs when a market participant on its own initiative informs the IESO that it may have breached the market rules. Submission of a timely and as complete as possible self-report is one factor that will be used by MACD to determine the appropriate sanction should it be found that a breach has occurred, including the level of any financial penalty. If such a self-report was submitted, the market participant will usually receive a lesser financial penalty than it would have otherwise. As such, it is in a market participant's own interest to recognize and report their own potential market rule breaches. The best way to ensure that this happens is to include self-reporting as part of a robust Internal Compliance Program.

APPENDIX: Primary Market Rules Discussed in this Statement of Approach

6.6.2 Where the *IESO* has determined that it is appropriate to issue a letter of non-compliance or impose a financial penalty upon a *market participant*, the *IESO* shall:

6.6.2.1 determine the level of non-compliance by the *market participant* in accordance with section 6.6.3;

6.6.3 The *IESO* shall determine the level of non-compliance referred to in section 6.6.2.1 as follows:

6.6.3.1 Level "L1" shall apply where the *market participant*:

- i. failed to comply, in part, with the requirements of a *market rule*, and
- ii. on its own initiative informed the *IESO* on a timely basis of:
 - the reasons for the non-compliance, and
 - the manner and time in which the non-compliance will be remedied.

6.6.3.2 Level "L2" shall apply where the *market participant*:

- i. failed to comply in whole with the requirements of a *market rule*, and
- ii. on its own initiative informed the *IESO* on a timely basis of:
 - the reasons for the non-compliance, and
 - the manner and time in which the non-compliance will be remedied.

6.6.3.3 Level "L3" shall apply where the *market participant*:

- i. failed to comply, in whole or in part, with the requirements of a *market rule*,
- ii. did not on its own initiative inform the *IESO* on a timely basis of the non-compliance; but
- iii. did inform, at the *IESO*'s request and within the time specified in the request, the *IESO* of:
 - the reasons for the non-compliance, and
 - the manner and time in which the non-compliance will be remedied.

6.6.3.4 Level "L4" shall apply where the *market participant*:

- i. failed to comply, in whole or in part, with the requirements of a *market rule*,
- ii. did not on its own initiative inform the *IESO* on a timely basis of the non-compliance; and

iii. did not inform, at the *IESO's* request and within the time specified in the request, the *IESO* of:

- the reasons for the non-compliance, and
- the manner and time in which the non-compliance will be remedied.

6.6.7 In fixing the amount of the financial penalty within the ranges described in the tables set forth in sections 6.6.6 and 6.6.6B, the IESO shall have regard to:

6.6.7.6 whether the market participant disclosed the matter to the IESO on its own or whether it was prompted to do so;

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