Stakeholder Feedback and IESO Response

IESO Market Assessment and Compliance Division – Enforcement Modernization: August 14, 2026

In the May 22, 2026 Enforcement Modernization engagement, the Market Assessment and Compliance Division ("MACD") of the Independent Electricity System Operator ("IESO") invited stakeholders to provide comments and feedback on the materials earlier provided by June 15, 2026. Seven submissions were made. The responses below reflect MACD's current views following consideration of stakeholder feedback. They do not constitute final decisions, and specific implementation details may change during the market rule drafting process.

The presentation materials and stakeholder feedback submissions have been posted on the IESO Enforcement Modernization engagement webpage. The information below corresponds to excerpts and/or summaries of feedback organized by design proposal. Stakeholders are encouraged to review the full submissions directly.

Introductory Remarks

We appreciate the time and effort stakeholders have put into providing feedback into our proposal to modernize the enforcement process. Having effective enforcement and oversight over the bulk electricity system helps keep the system safe, fair and affordable. Failure to effectively enforce reliability standards may risk a cascading outage, which would have catastrophic consequences for the Ontario energy sector. Failure to properly address rule breaches undermines public confidence in the electricity sector and risks severe reputational damage for the sector. Without enforcement, compliant market participants may be placed at a competitive disadvantage as against non-compliant market participants. Non-compliant conduct may create inefficient market outcomes that distort market signals and impose additional costs on market participants and ratepayers.

Through your time, input and thoughtful comments, you have recognized the value of robust enforcement and a desire to participate in its continued improvement. MACD will be providing further opportunities for stakeholder engagement in connection with the drafting of proposed market rule amendments. The current timing is fall 2026, and additional detail will be provided as sessions are scheduled.

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Feedback Received

General Comments

Stakeholder Feedback	IESO Response
Stakeholders shared perspectives on MACD's guiding principles with fairness, proportionality, transparency and risk-based approaches being most commonly acknowledged and appreciated	MACD appreciates stakeholders' focus on principles including fairness, proportionality, transparency and risk-based approaches to oversight to name a few. MACD's mission is to foster sector conduct that enhances reliability, market efficiency and fair outcomes. These proposed rule amendments are in support of this mission. As stated in the design proposal, MACD's modernization objectives are to ensure that the system is effective for Ontarians, fair to market participants and efficient for all.
Some stakeholders requested benchmarking data and research used to inform MACD's design proposals.	MACD supports the requests for additional information and has provided benchmarking data below, in the corresponding design proposal section of this document. In many design areas further information will also be provided as the drafting of the associated rules progresses.
One stakeholder expressed concern that the schedule does not allow for meaningful dialogue.	Stakeholder engagement is integral to MACD's modernization of its enforcement processes. MACD has structured the Enforcement Modernization in a phased approach to encourage dialogue. Launched in October of 2025, one-on-one dialogue was held with all interested stakeholders in early 2026. Informed by early stakeholder feedback, MACD released its design proposal in April 2026. This set out initial proposals to enable further stakeholder feedback and was followed by a public stakeholder session in May 2026, which included an open question period. MACD also invited written feedback by June 15, 2026. At each stage, MACD has facilitated, collected and considered stakeholder feedback and will continue to do so throughout this engagement. As this project moves forward with drafting market rule amendments, MACD is planning further public stakeholder sessions to provide additional opportunities to comment. MACD's intention with this phased approach is to allow for meaningful dialogue.
Some stakeholders raised questions about the need for these changes and associated costs.	Questions related to the need for specific rules or changes are addressed throughout in response to specific proposals.

Stakeholder Feedback	IESO Response
	More globally, as noted in the presentation to stakeholders, the market rules related to enforcement have not had many changes since they were first drafted, around 25 years ago. In the intervening time there have been significant changes to the market. The current framework is not in alignment with market and electricity system regulatory oversight norms. The proposals are intended to improve the efficiency, effectiveness and clarity of the enforcement framework – so market participants can get fair and accurate market outcomes, correct market signals to guide their decisions and are not disadvantaged by competing market participants who do not follow the rules. All of Ontario will benefit from a reliable and secure bulk electricity system where reliability standards are followed. Meanwhile, market participants who are subject to investigation will experience a more efficient, proportional process that still safeguards their procedural rights. Several proposals – such as the simplified investigation process and specified penalties process – are intended to reduce the time and resources required to resolve matters, for both MACD and market participants. With respect to costs, MACD confirms that the IESO's 2026-2028 rate application does not include any costs related to this enforcement modernization proposal. For market participants who have not breached the market rules, no material increase in costs is anticipated with respect to these design proposals.
One stakeholder commented on the balance of changes between those of benefit to MACD as compared to market participants.	Regulation is aimed at enhancing reliability, market efficiency and fair outcomes. Regulatory frameworks impose obligations on participants as a condition of participation in the regulated space. Enforcement regulators monitor and encourage compliance with those regulatory obligations. The provisions, as they exist now, provide the enforcement authority, MACD, with tools needed to encourage compliance. These tools provide participants with avenues to ensure that this authority is exercised in accordance with procedural fairness. While this is not a one-for-one measurement – MACD is seeking to modernize that enforcement authority with appropriate procedural safeguards in place.

Proposal 1: Internal Compliance Programs

Stakeholder Feedback	IESO Response
Stakeholders were generally supportive of MACD's proposal to mandate the development of internal compliance programs (ICPs) in the market rules, with only one stakeholder taking a different view.	Subject to some concerns addressed below, there appears to be broad recognition that the existing framework contemplates market participants having in place an ICP (higher sanctions can be placed on a market participant for failure to have an appropriate ICP).
Some stakeholders requested that MACD not take an overly prescriptive approach in setting out the attributes of a suitable ICP, while others sought guidance as to what attributes MACD hoped to see in an ICP.	This rule change seeks to make the existing expectations clearer by putting in place an upfront rule requiring market participants to have an ICP. However, it is important to underscore that MACD is not taking a prescriptive approach to ICPs. MACD evaluates a market participant's ICP in accordance with the *Statement of Approach: How Internal Compliance Programs are Evaluated by MACD*. The *Statement of Approach* sets out evaluation criteria based on the maturity model. Rather than prescribe a "one size fits all" approach, the maturity model recognizes that different levels of maturity may be suitable for different organizations. The maturity model affords market participants the freedom to design a program that is appropriate for their own organizations, based on their own risk-based methodology. While we have committed to reviewing the current *Statement of Approach*, we think it helpful to point to some of the general ideas, such as those contained in section 4.1(c): "This statement does not advocate or signal that MACD expects market participants to develop ICPs that are at a particular state of maturity or strive for full maturity but, rather, it serves to inform market participants that MACD's approach to "presence and quality" reviews is flexible enough to accommodate different states of maturity. However, MACD does expect the quality of ICPs to improve for each market participant to a level that is organizationally suitable. Over time, it is expected market participants will attain and preserve a level of quality of ICPs that are organizationally suitable and invest in on-going compliance initiatives (both developing quality ICPs and staying abreast of changes in the environment which result in new or changes to risks to compliance)."

Stakeholder Feedback	IESO Response
One stakeholder requested a grace period of between 6-12 months for both new and existing market participants.	MACD understands that these changes may take time to implement. As such, MACD will provide a six-month grace period for the new rule that is put into place. MACD will continue to treat the existing sanctioning factor related to compliance programs as before.
Several stakeholders wanted to understand how and in what circumstances MACD would evaluate a market participant's ICP. One stakeholder asked what recourse there is if a market participant disagrees with MACD's assessment.	As it does currently, MACD can evaluate the presence and quality of a market participant's ICP as part of the sanction assessment analysis to determine an appropriate sanction for breaches of the market rules. If that market participant disagrees with any sanction MACD issues against it, that market participant may serve a notice of dispute to begin the dispute resolution process. This will not change.
Some stakeholders questioned whether MACD has provided sufficient incentive for market participants to develop an ICP (including waiver of penalties).	Where a market participant has put in place a suitable ICP, MACD will consider this as a mitigating factor when determining a sanction. The more suitable the ICP, the more heavily this factor will weigh in the sanction analysis. For example, in one investigation, a market participant developed a suitable ICP following the breach. This was one of three significant mitigating factors that MACD considered in its sanction analysis. Based on those mitigating factors, MACD reduced the total financial penalty by a significant amount. Additionally, an effective ICP may enable a market participant to benefit from other mitigating factors, including the circumstances of the breach, the length of time that the breach remained unresolved, and the actions of the market participant upon becoming aware of the breach. These factors all weigh in favour of a lesser sanction. In short, a suitable ICP may allow a market participant to point to mitigating factors even where it has breached the market rules. These benefits are not formulaic and MACD retains discretion in evaluating the sanctioning factors to determine whether any penalty is appropriate for the conduct under review. In MACD's view, these benefits continue to provide a valuable incentive to develop an ICP.
Some stakeholders expressed concern over how long it would take MACD to evaluate the presence and quality of a market participant's ICP, and one stakeholder suggested that MACD recognize credible third party	Since MACD can already assess the presence and quality of ICPs as part of the sanction assessment, there will be no change to MACD's current process (and consequently no change to timelines as a result of this design proposal).

Stakeholder Feedback	IESO Response
assessments of a market participant's ICP.	While not binding on MACD, it is open to considering evidence provided by market participants, including any third party assessments of their ICP.
Some stakeholders asked MACD to commit to publishing a revised version of the *Statement of Approach* to reflect the proposed change to the market rules and any lessons learned since the *Statement* was first published.	MACD will commit to publishing a revised version of the *Statement of Approach* for stakeholder review as part of the Enforcement Modernization Project.

Proposal 2: Removal of Ring-fencing Language and Clarification of MACD Independence

Stakeholder Feedback	IESO Response
Stakeholders were strongly supportive of continuing to maintain a clear division of responsibilities for enforcement of the market rules and reliability standards as between MACD and the rest of the IESO, and for MACD to maintain an independent, credible and transparent enforcement function.	Maintaining the independent enforcement function over the market rules and reliability standards, including vis-a-vis the rest of the IESO is critical. MACD does not intend to diminish these features of the existing regulatory enforcement framework as a result of the Enforcement Modernization Project. Both the IESO and MACD recognize the importance of independent oversight of Ontario's electricity sector. Ensuring every corner of our sector is abiding by the same set of rules helps ensure all of Ontario continues to benefit from reliable, safe, and affordable electricity. Equally as important is the sector's trust in the independence, transparency, and accountability of those charged with market oversight. That is why MACD and the IESO Board of Directors are actively pursuing opportunities to further strengthen the effectiveness of enforcement actions and demonstrate a clear separation between IESO-led market operations and MACD-led market oversight. Purposeful engagement with market participants is a critical element in building trust and MACD remains committed to engaging with market participants, including through engagements already underway. While these initiatives will take time to fully implement and may require challenging conversations, feedback from market participants is critical in evolving MACD's effectiveness, transparency, accountability and the independence of MACD's mandate.

Stakeholders expressed concern that this change might have the effect of reducing or eliminating MACD's independence in carrying out the enforcement compliance function for the market rules, including with respect to the IESO itself.	MACD intends to improve the clarity and reinforce the importance of the language detailing the delegation of authority to MACD over enforcement, as well as the independence of MACD's regulatory function vis-a-vis the IESO. There is no intention through this proposal to reduce MACD's independence from the rest of the IESO in its role as regulator, or to cease its regulation of the IESO itself. It is possible that the title of this proposal could have been clearer. The focus was placed on the removal of the term "ring-fencing" with a view to reducing the risk of ambiguity that use of this term creates, given its generic nature and the fact that it can have different meanings in different contexts. However, to clarify the content of this proposal, and in recognition of the robust commentary on governance aspects, as well as the inadvertent impression left that the proposal was only about removing the problematic use of the "ring-fencing" term without further offsetting alterations, the title of this section has been changed to better reflect the intention of this proposal: while part of the proposal is to remove the term "ring-fencing", other aspects are included to clarify the independence of MACD. By way of background, the "ring-fencing" terminology was originally introduced into Market Manual 2.6 in order to capture two principles: i) that responsibility for market rules enforcement was delegated to MACD; and ii) that MACD was empowered to exercise its regulatory authority independently of the IESO, including with respect to regulation of the IESO's own activities related to the market rules. In addition, these principles have practical implications for the relationship between MACD and the IESO. The term "ring-fencing" was intended as shorthand to refer to the combination of these principles and practical implications. However, MACD now recognizes that, based on the most common usages of the term "ring-fencing" and the related term "ring-fence", its use to describe the relationship between the IESO and MACD may be misleading and create more uncertainty rather than less. This is because the dominant usage of the term "ring-fence" appears to be in relation to the management of funds. For example, in the context of government budgets, ring-fencing may refer to using certain specified tax revenues for narrowly designated purposes, such as setting aside a fixed portion of lottery revenues for the treatment of gambling addiction. Another common usage relates to mitigating risks in the corporate finance sector, where it could be used to refer to the segregation of low risk retail banking (like taking deposits from customers) from the bank's riskier operations

	(like sophisticated proprietary trading that may result in significant losses). In addition, based on the comments received and on previous interactions with market participants, the term "ring-fencing" may be interpreted "bidirectionally" by some, meaning that they think the IESO's activities may be insulated from the MACD's enforcement authority. Since the creation of MACD, this has never been the case. By way of example (and as also referenced under the responses to Proposal #3 below), MACD has the authority under the market rules (Chapter 1, s.11.4.1.2) to gather and use information obtained as part of the IESO's work for the purposes of carrying out its enforcement function. To summarize then, the meaning of the term "ring-fencing" as used in Market Manual 2.6 is ambiguous, and this creates the risk that market participants may attribute various meanings to the term, resulting in confusion as to the meaning of the provision in which it is included. MACD's Proposal #2 is intended to address the risk of ambiguities associated with the term, while also maintaining and reinforcing the focus on the practical features of how MACD's independence as regulator will continue to be assured. Thus, under Proposal #2, the existing substantive content set out in s.1.3.1 of Market Manual 2.6 will be preserved and more clearly specified. MACD looks forward to engaging stakeholders as part of the rule drafting phase to consider specific feedback to draft language.
Stakeholders noted that it was not possible to evaluate whether appropriate protections would remain in place as the actual draft language for a new market rule was not provided.	The precise wording of the new provisions of the market rules and the market manuals intended to replace or revise s.1.3.1 of Market Manual 2.6 will be provided ahead of upcoming engagement sessions, so stakeholders will have the opportunity to review and comment on the specific language of these provisions during the rule-drafting phase.
One stakeholder requested evidence or benchmarking supporting the need for changes to the ring-fencing provisions	The arrangement by which the regulator (MACD) is embedded within the system operator (IESO), requires measures to maintain the independence of the regulator. This embedding is unique in North America, so there are no similar benchmarks with which to compare. In any case, as noted in MACD's prior response, Proposal #2 will not result in a reduction of the independence of MACD from the IESO with respect to enforcement activities, but instead in the clarification of currently ambiguous terminology.
Stakeholders expressed the desire that the sharing of corporate services such as IT, HR and	The sharing of corporate services will continue to be implemented with the same controls and information barriers as are currently in place. Also, we draw your

Procurement must continue to be done in a manner that includes sufficient controls, information barriers, governance measures and cost allocation arrangements as to preserve MACD's operational independence and ensure that the separation of enforcement activities from other IESO functions be preserved.	attention to the first section within this Proposal #2 and note that all of our processes are subject to review and enhancement as appropriate from time to time. There will be no changes to the governance of MACD or cost allocation arrangements as between MACD and the IESO as a result of this Proposal #2; however, as noted there will be governance changes that will come into effect unrelated to this Proposal #2.
One stakeholder suggested additional safeguards such as a form of audit of the processes and measures implemented to maintain independence from the IESO be considered.	Thank you for this suggestion. The IESO will consider this recommendation in the context of other potential governance enhancements that it is currently considering.
One stakeholder asked about the relationship between the Market Assessment Unit (MAU) and MACD.	The MAU is part of MACD and provides support to the Market Surveillance Panel, which is a panel of the Ontario Energy Board. Details about the functions of the MAU and about the relationship between the OEB and IESO/MACD regarding the MAU are set out in the Protocol Relating to the Market Surveillance Panel entered between the IESO and OEB in April 2005 which can be found here.
One stakeholder raised a question about the Vice President of MACD's reporting relationship with the CEO and the Board of Directors and referenced a difference relative to an organization chart previously used for an unrelated OEB matter	The VP of MACD reports to the Markets Committee of the IESO's Board of Directors for functional purposes, and to the CEO of the IESO for administrative purposes. An org chart previously provided by IESO in a different context showed only the reporting relationship to the CEO. That org chart was appropriate for its specific purpose (the revenue requirement submission), but it was not intended to provide detailed information on reporting relationships for governance purposes.
Some stakeholders raised concerns related to the overall governance structure in place for MACD and, in particular, in relation to the fact that MACD is part of the IESO corporate entity and how that is captured in governance documents.	MACD's governance structure is set out in many different governance documents, not only within the market rules framework. Enforcement Modernization is not intended to effect changes with respect to the overall governance of MACD, its relationship with the IESO or its position within the IESO. Such questions are beyond the scope of this Proposal and of the stakeholder consultation generally. See also the IESO Response above in relation to the first item under Proposal #2. MACD and the IESO Board of Directors are actively pursuing opportunities to further strengthen the effectiveness of enforcement actions and demonstrate a clear separation between IESO-led market operations and MACD led-market oversight.

Proposal 3: Information Gathering Powers

Stakeholder Feedback	IESO Response
Some stakeholders recognized the importance of MACD having robust information-gathering powers to support effective enforcement but suggested parameters around MACD's ability to seek information from third parties (including former employees and contractors), providing notice to market participants, and an opportunity to review the information.	MACD appreciates stakeholders' recognition of the importance of robust information-gathering authority. It will consider some of the specific proposals around limitations on gathering information from third parties. In general MACD can advise that it will seek information from third parties where MACD believes another party may have relevant information about the matter or matters under investigation and where, in MACD's opinion, such information would inform its enforcement views on the matters under investigation. MACD will consider the information it has gathered from all sources and assess such information to make findings of fact. In accordance with regulatory enforcement norms, the market participant will not be provided with prior notice of MACD's intention to question a third party. Such notice could compromise the integrity of the investigation. In accordance with the principles of procedural fairness, where MACD seeks to rely on third party information in its determination, MACD will, prior to determination, provide market participants with a summary of the evidence on which it seeks to rely, as well as an opportunity to comment upon the summary.
One stakeholder requested that MACD coordinate information requests with existing regulatory reporting requirements to avoid duplication and unnecessary burden. For example, where similar matters are already subject to OEB oversight or reporting requirements.	MACD welcomes information sharing between regulatory bodies to reduce regulatory burden on market participants. However, such sharing requires the consent of both the market participant and the other regulatory body. Market rule amendments are not required to enable this type of information sharing.
One stakeholder requested clear thresholds be established for scope, relevance and reasonableness of information requests; and another commented that expanded information gathering authorities may not be needed in certain	There currently exists a broad ability for MACD to request information. MACD will continue to exercise its authority to request information reasonably, fairly and lawfully. MACD has provided guidance on some of the existing rules related to requests for information, how those rules will be exercised by MACD and the corresponding expectation on market participants in responding to such requests.

reliability standards compliance matters.	One stakeholder pointed to a reduced need for these provisions in the context of reliability standards given the existing audit framework. MACD evaluates the need for such requests in the context of the matter under investigation and the information it has available through its independent monitoring.
One stakeholder asked MACD to clarify, where in the enforcement lifecycle, MACD may exercise its information gathering powers.	MACD may exercise its information gathering powers at any point in the compliance and enforcement lifecycle prior to a final determination and order.
One stakeholder suggested MACD should provide guidance describing the types of information, records, and categories of persons that may commonly be the subject of information requests.	MACD appreciates this feedback and will consider this request in the context of updates to its existing compliance and enforcement guidance on this subject. Please see *Statement of Approach: Compliance with Requests for Information* for that guidance (for example, see page 4 which speaks to MACD's expectations of market participants when responding to a request for information – including the types of information and records that may be sought).
Some stakeholders asked for specific gaps in authority to show why this design proposal is necessary. One stakeholder raised questions about MACD's existing authority behind its information gathering powers, and another asked what new authority is sought.	MACD's existing information gathering authorities are found in the market rules. These include rules such as Chapter 1, s. 11.4.1.2., and Chapter 3 s.6.1.2, 6.2.4.3 and 6.2.4.4. MACD exercises these authorities in several ways. The examples of monitoring and investigative activities provided in the design proposal serve to represent some of the current practices with respect to gathering information. The exercise of information gathering with respect to audit powers is further explained in Market Manual 2.17. The objectives of this design proposal are to: gather information early to support an early resolution; clarify the existing authorities; and update the associated sanctions (for example, to codify the possibility of an adverse inference being drawn). It will also make clear that this applies to third party information. A more direct comparison may be made once the proposed rules are drafted. These improvements are why MACD is moving forward with this design proposal.
One stakeholder was concerned that MACD's ability to seek information from third parties might undermine the expectation that market participants act in good faith.	Market participants are expected to act in good faith in the performance of their obligations under the market rules. In addition, the market rules explicitly require market participants to provide true, correct, and complete information; to not provide misleading or deceptive information; to comply with MACD's information requests; and generally, to provide all information required to be provided under the market rules in the time specified in the rules, or if not specified, then in a reasonable time. However, the expectation that market participants act in good faith does not negate the need for investigations or

	the need to test evidence provided by the investigated party. It is standard regulatory practice to test the veracity of the information provided (as against information provided by third parties) and through these amendments MACD is modernizing its practices to better align with regulatory norms.
Some stakeholders suggested the addition of a mechanism or process for market participants to challenge or seek review of, clarify, and/or request extensions for MACD's information requests.	MACD's existing investigative process permits market participants to seek clarification and request extensions for MACD's information requests. MACD encourages those who require clarification to information requests to engage early with MACD. Similarly, should a market participant anticipate difficulty in meeting the information request deadline and require an extension, such a request and robust reasons should be communicated early to MACD. For further information see *Statement of Approach: Compliance with Requests for Information*. However, MACD does not think there is a need for a separate mechanism to challenge or seek review of information requests. It would lead to delay and inefficiency to have a dispute at every stage of the investigative process. The proper point of recourse for market participants is the dispute resolution process where a market participant can dispute MACD's determination and order before a neutral arbitrator.
Some stakeholders suggested safeguards on information gathering powers such as defining the following terms: • Any person • Information • At any time	MACD will define terms, as needed, when drafting the market rules. It encourages market participants to continue to identify any language that needs further clarification during the stakeholdering of the draft rules.
One stakeholder suggested that any access to IESO information should be subject to formalized processes, defined scope, and appropriate safeguards to ensure consistency, transparency, and auditability of MACD's investigative activities.	MACD understands this suggestion as relating to MACD gaining access to market participant information that the IESO has in its possession, as opposed to it gaining access to the IESO's information about itself, and has answered accordingly. Chapter 1, s.11.4.1.2 explicitly permits the IESO (which includes MACD) to use any information obtained in pursuance of the IESO's powers, functions or duties for market rule enforcement purposes.
A few stakeholders were concerned about the codification of the adverse inference, its application, the process by which an inference would be drawn, and asked that legitimate reasons from non-provision of information be	MACD's codification of its ability to draw an adverse inference where a market participant fails to provide information in response to an information request is not an expansion of its authority but provides clarity by putting market participants on notice about an existing inference available to regulators generally. A decision maker's ability to draw adverse inferences is a principle of the common law of

recognized (ex. record retention limitations, legal restrictions, confidentiality obligations, an inability to access the requested information, solicitor-client privileged documents or proprietary commercial trade secrets).	evidence that permits decision makers to draw adverse inferences in appropriate circumstances where parties fail to provide information. Thus, MACD would draw adverse inferences in accordance with this common law principle. This would include situations where a market participant refused, without a legitimate reason, to provide information it possessed. Legitimate reasons for not providing information could include solicitor-client privilege and the inadvertent loss of information for *bona fide* reasons. Ordinarily, MACD would not view a claim of confidentiality or proprietary commercial trade secrets as a legitimate reason for refusing to provide the information. MACD will provide notice when it considers a response to a request for information inadequate before drawing the adverse inference. Generally, the adverse inference that MACD could draw with respect to a particular point is that: the market participant's failure to provide information without a legitimate reason was because it would have been unhelpful to the market participant. This adverse inference would be drawn by the decision maker and would inform the final determination and order in the matter under investigation.

Proposal 4: Information Sharing

Stakeholder Feedback	IESO Response
Some stakeholders noted that the stated objectives may not achieve the objective of clarifying scope or providing for efficiency.	The intent of this proposal is to support the effectiveness of the enforcement function. Effectiveness would be enhanced with the ability to share confidential information to investigate a market participant's compliance with the market rules. This is a common regulatory authority. MACD would operationalize it with care, ensuring that appropriate safeguards are in place, as further discussed, below and in its design proposal.
Some stakeholders questioned the need to share confidential information.	Under the current rules, with limited exceptions, MACD is unable to share confidential details of an investigation with anyone other than the entity under investigation. This impacts the effectiveness of the investigation. There is a need to test, validate or corroborate the information provided by the entity under investigation against other sources of information. Quite quickly, it could corroborate the information provided by the market participant. It could also assist where market participants point to fault on the

	part of other market participants – MACD could assess the veracity of the claim. In addition, this could involve testing MACD's analysis and assumptions in an investigation. For stakeholders who were not involved in the prior engagement, we would direct you to the prior engagement where you can find more information on this topic.
Some stakeholders requested benchmarking information.	Many regulatory authorities provide an exception to confidentiality for administrative and enforcement purposes, including the OEB. MACD has narrowed its approach to limit such an exemption to only enforcement purposes. To review a list of relevant Canadian regulators with broad statutory exemptions for administrative and enforcement purposes, please see Appendix A, Table 1 of this document. In addition, all of the peer jurisdictions reviewed except one had exceptions to confidentiality that would apply to enforcement purposes; although, some of these entities provide for much broader exceptions to confidentiality – applying to other purposes, not only enforcement purposes. Please see Appendix A, Table 2 of this document for further details.
Some stakeholders requested several different forms of safeguards, including having a framework by which any confidential information would be released.	Many stakeholder proposals are addressed through this response including: establishing a framework, minimizing such disclosure, and putting in place ongoing confidentiality requirements for market participant recipients. In response to stakeholder feedback MACD has provided an outline of the framework it intends to put in place to provide safeguards around the exercise of this authority. 1. MACD will recognize the importance of market participant's sensitive commercial information and the need to protect it. 2. At the same time, effective enforcement of market rules is critical to MACD's mandate and ensures the efficiency of the IESO-administered markets and reliability of the IESO-controlled grid. 3. Recognizing the foregoing, MACD will operate within the principle of minimal disclosure i.e. MACD will only disclose confidential information to third parties in those situations where it would not be reasonably practicable to carry out its enforcement duties without doing so. In such circumstances, communication of confidential information will be minimized to include only such disclosure as is required for the enforcement purpose. 4. When disclosing confidential information to another market participant in written form, MACD will mark all such materials as confidential, and all confidentiality obligations set out under the market

	rules will apply to that information. MACD will remind the market participant of its confidentiality obligations under the market rules. 5. When disclosing to a third party, where appropriate MACD may enter into a confidentiality agreement with that party. MACD cannot guarantee non-market participants will put a confidentiality agreement in place (such as another regulatory authority), but where appropriate it may do so. Where it is possible to anonymize or aggregate so as to protect confidentiality, MACD will do so (captured in the third element of this framework). There were also suggestions to include notice into the framework. Because the sharing of information will be limited to enforcement purposes, MACD does not believe it is warranted to provide prior notice to the market participant. It could introduce unreasonable delay and compromise the integrity of the information. There was a request for a definitive list of recipients. Given the unknown nature of both the enforcement actions and parties with relevant information, it would not be possible to provide such a list. Additional proposals were suggested by stakeholders, particularly related to documentation and record keeping and MACD will consider them as it develops the proposed market rules and associated materials. (We don't have a view on these to share at this point in time – but when we start to draft the rules and guidance, we will look at these and determine whether or not to incorporate them as we draft.) Finally, there was a request for an ability to challenge these investigative decisions related to confidential information. As noted with respect to Proposal #3, MACD does not think there is a need for a separate mechanism to challenge or seek review of information requests, generally, including those related to confidentiality. The proper point of recourse for market participants is the dispute resolution process where a market participant can dispute MACD's determination and order before a neutral arbitrator.
One stakeholder asked about MACD's technological and other safeguards to protect against loss of data.	While this question is outside the scope of this engagement, the IESO has in place many technological and administrative safeguards to protect confidential market, financial, and personal information. Stakeholders can turn to the IESO's website, market rules and reliability standards, as well as its privacy policy for more information.

Proposal 5: Investigation Process

Stakeholder Feedback	IESO Response
Stakeholders generally supported an effort to improve the efficiency, effectiveness and clarity of MACD's investigation processes, with some supporting the concept of a specified penalty process, and the differentiated pathways for simple and complex matters.	MACD appreciates the support for the principles underlying its efforts to transform the investigative process. It understands that the support was qualified as the full extent of the rules were not before stakeholders for comment, and more information will be forthcoming with the drafting of the market rules.
One stakeholder expressed the view that specified penalties should not apply to transmission reliability standards matters.	MACD appreciates this feedback but does not see a principled basis to carve out an exception for transmitters from the specified penalty process. MACD does note however that given the nature of this process – specific penalties for specific conduct – such specified penalties may not be applicable to all market participants if the type of participation is not covered by the specific penalty process.
Some stakeholders sought guidance on what the penalty processes were and when MACD would use the simplified, complex or specified penalty process.	While we continue to engage stakeholders to inform the content of the rules, details are not yet finalized. However, in general: • the specified penalty process will be used for matters $200,000 or below where the non-compliance is for a breach of a pre-determined rule; • the simplified investigation process will be used for matters $200,000 or below where limited information requests are required; and • the complex investigation process will be used for more complex matters where it is anticipated that penalties could exceed $200,000. MACD will provide more guidance with the draft rules.
Some stakeholders asked for the ability to challenge MACD's selection of the investigation process, or the right to choose the investigative process if they do not agree with MACD's selection. Some stakeholders expressed the view that full dispute rights should be preserved for all processes.	MACD's goal is to improve the overall efficiency of its enforcement process. This includes reducing the regulatory burden on market participants as well as MACD where there is more process than is needed for simple and smaller matters. With this in mind, MACD believes it has rightsized the complexity of matters to the investigative and dispute resolution process. As the regulator undertaking the enforcement action, MACD is best positioned to select the appropriate regulatory process. Under all three streams, market participants will have the right to: propose settlement offers, agree to optional mediation and dispute any determinations they disagree with.

	The difference is that for matters proceeding by way of specified penalties or by the simplified process, market participants do not have an automatic right to a meeting with MACD and good faith negotiations will not be mandatory. However, in light of the other opportunities for engagement – settlement offers, arbitration and potentially mediation – this amount of process is proportional, given the matters under consideration.
With respect to the proposed specified penalty process, some stakeholders expressed concern that the process and/or the lack of a pre-determination meeting with MACD does not allow market participants a meaningful opportunity to provide technical and operational context before a final determination.	MACD thanks stakeholders for this feedback and agrees to afford market participants an opportunity to submit relevant information before a final determination. More details will be provided with the draft rules to enable stakeholders to provide additional feedback.
Some stakeholders raised concerns that a market participant who disputes a specified penalty could ultimately face a higher penalty and viewed this as chilling dispute rights.	MACD wishes to clarify that a market participant's decision to dispute a specified penalty is not treated as an aggravating penalty factor. MACD recognizes and affirms a market participant's right to mount a full defence and exercise its dispute rights. However, specified penalties are set at a lower amount in recognition of the fact that, should a market participant admit the allegation and accept the penalty, they are contributing to an efficient outcome, avoiding a potentially costly and lengthy process, and, in admitting the non-compliance at this relatively early stage, are demonstrating their cooperation and commitment to compliance. If a market participant disputes a specified penalty, the matter goes before an arbitrator. An arbitrator may impose such penalties or other orders as are just and reasonable in the circumstances and is not bound by MACD's determination. Disputing a specified penalty will not automatically result in a higher penalty but it is one potential outcome at arbitration. In benchmarking similar specified penalty processes, it is noted that market participants who dispute a specified penalty in Alberta may be subjected to a higher administrative penalty imposed by the Alberta Utilities Commission.
One stakeholder requested that before MACD initiates enforcement actions, they should confirm that the applicable requirement was in	Currently, prior to MACD issuing notice of an investigation to a market participant, MACD is required to consider that (1) there is an applicable market rule; (2) the market participant may have breached or may be breaching the

place, applies to the market participant and is supported by available facts before enforcement action is initiated. Another stakeholder requested that MACD issue a formal notification letter at the start of any investigation to ensure that participants have the ability to participate at the earliest point.	rule(s), and (3) in the circumstances, if a breach is established, sanction(s) would be appropriate. See Chapter 3, section 6.2.3 of the market rules. In our one-on-one stakeholder consultations, several market participants expressed that they would appreciate an opportunity for early resolution, prior to the issuance of a notice alleging that they have breached a market rule. MACD is open to considering this further as it supports efficiency and all procedural rights would still be available to market participants if they elected not to pursue early resolution.
Some stakeholders supported more engagement between the market participant and MACD during investigations for example, to narrow information requests, clarify issues etc.	Through the Enforcement Modernization project, MACD is establishing standard processes. However, it may be appropriate in a given matter for a market participant to request a meeting, more engagement or clarification. MACD's *Statement of Approach: Compliance with Requests for Information*, states that generally MACD will agree to discussions to clarify information requests. While the intent is to have a process that provides a minimum standard, there may be further points of engagement, as appropriate in the circumstances.
One stakeholder asked about the benchmarking MACD did for its investigative process proposal.	MACD looked at many investigative processes, including those of the Market Surveillance Administrator of Alberta, the Electricity Authority of New Zealand, the Australian Energy Regulator, the U.S. Federal Energy Regulatory Commisssion (FERC), the U.S. North American Reliability Corp. (NERC) and the Ontario Securities Commission. MACD evaluated which aspects would be appropriate for the Ontario context to help inform the proposed framework.
One stakeholder asked which regulators have a specified penalty process.	The Australian Energy Regulator issues infringement notices which are akin to specified penalties. The Market Surveillance Administrator (Alberta) also has a specified penalty process.
For reliability standards, one stakeholder asked whether MACD had considered approaches adopted by NERC and the Regional Entities such as Compliance Exceptions or Find/Fix/Track.	MACD has considered approaches adopted by NERC and the regional entities and has considered where elements may be applicable in the Ontario context. It is also important to note differences: the NERC/Regional Transmission Organizations (RTOs) arise in the context of a regulatory framework where there is not the same ability to exercise discretion in enforcement outcomes, whereas MACD retains the discretion to evaluate a matter and determine that it will not take further action.
One stakeholder flagged the risk of duplicative review where similar matters are already subject to OEB oversight or reporting requirements.	In the regulatory sphere, it is not unusual for there to be concurrent regulatory jurisdiction. For example, the OEB may have oversight into mergers of its regulated entities, and the Competition Bureau may have its own oversight of mergers with respect to its mandate. Generally speaking,

	MACD and OEB have mandates that they are each responsible for carrying out. Where a market participant believes that a matter being addressed by MACD is being, or has already been, addressed by the OEB, they are encouraged to raise it to MACD's awareness and MACD can determine if the possibility for regulatory coordination exists.
One stakeholder asked if MACD would issue specified penalties where a market participant self-reported or if the self-report would negate the need for a specified penalty.	If a matter is self-reported and deemed appropriate for the specified penalty process, the fact that the matter was self-reported will be considered as a mitigating factor by MACD when determining the appropriate sanction. With some exceptions, a market participant that makes a self-report will usually receive a reduced financial penalty. Self-reporting will not, however, automatically mean that MACD will not pursue enforcement action under the specified penalty process. For more information about self-reports under the existing market rules, please see MACD's *Statement of Approach: Self-Reporting Potential Market Rule Breaches*.

Proposal 6: Sanctions

Stakeholder Feedback	IESO Response
Most stakeholders requested further clarity on how the new financial penalty assessment process would operate, as well as the benchmarking used to inform the design. Several stakeholders also indicated that proportionality should be a key consideration.	MACD appreciates stakeholders' requests for further clarity on the new financial penalty determination process. MACD recognizes that the materials provided were to signal the direction of the design to invite general feedback to inform the drafting process. More specific information, along with further opportunity for engagement, will be provided as the rules themselves are drafted that will provide more clarity and lay out how the framework will work in practice. Respecting benchmarking, in creating its new penalty framework, MACD considered whether to develop a formulaic approach to financial penalties or employ a higher discretion model. For example, FERC adopted a points-based formula in 2010 that assigns a base penalty depending on the level of market harm, reliability impact or level of interference with the administration of justice, which is then raised or lowered by prescribed multipliers based on aggravating or mitigating factors. NERC's formula establishes a base penalty depending on the breached reliability standards' Violation Risk Factor (VRF) and Violation Severity Level (VSL), and then employs a series of aggravating and mitigating factors to increase or decrease the penalty by certain defined percentages. Both FERC and NERC's penalty guidelines also allow them discretion to deviate from their formulas as required to arrive at a proportionate outcome. By contrast, other energy regulators, such as the Alberta Utilities Commission, the B.C. Utilities Commission, the Australian Energy Regulator, and other market regulators, such as the Ontario Securities Commission and the Competition Bureau, do not use formula-based financial penalties but instead rely on a more discretionary model with prescribed mitigating and aggravating factors that must be considered to arrive at a proportionate outcome. In MACD's experience assessing penalties, while a formulaic approach for calculating penalties may create the semblance of order and predictability, applying a rigid formulaic approach is in fact of limited usefulness, particularly for complex matters, as it can often result in distorted outcomes that must be revised in any event to arrive at a proportionate outcome. For example, penalties that may be calculated on a per-breach basis can result in significantly inflated penalties for conduct that has occurred over a prolonged period and resulted in potentially hundreds or thousands of breaches. In such cases, MACD typically applies a global penalty instead of a per-breach penalty to arrive at a proportionate outcome.

	In MACD's experience, one of the most significant factors when determining a proportionate outcome is a comparison with relevant enforcement case law and their enforcement outcomes, whether such case law is based on MACD's past issued sanctions or sanctions for analogous conduct issued in comparator jurisdictions. Generally, MACD has decided to design a simpler, discretionary model that weighs a set of aggravating and mitigating factors to arrive at a proportionate outcome. That being said, MACD also recognizes the benefits of the formulaic approach for less complex matters as it can result in enhanced predictability, faster processing speed and lower regulatory burden respecting the sanction assessment process. For this reason, MACD has also opted to create a specified penalty process with pre-determined penalties that it can apply for appropriate cases, in addition to its discretionary model for more complex matters.
One stakeholder asked for empirical evidence to support the proposal's statement that Ontario is lagging behind its closest comparators in terms of the maximum financial sanction.	The proposal's statement was a reference to FERC and NERC's maximum financial penalty, which applies to all competitive electricity markets in North America, with the exception of those in Alberta and Ontario (it is noted that there is limited oversight in Texas). FERC and NERC's maximum penalty is currently US$1,584,648 per violation, per day, as of January 2025 (which is approximately C$2,236,000 as of July 27, 2026). FERC and NERC's annual penalty increase for inflation was deferred in 2026 on account of the unusual circumstances with the U.S. government shutdown in October 2025, and is expected to increase as required in January 2027. FERC and NERC's maximum penalty was initially established in 2005 at US$1,000,000 per day, per violation in the wake of the 2003 blackout. Similarly, the IESO's maximum penalty of C$1,000,000 was introduced to the market rules in 2006, alongside changes which enabled reliability matters to be enforced on par with market operations matters, and with the explicit goal of having a compliance model in Ontario consistent (although not identical) with FERC and NERC's model. However, FERC and NERC's maximum financial penalty included an automatic annual adjustment for inflation, whereas the IESO's penalty did not. As a result, over time there was a growing and now significant gap between the maximum penalties in our respective jurisdictions. This gap will continue to grow absent this market rule amendment. This amendment will bring Ontario back into closer alignment with most of the rest of North America and ensure continued alignment with the introduction of an automatic inflation adjustment.

Several stakeholders requested evidence showing that current penalty limits were failing to drive compliance.	There are currently two different penalty tables in the market rules. These are set out in Chapter 3, sections 6.6.6 and 6.6.6B respectively. The first table has an upper limit of $10,000 per breach. The second table has an upper limit of $1,000,000 per breach, but the penalties in this table are only available to MACD where the conduct and circumstances to be sanctioned meet the narrow set of conditions set out in Chapter 3, s.6.6.6A. Regarding the penalty limits, in the first table, the current split-table approach may result in the majority of breaches addressed under the first table with a $10,000 limit. This limit can be too low for effective deterrence, taking into account the nature of the conduct, the size of the transactions and the sophistication and size of participants involved in the wholesale sector. Further, in the context of self-reported breaches, this already low limit is reduced further to a maximum of $4,000/breach. While these limits can be sufficient in many cases, they can also just as easily be far below the amounts that would be appropriate. For example, a self-reported violation of a reliability standard with a "medium" risk profile would have a maximum $4,000 penalty, which may be significantly disproportionate to the seriousness and potential impact of the violation. Raising penalty limits to appropriate maximums also would not preclude appropriate penalties that are still available at the lower end of the penalty table. Regarding the second table, while the $1,000,000 per breach limit is a substantially higher amount than that in the first table, it is only available in narrow circumstances. In addition, there are cases where even this limit is clearly insufficient for deterrence. For example, assuming a case that meets the Chapter 3, s.6.6.6A threshold criteria (i.e. the second table is available), in an example where a market participant received a $4 million gain as a result of a single breach, even a $1 million penalty to assess a sanction under the second table would be a mere "cost of doing business" which, from the perspective of regulatory effectiveness, is unacceptable. To ensure MACD will be in a position to make an appropriate assessment of penalties in each case, and to better align with peer regulators, MACD's proposal is to: (i) consolidate all penalties under a single comprehensive table (ii) increase the maximum penalty amount and make it applicable on a per breach per day basis (i.e. $1,500,000 per breach per day) – the inclusion of an explicit "per day" element is common across peer regulators such as FERC and the Alberta Market Surveillance Administrator (MSA), and will in some cases be

	appropriate and needed for the purposes of sanctioning repeated or ongoing conduct (And as noted above in a previous response, to ensure a proportionate outcome, the assessment would, as appropriate, also take into account the aggregate or global amount of all penalties.) (iii) introduce a new penalty that will address those rare but important potential situations where a single event of breach may result in a large gain to the participant or loss to the market that cannot be addressed even with the newly increased penalty, a situation which no credible and responsible regulator or effective regulatory regime can allow to stand. Finally, it is important to note that MACD will continue to determine penalties for every breach large or small (together with other sanctions, as applicable) based on a number of factors in order to take into account all of the circumstances of the breach. A maximum possible penalty is just that – a maximum value that indicates the top of a range. This amount will not be the appropriate penalty amount in all circumstances, and probably not even in most. But just as MACD needs the discretion to assess whether any penalty is appropriate at all, it also needs the discretion to impose a penalty that is both proportional and with sufficient deterrent effect as to encourage compliance with the market rules.
One stakeholder suggested that inflation indexing should have transparent governance, periodic review, and safeguards to ensure proportionality and predictability.	MACD plans to incorporate the inflation indexing calculation methodology directly into the market rules. By doing so, the annual indexing calculation will be transparent, objective and predictable, with appropriate oversight and safeguards. It will be fixed to a published consumer price index measure, with the caveat that in the event of a negative figure, the increase will be zero for that year. It will be similar in model to FERC's approach under the U.S. *Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015*. Another example is Ontario's annual minimum wage inflation adjustment under the *Employment Standards Act, 2000*.
Several stakeholders requested a class-scaled tiering system for financial penalties. Some suggested that the higher-deterrence tools be reserved for market participants who can intentionally manipulate the market. Or that a sanction regime unique to their operations be established.	As noted above, MACD is designing a sanctioning process that is not rigid and formulaic, but it will be applicable to all market participants. Any unique circumstances will be taken into account and addressed transparently through the investigation and sanctioning process. MACD understands that certain market participants are less likely to engage in the type of conduct that warrant MACD's highest deterrence tools, such as serious market manipulation or threats to the reliability of Ontario's interconnected power system than others. However, MACD will consider the size and type of the market participant, the level of intent, and the

	market participant's ability to pay financial penalties, amongst other aggravating and mitigating factors, when determining a proportionate enforcement response for any given matter. Because of this, MACD does not consider it necessary to create separate tiers or exemptions for different classes of market participants. Moreover, given the serious implications that can result from breaches of certain market rules and/or reliability standards, it is important to ensure that higher penalties for the most serious violations remain available as a universal deterrent, regardless of which market participant engages in the conduct.
One stakeholder asked for an explanation of the per day addition to the penalty table.	This amendment to apply the penalty framework on a per day, per breach basis addresses a longstanding gap in Ontario's framework and brings it into alignment with comparator energy market regulators' penalties in the U.S. (FERC and NERC), Alberta (Alberta Utilities Commission), British Columbia (British Columbia Utilities Commission), and Australia (Australian Energy Regulator), all of which can apply penalties on a per day, per violation basis. This approach enables regulators to more effectively address conduct involving low breach counts but lengthy duration (for example, the lengthy failure to protect a single but vital piece of equipment that resulted in a prolonged reliability impact).
One stakeholder believed that sanctioning factor 3(c) in the design proposal (compliance history including prior breaches sanctioned by other regulators) is a duplicative penalty and regulatory coordination risk.	The consideration of prior sanctions issued by MACD or by other regulators for similar conduct will inform MACD's assessment of whether its penalty approach would be consistent with prior sanctions issued for the same or analogous conduct, in addition to weighing the other prescribed aggravating and mitigating factors to arrive at a proportionate outcome. The consideration of prior sanctions would not be limited to the compliance history of the particular market participant being sanctioned. Respecting regulatory coordination and the risk of duplicative penalties, MACD regularly coordinates with other regulators with concurrent jurisdiction to ensure that enforcement efforts are aligned and that market participants are not potentially subjected to duplicative enforcement processes and sanctions.
One stakeholder asked for the rationale for expansions to non-financial sanctions.	MACD currently has broadly worded authority to order non-financial sanctions. Under Chapter 3, section 6.2.7.1, MACD can order market participants to do "such things as may be necessary to comply with the *market rules*". These amendments would add clarity to this existing authority by providing examples of the types of non-financial sanctions that MACD may order. MACD has reviewed the practices of comparator regulators in issuing non-financial sanctions including the U.S. (FERC and NERC), Alberta (Alberta Utilities Commission), British Columbia (British Columbia Utilities Commission), Great Britain (Office of Gas and Electricity Markets) and Australia (Australian Energy Regulator), all of

	which may issue non-financial orders to secure market participants' compliance. The types of orders MACD is proposing to include draw on other learnings from other regulators as well as MACD's experience. These proposals support market participant compliance and mitigation efforts. In addition, MACD has identified the need to act swiftly and address urgent matters which are not amenable to typical enforcement process timelines. Such matters include imminent or ongoing material threats to grid reliability or market harm. In such scenarios, MACD requires the ability to issue an urgent order to prevent such imminent threat or stop ongoing harm. Affected market participants will have the opportunity to promptly provide further information and make submissions to MACD requesting that the order be varied or rescinded.
One stakeholder claimed that enforcement actions peaked in the early years and have remained low for more than a decade and suggested that this proves the current framework does not require improvement.	We agree with the stakeholder that it is important to consider a full picture on historic enforcement trends as part of these efforts. However, the stakeholder's submission provides an incomplete representation of MACD enforcement activity and levels of overall compliance in Ontario. We provide a fuller description of MACD historic enforcement trends below. During the initial years after market opening, MACD's financial penalties were issued at a higher frequency and in generally lower amounts, a practice which was commensurate at the time with the opening of a new market and the need for an adjustment period and education. It was also in line with the relative global novelty and inexperience with electricity markets and their enforcement requirements. This also predated the enforcement of mandatory reliability standards across North America. Those initial years were followed by a growing rate and level of sophistication in market misconduct, which led to harm to ratepayers, and the widespread recognition and growing importance of reliability enforcement. This all resulted in a general shift in MACD's enforcement focus to lower frequency but significantly higher impact investigations and corresponding sanctions, which was also in line with enforcement trends in the electricity sector. Enforcement Modernization will further enhance MACD's effectiveness by enabling more efficient processing of lower to medium impact matters while also enhancing MACD's ability to investigate and enforce higher impact matters.
One stakeholder asked MACD to comment on the connection between its sanctions and payment adjustments and MACD's operating expenses as	MACD's decisions regarding whether, when and how to take enforcement action are risk-based and driven by its role in protecting grid reliability and supporting market efficiency and integrity. The IESO's annual financial statements do not, by themselves, provide a complete description of MACD's funding and cost

reported in the IESO's annual reports.	recovery framework. The IESO funds MACD through both the IESO fee and a separate market rule-prescribed Adjustment Account. The IESO does not seek fee recovery for expenses reimbursed via the Adjustment Account. The IESO deposits penalty payments and other prescribed funds such as payment adjustments arising from resolution of settlement disputes and negotiated settlements into the Adjustment Account. The market rules prescribe that certain expenses associated with those outcomes are to be reimbursed from the Adjustment Account. In effect, those reimbursements fund the IESO's enforcement and compliance activities falling within the scope of the rule, among other qualified expenses.

Proposal 7: Publication of Enforcement Outputs

Stakeholder Feedback	IESO Response
Some stakeholders questioned the value and benefits of publication (for example, what benefit did they provide over and above the summaries already published).	We understand stakeholders have concerns with increasing publication of enforcement outcomes. However, we think this proposal helps advance regulatory norms in several meaningful ways. This proposal is designed to advance transparency, deter non-compliance and provide meaningful guidance to the market. The gap is between what the public currently receives – brief summaries – and what is necessary to achieve these objectives – providing the full enforcement outputs, subject to targeted redactions of sensitive information. Short summaries tell the public what MACD did, but the full enforcement output shows *how* and *why* — this difference is important to drive transparency and deterrence. It provides guidance on how rules will be interpreted and applied, demonstrates that sanctions are justified and ensures consistency and predictability for the market. It signals enforcement priorities and approaches and ensures that the public sees how MACD's authority was exercised. Publication of enforcement outputs is common across enforcement agencies, including in the energy sector, and legal processes generally, in large part because it enables transparency, accountability of the decision-maker and deterrence across the sector. In the engagement process, MACD received feedback that further information about the enforcement process was sought, and this is one way for MACD to provide that information in a way that is accessible to the entire market.
One stakeholder suggested that publication should be limited - guided by clear, objective	Specific deterrence is not the only objective of publication; general deterrence is also a key objective. An important outcome of publishing is to change market participants'

criteria such as the seriousness of the breach, its market impact and the public interest.	behaviour. Through publication, MACD is looking to encourage compliance, and awareness is an important step in achieving that outcome. Only publishing a limited number or type of decisions would not provide the transparency needed to achieve that widespread understanding and deterrence.
Some stakeholders commented on linkages between publication and the dispute process.	The publication framework is designed to advance legitimate goals of regulatory enforcement that are well-established, such as accountability, by making MACD's reasoning transparent and subject to public scrutiny, which supports the credibility and validity of the enforcement framework. Publication of enforcement outputs is common across enforcement agencies. Based on review of publication practices at enforcement agencies including the Ontario Securities Commission, the Alberta Market Surveillance Administrator, the Competition Bureau and FERC, none maintain a fully confidential enforcement model. Each publishes final enforcement decisions and settlements in some form, and MACD is recommending this be brought to Ontario to modernize our own market rules. Testing findings in an independent and public adjudication process also supports those purposes, but not all cases proceed to a dispute. It is important to be able to achieve these objectives, even where matters do not proceed to a dispute. Market participants retain full access to the dispute resolution process even if a determination is published. These changes are not intended to inhibit or affect the dispute rights of market participants. By the time an enforcement output is published, the market participant has had extensive notice and opportunity to engage with the investigation.
Stakeholders gave feedback related to the scope of publication – there was some concern that the expansive publication would be frequently used.	Publication of enforcement outputs, meaning outcomes following an investigation (currently, such as those outputs under Chapter 3, sections 6.2.7 and 6.2B.2) would be routine, subject to redactions and withholding publication when in the public interest. Publication of investigative-stage outputs, meaning those outputs before an investigation is concluded (currently, such as those under Chapter 3, section 6.2.3) would only occur in limited circumstances, and MACD would generally take steps to limit the amount of information provided at the investigative stage. For example, to reassure the market that certain conduct is being reviewed by the enforcement authority, the entirety of the notice of investigation may not need to be published if a summary would be adequate to reassure the market the conduct is being examined. MACD has noted comments related to the proposed framework governing the publication of investigative-stage outputs. They

	will be considered as MACD drafts the rules related to this proposal. More information will be provided with the draft wording of this proposal with an opportunity for additional stakeholder comment.
Several stakeholders recommended including a stay of publication until the matter is finalized through the dispute process (with one drawing reference to the pre-September 2023 version of Market Manual 2.6).	It is the opinion of MACD that the public benefits from timely access to enforcement decisions. Therefore, there is no intention to stay publication pending final resolution of the matter. The outcome of an investigation process is a final determination (and includes an order if there is an imposition of a sanction). It is not an allegation, a preliminary, or interlocutory matter. The final decision can be subject to dispute – as would the decision of a court of first instance. But just like a court – even if a decision is being appealed, the first decision is still published. Notices of Intention follow a related logic. While General Conduct Rule breaches are not decided by MACD in the first instance, service of the Notice of Intention occurs once MACD's investigation is complete and it is satisfied that a breach has occurred. Openness at this stage is consistent with the rationale that supports publication of final determinations. Transparency is important for efficient markets and reliability, but it also helps to hold the regulator to account – market participants and stakeholders can see where an arbitrator (or ultimately the OEB) may have differed from the regulator. The historical Market Manual 2.6 changes are outside of the scope of this engagement. The changes made in 2023 were done in accordance with IESO processes: the proposed change was published in advance, stakeholder input was sought and received before the changes were implemented. Finally, a legal challenge to those changes was brought in an application for injunctive relief at the Superior Court of Justice and was dismissed in February 2025.
Certain stakeholders raised reputational concerns regarding the proposed rules related to publication.	MACD understands that market participants are concerned about reputational harm. However, it is MACD's view that reputational harm is an inherent consequence of a breach finding and is not, on its own, a basis for withholding publication. The proposal is to publish enforcement determinations and orders – which are final decisions, not mere "allegations" – as well as Notices of Intention, which are served in General Conduct Rule matters once the investigation is complete. Any other publication would only be on a limited basis. The appropriate mechanism to protect legitimate interests is through the request for redaction of confidential information, not by suppressing publication entirely.

	Further, any reputational harm occasioned by publication of an outcome that was later overturned would be addressed by a market participant's successful dispute and a publication of that outcome.
Some stakeholders sought benchmarking information to show that this would be appropriate for Ontario's electricity market.	MACD does not propose to replicate any single comparator model. The design proposal is calibrated to MACD's specific mandate, legal framework, and institutional context. Based on review of publication practices at enforcement agencies including the Ontario Securities Commission, the Alberta Market Surveillance Administrator, the Competition Bureau and FERC, none maintain a fully confidential enforcement model. Each publishes final enforcement decisions and settlements in some form.
Clarity was sought on the type of information that would be published.	MACD proposes to publish the full text of enforcement outputs – including Notices of Non-Compliance, Letters of Non-Compliance, Notices of Intention, financial penalties and settlement agreements, subject to redaction of certain confidential or sensitive information. This is more comprehensive than just summaries, as is the current practice. These are not the documents exchanged during an investigation, but rather the documents MACD arrives at following the outcome of the investigation. These are settlement documents or documents produced after an investigation is finalized under its authority pursuant to Chapter 3, section 6.2.7 (or section 6.2B.2 for Notices of Intention). This includes directions to comply, directions to cease an activity, record-keeping requirements, Non-Compliance Letters, financial penalties, and Notices of Non-Compliance. MACD is also proposing discretionary authority to publish Notices of Investigation where doing so is in the public interest. This discretion is intended for limited circumstances and the draft wording of the scope of this discretion will have an opportunity for additional stakeholder comment.
Some stakeholders expressed concern about the effect of publication on cooperation, self-reporting and settlement.	MACD believes that the incentive to cooperate and self-report is preserved because these factors remain relevant to sanctioning and may reduce penalty exposure. Settlement continues to offer significant advantages over disputed determinations, including negotiated penalties and faster resolution. These benefits are not eliminated by publication. Publication would only occur once a final determination has been made; for matters requiring a Notice of Intention, publication would occur upon service. In each case, publication would be subject to a redaction process. Discretionary publication of Notices of Investigation would be limited to public interest circumstances.

One stakeholder supported withholding NERC CIP-related enforcement outputs in their entirety for system-security reasons.	MACD agrees that the system-security risks outweigh the benefits of transparency and deterrence for determinations involving NERC CIP breaches and does not publish summaries of those cases. These are and would continue to be withheld in their entirety.
Several stakeholders requested a redaction process that gives market participants notice and opportunity to appeal.	MACD agrees that market participants should have the opportunity to provide input into what confidential or other sensitive information should be redacted prior to publication. Specific details will be provided with the draft rules. However, this would not provide a separate dispute resolution process. As noted above, it would be inappropriate and lead to delay and inefficiency to have a dispute at every stage of the investigative process. Market participants can dispute MACD's final determination and order before a neutral arbitrator.

Proposal 8: Settlements/Dispute Resolution Process

Stakeholder Feedback	IESO Response
One stakeholder expressed concern about MACD crafting its own dispute process when a Chapter 3 process already exists, and noted some proposed elements appear to duplicate existing Chapter 3 provisions.	Chapter 3 of the market rules provides a general process applicable to all disputes between the IESO and market participants and, in rare cases, between market participants. This process applies to a diverse array of disputes, including settlement disagreements, metering audits, connection assessments, market remediation, and emergency preparedness, among other things. While safeguarding market participants' procedural protections, the proposed amendments will seek to address three key inefficiencies in how the dispute resolution process applies to compliance matters. First, market participants generally seek to resolve compliance matters prior to MACD issuing its decision. However, the current rules place the good faith negotiation stage after MACD has issued its decision, duplicating a negotiation process that has already occurred. Accordingly, the proposed amendments will provide market participants an opportunity for good faith negotiation with MACD prior to MACD issuing its decision. Second, the current rules impose mandatory mediation on market participants and MACD after MACD has issued its decision. At this stage, MACD will have already canvassed the market participant's position extensively through written representations, mandatory meetings, and settlement negotiations. MACD will have carefully considered the market participant's position in its decision, which will reflect its considered view of a just outcome in the public interest. Given

	this extensive engagement, the amendments will seek to make mediation optional rather than mandatory. Third, the current rules give market participants two years to dispute MACD's decision. This creates uncertainty and undermines finality, going well beyond the timelines offered by comparator regulators such as the Ontario Energy Board. Accordingly, the amendments will seek to reduce the time for disputing MACD's decision to twenty business days.
Several stakeholders queried and some expressed concern with MACD's proposal to reduce the time period for serving a notice of dispute related to a MACD compliance determination from two years to twenty business days. In their view, it may take market participants longer than twenty business days to evaluate whether to dispute MACD's determination. One stakeholder recommended graduated timelines.	MACD makes its determinations after a participatory investigative process. Market participants are aware of the issues and will have had an opportunity to provide input into the process. Also, the process itself to commence a dispute is straightforward: the market participant need only fill out IMO Form 1001, available on the IESO's website, and send it to the IESO. MACD has concluded through thorough research that the proposed change is in line with similar dispute and appeal standards. Twenty business days is the timeline for disputing a breach of the General Conduct Rule under the process set out in Chapter 3, section 6.2B of the market rules. Twenty business days is also the timeline for various other types of disputes in accordance with Chapter 3, section 2.5.1A of the market rules. Other courts and tribunals have similar timelines for initiating appeals. Under the Ontario Energy Board's *Rules of Practice and Procedure*, a person appealing an order made under the market rules must file a notice of appeal within fifteen calendar days. Similarly, parties in civil proceedings must file a notice of appeal to the Ontario Court of Appeal within thirty days for appeals where no leave is required and within fifteen days where leave is required. These timelines apply regardless of the complexity of the matters under appeal.
Some stakeholders expressed the hope that mediation would remain an option for disputes concerning MACD determinations, even if mediation was no longer mandatory.	MACD can confirm that mediation will remain an option where the market participant and MACD agree to hold a mediation.

Proposal 9: MACD Service Standards

Stakeholder Feedback	IESO Response
Stakeholders expressed a desire for the expansion of service standards to MACD's other enforcement activities including: • Investigation disposition timelines • Self-report disposition timelines • Audit closeout timelines • Regular Status updates to market participants • Key stages of investigations and enforcement proceedings (timelines for initiating investigations, issuing draft notices and reaching final determinations) • Additional service standards tailored to each type of enforcement matter • Long-term bulk power system reliability assessment	MACD thanks stakeholders for this feedback. The service standards were selected after careful consideration and benchmarking with comparator agencies. As such, MACD will not be considering expanded service standards at this time. However, as MACD gains experience with service standards and the modernized enforcement framework, it will continue to assess whether further service standards would be appropriate and remains open to ongoing dialogue with market participants on this subject. MACD remains committed to providing market participants with regular status updates every 6 months in an audit or investigation in its proposal. Expanding the standards to include the ones proposed by the list would not achieve the goal of providing market participants with more certainty as to timing due to the inherent variability in the timing of these activities. The length of time it requires to dispose of audits, investigations, and self-reports varies greatly due to differences in their complexity, the volume of information, as well as the cooperativeness of the entity under investigation. Further establishing service standards may result in increased pressure on market participants to provide quicker responses during an investigation or audit. Other regulators surveyed, such as the Market Surveillance Administrator, FERC and NERC, have also not established such service standards.
Some stakeholders expressed a desire for service standards to be binding, including for investigations and potential non-compliance events.	Service standards are intended to guide market participants' expectations and drive efficiency but are, by design, intended to remain flexible so that they permit the regulator the necessary flexibility to operate and make adjustments as necessary to achieve its overriding objectives of market efficiency and reliability. Considering this, MACD will not be making service standards binding or part of the market rules.
One stakeholder expressed confusion with how to interpret the percentages in the service standard. They expressed concern that given the service standard of providing a status update or related	MACD appreciates the question and is pleased to clarify the meaning of the percentage performance standards. Taking that example of the status update performance standard, it should be interpreted as the following: MACD intends to meet that standard for all of its cases, but, recognizing that certain cases might require exceptions, it is anticipated this will not be achievable in about 30% of cases, and accordingly set the

communication at least once every six months for 70% percent of cases, 30% of enforcement matters would have no associated service standards.	target at 70%. Nevertheless, in the other 30% of the cases, it will attempt to as closely meet the service standard as possible but may provide an update beyond the anticipated six months.
One stakeholder inquired as to how MACD would respond in the event it did not meet its service standards.	MACD will strive to meet these service standards but, if the standards are not met, or if they are exceeded, MACD will revisit and adjust if necessary. This is one of the intentions of service standards, to be performance metrics that can be adjusted as appropriate.

Other Proposals

Stakeholder Feedback	IESO Response
Several stakeholders supported a limitations period for MACD enforcement actions, citing an asymmetry between MACD's unlimited time to commence matters and market participants' 20 day dispute window. Most recommended a two-year period, consistent with the *Limitations Act*, *2002* and OEB practice. One proposed this take the form of a sunset clause barring pursuit of infractions known to MACD but not formally communicated to market participants. Another comment recommended a defined look-back period for compliance history in sanctioning, tied to NERC evidence retention requirements.	The Legislature considered the question of limitation periods when it revised the *Electricity Act, 1998* to include the limitations period of section 36.1.1. The exclusion of enforcement actions in subsection 6 of that limitation period was a deliberate legislative choice. There are also policy reasons why a limitations period is not appropriate for most enforcement actions. MACD does not impose continuous disclosure obligations on market participants unlike some regulators, which can make non-compliance harder to detect through routine channels. In addition, MACD's mandate includes grid reliability and system security, and violations of these can pose ongoing forward-looking risk to the bulk power system which warrants enforcement flexibility. MACD acknowledges that the market rules already provide a six-year limitations period for General Conduct Rule (GCR) matters. This reflects the negotiated history of the enactment of the GCR. Proposals were made to impose a shorter limitation period for GCR matters, and were rejected by the IESO for reasons consistent with the complexity of investigating market-wide conduct and the risk that a short period would incentivize delay. Importantly, the GCR history predates the legislative amendments that created section 36.1.1 of the *Electricity Act, 1998*. MACD notes the concern raised regarding asymmetry between MACD's ability to commence enforcement actions and the proposed 20-day dispute window for market participants. This characterization treats two different stages of the process as if it were the same clock. The 20-day dispute window applies only after the investigation is completed, and market participants

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	have already had an opportunity to provide input, including through meetings and (in complex matters) reviews of draft determinations. By contrast, MACD's ability to finalize an investigation depends on when it becomes aware of potential non-compliance, and this knowledge is necessarily derivative and may be delayed by non-disclosure. At this time, MACD is not proposing to adopt a limitations period for the commencement of enforcement actions. Nevertheless, MACD will take the feedback received into consideration during the rules drafting stage, and will report back should a limitations period be proposed in the future.

Appendix A

Table 1 – Canadian Regulatory Agencies with a Similar Exception

Jurisdiction (Regulator)	Confidentiality Exception
Competition Bureau	S. 29(1) of the *Competition Act* provides an exception to confidentiality "for the purposes of the administration or enforcement of this Act".
Ontario Securities Commission	S. 17(6)(a) of the *Securities Act* permits investigators to disclose confidential information in connection with "a proceeding commenced or proposed to be commenced under this Act" or "examination of a witness...".
Ontario Energy Board	Section 112.0.6(1)(a) of the *Ontario Energy Board Act, 1998* provides that information obtained by an investigator is confidential except "as may be required in connection with the administration of this Act or any other Act that gives powers or duties to the Board or in any proceeding under this or any other Act that gives powers or duties to the Board".
Canada Energy Regulator	Section 111 of the *Canadian Energy Regulator Act* provides that an inspection officer must not disclose any information regarding any secret process or trade secret obtained while performing duties or functions, "except for the purposes of this Part [Part 2 - "Safety, Security and Protection of Persons, Property and Environment", which includes "Administration and Enforcement", sections 102-112], or as required by law".
Canada Revenue Agency	Section 241(4)(a) of the *Income Tax Act* provides that an official may "provide to any person taxpayer information that can be reasonably regarded as necessary for the purposes of the administration or enforcement of this Act, the *Canada Pension Plan*, the *Unemployment Insurance Act* or the *Employment Insurance Act*, solely for that purpose".
Canada Revenue Agency	Section 295(5)(a) of the *Excise Tax Act* provides that an official may provide confidential information "to any person as may reasonably be regarded as necessary for the purpose of the administration or enforcement of this Act, solely for that purpose".

Table 2 – Comparator Jurisdictions

Jurisdiction (Regulator)	Confidentiality Exception
Alberta (Market Surveillance Administrator)	The MSA exception is similar to the IESO's proposed amendments. It enables the MSA to use the information for the purposes set out in its mandate, but it must keep the information confidential, unless, among other things, disclosure is permitted or required by legislation, the court or the Alberta Utilities Commission (See MSA Investigation Procedures, section 4.6 *Use of Information Obtained During Investigation*.) Public disclosure of summary information provided as part of an investigation is permitted to be made public under Market Surveillance Regulation, Alta Reg. 266/2007. Similarly, the IESO will use and share the confidential information in furtherance of its enforcement mandate, but will endeavour to keep the information confidential in accordance with the principles it has set out.
British Columbia (British Columbia Utilities Commission)	The BCUC has a broader exception than that proposed by the IESO. Its exception is not solely for enforcement purposes, but it applies to all employees engaged in the administration of the *Utilities Commission Act.* Section 12(1) of the *Utilities Commission Act* provides that every commissioner and officer and employee of the commission must keep all information coming to the person's knowledge during the course of the administration of this Act, "except insofar as disclosure is necessary for the administration of this Act or insofar as the commission authorizes the person to release the information."
Québec (Régie de l'énergie)	The Régie provides for various exceptions to confidentiality but does not provide a specific exception for enforcement. It is noted that its investigation function is generally led by NPCC and not its staff members.

U.S.A. (NERC and the NERC Regional Entities)	NERC and the Regional Entities' compliance investigations are subject to a broad exception to confidentiality – namely if directed to disclose by FERC. Under section 4.4 of NERC's Compliance Monitoring and Enforcement Program, Appendix 4C to the NERC Rules of Procedure, compliance investigations are confidential, unless FERC directs that a Compliance Investigation should be public or that certain information obtained in the Compliance Investigation should be publicly disclosed.
U.S.A. (FERC)	FERC has a broad exception to direct the disclosure of confidential information for law enforcement purposes or when disclosure is otherwise found in the public interest and permitted by law. Under 18 CFR (Code of Federal Regulations) Part 1b.9 – Rules Relating to Investigations, FERC treats all information and documents obtained during the course of an investigation as non-public (i.e. it will not divulge it)[1] except to the extent that FERC directs or authorizes the public disclosure of the investigation, or the information or documents are made a matter of public record during the course of an adjudicatory proceeding, or disclosure is required by the *Freedom of Information Act*. Persons may seek confidential treatment of information for the purposes of the *Freedom of Information Act*[2] to exempt such information from public disclosure requirements, but such a request shall not prevent disclosure for law enforcement purposes or when disclosure is otherwise found in the public interest and permitted by law. In other words, disclosure of non-public information is only permitted at the Commissioners' direction or authorization, during the course of an adjudicatory proceeding, or when required by the *Freedom of Information Act*. It is not "confidential information". Persons may seek a designation of "confidential information" to exempt it from mandatory public disclosure requirements. However, even if it is designated as "confidential information" there is a law enforcement exception: such confidential information may be disclosed at FERC's direction for law enforcement purposes or when disclosure is otherwise found in the public interest and permitted by law.

[1] Under 18 CFR Part 3.c.2 – Nonpublic information, FERC staff must not divulge any fact or information obtained during an investigation "in the absence of Commission of court direction". Similarly, under section 301(b) of the Federal Power Act, no member, officer, or employee of the Commission shall divulge any fact or information which may come to his knowledge as a result of a FERC investigation, "except insofar as he may be directed by the Commission or by a court".

[2] Under 18 CFR Part 1b.20 – Request for confidential treatment, persons compelled by FERC to produce documents in an investigation are allowed to claim that some or all of the information contained in a particular document are confidential and exempt from mandatory public disclosure requirements.