

Public



**PROCEDURE**

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**Market Manual 2: Market Administration**

**Part 2.6: Treatment of  
Compliance Issues**

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**Issue 22**

This procedure provides the steps required for the treatment of compliance issues by both Market Participants and the IESO.

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This *market manual* may contain a summary of a particular *market rule*. Where provided, the summary has been used because of the length of the *market rule* itself. The reader should be aware, however, that where a *market rule* is applicable, the obligation that needs to be met is as stated in the *market rules*. To the extent of any discrepancy or inconsistency between the provisions of a particular *market rule* and the summary, the provision of the *market rule* shall govern.

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## Document Control

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### **Distribution List**

<b>Name</b>	<b>Organization</b>

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# Table of Changes

Reference (Paragraph and Section)	Description of Change
<a href="#">S, 1.2</a>	<a href="#">Updated title of referenced Market Manual 5, Part 5.9: Settlement Payment Methods and Schedule</a>
<a href="#">S, 1.3.1</a>	<a href="#">Clarified MACD's role</a>
<a href="#">S, 1.3.3</a>	<a href="#">Clarified the maximum amounts in section 6.6 and updated the footnote</a>
<a href="#">S, 1.3.5</a>	<a href="#">Amending the "or" to "or both" to be consistent with the options under section 6.2.7 of Chapter 3 of the <i>Market Rules</i></a> <a href="#">Changed the penalty table to follow proposed change to Chapter 3</a> <a href="#">Added footnote as a reference to section 2.2 for clarity on investigation stages after notice</a>
<a href="#">S, 1.3.6</a>	<a href="#">Updated MACD's contact information for voluntary payment</a>
<a href="#">S, 1.3.10</a>	<a href="#">Clarification of language by removing and adding part of the sentence in reference to quote from <i>Market Rules</i>, changing "public reporting" to "publishing"</a>
<a href="#">S, 1.5</a>	<a href="#">Removal of outdated IESO contact information</a>
<a href="#">S, 2.</a>	<a href="#">Clarified the purpose of the work flow</a>
<a href="#">S, 2.1</a>	<a href="#">Clarification of the language</a>
<a href="#">S, 2.2</a>	<a href="#">Clarification of the language</a>
<a href="#">S, 3.</a>	<a href="#">Clarified purpose of the procedural steps</a>
<a href="#">S, 3.1</a>	<a href="#">Clarified the language and in Table 3.1, the method of delivery</a>
<a href="#">S, 3.2</a>	<a href="#">Clarification of language and in Table 3.2, the method of delivery and changed language to follow the proposed change to Chapter 3</a>
<a href="#">Appendix D</a>	<a href="#">Change to the amounts in the penalty table to follow the proposed change to Chapter 3, removing the Board's role in determining the higher penalty table to follow the proposed change to Chapter 3 and updating references to the <i>Market Rules</i></a>



# Market Manuals

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The *market manuals* consolidate the market procedures and associated forms, standards, and policies that define certain elements relating to the operation of the *IESO-administered markets*. Market procedures provide more detailed descriptions of the requirements for various activities than is specified in the *market rules*. Where there is a discrepancy between the requirements in a document within a *market manual* and the *market rules*, the *market rules* shall prevail. Standards and policies appended to, or referenced in, these procedures provide a supporting framework.

## Market Procedures

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The “Market Administration Manual” is Volume 2 of the *market manuals*, where this document forms Part 2.6: “Treatment of Compliance Issues”.

A list of the other component parts of the “Market Administration Manual” is provided in Part 2.0: “Market Administration Overview”, in Section 2, “About This Manual”.

## Structure of Market Procedures

Each market procedure is composed of the following sections:

1. **“Introduction”**, which contains general information about the procedure, including an overview, a description of the purpose and scope of the procedure, and information about roles and responsibilities of the parties involved in the procedure.
2. **“Procedural Work Flow”**, which contains a graphical representation of the steps and flow of information within the procedure.
3. **“Procedural Steps”**, which contains a table that describes each step and provides other details related to each step.
4. **“Appendices”**, which may include such items as standards, policies, agreements, and list of forms.

## Conventions

The *market manual* standard conventions are as defined in the “Market Manual Overview” document.

## Definitions and Acronyms

A list of terms and acronyms used in this *market manual* is found in Chapter 11 of the *market rules*. Unless otherwise defined in this *market manual*, terms and acronyms used in this *market manual* have the meanings ascribed thereto in Chapter 11 of the *market rules*.

– End of Section –

# 1. Introduction

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## 1.1 Purpose

This procedure describes the activities required for the treatment of compliance issues. It sets out the processes by which the *IESO* shall assess and enforce compliance with the *market rules*, and specifically:

- the treatment of alleged breaches of the *market rules* by a *market participant*;
- the suspension of a *market participant* following an *event of default*; and
- the termination of a *market participant* or de-registration of *facilities*.

The procedure is intended to provide a summary of the steps involved, particularly those affecting *market participants*, and to provide a summary of the interaction between *market participants*, the *IESO*, and other parties as related to this process.

## 1.2 Scope

This procedure is intended to provide *market participants* with a summary of the steps and interfaces between *market participants*, the *IESO*, and other parties for the treatment of compliance issues. Procedural work flows and procedural steps described in this document will serve as a roadmap for *market participants* and the *IESO*, and reflect the requirements set out in the *market rules* and applicable *IESO* policies and standards. The overview information in Section 1.3, below, is provided for context purposes only, highlighting the main actions that comprise the procedure.

The processes outlined in this procedure do not address the management of *events of default* relating to *prudential support* or payments due the *IESO*. The processes surrounding *events of default* relating to *prudential support* are addressed in the “Market Manual 5: Settlements, Part 5.4: Prudential Support”. The processes surrounding *events of default* relating to payments due the *IESO* are addressed in the “Market Manual 5: Settlements, Part 5.9: [Settlement](#) Payment Methods and Schedule”.

The process outlined in this document does not address market surveillance. This is addressed in “Market Manual 2: Part 2.7: Treatment of Market Surveillance Issues”. The process outlined in this document does not address de-registration. This is addressed in “Market Manual 1: Market Entry, Maintenance and Exit, Part 1.2: Facility Registration, Maintenance and De-registration”.

## 1.3 Overview

### 1.3.1 ~~Ring-Fencing of~~ Compliance Enforcement within the IESO

The *IESO* has assigned responsibility for the enforcement of compliance with the *market rules* to a separate business unit within the company, the Market Assessment and Compliance Division (MACD). MACD has delegated authority to independently exercise the discretion allowed to the *IESO* in Chapter 3, sections 6.2 and 6.6 of the *market rules*. It enforces compliance against both *market participants* and the *IESO*, operating ~~in a ring fenced structure within the IESO with its files and investigative information accessible only to MACD staff members~~ independently within the *IESO*, reporting directly to the Board of Directors.

### 1.3.2 Identification and Screening of Compliance Issues

The *IESO* or parties other than the *IESO* (which could include a *market participant*, a third party, or regulatory authorities) may report a suspected compliance issue. A compliance issue can be either an *event of default* or a breach of the *market rules*. An “*Event of Default*” is defined in Chapter 3, section 6.3 of the *market rules*, the current version of which is reproduced in Appendix B. *Events of default* relate predominantly to financial and legal matters, including, but not limited to, *prudential support*, licencing, liquidity, and insolvency.

MACD assesses whether the reported issue appears to constitute a breach and, if so, decides whether to issue an informal notice or a “Notice of Alleged Breach”. Informal notices, called “Request for Information” and “Market Rule Reminders”, are used when the apparent breach is assessed as having a low impact on the market or system and some other extenuating circumstance is recognized, such as the apparent breach was committed by a new *market participant* or one with a good compliance history. The “Market Rule Reminder” serves as notice to the party of the obligation and that continued or future non-compliance will likely be subject to investigation and sanction.

With the exception of cases pertaining to potential breaches of *reliability standards* or severe breaches, MACD will send the *market participant* or *IESO* an informal “Request for Information” prior to issuing a “Notice of Alleged Breach”. This assists MACD in understanding the facts and may lead to a case being closed or handling it through a “Market Rule Reminder”. It may also provide better grounding for MACD to proceed formally by issuing a written “Notice of Alleged Breach”.

### 1.3.3 Breach of Market Rules

Where a breach of the *market rules* is alleged and sanctions may be applied, MACD issues a “Notice of Alleged Breach” in accordance with Chapter 3, section 6.2.3 of the *market rules*, to the *IESO* or *market participant* that is alleged to have committed the breach, outlining:

- details of the alleged breach;
- details of the evidence on which MACD reached its determination;
- details of potential sanctions that may be imposed if it is established that a breach did in fact occur;

- the time within which the *market participant* may submit a written *response* to the notification; and
- the right of the *market participant* to request a meeting with MACD to discuss the alleged breach within an acceptable timeframe.

MACD may issue a “Notice of Alleged Breach” with conditions that specify that the investigation will be concluded with no finding of breach provided the party corrects the cause of the breach and comes into compliance by a stipulated date.

Where MACD, taking into account representations made, determines that the *market participant* or the *IESO* has breached the *market rules*, it may order the offending party to do one or more of the following:<sup>1</sup>

- such things as may be necessary to comply with the *market rules* within a specified period;
- cease within a specified period the act, activity or practice constituting the breach; or
- carry out additional or more stringent record-keeping or reporting requirements.

MACD may also issue a written “Notice of Non-Compliance” and impose a financial penalty on the *market participant* or a voluntary payment on the *IESO*.<sup>2</sup> These financial sanctions cannot be imposed unless MACD is satisfied that the breach could have been avoided by the exercise of due diligence or that the offending party acted intentionally.

In addition to these remedies, where a *market participant* has been found to be in breach of the *market rules* on a persistent basis, the *IESO* may issue a *disconnection* or *termination order*, cancel the registration of some or all of the *market participant's registered facilities*, or restrict its participation in the *IESO-administered markets* or the *IESO-controlled grid*.

Finally, once MACD determines that a breach has been committed, details including the name of the breaching party, the provision breached and any sanctions applied may be *published* on the sanctions page of the *IESO* Web site.

The amount of the financial penalty or voluntary payment is determined based on the rule breached as set out in Chapter 3, section 6.6 of the *market rules*. Rule breaches fall into three penalty categories. Most fall within a specified range based on the selected level of non-compliance. The non-compliance level range maximums are \$225,000, \$450,000, \$675,000 and \$100,000 per breach. The range maximums may be exceeded if one or more of the defined circumstances, set out in Chapter 3, section 6.6.6A of the *market rules*, are met. Finally, a handful of provisions identified in Appendix 3.1 are subject to formula-based penalties that take into consideration the duration of the breach, a measure of the deviation from the obligation and a multiple of the prevailing *market price*.

<sup>1</sup> The *market rules* also provide for specific additional remedies as a result of breaches of certain provisions. These include declaring that a facility is ‘non-conforming’ where *market participants* do not follow *dispatch instructions*, withholding a *Transmission Right (TR)*, where payment is not made for the *TR*. This *market manual* does not seek to provide a comprehensive listing of the potential actions that the *IESO* may undertake following the occurrence of such breaches.

<sup>2</sup> The *IESO* is required to comply with the *market rules* (Chapter 1, section 5.4.1) and has undertaken to be treated as if it were a *market participant* because it is not named in the investigative and enforcement provisions in Chapter 3. Voluntary payments are assessed against the *IESO* on the same basis as financial penalties however the amounts are deposited in the *IESO adjustment account* and allocated by the *IESO Board* to special education projects or initiatives (Chapter 9, section 6.18.6).

### 1.3.4 Sanctions: Financial Penalties

#### Formula Based Financial Sanctions

The formula for the financial penalty is defined in of Chapter 3, section 6.6.8 of the *market rules*:

$$P = D \times T \times C$$

Where ‘P’ is the penalty to be imposed in dollars, ‘D’ is the deviation of the relevant quantity in the applicable obligation, ‘T’ is the duration of the breach, expressed in hours or fractions of hours, and ‘C’ is an amount determined by multiplying the clearing price by a factor relating to the breach and associated considerations.

#### 1.3.5 Financial Penalties- Not Formula Based

Where the Appendix 3.1 provides for “Sanctions as per Section 6.6.6”, or where a *market participant* has not complied with an order previously issued for a breach, MACD must determine whether to issue a non-compliance letter, ~~and/or~~ impose a financial penalty or both. MACD’s decision is based on the level of compliance and rate of recurrence.

The level of non-compliance is determined on the basis of degree of compliance, how MACD became informed of the breach, and the responsiveness of the *market participant* with a remedy. This is summarized in the following table:

Levels of Non-Compliance & Penalty Ranges in section 6.6.6

Compliance with all requirements of market rule	Informed the IESO on own initiative and on timely basis	Provided reasons for non-compliance, and plan (manner and time) to remedy	Level of non-compliance	Range of Financial Penalty
In part but not in whole	Yes	Yes	L1	Up to \$25,000
Neither in whole nor part	Yes	Yes	L2	Up to \$450,000
Neither in whole nor part	No	Yes, upon request of IESO and within requested time	L3	Up to \$756,000
Neither in whole nor part	No	No	L4	\$1,000 to \$100,000

If a *market participant* meets some but not all of the requirements of a single level or proposes a remedy that is not reasonable in time or manner, MACD will assign the level it considers to be



appropriate. The level of the penalty may be revised as information is gathered through the investigation.<sup>3</sup>

MACD may impose a financial penalty in excess of the maximum of the ranges in the preceding table up to \$1,000,000 per occurrence as set out in Appendix E: Sanctioning Guidelines.

Penalty Matrix in section 6.6.6B

Impact Level	Non-Compliance Level (Severity and Breach History)							
	Low		Moderate		High		Severe	
	Range Limit		Range Limit		Range Limit		Range Limit	
	Min	Max	Min	Max	Min	Max	Min	Max
Low Little or None	\$2,000	\$25,000	\$2,000	\$50,000	\$3,000	\$75,000	\$5,000	\$100,000
Medium Material	\$2,000	\$100,000	\$4,000	\$250,000	\$6,000	\$450,000	\$10,000	\$600,000
High Severe	\$4,000	\$250,000	\$8,000	\$500,000	\$12,000	\$750,000	\$20,000	\$1,000,000

To determine the amount of the financial sanction within the ranges in either of the two above tables, MACD weighs the factors listed in section 6.6.7 of the *market rules* in relation to the facts of the case:

- the circumstances in which the breach occurred;
- the severity of the breach;
- the extent to which the breach was inadvertent, negligent, deliberate or otherwise;
- the length of time the breach remained unresolved;
- the actions of the *market participant* on becoming aware of the breach;
- whether the *market participant* disclosed the matter to the *IESO* on its own or -whether it was prompted to do so;
- any benefit that the *market participant* obtained or may have obtained as a result of the breach;
- any previous breach by the *market participant* of the *market rules* or of the conditions of its *licence*;
- the actual or potential impact of the breach on other *market participants*;

<sup>3</sup> See section 2.2 of this Market Manual for investigation stages after notice.

- the actual or potential impact of the breach on the *IESO-administered markets* as a whole;
- the actual or potential impact of the breach on the *reliability* of the *integrated power system*;
- any sanctions that may be imposed on the *IESO* by a *standards authority* as a result of the breach;
- the immediacy of the threat that the breach poses to the *reliability* of the *integrated power system* or the *IESO-administered market*;
- presence and quality of the *market participant*'s compliance program;
- whether on its own initiative, a *market participant* has undertaken to reasonably compensate the *IESO-administered market* for the value of any benefit it obtained as a result of the breach; and
- such other matters as the *IESO* considers appropriate.

### 1.3.6 Voluntary Payment

In deciding whether to issue an informal notice or a “Notice of Alleged Breach” and in fixing the amount of any financial penalty, MACD will consider whether on its own initiative, a *market participant* has undertaken to reasonably compensate the *IESO-administered market* for the value of any benefit it obtained as a result of the breach. To make a voluntary payment a *market participant* should send a request to the *IESO* at:

The IESO  
 Market Assessment and Compliance  
[120 Adelaide Street West, Suite 1600](#)~~655 Bay Street, Suite 410~~  
~~P.O. Box 1~~  
 Toronto, ON [M5H 1T1 M5G 2K4](#)  
 Fax No.: [\(416\) 506-2843](#) ~~(905) 855-6408~~  
 Email Address: [MACD@ieso.ca](mailto:MACD@ieso.ca)  
 Attention: Settlements Department  
 Subject: Voluntary Payment

The request should include

- the compliance case reference number (COM0XXXXX)<sub>2</sub> if applicable,
- a request to have the payment processed on the next available month end settlement statement, and
- a spreadsheet or table showing the amount to be paid by charge type and delivery point (if applicable).

The request should be made by a contact registered with the *IESO* and copied to the *market participant's settlement* department and *settlement* contact.

### 1.3.7 Persistent Breaches of the Market Rules

If a *market participant* has breached the *market rules* on a persistent basis the *IESO* may:

- issue the *market participant* a *suspension order*,
- issue the *market participant* a *termination order*, or
- deregister some or all of the *market participant's* *registered facilities*.

Where the *IESO* intends to undertake any of the above the *IESO* will provide the *market participant* with a notice stating:

- the nature of the action to be taken;
- the grounds and any evidence on which the *IESO* relies on in support of the intended action;
- the time within which the *market participant* may make written representations to the *IESO* as to why such action should not be taken; and
- the right of the *market participant* to request a hearing before the *IESO Board* or a committee of the *IESO Board* established for such purpose to show cause why such action should not be taken.

A copy of the notice issued to the *market participant* will be copied to the *OEB* and to the *transmitter*, *distributor* and/or other *market participant* to whose *facilities* the *market participant's* *facilities* who is the subject of the notice are *connected*.

The *market participant* may request a hearing before the *IESO Board* providing the *market participant* with a reasonable opportunity to show cause as to why such action should not be taken. Following the hearing, the *IESO Board* may:

- approve the action that the *IESO* intends to take; or
- make any other appropriate order.

If the *market participant* does not request a hearing, the *IESO* shall consider any written representations received from the *market participant*. The *IESO* shall *publish* a notice of any actions taken and provide a copy to the *OEB* and the *transmitter*, *distributor* and/or other *market participant* to whose *facilities* the *market participant's* *facilities* are *connected*.

### 1.3.8 Suspension of Market Participant

A *suspension order* may be issued by the *IESO* for persistent breaches of the *market rules* or when an *event of default* by a *market participant* has not been remedied within the time frame prescribed in the *notice of intent to suspend*, or when an *event of default* related to a court supervised proceeding such as a bankruptcy protection or receivership has occurred.<sup>4</sup> A *disconnection order* may also be issued at the same time the *suspension order* is issued. The *disconnection order* is issued to the *transmitter(s)* or *distributor(s)* and/or other *market participant* to whose *facilities* the *suspended*

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<sup>4</sup> The processes surrounding *events of default* relating to *prudential support* are addressed in "Market Manual 5: Settlements, Part 5.4: Prudential Support." The processes surrounding *events of default* relating to payments due the *IESO* are addressed in "Market Manual 5: Settlements, Part 5.9: Payment Methods and Schedule".

*market participant's facilities are connected. A copy is provided to the OEB. The disconnection order orders the transmitter(s) or distributor(s) to disconnect the market participant to prevent unauthorized access to the IESO system.*

Where a *market participant* commits an *event of default*, the IESO may issue a “*Notice of Intent to Suspend*” to the *defaulting market participant* stating that the *market participant* will be suspended unless it remedies the *event of default* within 2 *business days* or such longer period as specified in the notice.

The IESO- may issue a *suspension order* to a *market participant* if the *market participant*:

- has not remedied an *event of default* within the time specified in the *notice of intent to suspend*;
- ceases or threatens to cease to carry on its business or a substantial part of its business;
- becomes insolvent or is unable to pay all or some of its debts when they fall due for payment;
- seeks to enter into an arrangement, composition or compromise with, or makes an assignment for the benefit of, all or any class of its creditors;
- has a receiver or receiver and manager or person having a similar or analogous function under the laws of any relevant jurisdiction appointed in respect of any of its property that is used in or relevant to the performance of its obligations under the *market rules* or its *licence*;
- is the subject of an order appointing an administrator, liquidator, trustee in bankruptcy or person having a similar or analogous function under the laws of any jurisdiction;
- is wound up, dissolved, or otherwise has ceased to exist or is the subject of an application for winding up or dissolution, or any analogous procedure, under the laws of any jurisdiction, unless the notice of winding up or dissolution is discharged or withdrawn;
- ceases to satisfy any material requirement imposed upon it as a condition of its authorization to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*; or
- has been determined by the IESO to have persistently breached the *market rules*.

The IESO shall *publish* the details of the *suspension order* and provide a copy of the *suspension order* to the OEB and the *transmitter, distributor* and/or other *market participant* to whose *facilities* the suspended *market participant* is connected.

When the IESO issues a *suspension order* to a *market participant*, the *suspended market participant* becomes ineligible to trade or enter into any transaction in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*, to the extent specified in the *suspension order*. This condition remains until the IESO notifies the *suspended market participant*, and all other *market participants*, that the *suspension order* has been lifted.

The *market rules* require that the IESO make a public announcement, providing details of the suspension, and that the IESO issue a public notice promptly after a *suspension order*, and where applicable, a *disconnection order* is lifted, extended, modified or stayed.

The *suspension order* would normally include;

- details on the *market participant's* rights being suspended;
- the date upon which the suspension becomes effective;
- the *market participant's* obligations under the *suspension order*;
- the actions required in order for the *suspension order* to be lifted; and
- if applicable, notification to the *market participant* that a *disconnection order* has been sent to *transmitter (s)* or *distributor(s)* and/or other *market participant* to whose *facilities* the suspended *market participant* is connected.

On issuing a *suspension order* to a *market participant* the *IESO* may give effect to the order by;

- rejecting any *bid* or *offer* submitted by the *suspended market participant*;
- setting-off any amounts otherwise due to the *suspended market participant* against any amounts owed by the *suspended market participant* under the *market rules*;
- issuing a *disconnection order* to the *transmitter, distributor* and/or other *market participant* to whose *facilities* the *suspended market participant's* facilities are connected; or
- making such further order or issue such directions to the *suspended market participant* as the *IESO* determines appropriate.

Where the *event of default* that triggered the issuance of a *suspension order* is remedied and there are no other *events of default* in existence with respect to the *suspended market participant*, the *IESO* shall lift the *suspension order* and, if applicable, cancel the *disconnection order*.

The *IESO* may, as a condition of lifting a *suspension order*, impose such conditions on the authorization of the *market participant* to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*, as the *IESO* determines appropriate. These may include, but are not limited to:

- establishing a lower *trading limit* in respect of the *market participant* than would otherwise be the case under of Chapter 2, section 5.3 of the *market rules*;
- establishing a more frequent continuing schedule of payments than would otherwise be the case under Chapter 9 of the *market rules*; or
- imposing more stringent *prudential support* requirements than would otherwise be the case under of Chapter 2, section 5 of the *market rules*.

### 1.3.9 Termination of Market Participant

*Market participants* may have their rights terminated if they are in persistent breach of the *market rules*, or if they fail to remedy the *event of default* that triggered a *suspension order*.

The *IESO* may issue a *termination order* to a *market participant* if:

- the *market participant* is a *suspended market participant* and has not remedied the *event of default* that triggered the *suspension order* within 5 *business days* of the issuance of the *suspension order*;
- the *market participant* is a *suspended market participant* and has notified the *IESO* that the *market participant* is not likely to remedy the *event of default* that triggered the issuance of the *suspension order*;
- the *market participant* has been wound up, dissolved, or otherwise has ceased to exist; or
- the *IESO* has determined that a *termination order* should be issued because the *market participant* has persistently breached the *market rules*.

At the same time that a *termination order* is issued to the *market participant*, a *disconnection order* may be issued to the *transmitter(s)*, *distributor(s)* or other *market participant* to whose *facilities* the *market participant* is connected and a copy provided to the *OEB*. The *disconnection order* directs the *transmitter(s)*, *distributor(s)* or other *market participant* to *disconnect* the *facilities* on the date and at the time specified in the *disconnection order*. A terminated *market participant* remains subject to and liable for all of its obligations and liabilities as a *market participant* under the *market rules*. A terminated *market participant* who wishes to be re-admitted as a *market participant* to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*, shall be required to re-apply for authorization.

The *IESO* may impose such terms and conditions on the rights of the *terminated market participant* that re-applies for authorization to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid* as the *IESO* determines appropriate in the circumstances, whether or not such terms and conditions are otherwise applicable to other *market participants*.

### 1.3.9A De-Registration of a Market Participant's Facilities

*Market participants* may have some or all of their *facilities* de-registered if they are in persistent breach of the *market rules*.

The *IESO* may issue a de-registration order to a *market participant* if the *IESO* has determined that the *market participant* has persistently breached the *market rules*.

At the same time that a de-registration order is issued to the *market participant*, a *disconnection order* may be issued to the *transmitter(s)*, *distributor(s)* or other *market participant* to whose *facilities* the *market participant* is connected and provide a copy to the *OEB*. The *disconnection order* directs the *transmitter(s)*, *distributor(s)* or other *market participant* to *disconnect* the *facilities* on the date and at the time specified in the *disconnection order*.

A *market participant* who wishes their *facility* or *facilities* to be re-registered shall be required to re-apply for *facility* registration.

The *IESO* may impose such terms and conditions on the rights of the *market participant* to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid* as the *IESO* determines appropriate in the circumstances, whether or not such terms and conditions are otherwise applicable to other *market participants*.

### 1.3.10 Public Reporting of Breaches of Market Rules

Public reporting as per Chapter 1, section 9.1.1 ~~and 9.1.2~~ of the *market rules* “...shall be effected by placing the document or information on the *IESO* ~~w~~Web site. The document or information shall be deemed to be *published* when the document or information has been so placed.” (See also section 9.1.2 related to publishing.) Where, due to *market rules*, *licence* of the *IESO* or other *applicable laws* or bylaws, the *IESO* must *publish* in an alternate mode to that listed above, the *IESO* will comply with that requirement by *publishing* in the alternate mode and on the *IESO* ~~w~~Web site.

Where a *market participant* has been found to be in breach of the *market rules* by MACD and a sanction, financial or otherwise, has been assessed, the *IESO* may *publish* the name of the offending party and other information relating to the breach in accordance with “Market Manual -2.0: Market Administration, Part 2.14 Information Confidentiality Catalogue”. Disclosure of information regarding the disputed matter or other related information may be required by the dispute resolution process in accordance with “Market Manual 2: Market Administration, Part 2.1: Dispute Resolution”.

In cases where a *market participant* had been alleged to be in breach of the *market rules* but subsequently not found to be in breach by MACD, no ~~public reporting publishing~~ of the alleged breach shall occur.

A complete list of *confidentiality classification* is available in “Market Manual 2: Part 2.14: Information Confidentiality Catalogue”.

## 1.4 Roles and Responsibilities

Responsibility for carrying out the “Treatment of Compliance Issues” procedure is shared among:

- **Market participants**, who are responsible for:
  - notifying the *IESO* if they are in breach of the *market rules* or have triggered an *event of default*;
  - complying with orders and directions issued by the *IESO*;
  - providing information to, or meeting with, the *IESO*, as requested;
  - requesting a meeting or hearing, as appropriate based upon *IESO* action;
  - responding to a notification of an alleged breach of the *market rules*, if desired; and
  - requesting suspension, termination or de-registration hearings.
- The **IESO**, which is responsible for:
  - monitoring *market participants* for compliance with the *market rules* and identifying compliance issues;
  - taking immediate action if *security* or *reliability* may be compromised by a compliance issue;
  - requesting information needed for a compliance investigation and meeting with the *market participant*, where requested;

- conducting investigations and determining the appropriate action in *response* to the compliance issue;
- notifying the *market participant* of investigation findings and evaluating the *market participant response*;
- conducting a suspension, termination or de-registration hearings, if requested by a *market participant*;
- issuing orders arising from a breach of the *market rules* by a *market participant*; and
- acting as a repository for information concerning breaches of *market rules* for future use in compliance investigations.

## 1.5 Contact Information

As part of the *participant* authorization and registration process, *applicants* are able to identify a range of contacts within their organization that address specific areas of market operations. For compliance issues, this contact will most likely be the Non-Compliance Market Contact Type in PLC – Participant Life Cycle (*market participant* contacts screen). If a *market participant* has not identified a specific contact, the *IESO* will seek to contact the main contact in PLC that is established during the *participant* authorization process. The *IESO* will seek to contact these individuals for activities within this procedure, unless alternative arrangements have been established between the *IESO* and the *market participant*. For more information on PLC and the *participant* authorization process see “Market Entry, Maintenance and Exit, Part 1.1 – Participant Authorization Maintenance and Exit.”

If the *market participant* wishes to contact the *IESO*, the *market participant* can contact the *IESO* Customer Relations via email at [customer.relations@ieso.ca](mailto:customer.relations@ieso.ca) or via telephone, mail or courier to the numbers and addresses given on the *IESO*'s Web site ([www.ieso.ca](http://www.ieso.ca)). ~~– or click on 'Have a question?' to go to the 'Contacting the IESO' page). If the IESO Customer Relations is closed, telephone messages or emails may be left in relevant voice or electronic IESO mail boxes, which will be answered as soon as possible by Customer Relations staff.~~

Standard forms that *market participants* must complete for this procedure are listed in Appendix A. These forms are generally available for downloading on the *IESO*'s public Web site. These forms as well as the accompanying supporting documentation must be transmitted to the *IESO* via email, mail, fax or courier, by using the appropriate address or number provided on the *IESO*'s public Web site or on the form.

– End of Section –



## 2. Procedural Work Flow

The diagrams in this section ~~represent~~ aims to provide a generalized representation of the expected flow of work and information between the *IESO*, the non-compliant *market participant* involved in the process, and any other parties related to the treatment of compliance issues.

The steps illustrated in the diagrams are described in detail in Section 3 below.

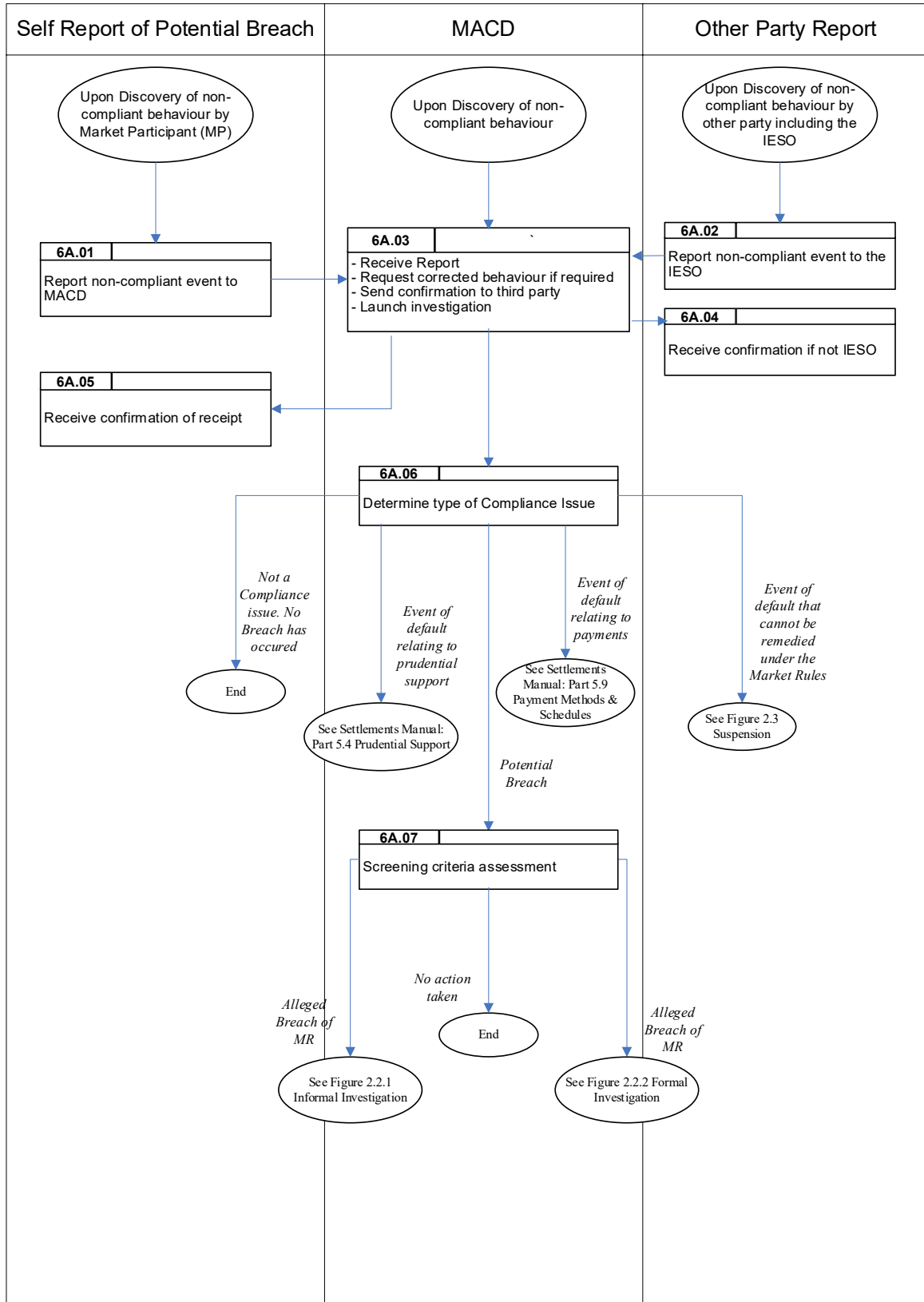
**Table 2–1: Legend for Work Flow Diagrams**

Legend	Description
Oval	An event that triggers task or that completes task. Trigger events and completion events are numbered sequentially within procedure (01 to 99)
Task Box	Shows reference number party responsible for performing task (if “other party”), and task name or brief summary of task. Reference number (e.g., 1A.02) indicates procedure number within current <i>market manual</i> (1), sub-procedure identifier (if applicable) (A), and task number (02)
Solid horizontal line	Shows information flow between the <i>IESO</i> and external parties
Solid vertical line	Shows linkage between tasks
Broken line	Links trigger events and completion events to preceding or succeeding task

### 2.1 Identification of Compliance Issues

When a non-compliance event has been identified, MACD may notify the non-compliant party ~~and request that the behaviour causing the non-compliance be corrected~~. MACD will then determine the type of non-compliance event that has been identified prior to taking the appropriate actions (as set out in Sections 2.2, 2.3 and 2.4), including indicating timelines by which the breach must be remedied.

The steps shown in Figure 2–1 are described in detail in Section 3.1, Table 3–1.

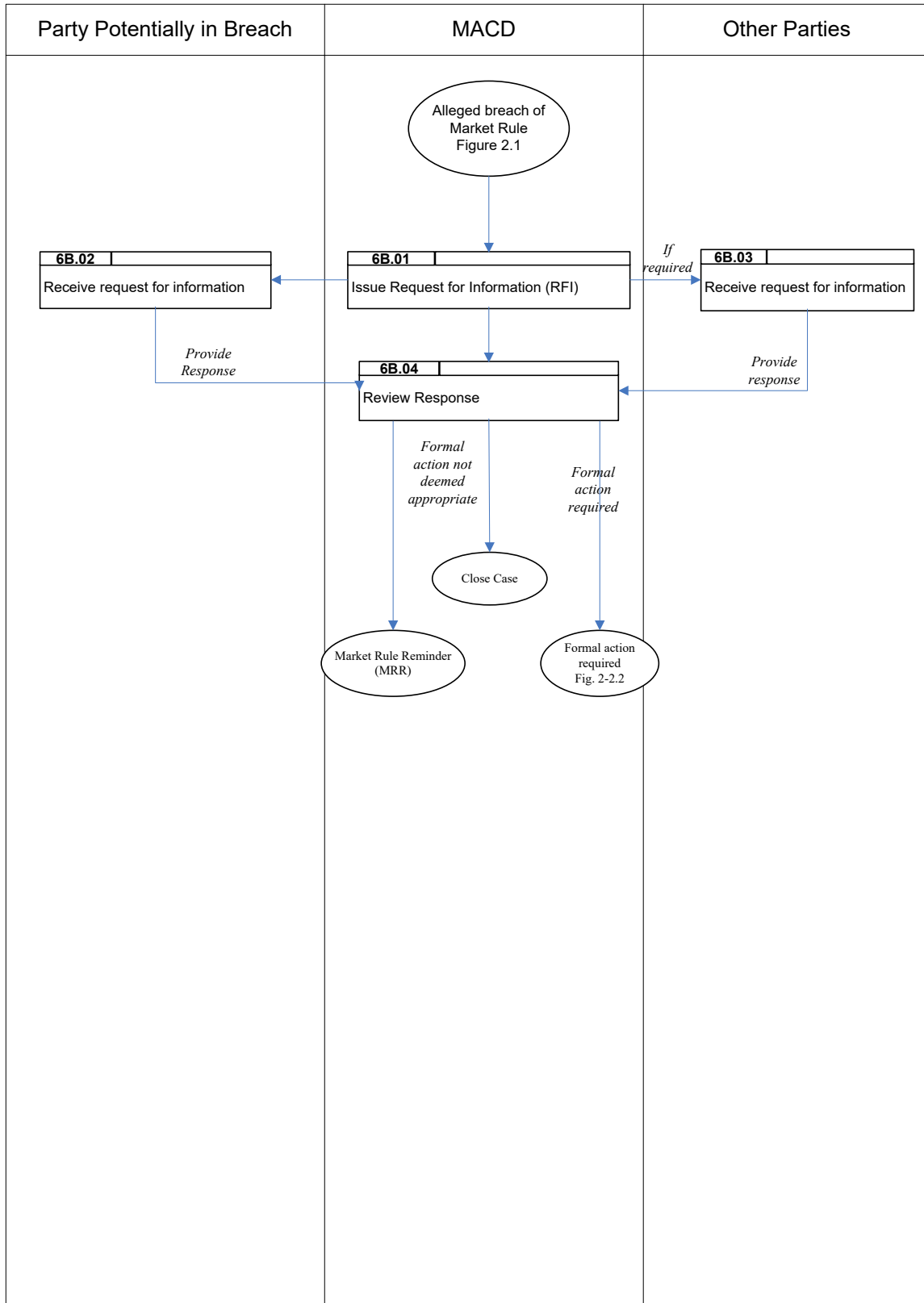


**Figure 2–1: Work Flow for the Identification of Compliance Issues**

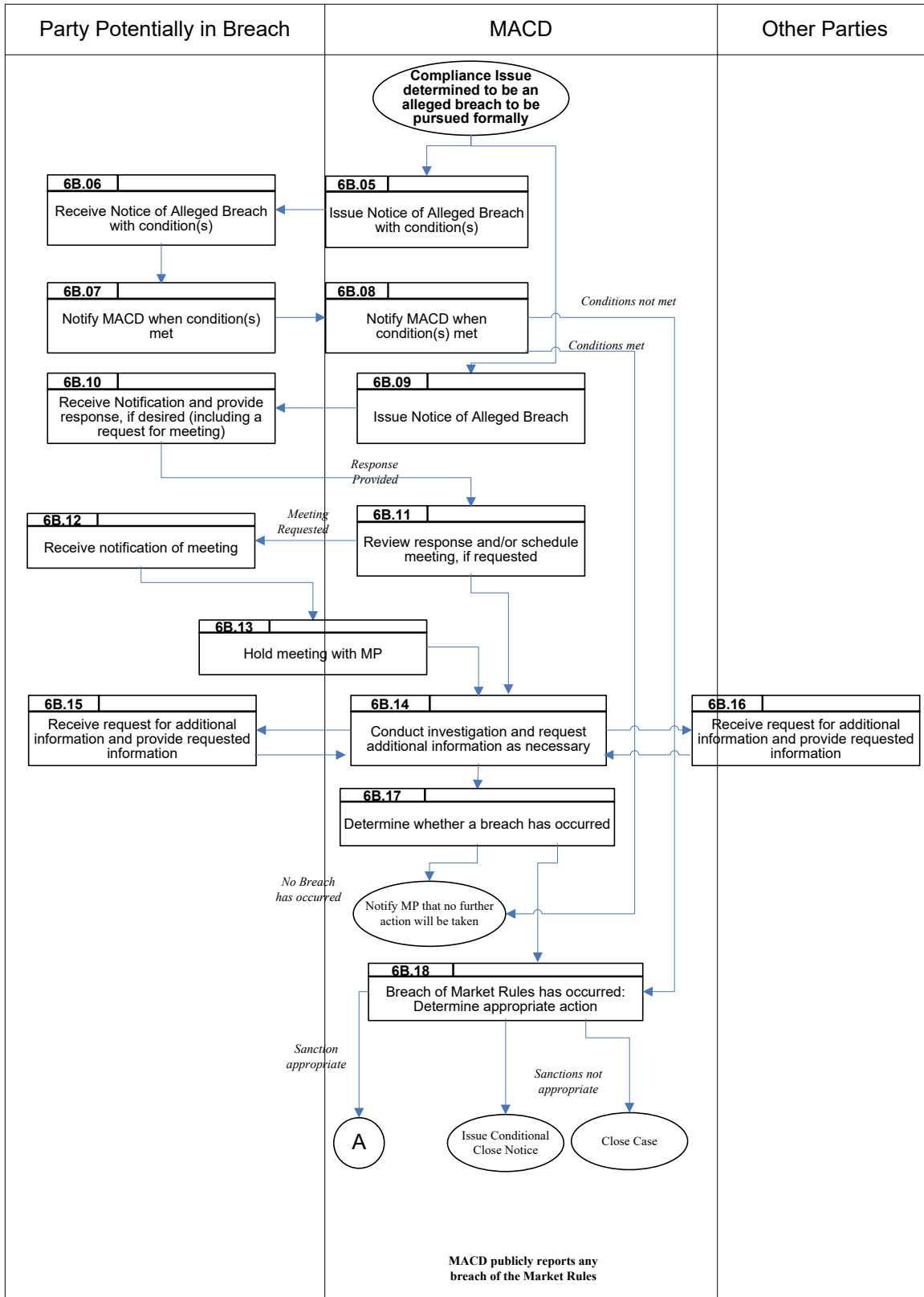
## 2.2 Treatment of Alleged Breach of the Market Rules

Where MACD determines that a compliance issue is an alleged breach of the *market rules*, in accordance with Chapter 3, Section 6.2.3., it will conduct an investigation to confirm (or otherwise dismiss) the breach. As part of this investigation it will seek information from the non-compliant *market participant* and the party reporting the compliance issue and, on request, meet with the party potentially in breach ~~to review the evidence presented~~. Where a breach is confirmed, MACD will apply appropriate sanction to the party in breach.

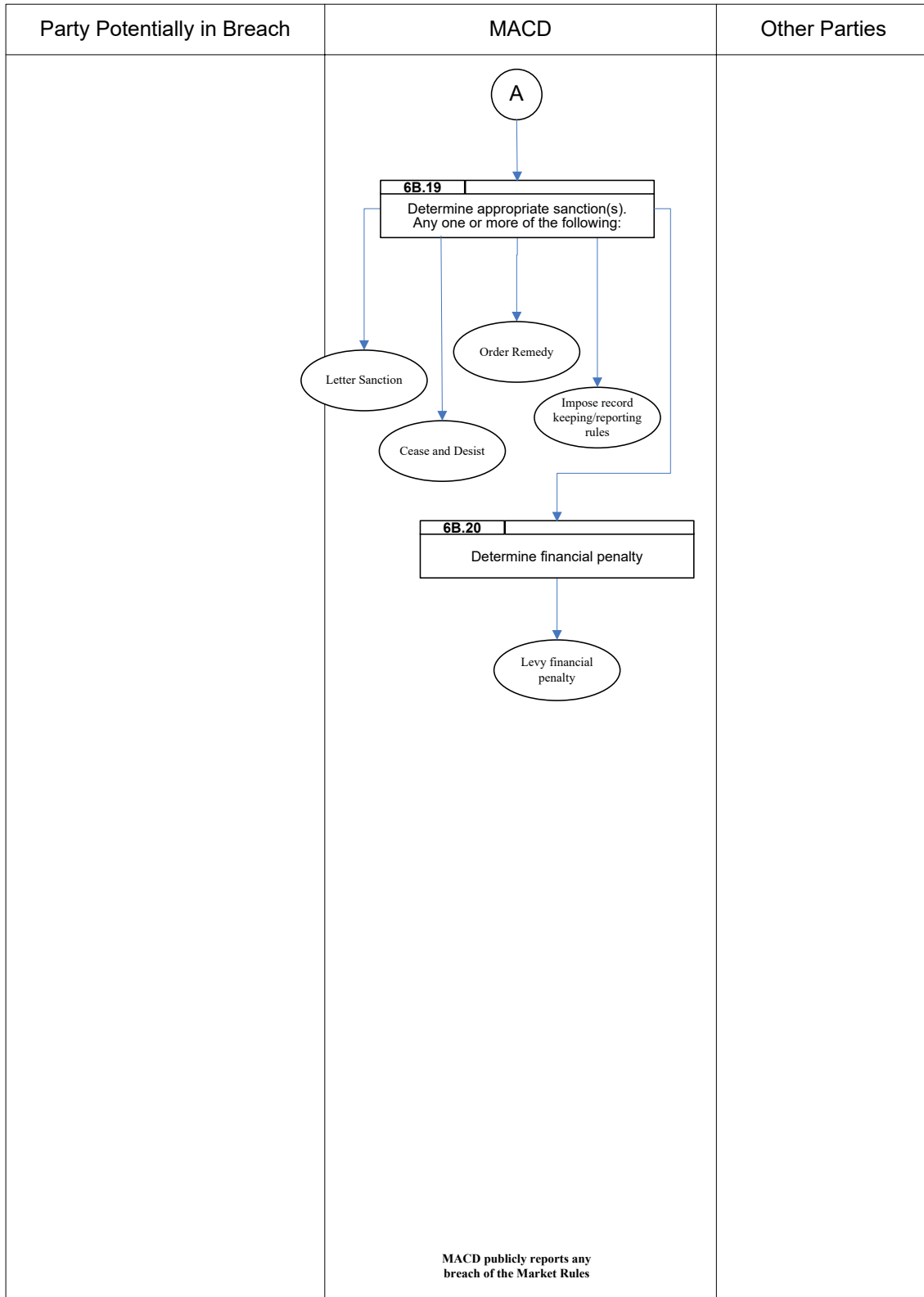
The steps shown in Figure 2–2 are described in detail in Section 3.2, Table 3–2.



**Figure 2–2.1: Work Flow for the Treatment of Alleged Breach of the Market Rules – Informal Process**



**Figure 2–2.2: Work Flow for the Treatment of Alleged Breach of the Market Rules – Formal Process**



**Figure 2–2.2: Work Flow for the Treatment of Alleged Breach of the Market Rules – Formal Process (continued)**

## 2.3 Suspension of a Market Participant

In the event that a *market participant* has been determined to have persistently breached the *market rules*, does not remedy an *event of default* within the specified period or a specified *event of default* occurs, the *IESO* is authorized to issue a suspension order suspending the *market participant's* rights to participate in the *IESO-administered markets* or cause or permit electricity to be conveyed into, through, or out of the *IESO-controlled grid*.

In the event of persistent breaches of the *market rules*, prior to the issuance of a *suspension order*, the *IESO* must notify the defaulting *market participant* of its intent to issue such order and the grounds for its issuance. The *market participant* will be given an opportunity to make a case to the *IESO Board* as to why they should not be issued a *suspension order*.

If a *suspension order* is issued, a *disconnection order* may also be issued to the *transmitter(s)*, *distributor(s)* or other *market participant* to whose *facilities* the *suspended market participant* is connected with a copy provided to the *OEB*. If a *disconnection order* has been issued to the relevant *transmitter(s)*, *distributor(s)* or other *market participant*, a notification will be included in the *suspension order* to the *market participant*.

Where a *market participant* is suspended, they are given a period of time to remedy the cause of the suspension, after which the *IESO* may start the process of terminating the *market participant* (see Section 2.4)

The steps shown in Figure 2–3 are described in detail in Section 3.3, Table 3–3.

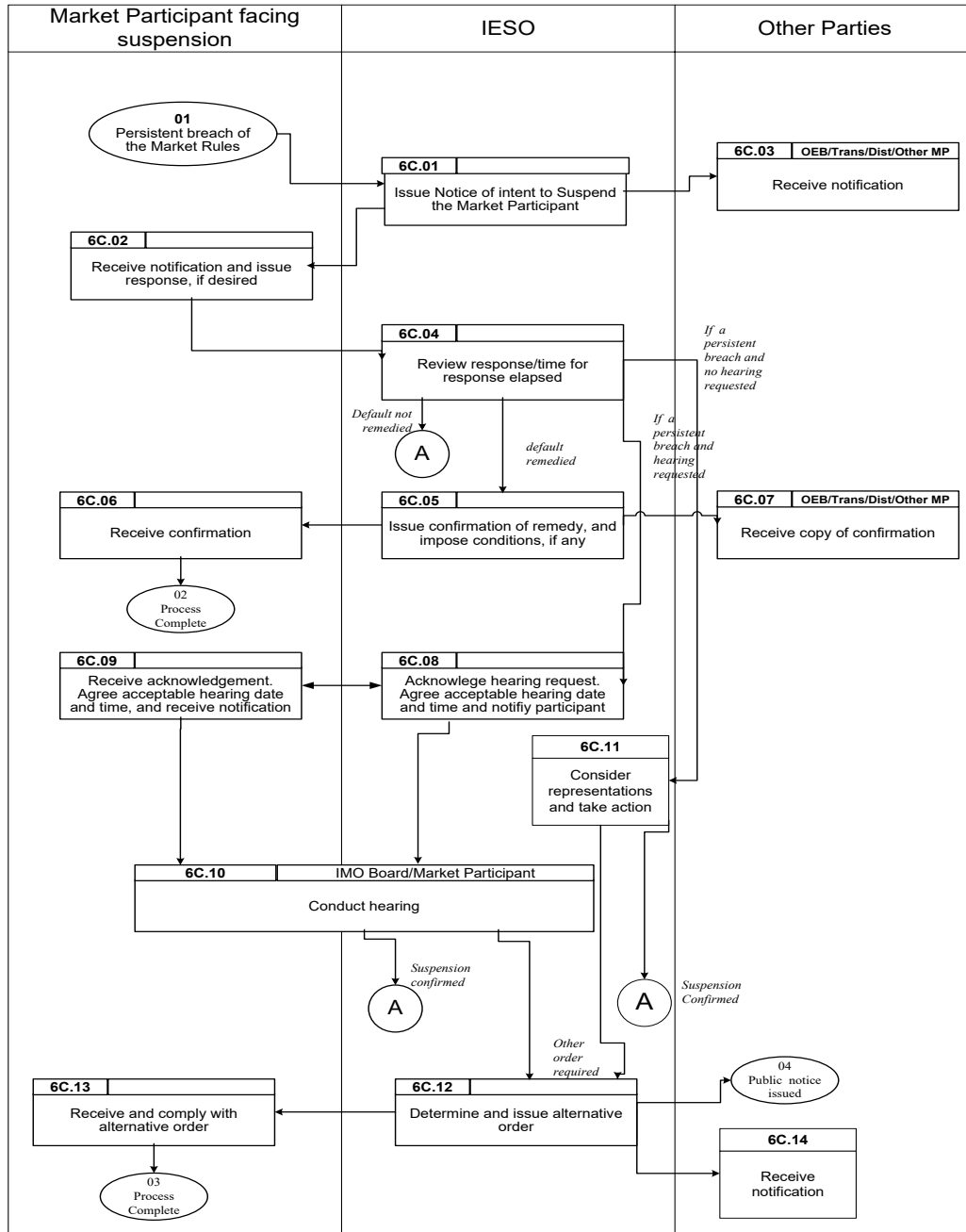


Figure 2-3: Work Flow for the Suspension of a Market Participant



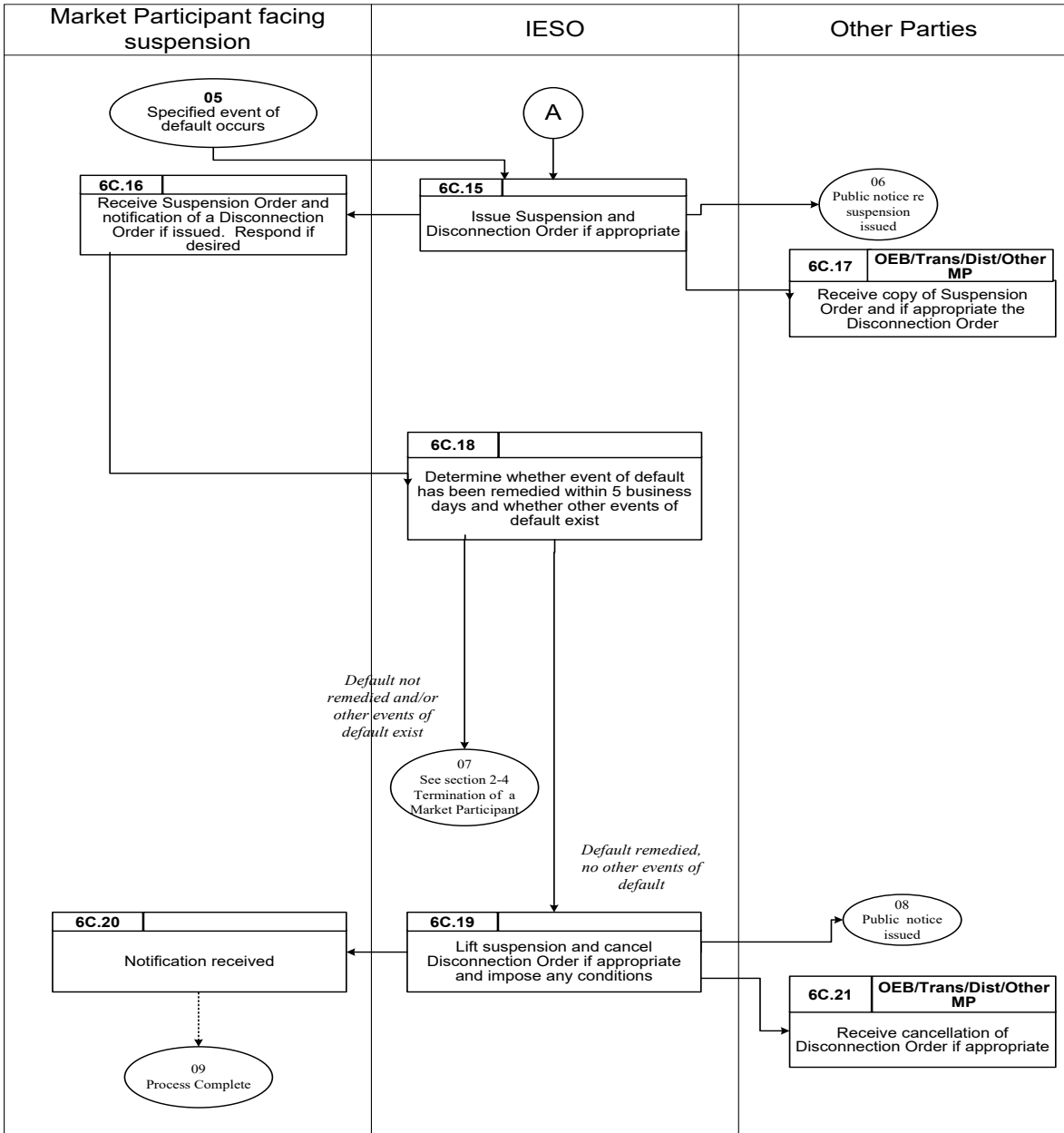


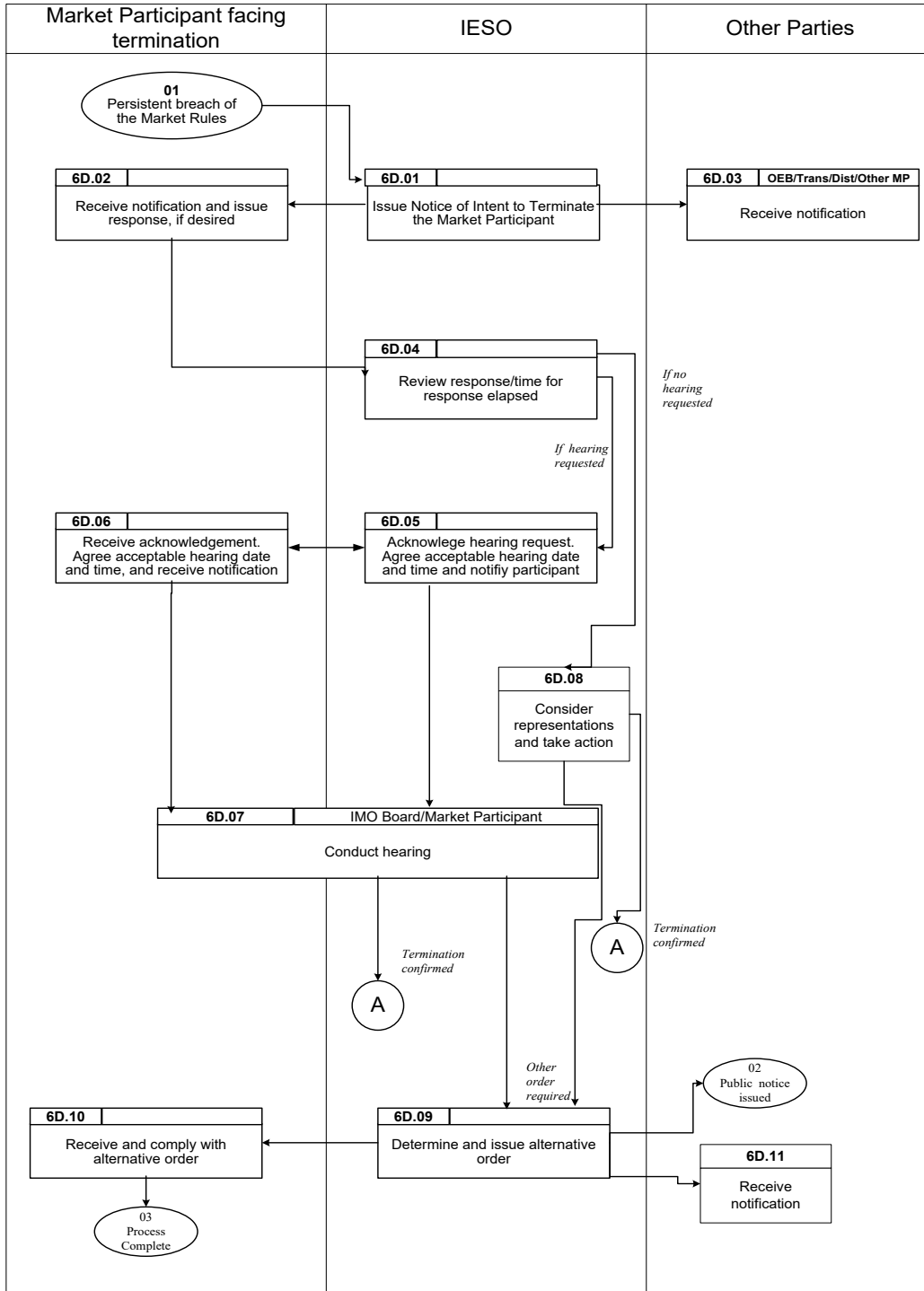
Figure 2–3: Work Flow for the Suspension of a Market Participant (continued)

## 2.4 Termination of a Market Participant

Where a *suspended market participant* has either not remedied an *event of default* within the specified time period or notified the *IESO* that it is not likely to remedy the *event of default*, or where a *market participant* has been wound up, dissolved or otherwise ceased to exist, or where a *market participant* has been determined to be in persistent breach of the *market rules*, the *IESO* may:

- Issue a *termination order* terminating the *market participant's* rights to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through, or out of the *IESO controlled grid*; and
- if it has not already done so, issue a *disconnection order* to the *transmitter, distributor* and/or other *market participant* to whose *facilities* the *terminated market participant's facilities* are connected and provide a copy to the *OEB*.

The steps shown in Figure 2–4 are described in detail in Section 3.4, Table 3–4.



**Figure 2–4: Work Flow for the Termination of a Market Participant**

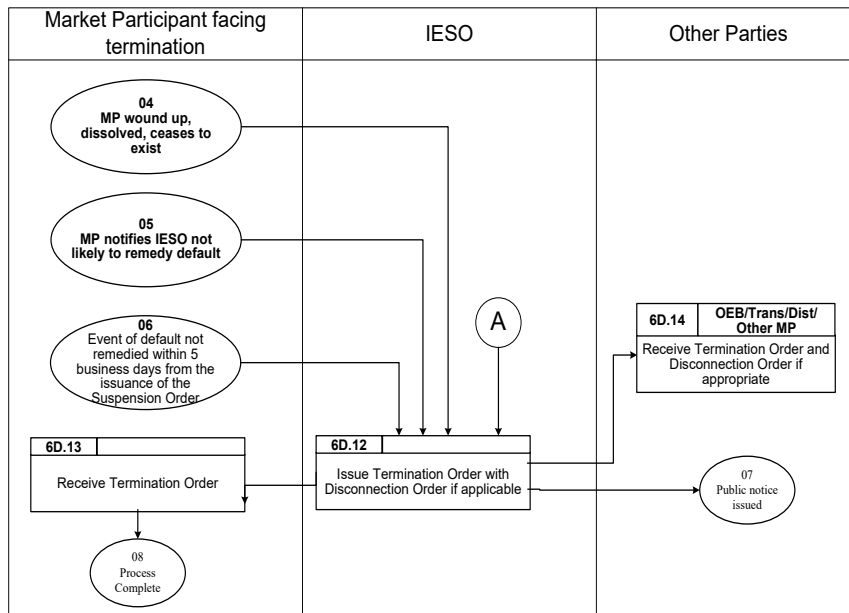


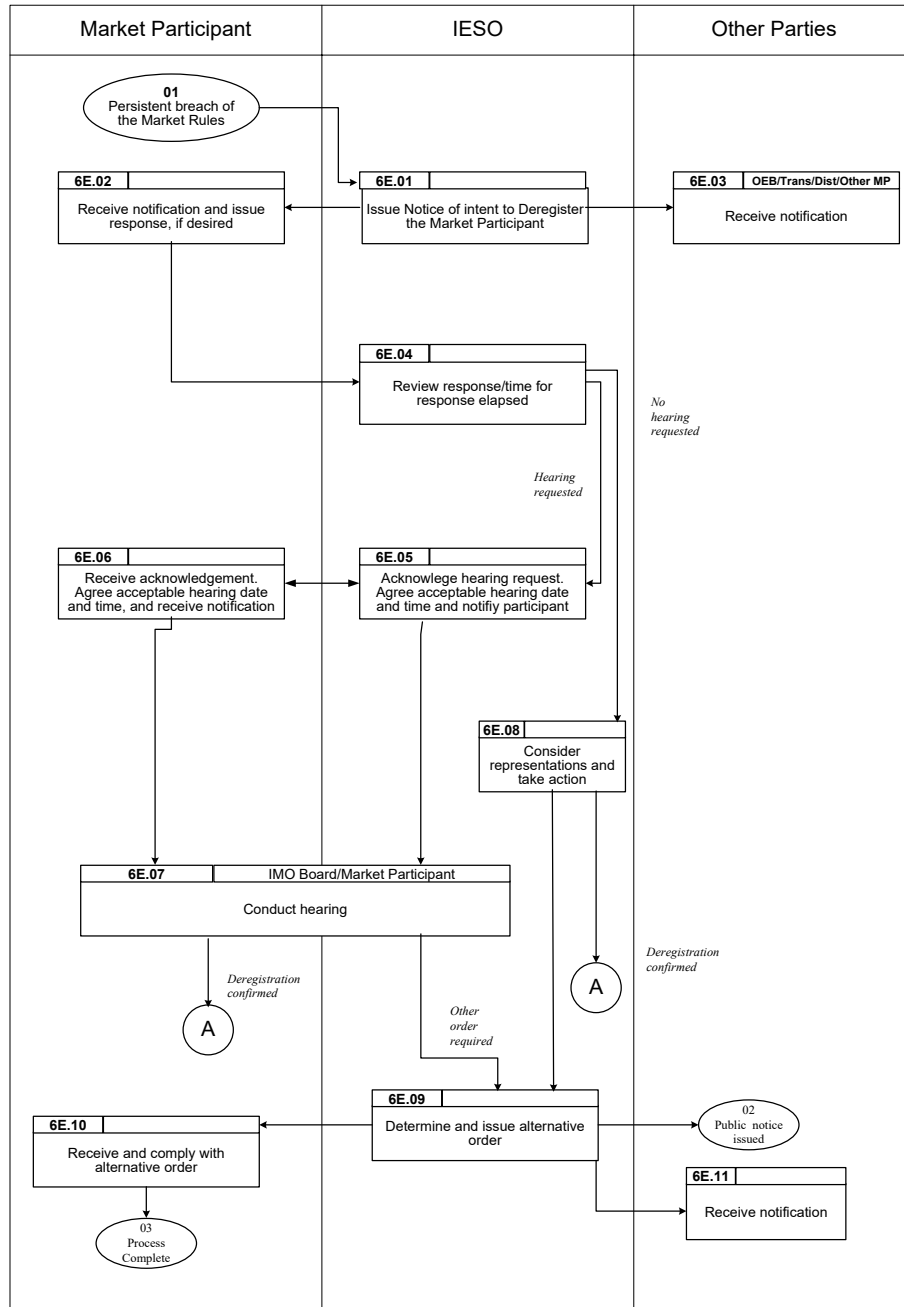
Figure 2–4: Work Flow for the Termination of a Market Participant (continued)

## 2.5 De-registration of Facilities

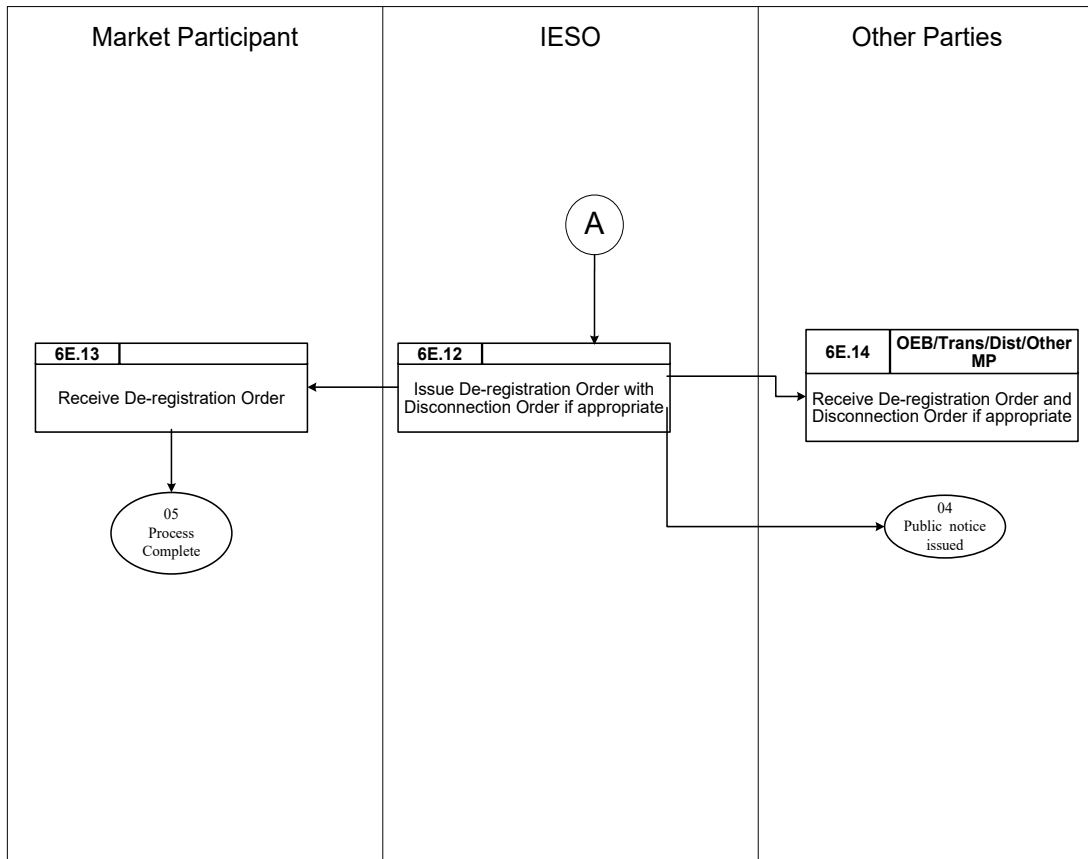
Where a *market participant* has been determined to have persistently breached the *market rules*, the *IESO* may:

- de-register some or all of the *market participant’s registered facilities*; and
- issue a *disconnection order* to the *transmitter, distributor* and/or other *market participant* to whose *facilities* the *terminated market participant’s facilities* are connected and provide a copy to the *OEB*.

The steps shown in Figure 2–5 are described in detail in Section 3.5, Table 3–5.



**Figure 2–5: Work Flow for the De-registration of Facilities**



**Figure 2–5: Work Flow for the De-registration of Facilities (continued)**

– End of Section –

## 3. Procedural Steps

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This section ~~contains~~ provides detail on the expected tasks (steps) that comprise the treatment of compliance issues. The tables contain seven columns, as follows:

### **Ref**

The numerical reference to the task.

### **Task Name**

The task name as identified in Section 2.

### **Task Detail**

Detail about the task.

### **When**

A list of all the events that can trigger commencement of the task.

### **Resulting Information**

A list of the information flows that may or must result from the task.

### **Method**

The format and method for each information flow are specified.

### **Completion Events**

A list of all the circumstances in which the task should be deemed finished.

### 3.1 Identification of Compliance Issues

When a non-compliance event has been identified, ~~MACD notifies the party potentially in breach and requests that the behaviour causing the non-compliance be corrected.~~ MACD will then determine the type of non-compliance event that has been identified prior to taking the appropriate procedural steps shown in Table 3-1 ~~that~~ are ~~also~~ illustrated in Section 2.1, Figure 2-1.



**Table 3–1: Procedural Steps for Identification of Compliance Issues**

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6A.01	Self-report non-compliant event to MACD	<p>A <i>market participant</i> or the <i>IESO</i> may report an event of non-compliance to MACD for the following reasons:</p> <ul style="list-style-type: none"> <li>• a <i>market participant</i> that is in non-compliance may voluntarily report themselves to the <i>IESO</i>. Voluntary self-reporting may act to mitigate a sanction that might be imposed if the non-compliance was discovered by the <i>IESO</i>, or as the result of information obtained from another source;</li> <li>• the <i>market rules</i> require the <i>market participant</i> to report to the <i>IESO</i> certain events that constitute or may give rise to an <i>event of default</i> (Chapter 3, subsection 6.3.2 of the <i>market rules</i>).</li> </ul>	Upon discovery of non-compliant behaviour	Notification of non-compliance in the form of the “Non-Compliance Event Report” – IMO- FORM- 1253 or a document containing the same information	Fax or <del>email</del> <b>Electronically (via a work space or IESO secure site).</b>	Non-compliance event reported to MACD
6A.02	Report non-compliant event to MACD	A third party (including the <i>IESO</i> ) may discover evidence of non-compliant behaviour and notify MACD.	Upon discovery of non-compliant behaviour	Notification of non-compliance in the form of the “Non-Compliance Event Report” – IMO-FORM-1253 or a document containing the same information.	Fax or <del>Electronically email</del> <b>(via a work space or IESO secure site).</b>	Non-compliance event reported to MACD

6A.03	Receive report	When MACD has been notified of a non-compliant event, it will contact and notify the party potentially in breach <del>and request that the behaviour leading to their alleged breach be corrected.</del>	Upon notification from a <i>market participant</i> , <i>IESO</i> or other third party of a compliance issue	Notification of compliance issue and request for correction of behaviour.	Telephone and/or <del>Electronically email (via a work space or IESO secure site).</del>	Information on potential non-compliance issue is received and logged. MACD acknowledges receipt of report. MACD may request <i>market participant</i> to correct behaviour.
6A.04 6A.05	Receive confirmation	Reporting party receives confirmation of receipt of report of non-compliance.	Upon receipt of report by MACD	Confirmation of receipt.	<del>Electronically Email (via a work space or IESO secure site).</del>	Acknowledgement received.
6A.06	Determine type of compliance issue	MACD examines the available information to determine the type of compliance issue. MACD will determine that either: <ul style="list-style-type: none"> <li>• a potential breach of the <i>market rules</i> has occurred;</li> <li>• an <i>event of default</i> has occurred in relation to <i>prudential support</i> (see “Market Manual 5: Settlements, Part 5.4 Prudential Support”);</li> <li>• an <i>event of default</i> has occurred in relation to payment (see “Market Manual 5: Settlements, Part 5.9 Payment Methods &amp; Schedule”);</li> <li>• an <i>event of default</i> has occurred that cannot be remedied under the <i>market</i></li> </ul>	Following step 6A.05	None	None	The type of compliance issue determined. Where MACD determines that a compliance issue cannot be identified, the <i>IESO</i> may still decide that an action of a <i>market participant</i> may be of concern to the <i>Market Assessment Unit</i> (see “Market Manual 2: Part 2.7: Treatment of Market Surveillance Issues”).

		<p><i>rules</i>, leading to suspension (see Section 2.3); or</p> <ul style="list-style-type: none"> <li>• that a compliance event has not occurred.</li> </ul> <p>A list of <i>events of default</i> is set out in Appendix B.</p>				
6A.07	Screening criteria assessment	MACD assesses the compliance issue to determine how to proceed with the investigation.	After MACD has determined whether a potential breach of the <i>market rules</i> has occurred	None	None	<p>MACD will determine to either:</p> <ul style="list-style-type: none"> <li>• notify the party that no further action will be taken;</li> <li>• commence an informal investigation;</li> <li>• commence a formal investigation; or</li> <li>• in the event a third party or self-report has been received and no further action will be taken, the reporting party will be notified.</li> </ul>

## 3.2 Treatment of Alleged Breach of the Market Rules

Where the *IESO* determines that a compliance issue is an alleged breach of the *market rules*, accordance with Chapter 3, Section 6.2.3., it will conduct an investigation to confirm (or otherwise dismiss) the breach. As part of this investigation, MACD will seek information from the non-compliant *market participant* and the party reporting the compliance issue and, on request, meet with the *market participant* ~~to review the evidence presented~~. Where a breach is confirmed, the *IESO* will apply the appropriate sanction to the *market participant*. Steps shown in Table 3.2 are illustrated in Section 2.2, Figure 2–2.1 and 2-2.2.

**Table 3–2: Procedural Steps for Treatment of Alleged Breach of the Market Rules**

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6B.01	Issue request for information	MACD sends a description of the compliance event and requests additional information.	At the start of an informal investigation	None	<del>Electronically Email (via a work space or IESO secure site).</del>	Request for additional information issued to the <i>market participant</i> and/or other party
6B.02 6B.03	Receive request and provide additional information	The party potentially in breach or other party receives the request from MACD and provides the additional information requested.	Following step 6B.01	Information specified in “Request for Information”.	<del>Electronically Email or fax (via a work space or IESO secure site) or fax</del>	Request received by the party potentially in breach or other party and additional information submitted to MACD
6B.04	Review <i>response</i>	<p>MACD reviews all of the information available and</p> <ul style="list-style-type: none"> <li>determines that there was no breach of the <i>market rules</i> and issuing an informal or formal notice is not appropriate, MACD will notify the party potentially in breach that no further action will be taken;</li> <li>determines that the party may have breached a <i>market rule</i> and if the breach is established a sanction would be appropriate and a formal investigation is initiated; or</li> <li>determines that there was a technical breach of a <i>market rule</i> but a sanction is not appropriate and a <i>market rule reminder</i> is issued.</li> </ul>	Upon receipt of additional information	None	<p><del>Electronically Email (via a work space or IESO secure site).</del></p> <p>Email Electronically (via a work space or IESO secure site).</p>	<p>Process to proceed is determined</p> <p>“Close Out Notice” sent</p> <p>“Market Rule Reminder” sent</p>

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6B.05	Issue “Notice of Alleged Breach with condition(s)	MACD issues “Notice of Alleged Breach with conditions. “Notice of Alleged Breach” -will identify: <ul style="list-style-type: none"> <li>• details of the alleged breach;</li> <li>• the time in which the breach must be remedied;</li> <li>• details of the evidence on which the MACD reached its determination;</li> <li>• details of potential sanctions that may be imposed if the conditions set out are not met by the time specified.</li> </ul>	MACD assess the breach as inconsequential but requires remedy	None	<del>Electronically Email (via a work space or IESO secure site).</del>	Notification sent to party allegedly in breach
6B.06	Receive “Notice of Alleged Breach with condition(s)	Party potentially in breach receives “Notice of Alleged Breach” with condition(s)	Following step 6B.05	None	None	Receipt of notice
6B.07 6B.08	Notify MACD conditions met	Party potentially in breach has met/complied with conditions in “Notice of Alleged Breach” and notifies MACD.	Once conditions have been met	Notice that conditions have been met.	<del>Electronically Email (via a work space or IESO secure site).</del>	“Close Out Notice” sent
6B.09	Issue “Notice of Alleged Breach” of <i>market rules</i>	MACD issues a notification of an alleged breach to the -party potentially in breach, identifying: <ul style="list-style-type: none"> <li>• details of the alleged breach;</li> <li>• <del>the time in which the breach must be remedied;</del></li> <li>• details of the evidence on which the MACD reached its determination;</li> </ul>	Upon determination by MACD that the party may have breached a <i>market rule</i> and if a breach is established, a sanction is appropriate	“Notice of Alleged Breach” of <i>market rules</i>	<del>Electronically Email (via a work space or IESO secure site).</del>	“Notice of Alleged Breach” issued

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
		<ul style="list-style-type: none"> <li>• details of potential sanctions that may be imposed if the breach is established (in line with the sanctions set out in Chapter 3, section 6.6 and Appendix 3.1 of the <i>market rules</i>);</li> <li>• the time within which the party potentially in breach may submit a written <i>response</i> to the notification; and</li> <li>• the rights of the party potentially in breach to request a meeting with the MACD to discuss the alleged breach.</li> </ul>				
6B.10	Receive notification and issue <i>response</i> , if desired (including a request for a meeting)	<p>The party potentially in breach receives the notification of the alleged breach and may issue a <i>response</i>, if desired, outlining whether it agrees that a breach has occurred, how it will remedy the alleged breach, where it agrees that a breach has occurred, or other <i>response</i> that it deems appropriate.</p> <p>The <i>response</i> may include a request to meet with the <i>IESO</i> to discuss the alleged breach.</p>	Following Step 6B.09, within the timeframe set out in the “Notice of Alleged Breach” of <i>market rules</i>	<i>Response</i> to “Notice of Alleged Breach” of <i>market rules</i>	<del>Electronically Email</del> (via a work space or IESO secure site).	<i>Response</i> sent to the MACD
6B.11	Review <i>response</i> and schedule meeting, if requested by party	MACD reviews any <i>response</i> from the party potentially in breach.	Following Step 6B.10, if a meeting has been requested	Acknowledgement of Meeting Request	<del>Electronically Email</del> (via a work space or IESO secure site).	Notice of meeting sent to party potentially in breach

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
	potentially in breach	If a meeting has been requested, an acknowledgement is sent. A mutually acceptable date and venue for a meeting is scheduled and the party potentially in breach is notified of the date, time and venue for the meeting.				
6B.12	Receive notification of meeting	The party potentially in breach receives notification of the meeting to examine the alleged breach.	Following step 6B.11	None	None	Notification of meeting received by party potentially in breach
6B.13	Hold meeting with party potentially in breach to examine alleged breach	Meeting held between the <i>IESO</i> and party potentially in breach to discuss the alleged breach.  Formal meeting minutes may be issued to all <i>participants</i> to ensure proper representation of all parties and these minutes may form part of the input to the investigation undertaken in step 6B.06.	Following step 6B.12 and as specified in the notification of the meeting	Minutes of meeting	<del>Electronically Email</del> (via a work space or IESO secure site).	Meeting completed
6B.14	Conduct investigation and request additional information as necessary	MACD initiates an investigation into the alleged breach based on the information necessary to reach a decision regarding the alleged breach.  If additional information is needed, a request is issued to the party potentially in breach for the information.	Following the expiry of the time for <i>responses</i> set out in the notification submitted in step 6B.09 or	“Request for Information”	<del>Electronically Email</del> (via a work space or IESO secure site).	Investigation completed



Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
		The findings of the investigation are documented in the investigation report.	Following step 6B.13 if a meeting was requested			
6B.15 6B.16	Receive request for additional information and provide requested information	The party potentially in breach provides additional information requested by the MACD.	Following request made as part of step 6B.14	Information specified in “Request for Information”.	<del>Electronically</del> Email, (via a work space or IESO secure site), or telephone with hard copy follow-up by mail <del>or email</del> .	Information provided; meeting <i>attended</i> , if requested; meeting minutes received
6B.17	Determine whether a breach has occurred	Using the available information, the MACD determines whether a breach has occurred.	Following step 6B.16	None	None	Determination of whether a breach has occurred
6B.18	Determine appropriate action	If a sanction is not appropriate, <ul style="list-style-type: none"> <li>• issue a “Conditional Close Notice”; or</li> <li>• issue a “Close Out Notice”.</li> </ul>	Following step 6B.17	None	<del>Electronically</del> Email (via a work space or IESO secure site).	Receipt of notice by party potentially in breach
6B.19	Determine appropriate sanction	MACD may order that the party in breach to: <ul style="list-style-type: none"> <li>• do, within a specified period, such things as may be necessary to comply with the <i>market rules</i>;</li> <li>• cease, within a specified period, the act, activity or practice constituting the breach;</li> <li>• impose additional or more stringent record-keeping or reporting requirements on the party in breach;</li> </ul>	Following step 6B.18	“Notice of Non-Compliance”		Party in breach notified of sanction

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
		<ul style="list-style-type: none"> <li>• issue a non-compliance letter in accordance with Chapter 3, section 6.6 of the <i>market rules</i>;</li> <li>• impose financial penalties in accordance with Chapter 3, section 6.6 of the <i>market rules</i>; and/or</li> <li>• take such other action as may be provided for in Appendix 3.1 of the <i>market rules</i> in respect of the <i>market rules</i> that has been breached.</li> </ul>				
6B.20	Determine amount of financial penalty under 6.6.6	<p>MACD determines whether the party in breach acted with due diligence and applies the appropriate financial penalty for the breach identified where due diligence is not in evidence.</p> <p>The amount of the financial penalty will be determined based on criteria set out in Chapter 3, section 6.6 of the <i>market rules</i>.</p>	When a financial penalty is appropriate	Amount of penalty	<p><del>Electronically Email (via a work space or IESO secure site).</del></p> <p>Market Participant Interface (MPI)</p>	<p>Party in breach has been notified of the amount of the penalty in the “Notice of Non-Compliance”.</p> <p>Where a financial penalty is applied, the <i>IESO</i> will issue a manual <i>invoice</i> for this penalty in accordance with the invoicing process set out in “Market Manual 5: Settlements, Part 5.6 <i>Physical Markets Invoicing</i>” or “Part 5.8 <i>Financial Markets Invoicing</i>”, as appropriate.</p>

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6B.21	Determine amount of financial penalty under 6.6.6A	<p>MACD determines whether the party in breach acted with due diligence and applies the appropriate financial penalty for the breach identified where due diligence is not in evidence.</p> <p>If a financial penalty is deemed appropriate under section 6.6.6A, the principles and methods in Appendix E will be used to determine the penalty amount.</p> <p>A draft notice of non-compliance is issued to the party allegedly in breach where they are provided with the preliminary penalty assessment and an opportunity to submitted additional information or comment.</p>	<p>When a financial penalty is appropriate</p> <p>Follow step 6B.21</p>	Amount of penalty	<del>Electronically Email (via a work space or IESO secure site).</del>	Party in allegedly breach has been notified of the amount of the penalty in the “Draft Notice of Non-Compliance”.

### 3.3 Suspension of a Market Participant

In the event that a *market participant* has been determined to have breached the *market rules* on a persistent basis, does not remedy an *event of default* within the time specified in the *notice of intent to suspend*, or a specified *event of default* occurs, the *IESO* is authorized to issue a *suspension order* suspending the *market participant's* rights to participate in the *IESO-administered markets* or cause or permit electricity to be conveyed into, through, or out of the *IESO-controlled grid*.

A *disconnection order* may also be issued at the same time the *suspension order* is issued to the *transmitter, distributor, or other market participant* to whose *facilities* the *market participant* is *connected*. If a *disconnection order* has been issued, a notification will be included in the *suspension order* to the *market participant*.

Prior to issuing the *suspension order* as a result of a persistent breach of the *market rules*, the *IESO* will notify the *market participant* of its intent to issue such an order. The *market participant* is given the opportunity to make a case before the *IESO Board* as to why the *suspension order* should not be issued.

Where a *market participant* is suspended, it is given a period of time to remedy the cause of the suspension, after which the *IESO* may start the process of terminating the *market participant*.

Steps shown in Table 3.3 are illustrated in Section 2.3, Figure 2–3.

**Table 3–3: Procedural Steps for Suspension of a Market Participant**

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6C.01	Issue “ <i>Notice of Intent to Suspend</i> ” to market participant.	<p>Where a <i>market participant</i> has persistently breached the <i>market rules</i> or an <i>event of default</i> occurs, the <i>IESO</i> may issue to the <i>market participant</i> a “<i>Notice of Intent to Suspend</i>”.</p> <p>Such notice would inform the <i>market participant</i> of the <i>IESO</i>’s intention to issue a <i>suspension order</i> suspending all or any of the <i>market participant</i>’s rights to participate in the <i>IESO administered markets</i>. In the case of a persistent breach, this notice would also indicate the right of the <i>market participant</i> to request within a specified time a hearing before the <i>IESO Board</i> to show cause why the <i>suspension order</i> should not be issued.</p>	At the discretion of the <i>IESO</i> if an <i>event of default</i> occurs or if a <i>market participant</i> has persistently breached the <i>market rules</i> .	“ <i>Notice of Intent to Suspend</i> ” (IMO FORM 1260)	Courier	“ <i>Notice of Intent to Suspend</i> ” is issued to the <i>market participant</i> .

6C.02	Receive notification and issue <i>response</i> , if desired.	The <i>market participant</i> receives the notification of intended suspension and, if desired, may issue a <i>response</i> .	Following Step 6C.01, and within 2 <i>business days</i> (in the case of an <i>event of default</i> ), or within a specified time (in the case of a persistent breach) if a hearing is requested. A hearing is only available to the <i>market participant</i> where action is a result of a persistent breach of the <i>market rules</i> .	<i>Response</i> to “Notice of Intent to Suspend”  “Notice of Hearing with Board of Directors” (IMO FORM 1265) (only for persistent breached of the <i>market rules</i> )	Email with follow up hard copy via Canada Post if requested.	Notification received by the <i>market participant</i> ; letter of <i>response</i> issued to the <i>IESO</i> , if desired.
6C.03	Receive notification.	In the case of a persistent breach, a copy of the “ <i>Notice of Intent to Suspend</i> ” will be sent to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant’s facilities</i> are <i>connected</i> .	When the “ <i>Notice of Intent to Suspend</i> ” is issued.	None	None	“ <i>Notice of Intent to Suspend</i> ” is issued to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant’s facilities</i> are <i>connected</i> .

6C.04	Review response/time for response elapsed.	<p>The <i>IESO</i> reviews the response to determine if:</p> <ul style="list-style-type: none"> <li>the <i>market participant</i> has remedied the <i>event of default</i> within the required time frame.</li> <li>the <i>market participant</i> requests a hearing before the <i>IESO Board</i> to make a case as to why the order or orders should not be issued (only for persistent breaches of the <i>market rules</i>); or,</li> <li>the <i>market participant</i> does not respond.</li> </ul>	Following Step 6C.01.	None	None	Response, if any, received by the <i>IESO</i> .
6C.05	Issue confirmation of remedy and impose conditions, if any.	<p>The <i>IESO</i> confirms with the <i>market participant</i> their remedy of the <i>event of default</i> condition that triggered the “<i>Notice of Intent to Suspend</i>.”</p> <p>The <i>IESO</i> may also impose any condition on the right of the <i>market participant</i> to participate in the <i>IESO-administered markets</i> or to cause or permit electricity to be conveyed into, though, or out of the <i>IESO-controlled grid</i> that the <i>IESO</i> determines are appropriate</p>	Upon receipt from a <i>market participant</i> indicating that the <i>event of default</i> which triggered the “ <i>Notice of Intent to Suspend</i> ”, has been remedied.	Confirmation of remedy	Courier	Remedy of event of default confirmed by the <i>IESO</i> .
6C.06	Receive confirmation.	The <i>market participant</i> facing suspension receives <i>IESO</i> confirmation of its remedy.	Following Step 6C.05.	None	None	Remedy of <i>event of default</i> confirmed with the <i>market participant</i> .

6C.07	Receive copy of confirmation.	The <i>OEB</i> and relevant <i>transmitter(s)</i> , <i>distributor(s)</i> or other <i>market participant</i> also receive a copy of the confirmation.	Following Step 6C.05.	None	None	Remedy of <i>event of default</i> confirmed with the <i>OEB</i> and relevant <i>transmitter(s)</i> or <i>distributor(s)</i>
6C.08	Acknowledge hearing request. Agree acceptable hearing date and time and notify <i>market participant</i> .	The <i>IESO</i> acknowledges the hearing request and schedules a mutually acceptable date and venue for a hearing, if requested by the <i>market participant</i> . Once a date has been decided, the <i>IESO</i> formally notifies the <i>market participant</i> of the date, time and location of the hearing and provides details of how the hearing will be conducted.	Upon request for a hearing.	Acknowledgement “Notice of Hearing with Board of Directors” (IMO FORM 1265).	Email or fax	Hearing request acknowledged. Date, time and location of hearing determined. Formal notification issued.
6C.09	Receive acknowledgement. Agree on acceptable hearing date and time and receive notification.	The <i>market participant</i> receives acknowledgment that the <i>IESO</i> has reviewed their hearing request. The <i>market participant</i> and the <i>IESO</i> schedule a mutually acceptable date and venue for a hearing. Once a date has been decided, the <i>market participant</i> receives from the <i>IESO</i> , formal notification about the details of the hearing.	<i>IESO</i> acknowledges hearing request.	Agree on date and time of hearing.	Email or fax	<i>IESO</i> acknowledgement of hearing request received. Date, time and location of hearing agreed. Receipt of formal notification.
6C.10	Conduct hearing	The <i>IESO Board</i> conducts the hearing and determines whether a <i>suspension order</i> is appropriate or an alternative order should be made.	Following Step 6C.09	Minutes of hearing.	Email, mail or fax	Determination that <i>suspension order</i> should be issued or alternative order issued.



6C.11	Consider representations and take action	If the <i>market participant</i> does not request a hearing, the IESO shall consider any written representations received from the <i>market participant</i> , and may take any action specified in the Notice of Intent to Suspend or make any appropriate order.	Following 6C.04	Determination of action or order if applicable.	None	Determination of action or order if applicable.
6C.12	Determine and issue alternative order.	<p>The IESO issues an alternative order to the <i>market participant</i>.</p> <p>Amongst possible orders, the IESO may order that the <i>market participant</i>;</p> <ul style="list-style-type: none"> <li>• do, within a specified period, such things as may be necessary to comply with the <i>market rules</i>;</li> <li>• cease, within a specified period, the act, activity or practice constituting the breach;</li> <li>• impose additional or more stringent record-keeping or reporting requirements on the <i>market participant</i>;</li> <li>• issue a non-compliance letter in accordance with Chapter 3, section 6.6 of of the <i>market rules</i>;</li> <li>• impose financial penalties in accordance with Chapter 3, section 6.6 of the <i>market rules</i>.</li> </ul>	Upon determination in Step 6C.10 that a <i>suspension order</i> is not appropriate.	<p>“Other Order” (IMO-FORM-1268)</p> <p>Public notification of other order</p>	<p>Email followed up with hard-copy via courier.</p> <p>IESO public Web site</p>	Letter issued to the <i>market participant</i> .

6C.13	Receive and comply with alternative order.	The <i>market participant</i> receives the alternative order with which it must comply.	Following Step 6C.12.	None	None	Process completed.
6C.14	Receive notification	A notice of any actions taken under section 6.2A.4 or 6.2A.5 will be sent to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant's facilities</i> are connected.	Following 6C.12.	None	None	Notice of any actions taken is issued to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant's facilities</i> are connected.

<p>6C.15</p>	<p>Issue <i>Suspension</i> and <i>Disconnection Order</i> if appropriate.</p>	<p>The <i>IESO</i> issues a <i>suspension order</i> to the <i>market participant</i> containing the following information;</p> <ul style="list-style-type: none"> <li>• the reasoning and evidence behind the <i>suspension order</i>;</li> <li>• details on the specific market rights being suspended;</li> <li>• the duration of the suspension;</li> <li>• the actions required in order for the <i>suspension order</i> to be lifted; and</li> <li>• notification if the relevant <i>transmitter(s)</i> or <i>distributor(s)</i> have been issued a <i>disconnection order</i></li> </ul> <p>The <i>IESO</i> may also issue a <i>disconnection order</i> to the <i>transmitter(s)</i>, <i>distributor(s)</i> or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant's facilities</i> are connected.</p>	<p>Following Step 6C.04 if the <i>event of default</i> is not remedied by the <i>market participant</i>.</p> <p>Following Step 6C.10 or 6C.11 if it is determined that the <i>suspension order</i> is appropriate.</p> <p>Following a specified <i>event of default</i>.</p>	<p>“<i>Suspension Order</i>” (IMO-FORM-1261)</p> <p>“<i>Disconnection Order</i>” (IMO-FORM-1302)</p> <p>Public notification of Orders.</p>	<p>Email, courier or <i>IESO</i> public Web site.</p>	<p><i>Market participant</i> suspended.</p>
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6C.16	Receive <i>suspension order</i> and notification of <i>disconnection order</i> if issued. Respond if desired.	<ul style="list-style-type: none"> <li>The <i>market participant</i> receives the <i>suspension order</i> and notification if a <i>disconnection order</i> has been issued. The <i>market participant</i> has five <i>business days</i> to respond to the <i>suspension order</i> by remedying the <i>event of default</i> before the <i>IESO</i> may issue a termination order.</li> </ul>	Following Step 6C.15.	<i>Response to suspension order and disconnection order</i> if applicable.	Email or courier	Receipt of <i>suspension order</i> and notice of <i>disconnection order</i> if issued. Response if desired.
6C.17	Receive copy of <i>suspension order</i> and <i>disconnection order</i> if issued.	The <i>IESO</i> shall provide a copy of the <i>suspension order</i> , and the <i>disconnection order</i> , if issued, to the OEB and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>suspended market participant</i> is connected.	Following Step 6C.15.	None	None	Receipt of <i>suspension order</i> and <i>disconnection order</i> if appropriate.
6C.18	Determine whether <i>event of default</i> has been remedied within 5 <i>business days</i> and whether other <i>events of default</i> exist.	The <i>IESO</i> determines whether the <i>event of default</i> has been remedied and whether any other <i>events of default</i> exist.	Five <i>business days</i> following Step 6C.15 or if no <i>response</i> received within timeframe.	None	None	Determination of whether <i>event of default</i> is remedied and whether other <i>events of default</i> exist.

6C.19	Lift <i>suspension order</i> and cancel <i>disconnection order</i> if appropriate; impose any further conditions.	<p>The <i>IESO</i> notifies the <i>market participant</i> and public of the resolution to the compliance issue and the lifting of the suspension, including:</p> <ul style="list-style-type: none"> <li>• the rights to be reinstated; and</li> <li>• the date on which the <i>suspension order</i> is terminated.</li> </ul> <p>In addition, as a condition of lifting the <i>suspension order</i> the <i>IESO</i> may impose additional conditions of authorization on the <i>market participant</i> as it determines are necessary. These may include (but are not limited to):</p> <ul style="list-style-type: none"> <li>• lowering the <i>trading limit</i> of the <i>market participant</i>;</li> <li>• establishing a more frequent continuing schedule of payments than are set out in the <i>Settlement Statement</i> Payment Calendar; and/or</li> <li>• imposing a more stringent <i>prudential support obligation</i> than would otherwise be the case under Chapter 2, section 5 of the <i>market rules</i>.</li> </ul>	Upon determination in Step 6C.18 that the issue has been resolved.	<p>“Lift of <i>Suspension Order</i>” (IMO-FORM-1263)</p> <p>“Canceling “<i>Disconnection Order</i>”” (TBD)</p>	E-mail followed up with hard-copy via courier. <i>IESO</i> public Web site.	Letter issued to the <i>market participant</i> . Public notification through <i>IESO</i> Web site.
6C.20	Notification received.	The <i>market participant</i> is notified of the resolution, including any additional conditions of authorization.	Following Step 6C.19.	None	None	Letter issued to the <i>market participant</i> . Public notification through <i>IESO</i> Web site.

6C.21	Receive cancellation of <i>disconnection order</i> if appropriate.	The <i>IESO</i> shall provide a copy of the cancellation of the <i>disconnection order</i> if appropriate to the OEB and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant</i> is connected.	Following Step 6C.19.	None	None	Cancellation of <i>Disconnection Order</i> received.
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### 3.4 Termination of a Market Participant

Where a *suspended market participant* has either not remedied an *event of default* within the specified time period or notified the *IESO* that it is not likely to remedy the *event of default*, or where a *market participant* has been wound up, dissolved or otherwise ceased to exist, or where a *market participant* has been determined to be in persistent breach of the *market rules*, the *IESO* may;

- Issue a *termination order* terminating the *market participant's* rights to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through, or out of the *IESO-controlled grid*; and
- if it has not already done so, issue a *disconnection order* to the *transmitter, distributor* and/or other *market participant* to whose *facilities* the *terminated market participant's facilities* are connected and provide a copy to the *OEB*.

The steps shown in the following table are illustrated in Section 2.4, Figure 3–4.

**Table 3–4: Procedural Steps for Termination of a Market Participant**

<b>Ref</b>	<b>Task Name</b>	<b>Task Detail</b>	<b>When</b>	<b>Resulting Information</b>	<b>Method</b>	<b>Completion Events</b>
6D.01	Issue “ <i>Notice of Intent to Terminate</i> ” to <i>market participant</i> .	<p>Where a <i>market participant</i> has persistently breached the <i>market rules</i>, the <i>IESO</i> may issue to the <i>market participant</i> a “<i>Notice of Intent to Terminate</i>”.</p> <p>Such notice would inform the <i>market participant</i> of the <i>IESO</i>’s intention to issue a <i>termination order</i> terminating all or any of the <i>market participant</i>’s rights to participate in the <i>IESO administered markets</i>. In the case of a persistent breach, this notice would also indicate the right of the <i>market participant</i> to request within a specified time a hearing before the <i>IESO Board</i> to show cause why the <i>termination order</i> should not be issued.</p>	At the discretion of the <i>IESO</i> if a <i>market participant</i> has persistently breached the <i>market rules</i> .	“ <i>Notice of Intent to Terminate</i> ” (IMO FORM 1266)	Courier	“ <i>Notice of Intent to Terminate</i> ” is issued to the <i>market participant</i> .
6D.02	Receive notification and issue <i>response</i> , if desired.	The <i>market participant</i> receives the notification of intended termination and, if desired, may issue a response.	Following Step 6D.01, and within a specified time if a hearing is requested. A hearing is only available to the <i>market participant</i>	<p><i>Response</i> to “<i>Notice of Intent to Terminate</i>”</p> <p>“<i>Notice of Hearing with Board of Directors</i>” (IMO FORM 1265)</p>	Email with follow up hard copy via Canada Post if requested.	Notification received by the <i>market participant</i> ; letter of response issued to the <i>IESO</i> , if desired.



Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
			where action is a result of a persistent breach of the <i>market rules</i> .			
6D.03	Receive notification.	In the case of a persistent breach, a copy of the “ <i>Notice of Intent to Terminate</i> ” will be sent to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the suspended <i>market participant’s facilities</i> are <i>connected</i> .	When the “ <i>Notice of Intent to Terminate</i> ” is issued.	None	None	“ <i>Notice of Intent to Terminate</i> ” is issued to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the suspended <i>market participant’s facilities</i> are <i>connected</i> .
6D.04	Review response/time for response elapsed.	The <i>IESO</i> reviews the <i>response</i> to determine if: <ul style="list-style-type: none"> <li>• the <i>market participant</i> requests a hearing before the <i>IESO Board</i> to make a case as to why the order or orders should not be issued; or,</li> <li>• the <i>market participant</i> does not respond.</li> </ul>	Following Step 6D.01.	None	None	Response received by the <i>IESO</i> .
6D.05	Acknowledge hearing request. Agree acceptable hearing date and time and notify <i>market participant</i> .	The <i>IESO</i> acknowledges the hearing request and schedules a mutually acceptable date and venue for a hearing, if requested by the <i>market participant</i> . Once a date has been decided, the <i>IESO</i> formally notifies the <i>market</i>	Upon request for a hearing	Acknowledgement “ <i>Notice of Hearing with Board of Directors</i> ” (IMO FORM 1265).	Email or fax	Hearing request acknowledged. Date, time and location of hearing determined. Formal notification issued.

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
		<i>participant</i> of the date, time and location of the hearing and provides details of how the hearing will be conducted.				
6D.06	Receive acknowledgement. Agree on acceptable hearing date and time and receive notification.	The <i>market participant</i> receives acknowledgment that the <i>IESO</i> has reviewed their hearing request. The <i>market participant</i> and the <i>IESO</i> schedule a mutually acceptable date and venue for a hearing. Once a date has been decided, the <i>market participant</i> receives from the <i>IESO</i> , formal notification about the details of the hearing.	<i>IESO</i> acknowledges hearing request.	Agree on date and time of hearing.	Email or fax	<i>IESO</i> acknowledgement of hearing request received. Date, time and location of hearing agreed. Receipt of formal notification.
6D.07	Conduct hearing	The <i>IESO Board</i> conducts the hearing and determines whether a <i>termination order</i> is appropriate or an alternative order should be made.	Following Step 6D.05	Minutes of hearing.	Email, mail or fax	Determination that <i>termination order</i> should stand or be modified.
6D.08	Consider representations and take action	If the <i>market participant</i> does not request a hearing, the <i>IESO</i> shall consider any written representations received from the <i>market participant</i> , and make take any action specified in the notice or make any appropriate order.	Following 6D.04	Determination of action or order if applicable.	None.	Determination of action or order if applicable.

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6D.09	Determine and issue alternative order.	<p>The <i>IESO</i> issues an alternative order to the <i>market participant</i>.</p> <p>Amongst possible orders, the <i>IESO</i> may order that the <i>market participant</i>;</p> <ul style="list-style-type: none"> <li>do, within a specified period, such things as may be necessary to comply with the <i>market rules</i>;</li> <li>cease, within a specified period, the act, activity or practice constituting the breach;</li> <li>impose additional or more stringent record-keeping or reporting requirements on the <i>market participant</i>;</li> <li>issue a non-compliance letter in accordance with Chapter 3, section 6.6 of of the <i>market rules</i>;</li> <li>impose financial penalties in accordance with Chapter 3, section 6.6 of the <i>market rules</i>.</li> </ul>	Upon determination in Step 6D.07 that a <i>termination order</i> is not appropriate.	<p>“Other Order” (IMO-FORM-1268)</p> <p>Public notification of other order</p>	<p>Email followed up with hard-copy via courier.</p> <p><i>IESO</i> public Web site</p>	Letter issued to the <i>market participant</i> .
6D.10	Receive and comply with alternative order.	The <i>market participant</i> receives the alternative order with which it must comply.	Following Step 6D.09.	None	None	Process completed.
6D.11	Receive notification	A notice of any actions taken under section 6.2A.4 or 6.2A.5 will be sent to the <i>OEB</i> and the <i>transmitter, distributor</i>	Following 6D.09.	None	None	Notice of any actions taken is issued to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
		and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant's</i> <i>facilities</i> are <i>connected</i> .				<i>market participant</i> to whose <i>facilities</i> the <i>market participant's</i> <i>facilities</i> are <i>connected</i> .
6D.12	Issue <i>termination order</i> and <i>disconnection order</i> if appropriate.	<p>The <i>IESO</i> issues a <i>termination order</i> to the <i>market participant</i>, detailing:</p> <ul style="list-style-type: none"> <li>• the evidence on which the <i>termination order</i> is based;</li> <li>• the effective date of termination;</li> <li>• the obligations of the terminated <i>market participant</i>;</li> <li>• process for reapplying for authorization as a <i>market participant</i></li> </ul> <p>At the same time that a <i>termination order</i> is issued to the <i>market participant</i>, a <i>disconnection order</i> may be issued to the <i>transmitter(s)</i>, <i>distributor(s)</i> or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant</i> is <i>connected</i>.</p>	Upon determination in Step 6D.07 that a <i>termination order</i> is appropriate or within 20 <i>business days</i> from the date the <i>suspension order</i> was issued.	<p>“<i>Termination Order</i>” (IMO-FORM-1267)</p> <p>“<i>Disconnection Order</i>” (IMO-FORM-1302)</p> <p>Public notification of Termination.</p>	E-mail followed up with hard-copy via courier. <i>IESO</i> public Web site.	“ <i>Termination Order</i> ” issued and “ <i>Disconnection Order</i> ” issued if applicable
6D.13	Receive <i>termination order</i> and notification of <i>disconnection order</i> if issued.	The <i>market participant</i> receives the <i>termination order</i> and notification if a <i>disconnection order</i> has been issued.	Following Step 6D.12.	None	None	<i>Termination order</i> and <i>disconnection order</i> , if issued, received by the <i>market participant</i> .

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6D.14	Receive <i>termination order</i> and <i>disconnection order</i> if issued.	The <i>IESO</i> shall provide a copy of the <i>termination order</i> , and the disconnection order if issued, to the <i>OEB</i> and the <i>transmitter(s), distributor(s)</i> and/or other <i>market participant(s)</i> to whose <i>facilities</i> the <i>market participant</i> is connected. .	Following Step 6D.12.	None	None	Receipt of <i>termination order</i> and <i>disconnection order</i> , if issued.

### 3.5 De-registration of Facilities

Where a *market participant* has been determined to have persistently breached the *market rules*, the *IESO* may:

- de-register some or all of the *market participant's registered facilities*; and
- issue a *disconnection order* to the *transmitter, distributor* and/or other *market participant* to whose *facilities* the *terminated market participant's facilities* are connected and provide a copy to the *OEB*.

The steps shown in the following table are illustrated in detail in Section 2.5, Figure 3–5.

**Table 3–5: Procedural Steps for De-Registration of Facilities**

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6E.01	Issue “ <i>Notice of Intent to De-register Facilities</i> ” to <i>market participant</i> .	<p>Where a <i>market participant</i> has persistently breached the <i>market rules</i>, the <i>IESO</i> may issue to the <i>market participant</i> a “<i>Notice of Intent to De-register Facilities</i>”.</p> <p>Such notice would inform the <i>market participant</i> of the <i>IESO</i>’s intention to issue a de-registration order de-registering some or all of <i>market participant</i>’s registered <i>facilities</i>. This notice would also indicate the right of the <i>market participant</i> to request within a specified time a hearing before the <i>IESO Board</i> to show cause why the de-registration order should not be issued.</p>	At the discretion of the <i>IESO</i> if a <i>market participant</i> has persistently breached the <i>market rules</i> .	“ <i>Notice of Intent to De-register Facilities</i> ” (IMO FORM 1301)	Courier	“ <i>Notice of Intent to De-Register Facilities</i> ” is issued to the <i>market participant</i> .
6E.02	Receive notification and issue <i>response</i> , if desired.	The <i>market participant</i> receives the notification of intended de-registration and, if desired, may issue a response.	Following Step 6E.01, and within a specified time if a hearing is requested. A hearing is only available to the <i>market participant</i> where action is a result of a persistent breach of the <i>market rules</i> .	Response to “ <i>Notice of Intent to De-register Facilities</i> ” “ <i>Notice of Hearing with Board of Directors</i> ” (IMO FORM 1265)	Email with follow up hard copy via Canada Post if requested.	Notification received by the <i>market participant</i> ; letter of response issued to the <i>IESO</i> , if desired.

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6E.03	Receive notification.	In the case of a persistent breach, a copy of the “ <i>Notice of Intent to De-register Facilities</i> ” will be sent to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant’s facilities</i> are connected.	When the “Notice of Intent to De-register Facilities” is issued.	None	None	“ <i>Notice of Intent to De-register Facilities</i> ” is issued to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant’s facilities</i> are connected.
6E.04	Review response/time for response elapsed.	The <i>IESO</i> reviews the <i>response</i> to determine if: <ul style="list-style-type: none"> <li>• the <i>market participant</i> requests a hearing before the <i>IESO Board</i> to show cause why the order or orders should not be issued; or,</li> <li>• the <i>market participant</i> does not respond.</li> </ul>	Following Step 6E.01.	None	None	Response received by the <i>IESO</i> .
6E.05	Acknowledge hearing request. Agree acceptable hearing date and time and notify <i>participant</i> .	The <i>IESO</i> acknowledges the hearing request and schedules a mutually acceptable date and venue for a hearing, if requested by the <i>market participant</i> . Once a date has been decided, the <i>IESO</i> formally notifies the <i>market participant</i> of the date, time and location of the hearing and provides details of how the hearing will be conducted.	Upon request for a hearing	Acknowledgement “Notice of Hearing with Board of Directors” (IMO FORM 1265).	Email or fax	Hearing request acknowledged. Date, time and location of hearing determined. Formal notification issued.



Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
6E.06	Receive acknowledgement. Agree on acceptable hearing date and time and receive notification.	The <i>market participant</i> receives acknowledgment that the <i>IESO</i> has reviewed their hearing request. The <i>market participant</i> and the <i>IESO</i> schedule a mutually acceptable date and venue for a hearing. Once a date has been decided, the <i>market participant</i> receives from the <i>IESO</i> , formal notification about the details of the hearing.	<i>IESO</i> acknowledges hearing request.	Agree on date and time of hearing.	Email or fax	<i>IESO</i> acknowledgement of hearing request received. Date, time and location of hearing agreed. Receipt of formal notification.
6E.07	Conduct hearing	The <i>IESO Board</i> conducts the hearing and determines whether a de-registration order is appropriate or an alternative order should be made.	Following Step 6E.05	Minutes of hearing.	Email, mail or fax	Determination that de-registration order should stand or be modified.
6E.08	Consider representations and take action	If the <i>market participant</i> does not request a hearing, the <i>IESO</i> shall consider any written representations received from the <i>market participant</i> , and make take any action specified in the notice or make any appropriate order.	Following 6E.04	Determination of action or order if applicable.	None	Determination of action or order if applicable.
6E.09	Determine and issue alternative order.	The <i>IESO</i> issues an alternative order to the <i>market participant</i> . Amongst possible orders, the <i>IESO</i> may order that the <i>market participant</i> ; <ul style="list-style-type: none"> <li>do, within a specified period, such things as may be necessary to comply with the <i>market rules</i>;</li> </ul>	Upon determination in Step 6E.07 that a termination order is not appropriate.	“Other Order” (IMO-FORM-1268) Public notification of other order	Email followed up with hard-copy via courier.  <i>IESO</i> public Web site	Letter issued to the <i>market participant</i> .

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
		<ul style="list-style-type: none"> <li>• cease, within a specified period, the act, activity or practice constituting the breach;</li> <li>• impose additional or more stringent record-keeping or reporting requirements on the <i>market participant</i>;</li> <li>• issue a non-compliance letter in accordance with Chapter 3, section 6.6 of the <i>market rules</i>;</li> <li>• impose financial penalties in accordance with Chapter 3, section 6.6 of the <i>market rules</i>".</li> </ul>				
6E.10	Receive and comply with alternative order.	The <i>market participant</i> receives the alternative order with which it must comply.	Following Step 6E.09.	None	None	Process completed.
6E.11	Receive notification	A notice of any actions taken under section 6.2A.4 or 6.2A.5 will be sent to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant's facilities</i> are connected.	Following 6E.09	None	None	Notice of any actions taken is issued to the <i>OEB</i> and the <i>transmitter, distributor</i> and/or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant's facilities</i> are connected
6E.12	Issue de-registration order with <i>disconnection order</i> .	The <i>IESO</i> issues a de-registration order to the <i>market participant</i> , detailing: <ul style="list-style-type: none"> <li>• the evidence on which the de-registration order is based;</li> </ul>	Upon determination in Step 6E.07 that a de-registration order is appropriate or within 20 <i>business</i>	De-registration Order “ <i>Disconnection Order</i> ” (IMO-FORM-1302)	E-mail followed up with hard-copy via courier.  <i>IESO</i> public Web site.	Deregistration Order issued and “ <i>Disconnection Order</i> ” issued if applicable

Ref	Task Name	Task Detail	When	Resulting Information	Method	Completion Events
		<ul style="list-style-type: none"> <li>the effective date of de-registration;</li> <li>the obligations of the <i>market participant</i>;</li> <li>process for reapplying for registration of the <i>facilities</i></li> </ul> <p>At the same time that a de-registration order is issued to the <i>market participant</i>, a <i>disconnection order</i> may be issued to the <i>transmitter(s)</i>, <i>distributor(s)</i> or other <i>market participant</i> to whose <i>facilities</i> the <i>market participant</i> is connected.</p>	<i>days</i> from the date the <i>suspension order</i> was issued.	Public notification of De-registration.		
6E.13	Receive de-registration order.	The <i>market participant</i> receives the de-registration order. As well as notification, that a <i>disconnection order</i> has been issued to the relevant <i>transmitter(s)</i> , <i>distributor(s)</i> or other <i>market participant</i> .	Following Step 6E.12.	None	None	De-registration order received by the <i>market participant</i> .
6E.14	Receive de-registration order and <i>disconnection order</i> if issued.	The <i>IESO</i> shall provide a copy of the de-registration order, and the <i>disconnection order</i> if issued, to the <i>OEB</i> and the <i>transmitter(s)</i> , <i>distributor(s)</i> and/or other <i>market participant(s)</i> to whose <i>facilities</i> the <i>market participant</i> is connected.	Following Step 6E.12.	None	None	Receipt of de-registration order and <i>disconnection order</i> if issued..



## Appendix A: Forms

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This appendix contains a list of forms used in the Treatment of Compliance Issues process, which are available on the IESO's public Web site (<http://www.ieso.ca/>). The forms included are as follows:

<b>Form Name</b>	<b>Form Number</b>
Non-Compliance Event Report	IMO-FORM-1253
Notice of Intent to Suspend	IMO-FORM-1260
Notice of Hearing with Board of Directors	IMO-FORM-1265
Other Order	IMO-FORM-1268
Suspension Order	IMO-FORM-1261
Disconnection Order	IMO-FORM-1302
Modification of Suspension Order	IMO-FORM-1264
Lift of Suspension Order	IMO-FORM-1263
Lift of Disconnection Order	IMO-FORM-1434
Notice of Intent to Terminate Market Participant	IMO-FORM-1266
Notice of Intent to De-register Facilities	IMO-FORM-1301
Termination Order	IMO-FORM-1267



## Appendix B: Events of Default

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The *market rules* (Chapter 3, section 6.3.1) sets out that an *event of default* occurs if a *market participant* or the person that has provided *prudential support* in relation to the *market participant*:

- does not make a payment in full required under the *market rules* when due;
- fails to provide payment in full of any amount claimed by the *IESO* under any *prudential support*;
- fails to provide *prudential support* required to be supplied under the *market rules* within the time required;
- has a licence (including a *licence*), permit or other authorization necessary to carry on its principal business suspended, revoked or otherwise cease to be in full force and effect, provided that where a *market participant* holds more than one *licence* and only one such *licence* has been suspended, revoked or otherwise ceases to be in full force and effect, the *event of default* and any action taken by the *IESO* with respect thereto shall relate only to such *licence*;
- ceases or threatens to cease to carry on its business or a substantial part of its business;
- becomes insolvent or is unable to pay all or some of its debts when they fall due for payment;
- seeks to enter into an arrangement, composition or compromise with, or makes an assignment for the benefit of, all or any class of its creditors;
- has a receiver or receiver and manager or person having a similar or analogous function under the laws of any relevant jurisdiction appointed in respect of any of its property that is used in or relevant to the performance of its obligations under the *market rules* or its *licence*;
- is the subject of an order appointing an administrator, liquidator, trustee in bankruptcy or person having a similar or analogous function under the laws of any jurisdiction;
- is wound up, dissolved, or otherwise has ceased to exist or is the subject of an application for winding up or dissolution, or any analogous procedure, under the laws of any jurisdiction, unless the notice of winding up or dissolution is discharged or withdrawn;
- ceases to satisfy any material requirement imposed upon it as a condition of its authorization to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*.

– End of Section –





## Appendix C: Audit Procedures

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MACD is accountable for monitoring and enforcing compliance with *market rules*. For detailed procedures on the conduct of Reliability Standards audits by MACD, please see Market Manual 2.17: Compliance Auditing of Reliability Standards for Ontario Market Participants.

– End of Section –



# Appendix D: Guidelines for Extraordinary Financial Penalties under the Ontario Electricity Market Rules

## *Financial Penalties Up to \$1 million (Chapter 3, section 6.6.6A and 6.6.6B)*

### INTRODUCTION

Chapter 3<sup>5</sup>, section 6 of the “Ontario Electricity Market Rules” (“*market rules*” or “*rules*”) describes the framework for the enforcement of compliance with the *market rules*, including the circumstances under which the *Independent Electricity System Operator* (“*IESO*”) may impose sanctions, including financial penalties, for breaches of the rules. Section 6.2.7.5 specifies that financial penalties may only be imposed if:

“...the *IESO* is satisfied that the breach could have been avoided by the exercise of due diligence by the *market participant* or that the *market participant* acted intentionally;”

Sections 6.6.1 – 6.6.7 specify the circumstances under which a financial penalty may be fixed within four penalty ranges: 1) up to \$25,000, 2) up to \$504,000, 3) up to \$756,000, and 4) up to \$100,000.

Section 6.6.6A allows the *IESO* to impose a financial penalty in excess of these amounts, up to \$1 million per occurrence.

The purpose of these guidelines is to describe how the enforcement arm of the *IESO*, the Market Assessment and Compliance Division (“*MACD*”), will fix the amount of a financial penalty for matters falling under section 6.6.6A which reads as follows:

“The *IESO* may impose on a *market participant* a financial penalty in excess of the amount otherwise provided for in section 6.6.6 and no greater than \$1,000,000 per occurrence, where:

~~6.6.13-16.6.6A.1~~ the *market participant* has breached a *market rule* while a declaration that the *IESO*-controlled grid is in an *emergency operating state* or a *high-risk operating state* was in effect;

6.6.~~6A.2~~~~13.2~~ the *market participant* breached a *market rule* while a declaration that *market operations* have been suspended was in effect;

6.6.~~6A.3~~~~13.3~~ ~~the *IESO Board* determines that~~ the impact of the *market participant*’s breach of a *market rule* on either the *IESO*-administered markets or the *reliability* of the *integrated power system* is particularly severe; or

<sup>5</sup> All section references in this document refer to Chapter 3 of the Market Rules

6.6.6A.413.4 the rate of recurrence of non-compliance by the *market participant* with the *market rules* is of such frequency or duration as to warrant the imposition of a higher financial penalty.”

The central feature of the guidelines is a table or matrix (‘Section 6.6.6B Penalty Matrix’) identifying dollar ranges from \$2,000 to \$1 million, according to the assessment of the impact (‘impact level’) of the breach, as well as its severity and the record of non-compliance (‘breach history’) of the party, and any adjustments. A final penalty amount within the selected range is determined based on an assessment of a set of factors, including those that may be aggravating or mitigating. The underlying principle of the guidelines is that their application results in a financial penalty that bears a direct relationship to the seriousness of the breach.

In keeping with well-established principles of enforcement and adjudication, the guidelines provide a measure of the likely size of a financial penalty for a given breach, but they are not a mathematical formula or algorithm. The final penalty amount will always be an exercise of judgement based on an assessment of the facts of the particular case.

To ensure that the party being assessed a financial penalty under section 6.6.6A has an adequate opportunity to bring forward relevant information and evidence, the guidelines also specify that MACD’s review provides the party with an opportunity to meet and provide written comments on MACD’s preliminary assessment. This mirrors the procedures in the rules for determining whether a breach of the rules has occurred.

## SCOPE

These guidelines come into play after a breach has been determined. The finding of a breach and the fixing of a financial penalty in the range allowed for under section 6.6.6A are separate matters. These guidelines address the latter.

These guidelines address the fixing of a financial penalty in the range allowed for under section 6.6.6A. They do not speak to whether a breach qualifies for consideration to be assessed a financial penalty under section 6.6.6A.

These guidelines apply to both *market participants* and the *IESO*.

## OVERVIEW

### Steps

The magnitude of financial penalty levied on a party, will be determined in two steps:

STEP 1 - Penalty Range,

1. Impact Level
2. Non-compliance Level

#### STEP 2 – Fixing Penalty Amount

1. Base Amount
2. Final Penalty Amount

### DESCRIPTION OF STEPS

A detailed description of the principles used in each step below is provided in the section titled “Description of Principles”.

#### Step 1 - Penalty Range

There are two parts to establishing the penalty range:

1. Impact Level  
The impact level is determined by examining all the impacts of the breach under investigation and selecting an appropriate impact level.
2. Non-Compliance Level  
The non-compliance level is determined by assessing the level for: 1) Breach History and 2) Severity, and selecting the higher of the two, and finally, deciding whether any increasing or decreasing adjustments are appropriate. Among the adjustments that would increase the non-compliance level are: 1) Lack of Due Diligence, 2) Benefit, and 3) Corporate Intent.

For example, if the breach history is assessed as ‘moderate’ and the severity is assessed at ‘high’, the non-compliance level will be ‘high’ unless an adjustment, such as corporate intent to breach the *market rule*, applies. In this case, evidence of corporate intent to breach the rule would raise the non-compliance level from ‘high’ to ‘severe’.<sup>6</sup>

The appropriate penalty range (bounded by the minimum and maximum amounts) is identified from the intersection of the chosen non-compliance level and the impact level of Table 1.

**Table D-1: Section 6.6.6B Penalty Matrix**

<sup>6</sup> Table 3 in the next section shows the non-compliance levels associated with the different assessments of Breach History and Severity.

	<b>Non-Compliance Level (Severity and Breach History)</b>							
<b>Impact Level</b>	<b>Low</b>		<b>Moderate</b>		<b>High</b>		<b>Severe</b>	
	Range Limit		Range Limit		Range Limit		Range Limit	
	Min	Max	Min	Max	Min	Max	Min	Max
<b>Low</b>  Little or None	\$2,000	\$25,000	\$2,000	\$50,000	\$3,000	\$75,000	\$5,000	\$100,000
<b>Medium</b>  Material	\$2,000	\$100,000	\$4,000	\$250,000	\$6,000	\$450,000	\$10,000	\$600,000
<b>High</b>  Severe	\$4,000	\$250,000	\$8,000	\$500,000	\$12,000	\$750,000	\$20,000	\$1,000,000

Note: matrix can be used to assess penalties on a per breach basis or as one aggregated breach.

## Step 2 – Fixing Penalty Amount: Case Factors

MACD will establish a base amount within the penalty range selected from step 1, by examining Impact and Time Horizon of the breach. In fixing a final penalty amount, MACD will also consider additional case factors which can result in an increase or decrease from the base amount.

### 1. Base Amount

The outcome of Step 1, will result in the selection of a penalty range from Table 1 within which a base amount will be selected. MACD will consider the following two case factors when fixing a base amount from the relevant penalty range:

#### a. Impact Assessment

The impact assessment will be based on all impacts of the breach under investigation. The same criteria are applied as have been used to establish the impact level in Step 1.

#### b. Time Horizon

The analysis will assess the degree of immediate risk posed by the breach under investigation.

### 2. Final Penalty Amount

Once a base amount is determined, the final penalty amount, within the selected range in Step 1, will be determined after assessing the additional case factors. Each factor can result in an increase (aggravating) or decrease (mitigating) from the base amount.

## DESCRIPTION OF PRINCIPLES

### Step 1

#### Impact Level

The impact level determined in Step 1 will be established after consideration of:

- the impact of the breach on other *market participant(s)*;
- the actual or potential impact of the breach on the *IESO-administered markets* as a whole;
- the actual or potential impact of the breach on the *reliability* of the *integrated power system*;
- and
- any sanctions that may be imposed on the *IESO* by a *standards authority* as a result of the breach.

Once all these impacts are considered, an impact level commensurate with the descriptions of each level in Table 2 is selected.

For breaches of *reliability standards*, *NERC* will be assigning an impact level (violation risk factors) to each requirement of a standard. *MACD* will take into consideration the *NERC* violation risk factor in determining the impact level as the assessment of the impact the breach has had on *reliability*. Violation risk factors for all standards have yet to be assigned. In the absence of these, *MACD* will make best efforts to assign a violation risk factor in accordance with the principles used by *NERC* or *NPCC* (FERC Order RR07-9-000 and RR07-1-000, issued May 18, 2007, paragraph 9). Where violation risk factors have yet to be assigned by *NERC*, *MACD* will make public the impact level used in the application of these guidelines.

**Table D-2: Impact Levels**

Impact Level	Description
Low	The potential or actual impact of a breach was negligible or there was no impact.
Medium	The potential or actual impact of a breach was material.
High	The potential or actual impact of a breach was severe.

### Non-Compliance Levels

The non-compliance level is determined by: a) selecting, from Table 3, the higher level determined by examining both Breach History and Severity, and b) considering any increasing or decreasing adjustments.

**Table D-3: Non-Compliance Level Criteria:**

Non-Compliance Levels				
	Low	Moderate	High	Severe
Breach History	Zero or one	Two	Three	Four
Severity	Low	Moderate	High	Severe

#### 1. Breach History

This criterion considers the compliance history of a party with breaches that are the same or related obligations to the breach under investigation. As an alternative to considering these breaches in determining the non-compliance level (Step 1), they can be considered in Step 2. MACD will not use a mechanical approach in determining the contribution to a party's breach history. Rather, MACD will have regard for all of the circumstances surrounding a party's breach history, including the significance of the breach history relative to the party's number of assets or *facilities* and the amount of time that has passed since the breaches occurred. MACD will also consider the extent to which a party has remedied past breaches or executed mitigation plans and the time required to do so. For example, related past breaches that have not occurred recently, that are less serious, or that were remedied quickly and effectively, are likely to be excluded from consideration.

The notional weights assigned these past breaches is described below:

##### a. Failure to Comply with Orders

Upon a finding of breach, MACD can issue orders which can include but are not limited to any action necessary to remedy a breach of the *market rules* as set out in section 6.2.7. Any one failure to comply with an order will contribute to a party's breach history by a count of 'one'.

##### b. Continuing Breaches

A breach is described as 'continuing' if a party has been found in breach of an obligation and the same breach remains unresolved. Any one continuing breach will contribute to a party's breach history by a count of 'one'.

##### c. Consecutive Breaches and Repetitive Breaches



Each *market rule* obligation may explicitly state a time frame in which the obligation must be met. For example, a *market rule* may explicitly require that verifications be conducted annually. With breaches of this obligation that occur in 2003 and 2004, the 2004 breach would be considered ‘consecutive’. If the breach under investigation is ‘consecutive’, the past breach will contribute by a count of ‘one’ to breach history.

In contrast, if breaches of the same obligation occur in 2003 and 2005, the 2005 breach is considered ‘repetitive’. Two repetitive past breaches contribute by a count of ‘one’ to a party’s breach history. In conjunction with a failure to execute mitigation plans two repetitive breaches may contribute to breach history by a count of ‘two’.

Other failures may be event driven such as *operating reserve* activations. Consecutive breaches may occur two weeks apart or 2 hours apart depending on the timing of the activation request. Where the *market rules* do not explicitly state the time frame in which the requirement must be met, MACD will determine whether recurrent breaches are consecutive or repetitive.

In some *reliability standards*, there is a ‘violation reset time’ for a standard, which describes the period of time generally required for a party to continue operations without incidence of further breach of the *reliability standards*, in order to avoid or minimize consideration of party’s previous breach history for sanctioning purposes in the event of a subsequent breach. Breaches that occur within the ‘violation reset time’ are likely to be considered ‘consecutive’ breaches. Conversely, breaches outside the ‘violation reset time’ are likely to be considered ‘repetitive’ breaches.

## 2. Severity of Breach

Severity will consider the number of documented instances of non-compliance (not necessarily established breaches) and the extent of the breach. Two such examples are provided below.

### Example One:

Severity may be established by using a rate of non-compliance. The rate is indicative of severity and may be set at 90% or above for good performance and 75% or below for unacceptable performance. For 75% performance the non-compliance level maybe considered “severe” depending on the nature of the requirement.

### Example Two:

Duration may be considered in establishing the severity of a breach. For example, the length of time a party fails to establish direct communication with the *IESO* after a contingency is an indicator of severity. The requirement specifies that contact be made within 5 minutes. The severity of the failure would be relative to the 5 minutes requirement and maybe considered severe if it exceeds 15 minutes. In contrast, the failure to upgrade a *metering installation* may be considered low if the duration of the breach is less than one month.

As illustrated in these examples, the severity of a breach must be viewed within the context of the requirement. The examples are not exhaustive of the type of assessment MACD will deploy to determine severity.

In relation to breaches of *reliability standards*, NERC is planning to define for each of its standards four levels that attempt to capture the severity of non-compliance, to be known as the 'Violation Severity Level'. Where a Violation Severity Level exists, MACD will consider it as its assessment of severity to the extent it captures all dimensions of the severity of the breach.

### 3. Adjustments

Once an initial non-compliance level is determined it can be adjusted to a higher or lower level (adjusted to the right or left, respectively, at the same impact level). If any one or more of the following three factors are present, adjustments will be made to a higher non-compliance level (adjust to the right) along the matrix.

#### a. Lack of Due Diligence

This adjustment will increase the non-compliance level when the severity of a breach is increased from where it otherwise would have been where there is a reasonable expectation that action should have been taken by a party. For example, an increase will occur when detection and mitigation should have taken place sometime before the breach was discovered, either through the exercise of due diligence or other periodic actions mandated under the *market rules*, or through *good utility practices*. For example, the duration of a breach may be extended as a result of inaction by a party. When the duration of a breach is increased as a result of the lack of due diligent actions as described above, the non-compliance level can be increased above the initial selection.

#### b. Benefit

The non-compliance level may be increased if any benefit was obtained or may have been obtained by the *market participant* as a result of the breach. Assessment of this factor deters parties from making economic choices to breach *market rules*. It also sends a clear message that parties participating in the market must establish a compliance culture within their organizations and economic choices to breach are not supported as an acceptable alternative to compliance. Adjustments will be made commensurate with the benefit gained by the party.

#### c. Corporate Intent

A breach will be considered deliberate if the facts of a case point to a *market participant* knowingly breaching a *market rule*. Where there is an understood corporate practice or communicated corporate intent to breach, the non-compliance level established may be increased above the initial selection.

## Step 2

## Fixing Penalty Amount

A base penalty amount is established within the range selected in step 1 by examining impact and time horizon. The final penalty amount will be fixed within the range selected from step 1 following consideration of the additional factors listed below. Each factor can result in an increase or decrease from the base penalty amount.

### 1. Base Penalty Amount

Once a range is determined in step 1, a base penalty amount is set within the range based on an assessment of impacts and time horizon described below.

The impact assessment is exactly the same as determining the ‘impact level’ under Step 1.

#### a. Impact Assessment

The contribution of ‘impact’ to establishing the base penalty amount is carried out after consideration of:

- impact of the breach on other *market participant(s)*;
- the actual and potential impact of the breach on the *IESO-administered markets* as a whole;
- the actual and potential impact of the breach on the *reliability* of the *integrated power system*; and
- any sanctions that may be imposed on the *IESO* by a *standards authority* as a result of the breach

#### b. Time Horizon

The rules have requirements which span a range of time frames. Some requirements pertain to planning activities and are conducted years in advance. If these are breached, they pose a future threat to *reliability* or the market. Conversely, breaches affecting real-time grid operations or market outcomes pose an immediate threat. Breaches which pose an immediate threat would result in higher base penalty amounts than breaches pertaining to planning activities, all other factors remaining equal.

*Reliability standards’* requirements fall into similar timeframes long term planning, operations assessment, operations planning, real-time operations, and same day operations. *NERC* and *NPCC* have linked these categories with the immediacy of the threat that breaches pose to *reliability*. *MACD* will consider these linkages in establishing a base amount for breaches which cause *reliability* impacts.

### 2. Final Penalty Amount

### Additional Case Factors – Aggravating and Mitigating

The final penalty amount will be fixed within the range selected from step 1 considering the additional factors listed below. Each factor can result in an increase or decrease from the base penalty amount within the identified range:

- a. the circumstances in which the breach occurred;
- b. the severity of the breach;
- c. the extent to which the breach was inadvertent, negligent, deliberate or otherwise;
- d. the length of time the breach remained unresolved;
- e. the actions of the *market participant* on becoming aware of the breach;
- f. whether the *market participant* disclosed the matter to the *IESO* on its own or whether it was prompted to do so;
- g. any benefit that the *market participant* obtained or may have obtained as a result of the breach;
- h. any previous breach by the *market participant* of the *market rules* or of the conditions of its *licence*;
- i. the actual or potential impact of the breach on other *market participants*;
- j. the actual or potential impact of the breach on the *IESO-administered markets* as a whole;
- k. the actual or potential impact of the breach on the *reliability* of the *integrated power system*;
- l. any sanctions that may be imposed on the *IESO* by a *standards authority* as a result of the breach;
- m. the immediacy of the threat the breach poses to the *reliability* of the *integrated power system* or the *IESO-administered market*;
- n. presence and quality of the *market participant's* compliance program;
- o. whether on its own initiative, a *market participant* has undertaken to reasonably compensate the *IESO-administered market* for the value of any benefit it obtained as a result of the breach; and
- p. such other matters as the *IESO* considers appropriate.

Examples of “other such matters as MACD considers appropriate” are past case communications concerning past remedies implemented for related breaches, the level of cooperation provided by the party in resolving the investigation and failure of a party to comply with a directive or order given by the *IESO*.

### DUE PROCESS ADDITIONS

For financial penalties assessed pursuant to these guidelines, once MACD has found a breach of the *market rules*, MACD will provide the party under investigation an opportunity to provide additional information and comment on the preliminary penalty assessment through written submissions. Prior to issuing the final “Notice of Non-compliance”, MACD will issue a draft notice to the party with an attached preliminary penalty assessment.

– End of Section –

## References

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<b>Document ID</b>	<b>Document Title</b>
MDP_RUL_0002	Market Rules for the Ontario Electricity Market
MDP_MAN_0002	Market Manual 2: Market Administration, Part 2.0: Market Administration Overview
MDP_PRO_0023	Market Manual 2: Market Administration, Part 2.7: Treatment of Market Surveillance Issues
MDP_PRO_0045	Market Manual 5: Settlements, Part 5.4: Prudential Support
MDP_PRO_0035	Market Manual 5: Settlements, Part 5.6: Physical Markets Settlement Invoicing
MDP_PRO_0047	Market Manual 5: Settlements, Part 5.8: Financial Markets Settlement Invoicing
MDP_PRO_0036	Market Manual 5: Settlements, Part 5.9: Settlement Payment Methods and Schedule
MDP_PRO_0016	Market Manual 1: Market Entry Maintenance and Exit Part 1.2 Facility Registration, Maintenance and De-registration
MDP_PRO_0022	Market Manual 1: Market Entry Maintenance and Exit Part 1.1 Participant Authorization, Maintenance and Exit
IMO_CAT_0002	Market Manual 2: Market Administration Part 2.14: Information Confidentiality Catalogue

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