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Market Rule Amendments: Chapter 3

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Today's Discussion

- The key objectives of the session are to:
 - Inform participants of the amendments
 - Inform participants of the rationale for the amendments
 - Obtain verbal feedback from participants during the webinar and written feedback on the feedback form

Agenda

1. Overview of the engagement
2. Background and need for these improvements
3. Review of each of the substantive amendments
4. Key activities
5. Questions

Engagement Overview

Information and education on market rules amendments proposed by the Market Assessment and Compliance Division (MACD) of the IESO, to modernize and clarify rules related to its enforcement processes, including confidentiality and disputes.

These amendments aim to support one of the IESO's strategic objectives, ensuring cost-effective reliability by way of effective rule enforcement. There are related amendments to Market Manual 2.6.

We provide this opportunity for participants to raise questions and provide feedback on these market rule amendments.

Background

Many of the rules related to enforcement have been in place since market opening. In the more than two decades since then the IESO, in particular through its Market Assessment and Compliance Division (MACD), has gained substantial experience with the enforcement of the market rules.

As a modern regulator, with the passage of time has come a need to update the market rules – modernizing them and adding some specificity and timing to drive efficiency and effectiveness.

These amendments support MACD's core mandate to effectively enforce market rules on behalf of stakeholders and customers.

Objectives of these Amendments

Our objectives are to:

- improve the timelines within which we carry out disputes,
- make our processes more transparent by including more specificity in the market rules and
- increase the deterrence effect of our actions.

The anticipated result is overall improvement to our regulatory and dispute processes, with greater clarity and an overall benefit to the market as a whole.

Amendments to Chapter 3 of the Market Rules

The more significant amendments are reviewed below in the order they appear in the market rules. There are also minor updates in both the market rules and the market manual that are not covered here, in the nature of housekeeping amendments (all of which can be found on the engagement page).

1. Market Participants have 20 business days to dispute a Chapter 3 enforcement determination and/or order.
2. In the dispute resolution process, where good faith negotiations have failed, either party may terminate upon notice to the other party.

Amendments to Chapter 3 of the Market Rules

3. An exception to the general requirement to keep *confidential information* confidential has been added for enforcement purposes.
4. Additional clarity has been added around the IESO's broad right to gather information in its enforcement actions.
5. The penalty table in s. 6.6.6. has been updated to go from a maximum of \$10,000 to a maximum of \$100,000.
6. The one instance in which the IESO's Board of Directors was involved in determining the applicable penalty table has been changed to remove that specific role (overall Board oversight has increased).

Chapter 3 Amendments - Redline

2. Dispute Resolution

2.5 Notice of Dispute, Negotiation and Response

2.5.1A Subject to section 2.5.1B, a *notice of dispute* shall be served: [...]

2.5.1A.4AA in the case of a dispute involving a determination or order or both of the IESO issued pursuant to section 6.2.7, within 20 business days of the date of receipt of the later of the determination or order or both.

Chapter 3 Amendments - Redline

2. Dispute Resolution

2.5.3C The good faith negotiations shall continue until either party notifies the other party that it is terminating such negotiations, specifying the effective date of termination. In the event that a dispute is not settled through good faith negotiations, a party may file with the *secretary*, on written notice served on each other party, a copy of the *notice of dispute*, together with proof of service of the *notice of dispute* on each other party. The *notice of dispute* shall be accompanied by a summary of the *notice of dispute* for *publication* in accordance with section 2.9.2.1.

Chapter 3 Amendments - Redline

5. Accessibility and Confidentiality of Information

5.3 Exceptions

5.3.1 Unless prohibited by *applicable law* or by the provisions of these *market rules* other than this section 5, nothing in sections 5.2, 5.4 or section 5.5.1A of Chapter 5 shall prevent: [...]

5.3.1.5B the disclosure of *confidential information* by the *IESO* for the purpose of enforcing the *market rules*;

Chapter 3 Amendments - Redline

6.2.4 Following expiry of the time noted in section 6.2.3.4, and after consideration of any representations made by the *market participant* pursuant to that section, the *IESO* may: [...]

6.2.4.3 request that the *market participant* provide further information in relation to the alleged breach, including via the production of records, responses to written inquiries and interviews;

Chapter 3 Amendments - Redline

6. Enforcement

6.6 Non-compliance Letters and Financial Penalties

6.6.6 Where the *IESO* has determined, based on the determinations made under section 6.6.2, that the applicable sanction is the imposition of a financial penalty, the *IESO* shall, subject to section 6.6.6A, consider the factors listed in section 6.6.7 and impose a financial penalty on the *market participant* within the ranges set out in the following table.

Chapter 3 Amendments - Redline

6.6.6

Level of Non-Compliance	Range of Sanctions
L1	Non-compliance letter or up to \$2000.00 Up to \$25,000.00
L2	Non-compliance letter or up to \$4000.00 Up to \$50,000.00
L3	Non-compliance letter or up to \$8000.00 Up to \$75,000.00
L4	\$1,000.00 to \$10,000.00 \$100,000.00

Chapter 3 Amendments - Redline

6. Enforcement

6.6 Non-compliance Letters and Financial Penalties

6.6.6A 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:

6.6.6A.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;~~

Amendments to Market Manual 2.6

1.3.1 Compliance Enforcement within the IESO

[...]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.

Discussion and Request for Feedback

- We invite you to raise any specific questions you have about any of the proposed amendments to the market rules.

The IESO will consider all input on this engagement and a feedback form is posted on the **Market Rule Amendments: Chapter 3** engagement webpage <https://www.ieso.ca/en/Sector-Participants/Engagement-Initiatives/Engagements/Market-Rule-Amendments-Chapter-3>

- Feedback is due by **December 5, 2023**
- Please contact engagement@ieso.ca if you have questions following this session

Next Steps

Timing

Engagement Activity

December 5

Educational meeting at the Technical Panel

December 5

Written Comments Close

Thank You

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