



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.: MR-00202-R00	
Subject: Metering Service Providers	
Title: Regulation of Default Metering Service Providers During the Transition Period	
Nature of proposal (please indicate with X): <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Deletion <input type="checkbox"/> Addition	
Chapter: 6	Appendix:
Sections: 3	
Sub-sections proposed for amending: 3.2.3	

PART 2 – PROPOSAL HISTORY

Issue	Reason for Issue	Issue Date
	Amendment submission reviewed by Technical Panel.	August 20, 2002
1.0	Amendment Proposal Submitted to Technical Panel	October 17, 2002
2.0	Recommended by Technical Panel and submitted for IMO-Board approval.	October 22, 2002
3.0	IMO-Board Approved	November 1, 2002

Approved Amendment *Publication* Date: November 22, 2002

Approved Amendment *Effective* Date: January 15, 2003

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact the *IMO-administered markets* if the amendment is not made
- Alternative solutions considered
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IMO-administered markets*.

Under the transitional arrangements of the market rules (section 3.2 of Chapter 6), owners of meters as of the market commencement date shall act as the metering service provider unless they elect to contract out this obligation to another registered metering service provider. There have been instances of non-compliance by these “default” metering service providers and at present, the market rules do not provide the IMO with a fair or effective way of enforcing compliance. It is proposed herein to amend the market rules to enable sanctioning of default metering service providers.

Metering service providers are not market participants and are therefore not subject to the enforcement provisions of the market rules. Under the market rules, metered market participants are required to enter into agreements with metering service providers and are accountable for metering related matters including non-compliance by their metering service providers (see section 3.1 of Chapter 6). In particular, metered market participants are “liable to the imposition of financial penalties” if the metering service provider (that they are required to retain) fails to comply with the obligations placed on metering service providers under the market rules. This treatment is appropriate in cases where there is a competitive metering service provider market and metered market participants are free to select and contract with metering service providers of their choice, or to become a metering service provider themselves. Under these conditions, metered market participants may protect themselves against non-compliance by their metering service providers by, among other things, negotiating appropriate indemnities and termination provisions in their metering service provider agreement. However, during the transitional period mandated by section 3.2 of Chapter 6, there is not a competitive metering service provider market. Under section 3.2, the owner of the metering installation is designated as the “default metering service provider” until the seal expiry date, and the metered market participant has no option but to contract with this default metering service provider. In such circumstances, it is the IMO’s view that in some cases it will be unfair and ineffectual to sanction a metered market participant for breaches by its default metering service provider.

Under the market rules (section 5.3 of Chapter 6), the IMO does have the power to revoke the registration of a metering service provider for breaches of the rules. However, this solution is extreme and of little practical value as the vast majority of meters in the market is currently owned by one entity.

The IMO therefore proposes that it be provided with the power to sanction metering service providers directly for breaches of the rules in respect of metering installations for which they are the “default metering service provider”. Under the proposed amendment, the IMO’s power to sanction “default metering service providers” in respect of a particular metering installation will expire once the seal expiry date passes and the metered market participant is free to contract with competitive metering service providers.

Consideration was also given to extending the sanctioning provisions to permanently cover all metering service providers, but was rejected in favor of enabling sanctioning of only default metering service providers. In the long-term it is anticipated that the metering service provider market will become fully competitive and, hence, competition and freedom of choice on the part of metered market participants

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will impose necessary discipline upon metering service providers. Generally, where healthy competition exists, there should be less need for direct regulatory measures like sanctioning. There is some concern too that implementing sanctions against all metering service providers may dissuade new metering service providers from entering the market and may act as a deterrent to the evolution of a competitive metering service provider market.

Therefore, the proposal is to amend the market rules to enable sanctioning of default metering service providers only.

(Note: As mentioned in the earlier Market Rule Amendment Submission on this subject (see MR-00202-Q00) metering service provider performance standards are currently under review and are expected to be brought forward under a separate Market Rule Amendment Proposal.)

PART 4 – PROPOSED AMENDMENT

3.2 Transitional Arrangements

3.2.1 Notwithstanding any other provision of this Chapter, a person that owns a *metering installation* that is in service on the date of coming into force of this section 3.2 or that is brought into service between the date of coming into force of this section 3.2 and the *market commencement date* shall, unless an election is made by such person pursuant to section 3.2.2, apply for registration as a *metering service provider* and shall act as the *metering service provider* in respect of such *metering installation* from the *market commencement date* until the earliest expiry date of any seal period of any *meter* forming part of such *metering installation*. Once such seal period expires, the *metered market participant* for the *metering installation* shall make such alternative arrangements as may be necessary to comply with the provisions of this Chapter and of any policy or standard established by the *IMO* pursuant to this Chapter.

3.2.2 A person that owns a *metering installation* that is in service on the date of coming into force of this section 3.2 may elect to enter into an agreement with a registered *metering service provider* pursuant to which that *metering service provider* acts as the *metering service provider* in respect of such *metering installation*.

3.2.3 Notwithstanding section 3.1.2.2(c), a *metering service provider* designated as such pursuant to section 3.2.1 or 3.2.2, shall, in addition or in lieu of any liability that may be imposed on a *metered market participant* pursuant to section 3.1.2.2(c), be liable to the imposition of financial penalties and other sanctions, in accordance with the enforcement provisions of Chapter 3, in respect of a failure by the *metering service provider* to comply with the obligations imposed on *metering service providers* in this Chapter and in any policy or standard established by the *IMO* pursuant to this Chapter, and for such purposes, *metering service providers* shall be deemed as *market participants*. Such *metering service providers* shall only be subject to such liability in respect of *metering installations* for which they are designated as *metering service providers* pursuant to section 3.2.1 or 3.2.2 and only until the earliest expiry date of any seal period of any *meter* forming part of the *metering installation*.

PART 5 – IMO BOARD COMMENTS