

**MINUTES OF THE RULES CHANGE PANEL
138th MEETING
HELD ON THURSDAY, 16 NOVEMBER 2023 AT 10.00AM
AT ENERGY MARKET CO. PTE LTD
4 SHENTON WAY #03-01
SGX CENTRE 2, SINGAPORE 068807**

Present:	Toh Seong Wah (Chairman) Soh Yap Choon Tony Tan Sherman Toh Matthijs Jan Guichelaar	Henry Gan Teo Chin Hau Calvin Quek Song Jian En Fong Yeng Keong
Absent with Apologies:	Cheong Zhen Siong Dr Toh Mun Heng	Rachel Su Huifen Tan Chian Khong
In Attendance: (EMC)	Poa Tiong Siaw Lim Chern Yuen	Wang Jing Vincent Wise

Minutes of 138th RCP Meeting – 16 November 2023

Action

- 1. Notice of Meeting**
The Chairman called the meeting to order at 10.05am. The Notice and Agenda of the meeting were taken as read.
- 2. Confirmation of Minutes of the 137th Rules Change Panel Meeting**
The Minutes of the 137th Rules Change Panel (“RCP”) meeting, held on 21 September 2023, were approved by the RCP.
- 3. Update of Monitoring List, Summary of Outstanding Rules Change Submissions, and RCP Work Plan Status Update**
 - 3.1 Ms Wang Jing presented the Update of Monitoring List, Rule Change Submission, and RCP Work Plan Status Update.
- 4. CP95: Holistic Review of the Market Rules Related to Cessation of Business, Liquidation and Insolvency**
 - 4.1 Mr Vincent Wise presented the paper on Holistic Review of the Market Rules Related to Cessation of Business, Liquidation and Insolvency.
 - 4.2 Mr Wise clarified that this paper reviews the handling of “events of default” (as defined within the Market Rules), particularly for events of default related to insolvent or related Market Participants (MP). There is a concern that the Market Surveillance and Compliance Panel (“MSCP”) holding a hearing and issuing any resulting orders, which is part of the current default handling process, is something that is stayed by legislation such as the Insolvency, Restructuring and Dissolution Act 2018 (IRDA).

4.3 Mr Wise noted that when the MSCP is unable to conduct a suspension hearing and issue any resulting orders to defaulting MPs undergoing insolvency or related events, the defaulting MP may continue trading and chalking up exposure in the market. This may ultimately compromise the financial integrity of the market.

4.4 Mr Wise noted that a legally workable process is required to enable suspension of MPs incurring insolvency-related defaults in a timely manner. To that end, three broad potential approaches were explored:

1. Legislative amendments
2. Declaratory relief
3. Automatic suspension

However, Mr Wise explained that approaches (1) or (2) are not within the control of the EMC, leaving approach (3) remaining. Mr Wise then elaborated on a high-level operational process for the proposed automatic suspension of insolvent defaulting MPs.

4.5 Mr Soh Yap Choon queried whether the automatic suspension would apply to generators and importers as well, and whether communication to relevant stakeholders would be via email.

Mr Wise responded that the automatic suspension mechanism would apply to generators and importers, and that all communication (e.g., notice of default) would likely be via email, with relevant stakeholders kept in the loop. Mr Wise noted that such operational details will be considered during rule drafting.

Mr Soh added that since it is highly likely for EMA to intervene before the suspension of a defaulting generator / importer, perhaps this automatic suspension mechanism should not apply to generators and importers.

Mr Song Jian En noted that given the proposed operational timeline, EMA would still have some time (i.e., 5 business days from notice of default) to intervene, and prevent the suspension of MPs.

Mr Poa Tiong Siaw responded that under the proposed operational timeline, EMA would in fact have more time to intervene relative to the status quo, as there is no need for an MSCP hearing between notice of default and suspension.

4.6 Mr Song queried whether EMC would continue pursuing legislative amendments to the IRDA.

Mr Poa responded that active pursuit of legislative amendment will not be viable. EMC will instead have to, together with the EMA, wait for an opportunity to amend the relevant legislations such as the IRDA. Should the relevant IRDA amendments be made, which is the preferred approach, this paper's recommendations will be revisited (and potentially reversed).

EMC

4.7 Mr Song queried whether approach (3) above is already more efficient than the other approaches. If so, perhaps there is no need to pursue legislative amendments to the IRDA.

Mr Poa responded that the intent of current suspension process is to allow an independent body (MSCP) to assess if the defaulting MP should be suspended from participation via a hearing. If legislative amendments are made that clearly allow for the MSCP to hold hearings and issue relevant orders, it would provide MPs opportunities to show cause, balancing against the need to maintain financial integrity of the wholesale market.

4.8 Mr Sherman Toh queried whether automatic suspension of a retailer would trigger the Retailer of Last Resort (ROLR) mechanism, and whether the ROLR mechanism is in line with the IRDA.

Mr Wise responded in the affirmative for both of the above queries.

4.9 Mr Song queried whether a defaulting MP would still be suspended, if it was able to remedy the default before being suspended (i.e., within 5 business days after notice of default). He also queried that if the auto suspension can be lifted, should the defaulting MP manage to subsequently remedy the default.

Mr Poa responded that if the MP is no longer in an insolvent situation, it is likely the MSCP would be able to conduct a hearing and assess if the suspension should continue or be lifted. Such details will be worked out in the rule changes that will follow.

EMC

4.10 Mr Sherman Toh shared that for retailers, it is unlikely to rewind a ROLR event once it has been triggered, even if the suspension is subsequently lifted.

Mr Wise agreed that the proposed automatic suspension does have minimum tolerance for insolvent MPs and the impact to retailers is irreversible.

4.11 Mr Soh emphasised that there is a need to be very clear on the conditions triggering automatic suspension (e.g., only for insolvency-related defaults).

Mr Henry Gan responded in the affirmative, also emphasising the need to differentiate between automatic suspension cases and non-automatic suspension cases that follow existing processes.

Mr Soh further queried that since the MSCP is not involved in automatic suspension, EMC will be the party sending out the notice of default, and conducting the automatic suspension.

Mr Gan responded in the affirmative, noting that various other relevant stakeholders (e.g., EMA, SPPG, SPS) will also be kept in the loop throughout.

EMC

- 4.12 Mr Wise summarised EMC's Recommendations to the RCP as follows:
- a) support the EMC's proposal to adopt an automatic suspension framework for the handling of insolvency-related defaults; and
 - b) task the EMC to draft relevant modifications to the Market Rules to give effect to such a proposal.
- 4.13 The RCP **unanimously supported** EMC's recommendations above.

There being no other matters, the meeting ended at 10.45am.

Toh Seong Wah
Chairman

Minutes taken by:
Lim Chern Yuen
Senior Economist, Market Administration