
Wholesale Electricity Market Rule Change Proposal Form

Change Proposal No: *RC_2010_36*
Received date: *29 October 2010*

Change requested by:

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Address:	228 Adelaide Terrace Perth 6000
Date submitted:	29 October 2010
Urgency:	1-low
Change Proposal title:	Acceptable Credit Criteria
Market Rule(s) affected:	2.38.6, 4.13.7, and new clauses 2.38.6A, 2.38.6B, 4.13.7A and the Glossary

Introduction

Market Rule 2.5.1 of the Wholesale Electricity Market Rules provides that any person (including the IMO) may make a Rule Change Proposal by completing a Rule Change Proposal Form that must be submitted to the Independent Market Operator.

This Change Proposal can be posted, faxed or emailed to:

Independent Market Operator
Attn: General Manager Development
PO Box 7096
Cloisters Square, Perth, WA 6850
Fax: (08) 9254 4339
Email: market.development@imowa.com.au

The Independent Market Operator will assess the proposal and, within 5 Business Days of receiving this Rule Change Proposal form, will notify you whether the Rule Change Proposal will be further progressed.

In order for the proposal to be progressed, all fields below must be completed and the change proposal must explain how it will enable the Market Rules to better contribute to the achievement of the wholesale electricity market objectives. The objectives of the market are:

- (a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system;
- (b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors;
- (c) to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions;
- (d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system; and
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used.

Details of the proposed Market Rule Change

1. Describe the concern with the existing Market Rules that is to be addressed by the proposed Market Rule change:

Under clause 2.38.1 of the Market Rules, any time a Market Participant or a Network Operator, does not meet the Acceptable Credit Criteria set out in clause 2.38.6, then the Market Participant or Network Operator must ensure that it provides the IMO with Credit Support.

To confirm whether the Credit Support meets the Acceptable Credit Criteria listed in clause 2.38.6 a Market Participant or Network Operator must, under the Market Procedure for Prudential Requirements, complete the Acceptable Credit Criteria Form (**Form**) (refer to Appendix A) available on the IMO's website. This includes ensuring that the Form has been signed by a solicitor of reputable commercial law firm acceptable to the IMO.

Synergy has found a growing reluctance by solicitors to sign the Form as it requires responses to statements concerning the credit provider. Solicitors can only base their responses on information in the public domain and, as such, are reluctant to be held accountable for failings of the credit provider.

The IMO provides, on its website, a List of Acceptable Credit Providers (**List**). This List (refer to Appendix B) includes financial institutions that the IMO has deemed as meeting the Acceptable Credit Criteria. The List preamble indicates that the financial institution inventory will be reviewed and updated annually.

Synergy proposes a change to the Market Rules such that, for the purposes of clause 2.38.6, an entity is deemed to meet the Acceptable Credit Criteria if it is on the IMO's List. A solicitor signed Form would not be required for such an entity providing the Credit Support.

2. Explain the reason for the degree of urgency:

This Rule Change Proposal is not considered urgent. However, its acceptance will ensure a faster and more streamlined approach to submitting Credit Support.

3. Provide any proposed specific changes to particular Rules: (for clarity, please use the current wording of the Rules and place a ~~strikethrough~~ where words are deleted and underline words added)

2.38.6. An entity meets the Acceptable Credit Criteria if it is:

- (a) either:
 - i. under the prudential supervision of the Australian Prudential Regulation Authority; or
 - ii. a central borrowing authority of an Australian State or Territory which has been established by an Act of Parliament of that State or Territory;
- (b) resident in, or has a permanent establishment in, Australia;
- (c) not an externally-administered body corporate (within the meaning of the Corporations Act), or under a similar form of administration under any laws applicable to it in any jurisdiction;
- (d) not immune from suit;
- (e) capable of being sued in its own name in a court of Australia; and
- (f) has an acceptable credit rating, being either:
 - i. a rating of A-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Standard and Poor's (Australia) Pty. Limited; or
 - ii. a rating of P-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Moodys Investor Services Pty. Limited; or
- (g) if it is named on the List of Acceptable Credit Providers posted on the Market Web Site.

2.38.6A If an entity is named on the List of Acceptable Credit Providers then the Market Participant or Network Operator is not required to submit an Acceptable Credit Criteria Form to the IMO.

2.38.6B The IMO must maintain a list of Acceptable Credit Criteria providers on the Market Website (**List of Acceptable Credit Providers**), and must update this list at least once a year before 1 April.

4.13.7. An entity meets the Acceptable Credit Criteria if it is:

- (a) either:
 - i. a bank under the prudential supervision of the Australian Prudential Regulation Authority; or
 - ii. a central borrowing authority of an Australian State or Territory which has been established by an Act of Parliament of that State or Territory;
- (b) resident in, or has a permanent establishment in, Australia;
- (c) not an externally-administered body corporate (within the meaning of the Corporations Act), or under a similar form of administration under any laws applicable to it in any jurisdiction;
- (d) not immune from suit;
- (e) capable of being sued in its own name in a court of Australia; and
- (f) has an acceptable credit rating, being either:
 - i. a rating of A-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Standard and Poor's (Australia) Pty. Limited; or
 - ii. a rating of P-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Moodys Investor Services Pty. Limited; or
- (g) if it is named on the List of Acceptable Credit Providers posted on the Market Web Site.

4.13.7A If an entity is named on the List of Acceptable Credit Providers then the Market Participant is not required to submit an Acceptable Credit Criteria Form to the IMO.

List of Acceptable Credit Providers: Listing of acceptable financial institutions posted on the Market Web Site and updated annually in accordance with clause 2.38.6B.

4. Describe how the proposed Market Rule change would allow the Market Rules to better address the Wholesale Market Objectives:

The proposed Market Rule change would allow the Market Rules to better address Wholesale Market Objectives:

(b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors; and

(d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system;

by ensuring a more simple, efficient and cheaper way of certifying that an entity meets the Acceptable Credit Criteria.

5. Provide any identifiable costs and benefits of the change:

Engaging a solicitor to complete the Form for an entity already deemed by the IMO as meeting the Acceptable Credit Criteria is expensive and time-consuming and the additional costs incurred are ultimately passed on to end consumers.

Appendix A - Acceptable Credit Criteria Form

VERSION 3.1

ACCEPTABLE CREDIT CRITERIA FORM

“Entity” means:

Name of entity _____

ABN (if applicable): _____

Principal address: _____

Please specify a contact person for the entity

Name _____

Title _____

Telephone _____

Email _____

Please provide a response (“true” or “false”) in respect of each statement for the entity:

Statement	Response (indicate “true” or “false”)
<p>1. The entity is:</p> <p>(a) under the prudential supervision of the Australian Prudential Regulation Authority;</p> <p>(b) a central borrowing authority of an Australian State or Territory which has been established by an Act of Parliament of that State or Territory.</p>	
<p>2. The entity resides in, or has a permanent establishment in Australia.</p>	
<p>3. The entity is not an externally administered body corporate (within the meaning of the Corporations Act), or under a similar form of administration under any laws applicable to it in any jurisdiction.</p>	
<p>4. The entity is not immune from suit.</p>	
<p>5. The entity is capable of being sued in its own name in a court of Australia.</p>	

<p>6. The entity has a:</p> <p>(a) rating of A-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Standard and Poor's (Australia) Pty Limited;</p>	
<p>(b) rating of P-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Moodys Investor Services Pty Limited.</p>	

Solicitor's Certificate

I *[Solicitor name]* of *[insert address]*, solicitor, certify as follows:

1. I am a partner of *[name of reputable commercial law firm]*.
2. I have examined all material relevant to the verification of the above statements as I have considered necessary or appropriate and have carried out such searches as I have deemed relevant and necessary.
3. Based on 2., in my opinion each response given above is true and correct and no response is misleading or deceptive either by reason of content or by reason of any omission.
4. I am aware the Independent Market Operator will be relying on the responses given to the above statements as being true and correct and not misleading or deceptive in assessing whether the entity meets the Acceptable Credit Criteria under clause 2.38.6 of the Wholesale Electricity Market Rules.
5. That the *[insert as applicable: Letter of Credit for Credit Support / Deed of Guarantee for Credit Support / Deed of Security Deposit for Credit Support]* executed by the entity is consistent with the most recent proforma version available from the Independent Market Operator and only modified to the extent contemplated in the proforma version.

Dated the _____ day of _____ 200 .

Signature:

Appendix B - List of Acceptable Credit Providers

List of Acceptable Credit Providers

An entity providing Security must meet the Acceptable Credit Criteria set out in clause 4.13.7 or 2.38.6 of the Market Rules as appropriate.

Following is the list of financial institutions that have met the Acceptable Credit Criteria and may be used for applications for Prudential Support. This list will be reviewed and updated annually. Rule Participants may use other financial institutions to provide Security by following the process outlined in the Prudential Requirements Procedure as appropriate.

Australia and New Zealand Banking Group Limited

ABN: 11 005 357 522
100 Queen Street, Melbourne, VIC 3000

Queensland Treasury Corporation

ABN: 15 736 217 171
Level 14, 61 Mary Street, Brisbane, QLD 4000

Westpac Banking Corporation

ABN: 33 007 457 141
Level 3, 255 Elizabeth Street, Sydney, NSW 2000

Commonwealth Bank of Australia

ABN: 48 123 123 124
Level 7, 48 Martin Place, Sydney, NSW 2000

Bank of Western Australia

ABN: 22 050 494 454
BankWest Tower, 108 St Georges Terrace, Perth, WA 6000
Citibank, N.A.
ABN: 34 072 814 058
2 Park Street, Sydney, NSW 2000