Executive Summary

This paper considers proposed measures to deter a Market Participant ("MP") from making late payments due to the Singapore Wholesale Electricity Market ("SWEM").

Late payment by a MP disrupts EMC’s operation and settlement processes, and results in administrative costs incurred by EMC. The Market Rules allow a MP to remedy a payment default within 1 BD. Therefore, the MP may have the misconception that late payment by 1 BD is acceptable. This may disincentivise the MP from observing the payment date. It is proposed that measures should be taken to deter such late payments.

Considering stakeholder feedback, we conclude that compared to any new deterrent mechanism, it would be more efficient for EMC to, where appropriate, impose an administrative cost as a form of deterrent for late payment. This is currently provided for under Chapter 3 Section 7.3.6 of the Market Rules, where EMC may recover any cost and expenses incurred by EMC due to late payment by a MP.

EMC recommends no rule change is required, and for EMC to, where appropriate, impose an administrative cost for late payment by a MP in accordance with Chapter 3 Section 7.3.6 of the Market Rules.

At the 123th RCP meeting held on 12th May 2021, the RCP by majority vote supported EMC’s recommendation.
1. **Introduction**

This paper considers proposed measures to deter a Market Participant (“MP”) from making late payments due to the Singapore Wholesale Electricity Market (“SWEM”).

2. **Background**

2.1 **Settlement Timeline in SWEM**

Chapter 7 Section 5 of the market rules provides that the SWEM settlement statement invoice for each trading day shall be issued 10 business days (“BD”) after the trading day\(^1\), and the MP payment date for each invoice shall be no later than the close of banking business\(^2\) on the 20\(^{th}\) day after the trading day\(^3\). Hence, a MP is obliged to make payment to EMC by 5pm on the 20\(^{th}\) day after the trading day\(^4\).

Settlement payment default occurs when the MP fails to make payment to EMC by 5pm on the 20\(^{th}\) day after the trading day.

2.2 **Recent Occurrence of Payment Default**

With liberalisation of the retail market and roll-out of the Open Electricity Market (“OEM”\(^5\)) since 1 November 2018, we saw an increase in the number of new MPs in the SWEM. Consequently, we observed that the occurrence of settlement payment default by MP has become more frequent in recent years.

We conducted a review of payment defaults by MPs over 8 years from July 2013 to December 2020. As shown in Chart 1 below, there were only 3 instances\(^6\) of payment default on a total of 5 invoices by 3 MPs from 2013 to 2017 compared with 15 instances on a total of 43 invoices by 9 MPs from 2018 to 2020. The frequency of settlement payment defaults has increased in recent years.

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\(^1\) Chapter 7 Section 5.2.1 of the Market Rules  
\(^2\) Chapter 7 Section 5.2.7 of the Market Rules  
\(^3\) Chapter 7 Section 5.2.6 of the Market Rules  
\(^4\) Chapter 7 Section 5.9.1 of the Market Rules  
\(^5\) An initiative by the Energy Market Authority (“EMA”) where all consumers can choose to buy electricity from retailers instead of market support services licensee.  
\(^6\) Payment default by the same MP on consecutive days is considered as one incident.
Table 1 below provides the list of payment default with default amounts by MPs. There were a total of 18 instances\(^7\) of payment default on a total of 48 invoices by 10 MPs.

**TABLE 1: Payment Default by MPs from July 2013 to December 2020**

<table>
<thead>
<tr>
<th>Market Participant</th>
<th>S/N</th>
<th>Default Date = Payment Date</th>
<th>Notice Issue Date</th>
<th>Remedy Date</th>
<th>Default Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>MP A</td>
<td>1</td>
<td>20-Jul-13</td>
<td></td>
<td>21-Jul-13</td>
<td>$0.13</td>
</tr>
<tr>
<td>MP B</td>
<td>2</td>
<td>20-Apr-16</td>
<td>21-Apr-16</td>
<td></td>
<td>$10,000.00</td>
</tr>
<tr>
<td>MP C</td>
<td>3</td>
<td>30-Jan-17</td>
<td>1-Feb-17</td>
<td></td>
<td>$67,175.84</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>30-Jan-17</td>
<td>1-Feb-17</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>31-Jan-17</td>
<td>1-Feb-17</td>
<td></td>
</tr>
<tr>
<td>MP D(^8)</td>
<td>4</td>
<td>22-May-18</td>
<td>Not Remedied</td>
<td></td>
<td>$810,231.06</td>
</tr>
<tr>
<td>MP B</td>
<td>5</td>
<td>8-Oct-18</td>
<td>9-Oct-18</td>
<td></td>
<td>$50,113.02</td>
</tr>
<tr>
<td></td>
<td>6</td>
<td>18-Oct-18</td>
<td></td>
<td></td>
<td>$81,400.97</td>
</tr>
<tr>
<td></td>
<td></td>
<td>22-Oct-18</td>
<td></td>
<td></td>
<td>$33,871.84</td>
</tr>
<tr>
<td></td>
<td></td>
<td>22-Oct-18</td>
<td></td>
<td></td>
<td>$150,174.31</td>
</tr>
<tr>
<td></td>
<td></td>
<td>22-Oct-18</td>
<td></td>
<td></td>
<td>$150,774.64</td>
</tr>
<tr>
<td></td>
<td></td>
<td>23-Oct-18</td>
<td></td>
<td></td>
<td>$170,677.73</td>
</tr>
<tr>
<td></td>
<td></td>
<td>24-Oct-18</td>
<td></td>
<td></td>
<td>$213,048.22</td>
</tr>
<tr>
<td></td>
<td></td>
<td>25-Oct-18</td>
<td></td>
<td></td>
<td>$68,941.19</td>
</tr>
<tr>
<td></td>
<td></td>
<td>26-Oct-18</td>
<td></td>
<td></td>
<td>$42,234.63</td>
</tr>
<tr>
<td></td>
<td></td>
<td>29-Oct-18</td>
<td></td>
<td></td>
<td>$34,089.21</td>
</tr>
<tr>
<td></td>
<td></td>
<td>29-Oct-18</td>
<td></td>
<td></td>
<td>$101,030.93</td>
</tr>
<tr>
<td></td>
<td></td>
<td>29-Oct-18</td>
<td></td>
<td></td>
<td>$43,137.04</td>
</tr>
<tr>
<td></td>
<td></td>
<td>30-Oct-18</td>
<td></td>
<td></td>
<td>$44,212.02</td>
</tr>
<tr>
<td></td>
<td></td>
<td>31-Oct-18</td>
<td></td>
<td></td>
<td>$44,467.37</td>
</tr>
<tr>
<td></td>
<td></td>
<td>1-Nov-18</td>
<td></td>
<td></td>
<td>$44,985.81</td>
</tr>
</tbody>
</table>

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\(^7\) Default on payment of invoice on consecutive days are counted as one incident.

\(^8\) MP has been suspended prior to first payment default

\(^9\) MP has been suspended prior to first payment default
<table>
<thead>
<tr>
<th>Market Participant</th>
<th>S/N</th>
<th>Default Notice Date = Payment Date</th>
<th>Remedy Date</th>
<th>Default Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>MP E(^{10})</td>
<td>7</td>
<td>7-Nov-18</td>
<td>8-Nov-18</td>
<td>$246,977.83</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7-Nov-18</td>
<td>8-Nov-18</td>
<td>$241,028.13</td>
</tr>
<tr>
<td></td>
<td></td>
<td>8-Nov-18</td>
<td>8-Nov-18</td>
<td>$248,802.21</td>
</tr>
<tr>
<td></td>
<td>8</td>
<td>3-Dec-18</td>
<td>10-Dec-18(^*)</td>
<td>$201,536.71</td>
</tr>
<tr>
<td></td>
<td></td>
<td>3-Dec-18</td>
<td>10-Dec-18(^*)</td>
<td>$322,729.83</td>
</tr>
<tr>
<td></td>
<td></td>
<td>4-Dec-18</td>
<td>10-Dec-18(^*)</td>
<td>$256,018.54</td>
</tr>
<tr>
<td></td>
<td></td>
<td>6-Dec-18</td>
<td>10-Dec-18(^*)</td>
<td>$248,802.21</td>
</tr>
<tr>
<td></td>
<td></td>
<td>7-Dec-18</td>
<td>10-Dec-18</td>
<td>$232,487.57</td>
</tr>
<tr>
<td>MP F</td>
<td>9</td>
<td>26-Dec-18</td>
<td>27-Dec-18</td>
<td>$833.18</td>
</tr>
<tr>
<td>MP G</td>
<td>10</td>
<td>4-Feb-19</td>
<td>7-Feb-19</td>
<td>$115,847.83</td>
</tr>
<tr>
<td>MP H</td>
<td>11</td>
<td>29-Jul-19</td>
<td>30-Jul-19</td>
<td>$1,196.97</td>
</tr>
<tr>
<td></td>
<td>12</td>
<td>14-Oct-19</td>
<td>15-Oct-19</td>
<td>$2,216.92</td>
</tr>
<tr>
<td>MP I</td>
<td>13</td>
<td>5-Nov-19</td>
<td>6-Nov-19</td>
<td>$4,171.50</td>
</tr>
<tr>
<td>MP J</td>
<td>14</td>
<td>20-Dec-19</td>
<td>23-Dec-19</td>
<td>$859.97</td>
</tr>
<tr>
<td>MP H</td>
<td>15</td>
<td>31-Jan-20</td>
<td>3-Feb-20</td>
<td>$14,445.00</td>
</tr>
<tr>
<td>MP F</td>
<td>16</td>
<td>31-Jan-20</td>
<td>3-Feb-20</td>
<td>$14,445.00</td>
</tr>
<tr>
<td>MP I(^{11})</td>
<td>17</td>
<td>3-Feb-20</td>
<td>4-Feb-20</td>
<td>$54,571.12</td>
</tr>
<tr>
<td></td>
<td>18</td>
<td>14-Sep-20</td>
<td>17-Sep-20(^*)</td>
<td>$22,793.64</td>
</tr>
<tr>
<td></td>
<td></td>
<td>15-Sep-20</td>
<td>17-Sep-20(^*)</td>
<td>$7,240.37</td>
</tr>
<tr>
<td></td>
<td></td>
<td>16-Sep-20</td>
<td>17-Sep-20</td>
<td>$8,769.56</td>
</tr>
<tr>
<td></td>
<td></td>
<td>17-Sep-20</td>
<td>17-Sep-20</td>
<td>$7,063.84</td>
</tr>
</tbody>
</table>

\(^*\) Payment default was not remedied within the stipulated timeline.

### 2.3 Proposal received

In view of the increasing number of late payments, the following deterrence measures were proposed:

1. Introduce a threshold for repeated payment default beyond which the trading by MP should be halted.
2. Impose an administration charge for each payment default.
3. Publish a watchlist of defaulting MPs.

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\(^{10}\) MP has withdrawn from the market subsequently in 2020.

\(^{11}\) MP has withdrawn from the market subsequently in 2020.
3. Analysis

According to Chapter 3 Section 7.3.1.1 of the Market Rules, if a MP fails to pay money due for payment by the appointed time on the due date, it constitutes an event of default. When an event of default occurs, EMC will first issue a notice of default to the MP. This notice to the MP would clearly specify:

- the alleged event of default,
- the default amount payable to EMC,
- the timeframe of 1 business day (“BD”) for the MP to rectify the event of default,
- any further action that EMC is going to take if the default is not remedied within the timeframe.

Under Chapter 3 Section 7.3.3 of Market Rules, EMC may also take any of the following actions if it deems necessary to preserve the financial integrity of the market:

- Determine the amount the MP owes and to make claim on any credit support held in obligations of the MP and/or
- Request the Market Surveillance and Compliance Panel (“MSCP”) to issue a suspension order. If the MSCP issues a suspension order, the MP’s rights to participate in the SWEM12 will be halted.

Should a MP default on its payment and a notice of default is issued, one of the following two scenarios can take place.

3.1 Scenario 1: MP unable to remedy payment default

The MP may remedy the event of default by paying all monies owed to EMC within the stipulated timeframe of 1 BD. If the MP fails to remedy the event of default, EMC will first make claim upon any of the MP’s credit support held by EMC if necessary. In addition, EMC will also request the MSCP for a suspension hearing, which may lead to the issuance of suspension order or any other enforcement actions that MSCP deems appropriate.

For payment default cases in Table 1, there are 4 out of 18 instances in which MPs failed to remedy payment default within the timeline. 2 of the instances were related to MPs who have already been suspended by the MSCP before payment default occurs. Another 2 of the instances led to a request for suspension hearing by the MSCP.

3.2 Scenario 2: MP able to remedy payment default (“Late Payment”)

On the other hand, the MP may be able to remedy the event of default by paying all monies owed to EMC within the stipulated timeframe of 1 BD. If the event of default is remedied, EMC is not required under the market rules to take any further action on the MP.

For the payment default cases in Table 1, 14 out of 18 instances were related to such late payment case where the payment defaults were remedied within the stipulated timeline so no further action was taken.

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12 Chapter 3 Section 7.3.10 of the Market Rules
3.3 Impact of payment default by the MP

When a MP first defaults on a payment and subsequently remedies the default, late payment has occurred, nonetheless. This would have disrupted EMC’s normal operation and settlement process and cause administrative costs to be incurred by EMC. Table 2 lists the administrative actions, not exhaustive, that EMC may have to take when a MP defaults on its payment.

**TABLE 2: Administrative actions that EMC may take when a MP default on its payment**

<table>
<thead>
<tr>
<th>Actions taken by EMC</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of Default</td>
<td>EMC issues a notice of default to the MP when the MP fails to make payment to the EMC by the MP payment date.</td>
</tr>
<tr>
<td>Credit Support Draw Down(^1)</td>
<td>EMC may need to draw down the credit support of the MP in order to make full payments to other MPs who are creditors in the market on time.</td>
</tr>
<tr>
<td>Reinstall Credit Support</td>
<td>Upon the MP’s remedy of the payment default(^1), EMC may need to reinstall the credit support draw down by transferring the remedied payment amount from the MP’s settlement banking account to the credit support banking account.</td>
</tr>
<tr>
<td>Remedy to Default Notice</td>
<td>Upon the MP’s remedy of the payment default, EMC prepares a letter to notify the MP and the relevant personnel that the payment default has been remedied.</td>
</tr>
<tr>
<td>Rectify Monthly Confirmation Notice (“MCN”) Report</td>
<td>EMC may need to rectify the MCN report(^1) for the month due to late payment by a MP.</td>
</tr>
</tbody>
</table>

More importantly, the market rules allow a MP to remedy a payment default within 1 BD. Without any deterring measure, the MP may perceive that late payment by 1 BD is acceptable. This may disincentivise the MP from making timely payments.

The proposal therefore called for deterrent measures against defaulting on the first invoice.

3.4 Review of Current Rule Provisions

Chapter 7 Section 5.9.1 of the market rules provides that a MP has an obligation to pay the full net invoice amount by the close of banking business on the MP payment date shown on

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\(^1\) EMC may need to 1) prepare Cash Deposit withdrawal notice or 2) prepare Bankers’ Guarantee redemption notice. If the MP fails to remedy before 11am the following day, EMC may need to 1) directly draw down credit support from the MP’s bank account or 2) directly visit the bank to redeem the Bankers’ Guarantee.

\(^1\) After 11am on the following day.

\(^1\) For bank reconciliation purposes.
the invoice. Hence, any late payment is a potential breach of the market rules. We further suggest that this is notwithstanding the MP subsequently remedying the default within 1 BD.

As with current rule provisions, EMC has the right to request the MSCP to investigate into such breach and take appropriate actions on the MP. The MSCP may also initiate its own investigation on any alleged breaches.16

In accordance with Chapter 3 Section 7.2.8 of the Market Rules, where the MSCP determines that the MP has breached the Market Rules, the MSCP may take one or more of the following actions:

- direct the MP to do things necessary to comply with the Market Rules
- direct the MP to cease within a specified period of time, the act, activity or practice constituting the breach
- direct that the MP comply with additional or more stringent record-keeping or reporting requirements
- issue a non-compliance letter to the MP
- direct that the MP pay a financial penalty
- make an award for costs arising from the breach

In addition, where the MSCP makes a determination, the MSCP will take into consideration the following, not exhaustive, factors stated in Chapter 3 Section 7.2.11 of the Market Rules:

- the circumstances in which the breach occurred
- the severity of the breach
- the extent to which the breach was negligent, deliberate or otherwise
- the length of time the breach remained unresolved
- any previous breach by the MP
- the rate of recurrence of non-compliance by the MP
- the impact of the breach on other MP, MSSL, the EMC and the PSO

EMC was of the view that existing Market Rules sufficiently provide for the MSCP to take enforcement actions against payment defaults by MPs.

Compared with the proposed deterrence measures of introducing a threshold to halt trading by MP for repeated payment default17 and imposing a fixed administration fee for late payment18, the MSCP would be able to take factors such as the default payment amount, frequency of breach by the MP and the MP’s ongoing ability to fulfil its financial obligations to the market into consideration, and determine the appropriate enforcement action.

Determinations of the MSCP are published publicly on the EMC’s website. They contain the context and details of each breach, and therefore would be more informative for industry stakeholders than the proposed plain watchlist of defaulting MPs19. Stakeholders can obtain information such as the default size and circumstances surrounding the breach.

3.5 Re-assessment following consultation with the MSCP

EMC was initially of the view that enforcement actions available to the MSCP are adequate to deter late payments.

In our consultation with the MSCP, the Panel opined that a MP is no longer in breach of the Market Rules once it has remedied the event of default. The Panel sees no point in initiating

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16 Chapter 3 Section 7.2.3 of the Market Rules
17 Proposed measure (1) in section 2.3 of this paper
18 Proposed measure (2) in section 2.3 of this paper
19 Proposed measure (3) in section 2.3 of this paper
an investigation or taking further enforcement action against a default that has been remedied in accordance with the Market Rules.

In addition, the MSCP proposed that EMC may impose an administrative cost to allow EMC to recover any cost and expenses incurred by EMC due to late payment by a MP. According to Chapter 3 Section 7.3.6 of the Market Rules, a MP may remedy an event of default by

- paying all monies due for payment, together with any default interest and any costs and expenses determined by EMC to have been incurred by it by reason of the event of default; and
- providing additional credit support

Taking into account the MSCP’s view that the administrative costs to conduct an investigation would be unnecessary and a disproportionate and inefficient use of resources, EMC concurs that it would be more efficient to impose an administrative cost as a deterrent measure, which is in line with Proposal 2.

**Assessment of Proposal 1: Introduce a threshold for repeated payment default beyond which the trading by MP should be halted**

Given that the MP has remedied the payment default, it no longer poses significant risk to the financial integrity of SWEM. EMC is of the view that such a MP should be allowed to continue trading in the SWEM.

**Assessment of Proposal 3: Publish a watchlist of defaulting MPs.**

We support a market environment that will promote all parties to act always in good faith. Publishing such a watchlist does not contribute to that. Given also that the occurrence of repeated late payment cases by the same MP is not likely to be high, EMC is of the view that it is not necessary to publish a watchlist of defaulting MPs.

To conclude, EMC is of the view that existing provisions under Chapter 3 Section 7.3.6 allowing EMC to impose an administrative cost for late payment can serve as a form of deterrent.

**4. Consultation**

The concept paper was published for consultation on 9 April 2021 and we received comments from MSCP\(^\text{20}\) and Keppel Merlimau Cogen. EMC has considered the comments raised by the MSCP and Keppel Merlimau Cogen and we have set out our responses in Table 3 column (ii) EMC’s Response below.

<table>
<thead>
<tr>
<th>Comments Received from MSCP</th>
<th>EMC’s Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under Scenario 1, EMC may apply to the MSCP for a suspension order and the MSCP may make such an order after a suspension hearing is conducted. This is fully covered by sections 7.3.3.3, 7.3.11 and 7.3.12 of Chapter 3 and no change is necessary.</td>
<td>We agree with the MSCP that no change is required for Scenario 1.</td>
</tr>
</tbody>
</table>

\(^\text{20}\) Annex 1 of the paper provides the comments by MSCP.
If the MP has remedied the event of default within the prescribed grace period, the MP will no longer be in breach of its obligation to make payment to EMC under section 5.9.1 of Chapter 7 of the Market Rules. It would be inconsistent with the scheme of the Market Rules if the MSCP were to hold a suspension hearing.

Additionally, having the MSCP initiate action under such circumstances would be a disproportionate and inefficient use of resources. It will also generate unnecessary administrative costs to the market, additional to the costs described in the consultation paper CP87.

It would be far more efficient and a greater deterrent if a late fee and administrative charge were to be imposed to any MP that does not pay in full on the due date.

This is already provided in section 7.3.6 of Chapter 3 of the Market Rules, which states that the event of default pursuant to section 7.3.1.1 of Chapter 3 can be remedied by paying all monies due together with default interest calculated in accordance with Chapter 7 and any costs and expenses determined by the EMC to have been incurred by it by reason of the event of default; and providing additional credit support which complies with the requirements of section 7 of Chapter 2.

Taking into account the additional administrative costs that the MSCP may incur, EMC agrees with MSCP’s view that it will be more efficient and a greater deterrent to impose a late fee or an administrative charge.

EMC agrees with the MSCP that section 7.3.6 of Chapter 3 of the Market Rules allow EMC to determine and collect any costs and expenses incurred due to late payment by a MP, together with the monies due.

The Market Rules enable EMC to take further actions to deter MPs from late payment of the settlement invoice. Section 7.3.10 of Chapter 3 of the Market Rules provides that notwithstanding that an event of default may have been remedied by the MP, the EMC may, where it considers that it is in the interests of preserving the integrity of the wholesale electricity markets, impose such conditions on the MP’s registration as an MP as the EMC deems appropriate, including the conditions noted in sections 7.3.15.1 and 7.3.15.2 of Chapter 3 by:

- establishing a lower percentage of estimated net exposure for the purpose of notifying a market participant or issuing a margin call to a market participant than would otherwise be the case under section 7.4 of Chapter 2; and

- imposing more stringent prudential requirements than would otherwise be the case under section 7 of Chapter 2.

MSCP would like EMC to review the four business days requirement under the Market Rules for the MSCP to conduct and conclude a suspension hearing.

We note the additional actions that EMC may impose.

Comments Received from Keppel Merlimau Cogen

Keppel Merlimau Cogen recommends that proposals 1 and 2 should be taken up by the RCP. As mentioned by EMC in the Executive Summary, late payment by a MP will disrupt EMC’s

Proposal 1: Given that the MP has remedied within the stipulated
operation and settlement process, and result in administrative costs incurred by EMC. It is in EMC’s and MPs’ interest to ensure late payments are mitigated as soon as possible. timeline, EMC is of the view that we should not halt the trading of the MP.

Proposal 2: EMC agrees with Keppel Merlimau Cogen’s view.

5. Conclusion and Recommendations

This paper considers proposed measures to deter a MP from making late payments due to the SWEM.

Late payment by a MP disrupts EMC’s operation and settlement processes, and results in administrative costs incurred by EMC. The Market Rules allow a MP to remedy a payment default within 1 BD. Therefore, the MP may have the misconception that late payment by 1 BD is acceptable. This may disincentivise the MP from observing the payment date. It is proposed that measures should be taken to deter such late payments.

Considering stakeholder feedback, we conclude that compared to any new deterrent mechanism, it would be more efficient for EMC to, where appropriate, impose an administrative cost as a form of deterrent for late payment. This is currently provided for under Chapter 3 Section 7.3.6 of the Market Rules, where EMC may recover any cost and expenses incurred by EMC due to late payment by a MP.

6. Decision at the 123th RCP Meeting

The concept paper was discussed at the 123th RCP meeting and the panel by majority vote supported no change to the market rules and to impose an administrative cost for late payment by a MP in accordance with Chapter 3 Section 7.3.6 of the Market Rules.

The following Panel members supported EMC’s recommendation:
1. Mr. Soh Yap Choon (Representative of the PSO)
2. Mr. Teo Chin Hau (Representative of Generation Licensee)
3. Mr. Tony Tan (Representative of Generation Licensee)
4. Mr. Calvin Quek (Representative of Generation Licensee)
5. Mr. Cheong Zhen Siong (Representative of Wholesale Electricity Trader)
6. Mr. Sean Chan (Representative of Retail Electricity Licensee)
7. Mr. Terence Ang (Representative of the Retail Electricity Licensee)
8. Mr. Song Jian En (Representative of the Retail Electricity Licensee)
9. Dr. Toh Mun Heng (Representative of Consumers of Electricity in Singapore)
10. Mr. Fong Yeng Keong (Representative of Consumers of Electricity in Singapore)
11. Ms. Ho Yin Shan (Representative of the Market Support Services Licensee)
12. Ms. Carol Tan (Representative of Transmission Licensee)
13. Mr. Tan Chian Khong (Person experienced in Financial Matters in Singapore)

The following Panel members did not support:
1. Mr. Henry Gan (Representative of EMC)
ANNEX 1: RESPONSE BY MSCP

1. This document sets out the Market Surveillance and Compliance Panel (“MSCP”) and the Market Assessment Unit (“MAU”)’s comments to the consultation paper CP87 – Deterrence of Late Payment by Market Participants published by Energy Market Company Pte Ltd (“EMC”) on 9 April 2021.

2. The MSCP notes the occurrence and frequency of settlement payment default by market participants (“MPs”) provided by EMC in its consultation paper CP87, the behavioural pattern of some MPs potentially taking advantage of the remedial process currently existing in the Singapore Electricity Market Rules (“Market Rules”), and the administrative costs that late payment generates to EMC as part of the course of actions provided by the Singapore Electricity Market Rules (“Market Rules”).

3. The MSCP considers relevant to highlight that under the two possible scenarios identified after an MP defaults on its payment and a default notice is issued, the Market Rules provide for the appropriate processes, obligations on EMC, requirements on the MP to remedy the event of default, and actions to be taken by the MSCP to mitigate any potential risk imposed on the market if the event of default is not remedied.

4. If a market participant (“MP”) does not pay money due for payment by it under the Market Rules by the appointed time on the due date specified, this constitutes an event of default pursuant to section 7.3.1.1 of Chapter 3 of the Market Rules under section 5.9.1 of Chapter 7 of the Market Rules.

5. Under Scenario 1, failure to remedy the event of default within the grace period of one business day after the issuance of a default notice provided by section 7.3.3 of Chapter 3 of the Market Rules will lead to a claim upon the MP’s credit support held by EMC, if necessary. This means the MP continues to be in breach of its obligation to make payment to EMC. EMC may apply to the MSCP for a suspension order. The MSCP may make such an order (together with whatever other enforcement is appropriate) after a suspension hearing is conducted (not unilateral action by the MSCP or the MAU). This is fully covered by sections 7.3.3.3, 7.3.11 and 7.3.12 of Chapter 3 and no change is necessary.

6. A potential suspension order issued by the MSCP under section 7.3.12 of Chapter 3 of the Market Rules suspending or restricting all or any of the market participant’s rights to participate in the wholesale electricity markets or to cause or permit a physical service to be conveyed into, through or out of the transmission system, should deter MPs from late payment.

7. Even if the MSCP issues a suspension order, section 7.3.15 of Chapter 3 of the Market Rules allows the MSCP to lift the suspension if the event that triggered its issuance is remedied by the MP and there are no other events of default. The MSCP may impose such other conditions as the MSCP determines appropriate, including:

- establishing a lower percentage of estimated net exposure for the purpose of notifying a MP or issuing a margin call to a MP than would otherwise be the case under section 7.4 of Chapter 2; and

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21 Scenario 1: MP unable to remedy payment default, and Scenario 2: MP able to remedy payment default.
• imposing more stringent prudential requirements than would otherwise be the case under section 7 of Chapter 2.

8. In regard to Scenario 2, if the MP has remedied the event of default within the prescribed grace period the MP will no longer be in breach of its obligation to make payment to EMC under section 5.9.1 of Chapter 7 of the Market Rules. It would be inconsistent with the scheme of the Market Rules if the MSCP were to hold a suspension hearing nonetheless. If further action is to be taken notwithstanding the one business day grace period to allow the MP to make full payment of the defaulted amount to remedy the event of default, this will contravene the provisions of the Market Rules. Additionally, having the MSCP initiate action under such circumstances would be a disproportionate and inefficient use of resources. It will also generate unnecessary administrative costs to the market, additional to the costs described in the consultation paper CP87.

9. It would be far more efficient and a greater deterrent if a late fee and administrative charge were to be imposed to any MP that does not pay in full on the due date. The analogy would be to credit cards, where a card holder will be charged interest on the late debt due. This is already provided in section 7.3.6 of Chapter 3 of the Market Rules, which states that the event of default pursuant to section 7.3.1.1 of Chapter 3 can be remedied by paying all monies due together with default interest calculated in accordance with Chapter 7 and any costs and expenses determined by the EMC to have been incurred by it by reason of the event of default; and providing additional credit support which complies with the requirements of section 7 of Chapter 2. This provision of the Market Rules will not only deter late payment by giving MPs that want to game the system some incentive not to do so, but also will address the concern raised by EMC in its consultancy paper CP87 (Table 2) about the impact on EMC caused by administrative costs incurred in taking the relevant administrative action (when a MP defaults on its payment) in accordance with the Market Rules.

10. EMC highlights in its consultation paper CP87 that if the event of default is remedied, EMC is not required under the Market Rules to take any further action on the MP. However, the Market Rules enable EMC to take further actions to deter MPs from late payment of the settlement invoice. Section 7.3.10 of Chapter 3 of the Market Rules provides that notwithstanding that an event of default may have been remedied by the MP, the EMC may, where it considers that it is in the interests of preserving the integrity of the wholesale electricity markets, impose such conditions on the MP’s registration as an MP as the EMC deems appropriate, including the conditions noted in sections 7.3.15.1 and 7.3.15.2 of Chapter 3 by:

• establishing a lower percentage of estimated net exposure for the purpose of notifying a market participant or issuing a margin call to a market participant than would otherwise be the case under section 7.4 of Chapter 2; and

• imposing more stringent prudential requirements than would otherwise be the case under section 7 of Chapter 2.

11. Furthermore, once the default is remedied within the specified timeframe provided in the Market Rules (one business day), the MP will no longer be in breach of the Market Rules, and any impact of a late payment on the financial integrity of the market would have been mitigated.
12. Notwithstanding payment had been made within one business day to remedy the event of default, the Market Rules do not suddenly become silent as there are provisions, as the ones explained under paragraphs 9 and 10, under the Market Rules to deter such practice. Should EMC consider that the actions under the Market Rules are insufficient to deter the late payment of the MPs' settlement invoices, the Market Rules should be amended to enhance the powers of EMC.

13. Under the two scenarios specified above, the Market Rules provide for adequate enforcement actions to discourage the MP from incurring late payments as a frequent practice.

14. In addition, according to section 4.6.1 of Chapter 3 of the Market Rules: The market surveillance and compliance panel may in accordance with section 4.8 initiate an investigation into any activities in the wholesale electricity markets or the conduct of a market participant, market support services licensee, the EMC or the PSO:

   4.6.1.1 that is brought to the attention of the market surveillance and compliance panel by way of referral or complaint from any source, including a report of the market assessment unit made under this section 4; or

   4.6.1.2 that the market surveillance and compliance panel determines as warranting an investigation.

15. Based on the provision of section 4.6.1 of Chapter 3 of the Market Rules indicated above, the MSCP sees no point in initiating an investigation or taking further enforcement action for a case that has been remedied in accordance with the procedures established under the Market Rules. Furthermore, once the remedial actions provided under the Market Rules have been taken by the MP, there is no rule breach that could serve as a basis to initiate an investigation.

16. The MSCP would like to add that the Rules Change Panel should have a look at the four business days provided under the Market Rules to conduct and conclude a suspension hearing.

17. The indicated in paragraph 16 is based on the following considerations:

   • This is because three members of the MSCP (to form a quorum) may not be readily available to sit at short notice due to the nature of their work or other commitments.

   • As the energy market evolves and MPs and their legal advisers became familiar with the relevant legislation and the Market Rules, one can expect the hearings to take much longer than four business days to be coordinated as they may want to call witnesses to give evidence and make detailed submissions on the law and the Market Rules.

   • So far none of the MPs had sought to call expert witnesses (whether local or foreign) to provide evidence before the MSCP in person or by video conference. This can be expected in the future. This can consume time because the witnesses will be subjected to cross examination by the lawyers for the parties and questioned by members of the MSCP.
• Rushing a hearing through four business days is unsatisfactory. “Rushed justice is no justice”. Consequently, there is always a danger that some MP may one day apply to the high court to quash the decision of the MSCP on the ground that the rules of natural justice were not observed inter alia the hearing was truncated by time constraints.

• Finally, the MSCP should where possible hold physical hearings so that the parties appearing before it can be seen and heard, particularly when there are witnesses to be called and submissions to be made by Counsel appearing for the MP. The MSCP notes that unfortunately this cannot be done during a pandemic.