

Notice of Market Rules Modification

Paper No.: EMC/RCP/31/2007/266
Rule reference: Chapter 7, Sections 5.5.1, 5.5.5, 5.5.6
Proposer: Market Administration, EMC
Date received by EMC: 30 January 2007
Category allocated: 4
Status: Approved by EMA
Effective Date: 3 May 2007

Summary of proposed rule modification:

This proposal is a rewrite of sections 5.5.1, 5.5.5 and 5.5.6 of Chapter 7 of Market Rules.

The objective is to improve the clarity and conciseness of Market Rules.

Date considered by Rules Change Panel: 12 March 2007
Date considered by EMC Board: 29 March 2007
Date considered by Energy Market Authority: 24 April 2007

Proposed rule modification:

See attached paper.

Reasons for rejection/referral back to Rules Change Panel (if applicable):

PAPER NO. : **EMC/BD/02/2007/09(a)**

RCP PAPER NO. : **EMC/RCP/31/2007/266**

SUBJECT : **REWRITE OF SECTION 5.5.1, 5.5.5 AND 5.5.6 OF
CHAPTER 7**

FOR : **DECISION**

PREPARED BY : **WANG JING
ANALYST**

REVIEWED BY : **PAUL POH LEE KONG
SVP, MARKET ADMINISTRATION**

DATE OF MEETING : **29 MARCH 2007**

Executive Summary

This paper assesses the EMC's proposal to re-write Section 5.5.1, 5.5.5 and 5.5.6 of Chapter 7 of the Market Rules. These sections were found to be unclear and potentially ambiguous. The paper concludes that the proposed plain English re-write enhances the clarity and conciseness of these sections of the Market Rules.

The RCP unanimously recommends that the EMC Board **adopt** this proposal.

1. Introduction

This paper assesses EMC’s proposal to rewrite Section 5.5.1, 5.5.5 and 5.5.6 of Chapter 7 of the Market Rules in plain English.

2. Background

These sections set out the procedures for a Market Participant (MP) to issue a notice of disagreement (NOD) on a preliminary settlement statement (PSS) and the procedures that the EMC should follow upon receiving such a notice.

These sections were found to contain unclear and potentially ambiguous drafting. It is hence difficult for a reader to follow and understand what, in fact, should be a straight forward process.

3. Analysis

The existing rules describe the procedures illustrated by the flowchart in Figure 1.

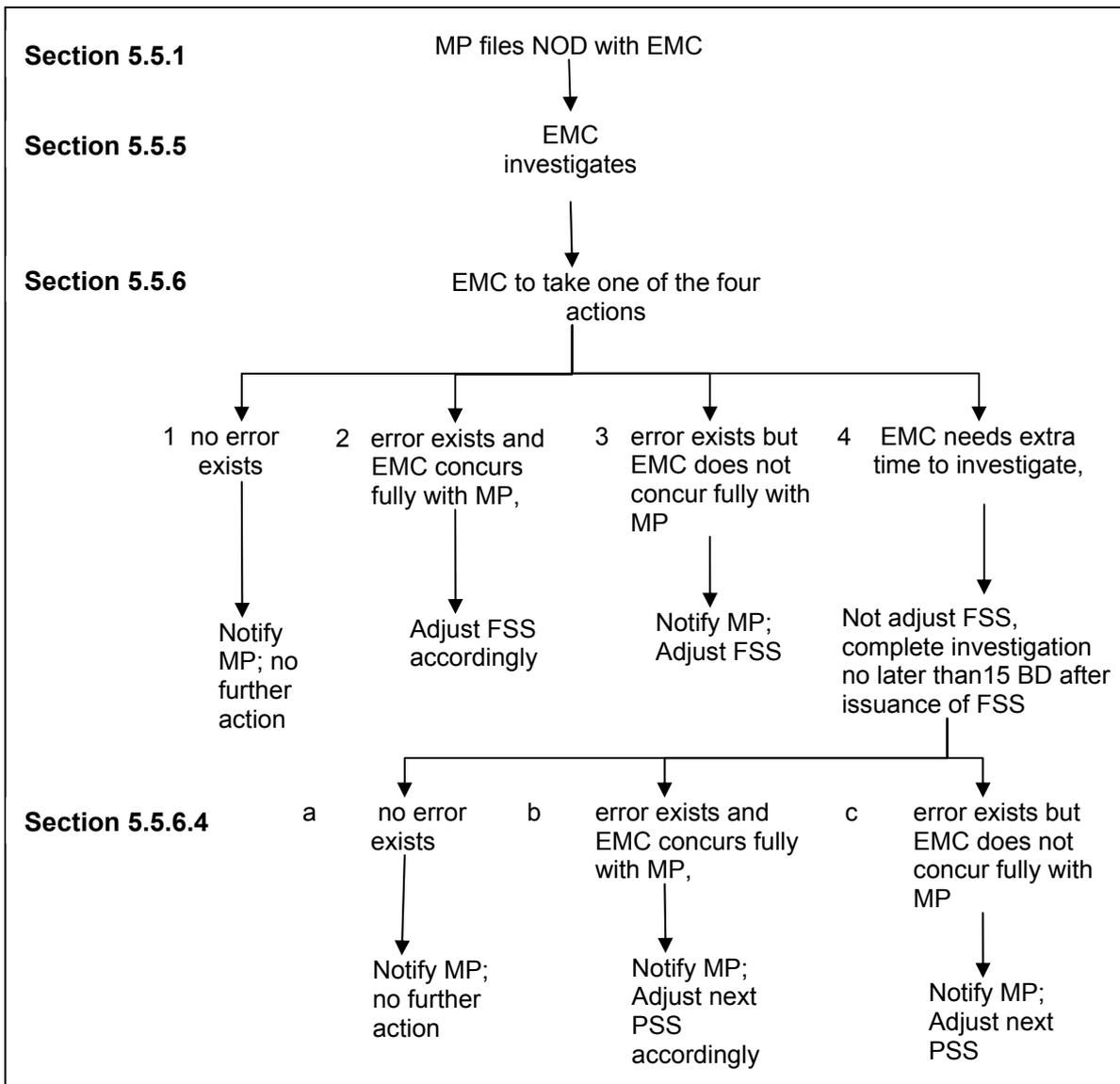


Figure 1 Structure of Existing Rules

It can be seen from this flowchart that there are repetitions of similar provisions in section 5.5.6, making the drafting unnecessarily complex and difficult for readers to follow. Thus, we have proposed to modify the rule drafting to describe the structure shown in Figure 2, which is more concise.

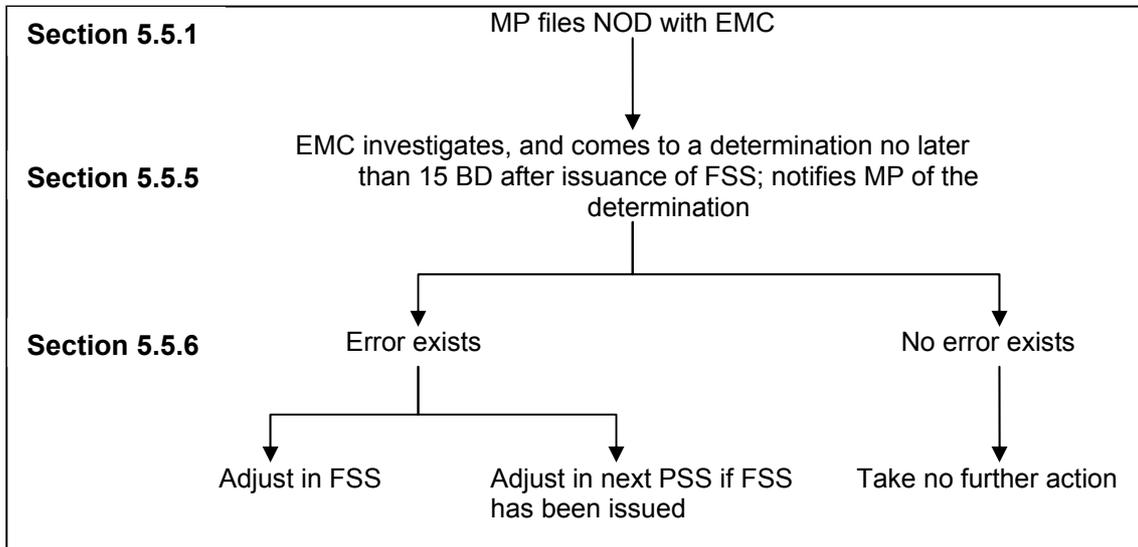


Figure 2 Proposed Structure

We also found the rules defining EMC’s obligations upon receiving a notice of disagreement from market participants to be unclear. This could potentially lead to misinterpretation. Hence in the proposed rules, we made some clarificatory rule changes to make these provisions clear.

The rule changes required are described in Table 1 below.

Table 1 List of Rule Changes

| | Existing Rules | Proposed Rules Changes | Reason for change |
|----|---|---|--|
| 1. | The existing section 5.5.1 provides (among other things) that a market participant may register a disagreement with the EMC with respect to its preliminary settlement statement within the timelines set forth in section 5.2.2. | The proposed amendment to section 5.5.1 is to make clear that the registration of disagreement under section 5.5.1 is also to be carried out in the manner prescribed in the other provisions of section 5.5. | The proposed rules make it clear that when market participants register a disagreement, they must also meet the requirement in other provisions of section 5.5. For example, section 5.5.2 requires the notice of disagreement to be in a form specified in the market manual and the market participant to provide a proposed |

| | Existing Rules | Proposed Rules Changes | Reason for change |
|----|---|---|---|
| | | | resolution and other relevant information. The proposed amendment ensures that section 5.5.1 does not provide an alternative avenue (from the other provisions of section 5.5) for the market participant to register a disagreement in respect of its preliminary settlement statements. |
| 2. | The existing section 5.5.5 contains an express obligation for the EMC to use certain information to investigate the subject matter of the disagreement. There is no express obligation for the EMC to investigate the subject matter of the disagreement. | An express obligation is now set out in new section 5.5.5, requiring the EMC to investigate the subject matter of a notice of disagreement after receiving the notice of disagreement. The new section 5.5.5 does not prescribe the use of any particular information in such investigations. | The proposed rules clarify that the obligation is for EMC to investigate the subject matter of the notice of disagreement. |
| 3. | It is not clear what 'intended actions' in the existing section 5.5.6 means. Consequently, it is not clear what the market participant is to be given an opportunity to respond to. | The rule changes make clear that the EMC is to inform the market participant of the EMC's initial assessment of the disagreement and allow the market participant an opportunity to respond thereon. | For clarity. |
| 4. | There is no express obligation in section 5.5.6.2 for the EMC to inform the relevant market participant of its final determination of the subject matter of the notice of disagreement in the situation where the EMC concurs fully with the market participant's proposed adjustment or correction and adjusts the corresponding final settlement statement accordingly. | The proposed amendments to section 5.5.6 now require the EMC to notify the market participant of the EMC's final determination in all cases. | The proposed amendments make it explicit that EMC has to notify MPs of its final determination regardless of outcomes. |

| | Existing Rules | Proposed Rules Changes | Reason for change |
|----|---|---|---|
| 5. | The existing sections 5.5.6.2 and 5.5.6.3 concern the making of adjustments to a corresponding final settlement statement where (a) the EMC fully concurs with the market participant's proposed adjustments / corrections and (b) the EMC does not fully concur with the market participant's proposed adjustments / corrections. | The existing sections 5.5.6.2 and 5.5.6.3 are deleted. The making of adjustment to the corresponding final settlement statement is now dealt with in a new single section 5.5.6.2a, which requires the EMC to (a) notify the market participant of the EMC's final determination that there is an error and (b) to make the appropriate correction or adjustments as set out in section 5.5.6.2.a. | For conciseness. |
| 6. | The existing section 5.5.6.4 provides a deadline, which is within 15 business days of the issuance of the corresponding final settlement statement, for completion of the EMC's investigations on the accuracy of the preliminary settlement statement. | This deadline is now amended as a deadline for the EMC to reach a final determination on the disagreement: i.e. the EMC must reach a final determination regarding the disagreement no later than 15 business days after the issuance of the final settlement statement that corresponds to the preliminary settlement statement which is the subject of the disagreement. This amended deadline is now set out as part of section 5.5.5. | The proposed rules make it clear that the EMC shall <u>reach a determination</u> no later than 15 business days after the issuance of the final settlement statement rather than just complete its investigation. |
| 7. | Under the existing section 5.5.6.4, if the EMC cannot complete its investigations by the time the "corresponding final settlement statement" is required to be issued under the market rules, the EMC must issue that "corresponding final settlement statement" without any adjustment or correction relating to the disagreement and, within a reasonable time thereafter, notify the market participant. | a. The amended section 5.5.5 explains what is meant by the expression "corresponding final settlement statement". The amended section 5.5.5 also allows the EMC to issue the corresponding final settlement statement without reference to any notice of disagreement if the EMC has not yet reached its final determination. | The proposed rules make it clear what is meant by the expression "corresponding final settlement statement". |

| | Existing Rules | Proposed Rules Changes | Reason for change |
|--|----------------|---|--|
| | | b. The EMC is not required to separately notify the market participant of the need for additional time nor of the issuance of the corresponding final settlement statement. c. The action which the EMC may take under the existing sections 5.5.6.4.a, b and c are now contained in the new amended sections 5.5.6.1 and 5.5.6.2.b. | For conciseness – Since the EMC is already required to notify market participants of its initial assessment of the disagreement and the final determination. There is no need to require the EMC to notify the market participants of the progress of the investigation. |

4. Conclusion

Using plain English, the proposed drafting of the rules is significantly shorter and clearer than the existing draft. We conclude that the re-write of sections 5.5.1, 5.5.5 and 5.5.6 of chapter 7 of the Market Rules is superior to the current drafting.

5. Impact on market systems

There is no impact on the market systems.

6. Implementation process

This rule change can be implemented immediately with no further cost.

7. Consultation

We have published the rule modification proposal on the EMC website for comments. No comments have been received for consideration.

8. Legal sign off

Text of the rule modification has been vetted by EMC's external legal counsel whose opinion is that the modification reflects the intent of the rule modification proposal as expressed in the analysis section of this paper.

9. Recommendations

The RCP unanimously recommends that the EMC Board:

- a. **adopt** the rule modification proposal to amend Section 5 Chapter 7 as set out in Annex 1;
- b. **seek** the Authority's approval for the rule modification proposal; and
- c) **recommend** that the rule modification proposal come into force **one business day** after the date on which the approval of the Authority is published by the EMC.

ANNEX 1: PROPOSED RULE CHANGES

| Current Rules (1 January 2007) | Proposed Rules | Comments/ Remarks |
|---|--|--|
| <p>Chapter 7</p> <p>5.5.1 Each <i>market participant</i> shall have the opportunity to review its <i>preliminary settlement statements</i>. A <i>market participant</i> may register a disagreement with the <i>EMC</i> with respect to any such <i>preliminary settlement statement</i> in accordance with the timelines set forth in section 5.2.2.</p> | <p>Chapter 7</p> <p>5.5.1 Each <i>market participant</i> shall have the opportunity to review its <i>preliminary settlement statements</i>. A <i>market participant</i> may register a disagreement with the <i>EMC</i> with respect to any such <i>preliminary settlement statement</i> in accordance with the timelines set forth in section 5.2.2 and the other provisions of this section 5.5.</p> | <p>Clarification: makes clear that section 5.5.1 does not provide an alternative avenue (from the other provisions of section 5.5) for the market participant to register a disagreement.</p> |
| <p>5.5.5 Subject to sections 5.5.8 and 5.5.9, the <i>EMC</i> shall use the information provided in and with a <i>notice of disagreement</i>, and any other information available to the <i>EMC</i>, to investigate the subject-matter of the disagreement.</p> | <p>5.5.5 Subject to sections 5.5.8 and 5.5.9, the <i>EMC</i> shall investigate the subject-matter of, and reach a final determination on, the disagreement specified in a <i>notice of disagreement</i> no later than 15 <i>business days</i> after the issuance of the corresponding <i>final settlement statement</i> (i.e. the <i>final settlement statement</i> that corresponds to the <i>preliminary settlement statement</i> referred to in the <i>notice of disagreement</i>). If the final determination is not reached before the time for issuing the</p> | <p>Clarification: clarifies that the obligation is for EMC to investigate the subject matter of the notice of disagreement rather than to use certain information.</p> <p>For clarity: the meaning of the expression</p> |

| Current Rules (1 January 2007) | Proposed Rules | Comments/ Remarks |
|---|--|---|
| | <p>corresponding <i>final settlement statement</i>, the <i>EMC</i> may issue that <i>final settlement statement</i> without taking into account the disagreement in the <i>notice of disagreement</i>.</p> | <p>“corresponding <i>final settlement statement</i>” is explained in the proposed rules.</p> <p>For conciseness: the deadline set in existing section 5.5.6.4 for <i>EMC</i> to complete the investigation is amended to mean to the deadline for <i>EMC</i> to come to a determination.</p> |
| <p>5.5.6 Following receipt of a <i>notice of disagreement</i> and after informing the <i>market participant</i> of its intended actions and providing the <i>market participant</i> an opportunity to respond, the <i>EMC</i> shall do one of the following:</p> <p>5.5.6.1 if the <i>EMC</i> concludes that no error has occurred in the <i>preliminary settlement statement</i>, it will so inform the <i>market participant</i> and take no further action;</p> <p>5.5.6.2 if the <i>EMC</i> concurs fully</p> | <p>5.5.6 Before reaching a final determination on the disagreement specified in a <i>market participant’s notice of disagreement</i>, the <i>EMC</i> shall inform the <i>market participant</i> of the <i>EMC’s</i> initial assessment of the disagreement and provide the <i>market participant</i> an opportunity to respond. If, in respect of the <i>preliminary settlement statement</i> to which the <i>notice of disagreement</i> relates, the <i>EMC’s</i> final determination is that:</p> <p>5.5.6.1 no error has occurred, the <i>EMC</i> shall so notify the <i>market</i></p> | <p>Clarification: clarifies that the “intended action” that the <i>EMC</i> should inform the <i>market participant</i> of is the <i>EMC’s</i> initial assessment of the disagreement.</p> <p>For conciseness:</p> <p>1. The <i>EMC</i> is required to inform</p> |

| Current Rules (1 January 2007) | Proposed Rules | Comments/ Remarks |
|--|--|---|
| <p>with the market participant's proposed adjustment or correction, it shall adjust the corresponding <i>final settlement statement</i> accordingly;</p> <p>5.5.6.3 if the <i>EMC</i> does not concur fully with the <i>market participant's</i> proposed adjustment or correction but does conclude that some adjustment is required, it shall so advise the <i>market participant</i> of the changes that the <i>EMC</i> proposes to make and it shall adjust the corresponding <i>final settlement statement</i> accordingly; or</p> <p>5.5.6.4 if the <i>EMC</i> decides that additional time to complete its investigations on the accuracy of the <i>preliminary settlement statement</i> is required, it shall issue the corresponding <i>final</i></p> | <p><i>participant</i> and take no further action; or</p> <p>5.5.6.2 an error has occurred, the <i>EMC</i> shall so notify the <i>market participant</i> and make the appropriate correction or adjustment:</p> <p>a. to the corresponding <i>final settlement statement</i>, if that <i>final settlement statement</i> has not yet been issued; or</p> <p>b. in the next available <i>preliminary settlement statement</i>, if the corresponding <i>final settlement statement</i> has already been issued without reference to the <i>notice of disagreement</i>.</p> | <p><i>market participant</i> of its determination in all cases.</p> <p>2. The <i>EMC</i> is not required to separately notify the <i>market participant</i> of the need for additional time nor of the issuance of the corresponding <i>final settlement statement</i>.</p> <p>3. Other actions which the <i>EMC</i> may take under the existing sections 5.5.6.1 to 5.5.6.4 are now contained in the new amended sections 5.5.6.1 and 5.5.6.2.</p> |

| Current Rules (1 January 2007) | Proposed Rules | Comments/ Remarks |
|--|----------------|----------------------|
| <p><i>settlement statement</i> without any adjustment or correction relating to the matters that are the subject of those investigations, and shall so advise the <i>market participant</i> by way of written notice within a reasonable time after issuing such <i>final settlement statement</i> and shall complete those investigations within 15 <i>business days</i> of the issuance of such <i>final settlement statement</i> and promptly thereafter:</p> <p>a. where the <i>EMC</i> concludes that no error has occurred in the <i>preliminary settlement statement</i>, issue a notice in writing to the <i>market participant</i> advising the <i>market participant</i> accordingly and</p> | | |

| Current Rules (1 January 2007) | Proposed Rules | Comments/ Remarks |
|---|----------------|----------------------|
| <p>stating that no further action shall be taken;</p> <p>b. where the <i>EMC</i> fully concurs with the <i>market participant's</i> proposed adjustment or correction, issue a notice in writing to the <i>market participant</i> stating that it shall adjust the next available <i>preliminary settlement statement</i> accordingly; or</p> <p>c. where the <i>EMC</i> partially concurs with the <i>market participant's</i> proposed adjustment or correction or concludes that some other adjustment is required, issue a notice in writing to the <i>market</i></p> | | |

| Current Rules (1 January 2007) | Proposed Rules | Comments/ Remarks |
|---|----------------|----------------------|
| <p><i>participant</i> so advising, stating the changes <i>EMC</i> proposes to make therefore and stating that the next available <i>preliminary settlement statement</i> shall be adjusted accordingly.</p> | | |