

Notice of Market Rules Modification

Paper No.:	EMC/RCP/57/2011/306
Rule Reference:	Market Rules/Chapter 3 Section 2.3.2, 2.3.3, 2.3.4
Proposer:	Energy Market Company
Date Received by EMC:	2 November 2010
Category Allocated:	1
Status:	Approved by EMA
Effective Date:	23 December 2011

Summary of Proposed Rule Modification:

The composition of the rules change panel is governed by the market rules in section 2.3 of chapter 3. To ensure fair representation, affiliated companies ideally should not be represented concurrently on the panel.

However, in order to ensure adequate representation on the panel at the commencement of the Singapore Wholesale Electricity Market (SWEM), exemption is given to Market Participants (MPs) and the Market Support Services Licensee (MSSL) that are affiliates of Temasek Holdings (Private) Limited. This exemption, currently in effect till 31st December 2011, is subject to an annual review by the RCP, EMC Board and the EMA.

At the last review, a panel member proposed to narrow the exemption to the Transmission Licensee (TL) and the MSSL, on the basis that most of the Temasek-affiliated generation companies have already been divested.

EMC has since conducted a survey for all MPs, potential MPs and the MSSL to declare their affiliation to Temasek or any other participating companies in the SWEM. Based on the results of the declaration, with all competing MPs declaring their non-affiliation to Temasek, there is no longer a concentration of MPs whom are affiliated to Temasek.

At the 56th RCP meeting, the panel considered the recommendations from EMC and unanimously agreed to:

1. narrow the exemption to apply only to the TL and the MSSL; and
2. remove the requirement for an annual review of this narrowed exemption.

Date considered by Rules Change Panel:	13 September 2011
Date considered by EMC Board:	25 November 2011
Date considered by Energy Market Authority:	19 December 2011

Proposed rule modification:

See attached paper.

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

PAPER NO : **EMC/BD/XX/2011/XX**

RCP PAPER NO. : **EMC/RCP/57/2011/306**

SUBJECT : **REVIEW OF EXEMPTION TO ALLOW TEMASEK HOLDINGS AFFILIATES TO BE CONCURRENTLY REPRESENTED ON THE RCP**

FOR : **DECISION**

PREPARED BY : **HENRY WEE
SENIOR ANALYST**

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

DATE OF MEETING : **XX SEPT 2011**

Executive Summary

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However, in order to ensure adequate representation on the panel at the commencement of the Singapore Wholesale Electricity Market (SWEM), exemption is given to Market Participants (MPs) and the Market Support Services Licensee (MSSL) that are affiliates of Temasek Holdings (Private) Limited. This exemption, currently in effect till 31st December 2011, is subject to an annual review by the RCP, EMC Board and the EMA.

At the last review, a panel member proposed to narrow the exemption to the Transmission Licensee (TL) and the MSSL, on the basis that most of the Temasek-affiliated generation companies have already been divested.

EMC has since conducted a survey for all MPs, potential MPs and the MSSL to declare their affiliation to Temasek or any other participating companies in the SWEM. Based on the results of the declaration, with all competing MPs declaring their non-affiliation to Temasek, there is no longer a concentration of MPs whom are affiliated to Temasek.

At the 56th RCP meeting, the panel considered the recommendations from EMC and unanimously agreed to:

1. narrow the exemption to apply only to the TL and the MSSL; and
2. remove the requirement for an annual review of this narrowed exemption.

At the 57th RCP meeting, EMC presented the draft rules to implement the proposal in **Annex 5**, which the RCP unanimously supported. Thus, the RCP recommends that the EMC Board adopt the proposed modifications to the market rules as set out in **Annex 5**.

1. Introduction

This paper addresses an issue raised at the 52nd RCP meeting, which is to review the current exemption which allows affiliates of Temasek Holdings (Private) Limited (“Temasek”) to be concurrently represented on the RCP

2. Background

To ensure a wide representation from the industry, Section 2.3.4 of Chapter 3 of the Market Rules requires that no Market Participant (MP) or Market Support Services Licensee (MSSL), alone or in combination with its affiliates, have more than one representative appointed to the RCP. However, this was operationally infeasible when the wholesale market first started since most MPs and the MSSL were affiliated to Temasek Holdings (Private) Limited (Temasek). Thus, a specific exemption (Section 2.3.3 of Chapter 3 of the Market Rules) permitted MPs/MSSL affiliated to Temasek to be concurrently represented on the RCP.

This exemption is reviewed annually and was endorsed at the 52nd RCP meeting on 2nd November 2010, for extension until 31st December 2011. During the meeting, a RCP member queried if it is feasible to exempt only the MSSL and the Transmission Licensee (TL) even if they are affiliated to Temasek, but not to allow exemptions for other classes of MPs who are competing in the SWEM. He requested for EMC to consider the above in its submission to RCP in 2011.

3. Analysis

3.1 Implications of Proposal

This proposal could have significant implications. For example, if the scope of exemption does indeed become limited, a given company’s nominee will be ineligible for appointment to the RCP if:

- the company is from a class of MP competing in the SWEM; and
- the company is affiliated to an MP/MSSL, and the latter already has a representative appointed to the RCP

The result of this proposal is that it could disqualify some MPs from representation on the RCP, resulting in a smaller pool of candidates from which to select future RCP members. However, this impact should be ameliorated now compared to when market first started, given ownership changes of the generation/retail companies.

3.2 Declaration of affiliation

To allow the RCP to accurately assess the impact of this proposal and decide whether to limit the scope of exemption or even remove the exemption completely, EMC sent out a request to all MPs, potential MPs and the MSSL to declare their affiliation to given list of organizations (see Annex 1 for the list of organizations receiving the declaration form, Annex 2 for a sample of the declaration form, and Annex 3 for the list of organizations for declaration of affiliation). The results of this exercise are summarized in Table 1 below, with the detailed results shown in Annex 4.

Table 1: Current Affiliation among MP/MSSL

	Total sent out	Total No of Responses	Affiliated with Temasek	Affiliated with one other MP/MSSL		No affiliation
				Genco-Retailer relationship	Another MP/MSSL	
Transmission Licensee	1	1	1		1	
Market Support Services Licensee	1	1	1		1	
Generation Licensees	10	10		6		4
Retail Licensees	6	6		6		
Wholesale Traders	10	9				9

The declaration exercise found the only affiliation relationships in SWEM to be:

- Only the MSSL and the TL are affiliated to each other through Temasek;
- The 6 generation companies are affiliated to their respective retail companies; and
- Keppel Seghers Tuas Waste-To-Energy Plant Pte Ltd and Senoko Waste-To-Energy Pte Ltd (both are Generation Licensees), though not affiliated in a legal sense, are closely related to each other¹

Given the current state of affiliation in SWEM, it is reasonable to narrow the affiliation exemption to only the MSSL and the Transmission Licensee since they do not compete in the SWEM and are essential service providers in the market. Other competing MPs should be excluded from the exemption. If this proposal is narrowed, it is further proposed that this exemption be a permanent one, rather than being subject to annual review (as is the current exemption).

In future, MPs which are not a TL when nominating candidates to be appointed to the RCP would be required to declare their affiliations using a similar form to that in Annex 2.

4. Conclusion

Based on the results of the declaration, with all competing MPs declaring non-affiliation to Temasek, there is no longer a concentration of MPs whom are affiliated to Temasek. In view of this, EMC supports the proposal to narrow the exemption to non-competing MPs only (i.e. Transmission Licensee and MSSL), as it would still ensure adequate representation on the RCP as originally intended when the market started.

5. Discussion at RCP Meetings

At the 56th RCP meeting, the panel considered the recommendations from EMC and unanimously agreed to:

¹ These 2 MPs are not legally affiliated to each other as defined under the conditions of section 6 of the Companies Act, as both MPs are acting in the capacity of trustees of their respective trusts rather than body corporate to which the Companies Act relate. Notwithstanding, both MPs have, in the spirit of the intended declaration, identified their "affiliation" to each other. They have also identified Keppel Infrastructure Fund Management Pte. Ltd (in its capacity as trustee-manager of K-Green Trust) as the "common holding company" of both MPs, although this declaration is not legally accurate as contemplated under the Companies Act.

1. narrow the exemption for affiliation to apply only to the transmission licensee and the MSSL; and
2. remove the requirement to review this exemption on an annual basis.

At the 57th RCP meeting, EMC presented the draft rules to implement the proposal in **Annex 5**, which, the RCP unanimously supported.

6. Impact on Market Systems

There is no impact to the market system.

7. Legal Sign off

The 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 third column of the Table in **Annex 5**.

8. Consultation (Proposed Rule Changes)

The proposed rule changes as set out in Annex 5 based on the decisions made by the panel at the 56th RCP meeting were published for consultation on 01 Aug 2011, and no feedback was received.

9. Recommendation

The RCP recommends that the EMC Board:

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

Annex 1 – List of Organisations Receiving Declaration Forms

Category	Organization
Market Support Services Licensee	<ul style="list-style-type: none"> • SP Services Ltd
Transmission Licensee	<ul style="list-style-type: none"> • SP PowerAssets Ltd
Generation Licensees	<ul style="list-style-type: none"> • ExxonMobil Asia Pacific Pte Ltd • Island Power Company Pte Ltd • Keppel Merlimau Cogen Pte Ltd • Keppel Seghers Tuas Waste-To-Energy Plant Pte Ltd (in its capacity as Trustee of Tuas DBOO Trust) • PowerSeraya Ltd • Sembcorp Cogen Pte Ltd • Senoko Energy Pte Ltd. • Senoko Waste-To-Energy Pte Ltd (in its capacity as Trustee of Senoko Trust) • Shell Eastern Petroleum Pte Ltd • Tuas Power Generation Pte. Ltd.
Retail Licensees	<ul style="list-style-type: none"> • Island Power Supply Pte Ltd • Keppel Electric Pte Ltd • Sembcorp Power Pte Ltd • Senoko Energy Supply Pte Ltd • Seraya Energy Pte Ltd • Tuas Power Supply Pte Ltd
Wholesale Market Trader	<ul style="list-style-type: none"> • Air Products Singapore Pte Ltd • Banyan Utilities Pte Ltd • Biofuel Industries Pte Ltd • Chesterfield Manufacturing Pte Ltd • Diamond Energy Pte Ltd • Green Power Asia Pte.Ltd. • ISK Singapore Pte Ltd • MSD International GMBH (Singapore Branch) • Pfizer Asia Pacific Pte Ltd • Singapore Oxygen Air Liquide Pte Ltd

Annex 2 – Declaration of Affiliation Form

Declaration of Affiliation

I hereby declare to the best of my knowledge and belief after due inquiry, on behalf of (registered company name) (my “Company”) that:

- (1) my Company is *affiliated* to the _____ corporations² in Annex 3 through the following relationships and subsidiary mechanisms:

Table 1: Declaration of Company Affiliation

Related Corporation	A) Relationship (please mark with an “X” where applicable)			B) One is a subsidiary of the other through (please mark with an “X” where applicable ^{c,d})				Comments
	i) The Related Corporation is a subsidiary of my Company	ii) My Company is a subsidiary of the Related Corporation	iii) My Company is a subsidiary of the holding company ^a of the Related Corporation	i) Control of the composition of the board of directors	ii) Control of more than half of the voting power	iii) Holding of more than half of the issued share capital (excluding any part thereof which consists of preference shares and treasury shares)	iv) One is a subsidiary of any holding company ^p which is the other’s subsidiary	
1.								
2.								
3.								
4.								
5.								
6.								

^{a,b} Please state the name of the common holding company under the “Comments” column

^c If option Aiii) “My Company is a subsidiary of the holding company of the Related Corporation” is selected, please mark with an “X” the subsidiary mechanism between your Company and the

² Please state the number of entities listed in Annex 3 that your Company is affiliated to. If your Company is not affiliated to any of the entities listed in Annex 3, please state zero.

holding company, and mark with an “Y” the subsidiary mechanism between the Related Corporation and the holding company.

^d Where applicable, you may mark more than one “X” or “Y” in this section (e.g. if the holding company controls the composition of the board of directors, and controls more than half of the voting power of your Company).

(2) Except as noted in Table 1, my Company is not affiliated to any of the following:

- Temasek Holdings (Private) Limited
- the *EMC*;
- the *PSO*;
- a *market support services licensee*;
- a *market participant*; or
- any other corporation listed in Annex 3.

I understand that *italicized* expressions in this declaration shall have the meanings ascribed thereto in Chapter 8 of the *market rules* of the *EMC*.

The Company

Signed by Company Secretary: _____

Name of Company Secretary: _____

For and on behalf of _____
(company name and stamp)

Dated: _____

¹ “Affiliate” means, with respect to a corporation, any corporation that is related to the first-mentioned corporation in terms of Section 6 of the Companies Act, Chapter 50 of Singapore (the “**Companies Act**”). Section 6 of the Companies Act states that:

Where a corporation —

- (a) is the holding company of another corporation;
 - (b) is a subsidiary of another corporation; or
 - (c) is a subsidiary of the holding company of another corporation,
- that first-mentioned corporation and that other corporation shall for the purposes of the Companies Act be deemed to be related to each other.

Per the Companies Act, a corporation (“**A**”) shall be deemed a subsidiary of another corporation (“**B**”),

- a. if:
 1. B controls the composition of the board of directors of A;
 2. B controls more than half of the voting power of A; or
 3. B holds more than half of the issued share capital of A (excluding any part thereof which consists of preference shares and treasury shares);

OR

- b. if A is a subsidiary of any corporation which is B’s subsidiary.

Per the Companies Act, a corporation (“**C**”) is the holding company of another corporation (“**D**”) if D is a subsidiary of C.

Annex 3 – List of Organizations for Declaration of Affiliation

Category	Organization
	<ul style="list-style-type: none"> • Temasek Holdings (Private) Ltd
System Operator	<ul style="list-style-type: none"> • Power System Operator (i.e. Energy Market Authority of Singapore)
Market Operator	<ul style="list-style-type: none"> • Energy Market Company Pte Ltd
Market Support Services Licensee	<ul style="list-style-type: none"> • SP Services Ltd
Transmission Licensee	<ul style="list-style-type: none"> • SP PowerAssets Ltd
Generation Licensees	<ul style="list-style-type: none"> • ExxonMobil Asia Pacific Pte Ltd • Island Power Company Pte Ltd • Keppel Merlimau Cogen Pte Ltd • Keppel Seghers Tuas Waste-To-Energy Plant Pte Ltd (in its capacity as Trustee of Tuas DBOO Trust) • National Environment Agency • PowerSeraya Ltd • Sembcorp Cogen Pte Ltd • Senoko Energy Pte Ltd. • Senoko Waste-To-Energy Pte Ltd (in its capacity as Trustee of Senoko Trust) • Shell Eastern Petroleum Pte Ltd • Tuas Power Generation Pte. Ltd.
Retail Licensees	<ul style="list-style-type: none"> • Island Power Supply Pte Ltd • Keppel Electric Pte Ltd • Sembcorp Power Pte Ltd • Senoko Energy Supply Pte Ltd • Seraya Energy Pte Ltd • Tuas Power Supply Pte Ltd
Wholesale Market Trader	<ul style="list-style-type: none"> • Air Products Singapore Pte Ltd • Banyan Utilities Pte Ltd • Biofuel Industries Pte Ltd • Chesterfield Manufacturing Pte Ltd • Diamond Energy Pte Ltd • Green Power Asia Pte.Ltd. • ISK Singapore Pte Ltd • MSD International GMBH (Singapore Branch) • Pfizer Asia Pacific Pte Ltd • Singapore Oxygen Air Liquide Pte Ltd

ANNEX 4: Detailed Results on Declaration of Affiliation

	Company	Related Corporation	A) Relationship (please mark with an "X" where applicable)			B) One is a subsidiary of the other through (please mark with an "X" where applicable)				Comments
			(i) The Related Corporation is a subsidiary of my Company	ii) My Company is a subsidiary of the Related Corporation	iii) My Company is a subsidiary of the holding company a of the Related Corporation	i) Control of the composition of the board of directors	ii) Control of more than half of the voting power	iii) Holding of more than half of the issued share capital (excluding any part thereof which consists of preference shares and treasury shares)	iv) One is a subsidiary of any holding company ^b which is the other's subsidiary	
Market Support Services Licensee & Transmission Licensee										
1	SP PowerAssets Ltd	SP Services Ltd			X					Both are subsidiaries of Singapore Power Limited
		Temasek Holdings (Private) Limited		X						
2	SP Services Ltd	SP PowerAssets Limited			X	X, Y	X, Y	X, Y		The common Holding company is Singapore Power Limited
		Temasek Holdings (Private) Limited		X					X	My Company is a subsidiary of Singapore Power Limited which is the related corporation's subsidiary
Generation Licensees										
3	ExxonMobil Asia Pacific Pte Ltd	None								

	Company	Related Corporation	A) Relationship (please mark with an "X" where applicable)			B) One is a subsidiary of the other through (please mark with an "X" where applicable)				Comments
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4	Island Power Company Pte Ltd / GMR Energy (Singapore) Pte Ltd	GMR Supply (Singapore) Pte Ltd	X							
5	Keppel Merlimau Cogen Pte Ltd	Keppel Electric Pte Ltd			X					Keppel Energy Pte Ltd
6	Keppel Seghers Tuas Waste-To-Energy Plant Pte Ltd (in its capacity as Trustee of Tuas DBOO Trust) ³	Senoko Waste-To-Energy Pte Ltd (in its capacity as Trustee of Senoko Trust)			X					Keppel Infrastructure Fund Management Pte Ltd (as Trustee-manager of K-Green Trust)
7	PowerSeraya Ltd	Seraya Energy Pte Ltd	X			X	X	X		
8	Sembcorp Cogen Pte Ltd	Sembcorp Power Pte Ltd			X					Sembcorp Utilities Pte Ltd

³ Keppel Seghers Tuas Waste-To-Energy Plant Pte Ltd and Senoko Waste-To-Energy Pte Ltd are not legally affiliated to each other as defined under the conditions of section 6 of the Companies Act, as both MPs are acting in the capacity of trustees of their respective trusts rather than body corporate to which the Companies Act relate. Notwithstanding, both MPs have, in the spirit of the intended declaration, identified their "affiliation" to each other. They have also identified Keppel Infrastructure Fund Management Pte. Ltd (in its capacity as trustee-manager of K-Green Trust) as the "common holding company" of both MPs, although this declaration is not legally accurate as contemplated under the Companies Act.

	Company	Related Corporation	A) Relationship (please mark with an "X" where applicable)			B) One is a subsidiary of the other through (please mark with an "X" where applicable)				Comments
			(i) The Related Corporation is a subsidiary of my Company	ii) My Company is a subsidiary of the Related Corporation	iii) My Company is a subsidiary of the holding company a of the Related Corporation	i) Control of the composition of the board of directors	ii) Control of more than half of the voting power	iii) Holding of more than half of the issued share capital (excluding any part thereof which consists of preference shares and treasury shares)	iv) One is a subsidiary of any holding company ^b which is the other's subsidiary	
9	Senoko Energy Pte Ltd.	Senoko energy Supply Pte Ltd	X				X			
10	Senoko Waste-To-Energy Pte Ltd (in its capacity as Trustee of Senoko Trust)	Keppel Seghers Tuas Waste-To-Energy Plant Pte Ltd (in its capacity as Trustee of Tuas DBOO Trust)			X					Keppel Infrastructure Fund Management Pte Ltd (as Trustee-manager of K-Green Trust)
11	Shell Eastern Petroleum Pte Ltd	None								
12	Tuas Power Generation Pte. Ltd	Tuas Power Supply Pte Ltd	X			X	X	X		Our ultimate holding company is Huaneng Power International, Inc.
Retailer Licensees										
13	Island Power Supply Pte Ltd / GMR Supply (Singapore) Pte Ltd	GMR Energy (Singapore) Pte Ltd		X			X	X		

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14	Keppel Electric Pte Ltd	Keppel Merlimau Cogen Pte Ltd								Keppel Energy Pte Ltd
15	Sembcorp Power Pte Ltd	Sembcorp Cogen Pte Ltd			X					Sembcorp Utilities Pte Ltd
16	Senoko Energy Supply Pte Ltd	Senoko Energy Pte Ltd		X			X			
17	Seraya Energy Pte Ltd	PowerSeraya Ltd		X		X	X	X		
18	Tuas Power Supply Pte Ltd	Tuas Power Generation Pte Ltd		X						Our ultimate holding company is Huaneng Power International, Inc.
Wholesale Trader Licensees										
19	Air Products Singapore Pte Ltd	None								
20	Banyan Utilities Pte Ltd	None								
21	Biofuel Industries Pte Ltd	None								
22	Chesterfield Manufacturing Pte Ltd	N.A.								Did not respond
23	Diamond Energy	None								

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	Pte Ltd									
24	Green Power Asia Pte.Ltd.	None								
25	ISK Singapore Pte Ltd	None								
26	MSD International GMBH (Singapore Branch)	None								
27	Pfizer Asia Pacific Pte Ltd	None								
28	Singapore Oxygen Air Liquide Pte Ltd	None								

ANNEX 5: Proposed Rule Changes

Existing Market Rules (1 January 2011)	Proposed Rule Changes (Deletions represented by strikethrough text and additions represented by double-underlined text)	Reasons for Rule Change
<u>CHAPTER 3</u>	<u>CHAPTER 3</u>	
2.3.2 Subject to section 2.3.3, members of the rules change panel shall: ...	2.3.2 Subject to section 2.3.3, m Members of the rules change panel shall: ...	Remove reference to deleted section.
2.3.3 Prior to 01 January 2012, i) a market participant; or ii) a market support services licensee may have its director, officer, employee or agent appointed as a member of the <i>rules change panel</i> as a representative of the relevant class of <i>market participant</i> or <i>market support services licensee</i> notwithstanding sections 2.3.2 and 2.3.4, if such <i>market participant</i> or <i>market support services licensee</i> is an <i>affiliate</i> of Temasek Holdings (Private) Limited.	2.3.3 Prior to 01 January 2012, i) a market participant; or ii) a market support services licensee may have its director, officer, employee or agent appointed as a member of the rules change panel as a representative of the relevant class of market participant or market support services licensee notwithstanding sections 2.3.2 and 2.3.4, if such market participant or market support services licensee is an affiliate of Temasek Holdings (Private) Limited. <u>[Intentionally left blank]</u>	Removed as it is no longer applicable.
2.3.4 Subject to section 2.3.3, no <i>market participant</i> or <i>market support services licensee</i> may, alone or in combination with its <i>affiliates</i> , have more than one of its directors, officers, employees or agents	2.3.4 Subject to section 2.3.3, n No <i>market participant</i> or market support services licensee <u>except the transmission licensee</u> may, alone or in combination with its <i>affiliates</i> , have more than one of its directors, officers,	To provide that no market participant (other than the transmission licensee) may, alone or in combination with its affiliates, have more than one of its directors, officers, employees or agents

Existing Market Rules (1 January 2011)	Proposed Rule Changes (Deletions represented by strikethrough text and additions represented by double-underlined text)	Reasons for Rule Change
appointed as a member of the <i>rules change panel</i> .	employees or agents appointed as a member of the <i>rules change panel</i> .	appointed as a member of the rules change panel.
