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| **MODIFICATION PROPOSAL FORM** | | | | | | |
| **Proposal Submitted by:** | **Date Proposal received by Secretariat:** | | **Type of Proposal** | | | **Number:** |
| Regulatory Authorities | 22 March 2011 | | **Standard** | | | Mod\_38\_10\_V2 |
| **Contact Details for Modification Proposal Originator** | | | | | | |
| **Name:**  Dana Kelleher, RAs | | **Telephone number:**  +353 1 4000 800 | | **e-mail address:**  dkelleher@cer.ie | | |
| **Modification Proposal Title: Treatment of Errors under the Code** | | | | | | |
| **Trading and Settlement Code and/or Agreed Procedure change?** | | | | | Code and AP | |
| **Section(s) affected by Modification Proposal:** | | | | | Section 2  AP14 (see final section of this document) | |
| **Version Number of the Code/Agreed Procedure used in Modification drafting:** | | | | | 8.0 | |
| **Modification Proposal Description**  *(Clearly show proposed code change using* ***tracked changes*** *& include any necessary explanatory information)* | | | | | | |
| **2.130A** In the event that a Party informs the Market Operator of any mistakes or omissions in, or corrections or updates to any information or data that it has submitted in accordance with paragraph 2.130.4, and cannot raise an appropriate Query or if the Market Operator becomes aware of any errors in the processes undertaken by, or data used in, the Central Market Systems, it shall take steps as set out in paragraph 2.130B to correct such errors, provided that such notification is within three months of the relevant Settlement Day. For the avoidance of doubt, these provisions place no requirement upon the Market Operator to check any data submitted to it by any Participant.  **2.130B** The steps specified in paragraph 2.130A may include as many of the following elements, and only such elements, as the Market Operator determines are appropriate and necessary in the circumstances that apply. Unless the position is urgent, prior to taking such steps the Market Operator shall submit to the Regulatory Authorities a brief report describing the circumstances and its intended action and the Market Operator will await Regulatory Authority approval of its report before taking action. The Market Operator shall publish the approved report within 2 Working Days of its approval by the RAs. The steps may include:   1. Procuring that (i) SMP and Market Schedule Quantities shall be recalculated, and (ii) a Settlement Rerun will then be undertaken in the event that the Market Operator determines that the correct application of data or recalculation of Settlement would result in a change of more than the Settlement Recalculation Threshold; 2. Procuring that Capacity Payments and Capacity Charges shall be recalculated; 3. If the last Timetabled Settlement Rerun has passed, undertaking a Settlement Rerun in a timescale set out in its report to the Regulatory Authorities and approved by them. 4. Report that no action is required.   2.287 Where a Notice of Dispute has been served in accordance with paragraph 2.278, 2.282, or 2.284 a representative of each of the Disputing Parties, each with authority to resolve the Dispute, must meet within 10 Working Days of the date of the Notice of Dispute to seek in good faith to resolve the Dispute. The Disputing Parties shall negotiate in good faith and attempt to agree a resolution.  2.287AWhere Disputing Parties agree a resolution of their Dispute, they shall inform the Market Operator of such resolution. Where the Market Operator agrees a resolution with a Disputing Party directly or agrees to a resolution between Disputing Parties which requires that SMP and Market Schedule Quantities shall be recalculated, it shall publish details of the resolution and the timetable for the resulting Resettlement within five working days of its receipt.  2.288 If the Disputing Parties are unable to reach agreement within a further period of 10 Working Days of meeting in accordance with paragraph 2.287, the Dispute may within a further period of 20 Working Days be referred by any Disputing Party to a Dispute Resolution Board (“DRB”) by way of notice in writing to the other Disputing Party or Parties (“Referral Notice”) unless expressly provided otherwise in the Code. The Disputing Party shall immediately send a copy of the Referral Notice to the Market Operator (or to the Regulatory Authorities where the Market Operator is a Disputing Party), and the Market Operator shall forward the Referral Notice to the chairperson of the Panel referred to in paragraph 2.292. The Referral Notice shall state that it is given under this paragraph and identify the relevant Dispute and Notice of Dispute.   * 1. The DRB shall give its decision within (i) 30 Working Days after the appointment of the DRB where there are no more than two Disputing Parties; (ii) 40 Working Days after the appointment of the DRB where there are more than two Disputing Parties; or (iii) such other period as may be proposed by the DRB and approved by the Disputing Parties. Its decision shall be in writing providing reasons and state that it is given under this paragraph 2.308. Subject to paragraphs 2.309 to 2.313 below, the decision shall be binding on all Disputing Parties, who shall promptly give effect to it unless or until it shall be revised in an amicable settlement pursuant to paragraph 2.312. The Parties shall continue to comply with the Code in all respects.   **2.308A** Unless the Regulatory Authorities agree otherwise, the Market Operator shall publish the decision of the DRB on its website within five working days of its receipt.   * 1. If the DRB has given its decision on a Dispute to the Disputing Parties and no notice of dissatisfaction has been given by any Disputing Party within 15 Working Days after the date of the DRB’s decision, then the decision shall be final and binding upon all Disputing Parties. | | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification & how it furthers the Code Objectives)* | | | | | | |
| Justification for V1 of the Modification Proposal  A number of recent incidents have given rise to RA concerns about the sufficiency of the Trading and Settlement Code provisions to address errors in inputting data (either accidental or deliberate) made by Market Participants which may have consequences on others. In some cases it appears that no practical solution is found in the Code rules to address the impact on the market of these errors.  These issues have been discussed by the Oversight Committee within the Regulatory Authorities who decided that the RAs should raise a Modification Proposal to allow for discussion among the Modifications Committee on this issue. This Modification Proposal has been discussed with SEMO who expressed concern that it should not be seen to have an obligation to verify the data it receives from Participants. It should remain clear that Participants are responsible for submitting correct data.  If a Participant identifies that it has submitted incorrect data, it is obliged to inform SEMO of that (see 2.130.4). It is for consideration what should then happen. It is suggested that the following principles might apply:  1. no Participant should benefit from submitting incorrect data;  2. consumers should not be penalised by the submission of incorrect data;  3. any provisions for the correction of incorrect data should not weaken the responsibility of Participants to submit correct data.  It is further suggested that these principles might be subject to a materiality consideration.  The legal drafting above seeks to enable SEMO to incorporate such principles in its consideration of the recommended action in the event of any such error. It is suggested that the Modifications Committee should discuss this proposal and bear in mind that a balance should be found between stability in pricings and getting the prices right. It is further suggested that a Modifications Committee working group should consider changes to the legal drafting to better reflect the principles suggested above and to use participant’s knowledge to further shape the proposal.  It is judged that this Modification Proposal would better facilitate the Code Objective (5) to provide transparency in the operation of the Single Electricity Market.  Justification for V2 of the Modification Proposal   1. **Background**   Mod\_38\_10 (“Treatment of Errors under the Code”) was raised by the Regulatory Authorities (RAs) on 16th September 2010. This Modification Proposal and another Modification Proposal raised by Airtricity - Mod\_24\_10 (“Introducing loss of profits as a relevant damage within the Limitation of Liability Provisions”) were discussed by the Modifications Committee who agreed to set up a working group to consider them both. This Working Group meeting was held on 16th February 2011.  The purpose of this note is to set out the drivers for the original RA proposal; to review the results of the working group meeting; and to explain the basis of the changes proposed by the RAs in version 2 of Mod\_38\_10.   1. **Drivers for RA proposal**   The RAs stated that “a number of incidents” had given rise to their concerns about the sufficiency of Code provisions to address errors. The key drivers of these concerns were a number of disputes and the resultant reports of the Dispute Resolution Boards (DRBs). From these reports and a general review of the queries and disputes process, the following issues were identified:   1. The Code should be modified to ensure that the Market Operator has clear instructions on how it should act in the case of data being lost, overwritten or corrupted; 2. Should incorrect information be submitted and accepted for use by the Central Market Systems and this information affects the SMP or MSQ, then the Code should be changed to ensure that a repricing or resettlement, as appropriate can take place with the corrected information; 3. A DRB determination concluded that the Code “will allow ad-hoc repricing and resettlement following a general Dispute procedure”. The RAs therefore believe this should be made clearer in the Code; 4. Where a dispute is resolved amicably, this resolution should be published;     The RAs also noted that the original Code provisions in relation to the submission of data by Participants were aimed at maximising the stability of the prices determined by the settlement process and ensuring that Participants were unambiguously responsible for the quality of the data that they submitted. However, such an approach arguably does not protect consumers from the possible impact of errors on prices and the protection of consumers is a statutory duty of the RAs.   1. **Working Group Meeting**   As a result of the discussion at the working group meeting[[1]](#footnote-2), a number of concerns were noted in relation to Mod\_38\_10:   * Participants thought that the proposed provisions of Mod\_38\_10 were not prescriptive enough; * Participants were keen that the results of the resolution of errors (under this proposed Modification) and of Disputes,should be published; * Participants were concerned about the proposal to permit the delay to Gate Closure in particular given the development of Intra-day Trading; * Participants felt that any errors identified should be notified to SEMO much earlier that the 2 year limit proposed originally.   In addition, the working group report recorded the following actions:   * RAs to consider feedback from the meeting and inform the Committee of the RA position and any changes to the original proposal (Mod\_38\_10). * A training workshop to take place between SEMO and Participants with the aim of improving use of the existing data query process. * Secretariat to request an extension for the Modification Proposal (Mod\_24\_10) to allow the proposal to be considered by the Modifications Committee at Meeting 34. * Participants to forward feedback to RAs regarding Mod\_38\_10 Treatment of Errors under the Code.  1. **Revised elements in draft of Version 2**   The RAs have now considered the feedback from the working group meeting and in response to the concerns expressed, the RAs have amended their proposal. In this version 2, the RAs are suggesting the following changes for consideration by the Modifications Committee:   * The reduction of the notification period from 2 years to 3 months in paragraph 2.130A; * Some changes to clarify that the steps in paragraph 2.130B are the only steps that can be proposed to the RAs in the Market Operator’s report; * The removal of the option to delay Gate Closure; * A new provision to require the publication of DRB decisions unless the RAs agree otherwise;   The RAs understand concerns about the degree of prescription, but believe that provisions designed to deal with unknown future errors cannot be fully prescriptive.  The RAs have not received any further feedback from Participants, as per the action item recorded at the working group meeting.  The RAs believe the training workshop being organised by SEMO will prove useful, however the RAs still consider that gaps exist (as outlined above) in the errors and disputes process and therefore have proceeded to raise a further version of the Modification. | | | | | | |
| **Implication of not implementing the Modification**  *(Clearly state the possible outcomes should the Modification not be made , or how the Code Objectives would not be met)* | | | | | | |
| If this Modification Proposal is not implemented, certain errors, which may impose significant costs on consumers, will continue to be incapable of correction under the Code. | | | | | | |



The Single Electricity Market (SEM)

Agreed Procedure 14: Disputes

Version 8.0

19 November 2010

**SEM Agreed Procedure**

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| --- | --- |
| Title | Agreed Procedure 14: Disputes |
| Version | 8.0 |
| Date | 19 November 2010 |

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**DOCUMENT HISTORY**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Version | Date | | Author | Comment |
| 2.0 | 20/11/2006 | | Regulatory Authorities | Alignment with participant comments and legal review of the Code. Please note that the Code and this procedure is still silent on how decisions of the DRB may be binding, if at all, on non-disputing parties. This needs further work. |
| 3.0a | 17/05/2007 | | Regulatory Authorities | Consultation Version |
| 3.2 | 22/06/2007 | | Regulatory Authorities | Approved for Go-Active by Regulatory Authorities and TSO/SEM Programme |
| 5.0 | | 07/04/2009 | SEMO | SEMO Design Baseline Documentation at V5.0 |
| 6.0 | | 30/10/2009 | SEMO | SEMO Design Baseline Documentation at V6.0 |
| 7.0 | | 28/05/2010 | SEMO | SEMO Design Baseline Documentation at V7.0 |

**RELATED DOCUMENTS**

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Document Title | Version | Date | By | |
| Trading and Settlement Code | V7.0 | 28/05/2010 | SEMO |
| Agreed Procedure 15 “Invoicing” |  |  |  | |

1. Introduction
   1. Background & Purpose

This Agreed Procedure describes the specific procedures for the raising and resolution of Disputes with which Parties to the Code must comply.

* 1. Scope of Agreed Procedure

This Agreed Procedure sets out in step form the process requirements for communication of information and associated timescales for the resolution of Disputes between Parties to the Code.

The procedure describes the process of raising a Dispute, the appointment of the Dispute Resolution Board to make a decision on a Dispute, the timescales/procedure associated with a decision of the Dispute Resolution Board and the timelines to commence court proceedings if Parties are dissatisfied with the decision taken by the Dispute Resolution Board.

The procedure does not include the setting up of the Panel from which members of the Dispute Resolution Board is drawn. The procedure does not make any statement regarding court proceedings once they have begun.

This Agreed Procedure forms an annex to, and is governed by, the Code. This document is a statement of process and procedure to be followed, having regard to Parties’ rights and obligations as established under the main body of the Code.

The provisions set out in this Dispute Resolution Process shall not prejudice or restrict the Market Operator's entitlement to seek interim or interlocutory relief directly from the appropriate Court or Courts.

* 1. Definitions

Save as expressly defined, words and expressions defined in the Code shall have the same meanings when used in this Agreed Procedure.

References to particular sections relate internally to this Agreed Procedure unless specifically noted.

* 1. Compliance with Agreed Procedure

Compliance with this Agreed Procedure is required under the terms of the Code.

1. Procedural Steps
   1. Raising A Dispute

| # | Procedural Step | Timing | Method | From/By | To |
| --- | --- | --- | --- | --- | --- |
| 1a | **Dispute not arising from a Settlement Query or Data Query**  Notify Dispute Counterparty or Dispute Counterparties of the Dispute by sending a Notice of Dispute (Appendix 2). The Notice of Dispute shall include the nature of the Dispute and the issues involved. | Within 28 days of Disputing Party being aware of the Disputed Event and within 2 years year of the Disputed Event | Fax/post | Raising Dispute Party | Dispute Counterparties |
| 1b | **Dispute arising from a Settlement Query or Data Query**  Notify Market Operator, as the Dispute Counterparty, of the Dispute by completing and sending a Notice of Dispute (Appendix 2). The Notice of Dispute shall include the nature of the Dispute and the issues involved. | Within 5 Working Days of receipt of the Market Operator’s determination in respect of a Data/Settlement Query. | Fax/post | Raising Dispute Party | Market Operator |
| 1c | **Dispute automatically arising from failure by Market Operator to issue a determination in respect of a Settlement Query or Data Query. No requirement for Notice of Dispute. Proceed to step 3.** | Dispute arises on the date on which the Market Operator was required to issue its determination in relation to the Data/Settlement Query under the Code. | n/a | n/a | n/a |
| 2 | Send a copy of the Notice of Dispute to the Market Operator. If the Market Operator is a Dispute Counterparty then a copy of the Notice of Dispute must also be sent to the Regulatory Authorities. | At the same time as Notice of Dispute is sent to the Dispute Counterparties. | Fax/post | Raising Dispute Party | Market Operator or Regulatory Authorities as appropriate |
| 3 | If Dispute automatically arises under step 1c above, notify the Dispute Counterparty and the Regulatory Authorities that Dispute has arisen. | Within 5 WDs of dispute being deemed to arise | Fax/post | Market Operator | Dispute Counterparty and Regulatory Authorities |
| 4 | Market Operator identifies other potentially impacted Participants or Parties, and notifies them of the Dispute using high-level information on Notice of Dispute | Within 5 Working Days | Fax/post | Market Operator | Potentially impacted Parties |
| 5 | Hold a meeting and attempt to resolve the Dispute | Within 10 Working Days of the date of receipt of the Notice of Dispute, or of the date of the Dispute arising under 1c above | Meeting | All Disputing Parties | n/a |
| 6 | In the event that any of the Disputing Parties wishes to extend the timescales for negotiating a resolution to the Dispute then the relevant Disputing Party shall issue a notice to the other Disputing Parties that details the period for which the Disputing Party wishes to extend the Negotiation Period. Proceed to step 7. If no-one requests extension, proceed to step 9. | Within 10 WDs of meeting to resolve Dispute | Fax/post | Disputing Party | Market Operator Regulatory Authorities)  Dispute Counterparty or Dispute Counterparties |
| 7 | Disputing Parties meet (in person or by telephone) to determine whether Negotiation Period should be extended. | Within 2 WDs of request to extend or prior to expiry of the Negotiation Period, whichever is earlier of request under step 6. | n/a | Disputing Parties | n/a |
| 8 | If all Dispute Counterparties agree to extend the Negotiation Period, send a notice to the Market Operator or, if the Market Operator is a Disputing Party, the Regulatory Authorities, requesting consent to the agreed extension of the negotiation period. If the Market Operator or the Regulatory Authorities, as appropriate, agree the extension, extend the negotiation period. Go to step 9. | On receipt of the confirmation from the Disputing Parties to extend the Dispute negotiating period | Fax/post | Raising Dispute Party or, if agreed any other Disputing Party | Market Operator Regulatory Authorities |
| 9 | If the attempt to resolve the Dispute has been successful during the Negotiation Period then notify the Market Operator , or, if the Market Operator is a Disputing Party, the Regulatory Authorities w utilising the Dispute Resolution Form (Appendix 2), signed by all Disputing Parties*.* Send a copy to the Dispute Counterparty. | Within 5 WDs of resolution by negotiation | Fax/post | Raising Dispute Party | Market Operator (Regulatory Authorities)   Dispute Counterparty or Dispute Counterparties |
| 9A | Unless the Regulatory Authorities agree that publication is not required, publish Dispute Resolution Form | Within 5 WDs of receipt by Market Operator | Website | Market Operator |  |
| 10 | If the Dispute resolution agreed between the Disputing Parties requires a financial resettlement, go to Agreed Procedure 15 “Invoicing”. | On Dispute Resolution Form | n/a | n/a | n/a |
| 11 | If the Dispute resolution agreed between the Disputing Parties requires a financial resettlement and this affects a impacted Party, inform the impacted Party of the outcome of the Dispute. | Within 5 WDs of resolution by negotiation | Fax/post | Market Operator | Impacted Parties |
| 12 | If the attempt to resolve the Dispute by negotiation has been unsuccessful within the Negotiation Period, any Disputing Party may send a Referral Notice to the other Disputing Parties stating the:   * Section of the Code under which the Referral Notice is given * Dispute identifier * Dispute is being referred to the Dispute Resolution Board | Within 20 WDs of expiry of the Negotiation Period. | Fax/post | Any Disputing Party | Disputing Parties |
| 13 | Send a copy of the Referral Notice to the Market Operator, (or Regulatory Authorities where the Market Operator is a Disputing Party) | At same time that Referral Notice is sent to the Dispute Counterparties | Fax/post | Either the Raising Disputing Party or the Dispute Counterparty | Market Operator (Regulatory Authorities) |
| 14 | If no Referral Notice is sent by any Disputing Party within 20 WDs of expiry of the Negotiation Period then process ends here. | n/a | n/a | n/a | n/a |
| 14A | Unless the Regulatory Authorities agree that publication is not required publish the note of expiry of Dispute | Within 5 WDs of expiry | Website | Market Operator |  |

* 1. Dispute Resolution Board – Composition – Bilateral disputes

| # | Procedural Step | Timing | Method | From/By | To | Linkage |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Hold a meeting to decide the composition of the Dispute Resolution Board. | Within 10 Working Days of receipt of the Referral Notice | n/a | Disputing Parties | n/a | n/a |
| 2 | If agreement on the form of the DRB is reached, go to step 3. If not, notify the Chairperson and go to step 6 | Within 1 WD of step 1. | n/a | Disputing Parties | n/a | n/a |
| 3 | Arrange a meeting to agree the identity of the sole member, or if it has been agreed to appoint a 3 member DRB, each Disputing party must nominate one member of the DRB.  If the identity of the sole member is agreed, or in the case of a 3 member DRB, if two members are nominated, go to step 4. If agreement is not reached regarding the identity of the sole member DRB or if a Disputing Party fails to nominate a member for a 3 member DRB, go to step 6 | Within 5WD of agreement under step 1. | Fax/post | All Disputing Parties | n/a | n/a |
| 4 | Notify the sole member or the 2 nominated DRB members, as appropriate, of their selection and copy Market Operator, or if the Market Operator is a Disputing Party, the Regulatory Authorities. If sole member DRB, go to Step 10. | Within 1 WD of decision to appoint | Fax/post | Disputing Parties | DRB | n/a |
| 5 | If a 3 member DRB has been agreed, the two DRB members meet to select a third member and notify selection to the third DRB member, the Disputing Parties and the Market Operator, and, if the Market Operator is a Disputing Party, the Regulatory Authorities. Go to Step 10. | As soon as possible following receipt by first 2 members of notice of their nomination | Fax/post | DRB | Chairperson, Disputing Parties, third DRB member and the Market Operator or Regulatory Authorities |  |
| 6. | Disputing Parties request Chairperson to determine form of DRB/identity of sole member of DRB or to nominate a member for a 3 member DRB, as appropriate. Go to step 7, 8 or 9 as appropriate to nature of request. | Within 1 WD of expiry of 10WD period for Parties to determine form of DRB | Fax/Post | Disputing Parties | Chairperson |  |
| 7 | Chairperson determines form of DRB and notifies Disputing Parties and Market Operator, or if the Market Operator is a Disputing Party, the Regulatory Authorities. Go to step 10. | Within 10 WDs of receipt of request from Disputing Parties | Fax/post | Chairperson | Disputing Parties | n/a |
| 8 | Chairperson determines identity of sole member DRB and notifies the sole member, the Disputing Parties and Market Operator, or if the Market Operator is a Disputing Party, the Regulatory Authorities. Go to step 10. | Within 10 WDs of receipt of request from Disputing Parties | Fax/post | Chairperson | Disputing Parties, sole member and Market Operator or Regulatory Authorities | n/a |
| 9 | Chairperson nominates a member for the three member DRB and notifies the existing DRB member, the new DRB member, the Disputing Parties and Market Operator, or if the Market Operator is a Disputing Party, the Regulatory Authorities. Go to step 5. | Within 10 WDs of receipt of request from Disputing Parties | Fax/Post | Chairperson | DRB, Disputing Parties and Market Operator or Regulatory Authorities | n/a |
| 10 | Meet to finalise and sign Dispute Resolution Agreement | Within 15 WDs of appointment of DRB | n/a | DRB and Disputing Parties | n/a | Appendix O of the Code |
| 11 | If at any stage any member of DRB declines or is unable to act for reasons set out in the Code, that member must notify the Disputing Parties and the Chairperson immediately. Go to step 12. | As soon as possible following nomination, or if subsequent event arises, following the event | Fax/Post | DRB member | Chairperson and Disputing parties | n/a |
| 12 | Chairperson shall nominate and notify a replacement member and proceed with process in accordance with steps 1-10, or, if Dispute Resolution Agreement already signed, arrange for new member to sign in place of outgoing member. | Within 5 WDs of notification under step 11 | Fax Post | Chairperson | New DRB member and Disputing Parties | Appendix O of the Code |

* 1. Dispute Resolution Board – Composition – Multilateral Disputes

| # | Procedural Step | Timing | Method | From/By | To | Linkage |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Arrange and hold a meeting to decide the composition and membership of the Dispute Resolution Board. If composition and membership agreed, proceed to step 4. If not proceed to step 2. | Within 10 Working Days of receipt of the Referral Notice | n/a | All Disputing Parties | n/a | n/a |
| 2 | Notify Chairperson that the parties have not agreed the composition and/or identity of the DRB | Within 1WD of expiry of period in step 1. | Fax/Post | Disputing Parties | Chairperson | n/a |
| 3. | Chairperson determines composition of DRB and identity of DRB members and notifies Disputing Parties | Within 10WD of receipt of request from Disputing Parties | Fax/Post | Chairperson | Disputing Parties, DRB members, Market Operator or Regulatory Authorities | n/a |
| 4 | Meet to finalise and sign Dispute Resolution Agreement | Within 15 WDs of appointment of DRB | n/a | DRB and Disputing Parties | n/a | Appendix O of the Code |
| 5 | If at any stage any member of DRB declines or is unable to act for reasons set out in the Code, that member must notify the Disputing Parties and the Chairperson immediately. Go to step 6 | As soon as possible following nomination, or if subsequent event arises, following the event | Fax/Post | DRB member | Chairperson and Disputing parties | n/a |
| 6 | Chairperson shall nominate and notify a replacement member and proceed with process in accordance with steps 1-4, or, if Dispute Resolution Agreement already signed, arrange for new member to sign in place of outgoing member. | Within 5 WDs of notification under step 5 | Fax/post | Chairperson | New DRB member and Disputing P | Appendix O of the Code |

* 1. Dispute Resolution Board – Decision

| # | Procedural Step | Timing | Method | From/By | To | Linkage |
| --- | --- | --- | --- | --- | --- | --- |
| 1 | Provide the Dispute Resolution Board with all available information necessary to enable the DRB to make an informed decision. | ASAP following the appointment of DRB | Fax/post | Disputing Parties | DRB | n/a |
| 2 | In the event that further information is required from the Disputing Parties to enable the DRB to make its decision request this information from the Disputing Parties | Within the timescale constraints within which the DRB must make its decision | Fax/post | DRB | Disputing Parties | n/a |
| 3 | Provide the required information to the Dispute Resolution Board | Within the DRB’s specified timescales | Fax/post | Disputing Parties | DRB | n/a |
| 4 | If necessary, request the Disputing Parties in writing for additional time to make the decision on the Dispute. | As soon as possible but within 30WDs of appointment of the DRB for bilateral disputes and within 45 WDs of the appointment of the DRB for multilateral disputes. | Fax/post | DRB | Disputing Parties | n/a |
| 5 | Disputing Parties determine whether or not they agree to extension of period and notify the DRB of decision (with copy to the Market Operator, or if the Market Operator is a Disputing Party, to the Regulatory Authorities). | Within 2 WD of request from DRB or prior to expiry of the period referred to in step 4 whichever is earlier. | Fax | Disputing Parties | DRB, Market Operator or Regulatory Authorities | n/a |
| 6 | DRB makes its decision having due regard to the objectives of the Disputes Procedure and notifies Disputing Parties of its decision. | For bilateral disputes: within 30 WDs of appointment of DRB or such longer period as agreed by DRB and the Disputing Parties under step 4.  For multilateral disputes: within 40 WDs of appointment of DRB | Fax/Post | DRB | Disputing Parties, Market Operator or Regulatory Authorities | n/a |
| 7 | Receive determination from the DRB or there is no decision from the DRB within the applicable time limit:  If any Disputing Party is dissatisfied with the decision/no decision of the DRB give notice to the other Disputing Parties that it is dissatisfied with the decision/no decision, giving reasons. Go to Step 8  If all Parties satisfied with the decision of the Dispute Resolution Board, complete a Dispute Resolution Form (Appendix 2) and go to Step 10. | Within 15WDs of receipt of decision or there being no decision from the DRB | n/a | Either Disputing Party | n/a | n/a |
| 8 | Attempt to settle the dispute amicably. If the Dispute has been settled amicably go to step 10. | Within 21WDs of notice of dissatisfaction or other agreed time | n/a | Disputing Parties | n/a | n/a |
| 9. | If the Dispute has not been settled amicably under step 8, and the dissatisfied Party has issued a notice of dissatisfaction to all other Disputing Parties under step 7, then the Dispute may be settled through court proceedings. | 21 WDs (or such longer period as agreed by all Disputing Parties) after notice of dissatisfaction received | n/a | Disputing Parties | Disputing Parties |  |
| 10 | If following resolution of the Dispute a Party believes that the other Party has not complied with the decision of the DRB they may refer the matter to court proceedings. | Once decision of DRB has become final and binding in accordance with the Code. | n/a | Any Disputing Party | n/a | n/a |
| 10A | Provide Decision to Market Operator | within 5 WDs of decision |  | DRB | Market Operator |  |
| 10B | Unless the Regulatory Authorities agree that publication is not required publish DRB Decision and Dispute Resolution Form | within 5 WDs of receipt of decision | Website | Market Operator |  |  |

1. DEFINITIONS and Abbreviations

Definitions

|  |  |
| --- | --- |
| Dispute Counterparty | means the Disputing Parties other than the Raising Disputing Party |
| Dispute Resolution Form | means the form completed on successful resolution of a Dispute |
| Chairperson | Means the chairperson for the time being of the Panel who is appointed by the Regulatory Authorities in accordance with the Code. . |
| Negotiation Period | means an initial period of 10 WDs following the first meeting of the Disputing Parties to attempt to resolve a Dispute (which meeting must take place within 10 WDs of receipt of Notice of Dispute), or such longer negotiation period agreed by the parties in accordance with the Code. |
| Raising Disputing Party | means the Disputing Party who issues the Notice of Dispute |

Abbreviations

|  |  |
| --- | --- |
| DRB | Dispute Resolution Board |
| WD | Working Day |

1. Forms

Standard Notice of Dispute to a counterparty

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DISPUTE** | | | | |
| **Dispute Notice** | | | | |
| **Dispute submitted by:**  *Please identify Party (and Participant if required) to Code* | **Date of Submission of this Notice:** | | | **Dispute Notice Number:**  *(to be assigned by Market Operator)* |
|  |  | | |  |
| **Contact Details for Party raising the Dispute** | | | | |
| **Name:** | | | **Telephone number:** | |
| **Address:** | | | | |
| **e-mail address:** | | | | |
| **Brief Description of Dispute**  *This should be brief and high-level enough so as to inform other potentially impacted Parties of the Dispute)* | |  | | |
| **Please list all counterparties to the dispute:**  *Please identify all Parties (and Participants) as appropriate who are subject to this Dispute* | | | | |
|  | | | | |
| **Detail of the Dispute**  *Clearly state the full nature of the dispute, identifying the paragraphs of the Code where the Raising Disputing Party and corrective actions* | | | | |
|  | | | | |
| **Proposed Negotiation Timeframe**  *Please state your availability for resolution of this dispute* | | | | |
|  | | | | |
| ***Please send this form to the Counterparties to the Dispute, the Market Operator (if not already a Counterparty), and the Regulatory Authorities (if the Market Operator is a Counterparty to the Dispute). Contact details available from the MO Website*** | | | | |

Referral Notice to Market Operator / Chairperson

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DISPUTE** | | | | |
| **REFERRAL NOTICE**  The Dispute has, in accordance with the Code, been referred to the Dispute Resolution Board. | | | | |
| **Referral submitted by:**  *Please identify Party (and Participant if required) to Code* | **Date of Submission of this Notice:** | | | **Dispute Notice Number:**  *(to be assigned by Market Operator to the Dispute Notice)* |
|  |  | | |  |
| **Contact Details for Party Referring the Dispute** | | | | |
| **Name:** | | | **Telephone number:** | |
| **Address:** | | | | |
| **e-mail address:** | | | | |
| **Brief Description of Dispute** | |  | | |
| **Please list all counterparties to the dispute:**  *Please identify all Parties (and Participants) as appropriate who are subject to this Dispute* | | | | |
|  | | | | |
| **Detail of attempts to resolve the Dispute through negotiation**  *Clearly state the full nature of the dispute, identifying the paragraphs of the Code where the Raising Disputing Party and corrective actions* | | | | |
|  | | | | |
| **Proposed Negotiation Timeframe**  *Please state your availability for a meeting of all Counterparties of the dispute to determine the form of the DRB* | | | | |
|  | | | | |
| ***Please send this form to the Counterparties to the Dispute, the Market Operator (if not already a Counterparty), and the Regulatory Authorities (if the Market Operator is a Counterparty to the Dispute). Contact details available from the MO Website*** | | | | |

Dispute Resolution Form

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **DISPUTE** | | | | |
| **DISPUTE RESOLUTION FORM** | | | | |
| **Dispute Resolution Form submitted by:**  *Please identify Party (and Participant if required) to Code* | **Date of Submission of this Notice:** | | | **Dispute Notice Number:**  *(assigned by Market Operator to the Dispute Notice)* |
|  |  | | |  |
| **Contact Details for Party submitting the Dispute Resolution Form** | | | | |
| **Name:** | | | **Telephone number:** | |
| **Address:** | | | | |
| **e-mail address:** | | | | |
| **Brief Description of Dispute** | |  | | |
| **Please list all counterparties to the dispute:**  *Please identify all Parties (and Participants) as appropriate who are subject to this Dispute* | | | | |
|  | | | | |
| **Detail of Resolution of the Dispute**  *Clearly state the full nature of the dispute, identifying the paragraphs of the Code where the Raising Disputing Party and corrective actions* | | | | |
|  | | | | |
| ***Signatures/Authorisation of all parties to the Dispute*** | | | | |
|  | | | | |
| ***Please send this form to the Counterparties to the Dispute, the Market Operator (if not already a Counterparty), and the Regulatory Authorities (if the Market Operator is a Counterparty to the Dispute). Contact details available from the MO Website*** | | | | |

1. Notes of the working group meeting can be found at: [http://www.sem-o.com/MarketDevelopment/Modifications/Pages/Modifications.aspx?Stage=Active](http://semopub/MarketDevelopment/Modifications/Pages/Modifications.aspx) (under Mod\_38\_10). [↑](#footnote-ref-2)