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| **MODIFICATION PROPOSAL FORM** | | | | | | |
| **Proposal Submitted by:** | **Date Proposal received by Secretariat:** | | **Type of Proposal** | | | **Number:**  *(to be assigned by Secretariat)* |
| Regulatory Authorities | 16 Sep 2010 | | **Standard** | | | Mod\_38\_10 |
| **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 | |
| **Section(s) affected by Modification Proposal:** | | | | | Section 2 | |
| **Version Number of the Code/Agreed Procedure used in Modification drafting:** | | | | | 6.1 | |
| **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 to correct such errors, provided that such notification is within two years 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 shall include as many of the following 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 (which the Market Operator will subsequently publish) describing the circumstances and its intended action and the Market Operator will await Regulatory Authority approval of its report before taking action. The steps may include:   1. Delay or Reopen Gate Closure so that correct data may be submitted by the necessary Participants; A delay of Gate Closure of up to 2 hours after the planned Gate Closure may be implemented without prior approval by the Regulatory Authorities; 2. 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; 3. Procuring that Capacity Payments and Capacity Charges shall be recalculated; 4. 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. 5. 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.  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. | | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification & how it furthers the Code Objectives)* | | | | | | |
| 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 draft 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. | | | | | | |
| **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. | | | | | | |