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## INTRODUCTION

Market Rule 2.5.1 of the Wholesale Electricity Market Rules provides that any person (including the Independent Market Operator) may make a Rule Change Proposal by completing a Rule Change Proposal Form and submit this to the Independent Market Operator (IMO).

The IMO will assess the proposal and, within 5 Business Days of receiving the Rule Change Proposal Form, will notify the proponent whether the Rule Change Proposal will be progressed further.

In order for the proposal to be progressed the change proposal must explain how it will enable the Market Rules to better contribute to the achievement of the Wholesale Market Objectives. The objectives of the market are

- (a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system

### ***Details of the Proposal***

The rule change proposes to give the IMO discretion whether to issue a warning letter once it has completed an investigation into an alleged rule breach.

Clause 2.13.10 of the Wholesale Electricity Market Rules provides that if an investigation into an alleged rule breach leads the IMO to reasonably believe that a breach of the Market Rules or Market Procedures has taken place, the IMO must issue a warning to the person concerned.

The warning must

- Identify the clauses that the IMO believes were breached
- Describe the behaviour that comprises the alleged breach
- Request an explanation
- Request that the breach be rectified by a specified time.

This process can be inappropriate where the event is minor or has already been corrected by the time the IMO becomes aware of it. It may also discourage Rule Participants from volunteering information about behaviour which may constitute a rule breach, and to that extent prevents the IMO from being able to engage constructively with Rule Participants to provide assistance in the development of compliance systems.

By contrast, when, under clause 2.13.21, an alleged breach of the rules by the IMO is investigated by a person appointed by the Minister, that appointee has discretion, at the end of its investigation, whether to issue a warning to the IMO.

The IMO considers that the investigation processes followed by the IMO and by the Minister's appointee should be aligned, and that the IMO should have the same discretion as is given to the Minister's appointee.

The IMO proposes that the change would also bring the Market Rules closer in design to the National Electricity Law. That Law and the National Electricity Rules made pursuant to it give the Australian Energy Regulator (AER) both the option to investigate an alleged breach and the option to apply for a penalty if it finds that a breach has occurred.

The proposed additional flexibility would not, prevent the IMO from being able to take all steps necessary to enforce a serious breach of the Market Rules or Market Procedures should it need to do that, but rather would allow the IMO to support participants in their compliance endeavours.

In its proposal, the IMO states that it is aware of the importance of maintaining an auditable process. To achieve this, the IMO proposes that the results of every investigation be recorded, and the proposed rule ch

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## **WHETHER THE PROPOSAL WILL BE PROGRESSED FURTHER**

The IMO has decided to proceed with this proposal on the basis that the IMO's preliminary assessment indicated that the proposal is consistent with the Market Objectives.

## **CALL FOR SUBMISSIONS**

The IMO wishes to receive submissions regarding this proposal. The submission period is    weeks from the publication date of this