

Single Electricity Market

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| Final REcommendation Report  Mod\_14\_17 Part B Suspension when Suspended Under Part A  19 January 2018 |

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Document History

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| **Version** | **Date** | **Author** | **Comment** |
| 1.0 | 19 January 2018 | Modifications Committee Secretariat | Issued to Modifications Committee for review and approval |
| 2.0 | 06 February 2018 | Modifications Committee Secretariat | Issued to Regulatory Authorities for final decision |

Reference Documents

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| --- |
| **Document Name** |
| [Trading and Settlement Code](http://www.sem-o.com/MarketDevelopment/MarketRules/TSC.docx) |
| [Modification Proposal](http://www.sem-o.com/MarketDevelopment/ModificationDocuments/Mod_14_17%20Part%20B%20Suspension%20When%20Suspended%20Under%20Part%20A.docx) |
| [Presentation](http://www.sem-o.com/MarketDevelopment/ModificationDocuments/Mod_14_17%20Part%20B%20Suspension%20When%20Suspended%20Under%20Part%20A.pptx) |
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# MODIFICATIONS COMMITTEE RECOMMENDATION

## Recommended for approval– unanimous Vote

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| --- | --- | --- |
| **Recommended for Approval by Unanimous Vote** | | |
| Conor Powell | Supplier Member | Approved |
| Kevin Hannafin | Generator Member | Approved |
| Clive Bowers | Generator Alternate | Approved |
| David Gascon | Generator Alternate | Approved |
| Brian Mongan | Generator Member | Approved |
| William Steele | Supplier Member | Approved |
| Julie-Anne Hannon | Supplier Member (Chair) | Approved |

# Background

This Modification Proposal was raised by SEMO and was received by the Secretariat on 28 November 2017.

This Modification Proposal seeks to allow the Market Operator seek to suspend under Part B of the Code any Party who is suspended under Part A.

This is not currently reflected in the Trading and Settlement Code (noting that the provisions in Parts A and B apply in isolation to Trading Periods prior to and after the cutover time respectively, see Part C section 3).

As a result a Party who triggered suspension under Part A (see Part A section 2.243) but not under Part B (see Part B clause 18.3) could continue to be active under the Part B ISEM arrangements.

The Modification Proposal was discussed and voted on at Meeting 78 on 12 December 2017.

# PURPOSE OF PROPOSED MODIFICATION

**3A.) justification of Modification**

It would be inappropriate for a Party suspended under the Part A provisions to continue to be active under the Part B provisions, which is possible based on the existing drafting.

This modification seeks to ensure that the Market Operator can begin suspension proceedings under Part B against any Party who is suspended under Part A.

**3B.) Impact of not Implementing a Solution**

If this proposal is not implemented it will be possible for a Party suspended under Part A to continue to be active under Part B resulting in financial risk to other Parties.

**3c.) Impact on Code Objectives**

This Modification furthers Code Objectives :

to facilitate the efficient, economic and coordinated operation, administration and development of the Single Electricity Market in a financially secure manner;

The key objective furthered by this proposal is the financially secure operation of the Single Electricity Market since the existing provisions allow for the possibility of a Party who has failed to meet their financial obligations under Part A, and is therefore suspended under Part A, to continue to be active under the Part B arrangements.

1. **Assessment of Alternatives**

N/A

# Working Group and/or Consultation

N/A

# impact on systems and resources

N/A

# Impact on other Codes/Documents

Minor impact on SEMOs suspension processes under Part B where a Party is suspended under Part A.

# MODIFICATION COMMITTEE VIEWS

## Meeting **78 – 12 December 2017**

Proposer delivered a [presentation](http://www.sem-o.com/MarketDevelopment/ModificationDocuments/Mod_14_17%20Part%20B%20Suspension%20When%20Suspended%20Under%20Part%20A.pptx) summarising the requirement for this proposal. Proposer advised that this proposal would introduce a trigger within Part B of the Trading and Settlement Code to ensure that where a Party is suspended under Part A then suspension under Part B can be pursued resulting in concurrent suspension processes. A proposal was considered suggesting that the suspension process under Part B should be triggered once a suspension order is issued under Part A rather than after suspension in Part A is complete with the aim of ensuring that simultaneous suspension under Parts A and B apply, if suspension comes into effect in Part A. Proposer advised he would take on board the comments and would clarify this in the legal drafting section of the Final Recommendation Report.

Committee were in agreement to vote on this proposal.

# Proposed Legal Drafting

B.18.3.1 The Market Operator may, with the prior written approval of the Regulatory Authorities, issue a Suspension Order in respect of all or any of a Party’s Units where:

* + - * 1. it becomes unlawful for the Party to comply with any of its obligations under the Code;
        2. it becomes unlawful for the Party’s Credit Cover Provider to comply with any of its Credit Cover obligations;
        3. a Legal Requirement necessary to enable the Party or its Credit Cover Provider to fulfil its obligations and functions under the Code is amended or revoked in whole or in part so as to prevent the Party or its Credit Cover Provider from fulfilling its obligations and functions under the Code;
        4. the Party or its Credit Cover Provider suspends or ceases to carry on its business, or any part of its business which is relevant to its activities under the Code;
        5. the Party’s Credit Cover Provider ceases to be eligible for the purposes of the Code to be able to provide the Credit Cover and the Party has not acquired a new Credit Cover Provider within the period required under paragraph G.9.1.6;
        6. the Party enters into or takes any action to enter into an arrangement or composition with its creditors (except in the case of a solvent and bona fide reconstruction or amalgamation);
        7. the Party’s Credit Cover Provider enters into or takes any action to enter into an arrangement or composition with its creditors (except in the case of a solvent and bona fide reconstruction or amalgamation);
        8. a receiver, manager, receiver and manager, administrative receiver, examiner or administrator is appointed in respect of the Party or its Credit Cover Provider or any of their respective assets, or a petition is presented for the appointment of an examiner or administrator, or a petition is presented or an order is made or a resolution is passed for the dissolution of, winding up of or appointment of a liquidator to the Party or its Credit Cover Provider, or a liquidator, trustee in bankruptcy or other similar person is appointed in respect of the Party or its Credit Cover Provider, or any steps are taken to do any of the foregoing or any event analogous to any of the foregoing happens in any jurisdiction;
        9. the Party or its Credit Cover Provider is dissolved or struck off;
        10. the Party or its Credit Cover Provider is unable to pay its debts for the purposes of section 570 of the Companies Act, 2014 (Ireland), Article 103 (1) or (2) of the Insolvency Order (Northern Ireland) 1989, or Section 123 (1) or (2) of the Insolvency Act 1986 (Great Britain) (as applicable) or if any voluntary arrangement is proposed in relation under Article 14 of the Insolvency Order (Northern Ireland) 1989, or section 1 of the Insolvency Act 1986 (Great Britain)(as applicable), or for the purpose of any similar or analogous legislation under the laws of any jurisdiction. For the purposes of this sub-paragraph:

section 570 of the Companies Act, 2014 shall have effect as if “€100,000” (or such higher figure as the Market Operator may specify from time to time) was substituted for the monetary amounts currently specified in or for the purposes of that section; and

article 103 of the Insolvency Order (Northern Ireland) and section 123 of the Insolvency Act, 1986 (Great Britain) shall have effect as if “£60,000” (or such higher figure as the Market Operator may specify from time to time) was substituted for the monetary amount currently specified in or for the purposes of that Article or section;

* + - * 1. the Party which is required to be licensed in respect of any or all of its roles under the Code has its Licence revoked in whole or in part or amended, so as to prevent the Party from fulfilling its obligations and functions under the Code;
        2. the Party has committed 3 Defaults within a period of 20 Working Days;
        3. the Party has committed a Default and has failed for a period of 20 consecutive days, or such longer period as may be set out in the relevant Default Notice, to comply with the terms of such Default Notice;
        4. the Party has failed to comply with any applicable Account Security Requirements (including, for the avoidance of the doubt, the Deed of Charge and Account Security) in relation to the provision of cash collateral as set out in paragraphs G.1.5.1, G.1.5.2 and G.1.5.3 of this Code and in Agreed Procedure 1 "Registration", Agreed Procedure 9 "Management of Credit Cover and Credit Default" and Agreed Procedure 17 "Banking and Participant Payments"; or
        5. the Party has been suspended under the Capacity Market Code or under any NEMO Rules.
        6. the Market Operator has issued a Suspension Order pursuant to Part A of the Code

# LEGAL REVIEW

N/A

# IMPLEMENTATION TIMESCALE

It is proposed that this Modification is implemented on a Trading Day basis with effect from one Working Day after an RA Decision.

# Appendix 1: Mod\_14\_17 : Part B Suspension When Suspended Under Part A

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| **MODIFICATION PROPOSAL FORM** | | | | | |
| **Proposer**  *(Company)* | **Date of receipt**  *(assigned by Secretariat)* | | **Type of Proposal**  *(delete as appropriate)* | | **Modification Proposal ID**  *(assigned by Secretariat)* |
| **SEMO** | **28 November 2017** | | **Standard** | | **Mod\_14\_17** |
| **Contact Details for Modification Proposal Originator** | | | | | |
| **Name** | | **Telephone number** | | **Email address** | |
| **Christopher Goodman** | |  | | [**Christopher.Goodman@sem-o.com**](mailto:Christopher.Goodman@sem-o.com) | |
| **Modification Proposal Title** | | | | | |
| **Part B Suspension When Suspended Under Part A** | | | | | |
| **Documents affected**  *(delete as appropriate)* | | **Section(s) Affected** | | **Version number of T&SC or AP used in Drafting** | |
| **T&SC Part B** | | **T&SC Part B Section B.18.3.1** | | **Version 20** | |
| **Explanation of Proposed Change**  *(mandatory by originator)* | | | | | |
| This Modification Proposal seeks to allow the Market Operator seek to suspend under Part B of the Code any Party who is suspended under Part A.  This is not currently reflected in the Trading and Settlement Code (noting that the provisions in Parts A and B apply in isolation to Trading Periods prior to and after the cutover time respectively, see Part C section 3).  As a result a Party who triggered suspension under Part A (see Part A section 2.243) but not under Part B (see Part B clause 18.3) could continue to be active under the Part B ISEM arrangements. | | | | | |
| **Legal Drafting Change**  *(Clearly show proposed code change using* ***tracked*** *changes, if proposer fails to identify changes, please indicate best estimate of potential changes)* | | | | | |
| B.18.3.1 The Market Operator may, with the prior written approval of the Regulatory Authorities, issue a Suspension Order in respect of all or any of a Party’s Units where:   * + - * 1. it becomes unlawful for the Party to comply with any of its obligations under the Code;         2. it becomes unlawful for the Party’s Credit Cover Provider to comply with any of its Credit Cover obligations;         3. a Legal Requirement necessary to enable the Party or its Credit Cover Provider to fulfil its obligations and functions under the Code is amended or revoked in whole or in part so as to prevent the Party or its Credit Cover Provider from fulfilling its obligations and functions under the Code;         4. the Party or its Credit Cover Provider suspends or ceases to carry on its business, or any part of its business which is relevant to its activities under the Code;         5. the Party’s Credit Cover Provider ceases to be eligible for the purposes of the Code to be able to provide the Credit Cover and the Party has not acquired a new Credit Cover Provider within the period required under paragraph G.9.1.6;         6. the Party enters into or takes any action to enter into an arrangement or composition with its creditors (except in the case of a solvent and bona fide reconstruction or amalgamation);         7. the Party’s Credit Cover Provider enters into or takes any action to enter into an arrangement or composition with its creditors (except in the case of a solvent and bona fide reconstruction or amalgamation);         8. a receiver, manager, receiver and manager, administrative receiver, examiner or administrator is appointed in respect of the Party or its Credit Cover Provider or any of their respective assets, or a petition is presented for the appointment of an examiner or administrator, or a petition is presented or an order is made or a resolution is passed for the dissolution of, winding up of or appointment of a liquidator to the Party or its Credit Cover Provider, or a liquidator, trustee in bankruptcy or other similar person is appointed in respect of the Party or its Credit Cover Provider, or any steps are taken to do any of the foregoing or any event analogous to any of the foregoing happens in any jurisdiction;         9. the Party or its Credit Cover Provider is dissolved or struck off;         10. the Party or its Credit Cover Provider is unable to pay its debts for the purposes of section 570 of the Companies Act, 2014 (Ireland), Article 103 (1) or (2) of the Insolvency Order (Northern Ireland) 1989, or Section 123 (1) or (2) of the Insolvency Act 1986 (Great Britain) (as applicable) or if any voluntary arrangement is proposed in relation under Article 14 of the Insolvency Order (Northern Ireland) 1989, or section 1 of the Insolvency Act 1986 (Great Britain)(as applicable), or for the purpose of any similar or analogous legislation under the laws of any jurisdiction. For the purposes of this sub-paragraph:   section 570 of the Companies Act, 2014 shall have effect as if “€100,000” (or such higher figure as the Market Operator may specify from time to time) was substituted for the monetary amounts currently specified in or for the purposes of that section; and  article 103 of the Insolvency Order (Northern Ireland) and section 123 of the Insolvency Act, 1986 (Great Britain) shall have effect as if “£60,000” (or such higher figure as the Market Operator may specify from time to time) was substituted for the monetary amount currently specified in or for the purposes of that Article or section;   * + - * 1. the Party which is required to be licensed in respect of any or all of its roles under the Code has its Licence revoked in whole or in part or amended, so as to prevent the Party from fulfilling its obligations and functions under the Code;         2. the Party has committed 3 Defaults within a period of 20 Working Days;         3. the Party has committed a Default and has failed for a period of 20 consecutive days, or such longer period as may be set out in the relevant Default Notice, to comply with the terms of such Default Notice;         4. the Party has failed to comply with any applicable Account Security Requirements (including, for the avoidance of the doubt, the Deed of Charge and Account Security) in relation to the provision of cash collateral as set out in paragraphs G.1.5.1, G.1.5.2 and G.1.5.3 of this Code and in Agreed Procedure 1 "Registration", Agreed Procedure 9 "Management of Credit Cover and Credit Default" and Agreed Procedure 17 "Banking and Participant Payments"; or         5. the Party has been suspended under Part A of the Code, under the Capacity Market Code or under any NEMO Rules. | | | | | |
| **Modification Proposal Justification**  *(Clearly state the reason for the Modification)* | | | | | |
| It would be inappropriate for a Party suspended under the Part A provisions to continue to be active under the Part B provisions, which is possible based on the existing drafting.  This modification seeks to ensure that the Market Operator can begin suspension proceedings under Part B against any Party who is suspended under Part A. | | | | | |
| **Code Objectives Furthered**  *(State the Code Objectives the Proposal furthers, see Section 1.3 of T&SC for Code Objectives)* | | | | | |
| to facilitate the efficient, economic and coordinated operation, administration and development of the Single Electricity Market in a financially secure manner;  The key objective furthered by this proposal is the financially secure operation of the Single Electricity Market since the existing provisions allow for the possibility of a Party who has failed to meet their financial obligations under Part A, and is therefore suspended under Part A, to continue to be active under the Part B arrangements. | | | | | |
| **Implication of not implementing the Modification Proposal**  *(State the possible outcomes should the Modification Proposal not be implemented)* | | | | | |
| If this proposal is not implemented it will be possible for a Party suspended under Part A to continue to be active under Part B resulting in financial risk to other Parties. | | | | | |
| **Working Group**  *(State if Working Group considered necessary to develop proposal)* | | | **Impacts**  *(Indicate the impacts on systems, resources, processes and/or procedures; also indicate impacts on any other Market Code such as Capacity Marker Code, Grid Code, Exchange Rules etc.)* | | |
| No | | | Minor impact on SEMOs suspension processes under Part B where a Party is suspended under Part A. | | |
| ***Please return this form to Secretariat by email to*** [***modifications@sem-o.com***](mailto:modifications@sem-o.com) | | | | | |