

Single Electricity Market

|  |
| --- |
| Final REcommendation ReportMod\_23\_19 Modification to Allow the market operator to seek relief from an obligation under Section E.3 of the TSC in exceptional circumstances (until 1 january 2021)7 January 2020 |

COPYRIGHT NOTICE

All rights reserved. This entire publication is subject to the laws of copyright. This publication may not be reproduced or transmitted in any form or by any means, electronic or manual, including photocopying without the prior written permission of EirGrid plc and SONI Limited.

DOCUMENT DISCLAIMER

Every care and precaution is taken to ensure the accuracy of the information provided herein but such information is provided without warranties express, implied or otherwise howsoever arising and EirGrid plc and SONI Limited to the fullest extent permitted by law shall not be liable for any inaccuracies, errors, omissions or misleading information contained herein.

Document History

|  |  |  |  |
| --- | --- | --- | --- |
| **Version** | **Date** | **Author** | **Comment** |
| 1.0 | 7 Jan 2020 | Modifications Committee Secretariat | Issued to Modifications Committee for review and approval |
| 2.0 | 14 Jan 2020 | Modifications Committee Secretariat | Issued to Regulatory Authorities for final decision |

Reference Documents

|  |
| --- |
| **Document Name** |
| [Trading and Settlement Code](https://www.sem-o.com/rules-and-modifications/balancing-market-modifications/market-rules/TSC-Part-B.docx) |
| [Proposal](https://www.sem-o.com/documents/market-modifications/Mod_23_19/Mod_23_19ModificationtoallowtheMarektOperatortoseekrelieffromanobligationunderSectionE.3oftheTSCinexceptionalCircumstances%28unitJanaury2021%29.docx)  |
| [Proposal](https://www.sem-o.com/documents/market-modifications/Mod_23_19/Mod_23_19ModificationtoallowtheMarketOperatortoseekrelieffromanobligationunderSectionE.3.8oftheTSCinexceptionalCircumstances.docx) |
| [Proposal](https://www.sem-o.com/documents/market-modifications/Mod_23_19/Mod_23_19ModificationtoallowtheMarketOperatortoseekrelieffromanobligationunderSectionE.3.8oftheTSCinexceptionalCircumstancesV2.docx) |
| [Presentation](https://www.sem-o.com/documents/market-modifications/Mod_23_19/Mod_23_19Presentation.pptx) |
|  |

Table of Contents

[1. MODIFICATIONS COMMITTEE RECOMMENDATION 3](#_Toc28862627)

[**Recommended for approval– majority Vote** 3](#_Toc28862628)

[2. Background 3](#_Toc28862629)

[3. PURPOSE OF PROPOSED MODIFICATION 5](#_Toc28862630)

[**3A.) justification of Modification** 5](#_Toc28862631)

[**3B.) Impact of not Implementing a Solution** 5](#_Toc28862632)

[**3c.) Impact on Code Objectives** 5](#_Toc28862633)

[4. Working Group and/or Consultation 5](#_Toc28862634)

[5. impact on systems and resources 6](#_Toc28862635)

[6. Impact on other Codes/Documents 6](#_Toc28862636)

[7. MODIFICATION COMMITTEE VIEWS 6](#_Toc28862637)

[**Meeting 95 – 05 DECEMber 2019** 6](#_Toc28862638)

[**Extraordinary Meeting 96 – 18 December 2019** 7](#_Toc28862639)

[8. Proposed Legal Drafting 8](#_Toc28862640)

[9. LEGAL REVIEW 8](#_Toc28862641)

[10. IMPLEMENTATION TIMESCALE 8](#_Toc28862642)

[1 Appendix 1: Mod\_23\_19 Modification to allow the Market Operator to seek relief from an obligation under Section E.3 of the TSC in exceptional circumstances (until 1 January 2021). 9](#_Toc28862643)

# MODIFICATIONS COMMITTEE RECOMMENDATION

## Recommended for approval– majority Vote

|  |
| --- |
| **Recommended for Approval by Majority Vote** |
| Ian Mullins | Supplier Member | Approve |
| Alan Mullane | Assetless Member | Approve |
| Rochelle Broderick | Supplier Alternate | Approve |
| Cormac Daly | Generator Member | Abstain |
| Eamonn Boland | Supplier Alternate | Approve |
| Jim Wynne | Supplier Member | Approve |
| Kevin Hannafin | Generator Member | Approve |
| Paraic Higgins (Chair) | Generator Member | Reject |
| Sinead O’Hare | Generator Member | Approve |
| Robert McCarthy | DSU Alternate | Approve |

# Background

This Modification Proposal was raised by the RAs and was received by the Secretariat on the 28th November 2019. The proposal was raised and voted on at Meeting 96 on 18th December 2019.

This Modification proposes a temporary amendment to Section B.14 of the Trading and Settlement Code (to be added via Section H ‘Interim Arrangements’) in order to allow for the Market Operator to seek a derogation in respect of a specific obligation under Section E.3.8 of the Code for a limited period from the RAs if a number of requirements are met and if deemed appropriate by the RAs. This provision could only be used in certain exceptional circumstances and until 1 January 2021.

It is proposed that this Modification would include a temporary amendment to Section B.14 of the Trading and Settlement Code in relation to Obligations on Parties. Where the Market Operator is unable to meet a particular obligation under Section E.3.8 of the Code, the Market Operator could write to the RAs to seek a derogation in respect of any obligation(s) placed on it under Section E.3 of the Code where the Market Operator:

(a) has been, is or reasonably expects to be unable to meet such obligation(s) under the Code; and

(b) can show that meeting such obligation(s) would place an undue burden on its operations and

in each case, can show that compliance with such obligation(s) would have a material detrimental impact on the achievement of the Code Objectives.

The following would be required as part of the submission;

1. The request for relief from a particular obligation under Section E.3.8 of the Trading and Settlement Code.
2. The rationale for the requested derogation including clear supporting evidence demonstrating how the above criteria are met.
3. The requested period of derogation from a specific obligation, which may not be more than 12 months.
4. A detailed plan and implementation timeline to rectify the issue.
5. An assessment of the consequences of granting and not granting the derogation on the SEM.

Based on the submission and following consultation with the Modifications Committee (for any future submissions), the Regulatory Authorities would then decide whether or not to accept the request and would publish the Market Operator’s submission and a decision letter setting the reasons for granting, amending or rejecting the derogation.

If a temporary derogation from meeting the obligation under Section E.3.8 was granted by the Regulatory Authorities, the Market Operator would be required to report on at least a monthly basis, on progress towards rectifying the issue. The Regulatory Authorities would be entitled to publish these reports.

In terms of the context for this Modification, the RAs recently consulted on a number of options for repricing being carried out by SEMO (SEM-19-042) (Under the Trading and Settlement Code, if as part of an upheld Pricing Dispute it is determined that there is a manifest error in the pricing calculation which leads to a change in price greater than a certain Price Materiality Threshold, the price is recalculated and included in resettlement). This Consultation was prompted by the fact that 72,000 Imbalance Pricing Periods (5-minute prices) and 12,000 Imbalance Settlement Periods (30-minute prices) for the period from 1 October 2018 to 11 June 2019 are subject to an upheld dispute and require repricing under Section E.3.8 of the Trading and Settlement Code.

The commencement of any repricing by SEMO is dependent on successful testing of SEMO’s repricing solution. Furthermore, this repricing solution cannot apply the Price Materiality Threshold as approved by the SEM Committee in SEM-17-046 and SEMO has notified the RAs that this would need to be carried out manually until a revised solution is implemented, most likely in Q4 2020. This would involve a significant further delay to repricing.

The Consultation Paper considered four options for repricing in the context of providing certainty for market participants for the period in question and the overall effect of a number of manifest errors in the pricing system on accuracy of prices. The first two options were based on the application of a 5% or 0% Price Materiality Threshold (Option 1 and 2), while the second two options were based on variants of an option for repricing not to be carried out for a defined time period (Option 3 and 4).

Based on a review of the responses received to the Consultation Paper and SEMO’s engagement with market participants over the last number of months, the SEM Committee set out in its Decision Paper its view that repricing should not be carried out for the period between 1 October 2018 and 11 June 2019. In order to give effect to this Decision, the Modification introduces a temporary mechanism to the Trading and Settlement Code, in order to provide a transparent process for SEMO to seek relief, in very limited circumstances, from its obligations under Section E.3.8 of the Code on a temporary basis. This Modification is being raised following consultation and under a particular set of circumstances and should not be taken as a precedent for any derogations from obligations under the Code in future.

# PURPOSE OF PROPOSED MODIFICATION

**3A.) justification of Modification**

The SEM Committee’s recent Consultation regarding the issue of repricing has demonstrated that the Code as currently drafted does not explicitly account for exceptional issues that may arise associated with the operation of the new market, where there is an issue with the Market Operator’s ability to meet its obligations under the Code which impact on the wider market.

In addressing this issue, it is the SEM Committee’s view that a change to the rules and obligations for Parties under the TSC is not required, however the drafting of the Code in terms of publication of corrected Imbalance Settlement Prices for a period did not contemplate the current situation in terms of the volume of corrections required and the unmanageable delays which have impacted on timelines for repricing.

This Modification aims to provide a mechanism to address this issue.

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

If this Modification is not implemented, the RAs will not be able to grant a derogation to the Market Operator from particular obligations under Section E.3.8 of the Code in exceptional circumstances which may impact on the overall market and on the Code Objectives.

**3c.) Impact on Code Objectiv****es**

*(a)* *to facilitate the efficient discharge by the Market Operator of the obligations imposed upon it by its Market Operator Licences.*

As discussed, the context for this Modification is related to the SEM Committee’s recent decision in relation to repricing. Granting a derogation to SEMO from its obligations under Section E.3.8 for a limited time period in this instance will allow for the efficient discharge of the Market Operator’s other obligations under the Code given the time burden associated with carrying out repricing and applying the price materiality threshold manually for this period.

*(b) to facilitate the efficient, economic and coordinated operation, administration and development of the Single Electricity Market in a financially secure manner.*

This Modification will facilitate the administration and development of the SEM by allowing for the development of the market following initial issues experienced since go-live.

*(e) to provide transparency in the operation of the Single Electricity Market*

This Modification aims to provide a transparent mechanism for implementation of the SEM Committee Decision in relation to the issue of repricing.

# Working Group and/or Consultation

N/A

# impact on systems and resources

N/A

# Impact on other Codes/Documents

N/A

# MODIFICATION COMMITTEE VIEWS

## Meeting 95 – 05 DECEMber 2019

The Proposer delivered a [presentation](https://www.sem-o.com/documents/market-modifications/Mod_23_19/Mod_23_19Presentation.pptx) on this Modification Proposal and confirmed that requirements were implemented to set the bar high for derogations in the future. The Proposer went through the list of requirements in the submission for SEMO to seek a derogation and the next steps required after publishing the decision.

A Generator Member raised a concern that the derogation provision applies to the entirety of section E.3 of code and therefore creates uncertainty as to what obligations it can apply to. They explained that the general section appeared too broad on and were in favour of narrowing this to the specific paragraph on Repricing. A DSU Alternate agreed with this stating that they also felt that it should be more targeted so that it is clear that it doesn’t apply to the Imbalance Pricing calculations themselves.

A Supplier Alternate agreed with the principal of the proposal but advised that it needs to be clearer and more focused. At present the reading of this proposal creates the risk of a back door for bilateral agreements between SEMO and the RAs to allow derogations without consultation. The proposer acknowledged these views and indicated that it was not the intent to allow for a derogation broader than Repricing indicating that the proposal was drafted against the entire section as that seemed more appropriate from a legal drafting perspective rather than any intention to allow for derogations related to Imbalance Pricing calculations. They also stated that the wording that a consultation would be carried out if deemed appropriate by the Regulatory Authorities rather than being a firm obligation was due to the fact that a consultation had already been carried out on the current Repricing issues and they didn’t wish to imply that another one had to occur rather than intending to suggest that they wouldn’t consult in future. It was suggested that the drafting could be changed to target paragraph E.3.8 to ensure that this is limited to repricing and also that the wording could be changed to require consultation in potential future events if there were any subsequent derogation required but that a further consultation on the existing Repricing should not be required.

It was noted that if any further derogation was sought for periods after June 2018 a consultation would take place. A Supplier Alternate requested that the modification be made specific to the Repricing derogation in question and suggested that anything future derogations should require a new modification rather than the proposed approach of having an interim provision which applies until January 2021 as currently drafted.

The Proposer confirmed they were happy to narrow the proposal to specify that it only applies to paragraph E.3.8 and indicated that a pragmatic approach was the reasons for the current drafting in order to include any other similar issues in a reasonably time limited period noting that the capability to carry out materiality assessments for significant range of days or full Repricing is still not in place. An Observer noted that repricing is a feature of system defects that needs to be managed. January 2021 is an adequate timeline to allow for the capability to carry out materiality assessments to be delivered as long as there are appropriate guidelines for any potential future derogation. SEMO Member provided an update on the repricing solution noting that a partly manual interim approach to allow for limited periods to be assessed for materiality was in test and that the enduring automated system solution for this was intended for Q4 2020 in line with the end dating of this interim Modification Proposal.

A Generator Member stated that they felt that the wording the period when a derogation could be in place was unclear due to the wording on when it commenced and they were not clear what the stated maximum 12 month period would capture. The Proposer acknowledged this and undertook to revise the legal drafting and clarified the intention as being to apply to when Repricing was due from the first date of non-compliance. The Generator Member went on to voice concerns on the wording in the Code Objectives furthered section where it references the early stages of operation of the new market stating their view that we are no longer in the early stages. The Proposer asked if they would prefer for that wording to be removed and agreed to do so when the Generator Member confirmed that this would be their preference.

A discussion began around retrospectivity and there were concerns voiced that as repricing is backward looking the effect of the proposal may be argued as being retrospective. The Proposer confirmed this was taken into consideration when drafting the Modification Proposal and the intent is that this proposal is not retrospective as it allows for a derogation to be applied for going forward albeit relating to non-compliance in the past. The Proposer also relayed that this was an unusual situation which may not arise again. A request was made by an Observer to have it expressed that this will not be taken as precedent. Some discussion occurred around whether this was intended to mean no precedent in relation to potential future derogations on repricing, the concept of derogations in general or in relation to Modifications with effect going forward that impact on activities in the past with Members and Observers each indicating their view and various views being held.

A number of Members indicated that they felt that it was important to retain the element of Industry participation in the process of granting a derogation either through consultation or voting carried out by the Modifications Committee. If such a vote would take place should have a strong majority and a maximum of one vote against or it should not be carried. SEMO Member expressed concern that the powers to grant a derogation are not held by the Modifications Committee which was acknowledged and it was suggested that such a vote could be the expression of a recommendation rather than having any binding effect.

A discussion took place regarding the timetable to progress the Modification Proposal noting that it is an Urgent Proposal. The Proposer agreed that they would consider the committees views and draft a version 2 and the committee agreed to convene an extraordinary meeting via conference call over the coming days.

## Extraordinary Meeting **96 – 18 December 2019**

The Proposer provided an update on the Modification Proposal expressing the RAs view that the concerns of the Committee have been responded to by narrowing the scope of the Modification to paragraph E.3.8 on repricing, clarifying wording on the timeframes involved and clarifying that a consultation is required for any future derogation request.

A Generator Member believed that in order to have the industry on board a further step was required in the list of requirements for submission. He advised that a sixth step should be added to request a Modifications Committee vote of 9 to 1 in favour of derogation under B.14.1.7. The RAs agreed that the bar should be high for submission but felt that the requirement for a consultation was already reflected in the Modification Proposal and adding a trigger for a vote would not be appropriate, noting that this was not a feature in other similar mechanisms elsewhere. An Observer stated that in their view the revised proposal addressed their concerns with the initial version, particularly in the context of the requirement for industry consultation. A number of Committee Members echoed this point and noted that they were comfortable with the revised proposal.

There was another suggestion made by a Generator Member to limit the timeline that’s applicable in order to stop future derogations to the period up to June 2019. Both the Proposer and a number of Committee Members were happy with the changes that have been made by the proposers and there was agreement that the opportunity was there to take regard of the issue and trust that this Modification Proposal will allow for any potential future derogation to be treated appropriately while noting that there is not currently any expectation that any future derogation will be requested. The current timelines allow for a degree of flexibility should another serious issue arise before the full re-pricing system is operational.

A question was raised by another Generator Member regarding timelines of 12 months around applying for derogation. The RAs clarified that the 12 month timeline referred relates to the period affected by a derogation as opposed to the timeline for the proposed Modification to allow for a derogation to be requested.

A Generator Member indicated their frustration that industry was given strong assurances that a key system functionality like repricing was available for Go-Live yet the Modifications Committee are being asked to vote on a modification that could be viewed as being in conflict with B.17.24 (Retrospective Condition). SEMO acknowledged the frustration and highlighted that SEMO have worked hard to address the issue.

The committee agreed to move to a vote.

# Proposed Legal Drafting

As set out in Appendix 1.

# LEGAL REVIEW

N/A

# IMPLEMENTATION TIMESCALE

It is proposed that this Modification implemented as the Modifications Committee have Recommended it for Approval and on a Settlement day following receipt of the RA Decision.

# Appendix 1: Mod\_23\_19 Modification to allow the Market Operator to seek relief from an obligation under Section E.3 of the TSC in exceptional circumstances (until 1 January 2021).

|  |
| --- |
| **MODIFICATION PROPOSAL FORM** |
| **Proposer***(Company)* | **Date of receipt***(assigned by Secretariat)* | **Type of Proposal***(delete as appropriate)* | **Modification Proposal ID***(assigned by Secretariat)* |
| **CRU and Utility Regulator** | **28 November 2019** | **Urgent** | **Mod\_23\_19v2** |
| **Contact Details for Modification Proposal Originator** |
| **Name** | **Telephone number** | **Email address** |
| **CRU and Utility Regulator** |  | **gkelly@cru.ie****,** **Karen.Shiels@uregni.gov.uk** |
| **Modification Proposal Title** |
| Modification to allow the Market Operator to seek relief from an obligation under Section E.3 of the TSC in exceptional circumstances (until 1 January 2021). |
| **Documents affected***(delete as appropriate)* | **Section(s) Affected** | **Version number of T&SC or AP used in Drafting** |
| **T&SC Part B****Appendix B** | **H.6, B.14, E.3** | **Version from 12 April 2019** |
| **Explanation of Proposed Change***(mandatory by originator)* |
| This Modification proposes a temporary amendment to Section B.14 of the Trading and Settlement Code (to be added via Section H ‘Interim Arrangements’) in order to allow for the Market Operator to seek a derogation in respect of a specific obligation under Section E.3.8 of the Code for a limited period from the RAs if a number of requirements are met and if deemed appropriate by the RAs. This provision could only be used in certain exceptional circumstances and until 1 January 2021.It is proposed that this Modification would include a temporary amendment to Section B.14 of the Trading and Settlement Code in relation to Obligations on Parties. Where the Market Operator is unable to meet a particular obligation under Section E.3.8 of the Code, the Market Operator could write to the RAs to seek a derogation in respect of any obligation(s) placed on it under Section E.3 of the Code where the Market Operator: (a) has been, is or reasonably expects to be unable to meet such obligation(s) under the Code; and (b) can show that meeting such obligation(s) would place an undue burden on its operations and in each case, can show that compliance with such obligation(s) would have a material detrimental impact on the achievement of the Code Objectives.The following would be required as part of the submission;1. The request for relief from a particular obligation under Section E.3.8 of the Trading and Settlement Code.
2. The rationale for the requested derogation including clear supporting evidence demonstrating how the above criteria are met.
3. The requested period of derogation from a specific obligation, which may not be more than 12 months.
4. A detailed plan and implementation timeline to rectify the issue.
5. An assessment of the consequences of granting and not granting the derogation on the SEM.

Based on the submission and following consultation with the Modifications Committee (for any future submissions), the Regulatory Authorities would then decide whether or not to accept the request and would publish the Market Operator’s submission and a decision letter setting the reasons for granting, amending or rejecting the derogation. If a temporary derogation from meeting the obligation under Section E.3.8 was granted by the Regulatory Authorities, the Market Operator would be required to report on at least a monthly basis, on progress towards rectifying the issue. The Regulatory Authorities would be entitled to publish these reports.In terms of the context for this Modification, the RAs recently consulted on a number of options for repricing being carried out by SEMO (SEM-19-042) (Under the Trading and Settlement Code, if as part of an upheld Pricing Dispute it is determined that there is a manifest error in the pricing calculation which leads to a change in price greater than a certain Price Materiality Threshold, the price is recalculated and included in resettlement). This Consultation was prompted by the fact that 72,000 Imbalance Pricing Periods (5-minute prices) and 12,000 Imbalance Settlement Periods (30-minute prices) for the period from 1 October 2018 to 11 June 2019 are subject to an upheld dispute and require repricing under Section E.3.8 of the Trading and Settlement Code. The commencement of any repricing by SEMO is dependent on successful testing of SEMO’s repricing solution. Furthermore, this repricing solution cannot apply the Price Materiality Threshold as approved by the SEM Committee in SEM-17-046 and SEMO has notified the RAs that this would need to be carried out manually until a revised solution is implemented, most likely in Q4 2020. This would involve a significant further delay to repricing.The Consultation Paper considered four options for repricing in the context of providing certainty for market participants for the period in question and the overall effect of a number of manifest errors in the pricing system on accuracy of prices. The first two options were based on the application of a 5% or 0% Price Materiality Threshold (Option 1 and 2), while the second two options were based on variants of an option for repricing not to be carried out for a defined time period (Option 3 and 4). Based on a review of the responses received to the Consultation Paper and SEMO’s engagement with market participants over the last number of months, the SEM Committee set out in its Decision Paper its view that repricing should not be carried out for the period between 1 October 2018 and 11 June 2019. In order to give effect to this Decision, the Modification introduces a temporary mechanism to the Trading and Settlement Code, in order to provide a transparent process for SEMO to seek relief, in very limited circumstances, from its obligations under Section E.3.8 of the Code on a temporary basis. This Modification is being raised following consultation and under a particular set of circumstances and should not be taken as a precedent for any derogations from obligations under the Code in future. |
| **Legal Drafting Change***(Clearly show proposed code change using* ***tracked*** *changes, if proposer fails to identify changes, please indicate best estimate of potential changes)* |
| Section B.14 of the Code details the Obligations on parties and is drafted as follows;**B.14** **OBLIGATIONS ON PARTIES**B.14.1.1 Each Party shall comply with the Code and the Framework Agreement in exercising its rights and powers and performing its functions and obligations under the Code. B.14.1.2 Without prejudice to the generality of paragraph B.14.1.1, no Party shall, either directly or indirectly, on its own or in conjunction with any other Party or person, obstruct the proper functioning of the SEM in accordance with the Code. B.14.1.3 Each Party agrees that the Market Operator shall have the right, as agent and trustee for and on behalf of each Party, to sue any other Party to recover any Shortfall or Unsecured Bad Debt under the Code. B.14.1.4 Where the performance of any obligation arising under or in relation to this Code requires the prior approval or action by the Regulatory Authorities, such obligation shall be subject to such prior approval or action by the Regulatory Authorities. B.14.1.5 Without prejudice to any other provision of the Code or the Framework Agreement, each Party: (a) shall perform all its rights, functions and obligations under the Code with the degree of care and to the standard expected of a Prudent Industry Operator and in accordance with Prudent Electric Utility Practice; (b) shall at all times comply with and maintain, and shall at all times procure compliance with and maintenance of, all consents, permissions, licences and Licences (and the conditions attaching to any exemptions) required to be obtained and maintained to participate in the SEM or to be a Party to the Code for each capacity in which it acts as a Party or Participant under the Code; (c) shall pay all fees, levies, charges and other payments arising under the Code as they become due; (d) shall ensure that, save as expressly permitted otherwise, any information or data it is required to submit to the Market Operator, Market Auditor or any other person, or to maintain, as required by virtue of being a Party or Participant, shall, to the best of its knowledge and belief, be true, valid, correct, complete and accurate at the time it is given and, save as expressly provided otherwise, while it is maintained and, where appropriate, it shall keep the Market Operator informed in a timely way of any mistakes or omissions in, and corrections or updates to any information or data which it has submitted to the Market Operator, the Market Auditor or any other person under the Code; (e) shall ensure that any information or data it is required to submit to the Market Operator, Market Auditor or any person as required by virtue of being a Party or Participant will be submitted in a timely manner to enable the Market Operator, Market Auditor or such other person to perform their obligations and functions arising pursuant to the Code; and (f) shall co-operate with and provide all reasonable assistance to the Market Operator on request for the purposes of the Market Operator performing its functions and obligations under the Code.This Modification proposes to add a temporary amendment to Section B.14 through the introduction of a new Interim Provision to Section H of the Code with the legal drafting changes below;**H.6** **INTERIM PROVISIONS**H.6.1.1 Each of the Interim Provisions set out in the following paragraphs shall have effect until the date specified in the Interim Provision or, if no date is so specified, the relevant Modification Deployment Date and each Interim Provision which replaces a provision of the Code shall have effect in place of the specified provision until that date, from which time the replaced provision shall commence and apply. Once the Modification Deployment Date has passed the text of the relevant Interim Provision shall be replaced with “Intentionally blank”:**H.13 Provision for the Market Operator to seek temporary relief from an obligation under Section E.3 of the Code in exceptional circumstances (until 1 January 2021).**H.13.1 Until 1 January 2021, the following additional paragraphs shall be added to Section B.14 of the Code;B.14.1.6 Until January 2021, The Market Operator may seek a derogation from the Regulatory Authorities in respect of any obligation(s) placed on it under Section E.3.8 of the Code (in accordance with the remaining provisions of this Section B.14), where the Market Operator: (a) has been, is or reasonably expects to be unable to meet such obligation(s) under the Code; and (b) can show that meeting such obligation(s) would place an undue burden on their operations and in each case, can show that compliance with such obligation(s) would have a material detrimental impact on the achievement of the Code Objectives.B.14.1.7 Any request for a derogation must be submitted by the Market Operator to the Regulatory Authorities for review and approval and must set out;(a) the obligation(s) in Section E.3.8 from which a derogation is requested;(b) the rationale for the requested derogation including clear supporting evidence demonstrating how the criteria in B.14.1.6 are met;(c) the requested period of derogation from a specific obligation, from the date on which any non-compliance first arose or is expected to arise. A derogation may not be granted for a period greater than 12 months; (d) a detailed plan and implementation timeline to rectify the issue (unless otherwise agreed with the Regulatory Authorities); and(e) an assessment of the consequences of granting and not granting the derogation on the SEM.B.14.1.8 The Regulatory Authorities shall, following consultation with the Modifications Committee, confirm that they:(a) approve the derogation requested, or (b) approve an amended version of the derogation, or (c) reject the derogation requested.The Market Operator’s submission will be published along with the Regulatory Authorities decision letter setting out the reasons for granting, amending or rejecting the derogation.B.14.1.9 If a derogation from meeting the Market Operator’s obligation(s) under Section E.3.8 of the Code is granted by the Regulatory Authorities, the Market Operator shall report to the Regulatory Authorities on a monthly basis on progress towards rectifying the issue and the Regulatory Authorities shall be entitled to publish all such reports. |
| **Modification Proposal Justification***(Clearly state the reason for the Modification)* |
| The SEM Committee’s recent Consultation regarding the issue of repricing has demonstrated that the Code as currently drafted does not explicitly account for exceptional issues that may arise associated with the operation of the new market, where there is an issue with the Market Operator’s ability to meet its obligations under the Code which impact on the wider market. In addressing this issue, it is the SEM Committee’s view that a change to the rules and obligations for Parties under the TSC is not required, however the drafting of the Code in terms of publication of corrected Imbalance Settlement Prices for a period did not contemplate the current situation in terms of the volume of corrections required and the unmanageable delays which have impacted on timelines for repricing. This Modification aims to provide a mechanism to address this issue.  |
| **Code Objectives Furthered***(State the Code Objectives the Proposal furthers, see Section 1.3 of Part A and/or Section A.2.1.4 of Part B of the T&SC for Code Objectives)* |
| *(a)* *to facilitate the efficient discharge by the Market Operator of the obligations imposed upon it by its Market Operator Licences.*As discussed, the context for this Modification is related to the SEM Committee’s recent decision in relation to repricing. Granting a derogation to SEMO from its obligations under Section E.3.8 for a limited time period in this instance will allow for the efficient discharge of the Market Operator’s other obligations under the Code given the time burden associated with carrying out repricing and applying the price materiality threshold manually for this period.*(b) to facilitate the efficient, economic and coordinated operation, administration and development of the Single Electricity Market in a financially secure manner.*This Modification will facilitate the administration and development of the SEM by allowing for the development of the market following initial issues experienced since go-live.*(e) to provide transparency in the operation of the Single Electricity Market*This Modification aims to provide a transparent mechanism for implementation of the SEM Committee Decision in relation to the issue of repricing.  |
| **Implication of not implementing the Modification Proposal***(State the possible outcomes should the Modification Proposal not be implemented)* |
| If this Modification is not implemented, the RAs will not be able to grant a derogation to the Market Operator from particular obligations under Section E.3.8 of the Code in exceptional circumstances which may impact on the overall market and on the Code Objectives. |
| **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 Market Code, Grid Code, Exchange Rules etc.)* |
|  | No |
| ***Please return this form to Secretariat by email to*** balancingmodifications@sem-o.com |